

PLANNING COMMITTEE

5 APRIL 2017

1 PM CONFERENCE ROOM A,
2ND 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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01

17/00071/FUL

WARD:ST JUDE

4 CLARENDON ROAD SOUTHSEA PO5 2EE

CHANGE OF USE FROM OFFICE (CLASS A2) TO RESTAURANT AND HOT FOOD TAKE AWAY (CLASS A3/A5)

Application Submitted By:

Pike Planning
FAO Mr John Pike

On behalf of:

Mr Ian Clarke

RDD: 16th January 2017

LDD: 14th March 2017

SUMMARY OF MAIN ISSUES

The application is being considered by the Planning Committee by reason of a deputation request.

The Site and its Surroundings

The application site comprises the ground floor of a 3 storey building on the southern side of Clarendon Road. The ground floor is in Class A2 office use and the upper two floors accommodate a maisonette known as No.4b. The site is located within Southsea town centre (Policy STC2) and lies within the defined restaurant quarter (Policy STC4) and secondary retail frontage (Policy STC5).

The Proposal

The application seeks planning permission to change the use of No.4 Clarendon Road (i.e. the ground floor) from Class A2 office use to a restaurant and hot food take away (Class A3/A5).

Relevant Planning History

The relevant planning history includes:

11/00562/FUL - Change of use from shop (Class A1) to financial and professional services (Class A2) - conditional permission 19/8/11.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:

PCS23 (Design and Conservation), STC2 (Southsea Town Centre), STC4 (Restaurants and Cafes), STC5 (Drinking Establishments and Take-aways), PCS17 (Transport),

In addition to the above policies, the aims and objectives of the National Planning Policy Framework are relevant.

CONSULTATIONS

Highways Engineer

The application site is located on the south side of Clarendon Road a busy classified road in Southsea Town Centre. There are a high number of bus services passing the site and a bus stop clearway immediately outside the building in which parking or stopping by any vehicle other than a bus is prohibited.

There is a zebra crossing and zig zag markings to the west of the site and double yellow lines on the north side of Clarendon Road.

There are limited car parking spaces on Clarendon Road or the surrounding area. On the southern side of the road there is a loading bay outside numbers 8 and 12 and further west a complete loading ban due to the need to keep the bus corridor free of parked vehicles. The northern side of the road offers two disabled parking spaces and a length of parking spaces which are available for 1 hr free parking with KC zone permit holders not exempt, with unrestricted parking overnight from 6 pm. The nearby KC residents parking zone is one of three oversubscribed zones in the city, as a result parking in the area is at a premium and could not be relied upon for customer parking. There is paid car parking in Ashby Place 100 m from the application site.

Cycle parking is available in close proximity on either side of Palmerston Road where it meets Clarendon Road.

Currently 84 sqm is used for office use and the application proposes that each of the A3 and A5 uses will be 42 sqm. There will be the equivalent of 6 full time employees with opening hours between 11:30 and 22:00 hours Monday to Saturday and 11:30 and 20:00 on Sundays and Bank Holidays.

The existing use as an office (A3) would attract staff and customers during the working day. The proposed use as a takeaway and a small sit down restaurant would be open throughout the day with the takeaway element being busiest in the evening. It is feasible that during the day the proposed takeaway would attract customers from nearby retail units, visitors and local residents, with visitors and local residents in the evening. This would be likely to reduce the demand for car parking. Free on-street parking for customers is limited but there is the option to use the 1 hr free parking before 6 pm and, if there is space unrestricted parking overnight after 6 pm. The site has no capacity to provide staff or customer parking as it completely surrounded by other buildings.

There are to be 6 full time staff (or equivalent), with the likelihood that they will be recruited locally and aware of the situation with regards to the availability of car parking.

In a supporting document the applicant has suggested that deliveries could be made from the loading bay on Clarendon Road or from an alleyway at the rear which leads into Villiers Road (behind Owens pub).

While there could be issues with illegal parking by those delivering or collecting takeaways I am of the opinion that they will be limited. Delivery drivers' arrivals will be less frequent and can to be more closely controlled by the manager; with most customers being local they will be aware of parking restrictions in the area and are likely to arrive on foot, and similarly with tourists or visitors who will be passing by.

In capacity terms I am satisfied that this proposal would not have a material impact on the local Highway network

As the application stands I would not wish to raise a Highways objection.

Environmental Health

This consultation is with regard to the potential impact on neighbouring sensitive uses from noise and odour associated with the proposed use.

NOISE

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 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. Should you be minded to grant consent, I recommend the following condition be applied:

Prior to the commencement of the change of use, a scheme for insulating the residential use at first floor against noise from the operation of the A3/A5 use shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first use of the A3/A5 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).

Noise from the kitchen extraction system (and any other plant such as refrigeration) can also negatively impact on the neighbouring sensitive uses. No acoustic information has been provided concerning the fan. Information concerning possible silencers has been provided but it has not been indicated which size silencer it is intended to be used or what the performance of that silencer is. In addition, noise from the extract ducting itself is likely to be an issue in the neighbour's balcony/patio area unless the noise from this source is attenuated in some way. It is possible, however, to proceed through planning condition:

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.

ODOUR

The odour control aspects of the kitchen extraction system are described in the document "Background Information to 4 Clarendon Road Planning Application". The odour control requirements for any given application are determined through Defra's guidance entitled "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems".

I have risk assessed the application and the proposed kitchen extraction system is partly compliant with Defra's guidance by way of the UV-C unit. However, a fully acceptable extraction system will require either fine filtration or an electro-static precipitator (ESP) in addition to the UV-c unit. Whilst an acceptable combination of equipment is shown in the document "A working partnership designed to provide solutions to odour control" as one of several options, this does not appear to be relevant to this application as "Southsea Beach Café" is indicated on the front page of the document.

Additional information has been provided by the agent on 14th March. Whilst the information concerning noise and sound insulation has not altered my comments, the section concerning odour has. It is now proposed to install a system of ESP and UV to deal with the odours. This

is an acceptable solution and I recommend that it be conditioned that this system be installed and thereafter maintained (or another system be agreed in writing with the LPA).

REPRESENTATIONS

Two objections have been received from the maisonette above the application site raising the following concerns:

a) discarded litter, food wrappings littering the area; waste products left exposed in public footpath leading to Villiers Road encouraging rats; b) increased fire risk living above a restaurant/take-away; c) proposal likely to increase the unauthorised parking outside the premises and also increase noise disturbance; d) maisonette already experiences odours, noise and vibration from surrounding extractors and air conditioning units and this would increase with additional equipment to serve the application site; and, e) Policy STC5 only permits such uses in a secondary frontage if there is no significant adverse impact on residential amenity - the objector believes that granting permission would seriously impact he and his wife and other surrounding residents.

COMMENT

The main determining issues are whether:

- the principle of the change of use is acceptable
- the proposal would be likely to result in any significant loss of residential amenity
- the visual impact of the flue would be acceptable
- the proposal would be acceptable in highway/parking terms

Principle

The application seeks a mixed A3 (restaurant) and A5 (hot food take-away) use of the ground floor.

The application site lies within Southsea town centre. Policy STC2 of the Southsea Town Centre Area Action Plan states that within the town centre as a whole, planning permission will be granted for A1-A5 uses (subject to restrictions set out in other policies within the Plan).

Of the other policies, STC4 and STC5 are particularly relevant. Policy STC4 addresses restaurants and cafes - whilst the specific wording states that 'New restaurants and cafes will be encouraged to locate in Osborne Road and Palmerston Road South' the defined restaurant quarter covered by this policy also includes some properties fronting Clarendon Road, including the application site. As such, an A3 restaurant use of the property would accord with this policy background.

Policy STC5 deals with drinking establishments and hot food take-aways. Proposals for A4 (drinking establishments) and A5 (hot-food take-away) uses will only be permitted in the secondary frontage provided that:

- the proposal does not result in more than 8% of the secondary frontage in an A4/A5 use; and
- there is no significant adverse impact on residential amenity.

The existing Class A2 frontage of the unit the subject of this application is 9.67m wide. Given that an A3/A5 mixed use is proposed, it is considered reasonable to apply an equal split of this width to both the A3 and the A5 uses when making the calculation to establish whether the proposal would result in more than 8% of the secondary frontage being in A4/A5 use. The loss of 9.67m of A2 frontage to 4.835m of A3 frontage and 4.835m of A5 frontage would result in A4 or A5 frontages occupying 7.61% of the total frontage within this secondary area which would still be below the 8% threshold identified within the policy.

Residential Amenity

This is a mixed use area with residential accommodation above many of the ground floor commercial properties. Directly above the application site is a two bed maisonette which benefits from a first floor terrace at the rear (south). A metal fire escape leads from the upper floor bedrooms down onto the first floor terrace and a further steep metal staircase gives access from the terrace down to an open yard at ground level used by a number of commercial properties on the corner of Clarendon Road and Palmerston Road (namely 2 Clarendon Road, a vacant A1 shop, 59 Palmerston Road currently occupied by Subway restaurant and 61-63 Palmerston Road occupied by an A1 charity shop).

In terms of amenity there are two main issues to consider; noise and disturbance from comings and goings associated with the A3/A5 use and any implications of the cooking processes.

The proposed opening hours stated within the application are 11.30am-10pm Mondays to Saturdays and 11.30am- 8pm on Sundays and Bank Holidays. In the context of the restaurant and cafe quarter within which the application lies, these opening times are considered reasonable as they do not encroach into the late evening/early morning hours when typically residents expect uninterrupted sleep.

Any A3/A5 use brings with it a certain degree of noise and disturbance as customers arrive and leave the premises, however given that the proposed restaurant/take-away would be located within an established busy commercial area and would not be open to customers after 10pm at the latest, it is not considered that any noise and disturbance outside the premises would result in any significant loss of residential amenity. The issue of noise and disturbance from activity within the proposed ground floor use potentially detrimentally affecting the occupiers of the maisonette above is a matter that needs to be addressed - a condition is recommended to ensure that suitable sound insulation measures are installed.

The cooking processes involved in the A3/A5 proposed use would require an external flue and internal measures to deal with ventilation and odour control in order to minimise any associated noise, odour and vibration. The application demonstrates an external 300mm diameter extraction duct being installed from the western corner of the kitchen up through the corner of the first floor terrace of the maisonette attached to the south (rear) facing wall and terminating 1m above the existing eave height. Fenestration openings on the rear elevation of the maisonette are limited to a door and window at both first and second floor only which are in excess of 5.5m away from the proposed flue. The adjacent first floor wall of the commercial premises to the west has no openings. Conditions are recommended to secure the details and subsequent implementation of a system to suppress and disperse odour and fumes emitted from cooking operations and to ensure noise from the operation of any external plant or equipment is at a satisfactory level.

Visual Impact of The External Extract Flue

The flue would be located on the rear wall of the property and would terminate 1m above eave height. As a result it would not be readily visible from Clarendon Road. Whilst the rear of the property can be seen in part from the public footpath that links Clarendon Road with Villiers Road to the south, given that the flue would be in a corner location at the junction between two buildings it is not considered likely that the eye would be drawn to this equipment and it would be read against the backdrop of the existing buildings. As such it is not considered that the external flue would be significantly detrimental to the visual amenities of the area.

Highway/Parking Issues

There are limited car parking spaces on Clarendon Road or the surrounding area. Immediately outside the site on the southern side of Clarendon Road is a bus stop clearway in which parking

or stopping by any vehicle other than a bus is prohibited. There is a zebra crossing and zig zag markings to the west of the site and double yellow lines on the north side of the road. There is no opportunity to provide on-site car parking provision. Therefore free on-street car parking for customers and staff is limited but there is the option to use 1hr free parking before 6pm and if there is space unrestricted parking overnight after 6pm. There is also a car park in Ashby Place. Whilst take-away uses could attract illegal parking by those collecting take-aways it is considered that this would be limited. The Highway Authority is satisfied that the proposal would not have a material impact on the local highway network and as such has not raised an objection.

Other Matters

As well as raising concern regarding some of the matters discussed above, the objection submitted has raised concern regarding pest control and increased fire risks. These are matters beyond the remit of the planning application.

Conclusion

On the basis of the above it is concluded that the application is capable of support subject to the recommended conditions.

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, 1:500 Site Plan, Proposed Floor Plan, Ground Floor Plan showing proposed Ducting, Ground Floor Plan Showing Layout (all received 17 January 2017) and Elevational Drawing - Proposed Exterior Extraction Layout.
- 3) Prior to the commencement of the change of use, a scheme for insulating the residential use at first floor against noise from the operation of the A3/A5 use shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first use of the A3/A5 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).
- 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 and thereafter retained.
- 5) No cooking processes shall take place until the system of ESP and UV equipment is installed (in accordance with details submitted on 17 January 2017 and 14 March 2017) to suppress and disperse odour and fumes emitted from cooking operations arising from this use, unless details of an alternative system are submitted to and approved in writing by the local planning authority. All approved equipment shall be installed prior to the use hereby permitted commencing and shall be retained thereafter.

6) The premises shall be closed and vacated by the public outside of the following hours of operation: Mondays to Saturdays 11.30am-10pm and Sundays and Bank Holidays 11.30am-8pm.

7) Before the restaurant/takeaway (Class A3/A5 use) hereby permitted is first brought into use, refuse and recyclable materials storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing; and the approved facilities shall thereafter be retained for refuse/recyclable materials storage at all times.

8) Before the restaurant/takeaway (Class A3/A5 use) hereby permitted is first brought into use, secure/weatherproof staff bicycle storage facilities (to accommodate 2 cycles) shall be provided within the site in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing; and those facilities shall thereafter be retained for the storage 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) In the interests of the amenities of occupiers of the maisonette above, in accordance with policy PCS23 of the Portsmouth Plan.

4) In the interests of the amenities of occupiers of the maisonette above, in accordance with policy PCS23 of the Portsmouth Plan.

5) In the interests of the amenities of occupiers of the maisonette above, in accordance with policy PCS23 of the Portsmouth Plan.

6) To protect the amenities of the occupiers of the maisonette above and other nearby residential properties, in accordance with policy PCS23 of the Portsmouth Plan.

7) To ensure that adequate provision is made for the storage of refuse and recyclable materials, in accordance with policy PCS23 of the Portsmouth Plan.

8) To ensure adequate provision is made for cyclists and to promote other means of travel than the private car in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

PRO-ACTIVITY STATEMENT

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

39 TREGARON AVENUE PORTSMOUTH PO6 2NE

CONSTRUCTION OF SINGLE STOREY REAR EXTENSION AND TWO STOREY SIDE AND REAR EXTENSION

Application Submitted By:

Chris Flint Ass Ltd
FAO Chris Flint

On behalf of:

Mr D Manchip

RDD: 26th January 2017

LDD: 27th March 2017

SUMMARY OF MAIN ISSUES

This application has been called to be determined at the Planning Committee by the request of a neighbouring resident that has objected to the proposal.

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 the wider street scene. Also whether the proposal would have a significant impact on the amenity of the surrounding occupiers.

Site and Surroundings

This application relates to a semi-detached property which is located on the eastern side of Tregaron Avenue to the south of the junction with Braemar Avenue and to the north of the junction with Old Manor Way. The property is set back from the highway by a large driveway. The surrounding area is predominantly characterised by residential detached and semi-detached properties. Opposite the site are a number of local shops.

Proposal

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

The proposed two storey side extension will, in place of an existing garage, create a ground floor play room and utility room, and then at first floor level create a bedroom and extended bathroom. The two storey extension is 2.0m wide x 8.0m deep, and is designed to integrate into the home, giving the appearance of always being part of the host property.

The two storey extension will include a window to the front and rear at the first floor level which is the same in size and design to the existing first floor windows. In place of the garage door a window would be inserted, and the remaining opening would be enclosed to creating a newly improved ground floor exterior treatment.

The proposed single storey rear extension element is to accommodate an enlarged kitchen, dining and sitting room which access the rear garden through bi-fold doors. The rear extension

would provide a further 26m² to the habitable area. The rear extension would have a lean to roof and complement the existing property in terms of materials.

Planning History

There is no relevant planning history for this site.

POLICY CONTEXT

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

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

CONSULTATIONS

Contaminated Land Team

I have reviewed the above application and do not request conditions relating to ground condition.

In the event that any signs of pollution such as: odour, oily, ashy, odorous or fibrous materials; staining or unusual colouration of the soil; asbestos fragments or fibres; inclusions of putrescible materials etc. 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). The LPA will then consider if the findings have any impact upon the development. The development must be halted on that part of the site and if the LPA considers it necessary then an assessment of the site undertaken in accordance with BS10175: 2011. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

REPRESENTATIONS

Council has received one objection in relation to the two storey element of the proposal, detailing the following issues of concern:

- Impact of windows on the northern elevation in terms of privacy,
- Overshadowing of neighbours garden and property,
- Reduction in sunlight in garden and property,
- Impact from trenches and scaffolding during construction.

COMMENT

The key considerations with this application are the design of the proposal and whether it would relate appropriately to the recipient building and the wider street scene, and the potential impacts that may arise resulting in harm to the neighbouring occupiers.

Design

The proposed development has two elements. The proposed single storey rear extension would have a lean-to roof with a height of 3.5m. It would project 4m from the rear of the existing property. The extension would have a set of bi-folding doors and a small window on the rear elevation. The proposal would be constructed of materials to match the recipient property. This part of the proposal has been designed to complement the host property in terms of the roof design and materials and excludes any window openings to the side elevations. This part of the proposal is considered to be acceptable.

The second part of the extension is to construct a two storey side extension. It would have the same height as the existing property with the same pitched roof design. It would have a width of 4m which would be the same as the existing garage. The windows on the extension would be of a similar appearance and size to the existing windows on the recipient property. The proposal included a window in the utility room at ground floor which would open to No.37 Tregaron Avenue, however throughout the assessment of the proposal the applicant has removed this window due to the harm that it may cause to their immediate neighbour.

The subject site is a semi-detached property and the adjoining property (No 41) also has a two storey extension that was granted planning permission in 2005. The proposed two storey extension does not create any imbalance in relation to the pair of semi-detached properties.

The two storey extension would also be constructed in materials to match the recipient property and it has been designed to integrate into the existing property.

The proposal is considered to be acceptable in design terms, with the removal of the ground floor utility window. The proposal is considered to be an acceptable design outcome when viewed from the wider street scene.

Amenity

When considering the amenity impacts of the proposal there are two properties which are the focus of the assessment, No.41 which is on the southern side, and No.37 which is on the northern side of the site.

No.41 has a single storey rear extension, which the proposed single storey rear extension will align. The proposed single storey rear extension openings are all to the eastern elevation and will not give rise to any overlooking or harm to No.41. On this basis the proposal is considered to be acceptable in terms of impacts to No.41.

No.37 raised concerns in relation to the proposal, which are detailed above in this report. Concerns have been raised in relation to the loss of light and overshadowing that will result from the two storey extension. The two storey extension will be built up to the property boundary. No.37 is sited approximately 5m from the property boundary. While no.37 is on the northern side of the subject site, the separation distance from the common property boundary reduces the sense of enclosure, loss of light and overshadowing that would otherwise result. The concern which was raised in relation to the siting of the utility window was raised with the agent and removed from the proposal so as to ensure that there will be no window openings impacting on No.37.

The concern that has been raised in relation to the harm that will result to the garden has been noted, however as these trees are not protected by a tree preservation order, and are not worthy of such protection, it is considered that the proposal does not warrant refusal on this ground. It is noted that there may be impacts to the neighbour during construction, however these are matters that planning would not seek to control, rather rely on the regulation of building contractors.

Having had regard to the siting and design of the proposal, and amendments that have been made, it is considered that the proposal would not result in a significant level harm as to warrant refusal on neighbour amenity grounds.

In conclusion the proposed development is recommended for conditional permission.

RECOMMENDATION

Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: CFA FULL 01 0.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those on the existing building.

The reasons for the conditions are:

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

PRO-ACTIVITY STATEMENT

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

6 BLAKE ROAD PORTSMOUTH PO6 1ET**CONSTRUCTION OF RAISED PATIO AND BALUSTRADING TO REAR OF DWELLING INCLUDING INSTALLATION OF PRIVACY SCREENING TO THE EASTERN BOUNDARY****Application Submitted By:**

Town Planning Experts
FAO Mr Jonathan McDermott

On behalf of:

Mr & Mrs D Shawyer

RDD: 24th May 2016

LDD: 27th July 2016

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this application are whether the proposed raised patio and associated privacy screening would relate appropriately to the existing dwelling and adjoining properties in design terms, and whether the raised patio and screening would have any significant adverse impact on the residential amenities of the occupiers of neighbouring properties.

The Site

This application relates to a two-storey semi-detached dwellinghouse located to the southern side of Blake Road, just to the east of its junction with Farlington Avenue. The property is set back from the highway by a front driveway and separated from its neighbour to the west by driveways leading to garages within the rear garden. Due to its position on the southern slope of Portsdown Hill the site slopes down towards the south. As a result, the internal floor level of the rear extension and associated patio doors are positioned approximately 1.1 metres above the rear garden, when measure immediately against the rear wall of the rear extension.

The surrounding area is characterised by similar detached and semi-detached dwellings with long rear gardens. Large areas of open space are located to the south and east.

Proposal

Planning permission is sought for the construction of a raised patio and balustrading to rear of dwelling, modifying an existing unlawful structure, and the installation of privacy screening to the eastern boundary comprising a mix of solid screening and planting.

Relevant planning history

A retrospective application for the construction of raised patio and railings to the rear of the property was refused in October 2013 (13/00976/PLAREG). The reason for refusal was as follows:

'The patio is of an excessive size and scale and has an unneighbourly relationship with the neighbouring properties and gives rise to an unacceptable loss of privacy and increased sense of overlooking to the detriment of the residential amenities of the occupiers of the adjoining

properties. The proposed railings and balustrading, whilst being of an acceptable appearance, do not mitigate the impact upon the amenities of the neighbouring occupiers. Furthermore, the overall finish of the patio is out of keeping with the host dwelling and forms an incongruous feature. The proposal is therefore contrary to policy PCS23 (Design and Conservation) of the Portsmouth Plan'.

A retrospective application for the construction of a raised patio to the rear of the dwelling including the installation of a frosted glazed screen and balustrading, and to increase the height of an existing wall adjacent to garage was refused in April 2014 (14/00305/PLAREG)

'The raised patio, by reason of its excessive size and scale, has an unneighbourly relationship with the adjoining property and gives rise to an unacceptable loss of privacy and increased sense of overlooking to the detriment of the residential amenities of the occupiers of the adjoining property. Furthermore the proposed glazed screening would not satisfactorily mitigate the adverse impact on residential amenity. The proposal is therefore contrary to policy PCS23 (Design and Conservation) of the Portsmouth Plan'.

An Enforcement Notice was served on 11th May 2016 requiring the full removal of the raised patio or to reduce its depth to no more than 1 metre measured from the folding patio doors of the rear projection with steps down to the garden. The period for compliance was three months from the date of the Notice.

An appeal against the Enforcement Notice (against the period for compliance only) was dismissed on 1st December 2016 and the Enforcement Notice upheld. The period for compliance as detailed above will be three months from the date of the appeal decision. Further enforcement action will be dictated by the outcome of this planning application.

POLICY CONTEXT

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

CONSULTATIONS

Landscape Group

Photinia is a good choice in this location. Anything in a planter will need watering but Photinia is quite an attractive hardy evergreen that will over time fill out and is frequently used as a hedge. It establishes quickly and while it would grow up to 4m (13ft), if not regularly cut, is easily maintained to a required height (anything up from 1.2m/4ft) by trimming in spring and summer. Any hedge planting would require regular trimming in order to maintain the shape.

REPRESENTATIONS

One letter of representation has been received from the occupier of the adjoining property to the east (No.8 Blake Road). The objection can be summarised as follows:

- a) The solid nature and height of the solid screening;
- b) Overbearing Impact;
- c) Loss of light;
- d) Impact on privacy
- e) Impact on health and wellbeing;
- f) Visual appearance;
- g) Inappropriate planting and on-going maintenance issues;
- h) the patio should be lower; and
- i) Impact on property value.

This application is brought to the Planning Committee for determination as a result of a deputation request from the neighbouring occupier and at the request of Councillor Boshier.

COMMENT

The main issues to be considered in the determination of this application are whether the proposed raised patio and associated privacy screening would relate appropriately to the existing dwelling and adjoining properties in design terms, and whether the raised patio and screening would have any significant adverse impact on the residential amenities of the occupiers of neighbouring properties.

The application dwelling benefits from a single-storey extension across the full width of the rear elevation with large folding patio doors. As a result of the gradient on site, the floor level of the extension and the bottom of the patio doors is set approximately 1.1 metres above the rear garden when measured immediately to the rear of the dwelling.

Without the benefit of planning permission, the applicant has constructed a large raised patio measuring approximately 5.5 metres wide, 4.8 metres deep and 1.5 metres high at its furthest point from the dwelling. A narrow set of steps to its western side leads down into a long rear garden. Previous applications have sought to regularise this development both in its current form (13/00976/PLAREG) and with the addition of privacy screening along the eastern and western elevations (14/00305/PLAREG). However, both applications were refused on the grounds that the development would have resulted in an unacceptable loss of privacy and an increased sense of overlooking detrimental to the residential amenity of the occupiers of adjoining properties which would not have been mitigated by the privacy screening proposed. Neither of the previous applications proposed a reduction in the height of the patio.

This application seeks to reduce the overall height of the raised patio by approximately 0.6 metres. The resultant structure would comprise a 1 metre wide platform level with the patio doors immediately to the rear of the extension as suggested within the Enforcement Notice. Steps across its full width would then lead down to a larger area of raised patio. The application again proposes the inclusion of similar privacy screening in the form of a solid timber fence along the eastern boundary. However, as a result of its lower position, the relative height of the screening would be increased on the applicant's side of the boundary. To mitigate the solid appearance of the screening, the fence would be set in 0.6 metres from the boundary with No.8 Blake Road and would be flanked with raised planters containing Phatimia, a commonly used plant for hedging.

With the use of matching materials, it is considered the altered raised patio, associated balustrading and screening would be acceptable in design terms and would relate appropriately with the recipient building and the adjoining properties.

In terms of residential amenity, the proposal would have an impact on the occupiers of adjoining properties to both the east and west. However, as a result of the degree of separation to No.4 Blake Road, provided by garages within the rear gardens, the greatest impact is likely to be on the occupiers of No.8 Blake Road to the east. This property (No.8) incorporates a rear extension of similar height and depth to that at the application site which is fully glazed across its southern elevation. A narrow set of steps provides access directly down from the extension into the rear garden.

The two properties are currently divided by a tall stepped boundary wall which varies between 1.82 and 2.05 metres in height. Whilst this wall is relatively high, the presence of a 2 metre high boundary treatment within a rear garden is not uncommon and can be erected without the express permission of the Local Planning Authority. The rear extensions at both properties do however, feel more dominant within the rear gardens as a result of their elevated positions.

The privacy screening proposed by this application would increase the overall height of the boundary to between 2.4 and 2.9 metres in height, although this increase is mitigated in part by its set back from the existing wall (0.6m) and the inclusion of planting which would have a

softening effect. The presence of the screening would certainly be perceptible to the neighbouring occupiers. However, having regard to the presence of the existing boundary wall and good degree of outlook afforded towards the south as the site slopes away, it is not considered that the presence of the screening and its projection along the boundary (4.6m) would be sufficiently harmful in terms of loss of light, outlook or overbearing impact to sustain a reason for refusal. It is also noted that whilst the previous application (14/00305/PLAREG) that incorporated similar height screening was refused, the reason for refusal related to the inability of the screening to prevent overlooking rather than its impact in terms of overbearing impact or loss of light and outlook.

The representation raises concerns over the proposed planting along the boundary, and highlights that both the species and ongoing maintenance issues makes its inclusion within the proposal inappropriate. In response, the City Council's Landscape Architects have considered the proposal and conclude that Photinia is a good choice of plant for this location as it is an attractive evergreen hedge plant. Photinia is a hardy plant that would survive within a planter and with gentle pruning will become more dense.

It is accepted that any planting will require ongoing maintenance which the applicant will need to make allowances for. The retention of the planting can be required through a suitably worded planning condition and the applicant could design any solid screening so that it could be easily removed for short periods to allow maintenance to take place. Overall, it is considered that the benefits of incorporating the planting to soften the more solid screening beyond would outweigh concerns in respect of ongoing maintenance.

On the applicant's side of the boundary, the proposed screening would extend 1.7 metres above the height of the highest platform, and 1.8 metres above the height of the main raised patio area. These relative heights are considered to be sufficient to prevent direct views back into the rear extension of No.8 or into the garden immediately to the rear of its extension which is generally more private. The screening would not prevent views towards the southern extent of the neighbouring garden. However these areas away from the dwellings are generally less private and are overlooked by existing windows both at ground and first floor levels. As such it is considered that the proposal overcomes the previous reasons for refusal in respect of overlooking and loss of privacy.

It is also noted that due to the relative height of the extensions at No.6 and No.8, short distance and direct views of each other's gardens can be achieved from internal positions within the building. The privacy screening would therefore, be beneficial in overlooking and privacy terms to the occupiers of both properties.

To the west the proposed boundary treatments in combination with the presence of the garages is considered to be sufficient to prevent overlooking and privacy issues with the occupiers of No.4 Blake Road and would not appear significantly overbearing.

In reaching this recommendation regard is also made to other permissions relating to properties on the southern side of Blake Road. This includes a development at No.10 Blake Road (A*35456/AB - 1994) which incorporates a raised patio at ground floor level and a balcony/terrace a first floor/roof level.

Whilst highlighted within the representations, impact on property value is not a material planning consideration.

RECOMMENDATION

Conditional Permission

Conditions

- 1) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Revised GA-14/02/001 Rev-E received 17.03.2017.
- 2) Unless otherwise agreed in writing with the Local Planning Authority, the existing unlawful raised patio and associated structures at the application site shall be modified and completed as shown on the approved drawings with 3 calendar months of the date of this decision.
- 3) The brickwork to be used in the construction of the external surfaces of the modified patio as required by Condition 2, shall match, in type, colour and texture those on the existing dwelling.
- 4) The privacy screens to the east and west as shown on the approved drawings shall be installed prior to first use of the modified patio (as required by Condition 2) and shall thereafter be permanently retained.
- 5) a) The planting scheme (within the raised planters) as shown on the approved drawings shall be retained/carried out as an integral part of the alteration works required by Condition 2;
b) Any plants which, within a period of 5 years from the date of planting die, are removed or become damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.

The reasons for the conditions are:

- 1) To ensure the development is implemented in accordance with the permission granted.
- 2) In the interests of residential amenity, on the basis that the harm arising from the use of the existing unlawful raised patio at the application site would not be sufficiently reduced until the works shown on the approved drawings have been completed in their entirety, in accordance with Policy PCS23 of the Portsmouth Plan.
- 3) In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 4) In order to prevent overlooking and a loss of privacy to the occupiers of the adjoining property to the east in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To ensure a satisfactory finish to the development in the interests of the visual 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.

- 2) NB This permission is granted in accordance with the provisions of Section 73 of the Town and Country Planning Act 1990, which makes provision for the retrospective granting of planning permission for development which has commenced and/or been completed.
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103 MANNERS ROAD SOUTHSEA PO4 0BD**CHANGE OF USE FROM CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) TO HOUSE IN MULTIPLE OCCUPATION FOR SEVEN PERSONS (SUI GENERIS)****Application Submitted By:**

Thorns Young Ltd
FAO Mr Sam Appleton

On behalf of:

Mr Paul Lonsborough

RDD: 3rd February 2017

LDD: 3rd April 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 SPA mitigation, car and cycle parking.

The Site

This application relates to a two-storey mid-terraced property located to the northern side of Manners Road, just to the east of its junction with Talbot Road. The dwelling is set back from the highway by a small front forecourt and comprises a kitchen, living room and two bedrooms at ground floor level, three bedrooms and a bathroom at first floor level and a bedroom and en-suite bathroom at roof level. The surrounding area is characterised by dense residential terraces. The property is currently in use as a Class C4 House in Multiple Occupation where between 3 and 6 unrelated individuals living as a household share some form communal facilities.

Proposal

This application seeks planning permission to use the property as a 7 person house in multiple occupation (Sui Generis).

Relevant planning history

An application for the change of use from Class C4 (house in multiple occupation) to house in multiple occupation for seven persons (Sui Generis) and the construction of a dormer window to the rear roof slope and roof lights to front roof slope was submitted in April 2015 (ref.15/00524/FUL). The application was however, subsequently withdrawn and the dormer window and rooflights have been constructed as permitted development (i.e. without the express permission of the Local Planning Authority).

POLICY CONTEXT

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation (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

Manners Road is a residential road lined on both sides with terraced housing. There is parking arranged along both sides of the road which is subject to a 20mph limit.

No traffic assessment has been submitted with the application however considering the small scale of the proposal, it is unlikely to have a material impact upon the network and as such I am satisfied that a traffic assessment would not be required.

Portsmouth's residential parking standards state that Houses in Multiple Occupation (HMO), C4/ sui generis use with more than 4 bedrooms should provide 2 spaces per dwelling. The proposal would fall within the same category and as such would not need to provide any further spaces despite the increase in bedrooms (from 6 to 7).

Similarly, the cycle parking provision required would remain the same as current use.

As the application stands given the established policy position the Highways Authority would not wish to raise a Highway objection.

REPRESENTATIONS

At the time of writing, three letters of representation had been received from a local residents objecting on the grounds of: a) To many HMOs within this part of the city; b) Impact on the character of the area; c) Increased population density; d) Impact on Parking; e) Increased noise and disturbance; and f) Increase in refuse/waste.

The application is brought to the Planning Committee as part of a request from Members for all planning applications relating to the change of use from Class C4 (HMOs) to Sui Generis HMOs to be referred to the Committee for determination. A separate request has been received from the three Ward Councillors: Cllr Hunt, Cllr Horton and Cllr Pitt.

COMMENT

The determining issues for this application relate to the suitability of the proposed HMO use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and parking.

Principle of the use

Planning permission is sought for the use of the property as a seven bedroom, seven person Sui Generis HMO. The applicant has provided evidence in the form of tenancy agreements to demonstrate that the property was in use as a C4 HMO prior to the 1st November 2011 and has continued to be used as such until present. In combination with records held by the City Council (Council Tax and Private Sector Housing records), it is considered that on the balance of probabilities the property currently benefits from a lawful use as a Class C4 HMO.

Having regard to the current lawful use of the property as a Class C4 HMO, the proposed change of the use to a larger HMO (Sui Generis) would not result in an overall change to the balance of uses in the context of the surrounding area and would therefore, be in accordance with policy PCS20 of the Portsmouth Plan and the supporting HMO SPD. In considering a recent appeal at 11 Baileys Road (Appeal ref.APP/Z1775/W/16/3159989, February 2017) which related to a similar development, the Inspector opined that: "Policy PCS20 of The Portsmouth

Plan seeks to avoid concentrations of HMOs within the city. However, the policy is clear in that it states 'for the purposes of this policy, dwellings in use as Class C4, mixed C3/C4 use and HMOs in sui generis use will be considered to be HMOs'. Consequently, as the appeal property already has consent for a C4 use, the proposal could not result in an increase in concentration of HMOs in the City". (Similar decisions were reached by the Inspector at 37 Margate Road APP/Z1775/W/16/3159992 - Feb 2017 & 80 Margate Road APP/Z1775/W/16/3159993 - Feb 2017).

Concerns have been raised in respect of the intensification of use at individual HMO properties and the cumulative impact of similar developments in significantly increasing the number of occupants within a given area. However, in considering the appeal at 37 Margate Road, an area with a similar concentration of HMOs to that around the application site, the Inspector concluded that: '...having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernible when considered in the context of the existing activity in the surrounding urban area'. On the basis the current proposal seeks an identical increase in occupation, the Inspectors view must be afforded significant weight.

Impact on residential amenity

The proposal involves the subdivision of a loft room to provide one additional bedroom. Whilst the accommodation of any additional occupants would lead to a more intensive occupation of the property which could result in the transmission of noise and disturbance to the adjoining occupiers, regard must be made to the lawful use of the property that could allow its occupation by up to six unrelated persons or by a family of an unrestricted size.

In considering the appeal at 11 Baileys Road the Inspector opined: "The current use of the property for C4 purposes would enable occupation by up to six residents. The appeal concerns the accommodation being increased by 2 additional bedrooms, making a total of 8 bedrooms; however, this would not change the nature of the use. To effect this change the ground floor lounge and study would be converted to bedrooms. No other rooms would be affected ... I am not persuaded that sufficient evidence has been submitted to substantiate that the proposed 2 additional bedrooms, would result in material harm to their [local residents] living conditions or unbalance the local community".

In light of the decision above, it is considered that there is insufficient evidence to demonstrate that the occupation of a given property by seven individuals rather than six would result in any significant increase in noise and disturbance or that it would be likely to have a significant additional impact on the amenity of the occupiers of adjoining or nearby properties.

Stepping away from the planning merits of the proposal, the use of the property as a Sui Generis HMO would also require a licence from the City Council's Private Sector Housing Team who would ensure adequate size standards, sanitary facilities and fire safety measures for future residents, and could provide assistance should the property not be managed appropriately. In addition, other legislation is available beyond the planning system to address concerns relating to any anti-social behaviour at the property.

Parking

The application site does not benefit from any off-street parking and none is proposed as part of this application (the constraints of the site are such that none can be provided). However, given the current lawful use of the property, the view of the planning Inspector detailed above and the sites proximity to local shops, services and transport facilities, it is considered that an objection on car parking standards could not be sustained.

In addition, the City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city. It is noted that the number of parking spaces required for a

Sui Generis HMO with four or more bedrooms, is the same as would be required for a Class C4 HMO with four or more bedrooms or a Class C3 dwellinghouse with four or more bedrooms.

It is not considered that the addition of one further occupant would significantly increase the demand for refuse storage facilities at the site.

SPA mitigation

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

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

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £176. As a result, it is considered that with mitigation and payment through an agreement under S111 of the Local Government Act there would not be a significant effect on the SPAs. The requirement for this payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

RECOMMENDATION 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, Block Plan and 8056.15.3.

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

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.

THE PARADE TEAROOMS WESTERN PARADE SOUTHSEA PO5 3JF

CHANGE OF USE OF LAND FROM OPEN SPACE TO CLASS A3 (CAFE/RESTAURANT) ASSOCIATED WITH EXISTING CAFE; CONSTRUCTION OF RAISED BALCONY AND PLANTER TO THE WEST ELEVATION AND LANDSCAPING WORKS INCLUDING CONSTRUCTION OF RAISED PLANTERS TO EASTERN ELEVATION (AMENDED SCHEME TO 16/00654/FUL)

Application Submitted By:

Markaz Ltd

On behalf of:

Markaz Ltd

FAO Thomas Ponsford

RDD: 9th February 2017**LDD:** 7th April 2017**SUMMARY OF MAIN ISSUES**

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

The Site

This application relates to the Parade Tearooms located to the north-west corner of Southsea Common on Western Parade, just to the south of its junction with Castle Road. The building is completed largely in painted brickwork with large areas of glazing along the western elevation. A timber entrance feature to the eastern elevation has recently been extended to incorporate a bicycle storage area. The northern section of the building remains in use as an electricity sub-station.

The site is located within Southsea Common, one of three registered parks within the city which in this particular location is characterised by wide open spaces with views out towards the Solent. A number of mature holm/turkey oaks immediately adjacent to the application site soften the backdrop to the 'Common' which is formed by striking 5/6-storey Victorian terraces. Of the three roads behind the Common, it is noted that Western Parade has retained the most consistent character making a significant contribution to the character and appearance of the 'Seafront' Conservation Area in which the application site is located and the adjoining 'Castle Road' Conservation Area. The site is also located within the indicative flood plain (Flood Zone 3).

Proposal

Planning permission is sought for the change of use of land from open space to Class A3 (cafe/restaurant) associated with the existing café/restaurant use, the construction of raised

balcony and planters to the west elevation, and landscaping works including the construction of raised planters to the eastern elevation.

Relevant Planning History

Planning permission was granted in October 2016 (ref.16/01293/FUL) for the enclosure of the external bicycle storage area to form an internal store with the relocation of the bicycle stores and extension of footpath to the northern boundary.

Retrospective permission was granted in June 2016 (16/00497/PLAREG) for the change of use of part of building to form cafe (Class A3) to include external alterations and single storey extensions after removal of existing canopy. This included a number of minor changes to the scheme previously approved in 2015.

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

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

POLICY CONTEXT

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

CONSULTATIONS

Contaminated Land Team

Given the relatively limited scope of the works a condition relating to land contamination is not required.

The land was assessed previously finding electrical cables and an elevated lead concentration at 0.8m bgl in the made ground. Therefore, appropriate PPE should be worn by ground workers and the excavated soil for the pad foundations should be removed from site. Given the constraints of the location this is likely to happen anyway but the waste transfer notes should be retained and provided to the landowner (Portsmouth City Council) for their records.

Tree Officer

Observations - All trees remain the property of PCC. All are projected to make a significant contribution to the amenity of this area for at least 40 years.

At the time of the original application to develop this site: 15/00380/FUL. it was suggested that a couple of the trees which are of reasonable but not great quality could possibly be felled in order to facilitate development on the premise that they would be replaced as part of the landscaping scheme.

The proposed loss and subsequent replacement of these trees was accepted as part of the scheme to bring a derelict site back into use. This has now been achieved. At the instigation of

the applicant the initial development was undertaken with no impact upon the trees surrounding the site.

The proximity of the deck area to the trees will ultimately place areas of seating beneath the canopy and the deck itself would be in close proximity to tree 2. This will result in future pressure upon the trees for removal due to bird fouling or nuisance resulting from the increase in girth of the trees as they develop, mature and impact upon the deck area.

The area to the east facing Western Parade features the creation of raised areas of new planting around two mature Holm Oaks. Trees are intolerant of level changes around the stems and over the root area, raising the grade or soil level over existing roots can have a significant effect on the future growth and survival of existing trees. When soil or any type of fill is placed over the existing root system, it causes a reduction in the oxygen supply to the tree roots and slows down the rate of gas exchange between the roots and the air in the soil pore space. Both oxygen and water are essential to the growth, development and nutrient uptake by the roots.

Many of the soil organisms also utilise the water and oxygen in their normal growth processes. Lack of oxygen in the soil may result in accumulation of noxious gases and chemicals detrimental to good growth. When this occurs, the feeder roots fail to develop, the root system and the above-ground portion of the tree begin to decline. Many factors (including tree species, depth and type of fill, drainage, soil structure below the fill and the general vigour of the existing tree) have a determining influence upon the time it takes for the above-ground symptoms to appear. Thus, it might take anywhere from several months to as much as 3 to 5 years before tree death would occur.

This is not addressed in the Arboricultural Impact Assessment or Method Statement dated Jan 2017.

Recommendation - The application be refused.

Seafront Manager

No comments received.

Garden History Society

No comments received.

Hampshire Garden Trust

The Gardens Trust has considered the information provided in support of the above application and on the basis of this do not wish to comment on the proposals at this stage. We would however emphasise that this does not in any way signify either our approval or disapproval of the proposals.

Environment Agency

No comments received.

Eastern Solent Coastal Partnership

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

The site is shown to lie within the Environment Agency's Flood Zone 3, and as such is considered to be at risk of experiencing a 1:200 year (0.5% annual probability) extreme tidal flood event. For information, the present day 1:200 year extreme tidal flood level for Portsmouth Harbour is 3.2m AODN, increasing to a predicted 4.3m AODN by the year 2115 due to the effects of climate change.

The applicant has submitted a Design and Access Statement incorporating a Flood Risk Assessment (FRA) that sufficiently demonstrates how flood risk at the site will be mitigated. As stated in the FRA, The existing ground levels of the property are approximately 3.4m AODN,

above the present day 1:200 year extreme tidal level for Portsmouth Harbour, with the surrounding Esplanade effectively providing defences to an approximate height of 4.6m AODN, 0.3m above the predicted 1:200 year extreme tidal levels for Portsmouth Harbour in 2115. In addition, the FRA also states that the applicant intends to sign up the Environment Agency's Floodline Warnings Direct Service.

Advice - The ESCP strongly recommend that the applicant prepare a Flood Warning and Evacuation Plan, which is to be made clearly visible to all occupants of the building.

Coastal and Drainage

No comments received.

Highways Engineer

Western Parade forms part of the classified road network and is subject to a 30mph speed limit. It has on-street parking on either side of the road along its length. The parking is all pay & display although exemption is given to holders of a resident permit for the "KC" zone. Parking in the road is often pressured especially at weekends with a mix of residents and visitors to nearby shopping and seafront areas.

No transport Assessment has been provided however the DAS states "there would be little, if any, impact on local traffic movement or parking" as a result of this proposal. With the restaurant area and thus the amount of patrons that can be accommodated, there will certainly be an increase in trip generation associated with the site. That said, as the applicant also states, much of the custom is on a weekend when patrons visit nearby shopping areas and seafront attractions in effect creating "linked trips". Therefore the Highways Authority (HA) is of the opinion that any increase in trips will be negligible as many of the additional customers are likely to have combined their trip and would eat in an alternative nearby establishment if the applicant site could not accommodate them. The HA is therefore satisfied that a transport assessment is not required as the development would not have a material impact upon the local Highway network.

The Portsmouth Parking SPD gives guidance on parking standards expected by Portsmouth City Council. It does not however provide an expected number of parking spaces that should be provided for new commercial development, rather it is for the applicant to justify the provision, if any, that is included in the proposal. The applicant site is located on publicly owned land and as such there is no scope to provide parking on the application site.

The DAS acknowledges that it can be challenging to park on some occasions which echoes some concerns raised by residents when the restaurant was initially consented. That said, the parking directly outside the site is covered by pay and display restriction as are the surrounding roads (Duisburg Way, Pier Road, Southsea Terrace) which provide a reasonable deterrent for unnecessary journeys to the site by car. The HA is of the opinion that the additional patrons using the restaurant are likely to be visiting as part of a linked journey. Therefore the actual increase in new trips associated specifically with this proposal will be negligible and as such could be accommodated within the various on-street and off-street pay and display areas nearby.

The Portsmouth Parking SPD also gives expected standards for cycle parking. Commercial developments are not required to provide sufficient cycle parking spaces to achieve 2 BREEAM credits for the development. Currently there are 3 Sheffield type stands providing 6 spaces, if possible this should be expanded to 5 no stands providing 10spaces in order to comply with SPD requirements.

The HA would not wish to raise a Highways objection to this application subject to the provision of additional bicycle parking for use by staff and patrons of the development.

Environmental Health

The application is essentially for outdoor seating on the western side of the premises and no new plant or equipment is proposed. Given the proximity of the proposal site and the residential use on Western Parade the proposal, if allowed, will result in some impact on the residential use. The impact is likely to be in the form of noise from customers but could also include music noise. The Live Music Act 2012 enables all licensed premises to provide performances of regulated entertainment until 23:00hrs although EH are satisfied that this would be an unlikely consequence given the nature of the business. Should issues of noise arise from the use of the external area these can be tackled through statutory noise nuisance legislation.

Control on the impact from the outdoor use can perhaps best be exercised through the hours of use. Section 20 of the application form contains details of the proposed hours of opening as 08:00-17:00 for each day of the week (although no end time is given for Saturdays - clarification should be sought). With these hours of use I believe that there will not be a significant impact on the neighbouring residential use. EH recommend, however, that the hours of opening be conditioned.

Southern Electric

SSEPD have no objections to the planning application. However please be aware as there is a substation next to the building and cables within the vicinity.

Asset Management Service

No comments received.

REPRESENTATIONS

74 letters of representation have been received in respect of this application, 42 in objection and 32 in support.

The issues raised in the letters of objection can be summarised as follows:

- a) Loss of protected open space which is limited in the city;
- b) Loss of Common Land;
- c) Impact on the one of the city's greatest assets;
- d) Incremental increase in the size of the existing building/gradual creep of development;
- e) Moral and ethical issues of using public space for business uses;
- f) Impact of the existing use on the areas of open space at the front of the building;
- g) Loss of a tree;
- h) Impact on activities within the common (sports & recreation uses);
- i) Impact on the Conservation Area;
- j) The existing use already causes problems for residents;
- k) General disruption to local residents;
- l) It will exacerbate existing parking issues;
- m) Increased traffic from customers and deliveries;
- n) Increased noise and disturbance;
- o) Increased cooking odours;
- p) Increased litter;
- q) Inappropriate opening hours;
- r) Security issues associated with the balcony at night;
- s) The proposal does not benefit local residents;
- t) Precedent for similar developments on open space;
- u) The development is linked to the land and not the current operator; and
- v) The letters of support are generally from non-residents.

The issues raised in the letters of support can be summarised as follows:

- a) It is a good idea for the tearooms to have outside seating to take advantage of the views;
- b) The terrace will enhance the area;

- c) it will allow access to customers who cannot go inside the existing building;
- d) It would preserve the Conservation Area and Park;
- e) It would only take a small area of the Common;
- f) Recreational activities do not take place in this area of the Common;
- g) Parking is not a problem in the area;
- h) Noise will not affect local residents as the existing building acts as a screen;
- i) Great for customers;
- j) The tearooms are good for the area; and
- k) The quality of the existing tearooms.

This application has been referred to the Planning Committee for determination based on the level of representation and individual deputation requests.

COMMENT

The determining issues in this application are:

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

Planning permission is sought for the change of use of land immediately to the east of the building from open space to Class A3 (cafe/restaurant) associated with the existing café/restaurant use and the construction of raised balcony with planters. To the western side of the building permission is also sought for landscaping works to include the construction of two raised planters either side of the main entrance around the base of two mature Holm Oaks, and a new section of footpath.

Principle of the proposed development

The application site is located within Southsea Common, one of three registered Parks and Gardens within the city. The Common provides much of the seafront with its open character and is an important part of the city's network of 'green infrastructure'. The raised deck and planters proposed by this application are also situated on land designated as protected open space by Policy PCS13 of the Portsmouth Plan. The supporting text to this policy states:

'Green and open spaces can bring a number of economic, social and environmental benefits including opportunities for social cohesion and biodiversity and the promotion of healthy living. Greening the built environment, along with appropriate investment in the city's open spaces to link them together and improve their quality and value, will provide a network of multifunctional green and open spaces. This is collectively known as a green infrastructure network which is particularly important in Portsmouth given the limited amount of existing and potential green spaces...The seafront is probably the city's best example of a well-used and versatile green infrastructure asset and is the most heavily visited section of the Solent coast. Southsea Common is a large open space, of which there are precious few in Portsmouth, and is used for sports and leisure, dog walking and enjoyment of the views across the Solent to the Isle of Wight...To help realise its full benefits, the city council will work in partnership to protect, enhance and, where possible, extend the city's green infrastructure network.

...There is a great deal of pressure on Portsmouth's green infrastructure network from increasing population numbers to climate change and the need for new development sites. The city lacks suitable spaces to provide additional green infrastructure assets to absorb this pressure. Therefore the council's priority will be to focus resources on protecting, enhancing and

linking together the existing network. There will be a presumption against any development involving the net loss of open space unless there are wider public benefits that outweigh the harm of this loss'.

The actual Policy states: 'The city council will work collaboratively to protect, enhance and develop the green infrastructure network in the following ways: Protect green infrastructure by: - Refusing planning permission for proposals which would result in the net loss of existing areas of open space, as shown on map 21, and those which would compromise the overall integrity of the green infrastructure network in the city, unless there are wider public benefits from the development which outweigh the harm... Enhance green infrastructure by: - Improving Southsea seafront for recreational users, visitors and wildlife'.

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

In light of these policies and supporting documents it is clear that the city council has a desire to improve facilities along the seafront for residents and visitors to the area. However, a balance has to be struck between providing these facilities whilst preventing the loss of existing natural features, in this case protected open space, which is a unique characteristic of the city's seafront.

When originally granting planning permission for the tearooms and its associated extensions in 2015 (15/00380/FUL), the proposal resulted in the loss of more protected open space than was initially envisaged (80sq.m). However, a view was taken that the public benefits resulting from the reuse of a long term vacant and neglected building, the significant visual improvements to the building and the contribution it would make to the Conservation Areas and the Common, the potential improvement to crime prevention objectives, and the improved facilities for visitors and users of the Common would have outweighed the presumption against the loss of protected open space. The tearooms are now operating, and in combination with the alterations to the external appearance, make a positive contribution to the area and the aims and objectives of the Master Plan.

The construction of the raised balcony/terrace and the installation of a raised planter to the western elevation would result in the further loss of approximately 64 sq.m. of protected open space. Combined with the previous loss at the site, the total figure for the overall development would be approximately 140sq.m. When considering that the original building/structure at the site had a floor area of just 191sq.m. the combined proposals amount to an increase of approximately 73% in floor area over the original building/structure which is significant particularly given the open nature of the Common.

The applicant, within their Design and Access Statement, acknowledges the loss of protected open space. In mitigation, it is suggested that the applicant would provide and maintain suitable plants and shrubs in raised planters within a "barren" area in front of the building's entrance on Western Parade, relieving the city council of maintenance costs. It is noted however, that whilst vegetation within this area has never been well established as a result of shading from the existing building and tree canopies, the area described as "barren" by the applicant is primarily in its current condition as a result of increased footfall associated with the use of the existing building. The City Council's Arboricultural Officer also highlights that the suggested landscaping described as a public benefit by the applicant could actually affect the long term health and stability of the existing trees within this area which is not addressed within the submitted Arboricultural Impact Assessment and Method Statement. These trees in combination with the

tree proposed to be removed from the western elevation of the building (address below) have significant visual amenity value and their loss would be harmful to the character and appearance of this part of the Common.

When considering the overall scale of South Common, the loss of protected open space proposed by this application is relatively minor. However, it is clear that the Common is a defining feature of the seafront and with increased population and visitor numbers, the contribution the Common makes to the city's green infrastructure is under growing pressure from incremental losses which have the ability to significantly affect how these spaces appear and function. Whilst the suggested enhancements are noted, it is considered that the public benefits offered up by the applicant in no way outweigh the presumption against the loss of protected open space and could actually result in further harm. The proposal therefore fails to comply with the aims and objectives of Policy PCS13.

In addition to the physical loss of protected open space, it is likely that the mere presence of an external seating area, where the boundary between public and private space is less obvious, could fundamentally change how the surrounding area is perceived and functions. As highlighted within representations, the presence of people sat externally to the building would appear more intrusive within the park setting and the fear of stray sporting equipment or the perception of being watched could potentially deter people from carrying out their normal activities within this public space.

In reaching this conclusion regard is given to the contribution the development makes towards the wider objectives of the Seafront Masterplan. However, on the basis that the existing use appears to be operating successfully without an external seating area, it is not considered the conclusion above would affect the viability of the existing premises or result in the loss of a facility that makes a positive contribution to the seafront offer.

Design, including impact on heritage assets

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

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

The proposed balcony/terrace would extend across much of the western elevation at a height of approximately 0.5 metres. The external faces would be clad in timber and painted to match the existing brickwork. The balcony would be enclosed by metal railings to a height of 1.6 metres (from ground level) with timber posts and handrails.

As previously highlighted, the alterations previously carried out to the building have made a positive contribution to the Common and the conservation area. The building now possesses a crisp and clean façade that is restrained yet well-ordered and proportioned, and creates a clear boundary through the use of large areas of glazing between the public Common and the private tearooms.

The 'Seafront' Conservation Area guidelines state that: 'The most notable feature of this conservation is that it is almost entirely open space... The open nature of this area with the retention of an extensive open space between sea and buildings is relatively unusual for seaside resort. The section of Common between Duisberg Way, Southsea Terrace and Western Parade has several avenues of tree - Holm Oaks, and surviving Elms. The Holm Oaks are around the perimeter of this area adjoining Western Parade/Southsea Terrace in front of the buildings' The document makes reference to the reduction/limiting of visual clutter and the retention of existing tree cover which has become an integral part of the Southsea scene.

Again, whilst relative modest in scale, the proposed balcony would detract from these qualities introducing a structure of inferior quality in terms of design and use of materials, and creating a cluttered and slightly lopsided appearance to the buildings most prominent elevation. Whilst the submitted drawings detail the elements that only require the express permission of the Local Planning Authority, the balcony is ultimately required to provide additional capacity which will inevitably incorporate the placement of tables, chairs, umbrellas and patio heaters typically associated with such uses adding further clutter to this elevation. An established conservation/heritage objective which is supported by Historic England is to reduce visual clutter whether possible.

In heritage terms, the site is located within a registered park (The Common - Grade II) and within the 'Seafront' Conservation Area. Both designations afford protection to a key element of the city's historic and unusual parkland waterfront. Significant soft landscaping in the form of mature trees frame and bisect the Common and are an historic feature of the assets. Planting notwithstanding, the Common is also characterised by a high degree of openness, which affords uncluttered views through and across the space. Open space/parkland at this scale, and with this level of historic interest is, if not exceptional, then certainly extremely unusual in a city the size of Portsmouth. These qualities and attributes give the Common a high degree of historic, and aesthetic value and as a widely used resource, it also enjoys a very high level of communal importance. These factors give both assets a high degree of significance which is sensitive to even modest intervention or change.

Whilst the previous alterations to the building were found to be acceptable in heritage terms, this view was predicated on the pre-existence of a utilitarian and unattractive sub-station. Had the site been absent of a building, it is questionable, whether it would have been an appropriate location for a building at all. This is highlighted to draw out the exceptional circumstances which the pre-existence of the substation presented in terms of an opportunity for development on this very sensitive site. In the context of the current application to extend the footprint of the building further, the proposal is considered to be excessive in conservation heritage terms pushing the envelope of the building to a point which is harmful and therefore undesirable.

In light of the above, it is considered that the proposal would fail to preserve the significance of the heritage assets namely the 'Seafront' Conservation Area and the Common. In the context of the high significance of the assets under consideration, and the openness which they currently enjoy, the impact of the proposal must be balanced against the scale of these assets as required by paragraph 132 of the NPPF. Having regard to the scale of the development, it is considered that the identified harm would not be 'substantial' as defined by the NPPF, but would fall within the 'less substantial' category. This is not however, an indication that the harm would not be significant.

The harm and its significance must be balanced against the public benefits that would result from the development. The appeal and desirability of the tearooms to be able to provide an enclosed external space in front of the building for its customers is acknowledged. However, is not considered that either the justification for this proposal, or the public benefit which would accrue from its implementation would outweigh the harm identified to both designated heritage assets.

Impact on trees

In order to accommodate the balcony, the applicant proposes the removal of a Turkey Oak from the western side of the building. The supporting Arboricultural Impact Assessment and Method Statement states that the tree is: "recommended for removal in order to facilitate development proposal and to avoid conflict with areas where food and drink will be consumed". The removal of the tree is not necessary for arboricultural reasons.

The application has been considered by the City Council's Arboricultural Officer who raises concerns that the proposed balcony/terrace would not only result in the loss of a healthy tree, would also have the potential to affect the health and/or stability of the adjoining trees, either through the physical construction process or through pressure to continuously maintain the trees as a result of the development's presence and need to 'prevent conflict with food and drink uses'.

Policy PCS13 of the Portsmouth Plan states that: 'The City Council will work collaboratively to protect, enhance and develop the green infrastructure network in the following ways....Ensuring that development is informed and influenced by the presence of trees on site, particularly those protected by a TPO or within a Conservation Area'. Whilst the applicant suggests that the tree can be replaced, it is considered that the removal of a healthy tree within a Grade II listed park and a Conservation Area to make way for development in no way demonstrates its design has been informed and influenced by the presence of the trees. The existing trees at the site make a significant contribution to the character and appearance of the Conservation Area and as a group, partially screen the building reducing its prominence within the Common.

The applicant states, within their Design and Access Statement, that the City Council's Arboricultural Officer would raise no objection to the removal of the tree if it was replaced with another, equally mature tree. It is acknowledged that the removal of trees at the site was discussed before the initial development took place in 2015. However, the option of removing trees was only considered in the context of delivering the initial development and to realise the public benefits (of the initial development) highlighted above. It was not an indication that trees could be removed at any cost.

Working proactively with the City Council's Arboricultural Officer the initial development has been delivered whilst ensuring the existing trees were protect both during construction and operational phases. On the basis that the removal of the tree is no longer necessary to make the development viable (and to deliver the range of benefits highlighted), the removal of the tree is no longer considered to appropriate given the absence of suitable public benefit.

The application also proposes the creation of raised planting area around two mature Holm Oaks on the western side of the building. The City Council's Arboricultural Officer highlights that trees are intolerant of level changes around their stems and over their root area. Raising the grade or soil level over existing roots can have a significant effect on the future growth and survival of existing trees. This concern is not addressed within the submitted Arboricultural Impact Assessment and Method Statement.

Therefore, the application has also failed to demonstrate that the long term health and stability of these large mature trees can be guaranteed.

Impact on residential amenity

Representations make reference to existing issues associated with the operation of the tearooms in terms of noise and disturbance from comings and goings and deliveries, and smells and odours associated with cooking operations. Whilst the LPA and the Environmental Health Team (EHT) were aware of these issues when the premises first started trading, it was considered that these were a result of initial 'teething problems' and appeared to have been resolved following the submission of planning application 16/00497/PLAREG. The LPA is

unaware of any ongoing issues and none have been reported with the EHT's response to this application.

The EHT highlight that the proposal is for outdoor seating on the western side of the building associated with the existing premises and no new plant or equipment is proposed. Given the proximity of the site to residential uses on the eastern side of Western Parade, the proposal will have some impact on the occupiers of those properties which would arise from increased comings and goings, noise from customers and possibly music. The Live Music Act 2012 enables all licensed premises to provide performances of regulated entertainment until 23:00hrs.

However, the EHT are satisfied that given the current nature of the existing use, the proposal is unlikely to have a significant adverse impact on the amenity of local residents and should any issues arise from the use of the external area, this can be tackled through statutory noise nuisance legislation.

The opening hours of the premises are currently restricted by planning permission 16/00497/PLAREG to 8:00am and 9:00pm on any day, which was considered appropriate for a building in this location that was fully enclosed. The application form states that the proposed hours of operation would be 8:00am to 17:00 which is considered to be reasonable given the inclusion of an outdoor seating area, and could be controlled through a suitably worded planning condition had the application been acceptable in all other respects.

Highways/Parking Implications

Western Parade forms part of the classified road network and is subject to a 30mph speed limit. It has on-street parking on either side of the road along its length which is all pay & display, although exemption is given to holders of a resident permit for the "KC" zone. As highlighted within representations, there is significant pressure on existing on-road parking facilities particularly at weekends where visitor numbers to Southsea Town Centre and the wider seafront area compete for spaces.

The Highways Authority (HA) acknowledge these pressures and highlight that no Transport Assessment has been provided by the applicant. The increase in capacity will inevitably result in increased trip generation, although it is accepted that some of these trips are likely to be linked, primarily at the weekend, with trips to other facilities within the area. The HA is therefore, of the opinion that any increase in trips to the premises will be negligible and the proposal would not have a material impact upon the local highway network.

In terms of parking, the road directly outside of the site is covered by pay and display restrictions as are the surrounding roads (Duisburg Way, Pier Road, Southsea Terrace) which provide a reasonable deterrent for unnecessary journeys to the site by car. As such the HA consider that the actual increase in new trips associated specifically with this proposal will be negligible and additional demand for parking could be accommodated within the various on-street and off-street pay and display areas nearby.

It is however, highlighted that the existing tearooms provide just 3 Sheffield stands for the storage of six bicycles. In order to meet the demand for increased customers and staff, it is suggested that, should the application be capable of support, a planning condition is imposed requiring the provision of at least four additional bicycle storage spaces in line with the Parking SPD.

Flood risk

On the basis that the proposal would provide external seating for an established premises and would not affect drainage at the site, it is considered that the proposal would not result in an increased risk of flooding.

Other matters including those raised within representations.

Representations refer to the loss of Common Land as a result of the proposal. However, whilst the land is owned by the Local Authority and is publically accessible, it is not defined as Common Land and no such land exists within the authoritative boundary.

It is suggested that the existing kitchen facilities at the site could not accommodate the increased capacity and will inevitably result in future applications to expand. The applicant will be aware of their existing capacity of their kitchen and of the specific site constraints that would prevent further expansion. An expansion of the kitchen is not proposed by the current application and should this be proposed in the future, its merits will be considered against the relevant planning policies through a formal planning application.

It is suggested that a number of representations received in support of the proposal have been received from individuals that do not reside within the area. The Local Planning Authority must consider all representation received in respect of a planning application although more weight will be afforded to the concerns of individuals that would be directly affected by the proposal. In this situation the matter is complicated by the loss of public open space which is available for use by anyone including those that reside beyond the immediate area.

The quality of the offer within the existing tearooms is not material to the determination of this application as any permission would pass with the land and not the current occupier.

RECOMMENDATION Refuse

1) The development would result in the net loss of protected open space within the 'Common' and a healthy tree which would compromise the integrity of the city's green infrastructure network where significant pressures on this limited resource exist. In the absence of sufficient wider public benefits to outweigh this harm, the proposal would be contrary to the aims and objectives of Policy PCS13 of the Portsmouth Plan.

2) The proposed balcony/raised terrace would, by virtue of its position to the western elevation of the building and projection into a registered Park and Garden (the 'Common' Grade II) and conservation area, detract from the crisp and clean architectural quality of the existing building, introduce visual clutter to an otherwise uncluttered environment, would result in the physical loss of a healthy tree and open space within the Common where its significance is derived from a high degree of openness and uncluttered views. The proposal would therefore, fail to preserve the character and appearance of the 'The Seafront' Conservation Area and the setting of the 'Common' without adequate public benefit to outweigh the identified harm. The proposal would be contrary to the aims and objectives of the National Planning Policy Framework and policy PCS23 of The Portsmouth Plan.

PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, the details of the application did not accord with pre-application advice and the application has been refused for the reasons outlined above.

PUBLIC HOUSE 18 - 20 FLORENCE ROAD SOUTHSEA PO5 2NE**RETROSPECTIVE APPLICATION FOR THE CONSTRUCTION OF A SINGLE STOREY REAR EXTENSION, INSTALLATION OF EXTERNAL DUCTING, FAN AND EXTRACTION UNITS AND INSTALLATION OF ROOF LANTERNS (AMENDED SCHEME TO 16/00424/PLAREG)****Application Submitted By:**

Martin Ralph Chartered Surveyors
FAO Mr Jason Ralph

On behalf of:

The Mercer Collection
FAO Mr Daniel Sutton

RDD: 20th December 2016

LDD: 15th February 2017

SUMMARY OF MAIN ISSUES

The determining issues are: whether the single storey extension, external ducting, fan and extraction units and rooflights are appropriate to the recipient building and surrounding area and whether there would be an impact on heritage assets and whether there would be a significant impact on residential amenity.

The site

This application relates to a two-storey detached public house located on the east side of Florence Road at the junction with St Catherine Street. The property sits on the back edge of the public footway but benefits from an enclosed rear courtyard. Whilst the property is not listed (statutory or local) it does have some architectural interest with red and black pan tiling on the ground floor, red bricked elevations with timber sliding sash windows, integral horns and glazing bars at first floor level. The property is within the 'East Southsea' Conservation Area (No.19) and is within an indicative area of flooding (zone three).

The 'East Southsea' Conservation Area Guidelines describe this area as: a more disparate area with roads of differing character reflecting both its more piecemeal development and redevelopment and also its creation from sections of different conservation areas. Florence Road varies in character and its southern section includes several large houses. These properties retain a variety of late C19 detail such as mullioned windows, ornamental bays and decorative chimney stacks. No 1 is set in a large garden with boundary walls and trees. The central section comprises mainly two and three-storey terraced houses, some with bay windows and including the red tiled fronted Florence Arms. In the northern section businesses such as builders yards and car repair garages have gradually been replaced by new houses and flats but some earlier houses survive including a T E Owen house.' With regards to St Catherine Street, the Guidelines State: 'This part of the conservation area was formerly a mixture of small garages, lock up garages and other business uses together with a few inter-war bungalows and a short Victorian red brick terrace. It also includes a club behind Onslow Road which was a former school. Recently there has been redevelopment of several sites and the density of development has been much increased.'

The proposal

The applicant seeks retrospective permission for the construction of a single storey rear extension and installation of external ducting, fan and extraction units (Amended Scheme to 16/00424/PLAREG).

The single storey extension has been completed and whilst there is an external ducting, fan and extraction unit that has already been installed, it is producing significant noise and odour issues. This scheme has been put forward that seeks permission to remove the existing high level system and to allow for the installation of a new high level system.

Planning History

The relevant planning history for this site relates to a retrospective application for the construction of a single storey rear extension and installation of external ducting, fan and extraction units that was withdrawn in June 2016 (ref. 16/00424/PLAREG). This application was withdrawn as the noise and odour issues associated with the extraction equipment required in-depth involvement from council officers to resolve.

POLICY CONTEXT

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

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

Particular obligations fall upon the council in determining any application which might affect a listed building or its setting or a conservation area. The Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) at section 66 places a duty on the Local Planning Authority 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. Furthermore, at section 72 it is required that Local Planning Authorities pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

In addition to the aims and objectives of the NPPF and Chapter 12, specific attention is drawn to paragraph 131 of the NPPF that states: 'In determining planning applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.

Also the NPPF at paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset (listed buildings and conservation areas), great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting; and (paragraph 133) where the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, Local Planning Authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefit that outweigh that harm or loss; or (paragraph 134) where the 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.

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; protect and enhance the city's historic townscape and its cultural and national heritage, in particular its links to the sea; protect and enhance important views and settings of key buildings across the sea, harbour and from Portsdown Hill and improving accessibility for all users. Additionally, the NPPF at paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

CONSULTATIONS

Contaminated Land Team

The proposed development is situated on/adjacent to the Great Morass, a historic tidal inlet from the sea which has previously been associated with a significant thickness of peat and localised gas generation. The accuracy of the historical mapping of this edge feature is inherently inaccurate as tidal channels change considerably over time. As this feature has been mapped on/adjacent to the development boundary, there is the potential for contamination and ground gases to be present.

As a precaution, it was requested that the extension design should include gas protection such as a sealed DPM, but should include provision of passive ventilation.

Given the above please request confirmation from the builder and Building Control Inspector that appropriate measures have been included within the structure. This will provide some level of reassurance with regard to potential ground gas risks to the new extension and existing building.

The agent confirmed via email on 26th January 2017 ' Our design did not include for a Radon barrier, but did include for a standard 1200 gauge DPM, dressed up into the DPC, plus concrete fill to the sub-structure cavity. Also, there is ventilation in the form of trickle vents to the door and window plus commercial mechanical ventilation for the kitchen - in use 7 days/week.'

Contaminated Land response: 'Although this is not ideal, the confirmation provided in your email will be accepted in this instance if the building control inspector can confirm that the extension was built to the specification described by the architect. I would ensure the applicant is fully aware that conditions relating to ground gas will likely be imposed on any future planning permission should any additional works be proposed in future, and that this will require attention before construction works commence.

Environmental Health

From the information submitted, noise predictions have been carried out and subject to the fan, the silencers and the acoustic housing being fitted around the fan as specified on Drawing C dated 25/11/16, it is unlikely that the noise from the use of the kitchen extraction equipment will cause a loss of amenity to nearby residential accommodation.

The applicant's agent has also carried out a risk assessment with regards to odour emissions in line with the DEFRA Guidance and identified that odour abatement is necessary. To mitigate the odours it is proposed to install a Jasun Duo baffle/mesh filters in the canopy joined to G4 and G7 fine filtration system supported by an ozone generator. Should this equipment be installed and maintained as specified on Drawing C dated 25/11/16 it is unlikely that a loss of amenity will be caused by cooking odours.

In summary, no objections are raised to this application being granted.

REPRESENTATIONS

Two representations have been received from a neighbouring properties objecting to the proposal and deputising on the following grounds:

1. Planning breaches not resolved;
2. Proposals not in accordance with conservation area guidelines;
3. Council not had regard to section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended);
4. Public house has grown too large in this high density residential area and cannot mitigate the impact on its close neighbours;
5. Single storey extension results in overdevelopment of rear courtyard, has an unacceptable visual impact and kitchen has become overly large;
6. Size, design and siting of external ducting, fan, flue and extraction units result in unacceptable impact on appearance of attractive building that does not 'preserve or enhance' the character and appearance of the East Southsea Conservation Area. It is very prominent in streetscene and ugly to look at that is contrary to national and local plan policies;
7. Flue sited in front of attractive sash window;
8. Flue has significant prominence for passers-by and is conspicuous;
9. Heritage statement flawed and does not address visual impact of flue;
10. Owners have ignored planning and environmental health officer recommendations and have little faith in the installation and maintenance of flue and extraction;
11. There are a number of ways to overcome poor design of flue and extension. A brick built chimney should be built around flue;
12. Does not address noise and odour; and,
13. Development has significant impact on our wellbeing.

COMMENT

The determining issues are: whether the single storey extension, external ducting, fan and extraction units and rooflights are appropriate to the recipient building, the surrounding area and whether there would be an impact on heritage assets and whether there would be a significant impact on residential amenity. The development is not considered to increase the risk of flooding.

Design and impact on heritage assets

Single storey extension

In relation to external materials, the 'East Southsea' Conservation Area Guidelines state:

'Most of the older properties in this conservation area are either brick faced or rendered. The few exceptions include two stone fronted houses in Lennox Road South, tile hung buildings in Malvern Road and 'rough cast' houses in Brandon Road...More recent properties include a variety of new and old materials including concrete and brick. Several properties in this area have been re-faced in a variety of materials including reconstituted stone and 'plastic' timber.

Guidelines

- i) The City Council will encourage the retention and conservation of existing and original wall finishes as appropriate and it will actively discourage the introduction of materials such as imitation stone cladding, textured wall finishes and plastic weather boarding which are inappropriate to the particular property, and the character of the area.
- ii) The City Council will discourage the painting of surfaces such as stone and brickwork, where this was not originally intended, and where already painted will encourage the painting of terrace properties.

In relation to extensions, the 'East Southsea' Conservation Area Guidelines state:

Front facing extensions will not normally be allowed. Rear extensions should not overpower the design/ shape/size of the original rear elevation. Most extensions would require specific planning permission. Where an extension is required the design should match or complement the existing original building. Obvious matters such as external materials should normally match the original but detailed points such as brick bonding and pointing, window style and associated dressings should also be borne in mind. Large roof additions can spoil the appearance of a house and look incongruous in the general streetscene. Careful thought needs to be given to ensure that dormers and other roof additions do not dominate the roofscape.

Guidelines

- i) Extensions will be discouraged where they would have an adverse visual effect on the existing building or townscape.
- ii) Where extensions are permitted they should match the existing original property in respect of design, materials and detail. The size of an extension should not overpower the original building.
- iii) Roof extensions will be discouraged, particularly at the front, where they would have an adverse visual effect on the existing building or townscape, or where they would lead to the loss of original historic roofs or their features.
- iv) Where roof extensions are permitted they should match the existing property in respect of design materials.'

The development included the construction of a single storey brick built infill extension that has been completed and projects 2.3 metres from the rear extension adjacent to the kitchen. The extension has a flat roof that is approximately 0.2 metres lower than the existing kitchen roof with a single window and access door leading into the rear courtyard. The extension has been finished in materials to match the rear elevation of the public house and it is considered to be sympathetic and of an appropriate scale in relation to the existing property and surrounding area. The single storey extension is considered to be a subservient addition that has been completed in appropriate materials and complies with the guidelines. It is considered to preserve the character and appearance of the 'East Southsea' Conservation Area.

Aluminium rooflights

In relation to windows, the 'East Southsea' Conservation Area Guidelines state:

- 'Many of the older properties will originally have had painted timber sliding sash windows but there are a few properties which have casement windows. Windows have been altered in some historic properties and in some cases the window openings have been changed. Guidelines:
- i) The City Council will encourage the retention of existing traditional window types, details and materials.
 - ii) The City Council will encourage the repair of existing windows wherever possible and where this is not possible their replacement by matching windows.
 - iii) The City Council will discourage the use of UPVC, aluminium and other inappropriate materials or finishes within the area.'

Further development (that has been completed) included the installation of three aluminium roof lanterns on a single storey extension that is located along the south common boundary of the site. The conservation area guidelines discourage the use of aluminium. However, as the building is not listed and the rooflights have been installed on a non-original single storey extension that serves a dining area, it is considered that the use of materials other than timber would be acceptable in principle if they are of sufficient quality. The three roof lanterns have a lightweight appearance and appear as 'more glass than frame' and they are of an appropriate height and width and do not appear as bulky or top-heavy. These skylights are considered to be appropriate in design term terms and are not of significant visibility from the road that would be sympathetic to the recipient building and surrounding area and preserve the character and appearance of the conservation area.

Comments have also been raised in relation to noise and disturbance escaping from the aluminium rooflights if open. Whilst there may be staff in the premises, the licensed opening times for the public house are between, Monday to Sunday 12 noon with last orders at 2200, with the pub being vacated by customers by 2300. Although there may be some staff present before and after closing hours, the opening of these rooflights is most likely to be concentrated around these opening hours. It is also noted that the opening hours of the pub are not between 'normal sleeping hours'.

External ducting, fan and extraction units

The section of the 'East Southsea' Conservation Area Guidelines that is relevant here relates to details and ornaments. The Guidelines state:

'There is a wide range of original details on buildings in this conservation area. They include for example bargeboards and eaves brackets on buildings in Brandon Road, eaves level balustrades on a terrace in Somerset Road and gothic doorways in Lennox Road South. Other details include a tiled frontage and ornamental glazing on the 'Florence Arms', some 30s windows/ doors on a group of houses in Beach Road and Clarence Road, doric columns on the Clarendon Road Post Office and cast iron balconies on St Helen's Park Crescent and the Hospitality Inn. Other details such as tiled pathways and coalhole covers also contribute to the character of the area.'

Guidelines

- i) The City Council will encourage the retention and reinstatement of original detail.
- ii) The removal of interesting original features and details will be discouraged.

NB Information contained in the text in this section refers only to extraction unit but to avoid repetition, it covers the ducting, fan and extraction units.

The applicant seeks permission to allow for the installation of a high level extraction unit that would be installed on the rear elevation of the Florence Arms and would be visible when facing westwards along St Catherine Street and for neighbouring properties to the south on Somerset Road. The extraction unit would project up to eaves level to allow odour to be dispersed from cooking operations and would be finished in a black colour (rather than the standard silver) to reduce the visual appearance of the unit. The extraction unit would result in obstruction of a timber window on the rear elevation of the property when viewed from St Catherine Street, although this window would not be removed as part of the works. Part of the extraction unit would run across the single storey extension and connect to the existing outlet valve. This would result in increased bulk on top of several single storey extensions that would be highly visible when viewed from the streetscene. The siting of the extraction unit has been selected as the most appropriate to reduce the amount of equipment that would be installed on top of the extensions to the rear.

Following submission of the initial application in March 2016 (ref. 16/00424/PLAREG) it was brought to the attention of the LPA that a replacement low level extraction system had been installed that faced directly onto the adjacent property 2 St Catherine Street. This system has replaced the previous extraction equipment but was not fit for purpose following the expansion of the operations of the public house by The Mercer Collection (the applicant) although permission had not been obtained to do so.

This low level system caused significant noise and odour issues and following a site visit, the noise associated with this system was audible from approximately 60 metres to the east of the public house (near to the junction with Clarendon Road). Details of the initial complaint was submitted to Environmental Health Officers (EHO) and following joint site visits, the low level system was modified (attempt one) to direct the removed air and odour away from 2 St Catherine Street and towards the rear (east) elevation of the public house. This did not resolve

the noise and odour that had been caused and this resulted in significant ducting covering the roof of an existing single storey extension.

It was determined that a low level extraction system would not be sufficient and following further site visits with EHO, EHO and the applicants, a proposal to resolve the issues was agreed for a high level extraction unit. This was installed on the rear (east elevation) of the public house (attempt two). However, as different components of the extraction equipment and fan were installed by separate engineering companies, several issues arose with regards to balancing the extraction equipment and fans that generated significant noise and odour issues. This resulting in abatement notices being served on the owners of the public house for statutory noise and odour nuisances. Consideration was also given to enclosing the high level system to disguise its appearance but this would have appeared as bulkier and was dismissed (this would also hinder the access for maintenance).

Other solutions to mitigate the impact that have been considered and explored include running the necessary equipment inside the building (attempt three); but, the constraints of the internal layout are such that this option is not feasible as there is no physical space. Further consideration was given to re-installing a low level extraction (attempt four) but the amount of equipment required would dominate a significantly greater proportion of the structures and would not be as effective in dispersing odours away from residential properties.

A fourth scheme (the scheme being determined in this application) has been brought forward that should, if installed correctly, mitigate the noise and odour issues at this site. However, in reducing the environmental health issues, the scheme, if permitted, would have a significant impact on the rear (east) elevation of the non-listed building, the surrounding area and to the character and appearance of the conservation area by virtue of its bulky appearance although the extraction equipment would just protrude above the eaves of the public house.

Whilst the proposed extraction equipment and external ducting would be finished in a dark black colour to reduce its appearance in the streetscene, it is considered that by virtue of its elevated position and the substantial size of the units that it would occupy a position in the wider streetscene that would make it a visually obtrusive and discordant feature that would cause substantial harm (paragraph 134 of the NPPF) to the character and appearance of the 'East Southsea' Conservation Area, particularly when looking westwards along St Catherine Street towards the public house.

Given the significant level of harm that would be caused by permitting the development to the character and appearance of the 'East Southsea' Conservation Area, regard has been given to paragraph 134 of the NPPF that states:

'where the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, Local Planning Authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefit that outweigh that harm or loss.

The Florence Arms is a long established public house in this location and since being taken over by The Mercer Collection in early 2016 has received significant investment from the owners to meet modern standards and provide a tailored experience for existing customers but also the wider business for this boutique hotel company. Whilst issues have arisen with the extraction equipment and fan generating significant noise and odour, the owners have invested significant time and money to meet the requirements of the council in resolving these issues. The public house employs 11 full time staff and 7 part time staff. In order to ensure the long established public house remains open, the kitchen equipment required upgrading.

A report was commissioned into future hotel requirements in the city entitled Portsmouth Hotel Futures (2007) that has shown there is need for 12-15 new hotels in Portsmouth up until 2026 and followed by an additional report South Hampshire Hotel Futures (2010) covering the sub-

region, identifying the M27/A27 corridor as a likely location for future hotel growth. An updated "Hotel Investment Prospectus" (2015) has no particular planning status but identifies hotel investment opportunities as including sites outside of the designated hierarchy of town centres. Whilst hotels would ordinarily represent a town centre use expected to be accommodated within the city's designated hierarchy of town centres, the compact nature of Portsmouth, the availability of development sites capable of accommodating hotels and wider needs for business users as well as leisure visitors inevitably impacts on opportunities for hotel development. Whilst the addition of 8 bedrooms is unlikely to significantly address the future hotel requirements in the city, a change of use would not be considered inappropriate in principle in an out-of-centre location, subject to its impact on its immediate surroundings and residential amenity.

There is a clear and convincing need for future hotel accommodation in the city, on page 29 of the Portsmouth Hotel Futures report it states: 'The success of Florence House and Somerset House has demonstrated a market for a high quality boutique hotel offer in Southsea, for which people are prepared to pay a premium price.' Luxury and boutique hotels are in short demand in the city and it is considered that as part of the applicants business model there is a clear need for this business to be able to expand.

The other options as previously highlighted that sought to address the statutory noise and odour issues, by virtue of their position and their scale could have been reasonably argued to cause less than substantial harm to the character and appearance of the 'East Southsea' Conservation Area. But, these solutions and attempts are not feasible and have not resolved the statutory nuisance issues that are resulting in significant harm to residential amenity. The issues with this scheme have been such that EHO conducted a PACE interview with The Mercer Collection.

Overriding Public Interest

Substantial consideration and weight has been given to the necessity to overcome the statutory noise and odour nuisances and prevent them from arising again. Given that the options that have been trialled over the past 11 months have all failed and still resulted in the upholding of noise and odour abatement notices, it is considered that overcoming the significant issues to residential amenity is imperative whilst allowing the public house to continue to operate. There is no scope to run the equipment internally as there is no physical space and as all options had been exhausted would the public house have to close or reduce its business operations that could limit its economic benefit to the city and the pubs ability to take on or retain full or part time staff members. As such, whilst there would be substantial harm to the character and appearance of the 'East Southsea' Conservation Area if allowed, it is considered that in this instance there is substantial public benefit in permitted the development.

Response to Public Representations

For reasons highlighted throughout this committee report, the planning and environmental health breaches have taken a significant amount of time to resolve. This application will regularise the planning (single storey extension, aluminium rooflights and extraction units) and environmental health (noise and odour) breaches. As reported at the site description and during the assessment of the issues, the local planning authority has given significant due regard to section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended), the conservation area guidelines, the aims and objectives of the NPPF and Chapter 12. Whilst the design of the extraction system causes substantial harm to the character and appearance of the 'East Southsea' Conservation Area, it is concluded that for the identified public benefits, that the scheme is acceptable and would improve the quality of life and wellbeing for occupiers of neighbouring properties.

Having regard to the investigations into odour and noise solutions and the exploration of alternatives as highlighted in this report; it is considered that the overriding public interest for this matter outweighs the substantial harm to the character and appearance of the 'East Southsea' Conservation Area. The noise and odour issues would be resolved with the extraction

equipment and conditions could be imposed to secure noise level at an acceptable level. By maintaining a supply of quality hotel accommodation wider public interest is also secured.

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: 16/064/JR/01 (Location Plan), 16/064/JR/02 Rev F and Kitchen Ventilation System Rev C.
- 3) The specific noise level from the operation of the kitchen extraction system shall not exceed LAeq(5mins) 53dB at a distance of 2 metres from the outlet (the outlet being where the air flow exits the kitchen extraction ducting).

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 protect the amenities of nearby 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 pre-application process to achieve an acceptable proposal without the need for further engagement.

14 ARMORY LANE PORTSMOUTH PO1 2PE**CONSTRUCTION OF REPLACEMENT GARDEN WALL (AFTER DEMOLITION OF EXISTING)****Application Submitted By:**

Mr Steven Williams

On behalf of:

Mr Steven Williams

RDD: 6th January 2017**LDD:** 30th March 2017**SUMMARY OF MAIN ISSUES**

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

Summary of main issues

The determining issues in this application relate whether the proposed garden wall would be acceptable in design terms and whether it would relate appropriately within the curtilage of the property. Also whether the replacement wall would have an impact on the amenity of the surrounding occupiers.

The proposed garden wall has raised property ownership and restriction issues which, whilst not being material planning considerations, are addressed in this report.

Site and surroundings

This application relates to an end of terrace property which is located on the southern side of Armory Lane opposite the junction with Beehive Walk. The surrounding area is predominantly characterised by residential terraced properties. The subject property has the benefit of a flat roof rear conservatory and limited private open space. The area of private open space including the conservatory is approximately 15.75 m². The conservatory reduced the area of private open space to 9.75m².

Proposal

The applicant seeks permission for the construction of a replacement garden wall (after the demolition of the existing) and the extension of the garden wall to include further space measuring approximately 7.25 m²

This will give the occupants the benefit of a total rear garden measuring approximately 17m², and the ability to manage and maintain the land which is in their ownership, within a walled garden.

The proposed wall is to be constructed of brick to match the existing wall and it is to have sections varying in height from 1.65m to 1.8m.

Planning History

In May 2000 planning permission was granted for the incorporation of land into the garden and the construction of a wall and gate up to 2.1m high. (Ref A*36690/AB). The submitted scheme is the same as the previously approved. As this planning permission was not implemented, it has lapsed, and the applicant therefore needs to secure a fresh planning permission.

POLICY CONTEXT

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

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

CONSULTATIONS

Contaminated Land Team

I have reviewed the above application and a condition relating to land contamination is not required but an informative should be added to the permission as the wall will require excavation for foundations

The site was part of the former Portsmouth Power Station, which was investigated for potential contamination in 1992 finding some residues around the main areas of the station and so there may be some pockets.

An informative should therefore be added, advising the developer that they should contact this department if any unexpected materials or materials of concern are uncovered as part of the works for advice on the need for chemical testing and/or remedial measures to be incorporated into this development

REPRESENTATIONS

Three letters of objection from First Gunwharf Estate Management and local residents have been received. Their objection is that the development would be a breach of covenant.

Covenants are private interest matters not material to the determination of this application

One letter of support from a neighbouring resident has been received. Their comments states that the proposal would enhance the visual appearance of the surrounding area.

COMMENT

The determining issues in this application are whether the proposed garden wall would be acceptable in design terms and whether it would relate appropriately within the curtilage of the property. Consideration is also given to the impact of the wall siting in relation to the amenity of the surrounding occupiers.

The surrounding area is characterised by tall boundary walls separating the dwellings from the highway. The applicant proposes to remove the rear brick fence, and incorporate land within their ownership which is adjacent to a rear pedestrian access lane, into a newly enclosed rear garden.

The proposed rear fence will be constructed from bricks that have either been reused or are similar in appearance to the existing bricks of the property fences.
The proposed wall would have a stepped height from 1.65m and 1.8m and will in design terms be similar in appearance to the existing wall which is an acceptable appearance for the locality.

The proposal would result in the loss of a small section of landscaping from the public realm which is owned by the applicant; however it currently is external to their wall and therefore has a softening effect to the appearance of the surrounding area. The subject property has side garden areas on Grays Court and Armory lane that will be retained in full public view and bring amenity value to the area. The loss of this garden area to the general public view is considered on balance to be an acceptable outcome, without causing harm to the use of the rear pedestrian access way.

Furthermore, there are a number of examples of tall boundary walls that are built up to the adjoining pavement. The inclusion of this garden area into the private open space of the property is not considered to be detrimental to the wider street scene.

The proposal has raised concerns in relation to the covenant. While this is not a planning matter, it is noted that the restrictions are in place so as to not in any way prevent or limit the access of those who benefit down a pedestrian path to the rear of properties. The proposed fencing of this area of land does not in any way prevent the access to the path, and that land which is being enclosed is not the direct line of access into the pathway, further highlighting the rationale for its inclusion in to the private open space on the site.

The property matters which have been raised have been reviewed and it is concluded that they are not material to the consideration of this proposal.

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: 14AL-1 and SITE LOCATION PLAN 2.2.2017.

The reasons for the conditions are:

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

PRO-ACTIVITY STATEMENT

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

Assistant Director of Culture and City Development
27th March 2017