

# PLANNING COMMITTEE

## 20 JULY 2016

**1 PM EXECUTIVE MEETING ROOM,  
3<sup>RD</sup> FLOOR, GUILDHALL**

### **REPORT BY THE CITY DEVELOPMENT MANAGER ON PLANNING APPLICATIONS**

#### **ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS**

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

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

#### **REPORTING OF CONSULTATIONS**

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

#### **APPLICATION DATES**

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

#### **HUMAN RIGHTS ACT**

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

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

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**NUMBER ONE 8 SURREY STREET PORTSMOUTH PO1 1EJ****CONSTRUCTION OF 23 STOREY HALLS OF RESIDENCE (SUI GENERIS) FOR STUDENTS COMPRISING 576 STUDY/BEDROOMS INCLUDING COMMUNAL FACILITIES, CYCLE STORE, BIN STORE, LANDSCAPING AND ASSOCIATED WORKS****Application Submitted By:**

Alder King Planning Consultants  
FAO Mr Matthew Halstead

**On behalf of:**

WPC Portsmouth 18-17 B.V.

**RDD:** 1st February 2016

**LDD:** 9th May 2016

**SUMMARY OF MAIN ISSUES**

The main issue is whether this proposal would contribute to the achievement of sustainable development, in accordance with national and local planning policy. Key issues for consideration are the principle of a halls of residence, design including the appropriateness for a tall building in this location, impact on heritage assets, highways implications, impact on the residential amenity of future and nearby occupiers, standard of accommodation, sustainable design and construction/site contamination/drainage and impact on the Solent Special Protection Areas.

**Site**

The site has an area of 900sqm and is occupied by a vacant 4-storey building with a floorspace of 3096sqm, including a basement level. The building covers most of the site with some small areas of hard-surfacing on forecourt setbacks to the south (Station Street), north and east (Surrey Street). The site has street frontages on 3½ sides. The building has a loading bay with roller-shutter entrance facing onto Surrey Street (north side).

The site lies between the civic (Guildhall Square) area and the Commercial Road principal retail area, immediately north of the statutorily listed Victorian railway station (Grade II) and is located near a transport interchange for taxis and buses. Other nearby buildings and uses around the site include Zurich House (under conversion and new-build construction) and Victoria Park (historic park Grade II), mixed retail development on Commercial Road, various smaller/older properties onto Surrey Street with delivery yards and the rear of 'Debenhams' department store, surface car parking on both sides of Station Street with Royal Mail sorting office and 'Matalan' store beyond.

**Proposal**

As originally submitted, the proposal included provision of: (1) a ground floor shop, (2) basement level, and (3) a centrally positioned communal atrium space, which have since been deleted. The overall floorspace of the proposal is now 13,772sqm (gross internal area).

A Halls of Residence is sought comprising of 576 study/bedrooms with communal facilities. The proposed building would be 23 storeys, to a maximum structure height of 67.9m above existing ground level.

Following design amendments to the external appearance of the building, internal revision has given rise to changes to the number and arrangement of study/bedrooms from its original total of 520 (which previously included student choice to live in single-person studios, 2-bedroom 'twodios', 4-bedroom 'quadios' or 6-bedroom 'hexios' cluster units). The 576 study/bedrooms now comprise of 202 individual studios and 187 'twodios' (2-bedroom accommodation) only. Communal facilities covering 350sqm comprise of a lounge (138sqm), social space (78sqm), entrance foyer (47sqm), gymnasium (38sqm), cinema (26sqm), laundry (12sqm) and meeting rooms (11sqm) located on the ground and first floors.

In addition, the proposal would provide secure (internal) storage facilities for 150 bicycles.

The applicant is Crown Student Living, a national provider of purpose-built specialist residential accommodation (for students).

Supporting documents are included as part of the planning application covering:

- o Design and Access Statement (ECE Westworks) with - Visual Impact Assessment and Tall Buildings Statement;
- o Student Management Plan (CRM);
- o Heritage Statement (Alder King);
- o Transport Statement and Travel Plan (Transport Planning Associates);
- o Ground Investigations Report (Concept); and
- o Daylight and Sunlight Assessment (Right of Light Consulting Limited).

#### Relevant planning history

The current building occupying the site was constructed following planning permission in 1951 (A\*14331/A). Although vacant since January 2005, it was last used by the Royal Mail for sorting of parcel returns (for around 30 years). In 2006 alterations and change of use to Class B1(a) offices was granted planning permission but it was not implemented.

The more recent planning history of the site sought redevelopment for a hotel (Class C1).

A 188-bedroom hotel building covering 11,063sqm was permitted in January 2009 (ref 08/01723/FUL). The hotel was designed up to 25 storeys high, in addition to two basement floors, topped by a spire/helical wind turbine feature presenting a maximum height of 101m. Ancillary facilities included ground and 20th floor restaurants (c.148 covers), 105sqm health and fitness space at 1st floor level and 359sqm of conference facilities at 2nd floor level. A detached coffee bar 'pod' (Class A3) was proposed onto the Station Street frontage accommodated within the landscape strategy to create a welcoming setting to the hotel.

In design terms, a simple but elegant three-stage rectilinear high rise form with rebated ground/first floors in a double-height base to the building in frameless structural glazing and a proprietary double-skin glazing above, presented a smooth almost seamless glass façade. On the upper floors the structure comprised a single glazed clear outer skin with grey powder-coated aluminium frame, vented cavity and double-glazed inner skin incorporating glazed spandrel panels (to screen floor beams). Angled stainless steel columns were positioned at the four corners of the building and intersecting black granite orientated the hotel entrance and an active frontage to the site onto Station Street.

An application to renew planning permission for the same development under 08/01723/FUL was granted in December 2011 (11/01080/FULR), subject to a Deed of Variation.

An alternative 228-bedroom hotel scheme was permitted in a part 16-to-18 storey building of up to 13,190sqm on a slightly larger footprint in September 2013 (13/00525/FUL).

In design terms, it presented a differing design approach to the glass facades of the 188-bedroom scheme. Guest rooms were expressed in large-scale vertical window openings within a brick surface. Thin metallic fins were designed to emphasise the depth of the window reveal/profile and animate the principal façade where double-height glazing and a generously proportioned portico sought to create visual interest at street level with an active frontage onto Station Street. The north side of the building represented a solid base and array of vertical openings to accommodate the more practical issues of hotel design such as plant and servicing access. In reality, the back of house requirements dictated a 'rear' service area appearance to the ground floors, although a set back in the elevation and contemporary character of the upper floors offered a very different appearance on the north side of the building. The west and east sides of the building provided a transition between the lighter contemporary architecture of the north side to the more solid masonry Station Street façade.

An application for prior notification of the proposed demolition of the existing building at No8 Surrey Street was received in May 2013 (13/00460/DEM). For the purposes of the [then] Town and Country Planning General Development Order 1995 Schedule 2 Part 31\*, it was held that prior approval is not required (\*where demolition of any building is now covered by Part 11 of the consolidated 2015 Order).

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS19 (Housing mix, size and affordable homes), PCS23 (Design and Conservation), PCS24 (Tall buildings), PCS4 (Portsmouth city centre), PCS10 (Housing Delivery), PCS11 (Employment Land), PCS13 (A Greener Portsmouth), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport),

Saved policy

DC21 (Contaminated land) of the Portsmouth City Local Plan

National Planning Policy Framework

At the heart of the NPPF is a presumption in favour of sustainable development which means approving development proposals that accord with development plan policies without delay (para 14). However, the presumption in favour of development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered (para 113).

The NPPF describes the purpose of the planning system is to contribute to the achievement of sustainable development and the three dimensions to achieving it: economic, social and environmental. The proposal should be assessed against development management policies in the NPPF and, in particular, the following paragraphs:

- 17 Core planning principles for decision making
- 19 Significant weight on the need to support economic growth through the planning system
- 32 Transport Statements and Assessments
- 34 Locate developments generating significant movement where need to travel minimised
- 35 Development designed for sustainable travel
- 56 Great importance to design and good design indivisible from good planning
- 57 Requires high quality and inclusive design in the built environment
- 61 Decisions should address connections between people and places
- 62 Local design review arrangements provide support to ensure high design standards
- 64 Refuse poor design that fails to improve the character and quality of an area
- 96 New development should minimise energy consumption
- 118 Principle should be applied to conserve and enhance biodiversity
- 119 Presumption in favour of sustainable development (para14) does not apply where AA required under Birds or Habitat Directives
- 120 Responsibility for a safe development where a site is affected by contamination
- 121 Site to be suitable for its new use taking account of ground conditions

- 123 Impacts of noise and air quality should be mitigated and managed
- 128 Applicants should describe the significance and potential impact on any heritage assets
- 129 Lpa's should assess significance of any heritage asset, including its setting
- 132 Great weight should be given to conservation of heritage assets
- 133 Refuse consent for substantial harm to heritage assets unless substantial public benefits outweigh that harm
- 134 Less than substantial harm to heritage assets should be weighed against public benefits
- 135 Significance of non-designated heritage assets should be taken into account
- 139 Weight to non-designated heritage assets of archaeological interest (where significant)
- 196 Applications must be determined in accordance with the development plan
- 197 Presumption in favour of development
- 204 Use of planning obligations and conditions to make development acceptable

The adopted City Centre Masterplan SPD is relevant to the proposal and regeneration of this part of the City, with specific reference to 'Site 7: Surrey Street west' (at paras 4.109-4.118 on p.52). The vision of the SPD is "to create a vibrant and successful city centre that is the beating heart of our great waterfront city... include welcoming gateways, beautiful streets, lively and distinctive spaces and delightful buildings...".

The Tall Buildings Supplementary Planning Document (Tall Buildings SPD, June 2012) is also a material consideration when determining this planning application. Policy PCS24 of the Portsmouth Plan and the Tall Buildings SPD identify a number of areas of opportunity for tall buildings within the city. The city centre is one of those areas identified as an 'area of opportunity for tall buildings'. A tall building is defined as any building above 5 storeys and / or 20m in height. In order to facilitate and encourage the design of tall buildings of the highest quality the SPD also identifies criteria which any tall building should address. These are addressed in the comments section of this report.

A Student Halls of Residence SPD (adopted October 2014) includes a definition of halls of residence, preferred locations for such developments and management and design standards such accommodation should meet.

Other Supplementary Planning Documents (SPD) also provides relevant policy guidance:  
 Parking Standards and Transport Assessments SPD (July 2014)  
 Sustainable Design & Construction SPD (January 2013) and  
 Reducing Crime Through Design SPD (March 2006)  
 Solent Protection Area (April 2014)  
 Achieving Employment and Skills Plans (July 2013).

## **CONSULTATIONS**

### **Highways Engineer**

Initial comments as follows -

The updated Transport Statement (TS) references the increase in student accommodation proposed to 576 bedrooms and helpfully confirms that the development will only be occupied by students attending Portsmouth University. This resolves concerns regarding the use of the development between university terms. The updated TS revisits the likely generation of pedestrian and cycle movements from the development in the peak hour and established those to be 195 in the am peak which are considered more credible than the 39 movements previously predicted. The statement details the intention to remove the zebra crossing on the Station Street arm of the Stanhope Rd / Commercial Road mini-roundabout and replace it with a raised table with tactile paving to form an at grade crossing for pedestrians similar to that provided on the other arms of the roundabout. This will reduce the scope for the priority afforded to pedestrians by the zebra crossing to have a detrimental effect on the free flow of traffic on the local road network.

The proposed on site cycle parking provision of 150 dedicated spaces for students and staff with 10 external spaces for visitors spaces does not reflect the council's standard of one space per bedroom rather relies on Portsmouth University survey of student modes of travel which identified 74% of students selecting the joint category of walk/cycle and applying the 2011 census data for the Charles Dickens Ward to determine the proportion of those who would be likely to cycle. Given that 100% of students utilising this accommodated are anticipated to walk or cycle to application of the 74% rate found in the university survey is perverse. Furthermore the Charles Dickens Ward has a different development mix to the proposed development and largely reflects different social-economic traits to those anticipated by the occupiers of the proposed development. As a consequence reference to data drawn from that ward to inform the transport assessment of this development is not sound. The TPA letter dated 3rd June 2016 submitted in support of the application determined that a cycle parking provision of 30% of the bed spaces would be appropriate in this location and the further submitted information contains no sound evidence base to justify any further reduction in this standard. That would require 173 cycle parking spaces for the 576 bed spaces now proposed. A more robust assessment of likely cycle use would be necessary to justify any further reduction in the council's cycle parking standard for student accommodation.

Whilst the applicant takes the view that a council refuse vehicle currently services properties via Surrey Street, the vehicle tracking details submitted in support of the application demonstrate that such a vehicle cannot turn within the road without over-running the disabled parking spaces and loading bay marked on street. A service / refuse management plan has not been submitted to demonstrate how this conflict will be resolved (from previous observations). As a consequence, as this application stands it has not been satisfactorily shown that it can be accessed by the size of refuse vehicle anticipated to service the site or that there is a sound alternative mechanism to service the site.

The updated TS sets out the planned arrangements for student arrivals and departures at the beginning and end of terms. The peak of these arrivals is anticipated on the opening weekend of the university term when 255 students are anticipated to take up their accommodation. This would equate to 11 vehicular movements every hour between the hours of 0800 and 2000 on Saturday and Sunday although it is likely that families of students will wish to in the city for more than an hour. The updated TS suggests that students will park either in the Stanhope Road car park or the Slindon Street car park and walk to the development to check in. No assessment has been made of local car parks to establish the if there is sufficient capacity parks to accommodate this demand in parallel with the other student hall of residence which will experience similar demands at this time and as has been previously advised the Stanhope Road car park is scheduled for closure. The TS suggests that each student will then be given a 10 minute period in one of 5 reserves spaces at the Slindon Road car park to unload and will be require to move their vehicle to park elsewhere upon the expiration of that time. Whilst the correspondence with RCP Ltd, who are the operators of the car park, confirms that such provision can be made available the suggestion that students could reasonably unload and transport their belongings to their accommodation within a 10 minute period is not considered to be credible, more typically a minimum of 30 minutes is allowed for such activity at similar facilities. Whilst the email from CRM Students Ltd gives some credibility to the assumptions made for the student move in period it explains that the majority of movements will occur between 1000 and 1600 over the weekend before term starts and similarly does not acknowledge the limited scope to accommodate student parking locally beyond that 10 minute period particularly given the parallel activity of other local halls of residence.

As this application stands, refusal is recommended on the following grounds:

1. Insufficient information has been submitted to demonstrate that 11.2m refuse vehicles can service the proposed development either physically or practically given the scope for conflict with existing servicing arrangements. No servicing or refuse management plans are included with the application

2. The proposal does not comply with the PCC SPD (or what is considered to be a reasonable relaxation of that of 70% given the development location) in respect of cycle parking being insufficient in number. No alternative arrangement is identified that could be implemented in the event that the demand for cycle parking is found to exceed the space available

3. The proposed arrangements to accommodate students moving in/out of the accommodation rely on the activity being undertaken in too short a period of time and the use of local public car parks where sufficient capacity has not been established given the similar requirement for use of these spaces by students occupying existing local halls of residence and one of which (Stanhope Road) is no longer operational.

4. The Student Travel and Management Plan submitted with the application is not fit for purpose as it does not identify either targets or interventions which would be made in the event that any agreed targets were not achieved. (NB this is identified in Matthew Halstead's email as having been updated but is not included in the submitted documents)

If minded to approve the application, then planning obligations/conditions should be imposed to secure:

1. The removal of the zebra crossing on Station Street and replacement with a platform and tactile paving replicating the crossing points on the other approach roads to the roundabout prior to the development being brought into use.

2. The reinstatement of full height kerbing at the building frontage with Surrey Street prior to occupation of the development

3. The submission and approval of a student travel plan together with a £5500 monitoring fee for a 3 year period prior to commencement of the development

4. The submission of a service / refuse management plan to be approved prior to the commencement of development

The recommendation of these conditions should not prejudice the local highway authority's opposition to the development.

The additional information and Student Travel & Management Plan submitted in support of the application has been reviewed. In summary this additional information is not sufficient to resolve the previously recommended reasons for refusal. Whilst a Student Travel & Management Plan has now been submitted that is based on inappropriate assumptions regarding mode share and availability of alternative local parking facilities during take up of residence periods. The targets set are not SMART and there is not commitment to achieve these.

#### Servicing:

The additional information clarifies that the existing council refuse vehicles utilise Surrey Street for servicing local properties and suggests that as a consequence servicing of this development by such vehicles should be accepted. Whilst it is accepted that Surrey Street is currently used by refuse service vehicles this application includes a swept path analysis showing that such vehicles cannot turn to service the development without compromising the parking and loading bay. This development will intensify that activity and no service / refuse management plan has been submitted to demonstrate how this will be either facilitated or mitigated.

#### Cycle Parking:

It has been explained that the determination of cycle parking number has been established using the same methodology as was applied in the transport assessment submitted in support of the application for conversion of the Zurich building. However the methodology for the Zurich House assessment of cycle parking demand was not accepted as sound to inform the determination of that application and is not sufficiently robust to justify any further reduction form



the 30% standard initially established by the applicant as necessary for this development. That would require 173 spaces whereas only 150 spaces are proposed.

#### Moving In / Out Strategy:

It is reiterated that the prospective operator of the development considers that a 10 minute slot is sufficient for students to unload their vehicles when supported by support staff associated with the facility. The additional information reaffirms that 255 residents are expected to move into the development on the weekend before the commencement of the academic year which it is claimed equates to just over 2 movements every hour. Even assuming that students move in over a 24hr period for the two days at the weekend with that spread evenly that would generated 4.7 movements each hour. Given that this is most likely to occur between 1000 and 1600 (as suggested in the CRM Student Ltd email) then we can anticipate 19 movements each hour. The information submitted with the application relies on the availability of off-site parking in public car parks (one of which is scheduled for closure) to accommodate the parking requirements of students / families on arrival days and there is no assessment that the car parks practically have spare capacity to meet this demand particularly given the competing demands from other approved student halls locally and likelihood of families staying within the town centre for 2 or 3 hours.

#### Student Travel & Management Plan:

After review of the Student Travel and Management Plan, the following observations are offered:

- o The plan does not recognise the intended removal of the zebra crossing at Station Road and replacement with an at grade uncontrolled crossing
- o At 5.3 it is explained that the majority of students are anticipated to take up the accommodation over the course of 2 weekends before the beginning of the academic year. This is different to the evidence provided in the CRM Student Ltd email which suggests that this will be concentrated over the last weekend before the start of the academic year.
- o At 5.6 it suggests an arrival rate of 11 per hour contrary to the arrival rate of two movements every hour claimed in the additional information relating to the moving in / out strategy.
- o At 5.7 it suggests a 10-minute period to move possessions from vehicles to accommodation - this is not considered a sufficient time allowance or is it reasonable to expect students to leave their possessions outside with car parking attendants potentially in inclement weather while they find an alternative parking space
- o The plan suggests that students will initially park in nearby car parks (5.10) (Slindon Street and Stanhope Road) although no analysis has been done to establish that there is sufficient capacity in those car parks which critical given the limited alternative parking options and concurrent similar activity from other local student halls of residence or recognition that the Stanhope street car park is not in operation and is not intended to be brought back into use
- o Whilst the targets are only to maintain the predicted mode shares, in the event that these are not achieved the plan suggests at 7.5 that these may be found to be too onerous rather than identifying interventions which may be taken to realise the objective - in essence this plan makes no commitment to achieve any of the established targets.

The last update of the ground floor layout plan to demonstrate 174 spaces is now considered an acceptable compromise to resolve the cycle parking issue.

#### **Environmental Health**

No objections raised to the principle of the proposed development, however, the location the building may be exposed to elevated noise levels from road traffic.

A plant room is proposed on the basement / ground floor with extraction systems venting to atmosphere which could potentially impact upon both the existing residents in Avalon House and also future tenants of the development itself.

There is also potential for some disturbance from the public house and night club to the rear of the development, however, on the whole this appears to be quite well controlled and as the

proposed development will involve temporary occupation provided that the correct mitigation measures are incorporated in the design then this should not be an overriding issue.

The following conditions should be imposed if permission is considered appropriate:-

1) Prior to the commencement of construction works a scheme for insulating habitable rooms against road traffic noise shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first occupation of the building and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved in living and bedrooms:

Daytime: LAeq(16hr) (07:00 to 23:00) 35 dB, Night-time: LAeq(8hr) (23:00 to 07:00 bedrooms only) 30 dB and LAmax 45dB.

2) Prior to the installation of any fixed plant or equipment an assessment of noise from the operation of the plant shall be undertaken using the procedures within British Standard BS4142:2014 and a report submitted to the local authority for approval. Upon approval all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant shall be implemented and thereafter maintained.

#### **Contaminated Land Team**

The following reports have been reviewed:

o Geo-environmental Risk Assessment Report. Number One 8 Surrey Street Portsmouth PO1 1EJ. Concept. 12/2510-ER01 (dated 14/03/2013);

o Geo-environmental Desk Study. Number One 8 Surrey Street Portsmouth PO1 1EJ. Concept. 16/2815 (dated 08/02/2016).

There are other reports pertaining to this site and historical uses of interest. Given the residential end-use, site investigation and remediation conditions relating to ground conditions are requested to ensure the reports are brought up to date and the potentially polluting uses considered further.

#### **City Centre Manager**

No comments received.

#### **Southern Electric**

No comments received.

#### **Southern Water**

Please find attached a plan of the sewer records showing the approximate position of surface water sewer crossing the site. The exact position of the surface water sewers must be determined on site by the applicant before the layout of the proposed development is finalised. It might be possible to divert the surface water sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions. Should the applicant wish to divert apparatus:

1. The 525 mm diameter surface water sewer requires a clearance of 3.5 metres either side of the surface water sewer to protect it from construction works and allow for future access for maintenance.
2. No development or new tree planting should be located within 3.5 metres either side of the centreline of the surface water sewer.
3. No new soakaways should be located within 5 metres of a public sewer.
4. All other existing infrastructure should be protected during the course of construction works. Alternatively, the applicant may wish to amend the site layout, or combine a diversion with amendment of the site layout. If the applicant would prefer to advance these options, items (1) - (4) above also apply.

In order to divert drainage apparatus, Southern Water requests that if consent is granted, a condition is attached to the planning permission. For example "The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewers, prior to the commencement of the development." Furthermore, due to changes in legislation that came in to force on 1 st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of

the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 3030119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".

Following initial investigations, Southern Water cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the foul and surface water within the sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the National Planning Policy Framework. Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested by the developer to accommodate the proposal. Should the Local Planning Authority be minded to approve the application, Southern Water would like the following condition to be attached to any permission. "Development shall not commence until a drainage strategy detailing the proposed means of foul and surface water disposal and a implementation timetable, has been submitted to and approved in writing by, the local planning authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable."

Alternatively, the developer can discharge foul flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the foul system. You will be required to provide a topographical site survey and/or a CCTV survey with the connection application showing the existing connection points, pipe sizes, gradients and calculations confirming the proposed foul flow will be no greater than the existing contributing flows.

The following informative is requested: 'The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 3030119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)'. It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order

a Adequate soakaway or infiltration system

b Water course

c Where neither of the above is practicable sewer Southern Water supports this stance and seeks through appropriate Planning Conditions to ensure that appropriate means of surface water disposal are proposed for each development.

It is important that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development. When it is proposed to connect to a public sewer the prior approval of Southern Water is required. We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

#### **Archaeology Advisor**

The site is located within an historic part of Portsmouth within an area of post medieval development around the medieval core and the impact of the development on below ground archaeological remains is a material consideration.

It is noted that the site is currently occupied by an existing building of substantial construction dating to 1951 and has an extensive below ground basement level. The existing building on site with extensive basement will have severely compromised, if not entirely removed, any archaeological potential associated with this land. On that basis, no archaeological issues raised.

#### **Waste Management Service**

Initial comment expressed concerns about the adequacy of the proposed refuse storage facility and potential difficulties for the management company to move bins about. Detailed comments were provided regarding achieving a more appropriate and workable solution. Following this

advice, an amended arrangement has been submitted and any updated comments will be reported at the meeting.

#### **Portsmouth Water**

No comments received.

#### **Crime Prevention Design Advisor**

Having considered the application, the following comments are made with reference to crime prevention.

To provide for the safety and security of residents within the accommodation in addition to the access control system at the entrance to the building, access control should be fitted at each floor level to ensure that only students resident on that floor have unrestricted access to that floor.

Within the building there are a number of study bedrooms annotated as "twodio", "quadio" and "hexico" in addition to an access door from the communal corridor each of these rooms has an internal sliding door giving access to shared facilities. Such an arrangement provides for: unobserved access to the internal study bedroom doors, access to the communal facilities (those within the communal facilities may be the friends of one of the residents and therefore, unknown to other residents of the associated study bedrooms) and in some cases unobserved movement between floors. With this arrangement the vulnerability of those within the rooms and shared facilities and the rooms themselves is significantly increased. In the first instance I would recommend that this style of room is removed from the final scheme. However, if it is considered desirable that they remain; I recommend the sliding doors (providing access to the shared facilities) be third party certificated to PAS24:2012 standard, and be fitted with a locking mechanism that provides for access via this door to the occupant of the room only. The door should be fitted with a self closing device.

The accommodation has a laundry located on the ground floor. To reduce the opportunities for theft I would recommend that the machines are operated in such a way that they do not require coins.

The cycle store is a large room, large cycle stores are vulnerable to crime. Therefore it is recommended that the store is sub-divided to provide a number of smaller cycle stores.

A seating and planting area is shown outside the entrance to the retail unit (indicated on the plan by the figure 1). Such a facility will encourage people to loiter, it is difficult to see the value of this facility and therefore, it is recommended that this facility is removed from the final scheme. However, if the facility is to be retained, it is recommended that it be moved from the location shown on the plan to one where those using the facility will not interfere with those accessing the retail unit or the accommodation.

#### **Licensing**

No comments received.

#### **Highways Contractor (Colas)**

Colas requests that all dropped kerbs be reinstated to full kerb and enquire whether Surrey Street will require closing during construction (since this will cause major interruption with local businesses in the area like Debenhams).

#### **Design Review Panel**

The panel were comfortable that this standalone site could take a building of 23 storeys, but were convinced that a scheme which, as here, occupied every square metre of the site would not work. In addition they were critical of a number of other aspects of this large and bulky scheme. It was considered to be poorly proportioned and detailed, excessively bulky and inelegant.

A standardised floor plate has been replicated vertically through the building. This has resulted in a repetitive and unimaginative sameness of design across its elevations. The size and rhythm of the windows particularly on the northern elevation gave the building a domestic appearance that would be inappropriate on this city centre site.

It was also noted that the base of the building has no civic presence, and affords little or no interaction at street level. The panel suggested this aspect of the scheme needed to be reconsidered in the round, but were particularly concerned with the poor quality of the Surrey Street elevation. It was felt that the scheme would benefit from the building being brought in at ground floor level.

The panel were disappointed by this proposal. The site demands a higher quality building than has been presented, as such the scheme requires a fundamental re-think. The recommendation of the Panel is that the scheme is not considered capable of support in its current form.

## **REPRESENTATIONS**

None received.

## **COMMENT**

The main issue is whether this proposal would contribute to the achievement of sustainable development, in accordance with national and local planning policy. Key issues for consideration are the principle of a halls of residence, design including the appropriateness for a tall building in this location, impact on heritage assets, highways implications, impact on the residential amenity of future and nearby occupiers, standard of accommodation, sustainable design and construction/site contamination/drainage and impact on the Solent Special Protection Areas.

### Principle of Halls of Residence

The application site falls within the boundary of the defined city centre (Policy PCS4 of the Portsmouth Plan) and more specifically falls within the locality of the 'Guildhall Area'. This policy encourages development that will transform the city centre into the economic, social and cultural focus of south east Hampshire by providing a wide range of uses (such as retail, employment, and cultural facilities) that add to the vitality and vibrancy of the city and support economic growth. In addition, the policy states that given the high level of accessibility by public transport, the city centre is ideally suited to provide a substantial number of new homes.

The adopted City Centre Masterplan SPD (January 2013) provides policy guidance for regeneration of this part of the City and recognises that the site (Surrey Street West) can be redeveloped for a range of uses that could include a Halls of Residence and development aspirations for this prominent corner location identify the opportunity to create a landmark development close to a key city gateway (the station). The SPD (at para 4.116) considers development of the site between 6 and 8 storeys will be acceptable and (at para 4.118) refers to existing planning permission for a 19-25 storey hotel. The Tall Buildings SPD (March 2009) includes the city centre site as one of nine distinct 'areas of opportunity' where development of tall buildings may be appropriate having regard to: proximity and ease of access to public transport; proximity to local commercial/shopping centres; the presence of existing tall buildings within the area; and, the suitability of their character and other townscape factors.

At the nearby 'Zurich House' site, the principle of conversion and new-build for a Halls of Residence for 1000 student study/bedrooms in the city centre has previously been accepted and now under construction. Similarly, another site at Greetham Street/Dugald Drummond Street on the other side of the railway station is also under construction for a Halls of Residence for 836 student study/bedrooms. The City Centre Masterplan seeks to encourage a mixture of compatible uses across the SPD area that has the benefit of informally 'policing' the area during the evenings and periods where shops and other businesses are closed.

The site is in close proximity to the University of Portsmouth's main campus (the site is around 450m from University House) and other educational establishments that would enable future student residents to have easy access (by foot or bicycle) to the teaching facilities, in addition to

the other retail and leisure uses and employment opportunities found in the city centre, without the need for a car. Therefore, the site is considered a sustainable location for such a proposal. It is considered that this application is consistent with the proposals set out in the City Centre masterplan and Policy PCS4 of the Portsmouth Plan and would provide a use appropriate and compatible with its city centre location. It would also be consistent with the Student Halls of Residence SPD that identifies a need for student halls of residence in the city and the preferred location for such accommodation is close to the University's existing facilities and other educational establishments. The provision of purpose-built student accommodation would contribute to the delivery of new homes and to the wider economic regeneration of the city centre.

Although a Halls of Residence is considered an appropriate use at the site there are, however, minimum floorspace standards and other policy requirements for new dwellings that need to be put aside for purpose-built specialist accommodation of this nature, which includes affordable housing, space standards, parking and open space provision. In order to waive these requirements the council needs to be satisfied that the proposed halls of residence that conforms with the norms set out in the Codes for accommodation provided either by Universities or in accordance with appendix 1 of the SPD and will be restricted to use solely or principally for students on a recognised full-time course of study. To achieve the appropriate restrictions, applicants are expected to enter into a section 106 planning obligation restricting the Halls of Residence for occupation solely or principally by students on a recognised full-time course of study and to ensure the property does not become permanent (general needs) dwellings.

In light of the above, it is considered that the principle of developing the site for purpose-built specialist residential accommodation as a Halls of Residence would be acceptable when considered against the NPPF (in particular paragraph 14 and chapters 1 and 4) and other local planning policies, subject to planning obligations.

#### Design/tall buildings

Within the City Centre Masterplan (para 3.47), exceptionally taller landmark buildings in excess of the storey heights specified by opportunity sites elsewhere in the SPD may be acceptable subject to public realm that is well overlooked, potential overshadowing and adverse street-level microclimate, architectural and design excellence in making a positive contribution to the skyline of the city, contribution to economic prosperity, parking/servicing and relationship to listed buildings in the area.

The townscape contribution of the existing building is limited to the presence of a bulky four-storey structure with a rather bland appearance of strong horizontal emphasis in bands of brick, concrete and glazing. The site is enclosed by galvanised palisade fencing and its entrance orientated at the 'rear' onto Surrey Street. The SPD (at para 4.109) describes it "of robust, utilitarian character".

The principle of a tall building in this location is established by the previous hotel permissions, consistent with advice in the City Centre Masterplan SPD and Tall Buildings SPD that both recognise that a tall, landmark building would be potentially acceptable at the site and tall buildings can add positively to the townscape qualities of an area. Policies PCS23 and PCS24 require all new development to be well designed, seeking excellent architectural quality and PCS4 states "The buildings in the city centre will be the architecture that defines the city and should be of exceptional quality."

The applicant's Design & Access Statement describes the current building design as having a similar characteristic and mass as the 2013 hotel permission. The clients brief for the proposed Halls of Residence building was a similar appearance, use similar materials and a height and mass roughly the same. There are significant similarities between the 2013 hotel building and the current Halls of Residence where external variations arise from internal re-arrangement.

The Design Review Panel expressed disappointment with the proposal and consider the site demands a higher quality building than presented. The panel were comfortable that this standalone site could take a building of 23 storeys but were convinced that a scheme that occupied every square metre of the site would not work and, in addition, were critical of a number of other aspects of this large and bulky scheme described as inelegant and poorly proportioned/detailed.

The proposal has been subject of design amendment but not in relation to its site coverage, which remains largely identical to the 2013 hotel scheme, with some exception on its east side.

There are significant similarities between the 2103 hotel scheme and the current proposed Halls of Residence, designed to be viewed as two thin tall towers. This includes the character of a solid masonry southern element fronting Station Street. A set-back to the top four floors has been made deeper and reinforced by large glazed elements with vertical projecting fins to create a less solid feature and to emphasise the 'top' of this taller southern part of the building. Again, it retains a lighter and contrasting treatment in reconstituted stone on the north elevation and transitions on its east and west sides. There remains a 'rear service' feel at street level on the north, west and part of the east sides due to the necessity to accommodate plant/services.

The appearance on the west side differs by inclusion of a lightwell up to 6.8m in width (above first floor level).

Additional detail show the intention for window apertures to be recessed, with reveals in light grey powder-coated aluminium at levels 2-5 and above level 5 the reveals would be the same colour as the window frames, in dark grey. The typical window reveals are proposed at 130mm to brick finishes and 135mm to reconstituted stone finish. Extruded aluminium fins are proposed, in multiple colours at ground/first floor levels and grey to levels 2-22.

The materials schedule proposes the following (external) palette to be used:

- (1) Corium Bricks Slips - Stack Bonded Staffordshire Smooth Blue - (K10165s) - Baggeridge
- (2) Corium Bricks Slips - Stack Bonded Argenti White Sanded
- (3) Petrarch Reconstituted Portland Stone 519 Dorset Smooth Matt
- (4) Aluminium Window Frames - Dark Grey polyester powder-coated - RAL 7016
- (5) Extruded Aluminium Fin detail - Polyester Powder Coated - Multiple Colours RAL 9006, 5015 & 5024 Coloured Fins to Levels 0-1 only & Grey Fins to Levels 2-22
- (6) Aluminium Louvres - Dark Grey polyester powder-coated to match windows - RAL 7016
- (7) Window reveals - where the façade is Corium, all reveals will have a polyester powder-coated PPC metal surround. Colours in Dark Grey RAL 7016 and Light Grey RAL 7038.

An architectural lighting system would be secured to ensure a quality design solution for the site over 24 hours rather than daytime only. The Tall Buildings Statement identifies use of illumination in 3 areas:

- (1) "To highlight the base to provide a light, safe and inviting entrance to the scheme..."
- (2) "The middle sections will have the horizontal banding illuminated by uprights to emphasis the rhythm and articulation of the south and east sides", and
- (3) "...vertical 'up' lights will illuminate this section [top floors] to act as beacon for the local urban context."

A tall building is considered capable of being assimilated into this central location, to harmonise with the city's skyline in this area and create a positive new landmark in this prominent position. The proposed Halls of Residence would be similar to the 2013 hotel scheme and is considered to demonstrate a sustainable design of high quality contemporary architecture and a sympathetic relationship with the railway station opposite.

## Impact on heritage assets

In relation to heritage assets, Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on local planning authorities to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest. Furthermore, Section 72 of the same Act requires that an authority pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. There is a strong presumption in favour of conservation. Paragraph 132 of the NPPF advises that substantial harm to a designated heritage asset should be wholly exceptional and paragraph 133 advises that consent should be refused unless the harm is necessary to achieve substantial public benefits that outweigh that harm. Paragraph 134 advises that where a development proposal will lead to less than substantial harm this needs to be weighed against the public benefits of the proposal. Furthermore, policy PCS23 of the Portsmouth Plan requires, inter alia, "Development that relates well to the geography and history of Portsmouth, particularly the city's conservation areas, listed buildings, locally listed buildings and scheduled ancient monuments".

Heritage assets within the vicinity of the application site include the following Listed buildings/structures - Grade II, unless specified:

- o 116/118 Commercial Road (HSBC bank)
- o 105 Commercial Road
- o Portsmouth and Southsea Railway Station
- o Connaught Drill Hall
- o University of Portsmouth, Park Building and attached railings and balustrade
- o HMS Shah Memorial, Victoria Park
- o The Guildhall
- o Statue of Queen Victoria
- o War Memorial, Guildhall Square - Grade II\* (Historic England commemorate the Battle of Jutland centenary by upgrading of the listed status of the city's war memorials).

Other designated assets nearby:

- o Victoria Park Historic Park and Gardens - Grade II; and
- o 'Guildhall and Victoria Park' Conservation Area (No18).

The applicants Heritage Statement identifies relevant heritage assets and assesses the impact of the proposed development. It concludes "The impact of the proposal on the significance of heritage assets must be viewed within the existing site context and the extant planning permission. The site itself comprises a vacant four storey building which does not add value to the setting of any heritage assets within the vicinity. The site is situated within the city centre, where tall buildings are considered appropriate. The proposals would result in the development of a landmark building, of high quality design, which will positively contribute to the policy aspirations to enhance the vitality and viability of the city centre. Further, the extant and implementable planning permission permits a tall building of comparable high quality design in this location. The consideration of this planning application did not raise concerns over any impact to heritage assets. The context has not changed since the determination of this application, nor has there been any policy changes, therefore the proposals do not result in an unacceptable impact on the setting of the heritage assets."

Following assessment of the significance of and harm to designated heritage assets, similar conclusions are drawn to those in the Heritage Statement extract above. The replacement of a vacant four-storey building by the proposed 23-storey halls of residence is considered to preserve the setting of the nearest heritage assets at HSBC bank on the corner of Commercial Road/Surrey Street, Portsmouth and Southsea Railway Station (opposite the application site), Connaught Drill Hall (Stanhope Road) and 'Guildhall and Victoria Park' Conservation Area beyond. No heritage specific mitigation is considered necessary (beyond the design process).



## Impact on amenity

There are two elements for assessment on the impact on amenity, the first on existing neighbouring occupiers and the second on future occupiers of the scheme. The potential impacts on neighbouring properties include overlooking and any resulting loss of privacy, loss of light/outlook and general noise and disturbance issues. The potential impacts on future occupiers include noise and disturbance from the existing highway network, railway station and a late night entertainment venue in Surrey Street.

The existing building on the site is positioned onto its western boundary and in close proximity to Nos110-114 (evens) Commercial Road, which is in use as residential flats on the upper floors following conversion from offices after permission in June 1995 (under ref A\*10946/AE). The outlook and light available to habitable room windows to those neighbouring properties is limited and already compromised by the proximity and height of the existing building.

The applicant has submitted a Daylight and Sunlight Study (prepared by Right of Light Consulting) in support of the proposal. The Study concludes that there is no material difference in terms of the daylight and sunlight achievable by the neighbouring properties between the current scheme and that of the scheme with the extant planning permission and "Therefore, there are no daylight or sunlight related reasons why planning permission should not be granted." The siting of the proposed building on the west side would be broadly similar to the existing building although a larger footprint overall (to the north and east sides). At second floor level and above, the design of the west side of the building includes a 'lightwell' up to 6.8m in width. The redevelopment proposals are for a considerably taller building. There would be some impact on the neighbouring properties but must be balanced with the effect of the existing building and thereby considered sufficiently limited not to be significantly detrimental.

On the issue of potential noise and disturbance created by the large number of students occupying the new development, the applicant has sought to address the such concern by submitting a copy of their Student Management Plan (prepared by CRM, February 2016) that includes a 'code of conduct' for the occupiers and procedures on dealing with complaints to the Accommodation Manager (who is the Local Community Liaison Officer). As already highlighted in the previous section, the principle of a halls of residence in this location is considered acceptable and whilst it is recognised that this scheme would provide term-time accommodation for a large number of students it is considered it would not significantly affect the living conditions of the occupiers of neighbouring properties. However, it is considered that the 'management plan' is necessary and reasonably required to mitigate the impact of the proposal and therefore should be secured via a planning obligation through the legal agreement.

The views of Environmental Health (EH) are set out in the consultations section of this report. Although no objection is raised to the principle of the proposed development, its location may be exposed to elevated noise levels from road traffic. A plant room is proposed on the ground floor with extraction systems venting to atmosphere which could potentially impact upon both the existing residents in Avalon House and also future tenants of the development itself. Whilst identifying potential for some disturbance from the public house/night club on Surrey Street, EH consider on the whole this appears to be quite well controlled and as the proposed development will involve temporary occupation provided that the correct mitigation measures are incorporated in the design then this should not be an overriding issue. The mitigation measures of a noise insulation scheme to habitable room windows and approval of an assessment of noise from the operation of any fixed plant or equipment prior to installation are considered reasonable and necessary to be secured by planning condition.

In conclusion, it is considered that the proposal is unlikely to have any significant impact on the future occupiers of the scheme or the residential amenities of the occupiers of neighbouring properties and not so 'unneighbourly' to substantiate a reason for refusal.

## Standard of accommodation

Design amendment to the external appearance of the building has resulted in internal revision. The number and arrangement of study/bedrooms has changed from its original total of 520, in a mix of unit types, to 576 that now comprise of 202 individual studios of 18-22sqm (24-28sqm for accessible units on 1st, 7th & 15th floors) and 187 'twodios' (2-bedroom units) of 29-31sqm. The rearrangement of window openings serving study/bedrooms facing into the central lightwell, which would be up to 6.8m in width, have resolved issues of mutual overlooking and resulting loss of privacy across short distances. The outlook from and light available to serve habitable room windows across a lightwell of 6.8m width would not reasonably be considered to provide the highest quality living environment. The lightwell diminishes in width to 5m, for a length of some 4.4m. The outlook from some habitable room windows would be compromised further across such a gap of only 5m and not represent a quality living environment; however, the most affected windows are designed to be larger. The amenities of the future occupiers of this term-time accommodation would not be considered so poor to warrant refusal.

Ancillary communal facilities would cover 350sqm comprise of lounge, social space/entrance foyer, gymnasium, cinema, laundry and meeting rooms located on the ground and first floors.

## Highways implications

The site lies within a highly accessible city centre location, adjacent to the railway station and near Commercial Road (south) that bus operators estimate (para 3.16 of the City Centre Masterplan) around 5 million bus passengers per annum use the bus stops currently located there, served by 1200 buses per day.

The application is supported by a Transport Statement and Travel Plan (prepared by Transport Planning Associates). The development does not propose any car parking for the halls of residence and the applicant states that students would be prohibited from bringing cars into the city as a condition of their tenancy.

The views of the Highways Authority are set out in the consultations section of this report. The adequacy of cycle parking at 174 spaces (30% of the SPD standard) is now considered a satisfactory compromise for the scheme's highly accessible city centre location, consistent with other halls of residence approved nearby. In summary, however, refusal is still recommended on the following three grounds:

1. Insufficient information to demonstrate that 11.2m refuse vehicles can service the proposed development either physically or practically given the scope for conflict with existing servicing arrangements. No servicing or refuse management plans are included with the application
2. The proposed arrangements to accommodate students moving in/out of the accommodation rely on the activity being undertaken in too short a period of time and the use of local public car parks where sufficient capacity has not been established given the similar requirement for use of these spaces by students occupying existing local halls of residence and one of which (Stanhope Road) is no longer operational.
3. The Student Travel and Management Plan submitted with the application is not fit for purpose as it does not identify either targets or interventions which would be made in the event that any agreed targets were not achieved.

The applicant has offered comments concerning these outstanding highways objections. They rightly identify that domestic waste is already collected from 'Avalon House' via Surrey Street by 11.2m refuse vehicles. The council's Waste Management Team has made enquiries to Biffa, whose supervisors identify vehicles parked on double-yellow lines when crews arrive as the most significant access problem and with care a 11.2m refuse vehicle can access Surrey Street.

The proposed halls of residence represents a car-free scheme. The most significant highway impact would arise at the beginning and end of the academic year when students move in and out of the development. The applicant's comment the "...original strategy required students to be allocated one of five parking spaces at the adjacent Slindon Road car park following which they would have a ten minute period to unload their car. This arrangement would be controlled by CRM Students Ltd who will be the managing agents at the site, with assistance provided by support staff from the Student Union" and conclude the Highways Authority's concerns can be distilled down into two perceived issues - firstly, insufficient time to appropriately implement the strategy and, secondly, that no assessment has been undertaken of the availability of car parking spaces.

The applicants believe their supporting information from CRM Students Ltd, as managing agents, should not have been used by the Highways Authority as the basis for any assessment. This statement seeks to outline that moving in and out is not an exact science, will vary depending on the circumstances of individual students and provides an account of general experiences of students moving in/out to provide comfort to the Council that regardless of the situation, it has the expertise to ensure that it runs smoothly. In their view, any assessment of highways matters should focus on the Transport Statement and Student Travel and Management Plan prepared by specialist consultants and its data presents a reasonable assumption of the worst case scenario for assessment and demonstrate its proposed strategy is acceptable.

The applicant's state "The Student Travel and Management Plan confirms that the majority of students will move in/out of the development on a set weekend. It is anticipated that approximately 255 students will move into the development on this weekend over a twelve hour period on both Saturday and Sunday (8am to 8pm). This would equate to 11 vehicular movements per hour as stated in the Student Travel and Management Plan and not 4.7... [Highways Authority figure] ... Based upon our initial submission which proposed the use of 5 car parking spaces, the absolute maximum level of movements would be 30 (six 10 minute slots x 5 car parking spaces). However, it is accepted that this is an unrealistic figure, therefore reducing the movements to circa 11 per hour is considered a robust position and provides sufficient flexibility in the event that some individuals go beyond their allotted 10 minute period. To clarify, we are firmly of the view that five car parking spaces, used over a one hour period, provides sufficient time to enable 11 students to unload luggage from their car."

On the assessment of available car parking spaces, the applicants consider this unnecessary on the basis that (a) written confirmation has been provided of agreement to make five car parking spaces available for a continuous period of ten days between the owners of the adjacent Slindon Road car park and the applicant and (b) a wider assessment of parking provision in the city be undertaken to take account of possible vehicular movements outside of activity associated directly with the development.

Notwithstanding the above, the applicants have provided a plan to show provision of six echelon parking spaces onto station Street where there are currently three. They do not consider these additional spaces to be required but would provide greater flexibility and with the revision believe "the strategy is fit for purpose and capable of being actioned by the very experienced CRM Students Ltd."

Finally, with regard to concerns of census data and an absence of travel plan interventions the applicants highlight "...that the objective of a travel plan is to encourage occupiers of a development to reduce their reliance on the private motor car in favour of more sustainable transport modes." With the exception of move in/out it remains a car free development. The agent comments "I am confident that there are a plethora of approaches to establish or encourage the use of different forms of sustainable travel, however this is a moot point given that *all* movements associated with the development would be sustainable. I am therefore satisfied that the Student Travel and Management Plan is fit for purpose given the nature of the development."

The views of the Highways Authority and the applicant's responses have been carefully considered. This is a very compact city centre site without off-street parking to serve the development. The most significant highway impact would be at the beginning and end of the academic year. Five parking spaces in a nearby car park and reorientation to six echelon parking bays seems only likely to be adequate where students and their belongings are for drop-off only and would require significant resource and management to supervise such an arrangement (rather than provide time for key collection and movement of all belongings to the individual's room). The availability of parking spaces for parents/guardians to remain proximate to the site beyond the 10 minute allotted period is challenged by the Highways Authority. If city centre car parks or other pay-and-display parking spaces prove to be unavailable on the move-in weekend then they would rely on other alternatives such as park-and-ride. The contribution that such a sustainable location for specialist purpose-built accommodation for students would make is considered to outweigh any inconvenience and disruption to the local highway network in the city centre and increased demand for parking on the weekends at the beginning/end of term. The proximity of the site to the University campus and to public transport, mitigate the impact of the proposal and therefore should be supported through planning obligations (secured by legal agreement).

#### Recreational disturbance

To the east and west of Portsea Island are Langstone and Portsmouth Harbours, which are internationally designated as Special Protection Areas (referred to as the Solent SPAs) due to the amount of protected species (such as waders and Brent Geese) that they support. Evidence shows that new development can reduce the quality of the habitat in the Solent SPAs through recreational disturbance from the resident population. In order to comply with the Conservation of Habitats and Species Regulations 2010 (as amended), it is essential that development does not have a significant effect and therefore mitigation measures must be secured before planning permission can lawfully be granted.

The Solent Special Protection Areas Supplementary Planning Document (adopted in April 2014) confirms that increases in population within 5.6km of the Solent SPAs through development would lead to a significant effect on those SPAs. This proposal for purpose-built student accommodation is approximately 2.0km from the Solent SPAs (this measurement is to Portsmouth Harbour SPA, the closest point of Portsmouth coast to the development) and will result in a net increase in population, and therefore a significant effect on the Solent SPAs.

As set out in the Solent Special Protection Areas Supplementary Planning Document, 'due to the characteristics of this kind of residential development, specifically the absence of car parking and the inability of those living in purpose built student accommodation to have pets, the level of disturbance created, and thus the increase in bird mortality, will be less than Class C3 housing. The SDMP research showed that 47% of activity which resulted in major flight events was specifically caused by dogs off of a lead. As such, it is considered that level of impact from purpose-built student accommodation would be half that of C3 housing and thus the scale of the mitigation package should also be half that of C3 housing'.

The proposed halls of residence would result to a net increase in population, which in all likelihood would lead to a significant effect, (as described in the Conservation of Habitats and Species Regulations 2010) on the Portsmouth Harbour and Chichester and Langstone Harbours Special Protection Areas (SPAs). This has been acknowledged by the applicant who has indicated that they will enter into a planning obligation to provide the necessary mitigation. The Solent Special Protection Areas SPD sets out how the significant effect which this scheme would otherwise cause, could be overcome. Based on the methodology in the SPD, an appropriate scale of mitigation could be calculated as  $(570/5 \times £174/2) = £9918$  where the SPD states 'the average number of study bedrooms in a unit of purpose built student accommodation in the city is five. As such, for the purposes of providing SPA mitigation, five study bedrooms will be considered a unit of residential accommodation'. In order to mitigate the recreational

disturbance impacts of the proposed development the applicant will be required to make a financial contribution of £9918 to make the development acceptable in planning terms.

It is considered that, subject to the inclusion of this mitigation package within a legal agreement, there would not be a significant effect on the Solent SPAs and the requirement for a legal agreement to secure this mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

Achieving Employment and Skills Plans SPD requires that new development in the city contribute towards providing training and employment opportunities for local residents but will only be requested from major developments, at the construction stage. In accordance with this SPD, a request for an employment and skills plan has been raised with the developer and would be secured through a Section 106 Agreement.

#### Sustainable design and construction/site contamination/drainage

The submitted desk study report has been reviewed by the Contaminated Land Team that concludes that a site investigation, including assessment of soil, groundwater and soil bulk gases is required; relevant conditions are therefore requested for contamination/remediation.

The applicant has submitted a Pre-assessment Report (prepared by Greengage Environmental Ltd, 29 January 2016) that would achieve BREEAM Excellent standard and a reduction in total carbon emissions from the development by 10% as part of the selection of measures to meet the overall BREEAM level. This would accord with Policy PCS15 requiring all non-domestic development with a net increase in floorspace of more than 500sqm to achieve 'Excellent' (with Low or Zero Carbon energy technologies to reduce total emissions by 10% as part of the selection of measures to meet the overall BREEAM level). Post-construction certification demonstrating implementation of the design standard set out in the pre-assessment report would be appropriate to secure by planning condition.

#### Conclusion

The use of the site for a Halls of Residence is appropriate to the city centre location. The proposal is considered to demonstrate a sustainable design of high quality contemporary architecture, to make a positive townscape contribution and preserve the setting of the listed building opposite. The proposal can be assimilated onto the site without significant harm to neighbouring occupiers, would provide much needed specialist residential accommodation (for students), add to the vitality of the city centre and support the wider regeneration of the city and these are considered to outweigh residual concerns of the highways authority on move in/out days, the student travel plan and access in Surrey Street by waste collection vehicles. Therefore, subject to planning obligations and conditions to make the proposal acceptable the proposed Halls of Residence is considered to represent sustainable development in accord with the Portsmouth Plan and the aims and objectives of the NPPF.

## RECOMMENDATION I

Delegated authority be granted to the City Development Manager to grant **Conditional Permission** subject to the prior completion of an agreement pursuant to section 106 Town & Country Planning Act 1990 to secure the following planning obligations:

- 1 A provision to secure the accommodation for University of Portsmouth students (or those on an equivalent full-time course) during their period of study and not use the halls of residence for any other purpose than as residential accommodation for a student during their period of study;
- 2 To keep and maintain the Register of Students as an accurate record of the student residents in the halls of residence and provide copy to City Development Manager upon request;

3. At all times other than University of Portsmouth Academic Terms not to use the halls of residence for any purpose other than as temporary residential accommodation for periods not exceeding two months in the case of any individual resident occupying the halls of residence;
- 4 Mitigating the impact of the proposed development on Solent Special Protection Areas by securing the payment of a financial contribution before development commences;
- 5 The preparation and implementation of an Employment and Skills Plan (to assist in the development of resident workforce skills and provide a route to employment for local people) before development commences;
- 6 Prepare, implement and monitor a Travel Plan: with submission of contact details of the Travel Plan Coordinator and identification of interim targets upon first use of the Halls of Residence to be submitted and agreed in writing by the Local Planning Authority, baseline travel survey to be undertaken within 6 months of first use of the Halls of Residence, and submission of the Travel Plan within 12 months of first use of the Halls of Residence to be submitted and agreed in writing by the Local Planning Authority (for assessment/monitoring of achievement of the targets) and thereafter monitored in accordance with surveys in years 3 and 5 (with monitoring fee of to cover a 5 year period, payable upon submission of the details of the Travel Plan Coordinator/interim targets when the Halls of Residence is first brought into use);
- 7 The following off-site highway improvements work
  - a. Raised table contribution - Station Street
  - b. Build-out contribution junction Surrey Street
  - c. Works to the site perimeter and
  - d. Provision of six echelon parking spaces onto Station Street; and
- 8 The payment of a Project Management Fee upon implementation of planning permission.

**RECOMMENDATION II** That delegated authority be granted to the City Development Manager to add/amend conditions where necessary.

**RECOMMENDATION III** That delegated authority be granted to the City Development Manager to refuse planning permission if the legal agreement has not been completed within three months of the date of the resolution

### **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: <insert numbers>.
- 3) 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 desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011+A1:2013;
  - and unless otherwise agreed in writing by the LPA,
  - b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA,
  - c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance

and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

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

- (a) as built drawings of the implemented scheme;
- (b) photographs of the remediation works in progress;
- (c) Certificates demonstrating that imported and/or material left in situ is free of contamination.

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

5) No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping which shall specify species, planting sizes, spacing and density/numbers of trees and other shrubs to be planted; the phasing and timing of planting; and provision for its future maintenance, together with details of seating/lighting/bollards or similar street furniture structures and surface treatments of the external spaces around the building.

6) All planting in the approved landscape scheme shall be carried out in the first planting season following the occupation of the hotel building or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

7) No development shall take place at the site until a detailed schedule (including any samples, as may be necessary) of the proposed materials and finishes to be used for the external walls and roof of the proposed hotel building shall have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

8) Details of the external architectural lighting effects (during the hours of darkness), including details of the siting and appearance of any luminaires, shall be submitted to and approved in writing by the Local Planning Authority; the architectural lighting shall be carried out as an integral part of the development and shall thereafter be retained.

9) The existing accesses to the site onto Surrey Street shall be stopped up and the footway crossing reinstated before the development hereby permitted is first brought into use.

10) The facilities to be provided for the storage of bicycles shall be constructed and made available for use before the halls of residence is first brought into occupation, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter be retained for those purposes at all times.

11) The facilities to be provided for the storage of refuse and recyclable materials shall be constructed and available for use before the halls of residence is first brought into occupation, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter be retained for those purposes at all times.

12) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:-

- (a) A baseline TV/radio reception report that records survey data of the existing television and radio equipment signals in the locality;

and following the substantial completion of the building shell:-

(b) A report to assess the impact that the proposed development may have upon television and radio equipment signals in the locality; and, unless otherwise agreed in writing by the Local Planning Authority:-

(c) A detailed scheme for a scheme for the mitigation of any significant adverse effects upon TV/radio reception created by the building.

Such measures as may be approved shall be implemented within 2 months of the approval of details, or within any other period of time approved in writing by the Local Planning Authority, and thereafter retained.

13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or other enactment modifying or revoking that Order, no structure or plant or apparatus shall be externally mounted on the building including any works permitted by Part 16 of Schedule 2 of that Order (with the exception of the any other externally mounted equipment/platforms/cradles necessary in relation to condition 14) without the prior written permission of the Local Planning Authority, obtained through the submission of a planning application.

14) Before the halls of residence is first brought into use details of (i) a programme for the cleaning and maintenance of the external cladding of building and (ii) the siting/appearance of any externally mounted equipment/platforms/cradles required for the cleaning and maintenance of the external cladding of the building shall have been submitted to and approved in writing by the Local Planning Authority. Such agreed programme of work and/or provision of externally mounted equipment shall subsequently be carried out and thereafter retained.

15) No development shall take place until details of the proposed means of foul and surface water sewerage disposal has been submitted to and approved in writing by the Local Planning Authority.

16) Before any part of the development is occupied, written documentary evidence shall be submitted to, and approved in writing by, the local planning authority proving that the development has achieved a minimum level of 'Excellent' in the Building Research Establishment's Environmental Assessment Method (BREEAM), including two credits in issue ENE 04 and two credits in issue TRA 03, which will be in the form of a post-construction assessment which has been prepared by a licensed BREEAM assessor and the certificate which has been issued by BRE Global, unless otherwise agreed in writing by the local planning authority.

17) No development shall take place until a scheme for insulating habitable rooms against road traffic noise shall be submitted to and approved in writing by the local planning authority. The approved scheme shall then be implemented before the first occupation of the building and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved in living and bedrooms:

Daytime: LAeq(16hr) (07:00 to 23:00) 35 dB,

Night-time: LAeq(8hr) (23:00 to 07:00 bedrooms only) 30 dB and L<sub>Amax</sub> 45dB.

18) Prior to the installation of any fixed plant or equipment an assessment of noise from the operation of the plant shall be undertaken using the procedures within British Standard BS4142:2014 and a report submitted to the local authority for approval. Upon approval all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant shall be implemented and thereafter retained.



**The reasons for the conditions are:**

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 4) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 5) To secure a high quality setting to the landmark building in this prominent and important site, also within the setting of the listed railway station opposite, in the interests of visual amenity in accordance with policies PCS13, PCS23 and PCS24 of the Portsmouth Plan.
- 6) To secure a high quality setting to the landmark building in this prominent and important site, also within the setting of the listed railway station opposite, in the interests of visual amenity in accordance with policies PCS13, PCS23 and PCS24 of the Portsmouth Plan.
- 7) To secure high quality external finishes to the landmark building in this prominent and important site, also within the setting of the listed railway station opposite, in the interests of visual amenity in accordance with policies PCS23 and PCS24 of the Portsmouth Plan.
- 8) In order to secure the highest design quality for this landmark building over 24 hours (rather than daytime only) in a very visually prominent position and within the setting of the listed railway station opposite, to accord with policies PCS23 and PCS24 of the Portsmouth Plan.
- 9) In the interests of highway safety in accordance with policy PCS17 of the Portsmouth Plan.
- 10) To ensure that adequate provision is made for cyclists using the premises and to promote modes of transport other than the private car, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
- 11) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.
- 12) To protect occupiers of properties in the vicinity of the site from any adverse impact on TV/radio reception, to accord with Policy PCS23 of the Portsmouth Plan.
- 13) To ensure the skyline and 'clean lines' of this prominent landmark building remain free of visual clutter and to ensure television and other transmissions are not adversely affected by subsequent additions to the building, to accord with policies PCS23 and PCS24 of the Portsmouth Plan.
- 14) To maintain a high quality external appearance to the landmark building in this prominent and important site, also within the setting of the listed railway station opposite, in the interests of visual amenity in accordance with policies PCS23 and PCS24 of the Portsmouth Plan.
- 15) In order to ensure adequate capacity in the local drainage network to serve the development that might otherwise increase flows to the public sewerage system placing existing properties and land at a greater risk of flooding, in accordance with policy PCS12 of the Portsmouth Plan.
- 16) To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy PCS15 of the Portsmouth Plan.

17) To ensure that acceptable noise levels within the halls of residence are not exceeded in the interests of residential amenity, in accordance with policy PCS23 of the Portsmouth Plan.

18) To ensure that acceptable noise levels within nearby dwellings and the halls of residence are not exceeded in the interests of residential amenity, in accordance with policy PCS23 of the Portsmouth Plan.

## PRO-ACTIVITY STATEMENT

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

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# 02

15/02075/FUL

WARD:COSHAM

## VACANT LAND SOUTHAMPTON ROAD (SOUTH SIDE) PORTSMOUTH

**CONSTRUCTION OF UP TO 7479.8 SQM OF FLOORSPACE WITHIN 3 BLOCKS COMPRISING 2 X TWO-STOREY UNITS AND 1 SINGLE-STOREY UNIT TO FORM A MIX OF RETAIL SHOP (CLASS A1), RESTAURANT/CAFE WITH DRIVE THRU (CLASS A3), EDUCATION/TRAINING (CLASS D1), GYMNASIUM (CLASS D2), AND VETERINARY SURGERY (CLASS D1) USES, TO INCLUDE CAR & CYCLE PARKING, REFUSE STORAGE AND LANDSCAPING, WITH ACCESS FROM BINNACLE WAY**

### Application Submitted By:

Freeths LLP  
FAO Mr Paul Brailsford

### On behalf of:

Simons Developments Limited

**RDD:** 21st December 2015

**LDD:** 14th April 2016

## SUMMARY OF MAIN ISSUES

The principal issue is whether this proposal contributes to the achievement of sustainable development, in accordance with national and local planning policy. Key issues for consideration are the principle of the development including effects on the vitality and viability of existing town centres, transport and highways implications, design and townscape, sustainable design and construction, impact on amenity, ecology/landscape and employment opportunities.

The site and surroundings

The application site has a broadly rectangular shape covering 1.41ha and comprises vacant but previously developed land. Housing that formerly occupied the site was demolished in circa 2002. The site is located between a private road, Binnacle Way, to the south and Southampton Road to the north, which is a primary distributor road ('classified', A27) and a significant east-

west arterial route across the city, north of Portsea Island, situated in relatively close proximity to a major motorway junction (to M27/M275).

Highways bound the northern and southern site boundaries. Immediately adjoining the other site boundaries are restaurants ('KFC' and 'Pizza Hut') and beyond them are a car dealership (to the west) and hotel (to the east). Access to the site is from Binnacle Way, via Clement Attlee Way to the west and Compass Road to the east. This local highway network serves a 'Tesco Extra' store of over 5000sqm of net tradable area, with petrol filling station, and a development of a primarily offices at Northharbour. The surrounding area is characterised by a range of commercial, industrial, storage and car dealership/retail uses. A new restaurant (with drive-through facility) for 'McDonalds' opened at the end of June, which is located on the west side of Clement Attlee Way. A new food store for 'Aldi' is proposed on a cleared site that lies immediately west of Racecourse Lane on the north side of Southampton Road.

The nearest residential properties are a pair of semi-detached houses positioned on the south side of Southampton Road between an elevated section of the motorway (M27) and the new 'McDonalds' restaurant.

There is no site-specific designation on the Proposals Map for the application site as a protected employment site. The site immediately adjoins land designated as protected employment land (PCS11), to the north and south-east. The southern end of the site is within the Indicative Floodplain (Flood Zone 2). The land slopes gently southwards from +5.4m on the north side (Southampton Road) and +3.4m on the south side (Binnacle Way). The southern end of the site was formed from reclaimed land. There is a tree-lined footpath across the application site that provides a route used by the public to access the nearby 'Tesco' store from Southampton Road where a light-controlled crossing links to Racecourse Lane. The footpath was provided as part of the permission for Tesco on A\*36599/AB (outline) and A\*36599/AD (reserved matters) for a pedestrian link to Paulsgrove. The footpath is not adopted, is not owned by PCC and not on the definitive footpath map.

There are other existing established trees grouped along the northern boundary that provides attractive screening of this vacant site. There are public utility service runs on the site that include an east-west foul sewer positioned toward the southern boundary (to remain clear of built-form) and an electricity cable, which proposed to be re-routed by the applicants.

## Proposal

This detailed application seeks full planning permission to erect new out-of-centre development ie 'retail park', comprising of a mix of shop, restaurant and other uses with an overall floorspace of some 7,480 sqm (gross external measurement). The breakdown of uses for the retail park is described on the application form as follows:-

Shops (A1)	3902sqm
Restaurants (A3)	204sqm
Education/training (D1)	271sqm
Gym (D2)	1764sqm
Flexible A1/A3	186sqm
Flexible A1 & vets (D1)	604sqm

The total internal floorspace of units at the proposed retail park would be 6,932sqm. To put the scale of the proposal into some context with other development locally the nearby 'Tesco Extra' Northharbour covers 5,059sqm (expressed as net sales floorspace).

Units at the retail park are proposed to be accommodated on the western and eastern sides of the site in a layout designed with surface car parking and public realm located between. The proposed buildings are of significant scale/massing and at up to 12.85m in height (to parapet on Block B above ground level).

A total of 162 car parking spaces would serve the retail park. This parking provision includes 9 widened disabled person bays and 3 parent/toddler spaces; it also includes 2 'no waiting' bays to Unit 9 for A3 use with drive-through facility. Customer access/egress would be from Binnacle Way, which currently serves the 'KFC' restaurant/drive-through. A second separate access for service vehicles for the eastern section of the development would also be via Binnacle Way. An area of public realm created in front of the proposed units 1-3 would provide a new pedestrian route across the site between Southampton Road and Binnacle Way, to the 'Tesco' store.

The maximum (internal) floorspace would be 4692sqm and a breakdown of the 9 units across the retail park by floorspace (GIA/estimated net sales) would be as follows:-

East side of site (with accommodation on 2 floors)		
Unit 1	Ground floor	1,579sqm / 17,000sqft (GIA) 1421sqm (net sales)
Unit 2	Ground floor	465sqm / 5,000sqft 325sqm
Unit 3	Ground floor/mezzanine	1,858sqm / 20,000sqft 1,486sqm
Unit 4	First floor	1,764sqm / 19,600sqft -
West side of site (mainly single-storey)		
Unit 5	Ground floor/part mezzanine	604sqm / 6,500sqft 423sqm
Unit 6	Ground floor	93sqm / 1,000sqft 65sqm
Unit 7	First floor	271sqm / 2914sqft -
Unit 8	Ground floor	93sqm / 1,000sqft 65sqm
Unit 9	Ground floor	204sqm / 2,200sqft -

As an urban development project with a site area that exceeds 1ha (non-residential) the proposal comprises a 'Schedule 2' development project as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations (2011). The proposed development is not considered likely to have a significant effect on the environment and consequently the view has been taken that the proposal is not an EIA development, and no environmental impact assessment is required.

The application is supported by various documents including: Design & Access Statement, Planning and Retail Statement (Retail Planning Technical Note 1 & 2), Transport Assessment, Travel Plan, BREEAM Pre-assessment, Arboricultural and Hedgerow Survey, Arboricultural Impact Assessment, Phase 1 Environmental Assessment, Phase I Habitat Survey and Flood Risk Assessment.

#### Relevant planning history to the site and surrounding area

(A\*36599/AB) Construction of extension to retail foodstore, hotel (120 beds), 3 car sales showrooms, 2 drive-thru restaurants, B8 trade warehouse units & 2 car washes plus provision of ancillary parking / landscaping & highway works & the relocation of petrol filling station (Outline application) was granted outline permission in October 2001. The application site was described as "Tesco Store/Petrol Filling Station, Binnacle Way/Clement Attlee Way, 11-111 & 129-137 Southampton Road and adjoining land, Paulsgrove."

Through subsequent Reserved Matters/full permissions, elements of the above proposed development have been undertaken on land adjacent to the current application site:

(A\*36599/AP) Construction of a five-storey building to form a hotel for up to 106 bedrooms (originally developed by Tulip hotels, now 'Premier Inn');

(A\*36599/AT) Construction of detached building for use as restaurant/takeaway (Class A3) with car parking and associated works ('for 'Pizza Hut');

(A\*36599/AU) Construction of single-storey building up to 794sqm to form car dealership showroom with associated workshops/mot bay/offices/storage and single-storey valet building up to 70sqm, external car display/sales forecourt and staff/customer parking area, with access onto Clement Attlee Way (for 'Honda'); and,

(A\*35958/AE) Construction of a detached building for use as a restaurant/takeaway and drive-thru (for 'KFC').

More recently, 'McDonalds' has just opened a new two-storey restaurant/takeaway with drive-thru, on land west of and accessed from Clement Attlee Way, following planning permission in December 2014 (14/00483/FUL).

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS18 (Local shops and services), PCS23 (Design and Conservation), PCS11 (Employment Land), PCS13 (A Greener Portsmouth), PCS15 (Sustainable design and construction), PCS4 (Portsmouth City Centre).

Saved policy DC21 of the Portsmouth City Local Plan 2001-2011 relates to contaminated land.

The Portsmouth Plan has stated objectives and the spatial strategy and policies flow from these. They include

- To make Portsmouth an attractive and sustainable city, amongst other things by seeking to continue the trend of highly accessible shops and services;
- To make Portsmouth an accessible city with sustainable and integrated transport, which will be achieved by focussing developments around our town centres and public transport routes and focussing travel around cycling, walking and public transport and
- To develop Portsmouth as a city of innovation and enterprise, with a strong economy and employment opportunities for all, including by improving the city centre, providing comparison retail floorspace mainly in the city centre and supporting the city's other town centres so they remain viable and vibrant.

The Spatial Strategy forms an integral part of the Portsmouth Plan. A main element of the strategy is to locate the additional development at key development sites, around the town centres and public transport hubs and routes to reduce reliance on the private car and to encourage residents, employees and visitors to access everyday services on foot, cycle or by public transport.

These objectives and the spatial strategy are carried forward into the policies in the Portsmouth Plan:

PCS4 states that 'Substantial new non-bulky comparison retail will be directed to the city centre'. PCS18 facilitates the provision of shops and other town centre uses that are clearly designed for local needs and ensures that developments intended to serve a wider need are directed to larger town centres. Proposals for town centre uses in out-of-centre locations will have to follow national policy regarding town centre uses, including the sequential test. A detailed assessment in relation to local and national retail policy is also made in the comments section of this report.

The approach in the Local Plan is supported by the NPPG:

'Local planning authorities should plan positively, to support town centres to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work.'

'Local planning authorities should assess and plan to meet the needs of main town centre uses in full, in broadly the same way as for their housing and economic needs, adopting a 'town centre first' approach and taking account of specific town centre policy.'

'A positive vision or strategy for town centres, articulated through the Local Plan, is key to ensuring successful town centres which enable sustainable economic growth and provide a wide range of social and environmental benefits. Once adopted a Local Plan, including any town centre policy that it contains, will be the starting point for any decisions on individual developments.'

Relevant guidance includes the following adopted Supplementary Planning Documents: Parking Standards and Transport Assessments (July 2014), Reducing Crime Through Design SPD (March 2006), Sustainable Design and Construction (January 2013) and Achieving Skills and Employment Plans (July 2013).

Other relevant central government guidance is set out in the National Planning Policy Framework. The NPPF describes the purpose of the planning system is to contribute to the achievement of sustainable development and there are three dimensions to sustainable development: economic, social and environmental. The application should be assessed against development management policies in the NPPF and, in particular, chapters 1 (Building a strong, competitive economy), 2 (Ensuring the Vitality of Town Centres), 4 (Promoting Sustainable Transport) and 7 (Requiring Good Design), including the presumption in favour of sustainable development set out in paragraph 14. Further examination of relevant NPPF guidance will be made in the comments section of this report.

## **CONSULTATIONS**

### **Environment Agency**

No objection raised on flood risk grounds. To ensure the proposed development meets the National Planning Policy Framework (NPPF) policy to demonstrate that it will be safe over its lifetime, the following planning condition is recommended:

Condition: "The development hereby permitted shall not be commenced until such time as a scheme to ensure finished floor levels are set no lower than 4.3m above Ordnance Datum (AOD) for Block A, 4.9mAOD for Block B and 4.2mAOD for Block C, has been submitted to, and approved in writing by, the local planning authority.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority."

Reason: To reduce the risk of flooding to the proposed development and future users.

### **Advice to Local Planning Authority/Applicant**

A small section of the development site is located within tidal flood zone 2 and is considered to have a medium probability (0.5% - 0.1%) of flooding from the sea in any year.

The current day 0.5% tide level is given as 3.2mAOD, rising to 3.7mAOD by the year 2070, when climate change and sea level rise are considered.

The design tide level against which flood risk should be assessed is 3.7mAOD and provided the finished floor levels of the units are set as stated within the proposed condition (Block A: 4.3mAOD, Block B: 4.9mAOD & Block C: 4.2mAOD), then they will be free from inundation over their full lifetime.

The access to the site from Binnacle Way appears to be at a level of 3.2mAOD and so it is possible that safe access and egress would not be available over the full lifetime of the development. However, it does appear that pedestrian access is available to Southampton Road which is at a height above the design tide level (3.7mAOD). The LPA may wish to consider whether a site specific flood warning and evacuation plan should be produced for the development.

### **Natural England**

Statutory nature conservation sites - no objection

NE has assessed this application using the Impact Risk Zones data (IRZs) and advise that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Portsmouth Harbour SPA/Ramsar has been classified. NE therefore advise your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.

In addition, NE is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Portsmouth Harbour and Portsdown SSSI's have been notified. We therefore advise your authority that these SSSI's does not represent a constraint in determining this application. Should the details of this application change, NE draw attention to Section 28(l) of the Wildlife and Countryside Act 1981 (as amended), requiring you to re-consult.

#### Protected species

This application has not been assessed for impacts on protected species. NE has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from NE following consultation. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that NE has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

#### Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

#### **Southern Water**

Please find attached a plan of the sewer records showing the approximate position of a public foul, decommissioned foul, surface water sewer crossing the site. The provided site survey plans indicate also existing sewer that may deem to be public. The exact position of the public sewers and their ownership must be determined on site by the applicant before the layout of the proposed development is finalised. It might be possible to divert the public foul sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions. Should the applicant wish to divert apparatus:

1. The foul and surface water sewer requires a clearance of 3 metres either side of the sewer to protect it from construction works and allow for future access for maintenance.
  2. No development or new tree planting should be located within 3 metres either side of the centreline of the public foul sewer
  3. No development or new tree planting should be located within 3 metres either side of the centreline of the public foul and surface water sewer.
  4. No new soakaways should be located within 5 metres of a public sewer.
  5. All other existing infrastructure should be protected during the course of construction works.
- Alternatively, the applicant may wish to amend the site layout, or combine a diversion with amendment of the site layout. If the applicant would prefer to advance these options, items (1) - (5) above also apply.

In order to protect drainage apparatus, Southern Water requests that if consent is granted, a condition is attached to the planning permission. For example "The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewers, prior to the commencement of the development."

Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties

served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 03303030119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".

Following initial investigations, Southern Water cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 1 09 of the National Planning Policy Framework. Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested by the developer to accommodate the above mentioned proposal. Should the Local Planning Authority be minded to approve the application, Southern Water would like the following condition to be attached to any permission.

"Development shall not commence until a drainage strategy detailing the proposed means of foul and surface water disposal and a implementation timetable, has been submitted to and approved in writing by, the local planning authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable." We suggest the following informative: 'The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 3030119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)'.

Our initial investigations indicate that Southern Water can provide surface water disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent:

"A formal application for connection to the public sewerage system is required in order to service this development, Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".

It is the developer's responsibility to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order

- A Adequate soakaway or infiltration system

- B Water course

- C Where neither of the above is practicable sewer.

Southern Water supports this stance and seeks through appropriate Planning Conditions to ensure that appropriate means of surface water disposal are proposed for each development. It is important that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development. When it is proposed to connect to a public sewer the prior approval of Southern Water is required.

The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises. Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.

We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

### **Coastal Partnership**

The applicant has submitted an acceptable flood risk assessment and no objection is raised by Eastern Solent Coastal Partnership, noting that the EA has proposed the inclusion of planning conditions to ensure that the recommendations in the flood risk assessment are implemented in the final building design and ESCP support inclusion of these.



## Advice

The site is shown to be partially within Flood Zone 2 of the EA's Flood Maps. The site lies within the M27 and Farlington flood cell as identified in the Portchester Castle to Emsworth Coastal Flood and Erosion Risk Management Strategy and benefits from coastal defences behind the M27 embankment.

The present day 0.5% probability (1 in 200 year) extreme tide level for Portsmouth Harbour is 3.2m AODN and the 0.5% probability (1 in 200 year) extreme tide level for this area in the year 2070 is 3.7m AODN.

It is recommended that the applicant ensure residual flood risk is managed on this site by compiling an appropriate flood warning and evacuation plan for the property.

## Ecology

The application is supported by an Extended Phase 1 Habitat Survey Report (by Deltasimons, December 2015), which concludes that the site is of limited ecological value and that designated sites and protected species are not likely to be adversely affected by the proposals, providing a sensitive working methodology is adopted for vegetation clearance to protect breeding birds.

Based on the information provided, this assessment is supported. If you were minded to grant permission, please add the following Informative to make the applicant aware of legislation relating to breeding birds (as indicated in the Extended Phase 1 Habitat Survey Report):

- o Birds nests, when occupied or being built, receive legal protection under the Wildlife and Countryside Act 1981 (as amended). It is highly advisable to undertake clearance of potential bird nesting habitat (such as hedges, scrub, trees, suitable outbuildings etc.) outside the bird nesting season, which is generally seen as extending from March to the end of August, although may extend longer depending on local conditions. If there is absolutely no alternative to doing the work in during this period then a thorough, careful and quiet examination of the affected area must be carried out before clearance starts. If occupied nests are present then work must stop in that area, a suitable (approximately 5m) stand-off maintained, and clearance can only recommence once the nest becomes unoccupied of its own accord.

## Arboricultural Officer

A site visit was undertaken on 2 February 2016 when weather conditions were clear, dry and bright with a westerly breeze.

## Observations

This brownfield site was formerly housing with extensive gardens that were demolished to facilitate the development of the site and construction of a Tesco superstore. Unremediated the site features large areas of demolition type rubble and poor grassland divided by a blacktop path bordered by hedges which appear largely unmanaged. A significant amount of litter is visible across the area - mainly branded KFC.

A change of level between the northern end of the site and adjacent road forms a strip of young trees and shrubs which provides cover for an extensive well populated rabbit warren supported by the semi-improved grassland forming the bulk of the site. These trees, hedges and shrubs being planted post clearance of the site, possibly as a condition of a previous consent.

The content of Delta-Simons Arboricultural Survey issued December 2015 is accepted and agreed, however, the proposals for the design and layout are not such that the trees identified for removal (T4 and T5-T8 [inc]) could not be retained within the scheme given appropriate levels of protection during construction and minor alteration to the carpark layout. The loss of the hedges dividing the site is accepted as necessary to facilitate the development.

No detailed landscape plan is submitted.

## Recommendations

1. In the current format the application be refused and the layout be revised to retain the young trees previously identified for removal.
2. The applicant submit a detailed landscape and landscape management plan taking into account the following:
  - a) The guidelines in Trees in Hard Landscapes: A Guide for Delivery be adopted to ensure success of proposed planting schemes:
    - i) Tree planting is to be undertaken following subsoiling and soil decompaction in specifically constructed planting pits using soil engineered to promote healthy root growth. Tree planting pits are to be inter connected utilising perforated pipe in order to assist infiltration of excess surface water.
    - ii) Tree planting pits in and adjacent to areas intended for parking and highway are to incorporate "Silva Cell" type modular reinforcement creating an underground frame that can bear traffic loads and in addition offers freely rootable space that allows urban trees to grow, catchment of excess (rain)water and a large absorption capacity by uncompacted soil within the cell.
    - iii) Trees adjacent to road ways and parking areas are to be protected by the use of substantial tree guards to prevent vehicle damage until established.
    - iv) Kerbs and hard surfaces be adapted to assist collection and infiltration of surface water runoff into tree pits.
    - v) Co-location of services where possible to minimise risk of encroachment by roots.
  - b) All planting is to be undertaken in accordance with the recommendations within BS 8545 (Trees: from nursery to independence in the landscape - Recommendations).

### **Archaeology Advisor**

An archaeological study by AOC Archaeology has been submitted with this application.

There are two particular weaknesses within this report. The report acknowledges that an understanding of past impacts on the land, and the degree to which they might have compromised archaeological survival, is key to understanding what, if any, archaeological implications there are to development (para 1.4.1 and 7.2.3). But the report is not able to offer any definitive discussion on this point. It acknowledges the strip of housing on the northern edge of the site that was removed in 2002 and the archaeological monitoring of test pits at that time suggest some areas might be truncated and other areas might not (or truncated to a lesser degree). The report also states that AOC did not have access to the geotechnical results (para 5.2.1) but that such works have clearly taken place (para 5.3.5). I also note that no geo technical report has been submitted with this application and so it is not possible to offer a review of its implications.

Paragraphs 4.1 and 4.2 provide a review of the archaeological evidence currently recorded in the vicinity, which is relatively sparse. However the area has been highly developed without any archaeological monitoring and so it not surprising that little is known about the area. On the other hand it is clear that the site lies only 20 metres from what was the original coastline of the harbour. Studies in and around both Portsmouth Harbour and Langstone Harbour show that these shore lines were extensively used in the prehistoric and Roman periods. In the absence of acknowledging the insight this offers, the report is considered to understate the archaeological potential of the site. Moreover this is one of the few locations on this part of the harbour edge where an insight into how this harbour edge was used through prehistory might still be possible. This gives it an additional importance.

Paragraph 7.2.4 concludes that with regard to reviewing geo technical information: "Should this indicate that the potential for survival of subsurface deposits, AOC would recommend archaeological monitoring during any soil strip and excavation undertaken in the site".

If the site has the potential for archaeological evidence to survive then it is considered that its shoreline location gives it a higher archaeological potential than the report acknowledges. However I am also of the opinion that any archaeological remains are unlikely to represent an overriding archaeological constraint. On that basis, it is recommended that an archaeological condition be attached to any planning permission which might be issued. This should secure a mature and appropriate archaeological mitigation strategy, to be informed both by an understanding of the site's archaeological potential as implied by the coastal location and as compromised by past land use. However until the geo technical information is made available to the applicant's archaeologist I am not in a position to suggest the exact remit of that archaeological condition.

### **Highways Engineer**

The site is located off of Binnacle Way, a private road within the Tesco store development site. Binnacle Way carriageway is un-adopted and outside of any highway enforcement controls by Portsmouth City Council (PCC) or the police. Binnacle Way meets Clement Atlee Way to the west, and Compass Road to the east, with each of these roads joining Southampton Road to the north via traffic signal controlled junctions. Southampton Road is a strategic dual carriageway highway carrying significant traffic volumes due to the nearby link to the M27 motorway. After further information, just the following points require resolution.

Compass Road shows considerable queuing, and the applicant has agreed to provide funding to provide new white lining to increase the capacity of the junction. Realignment of the kerbline on the eastern side of this junction will also enhance the turning into the site and enable the stop line to be moved forward to increase the vehicle stacking length on Compass Road.

- Vehicles currently park along both sides of the carriageway of Binnacle Way, often on sections of double yellow lines that are not currently enforceable due to the private nature of the road. Vehicles parking in this way will cause obstruction and limit visibility to vehicles entering/exiting the new development thereby resulting in safety concerns. The parking problem is also likely to be problematic for articulated lorries servicing the new units and buses attempting to utilise the two existing stops. As these roads are private we recommend that the site managing agents consider these issues seriously.
- With the anticipated increase in vehicles and turning movements throughout the area, amendments to some of the existing pedestrian crossing facilities are considered necessary to mitigate safety concerns of increasing accidents with vulnerable road users. A centre pedestrian island at the mouth of Binnacle Way/Clement Atlee Way is considered particularly important due to the wide width of the current bell mouth and the future anticipated increase in traffic associated with the development. Consideration should also be given to converting the existing Pelican on Binnacle Way to a Toucan so cyclists can legally travel north to south (and vice-versa) between all the retail areas. PCC have highlighted these issues, but as the roads within this site are all privately maintained, we would strongly advise that these recommendations are considered seriously by the site managing agents to benefit pedestrian safety.
- With the anticipated increase in pedestrian and cycle traffic resulting from this development, the existing shared cycle footway bordering the north side of this site on Southampton Road should be increased to the recommended 4 metre width. Taking into account to committed Aldi development, the current width of the route is 2.6 metres. Widening the footway on the southern side of Southampton Road will require a land transfer width of 1.5m maximum at the crossing point with Racecourse Lane, diminishing to the west to meet (and include) the bus shelter around 60m from the existing crossing point, and to the east approx. 30m from the existing crossing. The applicant has agreed to this dedication.

Recommendation is for approval subject to -

Conditions will be required to cover the following:

- Details of the materials to be used for the hard landscape within the site to be agreed prior to commencement of development.
- The car parking and pedestrian/cycle through routes shall be completed and available for use prior to commencement of the use of the development.
- Details of staff and visitor cycle parking to be agreed prior to commencement of development, and these facilities shall be available for use upon occupation of the development.

- Structural detailed agreement of any work which may impact upon the integrity of Southampton Road as a result of excavations on site will need to be agreed prior to commencement of development.
- A Servicing Management Plan to be submitted and agreed to describe how deliveries will be conducted, timed, and suitably orchestrated to ensure only vehicles of an appropriate size service the smaller service yard. This to include management of collection of waste also.
- A Construction Management Plan will be required to explain how the site will operate during the construction phase and hours of operation. This will include any necessary diversion routes of traffic/cycles/pedestrians.

Section 106 obligations:

£5,500 for Travel Plan monitoring

£1000 to reapply white lining within Compass Road

£35,000 to realign the eastern kerb radius on Southampton Road/Compass Road junction.

Dedication of land as described above to permit the widening of the cycleway footpath on Southampton Road and to include the land where the bus stop currently sits.

Additional information submitted in relation to the geometry of the junction between Binnacle Way and Southampton Road has been reviewed.

The applicant has investigated the potential benefits of reducing the junction radius on the east side of the access to 12m. Their findings that this would deliver no discernible benefit to the operation of the junction are agreed and as a consequence the contribution initially sought to facilitate this modification is no longer considered to be justified. The other elements remain valid although it is not comfortable that those can all be dealt with by way of condition rather additional information should be provided in respect of:

- o Staff and visitor cycle parking; and
- o Service management arrangements and vehicle manoeuvring

In the event that those issues are clarified satisfactorily then no highways objection is raised to this application, subject to conditions requiring that:

- o The car parking and pedestrian/cycle through routes be completed and available for use prior to commencement of the use;
- o Vehicle and cycle parking spaces are provided prior to commencement if use;
- o The submission and approval of a construction management plan prior to commencement of the development; and

A S106 agreement is required to secure:

- o Servicing in accordance with the approved service management arrangements
- o £5,500 for Travel Plan monitoring
- o £1000 to reapply white lining within Compass Road
- o Dedication of land to permit the widening of the cycleway footpath on Southampton Road and to include the land where the bus stop currently sits.

### **Environmental Health**

The location is part of an out-of-town retail park covering a wide variety of commercial uses. The nearest sensitive use is approximately 190 metres to the west of the proposed site and is unlikely to be adversely affected by the proposal. There are, however, other uses in much closer proximity which will require some protection against the potential negative impacts of the development.

Noise: Plant and equipment will be necessary to service most, if not all, of the Units in the proposal. No information has been provided regarding any plant or equipment. Should you be minded to grant permission, it is recommended that the following condition be applied -

"Prior to the installation of any plant and/or equipment an assessment of noise from the operation of the all plant and/or equipment shall be undertaken using the procedures within British Standard BS4142:2014 and a report submitted to the local authority for approval. Upon

approval all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant shall be implemented."

Odour: Several of the proposed units include flexible planning permission for A3 use. No information has been provided regarding odour control from the kitchen extraction systems which are required for the A3 use. Should you be minded to grant permission, it is recommended that the following condition be applied -

"Prior to the commencement of any A3 use, equipment shall be installed to suppress and disperse odour and fumes emitted from cooking operations arising from this use. Prior to installation, details of the proposed equipment shall be submitted to the local planning authority for approval. Approved equipment shall then be installed and maintained in accordance with the manufacturer's recommendations."

Air quality: Our air quality officer has been consulted concerning the potential impact on local air quality, who comments that the site for proposed development is already in a commercial area of North Harbour, an area with no residential properties and where no AQMA is declared in the vicinity. It is understood that the proposed development will not introduce any residential property in the area and the nearest building that might constitute a relevant exposure is at some distance from the proposed development site. Therefore air quality in this situation does not constitute a planning consideration.

#### **Contaminated Land Team**

A submitted desk study report has been reviewed (Portsmouth - Land fronting Southampton Road, Phase 1 Environmental Assessment in support of a planning application for retail units and associated uses, Delta-Simons, report no. 15-0547.03, December 2015), together with information held by the Contaminated Land Team (CLT) passed to the applicants in October 2015 in the form of a Land Use Enquiry and two previous site investigation reports for the site.

Based on a review of the desk phase 1 report by Delta-Simons, CLT recommend full site contamination/remediation conditions be imposed on any planning permission granted (and other detailed comment have been provided).

#### **Coastal And Drainage**

No objection is raised to the proposal, provided a maintenance regime for the petrol interceptor and remainder of the infrastructure is in place. There may be potential to infiltrate to ground by utilising porous paving and crates, which could reduce the size of the attenuation tank required. There does not appear to have been an investigation into the ground conditions in this respect. Flow savings in sewers are beneficial to the city in terms of reducing flood risk. There also appears to have been individual historic cess pits on the site, which drained the former Wymering Terrace properties fronting Southampton Road and may still be buried underground.

#### **Coastal Partnership**

Eastern Solent Coastal Partnership has no objection to the proposed development as submitted, the applicant has submitted an acceptable flood risk assessment. It is noted that the Environment Agency has proposed the inclusion of planning conditions to ensure that the recommendations in the flood risk assessment are implemented in the final building design and inclusion of these is supported.

Advice - The site is shown to be partially within Flood Zone 2 of the Environment Agency's Flood Maps. The site lies within the M27 and Farlington flood cell as identified in the Portchester Castle to Emsworth Coastal Flood and Erosion Risk Management Strategy and benefits from coastal defences behind the M27 embankment. For your information the present day 0.5% probability (1 in 200 year) extreme tide level for Portsmouth Harbour is 3.2m AODN and the 0.5% probability (1 in 200 year) extreme tide level for this area in the year 2070 is 3.7m AODN.

The applicant is recommended to ensure residual flood risk is managed on this site by compiling an appropriate flood warning and evacuation plan for the property.

## **Landscape Group**

The frontage of units 1-3 (main route through site) still has no replacement planting and is still fairly narrow. Details of the fencing is required and clarification of how it protects the landscape areas. An access down from Southampton Road in front of Unit 5 would be a good idea. Potential parking both on the KFC entry and Binnacle Way are a concern and inclusion of bollards could be considered. There should be a lighting scheme provided. The path onto Binnacle Way past units 1-3 now takes people to the west of the existing pedestrian crossing; this will surely cause desire line issues and unsustainable pressure on the planting. Seating and enclosing planting also blocks natural flow around to the existing pedestrian crossing at that point. Levels, materials, drainage, boundary treatments, lighting and planting all require detail design.

## **Fareham Borough Council**

Having considered the proposals and the relevant supporting documentation, whilst it is noted that the Retail Assessment has not had regard to the potential impact on Portchester District Centre (only 1.9km from the site) or Fareham Town Centre, we do not believe the development will have an unacceptable impact upon this Borough and therefore have no comments to make.

## **REPRESENTATIONS**

Portsmouth Cycle Forum comment on the proposal as follows:

- (a) should be as cycle and pedestrian friendly as possible to encourage trips by sustainable transport since more people travelling on foot, bicycle, bus etc mean fewer vehicles on the already congested roads in the locality;
- (b) the 3m wide path for pedestrians/cyclists originally provided by Tesco development is well suited to shared-use and should be retained throughout at no less than 3m;
- (c) unit 3 should be aligned with units 1 and 2;
- (d) unit 5 is located to the west [sic] of the site and pedestrian/cycle access should be provided directly from Southampton Road (near the existing bus shelter);
- (e) the layout of unit 9 as a free-standing restaurant creates an unnecessary safety hazard and should be located with units 5-8, without the need to cross roads;
- (f) unit 9 has a "Drive-Thru" facility that requires safe access and cycle parking too;
- (g) two disabled parking spaces to unit 9 would be better sited as close to the doors as possible;
- (h) the disjointed siting of blocks A and B at either ends of the car park is reminiscent of the 1980s and better located together so that movement may be carried out without crossing roads;
- (i) 30 cycle parking spaces for staff and visitors is welcomed but it is unclear how 'all-day' staff cycle parking will be secure and is different to leaving a bicycle for a short period, which should be provided for each unit and in locked sheds or compounds;
- (j) cycle parking for customers should be well designed and to allow for the parking of bicycles with trailers, and cargo bikes;
- (k) the nature of the cycle parking is unclear, if 'Sheffield' stands they should be of marine grade stainless steel which is attractive, long-lasting and maintenance free, and should avoid the use of "toast-rack" system or hoops linked by framework, which can cause a trip hazard;
- (l) shower/changing facilities should be included in each unit to encourage staff to cycle to work;
- (m) there are no pick-up and drop-off facilities for those arriving or departing by taxi or private hire vehicles;
- (n) the "Puffin" style light-controlled pedestrian crossing on Binnacle Way requires upgrading to "Toucan" status (allowing people on bikes to cycle across legally) connecting the existing shared-use footway/cycleway on Southampton Road with the Tesco Store and its cycle parking;
- (o) the 'Aldi' foodstore (ref 15/01163/FUL) approved by the planning committee in early February, includes major highway works to accommodate a fully controlled vehicle entry/exit at the expense of narrowing a 90m section of the segregated footway/cycleway on the south side of Southampton Road and a small section of land, currently shown as landscaping, should be allocated to restoring the footway/cycleway to its previous width; and,
- (p) a 'cycle bypass' should be created on the developer's land, provided behind the bus shelter, as has been agreed on the north side.

Two representations of objection have been received. The first, from The Portsmouth Society, raises objection on the grounds that so much car parking is a shameful waste of space that should be underneath the retail space enabling either much needed green space or even better - some on-site residential dwellings - and, whilst the long standing pedestrian access through the site has been retained, it could be enhanced with soft landscaping/lighting to make it more attractive and the route should also be upgraded to include a cycle path.

The second is from CBRE, on behalf of the owners of the Boardwalk (Port Solent), objecting to the potential impact on the Boardwalk (which is described as "a designated local centre within Portsmouth Plan Policy PCS18") solely in relation to the retail element of the proposal and the approach taken by the applicant to the sequential and impact assessments required by the NPPF on the 3 following grounds of sequential/impact assessments and planning conditions:

(a) Sequential Assessment

The applicant has prepared a sequential assessment using the approach taken in a recent application for a B&Q store at the Pompey Centre (ref: 15/00595/FUL). The applicant states that this application's sequential test identified three potential sites in centre locations but dismissed them on various grounds. The applicant has therefore not included them in their own sequential assessment. Given that this application was submitted in August 2015, we consider that the applicant should include these sites in the sequential assessment and provide an update on them, as the position may have changed in the 5 months that have since passed. Furthermore, the applicant has based their sequential site search on centre visits which were undertaken in July 2015. We consider that more up to date centre visits should be undertaken to ascertain whether any additional sites have become vacant since then. The applicant has also not explained how they have demonstrated flexibility when undertaking the sequential assessment. Whilst they have correctly stated that it is no longer a requirement to demonstrate disaggregation, there is still a requirement, as set out in the NPPF, to demonstrate flexibility. We therefore consider that the applicant has not demonstrated that they have met the requirements of the sequential test as set out in national planning policy.

(b) Impact Assessment

The applicant has based its impact assessment on the sales density of a few named operators; the majority of which are bulky goods retailers. The applicant has stated that these are operators which might occupy the units. There is however no guarantee that they will occupy the units and as such there is a risk that other comparison retailers, which are more traditionally found in town centres, may occupy the units. In this case, the sales densities of the units will be higher than calculated by the applicant, which in turn will have a bigger impact on the surrounding centres. The applicant has also failed to assess the impact on the Boardwalk Shopping Centre. Therefore, we request that the applicant undertakes a new, thorough impact assessment, using higher sales densities so that a worst case scenario can be tested. Furthermore, the applicant has not explicitly set out the findings of the impact test; rather they have implied in the text the trade draws they have used and the resultant impacts. We consider that the applicant needs to set out clearly, in table format, the trade draws they have used, the resultant turnovers of the centres/destinations that the development will draw trade from, and the impacts of this. This will help the Council to properly assess the impacts the proposals may have on surrounding town centres. As it currently stands, we do not consider that the applicant has adequately demonstrated that they have met the requirements of the impact test as set out in national planning policy.

(c) Planning conditions

The applicant is seeking open A1 consent and as such there is a risk that retailers that are traditionally found in town centres, could locate here. These stores would have a different trade draw and impact than bulky goods stores. Therefore any permission should have a planning condition restricting the type of goods that can be sold from the retail units in order to protect the vitality and viability of nearby town centres.

## COMMENT

The principal issue is whether this proposal contributes to the achievement of sustainable development, in accordance with national and local planning policy. Key issues for consideration

are the principle of the development including effects on the vitality and viability of existing town centres, transport and highways implications, design and townscape, sustainable design and construction, impact on amenity, ecology/landscape and employment opportunities.

### **Principle of development including retail impact**

The part of Southampton Road located between junction 12 of the M27 to the east and the elevated M27 flyover to the west is characterised by a variety of commercial, hotel, office, industrial/storage (B1, B2, B8) uses that includes a 'Tesco Extra' store and dealerships with vehicle-related sales and repair/servicing workshops. Areas along the north side of Southampton Road and east of 'Tesco' are allocated as existing employment land under policy PCS11. The policy states that the loss of existing B1, B2 and B8 uses will be resisted and service uses that support B1/B2/B8 development and appropriate in nature to an industrial estate location will also be acceptable, provided that they provide equal alternative employment opportunities.

More recent development to the east of Racecourse Lane includes larger buildings occupied by Highbury Training Centre (D1), Pall Europe headquarters, 'Flipout' Trampoline Park (within D2 for indoor sport or recreation) and other uses appropriate to an industrial estate location. Although this part of Southampton Road has significant areas allocated for employment land (policy PCS11) there is not an especially strong presence of traditional B1/B2/B8 employment uses. A significant proportion is characterised by uses that would attract visiting members of the public in terms of the services that are offered. Whilst a mixed use scheme of shopping and other uses would not replicate the adjoining protected employment land to support an industrial area, the development would not appear out-of-place in the context of other land uses to be found along this part of Southampton Road.

The only site-specific designations on the Proposals Map for the application site relate to the indicative floodplain and 'opportunity area' for tall buildings; it is not a protected employment site. At the centre of the acceptability or otherwise of the proposed mixed use development in an out-of-centre location is the effect on vitality and viability of town centres. National policy advocates a town centres first approach and the city council has a positive vision of its town centres embedded in Portsmouth Plan and local plan policies that are consistent with the NPPF.

The policy framework to support the vitality and viability of a defined network and hierarchy of centres, to promote competitive town centres, to provide customer choice and a diverse retail offer requires evidence based assessment. The thrust of the framework is that development proposals should be refused where an application fails to satisfy the sequential test (see reference below to the National Planning Policy Framework [NPPF]) or is likely to have significant adverse impact.

The city's retail hierarchy comprises the following designated centres, in order of importance:

- o Portsmouth City Centre
- o Southsea Town Centre
- o District Centres at: Cosham, Fratton, North End & Albert Road/Elm Grove, and
- o Local Centres (including Allaway Avenue, closest to the application site).

The application site is outside of any of these designated centres. It is, therefore, out-of-centre in relation to the definition in the NPPF. The NPPF is a material consideration in determining planning applications.

National retail policy in the NPPF seeks to ensure the vitality of designated town centres.

Relevant NPPF guidance is set out in paragraphs 23 to 27 that, in summary, state:

- o Para 23 - local planning authorities "... should recognise town centres as the heart of their communities and pursue policies which support their vitality and viability".
- o Para 24 - requires a sequential test for main town centre uses and local planning authorities "should require applications for main town centre uses to be located in town centres,



then edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale."

o Para 26 - requires impact assessment for retail development outside of town centres and advises such assessments include: the impact of a proposal on public and private investment (existing, planned and committed) in a centre or centres of the catchment of the proposal; and, the impact of a proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the date the application is made.

o Para 27 - "Where an application fails to satisfy the sequential test or is likely to have significant adverse impact ... it should be refused." This is of key importance.

Revised Practice Guidance indicates that it is for the applicant to demonstrate compliance with both the sequential and impact tests. This has been carried out by Freeths on behalf of the applicants. The council has commissioned its own expert retail consultants, DPDS, to provide independent advice to the council.

In the Portsmouth Plan, policy PCS18 identifies Local Centres and encourages retail development up to 500sqm and other town centre uses provided that they would not undermine the local shopping function of the centre or cause harm to residential amenity. The policy also notes that out-of-centre development will be subject to the national policy [that is the policy in paragraphs 23-27 of the NPPF which is referred to above] but that the local and national constraints will not be applied to shops less than 280sqm net.

Other Development Plan (retail related) policies at PCS4, Southsea Town Centre Area Action Plan and PCS8 are not strictly applicable to the proposal given its location outside of any designated centre. However, PCS4 states that 'Substantial new non-bulky comparison retail will be directed to the city centre'. Clearly this proposal of more than 7,000sqm of floorspace (GEA) must be considered substantial. While it is acknowledged that a retail shed style development would be undesirable in the city centre, some of the suggested occupiers are those commonly located in city centre locations.

The evidence base for the Portsmouth Plan included the Portsmouth Shopping Study 2009 by Colliers CRE. Since then, a new retail capacity assessment for Portsmouth City Council and to assess the need and likely impact of a major retail led development in the city centre has been prepared by DPDS - Portsmouth Retail Study 2015.

Other than reference to out-of-centre development being subject to national policy in PCS18, there is no other relevant guidance in the Portsmouth Plan. Therefore, the key issues arising from relevant retail policy consistent with the NPPF are the requirements to demonstrate compliance with the sequential and impact tests.

#### **(a) Sequential test**

The proposed retail park would have a net sales floorspace of 6,932sqm and a maximum A1 shopping floorspace of 4692sqm. A sequential assessment has been carried out on behalf of the applicant by Freeths in a supporting document entitled Town Planning and Retail Statement (dated 11 December 2015). This originally submitted evidence has been supplemented by two further submissions entitled Retail Planning Technical Notes, RTPN No.1 (dated 11 February 2016) and RTPN No.2 (dated 27 May 2016).

Previously the three main retailers were indicated as Home Bargains (unit 1), Pets at Home (unit 2) and Dreams/Hobbycraft (unit 3). Home Bargains remains the target tenant for unit 1, Pets at Home and Dreams/Hobbycraft have dropped out, with unit 2 having no named occupier and the target for unit 3 being Pep & Co.

Development for main town centre uses should 'be located in town centres, then in edge of centre locations and only if suitable sites are not available should out-of-centre sites be considered' (NPPF para 24). When considering whether there are sequentially preferable sites in or on edge of centres an alternative site should be suitable and viable for the development proposed and available in a reasonable period of time. Developers should be flexible in their requirements. The site is out-of-centre and therefore an in-centre or edge of centre site would be sequentially preferable, so would out-of-centre sites which are accessible and well connected to a town centre.

The proposal is for a mix of large format discount retailers (principally non-food), other non-food bulky goods retailers and other uses as vets (D1), education purposes (D1), gym (D2) and café/restaurants (A3). Sites considered suitable need to be able to accommodate such scale of development and be deliverable, hypothetical ways in which the need could be met should not be sequentially preferable; the question of how much flexibility the applicant should be expected to demonstrate is a matter for the local planning authority so long as it acts reasonably.

In their supporting evidence the applicant contend that the issue of sequentially preferable sites was recently assessed in respect of an application to sub-divide the former B&Q store at Fratton Way and its conclusions are considered to be very clear and easy to understand. Further, the applicant consider the extent to which - with flexibility - the development could be accommodated on a smaller site of circa 1ha if that site was more centrally located, with off-site parking in close proximity, to have been incorrectly identified. The applicant suggests that given elements of the proposal are located at first floor level there is less flexibility than might ordinarily be expected because one way of reducing the site size has already been adopted. The applicant holds the view that, in any event, their evidence identifies even with a 20% reduction in floorspace there are no sequentially preferable sites.

The above comments respond to concerns raised by the Council's retail consultants (DPDS) that the lack of mapping for the sites considered by Freeths create the risk of misunderstanding, with no clear indication of site boundaries and hold that this remains unaddressed. With regard to flexibility and a minimum search area of 1ha, DPDS suggest that adopting two storey buildings does not rule out the possibility of reduced car parking requirements on more central sites if there is parking nearby. DPDS comment that the applicant has sought sites of the same size as the application site and with the ability to accommodate the same scale of development. DPDS conclude it has not shown flexibility or, alternatively, explained why it cannot be flexible in respect of the area, recognising whether this is significant or not depends largely on whether there are sites that could accommodate nearly the same amount of development.

Freeths take the view that their evidence demonstrates:

- o Sufficient flexibility has been shown in the application of the Sequential Test to accord with paragraph 24 of the NPPF.
- o There are no City Centre Masterplan sites which could potentially accommodate the proposed development.
- o There are no District Centre sites which could potentially accommodate the proposed development.
- o Port Solent could not accommodate the application proposal and Portchester/Fareham falls outside the relevant catchment and their area of search.

DPDS advise that the information submitted by the applicant on potential sites to be inadequate and falls far short of that which is usually provided in the sequential test, noting the onus is on the applicant demonstrate that there are no more suitable central sites available. However, DPDS is broadly familiar with city centre masterplan sites and a significant amount of information provided in a previous sequential assessment in 2014 for the site in Fratton Way now occupied by 'Tesco'. DPDS did conclude none of these sites was suitable and available for the 'Tesco' store and a key concluding factor was their size and in relation to this application, none meets our minimum site size of about 1ha. The other major concern is the applicant's assessment of Northern Quarter (NQ). Its rejection as a suitable alternative site depends on the

Council's objectives for the NQ site and whether the development would contribute to those objectives. There is no doubt that the uses proposed (shops, restaurants and gym) could, and will, be incorporated at NQ, although a vets and training/educational uses seem more unlikely.

To conclude on the sequential test issue, DPDS comment that the Council will have a better understanding of the current position of these sites but, notwithstanding the onus is on the applicant, if the Council is convinced from its own information that there are no sequentially preferable sites available, then it would be unreasonable to require the applicant to set out in its report what the Council already knows. The one limitation on this approach is that the basis for the Council's conclusion should be clear to third parties, noting that CBRE raise objection on the basis of inadequacy of the sequential test information. It places the onus on the Council to supply the evidence missing from the application.

Whilst officers agree with DPDS advice and the criticism raised in the objection by CBRE that the applicant's assessment falls far short of that usually provided in the sequential test, it is clear the only potential site of a size appropriate to accommodate the proposed development is Northern Quarter and the intended format of large discount or bulky goods retailers, served by dedicated surface parking, is not a form of development promoted for the city centre. The applicant's evidence describes published objectives for NQ as a comprehensive scheme that will enable Portsmouth to compete with the UK's major retail destinations and of high quality retail-led development, with major high street names as anchor tenants, as part of a wider mix of uses including leisure, residential and offices at upper floors up to 6 storeys or more. Although the evidence is not considered thorough, it demonstrates no sequentially preferable sites that could reasonably accommodate the retail park of 6,932sqm (net sales).

#### **(b) Retail impact assessment**

CBRE object to an impact assessment based on sales density of a few named bulky goods operators that might occupy the units but offers no guarantee and presents a risk that other comparison retailers, which are more traditionally found in town centres, may occupy and if it results in higher sales densities than calculated by the applicant could have a bigger impact on the surrounding centres. CBRE consider the applicant has also failed to assess the impact on the Boardwalk and request a thorough impact assessment using higher sales densities so that a worst case scenario can be tested.

Retail impact assessment is based on judgment of a number of variable factors rather than being based on demonstrable fact. The various experts acting for the applicant (Freeths), the council (DPDS) and on behalf of the objector (CBRE) will make assumptions and adopt their own interpretation of data based on their professional judgment, giving rise to differences between their respective assessments of impact. That said, DPDS concludes in its first report that they were unable to determine the likely impact on the relevant centres because of the estimated turnover of the scheme, the trade draw used to calculate where the proposal would divert trade from, and the need to consider the impact on local centres in the context of their vitality and viability.

#### **Scheme turnover**

The scheme turnover is estimated at £18.03m. This compares with £8.7m in the applicant's original report. The increase results partly from the higher turnover estimated for the new target occupier of Unit 3, Pep & Co than the previous one, Pets at Home, and partly to increase in the net sales floorspace assumed and to higher sales per sq ft.

DPDS has commented on individual turnover estimates but overall regard them as robust.

## Trade draw/diversion

The revised trade draw is now based on individual zones from the Portsmouth Retail Study rather than mathematically suspect average. An allowance should be made for trade beyond the study area; DPDS regard 10% as rather high for a development of this scale on a non-trunk road but consider this can be offset against the robust scheme turnover adopted. Estimates from which centres the trade drawn from each zone would otherwise have gone to are considered by DPDS to largely reflect what is expected bearing in mind the shopping patterns in the area and the location of the centres.

## Impact

The impacts estimated by Freeths are as follows:-

Centre	Turnover	Trade Diversion	% impact
City Centre (including Gunwharf Quays)	£473.48	£7.9m	1.7%
Southsea	£74.00m	£1.45m	2.0%
Fratton	£19.00m	£0.60	3.2%
North End	£8.75m	£0.75m	8.6%
Albert Rd	£7.71m	£0.14m	1.8%
Cosham	£15.00m	£1.49m	9.9%

DPDS comment that the turnovers of Paulsgrove, Portchester and the Boardwalk (Port Solent) could not be calculated from the survey results and the likely impact examined separately. The turnover figures quoted from the retail study are for comparison goods turnover only - convenience goods will form a significant part of the turnover of the smaller centres anchored by food stores and needs to be borne in mind in considering the impacts. Freeths make the point that the exercise allocates all turnover to centres whereas considerable amounts of the trade diversion is likely to be from out-of-centre locations. DPDS consider, overall, the retail study indicates that out-of-centre locations in the City have a comparison turnover of around £120m, of which about £19m is in out-of-centre food stores. It can be expected that a significant proportion of the scheme's trade will be diverted from the adjacent 'Tesco' Northarbour store.

DPDS conclude that Freeths impact figures are likely to be significant overestimates, arising from a number of sources including the robust turnover figures, the exclusion of convenience goods sales from the centres' turnover estimates and no allowance for diversion from out-of-centre locations. DPDS advise that if the impacts identified by Freeths are acceptable, then it will have been established that the proposal is unlikely to significantly adversely affect any centre.

## Impact on centres - Cosham & North End

From the table (by centres) above, the impacts calculated are low and only those for Cosham and North End require further review.

For Cosham, Freeths suggest an impact of 9.9% would be acceptable as a reasonably healthy centre and the impact over-estimated, putting the actual figure at 2%-5%. DPDS accept that 9.9% is an over-estimate but a lower figure unsupported by evidence cannot be relied upon. Cosham is, however, anchored by its convenience trade including a medium sized 'Tesco'. The retail study estimates the convenience turnover at £17.69m. Taking this into account would reduce the likely impact to about 5% and allowance for trade diversion from out-of-centre locations would reduce this further. Pep & Co is a clothes retailer and Home Bargains would also sell clothes. Cosham has a few clothes retailers including New Look and DPDS do not

consider that the impact on a narrow part of the centres retail offer to constitute a sufficient objection against the background of a limited overall trade diversion.

In relation to North End, Freeths argue that although the centre is rather weak, the impact at the level indicated (8.6%) would not in practice arise. DPDS consider that taking account of the estimated convenience goods turnover of £19.44m in the retail study would reduce the impact figure by more than 50% and, at under 5%, the impact not be considered as significantly adverse, bearing in mind other likely overestimations.

#### Impact on other centres and cumulatively

For Paulsgrove, Freeths say it was not identified as a main centre by people in the retail study household survey and likely trade diversion cannot be quantified easily. It identifies 22 shops that are mostly orientated towards top-up food shopping and services, concluding little impact because the centre has little comparison goods offer. DPDS agree it is difficult to take a quantitative approach, appears largely orientated towards convenience and food shops but the Council could reasonably expect more information to establish the retail offer of the centre. However, DPDS take the view the centre depends heavily on the convenience of visiting on the way to and from home, the proposal less convenient to visit thereby limiting the impact. The centre has managed to trade alongside the nearby Tesco and can see no reason why this would change as a result of the proposal.

In relation to the Boardwalk, Freeths advocate the centre in Port Solent comprises high-end boutique shops and that there would be little direct competition with the proposed development. Whilst DPDS suggest the Council could reasonably expect some evidence to establish the character and nature of the shops, policy PCS18 identifies the Boardwalk as one of three local centres that will come forward as part of the key development areas. The aims and objectives of Policy PCS2 are for Port Solent to provide approximately 500 dwellings and a local centre, subject to highways improvements to Port Way and the junction with the A27. At this time it is not a designated local centre. Overall, DPDS accept that there would be little direct competition between the proposal and the Boardwalk so the impact would not be significant.

The turnover of Portchester centre is estimated at about £12.7m, in 2012, in the Fareham Retail Study and the trade diversion at some £300,000 (while Freeths quote the 2017 forecast at £13.64m). There is, as Freeths say, a difference in the price base for these two figures which would tend to reduce the % impact marginally. DPDS advise that it is clear that at this sort of level of trade diversion the impact would not be significantly adverse.

In addition, Freeths refer to the cumulative impact of the proposal with subdivision of the B&Q in Fratton permitted last year. DPDS advise this does not present a comprehensive analysis of the combined impacts or consider the new 'Tesco' on Fratton Way, which might be as significant as the B&Q permission in some centres. However, in general DPDS conclude that the impacts of the proposal are too small to be significant in a cumulative context. The greatest impact from the B&Q permission and the Tesco store is likely to be on Fratton District Centre, primarily on the Asda store. The current proposal is forecast to have little impact on the centre and again the cumulative impact is unlikely to be a significant concern. The impact on the North End District Centre is forecast to be a bit under 5% once the convenience goods turnover of the centre is taken into account. This level does have the potential to be of concern when combined with the other developments. However, the impact of the Tesco store was forecast to be small and the B&Q subdivision seems unlikely to be more significant than the Tesco impact. DPDS consider the risk of there being a significantly adverse cumulative impact on the centre as low.

#### Impact on investment

DPDS comment that Freeths do not address the issue of the possible impact on planned investment, particularly in relation to the Northern Quarter, but concluded that this was unlikely because, as only 2, or at the most 3, retailers could be accommodated, it was not going to

undermine the pre-lets required to get a major scheme underway. However, DPDS reiterate that this was dependent on the units not being subdivided and that a condition would be necessary to ensure this. DPDS also queried if there was any planned investment in the Fareham centres which should be considered. Freeths contend there would be no effect on investment in Fareham because there is no direct competition and that Fareham Borough Council has been consulted on the application but raise no objection. DPDS does not consider that Freeths has established that there would be no direct competition for the simple reason that it has not assessed any proposals in the Fareham centres. Although DPDS give some weight to the lack of an objection from Fareham Borough Council applicants are expected to make direct inquiries on such matters.

#### Conclusions on retail impact

Officers consider the conclusions from DPDS to be sound that:

"Freeths have now produced a coherent retail impact assessment, although the failure to present this in tabular form makes this less than obvious. Its key conclusions are that the only centres where the impact might be of concern are the district centres of Cosham and North End. The figures presented show impact of 9.9% and 8.6% respectively. These are, however, likely to be substantial overestimates because they relate only to the comparison goods turnover of the centres and the impacts would be halved by taking account of the convenience goods trade of the centres. The figures also do not allow for trade diversion from out-of-centre retailers including the main food stores. We therefore conclude that the proposal on its own would not have a significant adverse impact on any centre.

The applicant has not considered the cumulative impact with recent permissions/developments in any systematic way and has not considered the impact of the new Tesco at Fratton Park at all. The risk of a significant cumulative impact is however low – the other proposals are both on the opposite side of the city and trade diversions from Cosham and North End from them were assessed as low.

Given the number of few retailers involved, it is unlikely that the proposed development would undermine the planned investment in the Northern Quarter. The applicant has failed to establish that there is no direct competition between planned investments in Fareham centre but some weight can be given the lack of an objection from the Borough Council."

#### Conditions (retail)

In their objection, CBRE identify the risk of unfettered A1 shopping permission being open for retailers traditionally found in town centres to locate here. CBRE consider planning conditions should restrict the type of goods that can be sold from the retail units in order to protect the vitality and viability of nearby town centres.

DPDS advise that the conditions proposed by the applicant are fundamental to their conclusions on the retail impact. Officers agree with the need for these conditions. The restriction proposed for unit 1 is reasonable for the proposed occupier 'Home Bargains' that sell a disparate range of comparison goods and a limited range of convenience from 30% of its net sales floorspace.

Unit 1 - The net sales area of Unit 1 hereby permitted shall not exceed 1,421sqm, unless otherwise agreed in writing by the local planning authority, and the floorspace of Unit 1 shall not be used for the sale of the following items except where they are ancillary to the main use and the proportion of the net sales area devoted to the display of any individual category (a)to(d) is no greater than 15% of the net sales area and in respect of (e) no greater than 30% of the net sales area:

- (a) clothing and footwear (except for that associated with sports or specialist outdoor pursuits);
- (b) fashion accessories including handbags and luggage, watches and jewellery;
- (c) pharmaceutical and personal products including perfumes, toiletries, spectacles, contact lenses and other personal items;

- (d) books, music records, CD's, videos, DVD's, audio tapes and other pre-recorded media; and,
- (e) food and drink.

The potential occupier of Unit 2 is not presently known and the condition proposed is basically for "bulky goods" retail.

Unit 2 - The net sales area of Unit 2 hereby permitted shall not exceed 325sqm, unless otherwise agreed in writing by the local planning authority, and the floorspace of Unit 2 shall not be used other than for the sale of primarily non-food bulky retail items within the following range of goods: DIY and garden goods; furniture; furnishings and textiles; carpets and floor coverings; camping and sporting goods along with associated clothing and footwear; boating and caravanning goods; motor vehicle and cycle goods; electrical goods including computers; and, pet supplies.

With regards to Unit 3, the proposed condition is similar to unit 1 except that it would allow up to 30% of the net sales floorspace to be used for the sale of clothing (rather than 15% in unit 1).

Unit 3 - The net sales area of Unit 3 hereby permitted shall not exceed 1,486sqm, unless otherwise agreed in writing by the local planning authority, and the floorspace of Unit 3 shall not be used for the sale of the following items except where they are ancillary to the main use and the proportion of the net sales area devoted to the display of any individual category is no greater than 30% in respect of category (a), no greater than 15% of the net sales area in respect of categories (b)(c)(d) and in respect of (e) no greater than 30% of the net sales area:

- (a) clothing and footwear (except for that associated with sports or specialist outdoor pursuits);
- (b) fashion accessories including handbags and luggage, watches and jewellery;
- (c) pharmaceutical and personal products including perfumes, toiletries, spectacles, contact lenses and other personal items;
- (d) books, music records, CD's, videos, DVD's, audio tapes and other pre-recorded media; and,
- (e) food and drink.

In respect of Unit 5, the potential occupier is a D1 veterinary surgery but the applicants require a wider flexible permission for A1 shop or A3 café/restaurant. In the event that Unit 5 is occupied as an A1 shop the sale should be restricted to essentially the same "bulky goods retail" as Unit 2.

Unit 5 - The net sales area of Unit 5 hereby permitted for veterinary surgery (D1) or shop (A1) or café/restaurant (A3) shall not exceed 423sqm, unless otherwise agreed in writing by the local planning authority. The floorspace of Unit 5 for shop (A1) purposes shall not be used other than for the sale of primarily non-food bulky retail items within the following range of goods: DIY and garden goods; furniture; furnishings and textiles; carpets and floor coverings; camping and sporting goods along with associated clothing and footwear; boating and caravanning goods; motor vehicle and cycle goods; electrical goods including computers; and, pet supplies.

DPDS also advise that their conclusions on impact are reliant on there being a few large units and a condition preventing the subdivision of units would be necessary. Freeths comment that Unit 3 has been designed to be sub-divided in the event that it cannot be let as single unit and speculates in those circumstances the mezzanine may not be required and suggests any condition prevent sub-division to below 465sqm.

Policy PCS18 identifies designated local centres where shopping up to 500sqm fulfils a role for top-up shopping and other local services. This retail park is not intended and should not make provision similar in nature to a local centre in an out-of-centre location; it is considered reasonable and necessary for the retail park accommodating the few large units to be prevented from subdivision by planning condition for Unit 1 and below 500sqm for Unit 3, which forms the defined floorspace threshold by policy PCS18 (Local centres).

On the basis of the above, reliant on there being a few large units and importantly subject to conditions (that limit the range of goods for sale and prevent inappropriate subdivision), the application is not considered to conflict with para 27 of the NPPF by failing to satisfy the sequential test or be likely to have significant adverse impact. In turn, it would accord with policy PCS18 of the Portsmouth Plan.

### **Transport & highways implications**

The proposal is supported by a Transport Assessment (TA) and a Framework Employment Travel Plan (TP). The applicant has considered the views of the Highways Authority (in the consultation section of this report) and offered the following comments.

A27/Compass Road junction: Whilst the applicant does not accept that the proposed development has an unacceptable impact on the operation of the junction which would justify withholding planning permission (see NPPF paragraph 32), the developer is willing to make a financial contribution of £1000 for PCC to use to remark Compass Road to improve traffic management. Regrettably the developer cannot commit to undertaking these works as Compass Road is not a public highway.

Binnacle Road parking: The developer has a right of way over the road. If planning permission is granted, the developer will contact the owner of the road (Tesco) and ask for the parking to be removed, consistent with the developer's right of way.

Binnacle Way crossing upgrade: The reasoning behind a desire to upgrade this crossing from a Pelican layout to a Toucan is understood. However, the applicant does not accept that the upgrading works are necessary to enable this planning application to be approved. In the context of the proposed development, upgrading the crossing will be beneficial to shared cycle trips between the site and Tesco. Supermarkets are visited frequently, often several times per week, so in all likelihood the majority of shared cycle trips will be derived from existing Tesco trips. For the vast majority of these users, the development will not increase the use of the crossing. It would only increase if the existing trip does not involve the use of the crossing, or for new visitors attracted by the development, who also visit Tesco as part of their trip. These people are likely to be few in number and the consequence of not upgrading the facility is that they would need to walk their cycle across the road. This minor impediment does not mean that the site is inaccessible nor could upgrading the crossing, which is likely to cost c£50,000, be considered to be cost effectively limiting a significant impact (see NPPF) as the impact is not significant nor are the works cost effective. Therefore, the developer is unable to accommodate this request.

Binnacle Way refuge island: A refuge island is requested at the Binnacle Way/Clement Attlee junction. The two-way Binnacle Road flow on the junction side arm with the development, for the 2027 Friday evening peak hour is estimated in the TA to be 821 vehicles (784 2027 Saturday peak). The maximum development effect occurs during the Saturday peak period and is 104 vehicles two-way. At this level of traffic flow it is not necessary to provide a refuge island, the purpose of which is to enable pedestrian to cross in two bites. On this basis, the developer is unable to accommodate such a request.

A27 footway/cycleway widening: A strip of land is requested to be dedicated to allow future widening of the footway/cycleway to reinstate the width that will be lost as part of the access works to accommodate 'Aldi'. As it has very recently been agreed to allow another developer to narrow the footway/cycleway, it is difficult to see how such a request can be justified. However, the developer is agreeable to dedicating the strip of land provided that the effect is limited to narrowing the landscaping on the site frontage as opposed to affecting the proposed car park or buildings. The developer is also agreeable to the dedication of a small area of land to accommodate the bus shelter on the site frontage which currently encroaches into the site. The widening and bus shelter land represent significant gains to the highway authority as without the widening land the footway/cycleway pinch point would remain and if the bus shelter needed to



be moved this would compromise the footway/cycleway as the bus shelter would block the footway element. The benefits of this land should be considered in the round with regard to the crossing upgrade and refuge island requests that the developer cannot accommodate.

Internal site layout: A revised site plan addresses suitable improvements.

#### Car/cycle parking

This proposal would involve the provision of 162 spaces to serve the retail park. The Council has not set standards for acceptable levels of parking in non-residential development anywhere in the city (with the exception of the city centre). Instead, the council has set out guidance on how to determine appropriate parking requirements for non-residential development. This is because the Council considers that parking needs vary significantly for each individual site and land use, and developers should establish the parking requirement and demonstrate why the proposed parking solution is the right one for that particular development. An appropriate level of parking provision is considered to be justified by the applicant's Transport Assessment (TA).

The TA states "Within the site, secure cycle parking facilities will be provided adjacent to the units" (at para 3.6.1, p.19) and 30 cycle parking spaces justified as an appropriate level of cycle parking provision (at para's 3.9.1-3.9.3). The intention to make provision for cycle parking is shown on the site layout plan in three areas; firstly, 'covered' short-stay customer facilities each with 'Sheffield' hoop type stands and, secondly, 'secure' long-stay staff storage in cycle lockers of unspecified type. No other details are provided. Notwithstanding some limited information, more appropriate details of secure/weatherproof cycle storage facilities for both short-stay (customers) and long-stay (staff) is considered capable of being secured by suitably worded planning condition.

Portsmouth Cycle Forum has made detailed comments in their representation, which welcomes inclusion of 30 cycle parking spaces for staff/visitors is welcomed but rightly identifies that it is presently unclear how 'all-day' staff cycle parking will be secured. The applicant has responded to the request for the "Puffin" style light-controlled pedestrian crossing on Binnacle Way to be upgraded to "Toucan" status and for allocation of land within the application site to restore the footway/cycleway on the south side of Southampton Road to its previous width (following recent approval of widening for 'Aldi' store). Revisions to the site layout have addressed some of the concerns raised by PCF for alignment of units 1-3, access to Unit 5 from Southampton Road (but steps for pedestrians only) and location of disabled bays.

The NPPF (at para 32) states that "improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe." In this case, the applicant has revised the internal site layout as well as offered the dedication of a strip of land to facilitate the widening of the cycleway footpath on Southampton Road (to include the land where the bus stop currently sits) and a financial contribution of £1000 for PCC to use to remark Compass Road to improve traffic management. The Highways Authority raises no objection, subject to planning obligations secured by relevant provisions in S106 legal agreement and by planning conditions.

#### **Design and townscape**

The applicant describes the design aspirations of the scheme are to create a development of high quality architecture and urban design, sympathetic to the buildings in the surrounding context through the use of carefully selected materials and building placement.

There are constraints that present difficulty to achieving an optimum design solution for this site. These include established trees to be retained, change of ground level of circa 2m north-to-south, existing services across the site (with sewer easement), sub-station to be retained, bus stops, orientation of existing restaurants beyond the west and east site boundaries and no

possible access from Southampton Road due to traffic volumes. However, the landowner's requirement to maintain a substantial central gap in the street frontage to Southampton Road, for the 'Tesco Extra' store beyond, inevitably fetters the siting of buildings.

As a result of these constraints, the site layout is unfortunately poor. Southampton Road (A27), to the north, is a primary distributor road and a significant east-west arterial route across the city. The northern site boundary is the principal site frontage. Built-form at the retail park is shown sited to the west and east sides of the site in a layout designed with an open area of surface car parking and public realm located between. Disappointingly, the sides of Units 1 and 5 face the principal site frontage.

Amendments to the elevational treatment and detailing of the buildings have secured important visual improvement to their appearance, particularly onto Southampton Road. A combination of corner entrance features, upper level windows (to first floor accommodation) and detailing of the fenestration all assist, as far as practicable, to create an active frontage, articulation and some animation of Units 1/4 (shop with gymnasium over) and 5 (veterinary surgery) onto Southampton Road. Regrettably, the poor siting of rear service yard areas would also face onto the front elevation and entrance to 'Pizza Hut' and onto the drive-through facility to 'KFC'. Extensive tree planting and cladding treatment of the service yard enclosure to match the adjacent buildings seek to mitigate the back-of-house appearance of these service yard areas.

Arrival at the site, via the access on Binnacle Way, would be marked by a single-storey freestanding café/restaurant building that would not present a particularly striking or attractive feature and would be dominated by drive-through/waiting bays fronting the carriageway; there is little opportunity for the attendance of waiting vehicles to be mitigated by the planting of trees to soften or screen this part of the site due to a sewer easement along the southern boundary.

Amendment to the landscape strategy now includes important improvement to the surface car parking/public realm. The strategy creates a focus on quality, meaningful planting within the 'public' space such as groups of trees to create a defined landscaped area rather than individual/isolated landscaping which may become lost, to improve connectivity through the provision of strong pedestrian links within the site and make use of landscape features to assist in the layout eg road formations and traffic-calming. A suitably wide central boulevard of high quality materials is designed to provide an attractive and strong pedestrian east-west route across the site featuring 10 x Sweet Gum (*Liquidambar styraciflua*) trees in a staggered double avenue in addition to one of a number of pairs of multi-stem Silver Birch (*Betula pendula*) either side at the eastern end of the boulevard, designed to frame end bays.

The material palette is appropriately restrained (to larger Blocks A & B) by use of:

- Aluminium powder-coated shopfronts (part Anthracite grey, RAL 7016 and Iron grey RAL 7011) and the same for canopies, window surrounds and copings (in Anthracite grey);
- Brick facings to plinth (red-multi);
- Composite powder-coated steel cladding panels, by Eurobond Rockspan, in Ephyra (principal colour finish), Oyster (secondary colour finish) & Anthracite grey (feature panel colour finish).

External materials for Block C, the free-standing café/restaurant (with drive-through facility) include a combination of Western Red Cedar horizontal cladding and rendered blockwork (in white) above a Staffordshire Blue brick plinth.

Amendment to the scheme is considered to have achieved a reasonable design solution, to respond to the constraints of the site, which is inevitably compromised by the landowner requirement to maintain a substantial central gap in the street frontage to Southampton Road. The amended landscape strategy demonstrates intent to deliver a focussed and strong hard/soft landscape solution to connect built-form on the east and west sides of an otherwise poor site layout that is now considered (subject to the high quality detailed landscaping scheme secured

by condition), on balance, to be good enough in the context of the style and character of prevailing architecture along Southampton Road.

### **Sustainable design and construction**

All development in the city must contribute to addressing climate change. Relevant sustainable design and construction standards are set out in policy PCS15 and the requirements expanded upon in a Supplementary Planning Document (SPD). The SPD (in section 4.3) requires this type of non-domestic development to achieve a BREEAM level 'Excellent', from 2013 onwards. As part of this, further minimum standards must be achieved to ensure compliance with the Portsmouth Plan (summarised on p.23 of the SPD): cyclist facilities - two credits in issue TRA03; low or zero carbon (LZC) energy technologies - a 10% mitigation of emissions through issue ENE04. The SPD sets out an expectation of inclusion of pre-assessment details as part of an application. A BREEAM pre-assessment summary report has been submitted.

This BREEAM pre-assessment, Design & Access Statement and Planning Statement all confirm that the applicant has engaged with the issue of sustainability but within the limitations and difficulty of achieving Excellent rating for a building 'shell'. A BREEAM Pre-Assessment provides details of the provision of a 'shell' building by the applicant that sets out the credits that this proposal will target to achieve a Very Good rating. Further energy saving measures relating to the operation and management of the store and its equipment would form the responsibility of each tenants own specification requirements and the final BREEAM score. To secure the relevant standard to comply with policy PCS15 and related SPD appropriate planning conditions are considered necessary and reasonable.

### **Impact on amenity**

The site of the proposed out-of-centre retail park is in a location that covers a wide variety of commercial uses. The nearest sensitive use is approximately 190 metres to the west of the application site and Environmental Health advise is unlikely to be adversely affected by the proposal. Environmental Health also comments that there are other uses in closer proximity requiring some protection against the potential negative impacts of the development. In relation to noise and in the absence of any information regarding any plant or equipment to be installed Environmental Health requests imposition of a condition requiring an assessment of noise from the operation of the all plant and/or equipment, if minded to grant permission. In addition, several of the proposed units include flexible planning permission for A3 use. No information has been provided regarding odour control from the kitchen extraction systems which are required for the A3 use and recommend the relevant condition(s) be applied.

### **Ecology/trees**

The application is supported by an Extended Phase 1 Habitat Survey Report (by Delta-Simons, December 2015) that concludes the site is of limited ecological value and that designated sites and protected species are not likely to be adversely affected by the proposals. Based on the advice of the council's ecologist there are no concerns raised over potential adverse ecological impacts arising from the development, subject to a sensitive working methodology being adopted for vegetation clearance to protect breeding birds by inclusion of a suitable Informative.

Documents entitled 'Arboricultural & Hedgerow Survey' and 'Arboricultural Impact Assessment' have been submitted (both by Delta-Simons, dated December 2015). This supporting information is accepted and agreed by the council's Tree Officer although the necessity for removal of 5 trees identified as T4-T8 [inc] is questioned if appropriate levels of protection during construction and minor alteration to the carpark layout undertaken.

The loss of the hedgerows dividing the site is considered necessary to facilitate this proposal. The car park layout has been altered to secure a stronger and focussed strategy for hard/soft landscaping, connectivity and calming measures for safe movement around the site. It is not

practical to retain the five individual trees T4-T8 within the broader objectives for the landscape strategy of parking/public realm areas and the loss of the trees is considered to be mitigated by replacement tree planting across the site. Planning conditions are required for adequate tree protection measures to the root protection areas of existing trees to be retained and for submission of a detailed landscaping scheme, including its subsequent implementation, to accord with the amended landscape masterplan (by Aspect Landscape Planning, dated May 2016).

### **Employment opportunities**

The Portsmouth Plan's objectives include "To develop Portsmouth as a city of innovation and enterprise, with a strong economy and employment opportunities for all" and states that Portsmouth will need to raise aspirations and diversify the skills of the local workforce in order to continue to strengthen the economy and ensure local people can make the most of new job opportunities that will arise in the city. Policy PCS16 "Infrastructure and Community Benefit" seeks to achieve community benefits related to the development. Skills training can be included as a community benefit and is developed upon in the Achieving Employment and Skills Plan SPD. The SPD states (at paras 2.4/2.5) that "All new development creates employment opportunities at the construction stage therefore employment and skills plans will be requested for the construction phase of all major development in the city, as defined [>1000sqm] ... Some development will create job opportunities at the occupation stage as well, such as retail or hotel developments. Therefore, employment and skills plans will be requested to cover the end user where the development will create 50fte jobs or more."

The application form identifies the scheme is anticipated to create 100-120 full-time equivalent jobs. The SPD clarifies (at para 3.1) the expectation that an Employment and Skills Plan should be submitted to the council and that its implementation would be secured through a Section 106 agreement. The applicant has offered to meet this planning obligation as part of a Section 106 Agreement, to accord with policy PCS16 and meet one of the objectives of the Portsmouth Plan to develop "employment opportunities for all".

### **Other procedural matter**

There are circumstances that "development outside town centres", as defined within The Town and Country Planning (Consultation) (England) Direction 2009, requires referral to the Secretary of State. In this Direction, referral is required for development that includes retail/leisure, which -

- (a) ...is to be carried out on land... out-of-centre...; and
- (b) is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; and
- (c) ...where the floorspace to be created by the development is... 5,000sqm or more...

The development is clearly out-of-centre and floorspace of more than 5,000sqm; however, for the reasons set out in this report and advice from independent experts DPDS, the application does not fail to satisfy the sequential test or be likely to have significant adverse impact ie not in conflict with para 27 of the NPPF. The assessment is reliant on there being a few large units and subject to conditions to limit the goods for sale and prevent inappropriate subdivision of units. It would thereby accord with policy PCS18 of the Portsmouth Plan. On this basis, referral is not considered necessary.

## **RECOMMENDATION I**

Delegated authority be granted to the City Development Manager to grant **Conditional Permission** subject to the prior completion of an agreement pursuant to section 106 Town & Country Planning Act 1990 to secure the following planning obligations:

- 1 The preparation and implementation of an Employment and Skills Plan (to assist in the development of resident workforce skills and provide a route to employment for local people) before development commences;
- 2 Prepare, implement and monitor a (staff) Travel Plan: with submission of contact details of the Travel Plan Coordinator, baseline travel survey to be undertaken within 6 months of first use of the development, Travel Plan to be submitted to and approved in writing by the Local Planning Authority within 12 months of first use (for assessment/monitoring of achievement of the targets) and thereafter monitored in accordance with surveys in years 3 and 5, with monitoring fee of £5500 to cover a 5-year period, payable upon submission of the Travel Plan;
- 3 Off-site highway improvement work as a £1000 contribution to reapply white lining within Compass Road, to be payable upon implementation of planning permission;
- 4 Dedication of land to permit the widening of the cycleway footpath on Southampton Road and to include the land where the bus stop currently sits, upon implementation of planning permission; and
- 5 The payment of a Project Management Fee upon implementation of planning permission.

**RECOMMENDATION II** That delegated authority be granted to the City Development Manager to add/amend conditions where necessary.

**RECOMMENDATION III** That delegated authority be granted to the City Development Manager to refuse planning permission if the Section 106 agreement has not been completed within three months of the date of the resolution.

### 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 (1:1250) - EX-010-C;  
 Block Plan (1:500) - EX-011-B;  
 Proposed Site Plan - PP-020-W;  
 Proposed Site Sections - PP-022-A;  
 Proposed Street Scenes - PP-023-A;  
 Proposed Ground, First & Roof Plan Block A - PP-040-A  
 Proposed Elevations & Sections Block A - PP-041-B;  
 Proposed Ground Floor Plan Block B - PP-050-C;  
 Proposed First Floor Plan Block B - PP-051-B;  
 Proposed Roof Plan Block B - PP-052-C;  
 Proposed Elevations Block - B PP-053-C;  
 Proposed Section Block B - PP-054-B  
 Proposed Ground, Roof Plan and Elevations Block C - PP-060-A;  
 Proposed Site Axonometrics - PP-070-A  
 Proposed Site Perspectives (1 of 2) - PP-071A;  
 Proposed Site Perspectives (2 of 2) - PP-072-A;  
 Design and Access Statement - Rev A  
 Tree Protection Fence Alignment (AIA, Delta-Simons) - 15-0547.02\_Fig.No.3

3) 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 desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011+A1:2013;  
 and unless otherwise agreed in writing by the LPA,

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA,

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

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

(a) as built drawings of the implemented scheme;

(b) photographs of the remediation works in progress;

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

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

5) No development shall take place at the site until a scheme of hard/soft landscaping has been submitted to and approved by the Local Planning Authority which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted. The works approved shall be carried out in the first planting and seeding seasons following the occupation of the building(s). Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

6) The proposed development shall be carried out in accordance with the external materials schedule shown on the approved elevational drawings and hardsurfacing materials shown on the landscape masterplan (or such comparable alternative materials as may be submitted to and approved in writing by the local planning authority).

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no building, structure or other alteration permitted by Class A, D and E of Part 7 of Schedule 2 of the Order shall be built or erected on the application site.

8) No development shall commence on site until the safeguarding of all trees not scheduled for removal during the course of the site works and building operations shall have been carried out in accordance with the Temporary Protective Fencing Specification described within the submitted Arboricultural Impact Assessment and Arboricultural & Hedgerow Survey (prepared by Delta-Simons, dated December 2015). All trees to be protected shall be fenced along the alignment shown on drawing 15-0547.02\_Fig.No.3 with 2m high heavy duty hoardings securely mounted on scaffold framing which is firmly secured in the ground and braced to resist impact (or such comparable alternative alignment and/or protection measures as may be submitted to and agreed with the Local Planning Authority beforehand). Such fencing shall be maintained during the course of the works on site. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area.

9) Unless otherwise agreed in writing by the Local Planning Authority the development hereby approved shall not provide more than total internal floorspace of all units at the retail park of 6,932sqm and the floor area devoted to shops (Class A1) shall not provide more than 4,692sqm.

10) The larger shop (Class A1) premises hereby permitted at 'Unit 1' shall not be subdivided and at 'Unit 3' shall not be subdivided into separate trading units below 500sqm net sales floorspace.

11) The net sales area of 'Unit 1' hereby permitted shall not exceed 1,421sqm, unless otherwise agreed in writing by the local planning authority, and the floorspace of 'Unit 1' shall not be used for the sale of the following items except where they are ancillary to the main use and the proportion of the net sales area devoted to the display of any individual category (a)to(d) is no greater than 15% of the net sales area and in respect of (e) no greater than 30% of the net sales area:

- (a) clothing and footwear (except for that associated with sports or specialist outdoor pursuits);
- (b) fashion accessories including handbags and luggage, watches and jewellery;
- (c) pharmaceutical and personal products including perfumes, toiletries, spectacles, contact lenses and other personal items;
- (d) books, music records, CD's, videos, DVD's, audio tapes and other pre-recorded media; and,
- (e) food and drink.

12) The net sales area of 'Unit 2' hereby permitted shall not exceed 325sqm, unless otherwise agreed in writing by the local planning authority, and the floorspace of 'Unit 2' shall not be used other than for the sale of primarily non-food bulky retail items within the following range of goods: DIY and garden goods; furniture; furnishings and textiles; carpets and floor coverings; camping and sporting goods along with associated clothing and footwear; boating and caravanning goods; motor vehicle and cycle goods; electrical goods including computers; and, pet supplies.

13) The net sales area of 'Unit 3' hereby permitted shall not exceed 1,486sqm, unless otherwise agreed in writing by the local planning authority, and the floorspace of 'Unit 3' shall not be used for the sale of the following items except where they are ancillary to the main use and the proportion of the net sales area devoted to the display of any individual category is no greater than 30% in respect of category (a), no greater than 15% of the net sales area in respect of categories (b)(c)(d) and in respect of (e) no greater than 30% of the net sales area:

- (a) clothing and footwear (except for that associated with sports or specialist outdoor pursuits);
- (b) fashion accessories including handbags and luggage, watches and jewellery;
- (c) pharmaceutical and personal products including perfumes, toiletries, spectacles, contact lenses and other personal items;
- (d) books, music records, CD's, videos, DVD's, audio tapes and other pre-recorded media; and,
- (e) food and drink.

14) The net sales area of 'Unit 5' hereby permitted for veterinary surgery (D1) or shop (A1) or café/restaurant (A3) shall not exceed 423sqm, unless otherwise agreed in writing by the local planning authority. The floorspace of 'Unit 5' for shop (A1) purposes shall not be used other than for the sale of primarily non-food bulky retail items within the following range of goods: DIY and garden goods; furniture; furnishings and textiles; carpets and floor coverings; camping and sporting goods along with associated clothing and footwear; boating and caravanning goods; motor vehicle and cycle goods; electrical goods including computers; and, pet supplies.

15) The development hereby permitted shall not be brought into use until the car parking spaces shown on the approved site layout plan 10062-PP-020\_RevW shall have been surfaced, marked out and made available for use; and the approved parking shall thereafter be retained including the spaces shown dedicated for disabled persons and parent/toddlers.

16) Notwithstanding submission of some limited information, the development hereby permitted shall not be brought into use until secure/weatherproof cycle storage facilities shall have been constructed and made available for use for both short-stay (customers) and long-stay (staff) in accordance with a detailed scheme showing the siting, appearance, height and materials/finishes that shall have been submitted to and approved in writing by the local

planning authority beforehand; and the approved secure/weatherproof short-stay (customers) and long-stay (staff) cycle storage facilities shall thereafter be retained.

17) No cooking processes other than the preparation of hot beverages, toasting of bread or heating of food in a microwave oven, domestic oven or domestic cooking device shall be undertaken within the Class A3 units hereby permitted (unless a suitable kitchen extract ventilation system shall have been installed and operated to suppress cooking fumes and odours).

18) Prior to the commencement of any A3 use with cooking operations other than those described in condition 17 (as limited to preparation of hot beverages, toasting of bread or heating of food in a microwave oven, domestic oven or domestic cooking device) kitchen extraction equipment shall have been installed to suppress and disperse odour and fumes emitted from cooking operations arising from café/restaurant uses within Class A3. Prior to installation of the kitchen extraction system, details of the proposed equipment shall be submitted to and approved in writing by the local planning authority; and such approved equipment shall thereafter be operated for as long as the Class A3 continues.

19) Prior to the installation of any plant and/or equipment an assessment of noise from the operation of the all plant and/or equipment shall be undertaken using the procedures within British Standard BS4142:2014 and a report submitted to the local authority for approval. Upon approval all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant shall be implemented.

20) The development hereby permitted shall not be commenced until such time as a scheme to ensure finished floor levels are set no lower than 4.3m above Ordnance Datum (AOD) for Block A, 4.9mAOD for Block B and 4.2mAOD for Block C, has been submitted to, and approved in writing by, the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the local planning authority.

21) No development shall take place until details (including locations and specifications supported by plans as appropriate) of biodiversity enhancements to be incorporated into the development shall have been submitted to and approved in writing by the local planning authority. The development shall subsequently be carried out in accordance with the approved details and the development shall not be occupied/brought into use until there has been submitted to and agreed in writing by the local planning authority a verification report to demonstrate implementation of the approved biodiversity enhancements. Thereafter the approved biodiversity enhancements shall be retained.

22) No development shall take place until details of:

(a) the proposed means of foul and surface water sewerage disposal, and  
(b) the measures to be undertaken to protect any existing public sewers infrastructure, shall have been submitted to and approved in writing by the Local Planning Authority; and the development shall not be brought into use until the drainage works have been carried out in accordance with the approved details (unless otherwise agreed in writing by the Local Planning Authority).

23) Before any part of the development is occupied, written documentary evidence shall be submitted to and approved in writing by the local planning authority that the development has achieved a minimum rating of 62.5% (Very Good) in the Building Research Establishment's Environmental Assessment Method (BREEAM), including two credits in issue ENE 04 and two credits in TRA 03, which will be in the form of a post-construction assessment which has been issued by BRE Global, unless otherwise agreed in writing by the local planning authority.



24) Before any part of the development is first brought into use details of the type, alignment, height, appearance and materials/finishes of any boundary treatments or other gate/wall/railing/fence/barrier/bollard or other similar means of enclosure and any retaining walls shall have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved boundary treatments/other means of enclosure and any retaining wall, which shall thereafter shall be retained (unless otherwise agreed in writing by the local planning authority).

25) No materials for sale, finished or unfinished products or parts, crates, waste, refuse plant, equipment/machinery or any other item be stacked or stored outside any building on the site.

26) No development shall commence on site until a Construction Management Plan shall have been submitted to and approved in writing by the Local Planning Authority to include, but not limited to details of: Times of deliveries; Wheel wash facilities; Site office facilities; Contractor parking areas; Loading/off loading areas; Method Statement for control of dust and emissions from construction and demolition; an Assessment and Method Statement for the control of construction noise for the site specifying predicted noise levels, proposed target criteria, mitigation measures and monitoring protocols.

The development shall be carried out in accordance with the approved Construction Management Plan and shall continue for as long as construction is taking place at the site.

27) Prior to the commencement of development a Servicing Management Plan shall be submitted to and approved by the local planning authority in writing, and shall thereafter be implemented in full.

28) No construction shall take place until details of the implementation of a programme of archaeological assessment is secured in accordance with a Written Scheme of Investigation that shall have been submitted to and approved in writing by the local planning authority. Before the development is first brought into use a report of findings prepared in accordance with an approved programme of archaeological assessment (including where appropriate post-excavation assessment, specialist analysis and reports, and publication) shall have been submitted to and approved in writing by the local planning authority.

**The reasons for the conditions are:**

1) To comply with Section 91 of the Town and Country Planning Act 1990.

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

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

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

5) To secure high quality landscaped setting for the development and to screen service yard areas from neighbouring restaurants to the east and west in the interests of visual amenity of the area and create strong connectivity across the site for the safety of non-car users, in accordance with policies PCS17 & PCS23 of the Portsmouth Plan.

6) To secure a high quality appearance and setting to the development in a visually prominent location (fronting a primary distributor road) in the interests of the amenity of the area, in accordance with policy PCS23 of the Portsmouth Plan.

7) To exercise further control in the interests of maintaining an appropriate provision of car parking facilities to meet the projected demand by car users, existing trees to be retained,

limited opportunities for new planting and having regard to a site layout with service yards fronting onto adjoining restaurant premises in the interests of visual amenity of the area, in accordance with policies PCS17 & PCS23 of the Portsmouth Plan.

8) To ensure that trees to be retained are adequately protected from damage to health and stability throughout the construction period in the interests of amenity in accordance with policy PCS13 of the Portsmouth Plan.

9) In order to ensure that the development does not have a detrimental impact on the vitality and viability of the hierarchy of designated town centres in accordance with the NPPF and PCS18 of the Portsmouth Plan.

10) In order to ensure that the development does not have a detrimental impact on the vitality and viability of the hierarchy of designated town centres in accordance with the NPPF and PCS18 of the Portsmouth Plan.

11) In order to ensure that the development does not have a detrimental impact on the vitality and viability of the hierarchy of designated town centres in accordance with the NPPF and PCS18 of the Portsmouth Plan.

12) In order to ensure that the development does not have a detrimental impact on the vitality and viability of the hierarchy of designated town centres in accordance with the NPPF and PCS18 of the Portsmouth Plan.

13) In order to ensure that the development does not have a detrimental impact on the vitality and viability of the hierarchy of designated town centres in accordance with the NPPF and PCS18 of the Portsmouth Plan.

14) In order to ensure that the development does not have a detrimental impact on the vitality and viability of the hierarchy of designated town centres in accordance with the NPPF and PCS18 of the Portsmouth Plan.

15) To ensure adequate on-site parking provision for the approved buildings/uses and to discourage on-street parking to Binnacle Way in the interests of local amenity and highway safety in accordance with policies PCS17 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.

16) To promote and encourage alternative modes of transport to the private car and ensure that adequate provision is made for cyclists (staff and customers) using the premises, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.

17) To protect the amenities of the adjoining and nearby occupiers from excessive nuisance from cooking fumes/odours (in the absence of a suitable extract ventilation to deal with the dispersal), in accordance with policy PCS23 of the Portsmouth Plan.

18) To protect the amenities of the adjoining and nearby occupiers from excessive nuisance by suppressing and dispersal of cooking fumes and odours, in accordance with policy PCS23 of the Portsmouth Plan.

19) To protect adjoining and nearby occupiers from the nuisance of excessive noise, to accord with policy PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.

20) To reduce the risk of flooding to the proposed development and future users, in accordance with policy PCS12 of the Portsmouth Plan and the aims and objectives of the NPPF.

- 21) To conserve and enhance biodiversity, in accordance with policy PCS13 of the Portsmouth Plan and the aims and objectives of the NPPF and S.40 of the NERC Act (2006).
- 22) To protect existing drainage apparatus and to reduce the risk of flooding by the proposed development, without increasing flood risk elsewhere, to accord with policy PCS12 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 23) To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy PCS15 of the Portsmouth Plan.
- 24) To secure a high quality appearance to the development in a visually prominent location and to screen service yard areas from neighbouring restaurants to the east and west in the interests of the amenity of the area, and to avoid the root protection area of established trees to be retained, in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 25) To secure a high quality appearance to the development in a visually prominent location (on a major distributor road) in the interests of the amenity of the area, having regard to the limited public realm at the retail park and in order to limit the sales floorspace to that satisfactorily demonstrated to meet the sequential test and no significant adverse impact safeguarding the vitality and viability of the city's defined network and hierarchy of centres, in accordance with policies PCS18 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 26) To protect amenity by preventing excessive nuisance and minimise adverse effects on the local environment from highway impacts, as far as practicable, during works of construction on the adjoining and nearby occupiers, in accordance with policy PCS23 of the Portsmouth Plan.
- 27) In the interests of the safety and convenience of users of the site, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
- 28) In the interests of protecting and/or conserving evidence of the City's early heritage and development by assessing any archaeological potential of the site, to reveal exploitation of the harbour during the prehistoric/ and Roman periods, is located on part of the harbour edge where an insight into how this area was used through prehistory might still be possible and ensure information is preserved by record for any future generations, in accordance with policy PCS23 and the aims and objectives of the NPPF.

## PRO-ACTIVITY STATEMENT

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

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**LAND AT THE REAR OF 244-248 SOUTHAMPTON ROAD PORTSMOUTH PO6 4QD****CONSTRUCTION OF 10 SEMI-DETACHED AND TERRACED TWO AND TWO-AND-A-HALF STOREY DWELLINGS WITH ASSOCIATED PARKING AND LANDSCAPING (ACCESSED FROM NEELANDS GROVE)****Application Submitted By:**

M2 Architecture  
FAO Mr M Wilkes

**On behalf of:**

Willow Construction Services Ltd  
FAO Mr S Edge

**RDD:** 5th May 2016

**LDD:** 16th August 2016

**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are: whether the proposal is acceptable in principle; whether the proposal is acceptable in design and amenity terms; whether the proposed access and parking arrangements are acceptable and whether the proposal is acceptable in ecological terms.

**The Site**

This proposal relates to an area of land of approximately 0.2 hectares located on the northern side of Southampton Road and comprises what used to be part of the rear gardens to Nos, 244, 246 and 248 Southampton Road. The northern boundary of the site abuts the Portsmouth-Southampton mainline railway beyond which lies a recent residential development on the site of the former Saxonsore and Westfield Schools. The eastern boundary abuts properties Sullivan Close (a residential development on the site of a former factory site). The western boundary abuts properties in Neelands Grove and Priory Court. Comprising former rear gardens for the most part, the site contains a small number of trees, mainly self-seeded and of low amenity value, with most being located adjacent to the northern boundary of the site with the railway line.

**The Proposal**

Planning permission is sought for the construction of ten houses served by an estate road which would be accessed from the end of Neelands Grove. The proposed estate road would provide access to: a terrace of four two-storey, three-bedroom dwellings on the south of the site that would back on to the properties fronting Southampton Road; a semi-detached pair of two-storey, two-bedroom dwellings in the centre of the site abutting Sullivan Close and two pairs of two-and-a-half storey, three bedroom semi-detached properties to the north of the site backing onto the railway line. A total of 18 car parking spaces would be provided.

The proposed dwellings would be traditional in their design and appearance with pitched roofs and be finished in brick and tile.

**Planning History**

There is no relevant planning history for this site.

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include: PCS10 (Housing Delivery), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), PCS21 (Housing Density), PCS23 (Design and Conservation).

The NPPF, Nationally Described Space Standard and the Parking Standards, Sustainable Design & Construction, Housing Standards and Solent Special Protection Areas SPDs are all relevant to the proposed development.

### **National Planning Policy Framework**

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. The following paragraphs within the NPPF are relevant to the proposal:

- 17 Core planning principles for decision making
- 35 Development designed for sustainable transport
- 56 Good design is indivisible from good planning
- 57 Requires high quality and inclusive design in the built environment
- 61 Decisions should address connections between people and places
- 62 Encouraged to regard design review panels and their comments
- 96 New development should minimise energy consumption
- 100 Directing development away from areas at risk of flooding
- 103 Ensuring development does not increase flood risk
- 118 Principles should be applied to conserve and enhance biodiversity
- 197 Presumption in favour of sustainable development
- 204 Planning obligations and conditions used to make development acceptable

The following sections in the Planning Practice Guidance are also relevant:

Design

Flood Risk and Coastal Change

Housing - Optional Technical Standards

Land affected by contamination

Natural Environment

Noise

Planning Obligations

Travel plans, transport assessments and statements in decision-taking

Use of Planning Conditions

Water supply, wastewater and water quality

## **CONSULTATIONS**

### **Coastal And Drainage**

Initial response

I can confirm that the Eastern Solent Coastal Partnership wishes to place a holding objection on the proposed development. Although the site currently only borders Flood Zone 3, by 2115 the southern portion of the site is expected to be in Flood Zone 3. As a residential development, the lifetime of the project is expected to be approximately 100 years and therefore the change in flood risk areas in the future must be considered.

To overcome the objection, the applicant should submit a Flood Risk Assessment (FRA) assessing the flood risk and how this will be mitigated for in the design of the layout and buildings. This should include a survey of the ground levels, elevations of the finished floor

levels of the buildings, and any other resistance and resilience measures incorporated into the buildings' design. Information on how to complete an FRA is available on the following website: <https://www.gov.uk/guidance/flood-risk-assessmentfor-planning-applications>.

For information the present day 0.5% probability (1 in 200 year) extreme tide level for Portsmouth Harbour is 3.2m AODN and the 0.5% probability (1 in 200 year) extreme tide level for this area in the year 2115 is 4.3 m AODN.

Portchester to Paulsgrove Tidal Flood Defence Scheme

The Eastern Solent Coastal Partnership on behalf of Fareham Borough Council and Portsmouth City Council are currently designing the next generation of flood defence from Portchester to Paulsgrove. The project is programmed to select a preferred outline design for a scheme by Autumn 2016. Subject to funding approvals and planning permission, construction works are expected to occur in Summer 2017 and in Summer 2018 with the completion of project by Autumn 2018. Once complete, and combined with proposed private flood defence improvements at Trafalgar Wharf, a minimum standard of protection to 1:200 year standard (0.5% AEP) will be achieved in central Portchester and along the Southampton Road (A27), reducing flood risk to 392 residential properties. This site will directly benefit from the scheme.

Further response following amendments

I can confirm that we are happy with this and can withdraw our holding objection.

### **Network Rail**

The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

Future maintenance

The development must ensure that any future maintenance can be conducted solely on the applicants land. The applicant must ensure that any construction and any subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rails adjacent land and air-space, and therefore all/any building should be situated at least 2 metres (3m for overhead lines and third rail) from Network Rails boundary. The reason for the 2m (3m for overhead lines and third rail) stand off requirement is to allow for construction and future maintenance of a building and without requirement for access to the operational railway environment which may not necessarily be granted or if granted subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant. Any less than 2m (3m for overhead lines and third rail) and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works. The applicant / resident would need to receive approval for such works from the Network Rail Asset Protection Engineer, the applicant / resident would need to submit the request at least 20 weeks before any works were due to commence on site and they would be liable for all costs (e.g. all possession costs, all site safety costs, all asset protection presence costs). However, Network Rail is not required to grant permission for any third party access to its land. No structure/building should be built hard-against Network Rails boundary as in this case there is an even higher probability of access to Network Rail land being required to undertake any construction / maintenance works. Equally any structure/building erected hard against the boundary with Network Rail will impact adversely upon our maintenance teams ability to maintain our boundary fencing and boundary treatments.

### Drainage

No Storm/surface water or effluent should be discharged from the site or operations on the site into Network Rails property or into Network Rails culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rails property. Proper provision must be made to accept and continue drainage discharging from Network Rails property; full details to be submitted for approval to the Network Rail Asset Protection Engineer. Suitable foul drainage must be provided separate from Network Rails existing drainage. Soakaways, as a means of storm/surface water disposal must not be constructed near/within 10 20 metres of Network Rails boundary or at any point which could adversely affect the stability of Network Rails property. After the completion and occupation of the development, any new or exacerbated problems attributable to the new development shall be investigated and remedied at the applicants expense.

### Plant & Materials

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rails property, must at all times be carried out in a fail safe manner such that in the event of mishandling, collapse or failure, no plant or materials are capable of falling within 3.0m of the boundary with Network Rail.

### Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The applicant/applicants contractor must consider if they can undertake the works and associated scaffold/access for working at height within the footprint of their property boundary.

### Piling

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Network Rails Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

### Fencing

In view of the nature of the development, it is essential that the developer provide (at their own expense) and thereafter maintain a substantial, trespass proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. The 1.8m fencing should be adjacent to the railway boundary and the developer/applicant should make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rails existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein, be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rails boundary must also not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

### Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rails Asset Protection Engineers approval of their detailed proposals regarding lighting.

### Noise and Vibration

The potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of the National Planning Policy Framework which holds relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.

### Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as

the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rails boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Permitted: Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrs Communis*), Fir Trees Pines (*Pinus*), Hawthorne (*Cretaegus*),

Mountain Ash Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (*Shrubby Salix*), Thuja Plicatata Zebrina

Not Permitted: Alder (*Alnus Glutinosa*), Aspen Poplar (*Populus*), Beech (*Fagus Sylvatica*), Wild Cherry (*Prunus Avium*), Hornbeam (*Carpinus Betulus*), Small-leaved Lime (*Tilia Cordata*), Oak (*Quercus*), Willows (*Salix Willow*), Sycamore Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), London Plane (*Platanus Hispanica*).

Vehicle Incursion

Where a proposal calls for hard standing area / parking of vehicles area near the boundary with the operational railway, Network Rail would recommend the installation of a highways approved vehicle incursion barrier or high kerbs to prevent vehicles accidentally driving or rolling onto the railway or damaging lineside fencing.

As the site is adjacent to Network Rails operational railway infrastructure, Network Rail strongly recommends the developer contacts [AssetProtectionAnglia@networkrail.co.uk](mailto:AssetProtectionAnglia@networkrail.co.uk) prior to any works

commencing on site. Network Rail strongly recommends the developer agrees an Asset Protection Agreement with us to enable approval of detailed works. More information can also be obtained from our website at [www.networkrail.co.uk/aspx/1538.aspx](http://www.networkrail.co.uk/aspx/1538.aspx).

### **Natural England**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Conservation of Habitats and Species Regulation 2010 (as amended)

Wildlife and Countryside Act 1981 (as amended)

Internationally and nationally designated sites

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features.

European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to Portsmouth Harbour Special Protection Area (SPA) which is a European site. The site is also listed as Portsmouth Harbour Ramsar site<sup>1</sup> and also notified at a national level as Portsmouth Harbour Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Portsmouth Harbour SPA and Ramsar Site: No objection

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.



In advising your authority on the requirements relating to Habitats Regulations Assessment, and to assist you in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:

- \* the proposal is not necessary for the management of the European site
- \* that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment

When recording your HRA we recommend you refer to the following information to justify your conclusions regarding the likelihood of significant effects.

This application is within 5.6km of Chichester and Langstone Harbours SPA and will lead to a net increase in residential accommodation. Natural England is aware that Havant Borough Council has recently adopted a Supplementary Planning Document (SPD) or planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP)

Provided that the applicant is complying with the SPD or policy, Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s), and has no objection to this aspect of the application.

SSSI No objection - no conditions requested

This application is in close proximity to Portsmouth Harbour Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in

respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at consultations@naturalengland.org.uk.

### **Ecology**

I would raise a concern that the application site may have significantly altered since the Ecological Appraisal was conducted. The ecological survey (12th March 2016) appears to have assessed the site prior to clearance, which was carried out prior to the images included in the Design and Access Statement (Bryan Jezeph Consultancy Ltd, April 2016) being taken. It would therefore appear that the recommendations of the Ecological Appraisal specifically for Phase 2 reptile surveys may no longer be valid. I would also draw the applicants attention to the following statement in the submitted Ecological Appraisal:

- \* Without further surveys to show absence of protected species the proposed works have potential to result in the killing, harm and disturbance to nesting birds and reptiles. This could result in an offence(s) being committed. Clarification is therefore required for existing site conditions and report recommendations updated as appropriate.

A number of sensible potential biodiversity enhancements are included in the Ecological Appraisal, currently presented as options. Measures to maintain, protect and produce a net gain in biodiversity will be required in accordance with Policy PCS13 of The Portsmouth Plan, the Natural Environment and Rural Communities Act 2006 and National Planning Policy Framework. Any revised and updated ecological information should include more detail on enhancements and a firm commitment to the options selected including the provision of a detailed plan of enhancements which, in coordination with landscaping proposals, demonstrates a coherent approach to targeted biodiversity measures within the site.

As already communicated to the applicant, the development will result in a net increase in residential dwellings within 5.6km of the Solent Special Protection Areas (SPAs). This distance defines the zone identified by recent research where new residents would be considered likely to visit these sites. The SPAs supports a range of bird species that are vulnerable to impacts arising from increases in recreational use of the sites that result from new housing development. While clearly one new house on its own would not result in any significant effects, it has been demonstrated through research, and agreed by Natural England (the Government's statutory nature conservation advisors, who have provided comments on this proposal) that any net increase (even single dwellings) would have a likely significant effect on the SPAs when considered in combination with other plans and projects.

Portsmouth City Council has adopted a strategy whereby a scale of developer contributions has been agreed that would fund the delivery of measures to address these issues and, in this case, to specifically address the consultation response from Natural England that PCC as a competent authority under the provisions of the Habitats Regulations should have regard for any potential impacts that the project may have.

With respect to the Solent sites, funding is to be provided to the Solent Recreation Mitigation Partnership (SRMP). The scale of the contribution is set at £176 per new dwelling for the SRMP.

### **Head Of Community Housing**

Initial response

We welcome any scheme that is providing any houses especially Affordable Houses.

What we need to comment on straight away however are the property sizes, according to their schedule of units on the site plan it states that plots 1 to 4 are 3bed 2 storey houses at 84m<sup>2</sup> (872sqft = 81sqmts not 84sqmts). We are assuming that these are 5 person properties (although this is a full application there are no furniture layout details on the property layout plans), and as such they do not meet minimum National Space Standards by quite a large degree.

These properties should be a minimum of 93m<sup>2</sup>.

This is also the case for plots 5 and 6 which are 2bed houses (we assume -looking at the plans - that they are 4person) which are shown on the unit schedule as 64m<sup>2</sup>. Again the properties do not meet minimum National Space Standards and should actually be a minimum of 79m<sup>2</sup>.

Plots 7-10 are 3 bed 3 storey properties and both exceed the minimum space standards.

Under the S106 Planning Agreement there is a provision for Affordable Housing, this would amount to 20% or 2 units of the development, as is mentioned and proposed in the developers 'Supporting Statement (including Matters of Design and Access)' document.

The overall unit mix does meet our housing need and we would be looking at the 20% affordable provision (or 2 units) on a pro-rata basis of the whole development.

This would break down in to the following units: 1x 3bed house and 1x 2bed house.

There does not seem to be any provision for a disabled unit and we would like to look at this with the planners and owners/developers, once we have spoken to our Occupational Therapists to establish if there is a need.

The tenure mix for the affordable housing would be either 2x Low Cost Home Ownership or 2x Affordable Rent. That would be decided once the Registered Provider was on board.

Portsmouth City Council will have full nomination rights to the Affordable rented units with the Help-to-buy agent nominating to the LCHO units.

**PARKING** - In regards to parking it is stated that there are 2 spaces for each 3 bed property and 1 space for each 2bed property. This seems to be for all properties according to the plans and so we would be expecting the affordable to have the same parking provision.

Further response following amendments

Our comments to the amendments and extra details are as follows:

In all of their designs there is a minimal amount of storage space at ground floor level, not even an airing cupboard on the upper floors. This is not a good design for family accommodation. Within the Design and Access Statement (paragraph 4.7) it states that under the 'National Space Standards' a 3 bed 5 person 2.5 storey property should be a minimum of 93m<sup>2</sup>, this is incorrect, the minimum standard for a 3 bed 5 person 2.5 storey building would be 99m<sup>2</sup> or preferably larger. Whether the property is '2.5' or a '3' storey (and the plans show that more than 75% of the upper floor is being used for two bedrooms and a shower room) it is another level to the property, ergo another level creates a 3 storey property.

However, according to the new plan (Drawing 200 rev 'A') and the accommodation schedule in the bottom left hand corner all of the 2.5 storey properties exceed the minimum standard anyway.

One other minor point is that the Design and Access Statement states that there are 16 car parking spaces, but on both plans (the original and the amended) there are 18 spaces - obviously this is better for the residents who will live in those properties.

### **Waste Management Service**

Query whether the site would be accessible by refuse collection vehicle

### **Highways Engineer**

Initial response

This application proposes ten new residential units with access from Neelands Grove. I have reviewed the supporting statement produced by Bryan Jezeph Consultancy Ltd dated April 2016 which deals with matters of design and access and would make the following observations:

Neelands Grove is a residential cul-de-sac serving approximately twenty residential properties and provides access to Portsdown Road. It is subject to a 30mph speed restriction and traffic speeds are constrained by the length and nature of the road. As a consequence the appropriate design standards for this development should be drawn from MfS. As the development provides for more than five residential units the access road should be designed to adoptable standards. A development of this scale is likely to generate in the order of 7 vehicular traffic movements in the am and pm peak hours. In that light I am satisfied that the development would not have a material impact on the operation of the highway network.

The arrangement proposed does not provide for a sufficient service strip in which utilities can be accommodated or provide for the overhang or turning vehicles on either side of the proposed carriageway which is designed as a shared surface. Whilst I would expect traffic speeds to be restrained within the development due to the short road length and physical alignment, the site plan does not secure adequate visibility around the bend in the alignment. These concerns could be resolved by amending the design to extend Neelands Grove carriageway and footways/ service strip into the site to provide a simple turning area and provide access to plots 7-10 via a private drive.

The residential parking standards require 1.5 spaces per unit for dwellings of the scale proposed with 2 cycle parking spaces required for each unit. Sixteen spaces are planned within the site with a cycle store for 2 cycles provided in the rear gardens of each of the plots. I am satisfied that the proposal complies with the parking standards although the spaces may need minor modification to accommodate the utility service strip.

As this application stands I must recommend refusal as the arrangement proposed does not provide for a sufficient service strip in which utilities can be accommodated or provide for the overhang or turning vehicles.

Further response following submission of amendments

Further to your email of 10th June 2016 I have reviewed the amended site layout and Design and Access Statement and write to confirm my findings.

The revised arrangement of the access road to provide a turning area with appropriate service strips to accommodate utility equipment resolves my previous concerns in respect of the site layout. As a consequence I would not wish to raise an objection to this proposal subject to conditions requiring:

- The submission and approval of a construction management plan prior to the commencement of development.
- The provision to adoptable standards and subsequent retention of the turning area prior to occupation.

NB the applicant will be required to enter a S278 agreement with the highway authority prior to undertaking work within the existing public highway. The turning area is of a potentially adoptable nature and the applicant may wish to explore that option with the highway authority.

### **Environmental Health**

This consultation is with regard to potential impact on the proposed residential use from transportation noise and the potential impact on local air quality resulting from traffic movements generated by the development.

Transportation noise - The railway borders the northern edge of the site and is approximately 17 metres from the northern facades of plots 9 and 10. The railway section links Cosham to Porchester and forms part of the route from Southampton to Portsmouth.

No information has been provided by the applicant concerning noise and vibration from the adjacent railway and, as such, I am unable to comment on the potential impact on the proposed residential use. Should you be minded to grant consent, I recommend that the following condition be applied:

No development shall take place until a detailed acoustic and vibration report at the development site has been submitted to and approved in writing by the Local Planning Authority. The report shall include a scheme of noise and vibration insulation measures for all residential accommodation. The insulation measures shall be designed to ensure that vibration levels meet the criteria for 'low probability of adverse comment' as defined in BS 6472-1:2008 and that noise levels within habitable rooms do not exceed the following criteria:

Bedrooms and living rooms: LAeq(16hr) 35dB (07:00 - 23:00hrs)

Bedrooms: LAeq(8hr) 30dB (23:00 - 07:00hrs) and LAmax(5 min) does not exceed 45dB(A) more than 12 times between the hours of 23:00 and 07:00.

Upon approval these measures shall be implemented and maintained.

Reason: In order to safeguard the amenity of future occupiers.

Local air quality - The size of the development is such that any increase in road traffic will be slight and the subsequent impact on local air quality insignificant.

### **Contaminated Land Team**

I have reviewed the above application and scale and sensitive nature of the proposed development, conditions are required. The survey is requested as a precaution and so a minimal scope and/or combined report submission along with the geotechnical testing is likely to be acceptable to this office.

### **Tree Officer**

A site visit was undertaken on 09 June 2016. The weather conditions were warm, dry and sunny.

It was not possible to gain access to the site, all observations are made from the perimeter gate.

#### **Observations**

It is disappointing to note that the Tree Survey Report JFA0079 dated Mar 2016 is no longer relevant following the clearance of all trees within the curtilage of the site with the following exceptions:

Group G1 1.1 - 1.5 situated on the northern boundary adjacent to the railway track. A group of semi mature sycamores (*Acer pseudoplatanus*). Of low quality and probably self-seeded two appear to be located on the railway embankment. Their value is in the group rather than individual specimens and the screening of the railway line beyond the boundary.

T8 situated in the approximate centre of the site. An apple tree (*Malus* sp) was probably a garden tree originally. Evidence of old pruning wounds is visible in the crown as is epicormic growth. A self-seeded Elder (*Sambucus nigra*) has subsequently developed beneath the apple and now grows through the crown.

The revised site plan dated 09 Jun 16 identifies indicative planting and landscape features.

The revised Design and Access Statement date June 16 makes brief mention of landscaping but no detail is provided.

#### **Recommendations**

The applicant submit a detailed Landscaping Plan for consideration and approval before consent be granted.

## REPRESENTATIONS

Objections have been received from 13 neighbouring properties and from Penny Mordaunt MP on the following grounds

- impact on road network, especially Neelands Grove
- traffic impacts not properly considered
- inadequate parking
- loss of light
- overlooking and loss of privacy
- loss of trees
- access should be from Southampton Road or Sullivan Close not Neelands Grove
- disruption, disturbance and damage to neighbouring properties
- impact on social infrastructure
- inadequate neighbour notification
- land should be purchased by Council as used to provide allotments

Supporting comments have been received from the occupiers of 6 neighbouring properties for the following reasons:

- need for new and affordable housing in area
- proposal would complement existing development
- proposal provides adequate parking
- site no longer needed as garden and should be better used to provide family housing

## COMMENT

The main issues to be considered in the determination of this application are: whether the proposal is acceptable in principle; whether the proposal is acceptable in design and amenity terms and whether the proposed access and parking arrangements are acceptable. Other issues to consider relate to ecology, SPA mitigation, sustainable design and construction, space standards, cycle parking and waste storage.

### Principle and level of development

Comprising the former rear gardens to three houses fronting Southampton Road, this site is not specifically allocated for development. However, the Portsmouth Plan recognises that in order to meet its housing target, other potential housing sites outside of the strategic sites would need to be identified. These are expected to contribute around 13% of the overall housing need and would be distributed around the city. The site is flanked to the east and west by residential development that has infilled behind properties fronting Southampton Road, with this site being the only undeveloped parcel of land to the north of this part of Southampton Road. The proposed level of development would be at a density of 50 dwellings per hectare which would accord with Policy PCS21 (housing density) of the Portsmouth Plan which requires outside of identified high density areas, the density of new development should be no less than 40 dwellings per hectare. The proposed housing density would be comparable to that of the surrounding area. The existing houses fronting Southampton Road would have the benefit of private rear gardens following the completion of the development. On this basis it is considered that the principle of developing the rear gardens is acceptable. It is therefore considered that, in principle, the proposed development to provide 10 dwellings would be acceptable.

### Design & Housing Mix

The application is accompanied by a Supporting Statement which among other things seeks to assess the local context and explain the rationale behind the proposal submitted in this application.

The proposed development would be served by an estate road that would have a 'T-shaped' plan with two spurs, one running north-south and the other east-west. The spurs would terminate in parking courts. The proposed dwellings would be laid out in a manner that would complement that of adjacent developments and has had regard to the siting of neighbouring properties. The siting of the proposal is considered to be a well-conceived response to the constraints of the site that would complement the prevailing urban grain of the locality.

The proposal would comprise a mix of terraced and semi-detached two and three bedroom dwellings. The site would provide eight three bedroom family homes which are considered to represent a positive contribution towards meeting the housing needs of the city. Two of these would be affordable homes in compliance with Policy PCS19.

The proposed dwellings would be of a traditional design and appearance and be a mix of two and two-and-a-half storey in scale. The dwellings would therefore complement the scale and character of existing development in the area. Overall the proposal is considered to represent an appropriate design solution for the site which would complement the locality.

The applicant took onboard the early comments in terms of design and space standards, resulting in amendments to the plans and an acceptable scheme.

### Amenity

The proposed development has clearly been designed with regard to the constraints of the site and the living conditions of neighbouring occupiers. The existing boundaries of the site are generally 1.8 metre high timber fences that allow views through the site from neighbouring properties. Any redevelopment of the site would result in a change in the outlook from neighbouring properties; however this in itself would not necessarily result in harm.

The terrace of houses to the south of the site would be sited to line up with properties in Sullivan Close (to the east) and Neelands Grove (to the west). As such they would have little impact on the occupiers of those neighbouring properties. The terrace would be sited approximately 30 metres from the rear of properties to the south fronting Southampton Road with rear gardens of between 7 and 8 metres. This arrangement is comparable to that which exists with neighbouring developments and is considered acceptable in terms of outlook and overlooking.

The semi-detached dwellings in the centre of the site would be sited to the rear of numbers 26 and 28 Sullivan Close which benefit from rear gardens 9.8 metres in depth. The flank wall of plot 6 would be sited 11.8 metres from the rear of the neighbouring properties and 2 metres from the rear boundary. It is considered that this element of the proposal would have an acceptable relationship to its neighbours in terms of outlook and overlooking.

The two pairs of semi-detached dwellings proposed for the north of the site would broadly align with properties in Sullivan Close and would be to the rear of properties in Priory Court. The flank of plot 10 would be sited 11 metres from the rear wall of Priory Court. Notwithstanding the two-and-a-half storey scale of these properties, it is considered that they too would have an acceptable relationship to their neighbours in terms of outlook and overlooking.

During the lifetime of the development, the proposed dwellings have been amended to meet the minimum bedroom and overall size standards set out in the Nationally Described Space Standard. Each dwelling would benefit from a rear garden of at least 7 metres depth. All habitable rooms would be provided with an appropriate outlook and light. The proposed dwellings would also have an appropriate relationship with each other. The proposed dwellings to the north of the site would back onto the railway line and would be the subject of a degree of noise and disturbance. It is considered that mitigation measures could be secured through the imposition of a suitably worded planning condition. As a result it is considered that the proposal would provide a good standard of amenity for future residents.

## Access & Parking

The proposed estate road has been amended during the life of the application to provide an improved turning area and a service strip in which utilities could be accommodated. The level of parking proposed would exceed the requirement of the Parking Standards SPD by three spaces. It is considered that having regard to the relatively poor accessibility of the site to public transport, a small overprovision of parking is appropriate.

The Highway Authority are satisfied that the proposal internal layout and parking arrangements are acceptable. Furthermore it is considered that the proposed additional dwellings would not result in such an increase in traffic movements that would be prejudicial to the safety or convenience of existing highway users of Neelands Grove, Portsdown Avenue or Southampton Road.

It is accepted that Neelands Grove is not an ideal route of construction traffic, however it is not so restricted that planning permission could be withheld on the grounds that access to the site by large vehicles may affect parking in Neelands Grove. A planning condition can be imposed to secure a Construction Management Plan to minimise the impact of construction traffic. Once operational the proposed cul-de-sac will be maintained by the residents through a management company, however it is designed to an adoptable standard should the developer take a view to take this approach.

## Ecology

Comprising garden land the site has the potential to offer habitat for reptiles. Whilst the location of the site alongside the railway could contribute to a habitat for bats, no bat activity has been identified across the application site with there being no buildings or structures that could potentially host a roost. Ecological and arboricultural surveys were carried out, however the site was the subject of clearance works prior to the submission of the application.

[insert further reptile comments]

None of the trees on the site are of a high quality and none have a high amenity value.

## Flooding

The site is not located in an area identified at risk of flooding. However over the likely lifetime of the development sea level rise may result in it becoming so. It must also be noted that forthcoming and future sea defence improvements would be likely to protect the site. It is therefore considered that the site and future occupiers would not be at significant risk from flooding.

## SPA Mitigation

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. The development proposed is not necessary for the management of the SPA.

The proposal would lead to a net increase in population, which in all likelihood would lead to a significant effect, as described in Regulation 61 of the Habitats Regulations, on the Portsmouth Harbour and the Chichester and Langstone Harbours Special Protection Areas (the SPAs). The Solent Special Protection Areas SPD sets out how the significant effect which this scheme would otherwise cause, could be overcome. Based on the methodology in the SPD, an appropriate scale of mitigation could be calculated as  $(10 \times £176) = £1,760$ . The applicant has agreed to provide SPA mitigation in accordance with the SPD. Subject to this being secured the development would not have a significant effect on the SPAs.

#### Other Matters

The submitted drawings indicate the provision of facilities for storage of cycles, however no detail is provided. The site is capable of accommodating suitable facilities which can be secured through the imposition of a suitably worded planning condition. A section 106 agreement will secure the affordable housing and SPA payment.

Whilst it is noted that the representations make reference to the impact of the proposal on health and education infrastructure, it must be recognised that this proposal relates to a development of ten additional dwellings which is of a scale that would not generate unreasonable demands. The proposed properties will have the benefit of private open space, and there are no infrastructure requirements triggered by the scheme.

It is considered that the demands on infrastructure associated with a development of this size would not be significant. The proposed development requires payment into the Community Infrastructure Levy which is the mechanism for cross city planning for infrastructure demands as a result of development.

The neighbouring notification carried out for this application was carried out in accordance with legislative requirements and the Council's usual practice and took the form of both direct notification by letter and the display of site notices.

#### Conclusion

Having regard to all relevant policies and material considerations the development proposed is acceptable in principle and represent a high quality design solution for the site that would not give rise to significant amenity impacts.

**RECOMMENDATION A:** that delegated authority be given to the Assistant Director of Culture and City Development to grant Conditional Planning Permission subject to the prior completion of a legal agreement pursuant to S106 of the Town and Country Planning Act 1990 to secure affordable housing and SPA mitigation and subject to the following conditions

**RECOMMENDATION B:** That delegated authority given to the Assistant Director of Culture and City Development to refuse planning permission if the legal agreement has not been completed within three months of the date of the resolution

### **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:

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3) 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 desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011+A1:2013;

and unless otherwise agreed in writing by the LPA,

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA,

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

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

(a) as built drawings of the implemented scheme;

(b) photographs of the remediation works in progress;

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

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

5) a) Development shall not commence until a schedule of materials and finishes to be used for the external walls and roofs of the dwellings hereby permitted has been submitted to and approved in writing by the Local Planning Authority.

b) The development shall be carried out in accordance with the approved details.

6) submission and approval of landscaping plan

7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

8) a) Development shall not commence until precise details of a scheme to protect the proposed dwellings from noise from the adjoining railway has been submitted to and approved in writing by the Local Planning Authority.

b) No dwelling it shall be occupied until the mitigation measures have been completed.

9) No dwelling shall be occupied until screen walls or fences around that dwelling have been provided in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority.

**The reasons for the conditions are:**

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 4) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 5) In the interests of the visual amenities of the area in accordance with policy PCS23 of the Portsmouth Plan.
- 6) In the interests of the amenities and character of the area in accordance with policy PCS23 of the Portsmouth Plan.
- 7) In the interests of the amenities and character of the area in accordance with policy PCS23 of the Portsmouth Plan.
- 8) To ensure that acceptable noise levels within the dwellings and the curtilages of the dwellings are not exceeded in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 9) In the interests of the visual amenities and privacy of the neighbouring property in accordance with policy PCS23 of the Portsmouth Plan.

**PRO-ACTIVITY STATEMENT**

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

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**11 MALVERN ROAD SOUTHSEA PO5 2LZ****CHANGE OF USE TO A 9 BED HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS) AND CONSTRUCTION OF NEW GARAGE TO THE REAR OF PROPERTY****Application Submitted By:**

Pike Planning  
FAO Mr John Pike

**On behalf of:**

Coralbrook Management Limited  
FAO Mr Adam Papierzynski

**RDD:** 25th May 2016**LDD:** 21st July 2016**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle, whether the garage is acceptable in design terms and whether the proposal 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 SPA mitigation, car and bicycle parking.

**The Site**

This application relates to a large three-storey mid-terraced dwelling located to the western side of Malvern Road, just to the north of its junction with Florence Road. The property is set back from the highway by a small front forecourt and benefits from a larger rear yard that backs directly onto Clarence Road. The property has a lawful use as a dwellinghouse but appears to have been used as a House in Multiple Occupation (HMO) since at least July 2007 and potentially as early as 1991 and has benefitted from a licence from Private Sector Housing since 2007. The surrounding area is predominantly residential in character with similar terraced properties to the eastern side of Malvern Road and a mix of terraced dwellings, blocks of flats and boutique hotels to the eastern side. The site is located within the 'East Southsea' Conservation Area and adjacent to the 'Seafront' Conservation Area.

**The Proposal**

Planning permission is sought for the change of use of the property to a 9 bed House in Multiple Occupation (sui generis) and the construction of a detached garage to the rear. The application has been modified from that as originally submitted reducing the proposed number of bedrooms from 11 to 9.

**Planning History**

An Established Use Certificate was granted for the use of the property as a guesthouse in 1970 (ref.A\*27561).

Planning permission was granted in 1975 (ref.A\*27561/B) for the construction of a single-storey rear extension.

An application for a certificate of lawful development for the existing use of the property as a House in Multiple Occupation for no more than eight persons was refused in June 2015 (ref.15/00482/CPE). The reason/s for refusal were as follows:

'The Council is not satisfied, by the information provided, that the property the subject of the application has been used continuously as a house in multiple occupation for no more than 8 persons for a period of not less than 10 years at the date of the application (9th April 2015).

The Council has information on record referring to the property and provided by the previous owner, John Francis Molloy. On 20th August 2013 Mr. Molloy wrote to the Council and stated that 11 Malvern Road Portsmouth was "for sale and has been unoccupied since September 2012". This information conflicts directly with paragraph 7 of the statutory declaration of John Francis Molloy submitted with the application.

The Council therefore concludes that:

1. Having regard to information held by the Council, which conflicts with the evidence submitted by the applicant, it would be perverse of the Council to issue a certificate as applied for in reliance on the evidence in the application alone and the Council is obliged by the provisions of Section 191(4) to refuse the application.
2. The evidence given by the previous owner in support of the application cannot be relied on, with the effect that there is no evidence of former use preceding February 2014.
3. The use of the property has not been shown by the evidence submitted (disregarding the evidence of Mr. Molloy) to have been continuous to the date of the application from a date 10 years before the date of the application.
4. The authorised use of the property preceding the unauthorised material change of use to a house in multiple occupation was as a single dwelling house. The Council concludes from the information in its records that there was discontinuance of the unauthorised use between (at least) September 2012 and August 2013. The current unauthorised use of the property has subsisted (if at all) for less than two years, and is not immune from enforcement action; having regard to the provisions of Section 191(2), Town and Country Planning Act 1990. The use is not lawful and no certificate may be issued'.

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS13 (A greener Portsmouth), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), and PCS23 (Design and Conservation). The Houses in Multiple Occupation SPD, the Parking Standards SPD and the Solent Special Protection Areas SPD are also relevant to the proposed development.

## **CONSULTATIONS**

### **Highways Engineer**

The property is on the western side Malvern Road which is a residential road in relatively close proximity to the seafront and is in the KC Residents Parking Zone. This allows 3 hours free parking and no return within 4 hours for non- permit holders. The majority of the eastern side of Malvern Road is subject to double yellow lines with most dwellings having access to off-road parking over dropped kerbs; as a consequence there is little capacity on street to accommodate additional parking demands. The property is situated in the East Southsea Conservation Area.

The property had a previous established use certificate for use as a guest house and was refused permission for a certificate of lawfulness in respect of existing use as an HMO for no more than 8 persons in 2015 (15/00482/CPE).

Refuse - Drawing Number: 0255-D-002 shows 5 bins to the rear of the garage.

Parking - To comply with the PCC Parking Standards SPD (July 2014) an HMO of this size should provide 2 car and 4 cycle parking spaces. The application as it stands is not compliant with the Parking Standards as it has not provided the expected number of car or cycle parking spaces and no justification has been given for the under-provision. Having said that I am satisfied that the established lawful use as a guest house would be likely to generate a higher vehicle parking requirement than the proposed use and in that respect this development may generate a net reduction in the parking requirement.

Cycle storage is proposed but it is uncertain if it is to be within the new garage at the rear as the PDAH Statement is not entirely clear. My assumption is that it will be within the garage although detailed information about how secure, weatherproof cycle storage is to be provided is lacking. The applicant should note that where cycle storage is to be shared by a number of people in a communal area it should be provided in the form of individual lockers (see Parking Standards SPD). As it stands it is impossible to understand what is to be provided and whether it would be acceptable.

It appears that there is no direct access from the garage into the building, which necessitates residents walking 190 metres along Clarence Road and around to the front of the building on Malvern Road. This is unreasonable and is likely to put residents off using the cycle parking.

As the application stands I must recommend refusal as the proposal is not compliant with the parking standard and accommodation of such parking within the garage to the rear would be inconveniently located.

#### **Environmental Health**

The Design and Access Statement makes reference to this property presently being used as an 8 bed HMO, so the increase by 3 bedrooms will not significantly generate additional traffic movements in the area.

Following a search of the complaints database it is confirmed that Environmental Health does not have any records of any complaints being registered for this address.

Therefore Environmental Health wish to raise no objections or recommendations to this application.

#### **REPRESENTATIONS**

At the time of writing thirteen letters of representation had been received from the occupiers of a nearby properties and local businesses. Their objections can be summarised as follows: (a) There are currently too many HMOs within the surrounding area; (b) Increased noise & disturbance and anti-social behaviour; (c) The proposal will exacerbate parking issues within the area; (d) Impact on the generally quiet family orientated character of the area; (e) Impact on local businesses (hotels/guesthouses); (f) Increase in refuse; (g) The proposed garage could be used to accommodate more residents; (h) An application for a fewer number of occupants was refused in 2015; and (i) Impact on property values.

The application has been referred to the Planning Committee following receipt of a number of deputation requests from local residents.

#### **COMMENT**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle, whether the garage is of an acceptable design which would preserve the character and appearance of the conservation area and whether the proposal 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 SPA mitigation, car and bicycle parking.

Planning permission is sought for the change of use of the property from a Class C3 dwellinghouse to a 9 bedroom HMO (Sui Generis) and the construction of a detached garage. The LPA is aware that the property has been used unlawfully for a period of time as a HMO/mix of HMO and self-contained units and an application for a certificate of lawful development for the existing use of the property as a House in Multiple Occupation for no more than eight persons was refused in June 2015 (ref.15/00482/CPE). However, whilst the LPA was not satisfied that the unlawful use of the property had been continuous over a period of at least 10-years and a certificate could not be granted, the previous unlawful use that has existed on the site since at least 2007 (possibly as early as 1991) and operated without apparent harm (until recently - see below) to local residents must be given weight in the determination process.

### Principle of HMO Use

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

In identifying the area surrounding the application property, 4 of the 68 properties within a 50 metre radius were initially identified as being in use as HMOs. This was based on records held within the City Council's HMO database which is made up of records of properties with planning permission for Class C4 use, sui generis HMO use and mixed C3/C4 use, records of Class C4 HMOs submitted to the council by property owners, HMOs that have been issued a licence by the council and council tax records. Whilst this is the best available data to the Local Planning Authority and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.

Following a review of the properties initially identified as HMOs within the 50 metre radius, it has been established that one of these properties (Flat A 3 Florence Road) was not in use as a HMO. The Local Planning Authority has also investigated the use of a number of properties suggested as potential HMOs within representations. Of the seven properties investigated (3 Malvern Road - C3 property with lodgers; 5 Malvern Road - C3 dwelling; 27 Malvern Road - C3 Dwelling, 29 Malvern Road - C3 dwelling; 14-16 Malvern Road - 3 x C3 flats), none were found to be in use as HMOs.

Subsequently, the 'count' data has been modified to reflect this new information and the number of HMOs as a percentage calculated as 4.41% (3/68), rising to 5.88% (4/68) if planning permission was granted. On the basis that the granting of planning permission would increase the proportion of HMOs to less than 10%, it is considered that the community is not already imbalanced by a concentration of HMO uses and this application would not result in an imbalance of such uses. The proposal is therefore, considered to be acceptable in principle.

It is noted that 11 Malvern Road has previously been included within 'count' data as a HMO when considering the balance of uses for similar applications for new HMOs within the surrounding area.

### Impact on Residential Amenity

A number of representations refer to existing issues of noise, disturbance and anti-social behaviour resulting from the unlawful use of the application property as a HMO, and highlight that any increase in occupation is likely to exacerbate these problems. It is however, noted from representations and discussions with residents that problems with the current occupiers have only occurred recently (last six months) which appears to coincide with a change of ownership and management of the property.

This would reinforce the point that this application must consider the proposed use of the property and not the desirability of the occupiers/owners, and it cannot be assumed that future occupiers would exacerbate the existing issues highlighted by neighbours. The City Council's Private Sector Housing Team (PSHT) highlight that the property has held a licence for occupation by up to eight occupants from July 2007 and despite reports of recent issues, neither the City Council's Environmental Health Team nor the PSHT has received any complaints in respect of this property.

It is accepted that the use of the property as a nine bedroom HMO is likely to result in more activity than a typical family dwellinghouse and could have the potential to impact upon the amenity of neighbouring residents if managed inappropriately. However, notwithstanding the recent problems, having regard to the long term use of the property as a HMO (albeit unlawfully in planning terms) and its previous use as a guesthouse without causing any reported harm to local residents, it is considered that an objection on amenity grounds could not be sustained.

The PSHT has confirmed that whilst planning permission is sought for a nine bedroom HMO, based on the internal layout and level of facilities indicated, any licence under the Housing Act is likely to restrict the occupation of the property to 10 individuals. The PSHT will also be able to assist should the property not be managed in an appropriate manner.

### Garage

When determining planning applications the Local Planning Authority (LPA) must consider what impact the proposal would have on both designated and non-designated heritage assets. Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

To the rear of the property, planning permission is sought for the construction of a dual-pitched garage with a gable and entrance facing onto Clarence Road. The garage would measure approximately 2.5 metres at the eaves and 4.5 metres at the ridge (apprx.0.7m taller than the adjoining garage). The proposed drawings have been amended from those originally submitted repositioning the garage against the southern elevation and reducing its width to allow a wider access to the rear yard to service improved refuse and recyclable material storage facilities.

This particular section of Clarence Road is characterised by a mix of rear entrances serving properties fronting Malvern Road and later infill developments within the rear gardens of properties fronting Clarence Parade and Lennox Road South. Whilst the rear accesses are relatively consistent and well maintained, the area as a whole is not reflective of the wider qualities of the conservation area.

With the use of suitable materials, which can be reserved by planning condition, it is considered that the proposed garage is of an acceptable scale and design which would be in keeping with the character of the surrounding area and comparable to the adjoining garage. On that basis, it is considered that the proposed garage would preserve the character and appearance of the 'East Southsea' Conservation Area and the setting of the adjacent 'Seafront' Conservation Area.

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

### Car Parking and Cycle Storage

The application site currently benefits from a rear access onto Clarence Road and incorporates an area of hardstanding that is capable of providing one off-road car parking space. The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Sui Generis

HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be two off-road spaces. Therefore, whilst the concerns of local residents in respect of parking are noted, in light of the requirements set out within the Parking Standards SPD, it is considered that an objection on car parking standards could not be sustained.

Bicycle storage facilities are indicated within the proposed garage which is considered to be acceptable in principle. The provision of such facilities in accordance with the Parking Standards SPD can be required through a suitably worded planning condition. Whilst concerns were previously raised by the City Council's Highways Engineer, these have now been addressed through the submission of amended drawings.

#### SPA Mitigation

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. The development proposed is not necessary for the management of the SPA. 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. It is however, noted that the lawful use of the property is not currently as a dwellinghouse.

Therefore, based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £176. The applicant has agreed to provide this mitigation through an agreement under S111 of the Local Government Act. The level of mitigation which will be provided is considered sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur.

#### Other matters raised within representations

Concerns are raised within representations over the potential use of the garage to provide further living accommodation. The City Council's Private Sector Housing Team highlight that the garage would not be suitable to provide further residential accommodation and a planning condition is suggested restricting the use of the garage for the parking of vehicles and the storage of bicycles only.

**RECOMMENDATION A:** That delegated authority be granted to the Assistant Director of Culture & City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £176 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas and subject to no representation raising new material planning issues.



RECOMMENDATION B: That delegated authority be granted to the Assistant Director of Culture & City Development to refuse planning permission if the agreement referred to in Recommendation A has not been secured by 3rd August 2016.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

- 1) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 0255-D-002 C (received 8th July 2016).
- 2) Notwithstanding the particulars of the application, development work relating to the construction of the garage hereby permitted shall not commence on site until a full schedule of materials and finishes (including samples where necessary) to be used for the external surfaces has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved schedule unless otherwise agreed in writing by the Local Planning Authority.
- 3) The garage hereby permitted shall be reserved for the continued use of the occupants of No.11 Malvern Road for the off-road parking of vehicles and the storage of at least four bicycles at all times.
- 4) Should the garage hereby permitted not be constructed, alternative secure and weatherproof bicycle storage facilities for at least 4 bicycles shall be provided at the site within three calendar months of the date of this decision, or such other period as may be agreed in writing with the Local Planning Authority. The facilities shall thereafter be retained for the parking of bicycles at all times.

### **The reasons for the conditions are:**

- 1) To ensure the development is implemented in accordance with the permission granted.
- 2) In the interests of visual amenity having regard to the sites location within the 'East Southsea' Conservation Area and adjacent to the 'Seafront' Conservation Area in accordance with Policy PCS23 of the Portsmouth Plan.
- 3) To ensure adequate provision for and to promote and encourage cycling as an alternative to use of the private motor car in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan.
- 4) To ensure adequate provision for and to promote and encourage cycling as an alternative to use of the private motor car in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan.

### **1) PRO-ACTIVITY STATEMENT**

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

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.

**05**

**16/00649/FUL**

**WARD:FRATTON**

**194-196 FRATTON ROAD PORTSMOUTH PO1 5HD**

**CHANGE OF USE OF PART GROUND, FIRST AND SECOND FLOORS FROM DWELLING HOUSE (CLASS C3) TO 10 ROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS) TO INCLUDE CONSTRUCTION OF SINGLE STOREY REAR EXTENSION (RE-SUBMISSION OF 16/00286/FUL)**

**Application Submitted By:**

Mr G Stubbings

**On behalf of:**

VK Deptford Broadway Ltd

FAO Mr K Dastidar

**RDD:** 21st April 2016

**LDD:** 1st July 2016

## **SUMMARY OF MAIN ISSUES**

This application is being considered by the Planning Committee by the request of Councillor Ashmore following a request from the agent.

The main determining issues in this application relate to whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living condition of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and bicycle parking. Also whether the proposed single storey rear extension would be acceptable in design terms and whether it would have a significant impact on the surrounding occupiers.

### **The Site and Surroundings**

This application relates to a property which is located on the eastern side of Fratton Road, to the south of where the road adjoins with Clive Road and to the north of where the road adjoins with Newcombe Road. The surrounding area is predominantly characterised by commercial units with a number of cafes and restaurants.

### **Proposal**

The applicant seeks permission for the change of use of part ground, first and second floors from a dwelling house (Class C3) to a 10 bedroom house in multiple occupation (sui generis) to include the construction of a single storey rear extension.

### **Planning History**

An application was submitted in February 2016 (Ref 16/00286/FUL) for the change of use of part ground, first and second floors from a dwelling house (Class C3) to a 10 bedroom house in multiple occupation (sui generis) to include the construction of a single storey rear extension. This application was withdrawn on 7th April 2016.

Permission was granted in March 2016 for the change of use of the ground floor shop to A1/A2 use (Ref 16/00287/FUL).

After discussion with a different agent from the previous withdrawal a new application was submitted in April 2016, this was following advice that there had been no changes to the HMO percentage and therefore the application could not be supported.

## **POLICY CONTEXT**

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS13 (A Greener Portsmouth), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)) and PCS23 (Design and Conservation). The Houses in Multiple Occupation (HMOs) and the Parking Standards Supplementary Planning Document would also be material to this application.

## **CONSULTATIONS**

### **Highways Engineer**

The application site is within residents parking GA zone, with free on street parking for 2 hours and no return within 4 hours for non-residents.

The proposed development will not technically generate any additional postal addresses as an HMO is considered to be one household. Because of this, the number of parking permits the site will be eligible for will remain the same and therefore parking pressure on the local roads should not be affected.

More detail will be required regarding cycle parking facilities, in addition to the space identified for the storage area, which should comply with PCC standards.

**RECOMMENDATION:** No objection subject to the following condition:-

Prior to the occupation of development, details of fully enclosed, secure and lockable cycle parking facilities to be submitted and agreed upon in writing by the local planning authority and retained thereafter. Provision to comply with guidance set out in 'Parking Standards and Transport Assessments SPD, 2014'

Reason: To encourage the use of sustainable travel.

## **REPRESENTATIONS**

Two letters of objection from local residents have been received. Their concerns relate to:  
1) noise and disturbance 2) parking.

## **COMMENT**

The main determining issues in this application relate to whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living condition of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and bicycle parking. Also whether the proposed single storey rear extension would be acceptable in design terms and whether it would have a significant impact on the surrounding occupiers.

### **Procedural Issues**

The agent has raised concerns with the GIS count data during the application process. The 'count' was undertaken a number of times using the councils GIS mapping system that is used to assess all HMO applications. The count concluded each time that the number of HMO properties within the 50m radius was over the 10% threshold. The agent had stated that the

properties to be included in the count are: 3 Sheffield Road and the flats 1-11 at 179-189 Fratton Road.

The point of contention is that the LPA count does not include the flats at 179-189 Fratton Road.

Paragraph 1.15 from the SPD states that ' Where any part of the curtilage of a residential property (house) falls within the area surrounding the application property, this property will be included in the 'count'. Having reviewed this information it was confirmed that Flats 1-11, 179-189 Fratton Road were not located within the 50 metre radius and therefore could not be included in the 'count'. It was also concluded that the 50m radius touched the curtilage of 3 Sheffield Road and that it should be included in the count.

The agent sort to challenge the Council's GIS system and carried out a ground survey of the site assessing which properties should be located within the 50metre radius. What is key to this point is where the 50m radius is measured from. The Agent's survey plan measures the radius from the same point however, it does not match the data calculated from the local planning authorities GIS system and therefore these additional properties could not be included in the 'count'. The LPA is unclear as to where the conflict arises given the council's system uses the same land registry data base that the agent's surveyor used.

Procedurally, the Council has adopted a consistent approach when taking these measurements and to deviate from this method and mapping system would be inappropriate.

#### Principle

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

Of the 69 properties located within a 50m radius of this property, six properties are currently classed in C4 HMO use. The following properties were found to be in use as an HMO:

- o 2 Newcombe Road
- o 5 Newcombe Road
- o 7 Newcombe Road
- o 8 Newcombe Road
- o 3 Sheffield Road
- o 1 Sheffield Road

This representing 8.69%. This properties were checked on council tax records confirm whether these properties were still in use as an HMO. It was then concluded that this is still the case. The proposal would therefore increase the proportion of HMOs to seven (10.14%). The HMO SPD states that an application would be imbalanced where more than 10% of residential properties within the area surrounding the application are already an HMO. It is therefore, considered that the proposal would result in an imbalance of HMO uses within the surrounding area contrary to the aims and objectives of Policy PCS20 of the Portsmouth Plan and the HMO SPD.

#### Amenity

It is often considered that the impact of the proposed use upon the living conditions of the surrounding occupiers, the level of activity associated with the use of any individual properties as Class C4 HMO is unlikely to be materially different to the use of a single household. However, in this instance the property would be used as a 10 bedroom sui generis HMO. Therefore it is considered that there is a considerably large number of future occupiers than the

average HMO and this could potentially have a significant impact on the amenity of the surrounding occupiers.

On the basis that the current application would represent a more intensive use of a terraced property, with only a single communal area where residents are likely to congregate the proposal has the potential to lead to noise which would be harmful to the occupants of the surrounding properties.

#### Car Parking

The application site does not benefit from any off-street parking and there is no parking proposed as part of this application. To comply with the PCC Parking Standards SPD (July 2014) an HMO of this size should provide 2 car and 4 cycle parking spaces. The application as it stands is not compliant with the Parking Standards as it has not provided the expected number of car parking spaces and no justification has been given for the under-provision. However, given the sustainable location of the site, the need for on-site parking in this instance would not be a determining factor.

#### Cycle Parking

The applicant has provided details of cycle storage facilities within the rear garden of the property. It is considered that the future occupants are more likely to use bicycles and public transport given the close proximity to the nearest public transport links in Fratton Road. Therefore to encourage the use of more sustainable modes of transport to the car, it is considered that a suitably worded planning condition requiring their retention of the bicycle facilities would be both necessary and reasonable.

#### Bin Storage

The applicant has provided details of bin storage in the rear garden adjacent to the proposed single storey rear extension. The bin storage area will provide adequate space for at least 6 bins which would be adequate for the proposed use.

#### Impact on SPAs

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.

Therefore, based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £352 (2 x £176), dwellinghouse (C3) to sui generis HMO). The applicant has not indicated as part of the proposal any agreement to providing the required mitigation.

### Design

The proposed single storey rear extension would have a length of 4.8m, a width of 4.5m and a flat roof with a height of 3.7m. It would be constructed of brick to match the existing property. The extension would not be constructed up to the boundary wall with the neighbouring properties. This would allow sufficient space in the rear garden to provide the cycle and bin storage for the property. It would have a set of UPVC glazed windows and a UPVC glazed door on the rear elevation. The extension would be relatively modest in size and it is therefore considered that it would be acceptable in design terms and would relate appropriately to the recipient building.

### Amenity

There is brick wall which separates the existing property from the neighbouring properties. The proposed extension would be 0.5m taller than the wall, therefore it is not considered that the proposal would cause a significant impact in terms of loss of light, increased sense of enclosure, loss of privacy or overshadowing to the neighbouring properties. Also, as mentioned previously the extension would not be constructed up to the boundary walls of the neighbouring properties. Therefore there would be a distance of at least 2 metres between the proposed extension and the boundary wall. The proposed windows and door would be located on the rear elevation and there are no windows proposed on the side elevations. Therefore the proposal would not cause an impact in terms of overlooking or loss of privacy.

## **RECOMMENDATION            Refuse**

### **The reasons for the refusal are:**

- 1) The proposed change of use from dwellinghouse (C3) to a 10 bedroom house in multiple occupation (sui generis) would fail to support a mixed and balanced community. The proposal is therefore contrary to Policy PCS20 of the Portsmouth Plan and the Houses in Multiple Occupation Supplementary Planning Document.
- 2) In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent Special Protection Areas and so its contrary to PCS13 of the Portsmouth Plan and to the Conservation of Habitats and Special Regulations (as amended).

### 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.

170 STATION ROAD PORTSMOUTH PO6 1PU

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

**Application Submitted By:**

The Town Planning Experts  
FAO Mr Keith Oliver

**On behalf of:**

Brankin Developments Ltd

**RDD:** 16th May 2016

**LDD:** 22nd August 2016

**SUMMARY OF MAIN ISSUES**

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

**The site**

This application relates to a two-storey (with additional accommodation within the roof) end of terrace dwelling located to the northern side of Station Road immediately to the south of the former Drayton Dairy site. The property is set back from the highway by a small front garden and benefits from a larger garden to the rear that backs onto a communal parking court. Internally the property comprises two reception rooms, a kitchen, conservatory and bathroom at ground floor level, four bedrooms and a bathroom at first floor level and a further room (potentially a bedroom) within the roof space.

The application site is situated within a mid-1980s housing estate that comprises a number of short terraces with open front gardens arranged on a series of culs-de-sac. Parking is laid out within communal parking courts, on-road and within short parking bays. To the east the estate is accessed via a narrow single-lane road between the former dairy site and the railway line, and from the west by a more traditional access onto Lower Drayton Lane. The site is located within the indicative floodplain (Flood Zone 3).

**The Proposal**

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

## Planning History

Planning permission was granted in 1985 (ref. A\*11990/R) for the erection of 148 dwellings and the construction of roads, footpaths, garaging and parking.

Planning permission was granted in 1988 (ref.A\*34001) for the construction of a part single/part 2-storey side extension.

## **POLICY CONTEXT**

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS 12 (Flood Risk), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)) and PCS23 (Design and Conservation). The Houses in Multiple Occupation (HMOs) and the Parking Standards Supplementary Planning Document would also be material to this application.

## **CONSULTATIONS**

None.

## **REPRESENTATIONS**

At the time of writing nine letters of representation had been received in objection to the proposal. A petition containing the names of 59 individuals (including individuals who also provided separate representations) from properties in Station Road, Stroudly Avenue, Marsh Close, Lower Drayton Lane and Walford Road has also been received in objection to the proposal. The objections can be summarised as follows: (a) Proposal out of keeping with the predominantly family orientated character of the area; (b) The area is not suitable for HMOs; (c) Increased noise and disturbance; (d) Pressure on the surrounding highway network including parking provision; (e) The proposal would set a precedent; (f) Increased fire risks; (g) Description of area provided by the applicant misleading; (h) Visual impact; (i) Personal circumstances of future tenants; (j) The property would house up to 12 individuals; and (k) Impact on property value.

The application has been brought to the Planning Committee for determination following deputation requests from local residents and in light of the level of objection to the proposal.

## **COMMENT**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of car and cycle parking, and refuse and recyclable materials storage. It is not considered that the proposal would result in an increased risk of flooding at the site.

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the flexibility to change freely between the two use classes. The property currently has a lawful use as a dwellinghouse (Class C3). For reference, a Class C4 HMO is defined as a property occupied by between three and six unrelated people share who share basic amenities such as a kitchen or bathroom, and not by up to 12 individuals as suggested within the representations.

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



Based on information held by the City Council, of the 23 properties within a 50 metre radius of the application site, none are thought to be in lawful use as HMOs. Therefore, as the granting of planning permission would increase the proportion of HMOs to just 4.35%, it is considered that the community is not already imbalanced by a concentration of HMO uses and this application would not result in an imbalance of such uses.

Representations refer to the potential increase in noise, disturbance and anti-social behaviour resulting from the use of the application dwelling as a HMO. It is however, generally considered that the level of activity associated with the use of any individual property as a Class C4 HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. Indeed this issue has been considered in previous appeal decisions where Inspectors have taken the view that properties used as HMOs within Class C4 would be occupied by similar numbers of occupiers to a C3 use. In dismissing an appeal at 82 Margate Road (APP/Z1775/A/12/2180908 - 7th January 2013) the Inspector opined that "The level of activity generated by a large family would be comparable to that arising from the current proposal. Therefore, concerns over noise and disturbance would not justify rejection of the appeal. Other legislation is available to address concerns relating to anti-social behaviour". It is therefore considered that the proposed use of this individual property within Class C4 would not be demonstrably different from uses within Class C3 that make up the prevailing residential character of the surrounding area and an objection on the grounds of increased noise and disturbance or anti-social behaviour could not be sustained.

The Houses in Multiple Occupation SPD is supported by an assessment of the supply, demand and community impacts of shared housing in Portsmouth. Paragraphs 9.1-9.10 discuss the negative impacts upon local communities resulting from concentrations of Class C4 HMO uses. However, given that there are no other HMOs within the surrounding area, it is considered that the impact of one HMO would not be significantly harmful at this particular point in time.

Whilst concerns are raised in respect of the personal circumstances of future occupiers, it should also be noted that this application must consider the desirability of the proposed use and not the future user/s. Stepping away from the planning merits of the proposal, having regard to the layout of the property across three floors, the City Council's Private Sector Housing Team highlight that if the property was occupied by five or more individuals, a mandatory licence would be required from the City Council. In addition to ensuring adequate size standards, sanitary facilities and fire safety, the licence would allow the City Council's Private Sector Housing Team to assist should the property not be managed in an appropriate manner.

The application site currently benefits from a single off-road parking space within a small parking court to the rear of the dwelling. The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Class C4 HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be two off-road spaces. Whilst the concerns of local residents in respect of parking are noted, in light of the requirements set out within the Parking Standards SPD and the view that the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on car parking standards could not be sustained. It should be noted that the property could be occupied by a large family with grown children, each owning a separate vehicle.

In light of concerns raised by local residents, the applicant has suggested that a second off-road parking space could be provided within the rear garden and has provided an amended site location plan to demonstrate how this could be achieved. However, whilst the Local Planning Authority (LPA) would seek the retention of the existing off-road parking space (as required by the original planning permission for the dwelling), in light of the points above, it is considered that the provision of a second parking space would not be necessary to make that proposal

acceptable in highways terms. On that basis, it would be unreasonable for a planning condition to seek the provision and retention of both car parking spaces. However, should the applicant wish to provide the second parking space in the interest of maintaining positive relations with neighbours, the works could be carried out without the express permission of the LPA.

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

Other matters raised within representations

The representations suggest that the granting of planning permission would set a precedent allowing further HMOs within the surrounding area. However, it should be noted that all planning applications are determined on their individual merits having regard to the adopted planning policies that are relevant at the time of determination.

Impact on property value is not a material planning consideration.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan, Amended Site Plan, 01 EXISTING FP and 01 PROPOSED FP.
- 3) The parking facilities shown on the amended Site Plan (Parking space within the parking court to the rear of the garden and marked with a cross) shall be retained for the continued use by the occupants of No.170 Station Road for the off-road parking of vehicles at all times.
- 4) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

### **The reasons for the conditions are:**

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To ensure that adequate provision is made for the parking of cars in accordance with policies PCS17 and PCS23 of the Portsmouth Plan and the Parking Standards SPD.
- 4) To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and 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.

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289 MILTON ROAD PORTSMOUTH PO4 8PG

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

**Application Submitted By:**

Thorns Young Ltd  
FAO Mr Sam Appleton

**On behalf of:**

Mr John Huntley

**RDD:** 12th May 2016

**LDD:** 8th July 2016

**SUMMARY OF MAIN ISSUES**

Determination of this application was deferred from the 22/6/16 committee to allow investigation of a potential existing HMO identified by Cllr Vernon-Jackson. The property was subsequently established to be in Class C3 use. As such, the count information provided within this report remains unchanged.

This application was originally referred to the Planning Committee on 22/6/16 at the request of Councillor Dowling.

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

**The Site and Surroundings**

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

**Proposal**

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

## Planning History

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

## POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:

PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation), PCS17 (Transport).

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

## CONSULTATIONS

### HMO Consultation Memo

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

### Private Sector Housing

No response received

## REPRESENTATIONS

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

This section has been updated to include the objection letter cited within the Supplementary Matters item for the 22/6/16 Planning Committee at which this application was initially presented.

## COMMENT

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

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

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

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

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

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

Storage for refuse and recyclable materials would remain unchanged.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan and Block Plan (received 13 May 2016) and Floor Plans PG.1030 16 Revision A.
- 3) Prior to the first occupation of the property as a Class C4 HMO, or such other period as may be agreed in writing by the Local Planning Authority, cycle storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be retained for the use of occupiers of the property for that purpose.

### **The reasons for the conditions are:**

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

## PRO-ACTIVITY STATEMENT

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

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**08**

**16/00577/PLAREG**

**WARD:DRAYTON & FARLINGTON**

**19 HILLTOP CRESCENT PORTSMOUTH PO6 1BB**

**RETROSPECTIVE APPLICATION FOR THE CONSTRUCTION OF GARAGE TO FRONT OF PROPERTY (RE-SUBMISSION OF 15/01343/PLAREG)**

**Application Submitted By:**

Pearson Ellis Portsmouth  
FAO Mr Philip Malin

**On behalf of:**

Mr M Davidson

**RDD:** 7th April 2016

**LDD:** 23rd June 2016

### **SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in design terms relating appropriately with the recipient building, the adjoining properties and the wider street scene and whether the proposal would have a significant adverse impact on the amenity of the occupiers of the adjoining properties.

#### The Site

This application relates to a two-storey (with additional accommodation within the roof space) detached dwellinghouse located to the western end of Hilltop Crescent adjacent to a turning head. The property is set back within its plot and as a result of its position on the northern slope of Portsdown Hill, the front garden slopes up with the main dwelling set significantly above the level of the highway. The dwelling itself has been extensively remodelled recently with the addition of front, side and rear extensions resulting in the loss of an original garage.

Whilst the pattern of development within the area is fairly consistent, there is no one distinct building style and many dwellings have been modified and extended. Towards the western end of Hilltop Crescent the street has a more open and spacious quality with dwellings set further back within their plots with larger verdant front gardens making a significant contribution to the character and appearance of the street scene.

#### Proposal

Planning permission is sought for the construction of a garage to the front of the property.

Relevant planning history

Planning permission was granted in 2011 (ref.11/01052/HOU) for the construction of a part two/part single-storey front, side and rear extensions and alterations to roof to form additional accommodation including dormer window to the rear roof slope.

## **POLICY CONTEXT**

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

## **CONSULTATIONS**

None.

## **REPRESENTATIONS**

Six letters of representation have been received, four in objection and two in support. The objections can be summarised as follows: (a) The proposal represents an incongruous form of development out of keeping with the area; (b) The garage, along with parking and railings on the garage roof, would represent prominent features within the street scene; (c) Loss of outlook; and (d) Overbearing impact. The letters of support can be summarised as: (a) Development not out of keeping with the character of the area; and (b) The proposal would improve opportunities for off-road parking.

This application has been brought to the Planning Committee at the request of Drayton and Farlington Ward Member Councillor Wemyss.

## **COMMENT**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in design terms relating appropriately with the recipient building, the adjoining properties and the wider street scene and whether the proposal would have a significant adverse impact on the amenity of the occupiers of the adjoining properties.

Planning permission is sought for the construction of flat roof detached double garage to the front of the dwelling within a sloped front garden. The garage would be set back from the footway by 1.8 metres and would measure approximately 7.7 metres wide by 7.6 metres deep (at its full extent) with a chamfered north-east corner. As a result of the gradient on site the garage would be partial sunken into the terrain with the full extent of its scale only apparent to the northern elevation onto Hilltop Crescent. The garage would be completed with a rendered and painted finish to match the main dwelling with the applicant indicating the use of landscaping to screen the full extent of the garage on the north, east and west elevations. A sloped driveway leading to the front of the main dwelling would extend along the eastern side of the garage with an area of hardstanding for parking extending across the top of the rear section of the proposed garage. The remaining section of garage would be topped with a 'green' roof.

Design

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring, among other things, that new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; protect and enhance the city's historic townscape and its cultural and national heritage; and be of an appropriate scale, density, layout appearance and materials in relation to the particular context.

Whilst the section of Hilltop Crescent immediately to the east of the application site has a slightly narrower layout with dwellings sited closer to the highway, the area immediately surrounding the application site at the turning head on Hilltop Crescent has a more open and spacious quality. Dwellings in this location are set back further from the highway with landscaped front gardens and driveways or are partially hidden (on the northern side) behind boundary treatments as the plots drop away from the highway. From within the turning head, the full height of the garage would be apparent, either through the gaps in the landscaping (addressed below) or where the entrance door to the garage would be located. Notwithstanding the slight slope down to the garage floor, the northern section of the garage would still measure approximately 2.5 metres in height above the pavement with a setback of just 1.8 metres. The sunken nature of the garage behind this elevation would be less apparent from this location.

It is considered that the introduction of a large flat roofed outbuilding with a rendered and painted finish to the front of the dwelling would be completely out of keeping with the surrounding area and would amount to an obtrusive and visually prominent feature that would detract from the open and verdant quality of the street scene. Although the applicant has pulled the garage back as far as they feel is necessary, the proposals shortcomings in terms of its design are acknowledged through the inclusion of significant landscaping works to soften or completely screen the garage from public view.

On the basis that the applicant has placed considerable weight on the success of the planting scheme to make a proposal that would otherwise be completely out of character acceptable, the proposal has been considered by the City Council's Landscape Architects Team. It is advised that the landscaping scheme would not be adequate to fully screen the garage and it is highlighted that the existing hedge to the western side of the garage is unlikely to survive the construction process. To the eastern side of the garage, it is considered that the planting strip would not be of a sufficient width for planting to thrive and the planting proposed to the northern elevation (*Buxus sempervirens* 'Suffruticosa') is a small, slow growing variety which would only grow up to 0.5-1m in height. As such these landscape features would not fully obscure the height of the garage (1.4 metres when measured from the top of the raised beds) when viewed from the north/north-west.

It is accepted that living walls and green screens are an effective and sustainable method of enclosing boundaries, and the LPA will often incorporate landscaping conditions as part of new developments to contribute towards the city's green infrastructure, add visual interest and soften the built environment. However, on the basis that plants are living features that require time to establish and then ongoing maintenance and replacement, landscaping conditions are rarely relied upon to completely screen a development that would be unacceptable in their absence. At the application site, gaps between plants throughout the establishment period or as a result of failure, would offer direct views of the garage which would be exacerbated by rendered and painted finish of the structure. Therefore, in light of the views of the City Council's Landscape Architects above, it is considered that the current landscaping scheme would be inadequate, and any revised landscaping scheme (reserved by condition) could not be adequately relied upon to fully screen a structure which, as highlighted above, would be harmful to the street scene.

The applicant also refers to similar garages that have been built to the front of properties elsewhere in the city and in particular that at No.11 Hilltop Crescent just to the east (A\*12631/AA granted in 2005). The Local Planning Authority is unaware of any garages that are directly comparable to that proposed at the application site and whilst regard must be given to the decision made at No.11, it is noted that this decision was made in excess of 10 years ago. In addition, rather than setting a precedent the garage at No.11 is perhaps an indication of how garages within front gardens can appear particularly prominent and do not make a positive contribution to the street scene. This point was considered by the Inspector during an appeal at 22 Down End Road (ref.14/00552/PLAREG & APP/Z1775/D/14/2224104) for a similar partially sunken garage within a sloped front garden, albeit with a sloped roof. The Inspector highlighted that: "The appellant makes reference to a number of similar garage developments. I note that



some of these have only recently been granted planning permission, their close proximity to the appeal site and their similarity, particularly in respect of the garage that has been built at No 30 Down End Road, to the garage at the appeal site. Nevertheless, a number of these garages are less prominent as they are partly screened by vegetation. Furthermore, in my view, some of the garage developments only serve to demonstrate how unsatisfactory the partially constructed garage would be if it was completed".

Representations refer to the visual impact of vehicles parked on top of the garage roof. In response, the applicant has provided photographic evidence indicating the position of the original driveway prior to works commencing. This suggests that vehicles were previously able to park at a height comparable to that proposed on top of the garage. In order to prevent parking beyond the position of the original driveway (and closer to the highway), the submitted drawings indicate the inclusion of a kerb and railings as a physical barrier with a 'green roof' beyond. Whilst the impact of vehicles parked within the defined area of the garage roof is not considered to be significantly different to that which existed prior to works commencing, the inclusion of the kerb and railings would exacerbate the incongruous appearance of the structure. Vehicles parked further forward on the garage roof would have the potential for further harm to the character and appearance of the street scene.

#### Impact on Amenity

Whilst the proposal would undoubtedly have a visual impact on the area, having regard to the length of the neighbouring front gardens, the existing/proposed boundary treatments and the pre-existence of the large driveway at the application site (as above), it is considered that the proposal would not have a significant adverse impact on the amenity of the adjoining occupiers in terms of loss of light, outlook or increased sense of enclosure.

In reaching the above conclusions in respect of design and amenity, regard is given to the provisions of the Town and Country (General Permitted Development Order) (England) Order 2015 (as amended) that would allow for the construction of large areas of hardstanding at the application site without the express permission of the LPA. These provision would not however, allow for the construction of an outbuilding forward of the principle elevation of the main dwellinghouse.

#### Other issues raised within representations

The area does not appear to suffer from significant on-road parking issues and the site previously benefitted from a large front driveway which would have comfortably accommodated at least three vehicles. Therefore, it is considered that the proposed garage would not be necessary to ease demand for on-road parking facilities within the area. It is also noted that the applicant recently removed a garage from the side elevation of the dwellinghouse to facilitate its enlargement.

## **RECOMMENDATION            Refuse**

#### **The reasons for the refusal are:**

1) The proposed garage would, by virtue of its combined height and bulk above ground level, rendered finish and siting in close proximity to the highway, result in an incongruous and overly prominent feature within the street scene and could not be adequately screened or softened by landscaping to mitigate the harm it would cause. The proposal is therefore, contrary to the aims and objectives of the National Planning Policy Framework and 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, and that having been unsuccessful through negotiation to secure such amendments as to render the proposal acceptable, the application has been refused for the reasons outlined above

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Assistant Director of Culture and City  
Development