

# **PLANNING COMMITTEE**

## **8 FEBRUARY 2017**

**1 PM CONFERENCE ROOM A,  
2<sup>ND</sup> FLOOR, CIVIC OFFICES**

### **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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117-127 FRATTON ROAD PORTSMOUTH PO1 5AJ

**CONSTRUCTION OF TWO BUILDINGS, ONE PART 2/PART 4-STOREY AND THE OTHER 4-STOREY, COMPRISING 30 DWELLINGS (CLASS C3) AND 365 SQM OF GROUND FLOOR COMMERCIAL FLOORSACE (FOR CLASS A1, A2 OR A3 PURPOSES), TOGETHER WITH LANDSCAPING, CYCLE PARKING AND OTHER ASSOCIATED WORKS (AFTER DEMOLITION OF EXISTING BUILDING)**

**Application Submitted By:**

Iceni Projects  
FAO Miss Danielle St Pierre

**On behalf of:**

Fratton Road Development Ltd  
FAO Mr Patel

**RDD:** 4th July 2016

**LDD:** 9th November 2016

This application was deferred from the meeting held on 7 December 2016 and in response the applicant's agent has provided additional information/amendments set out in Appendix A.

**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 (having regard to its location within Fratton district centre - secondary area), transport and highways implications, design and heritage, affordable housing/mix/standard of accommodation, impact on residential amenity, sustainable design and construction, nature conservation/recreational disturbance and other matters raised in representations.

**The site and surroundings**

The broadly rectangular shaped site covers 0.18ha, measuring around 20m wide and 80m long. There are ground level changes along the length of the site that is lower to the west. The site is located on the west side of Fratton Road (A20470), which forms part of a main arterial route north-south through the city. An existing substantial building occupies much of this linear site, except for a setback on the street frontage that provides an area of forecourt parking. The site has its primary access onto Fratton Road serving the parking area, south of a signal-controlled junction with Arundel Street. There is a secondary dropped kerb access toward the rear of the site onto Garnier Street where, at this point, the road is one-way only. This 3m wide access is formed by a gap between the side walls of houses at Nos27 and 31 Garnier Street. The access is positioned quite awkwardly on a bend in the road where the presence of parked cars has an impact on visibility and manoeuvrability into/out of the site.

The existing building was originally constructed as a cinema but currently in use as a shop. It has a net tradeable area of 1,000sqm. A front forecourt parking area is hardsurfaced in tarmac, without bay markings, for approx 12 cars according to the applicant's Transport Statement.

Two-storey terraced housing adjoins the site to the north (on Arundel Street) and to the south (on Garnier Street) in very close proximity. On the Fratton Road frontage there are also existing heritage assets immediately to the north and south, at 'Guardsman Court' (formerly The

Guardsman PH at No129, Grade II listed) and No115 (on the list of locally important buildings) respectively. No115 Fratton Road is in use as a day nursery. Also nearby, there are existing 4 and 5 storey properties at 'Pink Court' and the 'Wesley Centre' on the opposite (east) side of Fratton Road.

## **Proposal**

After demolition of existing, this proposal seeks the site's redevelopment for 30 dwellings and commercial floorspace of 365sqm for 'town centre' uses as shop, office (principally for visiting members of the public) or café/restaurant in Class A1, A2 or A3.

The redevelopment would be accommodated in two buildings, both up to 4-storeys in scale. The first would be located on the eastern half of the site; it includes a two-storey element fronting Fratton Road, to be positioned closer to the street frontage than the existing building on the site. The ground floor would re-provide commercial floorspace equating to approximately one third of the existing 1,000sqm of net tradeable area occupied by 'United Footwear'. Separated by a communal garden area across a gap of some 17m would be a second building to be sited on its western side. The scale/massing of these 4-storey buildings would be greater than adjoining two-storey properties but would not exceed the height of the existing building on the site.

## **Relevant planning history**

Built as a cinema in 1936, it pre-dates the Planning Acts. The applicant's Design and Access Statement comments it has not shown films since 30 June 1963.

A\*20192/AA - "Change of use from bingo and social club to non-food retail store" granted conditional permission in April 1994.

A\*20192/AB - "Use of first floor foyer area, and part balcony area as cafeteria (Class A3)" granted conditional permission in November 1994.

A\*20192/AC - "Use of ground floor as retail store including the sale of food and drink" granted conditional permission in April 1995.

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS10 (Housing Delivery), 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), PCS8 (District centres),

### **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
- 203/204 Use of planning obligations and conditions to make development acceptable

Supplementary Planning Documents (SPD) also provides relevant policy guidance:

Parking Standards and Transport Assessments SPD (July 2014)

Sustainable Design & Construction SPD (January 2013)

Reducing Crime through Design SPD (March 2006)

Solent Protection Area (April 2014)

Achieving Employment and Skills Plans (July 2013) and

Air Quality and Air Pollution (March 2006).

The application site is located in a defined district centre that forms a part of the hierarchy of designated centres for shopping and other local services within the city. In policy PCS8, proposals for development must comply with both the general and centre-specific criteria, which encourages shopping uses (A1) throughout all of the district centres and residential (C3) on upper floors. In the secondary areas of district centres there are opportunities for town centre uses although residential development will also be supported in principle. For Fratton (map 15), retail will be encouraged along the secondary frontage however other town centre uses and residential would also be acceptable.

## **CONSULTATIONS**

### **Head of Community Housing**

Scheme Breakdown - the 30 no. flats break down by bedroom and person sizes as follows: 3x 2bed 4 person flats, 13x 2bed 3 person flats, 11x 1bed 2 person flats and 3x 1 person flats.

Disabled Provision - There is no provision for a full time wheelchair user disabled unit, however there are a couple of units that would be suitable for Accessible units. An accessible unit is not full wheelchair unit but a flat for people who have mobility issues (without the need for using a wheelchair indoors), hearing and/or sight impairment and as such would not need the extra large space standards required for full wheelchair accessible properties.

Space Standards - All the flats meet the space requirements under the Nationally Described Space Standards (NDSS).

Car Parking - Looking at the plans and reading the 'Design and Access Statement' there will be no car parking within this development scheme.

Tenure - The tenure will be either Affordable rent, Shared Ownership or a mix of both on this development. At this time there is no Registered Provider (RP) in contract or (to my knowledge) in any discussions with the owners. Once an RP becomes involved the tenure of the Affordable units will be discussed and confirmed.

S106 Planning Provision - Under the S106 Affordable Housing Provision there should be a 30% provision, this equates to 9 (nine) units pro-rata the development.

Scheme Support - Housing Enabling are always willing to support any scheme that provides much needed Affordable housing.

### **Contaminated Land Team**

Given the scale and sensitive nature of the development, together with recommendations made in the Phase 1 Environmental Risk Assessment report submitted with the application for further assessments including intrusive ground investigation (Phase 1: Environmental Risk Assessment, 117-127 Fratton Road, Portsmouth, Constructive Evaluation, Report Ref: 16.9109, June 2016), imposition of site contamination conditions are requested.

### **Natural England**

This application is within 5.6km of Portsmouth Harbour SPA and will lead to a net increase in residential accommodation. Natural England (NE) is aware that Portsmouth City Council has adopted a Supplementary Planning Document (SPD) 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, NE is satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site, and has no objection to this aspect of the application.

### **Ecology**

The development will result in a net increase in residential dwellings within 5.6km of the Portsmouth Harbour Special Protection Area (SPA) and Chichester and Langstone Harbours SPA. This distance defines the zone identified by recent research where new residents would be considered likely to visit these sites. These SPAs support 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 small numbers of new housing units on their 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) 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. To address this issue, Solent planning authorities have adopted a strategy whereby a scale of developer contributions has been agreed that would fund the delivery of measures to address these issues. Therefore, if minded to grant permission it is advised that this be secured from the applicant.

### **Southern Water**

Sewer records show the approximate position of a combined sewer in the access of the site, although the exact location should be determined and no development or tree planting should be placed within 3m and no new soakaways within 5m of a public sewer. Initial investigations indicate that SW can provide foul sewerage disposal to service the proposed development. An Informative is requested with contact details for SW regarding formal connection to the public sewerage system. Initial assessment also indicates that SW currently cannot accommodate the needs of this development without additional infrastructure, increasing flows into the wastewater

sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to para 109 of the NPPF.

Alternatively, the developer can discharge surface water 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 surface water system (by topographical site and CCTV surveys showing the existing connection points, pipe gradients and calculations etc.).

SW also provides detailed advice on Sustainable Urban Drainage Systems (SUDs). Should the LPA be minded to approve this application then SW request imposition of the following planning conditions:

"Development should not commence until a drainage strategy detailing the proposed means of surface water disposal and an 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."

"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."

### **Waste Management Service**

Initially Waste Management raised concerns with two separate domestic bin stores serviced from different locations - one from the site frontage on Fratton Rd and the second accessed via Garnier Street - as well as the carry distances from where the refuse collection vehicles (RCV's) can safely park to service the bin stores both are in excess of the 25 metre manual handling regulations for new build.

In response, the applicant's agent submitted a Waste Management Strategy proposing all refuse storage containers (7 no. Eurobins) would be brought to the Fratton Road frontage on collection day, from the stores located within each block.

Waste Management has subsequently suggested that waste collection from the 'west' block, toward the rear of the site, take place via Garnier Street although provision of an external store be located closer to the street.

### **Coastal and Drainage**

No comments received.

### **Crime Prevention Design Advisor**

The following comments are made with reference to crime prevention. It is noted that controlled gates are proposed to be fitted at both pedestrian accesses, to prevent the site being used as a cut through and to prevent public use of the private communal gardens. These gates are key to reducing the opportunities for crime and anti-social behaviour within the development and careful consideration will have to be given to how they are to be controlled. The secondary access gate (adjacent to no31 Garnier Street) is set back from the public highway; this limits natural surveillance of the gate, so to increase the natural surveillance of this gate it is recommended that this gate be moved much closer to the public highway.

A rear access pathway is shown to the rear of nos260/262 Arundel Street. It is important that access to the site cannot be gained via this pathway. There are a number of apartments which appear to be directly accessible from the amenity spaces. To reduce the opportunities for crime an area of defensible space must be provided along these frontages to keep the public away from windows. These spaces should be defended using a barrier, perhaps hooped topped railings approximately 30 inches high.

The proposal provides for thirty dwellings but there is no parking provision. It is highly likely that this development will place an additional burden on the existing 'on street' parking provision. You are reminded that vehicles parked on the public highway are many times more likely to be

the subject of an incident than those parked within curtilage. Therefore, it is recommended that sufficient parking is provided within the development for each apartment to be allocated one parking space.

To provide for the safety of residents and visitors an appropriate level of lighting should be fitted throughout the development.

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

Please can the footway be reinstated to full kerb.

### **Highways Engineer**

For the most recent Highways Authority response (following deferral), refer to the Comments section of the committee report under 'Transport/highways implications'.

Highway Authority's views on the proposal as originally submitted:

Fratton Road forms part of the A2047, a key arterial route running north - south through the city. The application site lies within a district centre as designated in the Portsmouth Plan and is in the area of secondary importance. The road immediately outside the applicant site has double yellow lines and opposite (eastern side) is a bus stop/clearway. The site has a secondary access to the rear exiting onto Garnier Street.

Garnier Street is a residential street with rows of terraced housing; it provides access to the rear of the nearby shopping centre however there is no entry permitted past this point with access to the rest of Garnier Street gained via Arundel Street. There is parking arranged along both sides of the road all of which is contained within a residents parking zone.

The Transport Statement has reviewed the trip rates for both the existing use and also for the proposed use(s). The review concludes that "the overall proposed development, which includes for the provision of 30 residential dwellings, will have a reduced impact on the surrounding highway network in comparison to its current use." Residential development generally has a lesser trip rate than commercial uses (retail in particular) and even with the combined retail and residential uses proposed, the applicant's conclusion that the overall highway impact of the proposed development will not have a material impact on the local highway network is accepted.

All access for vehicles has been removed from the site and instead a lay-by proposed to the front of the site. This would be recessed into the existing footway which would be re-routed into the site. This lay-by would then serve as a loading bay for refuse collections and deliveries. In principle this is a sensible suggestion and will prevent potential obstruction of the nearby signal junction, however, doubts must be raised whether this loading bay will act as little more than a quick stopover for patrons of the proposed retail store and those already existing on Fratton Road. It may be that abuse of this loading bay would render it unusable by the refuse and delivery lorries it is designed to serve. Any alterations to the highway would also require permission from the Highway Authority by way of a section 278 agreement.

The Transport Statement also addresses the parking requirements of the site with regard to residential expectations contained within Portsmouth's parking SPD. In order to comply with the SPD, for the residential use, a parking provision of 37 spaces is required. The Transport Statement goes somewhat to justify the reduction the parking standard for this site by interrogating Census data for the ward (Fratton) and comparing the site with both the ward data and then with similar property types. The final provision that the agent proposes (required for the residential element of the development) is 22 spaces although no assessment of the parking demand associated with the retail use has been provided. No parking spaces have been proposed within the development either for the residential or the retail use(s).

A parking survey has been supplied to justify the lack of parking provision on site and suggests that there is sufficient capacity to accommodate these 22 vehicles, which does not reflect the parking demand associated with the retail element of the proposal. The agent has used the



Lambeth Parking method, which is acceptable. The agent carried out two overnight surveys of the roads surrounding the site and within 200m radius. More than a dozen different roads were surveyed and resulted in a worst-case scenario of approx. 70% of available spaces being occupied. Overall there were approx. 100 spaces available on each of the nights, which the applicant suggests will accommodate the 22-37 spaces required (based on Census data and PCC parking SPD). Whilst on the face of it this seems acceptable, all of the roads that have been surveyed (with exception of Arundel Street and Coburg Street) are in residents parking zones (RPZs). The proposal site is not within an RPZ and therefore residents of the proposed development would not be eligible for a permit. Therefore in principle only Arundel Street and Coburg Street can be considered as viable parking places; the survey carried out suggested a maximum number of spaces available as 7 across the two roads. This clearly falls some way short of even the 22 spaces the applicant suggests they need and is less than 20% of the spaces required to comply with Portsmouth parking policy. The applicant fails to consider parking associated with the commercial use. Currently the retail use is served by a car park to the front that generally meets the demand. With no parking available on site and very limited options on-street within convenient distance, it is likely that customers will use the proposed layby to the front or the double yellow lines and/or loading bays on Garnier Street. Whilst there are no requirements set out in the SPD for parking at commercial developments, it is for applicants to justify the provision made; some justification is expected to be given for not including parking for a commercial element when currently some exists for a similar use.

Cycle parking has been considered for both the residential and commercial elements of the applications. The provision required is given in the parking SPD and for this development would amount to 40 long stay and 4 short stay spaces. The application proposes 54 secure and covered spaces, which is in excess of the standard and thus acceptable. The parking SPD does not give definitive numbers of spaces required for non-residential uses. Instead it states "the minimum amount of cycle parking acceptable to the council will be the level needed to achieve 2 BREEAM credits for the development". Whilst the three stands would be suitable for the short-stay element, the long-stay (secure & covered) element has not been met. The agent states that the final commercial tenant is not yet known and so cannot determine the number of spaces required. It seems unlikely that the three stands provided will not increase greatly once the tenants are known but these stands should be at least covered and if not secure, be overlooked and have good natural surveillance.

As the application stands, a highways objection is raised on the following grounds:

- Proposal does not meet the required Parking provision as set out in the Parking SPD in an area mostly controlled by residents parking zones, permits for which the proposed site would not be eligible
- No justification has been made for the lack of parking provision for the proposed commercial use when a provision currently exists for the existing consented commercial use.
- Proposal does not meet the parking standard with regard to cycle parking for a non-residential development.

Following receipt of an addendum to the Transport Statement (dated 16th September 2016), the Highways Authority updated views were received:

The agent contends that the unavailability of Parking Permits for residents and the proximity of local services and transport links would be sufficient to deter vehicle ownership and make this a true car-free development. The SPD establishes the area within the city where the council is prepared to relax the residential Parking Standards on the basis of the accessibility of the zone and proximity to services. Whilst this area is similar in nature to that zone, the SPD does not extend to include Fratton Road and consequently non-compliance with the parking standard would be contrary to policy. The provision of a s106 agreement preventing future residents from obtaining permits would not be worthwhile as the site is not within the permit boundary and as such would not be eligible for a permit in any case.

Following the initial response, the agent has advised that the commercial space is likely to be occupied by a small convenience type food store (A1 use). The agent argues that the Asda store at the Bridge Centre has a large car park, the Spar and Farm Foods Store also has a car park and is in close proximity to the applicant site. The agent suggests that given the proximity of these larger stores with parking availability the likelihood is that the proposed store is likely to attract passing trips rather than customers looking to undertake a larger shop who will visit the alternative stores instead. Whilst this type of store does generally attract many local trips, pass by trips from vehicles are also common especially on a main arterial route such as Fratton Road and with the current retail use satisfying its own Parking demand it is likely the loss of the parking provision will lead to illegal parking on double yellow lines nearby as often happen with other local businesses already.

The agent has reviewed the design and provided 4 spaces for long-stay cycle parking within the commercial unit. This is compliant with BREEAM guidance for the type and size of commercial property proposed and is acceptable.

Whilst the alternative proposal to provide servicing via footway parking is acceptable in principle, that will require full depth reconstruction of the footway and the activity of the loading area to be controlled through a Traffic Regulation Order such that deliveries are only permitted between 10:00-15:00.

As the application stands a highways objection is maintained to the proposal as it does not meet the adopted policy requirements. If however you are minded to approve the development it is recognised that although outside the city centre area, there is no real distinguishable difference in environment between this area and the area where the SPD allows that a reduction in parking standards can be considered. However, given the absence of alternative on-street parking opportunities, should future residents wish to own a car then there will be no practical opportunity for them to park in close proximity to the dwellings.

In the event that you are minded to approve the application the following planning obligations/conditions should be imposed:

- A section 106 agreement would be required to secure the contribution necessary to produce and advertise the Traffic Regulation Order for the footpath loading bay.
- In order to undertake the works to the Highway necessary to facilitate the development, a section 278 agreement would be required with the Highway authority prior to the commencement of works.
- Loading bay is in place and restricted to operate between 10:00-15:00 prior to occupation of the development.
- Provision and retention of agreed cycle parking prior to occupation of the development.

## **Environmental Health**

### **Road Traffic Noise**

Road traffic noise is potentially an issue at this location particularly with rooms fronting onto Fratton Road so appropriate sound insulation measures are likely to be required to ensure noise levels within habitable rooms are within recommended guidelines.

Glazing configurations which will achieve the internal noise level guidelines have been given by the noise consultant for the different types of rooms within the development, (drawings listed as 16/0047/GM 1 - 4. Room type 1 10mm glass/12-24mms air gap/6mm glass, room type 2 6mm glass/12-24mm air gap/6mm glass, room type 3 - standard thermal glazing) however, the report states that these specifications are for guidance only, as there are many options of glazing which can achieve the same sound insulation performances.

Should the applicant install the recommended glazing or glazing with similar performances then this is likely to protect the proposed occupant's amenity space.

## **Commercial Noise**

The application includes ground floor commercial use for Class A1, A2 or A3 purposes. This type of use often includes the use of plant/equipment. As the intended use has not been specified at the application stage and in order to protect amenity, should you be minded to grant permission I recommend that the following conditions be applied:

Prior to the installation of any plant and/or equipment, an assessment of noise from the operation of the 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 and/or equipment shall be implemented.

Additional for A3 use: equipment shall be installed to suppress and disperse odour and fumes emitted from cooking operations arising from the premises. 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.

Noise from deliveries can also impact upon amenity but this is dependent upon the time of arrival of the vehicles, it is therefore recommended that deliveries do not take place between the hours of 23:00 and 07:30hrs.

## **Air quality**

This site falls within an air quality management area (AQMA 6) designated under the Environment Act 1995 due to elevated levels of nitrogen dioxide (NO<sub>2</sub>). Potentially the development will involve increasing the exposure of NO<sub>2</sub> in excess of the national objective for extended periods for the properties fronting on to Fratton Road. Therefore according to the Portsmouth City Council Air Quality and Pollution Supplementary planning document, air quality is a high priority material consideration for this proposal as it involves sensitive development within an AQMA.

In order to determine as to whether the upper floors of the building will be subjected to levels of NO<sub>2</sub> in excess of the annual mean national objective, I would suggest that the applicant submits an air quality assessment to identify as to whether appropriate mitigation or offsetting measures will be necessary to protect the amenity of the proposed occupants.

Technical solutions are available for mitigation i.e. whole house mechanical ventilation. This will also help achieve internal noise levels without the necessity of windows being opened. Details of this, along with supplier contact details are given in appendix A of the noise report.

## **Traffic**

The plans do not show any provision for parking, it is assumed that occupants with vehicles will park on the street or use public transport, therefore the proposed change of use is unlikely to generate significant traffic movements.

## **Archaeology Advisor**

The site is one of low archaeological potential. A watching brief conducted during redevelopment at the nearby Guardsman PH in 2008 recorded no archaeological features pre-dating this Grade II Listed Building (that dates from the 17th century), while historic mapping shows that the site has been occupied by a series of buildings over the past 150 years. Considering the impact of these Victorian buildings and the current structure that occupies the site would have made upon sub-surface deposits, means that it is unlikely that any as yet unrecorded pre-modern archaeological features and/or deposits are located within the site. As a result of this lack of potential, in this instance no archaeological issues are raised.

The development may have an impact upon the setting of The Guardsman, a Grade II Listed Building. However, any advice offered in this matter is deferred to the Council's Conservation Officer.

### **Design Review Panel**

The panel reacted positively to this well presented scheme. They were conscious both of the difficult elongated nature of the site, and of the scale and mass of the former cinema building currently occupying the site.

The proposal was considered well thought through, the massing of the proposed blocks less than the existing building (and therefore acceptable), and its response to the street and adjacent heritage assets contextually appropriate in terms of height/scale and setback. The relationship between the blocks and neighbouring properties was acknowledged as tight (but not sufficient to militate against the scheme), the use of deep 'blindings' as a way to mitigate some overlooking was also thought a good idea, and beneficial.

Despite the generally positive response it was suggested the images, whilst slick and persuasive, belied a scheme that would perhaps be difficult to translate into reality due to issues of viability. The fenestration for the blocks was also criticised as a little 'mean', and concern was expressed that the scheme could appear quite hard and aggressive looking without very careful consideration (and subsequent use of) the highest quality materials, and finishes. The recommendation of the Panel is of support, subject to the above comments.

### **REPRESENTATIONS**

Fourteen representations have been received, including one from Flick Drummond MP and another submitted on behalf of 5 households in Garnier Street, raising objection (a) primarily on the parking implications of the proposed development exacerbating difficulties experienced locally. The objections draw attention to the limited waiting period for non-permit holders within the controlled parking zone are not well enforced and regularly flouted by shoppers, in addition to double yellow line restrictions at the eastern end of Garnier Street (at the junction to Fratton Road) is often contravened by drop off/collection to the day nursery and taxis.

Other grounds of objection include:

- (b) impact on highway safety - the 20mph restriction in Garnier Street is ignored and used as a rat run including vehicles going the wrong way on the one-way system;
- (c) loss of privacy;
- (d) effect on security of neighbouring homes/gardens;
- (e) increased noise from future occupiers;
- (f) potential noise and dust during demolition and construction;
- (g) overlooking and resulting loss of privacy from windows within the new development;
- (h) impact on property values; and,
- (i) question the appropriateness of A1/A2/A3 as part of the development.

Following deferral, one additional representation has been received from a resident of Garnier Street reiterating points of objection set out above but also suggests a free short-stay car park would be more beneficial to the area, adjoining nursery and existing local businesses.

### **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 (having regard to its location within Fratton district centre - secondary area), transport and highways implications, design and heritage, affordable housing/mix/standard of accommodation, impact on residential amenity, sustainable design and construction, nature conservation/recreational disturbance and other matters raised in representations.

## **Principle of development**

The linear nature of the site, the dominant bulk of the existing building in very close proximity to immediately adjoining properties and its relationship to neighbouring heritage assets make this a difficult and challenging site for any redevelopment. However, in policy terms, PCS8 encourages shops (A1) throughout all district centres and new dwellings on upper floors. For Fratton (Map 15), policy PCS8 continues "Fratton grew up as a centre serving the surrounding neighbourhoods and provides a mix of shops and services. Today its superstore is the main draw to the centre, although Fratton still contains a range of local independent shops. At least 55% of the primary frontage will be protected for shopping (A1) use. Retail will also be encouraged along the secondary frontage however other town centre uses and residential would also be acceptable."

The principle of commercial floorspace for 'town centre' uses within Class A1, A2 or A3 and residential on the upper floors/to the rear would accord with policy PCS8, subject to other material planning issues and the constraints of the site.

## **Transport/highways implications**

The site is within Fratton district centre, which forms part of the city's hierarchy of designated town centres providing an opportunity for shopping/other services locally, within a location accessible to transport links. There are bus stops a short walk away and train station 0.4 miles from the site that is around 7 minutes' walk away.

There is significant pressure on existing limited on-street parking provision serving residents and visitors to Fratton district centre. Residents parking zone JF covers Garnier Street and Murefield Road, where visitors (non-permit holders) are entitled to two hours free parking. The key concern of neighbouring residents and the local MP in their objections to the proposed development relates to the impact on the parking difficulties already experienced locally. The applicants propose a car-free development and their supporting Transport Statement offers its justification based on the proximity to a range of local shopping/town centre uses and public transport services by bus/train nearby, promoting active sustainable modes of transport by walking and cycling as an alternative to the private car.

Servicing arrangements for the development also present a challenge and have been the subject of amendment, following concerns raised by the Highways Authority. Stopping on the carriageway of Fratton Road is not a desirable option with implications for the signal controlled junction to Arundel Street. As originally submitted, a layby was proposed to be constructed across the site frontage. A revised design then proposed a shared-surface service bay/footway, with dropped kerb access, rather than permanently designated layby. This alternative proposal to provide servicing via footway loading bay was considered acceptable in principle by the Highways Authority, subject to requiring full depth reconstruction of the footway and the activity of the loading area to be controlled through a Traffic Regulation Order (where the period for deliveries are time restricted).

After deferral of the application, the updated comments of the Highways Authority are as follows:

"Members expressed concern at the on-footway loading area as it posed a potential risk to pedestrians. The Highways Authority (HA) contend that a fully kerbed, lay-by style loading bay is more likely to be abused by customers of the proposed shop and other nearby businesses than a footway loading bay. Even with "Loading only" restrictions it is likely that drivers will "take a chance" and park there; for short stays it is unlikely that a Civil Enforcement Officer will be there to enforce the bay. This is however a minor risk to the operation of the Highway and a moderate risk to the development that the loading bay may not be available to use when needed. Provided a Traffic Regulation Order (TRO) is implemented, the bay could be enforced by Civil

Enforcement Officers if occupied illegally when required for loading. The TRO required for the Loading bay would be subject to a democratic process to make the legal order. This would involve 21 days of public consultation after which the order can be made provided no objections are received. Should an objection be received, a decision on whether to make the legal order would be made by the Traffic and Transportation Portfolio holder at a public meeting.

In response to concerns over the lack of parking provision, the applicant has offered the following provision secured via a s106 agreement to state; "The Developer (or Successor in Title) covenants with the Council to ensure that all head leases for all the Housing Units contain a provision to secure the obligation that the leaseholder shall not apply for a parking permit for any existing or amended Controlled Parking Zone controlled by the Council". As detailed in the initial HA response, the site does not fall within a controlled parking zone and thus would not be eligible for a parking permit in any nearby residents' parking zone (RPZ). It is therefore the HA belief that this obligation is not necessary, however as it has been proposed by the applicant I can see no reason why the condition should not be imposed as it only strengthens the HA's position with respect to the control of parking in this area.

As the application stands the HA must continue to object to the proposal as it does not meet the adopted policy requirements. If however you are minded to approve the development the HA believe that although outside the city centre area, there is no real distinguishable difference in environment between this area and the area where the SPD allows that a reduction in parking standards can be considered. However, given the absence of alternative on-street parking opportunities, should future residents wish to own a car then there will be no practical opportunity for them to park in close proximity to the dwellings.

In the event that you are minded to approve the application the following planning obligations/conditions should be imposed:

- \* A section 106 agreement would be required to produce and advertise the Traffic regulation order for the loading bay. The cost for this would be £2500;
- \* In order to undertake the works to the Highway necessary to facilitate the development, a section 278 agreement would be required with the HA prior to the commencement of works;
- \* The loading bay is to be fully constructed and a valid TRO in place to control its operation prior to first occupation of the development;
- \* Provision and retention of agreed cycle parking prior to occupation of the development."

The applicant has offered to prohibit any future occupier from applying for a parking permit by s106 agreement and the weight to be placed on such a provision should be considered in the context of it forming part of their justification for a car-free scheme. The merits of bringing forward a difficult site in a sustainable and accessible location for car-free development where prospective residents would not necessarily need to own a car and whose characteristics are indistinguishable from the city centre where the opportunity for car-free is promoted are, on balance, considered to outweigh the absence of parking provision (subject to the planning obligations/conditions identified above). However, given the unavailability of space on-site to satisfactorily operate a delivery service and lack of short-term parking locally for customer collection, particularly in the evenings when residents compete to park proximate to their homes, any A3 cafe/restaurant use should be prohibited from operating ancillary takeaway sales (for collection and/or delivery services) by planning condition.

## **Design and heritage**

On the Fratton Road frontage there are existing heritage assets immediately to the north and south, at 'Guardsman Court' (formerly The Guardsman PH at No129, Grade II listed) and No115 (on the list of locally important buildings) respectively, which require a sympathetic design response and represent a key constraint. Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the Local Planning Authorities (LPAs) to have special regard to the desirability of preserving a Listed Building or its setting. There is a strong presumption in favour of conservation. The NPPF (para 128) "...should require an applicant to describe the significance of any heritage assets affected, including any contribution made by

their setting", requires LPAs to (para 129) "take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal" and (para 132) "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation." Policy PCS23 requires, amongst other things, "Development that relates well to the geography and history of Portsmouth, particularly the city's ... listed buildings...".

A Heritage Statement is required to assess the impact and significance of the redevelopment proposals on the setting of the heritage assets adjoining the site. The applicant's assessment in relation to archaeology is undertaken separately. The applicant's Heritage Statement (HS) rightly identifies the two key heritage assets adjoining the application site. It comments the significance of the locally listed building at No115 "...is not just in its age and architectural features, which have a strong vernacular association with the early development of Fratton village, but also in its setting, being a corner site in one of the earliest street blocks along an ancient route known today as Fratton Road" (para 4.10 of the HS). As for 'Guardsman Court', it comments "The building's significance lies partly in its age, being one of the oldest surviving buildings in Portsea Island. The setting of the building, however, does not contribute to any great extent to its significance, being a mismatch of buildings of various styles, ages, heights and scales. The former Troxy Cinema's siting, with the large car park facing Fratton Road, creates a fractured streetscape, hence detracting from the setting of the heritage asset" (para 4.14 of the HS).

The HS assesses the impact as follows: "The proposed scheme is an improvement to the streetscape on Fratton Road, and the setting of the heritage assets located on either side of the Site. The new development is composed of three blocks, replacing the monolith building of former Troxy Cinema. The arrangement of the buildings with low height to the front and taller blocks to the back, responds at the front to the consistent two-storey rooflines in this section of Fratton Road" (para 5.2 of the HS). "Currently there is a void in the streetscape, where the Troxy building forecourt, used for car parking, is located. The proposal aims to mitigate this negative feature, by siting a building closer to the road's edge, removing the utilitarian aspect currently visible. The new building line is however still set back from the pavement line, brought in line with the nearby Grade II listed building's extension immediately to the north of our Site. This allows for the unobstructed views towards the locally listed former Dog and Duck public house and also enhanced views towards the above mentioned Grade II listed former Guardsman building. This set back is the result of a compromise achieved in negotiating the distorted street line of this street block, where all buildings are set at different distance and angles from the road edge. The inconsistency of the existing frontages is remedied in the proposal with alignment to the line of the Grade II listed property, in accordance with the NPPF (paragraph 132), which states that the more important the asset, the greater the weight should be on its conservation" (para 5.3 of the HS).

It concludes that "We are of the strong view that the proposal will have positive impact and therefore merits a planning approval. The proposal's mixed use offer, which will increase residential use in the area and therefore will result in livelier street scene, is considered to be beneficial in terms of regeneration of Fratton" (para 5.8 of the HS) and "The materials and the concept of the proposal are complimentary to the existing built environment, reflecting scale and proportions of the neighbouring heritage assets, but providing a modern solution without resorting to pastiche. The regularity of the façade, and the use of brick as main building material, serve to create a neutral backdrop avoiding conflict with both heritage assets. It is therefore clear that there is no harm to the heritage assets resulting from the proposed development" (para 5.9 of the HS).

The applicant's Heritage Statement is considered to provide a fair assessment of impact and significance. The two-storey element of the building (on the east side of the site) would provide for a height of built-form on the Fratton Road frontage that is designed to be compatible with the eaves and ridge heights of the two adjacent heritage assets. The new building line to Fratton

Road and its projecting first floor quite intentionally seek to enhance the relationship and key views to these neighbouring heritage assets. The siting and alignment is designed to address the stagger between both of the neighbouring properties. The building setback at ground floor level of 6m from the carriageway still allows for alignment with the statutorily listed Guardsman Court (to the north) at first floor level by a 1.5m projection. The shopfront setback and 3.5m gap from the southern site boundary ensures views to neighbouring buildings are unaffected by the redevelopment at street level; this aspect of the proposal is considered to preserve their setting on the Fratton Road frontage, to accord with policy PCS23 and the aims and objectives of the NPPF.

The front elevation would comprise a multi-stock brickwork façade with 6 no. powder-coated aluminium full-height windows integrating the same deep projecting "blinkers" (design features to mitigate privacy impact) elsewhere on the development. At ground floor level, a large glazed shopfront with double entrance doors would create a lightweight plinth and an active frontage, providing a shopfront display across the majority of the development frontage. The simple order, rhythm and articulation would improve the streetscape contribution of the site to the district centre to accord with policy PCS23.

Towards the centre of the site, a four-storey building would be connected to the front two-storey element by a single-storey link building designed with a green (sedum) roof. The building would similarly comprise multi-stock brickwork to match, with perforated and extruded brickwork details and exposed concrete bands to the north and south facades, to add visual interest to flank elevations where it would be inappropriate to introduce windows on privacy grounds.

To the west of the site, a further four-storey building is proposed. However, the topography of the site would result in the building having a lower height than the four-storey building on the east side of the site.

The views of the independent Design Review Panel are set out in the consultations section of this report. In short, the Panel supported this well-conceived proposal with the massing of the proposed blocks less than the existing building and its response to the street and adjacent heritage assets contextually appropriate in terms of height/scale and setback. Acknowledging the relationship between the blocks and neighbouring properties was tight, measures to mitigate some overlooking were held to be beneficial. The slick and persuasive images belied a scheme potentially difficult to translate into reality due to issues of viability. Fenestration was criticised as a little 'mean'. The buildings could appear quite hard and aggressive looking without the highest quality materials/finishes selection.

The views of the Panel are shared by your officers. The design rationale for a development of the proposed height no greater than existing and scale/massing of blocks less than existing is considered to justify its suitability to the site. In visual terms, the contemporary appearance relies upon simple order, rhythm and articulation where interest is added vertically by projecting brickwork "blinkers" and horizontally by the slender concrete frame of the buildings. A very careful selection of materials/finishes for such a restricted palette of facing brickwork/concrete banding is considered essential to integrate well with the character and appearance of the surrounding area including adjoining heritage assets. On this basis, the design of the proposed developed is considered to be acceptable, to accord with policy PCS23.

Following its deferral, the applicant has amended the front elevation facing onto Fratton Road. The provision of front 'fins' is maintained for continuity of this design feature throughout the development but, since they are not required to perform the same function of protecting privacy, have been reduced in depth. The design revision would not change the above conclusions on the design merits of the scheme.



## **Affordable housing/mix/standard of accommodation**

Policy PCS19 of the Portsmouth Plan seeks to achieve a target of 40% family housing (3+ bedroom dwellings) where appropriate to meet the needs of families and larger households in new development and housing size to accord with the nationally described space standards. On developments of 15+ dwellings, provision of 30% affordable housing is required, which equates to 9 of the 30 dwellings for this scheme.

The housing mix is mainly one- and two-bedroom dwellings, comprising of:

13 x 1-bedroom (2-person);

11 x 2-bedroom (3-person) & 3 x 2-bedroom (4-person); and,

3 x single-aspect studios (1-person).

There are 3 dwellings designed as maisonettes, with private garden spaces. All the residential accommodation would have access to a 'sunken' communal amenity space as an integral part of the scheme. There is no provision for larger family accommodation (3+ bedrooms).

The applicant offers a policy PCS19 compliant scheme for affordable housing provision, as no final arrangements have been made with any particular Registered Provider. All dwellings have been designed to ensure that they meet the minimum space standards as set out in the Technical Housing Standards - Nationally Described Space Standards.

## **Amenity impact**

The height of the proposed redevelopment would be no greater than the existing building. The siting the replacement buildings in two blocks with a communal garden centrally positioned within the site would break up and reduce the overall massing of built-form, thereby allowing daylight and sunlight to penetrate through to some neighbouring curtilages. The applicant's supporting Daylight and Sunlight Assessment (prepared by Hodkinson Consultancy) provides an analysis of the development on neighbouring properties. It concludes that the daylight availability would be improved by the proposed development in comparison with the existing building and would have no adverse impact on the daylighting levels to surrounding properties. Minor setback of this redevelopment from the southern boundary would also represent a small improvement on its impact to existing adjoining properties to the south. However, redevelopment would create shading to neighbouring properties in the north-east corner of the site although these neighbouring dwellings are already affected by the presence of existing advertising hoardings along the common boundary.

The existing building was constructed as a cinema without necessity for windows thereby having no privacy impact on adjoining occupiers despite its very close proximity. For residential redevelopment designed to provide decent new homes inevitably imposes a requirement for an arrangement of windows with a satisfactory outlook and light as well as natural ventilation. The development is designed to preclude windows on the north and south elevations but orientate them on the east and west elevations only, to minimise overlooking to neighbouring properties in Garnier Street and Arundel Street, as far as practicable. In addition, the proposed windows are modelled to include vertical projecting brick fins described as "blinkers" of 44cm depth, to limit direct views away from neighbouring properties and channelling more oblique angle views into the site. However, at the western end of the site new windows would directly overlook neighbouring properties across a short separation distance of between 7.5m to 10m, resulting in a degree of un-neighbourliness.

To help mitigate overlooking and improve visual amenity along parts of the western, northern and southern site boundaries the applicants propose tree planting to provide a green edge to screen the site. Careful species selection would be necessary to minimise any adverse impact of trees within the application site overhanging and overwhelming small courtyard gardens of neighbouring properties into the future. In addition, first floor windows (all to bedrooms) on the western elevation of the west block are designed to provide obscure glazed to a level of 1.5m above finished floor level. Whilst this may limit the degree of overlooking to the rear gardens of

the properties to the west by occupants moving around any of the first floor bedrooms it would, however, not be effective when standing at the windows or from any of the floors above.

The inter-relationship between the proposed first floor (single-aspect) flats on the Fratton Road frontage and the 4-storey element of the building behind would be fairly cramped and restricted. Across a separation distance of around only 7m there would be some impact on the privacy. East-facing windows of the centre block would look directly into the rear (west) windows and curtilage of nos.4/5 Guardsman Court (Fratton Road). Notwithstanding the proposed brick pier 'blinkers', obliquely east and west facing habitable-room windows would inevitably overlook adjoining rear elevations/gardens and give rise to some resulting loss of privacy to occupiers of existing neighbouring dwellings. Additional detail of screen fencing along the site boundary at first floor level for this part of the site has been submitted. It would act to minimise any mutual overlooking from the nearest first floor level flats but would not prevent it from the upper two floors. The screen fencing would also create a feeling of being hemmed in to adjoining occupiers; however, such enclosure would not be different from existing advertising hoardings.

Residential redevelopment would still result in some degree of overlooking and resulting loss of privacy although the creation of a 17m wide gap within the site centrally would also improve the outlook of some neighbouring properties who presently view a 13m high building across a distance of some 7.5-8m or so. The northern and southern flank walls of the proposed development are proposed to be relieved by a combination of perforated and extruded brickwork treatments. Improvement in the outlook of occupiers of neighbouring properties must inevitably be weighed against some degree of overlooking; given the difficulty of developing a challenging 'backland' site such as this and its design to minimise its impact as far as practicable is considered sufficiently balanced and not so significantly harmful to be acceptable without conflict with policy PCS23.

The views of the Council's Environmental Health team identify the need for planning conditions for noise insulation measures, assessment of the impact of any potential plant/equipment necessary for the proposed commercial floorspace, a restriction on delivery times and further air quality assessment for this proposal as it involves sensitive development within an AQMA, in order to determine as to whether the upper floors of the building will be subjected to levels of NO<sub>2</sub> in excess of the annual mean national objective. In response to the air quality issue raised, the applicants state "We can confirm that the new homes fronting Fratton Road will be complete with forced ventilation via a brick vent. Whilst this detail is not included on the drawings, we would be happy to accept an appropriately worded planning condition...". In principle, the use of a forced ventilation system taking a clean air source from the 'rear' of the flats (3 no.) along the site frontage secured by condition appears acceptable. Environmental Health comment that a brick vent will not be sufficient but that mitigation measures should be incorporated in the design of the development to prevent exposure to poor air quality especially for the units fronting onto Fratton Road. In the absence of an air quality assessment a condition is recommended as follows:

"Prior to the commencement of construction the developer shall submit a scheme to the local authority for a mechanical ventilation system to serve the residential dwellings with facades facing onto Fratton Road. The scheme should provide sufficient evidence to demonstrate that extract and purge ventilation rates can be achieved, and ensure that all associated air intakes and exhaust points are situated within areas where national air quality objectives are not exceeded. Upon approval the proposed scheme shall be implemented prior to the occupation of the building and thereafter maintained."

The applicant's noise report prepared by Cole Jarman - Appendix A A5 - gives a good example of mechanical ventilation and also lists a number of suppliers.

### **Nature conservation/recreational disturbance**

Introduction of green roofing and communal garden space with tree planting, to screen the site from its neighbours and enhance its biodiversity, would improve the city's green infrastructure

assets in a part of the city that has some of the most limited access to parks and open spaces, to accord with policy PCS13.

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 affect which this scheme would otherwise cause, could be overcome. Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as  $30 \times £176 = £5,280$ , secured through a s106 legal agreement.

### **Sustainable design and construction/refuse storage**

The Government released a ministerial statement regarding sustainable design and construction which lowered the SPD: Sustainable Design and Construction requirement.

The Ministerial Statement sets out that Local Planning Authorities should no longer require compliance with specific levels of the Code for Sustainable Homes (the Code) or to require a certain proportion of the Dwelling Emission Rate (DER) to be offset through Low or Zero Carbon (LZC) Energy. Policy PCS15 has required both of these in all new dwellings since its adoption in 2012. However the Statement does set out that a standard of energy and water efficiency above building regulations can still be required from new development in a way that is consistent with the Government's proposed approach to zero carbon homes. As such, the standards of energy and water efficiency that will be required from new residential development are as follows:

- (a) Energy efficiency - a 19% improvement in the DER over the Target Emission Rate as defined in Part L1A of the 2013 Building Regulations
- (b) Water efficiency - 110 litres per person per day (includes a 5 litre allowance for external water use).

These standards will remain in place until the zero carbon homes policy is brought into force in 2016, after which the same standard of energy efficiency will continue to be required, though this will purely be through the Building Regulations rather than through compliance with planning conditions. Until that time, and in the absence of any detail, suitable pre-commencement and pre-occupation conditions would be imposed to resolve this issue.

The comments of the council's Waste Management Team are set out in the consultation section of this report. Waste Management originally raised concerns about waste collection from two locations - onto Fratton Road and Garnier Street. Following consideration of the applicant's Waste Management Strategy to collect all waste from Fratton Road the Waste Management Team reverted to waste collection from both Fratton Road and Garnier Street, subject to an external refuse store located closer to Garnier Street. This is not a design approach for waste favoured by the applicants, who consider the proposed refuse stores in each block and collection of all waste from the Fratton Road frontage to be a more suitable solution for this site.

## **Other issues raised in representations**

The perceived impact on security to some neighbouring homes and gardens requires a balanced view. The presence of a 13m high building onto a common boundary would in places change to new boundary treatments but the presence of new occupiers would also bring greater natural surveillance. Such change is not considered to result in a significant impact on security or degree of harm to warrant withholding permission. A new communal garden and pedestrian comings and goings within the site would bring a new dynamic to this 'backland' site compared with patterns of use or movement associated with a shop typically operating during daytime store opening hours only. To mitigate the noise impact as far as practicable, the commercial element of this residential-led mixed use scheme should not operate at times when existing and future occupiers are normally sleeping (with no deliveries and to remain closed to/vacated of customers between 11pm and 7.30am). Located within a secondary area of the district centre, the flexible range of uses sought for A1/A2/A3 are considered appropriate 'town centre' uses but for reasons identified elsewhere in this report ancillary takeaways sales (by delivery or collection) should be precluded from any cafe/restaurant use within Class A3. Having regard to the constraints of the proximity to heritage assets and to existing and future occupiers, accommodating appropriate extraction equipment to vent at a suitably high level (in a visually attractive manner) may prove an awkward and challenging design conundrum.

Loss of property values is not a material planning consideration.

## **Planning obligations**

If minded to approve planning permission, relevant Heads of Terms in relation to any s106 legal agreement that would be generated by the proposed development would include:-

1. The preparation and implementation of an Employment and Skills Plan before development commences;
2. Affordable housing provision (a minimum of 30%, which equates to 9 dwellings);
3. The payment of SPA mitigation, upon commencement of development;
4. To secure the contribution of £2500 for a Traffic Regulation Order for the loading bay, payable before development commences;
5. Future occupiers of these 30 dwellings shall not apply for a parking permit for any existing or amended Residents' Parking Zone controlled by the Council; and,
6. The payment of a Project Management Fees upon implementation of planning permission.

[\*The Highways Authority will need to instruct on a Section 278 Agreement required to undertake the works to the highway for provision of the kerbed layby/loading bay necessary for servicing the development, and any relocation of street furniture including a post-mounted traffic sign, prior to the commencement of development].

## **Conclusions**

'Town centre' uses within Class A1, A2 or A3 and residential on the upper floors/to the rear are acceptable in policy terms to the district centre (secondary area). The merits of redeveloping a difficult site in a sustainable and accessible location for car-free development where future residents would not necessarily need to own a car and whose characteristics mirror the city centre where the opportunity for car-free is promoted are, on balance, considered to outweigh the absence of parking provision. 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 adjoining heritage assets. The proposal makes provision for affordable housing, would add to the vitality of the district centre and support the wider regeneration of the city. The impact on neighbouring occupiers would change; a degree of overlooking and resulting loss of privacy would inevitably arise to some properties despite the east-west only orientation of windows and other measures that include 44cm deep 'blinkers' designed to

minimise the impact. However the proposal is, on balance, considered to be an acceptable solution for this challenging elongated site.

## **RECOMMENDATION I**

Delegated authority be granted to the Assistant Director of Culture & City Development to grant **Conditional Permission** subject to the prior completion of an agreement pursuant to section 106 Town & Country Planning Act 1990 to secure the planning obligations with principal terms as outlined in the report and such additional items as the Assistant Director of Culture & City Development considers reasonable and necessary having regard to material considerations at the time the permission is issued;

## **RECOMMENDATION II**

That delegated authority be granted to the Assistant Director of Culture & City Development to add/amend conditions where necessary.

## **RECOMMENDATION III**

That delegated authority be granted to the Assistant Director of Culture & City Development 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:

Location Plan - 170\_PLN\_001A;  
Block Plan - 170\_PLN\_002A;  
Block Plan - 170\_PLN\_100D;  
Site Plan - 170\_PLN\_101E;  
Ground floor - 170\_PLN\_200G;  
First floor - 170\_PLN\_201F;  
Second floor - 170\_PLN\_202C;  
Third floor - 170\_PLN\_203C;  
Roof plan - 170\_PLN\_204C;  
Contextual elevation - 170\_PLN\_300D;  
Contextual elevation - 170\_PLN\_301F;  
Elevations AA & CC - 170\_PLN\_302D;  
Elevations BB & DD - 170\_PLN\_303F;  
Elevations EE & FF - 170\_PLN\_304C;  
Elevations GG - 170\_PLN\_305D; and,  
Sections - 170\_PLN\_400B.

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) The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that the development has achieved:

- a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in The Building Regulations for England Approved Document L1a: Conservation of Fuel and Power in New Dwellings (2013 edition). Such evidence shall be in the form of an As Built Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and

- a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

6) 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 works including the proposed green (sedum) roof which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted, the layout, contouring and surfacing of all amenity space areas. The works approved shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development whichever is the sooner, in accordance with a phased programme agreed with the Local Planning Authority in writing prior to commencement of planting. 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. The sedum roof shall thereafter be retained.

7) No development (except demolition) 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 scheme and for any hardsurfacing treatments to the site 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) Before construction commences above foundation level detailed constructional design of key architectural features such as recessed windows within projecting "blinkers" (to be not less than 44cm in depth), projecting concrete framing, perforated and projecting brickwork, entrances and doors, at a 1:20 scale (or such other appropriate scale as may be agreed beforehand) shall

have been submitted to and approved by the Local Planning Authority in writing; and the development shall be carried out in accordance with the approved detailed designs.

9) Prior to first occupation of any dwelling boundary walls up to 2m in height in brickwork (in materials to be have agreed in writing with the local planning authority beforehand) shall have been constructed in the positions shown on the approved site layout plan (170\_PLN\_101E) to enclose the site boundaries and communal/private amenity areas; and these walls shall thereafter be retained.

10) (a) Before any dwelling hereby permitted is first occupied the proposed facilities to be provided for the storage of refuse and recyclable materials shall be constructed and made available, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter shall thereafter be retained for the storage of refuse/recyclables at all times.  
(b) Before the ground floor commercial floorspace is first brought into use for Class A1 (shop) or A2 (offices principally to visiting members of the public) or A3 (café/restaurant) purposes the facilities to be provided for the storage of refuse and recyclable materials shall be constructed and made available, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter shall thereafter be retained for the storage of refuse/recyclables at all times.

11) (a) Before any dwelling hereby permitted is first occupied the proposed secure/weatherproof facilities to be provided for the storage of bicycles shall be constructed and made available, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter shall thereafter be retained for the storage of bicycles at all times.  
(b) Before the ground floor commercial floorspace is first brought into use for Class A1 (shop) or A2 (offices principally to visiting members of the public) or A3 (café/restaurant) purposes the proposed secure/weatherproof facilities to be provided for the storage of bicycles shall be constructed and made available, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter shall thereafter be retained for the storage of bicycles at all times.

12) No development (except demolition) shall take place at the site 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) Prior to the installation of any fixed plant and/or equipment, a scheme for protecting residential premises from noise generated by the plant and/or equipment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that the combined noise level from all such plant (expressed as an LAeq,5minute) will be 5dBA below the measured background noise levels (expressed as an LA90 over one hour) representative of the quietest period of a typical week. The assessments shall be made at 1 metre from the façade of the nearest residential premises. The equipment shall then be installed in accordance with the approved details and shall thereafter be retained in that condition unless otherwise agreed in writing with the Local Planning Authority.

14) No development (except demolition) shall take place at the site until details have been submitted to and approved in writing by the Local Planning Authority (in conjunction with the

Highway Authority) relating to the highways works necessary for the construction of a fully kerbed layby/loading bay onto the Fratton Road frontage. The highway works to Fratton Road shall be carried out and constructed in accordance with the approved details and the requirements of a Section 278 Agreement under the provisions of the Highways Act 1980 prior to the first occupation of any part of the development.

15) 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 ground floor commercial unit if brought into use for purposes within Class A3 as a café/restaurant (unless a suitable kitchen extract ventilation system shall have been installed and operated to suppress cooking fumes and odours).

16) Prior to the commencement of any other cooking operation than those described in condition 15 (as limited to preparation of hot beverages, toasting of bread or heating of food in a microwave oven, domestic oven or domestic cooking device) equipment shall have been installed to a kitchen extraction system to suppress and disperse odour and fumes emitted from cooking operations arising from an A3 café/restaurant use. 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.

17) The commercial ground floor unit (for proposed A1 or A2 or A3 use) hereby permitted shall be closed to and vacated of customers between the hours of 11pm and 7.30am (the following day).

18) No deliveries to the commercial ground floor unit hereby permitted shall take place outside of the hours of 7.30am to 7pm (daily).

19) No hot food take-away sales (either by collection or home delivery service) shall be undertaken from the ground floor commercial premises associated with any use within Class A3 (as a cafe/restaurant or other sale of food or drink for consumption on the premises).

20) No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme for mechanical ventilation system to serve the residential dwellings with facades facing onto Fratton Road. The scheme should provide sufficient evidence to demonstrate that extract and purge ventilation rates can be achieved, and ensure that all associated air intakes and exhaust points are situated within areas where national air quality objectives are not exceeded. Upon approval the proposed scheme shall be implemented prior to the occupation of the building and thereafter retained.

21) Before first occupation of the development the proposed screen fencing not less than 1.8m high (above finished level of the adjacent sedum roof) and perforated brick screen both at first floor level toward the north-east corner of the site shall be constructed in the positions and appearance shown on drawings 170\_PLN\_201F & 170\_PLN\_302D respectively; and these screening measures shall thereafter be retained.

22) 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 proposed lift overruns) without the prior written permission of the Local Planning Authority, obtained through the submission of a planning application.

23) 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 dwellings 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.

24) No development shall take place until details of a drainage strategy detailing the proposed means of foul and surface water sewerage disposal and an implementation timetable has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and timetable.

**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 ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy PCS15 of the Portsmouth Plan.
- 6) To improve the appearance of the site, enhance its biodiversity and improve green infrastructure assets in a part of the city that has some of the most limited access to parks and open spaces, to accord with policy PCS13 of the Portsmouth Plan 2001-2011 and the aims and objectives of the NPPF.
- 7) To secure high quality external finishes appropriate to the site prominently located onto a major arterial route through the city (A2030) in the interests of visual amenity and to preserve the setting of neighbouring heritage assets on the Fratton Road frontage, in accordance with policy PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 8) To ensure the highest quality of development appropriate to the site prominently located onto a major arterial route through the city (A2030) in the interests of visual amenity and to preserve the setting of neighbouring heritage assets on the Fratton Road frontage, in accordance with policy PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 9) To ensure robust and attractive boundary treatments to enclose active areas of the communal garden and access/circulation through the site in the interests of visual amenity and security and to preserve the setting of the adjoining heritage assets in accordance with policy PCS23 of the Portsmouth Plan, Reducing Crime Through Design SPD and the aims and objectives of the NPPF.
- 10) To ensure provision of waste/recyclables storage in an acceptable manner in the interests of amenity, in accordance with policy PCS23 of the Portsmouth Plan.
- 11) To meet the transport needs of future occupants of the dwellings and ensure adequate cycle parking provision is made for customers/staff using the commercial premises and to promote and encourage more sustainable transport modes within this car-free development, in accordance with policies PCS17 and 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 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.
- 14) In the interests of maintaining a safe and efficient highway network, in accordance with policies PCS17 & PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 15) To protect the amenities of adjoining and nearby residential occupiers, in accordance with policy PCS23 of the Portsmouth Plan, in the absence of a suitable extract ventilation to deal with the dispersal of cooking fumes and odours.
- 16) To protect the amenities of adjoining and nearby residential occupiers from nuisance from excessive cooking odours and fumes, in accordance with policy PCS23 of the Portsmouth Plan.
- 17) To protect the amenities of the occupiers of the adjoining and nearby residential properties from noise and general disturbance into late night/early morning hours (when people are normally asleep), in accordance with policy PCS23 of the Portsmouth Plan.
- 18) To protect adjoining and nearby residential occupiers from noise and disturbance (by delivery vehicles on the shared footway/loading bay) outside of daytime hours, but especially late at night and into early morning hours, to accord with policy PCS23 of the Portsmouth Plan.
- 19) To protect the amenities of occupiers of adjoining and nearby properties from localised concentrations of noise and general disturbance, in the interests of highway safety (due to restrictions of waiting, resident parking zone JF and one-way system on Garnier Street) and to preserve the setting of neighbouring heritage assets having regard to very limited space within the curtilage of the site for the parking of delivery vehicles of any type in a visually attractive manner, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 20) To ensure an acceptable living environment by preventing nitrogen dioxide exceedances within the dwellings in the interests of residential amenity, in accordance with policy PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 21) To minimise as far as practicable the impact on privacy of occupiers of neighbouring properties at 'Guardsman Court', to accord with policy PCS23 of the Portsmouth Plan.
- 22) To ensure the skyline and 'clean lines' of these buildings remain free of visual clutter, to minimise unneighbourly impact on adjoining occupiers and to ensure TV/radio signals are not adversely affected by subsequent additions to the building, to accord with policies PCS23 and PCS24 of the Portsmouth Plan.
- 23) To ensure that acceptable noise levels within the dwellings are not exceeded in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 24) 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.

## 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.

Amended drawings seek to alleviate a number of concerns raised by Members, which are addressed under their respective headings below:

### **Parking/Parking Permits**

As you will be aware, residents parking zones exist in Fratton (Zone GA), and Garnier St/Murefield St (Zone JF). The maps provide a definitive pink highlight to show the roads where dwellings are eligible for a parking permit. This does not extend to the application site, nor does the pink highlight adjoin the boundary for the site. As such, we understand that future residents of 117-127 Fratton Road would not be eligible for a parking permit. However, in recognition of members concerns (i.e. that on review of the parking zones [as approved by your Cabinet on 29 September 2016] that the site would be included within the permit-eligible boundary), we propose that the following is secured by way of the S106 agreement.

*“The Developer (or Successor in Title) covenants with the Council to ensure that all head leases for all the Housing Units contain a provision to secure the obligation that the leaseholder shall not apply for a parking permit for any existing or amended Controlled Parking Zone controlled by the Council”.*

We are also happy to provide a marketing strategy for the new accommodation (to be secured via a S106 obligation), which will provide details of how future residents will be informed that the development is car free (as part of the marketing particulars for the development).

It is our view that the above measures, together with the highly sustainably location of the site and the provision of ample cycle parking, will significantly limit any level of car ownership within the development.

### **Wheelchair Accessible Units**

As for the accessible dwellings, the 3 duplex units are designed to achieve M4(1) – Visitable dwellings. All the single storey flats (3 no) are designed to M4(2) – Accessible and adaptable dwellings, and 1 unit is designed to M4(3) – wheelchair user dwellings.

### **Loading Bay**

As requested by members, the on-footway loading bay has been amended to a traditional loading bay. To ensure that this bay isn't used for parking, we propose to enter into a S278 agreement to secure 'loading only' parking restrictions at all times.

### **Front Elevation Design**

The depth of the front 'fins' have been reduced to soften the appearance of the front first floor elevation. Whilst a number of design solutions were discussed, the architects felt that maintaining the fins (albeit to a lesser degree), would ensure continuity throughout the development.

### **Tenure**

The Applicant is happy to accept the S106 for a policy compliant mix/amount of affordable housing, as no final arrangements have been made with any particular RP.

### **Refuse/Recycling**

As discussed, to limit any noise and disturbance to the residents of Garnier Street (which would inevitably be caused by dragging bins between the properties at no.27 and 31), we propose to service the entire site from the new loading bay on Fratton Road. By way of condition or S106 agreement, we propose to provide further details (including the name and contact information), of the appointed waste management professional who will attend the site on the designated morning of collection, move the bins to the front of the site, and return them to the refuse storage rooms within the development afterwards (which themselves will have secure fobbed access).

### **Danielle St Pierre BSc (Hons) AssocRTPI**

Senior Planner, Planning - iceniprojects

**57-58 HIGH STREET PORTSMOUTH PO1 2LU**

**CONSTRUCTION OF PART SINGLE/PART TWO-STOREY REAR EXTENSION AND LIFT/DUCTWORK SHAFT, FOLLOWING REMOVAL OF EXISTING REAR ADDITION AND FIRE ESCAPE STAIRCASE; EXTERNAL ALTERATIONS INCLUDING SCREENING TO MECHANICAL PLANT ON ROOF OF PART OF TWO-STOREY REAR EXTENSION; REPLACEMENT FRONT ENTRANCE DOORS AND NEW WINDOWS TO REAR ELEVATION (AMENDED SCHEME)**

**Application Submitted By:**

Pike Planning  
FAO Mr John Pike

**On behalf of:**

Park Lane Assets Limited  
FAO Mr Mark Smith

**RDD:** 25th July 2016

**LDD:** 30th September 2016

This application was deferred by the Planning Committee at its meeting on 9th November to allow the applicant to amend the scheme, by reducing the scale of the first floor of the rear extension, to reduce its impact on the living conditions of the occupiers of neighbouring properties.

**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in design and heritage terms and whether the proposal would have any significant effect on the residential amenities of the occupiers of neighbouring properties.

**Site and surroundings**

A four-storey building occupies the site that is now vacant but formerly The Sallyport Inn on the south-east side of High Street, in Old Portsmouth. It dates from around 1800 and is a statutorily listed building, Grade II. The site is located within 'Old Portsmouth' Conservation Area and within the setting of an array of heritage assets including the Grade I listed Anglican Cathedral, Square Tower (Grade I) and Nos59 & 60 High Street (Grade II).

In townscape terms the hotel sits comfortably within a four/five storey 'block' of development (opposite the junction with Oyster Mews) that wraps around that corner with Grand Parade and Penny Street. It shares a similar height and building line (sitting at the back edge of pavement) to its neighbours. The application site and Anglican Cathedral are mutually visible from one another; in conjunction with the surrounding buildings it forms part of the setting of the cathedral.

**Proposal**

Following deferral, this application has been the subject of amendment. It originally included the construction of a two-storey rear extension that has now been amended to be predominantly single-storey but includes a part two-storey element. Other components of the scheme remain a lift/ductwork shaft (following the removal of existing extensions/fire escape staircase) and external alterations to include the installation of plant and equipment, the replacement of the front entrance doors and the installation of replacement windows to the rear elevation. The

proposed works are associated with a refurbishment of the building to form a boutique hotel with restaurant and bar (planning permission would not be required for a change of use).

### **Relevant planning history**

None of the planning history of the site is considered relevant to the determination of this application. A corresponding application for Listed Building Consent was granted consent at the earlier meeting of the Planning Committee.

### **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:  
PCS9 (The seafront), PCS23 (Design and Conservation),

Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

The National Planning Policy Framework and the Guidelines relating to development in the Old Portsmouth Conservation Area are also relevant.

### **CONSULTATIONS**

#### **Environmental Health**

A Noise Assessment (RP01-16236, dated 18th July 2016) has been produced to accompany the application. This report details a noise survey that has been undertaken and recommendations for achieving internal noise targets for the habitable rooms. Section 5 covers plant noise and target criteria, however, it is stated that since the detailed design information for the plant is not yet available, noise predictions cannot be made. The plant will comprise extractor fans, condenser units and a central heat pump. It is stated that the selection and design of external mechanical plant will be reviewed as project information becomes available to ensure that limits are achieved and it is suggested that compliance with the limits could be secured through planning condition.

Additionally, no information has been provided concerning odour control. As such, it is impractical to comment on the likely impact from plant and equipment which will form part of this development. However, the noise survey undertaken and the proposed target levels are satisfactory. It is also noted that the extraction system does terminate at high level which will aid dispersal, although some odour control will still be necessary. Should you be minded to grant permission it is recommended that the following conditions be applied:

"Prior to the installation of any plant and/or equipment, an assessment of noise from the operation of the 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 and/or equipment shall be implemented."  
and...

"Equipment shall be installed to suppress and disperse odour and fumes emitted from cooking operations arising from the premises. 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."

### **Contaminated Land Team**

Given the relatively limited scope of the works a condition relating to land contamination is not required. However, the site has previously been used by several small scale historic potentially contaminated uses, including: a Plumbers, glaziers & house decorators c.1886-1892; a House furnishers, invalid furniture manufacturers, invalid chair manufacturers from c.1902-1920; and a Wireless engineers c.1938-1939, and as such the potential for contamination to be present should not be discounted. Given the above an informative should be added to any planning approval granted.

### **Seafront Manager**

No response received.

## **REPRESENTATIONS**

Representations have been received from the owners and occupiers of seven neighbouring properties to the south on the following grounds:

- Overdevelopment;
- No need for extension of size proposed;
- Loss of property value;
- Loss of light;
- Overbearing impact;
- Potential for noise from plant and equipment;
- Potential for odours from commercial kitchen;
- Impact on structural stability of neighbouring properties.

Following publicity of amendments of the scheme, two representations of support have been received. The Friends of Old Portsmouth Association consider the proposal will enhance this Conservation Area and hope the latest changes will still enable the objective of a quality hotel and restaurant to be achieved. The other, from adjoining residents, comment their objections have been taken into full consideration and restoration of the property is welcomed now that the extension no longer includes a two-storey wall blanking off the neighbouring properties.

## **COMMENT**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in design and heritage terms and whether the proposal would have any significant effect on the residential amenities of the occupiers of neighbouring properties.

The site has been vacant for some years and has in the past been extended and altered with many of the changes being considered unsympathetic. The proposed works, whilst extensive are described by the applicant as being part of a scheme "where the plans, funding and requirement are all lined up to restore this dilapidated historic building into a venue every city would envy".

### **Design/Heritage impact**

The most significant element of this planning application was held to be the construction of a two-storey rear extension and four storey lift shaft, following the removal of existing rear additions and an external fire escape staircase. The removal of the existing extensions and accretions would be a positive and taken together with proposed alterations to the rear elevation of the building would enhance the special architectural and historic interest of this Grade II Listed Building. The proposed replacement structures were described to be in a contemporary 'mid twentieth century modern' idiom with a flat roof and be finished in white render with ribbon style window openings.

The lift, service riser and M&E equipment are considered to represent necessary additions to the hotel to enhance accessibility and functionality in line with the expectations of a high end hotel. When considered in the context of the existing features present on the rear of the building, and the poor condition of the rear wall itself, it is reasonable to suggest their impact on the significance of the listed building would be low. Furthermore in terms of siting, unlike the existing fire escape, this element of the proposal would be set back behind the dog leg created by the existing projection of No.59 High Street.

It was previously commented that the contemporary extension would provide a strong contrast to the existing building. The significance in heritage terms of the rear of the building is low. Whilst the proposed extension is significantly larger than the existing projections on the rear of the building, it would nevertheless be subservient to the recipient building. Its size and scale is not considered to be excessive or overwhelming in relation to the main part of the building. The stylistic approach adopted is very contemporary with its form, finish and architectural details all offering a strong contrast with the hotel. It should be noted that neither the buildings listed status, nor its location in the Conservation Area require the approach adopted here to be one of architectural pastiche. The architecturally bold approach that has been adopted is considered to be consistent with the concept of 'conservation' (as opposed to preservation). The structure would sit at the rear of the building, and would not therefore impact on the more sensitive and significant front façade of the building.

In wider design terms it is considered that as a whole the proposed works to the rear of the building would improve its appearance and be beneficial not only to the listed building itself but also to the character and appearance of the Conservation Area.

Following deferral, the proposed enlargement at the rear of the property has been scaled back to be predominantly single-storey but still partly two-storey immediately to the rear of the building.

The proposal still also includes works to the front of the building which is considered to be of a high significance in terms of its age, appearance and the contribution which the façade makes to the wider Conservation Area. The proposals for the front elevation centre on the removal of a number of number of later 'extraneous' non-original elements of fabric including: wrought iron planters, Juliet balconies and various mouldings at ground floor level and the removal and replacement of the of the current front doors. It is considered that the overall effect of the proposal would be a positive and be beneficial to the front elevation of the building. Visual 'clutter' would be stripped back and the façade given a cleaner, crisper and potentially more authentic appearance. This element of the proposal is therefore considered acceptable in both design and heritage terms.

## **Amenity**

In amenity terms, most of the elements of the proposal would have no significant effect on the living conditions of the occupiers of neighbouring properties. The two elements that do have the potential to impact on amenity are the rear extension and the proposed installation of plant and equipment associated with the proposed refurbishment of the building.

The application is accompanied by a noise report, however no substantive details are provided about the proposed equipment. We agree with the view expressed by Environmental Protection Officers that planning conditions can be imposed to ensure that the operation of plant and equipment operate without harm to residential amenity.

A significant part of the two-storey rear extension has been deleted from the scheme, where it would have projected beyond the rear of No.59 High Street. The proposed ground floor would still cover the entirety of the site, however, it would be within an already enclosed area and most of which is covered by buildings at the moment. As a result of the amendment to the scheme,



the proposal would no longer result in any significant harm on the living conditions of the occupiers of the lower flat in Quay Gate House and number 59 High Street.

The removal of an existing external fire escape staircase is considered to improve the outlook of occupiers of adjoining properties.

### **Potential Benefits and Justification**

The applicant's statement in support of their application was previously reported. It highlights the increase in visitor numbers in the city, the growth of tourist attractions and the lack of hotel space. Reference is made to many of the existing hotels operating at over 90% occupancy. The applicant notes that the site has been vacant for some years and through a lack of maintenance is now at risk and in need of substantial refurbishment. The applicant suggested that in its current state the building is not mortgagable and could only be developed through equity financing which limits the scope for investment. The applicant made reference to the iconic nature of the building and its history of being host to famous and infamous guests. The applicant highlights that to be viable as a hotel it needs to have the facilities akin to a five star venue. To facilitate such a high end hotel, certain back of house and customer faculties are required. The applicant contends that the constraints of the site are such that these can only be provided through a significant two-storey extension; notwithstanding their stated views, the application has since been amended, to remove the element of the scheme that would harm the living conditions of neighbours.

### **Conclusion**

Following amendment to the scheme, the proposal is considered to represent a sympathetic restoration of this important heritage asset without significant harm to the living conditions of occupiers of neighbouring properties.

## **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: P50192\_1000; P50192\_1201 RevD; P50192\_1202 RevD; P50192\_1203 RevD; P50192\_1204 RevD; P50192\_1205 RevD; P50192\_1206 RevD; P50192\_1207 RevD; P50192\_1250 RevD; P50192\_1350 RevD; P50192\_1351 RevD; and, P50192\_1352 RevD.
- 3) a) Development shall not commence until the design detailing and finish of the rear extension and lift/ductwork shaft, to include materials, finishes and junctions at 1:20 scale (or such other appropriate scale as may be agreed) have been submitted to and approved in writing by the Local Planning Authority.  
b) The development shall thereafter be carried out in complete accordance with the approved details.
- 4) a) No plant or equipment shall be installed until an assessment of noise from the operation of the plant or equipment has been undertaken using the procedures within British Standard BS4142:2014 (or any equivalent as may be agreed in writing by the LPA) and a report including specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant equipment has been submitted to and approved in writing by the Local Planning Authority.

- b) No plant or equipment shall be brought into use until all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant or equipment approved pursuant to part a) of this condition have been fully implemented.
- c) All mitigation measures shall thereafter be retained.

- 5) a) No cooking equipment shall be installed until details of any measures to suppress and disperse odour and fumes emitted from cooking operations arising from the premises has been submitted to and approved in writing by the Local Planning Authority.
- b) No cooking equipment shall be brought into use until all specified measures to mitigate any odour and fumes emitted from cooking operations approved pursuant to part a) of this condition have been fully implemented.
- c) All mitigation measures shall thereafter be retained.

**The reasons for the conditions are:**

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To secure high quality external finishes to a building and to preserve the special architectural or historic interest of this statutorily listed building, in accordance with the aims and objectives of the National Planning Policy Framework and the provisions of policy PCS23 of the Portsmouth Plan.
- 4) To protect the living conditions of the occupiers of neighbouring residential properties in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To protect the living conditions of the occupiers of neighbouring residential properties 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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**ST JAMES HOSPITAL LOCKSWAY ROAD SOUTHSEA PO4 8LD****CONSTRUCTION OF NEW SERVICE YARD WITH STORE BUILDINGS AND SUBSTATION AND ASSOCIATED LANDSCAPING (AMENDED SCHEME TO 16/00937/FUL)****Application Submitted By:**

Studio Four Architects Ltd  
FAO Mr Steve Hole

**On behalf of:**

Solent NHS Trust  
FAO Mr Mark Young

**RDD:** 23rd November 2016

**LDD:** 23rd January 2017

**SUMMARY OF MAIN ISSUES**

The determining issues are:

- a) Whether the principle of development is acceptable;
- b) Whether there would be an impact on the protected trees and species;
- c) Whether the design is acceptable and whether there would be an impact on heritage assets;
- d) Whether there would be a significant impact on residential amenity; and,
- e) Whether there would be a significant impact on the local highways network.

**The Site**

The application site comprises parts of the grounds of St James' Hospital and adjacent land. The site as indicated by the 'red line' includes the access road from Locksway Road along the eastern boundary of the site to The Orchards and around to The Limes. It also includes an 'L-shaped' section of road leading from the northern entrance to the hospital from Edenbridge Road around Falcon House, however this is to link the site to the highway and no works are proposed in this area. The 'blue land' indicates the part of the hospital grounds retained by the local NHS trust. The main hospital building is Grade II Listed as is the former hospital chapel.

**The Proposal**

The applicant seeks permission for the construction of new service yard with store buildings and substation, and landscaping (Re-Submission of 16/00937/FUL).

**Relevant Planning History**

The relevant history for this site relates to the construction of new service yard with store buildings and substation with improved access road, foot way and associated tree removal that was withdrawn (ref. 16/00937/FUL). This application was withdrawn by the applicant who stated: 'The issues raised in consultation responses are being reviewed by the applicant who has advised that they intend to submit a revised planning application for an amended scheme.'

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include: PCS13 (A Greener Portsmouth), PCS23 (Design and Conservation), DC21 (Contaminated Land),

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS13 (A Greener Portsmouth) and PCS23 (Design and Conservation). Saved policy DC21 (Contaminated Land) would also be a material consideration.

## **CONSULTATIONS**

### **Leisure/Arb Officer**

#### **Observations**

The content of Arboricultural Impact Assessment (AIA) dated 3rd October 2016 is accepted and agreed.

This resubmission of 16/00937/FUL does not include a proposal for the removal of any trees from this site confirmed within AIA Para 4.3.1.

If the recommendations contained within the AIA are followed and adhered to the development should be achieved with no impact upon the tree stock which will offer continued amenity value.

#### **Recommendations**

From an arboricultural perspective there is no objection to the proposal and the application be granted.

### **Contaminated Land Team**

None.

### **Highways Engineer**

This application proposes development within the existing hospital site access via the existing network of internal private access roads. No formal traffic assessment or statement has been submitted in support of this application although the Local Highways Authority (LHA) is satisfied that the scale of the proposal is such that it would not have a material impact on the operation of the local highway network.

The application proposes the creation of a new service yard and compound in the south east corner of the 'Orchards' plot resulting in a loss of 5 parking spaces which are well related to serve the 'Orchards' unit together with the provision of an additional 17 spaces fronting 'The Limes'. Whilst this maintains the absolute numbers of parking spaces within the hospital grounds and provides additional parking commensurate with the likely increase in demand arising from the proposed facility, the relocated and additionally provided spaces are not well related to either the proposed service yard or the 'Orchards' unit. As a consequence it is likely that drivers seeking to access these facilities will be more likely to park on the surrounding access roads than in the re-provided spaces. However the LHA would not anticipate that this parking will extend to the public highway and consequently will not cause any disruption to the operation of the local highway network.

In that light the LHA would not wish to raise an objection to this application on highway grounds.

### **Environmental Health**

The service yard will house two compactors and this is situated close to The Orchard and the Harbour School (which is currently vacant). The applicant's agent has stated that the compactors are Capital Compactors & Balers CP10 Waste compactor with a manufacturer's

noise rating of 67dB @3m. Due to the distance of the compactors from the buildings it has been predicted that if the equipment is run simultaneously, the noise levels from this plant will be 61dB (A) however, the boundary wall of the service yard will offer some acoustic screening in particular to Harbour School. Also, if one compactor is used at a time this will reduce the noise level further.

To ensure that no loss of amenity is caused from the use of the compactors it is recommended that the following condition is attached should this application be granted;

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 observed adverse effect levels due to the operation of the plant shall be implemented.

The generator and the substation are contained within an enclosed building therefore it is unlikely that the noise from the operation of this plant will have an impact upon the Orchard or the Harbour School.

### **Southern Electric**

None.

### **Natural England**

SPA and Ramsar, Solent Maritime SAC

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:

A) The proposal is not necessary for the management of the European site

B) 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.

The development site is nearby to known sites that are used by the qualifying features of the aforementioned SPA as a high tide roost. We therefore recommend that the following condition is appended to the planning permission:

A) No percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax - measured at the sensitive receptor) to be undertaken during the bird overwintering period (i.e. October to March inclusive).

Langstone Harbour SSSI: No objection - no conditions requested

This application is in close proximity to Langstone Harbour 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(l) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

## **Ecology**

### **Trees**

The application is supported by an arboricultural impact assessment (SJ Stephens Associates, October 2016) which identified that the scheme will not result in any tree felling. However, the impact assessment only appears to cover the footprint of the proposed service yard and not the additional parking spaces and access improvements shown on the Site Location Plan (Studio Four Architects Ltd, May 2016) and the Proposed Works Plan (Studio Four Architects Ltd, May 2016). Ecology would recommend that the applicant confirms whether or not the full extent of the proposed works will require tree felling or could indirectly impact trees. If trees are to be felled, their suitability to support bat roosts should be assessed.

## **Access improvements/traffic**

Access to the proposed service yard will be provided via the existing route from Locksway Road from the south. The existing access road is located immediately adjacent to an Important Brent Goose and Wader Site - P25. Increased traffic movements along this route could disturb Brent geese and waders using P25, therefore, it would be recommended that the applicant clarifies the level/type of additional vehicle movements expected along this access route as a result of construction and operation of the proposed service yard.

## **Langstone Harbour Board**

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

## **REPRESENTATIONS**

Six representations have been received objecting to the proposal on the following grounds: a) No trees or shrubs should be felled or cut back as part of the works; b) increased noise levels from vehicles using the service yard; c) increased air, light and noise pollution that will have a detrimental impact on local residents and wildlife; c) increased lighting will disturb nocturnal animals such as bats; d) disturb wildlife during the breeding season; and, e) no new access road should be built.

One general comment has been received from the Homes and Communities Agency neither supporting nor objecting to the proposal but make the following comments: a) concerns regarding the proposed service yard, associated buildings and storage facilities have been broadly addressed and it is recommended that conditions relating to noise attenuation, storage of bins and operating hours are suggested.

## **COMMENT**

The determining issues are: a) whether the principle of development is acceptable; b) whether there would be a significant impact on the protected trees and species; c) whether the design is acceptable and whether there would be an impact on heritage assets; d) whether there would be a significant impact on residential amenity; and, e) whether there would be a significant impact on the local highways network.

## **Principle of development**

Although forming part of a long established mental health campus there have also been long-term proposals to re-organise services provided on the site, and provide new facilities across the eastern part of the site with the eventual closure of the principal buildings for health purposes. Those proposals have resulted in the provision of The Limes, Hamble House and The Orchards, all comparatively new satellite buildings delivering mental health services. This work aims to

deliver significant savings to the Healthcare Economy through future disposal of unused and costly buildings, and retention and improvement of more appropriate and cost effective facilities.

With the Main Block at St James Hospital under the ownership of NHS Property Services, Solent NHS Trust has been working with this organisation to relocate its services from this building to alternate retained buildings within the campus and throughout the City. With a view to eventual disposal of this Main Block, a key enabling piece of work is to relocate the existing infrastructure functions it provides to serve the Trusts retained estate on the campus. The main functions therefore that have received particular attention include the primary access into the retained area of the Campus, emergency generator functionality, and suitable waste storage.

In the preparation of the Portsmouth City Local Plan 2001-2011 the Primary Care Trust had indicated that part of the grounds of the hospital would become surplus to requirements as part of the provision of new mental health services within the hospital grounds. To reflect this situation policy MT3 of the Portsmouth City Local Plan 2001-2011 allocated the grounds of the Hospital for a mix of new mental health care development and housing.

The previous local plan included a specific allocation of land to the east of St James' Hospital for the development of a new health care campus. This facility remains one of the long term objectives of the Portsmouth City Primary Care Trust. It is anticipated that part of the grounds of the Hospital will become surplus to the requirements of the Primary Care Trust and the land involved may be suitable for housing development.

In accordance with the NPPF, the relevant policies within the Portsmouth Plan and the wider aims and objectives for the St James' Hospital Site, it is considered that the development is acceptable in principle subject to there being no significant adverse impact on the environment or local residents for example.

### **Impact on protected trees and species**

Whilst a number of objection comments refer to the loss of trees and the impact on local wildlife, the supporting Arboricultural Impact Assessment (AIA) (conducted by SJ Stephens Associated dated 03.10.2016) states at paragraph 4.3.1 that no tree work is proposed. A small area of T118s root protection area would have to be excavated for the foundations (noted at paragraph 4.4.2). The concluding remarks of the design and access statement (prepared by Studio Four Architects Ltd) confirms that no trees loss is proposed as part of the development. The Council's Arboricultural Officer goes on to state: 'If the recommendations contained within the AIA are followed and adhered to the development should be achieved with no impact upon the tree stock which will offer continued amenity value.' Whilst trees form an important part of the St James Hospital site and this revised application has responded to previous high numbers of representations, it is considered that with conditions to protect the trees there would be no harm to the high amenity value they afford to this site.

The National Planning Policy Framework (paragraphs 109, 117 and 118) draws attention to the duty to protect the natural environment and to the opportunities for its enhancement. The Conservation of Species and Habitats Regulations 2010 makes it an absolute offence to: deliberately capture, injure or kill any European Protected Species (EPS), to deliberately disturb them and/or to damage or destroy a breeding site or resting place. In addition, the Wildlife and Countryside Act 1981 (as amended) makes it an offence to intentionally or recklessly disturb a EPS while it is occupying a structure or place which it uses for shelter or protection, or to obstruct access to any structure or place the species uses for shelter or protection.

Natural England highlight that the site is nearby to known sites that are used by the qualifying features of the Solent Special Protection Areas as a high tide roost including Brent Geese. Conditions have been suggested to restrict any construction phases during the bird overwintering period (October to March). This application is in close proximity to Langstone Harbour Site of Special Scientific Interest. Natural England state: '...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.' Having regard to the comments by Natural England, it is considered that the development would not have an impact on the SPA areas or protected species that use these areas.

The counties' Ecologist have highlighted that there may be bat roosts present and have raised concerns regarding the impact of the additional 17 spaces created near 'The Limes'. However, the supporting information relates to no tree loss across the site as a result of the development and the submitted plans indicate that these additional spaces would not result in tree loss, although some shrubbery may be. As there would be no tree loss, an informative could be added informing the applicant of the protected status of bats and their roosts.

In considering the proposal the LPA must address its mind to the three degradation tests that are as follows:

1. Imperative reasons of overriding public interest or for public health and safety;
2. There must be no satisfactory alternative; and
3. Favourable conservation status of the species must be maintained.

The supporting design and access statement refers to a number of benefits from the development. As part of cost efficiency savings, the works would allow unused areas of the grounds and hospital to be disposed of leaving the NHS with modern fit for purpose buildings. The information suggests retained services are to be re-located to the community and the eastern part of the hospital grounds.

The development would also provide a dedicated clinical waste storage centre and provide emergency generator facilities. The positioning of these facilities close to the existing access way connecting to Locksway Road would ensure that there are fewer traffic movements across the site that could result in increased health and safety for those using the site.

This location has been selected as the least disruptive to hospital activities, resulting in a development that would not require the removal of any protected trees from the site. Additional planting has been suggested by the applicant that could be controlled by condition.

Environmental Health and Natural England have suggested conditions to secure the development from unnecessary harm including (numbering reflecting respective condition):

4. 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 shall be submitted to the local authority for approval. Upon approval all specified measures to mitigate any observed adverse effect levels due to the operation of the plant shall be implemented in accordance with the approved scheme and permanently retained in that condition.

6. No percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax - measured at the sensitive receptor) shall be installed during the bird overwintering period (i.e. October to March inclusive).

7. The use of the service yard and buildings hereby permitted shall operate between Monday to Sunday and closed and vacated outside of the hours 07:30 and 2200 unless otherwise required for hospital emergency purposes.

Having regard to the comments from Natural England, the HRA undertaken by the local planning authority, and with planning conditions, it is considered that an additional appropriate assessment or imperative overriding public interest statement of case is not required. Therefore, the scheme could be delivered to provide an acceptable development and maintain a favourable conservation status.



## **Design and impact on heritage assets**

When determining planning applications affecting listed buildings, the LPA must have regard to Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended). The act places a duty on the LPA to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses.

The development would include the creation of a new service yard that would be enclosed by boundary walls some 2.6 metres high. Within the service yard, there would be several buildings that would be no higher than 3.2 metres that would be roofed and enclosed including facilities for: dirty linen store, cleaning equipment store, electrical switchgear and the electrical substation. The roof of these enclosures would be constructed in single ply membrane in grey with elevations comprising mixed brick and render to match 'The Orchards'. The storage area for the medical gas bottles would be roofed but not enclosed. Several elements would be open including the service yard and generator enclosure.

A hardstanding area would be created to the west of 'The Limes' to provide an additional 17 spaces on site.

The service yard would have a footprint of 273m<sup>2</sup> that would include the provision of hard surfacing and landscaping although no details have been provided with regard to further planting as suggested by the applicant to 'soften' any visual impact. Although the building would have a relatively large footprint, when considered against 'The Orchards' site and the wider St James' Hospital; it is considered that it would be of an appropriate scale.

Due to the spatial separation with the listed buildings on site and the scale of the proposed building, service yard and landscaping works, it is considered that there would be no impact on the setting or any features of special architectural or historic interest of the listed buildings.

## **Impact on residential amenity**

During any construction works, there would be a short term impact on residential amenity as a result of the development but a number of representations refer to increased noise and light pollution as a result of the development for residents and wildlife.

With regard to noise, Environmental Health Officers have suggested conditions to control the level of noise from the waste compactors and generators that would be located in open areas of the service yard. Whilst it is suggested that the boundary wall of the development would offer some screening to Harbour School acknowledging that this will be vacating the site in the future, and the existing spatial separation of some 115 metres (measured via Google Earth) to residential accommodation on Cherton Road, 210 metres to properties on Locksway Road and 76 metres for buildings to the east is considered to reduce some impact of noise. There could be some impact for future should there be residential development properties that may develop on the site in the future. As such, it is considered that conditions relating to the control of noise would be required and operating hours could be imposed on the service yard, although no suggested times have been provided by the applicant.

Whilst the use of the yard and associated buildings would require some form of lighting, it is considered that by virtue of the large spatial separations with the nearest residential properties, the limited scale of the building and with conditions to control the hours of operation, there would be no significant impact on residential amenity or wildlife through increased light pollution.

## Highways

Access to the site would be facilitated by the existing entrance from Locksway Road and the supporting information suggests that vehicles using the service yard would be for deliveries and removals.

The new service yard and compound in the south east corner of the 'Orchards' plot would result in the loss of five parking spaces that are well related to serve the 'Orchards' unit together with the provision of an additional 17 spaces fronting 'The Limes'. Whilst this maintains the absolute numbers of parking spaces within the hospital grounds and provides additional parking commensurate with the likely increase in demand arising from the proposed facility, the relocated and additionally provided spaces are not well related to either the proposed service yard or the 'Orchards' unit. As a consequence it is likely that drivers seeking to access these facilities will be more likely to park on the surrounding access roads than in the reprovided spaces. However, the Highways Engineer has suggested that this parking is unlikely to extend to the public highway and consequently would not cause any disruption to the operation of the local highway network.

Whilst a number of representations refer to the increase in traffic volume at the site, the Highways Engineer has suggested that as a result of the service yard, it is unlikely that there would be significant additional highways movements. Any additional movements may be displaced from elsewhere on site.

## Conclusion

It is considered that the development accords with the principles of the NPPF in favour of sustainable development and the proposal is considered to accord with the provisions of PCS13 and PCS23 of the Portsmouth Plan.

## RECOMMENDATION                      Conditional Permission

### Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Site Location Plan (90 Rev P6), Proposed Plans and Elevations (92 Rev P5) and Proposed Works (91 Rev P6).
- 3) 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 shall be submitted to the local authority for approval. Upon approval all specified measures to mitigate any observed adverse effect levels due to the operation of the plant shall be implemented in accordance with the approved scheme and permanently retained in that condition.
- 4) Notwithstanding the submitted details, the new service yard with store buildings and substation hereby permitted shall not be occupied/brought into use until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping 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/use of the extension. 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.

5) No development or site clearance shall take place until the methods for protecting the canopy, trunk and root protection areas as outlined in the Arboricultural Impact Assessment Report prepared by SJ Stephens Associates dated 03.10.2016 (project number 705) of tree preservation order number 177 (to include protection for trees T113, T114, T115, T118, T119 and T120) have been fully implemented in accordance with the approved details. The protection measures shall be retained during all works association with this permission.

6) No percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax - measured at the sensitive receptor) shall be installed during the bird overwintering period (i.e. October to March inclusive).

7) The use of the service yard and buildings hereby permitted shall operate between Monday to Sunday and closed and vacated outside of the hours 07:30 and 2200 unless otherwise required for hospital emergency purposes.

**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 prevent any adverse impact on residential properties in accordance with policy PCS23 of the Portsmouth Plan.
- 4) In the interests of visual amenity and to provide mitigation for the increased building bulk on the St James' Hospital site in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
- 5) To protect the high amenity value and contribution to the environment of trees protected by preservation order number 177 at St James Hospital.
- 6) To prevent any adverse impact on protected species as a result of the development in accordance with policy PCS13 of the Portsmouth Plan.
- 7) To protect European Protected Species and other wildlife from unnecessary noise and disturbance and nearby and future residential properties in accordance with policy PCS13 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.

**1 ELM LODGE ST PETERS GROVE SOUTHSEA PO5 1LS****CHANGE OF USE FROM HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO PURPOSES FALLING WITHIN CLASS C3 (DWELLING HOUSE) OR CLASS C4 (HOUSE IN MULTIPLE OCCUPATION)****Application Submitted By:**

Les Weymes Planning Consultancy Ltd  
FAO Mr Les Weymes

**On behalf of:**

Mr & Mrs Kei Sung & Shui Yee Tang

**RDD:** 29th September 2016

**LDD:** 25th November 2016

**SUMMARY OF MAIN ISSUES**

This application has been called in to be represented at Planning Committee as a result of a Deputation request from a local resident.

This application relates to a three-storey detached block of residential flats located to the southern side of St. Peter's Grove close to its intersection with Elm Grove.

The application site is the ground floor flat which fronts directly on to the back edge of the footway and comprises a kitchen/dining room, bathroom and four bedrooms. The surrounding area is characterised by densely populated residential terraces and is in close proximity to a wide range of shops and services located on Elm Grove.

The applicant has provided evidence that the property has been lawfully used as a Class C4 HMO prior to the 1st of November 2011. It is important to note that the outcome of the recommendation will either enable the applicant the flexibility to change between Classes C3 (Residential) and C4 (HMO) or on the other hand, retain the existing Class C4 status without the ability to change to a Class C3 without prior consent from the Local Planning Authority.

This application seeks planning permission for the flexible 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 an Article 4 Direction relating to HMOs came into force. 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 property is currently in lawful use as a Class C4 HMO.

There is no planning history relevant for the determination of this application.

## **POLICY CONTEXT**

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

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

## **CONSULTATIONS**

### **Private Sector Housing**

No Response

### **HMO Consultation Memo**

No Response

## **REPRESENTATIONS**

Two representations has been received objecting to the development on the grounds of (a) impact on parking provision and (b) future occupiers of the property and (c) increased noise and disturbance.

This item was raised to the Member Information Service; however no further comments were received.

## **COMMENT**

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

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the flexibility to change freely between the two use classes. The applicant has provided evidence in the form of tenancy agreements to demonstrate that the property was in use as a HMO prior to the 1st November 2011 and has continued to be used as such until present. This evidence has been confirmed against records held by Portsmouth City Council in the form of Council Tax Records and monitoring data.

Policy PCS20 (Houses in multiple occupation (HMOs): ensuring mixed and balanced communities) of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance. This is supported by the guidance within the National Planning Policy Framework which seeks to 'deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities'.

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

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

The application site does benefit from off-street parking however no additional parking is proposed as part of this application. Given that the site is located within a short walk of local transport links, shops and services, and is currently in use as a Class C4 HMO, it is considered that an objection on car parking standards could not be sustained.

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

## **RECOMMENDATION                      Conditional Permission**

### **Condition**

1) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan, Site Plan, Floorplans.

### **The reason for the condition is:**

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

### **PRO-ACTIVITY STATEMENT**

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

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

New Era Agency  
FAO Mr Chris Broyd

**On behalf of:**

C/O Agent

**RDD:** 7th November 2016

**LDD:** 3rd January 2017

**SUMMARY OF MAIN ISSUES**

This application has been called in to be represented at Planning Committee upon the request of Cllr. Lee Hunt.

It relates to a two-storey mid-terraced dwelling located to the southern side of Heidelberg Road close to its intersections with Francis Avenue and Orchard Road.

The property fronts directly on to the back edge of the footway and comprises a kitchen, lounge, bathroom and bedroom at ground floor level, with three bedrooms and a bathroom at first floor level. The surrounding area is characterised by densely populated residential terraces to the south-east of Fratton District Centre

The applicant has provided evidence that the property has been lawfully used as a Class C4 HMO prior to the 1st of November 2011. It is important to note that the outcome of the recommendation will either enable the applicant the flexibility to change between Classes C3 (Residential) and C4 (HMO) or on the other hand, retain the existing Class C4 status without the ability to change to a Class C3 without prior consent from the Local Planning Authority.

This application seeks planning permission 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 an Article 4 Direction relating to HMOs came into force. 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 property is currently in lawful use as a Class C4 HMO.

There is no planning history relevant for the determination of this application.

## **POLICY CONTEXT**

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

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

## **CONSULTATIONS**

None.

## **REPRESENTATIONS**

One representation has been received from a Local Ward Councillor objecting to the development and requesting that it is considered at Planning Committee.

## **COMMENT**

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

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the flexibility to change freely between the two use classes. The applicant has provided evidence in the form of tenancy agreements to demonstrate that the property was in use as a HMO prior to the 1st November 2011 and has continued to be used as such until present. This evidence has been confirmed against records held by Portsmouth City Council in the form of Council Tax Records and monitoring data.

Policy PCS20 (Houses in multiple occupation (HMOs): ensuring mixed and balanced communities) of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance. This is supported by the guidance within the National Planning Policy Framework which seeks to 'deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities'.

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

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

The application site does not benefit from any off-street parking and none is proposed as part of this application. However, given that the site is located within a short walk of local transport



links, shops and services, and is currently in use as a Class C4 HMO, it is considered that an objection on car parking standards could not be sustained.

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

## **RECOMMENDATION                      Conditional Permission**

### **Condition**

1) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan, Floorplans.

### **The reason for the condition is:**

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

### **PRO-ACTIVITY STATEMENT**

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

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15 STUBBINGTON AVENUE PORTSMOUTH PO2 0HP

**CHANGE OF USE OF THE BUILDING TO PURPOSES FALLING WITHIN A HOUSE IN MULTIPLE OCCUPATION (CLASS C4)**

**Application Submitted By:**

Thorns Young  
Ltd FAO Mrs Rebecca Nash

**On behalf of:**

Mr G Bhakad

**RDD:** 24th November 2016

**LDD:** 20th January 2017

**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 existing community 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 semi-detached property on the northern side of Stubbington Avenue, just east of its junction with Emsworth Road. The application solely relates to the three storey part of the building that fronts the road. There is a separate single dwelling occupying a two storey projection at the rear which does not fall within the application site. The property is set back from the highway by a forecourt which comprises a hardstanding for a car and the remainder is front garden. The immediate surrounding area is predominantly residential in character, although London Road and the North End district centre are approximately 120m to the west.

Internally the building is currently laid out as 5 self-contained flats (1 on the ground floor and 2 each on the first and second floors), all accessed from the main front door to the building and the internal central staircase. Each flat has kitchen facilities and en-suite shower room behind its own door. It is understood, however, that conversion has been carried out in the last year; it does not benefit from planning permission. As such the conversion to 5 self-contained dwellings units is unlawful. The available floorspace of the dwellings on the upper floors is particularly cramped and restricted, falls significantly short of the minimum National Described Space Standards and would not be likely be capable of support if an application were made to regularise their use. The available evidence indicates the lawful use of the application site to be as 2 dwellings (1 maisonette on ground/first floors and 1 flat on second floor) - see Planning history below.

**Proposal**

This application seeks planning permission for the use of the property for purposes falling within Class C4 (House in Multiple Occupation).

## **Planning history**

A\*27270/AA - Certificate of Lawful Use or Development dated 28 July 1995 relating to No15 Stubbington Avenue for 'Use as three self-contained flats (each at ground, first and second floor levels) and non self-contained maisonette (at ground and first floor level).

The floor plans submitted as part of the evidence for the Certificate show the rear two-storey projection (ie the part of the building excluded from the current application) to accommodate 2 flats (one at ground floor level and one at second floor level) and the main three-storey building, which is the subject of the current application, to accommodate a 2-bedroom maisonette at ground and first floor with a one-bedroom flat at second floor level.

To the rear of No15 Stubbington Avenue (ie the two-storey rear projection):  
08/01290/FUL - "Conversion of Flats 15C and 15D to form one dwellinghouse with external alterations including removal of rear staircase", permitted 16 September 2008.

## **POLICY CONTEXT**

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

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

## **CONSULTATIONS**

### **Highways Engineer**

Based on an existing lawful use is as 1 x maisonette (2 beds) and 1 x flat (1 bed) with a total of 3 bedrooms - rather than 5 flats - a total of 3 car parking spaces and 4 cycle parking spaces would be required to comply with the adopted Parking Standards & Transport Assessments SPD (July 2014).

### **Parking**

The proposed use as an HMO (Class C4) for 4+ bedrooms requires 2 car parking spaces and 4 cycle parking spaces. As the proposal results in a reduced parking expectation associated with the site no objection is raised on the basis of any parking shortfall.

### **Cycle parking**

No cycle storage details have been submitted with this application, which results in the proposal not meeting the requirements as set out in the Parking Standards SPD. The applicant will be expected to provide details of long-stay secure/weatherproof cycle storage for 4 cycles which meet the design standards in the Parking SPD.

No highways objection raised, subject to the following condition:-

- 1) Details of long stay secure, enclosed and weatherproof cycle storage for 4 cycles to be submitted for approval prior to installation and to be retained thereafter.

### **Environmental Health**

Although houses in multiple occupation (HMO) will potentially result in a higher concentration of persons in a household, we currently have no evidence to support the view that HMOs attract an increased number of noise complaints or are the subject of regular enforcement action. In the absence of any such evidence, it would be difficult to argue that the proposed use can be

inherently associated with noise when the alleged impacts occur as the result of the behaviour of individuals and not the behaviour of the residents of HMOs as a whole.

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

### **Private Sector Housing**

No response received.

## **REPRESENTATIONS**

Five representations have been received raising objection on the grounds of:

- (a) description of development is misleading - recently created 5 self-contained flats carried out without planning permission; it is understood that property has undergone a range of modifications - why has retrospective planning permission not been needed?
- (b) concern that a HMO would be detrimental to the surrounding residential area by potential anti-social behaviour of occupants, increased litter, noise and disturbance, intensive use of property;
- (c) more beneficial to provide flats given a lack of family homes in the city;
- (d) lack of detail in submission;
- (e) Stubbington Avenue already has a high proportion of HMO properties and the HMO database is incorrect - questions whether decisions should be made using it as No.16 has planning permission for a HMO use that should by default mean that No.15 is not allowed to receive the same status due to overcrowding;
- (f) increased traffic would exacerbate the already over-stretched parking situation in Stubbington Avenue; and
- (g) concern about whether old sewers can cope with levels of use.

## **COMMENT**

The main issues to be considered in the determination of this application are the appropriateness of such a C4 HMO use in the context of the balance of uses in the existing community 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/recyclable materials.

Permission is sought for use of the building, with a lawful use as 2 dwellings (one maisonette and one flat), for purposes falling within Class C4 (house in multiple occupation).

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 Supplementary Planning Document (HMO SPD) sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses.

In identifying the area surrounding the application property, it has been established that 1 of the 55 residential properties within a 50 metre radius is in use as a HMO. Initially the database identified two existing HMO properties within the area (50m radius) around the application property. No16 Stubbington Avenue was granted planning permission (ref 14/01263/FUL) in November 2014 for a 'change of use from dwellinghouse (Class C3) to purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwellinghouse)', however, No4a Stubbington Avenue has no planning permission as a HMO. Following a visit to No4a, subsequent research from the occupant has established that it is in use as a three-bedroom

property by a family. The reason for this property being recorded on the HMO database at the time of its conception was that Council Tax records showed student exemption in 2011; there is no evidence to substantiate that this property is in use as anything other than a Class C3 dwellinghouse and therefore should be removed from the HMO database. Therefore, as the granting of permission would increase the proportion of HMOs from 1.8% (1 out of 55) to just 3.7% (2 out of 54, after net loss of one dwelling), it is considered that the community is not already imbalanced by a concentration of HMO uses and that this application would not result in an imbalance of such uses.

It is 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. In this instance the lawful use of the part of the building the subject of this application is two dwellings. The overall number of occupants in a C4 HMO is unlikely to be greater than level of occupation from the lawful use as 1xbed flat and 2xbed maisonette. This issue has been considered in previous appeals 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. It is therefore considered that the proposed use of the building within Class C4 would not be demonstrably different from the existing lawful use (as two dwellings) within Class C3 that make up the prevailing residential character of the surrounding area.

The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is only 1 other HMO within the surrounding area, it is considered that the impact of one additional HMO would not be significantly harmful at this particular point in time.

The application site benefits from 1 off-street parking space. No objection is raised by the Highways Authority on the basis of any parking shortfall, given a net reduction in the notional parking demand by a C4 HMO use from the lawful use as 1xbed flat and 2xbed maisonette, and given that the site is within a short walk of local transport links and local shops and services, it is considered that an objection on car parking could not be sustained.

It is understood that the application site does not have access or right to use the rear garden area and therefore external cycle provision facilities must be secured at the front of the building. A suitable condition is recommended. The storage of refuse would remain unchanged.

### **Other matters raised in representations**

The description initially advertised was that supplied on the application forms. Following investigation and representations received, the description has been revised to better reflect the proposal; Highways and Environmental Health have been re-consulted and neighbours re-notified.

Some objectors consider that, with the lack of affordable housing, it would be more beneficial to use the property to provide separate flats or a family home. The application before the Local Planning Authority is for a Class C4 HMO use so that is what is to be considered at this present time.

The use of the building as 5 self-contained flats has occurred without the benefit of planning permission. The current unauthorised use is the subject of enforcement investigation and is not the matter for consideration by this application for a C4 HMO use (although potential action can be undertaken to secure its cessation if held expedient to do so).

With respect to the concern regarding lack of detail within the submission, the drawings submitted whilst not dimensioned are to scale and the layout of each floor shown and annotated.

## **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 (1:1250); Block Plan (1:500); and, Existing Floor Plans (1:50).
- 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 (in the form of long stay secure, enclosed and weatherproof cycle storage for 4 cycles) 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**

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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239 POWERSCOURT ROAD PORTSMOUTH PO2 7JJ

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

**Application Submitted By:**

Thorns Young Ltd  
FAO Mr Sam Appleton

**On behalf of:**

Mr Alex Venables

**RDD:** 2nd December 2016

**LDD:** 30th January 2017

**SUMMARY OF MAIN ISSUES**

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

**The Site**

This application relates to a two-storey mid-terraced dwellinghouse that is located on the north side of Powerscourt Road just to the east of the junction with Bedhampton Road.

**The application**

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

**Planning History**

There is no relevant planning history for this site.

**POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

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

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

## CONSULTATIONS

HMO Consultation Memo

### Private Sector Housing

None.

## REPRESENTATIONS

Ward Councillor Neil Young has deputised this application on the grounds of the increased parking pressure that existing residents would experience if the proposal is allowed.

At the time of writing 25 representations have been received objection on the grounds of:

- 1) The plans do not show the proposed number of bedrooms;
- 2) Applicant has applied for party wall permission to build loft extension indicating there will be 7 occupiers of the property;
- 3) The applicant does not live in the city, is clearly after money and does not care about the quality of living for existing residents;
- 4) Increased fire risk;
- 5) Insufficient sound proofing;
- 6) Increased noise for neighbouring properties and occupiers and loss of privacy;
- 7) Negative impact on home owners and HMO occupiers do not take pride in local area or community;
- 8) Loss of family character of area and loss of family home;
- 9) Breach of Human Rights Article 8: A right to family and private life and breach of protocol one article 1;
- 10) Increased number of HMOs in local area as it is already saturated with HMOs over the 10% threshold;
- 11) Insufficient space for refuse storage that could lead to an increase in pests, smells and nuisance for neighbours;
- 12) Impact on 7 additional vehicles or more on parking pressure, congestion, pollution, noise and road safety;
- 13) Powerscourt Road has been identified in local media as being one of 10 worst in city for parking;
- 14) Powerscourt Road is dangerous for vehicles and pedestrians with the number of vehicles using it and could increase risk of pedestrians walking to school;
- 15) No space for storage of bicycles;
- 16) Proposal is gross over-development of the site;
- 17) Increasing height of roof would result in loss of light and loss of privacy;
- 18) increased comings and goings that could result in anti-social behaviour;
- 19) lower house prices;
- 20) PCC should demand floor plans from applicant;
- 21) HMO database is incorrect and the area risks becoming like some areas of Southsea;
- 22) Application does not comply with Parking Standards SPD regarding the number of proposed off-road spaces;
- 23) High number of proposed self-contained flats and HMOs on one site;
- 24) Inadequate infrastructure and services in Portsmouth to deal with rising population;
- 25) Lack of parking forces people to park in disabled space;
- 26) 41% of HMOs in the city failed the decent homes test; and,
- 27) Council should re-examine its housing policy;

The applicants address, their intentions for the property (i.e. as money making business or other means) and the effect on house prices are not material considerations in the determination of this application.



## COMMENT

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

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the flexibility to change freely between the two use classes. This application does not relate to self-contained flats. The property is currently in use as a dwellinghouse.

Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance. The Houses in Multiple Occupation (HMOs) 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 use. In identifying the area surrounding the application property, none of the 76 properties within a 50 metre radius were known to be in Class C4 use. The number of HMOs as a percentage is therefore 0%, rising to 1.32% if permission was granted, under the 10% threshold set out within the HMO SPD.

Whilst this is the best available data to the Local Planning Authority (LPA) 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. Whilst a number of objectors state that the area is already saturated with HMOs, no additional properties have been brought to the attention of the LPA for further investigation.

In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3) which involves occupation by a single family, or other groups living as a single household, would be unlikely to be significantly different than the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation. The HMO SPD is however, supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. The use of the property as a HMO is not therefore considered to result in a change of character of the property, the area or represent over-development of the site. Whilst high concentrations of HMOs can negatively impact upon the local area, the percentage if granted would be 1.32%. As it is considered that there are few material planning differences between a Class C3 or a Class C4, the property could be used flexibly in either class and would not result in the loss of a family home.

The Parking Standards SPD requires a Class C4 dwellinghouse of this size to provide two off-road parking spaces but the application site does not benefit from off-street parking (the constraints of the site are such that none can be provided). Whilst it is acknowledged that Powerscourt Road and the surrounding roads are at difficult to park at peak evening times and at weekends and the transport means of future occupiers could not be controlled, the property is within 400 metres of a high frequency bus route and within a short walk of the North End District Centre. The city has a diverse housing need that is referenced in the SPD and HMOs are a part of that need. Whilst no details have been provided in relation to the provision of secure and weatherproof facilities for cycle storage it could be secured by condition that would be appropriate to encourage other sustainable means of travel to the car. It is considered that the location of the property close to frequent local bus links, the North End District Centre is appropriate to encourage other sustainable means of travel to the car.

Although representations refer to the increase of noise, congestion and pollution as a result of any change of use, given that there is not a material difference between a Class C3 and Class C4 it is considered that any increase would be so significant to warrant withholding permission.

The storage of refuse and recyclables and the proposed method of storage could be addressed by way of a planning condition and an objection of waste grounds would not form a sustainable reason for refusal.

### **Other matters within representations**

Representations refer to a number of matters that fall outside of the material considerations for this application. It is noted that the applicant would appear to be exercising the permitted development right of a Class C3 dwellinghouse to allow for the construction of a dormer on the rear roofslope. Several representations reference the use of the property for 7 persons. Although the applicant may choose to make a later application for use of the property for a sui generis HMO the LPA has to determine this application in accordance with the information before it. Any later application would be determined for their planning merits. This dormer may fall within the tolerances of permitted development and any party wall consents applied for are not material to this application.

A representation refers to other vehicles being parked in a disabled space but the council's parking department could address this separately and this would not form a sustainable reason for refusal.

Any perceived increase in fire risk would be addressed by separate legislation and it is considered that inadequate infrastructure due to a rising population is not a material to the determination of the application.

The use of sound insulation for the property is not a reasonable condition and does not meet the six tests to make the development acceptable. As with any property type, any issues associated with anti-social behaviour could be addressed under separate legislation.

## **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 PG 1096 16 2 Rev B.
- 3) Prior to the first occupation of the property as a House in Multiple Occupation, cycle storage facilities shall (unless otherwise agreed in writing) be provided in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority beforehand. The cycle storage facilities shall thereafter be retained.
- 4) Prior to the first occupation of the property as a Class C4, facilities for the storage of refuse and recyclable materials shall have been provided in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be retained.

**The reasons for the conditions are:**

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To ensure that adequate provision is made for cyclists using the property in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan.
- 4) To ensure that adequate provision is made for the storage of refuse and recyclable materials in the interests of visual amenity in accordance with Policy PCS23 of the Portsmouth Plan.

**PRO-ACTIVITY STATEMENT**

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

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103 OPHIR ROAD PORTSMOUTH PO2 9ER

**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:**

Geona Residential Ltd

**On behalf of:**

Geona Residential Ltd

FAO Mr Jason Cliffe

**RDD:** 15th December 2016

**LDD:** 10th February 2017

This application has been called into Planning Committee as a result of a deputation request by a local resident.

**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 mid-terraced dwelling located on Ophir Road close to its intersections with Gladys Avenue. The property is set back from the highway by a small front garden/ courtyard and benefits from a larger garden to the rear.

On street parking is located on Ophir Road and Shadwell Road. The site is located in close proximity to a range of shops and services and is located 2 mile walk away from Hilsea Train Station and a few metres away from the nearest bus stop.

**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**

There is no planning history relevant for the determination of this application.

## **POLICY CONTEXT**

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

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

## **CONSULTATIONS**

### **Private Sector Housing**

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.

## **REPRESENTATIONS**

At the time of writing this report, twelve representations have been received objecting to the development on the grounds of;

- (a) Anti-social behaviour,
- (b) Increased noise and disturbance,
- (c) Increase in crime,
- (d) Reduction in on-street car parking,
- (e) Reduction in family dwellings,
- (f) Pressure on existing sewerage systems.

This application has been called into Planning Committee as a result of a deputation request by a local resident.

## **COMMENT**

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

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

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 67 properties within a 50 metre radius of the application site, none are thought to be in lawful use as a HMO. Therefore, as the granting of planning permission would increase the proportion of HMOs to just 1.49%, 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 is only one other HMOs within the surrounding area, it is considered that the impact of one additional 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 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.

The submitted drawings do not indicate the provision of 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.

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.

## **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, Site Plan, Floorplans.
- 3) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

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

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

### **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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**12 VICTORIA ROAD SOUTH SOUTHSEA PO5 2DB**

**CHANGE OF USE OF BUILDING FROM DOCTOR'S SURGERY (CLASS D1) TO 10-BEDROOM STUDENT HALLS OF RESIDENCE (WITHIN CLASS C1) INCLUDING COMMUNAL FACILITIES, CYCLE STORE AND BIN STORE WITH EXTERNAL ALTERATIONS TO INCLUDE NEW DOORS AND WINDOWS TO GROUND FLOOR AND REMOVAL OF EXISTING FIRE ESCAPE (RESUBMISSION OF 16/01545/FUL)**

**Application Submitted By:**

Clifford Consultants  
FAO Mrs Kate Clifford

**On behalf of:**

Dr Caiger

**RDD:** 2nd December 2016

**LDD:** 31st January 2017

**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the proposed use is acceptable in principle, whether it would preserve or enhance the character and appearance of the 'Owen's Southsea' Conservation Area and whether the proposal would be likely to adversely affect the amenities of local residents. Other issues to consider relate to parking, flooding and SPA Mitigation.

**The Site**

The application relates to a large 3-storey Victorian villa located to the western side of Victoria Road South between its junctions with Stafford Road and Hereford Road, and directly opposite The Victoria & Albert Public House. The property, which is currently vacant, was previously occupied as a doctor's surgery and is set back from the highway by a sloping front garden and separated from its neighbours to the north and south by narrow alleyways running along the side elevations. The building benefits from large single-storey projections to the rear with an external fire escape leading to the upper floors.

The property is located within the 'Owen's Southsea' Conservation Area and in combination with similar properties to the north and south makes a positive contribution to the street scene. Victoria Road South forms the eastern boundary of the Owen's Southsea Conservation Area and is characterised by a mix of late Victorian villas and semi-detached houses (c.1874-1900) in a variety of materials, mainly brick or render but including stone and flint.

Although the front section of the site is located within the indicative flood plain (Flood Zone 3), it is noted that as a result of its raised position, the building itself is located within Flood Zone 1.

**The Proposal**

This application seeks planning permission for the change of use of the building from purposes within Class D1 to a 10-bedroom student Halls of Residence (within Class C1) with external alterations to include new doors and windows at ground floor level and the removal of an external fire escape.



## **Planning History**

Planning permission was granted in 2001 (ref.A\*33003/AB) for the construction of a single-storey extension and canopy to the rear including alterations to the existing fire escape and formation of disabled access ramps to front and side elevations.

Planning permission was granted in 1994 (ref.A\*33003/AA) for the construction of a single-storey rear extension.

Planning permission was granted in 1987 (ref.A\*33003/B) for the erection of an external fire escape to the rear and the use of the first floor as a surgery ancillary to the ground floor.

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes) and PCS23 (Design and Conservation). The Parking Standards, Student Halls of Residence and Solent Special Protection Areas SPDs are all relevant to the proposed development.

## **CONSULTATIONS**

### **Leisure/Arb Officer**

Observations - Following the withdrawal of 16/01545/FUL and resubmission of this amended proposal the observations made by Mr Harverson in 0882.bjh.let dated 30 November 2016 are accepted and agreed.

Recommendations: -

1. The application be granted.
2. The recommendations in 0882.bjh.let dated 30 November 2016 be followed in respect of tree protection.

### **Environmental Health**

12 Victoria Road South is located in a mixed residential / commercial area of Southsea, adjacent to a busy road. To the north (10 Victoria Road South) is office use in a converted house and to the east across Victoria Road South is the Victoria and Albert PH. To the south and west residential use is located.

Four noise complaints have been received about the Victoria and Albert PH although the last of these was in July of 2013. This use does not preclude the proposed use at 12 Victoria Road South. No complaints have been received about 10 Victoria Road South and its present use is such that Environmental Health (EH) would not anticipate any.

Victoria Road South is a busy road and the development site is almost opposite the junction with Albert Road which results in significant noise levels in the vicinity. No information has been provided as to the suitability of the current glazing for the proposed C1 use. Therefore, if permission is granted conditions relating to the insulation of habitable rooms against traffic noise is suggested.

It is noted that there were a number of objections to the withdrawn application (16/01545/FUL) concerning potential noise issues from the proposed use. Although student hostels [student halls of residence] will potentially result in a higher concentration of students, EH currently have no evidence to support the view that these hostels [halls] attract an increased number of noise complaints or are the subject of regular enforcement action. In the absence of any such evidence EH would suggest that it would be difficult to argue that the proposed use can be

inherently associated with noise when the alleged impacts occur as the result of the behaviour of individuals and not the behaviour of students as a whole.

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

However, EH note that there is an external amenity area at the rear of the property which is likely to be used by the occupants, particularly during times of good weather. If not managed, this area could become a focus for noise complaints from the surrounding residential uses. EH also note within the Design and Access Statement section 5.7 that the applicant is willing to enter into an agreement concerning the occupancy, maintenance and management of the Student Halls. It is recommended that this is conditioned and that any management arrangement include the external areas.

### **Highways Engineer**

This application is a resubmission of application 16/01545/FUL and proposes the change of use of building from doctor's surgery (Class D1) to 10-bedroom student halls of residence (within Class C1) reduced from the previously proposed 12 bedroom facility.

The Highways Authority (HA) have reviewed the relevant supporting documents and the Design, Access and Heritage statement and would make the following specific observations:

Victoria Road is a classified road (B2151) and provides an important strategic link within the local highway network. The section fronting this property is not part of the bus route although the service 2 operates a 10 minute daytime frequency and 30 minute evening frequency on Victoria Road / Albert Road approximately 40m to the north and the site is within a 1500m walk of the main university buildings. As a consequence the HA is satisfied that the site is reasonably accessible and residents would not be reliant on the use of private cars.

The current use of the building as a doctor's surgery is likely to generate significantly more vehicle movements than the proposed use as a student hall of residence and as a consequence the HA is satisfied that the proposal would not have a material impact on the operation of the highway network.

This section of Victoria Road does not fall within a residents parking zone although the demand to park on street often exceeds the space available. Three on street spaces are currently reserved for the use of doctors and the cessation of the use of the building as a doctors' surgery would allow those spaces to be made available to meet the general parking demands in the area. Given the relatively limited number of study rooms the HA is satisfied that any disruption which may arise during period of students either taking up or leaving the accommodation would not be significant.

Paragraphs 5.3 and 5.4 of the Design, Access and Heritage Statement considers the parking requirement and advances the view that... 'It is more likely that patients to the surgery would use their cars than the students, especially if there are restriction on the tenancy arrangements.' the HA would tend to agree with that assertion and are pleased to see that it is the intention to impose such conditions on any tenancy. Paragraph 5.5 explains a willingness to restrict the use of the building to students during term times with tenancies limited to 2 month outside of terms times. It is assumed that such tenancies will also preclude the ownership / use of a car whilst resident at the accommodation as inferred from paragraph 5.3.

Cycle parking provision of 1 space per study room is proposed in compliance with the relevant SPD. These are now all provided for on the ground floor of the building and the HA is comfortable that this is a sensible design solution.

In conclusion the HA would not wish to raise a highway objection to this application subject to the following being secured either through condition or S106 agreement:

The provision and retention of additional accessible cycle storage in accordance with the SPD requirement as detailed in the application details.

### **Contaminated Land Team**

As very limited groundwork is intended, no conditions relating to contaminated land are requested.

## **REPRESENTATIONS**

Nine letters of representation have been received from local residents raising objections on the following grounds:

- a) The need for more student accommodation;
- b) The existing number of multi-occupancy properties within the area;
- c) Increased noise and disturbance;
- d) Pressure on existing on-road parking facilities;
- e) The building is more suited to conversion to form flats;
- f) Lack of clarity over occupation outside of term time;
- g) Impact on the character and appearance of the conservation area;
- h) Impact on the nearby hotel;
- i) Timing of the application submission over the Christmas period; and
- j) Impact on property value.

## **COMMENT**

The main issues to be considered in the determination of this application are whether the proposed use is acceptable in principle, whether it would preserve or enhance the character and appearance of the Conservation Area, whether the proposal would be likely to adversely affect the amenities of local residents. Other issues to consider relate to parking, flooding and SPA Mitigation.

Planning permission is sought for the change of use of the building from a doctor's surgery (Class D1) to a student Halls of Residence (Class C1) comprising 10 study bedrooms. This would include four fully self-contained study bedrooms (one fully accessible), a communal area and bike stores at ground floor level, two self-contained and one non self-contained study bedrooms at first floor level, and two self-contained and one non self-contained study bedrooms at second floor/roof level. To facilitate the new use, minor alterations are required to the fenestration at ground floor level on the north and south elevations. An existing external fire escape to the rear of the building would be removed.

### **Principle of the proposed use**

The western side of Victoria Road South is characterised by a mix of large Victorian Villas, the majority of which contain some form of residential accommodation. The eastern side of the road has a more varied character with a large public house directly opposite forming part of the 'Albert Road and Elm Grove' District Centre with smaller terraced dwellings further to the south. Having regard to the predominant land use within this locality and the absence of any site specific policy restrictions, it is considered that the principle of a specialist form of residential accommodation would be acceptable.

The Students Halls of Residence Supplementary Planning Document (October 2014) defines a student Hall of Residence as: 'Accommodation that is used during term time solely by persons who are undertaking a full time course of further or higher education in Portsmouth. The accommodation would be for more than 15 persons and as a minimum should provide

communal kitchens and lounges of a suitable size for the number of residents'. It highlights that well managed student accommodation can help to reduce potential adverse impacts on the surrounding community and that providers are expected to sign up to the National Code of Standards and should be accompanied by a management plan setting out how the development will comply with the national codes and address such issues as pastoral care, security measures and sound proofing.

The applicant has confirmed that each of the study bedrooms is intended for occupation by an individual student (10 people in total) and that they would be willing to provide a management plan/community liaison plan through a legal agreement to ensure minimal disturbance to local residents. It is considered that the limiting of the occupation of the building to students with the element of management proposed is what distinguishes the proposed use from a typical House in Multiple Occupation (Sui generis) where many of the characteristics and potential sources of harm are not dissimilar.

As proposed, it is accepted that the application would not meet the definition of a Halls of Residence set out within the Student Halls SPD as it would be for fewer than 15 persons. However, when considering an appeal for a similar development at 18 Victoria Road just to the south (Cavendish House - 14/01665/FUL & APP/Z1775/W/15/3009816) the Inspector opined that: "the fact that the development would not then fall within the SPD definition does not prevent it from constituting student accommodation or take it outside Class C1. There is no local or national planning policy or regulation that requires that halls of residence or other student accommodation must provide for more than 15 persons". In light of this view, it is considered the reduced number of occupants would not prevent the proposed use from being regarded as a student Halls of Residence within Class C1, particularly where other elements of management and pastoral care could be provided, albeit of a reduced scale to many other Halls of Residence within the city.

The SPD identifies the need to provide a good standard of student halls in the city with a preferred location in close proximity to existing University facilities and other educational establishments. Whilst representations refer to the need for further student halls, particularly within this area of the city, the site is located in close proximity to University facilities and at present, there is no obligation on a developer to identify a need for further student accommodation. This matter will ultimately be determined by the market rather than through the planning system.

In light of the above, whilst the principle of a student Halls of Residence is considered to be appropriate in this location, there will be certain standards and other policy requirements for new dwellings that would need to be put aside for specialist accommodation of this nature. This would include requirements in respect of space standards, the provision of affordable housing and parking. In order to waive these requirements the Council needs to be satisfied that the proposed Halls of Residence 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 students on a recognised full-time course of study. To achieve the appropriate restrictions the applicant will be required to enter into a Section 106 agreement which would include planning obligations 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.

### **Impact on Amenity**

The proposed use of the building would be different in nature to the former doctor's surgery use in that the activity would extend into hours outside of a typical working day, and would incorporate a small external amenity area to the rear of the building. The building is however, detached from its neighbours and located adjacent to a main road in close to a busy District Centre with an active night-time economy. This would limit the impact of any disturbance associated with increased comings and goings later into the evening.

Representations raise concerns in respect of anti-social behaviour and increased noise and disturbance associated with the use of the property as a student Halls of Residence. However, the intended occupiers of the building cannot be inherently associated with noise, as the behaviour of individuals cannot be assumed to be typical of a group falling within a particular tenure or demographic. Furthermore, the City Council's Environmental Health Team (EH) highlight that although student halls will potentially result in a higher concentration of students, they currently have no evidence to support the view that these uses attract an increased number of noise complaints or are the subject of regular enforcement action. This could be a result of the closer management that would be expected for a student Halls of Residence.

Whilst the day to day occupation of the building is unlikely to result in any significant harm to the amenity of local residents, a small external amenity area at the rear of the property is likely to be used by the occupants of the building, particularly during times of good weather. EH highlight that, if not managed appropriately, this area could become the focus for noise complaints from the surrounding residential uses. As highlighted above, the applicant has agreed to provide a management plan/community liaison plan, secured through a legal agreement, that will set out how the building (including the external amenity space) and its occupants will be managed to ensure minimal disturbance to local residents. These documents will be intended to include codes of conduct, measures of dealing with conflicts and named individuals who will provide a point of contact and will be responsible for the management of the building and its occupants.

These management processes, in combination with the restriction on the number of students residing at the property is considered to be sufficient to ensure that the proposed use would not result in a significant impact on the amenity of adjoining occupiers.

When considering the potential impact of the development regard must also be given to the existing lawful use of the site and other uses that could reasonably take place without the express permission of the Local Planning Authority. The site currently benefits from an unrestricted Class D1 use and could readily be converted for other purposes within Class D1 (eg. health centres, crèches, day nurseries, public halls, places of worship, church halls etc.) which could be potentially more intensive than the previous and proposed uses. It should also be noted that the building is large and could (as suggested within representations) be converted into flats. However, the sub-division of the building in such a manner could allow for it to be occupied by similar number of people as that proposed.

Internally, the proposed accommodation is considered to be sufficient to meet the short term needs of students during their periods of study and would benefit from a good standard of private and communal facilities. EH have requested the inclusion of a condition requiring details of insulation to protect the amenity of future residents from traffic noise on Victoria Road South. In the absence of any information to demonstrate the existing noise levels within the bedrooms, a condition in respect of noise attenuation is suggested. However, the applicant has been advised that any additional measures to provide noise attenuation would need to have regard to the existing quality of the windows on the principal elevation of the building.

### **Design and impact on heritage assets**

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

This part of the 'Owen's Southsea' Conservation Area is predominantly residential in character with the former medical use of the building and the neighbouring offices being somewhat at odds with the prevailing land use. The existing building makes an important visual contribution to the street scene and retains the boundary wall and many architectural features to its principal elevation including its timber sash windows. The former medical use would have also represented a fairly intensive use of the building and generated activity associated with both

staff and visitors. The proposal would result in the less intensive use of the building and would return it to a use more comparable with its original use as a large dwelling.

The proposal would result in minor alterations to the fenestration at ground floor level on the north and south elevations only. These changes are considered to be relatively minor and do not significantly alter the external appearance of the building. A redundant external fire escape would be removed from the rear elevation of the building which would be seen as a positive step.

Overall, it is considered that the use, minor alterations and the positive benefits of removing the external fire escape would ensure the proposal would preserve the character and appearance of the conservation area.

As the proposal is seen to preserve the character and appearance of the 'Owen's Southsea' Conservation 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.

## **Parking**

The application has been considered by the Highways Authority who confirms that current lawful use of the building as a doctor's surgery is likely to have generated significantly more vehicle movements than the proposed use as a student Halls of Residence. As such the proposal is unlikely to have a material impact on the operation of the highway network.

In terms of parking, the application site does not benefit from any off-street facilities and the constraints of the site are such that none can be provided. It is noted that this section of Victoria Road does not fall within a residents parking zone although the demand for on-street parking often exceeds the space available. Paragraphs 5.3 and 5.4 of the applicant's Design, Access and Heritage Statement considers the parking requirements and states: 'It is more likely that patients to the surgery would use their cars than the students, especially if there are restrictions on the tenancy arrangements'.

In this respect, the LPA would agree with the view that parking and access to the site when in use as a doctor's surgery would have resulted in a greater demand for parking during the day. However, this demand would have receded during the evenings and weekends when the surgery was closed to patients and demand from residents for on-street parking in the area would be greater. In terms of parking demand, it is accepted that the level associated with a 10-bedroom student halls would be comparable or lower to alternative uses that could take place at the site (as addressed above), including flatted developments as suggested within the representations. As such, it is considered that with the removal of the three existing on-street parking spaces currently reserved for doctors associated with surgery use, the proposal would not place significant additional pressure on the existing parking facilities within the area.

In reaching this conclusion regard is also made to recent appeal decisions for similar student Halls of Residence developments (e.g. at 18 Victoria Road South, 151 Fawcett Road and 130-136 Elm Grove) where Inspectors have taken the view that for such developments in accessible locations, dedicated off-road parking should be avoided to discourage car use, and in light of a restriction to student occupation only, would not have a significant effect on the on-street parking in the locality. In allowing the appeal at 18 Victoria Road South, the Inspector opined that: 'during the University vacations the Appellant company has indicated that the units would be let to both students and non-students for temporary periods. It is not stated who the other occupiers may be but the premises would seem to be suitable for conference delegates, holiday lets or other short term accommodation. There are no estimates by any party of parking demand in those circumstances but in my view it is likely to be higher, albeit that not every occupier would travel by car. However my experience of conditions in other university towns at those times suggests that there would be an overall easing of parking pressures from other sources, not least due to the absence of other staff and students as well as the closure of local schools and

colleges such as the large nearby St John's College at the west end of Cavendish Road'. In light of this view, it is considered that an objection of parking standards associated with alternative short term occupation of the study bedrooms outside of term times could not be sustained.

The applicant's suggestion that car ownership would be restricted by the tenancy agreements is welcomed and if implemented, may deter some students from keeping cars in the area. However, as highlighted within the appeal at 18 Victoria Road South, this restriction would be difficult for the City Council to manage/enforce and could not therefore, be required by planning condition or obligation. The LPA would however, continue to encourage the applicant to include such provisions within future tenancy agreements.

Bicycle storage facilities are shown within a ground floor bike store and lobby area at a ratio of one bike per student study bedroom. These facilities comply with the requirements of the Parking Standards SPD, are considered to be acceptable by the Highways Authority and can be required through the inclusion of a suitably worded planning condition.

The applicant has agreed to relocate the bin stores as shown within the submitted drawings to the north of the main entrance behind the boundary wall. Not only would this location be more acceptable in visual terms, it would also be more convenient for collection services. This alternative provision can be sought through the inclusion of a suitably worded planning condition.

### **Flood risk**

Whilst the very eastern extent of the application site abutting Victoria Road South is shown to be located within Flood Zone 3 of the Environment Agency's Flood Maps, the majority of the site including the building itself is located within Flood Zone 1 and is not at risk of flooding. In these circumstances it is considered that the use of the property for residential accommodation would not result in an increased risk of flooding at the site and an objection under policy PCS12 would not arise.

### **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 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 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.

As set out in the SPD, '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 which would be calculated as £176 (10/5 x £176/2) where the SPD states 'the average number of study bedrooms in a unit of purpose built student accommodation in the city is five.

### **Other matters raised within representations**

Given the specific assessments that have been made above in respect of residential amenity, parking and impact on the character and appearance of the conservation area, it is not considered that the proposal would have a negative impact upon the operation of hotels/guesthouses within the area.

The LPA has no control of the timing of submission or the consultation process over the Christmas period. However, the consultation process has been carried out in accordance with statutory requirements and residents have been given the opportunity to comment on the application up to the date of the Committee meeting.

Impact on property value is not a material planning consideration.

### **RECOMMENDATION 1**

That delegated authority be granted to the Assistant Director of Culture and City Development 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 of each study studio for an individual University of Portsmouth student (or those on an equivalent full-time course) during their period of study and not to use the halls of residence for any purpose during academic term times other 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 the Assistant Director of Culture and City Development 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 Student Management & Community Liaison Plan with the submission details of how the development will operate with minimal disruption to local residents, points of contact both during office and out-of-office hours and procedures for addressing potential conflicts.
7. The payment of associated fees upon implementation of planning permission.

### **RECOMMENDATION 2**

That delegated authority be granted to the Assistant Director of Culture and City Development to add/amend conditions where necessary.



### **RECOMMENDATION 3**

That delegated authority be granted 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 pursuant to recommendation 1.

### **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: 16\_037 001 Rev-B, 16\_037 011 Rev-C, 16\_037 012 Rev-A, 16\_037 014 Rev-B, 16\_037 015 Rev-B, 16\_037 016 Rev-C, 16\_037 017 Rev-B, 16\_037 018 Rev-C, 16\_037 019 Rev-C and Door & Window Details provided 18.1.2017.
- 3) Prior to the first occupation of the halls of residence hereby permitted, a scheme for insulating rooms 1, 2, 5, 6, 8 and 9 as shown on the approved drawings against external noise shall be submitted to the Local Planning Authority for approval in writing. The scheme approved by the Local Planning Authority shall be implemented before first occupation of the building as halls of residence and thereafter retained.
- 4) Prior to the first occupation of the halls of residence hereby permitted, bicycle storage facilities shall be provided in accordance with the approved details and shall thereafter be permanently retained for the continued use by the occupants of the building for the storage of bicycles at all times.
- 5) Notwithstanding the submitted details, prior to the first occupation of the halls of residence hereby permitted, alternative facilities for the storage of refuse and recyclable materials shall be provided in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be permanently retained for the continued use by the occupants of the building for the storage of refuse and recyclable materials 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 acceptable noise levels within habitable rooms are not exceeded in the interests of residential amenity in accordance with Policy PCS23 of the Portsmouth Plan.
- 4) To ensure that adequate provision is made for cyclists using the premises and to encourage the use of alternative modes of transport in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
- 5) To ensure that waste from the building is stored in an appropriate manner in the interests of the amenities of the area 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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**29 MARMION ROAD SOUTHSEA PO5 2AT****CHANGE OF USE FROM SHOP (CLASS A1) TO RESTAURANTS AND CAFE (A3)****Application Submitted By:**

Knight Architectural Design  
FAO Mr Ian Knight

**On behalf of:**

C/O Agent

**RDD:** 18th November 2016

**LDD:** 16th January 2017

**SUMMARY OF MAIN ISSUES**

This application has been called into Planning Committee as a result of a deputation request by a local resident.

This application relates to a three-storey end of terrace property located on Marmion Road at the intersection with Wilton Place. The property is situated within the Owens Southsea Conservation Area (No.2) and is within an indicative area of flooding (Zones Two and Three).

The proposal is for a change of use from Class A1- Retail to Class A3- Restaurants and Cafe.

There is no planning history considered to be relevant for the determination of this application.

**POLICY CONTEXT**

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

**CONSULTATIONS****Environmental Health**

A3 use has the potential to impact on the amenity of neighbouring uses through noise from plant, machinery, entertainment and customer noise and also odour from the cooking processes. No information has been provided concerning any of these potential impacts and the drawing does not indicate where the kitchen would be situated.

No information has been provided concerning the sound insulation between the proposed café use and the residential use at first floor. Without some indication as to the likely levels of noise produced in the café/restaurant and the level of sound insulation that currently exists, I am unable to comment on the potential for impact on the amenity of the residential use. I could suggest a condition concerning additional sound insulation works.

Information concerning the likely menu or a proposed kitchen extraction system has not been provided. It is possible that the proposed level of cooking for a café use would not warrant a kitchen extraction system and in these circumstances it is possible to proceed through condition. Even in these circumstances, however, the integrity of the ceiling is essential to ensure odour does not negatively impact on the amenity of the residential use above.

I would therefore suggest the following conditions are applied:

#### Plant/Equipment (noise)

Prior to the installation of external plant or equipment, an assessment of noise from the operation of the plant 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 or equipment shall be implemented.

#### Extraction system (odour)

No cooking processes shall take place until equipment is 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.

#### Sound Insulation

Prior to the commencement of the change of use, a scheme for insulating the party ceiling against noise from the operation of the A3 use shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first use of the A3 premises and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved:

First Floor Residential Premises: Noise criterion curve NC25 based on values of Leq(5mins).

### **REPRESENTATIONS**

Three representations have been received objecting to the development on the grounds of; (a) increased traffic congestion, (b) pressure on existing parking infrastructure, (c) impact of operational noise affecting adjoining occupiers, (d) storage of bins, (e) odour issues.

This application has been called into Planning Committee as a result of a deputation request by a local resident.

### **COMMENT**

The determining issues are whether the change of use is acceptable in this location, whether there would be a significant impact on residential amenity and whether there would be a significant impact on the character and appearance of the conservation area. This change of use is not considered to increase the risk of flooding.

### **Principle of Conservation**

The Southsea Area Action Plan for Marmion Road states this area is occupied by a number of specialist / independent retail shops with some limited cafe/restaurant uses. To ensure adequate protection of these core retail uses, development will only be permitted for a change of use where the frontage would not result in less than 75% on non-retail uses after the development has been completed. The retail frontage in use as A1 is presently 80.77%. If permission was granted this would be 80.21% and it is therefore considered to be acceptable in principle.

## **Conservation and Design**

There are no proposed alterations to the fabric of the building or the shopfront and as such it is considered that the proposed change of use would have a neutral impact upon the character and appearance of the conservation, that is to say preserved. It is unclear whether the applicant intends to display any advertisements as part of this application.

## **Highways**

It is considered that the proposed change of use is unlikely to generate significant additional demands or pressure on the existing highways network. Due to the retail nature of the area, there is some street and pay and display car parking available.

## **Impact on Residential Amenity**

Due to the proximity of the proposed development in relation to residential properties, it is likely that there would be some impact with regard to noise, disturbance and potentially increased smell/fumes for nearby occupiers. As the granting of permission would give the right to use the property as a restaurant and cafe, it is considered that in the absence of details on the potential cooking equipment, it is necessary to impose a condition requiring the details of any extraction equipment/odour suppressors to be submitted and approved by the local planning authority. In order to ensure the protection of neighbouring amenities a condition will be applied to restrict the hours of operation of the Class A3 use.

## **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, Site Plan
- 3) The use hereby permitted shall not operate outside of the hours of 07:00 and 20:00 Monday to Sundays and on any recognised bank or public holiday.
- 4) Prior to the installation of external plant or equipment, an assessment of noise from the operation of the plant 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 or equipment shall be implemented.
- 5) No cooking processes shall take place until equipment is 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.
- 6) Prior to the commencement of the change of use, a scheme for insulating the party ceiling against noise from the operation of the A3 use shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first use of the A3 premises and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved:

First Floor Residential Premises: Noise criterion curve NC25 based on values of Leq(5mins).

**The reasons for the conditions are:**

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 4) In order to protect users of the surrounding area, including occupiers of nearby residential units, from nuisance caused by excessive noise, in accordance with policy PCS23 of the Portsmouth Plan.
- 5) In order to protect users of the surrounding area from nuisance caused by excessive cooking odours, fumes and noise, in accordance with policy PCS23 of the Portsmouth Plan.
- 6) In order to protect users of the surrounding area, including occupiers of nearby residential units, from nuisance caused by excessive noise, in accordance with policy PCS23 of the Portsmouth Plan.

**PRO-ACTIVITY STATEMENT**

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

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**25 WOODPATH SOUTHSEA PO5 3DX****CONSTRUCTION OF A PART SINGLE PART TWO STOREY EXTENSION TO REAR AND SIDE ELEVATION****Application Submitted By:**

Clifford Consultants  
FAO Mrs Kate Clifford

**On behalf of:**

Mr & Mrs Jason Conway

**RDD:** 7th December 2016

**LDD:** 2nd February 2017

This application has been called to the Planning Committee by the request of a neighbouring resident.

**SUMMARY OF MAIN ISSUES**

The determining issues in this application relate to the design of the proposal and whether it would relate appropriately to the recipient building and whether it would have a significant impact on the amenities of the surrounding occupiers. When determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The proposal is located within the 'Owens Southsea' Conservation Area, so therefore the impact that the proposal could have on the Conservation Area will be considered when determining this application. As the site is located within close proximity to a Grade II listed building, it would also be considered whether the proposal would have an impact on the nearby heritage assets.

**Site and Surroundings**

This application relates to a two storey semi-detached property which is located on the eastern side of Woodpath to the north of The Retreat and to the south of Elm Grove. The site is located within 'Owen's Southsea' Conservation Area and is located approximately 10m to the south from the grade II listed building 'The Shrubbery'. The surrounding area is characterised by a variety of different property styles, the property itself has a pitched roof with brick on the ground floor and a rendered first floor. The adjoining property (No 27) has a different appearance as it is a flat roofed rendered and brickwork property which was previously occupied as a coach house. To the north of the site are 70s style modern properties with rendered and pebble dash finish terrace properties located opposite.

**Proposal**

The applicant seeks permission for the construction of a two storey rear extension to the rear and side elevation.

**Planning History**

There is no relevant planning history for this site.

## **POLICY CONTEXT**

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

## **CONSULTATIONS**

None.

## **REPRESENTATIONS**

Two letters of objection from neighbouring residents have been received. Their concerns are as follows:

- 1) Over-dominant
- 2) Loss of light
- 3) Overshadowing
- 4) Loss of privacy
- 5) Impact on TPO
- 6) Increasing build-up of surrounding area.

## **COMMENT**

The determining issues in this application relate to the design of the proposal and whether it would relate appropriately to the recipient building and whether it would have a significant impact on the amenities of the surrounding occupiers. When determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The proposal is located within the 'Owens Southsea' Conservation Area, so therefore the impact that the proposal could have on the Conservation Area will be considered when determining this application. As the site is located within close proximity to a Grade II listed building, it would also be considered whether the proposal would have an impact on the nearby heritage assets.

### **Design**

The proposal is to construct a part single part two storey rear extension. The existing property has an L-shape. The proposed extension would infill the section between the existing dwelling and the end of the L-shape. The two storey element would have a hipped roof to match the existing property. It would have a height of 7m which would be the same as the existing extension. It would project 3 metres from the rear of the existing property with the remaining 1m forming part of the flat roofed element. The roof was lowered to form a flat roof at this point to avoid blocking out a side window. There would be no windows on the side elevation and there would be a set of double doors and two windows on the rear elevation. The extension would be constructed of white render to match the existing property with a tiled roof. It is therefore considered that the proposal would be acceptable in design terms and would relate appropriately to the recipient building.

### **Impact on Heritage Assets**

The 'Owens Southsea' Conservation Area guidelines states that where extensions are permitted they should match existing properties in respect of design and materials, bulk or size and they should not overpower the original building. The proposed extension would have the same hipped roof design and would be constructed of white render to match the recipient property. The extension would be of an acceptable size and scale and it is not considered to overpower the recipient building. The proposal is therefore considered to preserve the character and appearance of 'Owens Southsea' Conservation Area.



Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. There is a separation distance of approximately 10m between the application site and 'The Shrubbery' which is Grade II listed. Having regard to the design, scale and appearance of the proposal. Also due to the character of 25 Woodpath, it is considered that the proposal would preserve the setting of the nearby heritage assets.

### **Amenity**

The extension would be constructed on the southern elevation of the property, therefore it is not considered that it would have an impact on the amenity of the occupiers to the north (No 23). The proposal would not project further than the existing property, whilst it would project closer to the boundary wall of No 27, it is considered that the proposal would not have a significant impact on the amenity of the occupiers of No 25. Following a site visit to the neighbouring property, it was observed that the extension would align with the rear garden of No 25 and there would be a significant distance between the proposal and the nearest habitable room. Therefore the proposal would not have an impact in terms of increased sense of enclosure and overshadowing. Furthermore, the extension would be to the north of No 27, therefore it is not considered that the proposal would result in loss of light. The only windows would be located on the rear elevation, therefore the proposal would not cause overlooking resulting in loss of privacy.

## **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: 16A\_056001, 16A\_056002, 16A\_056003, 16A\_056004, 16A\_056006, 16A\_056005 and 16\_A056007.

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

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

### **PRO-ACTIVITY STATEMENT**

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

**21 SISKIN ROAD SOUTHSEA PO4 8UG****WITHIN TREE PRESERVATION ORDER 184 - FELL LOMBARDY POPLAR (POPULUS NIGRA) TREE (T28)****Application Submitted By:**

Hampshire Tree Services  
FAO Adam Mansell

**On behalf of:**

Ms Elaine Turnbull

**RDD:** 12th December 2016

**LDD:** 6th February 2017

This application has been called to the Planning Committee at the request of Cllr Sanders and Cllr Stagg.

**SUMMARY OF MAIN ISSUES**

The determining issues are whether there is sufficient grounds to fell the tree (T28) and whether its loss would have a significant impact on the visual amenity of the surrounding area.

**Site and Surroundings**

The application relates to a Lombardy Poplar (*Populus nigra*) identified T28 in Tree Preservation Order No 184. The Tree Preservation Order encompasses the tree line which originally formed part of the northern boundary to a playing field and was formerly part of the grounds of St James Hospital. The playing field was developed to form the area now occupied by Milebush Park, Siskin Road and Reedling Drive. The tree lined boundary mainly consisted of Lombardy Poplar and Willow Trees. The trees subject of this application are located to the north of 21 Siskin Road.

**Proposal**

The applicant seeks consent to fell the Lombardy Poplar Tree (T28).

**Planning History**

In August 2015 consent was refused to fell two Lombardy Poplar (*Populus nigra*) trees (T27, T28). (Ref 15/00967/TPO). However, the reason for refusal was because T27 was in good condition, appropriate within its location and has amenity value in its own right and as part of the tree population in the local landscape. It thereby makes a significant contribution to the visual amenity of the surrounding area. This application relates to T28 and the Arboricultural Officer had previously stated in the previous refused application that there are sufficient grounds to fell T28.

**POLICY CONTEXT**

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

## **CONSULTATIONS**

### **Leisure/Arb Officer**

This application was previously granted consent as part of 15/00967/TPO.

REF NO: 15/00967/TPO

LOCATION: 21 SISKIN ROAD, SOUTHSEA

PROPOSAL: WITHIN TREE PRESERVATION ORDER 184 - FELL TWO LOMBARDY POPLAR (POPULUS NIGRA) TREES (T27 & T28)

In respect of T27 the application be refused or amended to removal of dead wood only

In respect of T28 the application to fell be granted.

### **Conditions**

Replacement planting is to be undertaken.

The replacement planting is to be of the minimum size of "Heavy Standard" as defined in BS 3936 Specification for Trees and Shrubs.

Recommended species:

Quercus petraea  
Castanea sativa

### **Recommendations**

The application be granted consent subject to the conditions listed above.

## **REPRESENTATIONS**

None received.

## **COMMENT**

The determining issues are whether there is sufficient grounds to fell the tree and whether its loss would have any significant impact on the visual amenity of the surrounding area.

The Arboricultural Officer has commented stating that this application was previously granted consent as part of 15/00967/TPO. The tree is in poor form and has extensive dead wood in the crown. The tree is suppressed by the neighbouring Lombardy Poplar (T27) and a willow (T29). Furthermore, the low crown is sparse and the growth habit is asymmetrical. Having regard to the condition of this tree and proximity of the adjoining Poplar and Willow, it is considered that there would be sufficient grounds to justify its removal, and those grounds would outweigh the loss of amenity.

In considering the proposal it is recommended that a suitably worded planning condition be imposed to ensure that replacement planting is undertaken. The Arboricultural Officer has suggested that the replacement planting is to be of a minimum size of "Heavy Standard" as defined in BS 3936 Specification for Trees and Shrubs. The recommended species are either Quercus petraea or Castanea sativa. These species are more suitable for the site are not likely to become suppressed by the neighbouring Poplar and Willow.

Having regard to the health of the tree and the technical assessment of the Arboricultural Officer it is considered that the proposal to remove T28 should be supported.

## **RECOMMENDATION                      Conditional Consent**

### **Conditions**

- 1) The works hereby approved shall be carried out within 2 years of the date of this consent.
- 2) The Lombardy Poplar (T28) shall be felled to the ground and the stump removed.
- 3) A replacement species of a) *Quercus petraea* or b) *Castanea sativa* the size to be of "Heavy Standard" as specified in British Standard 3936 Part 1 (Nursery Stock Specification for trees and shrubs) shall be planted in the same position as the tree to be felled within 1 year of the removal of the Sycamore (T13) or such other species, size, position or time period as may be agreed in writing by the Local Planning Authority.
- 4) All work shall be carried out in accordance with BS 3998: 2010. (Tree work recommendations).

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

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

### **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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**TIPNER LAKE BETWEEN MOUNTBATTEN CENTRE AND PORTSBRIDGE ROUNDABOUT  
PORTSMOUTH****CONSTRUCTION OF NEW COASTAL FLOOD AND EROSION RISK MANAGEMENT  
STRUCTURES ADJACENT TO TIPNER LAKE CONSISTING OF A CONCRETE SEA WALL  
AND ASSOCIATED LANDSCAPING WORKS****Application Submitted By:**

Portsmouth City Council

**On behalf of:**

Portsmouth City Council

FAO Mr Richard Ward

**RDD:** 31st October 2016**LDD:** 21st February 2017**SUMMARY OF MAIN ISSUES**

The key issues in this application are whether the principle of the development is acceptable in the location proposed and whether the submitted Environmental Statement adequately assesses the significant environmental impacts of the proposed scheme having regard to the international, national and local nature conservation designations in and around the area. Other important issues include the design of the proposed scheme, highway impacts, impacts on residential amenity, and impacts mineral resources identified in the Hampshire Minerals and Waste Plan.

**CONTEXT FOR THE APPLICATION**

The applicant is the Eastern Solent Coastal Partnership (ESCP). ESCP is a coalition of the coastal management services across four Local Authorities, Portsmouth City Council, Havant Borough Council, Gosport Borough Council and Fareham Borough Council.

The ESCP produced the 'Shoreline Management Plan' (approved by the Environment Agency in 2010) which identified a 'hold the line' policy for the whole coastline of Portsea Island. This means that the approach to coastal defences should be that the standard of protection should be maintained (or improved) to a '1 in 200 year event' level over the next 100 years.

The ESCP then produced the 'Portsea Island Coastal Strategy Study' (PICSS), which was approved by the Environment Agency in 2011. This strategy covers the whole of Portsea Island and it divided the Island into seven discrete flood cells (meaning that a coastal flooding event within any one cell would not directly impact any other cell).

The PICSS also identified parts of the coastline that are most vulnerable to flooding, it classified two flood cells as 'priority areas', Flood Cell 1 - Southsea, and Flood Cell 4 - North Portsea Island. Both flood cells were identified as having existing defences that were below the recommended standard of protection of '1 in 200 year event' or in poor condition, or both. As part of the initial assessment works, the ESCP identified that some of the structures had less than five years' 'residual life'.

Further work undertaken by the ESCP identified an opportunity to improve the standard of protection to '1 in 500 year event', and this is the approach that the ESCP have chosen to adopt when drawing up options for the new coastal defences.

The two 'priority areas' (Flood Cells 1 and 4) are being progressed as separate schemes. The Southsea Coastal Flood and Erosion Risk Management Scheme ('Southsea CFERM Scheme' - Flood Cell 1) is being managed as a separate project and to a different timetable.

This planning application is part of the larger 'North Portsea Island Coastal Flood and Erosion Risk Management Scheme' (North Portsea Island CFERM Scheme - Flood Cell 4) which is seeking to construct new coastal flood defences and erosion risk management structures around the north of Portsea Island.

The North Portsea Island CFERM Scheme covers more than 8km of coastline around the north of Portsea Island, from the Mountbatten Centre in the west, along Ports Creek, and as far east as Milton Common. In order to manage a project of this scale it has been divided into six frontages and the construction work associated with these frontages is to be phased over the next five to seven years.

This application is for the works associated with Phase 3, Tipner Lake, of that larger project.

Planning permission (ref: 14/01387/FUL) was granted in 2014 for Phase 1 - 1.4km of coastline on the north-east corner of Portsea Island, from the railway bridge east to Kendall's Wharf (including either side of the A2030 Eastern Road) and adjacent to the residential area of Anchorage Park. The permission included the construction of raised earth embankments with rock armour on the seaward side, together with wave walls to abut the A2030 Eastern Road bridge to tie into the new embankments.

Planning permission (ref: 15/01769/FUL) was granted on 4th February 2016 for Phase 2 - Construction of new coastal defences consisting of a rock revetment along the seaward side of Milton Common and three earth bunds on Milton Common together with the demolition of Great Salterns Quay and associated landscaping works. The planning permission has been implemented and the works are completed.

## **THE SITE**

This planning application relates to 1.85 km length of coastline extending from Mountbatten Centre in the south to the Portsbridge Roundabout in the north.

Although not a true lake, Tipner Lake is bounded by the north-west corner of Portsea Island and the M275 road bridge, one of the main road links from Portsmouth to the mainland. It is generally an area of low wave activity and the threat from flooding generally comes from the still water level.

The Phase 3 frontage is bounded by Tipner Lake, which is part of Portsmouth Harbour. Portsmouth Harbour is an area of intertidal mudflat with extensive areas of eelgrass beds. It is an intertidal system of national importance which is subject to several environmental designations including Portsmouth Harbour Special Protection Area (SPA) and Wetland of International Importance under Ramsar Convention (Ramsar Site), Portsmouth International Bird Area and Portsmouth Harbour Site of Special Scientific Interest (SSSI).

The site features a pedestrian access along the entire frontage via the coastal path, consisting of a joint cycle and pedestrian path. The existing defences around north Portsea Island consist of a mix of structures, including concrete and earth revetments, mass concrete walls and rock armour revetments. Most of the structures were constructed between the 1930s and 1980s. The predominant structure type around Phase 3 is a vertical seawall with a blockwork revetment at the northern most end. The existing seawall along Tipner Lake was constructed pre WW2.

Directly behind the current defences lies primary SSE electricity supply cables (1 x 132kV and 2 x 33kV).

The existing defences are approximately +3.1m AOD near Hilsea Lido, +3.2m AOD around Horsea Lane and +2.8m AOD at the southern most extent near the Mountbatten Centre car park.

Average Ordnance Datum (AOD) is the height above the average high water mark.

Approximately half way along the frontage, a slipway extends from the bottom of Horsea Lane, namely Lower Wade Way. This slipway leads southwards adjacent to the seawall before heading west and extending out into the harbour. It is approximately 285m long and between 2.5-5m wide. It is approximately 200mm thick and is a poorly maintained redundant structure in poor condition.

The site includes in part the Hilsea Lines, which is a Scheduled Ancient Monument and the Conservation Area associated with the Hilsea Lines. The boundary of the monument and conservation area is the seaward boundary of the moat.

The foot/cycle path is an adopted Highway.

## **THE PROPOSAL**

Permission is sought to replace existing defences with a new reinforced concrete seawall, raising the crest level of the seawall to be no more than 1.2m above the path at any one point. It is proposed to reinstate the shared footpath and cycle path behind the seawall.

The proposal is to upgrade and replace the first 1.65km of seawall from the southernmost point of the scheme. For the final 300m the existing blockwork revetment will be replaced with a vertical reinforced concrete seawall along the seaward alignment of the path. The ground immediately in front of the seawall will be lowered to create a larger foreshore, giving back habitat in this location.

The proposed seawall is to be constructed seaward of the existing seawall for that section south of Horsea Lane. This section will feature a sheet piled toe and stepped concrete apron. North of Horsea Lane the wall will take the form of an encasement of the existing structure and will not have a toe or apron. The existing seawall for this section has capacity to support the new concrete wall without rotation.

The new structure will be 4.5m AOD, giving a 1 in 500 year standard of protection for the next 100 years. The height difference between the existing levels and proposed level is to be achieved through the provision of the seawall creating a 'balustrade' where currently none exists.

Permission is sought to remove the lower section of the Lower Wade Way slipway and rebuild the upper section of the slipway, allowing egress from this point, and, creating additional area of mud flat in the European Designated habitat. There are several existing stairs that will be reinstated as part of the works. The length of the slip way to be removed is approximately 215m and creates 630m<sup>2</sup> of mudflat.

The proposal is to have the reinforced concrete placed in-situ. The new shared path is proposed to be constructed in black asphalt, as is the existing, and be a shared unsegregated cycle and pedestrian path.

The proposal includes areas of new vegetation and footpaths connecting to the coastal path. These are proposed to be constructed of a granular material.

The proposal includes a landscaping scheme with planting areas and specimen trees, which are to be low maintenance and native species suited to the environment. The proposal includes seating and facilities to enhance the experience of visitors to the site. The proposal originally included a number of social spots along the alignment. Throughout the assessment of the application the feedback from Historic England has been taken on board with the applicant amending the proposal, removing the social spot and associated pathways adjacent to the Hilsea Moat. The Seawall, shared path and planting remain in the scheme.

The proposal includes vegetation clearance to allow room for working areas and site haulage routes. The areas identified for vegetation clearance are north of Hilsea Lido for a section seaward of the footpath, and a section adjacent to the coastal path between the Spinnaker Way homes and the coastal path. There will also be sections of crown lifting of any trees over hanging the back of the foot/cycle path. The scheme also includes landscaping / replacement planting where necessary.

Being an adopted Highway, the proposal will require temporary closure for the construction phase.

The proposal is for a phased construction over three seasons avoiding the over wintering birds, with site set up and construction being between 1st April and 31st October for 2017, 2018 and 2019. In advanced of the construction window some enabling works are proposed, with these limited to activity such as minor investigations and clearance or organisation arrangements that would not impact on overwintering birds.

The works will commence at the Mountbatten Centre with the first-year section to be completed up to the beginning of Alexandra Park. Upon completion of this section the temporary impact on the 24 car parking spaces at the Leisure Centre ceases. This section of coastal pathway will be open to the public at the completion of Year 1.

Year 2 will focus on the section for the length of Alexandra Park to Horsea Lane, however the main contractor is to complete as much of the project that is possible in the construction window.

Year 3 will see completion of the project and decommissioning of construction compounds and associated remediation.

The proposal includes the creation of one main construction compound and three further smaller construction compounds. The main compound will contain all the office facilities and be situated on Alexandra Park. The other three compounds will be areas for stockpiling, storing and contractor parking. All compounds will be storage spaces for plant and materials, contain welfare and office facilities and contractor parking. The proposal is for all construction compounds to be in use throughout the project. The compounds and their associated area are as followings:

Main Compound Alexandra Park - 12,000m<sup>2</sup>

Car Parking Compound Portsbridge Roundabout East approximately - 28 spaces

Portsbridge Roundabout West - 6,000m<sup>2</sup>

Spinnaker Drive - 500m<sup>2</sup>

The main compound will be the point for all deliveries with materials being transported around the site using constructed haul roads. The haul roads will be used by site traffic only for transferring plant and material between compounds. The Portsbridge Roundabout east compound is proposed to be access by the footbridge and used purely for site car parking.



Compounds in grass areas will be prepared in advance of the works which involves removal of the top soil and construction of temporary hard standing. This is proposed to be a layer of compacted crushed aggregate or recycled concrete placed over geotextile membrane.

The ESCP have committed to find suitable routes that limit the number of trees to be removed and where trees are removed new replacement planting would be provided. The areas used for the compounds and haul routes would also be returned, as close as possible, to their original condition following completion of the construction works.

All compounds are proposed to have heras fencing and kept secure out of hours with appropriate signage. The proposed working hours are Monday to Friday 0700 to 1900. Proposed delivery times are 0700 to 1900. It is proposed to seek separate agreement where there is a need for a 24-hour working period or weekend working as this is not the proposed normal working hours.

The proposal includes temporary changes to rights of access and the footpath. The proposal is for the length of the coastal path to be used as a haul route for the construction phase. It is proposed to be fenced off from the public for the entire length, with section re-opening once no longer required.

HGV access into the main Alexandra Park compound will be via A3/Northern Parade, Alex Way and the haul road across the park.

The Portsbridge Roundabout west compound will be accessed from the A3/Northern Parade bus lane.

The Spinnaker Drive compound will be accessed from Matapan Road/Spinnaker Drive.

Access entrances are proposed to be constructed to a highway specification and returned to their current standard upon completion of the works. A formal site entrance will be placed at the end of Twyford Avenue allowing access directly to the path and work area. To enable access to the west most section of the path it is proposed to occupy 24 car parking spaces in the Mountbatten Centre car park for Phase 1. These spaces will be used for construction works for as short a time as possible and will return to use in the car park once works have progressed past this point.

The main haul route through Alex Way will cross the existing car park used by visitors to the leisure facilities in the area. This car park will be extended into Alexandra Park creating a temporary car park with 48 spaces to replace the temporary loss of 24 from the Mountbatten Centre car park and 24 from the Alex Way car park. The proposal is for the temporary car park to be removed upon completion of the project.

During the winter months when there is no construction activity the car parks will return to use as car parks.

The proposal will require the temporary closure of footpaths during works. Alternative routes are proposed to be provided for the duration of the works. The diverted paths have been diverted to existing crossing points where possible. The path that currently runs along the Phase 3 frontage will be diverted for the duration of the works. A full cycle lane will be constructed along the A3/Northern Parade and re-instated once the works are completed.

To identify the preferred option a full assessment of Technical, Economic, Environmental and Social impacts was considered, along with results from public consultation. The multi criteria analysis arrived at the preferred option, being the proposed development that forms this application, have a total project value costs of £10,577,000.

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:  
PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS23 (Design and Conservation)

Saved policy DC21 (Contaminated Land) of the Portsmouth Plan 2001-2011 is also relevant.

The National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development which means approving development proposals that accord with development plan policies without delay (paragraph 14). However, as set out in paragraph 119, the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. This issue is addressed further in this section and in the comments section of this report.

The application should also be assessed against the development management policies in the NPPF and in particular, chapters 1 (Building a strong, competitive economy), 7 (Requiring good design), 8 (Promoting healthy communities), 10 (Meeting the challenge of climate change, flooding and coastal change), 12 (Conserving and Enhancing Historic Environment) and 13 (Facilitating the sustainable use of minerals).

In addition, in chapter 11 (Conserving and enhancing the natural environment), the NPPF states the following:

When determining planning applications, Local Planning Authorities should aim to conserve and enhance biodiversity by applying the following principles (paragraph 118):

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;
- development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
- opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss, and
- the following wildlife sites should be given the same protection as European sites:
  - potential Special Protection Areas and possible Special Areas of Conservation;
  - listed or proposed Ramsar sites, and

- sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

In addition, in Chapter 12 (Conserving and Enhancing Historic Environment), the NPPF states that when determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraphs 132 and 133 are the relevant provisions for the significance of asset and weight given to its conservation, and then where substantial harm would result the use of a public benefits test. Paragraph 134 and 135 provisions relate where less than substantial harm results, and where there is an effect on a non-designated heritage asset.

The Hampshire Minerals and Waste Plan (adopted in 2013) is also relevant to the determination of this planning application. This plan seeks to protect minerals and waste infrastructure that provides strategic capacity against redevelopment and inappropriate encroachment. In this case, as the proposal would be located in close proximity to a 'safeguarded site' it is important that the potential impacts of the proposal on the safeguarded site are considered. This issue is addressed further in the comments section of this report.

This application is also supported by an Environmental Statement as the proposals fall within the definition set out in Schedule 2, Infrastructure Project, 10 (m) of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011: 'Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works', which would be likely to have significant effects on the environment.

As set out in the above mentioned regulations and the 'Planning Practice Guidance' (Department of Communities and Local Government), there are specific arrangements for considering and determining planning applications that have been subject to an Environmental Impact Assessment (EIA). This includes consideration of the adequacy of the information provided, consultation, publicity, and informing the public of the decision and the main reasons for it. The Local Planning Authority should take into account the information in the Environmental Statement, the responses to consultation and any other relevant information when determining the planning application. Further assessment of the submitted Environmental Statement will be made in the comments section of this report.

As well as submitting this planning application, the ESCP have also made a marine licence application to the Marine Management Organisation (MMO). The MMO is jointly working with the Council under the principles of the 'Coastal Concordat' (DEFRA, a Coastal Concordat for England, 11th November 2013), which aims to streamline the planning and licence application process for applicants / developers.

The MMO is considering the licence application under the Marine Works (Environmental Impact Assessment) Regulations 2007 (MWR). This enables an appropriate authority (the MMO) to determine that an EIA is not required, if it is satisfied that assessment of the effects on the marine environment from the project has already been, is being, or is to be carried out by another consenting body, in this case the Council as Local Planning Authority.

The MMO have been liaising with the Council to ensure the requirements of the EIA consenting process are sufficiently met in terms of the assessment of potential impacts upon the marine environment. However, they reserve the right to consider a standalone EIA consent decision under the MWR, if they believe the impacts have not been adequately assessed.

Under Regulation 10(4)(a) of the MWR, the MMO must defer reaching its regulatory decision until the other consent body, the Council (as Local Planning Authority), informs the MMO that a decision to grant approval would be compatible with that authority's measures to comply with the EIA Directive / Regulations.

In this case, the HRA process requires a 'competent authority' to decide whether or not the coastal defence works can proceed having considered the following 'appropriate assessment requirements' to (1) determine whether a plan or project may have a significant effect on a European site, and (2) if required, undertake an appropriate assessment of the proposal and decide whether there may be an adverse effect on the integrity of the European site in light of the appropriate assessment undertaken. This issue is addressed further in the comments section of this report.

In accordance with the Coastal Concordat, and to ensure a better co-ordinated approach, Portsmouth City Council has adopted the role of lead 'Competent Authority' for the requirements of the Habitat Regulation Assessment (HRA) process, for this section of the total project. This is in-line with the DEFRA Guidance on competent authority coordination under the Habitats Regulations (July 2012).

Other Legislative Frameworks which are relevant to the proposal are:

- Water Framework Directive - where permission is sought from the Environment Agency to ensure there is no deterioration to the existing status of relevant water bodies;
- Waste Framework Directive - requiring a Site Waste Management Plan for the delivery of the scheme;
- Wildlife and Countryside Act 1981 - approval including Natural England's overall advice regarding habitat regulation and marine license application;
- Land Drainage Act 1991 and Water Resources Act 1991 and associated bylaws - where the Environment Agency can require flood defence consent, and in this instance has agreed that a Flood Risk Assessment forming part of the Design and Access Statement will cover their requirements;
- Natural Environment and Rural Communities Act 2006 - every public authority must ensure in undertaking its functions it has conserved biodiversity. By complying with the EIA regulations the project will have addressed the requirements of this legislation.
- Section 66 of the Listed Buildings and Conservation Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The Hilsea Lines Scheduled Ancient Monument and Conservation Area adjoin the sea defences and therefore the view of Historic England in terms of the need for Scheduled Ancient Monument consent is required.

## **CONSULTATIONS**

### **Environment Agency**

We have reviewed the submitted plans and supporting information and have the following comments to make. We have no objections to the proposed development, subject to the inclusion of the below conditions in any permission granted.

Without the inclusion of these conditions the development poses an unacceptable risk to the environment, and should not be approved.

#### Condition 1 - Compensatory habitat

No development below mean high water shall take place until a scheme for the provision and management of compensatory habitat creation, in accordance with the measures detailed in the approved Environmental Statement, has been submitted to and agreed in writing by the local planning authority and implemented as approved.

#### Reasons

The Environmental Statement (ES) identifies the loss of intertidal habitats (saltmarsh and mudflat) from the proposed development. The site is highly designated, being within the Portsmouth Harbour RAMSAR site, Special Protected Area, and Site of Special Scientific Interest.

The proposed encroachment into the intertidal habitat has a potentially severe impact on its ecological value.

Paragraph 118 of the National Planning Policy Framework (NPPF) states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy PCS13 of the Portsmouth Plan (2012) states that development must retain and protect the biodiversity value of the site, and produce a net gain in biodiversity where possible.

The ES identifies a net gain in the amount of intertidal habitat at the site, post-development. This will be delivered through the partial removal of slipway at Lower Wade Way and revetment defences at the northern part of the scheme.

However, a detailed compensation scheme, based on the detailed design drawings, is required to demonstrate where, when and how the compensation will be delivered.

The scheme should refer to the quality of habitat being lost (e.g. saltmarsh) as well as the quantity. The above condition is required to ensure an appropriate scheme for compensation is approved in detail, and implemented in accordance with these details.

#### Condition 2 - Construction and Environment Management Plan (CEMP)

No development, including any demolition, shall take place until a Construction and Environment Management Plan, in accordance with the approved Environmental Statement, has been submitted to and approved in writing by the local planning authority.

The approved Statement shall be adhered to throughout the construction period. The Statement shall include the following details, including drawings where appropriate:

- Mitigation and pollution prevention measures to protect water quality and the shellfish water, including from the removal of the slipway;
  - Works with the potential to mobilise sediment must be undertaken at low tide and with silt curtains deployed around the full working area.
- A detailed piling method statement; and
- How saltmarsh and mudflats will be protected during construction, and how any impacts will be mitigated for.

#### Reasons

The development site includes intertidal habitat and estuarine waters, associated with the Portsmouth Harbour designated site, Water Framework Directive (WFD) waterbody and Shellfish Water Protected Area.

The activities involved with implementing the proposed works have the potential to cause adverse impacts on the nature conservation value of the intertidal habitat, on migratory fish, and on water quality.

The above condition is required in order to ensure that the construction methods take into account, and mitigate for, these environmental risks.

It should be noted that assumptions have been made in the ES on the potential impacts to migratory fish from the impacts of piling. The detail of any piling methods will need to be supported by further evidence to demonstrate how the impacts on migratory fish will be mitigated.

We have assessed this proposal against the 'no deterioration' requirements of the WFD, which included an assessment of the works' potential for impacts on the status of WFD quality elements, specific pollutants, priority substances and protected areas (e.g. Shellfish Waters).

Our conclusion is that the works are unlikely to have a significant impact on the current WFD status of the water body if they are undertaken in accordance with the method statement provided with any residual risks managed through the CEMP.

### **Flood risk**

The Eastern Solent Coastal Partnership scheme aims to reduce the risk of coastal flooding to homes and businesses from a 1 in 500 year tidal flood event.

The proposed wall will be built above 4.5m AOD which is above the predicted 1 in 200 year tide level of 4.3m AOD for 2115.

We have no objections to the proposed construction of new coastal flood and erosion risk management structure with regards to tidal flood risk.

### **Contaminated land**

With regards to water quality and land contamination issues, the proposed works are to be advised by the site intrusive investigations that have been undertaken.

Land behind Tipner Lake includes extensive areas of landfilling. Land at the southern tip of Tipner Lake includes a former chemical works and depots site as well as further landfilling. These have been identified as presenting a risk to the water environment.

The Phase 3 investigations as detailed in Section 16.4 of the ES have stated that the initial results from chemical testing from the retrieved samples show the samples are either below limits of detection, or are within the relevant thresholds values for Parks and Open Spaces. We support the recommendations made in Section 16.4.3.

We have reviewed the information presented in 16.6.1 and Table 16.1 - potential impact during construction. The details and assessment are satisfactory and we support the mitigation measures outlined in Section 16.8 to prevent pollution from land contamination. We also support the mitigation measures detailed in Table 16.2 to minimise the impact from construction works upon the water environment.

### **Advice to developer - Pollution prevention**

We would expect that all works are undertaken following current best practice and with minimum impact on water quality. We would advise the applicant to adhere to the Environment Agency's Pollution Prevention Guidance (PPG) 5 for works in or near watercourses.

In the event of a pollution incident, all works should cease immediately and the Environment Agency should be contacted via the incident hotline 0800 807060.

#### Advice to developer - Waste and reuse of material

##### Waste on site

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste.

Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, we should be contacted for advice at an early stage to avoid any delays.

We recommend that developers should refer to:

- the Definition of Waste: Development Industry Code of Practice on the CL:AIRE website and;
- The Environmental regulations page on GOV.UK.

##### Waste to be taken off site

Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear.

If in doubt, we should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

#### **Highways England**

Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

In the case of this development proposal, our interest is in the A3(M), M27 and M275. Having examined the above application, we do not offer any objections to this proposal.

## 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 Regulations 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 partly within 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.

SPA/Ramsar: No objection - subject to conditions

Natural England notes that the HRA has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects.

Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of information provided and the conditions below, Natural England concurs with this view.

Prior to the commencement of the development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will avoid or mitigate impacts of the designated sites. In particular, the CEMP will include a methodology for the construction, use and removal of the temporary haul road that will be located within the designated sites. The methodology will ensure that the road material will be such that it will be fixed in place for the duration of the works and will not disperse outside of the road footprint. The road will also be removed completely prior to 1 October. The CEMP will also address measures to protect seagrass beds. Once approved, the Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

No works pursuant to this permission, including the creation and removal of the construction site compounds and haul routes (but excluding landscaping), shall take place within the sensitive overwintering bird period (October to March inclusive), unless otherwise agreed in writing with the Local Planning Authority.

Prior to the commencement of the development hereby approved, a Landscape Environmental Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning



Authority. The Landscape Environmental Management Plan shall identify the steps and procedures that will avoid or mitigate impacts of the designated sites. In particular, the LEMP should include: the replacement of planting along the coast that was removed for the construction, a species list, the timing and methodology of works. Once approved, the Landscape Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: to ensure the conservation status of Portsmouth Harbour SPA and Ramsar Site SSSI No objection - with conditions

This application is in close proximity to Portsmouth Harbour Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. 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(I) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

These conditions are required to ensure that the development, as submitted, will not impact upon the features of special interest for which Portsmouth Harbour is notified.

Prior to the commencement of the development hereby approved, a Saltmarsh Mitigation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Saltmarsh Mitigation Scheme shall identify the final design, and construction methodology that will mitigate for the loss of 110m<sup>2</sup> of saltmarsh. Once approved, the Saltmarsh Mitigation Scheme shall be delivered in full prior to the completion of the approved development, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: to ensure the conservation status of Portsmouth Harbour SSSI

If your Authority is minded to grant consent for this application without the conditions recommended above, we refer you to Section 28(1) (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon your authority, requiring that your Authority; Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice; and

Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

### **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.

#### **Queen's Harbour Master**

We are fully aware of this project and have been involved with yourselves (PCC) and other government agencies over these proposals.

There is no infringement of safety of navigation in this area and I can state we /QHM are content for these works to proceed, please accept this email as our formal assent.

#### **Langstone Harbour Board**

I write in response to the consultation for a Marine Licence and Planning Permission to construction new coastal defences at Tipner Lake. The Board's Planning Sub Committee has considered this application and has no objections to the proposals.

#### **Historic England**

We understand that this is an application for a proposed flood and erosion risk management scheme. The development area is both adjacent to and includes part of the scheduled monument known as Hilsea Lines, List no. 1001861, and the Hilsea Lines Conservation Area.

#### **Summary**

The proposed scheme will cause some harm but not substantial harm to the scheduled Monument and Conservation Area known as Hilsea Lines. We realise that harm from the construction of the new seawall will need to be balanced by the planning authority against public benefit from the proposed scheme. In the case of the 'social spot' proposed at the outer north-west corner of the historic moat we advise that the benefits suggested in the application can be achieved without the harm that construction of this feature would cause.

We do not object to this application but we advise that one aspect of the scheme - the 'social spot' with associated access path in the corner of the historic moat - should not be approved as set out in the application. We advise that if the local authority is minded to grant consent an appropriate condition should be imposed securing the redesign of landscaping in the area of the north-western corner of the Hilsea Lines moat.

#### **Historic England Advice**

The proposed works include the construction of a new concrete seawall along the Tipner Lake frontage with associated landscaping to the waterfront area, and the construction of a 'social spot' with new path and banked seating cut into the outer north-west corner of the Hilsea Lines historic moat.

A Heritage Statement has been submitted with the planning application as part of the Design and Access statement (North Portsea Island Coastal Flood and Erosion Management Scheme - Tipner Lake (Frontage 1), Heritage Statement. Pre-Construct Archaeology, August 2016) together with an archaeological mitigation strategy (North Portsea Island Coastal Flood and Erosion Management Scheme - Tipner Lake (Frontage 1) An Archaeological Mitigation Strategy. Pre-Construct Archaeology, October 2016, Appendix P).

The Heritage Statement is very limited in scope. It does not attempt to assess the significance of the Hilsea Lines scheduled monument beyond the most general statements (section 5.10.2), nor does it assess the impact of the development on the significance of the monument. The main publication on the Hilsea Lines (Mitchell, G, 1988 Hilsea Lines and Portbridge, Solent Papers No.4) is not referenced, and there is no consideration of any contribution that the setting of the

monument makes to its significance. Hilsea Lines Conservation Area is not mentioned. No further detail is provided in the Mitigation Strategy document.

Section 13.5 of the Environmental Statement (ES) acknowledges a 'visual impact' on the Hilsea Lines, as does the Landscape and Visual Assessment (LVIA, ES Appendix L) but again this is not based on any detailed consideration of the monument's significance.

### **The Hilsea Lines**

The Hilsea Lines as surviving are one and three quarter miles long, with a further half mile of lines to the east having been destroyed by later development. The Lines were substantially completed by 1871 though remnants of earlier lines (completed in 1757) may survive within them, and there are later additions. The defensive earth and chalk ramparts are massive, standing 30 feet high, with brick casemate batteries, magazines and other features built into them. In addition to artillery operating from the bombproof casemates (which included barracks), earth ramps were provided so that guns could be brought up onto the ramparts. A wide, water-filled moat lies north of the ramparts and runs in a series of shallow angles, mimicking the shape of the earthen defences. This moat provides a second barrier behind the natural Ports Creek which runs parallel and to the north.

The 18th-century lines were built to defend Portsmouth and its crucial Dockyard and harbour following the outbreak of the Seven Years War. In the 1850s, concern about the threat from France under Louis Napoleon led to increased calls for the strengthening of Portsmouth's defences. The new lines were completed (by 1871) despite the development of new breech-loading rifled guns which had a longer range and could have fired on the dockyard from the landward side without needing to overrun Hilsea Lines. Forts on top of Portsdown Hill were thus being constructed at the same time as the new Lines, which became a second line of defence. The Lines were not armed until the 1880s, by which time they were already being considered as outdated.

The section of the Lines affected by this planning application is the West Demi-Bastion, formed by the moat and rampart turning sharply southwards at the western end of the Lines. A single seven-inch breech-loading rifled gun was sited (in the 1880s) at the salient (corner) of the bastion in a concrete emplacement. It could be traversed on a swivelling mount to cover an arc from north towards Portsdown Hill to west across Tipner Lake. The design of the Lines would require land north of the moat to be kept clear so that enemy forces could be seen and fired upon.

### **Significance of the Lines**

The significance of a heritage asset can be defined as the sum of its evidential, historic, aesthetic and communal values (Conservation Principles, Historic England 2008). The Hilsea Lines have high evidential value as the surviving structures contain considerable detailed evidence for the construction and use of the defences, including possibly the pre-19th-century phases. Historic value may be illustrative and / or associative. Very high illustrative value is clear from the way the surviving structures and moat illustrate both the general massive defensive efforts of the 19th century, and the detail of magazines, gun emplacements, open killing ground etc. The Hilsea Lines also both illustrate and are associated with the 19th-century fear of invasion from France under Emperor Napoleon III, and the response to this fear. From the Lines there are views up to the forts on Portsdown Hill, meaning that the lines also illustrate how technology rapidly overtook the slow construction of successive defensive schemes for Portsmouth.

The Scheduled Monument and Conservation Area are a rare wooded green space in the context of Portsea Island, and the aesthetic value is substantial even if downgraded by visible modern buildings and by the view of and noise from the M27 motorway. Views up to Portsdown Hill enhance this value as does the unobstructed view out across the north-eastern arm of Tipner Lake from the western end of the Lines.

The green space has high communal value as a public area used extensively for walking, cycling and other pursuits. Although difficult to quantify, this value is associated for some visitors with experience of and understanding of the historic Lines, and local history groups such as the Victorian Forts Society have a strong interest in the area.

### **Impact of the scheme**

Section 13.5 (Table 13.2) on heritage, within the ES, acknowledges a 'visual impact' on the Hilsea Lines. The overall conclusion is of a 'positive visual impact'. The LVIA concludes that: 'Impact on views from Hilsea Lines is likely to be minimal. There is some topographical and hydrological sensitivity required around the corner of the moat which forms part of the historic Lines setting, but the character of this area would be improved considerably by the proposals, allowing better appreciation of the Lines and the moats.'

As discussed above, these assessments of impact did not take account of the significance of the Hilsea Lines. When the significance is taken into account there would clearly be some higher than minimal impact from the construction of the new concrete seawall along the Tipner Lake frontage. This would impact on the aesthetic value as the wall, although only 1.2 metres high on the landward side, would cross the currently unobstructed view out across Tipner Lake. Drawing 5487\_PL\_110 also shows proposed new vegetation against and growing above the new sea wall, making the obstruction higher. It would also impact on the illustrative value of the western end of the Lines (west demi-bastion and moat). The Lines were designed to have open ground (or water) maintained beyond the moat, so that an approaching enemy could be seen and fired on by artillery or, in a last ditch situation, small arms. The new seawall will partially interfere with the appreciation by visitors of this part of the setting of the Lines. There is also a risk that as the new structures weather, they could be mistaken as part of the defences, which do include some concrete structures. We advise that the use of the term 'minimal impact' understates the case and the new sea wall would therefore cause some harm to the significance of Hilsea Lines, though not substantial harm. As a new modern structure the seawall will also cause minor harm to the conservation area, the character of which is based on green space and historic structures.

We also advise that harm would arise from the construction of the proposed 'social spot' with a 'sculptural stepped landform' in the curved outer corner of the moat; this is in line with our pre-application advice to the applicant. The curved edge of this corner, defined by water and green space, retains the same form as when the defences were completed in the 19th century (Mitchell, cited above, pp16-17). The slope of ground from west to east, down to the edge of the water-filled part of the moat, is part of the overall defensive works even though the scheduled area includes only the western edge of the water-filled channel. It should thus be considered as being of equivalent (i.e. national) importance and subject to the same policies as designated assets (NPPF paragraph 139).

When experiencing the Lines as a visitor, particularly from inside the moat or up on the earthen defences, the moat corner is a key point which draws the eye. We advise that the construction of banked seating here, of a new path to the seating and with planting against and over the new seawall (discussed above) will affect the aesthetic and historic (illustrative) values of the Hilsea Lines, causing some harm, though not substantial harm. We further advise that it is very unlikely that Historic England would advise the Secretary of State to grant scheduled monument consent for this feature in its current proposed form. The justifications given in the application for the construction of the social spot here are unconvincing - creation of seating in a single spot will not 'allow better appreciation of the Lines and moats'. Appreciation is best achieved by moving around the Lines and moat, taking in different viewpoints, and by being able to access carefully considered interpretation material. We therefore advise that the same benefits as are proposed for the social spot can be achieved without causing harm to the Lines, and that paragraph 134 of the NPPF does not therefore support this part of the scheme.

The application documents imply that there will be some interpretation of the Hilsea Lines as part of the scheme but this is not explicit and no detail is given. The construction of the scheme

would clearly offer an opportunity to install interpretation and to engage with local schools and interested specialist groups. We advise that this opportunity should not be passed up. The proposed installation of interpretation at the viewpoint to Portchester Castle is welcomed. Historic England would welcome further discussion with the applicant on the development of an interpretation scheme that ties in with other parts of the Hilsea Lines.

With regard to impacts on buried archaeological remains outside of the scheduled area we note the submitted Archaeological Mitigation Strategy and we concur with the advice given by Hampshire County Council. Given the location of some of the works just outside of the outer moat edge we advise that any revision of the Mitigation Strategy should demonstrate a more detailed understanding of the Hilsea Lines. It should also acknowledge and make provision for the possibility of encountering archaeological remains which are of equivalent (national) importance to the scheduled structures.

Paragraphs 128-9, 131-2, 134, 135, 137 and 139 of the National Planning Policy Framework are relevant. In particular, paragraph 128 states that: In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The application under discussion here did not conform to this. Paragraph 134 requires that: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The relevance of this has been discussed above. Finally, Paragraph 139. states that 'Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets. Again, this has been discussed above.

### **Recommendation**

We realise that harm from the construction of the new seawall will need to be balanced by the planning authority against public benefit from the proposed scheme. In the case of the 'social spot' proposed at the outer north-west corner of the historic moat we advise that the benefits suggested in the application can be achieved without the harm that construction of this feature would cause.

We do not object to this application but we advise that one aspect of the scheme - the 'social spot' with associated access path - should not be approved as set out in the application.

We advise that if the local authority is minded to grant consent a condition should be imposed using this or similar wording: 'No development shall take place until the applicant has submitted a revised design for landscaping of the area of the north-western corner of the Hilsea Lines moat, and until the revised design has been approved by the planning authority advised by Historic England.'

### **Ecology**

I am satisfied that the submitted information is representative of the current application site conditions and I do not have any concerns to raise. Detailed comments are provided below:

#### **Internationally and Nationally Designated Sites**

Natural England have been consulted on this application because the site is partly within Portsmouth Harbour Special Protection Area (SPA) which is a European site. The site is also listed as Portsmouth Harbour Ramsar site and also notified at a national level as Portsmouth Harbour Site of Special Scientific Interest (SSSI).

In respect of the internationally designated sites, a HRA which has been prepared by the Applicant and adopted by the LPA concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. Natural England concur with this conclusion and subject to the implementation of a

number of conditions (including a single condition for the SSSI), have raised no objection to the application.

I do not have any concerns to raise and would simply suggest that the conditions proposed by Natural England are attached to any future consent. In summary, these include the submission of a Landscape Environmental Management Plan (LEMP), Construction Environmental Management Plan (CEMP) and a Saltmarsh Mitigation Scheme prior to commencement and a timing constraint which stipulates that no works shall take place within the sensitive overwintering bird period (October to March inclusive).

#### BAP Habitats and Species of Principle Importance

The existing sea defences support patches of true saltmarsh which will be lost during the proposed works. Saltmarsh is considered to be a BAP Priority Habitat in the UK and features as a Habitat of Principal Importance under the NERC Act 2006. All local authorities and agencies are expected to promote the conservation and enhancement of habitats and species listed under the NERC Act. An outline saltmarsh strategy has been presented and this states that the "northernmost section of the works has been identified as a suitable location to provide the required mitigation for the area of saltmarsh lost during construction of the new coastal defences at Tipner Lake. Currently there is approximately 110m<sup>2</sup> of saltmarsh that would be lost due to construction of the new defences and the proposed mitigation should provide a greater potential area than is lost. Once the design is completed for this section a better estimation of area will be known." Subject to the attachment of Natural England's recommended condition for the submission of a Saltmarsh Mitigation Scheme, I am happy that the loss of this priority habitat has been addressed.

A sizeable and locally important population of the Nationally Scarce divided sedge has been recorded within the works area. The species features in the Hampshire BAP and is a Species of Principle Importance in England under Section 41 of the NERC Act 2006. An outline mitigation strategy has been proposed which recommends that turf containing divided sedge is translocated. Natural England's recommended condition for a LEMP requires inclusion of the replacement of planting along the coast that was removed for the construction, a species list and the timing and methodology of works. I would recommend that this condition also requires the removal, storage and translocation of turves which contain sufficient material to ensure survival of divided sedge as set out in section 5.2.2 of the Extended Phase 1 Ecological Survey Report (Appendix S) (HCC, October 2016).

#### Bats

The proposals will result in the loss of a small area of moderate value foraging habitat. I do not have concerns regarding the loss of this habitat given its limited scale.

#### Breeding birds

Habitat suitable for supporting breeding birds is present within the application site. The Applicant's ecologist has recommended that the clearance of suitable habitat is undertaken outside of the breeding bird season (March to August, inclusive), however, if this is not possible all vegetation clearance works should be preceded by an inspection by a suitably-qualified ecologist. I would recommend that the following informative is attached to any future consent:

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 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 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.

## Reptiles

Suitable reptile habitat within the application site is limited and largely isolated, however, it is considered possible that the allotment gardens on Horsea Lane may sustain a population of reptiles. The scrub and grassland habitat immediately adjacent to the allotments will not be impacted by the works and the vegetation which will be lost is either frequently managed or unconnected. Nevertheless, there is considered to be a low but not negligible risk that small numbers of common species are present within the application site. Given the very small scale of suitable habitat and the isolation of this habitat from wider areas of suitable reptile habitat, I do not believe it is a high enough risk for it to be reasonable to require that specific surveys to be carried out. I would simply suggest in this instance that an informative note be added to any decision notice informing the applicant of the legal protection afforded these animals, for example:

All native reptile species receive legal protection under the Wildlife and Countryside Act 1981 (as amended). It is highly advisable to undertake clearance of rough grassland and scrub interfaces outside the reptile hibernation period (typically October - March). Clearance of reptile habitat such as general debris and rough vegetation should then take place carefully and sensitively under supervision of a suitably experienced ecologist, to allow any reptiles present to leave the area of their own accord.

## RSPB

No comments received.

## Hants & IOW Wildlife Trust

Thank you for consulting the Wildlife Trust on this application. We apologise for our delay in responding but as you are aware we had difficulty accessing some of the documents which has delayed the preparation of this response. We apologise for this delay and hope that it does not inconvenience you in any way.

We acknowledge that these proposals are in line with the adopted North Solent Shoreline Management Plan and that environmental compensation for the 'holding the line' policy will be achieved through the Regional Habitat Creation Programme. Having now had the opportunity to review the supporting documents, we are satisfied with the proposed works and mitigation measures that have been put in place and therefore have no objections to the proposals.

However, we do have concerns that in the event of predicted sea level rise and coastal squeeze losses it is likely that important wader roosting sites will be lost. We would therefore request that through the coastal defence works, consideration is given to creating new wader roosting sites which are protected from disturbance and would support the local over-wintering populations of wading birds. Such proposals could involve re-charging existing spits or islands, restricting access to existing structures or placing structures in suitable locations within channels.

The above advice is given based on the information made available at this time and may change should further or amended details be submitted. We trust that you will find our comments helpful and if you wish to discuss these matters further, please do not hesitate to do so. I also ask that you keep the Trust informed of the progress and outcome of this application.

## Leisure/Arb Officer

Several site visits have been undertaken in company with the applicant, members of the Eastern Solent Coastal Partnership, Parks Manager and Contract Manager.

## Observations

The proposal for tree removal features largely self-seeded trees, bramble and scrub adjacent to the existing cycleway and footpath bordering Alexandra Park, Barnham Way and Spinnaker Drive.

One significant tree is to be removed in order to form an access point to the proposed compound at Alexandra Park.

Further tree removals adjacent to Hilsea Lido and Portsbridge Roundabout are an area that was historically planted with whips - possibly as part of a remediation scheme following realignment or creation of cycleway and footpaths.

This was not undertaken by PCC.

These whips have developed into semi mature trees in most cases up to approx. 8m high.

One further established tree is to be removed adjacent to the children's play area to facilitate construction a negotiable bend for construction traffic.

These tree works have been agreed as essential to facilitate the proposed development.

Further tree works are restricted to crown lifting of trees which overhang the proposed haul route, cycleway and footpath to 5m in order clear construction traffic.

The landscaping proposal as submitted offers a significant improvement in quality of tree stock.

### **Archaeology Advisor**

I would draw your attention to the EIA SCOPING OPINION that is included among the documentation attached to the above application on your website. This Scoping Opinion includes a section (13) entitled Archaeology and Heritage. This section concludes with a strategy to mitigate the impact of the proposed development upon any potential archaeological resource which states that:

#### **Excavation:**

In first instance, archaeological watching brief to be undertaken on a full time basis, with monitoring reduced to an intermittent basis if excavations reveal deposition sequences largely composed of made ground.

Should archaeological or palaeoenvironmental material be discovered, work will cease until approved to continue by Hampshire County Council archaeology.

#### **Analysis and Reporting:**

Should significant archaeological remains be encountered during the course of the works a post-excavation analysis will be carried out and, if warranted, full publication of the results.

Should palaeoenvironmental material be recovered during excavations a stage assessment process as detailed in the WSI for Archaeological Monitoring of Geotechnical Investigations will be undertaken.

While I would broadly concur with this suggested mitigation strategy I note that the second part of the Excavation strategy does not make clear what action should be taken in the event that archaeological or palaeoenvironmental material is discovered. It would be preferable in my opinion for a WSI to be prepared at this stage which sets out how the exposed archaeology or palaeoenvironmental deposits will be excavated and recorded.

I would therefore advise that that a condition is attached to any planning permission that may be issued. Such a condition would require the preparation of a Written Scheme of Investigation (WSI) that sets out the methodology for an archaeological watching brief of the ground works associated with the proposed development, to ensure that any archaeological remains encountered are recognised, characterised and recorded. If any archaeological or palaeoenvironmental deposits are uncovered during this watching brief, then the archaeological advisor to Portsmouth city Council should be informed and a strategy agreed between the



advisor and the archaeological contractor on how to excavate and record these deposits. This strategy should then be set out in a new WSI. Provision should also be made for the public dissemination of any results and the WSI (or WSIs) should satisfy the Local Planning Authority that the scheme is sustainable under the terms of NPPF.

I note that the proposal may have a physical impact upon the Hilsea Lines, as well as an impact upon its setting, a Scheduled Monument. I would however defer to any advice offered in this matter by Historic England.

### **Highways Engineer**

I have reviewed the design and access statement submitted in support of the application and would make the following observations.

This application relates to the third phase of construction works (Phase 3). The Phase 3 frontage is located on the north-west corner of Portsea Island. There is pedestrian access along the entire frontage via the coastal path, consisting of a joint cycle and pedestrian path. The path is bound at the southern end and footpath users must divert inland. The path at the northern end of the site is unbounded and access continues on the path around the northern end of the island. The area is popular with dog walkers, cyclists, walkers and runners, and is important for local amenity and recreation.

The scheme will incorporate a new reinstated path along the full length of the coastal defences. It will be a shared cycle and pedestrian path. This will provide access for pedestrians and cyclists and will not be segregated. The path will be raised where necessary to ensure the new seawall is not more than 1.2m above the finished promenade. The shared foot and cycle path will be reinstated to a condition at least as good as it is at present. It will be an asphalt path and be 4m wide along its length. The footpath that meanders along behind the current alignment of the promenade will be composed of self-compacting gravel. I am comfortable that this is a sensible design solution.

One main compound and three further smaller compound areas will be required. The main compound will be located at the north east corner of Alexandra Park immediately adjacent to the site. As well as offices and welfare facilities, this compound will be the main storage location for materials for the works along the Tipner Lake frontage. HGV access into the main compound will be along the A3/Northern Parade, Alex Way and the haul road which will be constructed across Alexandra Park. I am satisfied that this is the most appropriate route to access the site although pre and post condition surveys of the route will be necessary with the applicant required to repair any damage caused during the construction process.

The other three will be areas for stockpiling, storing and contractor parking. A continuous haul route along the whole frontage will link all the compound areas, except for the car park area to the east of Portsbridge Roundabout, which is separated by the A3/Northern Parade. There is a footbridge linking this compound area to the rest of the site. This satellite compound area will be used purely for site car parking. As a consequence the construction traffic will largely be contained within the site and will not have an impact on the operation of the highway network.

The northern end of the Phase 3 frontage ends at the Ports Creek roundabout, but there are no planned works directly on it and it is not expected to be affected by the works. The access routes to the site will pass through residential areas (Alex Way, Twyford Avenue and Matapan Road/Spinnaker Drive).

Whilst one of the scheme outcomes will be to improve the coastal path and as a consequence pedestrian and cycle access along the whole frontage. There will be a significant period of disruption whilst the scheme is implemented over three construction seasons April 2017 - October 2019 during which time this route will not be available rather the route will be diverted along Northern Parade where a full cycle lane will be constructed. Although regrettable there is no other practical alternative routing option which would facilitate these works. The detail of the

cycle lane for this route is not detailed in the application and a condition should be imposed on any consent requiring the submission and approval of those details, and implementation of the alternative route prior to the closure of the existing pedestrian and cyclist route in the vicinity of the works.

In conclusion I would not wish to raise a highway object to this application subject to conditions requiring:

- Pre and post scheme condition surveys of the construction access route with the applicant required to repair any damage caused during the construction process; and
- The submission and approval of the design details for and implementation of the alternative cycle lane on Northern Parade prior to the closure of the existing route in the vicinity of the works.

### **Environmental Health**

Environmental Health has conducted a baseline noise survey and assessment of the potential impact due to construction noise upon residential properties adjacent to the site.

During the construction phase there is likely to be a significant impact upon dwellings within Valiant Close, Barham Way and Spinnaker Drive and consequently mitigation measures need to be considered and implemented where practicable.

Although significant impacts during the daytime and evening periods have been identified these are within the criteria recommended by The Wilson Report for construction sites to ensure internal noise levels do not exceed the level at which conversation would be difficult with the windows shut, and the progressive nature of the works should ensure exposure is of limited duration.

All construction sites regardless of impact should ensure best practicable means are employed to reduce noise emissions to a minimum. It is recommended that consideration should be given to increasing separation distances where practicable and possibly the provision of barriers around static plant.

Although it is intended for all works to be restricted to normal construction site hours of 07:00 - 19:00hrs, it is anticipated that there may be some requirement for evening and night work owing to a dependency upon tidal conditions for certain activities. It is recommended that there are no demolition or piling activities after 23:00hrs.

Although it has been identified that HGV's will be used for the works, it is unlikely that it will generate significant traffic movements in the area.

### **Contaminated Land Team**

Chapter 16 of the Phase 3 Environmental Statement introduces the information contained in Appendix K:

North Portsea Island Coastal Flood and Erosion Risk Management Scheme - Phase 3: Tipner Lake. Contaminated Land Strategy Version 1.

Ground Investigation - Factual Report North Portsea island Coastal Flood and Erosion Scheme. Geotechnics, PE161299. June 2016. [forming Appendix B of the above CL Strategy]

The Contaminated Land Strategy discusses the reuse of soil for landscaping purposes and embankments. It is generally acceptable but does not include the finer details of stockpiling locations and so Method Statements are requested for each area that soils will be reused to give specific information. The Contaminated Land Strategy assumes that existing chemical data from the engineering survey is sufficient to characterise the material being excavated. A Method

Statement with watching brief are requested, describing the details of how soil will be collected, tested for contaminants and stored when it is intended for re-use (or to be disposed of appropriately). I must also highlight that the possibility for remediation of soil is mentioned and this may require a separate planning application to govern those works.

Further testing may be required as the engineering based sampling is not statistically robust for pollution assessment and the analyses for VOCs are deviating and so are no longer considered MCERTS. It is always difficult when sampling long thin sites. I also look forward to reviewing the principal contractor's Construction Environmental Management Plan that will make reference to the working method statements and other pertinent information.

I therefore request that the following, or similar, conditions are placed on the permission:

No works pursuant to this permission shall commence, unless otherwise agreed in writing with the Local Planning Authority, until a Method Statement has been submitted to the Local Planning Authority detailing how soils destined for re-use will be assessed for contamination. A Method Statement shall be written for each area of working and include detail of the compound, soils storage and segregation and testing procedures. The submitted Method Statement should be approved in writing by the Local Planning Authority prior to works commencing and then implemented in accordance with the submitted details.

In the event that any signs of pollution (visual, olfactory, or textural) such as poor plant growth, odour, oily, ashy, odorous or fibrous materials, staining or unusual colouration of the soil, asbestos fragments or fibres, inclusions of putrescible materials, plastics, drums or other materials having been used in the construction of the built structure or remains from a past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA) and a Method Statement drawn up as detailed in Condition 1 detailing the assessment and disposal of this material. This must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

On completion of works the developer shall submit records from the monitoring agreed in 1 and summarise any remedial works agreed in condition 2 shall be submitted to and approved in writing by the Local Planning Authority, or confirm that there were no indications of pollution during works.. 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 approved report.

Reason: To minimise adverse environmental impacts on the Portsmouth & Langstone Harbour's Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSI), Special Areas of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), on the Hilsea Lines Local Wildlife Site, and to ensure that the site is free from prescribed contaminants, in accordance with PCS13 and PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF and saved policy DC21 of the Portsmouth City Local Plan 2001-2011.

### **Marine & Coastguard Agency**

No comments received.

### **Southern Gas Network**

Please find an extract from our mains records of the proposed work area enclosed for your guidance. This plan only shows the pipes owned by SGN in our role as a Licensed Gas

Transporter (GT). Please note that privately owned gas pipes or ones owned by other GTs may be present in this area and information regarding those pipes needs to be requested from the owners. If we know of any other pipes in the area we will note them on the plans as a shaded area and/or a series of x's.

The accuracy of the information shown on this plan cannot be guaranteed. Service pipes, valves, siphons, stub connections etc. are not shown but you should look out for them in your area. Please read the information and disclaimer on these plans carefully. The information included on the plan is only valid for 28 days.

On the mains record you can see our low/medium/intermediate pressure gas main near your site. There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. You should, where required confirm the position using hand dug trial holes.

A colour copy of these plans and the gas safety advice booklet enclosed should be passed to the senior person on site in order to prevent damage to our plant and potential direct or consequential costs to your organisation.

Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.

Damage to our pipes can be extremely dangerous for both your employees and the general public. The cost to repair our pipelines following direct or consequential damage will be charged to your organisation.

Please ensure we are able to gain access to our pipeline throughout the duration of your operations.

### **Southern Water**

Please find attached a plan of the sewer records showing the approximate position of a public sewers within the site. The exact position of the public sewers must be determined on site by the applicant before the layout of the proposed development is finalised.

Please note:

- No development or new tree planting should be located within 4 metres either side of the centreline of the public surface water (900mm) sewer.
- No development or new tree planting should be located within 3.5 metres either side of the centreline of the public surface water sewers (600mm, 450mm).
- No development or new tree planting should be located within 3 metres either side of the centreline of the public foul, surface water and combined sewers (150mm, 225mm, 225mm).
- All existing infrastructure should be protected during the course of construction works.
- -No new soakaways should be located within 5 metres of a public sewers.

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 SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

The application details for this development indicate that the proposed means of surface water drainage for the site is via a watercourse. The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

#### **Portsmouth Water**

No comments received.

#### **Coastal and Drainage**

I am taking this opportunity to pass on Drainage Team comments, most of which may well apply more directly at the detailed design stage:

- Ref- Location plan drawing - Location of site compound entrance route at rear of residences Northern Road numbers 49 - 57 will require appropriate protection, to mitigate potential damage from large vehicle movements. This area has evidenced historic flooding issues, likely a combination of the local depression in topography, the underlying clay geology and infrastructure failure. Example photos are attached. The flooding has recently been rectified in conjunction with the sewerage undertaker. Flooding issues arising during or after construction will be incumbent upon the contractor to rectify any damage and flooding problems, as the flooding has not occurred since rectified. The pipework is known at least in part to be vitrified clay which is brittle and more susceptible to damage than other materials such as PVC. As such, it may be wise to relocate the entrance area away from the area of known historic flooding
- There are also known issues with the land drainage of Alexandra Park. Although I have not been able to source drawings, it is considered the park drains west by a gravity network to sea via outfall in the seawall, however the network is presently dysfunctional. It is likely that any further deterioration in function will increase localised flooding and will be considered to be due to large vehicle movements and again the contractor will be incumbent to rectify any issues arising in this respect
- There is no indication at present of how any splash or surface water would be drained from the coastal defences
- Attention must be paid to the creation of ponding caused by the new raised defences interrupting overland flow and/or a lack of attention to levels
- An investigation into the existing surface water outfalls of Phase 3 appears not to have been undertaken at this stage. Their functionality must be continued throughout the duration of the works to ensure the sewerage system is working as it should. A consultation with the sewerage undertaker is necessary in order to determine any specific requirements regarding their utilities along the frontage, in particular Spinnaker Drive, Mountbatten Centre and the War Department Sewer (Hilsea Lines)
- Local drainage of the allotments to the north of Horsea Lane must also be considered, as there are known flooding issues here. The drainage here is generally in the form of ditches. The allotments are under the care of PCC Culture & Leisure
- Appropriate spill arrangements for site equipment must be in place to mitigate any potential pollution incidents within Tipner Lake
- In addition, a wash area will be required to minimise detritus from site being deposited on the highway and being washed into the sewerage system, and/or deployment of a road sweeper along the haul routes

#### **Road/Footpath Closure**

No comments received.

#### **Asset Management Service**

No comments received.

#### **Mineral And Waste Consultation**

The adopted Hampshire Minerals and Waste Plan (2013) includes a number of policies relating to minerals and waste safeguarding. The proposal is located within the Minerals Consultation

Area as an area of known minerals resources (Policy 15). This policy is in line with national planning policy, which sets out the importance and requirement to safeguard mineral resources as well existing minerals or waste infrastructure.

The southern section of the proposed sea defences affect a very narrow part of the area identified as Brick Clay, Paleogene, Reading, which is used for brick and tile making. This clay is important to maintain the productivity of Hampshire's brickworks.

Mineral resources can only be worked where they are found, and development can therefore sterilise the supply. However the minerals area site is part of Portsmouth Harbour which is especially important as a feeding site for overwintering birds and is protected by international legislation and is a Special Protection Area, a Ramsar site and a Site of Special Scientific Interest. There is therefore no opportunity to recover the clay.

Policy 15: Safeguarding -mineral resources is satisfied, since it can be demonstrated that the sterilisation of mineral resources will not occur.

## **REPRESENTATIONS**

At the time of writing this report, eight letters of representation have been received, one of these being from the Portsmouth Cycle Forum. The following list is a summary of the issues raised.

- Concern with the number and location of construction compounds;
- Concern with dust noise and vibration associated with the construction activity;
- Concern associated with operational impacts on the Hilsea Lido;
- Concern associated with the level of access around the Lido, works to trees on the perimeter of the Lido, access to water meters, obstructions to the western access gate for the Lido;
- Why does the water body need to remain tidal, has the causeway approach been fully explored;
- Access, safety and management of the Alex way entry during the use of the Alexandra Park compound;
- Construction compound impacts to most immediate neighbours, siting of porta-cabins, noise and disturbance, and potential structural impacts to private property;
- Parking, traffic and congestion impacts on Matapan Road;
- Concern around location of workers car parking and congestion on local streets;
- Concern associated with impacts on resident shift workers;
- Concern associated with air borne and water borne contaminants from the works;
- Concern with conflicts between cyclists and pedestrian users;
- Concern with cyclist speed, behaviour, and use of the path;
- Concern to retain steps to the slipway and for hand rails to be installed for safety;
- Concern that reduced parking and access in Alex Way will impact on Victory Bowls Members and the Nuffield Health Centre, Portsmouth Gymnasium and Tennis centre;
- Local drainage stormwater ponding is a local concern, with poor drainage impacting on the Bowls facility.

The Portsmouth Cycle Forum raised the following issues in their objection.

- Access: the work will be carried out over a long period of time, and our understanding is that access will be removed to the whole shoreline between Portsbridge and Twyford Avenue for the duration of the works. The application notes that no work will be carried out over the winter months to avoid disturbing migrating birds, but no provision is made for public access during these periods. We ask that this should be considered because this is one of the few continuous open spaces in this crowded city.
- Cycling: during the works cyclists will be redirected to an 'alternative' cycle route on Northern Parade. The design statement indicates this is a cycle path but is not clear on what type. Is it to be a white-lined cycle lane 1.5m wide on each side, as per DfT

standards? More importantly, is it to be continuous lanes uninterrupted by parked vehicles? The statement notes that this 'alternative' route will be removed on completion of the works. For what reason? There is already a need for improved cycling infrastructure on Northern Parade, which is an important route for Trafalgar Academy and the UTC, as well as the Mountbatten Centre.

- Construction standards: too often non-motorised paths are built to an inferior standard to metalled roads. To avoid the path breaking up after a couple of winters the path should be built to a similar standard to conventional roadway.
- Lighting: the plans do not mention lighting. This is important to make a safe environment along the shore line. We ask that when it is designed, lighting could be made an interesting feature to add ambience, possibly set into the path, and certainly not obstructing it.

The applicant prepared a Frequently Asked Questions document to endeavour to give the answers to the most commonly raised questions. This document was helpful through the consultation phase with many enquiries being resolved by referral to the key questions.

After receiving the above representations, the applicant prepared a document responding to many of the concerns more directly, so as to ensure the most accurate information was in the public domain for the community to consider. This led to some of the above issues being resolved.

## **COMMENT**

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

- whether the principle of the development is acceptable in the location proposed;
- whether the submitted Environmental Statement adequately assesses the significant environmental impacts of the proposed scheme and, where appropriate, sets out the measures to avoid, reduce and, if possible, offset any major adverse effects of the development;
- whether the design of the scheme is acceptable;
- whether the proposal would have a significant impact on the Portsmouth Harbour Special Protection Area (SPA), and Portsmouth Harbour Site of Special Scientific Interest (SSSI), and Wetland of International Importance under Ramsar Convention (Ramsar Site), and Portsmouth International Bird Area;
- whether the proposal would have a significant impact on the safeguarded site in the Hampshire Minerals and Waste Plan;
- whether the proposal is acceptable in highway terms, including during the construction period;
- whether the proposal would have any significant adverse impacts on the amenity on nearby residents; and
- whether the proposal will result in a substantial harm to the Hilsea Lines Scheduled Ancient Monument or adversely impact on the Hilsea Lines Conservation Area.

## **Principle**

As identified in the Portsmouth Plan, new coastal defences are a key piece of infrastructure required to support the wider economic growth and development of the city, and to protect existing residents and businesses. In addition, the Council's own coastal defence strategy for the city (as set out in its Shoreline Management Plan) is to 'hold the line' in terms of protection from flooding and coastal erosion, and thus prevent parts of the city becoming permanently lost to flood waters.

This application represents Phase 3 of the larger 'North of Portsea Island CFERM' project to deliver those new coastal defences. Therefore, it is considered that the principle of the scheme

would be fully in accordance with the Portsmouth Plan, in particular Policy PCS16 (Infrastructure and Community Benefit), and be of significant benefit to the city as a whole.

### **Environmental Statement**

The application is accompanied by an Environmental Statement (ES), in accordance with the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended). This describes the 'Environmental Impact Assessment', which assesses the potential environmental effects of the development during the construction and completed scheme (beneficial or adverse), the degree of impact, and mitigation measures to avoid, reduce or offset negative impacts. The issues covered are: coastal processes, flora and fauna (terrestrial and marine), information associated with the Habitats Regulations Assessment, fish and shellfish ecology, landscape and visual amenity, water environment, archaeology and heritage, noise and vibration, traffic and transportation, ground conditions and land quality, health and air quality, amenity, recreation and socio-economics, and commercial and recreational navigation (some of these issues are discussed further in this report). The Statement concludes that the Mitigation Plan will ensure the delivery of an environmentally acceptable solution along the Phase 3 scheme frontage.

It is considered that the likely environmental impacts of the development have been adequately assessed in the ES and subject to the imposition of appropriate conditions to secure the mitigation measures are considered acceptable. The various chapters of the ES are addressed further in the following paragraphs.

### **Design**

The design of the new defences is a reinforced concrete wall which is to be constructed seaward side for the section south of Horsea Lane. This section features a sheet piled toe and stepped concrete apron with a finished structure level of 4.5m AOD. This height has the effect of creating a 1.2m high wall adjacent to the pathway, enabling uninterrupted views.

For the section north of Horsea Lane the wall will take the form of an encasement of the existing structure and will not have a toe or apron. This section of wall will also have a finished structure level of 4.5mOD and the effect of a 1.2m high wall adjacent to the pathway.

The change in the level of protection is achieved through the seawall extending higher than the footpath creating a balustrade effect giving a 1 in 500 year standard of protection for the next 100 years.

The application includes a detailed description, drawings and other images (included in the submitted Environmental Statement) of the design options that were explored for the new defences and reasons why the preferred option was chosen (this design selection process also included consultation with local residents and other stakeholders). In addition, and as discussed further in this report, the location and design of the new defences is constrained by the international and national nature conservation designations protecting Portsmouth Harbour and the Hilsea Lines Scheduled Ancient Monument.

As with the Phase 1 and 2 scheme, it is recognised that the creation of the new defences would undoubtedly have a significant visual impact on their immediate surroundings.

Whilst the proposals include new landscaping, planting, creation of mudflats and salt marsh areas to mitigate the impact (such mitigation is considered necessary and appropriate and would be secured via a suitably worded condition), it would take time for these environmental benefits to become established.

However, it is considered that the design solution put forward, when considered in conjunction with the submitted Environmental Statement and other material considerations, is appropriate and acceptable for this location.



Given the above, it is considered that the proposed design of the defences would be acceptable when considered against the NPPF, local planning policies and other material considerations.

### **Impact on coastal processes**

The Environmental Statement assessed the impact of the proposed seawall design having regard for the tidal regime of Portsmouth Harbour, sedimentary processes and wave action. Sea defences have the potential to impact on these coastal processes. The Tipner Lake defence structures propose and increase in height rather than width and footprint. It is therefore concluded that the proposed sea defences will not significantly alter the coastal processes along the frontage.

The removal of part of the Lower Wade Way slipway will lead to a depression that in time will through deposition of sediments restore to a natural level. The proposal includes monitoring the adjacent seabed to ensure adverse impacts do not arise.

To prevent suspended sediments from entering Portsmouth Harbour the construction management will need to adopt a silt curtain, and by imposing the requirement for a Construction Environmental Management Plan which includes the use of silt traps, this potential harm can be mitigated.

### **Impact on nature conservation and water environment**

The site for the new defences is adjacent to and within Portsmouth Harbour Special Protection Area (SPA) and Wetland of International Importance under Ramsar Convention (Ramsar Site), Portsmouth International Bird Area and Portsmouth Harbour Site of Special Scientific Interest (SSSI).

These designations highlight the significance of the flora, fauna (including rare and vulnerable birds) and wetland habitat in the area. Phase II ecological survey was undertaken for the proposal to identify key species located in the intertidal area at Tipner Lake. A small area of salt marsh *Spartina anglica* and saline swamp *Bolboschoenus maritimus* were identified. A small area of eelgrass *Zostera marina* was recorded, however this is outside of the construction area.

The proposal has been identified as Phase 3 of the total sea defences project as the earlier phases, these being Phase 1 Anchorage Park and Phase 2 Milton Common and Great Salterns Quay, create areas of habitat required for mitigation of areas of marginal habitat losses which result in the later phases, and in part the proposal.

The Environmental Statement assess the potential environment effects of the development on the bird population. The proposal is adjacent to an Internationally Important Bird Area. These sites are selected due to bird numbers and species complements. The Habitat Regulation Assessment for the entire project has identified this issue with the proposal and its specific impacts being further defined. The area supports the internationally protected Dark-bellied Brent Geese, and nationally protected Red-breasted Merganser, Black-tailed Godwit and Dunlin.

The ES submitted recognises that to reduce the impact on this significantly important site for birds no construction activity can occur during the most sensitive overwintering bird season (October to March) and other mitigation measures, such as the use of silt curtains, are required to reduce the impact of the works. Therefore, it is considered that to prevent any significant adverse impacts to the bird population in this area, it is necessary and appropriate to secure the proposed mitigation measures via suitably worded conditions.

In terms of both the Chichester and Langstone Harbours SPA and Ramsar and Solent Maritime SAC, the proposed works are not expected to impact these sites as they are a considerable distance and that works will not be undertaken in the over wintering period. The Solent Dorset Coast proposed SPA and associated tern species is not expected to be impacted on by the proposal due to adopted mitigation. The Portsdown SSSI (1.5km away), Langstone Harbour SSSI (1.5km away) and Sinah Common SSSI (5km away) are not expected to be impacted on by way of the proposal.

The Environmental Statement also addresses impact to the water environment and marine ecology. The north-east part of Portsmouth Harbour comprises extensive mudflats, eelgrass beds, saltmarsh, brackish lagoons and chalk grassland. The two species of international importance include the tubeworm *Hydroides ezoensis* and the polychaete *Janua* (*Dexiospira*). Adjacent to the seawall is an intertidal zone which is exposed at low tide. The intertidal vegetation survey has also recorded all seaward vegetation. The Appropriate Assessment covers both terrestrial and marine environments when assessing the impacts, with the Marine Management Organisation further imposing their conditions through licence. The Environmental Statement has also recorded the ecological results from a habitat survey identifying plant species, protected species, including badger, bats, hazel dormouse, birds, reptiles, amphibians and invertebrates. Having considered the information and results contained in the Environmental Statement it is considered that there is a reasonable likelihood that European Protected Species may be present however that the proposal would result in a low to negligible risk, through the management proposed by the applicant. On this basis it is recommended that informatives be imposed on any decision.

Natural England have undertaken a full assessment of the Environmental Statement and have concluded that subject to conditions they have no objection. Further details were required from the applicant in relation to the salt marsh mitigation which have led to the requirement of the Landscape Environmental Management Plan (LEMP) condition forming part of the recommendation.

The Environment Agency have undertaken a full assessment of the Environmental Statement and have concluded that subject to conditions and advising they have no objections. The Construction Environmental Management Plan (CEMP) is to achieve the controls needed to mitigate against harm from the potential suspended sediments and the like. Through the imposition of this condition the development will satisfy the Water Framework Directive and the water body requirements for the Shellfish Water Protected Area.

The Hampshire County Ecologist raises no concern with the proposal and reinforces the need to impose conditions as requested by Natural England and others to include:

- Submission and approval of a Landscape Environmental Management Plan, addressing the sedge translocation and its implementation;
- Submission and approval of a Construction Environmental Management Plan and its implementation;
- Submission and approval of a Saltmarsh Mitigation Scheme and its implementation;
- No works to take place in the sensitive overwintering bird period (October to March inclusive);
- An informative relating to nesting birds; and
- An informative relating to reptile habitat clearance.

So as to ensure that Natural Environment and Rural Communities Act 2006 matters are appropriately addressed by way of the conditions, the Salt marsh mitigation strategy is required, and informative could be imposed if permission is granted in relation to nesting birds and reptiles.

The Marine Management Organisation have advised that the applicant provided a very thorough HRA assessment in their documents. This assessment covers all aspects of the impacts of the scheme and the mitigation to be used, however, there is potential for Likely Significant Effect in terms of habitat loss and so Natural England were consulted before the MMO determined in their view whether there is a requirement for an appropriate assessment. Having reviewed Natural England assessment the MMO concluded that subject to conditions there will be no Likely Significant Effect of this project on its own or in combination with other projects to any designated sites or features.

In conclusion, it is considered necessary and appropriate for the Local Planning Authority to secure the mitigation measures set out in the submitted Environmental Statement (in the form of appropriately worded conditions) to reduce the environmental impacts the proposed scheme could have on this significantly important coastline and local wildlife site.

Subject to the imposition of those conditions, it is considered that this application would not cause significant harm or have any significant adverse impacts on the protected flora and fauna, water environment and special interest features of the area. As such, this proposal is considered to be acceptable in biodiversity terms in accordance with Chapter 11 of the NPPF, Policy PCS13 of the Portsmouth Plan and other material considerations.

### **Habitats Regulations Assessment**

The coastal sea defences projects were as a whole assessed at a strategic level, and with the calculated coastal squeeze losses an Appropriate Assessment was completed for the strategic approach. The impact of coastal squeeze was considered to have an adverse effect on the environmentally designated sites. The Appropriate Assessment also concluded that there is justification for these adverse effects as there were no alternative policy options to hold the line for sea defences, and an overriding public need to protect life and property on Portsea Island.

On this basis an Imperative Reasons of Overriding Public Interest statement of case was made, which concluded that environmental compensation for holding the line would be achieved through the Regional Habitat Creation Programme. This programme creates new areas of intertidal habitats, helping to maintain the integrity of the European Sites.

This strategic case was signed off by DEFRA in April 2011, allowing the total project to progress. This was supported by Natural England and the Environment Agency. Therefore whilst this policy will result in a Likely Significant Effect on the European sites, this has been assessed and accepted at the strategic level and does not require re-assessment for this Phase 3 section of the total project.

The application is accompanied by a detailed assessment of the potential impacts, the Likely Significant Effects, the proposed mitigation for Phase 3 works the Likely Significant effects after that mitigation and whether a further appropriate assessment or Imperative reasons for overriding public interest should be made.

Having regard for all of the proposed mitigations as detailed in Table 9.4 in the Environmental Statement, and the ability to secure the necessary mitigation through imposition of conditions, it is concluded that no further Appropriate Assessment is required for Phase 3. The project can be considered and determined providing that appropriate conditions are imposed.

Natural England provided specific comment in relation to the information addressing HRA matters and noted that the project was screened out from the need for further assessment because significant effects are unlikely to occur, either alone or in combination. Natural England concurred with this view.

The MMO concluded that subject to conditions there will be no Likely Significant Effect of this project on its own or in combination with other projects to any designated sites or features.

### **Impact on Heritage Assets**

The planning application is accompanied by a Heritage Statement with matters of archaeology and heritage being considered as part of the Design and Access Statement.

The significance of the Hilsea Lines as a Conservation Area and as a Scheduled Ancient Monument (SAM) is assessed jointly due to both designations sharing close to the same boundary. The extent to which the boundary of the CA extends beyond the footprint of the monument is limited.

The Hilsea Lines are monumental in scale and impact. Although more common in continental Europe this is a rare typology for the UK, they are one of only two extant examples of an historic linear military defence structure in Britain. This rarity contributes both to their significance, and their dual status as both a 'SAM', and a Conservation Area.

The part of the Lines that would be affected by this proposal is the 'West Demi-Bastion'. The Demi Bastion including its related moat and ramparts survives to a high degree. It should be noted however that it has previously been subjected to significant change and does not exist in its entire original form.

The significance of the lines is derived from several factors related to their evidential, historic, aesthetic and communal value. Historic England note, the structure has a high evidential value presenting major evidence for the rationale, construction techniques and intended use of monumental military fortifications in this period. Their illustrative historic value is also high due to their degree of survival and the rarity of this type of fortification.

The Lines constitute the largest area of woodland in the city and as such are a significant recreational resource for residents. The views north afforded from various points on and around the Lines, remain of historic and aesthetic interest. The unobstructed view North West across Tipner Lake is important in understanding and appreciating the importance of the open 'field of fire' which was such an important component in the setting of the Lines. When these values are considered in aggregate the significance of the Lines is high.

The proposed seawall will alter the position, profile and design of the existing wall, and most significantly would increase its height by a figure of 1.2 metres over and above the height of the current footpath impacting on the unimpeded 'open' aspect of views north towards Tipner Lake/Portscreek.

This obstruction would impact on the ability to appreciate this original and historic aspect of the Lines setting detracting from the illustrative value of the Lines and the ability to appreciate and interpret the importance of the open aspect to its north. On this basis, it is concluded that the proposed seawall would cause a degree of harm to the setting of the conservation area, and therefore to the significance of the asset. Despite the major nature of the works the difference in appearance between the existing and new wall would be sufficiently limited for the level of harm to be low/medium, and therefore less than substantial.

On this basis, it is recommended that should planning permission be granted that conditions be imposed relating to:

- The deposition of archaeological reports/documents and findings with the Historic Environment Record (HER).
- The number, size, design and location of any interpretation panels introduced as part of the scheme.

In terms of archaeology, the Hampshire County Archaeologist has recommended that in line with the proposal, conditions should be imposed requiring an initial Written Scheme of Investigation (WSI) to be submitted and approved and where considered necessary a subsequent WSI be required, and formally deposited for accession by the city's Historic Environment Record (HER).

It is concluded that the proposal has satisfied the relevant sections of Policy PCS23 of the current Portsmouth Local Plan, and would result in 'less than substantial harm' to the heritage assets. The proposal is capable of support in conservation heritage terms.

### **Contaminated land matters**

The Environmental Statement identifies that the construction works could open new pathways between the existing potentially contaminated land and sensitive receptors, such as the intertidal

and water habitats. The proposed Contaminated Land Strategy discusses the reuse of soil for landscaping purposes and embankments.

Council's Contaminated Land Officer has considered the Strategy and recommends conditions be imposed to secure a Method Statement with watching brief, describing the details of how soil will be collected, tested for contaminants and stored when it is intended for re-use (or to be disposed of appropriately).

Further testing may be required due to the long thin nature of the site. Management of contaminated land is expected to be contained in the Construction Environmental Management Plan which is recommended as a condition on any consent. The potential impacts from contaminated material is able to be managed as part of the scheme delivery.

### **Impact on safeguarded 'Minerals and Waste' site**

The new coastal defences would be located in an area of known minerals resources (Policy 15). The southern section of the proposed sea defences affect a very narrow part of the area identified as Brick Clay, Paleogene, Reading, which is used for brick and tile making. This clay is important to maintain the productivity of Hampshire's brickworks.

The minerals area site is part of Portsmouth Harbour which is especially important as a feeding site for overwintering birds and is protected by international legislation and is a Special Protection Area, a Ramsar site and a Site of Special Scientific Interest. There is therefore no opportunity to recover the clay.

There are no further matters which need to be addressed in considering the proposal, there is no objection from the minerals planning authority, in that the resource will not be sterilised, but its availability is otherwise limited by environmental matters.

### **Highways issues**

The site is characterised by pedestrian access along the entire frontage via the coastal path, consisting of a joint cycle and pedestrian path. The path is bound at the southern end and footpath users must divert inland. The path at the northern end of the site is unbounded and access continues on the path around the northern end of the island. The area is popular with dog walkers, cyclists, walkers and runners, and is important for local amenity and recreation.

The scheme will incorporate a new reinstated path along the full length of the coastal defences. It will be a shared cycle and pedestrian path. This will provide access for pedestrians and cyclists and will not be segregated. The path will be raised where necessary to ensure the new seawall is not more than 1.2m above the finished promenade. The shared foot and cycle path will be reinstated to a condition at least as good as it is at present. It will be an asphalt path and be 4m wide along its length. The footpath that meanders along behind the current alignment of the promenade will be composed of self-compacting gravel.

The Highways Authority have advised that the proposed design is an acceptable solution. Highways have considered the construction vehicular routes and conclude that they are the most appropriate, with pre and post condition surveys ensuring the site returns to an acceptable standard.

There will be a significant period of disruption whilst the scheme is implemented over three construction seasons April 2017 - October 2019 during which time this route will not be available rather the route will be diverted along Northern Parade where a full cycle lane will be constructed.

The Highways Authority have advised that a condition should be imposed on any consent requiring the submission and approval of the alternate cycle lane details be submitted approved and implemented prior to any closure. The cycleway must be in place prior to the development commencing.

Following up the concerns that the Portsmouth Cycle Forum have raised, the Highways Authority advised that the exact details of the North Parade cycleway have not been presented with this application, however depending on the performance of the cycleway and impacts of it on the network there is an acceptance to review this position, however the Highways Authority are requesting the condition be drafted to require its removal, and that this will be reviewed.

While the Highways Authority have not requested the following conditions, it is proposed to limit the hours of deliveries by way of condition so as to alleviate potential localised impacts, and a condition that requirements a construction traffic management plan so as to limit impacts on the highway from dirty vehicles, unloading and loading and staff parking. It is also proposed to condition the requirement of the lighting, ensuring it is provided, however that the lighting is shielded so as to not create any spillage onto mudflats depending on the location of the light posts.

The proposal is considered acceptable in terms of Highways safety.

### **Foreshore Access**

The proposal will impact on foreshore access during the construction phase, for safety operation and practical reasons. This is exacerbated by way of the construction duration where activity is limited to between May and October due to the significant environmental designations of the area. Upon completion of the project, full access will be reinstated.

The comments from the Portsmouth Cycle Forum are noted and questioning why the alternate route needs to be removed following completion of the project. The Highways Authority have advised that they are willing to consider reviewing the retention of the cycleway once there is understanding of any impacts it has had on the network. The preference from the highways Authority is to condition its removal and review this at the end of the construction of the project.

The cycleway / footpath will have the benefit of lighting. The details of the final design are yet to be confirmed; however they will need to meet a highways standard. The requirement of the lighting is proposed in a condition, which is aimed at ensuring there is no spillage onto the mudflats as a result of its sighting or the like. In this regard the lighting would achieve both a highway and ecology objective.

Pedestrian access is considered in the proposed design with access to the intertidal area through reinstating steps and access onto the slipway.

The balanced decision is to ensure no environmental harm results from the scheme which brings significant public interest benefits. In so doing the proposal will change the nature of foreshore access and prevent its use as a cycleway commuter route in and out of the City for three years. This is an acceptable outcome to achieve safe project delivery.

### **Impact on amenity**

Once the new defences are completed the residents in Valiant Gardens would experience a different outlook between their properties and the coastal footpath. The vegetation between these properties and the coastal path is informally used without the benefit of defined paths and landscaping. This change in outlook is not considered to be significant and may in part improve the appearance and use of this area.

It is recognised that residents living in Valiant Gardens, Spinnaker Way, Matapan Road, Alex Way, Twyford Road and Northern Parade would be affected by the construction of the new defences and in particular the construction traffic / delivery of materials to site. Residents living along Northern Parade will be affected by the alternate cycleway that is to be provided.

Recreational users of Alexandra Park and the coastal path would also be inconvenienced by the temporary footpath closures / diversions and temporary loss of the use of the path and unimpeded use of the open space.

Whilst it would be considered reasonable to restrict the working hours during the construction period to reduce the impact to local residents, given the relatively short timescale to complete the works (to avoid the overwintering bird season) and the tidal nature of the site the applicant has stated that they may be required to carry out some weekend and evening working. In addition, the applicant states that this would be the exception rather than the norm. Therefore, in this instance it is considered that a condition restricting the hours of work would be unreasonable given the other material considerations already stated above.

However, and as highlighted in the highways section above, it is considered reasonable and necessary to restrict delivery times to the site compounds to avoid peak traffic periods and reduce the impact / inconvenience to local residents who will be using the local highway network at these times.

In addition, the applicant has also stated it would return the open space back to its original condition and replant trees that have to be removed for the compounds and haul route, and has put forward a number of mitigation measures to lessen the impact to the local transport network. Again, these mitigation measures are considered necessary and appropriate and can be secured via suitably worded conditions (as already discussed previously in this report).

In conclusion, it is considered that whilst residents would suffer from temporary noise and general disturbance during the construction period, and for some residents, experience a different outlook from their properties, this is outweighed by the significant benefit created by the new coastal defences as a substantial number of homes and businesses would have greater protection from a flood event.

### **Local Financial Consideration**

The Localism Act 2011 sets out in section 143 what a local financial consideration is in terms of the Local Planning Authority exercising Section 70 of the Town and Country Planning Act 1990, determining of applications for planning permission.

The Local Planning Authority is to have regard to the provisions of any local financial consideration so far as material to the application. A local financial consideration means a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown.

The proposed development brings public sector funding to the City. The project is funded by the Environment Agency under Flood Defence Grant in Aid which funds flood defence schemes around the country. The business case for the flood defences was submitted with the Environment Agency in 2014. The proposed Tipner Lake improvements are a 100% grant funded project.

The project has a total project value costs of £10,577,000.

### **Community Comments**

The applicant has provided answers to many of the questions that were received in the community representations. These have been made available on the public folder and to the individuals who have made the representation. Many of the concerns raised are matters that would be addressed and managed through conditions such as the Construction Environmental Management Plan (CEMP), which will address and manage matters of dust, noise, nuisance, contamination and health and safety.

More direct and individual answers have been provided where there have been specific technical questions raised. In terms of the management of traffic impacts, the proposal includes a designated workers car park, and conditions are to be imposed in relation to the construction delivery times so as to limit the nuisance of these deliveries. The proposal includes the

provision of a temporary car park off the Alex Way car park, and spaces are proposed to accommodate the impact to the Leisure centre and other recreational users in the area.

It is recognised that the proposal will cause some disruption during the construction phase and that a regular communication from a considerate contractor will be key to ensuring residents are kept informed as the sea defences are constructed. These are requirements that are picked up through the management of the main contractor.

### **Conclusion**

This application would deliver a key and essential piece of infrastructure for the city in the form of new coastal defences and contribute to the city's wider economic growth and regeneration.

Throughout the assessment of the application it has evolved with the applicant providing a salt marsh mitigation strategy which was key in finally concluding the environmental impacts of the proposal.

It is considered that the likely environmental impacts of the development have been adequately assessed in the submitted Environmental Statement, and subject to the imposition of appropriate conditions to secure the mitigation measures, are considered acceptable and overall the scheme would not cause significant harm or have any significant adverse impacts.

It is considered that the proposal would have less than substantial harm on the heritage assets and through appropriate conditions the archaeological and heritage assets can be protected.

The proposal includes interpretation boards for both the environmental and heritage assets of the site, and this along with landscaping and other environmental improvements would result in an overall beneficial outcome for the area.

Whilst during the construction period residents would experience noise and disturbance and inconvenience to the local highway network due to the site access points and construction compounds, it is considered that this outweighed by the significant benefit the final completed scheme would provide in protecting the residential properties (and local businesses) from a flood event. In addition, it is considered that the completed development would not lead to any adverse effects on the amenity of local residents or on the local highway network. In light of the above, this application is considered acceptable.

### **RECOMMENDATION I**

That delegated authority be granted to the Assistant Director of Culture & City Development to grant Conditional Permission subject to the conditions and recommendations II and III set out below;

### **RECOMMENDATION II**

Instruct the Assistant Director of Culture & City Development to notify the Secretary of State, Marine Management Organisation and Natural England of the committee's decision and recommended conditions;

### **RECOMMENDATION III**

That delegated authority be granted to the Assistant Director of Culture & City Development to add / amend conditions in consultation with the Marine Management Organisation and Natural England where necessary, and

### **RECOMMENDATION IV**



If the Committee resolve that they are minded to approve the application in accordance with the above recommendations, that the Committee confirm in their decision that they have taken into account:

- the environmental information as required by Regulation 3(4) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011;
- all matters referred to in the Assistant Director of Culture & City Development's report including comments received from statutory consultees and other interested parties, and
- all other material considerations.

## **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 otherwise agreed in writing with the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers PB1042/1015 Rev D1, and PB1042/1010 Rev D1 both dated June 2014, NPI\_DD\_03\_002 dated 19 December 2016.
3. Unless otherwise agreed in writing with the Local Planning Authority, the proposed seawall defences for the frontage of Tipner Lake as shown on drawings PB1042/1015 Rev D1 dated June 2014, shall be constructed and maintained at a level no lower than 4.5 metres above ordnance datum.
4. No works pursuant to this permission, including the creation and removal of the construction site compounds and haul routes, shall take place within the most sensitive overwintering bird period (31st October to 1st March inclusive), unless otherwise agreed in writing with the Local Planning Authority.
5. Notwithstanding the information already submitted, no works pursuant to this permission shall commence, unless otherwise agreed in writing with the Local Planning Authority, until a Construction Environmental Management Plan (CEMP) (to include the detailed mitigation measures as summarised in Table 21.1 of the submitted Environment Statement) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP will include a method for the construction, use and removal of the temporary haul roads that will be located within the site. The methodology will ensure that the road material will be such that it will be fixed in place for the duration of the works and will not disperse outside of the road footprint. The road will also be removed completely prior to 1 October, 2019. The CEMP will include:

Measures to protect seagrass beds,

Measures to ensure water quality when removing the slipway,

Measures to prevent against mobilisation of sediment,

Method and locations for piling, and

Hours of construction limited between 07.00 - 19.00 with no demolition or piling activities after 23.00.

6. The CEMP (as approved under the provisions of condition 5) shall be implemented and maintained until the development is completed unless otherwise agreed in writing with the Local Planning Authority.
7. Notwithstanding the information already submitted, no works pursuant to the permission shall commence, unless otherwise agreed in writing with the Local Planning Authority,

until a Landscape Environmental Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall identify the steps and procedures that will avoid or mitigate impacts of the designated sites, including the replacement of planting along the coast that was removed for the construction, a species list, the timing and methodology of works. This shall include the removal, storage and translocation of turves which contain sufficient material to ensure survival of divided sedge as set out in section 5.2.2 of the Extended Phase 1 Ecological Survey Report (Appendix S) (HCC, October 2016).

8. The LEMP (as approved under the provisions of Condition 7) shall be implemented and adhered to at all times unless otherwise agreed in writing with the Local Planning Authority.
9. Prior to the commencement of the development hereby approved, a Saltmarsh Mitigation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Saltmarsh Mitigation Scheme shall identify the final design, and construction methodology that will mitigate for the loss of 110m<sup>2</sup> of saltmarsh. Once approved, the Saltmarsh Mitigation Scheme shall be delivered in full prior to the completion of the approved development, unless otherwise first agreed in writing with the Local Planning Authority.
10. The detailed Landscape Plan shall be submitted and approved in writing with the Local Planning Authority prior to September 2017. The landscape plan shall detail specify species, planting sizes, spacing and density / numbers of trees / shrubs / plants to be relocated or planted; the phasing and timing of planting; a methodology for the works; and provision for its future maintenance, has been submitted to and approved in writing by the Local Planning Authority.
11. The approved Landscaping Plan (as approved under the provisions of condition 10) shall be implemented and maintained unless otherwise agreed in writing with the Local Planning Authority. Any planting works approved (as approved under the provisions of condition 10) shall be carried out in the first planting and seeding season following the completion of each section of the development; 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 the same species, size and number as originally approved.
12. No works pursuant to this permission shall commence, unless otherwise agreed in writing with the Local Planning Authority, until a Construction Traffic Management Plan (to include construction vehicle routing, the provision of loading / offloading areas, wheel wash facilities, site office and contractors parking area) has been submitted to and approved in writing by the Local Planning Authority, and then implemented in accordance with the submitted details.
13. Notwithstanding the details agreed in pursuant to Condition 5 and 9, no deliveries to the site compounds shall take place between 08.00 - 09.00 and between 15.15 - 16.15 unless otherwise agreed in writing with the Local Planning Authority.
14. Prior to commencement of works, the detail lighting scheme for the proposed footway / cycleway for the length of Tipner Lake is to be submitted to and approved in writing by the Local Planning Authority, and then implemented in accordance with the approved details. This scheme should provide for cowling so as to prevent and limit light spillage onto the adjacent mudflats.
15. Prior to commencement of works, the detail design of the proposed cycle route on Northern Parade is to be submitted to and approved in writing by the Local Planning Authority, and then implemented and retained for the period of the construction.

16. No landward intrusive works shall commence, unless otherwise agreed in writing with the Local Planning Authority, until a Method Statement has been submitted to the Local Planning Authority detailing how soils destined for re-use will be assessed for contamination. A Method Statement shall be written for each area of working and include detail of the compound, soils storage and segregation and testing procedures. The submitted Method Statement should be approved in writing by the Local Planning Authority prior to works commencing and then implemented in accordance with the submitted details.
17. In the event that any signs of pollution (visual, olfactory, or textural) such as poor plant growth, odour, oily, ashy, odorous or fibrous materials, staining or unusual colouration of the soil, asbestos fragments or fibres, inclusions of putrescible materials, plastics, drums or other materials having been used in the construction of the built structure or remains from a past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA) and a Method Statement drawn up as detailed in Condition 16 detailing the assessment and disposal of this material. This must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.
18. On completion of works the developer shall submit records from the monitoring agreed in 16 and summarise any remedial works agreed in condition 17 shall be submitted to and approved in writing by the Local Planning Authority, or confirm that there were no indications of pollution during works.. 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.
19. Thereafter the scheme shall be monitored and maintained in accordance with the approved report.
20. No works pursuant to this permission shall commence, unless otherwise agreed in writing with the Local Planning Authority, until a written Scheme of Investigation (to include the appointment of an archaeologist recognised by the Local Planning Authority to carry out a watching brief during all stages of the development involving ground disturbance) has been submitted to and approved in writing by the Local Planning Authority.
21. The approved Scheme of Investigation (as approved under the provisions of condition 19) shall be implemented and maintained unless otherwise agreed in writing with the Local Planning Authority.
22. Following completion of the Scheme of Investigation (as approved under the provisions of condition 19), a report of the findings will be produced and submitted to the Local Planning Authority, including where appropriate post-excavation assessment, specialist analysis and reports, publication and public engagement.
23. Prior to the installation of any interpretative signage or materials at the completion of the project, a copy of the information and details is to be submitted to and approved in writing by the Local Planning Authority, and such approved details are to be implemented on the site in the agreed locations.
24. No works pursuant to this permission shall commence, unless otherwise agreed in writing with the Local Planning Authority, until a pre-construction condition survey for the construction access is undertaken and submitted to the Local Planning Authority. Following completion of the works a post construction condition report is to be

undertaken for the coastal footpath and repairs to any damage repaired as part of the final completion works.

**The reasons for the conditions are:**

1. To comply with Section 91 of the Town and Country Planning Act 1990.
2. To ensure the development is implemented in accordance with the permission granted
3. To protection against tidal inundation to areas situated behind the defence, in accordance with policy PCS12 of the Portsmouth Plan and the aims and objectives of the NPPF
4. To minimise disturbance as far as practicable to overwintering birds due to the proximity of Portsmouth Harbour's Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Wetland of International Importance under Ramsar Convention (Ramsar Site), and supporting high tide sites, in accordance with policy PCS13 of the Portsmouth Plan and the aims and objectives of the NPPF.
5. To protect the nature conservation interests of the site and minimise any significant effect on the special feature interests of Portsmouth Harbour's Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Wetland of International Importance under Ramsar Convention (Ramsar Site), and to protect and minimise any significant effects to the amenity of local residents, in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF.
6. To protect the nature conservation interests of the site and minimise any significant effect on the special feature interests of Portsmouth Harbour's Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Wetland of International Importance under Ramsar Convention (Ramsar Site), and to protect and minimise any significant effects to the amenity of local residents, in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF.
7. To conserve and enhance biodiversity and minimise adverse environmental impacts on Portsmouth Harbour's Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Wetland of International Importance under Ramsar Convention (Ramsar Site). In addition, to secure a high quality setting for the development in the interests of the visual amenity of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
8. To conserve and enhance biodiversity and minimise adverse environmental impacts on Portsmouth Harbour's Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Wetland of International Importance under Ramsar Convention (Ramsar Site). In addition, to secure a high quality setting for the development in the interests of the visual amenity of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
9. To conserve and enhance biodiversity and minimise adverse environmental impacts on Portsmouth Harbour's Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Wetland of International Importance under Ramsar Convention (Ramsar Site). In addition, to secure a high quality setting for the development in the interests of the visual amenity of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
10. To conserve and enhance biodiversity and minimise adverse environmental impacts on Portsmouth Harbour's Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Wetland of International Importance under Ramsar Convention (Ramsar Site).

In addition, to secure a high quality setting for the development in the interests of the visual amenity of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.

11. To conserve and enhance biodiversity and minimise adverse environmental impacts on Portsmouth Harbour's Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Wetland of International Importance under Ramsar Convention (Ramsar Site). In addition, to secure a high quality setting for the development in the interests of the visual amenity of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
12. To minimise the potential for conflict with or hazard to existing users of the surrounding highway network.
13. To minimise the potential for conflict with or hazard to existing users of the surrounding highway network.
14. To minimise the potential for conflict with or hazard to existing users of the surrounding highway network, while conserving and enhancing biodiversity and minimise adverse environmental impacts on Portsmouth Harbour's Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Wetland of International Importance under Ramsar Convention (Ramsar Site). In addition, to secure a high quality setting for the development in the interests of the visual amenity of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
15. To minimise the potential for conflict with or hazard to existing users of the surrounding highway network
16. To minimise adverse environmental impacts on the Portsmouth & Langstone Harbour's Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSI), Special Areas of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), on the Hilsea Lines Local Wildlife Site, and to ensure that the site is free from prescribed contaminants, in accordance with PCS13 and PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF and saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
17. To minimise adverse environmental impacts on the Portsmouth & Langstone Harbour's Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSI), Special Areas of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), on the Hilsea Lines Local Wildlife Site, and to ensure that the site is free from prescribed contaminants, in accordance with PCS13 and PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF and saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
18. To minimise adverse environmental impacts on the Portsmouth & Langstone Harbour's Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSI), Special Areas of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), on the Hilsea Lines Local Wildlife Site, and to ensure that the site is free from prescribed contaminants, in accordance with PCS13 and PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF and saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
19. To mitigate the effect of the works associated with the development upon any heritage assets and to ensure that the information regarding these heritage assets is preserved by record for future generations, in accordance with policy PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF.

20. To mitigate the effect of the works associated with the development upon any heritage assets and to ensure that the information regarding these heritage assets is preserved by record for future generations, in accordance with policy PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF.
21. To contribute to our knowledge and understanding of our past by ensuring that opportunities are taken to capture evidence from the historic environment and to make this publicly available, in accordance with policy PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF.
22. To contribute to our knowledge and understanding of the historic and natural environment assets, in accordance with policy PCS13 and PCS23 of the Portsmouth Plan and the aims and the objectives of the NPPF.
23. To ensure the development is implemented in accordance with the permission granted without disturbance to property and assets in the area.

#### 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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Assistant Director of Culture and City Development  
31st January 2017