



NOTICE OF MEETING

PLANNING COMMITTEE

WEDNESDAY, 26 NOVEMBER 2014 AT 5PM

THE EXECUTIVE MEETING ROOM, THE THIRD FLOOR, THE GUILDHALL

Telephone enquiries to Jane Di Dino 02392 834060

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Planning Committee Members:

Councillors Aiden Gray (Chair), Frank Jonas (Vice-Chair), Ken Ellcome, David Fuller, Colin Galloway, Stephen Hastings, Lee Mason, Les Stevens, Sandra Stockdale and Gerald Vernon-Jackson

Standing Deputies

Councillors Alicia Denny, Margaret Foster, Lee Hunt, Hugh Mason, Robert New, Darren Sanders, Rob Wood, Paul Godier, Stuart Potter and Julie Swan

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

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

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

AGENDA

- 1 Apologies

- 2 Declaration of Members' Interests

- 3 Minutes of the Previous Meeting Held on 29 October 2014 (Pages 1 - 10)**
The minutes of the Planning Committee meeting held on 29 October 2014 are attached.
- RECOMMENDED that the minutes of the Planning Committee meeting held on 29 October 2014 be agreed as a correct record to be signed by the Chair accordingly.**
- 4 Updates Provided by the City Development Manager on Previous Planning Applications.**
- 5 Appeal decision at 22 Inglis Road Southsea (Pages 11 - 14)**
Purpose.
To advise the committee of the outcome of the appeal that was dismissed and in the related costs application, a partial award was found against the council.
- Planning Applications.
- 6 14/00903/HOU 63 Stanley Avenue, Portsmouth - Construction of single storey rear extension. (Pages 15 - 44)**
- 7 14/01138/HOU 47 Waverley Road, Southsea - Construction of a part three- / part four-storey extension incorporating a roof terrace.**
- 8 14/01280/PLAREG 46 Drayton Lane, Portsmouth - Construction of a single storey rear extension, underground garage to rear and new entrance to garage, stairs and planters to front of dwelling.**
- 9 14/01182/FUL 37 Tamworth Road, Portsmouth - Change of use of residential garage to a dental laboratory (resubmission of 14/00646/FUL).**
- 10 14/01164/FUL Site of Former Cinema, 80 High Street, Portsmouth - Construction of part five/ part six and five storey buildings comprising 46 flats and commercial units (class A1, A2, A3 & D1) fronting High Street with associated landscaping, parking and cycle/ refuse storage.**
- 11 14/01225/VOC Blue Cobra, 87 London Road, Portsmouth- Application to vary condition 5 of planning permission A*10547/AB to extend the opening hours of restaurant to remain open to patrons from 07:00 hours to midnight (Sunday to Thursday) and from 07:00 hours to 01:00 hours on Friday and Saturday for a temporary period of 1 year (re-submission of 14/00582/VOC).**

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

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Agenda Item 3

PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 29 October 2014 at 5.00 pm in the Executive Meeting Room - The Guildhall

These minutes should be read in conjunction with the agenda and associated papers for the meeting.

Present

Councillors Aiden Gray (Chair)
Frank Jonas (Vice-Chair)
Ken Ellcome
David Fuller
Colin Galloway
Stephen Hastings
Hugh Mason (Standing Deputy)
Gerald Vernon-Jackson

Also in attendance

Councillors Michael Andrewes, Lee Hunt, Leo Madden
and Luke Stubbs

Welcome

The chair welcomed members of the public and members to the meeting. He advised the committee that planning application 7, 4 Adair Road had been withdrawn from the agenda.

Guildhall, Fire Procedure

The chair, Councillor Gray, explained to all present at the meeting the fire procedures including where to assemble and how to evacuate the building in case of a fire.

117. Apologies (AI 1)

These had been received from Councillor Sandra Stockdale (who was represented by Standing Deputy Councillor Hugh Mason) and Councillor Lee Mason.

118. Declaration of Members' Interests (AI 2)

Councillor Hugh Mason declared that he lived within 10 metres of the edge of 28 Goodwood Road (application 1) and could see the site from his back window. He felt this was prejudicial and advised he would leave the room during this item.

Councillor Ken Ellcome declared a personal interest as he realised that he knew Mr Ward, one of the people making a deputation on planning application 1, from working with him several years ago.

119. Minutes of Previous Meeting held on 1 October 2014 (AI 3)

(TAKE IN MINUTES)

RESOLVED that the minutes of the Planning Committee held on 1 October 2014 be approved as a correct record and signed by the Chair.

120. Updates Provided by the City Development Manager on Previous Planning Applications (AI 4)

The City Development Manager advised she had no formal updates for the committee.

Councillor Luke Stubbs, Cabinet Member for Planning, Regeneration and Economic Development addressed the committee at the invitation of the Chair. He advised that the Council are looking to change pre-application procedures for large planning applications. Currently for some large planning applications, a private meeting is held with committee members. It is important to learn best practice from other local authorities and he advised that Havant Borough Council hold public meetings once a month with members, developers and applicants and include one large planning application on an agenda. These meetings usually have good attendance by members and it gives the developer the opportunity to outline their proposals before submitting their application.

Cllr Stubbs advised that the next pre application meeting at Havant is on 4 December at 5:30pm. He would be attending this as an exploratory visit and invited planning committee members as well. The City Development Manager added that a formal report with recommendations would be submitted to the Cabinet Member or the Planning Committee for a formal decision. Councillor Gray asked Cllr Stubbs to provide all councillors with this update and inform them of the meeting.

121. Planning appeal decision relating to 34 Playfair Road, Portsmouth (AI 5)

(TAKE IN REPORT)

The City Development Manager introduced the report. She advised that officers felt the outcome of the appeal was seriously flawed. The Planning Inspector had given regard to a policy decision that Southampton City Council had made, when his statutory obligation was to have regard to Portsmouth Plan policies. He had also referred in his decision to the marketing evidence submitted by the appellant by reference to incorrect details, concluding that such irrelevant matters were such a material consideration that it outweighed the harm associated with the conflict of PCS20. Officers have written to the Planning Inspector advising of their concerns with the decision, however, it was the conclusion of the officers that this decision was a 'rogue' decision and should be set to one side, since no responsible decision maker could be obliged to have regard to it as guidance.

Some members of the committee felt that since the decision is fundamentally flawed that the Council should consider challenging the decision through judicial review. Officers advised that there was enough evidence to start a judicial review, however considered that the resources and cost involved in challenging the decision were too

great to justify this. Members felt that PCS20 is an important policy and that the Planning Inspector's decision undermines the policy. In response to a question, officers advised that the decision of the Planning Inspector would not set a precedent and as a planning authority the Council must make decisions that are in line with development plan policies and the SPD. The Planning Inspector's decision may be a material consideration however as it is flawed and contrary to policy the committee should give it no weight when considering similar HMO applications.

The Senior Solicitor (Planning) endorsed the City Development Manager's comments and advised that the statutory process of challenging the Inspector's decision needed to be commenced within 6 weeks of the Planning Inspector's decision, which would end on Sunday 3 November. If the committee were minded to use this route, officers would need to be sure that the basis of challenge comes within the statutory framework. However she felt that the Inspector's decision is so fundamentally flawed that the committee should give this no regard and recommended not to proceed with this. She added that when local authorities challenge a decision they enter into litigation procedure and the full cost would never be covered.

In response to a question whether planning appeal decisions could come to the committee sooner, the City Development Manager advised that they are reported to the next Planning Committee which are held every four weeks, however she would review with officers whether there was a way of notifying members sooner, perhaps by publishing them on the Member's Information Service.

After receiving advice from the officers and noting the limited time left to start judicial proceedings it was **RESOLVED that the report be noted.**

122. 14/00938/PLAREG - Stores 28 Goodwood Road, Southsea - Retrospective permission for conversion of existing workshop to form dwelling house; external alterations to include construction of a new roof, installation of new windows and doors, cycle and refuse stores (Resubmission of 14/00101/FUL) (AI 6)

(TAKE IN REPORT BY THE CITY DEVELOPMENT MANAGER)

Councillor Hugh Mason withdrew from the room due to his declaration of interest.

The City Development Manager's supplementary matters report explained that a contribution towards mitigation measures in connection with the Solent Special Protection Areas SPD and the required S.111 forms have been completed and received since the report was published.

A revised ownership certificate has also been received clarifying the additional owner of the application site (who resides at the same address as the applicant) together with confirmation that Notice of the application was served on this person in July 2014.

In light of receipt of the contribution in connection with the Solent Special Protection Areas SPD the recommendation is now one of Conditional Permission.

The following depositions were heard:

Miss Eastwood of Goodwood Road, objecting to the proposal, whose points included:

- Impact on the rear elevation of her property, 28 Goodwood Road.
- Loss of privacy, the window of the new property's bedrooms will look directly into her garden.
- Driveway is on a sharp bend and manoeuvring into and out of the site will be dangerous.
- Goodwood Road is two way for cyclists therefore the Highway comments in the report are incorrect.
- Moving to residential use will mean there is the potential for noise 24/7 and not just during business hours.
- The applicant has disregarded planning procedures as they started work before obtaining planning permission.
- Concern that cycle store is using the outside wall of No. 28.

Mr Ward, of Allcot Road, objecting to the proposal, whose points included:

- Visual intrusion into No.28 Goodwood Road.
- The porch has already been built.
- No documentation to prove that the land is not contaminated.
- Rubbish has been dumped by the outside wall of No.28.
- No consultation with neighbours by applicant.

Mr Ayles, the Applicants Agent who advised that he had worked with officers to overcome any issues raised by the objectors.

In response to points raised by Mr Ward about the porch and land contamination, the City Development Manager advised that the porch had now been built. Extensive discussions had taken place between the applicant and the contaminated land team and the contaminated land team had said they were happy with the development and had not recommended any conditions be added.

Members' Questions

The officers were asked to explain further the issue of privacy which had been mentioned in the depositions. Officers described the layout of the property and showed photographs taken from bedroom 2. The other two windows facing No. 28 Goodwood Road would be obscured glazed as one is a bathroom and one an en-suite. With regard to whether the Council's policies required there to be a specified distance between properties, officers advised there were only guidelines in place for new build developments. The City Development Manager advised that whilst it was useful for members to understand the distances between the properties, members should not give this too much regard particularly as the site is in a densely populated part of the city. She advised that members should consider whether the development is acceptable with regard to the character of the area and whether the change of use to residential is acceptable.

With regard to the highways comments being flawed, officers confirmed that the road is two way for cyclists. A question was asked about what advice the Planning

Department had given the applicant about proceeding with works without obtaining planning permission. The City Development Manager advised that officers had advised the applicant to cease works and that carrying out further works would be at their own risk, however members were advised to disregard that this permission was sought retrospectively.

Members' comments

Members were concerned with the access to the property and felt that reversing from the driveway onto the blind corner was too dangerous and contrary to PCS23. It was also felt that the change of use to a residential dwelling would cause a loss of amenity.

RESOLVED that the planning application be refused for the following reasons:

1. In the opinion of the Local Planning Authority the proposed parking and access arrangements are unacceptable and would result in vehicles reversing onto and across the highway in a manner that would be likely to cause a conflict of traffic movements along Goodwood Road resulting in additional hazard and inconvenience all users of the highway and to the detriment of highway safety. The proposal is therefore contrary to policies PCS17 and PCS23 of the Portsmouth Plan.
2. In the opinion of the Local Planning Authority the proposed residential use would, by reason of an increased level of overlooking, increased activity in the evening and at weekends, odour and nuisance from the siting of the proposed refuse storage facilities and potential increased fear of crime and anti-social behaviour to the occupiers of number 28 Goodwood Road, have an unacceptable impact on the living conditions of the occupiers of neighbouring properties. The proposal is therefore contrary to Policy PCS23 of the Portsmouth Plan.

123. 13/00287/FUL - 4 Adair Road, Southsea - Change of use from house in multiple occupation (class C4) to purposes falling within class C4 (House in Multiple Occupation) or class C3 (Dwelling House). (AI 7)

This planning application was withdrawn from the agenda and was not considered at this meeting.

124. 14/00998/FUL - 11 Cleveland Road, Southsea - Change of use from Dwelling House (class C3) to purposes falling within class C4 (House in Multiple Occupation) or class C3 (Dwelling House). (AI 8)

(TAKE IN REPORT BY THE CITY DEVELOPMENT MANAGER)

The City Development Manager's supplementary matters report explained that the Committee Report makes reference to a Residents' Parking Zone (RPZ) operating within the area. However, it should be noted that this zone has been suspended on a trial basis for a period of six months. This was in response to significant levels of displacement parking experienced within adjoining areas that were not subject of a RPZ.

Notwithstanding the suspension of the RPZ, as highlighted within the Committee Report, it is considered that given the level of occupation associated with a HMO is not significantly greater than the occupation of the property as a Class C3 dwellinghouse and the site's location within a short walk of local transport links and local shops and services, an objection on car parking grounds could not be sustained.

The following deputations were heard:

Mr Athill, Portsmouth & District Private Landlord Association whose points included:

- The Portsmouth & District Private Landlord Association considered this an exceptional HMO.
- It was a 'trapped' property.
- The applicant planned to sell the property however it was valued £15-20K less due to it being in a student populated area.
- If approved it would help meet the demand for houses in this area.

Councillor Lee Hunt, ward councillor whose points included:

- HMO properties are not solely for students, many professional people share houses as they cannot afford to get on the property ladder.
- This is a strong report and stands by PCS20 which is a very robust policy. The policy is clear that the level of HMO's should not exceed 40% and this proposal is contrary to policy.

Members' Questions

No questions were raised

Members' Comments

Members agreed that to approve this application would be contrary to policy and that more private rented family houses were needed in this area.

RESOLVED that the application be refused for the reasons set out in the City Development Manager's report.

125. 14/01105/FUL - 276 Twyford Avenue, Portsmouth - Change of use from dwelling house (class C3) to purposes falling within class C4 (House in Multiple Occupation) or class C3 (Dwelling House). (AI 9)

(TAKE IN REPORT BY THE CITY DEVELOPMENT MANAGER)

The City Development Manager introduced the report.

Councillor Leo Madden made a deputation as ward councillor and his points included:

- Each planning application for change of use to HMO's needs to be considered on their own merits.
- Over 30 people had signed a petition objecting to the application.
- The property is too small to be a HMO.

- Not a suitable location for a HMO due to a lack of parking.

Members' Questions

With regard to the size of the second floor bedrooms and ceiling heights, the City Development Manager advised that HMO licensing criteria control the minimum size of a bedroom. It was considered that the ceiling heights are appropriate and there are two large dormers that would allow an adult to stand upright. Officers considered the size of the bedrooms appropriate for a C4 class property and said that there may be up to 6 adults living there however all the bedrooms may not be used if for example three couples occupied the property.

Members' Comments

Members were concerned that the size of the property was too small, in particular the second floor, for up to six adults to occupy it and felt that the location of the property was not ideal due to a lack of parking. The City Development Manager advised that under planning terms the committee could not refuse an application due to concerns over the size of the second floor bedrooms and if the property did not have the loft conversion, the property could still change to a C4 property.

RESOLVED that the application be granted conditional permission subject to the conditions set out in the City Development Manager's report.

126. 14/01132/FUL - 1 Pelham Road, Southsea - Change of use from hostel (Sui Generis) to purposes falling within class C3 (Dwelling House) or class C4 (House in Multiple Occupation). (AI 10)

(TAKE IN REPORT BY THE CITY DEVELOPMENT MANAGER)

The City Development Manager reported in the supplementary matters list that the 1977 permission for the use of the property as a hostel was subject to two planning conditions, one restricting the number of occupiers to 11 persons and the second relating to the level of sound emissions measured from the neighbouring property.

The level of occupation and the associated noise and disturbance which could result from the existing lawful use is considered to be similar if not greater than those which typically result from the proposed uses of the property as either a dwellinghouse or a Class C4 HMO. It is considered that the imposition of a planning condition similar to that on the 1977 permission would not accord with the tests set out in the NPPF as it would not be relevant to planning and difficult to enforce.

The following deputations were heard:

Mr Ballard of Pelham Road, objecting to the proposal, whose points included:

- The HMO percentage is just above the 10% level for the SPD.
- The hostel formerly housed a number of adults with learning difficulties who had jobs in the local community and had constant social support which was well managed.
- In the 1976 planning permission approval noise levels were specified.
- Victorian properties with thin walls meaning noise is a concern and if approved would request that soundproofing be added.

- Quiet residential street and a change to a HMO would increase disturbance.

Mr Shute, Applicant whose points included:

- Spoken to local estate agents who indicate there is no need for a hostel in this location. There is a need for a HMO, either student or private.
- Still considering options on whether to convert to a private dwelling house or a HMO but requires planning consent to proceed.
- Concerned that the neighbouring properties have objected.
- With regard to soundproofing this would need to be on the southern wall but due to the staircases this would be difficult and do not have the scope to rearrange the fabric of the building.
- The current use allows for up to 11 residents which is high, changing the use would reduce this to a maximum of 6 and would reduce the number of transient residents.
- Changing to a HMO from the existing use would also give more control and there would be longer term lets and it was hoped because of this tenants would have more pride in their home.
- The hostel was run by First Wessex Housing Association who were already based on assured short hold tenancies so therefore a move toward a HMO.
- Prepared to settle any contribution towards mitigation measures in connection with the Solent Special SPD.

Councillor Andrewes made a deputation as ward councillor. His points included:

- Walls to the neighbouring properties are very thin would like applicant to consider amenity of neighbours.
- If approve application use nothing to stop the owner selling the property and it becoming a student HMO in the future.

Members' Questions

In response to a question regarding whether the committee could permit class C3 use and reject C4 use, the City Development Manager advised that it was not possible to do this. A question was raised with regard to Mr Shute's comment that the hostel before it closed was effectively operating as a HMO. The City Development Manager advised that the evidence was that it was operating as a hostel, however Mr Shute had suggested that the hostel had operated with shared rents.

Members' Comments

Member's commented that the hostel had never operated as a HMO. If it changed use to include C4 use it would take the percentage over the 10% limit which is contrary to policy. It was felt that it would be more appropriate for the property to be converted into a dwelling house.

RESOLVED that the application be refused for the following reasons: The proposal would fail to support a mixed and balanced community in an area imbalanced by the level of similar such resources. The proposal would therefore be contrary to PCS23.

Post meeting note: Although the Planning Committee resolved to refuse permission, before a decision on the application was issued it had been WITHDRAWN by the applicant.

127. 14/01186/FUL - North Street Play Area, North Street, Portsmouth - Construction of three storey building to form 5 flats and associated works. (AI 11)

(TAKE IN REPORT BY THE CITY DEVELOPMENT MANAGER)

The City Development Manager reported that amended drawings have been received showing communal refuse storage facilities and their appearance. The submitted details are considered acceptable.

The Contaminated Land Team have provided comments confirming that recommended Conditions 3 and 4 should be imposed.

The Portsea Action Group have made representations in which they raise no objection to the proposal but raise concerns about the potential vulnerability of prospective occupiers to anti-social behaviour.

The recommendation is unchanged subject to the amendment of Condition 2 to refer to the amended drawings and Conditions 10 to require the facilities shown on the amended drawings to be provided.

The following deputations were heard:

Mr Miller, Secretary and Mr Thurson, Chairman of Portsea Action Group, whose points included:

- Do not object to the development as there is a park further down the road.
- They have been informed that the flats will house people with special needs and the Portsmouth Action Group have concerns that they would be targeted due to their disability and be victims of anti-social behaviour.

Members' Questions

In answer to a question about the point raised in the deputation about the flats being allocated for people with special needs, the City Development Manager advised that the flats were not allocated for any particular sector of society.

Members' Comments

In response to a request the City Development Manager advised that the housing team had already been notified of the Portsea Action Group's concerns however she would ensure they were made aware of these again and add this to the post committee action list.

RESOLVED that delegated authority be given to the City Development Manager to grant Conditional Planning Permission subject to the securing of an appropriate contribution towards mitigation measures in connection with the Solent Special Protection Areas SPD.

The meeting concluded at 7.40 pm.

Signed by the Chair of the meeting
Councillor Aiden Gray

Agenda Item 5



Portsmouth
CITY COUNCIL

Agenda item:

Decision maker: Planning Committee

Subject: Appeal decision at 22 Inglis Road Southsea

Report by: Claire Upton-Brown
City Development Manager

Ward affected: St Jude

1. Purpose of report

To advise the Committee of the outcome of the appeal that was dismissed and in the related costs application, a partial award was found against the Council.

2. Recommendation

That the report is noted.

3. Background

A planning application (ref 14/00480/FUL) was considered at the Planning Committee meeting of 11th June 2014. It was an application for an amended scheme to construct two semi-detached dwellinghouses (after demolition of an existing building) that followed a previous refusal in April 2014 for a similar proposal; that earlier scheme (ref 14/00136/FUL) was refused on the grounds of its bland and inappropriate appearance that would fail to preserve or enhance the character and appearance of 'Campbell Road' Conservation Area.

The amended (Appeal) scheme was recommended by officers for conditional permission; this recommendation was overturned and refused on the grounds that "*...the proposed dwellings would, by reason of their size and siting, have an overbearing relationship with neighbouring properties to the detriment of the residential amenities of the occupiers and, by reason of their unimaginative appearance as a pastiche, fail to represent an appropriate replacement for the existing building which makes a positive contribution to the character and appearance of the Campbell Road Conservation Area...*".

The Inspector considered the main issues to be:

- (i) the effect of the proposed development on the living conditions of Nos 40, 42 and 44 Campbell Road in respect of outlook and privacy, and
- (ii) whether the proposed development would preserve or enhance the character or appearance of 'Campbell Road' Conservation Area.

Inspector's views on (i) amenity impact

The Inspector observed that the rear elevations of Nos42 & 44 extend further south than some adjoining properties and there are large single windows on the first floor; at No44, the window serves a main bedroom and viewed from it, the smaller scale/height of the existing building in relation to its surroundings is very apparent. The Inspector took the view that although set back within their plots, the height/bulk of the proposed dwellings would appear significantly more overbearing and prominent than the existing building and be particularly noticeable to the occupiers of Nos42 & 44, from the first floor rear bedrooms and to some extent from their gardens.

In respect of privacy, the Inspector held there is often mutual overlooking in residential areas and noted some disagreement over the separation distances between the north elevation of the proposed dwellings and the rear elevation of Nos42 & 44. However, the rear bedroom windows of the proposed dwellings would face directly towards the large rear bedroom windows of Nos42 & 44 and given that they are not overlooked by existing properties in such a direct manner, the appeal scheme would lead to a strong perception of a loss of privacy disturbing to the occupiers of Nos42 & 44.

In relation to No40, separated only by a 1-metre wall, clear views from the garden of the proposed dwelling (west side) of the appeal site into the adjoining garden would be possible. However, appropriate boundary treatment could be required by a suitably worded condition, had the proposal been acceptable in other respects.

The Inspector concluded that the proposed development would cause harm to the living conditions of the occupiers of Nos42 & 44 in respect of outlook and privacy, in conflict with Policy PCS23 and the provisions of the NPPF, which require development to provide a good standard of amenity for all existing and future occupants of land and buildings.

Inspector's views on (ii) conservation area impact

The Inspector commented that the front elevations of the proposed dwellings would be greater in height/scale than the existing building and the garage to the west but, nevertheless, would be similar to other dwellings in the street. The proposal would therefore not be significantly at odds with the general pattern of development on Inglis Road and incorporate features from nearby properties (including No20, next door) in respect of double height bays, the design of the doors and other detailing. The materials would match those of the surrounding residential properties and would retain the strong building line within the street. The Inspector took the view that the proposal would be sympathetic to the character and appearance of its surroundings. It would also respect the residential character of the area, which is part of the Conservation Area's distinctiveness and significance as a heritage asset. The Inspector concluded it would preserve the character and appearance of 'Campbell Road' Conservation Area.

Appeal dismissed (on the grounds of amenity impact only).

Award of costs sought by the appellant

In respect of whether the proposed development would preserve or enhance the character and appearance of 'Campbell Road' Conservation Area, the Inspector found against the Council. The Council believed that the scheme would fail to represent an appropriate replacement for an existing building that made a positive contribution to the character and appearance of the area. However, in failing to substantiate their reasons, the Inspector found the Council to have behaved unreasonably and the costs incurred addressing this issue to represent unnecessary expense. A partial award of costs was made to the appellant.

4. Reasons for recommendations

For information to the Planning Committee

5. Equality impact assessment (EIA)

None.

6. Legal services' comments

The report is for information only.

7. Head of finance's comments

The report is for information only.

.....
Signed by:

Appendices:

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

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

Title of document	Location
Application file ref: 14/00480/FUL	
PINS ref: APP/Z1775/A/14/2221079	

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Agenda Item 6

PLANNING COMMITTEE 26 NOVEMBER 2014

**5 PM EXECUTIVE MEETING ROOM,
3RD FLOOR, GUILDHALL**

REPORT BY THE CITY DEVELOPMENT MANAGER ON PLANNING APPLICATIONS

ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

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

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

REPORTING OF CONSULTATIONS

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

APPLICATION DATES

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

HUMAN RIGHTS ACT

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

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

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63 STANLEY AVENUE PORTSMOUTH**CONSTRUCTION OF SINGLE STOREY REAR EXTENSION****Application Submitted By:**

Thorns-Young Ltd

On behalf of:

Mr Revill

RDD: 21st July 2014**LDD:** 17th September 2014

This application has been brought to Committee at the request of Councillor Darren Sanders.

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this application are whether the proposal would be acceptable in design terms and whether there would be any significant impact on the residential amenity of occupiers adjoining properties.

The Site and surroundings

A two-storey mid-terrace house occupies the site that is located on the north side of Stanley Avenue. Existing ground level falls away from the north (rear) elevation of the house into the rear garden. The property is within the Indicative Floodplain (Flood Zone 3).

Proposal

Permission is sought for the construction of a single storey rear extension.

There are two existing rear extensions. The first is an original feature of the house. It is a stepped ('L' shaped) extension with the first half projecting outwards from the rear wall of the house by some 3.6m for a section of about 0.9m in width, which accommodates an existing WC. The other half of this extension steps back to a depth of 1.9m for a width of 1.5m that accommodates a kitchen. This original projection has a lean-to roof measuring up to 4.3m in height (having regard to existing ground level that falls away from the rear of the house) and is adjoined on its western elevation by a later addition (not original to the house) accommodating a dining room; it projects outwards from the rear wall of the house by 1.9m and extends across a width of 2.6m, up to the common boundary between the application site and the adjoining property at No65 Stanley Avenue. The lean-to roof measures 3.5m in height.

The proposed extension would project beyond the rear wall of the house by 3.6m. It would measure some 4.4m in width and would adjoin the western elevation of the original WC addition to the rear of this property. It is designed with a flat-roof measuring up to 3.7m in height and the north elevation includes a set of glazed folding doors measuring 2.7m in width.

Relevant planning history

There is no planning history for this property.

POLICY CONTEXT

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

CONSULTATIONS

None.

REPRESENTATIONS

One representation has been received raising objection on the grounds that the proposed extension would result in a loss of light and loss of outlook from the adjoining property at No 65 Stanley Avenue.

This was previously reported on MIS (on 5th September 2014).

COMMENT

The main issues in determination of the application for this single-storey rear extension are:-

- 1 Design, and
- 2 Impact on residential amenity.

Design

The proposed extension would infill a gap between the original 'L' shaped rear projection (sited onto the boundary with No61) and the other common boundary with No65. The existing extensions to the rear of this mid-terrace house have a discordant and mismatched appearance due to their varying depths and window styles. The proposed extension would be constructed level with the rear elevation of the original WC projection at 3.6m in depth, establishing a more ordered appearance to the rear of the house. It would be an appropriate scale in relation to both the recipient dwellinghouse and the rear of this terrace of properties, and is proposed to be constructed in matching materials. The proposal would therefore, be considered acceptable in design terms in accordance with policy PCS23 of the Portsmouth Plan.

Residential amenity

This property is the second in a terrace of six dwellings. Single-storey rear extensions of varying scale and style are commonly found within the locality. Notably, there is an existing single-storey rear extension located to the rear of the adjoining property at No65 Stanley Avenue. Under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), an extension with a depth of 3m and an eaves height of 3m could be constructed without planning permission. Furthermore, as of 2013, householders are able to apply for extensions of up to 6m in depth (terraced properties) under a new prior approval procedure. The proposed extension has a depth of 3.6m and an eaves height of approximately 3.7m (having regard to variation of existing ground level). It would, therefore, exceed the 'permitted development' allowance for height of approximately 0.7m and depth by 0.6m. The judgement that is required is whether this additional bulk would have any significant impact on the amenity of occupiers of the adjoining property at No65 Stanley Avenue. Having regard to the fall back position ('permitted development' allowance), the presence of an existing extension at the adjoining property and the orientation of the proposed extension, this additional bulk is not considered to give rise to an unacceptable level of harm on the residential amenities of the adjoining occupiers of No65. The proposal is, therefore, considered acceptable in terms of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.

RECOMMENDATION

Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan; Block Plan; and 7148.14.
- 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.

02 14/01138/HOU

WARD: EASTNEY & CRANESWATER

47 WAVERLEY ROAD SOUTHSEA

**CONSTRUCTION OF A PART THREE-/PART FOUR-STOREY EXTENSION
INCORPORATING A ROOF TERRACE**

Application Submitted By:

Design Drawn Ltd

On behalf of:

Mr Silvan Chafiie and Dr Samantha Murray

RDD: 3rd September 2014

LDD: 30th October 2014

This application has been called to Committee at the request of Eastney & Craneswater Ward Member Councillor Terry Hall.

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this application are whether the proposed extension would relate appropriately to the recipient building and wider street scene, and whether the extension would adversely affect the living conditions of the adjoining occupiers.

The Site

Situated on the west side of Waverley Road, a short distance north of its junction with St Simon's Road, this property comprises a large detached house set within an uncharacteristically wide plot. The house has red face-brickwork with yellow brick quoins to corners, window and door surrounds above a rendered plinth, the latter accentuating the upper ground floor level and walled staircase to a pitched roof open porch. A timber framed splayed bay with ornate ironwork at cill level sits above the rendered bay. Fenestration comprises black painted timber.

The house is located on the southern half of its plot with a hard-surfaced area that measures 5.8m widening to 6.2m adjacent to the northern boundary.

Proposal

The applicant seeks permission for an extension that would infill the gap between the house and the northern boundary. Although predominantly three-storey with a flat roof behind a parapet wall, part would extend up to a fourth floor to create a tower feature that provides access to the flat roof. Internally the extension would provide a hall with staircase to the upper floors, study and family room at lower ground floor level, a bedroom and en-suite at upper ground floor level and a further bedroom and en-suite at first floor level. The hall/staircase extends up to roof level to create a hall/landing providing access to the flat roof. Sufficient area would remain in front of the proposed extension to accommodate two vehicles albeit involving widening of the existing access gates fronting Waverley Road.

Planning History

Although planning permission was granted in 1996 for a large detached garage in the rear garden this would not appear to have been implemented.

POLICY CONTEXT

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

CONSULTATIONS

None.

REPRESENTATIONS

Ten representations have been received from a wide area in support pointing to the desirability of retaining the family home and the pleasing appearance of the proposed extension which would not affect the amenity of neighbouring occupiers.

Three objections have also been received from the occupiers of neighbouring/nearby properties and a local resident. The objections relate to a loss of light and outlook, loss of view, and the bulk and appearance of the extension.

COMMENT

The main issues are whether the proposed extension would, in terms of its appearance, relate appropriately to the recipient building and wider street scene, and whether the extension would adversely affect the living conditions of the adjoining and nearby properties. Although the property is located within the tidal flood plain, there is a reasonable prospect of improvements to the sea defences within this cell and in these circumstances the increased level of occupation would not give rise to an objection under policy PCS12.

This property is also located a short distance from St Simon's Church, which comprises a Grade 2 Listed Building. However, given the spatial separation and character of intervening development it is considered that, in terms of the statutory duty under s 66 of the Listed Buildings and Conservation Areas Act 1990, the enlarged house would preserve the setting of the church building.

Appearance

The southern section of Waverley Road is notable for the architectural style and scale of its buildings. The applicant's property comprises a 3-storey detached building in a style that differs from its neighbours with a wide gap adjacent to the northern boundary. The proposed extension would take its cue from architectural features on the recipient building and other buildings in the locality. Although the proposed extension would incorporate the tower feature adjacent to the existing flank wall, rising above the ridge line of the existing pitched roof, it would be considered to act as a foil for the larger flat-roofed three-storey element which would otherwise relate poorly with the existing pitched roofs.

The proposed extension would reflect the recipient building in terms of facing materials with main areas of red face-brick and features in contrasting yellow brick. However, to differentiate the extension as an addition to the recipient building windows, whilst of traditional proportions, would have reconstituted stone surrounds rather than yellow brick quoins as on the recipient building. The fenestration to the rear elevation would adopt a similar approach with reconstituted stone surrounds giving a contemporary appearance.

It is considered that whilst the proposed extension would not amount to a subservient feature in relation to the recipient building, its boldness and use of appropriate facing materials would make a positive contribution to the street scene. In these circumstances it would meet the design objectives of both the National Planning Policy Framework and policy PCS23 of the Portsmouth Plan.

Amenity

In addition to promoting quality design, policy PCS23 also seeks to protect the amenity of existing and future residents. Relative to their plots the properties on the west side of Waverley Road are large with comparatively modest rear amenity areas. The enlargement of those properties would, therefore have the potential to have an adverse impact on amenity.

Having regard to the 20m separation distance between the proposed extension and properties on the opposite side of Waverley Road it is considered that impact on outlook from those properties would be such that an objection under policy PCS23 would not arise. Similarly, given that the applicant's property abuts a garage court to the rear, beyond which lies a school and Wimbledon Park, there will be no increase in direct overlooking of sensitive areas. The depth of the adjoining property to the north would be such that the Juliette balconies and windows to the rear of the proposed extension, together with the use of the flat roof as a terrace, would not significantly affect the degree to which overlooking and loss of privacy currently occurs.

However, by infilling the gap between the existing building and common boundary with the property to the north, it would substantially increase building bulk in close proximity to the south facing wall of the adjoining building. That building has south facing windows at lower ground level serving a bedroom, while at upper ground floor level there are two windows that serve a kitchen/diner. It is considered that the bulk of the proposed extension would have significant impact on those windows in terms of loss of light, outlook and increased sense of enclosure.

Although it is considered that in terms of appearance the proposed extension would make a positive contribution to the street scene, the impact of the proposed extension on the living conditions of the occupiers of the adjoining building would be so significant that impact would outweigh the benefits to the street scene.

RECOMMENDATION Refuse

The reason for the refusal is:

The proposed extension would by virtue of its bulk adjacent to the common boundary have an unneighbourly impact on the occupiers of the adjoining property in terms of loss of light, outlook and increased sense of enclosure to habitable room windows. The proposed extension would therefore be contrary to policy PCS23 of the Portsmouth Plan which seeks to protect the amenity and provision of a good standard of living environment for neighbouring occupiers.

PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework it was not considered that the harm arising from the proposal could be overcome and the application has been refused for the reasons outlined above.

03 14/01280/PLAREG

WARD:DRAYTON & FARLINGTON

46 DRAYTON LANE PORTSMOUTH

CONSTRUCTION OF SINGLE STOREY REAR EXTENSION, UNDERGROUND GARAGE TO REAR AND NEW ENTRANCE TO GARAGE, STAIRS AND PLANTERS TO FRONT OF DWELLING

Application Submitted By:
Helyer Davies Architects Ltd

On behalf of:
MA Wright Builders

RDD: 2nd October 2014
LDD: 28th November 2014

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this retrospective application is, firstly, the design of the rear extension/underground garage and entrance thereto and, secondly, the impact upon the residential amenities of adjoining occupiers.

The site and surroundings

A substantial two-storey house (with accommodation within the roofspace) occupies the application site on the eastern side of Drayton Lane. Drayton Lane is located on the upper hillslope and is characterised by large semi-detached and detached houses of varying design that step down from north to south and are set back from the road with large gardens to the rear.

Proposal

Planning permission is sought for the construction of a single storey rear extension, with basement accommodation beneath, linked to a large underground garage; the entrance to the underground garage requires remodelling of an existing driveway positioned between the house at No46 and a neighbouring bungalow (to the south) at No44.

Relevant planning history

At the time of submission of the planning application, extensive ground excavation of the site had already commenced. Whilst planning permission for a rear extension (with basement) was permitted in May 2014, it became clear that the development commenced in July does not accord with the scheme permitted by 14/00317/HOU. This alternative rear extension with basement beneath extends up to 7½m across the northernmost half of the rear elevation of the house, and projects into the garden by 6m. It is designed with a pitched roof with a height of some 4½m above the former ground level of the site.

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

A*10249/AA - permission in November 2005 for construction of two-storey house with rooms in roof (following partial demolition of existing building) formation of parking apron and new vehicular access to Drayton Lane;
10/00168/PLAREG - permission in March 2010 for the retention of children's playhouse with raised deck to rear of property;
10/00925/PLAREG - refusal in September 2010 for the retention of brick wall to front and side of property. Allowed on appeal in June 2011; and
14/00317/HOU - Construction of ground floor rear extension to include formation of basement beneath extension, granted conditional permission on 29 May 2014.

POLICY CONTEXT

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

CONSULTATIONS

None.

REPRESENTATIONS

An objection (with deputation request) has been received from neighbouring occupiers to the south, on the grounds that the proposal:

- (a) represents a major civil engineering project and not simply an extension to a property;
- (b) commenced on 21 July 2014 without any consultation with neighbours;
- (c) has a detrimental effect to the charm and streetscene of Drayton Lane where all existing driveways climb up away from the road surface, a significant feature of the lanes attractiveness, eroded by a drive to go downwards from the road surface to a sub-surface garage door;
- (d) forms a gross overdevelopment of the site by its size and scope, notwithstanding the fact that the majority will be underground;
- (e) is not supported by any report as to the effect on the hillside rainwater drainage on adjoining properties by the substantial removal of chalk sub-soil to a depth of some 4m;
- (f) includes use of slate as a roofing material to the single-storey rear extension that is not in keeping with the existing house;
- (g) contains errors in the submitted planning application form and whilst the supporting drawings may be correct they give a distorted image compared to eye-level view at 1½m above road level, so the existing drive frontage will look less steep and garage entrance will look steeper with whole of the garage door in view;
- (h) no amount of 'trailing climbers' will soften the brick retaining walls;
- (i) there are no drawings showing the height of the proposed excavated drive side retaining walls and their impact on the adjacent property (at No44 Drayton Lane);
- (j) will remove the one disabled access point that currently exists to No46 and, whilst it is understood this is not a planning matter, needs to be addressed;

- (k) the visual impact and prominence of a vast area of brickwork detracts from the landscape value of the lane and fails to retain any of the natural features of the lane; and
(l) a Committee site visit should be carried out prior to any decision.

COMMENT

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

- 1 Design, and
- 2 Impact on residential amenities of occupiers of adjoining properties.

Design

This alternative single-storey rear extension (with basement beneath) measuring 7½m x 6m, designed with a pitched roof to a height of some 4½m above the former ground level of the site, is similar in position and scale/appearance to that previously permitted under ref 14/00317/HOU. An issue is raised in the representation of the roofing material to the extension, in slate. Whilst natural slate is a quality material and typically a highly attractive roof covering, the extension would appear at odds with the rest of the house if the roof was covered in slate. A planning condition requiring materials to match would be appropriate to impose. Whilst large, the proposed extension would relate appropriately to the existing house and again, considered to complement the architectural style and detailing. The single-storey extension is therefore considered acceptable in design terms.

With the exception of the roller shutter entrance and remodelling of the driveway, when completed the substantial underground garage is not considered to have any significant visual impact over the wider site proposed to be returned to lawn. Remodelling of the driveway will change from an upwards gradient to a downwards gradient. Retaining walls and brickwork facing/parapet above the horizontally slatted roller door to the garage entrance inevitably changes the appearance of the gap between the house at No46 and the neighbouring bungalow at No44 (to the south) from Drayton Lane. However, this would be viewed in the context of a site frontage to Drayton Lane across a width of some 22m. Retaining walls would support a driveway width of 6m tapering to some 4½m in front of the roller shutter garage door, set back 12m from the adjacent carriageway and positioned along the established building line of properties at Nos 46 and 44. A planted embankment would be retained across the remainder of the site frontage of some 16m. The natural features of planted embankments are a feature of Drayton Lane considered to add to its attractiveness. The appearance of the new driveway would be different from others in the locality but across approximately a quarter of the 22m wide site frontage would not be considered so harmful or visually discordant to warrant withholding permission.

Amenity impact

The single-storey rear extension is sited adjacent to the driveway leading to No50 Drayton Lane, which is located on a 'backland' site. As a consequence of the siting of the extension it is considered that it does not give rise to any significant impact on amenity in terms of light, privacy or sense of enclosure. Whilst the rear extension is relatively large, its scale is not considered to be so excessive to result in any significant impact on the neighbouring occupiers to the north or to south (with the latter having a separation distance of some 15m).

Although the excavation for the basement level is extensive and the underground garage is substantial when completed and returned to lawn it is not considered to result in any significant impact on the neighbouring occupiers to the north or to south.

Other issues raised in the representation

The description of development and the submitted planning application with supporting drawings recognise the project as more than a single-storey rear extension and adequately show the full

extent of the proposal. This is a retrospective application since it was submitted after works commenced on site (in July 2014). When the majority of the scheme is constructed underground it is difficult to reconcile concern that the proposal represents a gross overdevelopment. The proposal is also the subject of a separate approval under the Building Regulations.

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: 10113/01(Location Plan); 10113/02RevA; and, 10113/03RevA.

2) 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 ensure the development is implemented in accordance with the permission granted.
- 2) In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.

PRO-ACTIVITY STATEMENT

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

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.

04 14/01182/FUL

WARD:BAFFINS

37 TAMWORTH ROAD PORTSMOUTH

**CHANGE OF USE OF RESIDENTIAL GARAGE TO A DENTAL LABORATORY
(RESUBMISSION OF 14/00646/FUL)**

Application Submitted By:
The Town Planning Experts

On behalf of:
Southern Dental Laboratories Ltd

RDD: 12th September 2014
LDD: 11th November 2014

This application has been called to Committee at the request of Baffins Ward Member Councillor Darren Sanders.

SUMMARY OF MAIN ISSUES

The main issues in this application are whether the proposed use within this location would be acceptable in principle, whether it would have a significant adverse impact on the amenity of the adjoining occupiers and whether it would result in any significant impact on the surrounding highway network. It is considered that the proposal would not result in an increased risk of flooding at the site.

The Site and its Surroundings

This application relates to a domestic garage located within the curtilage of a two-storey semi-detached dwelling to the northern side of Tamworth Road. The garage is set back from the highway by a small open driveway and abuts an adjoining garage linked to the neighbouring property. Tamworth Road is a single lane no through road with on-road parallel parking to the northern side and a turning head to its eastern end. The surrounding area is predominantly residential in character with a large area of open space located to the south. The very southern section of the site is located within the indicative floodplain (Flood Zone 2).

Proposal

Permission is sought for the change of use of the residential garage to form a dental laboratory.

Planning History

An application for the change of use of the residential garage to form a dental laboratory was refused on 11th August 2014 (ref.14/00646/FUL). The reason for refusal was as follows: 'The independent use of the garage located within the curtilage of a domestic property for purposes falling within Class B1 (business) would represent an overly intensive and incompatible form of development having regard to its proximity to adjoining dwellinghouses and the general residential character of the surrounding area. The scale and intensive use would result in a level of activity that is likely to result in a loss of amenity to the occupiers of the adjoining properties in terms of increased noise and disturbance. The proposal would not add to the quality of the area and is therefore contrary to the aims and objectives of the National Planning Policy Framework and policies PCS11 and PCS23 of the Portsmouth Plan'.

Conditional permission was granted in 2005 (ref.A*32077/AA) for external alterations and construction of a rear extension at first floor level with a hipped roof.

Conditional permission was granted in 1982 (ref.A*32077) for the erection of a front porch.

POLICY CONTEXT

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS11 (Employment Land), PCS12 (Flood Risk), PCS17 (Transport) and PCS23 (Design and Conservation).

CONSULTATIONS

Highways Engineer

The proposal is to change a residential garage to dental laboratory. The site is located in an area of low accessibility to public transport. The conversion of the garage into a dentist laboratory is unlikely to have significant impact on the highway. Tamworth Road is a cul-de-sac with parking taking place on one side only due to the narrow width of the carriageway. Whilst the current mix of garages and on-street parking is sufficient for the parking demand related to this application, should more garages be converted it would reduce the on-street capacity to an inadequate level. No objection is raised.

Environmental Health

A site visit was carried out at the applicant's current working environment to assess the level of noise and odours emitted from the tools that are used for the business.

The equipment used is as follows:

- A polishing lathe - used approximately for half hour a day
- Dentist drill which the dust is vented to a domestic Hoover (Henry) -used for approximately half hour a day.
- Trimmer - used for approximately 15/20mins per day
- Mobile curing unit for the acrylic - used for approximately 20 mins every other day
- Two butane cylinders used for the Bunsen burner
- Extraction fans

The noisiest piece of equipment was the domestic Hoover.

Odours - use of acrylic

Small amounts of acrylic are poured into vessels and placed into the mobile curing unit; this is fitted with a filter to absorb the odours. Once the acrylic is poured there is an initial strong odour within the building. However when standing outside the building in front of the external extraction fan at a distance of 1 meter there was a slight odour that escaped the building fabric for 3 to 5 minutes.

37 Tamworth Road

The garage is to be divided into two areas - a plaster room which would be a - dirty area (i.e. not clinical) to the rear of the garage and a clean room (front of the garage). The original garage door is being removed and replaced with a double glazed one. A new door entrance will be fitted for the plaster room. Existing and new windows will be replaced with double glazing. The applicant is also adding additional lining which will consist of plaster board and tiles, along with a false ceiling.

The extraction fans that are currently being used are to be moved from the Victory Business Centre and are to be fitted in the plaster room on the facade facing into the applicants house.

The garage at 37 Tamworth Road is attached to the neighbour's garage so the business activities will not be directly impacting upon their neighbour's home. To the rear of the garage there is a six foot boundary wall, then an alley way before the neighbouring properties gardens.

Summary

The alterations and additional lining that the applicant is applying to his garage, all be it for clinical reasons, will offer additional insulation against the noise from the equipment used. The equipment is being used for short periods throughout the working day and the equipment does not emit loud levels of noise. The noisiest piece of equipment is actually the domestic Hoover.

The extraction fans to disperse the acrylic odours are not noisy.

Although there may be trivial odours caused from the use of the acrylic, this will only be occurring once every other day for a period of 20 minutes internally and 3-5 minutes externally. The applicant has stated that he will also keep all doors and windows closed during the use of any acrylic products. The extraction fans will also be directing any emitted odours on to the complainant's property therefore the odours are likely to have been dispersed before reaching any neighbouring property.

Given the separation distance between the applicant's garage and other neighbouring properties, along with all the other factors considered, it is unlikely that change of use of residential garage to a dental laboratory will cause a loss of amenity to other sensitive properties in the area.

REPRESENTATIONS

Five letters of representation have been received from the occupiers of neighbouring properties to the north on Stride Avenue. The objections can be summarised as follows: (a) Inappropriate use within a residential neighbourhood; (b) Increased noise, disturbance and pollution; (c) Proposed hours of operation; (d) Safety concerns relating to the storage of commercial waste and products; (e) Impact on the highway network; (f) The ability of the applicant to sell the land with the benefit of permission for the proposed use; (g) The road to the rear is a private access road; (h) The grant of planning permission would set a precedent for future applications; and (i) Impact on property values.

COMMENT

The determining issues in this application are whether the proposed use within this location would be acceptable in principle and whether it would have a significant adverse impact on the amenity of the adjoining occupiers, overcoming the previous reason for refusal. Other matters for consideration include impact on the surrounding highway network. It is considered that the proposal would not result in an increased risk of flooding at the site.

Principle of Development and Impact on Amenity

Permission is sought for the use of a domestic garage (approximately 20sq.m.) located within the curtilage of the dwellinghouse as a Dental Laboratory (Class B1) used for the manufacture and repair of dentures, mouth guards, bleaching trays and night guards (for local dentists). The manufacturing process would involve the use of machinery including a polishing lathe used for approximately half an hour per day, a dentist drill connected to a domestic Hoover used for approximately half an hour per day, a trimmer used for approximately 15-20 minutes per day, a mobile curing unit for the curing of acrylic used for approximately 20 minutes per day, a Bunsen burner, two butane cylinders comparable to those used for domestic barbecues and two extraction fans. The applicant seeks a smaller unit of accommodation following the scaling back of business operations and currently resides at the application dwelling.

The use of the garage as a dental laboratory would be carried out by three individuals. This would include the applicant's husband (Mr Esposito), who resides at No.37 Tamworth Road, and one other laboratory technician, both of which would be based permanently at the site carrying out the majority of day to day activities. The third person would be the applicant (Mrs Esposito), who also resides at No.37 Tamworth Road. It is suggested that Mrs Esposito would carry out a limited number of deliveries to/from local dentists using the family vehicle and would generally combine trips with the 'school run' or during quieter periods of the day.

Whilst the applicant states that the proposal would involve the internal insulation of the garage and the replacement of doors and windows, these alterations do not form part of this application and could be carried out as development not requiring the express permission of the Local Planning Authority.

The sustainable benefits of working from home are widely acknowledged and in some instances, where a business use would remain ancillary and incidental to the main use of a property as a dwellinghouse and the intensity of the use would not change the character of the dwelling, the express permission of the Local Planning Authority would not necessarily be required. In this instance it is considered that the intensity of the proposed use could not be treated as ancillary or incidental to the main use of the dwellinghouse. On that basis the

applicant has made this planning application for the change of use of the garage to a dental laboratory even though they would continue to reside at the dwelling.

Policy PCS11 of the Portsmouth Plan states that 'The city council will promote office, manufacturing and warehouse (B1, B2 and B8) development in existing industrial and business estates. Furthermore, the National Planning Policy Framework (NPPF) identifies a set of 12 core land-use planning principles that should underpin both plan-making and decision-taking. One states that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'. The NPPF goes on to state that (Para.120): 'To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

The proposed use would fall within Class B1(c) of the Town and Country Planning (Use Classes) Order 1987 for 'any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit'. Therefore, whilst the type of use proposed would normally be encouraged to locate within an existing industrial/business estate or within purpose built accommodation when in close proximity of residential properties, having regard to the emphasis of encouraging sustainable forms of development and flexible working practices, it is considered that the proposed use could be acceptable in principle, subject to detailed consideration of its impact on the amenity of adjoining residents. In refusing permission in August 2014 for the same use (ref.14/00646/FUL), it was considered that the application was not supported by sufficient evidence to demonstrate that the proposed use would have been compatible within a tight knit residential area and that it would not have had a significant adverse impact on the amenity of the adjoining occupiers.

Following the previous decision, the applicant has provided additional information relating to the specific nature of the proposed use and the types of activities that would typically take place. In addition, an officer of the City Council's Environmental Health Team has visited the applicant's current business premises to observe the working environment and manufacturing processes, and to assess the level of noise and odours emitted from the tools and materials used.

During the site visit, it was noted that of all the specialist tools used, the noisiest piece of equipment in operation was a domestic Hoover which was not used continuously throughout the day. The pouring and curing of acrylic was also observed and recorded that "Once the acrylic is poured there is an initial strong odour within the building. However when standing outside the building in front of the external extraction fan at a distance of 1 meter there was a slight odour that escaped the building fabric for 3 to 5 minutes".

A site visit was also carried out to the application site where it was noted that the rear garden of No.37 is enclosed by a tall blockwork wall and separated from its neighbours to the north on Stride Avenue by a private access track. It was also acknowledged that to facilitate the use of the garage as a dental laboratory certain alterations would be required including the installation of insulation and new double glazed windows and doors that would limit any remaining impact on residential amenity.

It is accepted that the Local Planning Authority could not control the precise nature of operations that take place within the garage or the length of periods where certain processes may take place if permission was granted. However, having regard to the specific nature of manufacturing process, a better understanding of how the business would operate and the physical scale of the building (approx. 20sq.m.) which would effectively restrict expansion and intensification of the use and the "trivial" nature of the odours produced, the Environmental Health Team are satisfied that the proposal is unlikely to have a significant impact on the amenity of the occupiers of the adjoining properties irrespective of when the specific activities take place.

It is accepted that the nature of the proposed use would more intensive than would normally be expected for business operating from a domestic property and the proposal has not changed significantly from that previously refused (14/00646/FUL). However, with the submission further information and a detailed assessment by the City Council's Environmental Health Team who conclude "that it is unlikely that change of use of residential garage to a dental laboratory will cause a loss of amenity to other sensitive properties in the area", it is considered that, on balance, the applicant has demonstrated that with the inclusion of safeguarding measures, the proposal can overcome the previous concerns of the Local Planning Authority and could operate in the form proposed without demonstrable harm to its neighbours.

It is suggested that the 'domestic type' extractor fans from the applicant's existing business premises, which have been observed by the Environmental Health Officer, would be relocated to the application site. However, no details in respect of technical specification have been provided. Therefore, it is considered necessary and reasonable to impose a condition requiring that the precise details of the extraction equipment be provided for approval prior to installation and commencement of the proposed use.

Generally a planning permission will run with the land and it is seldom desirable to provide otherwise. However, there may be occasions where it is proposed to grant planning permission for the use of a building or land for some purpose which would not normally be allowed at the site, simply because there are strong compassionate or other personal grounds for doing so. In such cases the permission can be granted subject to a condition that it shall be only for the benefit of a named person, which is usually the applicant.

In this instance the applicant has demonstrated that the types of activities specific to their own business needs would not have a significant adverse impact on the amenity of the adjoining residential occupiers. However, it is noted that to prevent any significant impact in terms of noise and odours, the applicant has proposed the installation of extraction equipment venting into an alleyway between the garage and the main dwellinghouse, which provides access into the rear garden from the road. Therefore, any limited impact is likely to be on the occupiers of No.37 Tamworth Road, which in this instance is the applicant and her husband, who would have the ability to cease the use should it cause harm to their personal living environment. This would not however, be the case should the proposed dental laboratory be used independently from the dwelling. Therefore, having regard to the relationship of the garage to the main dwellinghouse and the only limited harm identified being on the occupiers of that dwelling, it is considered necessary and reasonable to make the proposed use personal to Mr & Mrs Esposito whilst they are in residence at No.37 Tamworth Avenue to prevent the independent use of the dental laboratory and the dwelling. Furthermore, it should be noted that as the applicant and her husband currently reside at the application dwelling, the proposal would only resident in one additional person being present at the site (a laboratory technician) throughout the day. If used independently of the dwelling, the proposal could result in three additional people, with associated coming and goings, in addition to those at the dwellinghouse being present at the site during the day, the impact of which would need to be considered.

Impact on the Highway Network

The site is located at the end of a residential cul-de-sac with parking provided within domestic garages, driveways and to the northern side of the carriageway. It was apparent that parking provision was more than adequate during the day time when the dental laboratory would be in operation. Therefore, whilst the proposal would involve the loss of the domestic garage, having regard to the retained provision within the driveway and immediately adjacent to the dropped kerb, it is considered that the proposal would not have a significant impact on parking provision within the surrounding area.

It is suggested that deliveries to and from the site would be carried by the applicant using a domestic vehicle already associated with the occupation of the dwellinghouse. In addition, the

precise nature of the business would not require large numbers of customers to call at the premises (approximately 10 a month as a maximum). Therefore, the type and level of activity associated with pick-ups, deliveries and customers is unlikely to place significant pressure on this no-through road.

The proposal has been considered by the City Councils Highways Engineer who has confirmed that the proposed use is unlikely to have a significant impact on the surrounding highway network. However, it is highlighted that if repeated elsewhere within Tamworth Road, such intensification in use is likely to have an impact on parking provision within the surrounding area resulting from the physical loss of the garages and parking associated with the additional uses.

Other matters raised within representations

Concerns have been raised in respect of security, safety and fire risk due to the types of activities and materials stored at the premises. Given the small scale nature of the proposal, these concerns are considered to be unfounded. However, legislation beyond the planning system would be available to ensure that hazards materials or equipment would be used and stored appropriately.

Impact on property value is not a material consideration

Conclusion

The nature of the proposed use is considered to be more intensive than would normally be expected for business operating from a domestic property. However, in light of the additional information provided by the applicant and the absence of an objection from the City Council's Environmental Health Team, it is considered that, on balance, the proposed use would be acceptable in principle and would not have a significant adverse impact on the amenity of the occupiers of adjoining properties in terms of increased noise and disturbance which would overcome the previous reason for refusal.

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: Amended Location Plan, Amended Block Plan and Amended Floor Plan.
- 3) Prior to the installation of any extraction systems, precise detail shall be submitted to the Local Planning Authority for approval in writing. The extraction systems shall then be installed in accordance with the approved details and shall be permanently retained in that condition unless otherwise agreed in writing by the Local Planning Authority.
- 4) No operations associated with the use of the garage as a dental laboratory shall take place between 5pm each evening and 8am of each following day and each Saturday, Sunday and recognised Bank or public holiday.
- 5) The permission hereby granted is for use of the garage within the curtilage of No.37 Tamworth Road as a Dental Laboratory within Use Class B1 of the Town and Country Planning (Use Classes) Order 1987 and that use and associated activities are permitted only for Mr. & Mrs. Esposito, whilst Mr. & Mrs. Esposito reside at No.37 Tamworth Road as their main dwelling, and for no other purpose or operator without the prior written permission of the Local Planning Authority obtained through the submission of a planning application.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 4) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 5) In order that the Local Planning Authority may exercise further control of potential uses having regard to the specific judgement that has made in respect of the precise nature of the operations proposed by the applicant whilst in residence at No.37 Tamworth Road and the relationship of the garage with associated access and ventilation with the main dwelling and adjoining residential properties 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.

05 14/01164/FUL

WARD:COSHAM

SITE OF FORMER CINEMA 80 HIGH STREET PORTSMOUTH

CONSTRUCTION OF PART FIVE/PART SIX AND FIVE STOREY BUILDINGS COMPRISING 46 FLATS AND COMMERCIAL UNITS (CLASS A1, A2, A3 & D1) FRONTING HIGH STREET WITH ASSOCIATED LANDSCAPING, PARKING AND CYCLE/REFUSE STORAGE

Application Submitted By:
Kenn Scaddan Associates Ltd

On behalf of:
First Wessex

RDD: 9th September 2014
LDD: 11th December 2014

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this application are the principle of the proposed development, its design, relationship with adjoining properties and highway impacts.

The Site

The application site relates to the land formerly occupied by the ABC Cinema on the western side of Cosham High Street. The cleared site, which extends to 0.25 hectares, is 'L-shaped' and wraps behind the adjacent BT Social Club. The site is located within the primary area of Cosham District Centre.

The Proposal

This application seeks planning permission for the construction of a part five/part six storey building comprising 26 flats with commercial units (for purposes within Class A1, A2, A3 and D1) fronting High Street and a five storey building comprising 20 flats together with associated landscaping, parking and cycle/refuse storage.

Planning History

Previous applications in 2005 and 2007 for the residential redevelopment of the site where withdrawn prior to their determination.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:

PCS8 (District centres), PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), PCS21 (Housing Density), PCS23 (Design and Conservation), PCS24 (Tall buildings).

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

CONSULTATIONS

Environmental Health

Notes habitable rooms fronting High street likely to be subject of road noise. Raises no objection to proposed commercial uses and recommends imposition of conditions

Highways Engineer

On-street car parking limited in vicinity of the site. Highly accessible location justifies a level of parking below the standard in the SPD.

Proposal likely to increase pedestrian traffic across the Vectis Way junction with the High Street to a degree which justifies a contribution towards the construction of a zebra crossing. Suggest amendments to site layout to facilitate access and servicing

Southern Water

Offers comments and requests imposition of condition and informative relating to foul and surface water drainage

Landscape Group

Confirms general acceptability of landscaping scheme and associated management plan.

Head of Community Housing

Raise concern over proportion of one-bed units and potential management issues. Recognises location of site as a reason to reduce car parking provision. Offers comments on mix of tenure and affordable housing split

Licensing

No response received

Crime Prevention Design Advisor

Makes recommendations about standard of security features to be incorporated

Tree Officer

Agrees with content of submitted tree report and suggests conditions

Contaminated Land Team

Recommends conditions

REPRESENTATIONS

An objection has been received from the occupier of a nearby flat on the grounds of loss of light and views, inadequate access/parking and impact of construction works. A further comment has been received from a resident of Knowsley Road suggesting a residents parking scheme be implemented.

COMMENT

The main issues to be considered in the determination of this application are the principle of the proposed development, its design, relationship with adjoining properties and highway impacts. Other issues relate to policy requirements in respect of affordable housing, car and cycle parking, refuse/recyclables storage, SPA mitigation and employment and skills plans.

Principle of development

The site is located on the western side of High Street, to the north of the railway line opposite its junction with Knowsley Road. The site has been cleared following the demolition of the former cinema and is currently surrounded by hoardings. The site lies within the primary area of Cosham District Centre. Policy PCS8 of the Portsmouth Plan includes a requirement for appropriate town centre uses to be provided at ground floor level within the primary areas of the District Centres. The application includes a range of town centre uses to the ground floor fronting the High Street with the residential accommodation above and to the rear. The principle of the proposal is therefore acceptable.

Design and Tall Buildings

At six storeys in height the building fronting the High Street meets the definition of a tall building as set out in Policy PCS24 and the associated SPD. The site falls outside the 'areas of opportunity' identified in the Tall Buildings SPD, however the SPD acknowledges there is a cluster of tall buildings around the railway station. This cluster of existing tall buildings fall mainly outside of the area of opportunity identified in the SPD. The SPD sets out a methodology for how applicants should justify proposals for a tall building and specifies what information should be submitted. The application is accompanied by a Tall Buildings Statement which seeks to justify the proposal in an area not identified for tall buildings. The submitted Tall Buildings Statement deals briefly with each of the issues set out in the SPD and includes an assessment of proposal from identified in the SPD. None of the key sites identified in the SPD would be affected by the proposal, however the proposed building would be visible from the strategic view from Portsdown Hill, in particular from Fort Widley and the other scheduled and listed Forts along the hill top. The scale of the proposed building is such that it would not be readily identifiable in amongst the existing cluster of tall buildings located around Cosham railway station.

The site lies adjacent to Meon House, a six-storey former office building now converted to flats and opposite the site of the former Railway Inn PH which is currently being developed to provide a part 5, part 4, part 3 and part 2-storey building to provide 20 flats with shop units to the ground floor fronting High Street. To the rear of the site is the Telephone Exchange which is another substantial building and which is located within the identified area of opportunity for a tall building. Immediately to the south of the railway line is an 8-storey building comprising mainly flats. Whilst lying outside of an area of opportunity for a tall building, some weight should be given to the location of the site adjacent to such an area and to the contextual streetscene in which this proposal would sit and be seen.

The proposed building would be four storeys adjacent to the two-storey BT Social Club, stepping up to five storeys with the sixth floor set back from the frontage. In considering an appeal against the refusal of the redevelopment of the former Railway Inn PH site opposite, an Inspector noted that nearby "buildings such as that over the railway line [6 Portsmouth Road,

known as 'Interchange House'] and Meon House opposite have established a larger scale and more contemporary character to this southern part".

The Design Review Panel considered that that the scale/massing and organisation of the site layout were an appropriate response for the site. The Panel did express disappointment with the design quality of this proposal and suggested that the site requires better than a mediocre and lacklustre scheme which the panel considered overly complicated, without rationale and with too many materials and styles.

Policy PCS23 (Design & Conservation) seeks development of excellent design quality. The site is currently vacant, the cinema having been demolished 2010. The proposed building would be sited at the back edge of the footpath fronting High Street with the top floor (sixth storey) recessed by approximately 1.5 metres from the High Street frontage. The building would be of contemporary design finished with a mix of brick, and cladding. The recessive top floor and stepping down to the neighbouring two-storey building are both design responses which would assist in assimilating the proposal into its setting and includes an active street frontage. Overall, and notwithstanding Design Review Panel's assessment that the site demanded a better architectural solution, it is considered that the design would respond well to the setting and would complement the character and appearance of the area and would comply with Policy PCS23 which seeks to ensure that new development is well designed and reflects the character of the city.

The site is located outside of an area of opportunity for a tall building and as such there is a presumption against a tall building unless the particular merits of the proposal outweigh this general presumption. Having regard to the context and location of this site among other tall buildings, the need to make an efficient use of this highly accessible site and the justification set out in the submitted Tall Buildings Statement, it is considered that the principle of a building with a six storey element is acceptable in this case. Furthermore it is considered that the scale, massing and architectural design of the proposal is an appropriate response to the setting of the site and would make a positive contribution to improving the character and appearance of the site and wider area.

Having regard to the size and location of the site, the proposed level and therefore the density of development, (approximately 175 dwellings per hectare), is considered to be appropriate in this location and make the most efficient use of the site as encouraged by both local and national planning policies.

Amenity impact

The proposed buildings would be located to the front and rear of the site with parking and landscaping between the two in a similar manner than existing development to the north. The surrounding buildings generally have no habitable windows facing towards or onto the site with the exception being the flank elevation of 'Meon House' which has bedroom windows which face onto the site which are a result of it being converted from offices to flats. These windows were created prior to the demolition of the former cinema and as such the outlook from the bedrooms served by those windows would have been restricted. The construction of the proposed building front the High Street would restrict the outlook from these windows, however having regard to the limited outlook previously available it is considered that any adverse impact would not be so significant to justify the refusal of this application.

The proposed building has been designed and laid out so as not to prejudice the potential development of the site of the BT Social Club to the south.

The proposed town centre uses proposed for the ground floor include uses within Class A3 (a restaurant or café) and Class D1 (non-residential institutions which includes health centres , nurseries and places of worship) which could give rise to a level of activity or disturbance which could affect the occupiers of the proposed residential units and the existing neighbouring

residential properties. It is considered that planning conditions could be imposed to safeguard the living conditions of existing and future residential occupiers.

Highways/Parking

The site lies in an area of 'high accessibility' to public transport, being within both 400 metres of a high frequency bus corridor and 800 metres of a railway station. It is in fact within sight of Cosham railway station and some 120 metres from the bus interchange as well as being within Cosham District Centre and the wide range of services and amenities located therein. Parking on the High Street and surrounding roads is fully restricted with double yellow lines, bus stops, taxi ranks and pay and display bays.

The application proposes the provision of 24 parking spaces, one of which would be designated as a disabled bay for the occupiers of the disabled persons unit proposed to the rear of the ground floor of the building fronting the High Street. Having regard to the high level of transport sustainability and proximity to facilities and services, the proposed parking arrangements at a ratio of one space per two flats is considered acceptable and would not lead to additional risks to highway users or would it compromise the free flow of traffic, with vehicle movements likely to be limited to and from the site.

The application includes no provision for the servicing of the proposed commercial units. Loading and unloading is permitted on Pay & Display without payment being required, and also on double yellow lines. Although the commercial units are likely to attract delivery vehicles, considering the infrequent nature of such deliveries, it is considered that this would not give rise to any danger or inconvenience to users of the highway.

Other policy issues

PCS19 (Housing mix, size and the provision of affordable homes) requires at least 30% affordable housing that equates to 14 dwellings in a pro-rata split of units. Also within that policy, developments should achieve a target of 40% of family housing where appropriate, and ensure that all new dwellings meet minimum floorspace standards. The applicant's Affordable Housing Statement acknowledges the provision of no three bedroom flats is not compliant with policy PCS19 but comments recent welfare reforms (the 'bedroom tax') has resulted in an increased demand for smaller units of affordable housing. The applicant (First Wessex) advise that they intend to develop the entirety of the site to provide affordable housing in a highly accessible and sustainable location. Taking into account the justification put forward by the applicant it is considered that the proposed housing mix is acceptable.

Under the heading of 'Sustainable design and construction' policy PCS15 advocates the use of Low or Zero Carbon energy technologies (in proposals for 10 or more dwellings) to reduce carbon emissions as part of the selection of measures to meet the overall Code for Sustainable Homes level. The objective underlying this policy is to reduce carbon emissions by 10% (up to the end of 2012) and 15% for 2013 onwards. As originally submitted, the applicant's BREEAM/Code for Sustainable Homes Pre-Assessment Estimates proposed to meet BREEAM 'very good' standard and achieve 'Code for Sustainable Homes' Level 3 and Code Level 4 for Energy standards. These are no longer policy compliant with PCS15 for 2013 that seek BREEAM 'excellent' and 'Code for Sustainable Homes' Level 4 and Code Level 5 for Energy standards.

The applicant has submitted a pre-assessment estimator and a supporting letter specifically on the topic of energy. The pre-assessment shows that the units will achieve Code 4, however the overall energy efficiency of the scheme falls short of the requirement to meet Code Level 5. The pre-assessment and supporting letter detail the energy strategy which the design has used in great detail, and demonstrates that there is extremely limited ability to orient the units to achieve maximum solar gain. It is considered that the approach suggested for energy efficiency involving high airtightness levels, good u-values and mechanical ventilation with heat recovery is a

sensible approach and that the proposal has gone as far as is practical to meet the requirements of the policy. The submission is considered adequate to warrant a deviation from policy PCS15.

The proposal would lead to a net increase in population, which in all likelihood would lead to a significant effect, as described in Regulation 61 of the Habitats Regulations, on the Portsmouth Harbour and the Chichester and Langstone Harbours Special Protection Areas (the SPAs). The Solent Special Protection Areas SPD sets out how the significant effect which this scheme would otherwise cause, could be overcome. Based on the methodology in the SPD, an appropriate scale of mitigation could be calculated as $(46 \times £172) = £7912$. The applicant has indicated that they are willing to provide SPA mitigation in this way. Consequently it is considered that, subject to securing appropriate mitigation in accordance with the SPD, there would not be a significant effect on the SPAs.

The proposal incorporates facilities for the storage of refuse and recyclable materials as well as secure storage facilities for the parking of cycles. The provision of these facilities can be secured through the imposition of suitably worded planning conditions.

Any redevelopment of the application site must not be prejudicial to future development potential of the adjacent site to the south. It is considered that the proposal is sympathetic in terms of scale and site layout and has been designed to ensure it would not prejudice the future development of the adjacent land.

RECOMMENDATION I: that delegated authority be granted to the City Development Manager to GRANT CONDITIONAL PLANNING PERMISSION subject to the applicant first entering into a legal agreement pursuant to S106 to secure:

- 14 units of affordable housing;
- a financial contribution of £7912 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas;
- a financial contribution of £5000 towards the implementation of a pedestrian crossing at the junction of High Street and Vectis Way; and
- the preparation and implementation of an Employment and Skills plan to cover the construction phase and future occupiers of the commercial units

RECOMMENDATION II: that delegated authority be granted to the City Development Manager to refuse planning permission if the legal agreement has not been completed within three months of the date of the resolution pursuant to Recommendation I.

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:
**** * .
- 3) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

- 4) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition 3(c) that any remediation scheme required and approved under the provisions of condition 3(c) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise;
- (a) as built drawings of the implemented scheme;
 - (b) photographs of the remediation works in progress;
 - (c) Certificates demonstrating that imported and/or material left in situ is free of contamination.
- Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 3(c).
- 5) Before any part of the development is occupied, written documentary evidence shall be submitted to, and approved in writing by, the Local Planning Authority proving that the development has achieved a minimum of level 4 of the Code for Sustainable Homes, including 4.4 credits from issue Ene 1, one credit in Ene 7, one credit from issue Ene 8 and one credit in Hea 3, which will be in the form of a post construction assessment which has been prepared by a licensed Code for Sustainable Homes assessor and the certificate which has been issued by a Code Service Provider, unless otherwise agreed in writing by the Local Planning Authority.
- 6) The development shall be carried out in accordance with the approved detailed schedule of materials and finishes to be used for the external walls and roof of the proposed buildings (unless such alternative comparable materials/finishes shall have been submitted to and approved in writing by the Local Planning Authority).
- 7) Construction shall not commence until a scheme for insulating habitable rooms in the building fronting High Street against external noise has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented before the first occupation of the building and thereafter maintained.
- 8) The Class A3 and D1 uses hereby permitted shall be closed to and vacated by customers between the hours of 00:00 and 08:00 on any day.
- 9) No external fixed plant or equipment shall be installed until a scheme for the protection of neighbouring premises from noise generated by the plant or equipment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that the noise rating level expressed as an LAeq,T 1 metre from the facade of the nearest residential property will be no greater than the measured background noise level expressed as an LA90, as defined in British Standard 4142. The approved mitigation measures shall be implemented prior to the plant or equipment being brought into use and thereafter maintained.
- 10) No cooking processes other than the preparation of hot beverages, the toasting of bread, or the heating of food in a microwave oven, domestic oven or domestic cooking device shall be carried out without the prior written approval of the Local Planning Authority.
- 11) If at any time a cooking process other those set out in Condition 10 is undertaken on the premises, an extract ventilation system incorporating measures to suppress noise, odours and fumes shall previously be installed in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority. The approved extraction system shall be retained and operated in such a manner to effectively suppress the emissions of fumes, odour and noise.
- 12) The hard/soft landscape scheme shown on Drawing No. GHD 2055 (or such alternative details for the hard/soft landscaping of the site as may be submitted to and agreed in writing with the Local Planning Authority) shall be carried out in the first planting and seeding season following the occupation of the building. Any trees or plants which, within a period of 5 years

from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

13) Prior to the first occupation of any of the residential flats the car parking spaces and access thereto shown on the approved site layout plan shall be provided and made available for use; and these parking spaces shall thereafter be retained.

14) Before the development is first brought into use/occupation the facilities for the storage of bicycles shall have been provided; and the approved bicycle storage facilities shall thereafter be retained.

15) None of the flats hereby permitted shall be occupied until the facilities for the storage of refuse and recyclable materials shown on the approved plans shall have been provided and made available for use; and the approved refuse and recyclable materials storage facilities shall thereafter be retained.

16) Before the retail and/or commercial units hereby permitted are first brought into use the facilities for the storage of refuse and recyclable materials shown on the approved plans shall have be provided and made available for use; and the approved refuse/recyclables storage facilities shall thereafter be retained.

17) Construction shall not commence until a detailed scheme for the proposed means of foul and surface water sewerage disposal shall have been submitted to and approved in writing by the Local Planning Authority.

The reasons for the conditions are:

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

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

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

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

5) To ensure the development has minimised its overall demand for resources and to demonstrate compliance with Policy PCS15 of the Portsmouth Plan.

6) In the interests of the visual amenities of the area in accordance with policy PCS23 of the Portsmouth Plan.

7) To ensure the provision of satisfactory living conditions for future occupiers of the residential flats in accordance with policy PCS23 of the Portsmouth Plan.

8) To protect the residential amenities of the occupiers of neighbouring premises in accordance with policy PCS23 of the Portsmouth Plan.

9) To protect the residential amenities of the occupiers of neighbouring premises in accordance with policy PCS23 of the Portsmouth Plan.

10) To protect the residential amenities of the occupiers of neighbouring premises in accordance with policy PCS23 of the Portsmouth Plan.

11) To protect the residential amenities of the occupiers of neighbouring premises in accordance with policy PCS23 of the Portsmouth Plan.

- 12) To ensure a quality setting for the buildings in the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 13) To ensure adequate provision is made for parking in the interests of highway safety in accordance with policies PCS17 and PCS23 of the Portsmouth Plan and the Residential Parking Standards SPD.
- 14) To ensure that adequate provision is made for cyclists (residents/staff/visitors) using the premises in accordance with policies PCS14 and PCS17 of the Portsmouth Plan.
- 15) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.
- 16) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.
- 17) In order to ensure adequate capacity in the local drainage network to serve the development that might otherwise increase flows to the public sewerage system placing existing properties and land at a greater risk of flooding, in accordance with policy PCS12 of the Portsmouth Plan.

PRO-ACTIVITY STATEMENT

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

06 14/01225/VOC

WARD:NELSON

BLUE COBRA 87 LONDON ROAD PORTSMOUTH

APPLICATION TO VARY CONDITION 5 OF PLANNING PERMISSION A*10547/AB TO EXTEND THE OPENING HOURS OF RESTAURANT TO REMAIN OPEN TO PATRONS FROM 07:00 HOURS TO MIDNIGHT (SUNDAY TO THURSDAY) AND FROM 07:00 HOURS TO 01:00 HOURS ON FRIDAY AND SATURDAY FOR A TEMPORARY PERIOD OF 1 YEAR (RE-SUBMISSION OF 14/00582/VOC)

Application Submitted By:

Les Weymes Planning Consultancy Ltd

On behalf of:

Blue Cobra Restaurant

RDD: 23rd September 2014

LDD: 19th November 2014

SUMMARY OF MAIN ISSUES

This application has been brought to Committee at the request of Ward Councillor Madden. The main issue to be considered in the determination of this application is whether the proposed extension of the opening hours of the premises would be likely to have any significant impact on the residential amenities of the occupiers of neighbouring properties.

The Site

The application site comprises the Blue Cobra Indian restaurant located on the western side of London Road within North End District Centre.

The Proposal

This application seeks planning permission for a temporary period of one year to vary condition 5 of planning permission A*10547/AB to extend the opening hours of restaurant to customers from 07:00 hours to midnight (Sunday to Thursday) and from 07:00 hours to 01:00 hours (the following day) on Friday and Saturday nights. The permitted opening hours are from 7 am to 11 pm daily and thus the application relates to an additional hour (from 11 pm to midnight) during the working week (Sunday to Thursday) and an additional two hours (from 11 pm to 1 am the following morning) on weekends (Friday and Saturday). The reason for the imposition of the existing condition is "to protect the amenities of the occupiers of the adjoining properties".

Relevant Planning History

A previous application (14/00582/VOC) for the variation of condition 5 of planning permission A*10547/AB to extend the opening hours of restaurant to remain open to patrons from 07:00 hours to midnight (Sunday to Thursday) and from 07:00 hours to 01:00 hours (the following day) on Friday and Saturday was refused in July 2014 on the grounds that the extended opening hours would, by reason of the likely increased level of noise and disturbance, have a significant and detrimental effect on the residential amenities of the occupiers of neighbouring properties contrary to Policy PCS23 of the Portsmouth Plan.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:PCS8 (District centres), PCS23 (Design and Conservation).

CONSULTATIONS

Licensing

No comments

Environmental Health

Advise that Environmental Health have only received one complaint relating to the premises which occurred in August 2012. As representations have been made alleging that noise from the function room (1st floor) at Blue Cobra was causing a disturbance in bedrooms of a neighbouring residential property, an offer was made to install noise monitoring equipment for a week or alternatively for an officer to visit to establish what type of noise was impacting upon their home. The objector has declined this offer on the grounds that there will not be any parties in the off peak period and we would not be able to detect anything. A visit has been made to the premises and the application discussed with the applicant who advised that only background music is played for customers and that there is no intention of having a disco or karaoke type music in the function room on the first floor.

In the absence of any evidence to suggest that the additional opening hours are likely to cause a loss of amenity no objections are raised to this application being granted.

REPRESENTATIONS

Two objections have been received from the occupiers of a neighbouring flat and from Ward Councillor Madden on the grounds of noise/disturbance and increased anti-social behaviour.

COMMENT

The main issue to be considered in the determination of this application is whether the proposed extension of the opening hours of the premises would be likely to have any significant impact on the residential amenities of the occupiers of neighbouring properties.

The application site is located within a District Centre where there are late night uses that benefit from comparable operating hours from those sought. The adjoining property to the north has a flat at first floor level whose occupiers have made representations in respect of noise and disturbance from the site, in particular during the late evening. The Head of Public Protection has raised no objection on the basis that they have only received one unsubstantiated complaint about noise from the site. Furthermore they have offered to visit and to install monitoring equipment in the objector's property which has not been accepted by the objector. Notwithstanding the lack of an objection it should be recognised that the level at which noise or disturbance could affect residential amenity is significantly lower than that which would be considered a statutory nuisance and thus be dealt with by Public Protection.

The applicant has submitted a supporting statement which sets out that there are a number of other late night uses in the locality with similar operating hours to those sought. It would appear that only a few of these benefit from recent planning permissions and as such the remainder should be given little weight in the determination of this application. Furthermore it would appear that those properties with later opening hours are not in buildings which have residential units in adjoining properties. The application does not include any supporting information in respect of the impact of the proposal on residential amenity.

The application site is located to the north of the District Centre where late night uses are less prevalent and where there are a relatively high proportion of residential uses to upper floors compared to other comparable areas. It is clear from the objection that has been received that the operation of the restaurant already has some impact on the living conditions of the occupiers of neighbouring properties. The lack of an objection from Public Protection should be given some weight as should the lack of complaints to them about the existing operation of the restaurant. In the determination of the previous application it was considered that the proposal would be likely to give rise to an increased level of noise and general disturbance into late night/early morning hours (when people are normally sleeping) which would have a significant and detrimental effect on the amenities of the occupiers of neighbouring properties, however this view was not based on any evidence of harm but was more on a precautionary basis in the absence of any proposed mitigation of potential noise or disturbance from the applicant.

The applicant contends that the extended opening hours are necessary to serve the needs of customers and to allow the premises to compete with other similar premises in the area. The applicant has requested a temporary variation for a period of one year to effectively allow a 'trial run' and to allow any impact on amenity to be monitored and assessed. Having regard to the lack of an objection from the Head of Public Protection and any substantive evidence to support a further refusal, it is considered that a temporary variation would be reasonable to allow evidence to be collected and a better informed decision to be made about the harm which may arise from the extended opening hours.

RECOMMENDATION Conditional Temporary Permission

Condition

1) This permission, under which the premises shall be closed to and vacated by customers between the hours of midnight and 7 am on Monday to Friday mornings and from 1 am to 7am on Saturday and Sunday mornings, shall enure for a limited period expiring on 31 December 2015, after which date the premises shall be closed to and vacated by customers between the hours of 11 pm and 7 am the following day.

The reason for the condition is:

In order to allow for a trial period to properly assess the impact of the extended hours of operation of the premises on the residential amenities of the occupiers of neighbouring properties to not conflict 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.

C. Upton-Brown

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City Development Manager
17th November 2014

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