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# NOTICE OF MEETING

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## PLANNING COMMITTEE

WEDNESDAY, 17 AUGUST 2016 AT 1.00 PM

CONFERENCE ROOM A, FLOOR 2 OF THE CIVIC OFFICES, PORTSMOUTH

Telephone enquiries to Lucy Wingham, Democratic Services Tel: 9283 4662

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### Planning Committee Members:

Councillors Frank Jonas (Chair), Scott Harris (Vice-Chair), Jennie Brent, Yahiya Chowdhury, Ken Ellcome, Colin Galloway, Lee Hunt, Hugh Mason, Steve Pitt and Gerald Vernon-Jackson CBE

### Standing Deputies

Councillors Steve Hastings, Suzy Horton, Stephen Morgan, Gemma New, Darren Sanders, Lynne Stagg, David Tompkins, Tom Wood and Rob Wood

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(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](http://www.portsmouth.gov.uk)

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

## AGENDA

- 1 **Apologies**
- 2 **Declaration of Members' Interests**
- 3 **Minutes of previous meetings - 6 July (special) & 20 July 2016 (Pages 1 - 26)**

Minutes of the meetings of Planning Committee held on 6 July (Special) and 20 July 2016 are attached for approval.

**RECOMMENDED that the minutes of meetings of the Planning Committee held on 6 and 20 July 2016 be approved and signed by the Chair as correct records.**

**4 Updates on Previous Planning Applications by the Assistant Director of Culture & City Development**

**5 Planning appeal decision relating to 1 North End Avenue, Portsmouth (Pages 27 - 30)**

Purpose

To advise the committee of the outcome of the appeal, which was allowed and that a claim for an award of costs made by the appellant was also allowed.

RECOMMENDED that the Inspectors report and findings against the Council leading to an award of costs be received and noted.

**6 Planning appeal decision relating to 26 Merton Road, Portsmouth (Pages 31 - 34)**

Purpose

To advise the committee of the outcome of the appeal, which was allowed and that a claim for an award of costs made by the appellant was also allowed.

RECOMMENDED that the Inspectors Report and findings against the Council leading to the award of costs be received and noted.

**7 Reliance on Council's Geographical Information System - 194-196 Fratton Road, Portsmouth (Pages 35 - 46)**

Purpose

The Planning Committee deferred Planning Application 16/00649/FUL that is for the change of use of part ground, first and second floors from a dwelling house (Class C3) to a 10 bedroom house in multiple occupation (sui generis). Refer to Appendix A for the Planning Officers Assessment Report and recommendation.

The application was deferred to enable the planning officer to undertake land survey necessary to clarify the precise distance from the subject property to the flats at No.179-183 Fratton Road. The agent for the application has demonstrated that the proposed development is within 50 metres of No.179-183 Fratton Road, refer to Appendix B.

This report seeks to clarify the information presented by the applicant and provide the options open to the Planning Committee in determining this item.

The planning application 16/00649/FUL is in Appendix A for members to determine having regard for the information contained in this report.

## RECOMMENDATION

It is recommended that the Planning Committee determine the Planning Application 16/00649/FUL having regard to the information contained within the report.

## **PLANNING APPLICATIONS**

- 8      **16/00724/FUL - 51 Hudson Road, Southsea, PO5 1HB - Change of use from house in multiple occupation (Class C4) to house in multiple occupation for up to 7 people (sui generis) (Pages 47 - 124)**
  
- 9      **16/00975/FUL - 8 Fearon Road, Portsmouth, PO2 0NJ - Change of use from dwelling house (Class C3) to purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house)**
  
- 10     **16/01098/FUL - 6 Western Terrace, Portsmouth, PO2 8JX - Change of use from dwelling house (Class C3) to purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house)**
  
- 11     **16/00933/CS3 - 231 Highbury Grove, Cosham, Portsmouth - Construction of extension onto existing single storey rear extension**
  
- 12     **16/00840/FUL - Site of Former Savoy Court & Savoy Buildings, South Parade, Southsea - Construction of replacement boundary wall to rear of numbers 20-34 Alhambra Road**
  
- 13     **16/00917/FUL - 116-118 Clarendon Road, Southsea, PO4 0SE - Change of use from hotel (Class C1) to 25 bedroom house in multiple occupation (Sui Generis) with associated cycle and refuse storage**
  
- 14     **16/00731/FUL - Land at the rear of 244-248 Southampton Road, Portsmouth, PO6 4QD - Construction of 10 semi-detached and terraced two and two-and-a half storey dwellings with associated parking and landscaping (accessed from Neelands Grove)**
  
- 15     **16/00885/FUL - 12-40 Isambard Brunel Road, Portsmouth, PO1 2DR - Construction of a part 8 & 10 storey building to the east and part 9, 10 & 13 storey building to the west of 'Margaret Rule Hall' for a Halls of Residence (Class C1) for students containing 484 study/bedrooms and communal facilities, to include 704sqm of commercial floorspace (for use within Class A1, A2, A3 or B1) on part of the ground floor, with associated landscaping and cycle parking, after the demolition of existing buildings**

## 16 Exclusion of the press and public

(NB the appendix to the 15/02010/PAMOD - request to modify legal agreement attached to planning permission 12/01382/FUL relating to land at 249 Fratton Road report is exempt so if members wish to discuss this, they will need to pass the resolution below)

That in the view of the contents of the following item on the agenda the committee is RECOMMENDED to adopt the following motion: "That, under the provisions of Section 100A of the Local Government Act , 1972 as amended by the Local Government (Access to Information) Act, 1985, the press and public be excluded for the consideration of the following item on the grounds that the appendix contains information defined as exempt in Part 1 of Schedule 12A to the Local Government Act, 1972."

The public interest in maintaining the exemption must outweigh the public interest in disclosing the information.

Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012, regulation 5, the reasons for exemption of the listed item is shown below. Members of the public may make representation as to why the appendix should be held in open session. A statement of the Council's response to representations received will be given at the meeting so that this can be taken into account when members decide whether or not to deal with the appendix under exempt business.

(NB The exempt/confidential committee paper on the agenda will contain information which is commercially, legally or personally sensitive and should not be divulged to third parties. Members are reminded of standing order restrictions on the disclosure of exempt information and are invited to return their exempt documentation to the Local Democracy Officer at the conclusion of the meeting for shredding.)

Item	Exemption Para No.*
18 - 15/02010/PAMOD - Request to modify legal Agreement attached to planning permission 12/01382/FUL relating to land at 249 Fratton Road - Exempt appendix 1	3

\*3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

## 17 **15/02010/PAMOD - Request to modify legal agreement attached to planning permission 12/01382/FUL relating to land at 249 Fratton Road, Portsmouth (Pages 125 - 130)**

### Purpose

The purpose of the report is to present detail to the members for their consideration further to their decision taken on 22<sup>nd</sup> June 2016 relating to a request to modify the legal agreement attached to the planning application 12/01382/FUL in relation to affordable housing provision. The report clarifies

key facts and the issues that arise in determining this matter.

**RECOMMENDATION**

Having regard to the further information, members approve the proposed modification of the legal agreement to remove the requirement to provide three units of affordable housing.

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, 6 July 2016 at 1.00 pm in the Council Chamber - The Guildhall

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

### Present

Councillors Frank Jonas (Chair)  
Jennie Brent  
Ken Ellcome  
Colin Galloway  
Lee Hunt  
Hugh Mason  
Steve Pitt  
Gemma New (Standing Deputy)

Also in attendance

Councillors Darren Sanders, Steve Hastings and Luke Stubbs

### Welcome

The chair welcomed members of the public and members to the meeting.

### Guildhall, Fire Procedure

The chair, Councillor Jonas, 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.

### 69. Apologies (AI 1)

Apologies for absence had been received from Councillor Scott Harris (who was represented by Standing Deputy Gemma New), Councillor Chowdhury (whose deputy Cllr Morgan also sent his apologies) and Councillor Gerald Vernon-Jackson (whose group standing deputies also submitted their apologies for being unable to attend).

### 70. Declaration of Members' Interests (AI 2)

Councillor Hugh Mason declared that he had worked for Nathaniel Lichfield & Partners but this had been a long time ago so was not a significant or pecuniary interest.

Councillor Darren Sanders (who was not a member of the committee taking decisions but would be making deputations) declared that he lived in St.Mary's House which was opposite but some distance from the prison site.

**71. Exclusion of Press and Public (for exempt appendix only) (AI )**

After the Chair's introductions Robert Parkin as the legal adviser to the committee advised members that this report had reference to a confidential appendix, which would be supplied by the City Development Manager, and that the committee had the power to move into closed session for its consideration. This power is granted under 100A of the Local Government Act where there is confidential information of a third party due to their commercial and business interests. He would advise the committee to move into closed session for consideration of this exempt information as the City Council has a duty of confidentiality to the developer.

A running order for consideration of the application was announced, including moving into closed session, during which the developer's representatives would be allowed to remain to be questioned by the members.

During the debate of the following item relating to Planning Application 16/00085/FUL (Former Kingston Prison, Milton Road) there was the need for members to give consideration to the exclusion of press and public for the confidential appendix to be handed to members for consideration and for the developer and his representatives to be questioned on matters of viability.

In taking this decision the members were mindful that the public interest in maintaining the exemption must outweigh the public interest in disclosing the information.

**RESOLVED that, under the provisions of Section 100A of the Local Government Act, 1972 as amended by the Local Government (Access to Information) Act, 1985, the press and public be excluded for the consideration of the following item on the grounds that the appendix to the report contains information defined as exempt in Part 1 of Schedule 12A to the Local Government Act, 1972, however that the applicant and his representative are able to remain for the purposes of questioning by members of the committee, namely Mr Purvis, Mr Winsborough, Mr Caslin and Mr Slatford.**

<u>Item</u>	<u>Paragraph</u>
16/00085/FUL - Former Kingston Prison Milton Road Portsmouth PO3 6AS - (report item 1), (open report with exempt appendix only)	3

(Paragraph 3 relates to information relating to the financial or business affairs of any particular person or authority)

(NB The exempt committee papers within the appendix contain information which is commercially, legally or personally sensitive and should not be divulged to third parties. Members were reminded of standing order restrictions on the disclosure of exempt information and were asked to return their exempt documentation to the City Development Manager at the conclusion of the closed session.)

**72. 16/00085/FUL - Former Kingston Prison Milton Road Portsmouth PO3 6AS - Redevelopment of former prison comprising: part demolition and conversion**



**of listed buildings to provide 73 dwellings and commercial unit (within class A1 or class A3); demolition of non-listed structures; construction of five blocks of between three and seven stories to provide 157 dwellings; part demolition of listed prison wall and formation of new vehicular accesses to Milton Road and St. Mary's Road; and provision of car parking and associated landscaping and other works (report item 1) (AI 3)**

Ruth Ormella, Development Management Manager, presented the City Development Manager's report and outlined the key planning considerations, which included design outcome, amenity of occupiers, highway considerations, housing mix and need. The application had been received in January 2016 and had been accompanied by approximately 400 detailed plans. The presentation showed the proposed phasing of development, the Tall Buildings element and their relation to properties outside of the site, use of materials and fenestration details. Regarding the amenities of future occupiers whilst there was a large amount of open space with landscaping and inclusion of some private open space, it was acknowledged that there was a shortfall of public open space.

Richard Lee, Environmental Health Manager, expanded on the comments of Environmental Health (set out on page 22 of the report) regarding monitoring of pollutants and the conclusion that the impact upon completion of the development would be negligible on air quality and should have no long term impact on the amenities of the properties/occupiers.

Peter Hayward, then expanded on the highways issues, in particular the traffic flow to the roundabout with north bound and west bound traffic not coming out onto the roundabout. A new access point onto Milton Road would direct north bound traffic, and a new access point onto St. Mary's Road would direct west bound traffic. He stated that there was clear visibility to the crest of the bridge from the proposed new access point onto St. Mary's Road. There would be modifications to improve the flow at the roundabout to reduce the central island and have hatching and lane lines and the developer proposed to improve the length of the queuing reservoir on Milton Road to ensure a capacity solution for the Milton Road St. Mary's hospital access.

The Development Management Manager clarified the housing numbers and mix with 157 new build units and 73 converted units for a total of 230 properties. She drew member's attention to the circulated Supplementary Matters List which set out further information on the viability of the scheme:

*"The City Development Manager's Report considers matters of viability as part of the assessment. Listed here are the concluding assessment points that were formed in coming to the recommendation.*

*Analysis of the Benchmark Land Value undertaken by Savills and conclusion that purchase price is the most appropriate for the viability assessment and appraisal is agreed.*

*Based on the figures presented the total scheme costs for this point in time are not in dispute. Cost certainty will not firm up until early construction phases and a procurement process is complete. Some of the costs at this point in time are optimistic and some have a contingency allowance.*

*Savills have undertaken a Sensitivity Analysis to ensure Total Scheme Revenue is accurate based on current values across Portsmouth. The LPA agrees with Savills evidence on disposal values across the City to establish potential total scheme revenue.*

*Accurate figures for the gross internal area and net internal area have been applied. Total Scheme Revenue is negatively impacted as the internal spaces within the listed building are not all able to be configured into the apartments due to the atrium and corridors, leading to 34% of the building being retained in communal area. In comparison, only 15% of the new apartment buildings are in communal space. This impacts on the gross internal area measurement and total scheme revenue.*

*Planning permission will enable the scheme to have fully completed design and construction drawings and go to the market for construction, marketing and sales. In planning terms the project is available and deliverable. For example, a combined decrease in construction cost of 20% and increase in sales values by 20% would generate a positive value, which when compared to the Benchmark Land Value moves the scheme from being in deficit to £850,000.*

*The results of the appraisal find there is an inherent lack of scheme  
Further Explanation of Viability Matters*

*The City Development Manager's Report considers matters of viability as part of the assessment. Listed here are the concluding assessment points that were formed in coming to the recommendation.*

*Analysis of the Benchmark Land Value undertaken by Savills and conclusion that purchase price is the most appropriate for the viability assessment and appraisal is agreed.*

*Based on the figures presented the total scheme costs for this point in time are not in dispute. Cost certainty will not firm up until early construction phases and a procurement process is complete. Some of the costs at this point in time are optimistic and some have a contingency allowance.*

*The results of the appraisal find there is an inherent lack of scheme viability at this stage. The LPA opinion having reviewed all facts is to accept this conclusion and through negotiation forecast a point in the project delivery for re-appraisal capturing costs and sales values.*

*The LPA opinion is, following RICS Guidance on Financial Viability in Planning, that Phase 3 is the most appropriate point in total scheme for re-appraisal, the only elements to be re-appraised are the sales values based on changes in the Land Registry House Price Index for the City of Portsmouth, and the most recent BCIS build cost figures at that time. The agreed baseline approach fixes all other variables."*

The presentation showed the impact on residential amenity, with plans showing distances between the development buildings and the existing residential properties outside the site. It was reported that the proposed buildings would be set back 12.5m

from properties on the northern side of Bowler Avenue, 24m and 27m from properties on the eastern side of Milton Road, and 32.5m from the Whitcombe Road homes. Sections of the development were viewed to compare heights of buildings and it was reported that the ground and first floor level of Block M would be partly screened by the prison wall in the order of 5/6m.

The Supplementary Matters List also contained a written copy of Cllr Stagg's deputation on this matter which would be read out by Cllr Sanders, detailing three reasons for objection to the scheme. The matters contained in the deputation request are planning matters and have been considered in the assessment report. Since publishing the Planning Committee Agenda a further four (4) representations had been received up to 11am of the day of committee. These reiterated issues which have been addressed in the applicant's submission, the officer's assessment, and the City Development Manager's Report.

One of the representations raised the following issue:

*"Tenure*

*As the proposal is to create a residential estate with properties sold on leases the City Council should require the developer to arrange tenure on a Commonhold Basis under the provisions introduced by the Leasehold Reform Act of 2002 which is an ideal modern form of tenure empowering occupiers to manage the estate.*

*This is a matter for City & Country to consider, and not a matter that the Local Planning Authority would seek to control."*

The Supplementary Matters List (at Appendix B) also detailed the schedule of drawings to be approved.

Deputations

The deputations made are summarised.

- i) Mr L Nicholas spoke to object as Chair of Baffins Neighbourhood Forum and as a local resident, whose points included:
  - Whilst residents had been invited to give their ideas for the use of the site this proposal was for the financial gain of the applicant
  - The proposal was out of keeping with the residential surrounds and unneighbourly and the height overshadowed, and the design still made the development look like a prison, and was overintensive for the site
  - There was no affordable housing provided
  - The negative impact on the local infrastructure such as GP provision and school places, both of which were under strain
  - Concerns regarding pollution and parking in the area
  - Congestion on the road network as the existing roundabout was routinely congested and the siting of the new crossing in St.Mary's Road would create problems and should be nearer the roundabout.
  
- ii) Ms J Burkinshaw, objecting as a local resident whose points included:

- The impact on the quality of life to the Eastern part of the city and concerns of deteriorating air pollution in the city which would be made worse.
  - There was already traffic congestion made worse by the Tesco development in Milton and further problems of traffic discharge to the South would be experienced to Langstone Road and Milton Road to access Southsea from the site with 230 new homes.
- iii) Mrs K Barrett, objecting as a local resident whose points included:
- She questioned the viability assessment without the inclusion of affordable homes as planning policy PCS19 was not met, and it should be made available to the public
  - The developer would have known the prison site would need extensive work on purchase
  - The city needed affordable housing and there was a need to provide future social housing
  - There should be the proper infrastructure at the start; local schools and healthcare were at breaking point
  - Local residents would suffer 4 years of building work for no benefit, as the CIL contribution would not help Baffins ward
- iv) Mr C Corkery objected whose points included:
- He worked with the homeless and knew the desperate need for affordable housing - 30% should be affordable to help local residents but the applicant said this was not viable
  - Housing campaigners are challenging this as viability statements are being used to circumvent planning obligations
  - This was a scheme for profit of the developer and there should not be secretive documents that the public cannot scrutinise
- v) Mr R Winsborough of City & Country (the applicant) then spoke in support of the application, whose points included:
- There had been an extensive public consultation programme to help mould the scheme, and it had been reduced in scale
  - A model was on display which showed how the buildings related
  - The existing, solid buildings were expensive to convert, but they had experience of undertaking similar schemes elsewhere
  - The prison complex had been empty for too long
  - Other uses had been considered (such as hotel) but were less viable
  - The Section 106 agreement would secure social housing in the future
  - This scheme would secure new homes and safeguard the heritage of the building with a quality design
  - The new entrances would open up the site for local residents to come in
  - The highways impact would be mitigated by a new crossing and an improved roundabout
  - They had written to the council's Property Department regarding the landscaped scheme on the land by the roundabout

vi) Councillor Sanders spoke as a Baffins ward councillor and he read out the written submission by fellow ward councillor Lynne Stagg; her points included (and were circulated in full to members with the Supplementary Matters List):

- The development is out of character with the surrounding buildings with the original prison building being Victorian and the new buildings are featureless boxes without high quality design or materials, and the flat roofs are out of keeping with the surrounding pitched roofs
- There will be further transport problems especially southwards along Baffins Road and westwards on St.Mary's Road and the junction there with Fratton Road is already at capacity. There would be a cumulative impact on the road network of the city.
- No social housing had been included whereas it should be 30% of the scheme and if this was on viability grounds why was it purchased in the first place?
- Residents would suffer and would not gain community benefit with the change in CIL rules so Fratton would benefit not Baffins ward.

Councillor Sanders then added his own views, which included:

- The proposal underestimated the effect on the local community and did not mitigate enough
- This is all flats when there is also the need for family houses
- The photos displayed did not show the North/West side of the roundabout, and the congestion problems were going South rather than North with particular concern for the St.Mary's Road/ Fratton Road junction
- There were inconsistencies in the highway officer's comments in the report as to whether the Milton Road roundabout would cope
- The development would be overbearing for Whitcombe Gardens properties
- The community money should not only go to Kingston Park but all 3 local parks as the CIL money wasn't benefiting Baffins ward
- There should be a construction plan for liaison with local residents and ward councillors over the 4 year construction period.

vii) Councillor Steve Hastings also spoke as a ward councillor whose points included:

- This application was not heeding local planning policies, such as PCS19 regarding housing mix and provision of affordable housing when there is a desperate need for affordable housing in the city
- PCS13 also referred to a greener Portsmouth but there is a shortage of open space on the site
- DC26 with reference to new access to strategic highways, with the policy being relaxed for gaps onto the road network and PCS17 on transport
- PCS23 design & conservation - and the tall buildings policy with impact on Whitcombe Gardens

Councillor Stubbs was in attendance but waived his request to speak.

## Members' Questions

These included:

Why was there no affordable housing on site - in response the City Development Manager referred to Policy PCS19 which has the provision for negotiation where the application would be rendered unviable, and work had been undertaken with experts on this, and payment would be secured for off- site provision to be triggered at Phase 3.

Why hadn't the impact on St.Mary's Road/Fratton Road been addressed? Officers responded that unfortunately there had been an error in transferring information into the report on page 21 as part of the transport engineer's comments had not been included in which he had concluded that there is no impact on the junction; a full transport impact report was available. Mr Hayward confirmed that his initial assessment had raised 6 issues needing further work and these had been addressed. He explained that the traffic signalling and timing as analysed by the developer had been revisited with a transport consultant to reflect the use of the computer programme ' Mova' and therefore this junction was not in excess of capacity and this would not be a sound reason for refusal.

With regard to the use of Community Infrastructure Levy (CIL) monies the Assistant Director of Culture & City Development reported that for schemes in excess of £1m the allocation would be determined by the Cabinet, and for the separate Section 106 agreement there was the suggestion that a sum of money would be given towards improvements at Kingston Park. It was not within the remit of this committee to determine allocation of CIL monies but officers were working with ward members for suggestions for the area. Officers would identify infrastructure improvements needed from the development.

It was asked who would pay for the improvements to water and sewerage systems? This would form part of the developer's delivery of the scheme and would be dealt with by building regulations, and they would need to work with Southern Water for the delivery of this solution.

The impact on the local infrastructure was raised; the report set out on p54 the findings on health and education facilities and pupil places are planned with colleagues in the Education Department and education is a priority spend for infrastructure contributions.

It was asked how the viability assessment was undertaken and paid for; in response it was reported that the applicant covers the costs of the council's appointed technical expert, which had been Savills in this case.

The highways engineer was asked to expand on the missing parts of his written response and he clarified that 3 responses had been missed out - no4 related to the Milton Road roundabout and he was satisfied that on balance the impact of extra traffic movements would be mitigated by the improvements; no5 regarding the signal control at St.Mary's Road/Fratton Road had been reported earlier regarding the adjustment to take into account the Mova system so the junction was seen to have adequate capacity; No6 regarding car trips this was an addendum to the travel plan and he was comfortable with levels. The capacity for the junction at St.Mary's

Road/Fratton Road was considered until 2021. The possibility of the cycle lane to go over the City Council owned land could make improvements for cyclists turning left.

Further questions were asked regarding the design and choice of materials, as well as the impact that may be caused by the proximity to existing buildings such as Bowler Court (it was ascertained that this was 11m away from Block N which had a height of 15m).

The visibility from St.Mary's Bridge to the proposed crossing and the siting of the crossing was questioned; the highways engineer reported that the distance of 160m to the toucan crossing which was seen as a safe distance.

It was asked why there was a shortfall on open space and how this could be addressed? For 390 residents at the site the combined public and open space would have been adequate but not the public open space in itself and therefore the developer was being asked to give a financial contribution via the Section 106 agreement (which was not yet fully drafted) to enhance nearby open space such as at Kingston Park. It was noted that the site had been inaccessible to the public previously.

#### Exclusion of Press and Public

Members were then advised to consider the necessity of going into closed session to give consideration to the viability information which was pertinent to PCS19 issues raised during questions regarding why there was not affordable housing provision. The exclusion of press and public (as referred to in minute 71) was passed for this part of the meeting relating to examination of evidence given in the exempt appendix, with the developer and his representatives questioned by members in closed session.

The meeting then resumed in open session.

#### Members' Comments

The Chair reminded members not to refer to any information given within the exempt session.

Members were grateful for the information given by the developers and recognised that property values were part of the risk taken by them and would need to look at the impact on the city by the proposed development and how the planning policies had or had not been applied.

Some members were concerned regarding the design and density of the application, feeling this was an overdevelopment of the site and the design was out of character with the surrounding area. They raised concern regarding the impact on the road network and in particular the Velder Avenue junction and the St.Mary's Road junction, the effect on cyclists and there was no affordable housing provision on site. This also gave an unacceptable sense of enclosure on Bowler Avenue properties.

Other members of the committee felt that the scheme represented a reasonable compromise, with the developer seeking to mitigate the impact on the road system and there would be improvements to the main roundabout. The anticipated increase in pollution levels had been reported as negligible. The design was seen as an

acceptable way of developing the prison site and would give better views for nearby residents than of the existing buildings. It was felt that the viability statement may need to be reviewed should the scheme not be commenced within 3 years.

**RESOLVED that the following conditional planning permission be granted subject to the conditions outlined in the City Development Manager's report, as updated by the Supplementary Matters List (with Condition 2 to be amended to incorporate the schedule of approved drawing numbers as set out in Appendix B) with a further condition requiring details of a cycle slip lane between St.Mary's Road and Milton Road north to be submitted to and approved prior to the commencement of development, and constructed and provided prior to occupation of the development (the reason being to reduce the need for cyclists to use the roundabout in the interests of highways safety).**

**RESOLUTION A: that delegated authority be given to the Assistant Director of Culture and City Development to grant Conditional Planning Permission subject to the prior completion of legal agreements pursuant to S106 of the Town and Country Planning Act 1990 to secure planning obligations and subject to the following conditions**

**RESOLUTION B: That delegated authority be given to the Assistant Director of Culture and City Development to add and amend conditions where necessary**

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

- 73. 16/00086/LBC - Former Kingston Prison Milton Road Portsmouth PO3 6AS - Demolition of listed engineering/workshop building, part demolition and conversion of listed prison buildings (with associated internal and external alterations) to provide 73 dwellings and a commercial unit and part demolition of listed prison wall (report item 2) (AI 4)**

Ruth Ormella, Development Management Manager, presented the City Development Manager's report on this Listed Buildings Consent application and displayed plans showing which elements were proposed to be removed and where there would be adaptations such as dropped eills, adjusted windows with fenestrations, and how the wall would be used to access the site.

The Supplementary Matters List reported the schedule of drawings to be approved at Appendix B.

#### Deputations

The deputations made are summarised.



The applicant Mr R Winsborough, made a deputation on behalf of City and Country to support their application, who explained that they had worked closely with the Conservation Officer at the council and with Historic England to ensure a sympathetic redevelopment of the Grade II Listed Building site.

Councillor Darren Sanders made a deputation and also read the comments from Councillor Lynne Stagg regarding the conservation elements of the proposal, and she felt there should be consistency for residents in the facing Victorian building of St. Mary's House (where residents were told to have sash windows in a listed building because they faced the prison) and she felt the new design was of featureless boxes. Councillor Sanders wanted to ensure that there would be a proper construction management plan put in place to involve ward councillors and local residents to have contact points and information during the 4 year phased construction.

Councillor Steve Hastings spoke to make comment on behalf of residents who did not wish the wall to be touched, although he was aware this was necessary for access to the site. He therefore asked that there be use of less visually obtrusive arches for the gaps in matching materials so that it still appeared as a continuous wall.

#### Members' Questions

No questions were raised.

#### Members' Comments

Members felt that the listed buildings element had been dealt with ingeniously and sympathetically so supported the recommendation.

**RESOLVED that Conditional Listed Buildings Consent be granted subject to the conditions outlined in the City Development Manager's report (as updated with the drawing numbers within the Supplementary Matters List).**

The meeting concluded at 4.27 pm.

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Signed by the Chair of the meeting  
Councillor Frank Jonas

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## **PLANNING COMMITTEE**

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 20 July 2016 at 1.00 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 Frank Jonas (Chair)  
Scott Harris (Vice-Chair)  
Yahiya Chowdhury  
Ken Ellcome  
Lee Hunt  
Suzy Horton  
Steve Hastings  
Hugh Mason  
Steve Pitt

Also in attendance - Councillors Ben Dowling, Luke Stubbs and Linda Symes

### **Welcome**

The chair welcomed members of the public and members to the meeting.

### **Guildhall, Fire Procedure**

The chair, Councillor Jonas, 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.

### **74. Apologies (AI 1)**

Apologies for absence were received from Councillor Jennie Brent (represented by Councillor Steve Hastings), Councillor Gerald Vernon-Jackson (represented by Councillor Suzy Horton) and Councillor Galloway.

### **75. Declaration of Members' Interests (AI 2)**

Councillors Ellcome, Chowdhury, Pitt and Harris each declared that they had received phone calls from a communications company in relation to planning application number 2 - Vacant Land, Southampton Road. All of the councillors who had received these calls had advised the company that it was inappropriate for them to discuss the application. The Deputy City Solicitor advised members that the Planning Code of Conduct states that conversations with lobbying groups need to be properly managed and directed through officers.

Councillor Suzy Horton declared a non-prejudicial interest in planning application number 1 as she is an employee of the University of Portsmouth.

**76. Minutes of the previous Planning Committee meeting - 22 June 2016 (AI 3)**

**RESOLVED that the minutes of the meeting held on 22 June 2016 were agreed as a correct record and signed by the Chair accordingly.**

**77. Updates on Previous Planning Applications by the Assistant Director of Culture & City Development (AI 4)**

The Assistant Director of Culture and City Development advised that a report on the Housing and Planning Bill would be considered by the August Planning Committee, subject to the size of the agenda.

Councillor Hugh Mason referred to the planning appeal at 26 Merton Road which was upheld, and asked the Assistant Director of Culture and City Development for an update on costs. She advised that officers were working through costs and the other party will also put across their costs. These will be discussed between the parties and an agreement will be reached about the final costs.

**78. 16/00142/FUL - Number One 8 Surrey Street Portsmouth (AI 5)**

The Assistant Director of Culture & City Development introduced the application and reported in the supplementary matters list that recommendation I seeks to secure planning obligations by S106 Planning Agreement and includes off-site highway improvement works at '7' listed a-d. The Highways Authority advise, firstly, that works for 'build out contribution junction Surrey Street' are not considered necessary to make the development acceptable and, secondly, that the other off-site highway improvement works at '7' marked a, c & d should be secured by S278 Highways Agreement (rather than S106 Planning Agreement). The planning obligation for off-site highway improvement works should be secured by condition:

"No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority (in conjunction with the Highway Authority) relating to the line, level and layout of highways works and its means of construction and surface water drainage for:

- (a) the removal of the zebra crossing on Station Street and replacement with a platform and tactile paving replicating the crossing points on the other approach roads to the adjacent roundabout;
- (b) the reinstatement of full height kerbing and footway crossings at the site perimeter onto Station Street and Surrey Street; and,
- (c) provision of six echelon car parking spaces onto the site frontage to Station Street.

The highway works (a)-(c) shall be laid out and constructed in accordance with the approved details and the requirements of a Section 278 Agreement under the provisions of the Highways Act 1980 prior to the first occupation of any part of the development."

Reason: In the interests of maintaining a safe and efficient highway network, in accordance with policies PCS17 & PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.

Public Sector Housing has provided some detailed comments on other regulatory matters that PCC may need to consider if any subsequent licensing is required.

The applicant has provided a Waste Management Strategy (WMS) for servicing the proposed development and requests that it brought to the attention of the Planning Committee. The WMS is attached at Appendix 1.

Following this the Assistant Director of Culture and City Development advised that Recommendation I has been amended, by deleting the requirement for off-site highway improvement works at '7' listed a-d to be secured by S106 Planning Agreement and substitution of the works marked a, c & d to be secured by S278 Highways Agreement through a planning condition.

Deputations were then heard whose points are summarised:

Cllr Luke Stubbs speaking in support of the application whose points included:

- The view of the Cabinet is that concentrating student development in the central area around the station square is a good thing for the layout of the city.
- The proposal will lessen pressure for housing elsewhere in the city.
- There are already a number of hotels planned for the city so a hotel is not needed for this site.
- Visuals for the proposal look great.
- It will help to support city centre.
- Refuse storage - would be sensible if only come to collect waste once a week.

#### Members' Questions

In response to questions, the following points were clarified:

- With regard to the proposal to remove the zebra crossing, the highways officer advised that Station Street is heavily trafficked and the traffic flow is constantly interrupted by the zebra crossing. The additional influx of students in this area would make this worse. The proposed raised platform would operate the same as the Stanhope Road arm which works well.
- The room sizes exceed the minimum requirements set out in the SPD and follows the national code of standards.
- There is an individual cooking space in each studio or 'twodio'
- Building Control would insist on sprinklers across the building to comply with building regulations. The applicant confirmed that for their similar schemes in Reading, Bristol and Coventry they have worked closely with the building control teams to ensure that the safety standards are met and all buildings have sprinklers.
- The proposal has two lifts in addition to the main stairwell.
- There are no car parking spaces provided for the development as this will be a car free development.
- A TRO could be added to restrict parking along Surrey Street which would be through a separate consulting process however following this it may not be implemented.
- With regard to halls of residence freeing up student homes in the city for families, officers advised that 6 student pods is equal to 1 dwelling. It would be the owners' decision whether to keep their property as a HMO or revert back to a single dwelling.

### Members' Comments

Members generally felt that this proposal would benefit the city although thought that two lifts were not sufficient for the size of the building. There was also concern about the highways network and it was suggested that a TRO on Surrey Street be implemented to restrict parking. Concerns were raised about the proposal to remove the zebra crossing and it was suggested that some of the S106 money be retained to be used for a crossing if required. The Committee asked officers to reassess the necessity of removing the zebra crossing and this is communicated back to the Chair and Vice Chair of the Committee.

### **DECISION:**

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

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

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

**(3) That delegated authority be granted to the Assistant Director of Culture and City Development to refuse planning permission if the legal agreement has not been completed within three months of the date of the resolution.**

**79. 15/02075/FUL - Vacant Land Southampton Road (South Side) Portsmouth (AI 6)**

The Assistant Director of Culture and City Development introduced the report and reported in the supplementary matters list that condition 3 identifies 'approved drawing numbers' and requires minor modification to include 10062-PP-040-Rev C and Design & Access statement- Rev B. Subject to updates to planning conditions, the recommendation remains unchanged.

The Committee were also informed that the wording of condition 10 needed to be amended on the basis that unit 3 shall not be subdivided below 465sqm gross internal and only then when no mezzanine floor is provided.

Deputations were then heard whose points are summarised.

Mr Paul Brailsford, Agent whose points included:

- The scheme will attract national retailers and create 100-120 full time jobs.
- This is a large format retail warehouse scheme that would not fit into the city centre.
- The proposal is for a high quality development.
- The employment and skills plan will ensure that jobs are targeted at local people.
- No outstanding technical issues.

Members' questions

In response to questions the following points were clarified:

- The footpath on the site is un-adopted Portsmouth City Council land.
- DPDS concluded that the Freeths impact figures were likely to be overestimates and suggested that a more realistic impact figure for Cosham is 5%.

Members' comments

Some members were particularly concerned with the adverse impact this development would have on Cosham, North End and Fratton retail centres as it is frequently reported that local traders are struggling. Members' also felt that there was not enough evidence to back up the impact figures provided by DPDS and said that even a 5% impact could have a very real impact on a business. Members' commented however that the extra jobs for local residents would be welcomed.

**RESOLVED**

**Delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to the prior completion**

of an agreement pursuant to section 106 Town & Country Planning Act 1990 to secure the following planning obligations:

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

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

(3) That delegated authority be granted to the Assistant Director of Culture and City Development to refuse planning permission if the Section 106 agreement has not been completed within three months of the date of the resolution.

**80. 16/00731/FUL - Land At The Rear Of 244-248 Southampton Road Portsmouth (AI 7)**

This application was withdrawn following publication of the agenda, and will be considered at a future meeting.

**81. 16/00839/FUL - 11 Malvern Road Southsea PO5 2LZ (AI 8)**

The Assistant Director of Culture and City Development introduced the report and reported from the Supplementary Matters List that in addition to the 13 letters of representation previously reported, 1 further letter of representation has been received in objection to the proposal.

All of the points raised are addressed within the Planning Committee report and the officer's recommendation remains unchanged.

Deputations were then heard whose points are summarised.

Mrs Nicola Milburn, objecting on behalf of the local residents, whose points included:

- Property has been operating illegally as a HMO for the last 18 months and has covertly been converted for 11 people to reside in.



- New ownership since February 2014 and now impossible to say how many people are living there as there are always new faces.
- There have been numerous occasions where residents have reported their concerns to the council but it has failed to take action. Residents are concerned with how the council deals with reporting incidents, as there are various different departments all dealing with similar issues and a lack of communication between them.
- Numerous occasions when armed police have raided the property which is incredibly unsettling for residents and families living nearby.
- Already 29 HMO's in the nearby area.
- Will cause an imbalance in community.

Mrs Clare Royston, objecting as a local resident. She read out a letter on behalf of Daniel Sutton owner of the Mercer Group who has a boutique hotel in the road. His points included:

- Increase in disturbance from the residents living in the property e.g. - shouting, verbal abuse, frequent noise which is not acceptable in this area.
- Will have a detrimental impact on the hotel business and tourism in Southsea as customers will not want to return.

Dr Barrie Dekker, objecting as a local resident whose points included:

- Safety fears for his children using the local park at night and does not feel safe in the area - there have been muggings, cars broken into etc.
- Residents constantly have loud arguments about drugs, cash etc. meaning that the neighbouring families cannot enjoy time in their garden without being disturbed.

Councillor Linda Symes, objecting as ward councillor, whose points included:

- Urge the committee to refuse this application.
- Drug deals involving the residents in the property are the norm.
- The landlord's HMO licenses for previous properties have been revoked.
- Tourism in area will be impacted as people will not want to return.

John Pike, Agent, whose points included:

- The property has not been a single dwelling house since the 1950's.
- The proposal conforms to the council's HMO policy.
- Proposed garage design would enhance the street scene.

### Members' Questions

In response to questions the following points were clarified:

- The premises have been used unlawfully in planning terms however this is not an offence. The Council has clear evidence the property has been operating as a HMO for a number of years.
- The council's planning department endeavours that if they receive a complaint from a member of the public, they will speak to other teams within the council to investigate this and decide who is best placed to deal with this. However there is significant room for improvement and officers will take the feedback from the deputees to see how they can actively establish an enforcement forum. Enforcement is the last resort and sometimes it is not expedient to take enforcement action.

- The size of the proposed rooms are acceptable for a HMO licence to be granted.
- The parking standards SPD is relevant in terms of a new development. The expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would be two off-road spaces. However officers are required to look at existing use and whether the proposal would cause additional harm and it is felt that in planning terms this does not exist.
- There are different initiatives to find out whether properties are operating as HMO's. Planning officers will ask if councillors are aware of HMO's and if these are reported they are always investigated. It is a dynamic situation however and officers rely on information brought to them by members.
- Site visits to suspected properties operating as HMO's take place and if there is no answer a card is left asking that they contact the council and if there is no response they are subsequently written to. Officers also talk to neighbours and liaise with other council departments to establish how many people are registered at a property. The process is as thorough and comprehensive as it can be given the resources available.
- The garage, it is 0.7 m higher than the next door garage as the roof pitches are slightly different, but the size would be comparable to other garages along the road.

#### Members' Comments

Members were very concerned to hear the problems that the neighbours are experiencing with the current residents and that it is operating unlawfully as a HMO. They also felt that these issues could remain even with a change to the management of the property. Members were concerned about the damage this property could have to the neighbouring hotels and community. It was pointed out by members however that there are HMO's in the city with young professionals sharing a house that work very well and fit in well with the surrounding communities.

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

- (1) In the opinion of the Local Planning Authority, the continued use of the building as a House in Multiple Occupation would, by reason of the level of activity and anti-social behaviour associated with it, be likely to have an adverse impact on the viability of the operation of neighbouring hotels to the detriment of the economic growth and needs of the city. The proposal is therefore contrary to the aims and objectives of paragraphs 17 and 19 of the National Planning Policy Framework.**
- (2) Without appropriate mitigation the development would be likely to have a significant effect on the Portsmouth Harbour and Chichester and Langstone Harbours Special Protection Areas and so is contrary to Policy PCS13 of the Portsmouth Plan and the Conservation of Habitats and Species Regulations (as amended).**

#### **82. 16/00649/FUL - 194-196 Fratton Road Portsmouth PO1 5HD (AI 9)**

The Assistant Director of Culture and City Development introduced the report and reported from the supplementary matters list that the planning history of the site includes two further relevant applications not referred to in the agenda:

15/01944/FUL - permission in Feb 2016 for conversion of existing maisonette to upper floors and rear of ground floor retail unit to form two maisonettes and a flat and construction of single storey rear extension and provision of associated cycle/refuse stores.

16/00574/FUL - current application for conversion of existing maisonette to upper floors and rear of ground floor retail unit to form two maisonettes and a flat and construction of single storey rear extension and provision of associated cycle/refuse stores (amended scheme 15/01944/FUL).

A deputation was then heard from Mr Gwyn Stubbings, Agent, whose points included:

- The application will be properly managed by a recognised management agency.
- There have been no objections on parking grounds.
- Advice received from the planning officers was inconsistent with regard to PCS20 and the number of HMO's within a 50m radius and a number of dwellings were omitted from the initial count data.
- 179-184 Fratton Road should be included within the count data.

#### Members' questions

In response to questions the following points were clarified:

- Officers' use a GIS system using ordnance survey data, to measure the 50m radius and calculate the number of HMO's within the radius of the application.
- Officers' have not physically been out to measure the distance as it would not be possible as it would mean measuring across a main road.
- It was the opinion of officers' that 179-184 Fratton Road should not be included in the count data as the radius does not touch the building.
- Officers' advised that they do not have radio telemetry equipment available to measure distances.

#### Members' comments

Members' felt that as the accuracy of the GIS data is fundamental to the outcome of the application, the application should be deferred. This would allow officers to commission an accurate measurement of the 50m radius.

**RESOLVED that the application be deferred to allow officers to commission an accurate measurement of the 50m radius.**

#### **83. 16/00797/FUL - 170 Station Road Portsmouth PO6 1PU (AI 10)**

The Assistant Director of Culture and City Development introduced the report.

Deputations were then heard whose points are summarised:

Mr J Lee, objecting as a local resident living next door to the proposal, whose points included:

- The properties along Station Road are pre-fabricated buildings with thin walls between them. This application if approved has the potential to increase noise to his property.
- If there are 6 residents residing in the property there is a potential that they could all have visitors at the same time causing a significant increase in noise.
- This is a family based area and the proposal is not in keeping with the area.
- The proposal will exacerbate existing parking issues.
- Increased fire risks.
- Should remain as a family home.

Mr Gleadle, objecting, whose points included:

- Increased safety issues from traffic.
- Description of area provided by applicant is misleading - the plots are not large.
- There is one road through the development on a blind bend and there are already has been a number of near misses. Cars also often park along road meaning that oncoming traffic cannot be seen and delivery vans often mount the kerb. If this application is approved there would be an increase in cars making these issues worse.
- Concerns about the potential residents living in the property and the potential for social issues to occur.

Mr Oliver, Agent, whose points included:

- The property would be furnished to a high standard and they would hope it would attract young professionals due to its location, who would be good neighbours.
- The property market is changing with a large proportion of people renting for longer as many young people cannot afford houses into they are in their 30's.

#### Members' questions

In response to questions the following points were clarified:

- The accepted view is that HMO's should not give rise to additional noise compared to a single dwelling.

#### Members' comments

Members' understood the concerns of Mr Lee about the increase in noise and agreed that a condition to ensure that soundproofing between 170 and 172 Station Road be installed. Members also informed Mr Lee and Mr Gleadle that if they or other properties along station Road experience disturbance, they can report this to their local ward councillors who can take up the issues with officers.

**RESOLVED that conditional permission be granted subject to the conditions outlined in the Assistant Director of Culture & City Development's report and the following additional conditions:**

**a) The use as a HMO hereby permitted shall not commence until the flank wall of the property with number 172 Station Road has been insulated to prevent the transmission of noise in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority.**

**b) The noise insulation measures shall thereafter be retained.**

**Reason: To protect the residential amenities of the occupiers of the adjoining property having regard to the nature of the construction of the properties in accordance with policy PCS23 of the Portsmouth Plan.**

**84. 16/00775/FUL - 289 Milton Road Portsmouth PO4 8PG (AI 11)**

The Assistant Director of Culture and City Development introduced the report and reported from the supplementary matters list that a potential house in multiple occupation within the search area was identified by Cllr Dowling at 2 Milton Park Avenue. This property has been since been investigated and it has been confirmed to be a Class C3 dwellinghouse (comprising a family house with 1 lodger).

A deputation was then heard from Councillor Ben Dowling, ward councillor who read out an objection letter on behalf of Mr & Mrs Whitely, local residents who were objecting to the proposal. Their points included:

- Lived in the area since 2003 and this proposal would be detrimental to the area.
- Serious concerns that the proposed HMO would have on their home life.
- Noise and anti-social behaviour issues with previous residents of the property.
- Concerns about the impact on parking in the area.
- Already increased traffic due to the development at St Mary's hospital and will soon be more traffic with the Kingston prison development.

Members' questions

In response to a question, officers confirmed that the room sizes meet the standards for HMO's.

Members' comments

Members' said that if there were any issues caused by the property changing to a HMO that concerns could be reported through their local ward councillor.

**RESOLVED that conditional permission be granted subject to the conditions outlined in the Assistant Director of Culture & City Development's report.**

**85. 16/00577/PLAREG - 19 Hilltop Crescent Portsmouth PO6 1BB (AI 12)**

The report was introduced by the Assistant Director of Culture and City Development.

A deputation was then heard from Mr Malin, Agent, whose points included:

- The development is not out of keeping with the character of the area.
- Planting would be standard all year round planting which would screen the wall.
- Another garage at no. 11 that is larger and more visually obtrusive.

Members' questions

In response to questions the following points were clarified:

- The proposed height of the garage is 2.5m

- With regard to the planning permission granted for the garage at no. 11, officers advised that this was granted over 10 years ago when there was less importance given to good design, and in hindsight this was not a good design. There is now greater importance on good design and officers consider this proposal is not adequate.

Members' comments

Some committee members' felt that the proposed garage would not have a detrimental impact on the street scene and were happy to approve the application subject to a condition to ensure a satisfactory finish to the development with the materials and planting used.

**RESOLVED that conditional permission be granted subject to the conditions outlined below:**

**1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.**

**Reason: To comply with Section 91 of the Town and Country Planning Act 1990.**

**2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Site Location Plan; Block Plan; and M14099-801 Rev.E.**

**Reason: To ensure the development is implemented in accordance with the permission granted.**

**3) a) No works pursuant to this permission shall be carried out until the external facing materials to be used for the garage hereby permitted have been submitted to and approved in writing by the Local Planning Authority.**

**b) The development shall thereafter be implemented using the materials approved pursuant to part a) of this condition.**

**Reason: To ensure a satisfactory finish to the development in the interests of the visual amenities of the area in accordance with Policy PCS23 of the Portsmouth Plan.**

**4) a) The garage hereby permitted shall (unless otherwise agreed in writing by the Local Planning Authority) not be brought into use until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.**

**b) The approved landscaping scheme shall be fully implemented in the first planting and seeding seasons following the substantial completion of the garage.**

**c) Any trees or plants which, within a period of five 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.**

**Reason: To ensure a satisfactory finish to the development in the interests of the visual amenities of the area in accordance with Policy PCS23 of the Portsmouth Plan.**

The meeting concluded at 5.40 pm.

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Signed by the Chair of the meeting  
Councillor Frank Jonas

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**Decision maker:** Planning Committee - 17 August 2016

**Subject:** Planning appeal decision relating to 1 North End Avenue

**Report by:** Assistant Director of Culture & City Development

**Ward affected:** Nelson

**Key decision (over £250k):** No

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## 1. Purpose of report

To advise the Committee of the outcome of the appeal, which was allowed and that a claim for an award of costs made by the appellant was also allowed.

## 2. Recommendation

That the Inspectors Report and findings against the Council leading to the award of costs be received and noted.

## 3. Comments

The planning application to which this appeal related sought permission for a change of use from builders' store to MOT station and repair garage and installation of replacement roof covering and re-cladding to part of front elevation. The application was refused by the Planning Committee at its meeting on 12<sup>th</sup> August 2015 against the officers recommendation with the reason for refusal relating to likely increased noise and disturbance being detrimental to the residential amenities of the occupiers of neighbouring properties.

The Inspector noted that "the appeal building is situated in a residential street and would introduce a new commercial use involved in the MOT testing of vehicles and in associated repairs" and accepted that "the nature of such a use would give rise to noise generating activities such as in the lifting of vehicle ramps, the running of engines, and testing of horns" and that "any repairs that may be required could generate further noise as a result of mechanical processes such as the removal of wheel nuts with air guns and the striking of hammers".

The Inspector noted that an acoustic testing report had been submitted with the application which had "been accepted, without qualification, by the Council's Environmental Health section noting that the predicted noise levels would fall below the World Health Organisation recommended level for impact upon gardens (55dB(A)) and, with the operating hours proposed, would give no rise to sleep deprivation". The Inspector opined that "in the absence of any technical evidence to the contrary I am satisfied that the Report provides sufficient information to establish that noise from the proposal could be mitigated or minimised, as an adverse impact, to a degree sufficient

to comply with the aims of ... paragraph 123 of the National Planning Policy Framework".

The Inspector took the view that "with the proposed attenuation measures in place, as can be secured by condition, I find no substantive reason for dismissing the appeal, especially as the proposal would deliver benefits in the form of employment and environmental enhancements for the area". The Inspector was "mindful that a similar operation has been carried out over a fifteen year period by the appellant in a building at a neighbouring street without giving rise to complaints from residents".

The Inspector found that "the proposal would avoid significant adverse impacts on health and quality of life and, as a consequence, would avoid a harmful effect on the living conditions of the occupants of nearby residential properties" and concluded "that the proposal would accord with the requirements of Policy PCS23 of The Portsmouth Plan (Portsmouth's Core Strategy) adopted January 2012 that seeks the protection of amenity and the provision of a good standard of living environment for occupants of neighbouring buildings".

The National Planning Practice Guidance makes it clear that a Local Planning Authority is at a risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

The appellant claimed that the members of the Planning Committee of the Council acted unreasonably in going against the advice of its professional officers without good reason and failing to substantiate the reason for refusal. The Inspector noted that "while the members of the Planning Committee are not bound by the advice of their professional officers they are required to exercise their duty to determine planning applications in a reasonable manner. This includes taking into account only material planning considerations".

The Inspector noted that "in the light of the substantive evidence contained within the acoustic report provided by the applicant, as accepted by professional officers, it is beholden on the members to demonstrate that other material matters exist to justify an alternative assessment. Local opposition to a proposal is not in itself a valid ground for refusing planning permission unless it is founded upon valid material planning reasons".

The Inspector commented that no evidence had been produced to challenge the appellant's evidence and justify taking an alternative view and suggested that "the lack of a site visit by the members of the Planning Committee to appraise itself of the existing site conditions is indicative of its failure to exercise its duty in this regard in a reasonable manner".

The Inspector concluded that "such behaviour as I find to be unreasonable has resulted in the submission of the appeal leading to unnecessary expense for the appellant" and found "that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified".

**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. 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:

<b>Title of document</b>	<b>Location</b>
Planning application file 15/00895/FUL	Planning Services
Inspector's decision APP/Z1775/W/15/3138030	Planning Services

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**Decision maker:** Planning Committee - 17 August 2016

**Subject:** Planning appeal decision relating to 26 Merton Road

**Report by:** Assistant Director of Culture & City Development

**Ward affected:** St Jude

**Key decision (over £250k):** No

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## 1. Purpose of report

To advise the Committee of the outcome of the appeal, which was allowed and that a claim for an award of costs made by the appellant was also allowed.

## 2. Recommendation

That the Inspectors Report and findings against the Council leading to the award of costs be received and noted.

## 3. Comments

The planning application to which this appeal related sought permission for a change of use from a nursing home (Class C2) to a house in multiple occupation for 12 persons (sui generis) to include alterations to the front boundary wall, the provision of refuse and cycle storage and landscaping. The application was refused by the Planning Committee at its meeting on the 3<sup>rd</sup> of February 2016 against the Officers recommendation with the reasons for refusal relating to the impact of the proposal on the Owens Southsea Conservation Area and the highway impact on increased demand for parking.

The Inspector noted the character of the Conservation Area and the legal duty imposed upon the decision maker. The Inspector recognised that "when operating as a nursing home Nos 24/26 could accommodate a total of 15 residents" and "whilst it might not have operated at full capacity throughout the year, there would have been comings and goings associated with staff, visitors and deliveries throughout the day and, quite possibly, into the early evening. There was no substantiated evidence submitted with the appeal to demonstrate that the use of the property as a 12 bedroom HMO would generate a significantly greater number of movements than the former nursing home".

The Inspector noted the views of local residents regarding the possibility of anti-social behaviour, the aims and objectives of policy PCS20 in regard to HMOs and comments the nature of the proposed alterations to the site. The Inspector concluded "that the change of use would preserve the character and appearance of the Owen's Southsea Conservation Area. The proposal would therefore comply with the requirements of

Policy PCS23 of The Portsmouth Plan, which requires development in conservation areas to respect the city's historic townscape and cultural heritage. It would also accord with the Framework's advice to conserve historic assets in a manner appropriate to their significance".

The Inspector noted that "the streets around the appeal site are restricted in width but are available for on-street parking" and that whilst "the junctions are protected by yellow lines and some entrances are indicated by advisory white road markings ... the area is not part of a controlled parking zone that restricts the availability of on-street parking in other respects". The Inspector noted that "at the time of my site visit, which took place in late morning, all the on-street parking was being well-used" and found this to be "consistent with the highway authority's comments on the application and representations made by local residents, from which it is apparent that on-street parking in the area is used to capacity".

The Inspector recognised that "the site is in a highly accessible location within 400m of town and district centres and a high frequency bus corridor. There are therefore good opportunities for future occupants to access facilities and services by walking, cycling or using public transport, in preference to owning a car. The proposal includes provision of weatherproof, secure cycle storage for up to 13 bicycles. Furthermore, the two existing parking spaces would be retained, which complies with the requirements set out in the Council's Supplementary Planning Document: Parking Standards and Transport Assessments (SPD), adopted July 2014". The Inspector concluded that "the change of use is therefore unlikely to result in a material change in the demand for car parking in the surrounding area" and as a result that "that the proposed change of use would not give rise to increased inconvenience for road users arising from additional demand for on-street parking. The proposal would comply with Policy PCS17 of the Portsmouth Plan, which seeks to encourage walking, cycling and the use of public transport, alongside the provision of parking spaces in accordance with the standards set out in the SPD".

The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG makes it clear that a Local Planning Authority is at a risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

The Inspector noted that "in reaching their decision Members gave greater weight to the views expressed by local residents than the professional advice of officers" and recognised that "Members are not obliged to accept the recommendations of their officers, provided that they can show reasonable planning grounds for doing so, supported by relevant evidence on appeal".

The Inspector considered that "no objective analysis presented with the appeal as to why an HMO would result in a materially harmful change in the character of the area. There was therefore insufficient justification overall for the Council to reject the scheme because of any harmful effects on the Owen's Conservation Area. Similarly, there was no substantiated evidence provided to support the contention that the proposal would lead to an unacceptable increase in the demand for on-street parking.

Considered as a whole the Council's appeal statement did not, in my view, adequately support its reasons for refusal".

The Inspector concluded that "the Council's decision has delayed development which should have been permitted, having regard to its accordance with the development plan, national policy and other material considerations. I consider that the Council acted unreasonably in reaching its decision. This left the appellant with no option other than to pursue the appeal, which caused him to incur the expense of presenting his case" and found "that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has been demonstrated and an award of costs is justified".

**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. 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:

<b>Title of document</b>	<b>Location</b>
Planning application file 15/01891/FUL	Planning Services
Inspector's decision APP/Z1775/W/15/3145065	Planning Services

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<b>Decision maker:</b>	The Planning Committee - 17 August 2016
<b>Subject:</b>	Reliance on Council's Geographical Information System
<b>Report by:</b>	Assistant Director of Culture & City Development
<b>Wards affected:</b>	All

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## 1. Purpose of report

The Planning Committee deferred Planning Application 16/00649/FUL that is for the change of use of part ground, first and second floors from a dwelling house (Class C3) to a 10 bedroom house in multiple occupation (sui generis). Refer to Appendix A for the Planning Officers Assessment Report and recommendation.

The application was deferred to enable the planning officer to undertake land survey necessary to clarify the precise distance from the subject property to the flats at No.179-183 Fratton Road. The agent for the application has demonstrated that the proposed development is within 50 metres of No.179-183 Fratton Road, refer to Appendix B.

This report seeks to clarify the information presented by the Applicant and provide the options open to the Planning Committee in determining this item.

The Planning Application 16/00649/FUL is in Appendix A for members to determine having regard for the information contained in this report.

## 2. Recommendations

It is recommended that the Planning Committee determine the Planning Application 16/00649/FUL having regard to the following information.

## 3. Background

The Council's Geographical Information System (GIS) uses as its base the Ordnance Survey (OS) Plan for Portsmouth. The information layers in the GIS are updated as part of revisions provided by the OS. In terms of the OS Base Map it was last updated 15<sup>th</sup> July 2016. The electronic data which is being relied upon is up to date.

Officers use the OS map when calculating the 50 metre radius from a property so as to ascertain whether the area would become imbalanced through the provision of more than 10% of properties being used as houses of multiple occupation.

In this case the applicant has demonstrated that a more accurate measurement achieved by way of undertaking a land survey reveals that a discrepancy in the order of 1.5 metres arises with the measurement in this location, changing the address points to be included when undertaking the calculation, and the potential outcome for the applicant.

It is not unusual for there to be a discrepancy between a survey undertaken and a download of the OS map. However it is rare for there to be as fine a discrepancy as has arisen with this matter.

The various sections at Portsmouth City Council that undertake land surveys confirm that such a level of discrepancy can arise, and therefore the action of going out and taking a measurement is likely to lead to the same conclusion as that which the applicant has presented.

Contact has been made with the applicant's surveyor and discussion was had to confirm how the centre of the property was established, and whether there were any areas in the field that could have led to this discrepancy. Officers accept that the survey was undertaken correctly and that the equipment used was properly calibrated.

When planning officers undertake an assessment of a planning application they accept the information on the face of the plan, unless there are clear and obvious discrepancies. In this instance however the Planning Officer relied on Council's own GIS system which is the basis for assessing HMO applications. It is not open to the case officer to challenge the Council's GIS data or the OS Base Map and change how this work is undertaken, rather they accept the GIS data at face value when undertaking these binary assessments.

The planning officers do not undertake measurements in the field as they are not land surveyors, and those sections of the Council that regularly survey land would defer to the applicant's expert source.

As such the following facts are compiled for the Members to consider when taking a decision on Planning Application 16/00649/FUL.

#### Applicants Case

The applicants submitted survey plan dated 10<sup>th</sup> June 2016 is an accurate survey measuring two distances, confirming that 3 Sheffield Road is within 50 metres of the site, and establishes that 179-183 Fratton Road is also within 50 metres of the site.

By including Flats 1 to 11 which are located at 179-183 Fratton Road the total number of properties increases, with a beneficial outcome for the applicant.

The inclusion of the properties results in the proposal being the seventh (7<sup>th</sup>) HMO with a total of 80 properties, being 8.75%. The proposal would be policy compliant. This would be the last possible policy compliant HMO for this assessment location.

#### Council's Case

The Council's GIS system can be relied on; however the level of the discrepancy is acknowledged and cannot be refuted. The planning officer's report sets out the position which has been taken, for Members to consider when determining this matter.

#### **4. Reasons for recommendations**

The Council's Geographical Information System cannot, in this instance, be relied upon in taking this decision as the level of the discrepancy is so fine as to have cast doubt on the Council's mapping information. The planning officer's report has undertaken an assessment consistent with Council's procedures. The applicant's case is set out above, and as it provides a more detailed and accurate survey plan for consideration, Members can form a view to support the applicant's position when taking a decision on the planning application.

**5. Equality impact assessment (EIA)**

The advice within this report relates to a planning application, not giving rise to the requirement for an equality impact assessment.

**6. Head of legal services' comments**

It is open to the Planning Committee to determine the planning application.

**7. Head of finance's comments**

None.

.....  
 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:

<b>Title of document</b>	<b>Location</b>
Appendix A - Planning Application 16/00649/FUL assessment report.	
Appendix B - Survey plan prepared by McAndrew Martin dated 10th June 2016.	

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194-196 FRATTON ROAD PORTSMOUTH PO1 5HD

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

**Application Submitted By:**

Mr G Stubbings

**On behalf of:**

VK Deptford Broadway Ltd  
FAO Mr K Dastidar

**RDD:** 21st April 2016

**LDD:** 1st July 2016

**SUMMARY OF MAIN ISSUES**

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

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

**The Site and Surroundings**

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

**Proposal**

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

**Planning History**

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

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

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

## **POLICY CONTEXT**

The relevant policies within would include:

( ),

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

## **CONSULTATIONS**

### **Highways Engineer**

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

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

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

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

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

Reason: To encourage the use of sustainable travel.

## **REPRESENTATIONS**

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

## **COMMENT**

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

### **Procedural Issues**

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

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

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

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

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

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

#### Principle

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

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

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

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

#### Amenity

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

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

### Car Parking

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

### Cycle Parking

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

### Bin Storage

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

### Impact on SPAs

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

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

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

### Design



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

#### Amenity

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

## **RECOMMENDATION            Refuse**

### **Conditions**

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

- 1) The proposed change of use from dwellinghouse (C3) to a 10 bedroom house in multiple occupation (sui generis) would fail to support a mixed and balanced community. The proposal is therefore contrary to Policy PCS20 of the Portsmouth Plan and the Houses in Multiple Occupation Supplementary Planning Document.
- 2) In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent Special Protection Areas and so its contrary to PCS13 of the Portsmouth Plan and to the Conservation of Habitats and Special Regulations (as amended).
- 3) 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.

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# Agenda Item 8

## **PLANNING COMMITTEE 17 AUGUST 2016**

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

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

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

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

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

#### **REPORTING OF CONSULTATIONS**

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

#### **APPLICATION DATES**

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

#### **HUMAN RIGHTS ACT**

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

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

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**51 HUDSON ROAD SOUTHSEA PO5 1HB****CHANGE OF USE FROM HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO HOUSE IN MULTIPLE OCCUPATION FOR UPTO 7 PEOPLE (SUI GENERIS)****Application Submitted By:**

Thorns Young Ltd  
FAO Mr Sam Appleton

**On behalf of:**

OMPD Ltd  
FAO Mr James Oliver

**RDD:** 5th May 2016**LDD:** 5th July 2016**SUMMARY OF MAIN ISSUES**

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

*The Site*

The application relates to a two-storey mid-terraced property located to the northern side of Hudson Road just to the west of its junction with St. Andrews Road. The property fronts directly onto the back edge of the pavement and comprises a kitchen/lounge, bedroom, bathroom and a toilet at ground floor, three bedrooms and a shower room at first floor level and three bedrooms within an extended loft space. The surrounding area is characterised by densely populated residential terraces.

*Proposal*

This application seeks planning permission to use the property as a 7 person house in multiple occupation (Sui Generis). The property currently has a lawful use as a Class C4 House in Multiple Occupation. Recent extensions at ground and roof level have been completed using the provisions of the Town and Country (General Permitted Development) (England) Order 2015 (as amended).

*Relevant Planning History*

There is no planning history for this site.

**POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

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

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

Supplementary Planning Document and the Parking Standards SPD would also be material to this application.

## **CONSULTATIONS**

None

## **REPRESENTATIONS**

At the time of writing, one letter of representation has been received from a local resident objecting on the grounds of: a) The Victorian properties were not designed for occupation by 7 or more who will be "transient and make little contribution to the community or supporting of local amenities"; (b) Too many students living within the area; and (c) The proposal is outside of Portsmouth City Council Guidelines regarding HMO density.

The application is referred to the Planning Committee as a result of a deputation request within the representation above.

## **COMMENT**

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

### *Principle of the use*

Planning permission is sought for the use of the property as a seven bedroom, seven person Sui Generis House in Multiple Occupation. The applicant has provided evidence and a Statutory Declaration from the previous owner of the property to demonstrate that the property was in use as a Class C4 HMO prior to the 1st November 2011 and has continued to be used as such until present. In combination with records held by the City Council, it is considered that, on the balance of probabilities, the property has a lawful use as a Class C4 HMO.

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

### *Impact on residential amenity*

The proposal involves the use of a ground floor extension and a loft extension to form additional bedrooms with communal facilities within a kitchen/lounge at the front of the property at ground floor level. Whilst the accommodation of additional occupants would lead to a more intensive occupation of property that could result in the transmission of noise and disturbance to the adjoining occupiers, regard must be made to the lawful use of the property that could allow its occupation by up to six unrelated persons or by a family of an unrestricted size (by implementing its permitted development rights).

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



very similar issues at a property at 74 Telephone Road (APP/Z1775/A/12/2177629) stated that "the comings and goings, internal activity and resultant noise associated with one more person are not significant compared to the impact of the six that could reside in the property anyway". However, the Inspector did recognise that "if there were more than seven residents this would, of necessity, involve either the sharing of bedrooms or a significant reduction in the extent of the communal space to create additional bedrooms". The Inspector determined that "in these circumstances such a use would have an appreciably greater potential for resulting in undue noise and disturbance". As a result the Inspector imposed a condition limiting the number of residents to no more than seven "to protect living conditions".

The National Planning Policy Framework/Guidance advises that planning conditions should only be imposed where they would meet all of the following six tests: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects. Conditions limiting the number of persons who could occupy a property would be "unsatisfactory in enforcement terms since it would be difficult to monitor and require an intolerable degree of supervision". It is clear from the guidance that the condition imposed by the Inspector is not appropriate and fails the test of enforceability. Accordingly it is considered inappropriate for a similar condition to be imposed in this case. The applicant has however, confirmed that the property would only be occupied as a seven bedroom seven person HMO.

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

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

The application site does not benefit from any off-street parking and none is proposed as part of this application (the constraints of the site are such that none can be provided). However, given the current lawful use of the property, the view of the planning Inspector detailed above and the sites proximity to local shops, services and transport facilities, it is considered that an objection on car parking standards could not be sustained. It is also noted that a Residents' Parking Scheme operates in this area which would restrict the number of parked vehicles that could be associated with this property. In previous applications, it has been considered that as a property already benefits from a lawful use as a HMO it would not be reasonable to impose conditions requiring the provision of cycle or refuse storage facilities.

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

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

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

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

**RECOMMENDATION A:** That delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £176 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

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

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
2. Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan and PG.1009.16.SUI Rev-A.

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

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

### **PRO-ACTIVITY STATEMENT**

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

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**8 FEARON ROAD PORTSMOUTH PO2 0NJ****CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE)****Application Submitted By:**

Mr Colin Sarling

**On behalf of:**

Mr Colin Sarling

**RDD:** 14th June 2016**LDD:** 12th August 2016**SUMMARY OF MAIN ISSUES**

This application is being considered by the Planning Committee at the request of Councillor Harris.

*Summary of main issues*

The determining issue for this application is whether the principle of the development is acceptable given the existing number of HMOs in the area. The material consideration is whether the living conditions of nearby and adjoining residents would be adversely affected by the proposal, and whether any potential harm can be controlled by way of conditions.

*Site and Surroundings*

This application relates to a terraced property which is located on the eastern side of Fearon Road to the north of where the road adjoins with Stubbington Avenue. The surrounding area is characterised similar terraced properties. The ground floor comprises of a kitchen/diner, a bedroom with an ensuite and a conservatory. The first floor comprises of three bedrooms, an ensuite bathroom and another bathroom.

*Proposal*

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

*Planning History*

There is no relevant planning history for this application.

## **POLICY CONTEXT**

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

## **CONSULTATIONS**

None

## **REPRESENTATIONS**

26 letters of objection from local residents have been received. Their concerns are as follows: 1) family area, not suitable for HMO 2) parking 3) noise

## **COMMENT**

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

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

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

Of the 63 properties located within a 50m radius of this property, one property is classed in C4 HMO use. However, after further investigation it was confirmed that another property is also in use as a C4 HMO These properties are:

- 1) 84 Balfour Road
- 2) 88 Balfour Road

The local residents had concerns that a number of other properties in the 50 metre radius were in use as C4 HMOs. These properties were: 96 Balfour Road and 94 Balfour Road. However, after checking council tax records and after visiting the properties, it was confirmed that the properties are currently in use as C3 dwelling houses and are not in use as C4 HMOs.

The HMO SPD states that an application would be imbalanced where more than 10% of residential properties within the area surrounding the application are already in HMO. As the granting of planning permission would increase the proportion of HMOs to three (4.76%) it is considered that the community is not already imbalanced by the concentration of HMO uses and that this application would not result in an imbalance of such uses.

With regards to the impact of the proposed use upon the living conditions of adjoining occupiers, the level of activity associated with the use of any individual property as a Class C4 HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. The Houses in Multiple Occupation SPD is supported by an assessment of the supply, demand and community impacts of shared housing in Portsmouth. Paragraphs 9.1-9.10 discuss the negative impacts

upon local communities resulting from concentrations of Class C4 HMO uses. However, given that there is only one other HMO within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful at this particular point in time seeing that there would only be two HMOs in the 50 metre radius.

The application site does not benefit from any off-street parking and there is no parking proposed as part of this application. However, given that the level of occupation associated with a HMO it is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on parking grounds could not be sustained. There is no indication of the provision of cycle storage facilities on the submitted drawings. However, it is considered that there is sufficient space within the rear garden for such facilities to be provided. These can be required by a suitably worded planning condition. The storage for refuse and recyclable materials would remain unchanged.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
2. Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: SITE LOCATION PLAN, BLOCK PLAN, CYCLE STORAGE PLAN, GROUND FLOOR PLAN, FIRST FLOOR PLAN, SECOND FLOOR PLAN.
3. Prior to the first occupation of the property as a House in Multiple Occupation within Class C4, secure and weatherproof bicycle storage facilities shall be provided in accordance with a detailed scheme (to include materials, size, appearance and security) to be submitted to and approved in writing by the Local Planning Authority, The facilities thereafter shall be retained.

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

1. To comply with Section 91 of the Town and Country Planning Act 1990.
2. To ensure the development is implemented in accordance with the permission granted.
3. To ensure appropriate provision is made for cyclists to promote and encourage alternative and sustainable modes of transport to the private car, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

### **PRO-ACTIVITY STATEMENT**

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

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

New Era Agency Ltd  
FAO Mr Chris Broyd

**On behalf of:**

Mr David Manchester

**RDD:** 23rd June 2016

**LDD:** 19th August 2016

**SUMMARY OF MAIN ISSUES**

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

This application has been brought to committee due to local residents deputations.

*The Proposal*

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

*The Site*

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

*Relevant Planning History*

There is no relevant planning history for this site.

**POLICY CONTEXT**

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk), PCS17 (Transport), PCS20 (Houses in Multiple Occupation) and PCS23 (Design and Conservation).

**CONSULTATIONS****Private Sector Housing**

None

## **REPRESENTATIONS**

Six representations have been received objecting on the grounds of: (a) Occupiers of HMOs do not take pride in the area and lack of respect for existing occupiers; (b) Lack of maintenance of property and grounds; (c) Increase in rubbish, fly tipping and littering; (d) Anti-social behaviour activities including issues with physical security, noise, disturbance and risk of theft; (e) Loss of family character of area and high transition of people in property; (f) The type of people using HMOs are unsuitable and it would result in the loss of one family dwellinghouse; (g) Increased parking problems on already congested roads and the site is not highly accessible to public transport; (h) Local garages in area are used for storage not parking of vehicles exacerbating parking problems; (i) Increased overlooking; and, (j) Lack of public consultation.

A petition of 19 signatures has also been received.

Other matters raised relate to the loss of property value which is not a material consideration in the determination of this application.

## **COMMENT**

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

This change of use is not considered to increase the risk of flooding.

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

Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance. The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (SPD) sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO use. In identifying the area surrounding the application property, 1 of the 55 properties within a 50 metre radius were known to be in Class C4 use. The number of HMOs as a percentage is therefore 1.82%, rising to 3.64% if permission was granted, under the 10% threshold set out within the HMO SPD.

Whilst this is the best available data to the Local Planning Authority (LPA) and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA. No additional properties have been brought to the attention of the LPA for further investigation.

In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3) which involves occupation by a single family, or other groups living as a single household, would be unlikely to be significantly different than the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation. The HMO SPD is however, supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities.

Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations.

There is no off-road parking available at this site and the constraints of the site are such that none can be provided. The site is also not within an area that is highly accessible to public transport, although the nearest bus routes of Twyford Avenue are only some 0.48km away. Access to North End District Centre, the associated shops and services and a high frequency bus route is considered to be within a short walk at some 0.96km away. In this case the site benefits from an enclosed rear garden and it is considered that there is a necessity for alternative and sustainable means of transport to be available for the future occupiers. An appropriately worded planning condition requiring secure and weatherproof bicycle facilities whilst the property is occupied as a HMO is therefore considered to be required prior to its occupation as such.

There is no indication of the proposed method of storage for refuse and recyclable materials which could be addressed by way of a planning condition. Even still, an objection of waste grounds would not form a sustainable reason for refusal.

### *Conclusion*

This proposed change of use is considered to comply with the requirements of the Portsmouth Plan in all respects.

## **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, Ground Floor Plan and First Floor Plan.
3. Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 3 long-stay bicycles and 2 short-stay bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.
4. Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof refuse storage facilities, including two 80 litre bins for rubbish, shall be provided at the site and shall thereafter be retained for the secure storage of refuse at all times.

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

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



## PRO-ACTIVITY STATEMENT

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

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**231 Highbury Grove Cosham Portsmouth PO6 2RN****CONSTRUCTION OF EXTENSION ONTO EXISTING SINGLE STOREY REAR EXTENSION****Application Submitted By:**

Portsmouth City Council  
FAO Mr Robert Woods

**On behalf of:**

Portsmouth City Council  
FAO Mr Robert Woods

**RDD:** 8th June 2016**LDD:** 11th August 2016**SUMMARY OF MAIN ISSUES**

This application is referred to the Planning Committee due to deputation request from a local resident.

*Summary of main issues*

The determining issues in this application are the design of the proposal and whether it relates appropriately to the recipient building and the wider street scene. Also whether the proposal would cause a significant impact on the amenity of the neighbouring occupiers.

*Site and Surroundings*

This application relates to a terraced property which is located on the north eastern side of Highbury Grove in between the junctions with Wembley Grove and Dovercourt Road. The surrounding area is characterised by similar residential terraced properties.

*Proposal*

The applicant seeks permission for the construction of an extension onto the existing single storey rear extension for a shower room. The proposed extension is flat roofed and is accessed internally via a new doorway from the kitchen. The proposal also includes a pair of doors from the dining room which open onto a level platform which has three steps leading to the rear yard.

*Planning History*

There is no relevant planning history for this site.

**POLICY CONTEXT**

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

**CONSULTATIONS**

None

## REPRESENTATIONS

23 letters of support having been received from local residents. In summary, the comments of support state that the proposed extension is essential for the occupiers of No 231 as it will provide a shower room for their disabled child.

One letter of objection has been received from neighbouring occupiers. Their main concern is the level of information communicated to them from the agent have not discussed the proposed works with the objectors. They have a number of queries including what type of materials will be used in construction? Who will be carrying out the construction of the building? Also will the construction of the rear extension have an impact on the objector's single storey rear extension. These issues have not been answered and the objectors have concerns that the proposal could potentially have a significant impact on their property.

## COMMENT

The proposal is to construct an extension onto the existing single storey rear extension. This would contain a shower room that will be accessed internally via a new doorway from the kitchen. The proposal also includes the construction of a raised platform within the rear garden. This will be constructed of timber. The property has an existing extension that has a lean-to roof with a length of 6m and a height of 4m. The proposed extension involves demolishing part of the existing extension and replacing part of the extension with a flat roof creating the shower room. The extension would therefore have a total length of 7m and the same width as the existing which would be 3metres. Whilst the maximum height of the lean-to element would remain the same, the maximum height of flat roof would be 3.2 metres. The extension would occupy a shower room, therefore there would be a small obscure glazed window located on the rear elevation. The extension would be constructed of brick work to match the existing property.

The proposal would normally be within permitted development due to its siting and height. However, the extension extends further than 3 metres from the rear wall of the existing dwellinghouse. Whilst the extension projects a further metre from the rear wall of the existing extension, this is not part of the original dwellinghouse. Therefore the extension projects a total of 7m from the rear of the existing dwellinghouse. Also the proposal includes the construction of a raised platform that will be accessed from the dining room. The raised platform would have a height of 0.5m above the ground level.

### *Impact on neighbours*

The proposed extension would project a further metre in length than the existing extension and it would have a relatively low height of 3.2 metres. Therefore it is considered that the extension would not have any significant impact in terms of loss of light, overshadowing or an increased sense of enclosure to the adjoining property to east No 233. The extension would be constructed on the eastern boundary of the property, therefore due to the 5m distance between the proposal and No 233, it is not considered that the proposal would cause a significant impact on the neighbouring occupiers of 229 to the west . The proposed platform would have a maximum height of 0.5 metres from the ground level. It is therefore considered that this height would not have a significant impact on the amenity of the neighbouring occupiers in terms of overlooking or loss of privacy. The proposal would therefore be acceptable and in accordance with PCS23 of the Portsmouth Plan.

## **RECOMMENDATION**

## **Conditional Permission**

### **Conditions**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
2. Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: SITE LOCATION PLAN-16/6/16 and BLOCK PLAN- 16/6/16 and PROPOSED ELEVATIONS- 16/6/16 and SECTION- 16/6/16 and FLOORPLANS-16/6/16.

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

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

### **PRO-ACTIVITY STATEMENT**

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

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**SITE OF FORMER SAVOY COURT & SAVOY BUILDINGS SOUTH PARADE SOUTHSEA  
PO4 0SR****CONSTRUCTION OF REPLACEMENT BOUNDARY WALL TO REAR OF NUMBERS 20-34  
ALHAMBRA ROAD****Application Submitted By:**

The Planning Bureau Ltd  
FAO Mr Matthew Shellum

**On behalf of:**

McCarthy & Stone Retirement Lifestyles Ltd.  
FAO McCarthy & S

**RDD:** 25th May 2016

**LDD:** 4th August 2016

**SUMMARY OF MAIN ISSUES**

The key issues in this application are whether the proposal is acceptable in design and heritage terms and whether the proposed use would have an acceptable relationship with surrounding development protecting the residential amenity of future and nearby occupiers.

This application has been referred to the Planning Committee following a deputation request by the owner of a neighbouring property.

*The site and surroundings*

The wider application site covers just under ½ hectare and is bounded by roads on 3 sides. It is located in a prominent seafront location at a pinch point where buildings are closest to the beach, positioned opposite and within the setting of the Grade II listed South Parade Pier. To the west, at Nos 38-42 South Parade, is a part 3/4-storey Grade II listed building. The site lies within the 'East Southsea' Conservation Area and adjoins 'The Sea Front' Conservation Area.

*Proposal*

This application seeks planning permission for the construction of a replacement boundary wall to the rear of numbers 20 - 34 (evens) Alhambra Road. The wall would measure a maximum of 4.1 metres when measured from Alhambra Road with the lower half of the wall being a retaining structure for the former Savoy site where ground level is approximately two metres above that in Alhambra Road. The proposed wall would measure two metres in height when viewed from within the Savoy site. A previous boundary wall which was the same size as that proposed was removed on safety grounds earlier this year.

*Relevant planning history*

The site is currently being developed pursuant to a permission granted on appeal in June 2015 for a mixed use development comprising a part seven, part five storey building to provide 31 Retirement Living flats (C3), 66 Assisted Living (Extra Care) flats (C2), a ground floor retail unit (A1) and associated surface car parking spaces and landscaping.

## **POLICY CONTEXT**

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

Paragraphs 126 to 141 of the National Planning Policy Framework are also relevant to this application.

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

## **CONSULTATIONS**

None

## **REPRESENTATIONS**

One objection has been received from the owner of an adjacent property in Alhambra Road on the grounds the wall is not owner by the applicant but by the adjacent property owner.

## **COMMENT**

The proposed wall would be the same height as that which formerly existed as the boundary between the Savoy site and the rear gardens of properties in Alhambra Road. The wall would be finished in a red brick chosen to replicate the finish of most of the previous wall.

### *Amenity*

In amenity terms it is considered that the proposed replacement wall would have no greater impact on the living conditions of the occupiers of properties in Alhambra Road than the previous wall.

### *Design & Heritage*

The proposed red brick (Hathaway Brindeled) would provide an appropriate and acceptable visual appearance that would preserve the character and appearance of the East Southsea Conservation Area. Due to its location the proposal would not affect the setting of neighbouring listed buildings.

### *Other Matters*

The applicant has confirmed that the wall and the land on which it is located is within their ownership. The applicant has been in dialogue with the owners and occupiers of the neighbouring properties in regard to access to enable the construction of the replacement wall.

### *Conclusions*

The proposal is considered acceptable in amenity, heritage and design grounds terms and is capable of support.

## RECOMMENDATION

## Conditional Permission

### Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
2. Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 162.S.01 Rev.A; and SE-1975-05-LA-408 Rev.C.
3. The replacement wall hereby permitted shall be finished using a Hathaway Brindled brick by Wienberger laid in a stretcher bond or any alternative brick or bond pattern that may be agreed 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 the interests of the residential amenities of the occupiers of existing and future residents and to preserve the character and appearance of the Conservation Area in accordance with Policy PCS23 of the Portsmouth Plan.

### PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the pre-application process to achieve an acceptable proposal without the need for further engagement.

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**116 - 118 CLARENDON ROAD SOUTHSEA PO4 0SE****CHANGE OF USE FROM HOTEL (CLASS C1) TO 25 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS) WITH ASSOCIATED CYCLE AND REFUSE STORAGE****Application Submitted By:**

PLC Architects

FAO Mr Rick Carter &amp; Mr Tristan Holt

**On behalf of:**

JDI Developments Ltd

**RDD:** 6th June 2016**LDD:** 9th August 2016**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the principle of development is acceptable, whether the proposal would have any effect on the character and appearance of the Conservation Area or the amenities of the occupiers of neighbouring properties. Other issues to consider relate to flooding, the parking/highway implications of the proposal and SPA mitigation.

This application has been referred to the Planning Committee at the request of Ward Councillor Winnington.

*The Site*

The site is located on the western side of Clarendon Road, 100 metres north of its junction with South Parade and is within an area characterised by three and four-storey terraced buildings comprising flats, houses and tourist accommodation. The property, formerly known as 'The Anstey Hotel' is a three-storey building, with further accommodation at basement level and within the roof space. The site is located within the East Southsea Conservation Area.

*Proposal*

This application seeks planning permission for the change of use of the site from a hotel (within Class C1) to 25 bedroom house in multiple occupation (a sui generis use) together with associated alterations to provide cycle and refuse storage facilities.

*Planning History*

The relevant parts of the planning history of the site are firstly planning permission granted in June 2011 for the use of the property as a hotel/guest house within Class C1. This represents the current and lawful use of the property. Prior to its current use the property benefited from a Certificate of Lawfulness granted in February 2009 for the existing use of the site as a hostel providing accommodation for the homeless.



## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation).

The National Planning Policy Framework and the Houses in Multiple Occupation and Solent Special Protection Areas SPDs are all relevant to the proposed development.

## **CONSULTATIONS**

### **Coastal Partnership**

Many thanks for your consultation on the above planning application. I can confirm that the Eastern Solent Coastal Partnership has no objection to the proposed development. Although the finished floor level for sleeping accommodation is below the 2115 1 in 200 year flood level for Portsmouth Harbour, all occupants of the property would have internal access to safe refuge at higher levels during a flood event.

As a like-for-like development, no extra people are being put at risk.

Advice

We would encourage the applicant to consider flood resistance and resilience measures to reduce the cost of damages, should an extreme flood event occur. Information on these can be found on the following web pages:

Resilience - [http://www.escp.org.uk/sites/default/files/documents/esdp%20-%20flood%20resilient%20homes\\_1.pdf](http://www.escp.org.uk/sites/default/files/documents/esdp%20-%20flood%20resilient%20homes_1.pdf)

Resistance - [http://www.escp.org.uk/sites/default/files/documents/esdp%20-%20flood%20resistant%20homes\\_1.pdf](http://www.escp.org.uk/sites/default/files/documents/esdp%20-%20flood%20resistant%20homes_1.pdf)

It is recommended that a Flood Evacuation Plan is produced.

### **Highways Engineer**

Clarendon Road runs east / west and is in close proximity to the seafront and is in the KC Residents Parking Zone (RPZ). This allows 3 hours free parking and no return within 4 hours for non-permit holders. While it is in the KC RPZ there are very few parking spaces on the western side of Clarendon road with the whole of the opposite side of subject to double yellow lines. The building is within 400 metres of a high frequency bus corridor but not considered to be in an highly sustainable area.

The existing use as a hotel with 26 rooms would have had hotel guests visiting the site

### *Parking*

To be compliant with the Parking Standards SPD (July 2014) an HMO of this size should provide the following 2 car parking spaces and 4 cycle parking spaces.

### *Car parking*

The application as it stands is not compliant with the Parking Standards as it has not provided the expected number of car parking spaces and no justification has been given for the under-provision. Having said that I am satisfied that the established lawful use as a hotel would be likely to generate a higher vehicle parking requirement than the proposed use and in that respect this development may generate a net reduction in the parking requirement.

### *Cycle parking*

The application form states that 25 cycle parking spaces are to be provided, with drawing 162150103 P2 showing them in the basement area. These are in a communal space and are in the form of vertical racks which are not considered suitable as they are often too close to be practically useable and it is difficult for some people to lift their bikes into the racks. Where cycle storage is to be shared by a number of people in a communal area it should be provided in the form of individual lockers (see Parking Standards SPD (July 2014) as communal storage, which is used by many residents can be much less secure. Access to basement storage could be

problematic but I note that there is a platform lift which can be used to transport bikes to the basement. A cycle 'runner'/channel on the stairs must be provided to offer an alternative to the platform lift which will be useful for times when the lift breaks down.

While the over provision of cycle racks is welcomed, as it results in one cycle space per room and compensates for the lack of car parking, it is not considered acceptable. Therefore the applicant must provide details of alternative quality cycle storage that complies with the Parking Standards. This could be in the form of Sheffield stands that are more suitably spaced, individual lockers or two-tier cycle parking if there is enough head height.

#### *Refuse*

It is proposed that refuse in the form of 3 x 1100 litre bins is to be provided at basement level, with access via a platform lift from the street and internal access into the area for residents. Drawing 162150103 P2 shows a double door where there is currently a single door which would appear over-optimistic in this location with the restricted width available. It is not certain that doorway will be wide enough to enable a euro bin to be pushed through with space on either side for the bin operative to move it safely and there are also concerns about the lift breaking down which would result in refuse not being collected.

As the application stands I must recommend refusal as the proposed cycle parking is not compliant with Parking Standards as it is not acceptable and does not provide individual storage lockers within the communal area.

#### *Supplementary response following receipt of amended plans*

The amended drawing shows a new hardstanding area at ground level with the platform lift offering access to the waste storage area and which could be potentially used by the bikes.

*Parking* - To be compliant with the Parking Standards SPD (July 2014) an HMO of this size should provide the following 2 car parking spaces and 4 cycle parking spaces.

*Cycle parking* - The previous plan 162150103 P2 showed 25 cycle parking spaces provided in the basement area. These were in communal space and in the form of vertical racks which are not considered suitable.

The revised drawing now shows 5 suitably spaced sheffield stands with room for manoeuvre and access down to basement provided in the form of a cycle 'runner' or channel on the stairs as alternative to the platform lift which will be useful for times when the lift is not working.

The applicant has now provided storage space for 10 cycles, which means that it is compliant with Parking Standards.

As the application stands I am now able to recommend approval subject to the following condition:-

Prior to first occupation secure and weatherproof cycle parking and the 'runner' on the steps as shown on drawing 6.2150.103 Rev P3 to be provided and retained thereafter.

#### **Contaminated Land Team**

On the understanding that no ground works are proposed as part of the change of use, a condition relating the land contamination is not required.

#### **Environmental Health**

The lounge and the kitchen facilities are expected to be shared by the 25 occupants. The day to day living noise from the use of these facilities will be intensified beyond normal use because of the number of the occupants using them. Any increased activity is likely to cause a disturbance to the neighbouring properties and due to case law statutory nuisance legislation is not appropriate for dealing with complaints of this nature.

I can confirm that the change of use is unlikely to generate significant traffic movements in the area.

#### **Environment Agency**

We have no objections to the proposed development, subject to the inclusion of the following condition in any permission granted.

Without the inclusion of this condition we consider that the development poses an unacceptable risk to people from flooding.

#### Condition - Flood risk mitigation

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measure detailed within the FRA:

- No bedrooms in the basement area of the building

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

#### Reasons

To reduce the risk of flooding to the proposed development and future occupants.

The site is located within tidal Flood Zone 3, as defined by our Flood Map. There is therefore considered to be a high probability of flooding at the site (at least 0.5% in any given year).

The Flood Zone 3 extent does not take into account the presence of defences. The proposed improvements to defences in this area will reduce the likelihood of flooding over the development's lifetime.

However, a residual risk of flooding will remain. The current day 0.5% AEP (annual exceedance probability) tide level is given as 3.1mAOD, rising to 4.3mAOD by the year 2115. The latter figure takes into account the effects of climate change and sea level rise on tidal flood risk.

Paragraph 100 of the National Planning Policy Framework (NPPF) states that development in areas of flood risk should be made safe without increasing flood risk elsewhere.

The existing and proposed uses of the building are both categorised as 'more vulnerable' within table 2, part 25 of the national Planning Practice Guidance (PPG): Flood Risk and Coastal Change.

Tables 2 and 3, part 25 of the PPG: Flood Risk and Coastal Change make clear that basement units should not be permitted in Flood Zone 3. Therefore the internal arrangement of the proposed HMO must not change so that sleeping accommodation is provided within the basement.

#### Advice to LPA and developer - Flood resilience

The information submitted with the application, and the condition recommended in this letter, should ensure bedrooms continue to be set at the upper ground floor level (3.7mAOD) and above.

However, based on the 0.5% AEP, including the impacts of climate change, tide level of 4.3mAOD, it is possible that the upper ground floor, and especially the basement communal areas, will be at risk of flooding within the lifetime of the development.

We therefore recommend that a Flood Warning and Evacuation plan is developed for the HMO and where possible flood resilience measures are introduced into the building.

Consultation with your building control department is recommending when determining if flood proofing measures are effective.

#### **Waste Management Service**

Confirm proposed refuse storage arrangements are considered acceptable and advise proposed lift would not be used by collection operatives.

## REPRESENTATIONS

Objections have been received from seven nearby properties and from Ward Councillor Winnington on the following grounds:

- inadequate parking exacerbating existing issues;
- potential loss of on-street parking;
- cumulative impact with other ongoing developments in close proximity;
- increased noise and disturbance;
- potential for increased crime and anti-social behaviour;
- increase rubbish and adverse visual impact;
- need for on-site management
- proposal out of character with area harmful to established community of area;
- need for hotels in city.

## COMMENT

The main issues to be considered in the determination of this application are whether the principle of development is acceptable, whether the proposal would have any effect on the character and appearance of the Conservation Area or the amenities of the occupiers of neighbouring properties. Other issues to consider relate to flooding, the parking/highway implications of the proposal and SPA mitigation.

### *Principle of development*

The proposed change of use would result in the loss of a hotel. Whilst there is a need for hotels and similar facilities to serve the visitor economy, there is no policy presumption against the loss of existing facilities. As such it is not considered that the loss of a hotel could be a reason to resist the proposal.

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

In identifying the area surrounding the application property, 14 of the 114 residential properties within a 50 metre radius of the site were initially identified as being in use as HMOs. This was based on records held within the City Council's HMO 'database' which is made up of records of properties with planning permission for Class C4 use, sui generis HMO use and mixed C3/C4 use, records of Class C4 HMOs submitted to the council by property owners, HMOs that have been issued a licence by the council and council tax records. Whilst this is the best available data to the Local Planning Authority and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.

Following a review of the properties initially identified as HMOs within the 50 metre radius further investigation was carried out in respect to a number of the properties initially identified as potential HMOs. In light of these investigations, the 'count' data has been modified and the current proportion of HMOs in area is considered to be 5% (6/114), rising to 6% (7/114) if permission was granted. On the basis that the granting of planning permission would increase the proportion of HMOs to less than 10%, it is considered that the community is not already imbalanced by a concentration of HMO uses and this application would not result in an imbalance of such uses. The proposal is therefore, considered to be acceptable in principle.

### *Impact on Heritage Assets*

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

Whilst the site is located close to a number of listed buildings, it is considered that the proposal, due to its nature, would not have any effect on the setting of these designated heritage assets.

The application site is located within the East Southsea Conservation Area. This part of the Conservation Area is characterised by three and four-storey terraced buildings that are predominantly in use as flats and houses. Having regard to the activity that could be associated with the lawful use of the building as a hotel/guest house, it is considered that the activity associated with the proposed use would not be so different as to cause harm to the prevailing character and appearance of the Conservation Area.

### *Impact on Residential Amenity*

When considering the impact of a proposal, regard must be had to any activity which could be associated with any existing or lawful use of a site. In this case the lawful use of the site as a 26 bedroom hotel would result in a certain level of activity associated with comings and goings by residents and staff. The proposal would not result in any major alterations to the internal layout of the building or the means of access to it which would limit the potential for any increase or change in external activity associated with the proposed use. The proposal would not change the number of bedrooms within the site and would be unlikely to increase the overall level of occupation of the site. The proposed use of the property as a 25 bedroom HMO is therefore considered to be unlikely to result in a significantly greater level of activity, noise or disturbance that would be likely to have a detrimental effect on the residential amenities of the occupiers of neighbouring properties.

### *Car Parking and Cycle Storage*

The site does not benefit from any off-street parking and is in an area where opportunities for on-street parking are limited and the subject of restrictions (residents parking zone with 3 hours free parking and no return within 4 hours for non-permit holders). The Parking Standards SPD sets out that a sui generis HMO should be served by two off-street spaces. It is considered that the lawful use of the site as a hotel would be likely to result in demand for more than two vehicles. As such it is considered that lack of parking could not be a sustainable reason for refusal.

The proposal includes the provision of secure cycle storage within the semi-basement of the building. Whilst the comments of the highway authority are noted, it is considered that this area is capable of providing suitable facilities in an appropriate manner and can be secured through the imposition of a suitably worded planning condition.

### *Flooding*

The site is located in Flood Zone 3 with this application being accompanied by a Flood Risk Assessment. The FRA has been reviewed by the Environment Agency and East Solent Coastal Partnership who both agree its content and recommendation that no bedroom accommodation be provided at basement level. Subject to this being secured by the imposition of a suitably worded planning condition it is considered that the proposed change of use would not result in any increased risk to life or property and is therefore acceptable in flood risk terms.

## *SPA Mitigation*

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

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

Therefore, based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £704 (4 x £176). The applicant has provided such a level of mitigation through an agreement under S111 of the Local Government Act. The mitigation which has been provided is considered sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur.

## *Other Matters*

During the lifetime of the application amendments have been received relating to facilities for the storage of refuse and recyclable materials. The proposed storage would be located in the basement and accessed via platform lift in a manner that is acceptable to the Waste Team. The applicant has acknowledged that the bins will need to be brought to street level on collection day. As the proposed waste storage would utilise 1100 litre bins, a dropped kerb would be required to facilitate their transfer to the collection vehicle. Whilst the frontage of the site is used for on-street parking, an offset of two metres would allow a dropped kerb to be provided in an area of carriage way not used for parking and the subject of double yellow lines.

## **Conclusion**

Having regard to relevant policies, material considerations and representations received, for the reasons set out in the foregoing assessment of the proposal it is recommended that conditional planning permission be granted.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
2. Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 16.2150.106 Rev. P1; 16.2150.103 Rev. P3; 16.2150.104 Rev. P2; 16.2150.105 Rev. P2.

3. The use hereby permitted shall only be carried out in accordance with the measures set out in the submitted Flood Risk Assessment such that no bedroom or sleeping accommodation shall be provided at any time within the basement area.
4. a) Unless otherwise agreed in writing with the Local Planning Authority, the site shall not be brought into use as a Flood Warning and Evacuation Plan has been submitted to and approved in writing by the Local Planning Authority.  
b) The property shall therefore to be operated in accordance with the provisions of the approved Flood Warning and Evacuation Plan.
5. The use hereby permitted shall not commence until the cycle storage facilities shown on Drawing no. 16.2150.103 Rev. P3 (or any such alternative facilities as may be agreed in writing by the Local Planning Authority) have been provided. The facilities shall thereafter be retained.
6. The use hereby permitted shall not commence until the facilities for the storage and collection of refuse and recyclable materials shown on Drawing no. 16.2150.103 Rev. P3 have been provided in accordance with a detailed scheme (to include levels and finishes within the site) that shall have been submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be retained.

**The reasons for the conditions are:**

1. To comply with Section 91 of the Town and Country Planning Act 1990.
2. To ensure the development is implemented in accordance with the permission granted.
3. To reduce the risk of flooding to the proposed development and to future occupiers in accordance with policy PCS12 of the Portsmouth Plan.
4. To reduce the risk of flooding to the proposed development and to future occupiers in accordance with policy PCS12 of the Portsmouth Plan.
5. To ensure that provision is made to encourage the use of healthy and more sustainable modes of transport in accordance with policy PCS23 of the Portsmouth Plan.
6. To ensure suitable facilities are provided for the storage and collection of refuse and recyclable facilities in the interests of visual and residential amenity in accordance with policy PCS23 of the Portsmouth Plan.

**PRO-ACTIVITY STATEMENT**

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

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LAND AT THE REAR OF 244-248 SOUTHAMPTON ROAD PORTSMOUTH PO6 4QD

**CONSTRUCTION OF 10 SEMI-DETACHED AND TERRACED TWO AND TWO-AND-A-HALF STOREY DWELLINGS WITH ASSOCIATED PARKING AND LANDSCAPING (ACCESSED FROM NEELANDS GROVE)**

**Application Submitted By:**

M2 Architecture  
FAO Mr M Wilkes

**On behalf of:**

Willow Construction Services Ltd  
FAO Mr S Edge

**RDD:** 5th May 2016

**LDD:** 12th October 2016

**SUMMARY OF MAIN ISSUES**

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

*The Site*

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

*The Proposal*

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

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

*Planning History*

There is no relevant planning history for this site.



## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS10 (Housing Delivery), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), PCS21 (Housing Density), PCS23 (Design and Conservation)

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

### *National Planning Policy Framework*

At the heart of the NPPF is a presumption in favour of sustainable development, for decision making this means approving development proposals that accord with the development plan without delay. The following paragraphs within the NPPF are relevant to the proposal:

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

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

Design  
Flood Risk and Coastal Change  
Housing - Optional Technical Standards  
Land affected by contamination  
Natural Environment  
Noise  
Planning Obligations  
Travel plans, transport assessments and statements in decision-taking  
Use of Planning Conditions  
Water supply, wastewater and water quality

## **CONSULTATIONS**

### **Coastal & Drainage**

#### *Initial response*

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

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

buildings' design. Information on how to complete an FRA is available on the following website: <https://www.gov.uk/guidance/flood-risk-assessmentfor-planning-applications>.

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

Portchester to Paulsgrove Tidal Flood Defence Scheme

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

residential properties. This site will directly benefit from the scheme.

*Further response following amendments*

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

### **Network Rail**

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

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

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

*Future maintenance*

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

*Drainage*

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

#### *Plant & Materials*

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

#### *Scaffolding*

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

#### *Piling*

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

#### *Fencing*

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

#### *Lighting*

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

#### *Noise and Vibration*

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

#### *Landscaping*

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and

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

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

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

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

#### *Vehicle Incursion*

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

As the site is adjacent to Network Rails operational railway infrastructure, Network Rail strongly recommends the developer contacts [AssetProtectionAnglia@networkrail.co.uk](mailto:AssetProtectionAnglia@networkrail.co.uk) prior to any works commencing on site. Network Rail strongly recommends the developer agrees an Asset Protection Agreement with us to enable approval of detailed works. More information can also be obtained from our website at [www.networkrail.co.uk/asp/1538.aspx](http://www.networkrail.co.uk/asp/1538.aspx).

#### **Natural England**

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

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

Wildlife and Countryside Act 1981 (as amended)

Internationally and nationally designated sites

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to Portsmouth Harbour Special Protection Area (SPA) which is a European site. The site is also listed as Portsmouth Harbour Ramsar site<sup>1</sup> and also notified at a national level as Portsmouth Harbour Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

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

Portsmouth Harbour SPA and Ramsar Site: No objection

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

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

- \* the proposal is not necessary for the management of the European site

- \* that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment

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

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

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

SSSI No objection - no conditions requested

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

Protected Species

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

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

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

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

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

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

## **Ecology**

### *Initial response*

I would raise a concern that the application site may have significantly altered since the Ecological Appraisal was conducted. The ecological survey (12th March 2016) appears to have assessed the site prior to clearance, which was carried out prior to the images included in the Design and Access Statement (Bryan Jezeph Consultancy Ltd, April 2016) being taken.

It would therefore appear that the recommendations of the Ecological Appraisal specifically for Phase 2 reptile surveys may no longer be valid. I would also draw the applicant's attention to the following statement in the submitted Ecological Appraisal:

- \* Without further surveys to show absence of protected species the proposed works have potential to result in the killing, harm and disturbance to nesting birds and reptiles. This could

result in an offence(s) being committed. Clarification is therefore required for existing site conditions and report recommendations updated as appropriate.

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

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

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

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

Thank you for consulting me on the additional updated information to support the application for the construction of 10 semi-detached and terraced two and two-and-a-half storey dwellings with associated parking and landscaping (accessed from Neelands Grove), comprising an August 2016 addendum to the updated Ecological Survey Report (David Leach Ecology Ltd. June 2016).

The addendum sets out the plans for the translocation of the slow worms found within the partially-cleared development site to two identified receptor sites in close proximity.

The summary, as I understand the proposals the reptile mitigation strategy is based on the following:

- PCC are the land owners and managers of the sites and the land managers have confirmed, both to you and the applicant, that they are supportive of the translocation;
- The sites themselves have previously been in more intensive agricultural use, but are now being managed for biodiversity enhancement with habitat creation suitable for reptiles. The translocation of the reptiles will be supportive of this process and unlikely to exceed the carrying capacity of the receptor site due to the lack of a significant existing reptile population;
- PCC land managers have confirmed to you that they intend to continue the management and preservation of the receptor site, which itself is not considered to be under threat of loss or development.

-The translocation procedure is proposed to be carried out in line with industry good practice.

On this basis, I would support the proposed translocation proposals.

I would suggest that the ecological recommendations provided could be secured by condition - possible wording may be:

- Development shall proceed in accordance with the reptile mitigation strategy detailed within section 5.2.1 of the Ecological Survey Report (David Leach Ecology Ltd. June 2016) and August 2016 Addendum (David Leach Ecology Ltd. August 2016) including translocation methods, habitat creation and the management in perpetuity of the receptor site. Reason: To maintain, protect and produce a net gain in biodiversity in accordance with Policy PCS13 of The Portsmouth Plan and the Natural Environment and Rural Communities Act 2006.

A number of sensible potential biodiversity enhancements for the development site are included in the Ecological Survey Report. Measures to maintain, protect and produce a net gain in biodiversity will be required in accordance with Policy PCS13 of The Portsmouth Plan, the Natural Environment and Rural Communities Act 2006 and National Planning Policy Framework and I would suggest that the recommendations of the Ecological Survey Report be secured through condition. Possible wording may be:

- Development shall provide biodiversity enhancements as described in Sections 5.3 of the Ecological Survey Report (David Leach Ecology Ltd. June 2016) and enhanced habitats shall be maintained and retained in accordance with any such approved details. Reason: To maintain, protect and produce a net gain in biodiversity in accordance with Policy PCS13 of The Portsmouth Plan and the Natural Environment and Rural Communities Act 2006.

## **Head Of Community Housing**

### *Initial response*

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

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

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

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

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

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

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

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

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

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

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

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

### *Further response following amendments*

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

In all of their designs there is a minimal amount of storage space at ground floor level, not even an airing cupboard on the upper floors. This is not a good design for family accommodation.

Within the Design and Access Statement (paragraph 4.7) it states that under the 'National Space Standards' a 3 bed 5 person 2.5 storey property should be a minimum of 93m<sup>2</sup>, this is incorrect, the minimum standard for a 3 bed 5 person 2.5 storey building would be 99m<sup>2</sup> or preferably larger. Whether the property is '2.5' or a '3' storey (and the plans show that more that 75% of the upper floor is being used for two bedrooms and a shower room) it is another level to the property, ergo another level creates a 3 storey property.

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

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

## **Waste Management Service**

Query whether the site would be accessible by refuse collection vehicle

## **Highways Engineer**

### *Initial response*

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

Neelands Grove is a residential cul-de-sac serving approximately twenty residential properties and provides access to Portsdown Road. It is subject to a 30mph speed restriction and traffic speeds are constrained by the length and nature of the road. As a consequence the appropriate design standards for this development should be drawn from MfS. As the development provides for more than five residential units the access road should be designed to adoptable standards.

A development of this scale is likely to generate in the order of 7 vehicular traffic movements in the am and pm peak hours. In that light I am satisfied that the development would not have a material impact on the operation of the highway network.

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

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

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

### *Further response following submission of amendments*

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

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

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

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

## **Environmental Health**

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

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

No information has been provided by the applicant concerning noise and vibration from the adjacent railway and, as such, I am unable to comment on the potential impact on the proposed



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

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

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

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

Upon approval these measures shall be implemented and maintained.

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

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

### **Contaminated Land Team**

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

### **Tree Officer**

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

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

Observations

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

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

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

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

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

*Recommendations*

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

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

Confirm requirement for S278 Agreement and request informative

### **REPRESENTATIONS**

Objections have been received from 14 neighbouring properties and from Penny Mordaunt MP on the following grounds

- impact on road network, especially Neelands Grove
- traffic impacts not properly considered
- inadequate parking
- loss of light

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

Supporting comments have been received from the occupiers of 13 neighbouring properties for the following reasons:

- need for new and affordable housing in area
- proposal would complement existing development
- proposal provides adequate parking
- site no longer needed as garden and should be better used to provide family housing
- recent similar developments have caused no problems
- neighbouring properties will be no more overlooked than exists now
- proposed ecological enhancements would be beneficial to wildlife

## **COMMENT**

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

### *Principle and level of development*

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

### *Design & Housing Mix*

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

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

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

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

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

### *Amenity*

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

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

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

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

During the lifetime of the development, the proposed dwellings have been amended to meet the minimum bedroom and overall size standards set out in the Nationally Described Space Standard. Each dwelling would benefit from a rear garden of at least 7 metres depth. The proposed gardens would be comparable to those of the adjacent residential developments to the east and west. All habitable rooms would be provided with an appropriate outlook and light. The proposed dwellings would have a similar interrelationship with each other to those in the locality and are considered to have an appropriate relationship with each other. The proposed dwellings to the north of the site would back onto the railway line and would be the subject of a degree of noise and disturbance. This relationship would be same as other properties in the locality whose occupiers are not subject to significant levels of noise or disturbance. It is considered that mitigation measures relating to noise levels within the proposed dwellings could be secured through the imposition of a suitably worded planning condition. As a result it is considered that the proposal would provide an appropriate standard of amenity for future residents.

## *Access & Parking*

The proposed estate road has been amended during the life of the application to provide an improved turning area and a service strip in which utilities could be accommodated. The level of parking proposed (16 spaces) would exceed the requirement of the Parking Standards SPD (15 spaces) by one space which would accord with the SPD requirement for the provision of visitor parking. It is considered that the proposed level of parking is therefore appropriate and acceptable.

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

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

## *Ecology*

Comprising garden land the site has the potential to offer habitat for reptiles. Whilst the location of the site alongside the railway could contribute to a habitat for bats, no bat activity has been identified across the application site with there being no buildings or structures that could potentially host a roost. Ecological and arboricultural surveys were carried out, however the site was the subject of clearance works prior to the submission of the application. As a result further ecological work has been undertaken and submitted, primarily relating to slow worms that have been found on the site. The application is supported by an Ecological Survey Report and an addendum (prepared by David Leach Ecology Ltd) which has assessed the impact of the development in relation to protected species and habitats.

Ecological surveys of the site have identified the presence of slow worms on the site. The constraints of the site are such that disturbing their habitat could not be avoided. As a result the applicant proposes the translocation of the slow worms found within the partially-cleared development site to two identified receptor sites in close proximity.

In relation to the sites value to slow worms, in accordance with Article 12 of the EU Habitats Directive, when adopting a precautionary approach, if there is likelihood that 'disturbance' may occur which in this case there is, the derogation tests must be undertaken as follows.

### **Reasons for Overriding Public Interest**

The proposal would generate benefits for local communities and the surrounding area. This is principally through the provision of additional family homes and contribute towards meeting the housing needs of the city.

### **No Satisfactory Alternative**

This report concludes that there is no satisfactory alternative for this site, as no long term development use of the site is not a sustainable option, as the site would be lost as a windfall housing site.

### **Maintaining a Favourable Conservation Status (FCS)**

In order to assess whether the FCS test is met with regard to slow worms, the Council must be satisfied that a sufficiently detailed mitigation strategy is in place. The Council's Ecologist has

had regard to the ecological submissions and recommends the imposition of conditions seeking to control the translocation and to further strengthen ecological provisions by securing biodiversity enhancements. It is therefore considered that a Favourable Conservation Status can be maintained through the imposition of conditions.

### *Conclusion*

If members conclude that the benefits of approving the proposal on this site outweigh the potential for harm, subject to the incorporation of conditions in line with recommendation, it is considered that (a) the impact upon ecology is low and (b) this application satisfies the statutory derogation tests.

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

### *Flooding*

The site is not located in an area identified at risk of flooding. However over the likely lifetime of the development (100 years) sea level rise may result in it becoming so. However it must also be noted that forthcoming and future sea defence improvements would be likely to protect the site by the time sea level rise would result in the site becoming potentially at risk. These are currently being progressed by the East Solent Coastal Partnership with construction due to start in mid-2017 and completion by late 2018. The submitted information indicates finished floor levels of the proposed dwellings would be such that they would not be at significant risk from flooding. It is therefore considered that the site and future occupiers would not be at significant risk from flooding.

### *SPA Mitigation*

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

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. The development proposed is not necessary for the management of the SPA.

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

### *Other Matters*

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

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

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

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

## **Conclusion**

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

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

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

## **RECOMMENDATION                      Subject to Legal Agreement(s)**

### **Conditions**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
2. Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 16002-101; 16002-200 Rev.C; 16002-201 Rev.A; 16002-202 Rev.A; 16002-203 Rev.A; and 16002-204 Rev.A.
3. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority:
  - a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011+A1:2013; and unless otherwise agreed in writing by the LPA,
  - b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA,
  - c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals

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

4. The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition 3(c) that any remediation scheme required and approved under the provisions of condition 3(c) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise;
  - (a) as built drawings of the implemented scheme;
  - (b) photographs of the remediation works in progress;
  - (c) Certificates demonstrating that imported and/or material left in situ is free of contamination. Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 3(c).
5.
  - a) Development shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority.
  - b) The development only be implemented in complete accordance with the approved Construction Management Plan.
6. The development shall (unless otherwise agreed in writing buy the Local Planning Authority) proceed in complete accordance with the reptile mitigation strategy detailed within section 5.2.1 of the Ecological Survey Report (David Leach Ecology Ltd. June 2016) and August 2016 Addendum (David Leach Ecology Ltd. August 2016) including translocation methods, habitat creation and the management in perpetuity of the receptor site.
7.
  - a) None of the dwellings hereby permitted shall be occupied until the biodiversity enhancements as described in Sections 5.3 of the Ecological Survey Report (David Leach Ecology Ltd. June 2016) have been provided.
  - b) The enhanced habitats shall thereafter be maintained and retained.
8.
  - a) Development shall not commence until a schedule of materials and finishes to be used for the external walls and roofs of the dwellings hereby permitted has been submitted to and approved in writing by the Local Planning Authority.
  - b) The development shall be carried out in accordance with the approved details.
9.
  - a) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted.
  - b) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner.
  - c) 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.
10.
  - a) Development shall not commence until precise details of a scheme to protect the dwellings hereby permitted from noise and vibration from the adjoining railway has been submitted to and approved in writing by the Local Planning Authority.
  - b) No dwelling it shall be occupied until the mitigation measures approved pursuant to part a) of this condition have been completed.
11.
  - a) None of the dwellings hereby permitted shall be occupied until the parking spaces and vehicular turning area shown on Drawing No. 16002- 200 Rev.C have been provided.

- b) The parking spaces and turning area shall thereafter be retained.
12. None of the dwellings hereby permitted shall be occupied until secure and weatherproof bicycle storage facilities have been provided in accordance with a detailed scheme that shall have been submitted to and approved in writing by the Local Planning Authority.
  13. No dwelling shall be occupied until screen walls or fences around that dwelling have been provided in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority.

**The reasons for the conditions are:**

1. To comply with Section 91 of the Town and Country Planning Act 1990.
2. To ensure the development is implemented in accordance with the permission granted.
3. In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
4. In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
5. To protect the amenity of the adjoining and nearby local residents in accordance with policy PCS23 of the Portsmouth Plan.
6. To maintain, protect and produce a net gain in biodiversity in accordance with Policy PCS13 of The Portsmouth Plan and the Natural Environment and Rural Communities Act 2006.
7. To maintain, protect and produce a net gain in biodiversity in accordance with Policy PCS13 of The Portsmouth Plan and the Natural Environment and Rural Communities Act 2006.
8. In the interests of the visual amenities of the area in accordance with policy PCS23 of the Portsmouth Plan.
9. In the interests of the amenities and character of the area in accordance with policy PCS23 of the Portsmouth Plan.
10. To ensure that acceptable noise levels within the dwellings and the curtilages of the dwellings are not exceeded in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
11. To ensure that adequate provision is made for the parking and turning of vehicles in the interests of the safety and convenience of users of the development and the adjacent highway in accordance with policy PCS23 of the Portsmouth Plan.
12. To ensure that adequate provision is made for cyclists in accordance with policies PCS23 of the Portsmouth Plan.
13. In the interests of the visual amenities and privacy of the neighbouring property in accordance with policy PCS23 of the Portsmouth Plan.



## PRO-ACTIVITY STATEMENT

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

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12 - 40 ISAMBARD BRUNEL ROAD PORTSMOUTH PO1 2DR

**CONSTRUCTION OF A PART 8 & 10 STOREY BUILDING TO THE EAST AND PART 9, 10 & 13 STOREY BUILDING TO THE WEST OF 'MARGARET RULE HALL' FOR A HALLS OF RESIDENCE (CLASS C1) FOR STUDENTS CONTAINING 484 STUDY/BEDROOMS AND COMMUNAL FACILITIES, TO INCLUDE 704SQM OF COMMERCIAL FLOORSPACE (FOR USE WITHIN CLASS A1, A2, A3 OR B1) ON PART OF THE GROUND FLOOR, WITH ASSOCIATED LANDSCAPING AND CYCLE PARKING, AFTER THE DEMOLITION OF EXISTING BUILDINGS**

**Application Submitted By:**

RPS/CGMS

FAO Mr Matthew Roe

**On behalf of:**

UNITE Group Plc C/O Agent

**RDD:** 1st June 2016

**LDD:** 7th September 2016

**SUMMARY OF MAIN ISSUES**

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

*The site and surroundings*

This application relates to an irregular shaped parcel of land (owned by the council) covering an area of 0.27ha. Existing offices, with some ground floor shop units, occupy the site. 'Chaucer House', 'Great Western House' and 'Navigators Resource Centre' comprise three-storey built-form, separated by a single-storey office element ('No32'), which is split to the east and west by an existing halls of residence on six floors (with ground floor entrance under) known as 'Margaret Rule Hall' that straddles Isambard Brunel Road. To the south, the site is bounded by Charles Dickens Street/Alec Rose Lane. To the north and east of the site are listed (Grade II) buildings at Portsmouth & Southsea railway station and St Luke's Church respectively. The application site is not within but affects the setting of 'The Guildhall & Victoria Park' Conservation Area, within which there are other nearby heritage assets including the Guildhall (Grade II) and cenotaph (Grade II\*).

The application site encompasses land that forms part of the public highway including the bus lane on Isambard Brunel Road. Extensive public realm improvement works are proposed to secure a sympathetic setting to the redevelopment site and would include removal of the 1970's pedestrian subway, which form barriers across Isambard Brunel Road between 'Navigators Resource Centre' and St Luke's Church.

## *Proposal*

Permission is sought, after demolition of existing buildings, for a part 8 & 10 storey building (east side) and a part 9, 10 & 13 storey building (west side) comprising a student halls of residence (use class C1) containing 484 study/bedrooms and communal facilities.

The 484 study/bedrooms have been split into a mix of 'cluster flats' (a set number of en-suite bedrooms with shared kitchen) and 'studio rooms' (self-contained bedrooms with kitchenettes). The rooms are arranged as follows:

- o 47 studio rooms;
- o 3 x '5 bedroom' cluster flats (15 no.);
- o 21 x '6 bedroom' cluster flat (126 no.);
- o 10 x '7 bedroom' cluster flat (70 no.);
- o 8 x '8 bedroom' cluster flats (64 no.);
- o 8 x '9 bedroom' cluster flats (72 no.), and
- o 9 x '10 bedroom' cluster flats (90 no.).

Communal areas would be provided on the ground and first floors, distributed equally between the east and west buildings. The ground floor lounges are designed for more transitory spaces leading to the access cores, to provide sitting and meeting spaces. The first floor provides common rooms that offer activity space (such as pool or table tennis) and also accommodate a laundry.

The proposal also includes 704sqm of commercial floorspace (for use within Class A1, A2, A3 or B1) on part of the ground floor, positioned on the west and east corner approaches to the site.

In addition, this proposal will provide space/stands for 209 bicycles in an enclosed compound positioned under 'Margaret Rule Hall'. The replacement built-form would be sited tight to the existing building footprint limiting opportunities for visitor cycle parking; however, such facilities would appropriately be located within the proposed public realm improvements.

The applicant is Unite Group plc, a national student accommodation provider.

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

Design & Access Statement;  
Planning Statement;  
Transport Assessment & Framework Travel Plan;  
Sustainability & Energy Statement;  
Ecology Constraints Assessment;  
Arboricultural Assessment;  
Geo-Environmental Desktop (inc. Contamination & Flood Risk);  
Wind Microclimate Assessment;  
Noise Assessment;  
Student Management Plan;  
Heritage, Townscape and Urban Analysis;  
Daylight and Sunlight Assessment;  
Employment and Skills Plan; and,  
Construction Management Plan.

## Planning history

There are planning records for the original development of Nos12-40 Isambard Brunel Road in 1969/1970 and subsequent alterations/changes of use but none are particularly relevant to this proposed redevelopment of the site.

## POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:

PCS4 (Portsmouth city centre), PCS11 (Employment land), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), PCS23 (Design and Conservation), PCS24 (Tall buildings).

### *Saved policy*

DC21 (Contaminated land) of the Portsmouth City Local Plan

### *National Planning Policy Framework*

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

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

- 17 Core planning principles for decision making
- 19 Significant weight on the need to support economic growth through the planning system
- 32 Transport Statements and Assessments
- 34 Locate developments generating significant movement where need to travel minimised
- 35 Development designed for sustainable travel
- 56 Great importance to design and good design indivisible from good planning
- 57 Requires high quality and inclusive design in the built environment
- 61 Decisions should address connections between people and places
- 62 Local design review arrangements provide support to ensure high design standards
- 64 Refuse poor design that fails to improve the character and quality of an area
- 96 New development should minimise energy consumption
- 118 Principle should be applied to conserve and enhance biodiversity
- 119 Presumption in favour of sustainable development (para14) does not apply where AA required under Birds or Habitat Directives
- 120 Responsibility for a safe development where a site is affected by contamination
- 121 Site to be suitable for its new use taking account of ground conditions
- 123 Impacts of noise and air quality should be mitigated and managed
- 128 Applicants should describe the significance and potential impact on any heritage assets
- 129 Lpa's should assess significance of any heritage asset, including its setting
- 132 Great weight should be given to conservation of heritage assets
- 133 Refuse consent for substantial harm to heritage assets unless substantial public benefits outweigh that harm
- 134 Less than substantial harm to heritage assets should be weighed against public benefits
- 135 Significance of non-designated heritage assets should be taken into account
- 196 Applications must be determined in accordance with the development plan
- 197 Presumption in favour of development
- 204 Use of planning obligations and conditions to make development acceptable

'Chaucer House' is highlighted as protected employment land (policy PCS11) on the Proposals Map where the loss of B1 uses in those areas will be resisted.

The adopted City Centre Masterplan SPD is relevant to the proposal and regeneration of this part of the City, with specific reference to 'Site 13: Chaucer House' and 'Site 15: Navigators Resource Centre' (from para's 4.196 and 4.223 on p.66-71). The vision of the SPD is "to create

a vibrant and successful city centre that is the beating heart of our great waterfront city... include welcoming gateways, beautiful streets, lively and distinctive spaces and delightful buildings...".

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

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

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

## **CONSULTATIONS**

### **Highways Engineer**

The D&A Statement explains at para 5.6 that the new development will be merged with the existing building with the existing Margret Rule Hall entrance providing the front door for over 800 students. This accesses directly to Isambard Brunel Road beneath the existing building and will generate a significant student footfall at peak periods. Para 6.8 explains the city council's intention to make significant alterations to the road layout in the immediate vicinity of the area and that the development scheme design takes advantage of the fact that the bus lane fronting the site will be removed and the pavement widened. Whilst this is an aspiration of the council such a scheme does not feature in the capital programme and the delivery of such should be secured through planning obligation on any consent issued for this development to ensure that it is in place prior to occupation of the development. This should include the repositioning of the bus stops, creation of a dedicated cycle facility in place of the removed bus lane integrated into the proposed public realm improvements and remodelling of the junction with Greetham Street to change the priority.

It is also explained that the existing underpass will be removed with the pavement extended to the centreline of the existing road and all traffic except buses and cycles stopped from travelling further than Dugald Drummond Street.

It is suggested that the detailed design principles for this public realm improvement will be agreed during the planning conditions stage. However this is inconsistent with the Planning Statement which explains at para 2.8 that '*As part of this planning application public realm works are proposed and detailed within the Design and Access Statement produced by Cooley architects and illustrated on Drawing '842-DG-0001 Ground Floor Plan 1:200 A1 Rev D'.*' Whilst this plan does not provide design details of the proposed public realm improvements I am satisfied that there is sufficient land within the existing public highway to accommodate such an improvement. The details of that together with a stage 1 safety audit should be submitted to and approved by the LPA together with completion of the relevant TRO process to limit traffic movements beyond Dugald Drummond Street prior to the commencement of development on the site. This is necessary to reduce the traffic flow sufficiently on Isambard Brunel Road to allow the removal of the underpass and replacement with a surface level crossing. This should include for the remodelling of the junction with Greetham Street to provide a priority for bus movements along Isambard Brunel Road. A temporary TRO will also be required to close the

bus land and footway on the northern site frontage prior to occupation of those during the construction phase.

Paragraph 6.14 summarised the content of the travel plan and the detail will be addressed later in this response.

Paragraph 6.15 explains the intention to provide cycle parking facilities (209 spaces indicated on the plan) in semi vertical racks for 25% of the combined bed spaces of Margret Rule Hall and Chaucer House which is consistent with the standard provided at the Greetham Street scheme but less than the cycle parking provision of 30% achieved at the Surrey Street scheme and significantly less than the SPD stand requirement of 1 space per bed space. No specific provision is made for visitor cycle parking which is required at a ratio of 10% of the long stay cycle parking provision in the SPD. The D&A statement refer to the planning consultant's report to justify the 25% provision. The Planning Statement at para 1.2 refers to the provision of 191 cycle parking spaces which is inconsistent with the D&A Statement. At para 6.82 it is explained that the Transport Assessment provides robust justification for the proposed 25% cycle parking standard. The Transport Statement refers to the provision of 122 spaces cycle parking spaces beneath the southern overhang of Margaret Rule which includes the additional 69 spaces as part of Margaret Rule Halls. This seems consistent with the Planning Statement but is inconsistent with the D&A statement. The Transport Statement provides a justification for a reduction in the parking standards to 25% which is considered later in this response.

The cycle parking spaces are proposed to be accommodated in an enclosed compound on the western half of the car park under the cover of Margret Rule Hall with access controlled by use of fobs. This is consistent with the SPD which requires that *'For cycle parking in shared buildings (anything other than individual family homes) to be considered 'secure' bikes should be protected by a lockable door or a security door (e.g. swipe card), which restricts access to cycle parking to authorised persons only, and be stored in such a way that bikes can be secured individually.'*

Commercial units of 400sqm and 300sqm are proposed on the ground floor at the western and eastern ends of the site respectively. The intended use of these units is not specified although being located in the city centre the SPD explains that the council will expect parking provision here to be significantly lower than in other areas of the city. It explains that *'the council has set out guidance on how to determine appropriate parking requirements for non-residential development. This is because the council considers that parking needs vary significantly for each individual site and land use, and developers should establish the parking requirement and demonstrate why the proposed parking solution is the right one for that particular development. Whilst the council will expect parking for non-residential development in the city centre to be significantly lower than might be acceptable in other locations (reflecting the high accessibility of this area by public transport and in line with the city's parking strategy), excessive or insufficient levels of parking for the particular circumstances of the development will not be acceptable. The council will expect any planning application to include robust evidence (based on the guidance below) especially where apparently very high or very low levels of parking are being proposed. The level of evidence provided should be proportionate to the type of land uses and scale of development being proposed.'* The D&A statement does not reference where the assessment of the parking demand for the commercial floor space can be found in the documentation supporting the application and I have been unable to find any such assessment therein. Paragraph 7.2 does refer to the availability of on street parking to the rear of the units and the availability of 'ample secure parking within a short walk of the site' although this is not identified or quantified. No surveys have been submitted to demonstrate either spare parking capacity on street or in the 'secure parking' referred to. This is inconsistent with paragraph 6.83 of the Planning Statement which explains that *'To aid servicing deliveries the existing car parking bays on Charles Dickens Street will be removed and replaced with loading bays.'* The loss of these on street parking spaces in an area where the demand for parking significantly exceeds the space available could not be countenanced unless re-provided elsewhere locally. The existing loading bay at the western end of the site on the north side of Charles Dickens Street is sufficient to meet the servicing requirement of the commercial unit at that end of the site. The remaining car

parking spaces at this frontage should be retained and can be suspended to help facilitate students taking up or leaving the accommodation as is the case with the other local similar facilities. Occupation of the bays can be controlled by TRO at the beginning of the day to facilitate refuse collection if that proves necessary.

Transport Statement:

The Transport Statement considers the relevant national and local planning policy and having reviewed the city centre master plan reports the policy position that:

- *'Access points and entrances: The main access should be provided from Isambard Brunel Road with secondary access from Charles Dickens Street; and*
- *Parking and servicing: Parking for the site will primarily be accommodated within the Isambard Brunel Road multi-storey car park accessed from Alec Rose Lane. Servicing access should be from Charles Dickens Street.'*

Having reviewed the SPD relating to Parking Standards and Transport Assessments the Transport Statement reports at para 2.3.9 that:

*'The parking standards are set out in Portsmouth City Council's Parking Standards and Transport Assessment document, which was adopted as policy in July 2014. The current document states car parking standards for University Halls are dependent on their other usage throughout year and not the number of beds. The document also states for cycle parking in student accommodation is set to one cycle space per bedroom, but that this standard can be relaxed subject to evidence being provided to substantiate proposals'*

This misrepresents the SPD which requires that the number of expected parking spaces be *'determined by a Transport Assessment (to include consideration of use of the building outside of term time)'*. In section 3 the Transport Assessment considers the accessibility of the site location by sustainable travel modes and reports the proximity of local facilities and walking, cycling bus and train facilities factually although draws no conclusion about the accessibility of the site. However the site is located with the city centre area defined as having a high level of accessibility in the SPD and it is accepted that the general levels of accessibility are appropriate for this development type.

Section 3 also summaries an analysis of personal injury collisions which have occurred in the vicinity of the site but again draws not conclusion about the safety of the local road network.

In section 4.3 the Transport Statement considers car and cycle parking. No assessment is made of the likely car parking demand for either the student accommodation or any other use of the building nor the commercial development, contrary to the requirement of the SPD, nor is any survey provided demonstrating capacity to accommodate this within the Isambard Brunel multi-story car park. In the absence of such an assessment it is assumed that there is no intended use of the building outside of term times. This should be secured through a planning obligation or unilateral undertaking in the absence of such assessment.

A case is made for a reduction in the cycle parking standard to 25% finding that to be broadly consistent with the student accommodation developments at Greetham Street, Zurich House and Surrey Street. It also reports the number of cycle spaces provided at other student halls operated by Unite and the occupation of those found by survey. This concludes that the peak demand for cycle parking at any of the sites was 14.81% with the lowest being 0%. The average demand found would suggest a demand for only 4 cycle parking spaces arising from the proposed scheme with a maximum demand of 19 spaces.

Whilst there is some inconsistency between the Transport Statement and D&A Statement in relation to the number of cycle parking spaces to be provided, even taking the lowest of these (191 spaces) this suggests a cycle parking provision in excess of 39% for the new development which in part addresses the existing cycle parking shortfall of the existing student accommodation such that the provision for both elements is in the order of 25%. Given the evidence provided, this is an acceptable cycle parking provision for the intended development.

Section 4.4 explains the intended public realm improvements in Isambard Brunel Road which are shown on drawing number 842-LY-0s02\_C and are planned to be delivered through S278 works. I am comfortable with this delivery mechanism in principle but have not been able to find this plan within the package of submitted documents nor a stage 1 safety audit to confirm the safety of the proposed improvements. The existence of a detailed design for the public realm improvements is inconsistent with the D&A statement suggestion that these will be resolved through planning condition. The details of any such works together with a stage 1 safety audit should be submitted to and approved by the LPA together with completion of the relevant TRO process to limit traffic movements beyond Dugald Drummond Street prior to the commencement of development on the site. This should include for the remodelling of the junction with Greetham Street to provide a priority for bus movements along Isambard Brunel Road.

Paragraph 4.4.2 explains the phasing of the proposed public realm improvements and the intention to facilitate those through an initial temporary and subsequent permanent traffic regulation order. It is explained that *'During the construction phase of the development the existing bus lane and bus stops on the southern side of Isambard Brunel Road will need to be closed in order to provide the construction compound and access to the site. This will be supported by a Temporary TRO closing the bus lane for the proposed construction period.'* Whilst I am comfortable with this approach in principle it is inconsistent with that envisaged in the construction phase plan (CMP) and traffic management plan (TMP) which additionally envisage the closure of Charles Dickens Street to accommodate site office units and creation of a new access from Alec Rose Lane to the car park for a 24 month period. This does not seem necessary to facilitate the construction of the development nor secure public safety, rather is a simple expedient to accommodate site offices. The detail of the CMP and TMP will be addressed later in this response. It will also be necessary to secure and implement a TRO preventing the use of Isambard Brunel Road by general traffic between Station Street and Greetham Road prior to the closure of the underpass which is consistent with the planned public realm improvements here.

Servicing and refuse management is considered in section 4.5 of the Transport Statement which envisages the removal of the parking spaces on Charles Dickens Street to provide loading bays and references a swept path analysis drawing which do not appear to be included in the package of documents. The loss of these parking spaces without replacement is not acceptable in this area where the demand for parking already exceeds the space available and an alternative servicing strategy needs to be submitted to and approved by the LPA prior to the commencement of development. As previously explained the existing loading bay at the western end of the site on the north side of Charles Dickens Street is sufficient to meet the servicing requirement of the commercial unit at that end of the site. The remaining car parking spaces at this frontage should be retained and can be suspended to help facilitate students taking up or leaving the accommodation as is the case with the other local similar facilities. Occupation of the bays can be controlled by TRO at the beginning of the day to facilitate refuse collection if that proves necessary.

The Student Arrival and Departure management arrangements explained in section 4.6 are not sufficiently detailed to give confidence that this exceptional demand can be managed in this area and relies on the use of loading bays on Charles Dickens Street which cannot reasonably be established without relocation of the parking facilities. It does not consider where car will be parked before unloading slots or once students have unloaded for the remaining period before their parents leave. Nor does it consider how this increase in demand for local parking will be accommodated in tandem with the demands from the other local student halls experiencing similar demands at the same times. Paragraph 4.6.7 refers to a Student Management Plan which sets out the procedures for dealing with student arrivals and departures although neither does this give sufficient detail of the management arrangements to give confidence that the parking and access demands at arrival and departure times can be safely and practically accommodated with in the locale.

Section 5 of the Transport Statement considers the likely daily trip generations likely to arise as a result of the commercial element of the development. This suggests 26 and 35 two way



vehicular movements in the am and pm peak periods respectively in relating to the proposed commercial element of the development. Whilst these would not have a material impact on the performance of the local highway network it does imply a demand to access these facilities by vehicle and the findings are not supported with a survey to establish whether or not there is capacity either on street or in local off street car parks to accommodate this demand. The summary of this section does not seem to reconcile with the findings reported in table 5-3 and should be revisited.

*Framework Travel Plan:*

The framework travel plan largely repeats the first 4 sections of the Transport Statement and sets out the travel options available to students and the proximity of services. It does not identify specific targets against which to measure the success of the plan incentives to encourage sustainable travel or specific interventions which will be taken in the event that the targets are not achieved. Nor does it consider the specific issues associated with student initial arrivals and departures. Given the intention that this is a car free development and the claimed experience of Unite in operating similar student halls elsewhere it seems reasonable that this level of detail could be established prior to the commencement of development rather than being informed from student surveys following occupation. A more developed travel plan with explicit targets should be development and submitted to / approved by the LPA prior to the occupation of the development together with a fee of £5500 to facilitate monitoring of the travel plan by the local authority for a 3 year period.

*Construction Phase Plan / Traffic Management Plan:*

The construction phase plan and traffic management plan are largely a generic documents dealing with the approach to managing the work and must be read together. Neither of these defines a programme of works or detail scheduling which will need to be submitted to and approved by the LPA prior to the commencement of development allows for necessary TROs for the relevant construction elements.

The construction phase plan defines roles and responsibilities of individuals whereas the traffic management plan considers specific site constraints and impacts from a traffic perspective at paragraph 2.2. This explains that Charles Dickens Street will be temporarily closed for the period of the project (24 months) to 'permit a suitable placement location for site welfare and provide protection to the public' it proposes to maintain access to Margret Rule Hall with a protected walkway. The closure of this road could not be justified simply to accommodate such facilities or similar site office accommodation and public protection could be secured by providing a scaffolded protective cover to the full width of the road. In the event that such a closure was necessary to facilitate particular aspects of the build, the period of the closure should be restricted to the minimum necessary to secure safety during the build of that element. Any closure in excess of 18 months would need to be referred to the DfT for approval.

Minor modifications to the access to the council are park are envisaged to be necessary in the event of a road closure which are to be agreed with the council / Colas. In such circumstances the Civic Offices underground car park will need to operate both the north and south entrance/exit to ensure that there are no conflicts with vehicles turning in and out of the narrow entrance. Whilst the south entrance can be reopened a security booth will need to be constructed, a security guard employed and changes to the lining in the underground car park made. These costs will be required to be met by the developer. To close the road, a Section 14:1 order of the Road Traffic Regulation Act needs to be drawn up, this is subject to public consultation and could not be supported by Highways PFI/Network Management or Colas if the developer does not agree with the changes required in the car park. Depending on the period temporary road closures of Charles Dickens Street to facilitate specific build elements may require similarly modifications to the operational arrangements of the civic offices underground car park and these should be secured prior to any such road closures.

Whilst the bus lane on Isambard Brunel Road is to be closed and used as a construction access road before the public realm improvements are instigated the traffic management plan

envisaged that PCC/Colas will arrange for a temporary bus stop location to be formed. This facility will be required to be provided by the developer prior to the commencement of construction of the project.

Whilst the text of the plan is silent about other constraints or requirement for mitigation the site logistics planning drawings show the hoarding line for the building extending to the limit of the footway between Isambard Brunel Road and Charles Dickens Street. In order to provide pedestrian access it will be required that the wall at the base of the pedestrian ramp adjacent to the Civic Office car Park is removed and the footway levelled to create a new path to maintain this route for pedestrians.

The creation of an alternative access to the car park from Alex Rose Lane is also proposed. This would be required to be implemented through a S106 agreement although may not be required if the Charles Dickens Street is only required to be closed for short periods.

The works will involve Infilling of the subway which is a structure currently maintained under the Highways PFI Contract, it is inspected and lit. There is a process to remove this from the Highways Maintenance Contract and a Highways Act Section 116 Stopping Up Order will be required to effect this change.

The construction of the new building is likely to interfere with the signal for the Portsmouth City Council CCTV network, the developer will need to liaise with the CCTV team to arrange for the CCTV network to be tested and aerials relocated if necessary.

As this application stands it must be recommended for refusal as:

- The removal of the parking spaces on Charles Dickens Street to provide loading bays without replacement in an area where the demand for parking exceeds the space available is not acceptable;
- No assessment is made of the likely car parking demand for either the student accommodation or any other use of the building nor the commercial development as is required in the SPD nor is any survey provided demonstrating capacity to accommodate this within the Isambard Brunel multi-story car park;
- The closure of Charles Dickens Street to accommodate site office units and creation of a new access from Alec Rose Lane to the car park for a 24 month period is not necessary to facilitate the construction of the development nor secure public safety;
- The servicing strategy being reliant on the removal of the parking bays form Charles Dickens Street and replacement with loading bays is unacceptable and needs to be revisited;
- The Student Arrival and Departure management arrangements are not sufficiently detailed to give confidence that this exceptional demand can be managed in this area
- The framework travel plan is not sufficiently developed, it does not identify specific targets against which to measure the success of the plan, incentives to encourage sustainable travel or specific interventions which will be taken in the event that the targets are not achieved.
- The construction management plan does not make sufficient case to justify the proposed construction approach and specifically the closure of both Charles Dickens Street and the pedestrian link between Charles Dickens Street and Isambard Brunel Road for the 24 month build period.

If minded to recommend approval of the application the following conditions/planning obligations are requested:

- The development shall not be commenced until such time that necessary traffic regulation orders relevant to the specific elements of the intended construction have been granted for example:
  - Closure of the bus lane and public footway on the north side of the site prior to creating the compound

- Prevention of general traffic flow on Isambard Brunel Road between Station Street and Greetham Street prior to closure of the subway
- The details of the public realm improvements and associated stage 1 safety audit should be submitted to and approved by the LPA together with completion of the relevant TRO process prior to the commencement of development on the site. This should include for the remodelling of the junction with Greetham Street to provide a priority for bus movements along Isambard Brunel Road.
- Amended construction management and traffic management plans are submitted to and approved by the LPA prior to the commencement of development which do not rely on the closure of either Charles Dickens Street and the pedestrian link between Charles Dickens Street and Isambard Brunel Road for the 24 month build period.
- More detailed student management / travel plans (specifically with regard to arrival and departure arrangements and explicit targets/ incentives and interventions) are submitted to and approved by the LPA prior to the occupation of development. A fee of £5500 should be secured to facilitate monitoring of the travel plan by the local authority for a 3 year period.
- An alternative service management plan which is not reliant on the replacement of the car parking spaces with Loading bays on Charles Dickens Street is submitted to and approved by the LPA prior to the commencement of development
- Proposals for the modification of the access arrangement to the council car park to include the construction of a security booth and employment of additional security staff are submitted to and approved by the council prior to the commencement of development and implemented prior to any closure of Charles Dickens Road
- Proposals to remove the wall at the base of the pedestrian ramp adjacent to the Civic Office car Park and the footway levelled to create a new path to maintain this route for pedestrians are submitted to and approved by the LPA prior to commencement of construction and that these works are implemented prior to the erection of the hoarding closing this link.
- That the subway is formally stopped up and the alternative surface level pedestrian facilities provided prior to that being taken out of use and backfilled
- That an alternative network is provided to ensure continuity of the councils CCTV function during the period of the work prior to the commencement of the development.

### **Environmental Health**

This consultation is with regard to the potential impact on the amenity of future users as a result of road/rail traffic noise and the surrounding land uses as well as the potential impact from the proposed ground floor commercial uses and the proposed CHP.

#### *Noise*

An acoustic assessment (Report 7263/AAR Rev.1 dated 28/4/16) has been presented as part of the application. The report details an environmental noise survey of the currently existing acoustic situation. Mitigation measures have been included for the residential use. The noise survey is considered to have been appropriately undertaken and the proposed mitigation to adequately protect the amenity of the future users.

The report also covers potential noise from the proposed commercial units. The potential for noise is most-likely to result from any A3 use and it is suggested that the internal fit out, which is typically undertaken by the tenant, will need to be tailored in terms of additional sound insulation as necessary and additional control can be maintained through the tenancy lease clauses. Should a more robust approach be required, a noise condition can be recommended.

Section 6 of the Student Management Plan details times for deliveries and collections is considered to limit the impact on the amenity of the future proposed and other neighbouring residential uses.

Within Section 3.0 proposed target levels are detailed for all operating plant that will be associated with this development. This target criteria is accepted provided it extends to all plant

and equipment associated with the proposed commercial uses at ground floor level. At this point in time it is not possible to assess this as no plant/equipment supporting documentation has been received. Should you be minded to grant permission, the following condition should be applied:

Prior to the installation of any fixed plant and/or equipment, a scheme for protecting residential premises from noise generated by the plant and/or equipment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that the combined noise level from all such plant (expressed as an LAeq,5minute) will be 5dBA below the measured background noise levels (expressed as an LA90 over one hour) representative of the quietest period of a typical week. The assessments shall be made at 1 metre from the façade of the nearest residential premises. The equipment shall then be installed in accordance with the approved details and shall be permanently retained in that condition unless otherwise agreed in writing with the Local Planning Authority.

#### *Odour*

Should an A3 use be introduced in the commercial units, it is likely that some form of kitchen extraction system will be required and the following condition is recommended to protect the amenity of neighbouring and the future residents of the development:

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

#### *Air Quality*

The proposals include a Combined Heat and Power system (CHP) with a peak output of 486 kW. Having consulted with the Air Quality officer and the document 'Land-Use Planning & Development Control: Planning for Air Quality', there is concern that the size of the CHP may have a significant impact on local air. As such, an Air Quality Assessment is required.

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

The following comments are made with reference to crime prevention.

To provide for the safety and security of residents and visitors it is recommended:

- a) External access doors should be third party certificated to PAS24:2012 standard.
- b) An electronic access control system is installed that provides for the access of authorised persons only.
- c) To prevent unrestricted movement about the accommodation, doors giving access to bedroom corridors should fitted with electronic access control.
- d) Consideration should be given to the installation of a Closed Circuit Television (CCTV) system within the building, with cameras deployed to provide images of the access doors, reception, and common areas

The proposal shows a large cycle store. It is recommended that this is subdivided into a number of small cycle stores.

#### **City Centre Consultation**

No comments received.

#### **Portsmouth Water**

No comments received.

#### **Southern Water**

Records show the approximate position of a public combined sewer within the site (although its exact position must be determined on site by the applicant). Detailed comments specify the proximity of any proposed new tree planting or soakaways from the public sewer. Southern

Water request condition(s) on any permission for: (a) measures to be undertaken to protect drainage apparatus; and, (b) details of the proposed means of foul and surface water sewerage disposal to be submitted to and agreed in writing by the local planning authority, in consultation with Southern Water.

Initial investigations indicate that Southern Water can provide foul sewage disposal. The public sewer is a combined system, receiving both foul and surface water flows, and no surface water flows greater than currently received can be accommodated in this system. An Informative is requested regarding connection to the public sewerage system. The applicant should also be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner/operator.

### **Hampshire Fire & Rescue Service**

Access and facilities for Fire Service Appliances and Firefighters should be in accordance with Approved Document B5 of the current Building Regulations.

The following recommendations are advisory only and do not form part of any current legal requirement of this Authority.

*Access for High Reach Appliances* - high reach appliances currently operated by the HFRS exceed the maximum requirements; when considering high rise buildings these variations should be considered as additions and incorporated, as follows. Structures such as bridges, which a high rise appliance may need to cross should have a maximum carrying capacity of 26 tonnes. Where the operation of a high reach vehicle is envisaged, a road or hard standing is required 6m wide. In addition, the road or hard standing needs to be positioned so that its nearer edge is not less than 3m from the face of the building.

*Water Supplies* - additional water supplies for firefighting may be necessary and the developer is encouraged to discuss its proposal with the Community Response Support, Hampshire Fire & Rescue Headquarters, Leigh Road, Eastleigh, SO50 9SJ (risk.information@hantsfire.gov.uk)

*Sprinklers* - HFRS would strongly recommend that consideration be given to include the installation of Automatic Water Suppression Systems (AWSS) as part of a total fire protection package to:-

- o Protect Life;
- o Protect Property, Heritage, the Environment and our Climate;
- o Help promote and sustain Business Continuity; and
- o Permit design freedoms and encourage innovative, inclusive and sustainable architecture.

The use of AWSS can add significant benefit to the structural protection of buildings from damage by fire. HFRS is fully committed to promoting Fire Protection Systems for both business and domestic premises. Support is offered to assist all in achieving a reduction of loss of life and the impact on the wider community.

*Firefighting and the Environment* - Should a serious unsuppressed fire occur on the premises, the water environment may become polluted with 'fire water run-off' that may include foam. The Fire Service will liaise with the Environment Agency at any incident where they are in attendance and under certain circumstances, where there is a serious risk to the environment, a controlled burn' may take place. This of course could lead to the total loss of the building and its contents. Premises occupiers have a duty to prevent and mitigate damage to the water environment from 'fire water run off' and other spillages. Further guidance on preventing pollution can be found in (specified) Environment Agency publications.

*Timber Framed Buildings* - these types of buildings are particularly vulnerable to severe fire damage and fire spread during the construction phase. Further guidance is available from the UK Timber Frame Association's publication '16 Steps to Fire Safety on Timber Frame Construction Sites'.

### **Radiocommunications Agency**

No comments received.

### **The Portsmouth Society**

No comments received.

### **Southern Electric**

No comments received.

### **Contaminated Land Team**

The following report submitted as part of the application has been reviewed:

o Chaucer House, Portsmouth - Preliminary Geo-Environmental and Geotechnical Risk Assessment, WSP PB, Report Ref: 70018063-001, May 2016.

In the main the report provides a sound initial risk assessment of the site from a review of readily available desk based resources, and as such the Contaminated Land Team (CLT) is in general agreement with the recommendations given in the report. Specific queries are identified that should be passed to the developer/consultant for consideration/clarification prior to any intrusive investigative works being carried out on site and based on the recommendations provided within the report (in section 7.3), it is recommended that site investigation/remediation conditions be imposed on any planning permission.

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

No comment at this time but Colas has been in contact with the developers.

### **Coastal & Drainage**

No mention at all of how the site is proposed to be drained. The LLFA requests this in order to be able to comment, especially considering the size of the development.

### **Waste Management Service**

The Waste Management Team raises a few concerns:-

1. Access to bin shed - currently this is an on road pay and display car parking area.
2. No dropped kerbs.
3. Nowhere to store the bins on the road whilst servicing, as the bin shed is too small to manoeuvre bins within it they will have to be brought out and emptied and then returned.
4. The bin shed is too small, designed to hold 14 bins at present; there is no storage for the existing 'Margaret Rule Hall' (348 study/bedrooms) as the bin sheds there have been removed from the plan. This would give a total of 832 study/bedrooms sharing the new bin storage area, requiring a minimum of 25 x 1100 bins split 13 x 1100 refuse collected 3 times weekly, 11 x 1100 recycling collected twice weekly and 1 x 1100 b/bank collected twice weekly.

For this development to have a single collection per week it would require a bin storage area capable of holding 61 x 1100 bins.

### **Design Review Panel**

A presentation was made by the applicant/agent at pre-application stage. The Panel considered both the presentation and the rationale provided for the appearance of the building to be good. With limited exception, they were also broadly satisfied that the range of materials, and the way they would break up the building are appropriate. Despite this there were a significant number of aspects to the scheme that could be improved upon: the initial images of the undercroft entrance were open and inviting. This element was felt to have subsequently regressed. The panel were disappointed by this and suggested this aspect of the scheme should be revisited. Discussion around the entrance led on to wider deliberation regarding the public realm around the site. Concern was expressed that the site boundary had been extended simply to eliminate the bus lane. The resulting pavement in front of the building would be extremely wide. Very limited consideration had been given to the issue of landscaping. This aspect of the scheme requires more attention. Greater effort should be made to integrate landscaping / planting with the building, making it part of its setting.

The panel conceded that white 'trespa' panels to the rear may initially provide a crisp finish, they were however concerned at how this would be maintained. A colour that responds more to the surrounding context would be better. Indeed, the use of white panelling on the building as a whole was considered arbitrary and they were unconvinced that it would be appropriate anywhere on the building.

The building would be large and very tall, particularly along Charles Dickens Street. It would also radically alter the setting of the Civic Offices. The panel expressed concern regarding the back of the building. The attention to detail given to the front was absent here, in addition the eastern end of the building was not considered especially successful. It does not take the corner well and it was considered that both these aspects of the scheme require further work. In addition the panel considered that greater modulation and depth to the façade is required. It was also suggested that the proposal would benefit from a re-examination of how the top of the building is terminated. It may benefit from greater articulation. The recommendation of the Panel is that the proposal is considered capable of support, subject to the range of comments above.

## **REPRESENTATIONS**

Two representations have been received raising objection. The first is from Portsmouth Cycle Forum the grounds of: (a) create a safe, segregated cycle path along Isambard Brunel Road; (b) upgrade A3 crossings to increase capacity; (c) signpost walking and cycling routes to University; (d) contraflow cycling in Charles Dickens Street; (e) provide 'Sheffield' cycle stands at each entrance to halls and retail units; and, (f) promote active travel to residents.

The second objection has been received from the University of Portsmouth (UoP) on the grounds of: (a) para 5.29 of the core strategy states the city council will continue to work with UoP to promote appropriate development of purpose built student accommodation, however, pre-application meetings have taken place without consultation with UoP until the submission stage and there is a real risk of oversupply of high end accommodation once 'Zurich House' is completed in 2017 whereas demand is for the more affordable end of the rental market borne out by student preferences in current applications for 2016 entry; (b) impact on future occupiers of Greetham Street and Margaret Rule Hall during construction/demolition given the proximity and extent of works, contrary to policy PCS23 that seeks to protect amenity and provide a good standard of living environment of neighbouring and local occupiers; and, (c) assurances are needed about the safety of students by relocating all access to Margaret Rule Hall to the rear of the building (during demolition/construction period).

A letter of support has been received from the applicant (Unite) responding to the concerns raised by UoP, attached at Appendix 1.

One other representation has been received commenting as follows: (a) an excellent scheme in an area of much needed redevelopment; (b) totally in favour of more student halls in the city as it frees up student housing for permanent residents; and (c) the standard of architecture on this scheme is excellent and will be a great addition to the city skyline alongside the new student tower block.

## **COMMENT**

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

*Principle of Halls of Residence/ground floor commercial uses*

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

The adopted City Centre Masterplan SPD (January 2013) provides policy guidance for regeneration of this part of the City and recognises an opportunity to redevelop more intensively than at present introducing a more distinctive and higher quality built form.

Site 13: Chaucer House (p.66-68)	Site 15: Navigators Resource Centre (p.70-71)
<p>4.196 <b>Site description.</b> The site, fronting onto Isambard Brunel Road, is a prominent and accessible city location that adjoins the Civic Offices and is close to Portsmouth &amp; Southsea Railway Station.</p> <p>4.197 Chaucer House currently rises to 3 storeys with a ground floor occupied by a mix of small retail units and upper floors comprising offices. The main entrance points for the office accommodation and retail units is from Isambard Brunel Road, with secondary access and servicing from Charles Dickens Street.</p> <p>4.198 Although Chaucer House is fully occupied at present it does not make a strong contribution to the overall character of the Guildhall area and is somewhat dwarfed by the height of the adjoining Margaret Rule Hall and the Dickens Wing of the Civic Offices. There is an opportunity to potentially redevelop the site more intensively than at present introducing a more distinctive and higher quality built form.</p> <p>4.199 <b>Development aspirations.</b> The site should be redeveloped principally occupying the same footprint to the existing Chaucer House but with the potential for a taller building on the site to maximise the available accommodation.</p> <p>4.200 The form and character of the development should complement proposals for Site 11: Enterprise House/Midland House and Site 12: 2-10 Isambard Brunel Road to establish a coherent identity to the area.</p> <p>4.201 The proposed building would also provide a mix of ground floor uses fronting and overlooking Isambard Brunel Road and surrounding streets and pedestrian routes.</p> <p>4.202 <b>Mix of uses.</b> The site could accommodate a mix of city centre uses. Office accommodation (B1 use) would support and enhance the role of the Guildhall area and adjacent Station Square &amp; Station Street area. Student housing (C1 use) would also be an acceptable use complementing existing accommodation in the area.</p>	<p>4.223 <b>Site description.</b> The Navigators Resource Centre is located at 36-40 Isambard Brunel Road at the junction with Alec Rose Lane. The 3 storey building is used as office accommodation. The brick built building adjoins Margaret Rule Hall and is typical of the period it was constructed. It now has a dated appearance and although it occupies a relatively prominent location does not address the street in a positive way, there being a limited number of windows and entrances.</p> <p>4.224 This is another site which forms part of a number of development opportunities focused around Isambard Brunel Road. There is potential to establish a much stronger and attractive cityscape from what is presently a rather fragmented part of the Guildhall area and city centre.</p> <p>4.225 <b>Development aspirations.</b> The corner site could be redeveloped with a much more robust development form that addresses the adjoining streets and contributes towards strengthening the overall character of the Guildhall area.</p> <p>4.226 There is an opportunity to reclaim road space currently occupied by the entrance to an underpass beneath Isambard Brunel Road. The underpass is now largely redundant because strategic vehicle movements are no longer routed through Isambard Brunel Road. Should it be infilled this would increase the developable area of the site and provide a greater frontage presence addressing Isambard Brunel Road and Alec Rose Lane.</p> <p>4.227 <b>Mix of uses.</b> A mix of uses could be accommodated on the site including offices (use class B1), student accommodation (use class C1), or education or community uses (use class D1).</p>

The City Centre Masterplan indicates a potential range of uses that could include a Halls of Residence and ground floor commercial uses. Development aspirations identify an opportunity for streetscape improvements by a taller building on essentially the same footprint as Chaucer



House and establishing a much stronger and more attractive contribution than Navigators Resource Centre. The SPD (at para's 4.206 and 4.230) considers development of Sites 13 & 15 could be up to 6 storeys and up to 8 storeys in height respectively. The Tall Buildings SPD (March 2009) includes the city centre site as one of nine distinct 'areas of opportunity' where development of tall buildings may be appropriate having regard to: proximity and ease of access to public transport; proximity to local commercial/shopping centres; the presence of existing tall buildings within the area; and, the suitability of their character and other townscape factors.

At the nearby site at Greatham Street/Dugald Drummond Street (on the opposite side of Isambard Brunel Road), the principle of a Halls of Residence for 836 student study/bedrooms in the city centre has previously been accepted and now substantially complete. The City Centre Masterplan seeks to encourage a mixture of compatible uses across the SPD area that has the benefit of informally 'policing' the area during the evenings and periods where shops and other businesses are closed.

The site is in close proximity to the University of Portsmouth's main campus (the site is around 300m from University House) and other educational establishments that would enable future student residents to have easy access (by foot or bicycle) to the teaching facilities, in addition to the other retail and leisure uses and employment opportunities found in the city centre, without the need for a car. Therefore, the site is considered a sustainable location for such a proposal. It is considered that this application is consistent with the proposals set out in the City Centre masterplan and Policy PCS4 of the Portsmouth Plan and would provide a use appropriate and compatible with its city centre location. It would also be consistent with the Student Halls of Residence SPD that identifies a need for student halls of residence in the city and the preferred location for such accommodation is close to the University's existing facilities and other educational establishments. The provision of purpose-built specialist accommodation for students would contribute to the delivery of new homes and to the wider economic regeneration of the city centre.

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

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

#### *Tall buildings/design*

The siting of the proposed development is essentially unchanged from the footprint of existing. The significance of the sheer quantity of underground services (also serving other nearby buildings) and its close proximity to existing buildings has become apparent as a major constraint to the site layout and resulted in the design strategy reverting back to the original building lines. This has practical implications for the building entrance foyer, proposed to be integrated with the current entrance underneath 'Margaret Rule Hall' and was to have been pushed forward to improve its presence. The existing position of the undercroft entrance provides some benefit of natural shelter but "...its closed and cramped nature makes for a fairly unpleasant experience, and gives nothing back to the urban realm" (section 5.6 of the architects

design statement). The design response for the proposed entrance seeks to create a predominantly glazed enclosure of the double height space exposing the soffit of the existing building and aluminium panels (in yellow) positioned on the original building line. It would represent a visual improvement to the existing undercroft entrance but would not achieve any significant improvement to its presence. There is an opportunity for architectural lighting to enhance the presence of the entrance during the hours of darkness though.

The applicants own and operate 'Margaret Rule Hall' (a 1970s office block converted to a Halls of Residence in 2000), which bisects the site and straddles Isambard Brunel Road; they are the developers of the Greetham Street site nearing completion for a Halls of Residence designed in part 7, 9, 17 & 25 storeys.

At 8 & 10 storeys (east side) and 9, 10 & 13 storeys (west side), the proposal would be appreciably greater than the storey heights specified in the City Centre Masterplan (at para's 4.206 and 4.230) for Sites 13 & 15 at up to 6 storeys and up to 8 storeys respectively. The situation is not dissimilar to the Halls of Residence under construction in Greetham Street for part 7, 9, 17 & 25 storeys in comparison with the SPD (para 4.219) that identified up to 6 storeys in height would be acceptable. The SPD (para 3.47) recognises that exceptionally taller landmark buildings in excess of the storey heights specified by opportunity sites elsewhere in the SPD may be acceptable subject to public realm that is well overlooked, potential overshadowing and adverse street-level microclimate, architectural and design excellence in making a positive contribution to the skyline of the city, contribution to economic prosperity, parking/servicing and relationship to listed buildings in the area.

In terms of scale/massing, the west side of the development would step from 9 storeys up to 13 and back down to 9 where it meets 'Margaret Rule Hall' (six floors above an high undercroft). The 2.7m floor-to-floor height allows more storeys to be developed (in comparison with a typical office floor-to-floor height). This built-form is considered to sit comfortably in its context, with its base, main body and upper projection relating to the arrangement of the adjacent Civic Offices with its roof-level service overruns and juxtaposition to the projecting service core of 'Margaret Rule Hall'.

The east side of the development would be predominantly 10 storeys stepping down to 8 storeys at each end. This scale/massing is considered to relate respectfully to 'Margaret Rule Hall' and the lower (7 & 9 storey) blocks of the new Greetham Street scheme viewed south-west from its junction with Dugald Drummond Street, along with the 6 storey Foyer scheme (No19 Greetham Street), and would present a consistent scale to these new surroundings.

In appearance terms, the applicants describe their design solution as creating a more sober but well-proportioned counter to the bold intervention of the Greetham Street tower. The materials selection has been intentionally understated but high quality, to provide a brick grid framing dark plane of panels within deep reveals, emphasised in detail by bronze linings. The challenge of this building type, with a very repetitive treatment of small window apertures potentially of overly domestic appearance, is to create a sympathetic rhythm and breakdown of the façade that adds enough interest.

The materials (external) palette to be used includes:

- (1) Facing brickwork - tbc;
- (2) Black/beige/bronze building panels - Alucobond;
- (3) Powder-coated aluminium to windows/doors/screens/louvre features;
- (4) Powder-coated aluminium feature to entrance lobby, in yellow;
- (5) Black render (to sub-station); and,
- (6) Roof coverings - unspecified but includes 5 areas of green (sedum mat) roof.

The townscape contribution of the existing buildings is limited. Chaucer House does not make a strong contribution to the overall character of the Guildhall area and is somewhat dwarfed by the height of the adjoining Margaret Rule Hall and the Dickens Wing of the Civic Offices. The

Navigators Resource Centre (originally a public house) now has a rather dated appearance and its relatively prominent location does not address the street in a positive way.

The comments of the Design Review Panel are set out in the consultation section of the report. The rationale for the appearance of the building was good and the range of materials broadly satisfactory although a significant number of aspects to the scheme could be improved: the undercroft entrance is disappointing; very limited consideration of landscaping after removal of the bus lane, resulting in an extremely wide pavement in front of the building that requires more attention to integrate landscaping/planting with the building to make it part of its setting; and, concern about the back of the building (where the attention to detail given to the front was absent) and the eastern end of the building was not considered especially successful. It was also suggested that the proposal would benefit from a re-examination of how the top of the building is terminated and may benefit from greater articulation.

The undercroft entrance is considered disappointing compared with earlier design iterations but for the reasons already outlined represents an improvement over the current entrance to 'Margaret Rule Hall' serving the existing and proposed buildings on its east and west sides. The rear of the building facing Charles Dickens Street, as originally submitted, was disappointing and considered to fall significantly short of the design excellence expected of a city centre building. It has been the subject of amendment and now forms a more consistent appearance with the principal elevations onto Isambard Brunel Road. The eastern end of the building on the corner with Alec Rose Lane and its return elevation into Charles Dickens Street is considered good enough, articulated by similar features elsewhere on the building, including bronze louvres and corner window arrangements (serving kitchens on all floors above ground level).

The improvements to the public realm, after removal of the bus lane on Isambard Brunel Road, are essential to providing the landscaped setting for the proposed development and space where the ground floor commercial units may attract outdoor seating/dining for café/restaurant uses. The indicative landscape scheme highlights a range of design issues to be resolved, for replacement bus stops, lighting, dedicated cycle route and new tree planting within hard surface treatments to deliver an attractive, safe and high quality urban space. There are also existing trees that require safeguarding during the construction period. These matters would be necessary and reasonable to secure by planning conditions.

An architectural lighting system would be secured to ensure a quality design solution for the site over 24 hours rather than daytime only, to accord with the Tall Buildings SPD and improve the presence, as far as practicable, of the undercroft entrance.

If planning permission is granted, it is considered that to reduce the impact of additional visual clutter and to protect against any further impact on the city skyline it is necessary and reasonable to impose a condition removing 'permitted development' rights for 'telecommunication equipment' (works permitted by Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)).

These tall buildings are considered capable of being assimilated into this central and highly accessible location, to harmonise with the skyline in this area of other tall buildings and create more positive cityscape features than existing. The proposed Halls of Residence with commercial ground floor units are considered to demonstrate a sustainable design of high quality contemporary architecture and a sympathetic relationship with the railway station and St Luke's Church.

#### *Impact on heritage assets*

Particular obligations fall upon the council in determining any application which might affect a listed building or its setting or a conservation area. The Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) at section 66 places a duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building

or its setting or any features of special architectural or historic interest which it possesses. Furthermore, at section 72 it is required that Local Planning Authorities pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

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

The application site is not located within a conservation area but within the setting of 'The Guildhall and Victoria Park' Conservation Area (No18) and the setting of other heritage assets located relatively close to the site namely, the Grade II registered Victoria Park, the Grade II\* listed New Theatre Royal and the Grade II Guildhall. The nearest statutorily listed buildings are St Luke's Church and Portsmouth & Southsea Railway Station (both Grade II). Given the pre-existence of screening buildings, the proposed halls of residence would be sufficiently distant from many of the heritage assets so as not to be dominant or overbearing. Further consideration has been given the potential impact on the setting of 'The Guildhall and Victoria Park' Conservation Area (No18) due to its close proximity to the application site and the conservation area's unique character as the historic civic / administrative core of the city, and the impressive range and high quality of the distinctive architecture and townscape within it. However, given the scale/massing of existing neighbouring and intervening buildings it is concluded that the proposal would not be harmful to the setting of the conservation area.

The nearest listed building to the application site is St Luke's Church, which was designed by local architect Thomas Hellyer of Ryde and is considered a good example of an attractive and unaltered mid Victorian city parish church rendered in a Norman style - a more unusual design approach for churches in this period.

The applicant's heritage assessment has considered the effect of the proposed scheme on St Luke's Church. It concludes "The impact of the scheme upon the listed church would be negligible, as its setting has a low sensitivity to change and plays a minor role in the overall significance of the listed building. The proposed highway and urban realm improvements, notably the removal of the 1970s pedestrian subway, would better reveal the flint wall of the churchyard in views from Isambard Brunel Road, and restore legibility to the relationship between the wall and the church." The significance of this listed building is considered to be understated; however, due to the presence of the Foyer building and the proximity of the Greetham Street halls of residence, the impact of the proposed redevelopment of the 'Navigators Resource Centre' on the listed church is considered negligible.

The other listed building closest to the application site is Portsmouth and Southsea Railway Station, which is a mid / late period Victorian station. It is considered that the building is relatively modest for a city of Portsmouth's size. Its attractive design is influenced by the French chateau style, the mansard roof forming a particularly strong and distinguishing feature of the elevation. The station is one of the principal entry points to the city and is important to the area in creating initial impressions of the city for visitors. Given the presence of the adjacent Premier Inn and Enterprise House, the proposed redevelopment of 'Chaucer House' is not considered to result in harm to the setting of the railway station. As such, this proposal is considered to be acceptable in heritage terms in accordance with Chapter 12 of the NPPF.

### *Impact on amenity*

The views of Environmental Health (EH) are set out in the consultations section of this report. EH has considered an Acoustic Assessment (Report 7263/AAR Rev.1 dated 28/4/16) submitted as part of the application and considers the noise survey to have been appropriately undertaken and the proposed mitigation to adequately protect the amenity of the future users. The report also covers potential noise from ground floor commercial units. The potential for noise is most likely to result from any A3 use. EH suggest that the internal fit out, which is typically undertaken by the tenant, will need to be tailored in terms of additional sound insulation as necessary and additional control can be maintained through the tenancy lease clauses. The Student Management Plan (Section 6) detailing times for deliveries and collections is considered to limit the impact on the amenity of the future proposed and other neighbouring residential uses. Proposed target levels (Section 3.0) are detailed for all operating plant that will be associated with this development, which is accepted by EH provided it extends to all plant and equipment associated with the proposed commercial uses at ground floor level (although in the absence of details it is not possible to assess this presently). A planning condition requiring a scheme of noise protection from any plant and/or equipment should be imposed.

Should an A3 use be introduced in the commercial units, some form of kitchen extraction system will likely be required and again a planning condition for approval of details is recommended to protect the amenity of neighbouring and the future residents of the development.

The proposals include a Combined Heat & Power system (CHP) with a peak output of 486 kW. EH has concern that the size of the CHP may have a significant impact on local air and further details, in an Air Quality Assessment, is required. An update will be provided at the Planning Committee on this issue.

The application has also been accompanied by a Daylight and Sunlight Study and Wind Environmental Assessment. The Daylight and Sunlight Study identifies there are no residential properties within the vicinity of the site but for the purposes of their report neighbouring student accommodation, homeless housing and hotel properties have been considered. The Study concludes that there are a number of rooms/windows adjacent to the site predominantly on 'Margaret Rule Hall' which exceed the daylight recommendations set out in the BRE guide but given that tenants to a halls of residence differ on a yearly basis for term-time accommodation as a temporary form of residential accommodation should not be considered to the same extent as residential dwellings. Therefore, it is considered that whilst there would be some impact on neighbouring property the impact is sufficiently limited not to be significantly detrimental to the occupiers.

The results of the Wind Assessment "...indicate that the local wind environment once the development is complete would have a negligible change from the baseline condition ... the results for individual directions show relatively minor differences on the predicted wind speeds, becoming slightly windier in some areas, whilst others show improved conditions depending on the direction." The Study concludes "... the results if the assessment indicate that the overall impact of the proposed development on the local wind environment is likely to be negligible to minor." The assessment has been carried out without trees and landscaping features in the model which is a representation of the worst case scenario; it is envisaged that the introduction of these will be beneficial and that the local wind environment will be further improved. Therefore, it is considered that the proposed development will not have any significant adverse impacts on the pedestrian environment around the building (in terms of the wind microclimate). In addition, the public realm improvements provide potential for additional tree planting, the details of which would be secured through a suitably worded condition.

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

### *Standard of accommodation*

The proposal would provide 484 study/bedrooms accommodated in 106 units, from individual studio rooms to cluster flats between 5 to 10 students with shared cooking facilities and living space. On the size of accommodation, the applicants confirm that the development meet the standards in the Student Halls of Residence SPD (October 2014).

Ancillary communal facilities would cover 665sqm comprise of lounge and social space/entrance foyer and laundry located on the ground and first floors.

With regard to on-site management, the applicant's Student Management Plan confirms a 24 hour presence on site as well as community liaison/contact arrangements and reporting of any complaints to their Customer Service Manager.

### *Highways implications*

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

The application is supported by a Transport Statement and Framework Travel Plan (prepared by WSP). The development does not propose any car parking for students at the halls of residence. The travel plan (page 8) states that "the proposed development is not considered to create significant transport implications as the site design and location will facilitate and encourage sustainable travel patterns through no car parking being provided for students." The Student Management Plan also confirms that the development is car-free and that car parking will not be available for students.

The views of the Highways Authority are set out in the consultations section of this report.

The provision of secure/weatherproof cycle storage does not meet the Parking Standards SPD but the reduction to 25% of the standard considered to be robustly justified by the applicants Transport Statement. There is no car parking provision for the commercial ground floor units. In the City Centre Masterplan, the SPD expects parking provision to be significantly lower than in other areas of the city. The Design & Access Statement refers to availability of on-street parking at the rear of the units but it inconsistent with other supporting information that explains existing car parking bays on Charles Dickens Street will be removed and replaced with loading bays to aid servicing deliveries. The Highways Authority consider the loss of the car parking spaces without replacement to be unacceptable but suggest alternative arrangements for servicing and suspension of parking during the move in/move out periods at the beginning and end of the academic year.

The Highways Authority does not consider the student arrival and departure management arrangements to be sufficiently detailed to demonstrate they can be safely and practically accommodated at the site. The applicants contend that a similar level of information was submitted to support their application at Greetham Street. However, the details for the Greetham Street scheme were originally considered insufficiently detailed and further information were required as part of the legal agreements. Further detail could again be secured as part of the legal agreement for this site.

Other supporting documents propose the temporary closure of Charles Dickens Street for the period of the project (24 months). The Highways Authority considers the closure of the road could not be justified simply for site office/welfare accommodation but if necessary to facilitate particular aspects of the build, the period of any closure restricted to the minimum necessary for safety purposes. The supporting documents have subsequently been amended to reflect this.

Most of the concerns raised by the Highways Authority have been addressed or considered capable of resolution. No assessment has been provided by the applicant of the likely car parking demand or capacity to accommodate this within available parking facilities. The proposed halls of residence represent a car-free scheme and the proposed commercial units replace others that have operated from Chaucer House for many years but are now vacant. The most significant highway impact would arise at the beginning and end of the academic year when students move in and out of the development but given the nature of Charles Dickens Street as a one-way system, any disruption and inconvenience during move-in/move out would be sufficiently isolated and unlikely to be significant.

Having regard to the proximity of the site to the University campus and to public transport, it is considered that the impact of the proposal is capable of being mitigated and therefore should be supported through planning obligations and conditions (secured by legal agreement). The comments of the Highways Authority identify 9 bullet points *if minded to grant permission*. The requirement for Traffic Regulation Orders is accepted but dependant on third party approval processes outside of the planning process so an Informative would be more appropriate than a planning condition. Public realm improvements would be required before first occupation of the development and the approval of the detailed landscape design (including remodelling of the existing highway, dependant on Phase 2) is proposed to be secured by planning condition (hard/soft landscaping - condition 5). The construction management and traffic management plans have been updated. The requirement for an updated Student Management Plan (with sufficient detail on arrival and departure arrangements) would be appropriate to secure by legal agreement. The Travel Plan and monitoring fee are proposed to be secured by legal agreement. Modification of the access arrangement to the PCC car park and pedestrian access route are matters more appropriate for the construction management and traffic management plans. Removal of the subway crossing to Isambard Brunel Road is proposed to be undertaken as part of Phase 1 of the public realm improvements and alternative surface level pedestrian facilities included in the construction management and traffic management plans. Finally, approval of details for network continuity of the CCTV function during the period of work would be secured by planning condition.

Portsmouth Cycle Forum has raised objection to the proposal as set out in the Representations section of this report. The proposed public realm improvements provide an opportunity for remodelling this part of the city centre for all users including cyclists and a detailed hard/soft landscape scheme would be required by planning condition.

#### *Recreational disturbance*

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

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

As set out in the Solent Special Protection Areas Supplementary Planning Document, 'due to the characteristics of this kind of residential development, specifically the absence of car parking and the inability of those living in purpose built student accommodation to have pets, the level of

disturbance created, and thus the increase in bird mortality, will be less than Class C3 housing. The SDMP research showed that 47% of activity which resulted in major flight events was specifically caused by dogs off of a lead. As such, it is considered that level of impact from purpose-built student accommodation would be half that of C3 housing and thus the scale of the mitigation package should also be half that of C3 housing'.

The proposed halls of residence would result to a net increase in population, which in all likelihood would lead to a significant effect, (as described in the Conservation of Habitats and Species Regulations 2010) on the Portsmouth Harbour and Chichester and Langstone Harbours Special Protection Areas (SPAs). This has been acknowledged by the applicant who has indicated that they will enter into a planning obligation to provide the necessary mitigation. The Solent Special Protection Areas SPD sets out how the significant affect 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  $(484/5 \times £174/2) = £8439$  where the SPD states 'the average number of study bedrooms in a unit of purpose built student accommodation in the city is five. As such, for the purposes of providing SPA mitigation, five study bedrooms will be considered a unit of residential accommodation'. In order to mitigate the recreational disturbance impacts of the proposed development the applicant will be required to make a financial contribution of £8439 to make the development acceptable in planning terms.

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

*Other matters including contamination/sustainable design & construction/drainage*

The submitted Preliminary Geo-Environmental and Geotechnical Risk Assessment has been reviewed by the Contaminated Land Team that concludes the report provides a sound initial risk assessment of the site and is in general agreement with the recommendations given in the report; relevant conditions are requested for contamination/remediation.

All development in the city must comply with the relevant sustainable design and construction standards as set out in policy PCS15 and the 'Sustainable design and construction' Supplementary Planning Document (SPD, adopted in 2013). Both the policy and SPD require this type of non-domestic development to achieve a BREEAM level 'Excellent', as well as further minimum standards in terms of cyclist facilities and low or zero carbon (LZC) energy technologies. A BREEAM pre-assessment (prepared by Watermans) confirms that the halls of residence element of the development is currently targeting a score of 73.09%, including all of the mandatory credits for an 'Excellent' rating. As such, this is fully in line with the requirements of Policy PCS15 and the SPD.

The BREEAM report also identifies that the ground floor commercial units of 704sqm would achieve a rating of 'Very Good'. Whilst this component falls short of meeting the requirements of policy PCS15, it represents the highest rating that can be achieved for a building shell (before fit out when a tenant is secured).

The energy strategy taken for this scheme is entirely appropriate to a development of this type achieved through a high performance building fabric and energy efficient engineering systems together with domestic hot water production from a combined heat and power plant (CHP) predicting a 26.4% improvement in regulated emissions from the scheme compared to what is required under Building Regulations, which is welcomed. It is also encouraging to see the proposed 'green roofs' across 5 areas of the roof space the provision of which will help to decrease the surface water runoff rate and volume and will also add to the biodiversity value of the site. If planning permission is granted, it is considered that to secure the relevant standard to accord with policy PCS15 and related SPD appropriate planning conditions are considered necessary and reasonable.



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

Whilst constructional matters are subject to control under the Buildings Regulations, the applicants confirm that a sprinkler system will be used for the proposed building.

## **Conclusion**

The uses of the site predominantly for a Halls of Residence but including a modest ground floor commercial element are appropriate to the city centre location. The proposal is considered to demonstrate a sustainable design of high quality contemporary architecture, to make a positive townscape contribution and preserve the setting of nearby heritage assets. The proposal can be assimilated onto the site without significant harm to neighbouring occupiers, would provide much needed specialist residential accommodation (for students), add to the vitality of the city centre and support the wider regeneration of the city and public realm improvements. Therefore, subject to planning obligations and conditions to make the proposal acceptable the proposed Halls of Residence is considered to represent sustainable development in accord with the Portsmouth Plan and the aims and objectives of the NPPF.

### *Planning obligations - required provisions*

As highlighted through the report (and repeated below), to ensure the scheme is acceptable in planning policy terms and to secure the required mitigation of potential impacts, the council will require a legally enforceable mechanism through a legal agreement to secure planning obligations and necessary off-site highways/public realm works. It is considered that the provisions that must be secured relate directly to the proposed development and are fairly and reasonably related in scale to the development. In addition to any further provisions that the committee is advised are, or considers necessary, (and which have the same characteristics), the provisions to be secured include:

1. A provision to secure the accommodation for University of Portsmouth students (or those on an equivalent full-time course) during their period of study and not use the halls of residence for any other purpose than as residential accommodation for a student during his / her period of study;
2. To keep and maintain the Register of Students as an accurate record of the student residents in the halls of residence and provide copy to Assistant Director of Culture & City Development upon request;
3. At all times other than University of Portsmouth Academic Terms not to use the halls of residence for any purpose other than as temporary residential accommodation for periods not exceeding two months in the case of any individual resident occupying the halls of residence;
4. Mitigating the impact of the proposed development on Solent Special Protection Areas by securing the payment of a financial contribution upon commencement of development;
5. The preparation and implementation of an Employment and Skills Plan (to assist in the development of resident workforce skills and provide a route to employment for local people);
6. The preparation and implementation of student management / travel plans (specifically with regard to arrival and departure arrangements and explicit targets/ incentives and interventions) for approval prior to first occupation of development. A fee of £5500 should be secured to facilitate monitoring of the travel plan for a 3 year period; and,
7. The payment of a Project Management Fee.

### *Planning Obligations - Legal mechanisms in this case*

Usually, the form of the legal agreement that would be relied on to secure such planning obligations would be made pursuant to Section 106 of the Town and Country Planning Act 1990 (s106 agreement), which is a form of agreement that has a special status conferred by the Act. Unlike other contractual arrangements in respect of land, a s106 agreement is enforceable not only against the person entering into that agreement but also against any person deriving title from that person, is a local land charge and is enforceable by injunction. For that reason, s106 agreements may be regarded as having a special status which does not apply to other types of agreements. Such a s106 agreement is a mechanism to overcome legitimate planning objections to the proposed development, and the existence of such a planning obligation is a material consideration to which the council should have regard when determining whether or not to grant planning permission.

The s106 agreement would normally be negotiated prior to the determination of the planning application and entered into once the Local Planning Authority had resolved to grant planning permission but before the formal grant of the permission. To enter into a s106 agreement the applicant has to have a legal interest in the land (such as a freehold interest). However, in this case the applicant does not currently have a legal interest in the land, because the transaction by which the council will transfer a leasehold interest to the applicant will be completed only when the applicant has secured a planning permission. In these particular circumstances, a binding s106 agreement could only be entered into after (rather than before) the grant of planning permission for the development (if the committee determines to grant permission).

The special characteristic of s106 agreements, to bind current and future owners, is only effective where current owners are bound by the obligations by completing the agreement. The council cannot enter such an agreement with itself that would have effect to bind subsequent owners. In consequence, the applicant is unable to enter into a legally binding s106 agreement before the leasehold transfer is completed.

Having regard to the need to secure the relevant provisions (see items 1-7 above), there must be a sufficient mechanism in place before planning permission for the development may be granted. It is therefore proposed that the applicant enters into a contractual agreement pursuant to Section 1 of the Localism Act 2011 and Section 111 of the Local Government Act 1972. Section 111 permits the council to do what is calculated to facilitate, or is conducive or incidental to the discharge of the council's functions, including the development control function. Section 1 of the Localism Act gives the council power to do anything which individuals may generally do, and is not limited by the existence of other powers which might overlap.

The terms of the agreement should include the planning obligations (set out above) and the additional requirement to enter into a s106 agreement (as soon as the applicant has acquired a legal interest in the land). The s111 agreement will afford significant assurance that a s106 agreement will be completed, and that the provisions required will be secured through both the agreements. Once the contractual agreement is signed the planning permission could be formally granted, thereby enabling the applicant to complete the lease agreement with the council (as landowner) which in turn would give them the legal interest in the land to then be able to complete the s106 agreement.

This approach would ensure that the required terms of the planning obligations were contractually binding between the Local Planning Authority and applicant prior to a permission being issued, to be followed by the execution of the s106 agreement by the applicant (and its funders if any) when the leasehold interest has been transferred. It is considered that this approach would safeguard the Local Planning Authority's position as they would be able to enforce the terms of the agreement directly, even if the s106 agreement was not completed.

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Culture & City Development to grant **Conditional Permission** subject to the prior completion of a contractual agreement (pursuant to Section 1 of the Localism Act 2011 and Section 111 of the Local Government Act 1972) with principal terms as outlined in the report and such additional items as the City Development Manager considers reasonable and necessary having regard to material considerations at the time the permission is issued;

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Culture & City Development to add / amend conditions where necessary;

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Culture & City Development to refuse planning permission if the contractual agreement (pursuant to Section 1 of the Localism Act 2011 and Section 111 of the Local Government Act 1972) has not been completed within one month of the date of the resolution, and

**RECOMMENDATION IV** - Once the applicant has secured a legal interest in the land, delegated authority be granted to the Assistant Director of Culture & City Development to complete legal agreements pursuant to Section 106 of the Town & Country Planning Act 1990 and Section 278 Highways Act 1980 with principal terms as outlined in the report and such additional items as the Assistant Director of Culture & City Development considered reasonable and necessary having regard to material considerations at the time the planning permission was issued.

### Conditions

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

Site location plan -	842-DG-OS01_D;
Existing Block plan -	842-EX-OR01_D;
Proposed Block plan -	842-DG-OR01_D;
Ground floor plan -	842-DG-0001_E;
First floor plan -	842-DG-0101_E;
Second-Seventh floor plan -	842-DG-0201_E;
Eighth floor plan -	842-DG-0801_E;
Ninth floor plan -	842-DG-0901_E;
Tenth-twelfth floor plan -	842-DG-1001_D;
Roof plan - First floor plan -	842-DG-1301_D;
West block elevations -	842-ES-0X01_F;
East block elevations -	842-ES-0X02_E;
Sections -	842-ES-0X03_E;
Entrance foyer -	842-ES-0X04_D;
Façade details -	842-ES-0X05_H;
Contextual elevations -	842-ES-0X06_D;
Contextual views -	842-ES-0X08_D;
Cycle storage compound -	842-ES-0X10_D;
Rendered rear elevations -	842-ES-0X11_D;
Landscape plan (for illustrative purposes) -	842-LY-0S02_F;
Existing trees -	70018063-TCP01; and,
Drainage layout -	1955-C-100_P01.
3. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority:

- a. A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011+A1:2013; and unless otherwise agreed in writing by the LPA,
  - b. A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA,
  - c. A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.
4. The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition 3(c) that any remediation scheme required and approved under the provisions of condition 3(c) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise;
- (a) as built drawings of the implemented scheme;
  - (b) photographs of the remediation works in progress;
  - (c) Certificates demonstrating that imported and/or material left in situ is free of contamination.
- Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 3(c).

5. Before the development hereby permitted is first brought into use the proposed public realm improvements shall have been undertaken in accordance with details of the hard and soft landscape proposals that shall have been submitted to and approved in writing by the Local Planning Authority beforehand. These details shall include:
- Proposed finished levels
  - Any means of enclosure and bollards
  - Vehicle, cycle and pedestrian access and circulation areas with loading/unloading arrangements
  - Hard surfacing materials
  - Street furniture or minor structures (such as seating, lamp standards, passenger shelters, cycle parking stands, refuse bins and similar structures or works)
  - Proposed and existing functional services above and below ground (drainage, power, communications, pipelines indicating lines, manholes, supports)
  - Retained landscape features
  - Planting plans
  - Written specifications of species, planting sizes and proposed numbers/densities of trees and other planting where relevant
  - Any phasing of works and planting
- The development shall only be carried out in accordance with the approved hard and soft landscape scheme.

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

7. No development/demolition shall commence on site until a scheme for the safeguarding the existing trees (marked T1-T7 inclusive on drawing no70018063-TCP01) during the course of the site works and building operations in accordance with British Standard:5837 (2005) has been submitted to and approved in writing by the Local Planning Authority. All trees, shrubs or features to be protected shall be fenced along a line to be agreed with the Local Planning Authority with 2.4m high heavy duty hoardings securely mounted on scaffold framing which is firmly secured in the ground and braced to resist impact. Such fencing shall be maintained during the course of the works on site. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area.
8. No development shall take place at the site until a detailed schedule (including any samples, as may be necessary) of the proposed materials and finishes to be used for the external walls and roof of the proposed halls of residence shall have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.
9. The facilities to be provided for the storage of bicycles shall be constructed and made available for use before the halls of residence is first brought into occupation, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter be retained for those purposes at all times.
10. The facilities to be provided for the storage of refuse and recyclable materials shall be constructed and available for use before the halls of residence is first brought into occupation, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter be retained for those purposes at all times.
11. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:-
  - (a) A baseline TV/radio reception report that records survey data of the existing television and radio equipment signals in the locality; and following the substantial completion of the building shell:-
  - (b) A report to assess the impact that the proposed development may have upon television and radio equipment signals in the locality; and, unless otherwise agreed in writing by the Local Planning Authority:-
  - (c) A detailed scheme for a scheme for the mitigation of any significant adverse effects upon TV/radio reception created by the building.Such measures as may be approved shall be implemented within 2 months of the approval of details, or within any other period of time approved in writing by the Local Planning Authority, and thereafter retained.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or other enactment modifying or revoking that Order, no structure or plant or apparatus shall be externally mounted on the building including any works permitted by Part 16 of Schedule 2 of that Order (with the exception of the any other externally mounted equipment/platforms/cradles necessary in relation to condition 13) without the prior written permission of the Local Planning Authority, obtained through the submission of a planning application.
13. Before the halls of residence is first brought into use details of (i) a programme for the cleaning and maintenance of the external cladding of building and (ii) the siting/appearance of any externally mounted equipment/platforms/cradles required for the cleaning and maintenance of the external cladding of the building shall have been submitted to and approved in writing by the Local Planning Authority. Such agreed programme of work and/or provision of externally mounted equipment shall subsequently be carried out and thereafter retained.

14. No construction shall take place until details shall have been submitted to and approved in writing by the Local Planning Authority of the proposed:
  - (a) means of foul and surface water sewerage disposal; and,
  - (b) measures to be undertaken to protect existing public sewer infrastructure.The Halls of Residence shall be brought into use until the drainage works have been carried out in accordance with the approved details (unless otherwise agreed in writing by the Local Planning Authority).
15. Before any part of the development is occupied, written documentary evidence shall be submitted to, and approved in writing by, the local planning authority proving that the development has achieved a minimum level of 'Excellent' in the Building Research Establishment's Environmental Assessment Method (BREEAM), including two credits in issue ENE 04 and two credits in issue TRA 03, which will be in the form of a post-construction assessment which has been prepared by a licensed BREEAM assessor and the certificate which has been issued by BRE Global, unless otherwise agreed in writing by the local planning authority.
16. Details of the external architectural lighting effects (during the hours of darkness), including details of the siting and appearance of any luminaires, shall be submitted to and approved in writing by the Local Planning Authority; the architectural lighting shall be carried out as an integral part of the development and shall thereafter be retained.
17. Prior to the installation of any fixed plant and/or equipment, a scheme for protecting residential premises from noise generated by the plant and/or equipment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that the combined noise level from all such plant (expressed as an LAeq,5minute) will be 5dBA below the measured background noise levels (expressed as an LA90 over one hour) representative of the quietest period of a typical week. The assessments shall be made at 1 metre from the façade of the nearest residential premises. The equipment shall then be installed in accordance with the approved details and shall thereafter be retained in that condition unless otherwise agreed in writing with the Local Planning Authority.
18. No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority (in conjunction with the Highway Authority) relating to the line, level and layout of highways works and its means of construction and surface water drainage for Isambard Brunel Road. The highway works to Isambard Brunel Road shall be laid out and constructed in accordance with the approved details and the requirements of a Section 278 Agreement under the provisions of the Highways Act 1980 prior to the first occupation of any part of the development.
19. No cooking processes other than the preparation of hot beverages, toasting of bread or heating of food in a microwave oven, domestic oven or domestic cooking device shall be undertaken within the ground floor commercial units if brought into use for purposes within Class A3 as a café/restaurant (unless a suitable kitchen extract ventilation system shall have been installed and operated to suppress cooking fumes and odours).
20. Prior to the commencement of any other cooking operation than those described in condition 19 (as limited to preparation of hot beverages, toasting of bread or heating of food in a microwave oven, domestic oven or domestic cooking device) equipment shall have been installed to a kitchen extraction system to suppress and disperse odour and fumes emitted from cooking operations arising from an A3 café/restaurant use. Prior to installation of the kitchen extraction system, details of the proposed equipment shall be submitted to and approved in writing by the local planning authority; and such approved equipment shall thereafter be operated for as long as the Class A3 continues.

21. No development shall take place until alternative network provision for the continuity of the Closed Circuit Television functions shall have been carried out in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority beforehand.

**The reasons for the conditions are:**

1. To comply with Section 91 of the Town and Country Planning Act 1990.
2. To ensure the development is implemented in accordance with the permission granted.
3. In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
4. In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
5. To secure a high quality setting to these tall buildings on a prominent and important site, also within the setting of St Luke's Church and the railway station, in the interests of visual amenity in accordance with policies PCS13, PCS23 and PCS24 of the Portsmouth Plan, the City Centre Masterplan SPD and the aims and objectives of the NPPF.
6. To secure a high quality setting to these tall buildings on a prominent and important site, also within the setting of St Luke's Church and the railway station, in the interests of visual amenity in accordance with policies PCS13, PCS23 and PCS24 of the Portsmouth Plan, the City Centre Masterplan SPD and the aims and objectives of the NPPF.
7. To ensure that trees to be retained are adequately protected from damage to health and stability throughout the construction period in the interests of amenity in accordance with policy PCS13 of the Portsmouth Plan and the aims and objectives of the NPPF.
8. To secure high quality external finishes to these tall buildings on a prominent and important site, also within the setting of St Luke's Church and the railway station, in the interests of visual amenity in accordance with policies PCS23 and PCS24 of the Portsmouth Plan, the City Centre Masterplan SPD and the aims and objectives of the NPPF.
9. To ensure that adequate provision is made for cyclists using the premises and to promote and encourage more sustainable transport modes, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
10. To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.
11. To protect occupiers of properties in the vicinity of the site from any adverse impact on TV/radio reception, to accord with Policy PCS23 of the Portsmouth Plan.
12. To ensure the skyline and 'clean lines' of these prominent tall buildings remain free of visual clutter and to ensure television and other transmissions are not adversely affected by subsequent additions to the building, to accord with policies PCS23 and PCS24 of the Portsmouth Plan.
13. To maintain a high quality external appearance to these tall buildings on a prominent and important site, also within the setting of St Luke's Church and the railway station, in the interests of visual amenity in accordance with policies PCS23 and PCS24 of the Portsmouth Plan, the City Centre Masterplan SPD and the aims and objectives of the NPPF.

14. To protect existing drainage apparatus and to reduce the risk of flooding by the proposed development, without increasing flood risk elsewhere, to accord with policy PCS12 of the Portsmouth Plan and the aims and objectives of the NPPF.
15. To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy PCS15 of the Portsmouth Plan.
16. In order to secure the highest design quality for these tall buildings over 24 hours (rather than daytime only) on a prominent and important site, also within the setting of St Luke's Church and the railway station, in the interests of visual amenity in accordance with policies PCS23 and PCS24 of the Portsmouth Plan, the City Centre Masterplan & Tall Buildings SPDs and the aims and objectives of the NPPF.
17. To ensure that acceptable noise levels within nearby dwellings and the halls of residence are not exceeded in the interests of residential amenity, in accordance with policy PCS23 of the Portsmouth Plan.
18. In the interests of maintaining a safe and efficient highway network, in accordance with policies PCS17 & PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
19. To protect the amenities of adjoining and nearby residential occupiers, in accordance with policy PCS23 of the Portsmouth Plan, in the absence of a suitable extract ventilation to deal with the dispersal of cooking fumes and odours.
20. To protect the amenities of adjoining and nearby residential occupiers from nuisance from excessive cooking odours and fumes, in accordance with policy PCS23 of the Portsmouth Plan.
21. To maintain continuity of CCTV network in the interests of safety, to accord with policies PCS16, PCS17 & PCS23 of the Portsmouth Plan.

#### PRO-ACTIVITY STATEMENT

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

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Assistant Director of Culture & City Development  
8<sup>th</sup> August 2016



## Appendix 1



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FAO: Alan Banting

Portsmouth City Council

Planning Department Civic Offices

Guildhall Square

Portsmouth

P01 2AY

05 August 2016

Dear Alan

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Thank you for forwarding the recent letter from the University of Portsmouth (UoP) in respect of our application reference 16/00885/FUL 12-40 ISAMBARD BRUNEL ROAD, PORTSMOUTH. We have had the opportunity to review the comments from Fiona Bell and wish to provide the following statement.

On March 16<sup>th</sup> as part of the pre-application process, our proposals were presented to the Developers Consultation Forum. UoP were invited to the presentation, but did not attend. We have also made efforts to contact UoP and arrange a meeting, having initially sent details of the application to Fiona on the 3<sup>rd</sup> March and updated on the 27<sup>th</sup> April as the design developed through the pre-application process.

Following validation of the application, we held a meeting on 28<sup>th</sup> June with Fiona Bell to present the details of the application. A further meeting was held on 18<sup>th</sup> July where we presented the development programme and logics plan proposed during construction in order to minimise the impact to Margaret Rule and Greetham Street and explain the principles we would adopt in order to maintain a safe and secure environment at all times.

Registered office The Core, 40 St Thomas Street, Bristol, BS1 6JX, UK Registered in England Number 3199160





Our University partnership team maintain regular contact with UoP as part of our ongoing relationship and commitment to students in Portsmouth. We have recently entered into a long term nominations agreement with the University to provide accommodation across all of our properties in Portsmouth. In contrast however to the recent permissions at Zurich House and Surrey Street, we provide a range of cluster sizes and studio accommodation which enables us to cater for the different price brackets that students require and offer more affordable accommodation. Having entered into the nominations agreement, we have been in a unique position to discuss the needs of Portsmouth students with UoP and have been able to apply these principles to the Chaucer House application. Chaucer House follows the same specification and arrangement as Greetham Street, where the University have taken all beds under the nomination agreement, therefore recognising demand for this type of product.

We are confident that our properties are attractive to all students, inclusive of second, third and post graduate years and as a direct result of our demand based research, believe there is a clear need to provide accommodation for these students in addition to the yearly undergrad intake.

The provision of student accommodation on the Chaucer House and Former Navigators Resource sites is strongly supported by the City Centre Masterplan SPD and has the opportunity to reinforce the student presence within the area and support the regeneration initiatives.

Margaret Rule and Greetham Street are both managed and owned by Unite and it is in our best interest to ensure a duty of care to our current and future residents. Owning Margaret Rule puts us in a unique position to be able to provide a greater long term experience for the students living in Margaret Rule as part of the improvements to the public realm, combined entrance and common room facilities shared with Chaucer House.

Managing Margaret Rule through the nominations agreement with UoP provides an advantage of direct contact with the University and will enable us to deal with any concerns that arise during the redevelopment in an efficient manner. However, we take the welfare of our students extremely seriously and will considerately manage conditions to mitigate any impact of the Chaucer House redevelopment during construction.

As the largest operator of student accommodation within the UK, we are experienced in developing sites next to existing student accommodation buildings, Orchard Heights in Bristol being one such example. During the construction of Greetham Street, we carefully monitored the experience of students in Margaret Rule and have not received a single complaint from students.

We believe that the development will not have be an impact on Greetham Street, principally because the Chaucer House site is located at a sufficient distance away from the building entrance.

In regards to Margaret Rule, we have arranged a follow up meeting with UoP to discuss further our proposed access strategy and agree the most appropriate way forward. We are confident that an agreeable solution can be agreed and their concerns addressed.

Regards

Archie Fishlock

For and on behalf of The UNITE Group Plc



# Agenda Item 17



Portsmouth  
CITY COUNCIL

<b>Decision maker:</b>	Planning Committee - 17 August 2016
<b>Subject:</b>	15/02010/PAMOD - Request to modify legal agreement attached to planning permission 12/01382/FUL relating to land at 249 Fratton Road
<b>Report by:</b>	Assistant Director of Culture & City Development
<b>Wards affected:</b>	Fratton
<b>Key decision (over £250k):</b>	No

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This item is accompanied by an appendix containing confidential information relating to the viability of the scheme and therefore the Chair will ask the Committee to pass a formal resolution relating to the exclusion of press and public for the consideration of the exempt information under paragraph no 3 of Schedule 12A to the Local Government Act 1972 relating to Access to Local Authority Information.

The public interest in maintaining the exemption must outweigh the public interest in disclosing the information.

Members are reminded of standing order restrictions on the disclosure of exempt information and are asked to return their exempt documentation to the City Development Manager at the conclusion of the meeting.

The Paragraph 3 exemption covers "Information relating to the financial or business affairs of any particular person (including the authority holding that information)".

[The applicant and their representatives are invited to stay to be questioned by members of the Committee]

## 1 Purpose

The purpose of the report is to present detail to the Members for their consideration further to their decision taken on 22<sup>nd</sup> June 2016 relating to a request to modify the legal agreement attached to planning application 12/01382/FUL in relation to affordable housing provision. The report clarifies key facts and the issues that arise in determining this matter.

## 2 Recommendation

Having regard to the further information, Members approve the proposed modification of the legal agreement to remove the requirement to provide three units of affordable housing.

## 3 Comments

Since the Planning Committee meeting the applicant and agents for the proposal have met with Planning Officers with a view to challenge the options that are available for affordable housing delivery.

Having regard to the representations made this report seeks to detail facts which need to be fully considered as part of the Members decision making process.

### Key Facts

At the time of securing planning permission in December 2013, the proposed redevelopment of the site included a policy compliant affordable housing offer of three (3) on site dwellings.

Legislation and policy provide the mechanism to enable applicants to seek to amend s106 agreements. The application has been made in accordance with these provisions on the basis that the requirement for affordable housing is unviable.

The application was supported by a professionally prepared viability appraisal, which was independently reviewed by the District Valuer, arriving at the conclusion that the scheme is not viable as an open market scheme, with the deficit only increasing where the permitted scheme with affordable housing is delivered.

It is on this basis that the Local Planning Authority recommends the s106 agreement for the site be amended to not require the provision of affordable housing. There are no further material considerations which should be considered. The applicant / owner has exhausted all other avenues prior to making this application to vary the s106 agreement.

The Review of the Development Viability Assessment prepared by DVS Property Specialists dated 19<sup>th</sup> May 2016 is confidentially provided to enable Members to have full regard to the facts.

### Analysis

The Member decision on 22<sup>nd</sup> June 2016 prevents more than six (6) units, of the total eleven (11), being disposed of without the otherwise provision of the three (3) affordable housing units, as permitted.

The definition of disposal includes the rental occupation of the units, meaning the lawful occupation of the development would result in five (5) vacant units on the site.

Where the Local Planning Authority determines that a planning obligation shall continue to have effect without modification the applicant can appeal the decision, however those appeal rights are not available until five (5) years from the date of the s106, which in this case is December 2018.

In the interim should the applicant commence to occupy more than six (6) units on the site the Local Planning Authority would have the powers to enforce the non-compliance by way of serving an injunction. In addition if an LPA is aware that there is a strong likelihood that a breach of a planning obligation may occur it can seek an injunction to restrain such breach before it takes place, where it considers that such action is necessary and it is expedient to do so. Enforcement action could be taken against any person who entered into the s106, and any person who derives title from that person.

This potentially exposes future owner / occupiers, and may have housing implications for the Authority.

The principle that arises from this application is whether the Local Planning Authority have reasonably considered all the relevant facts with this matter and in arriving at its decision has considered the extent of action it will go to enforce that decision.

### Options Going Forward

It is open to the Planning Committee to:

- A Agree to enter into a deed of variation to remove the requirement for affordable housing to prevent properties being competed that cannot be occupied.
- B Decline to enter into a deed of variation and in so doing accept that (on the basis of the applicants submission) five (5) accommodation units will remain vacant until such time that the applicant can appeal this decision to the Secretary of State which would be in December 2018.
- C Decline to enter into a deed of variation and in so doing require the Local Planning Authority to enforce this obligation where the applicant / owners / occupiers commence to unlawfully occupy the development.

## **4 Representations**

No comments have been received.

## **5 Equality impact assessment (EIA)**

The document is a consultation document and therefore there is no significant impact.

## **6 Legal services' comments**

The City Solicitor is satisfied that it is within the City Council's powers to approve the recommendation as set out.

### *Duty to act reasonably*

Section 106A of the Town and Country Planning Act 1990 provides that the City Council may agree, with the other parties, to a change in the terms of an agreement. Importantly, the Council is bound to consider the request and any decision made is susceptible to judicial review.

Accordingly, the Council is compelled to consider the request, whether the relevant obligation continues to serve a useful planning purpose and - if minded to refuse - to consider and to articulate the planning purpose to be served by such a refusal.

Given that the passage of time since the entering into the planning obligation has not exceeded 5 years, the applicant is not yet entitled to seek a discharge or modification of

the obligation. However, given the reported impact of this obligation on this stage of the development, it is appropriate that the matter be determined forthwith.

*Enforcement Matters*

Section 106(5) of the Town and Country Planning Act 1990 ("TCPA") specifically allows a Local Planning Authority ("LPA") to seek an injunction to enforce a breach of a planning obligation.

If the LPA is aware that there is a strong likelihood that a breach of a planning obligation may occur it can seek an injunction to restrain such breach before it takes place, where it considers that such action is necessary and it is expedient to do so. (s. 187B TCPA 1990)

Whilst it is open to the LPA to seek an injunction the courts are unlikely to grant an injunction where an award of damages would be an adequate remedy. An award of damages is intended to put the injured party back into the position that he would have been in had the obligation been complied with. In appropriate cases, the Council may be awarded damages representing what it could have charged for permitting a breach of the obligations.

Where the obligations have already been breached and the properties are occupied the Courts are unlikely to grant an injunction if this would result in a person being removed from their home as this may be considered disproportionate.

In any event the Courts will seek to balance the losses suffered by the Council against the resultant impact an injunction may have on occupiers of the properties, when determining the appropriate remedy.

It is not possible to provide a summary or projection of the likely level of damages, which may be awarded following any such claim.

**7 Finance comments**

There are no finance implications.

.....  
Signed by:

Appendices:

Appendix 1 - District Valuers Review of applicants viability submission (exempt)

**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
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<p>Legal Agreement dated 5<sup>th</sup> December 2013 Planning Obligations SPD (September 2008) National Planning Policy Framework (March 2012) Providing Affordable Housing in Portsmouth (May 2012) Planning Practice Guidance on viability (March 2015)</p>	<p>Planning Services</p>
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