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# NOTICE OF MEETING

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## PLANNING COMMITTEE

**WEDNESDAY, 4 APRIL 2018 AT 1.00 PM**

**THE EXECUTIVE MEETING ROOM - THIRD FLOOR, THE GUILDHALL**

Telephone enquiries to Joanne Wildsmith, Democratic Services Tel: 9283 4057

Email: [Democratic@portsmouthcc.gov.uk](mailto:Democratic@portsmouthcc.gov.uk)

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

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### **Planning Committee Members:**

Councillors James Fleming (Chair), Scott Payter-Harris (Vice-Chair), Jennie Brent, Colin Galloway, Lee Hunt, Frank Jonas BEM, Hugh Mason, Gemma New, Steve Pitt and Gerald Vernon-Jackson CBE

### **Standing Deputies**

Councillors Alicia Denny, Suzy Horton, Darren Sanders, Lynne Stagg, Luke Stubbs, David Tompkins, Steve Wemyss, 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 4916.

## **A G E N D A**

- 1 Apologies**
- 2 Declaration of Members' Interests**
- 3 Minutes of the previous meeting - 7 March 2018 (Pages 3 - 6)**

**RECOMMENDED that the minutes of the Planning Committee held on 7**

**March 2018 be agreed as a correct record and signed by the Chair.**

- 4 Planning appeal decisions concluded up to April 2018 (information item)  
(Pages 7 - 16)**

The purpose of the information report by the Assistant Director of Culture & City Development is to advise the Planning Committee on the outcome of recent appeal decisions concluded up to April 2018.

**RECOMMENDED that individual Inspectors' decisions are noted.**

- 5 Update on previous planning applications by the Assistant Director of City Development**

**PLANNING APPLICATIONS**

- 6 17/02188/FUL - 46A Lealand Road Portsmouth PO6 1LZ - Construction of 6 semi-detached houses and a single coach house unit to include vehicle parking and cycle/refuse stores with access from Lealand Road (following demolition of existing dwelling) (amended scheme to 15/01671/FUL) (report item 1) (Pages 17 - 50)**
- 7 18/00061/FUL - 2B Merton Road Southsea PO5 2AG - Construction of three-storey dwelling over basement following demolition of existing dwelling and garage (report item 2)**

Members of the public are permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting nor 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.

Whilst every effort will be made to webcast this meeting, should technical or other difficulties occur, the meeting will continue without being webcast via the Council's website.

This meeting is webcast (videoed), viewable via the Council's livestream account at <https://livestream.com/accounts/14063785>

# Agenda Item 3

## PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 7 March 2018 at 1.00 pm in The Executive Meeting Room - Third Floor, The Guildhall

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

### Present

Councillors   Scott Payter-Harris (Vice-Chair)  
                    Jennie Brent  
                    Colin Galloway  
                    Suzy Horton (Standing Deputy)  
                    Lee Hunt  
                    Frank Jonas BEM  
                    Hugh Mason  
                    Gemma New  
                    Steve Pitt

### Also in attendance

Councillor Linda Symes

### Welcome

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

### Guildhall, Fire Procedure

The Chair, Councillor Payter-Harris, 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.

#### 39. Apologies (AI 1)

Apologies for absence were received from Councillor Vernon-Jackson. He was represented by Councillor Suzy Horton.

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

Councillor Lee Hunt advised that both he and his partner were making a deputation on the planning application today. He would therefore leave the room once he had made his deputation and not participate in the discussion.

#### 41. Minutes of the previous meeting - 7 February 2018 (AI 3)

In response to a question from a member, the Assistant Director of City Development said that the planning and licensing teams were working together to create one common HMO database and work was progressing well. There has been a slight delay as the licensing team have migrated all their data onto the Uniform system, which is the same system that the planning, licensing and environmental

health teams' use, but the data needed to be checked and verified. Currently it is only 80% accurate and this needs to be 100% accurate for members of public to rely on that information. This is a priority for the licensing team.

In response to a further question the Assistant Director of City Development said the council offer pre application advice which is open to anyone to ask advice on the likely outcome of a proposal in advance of submitting an application. If planning receive an application, legally this must be registered and consulted upon and they must give them a decision on that application.

**RESOLVED that the minutes of the previous meeting held on 7 February be agreed and signed by the chair as a correct record.**

**42. Update on previous planning applications by the Assistant Director of City Development (AI 4)**

The Assistant Director of City Development advised there were no updates on previous planning applications.

She advised that there were two appeal decisions that had been published on Monday that were testing the new HMO SPD. These were applications that were considered prior to the SPD being adopted. In both cases the inspector did not uphold the amendments to the SPD. The Assistant Director of City Development said this may be as they were decided upon in the transition period and therefore is not a true reflection of the robustness of the SPD. The true test of the SPD will be when the planning department receive decisions through that were decided post the SPD being amended. She advised a short report would be prepared for the next planning committee meeting on both these appeals.

In response to questions the Assistant Director of City Development explained that it would be for subsequent inspectors to make a judgement on the weight they give to the two appeal decisions.

**43. 17/01916/PAMOD - Modification of legal agreement associated with planning permissions 16/00194/MMA in relation to student occupation obligations (AI 5)**

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

Members had no questions on the report and felt that this was a sensible proposal.

**RESOLVED the committee agreed to vary the unilateral undertaking to allow students to occupy the same student bedroom for consecutive academic years and retain the requirement for the length of occupancy per academic year to be no more than 51 weeks, and approved the amended Student Intake Management Plan.**

## PLANNING APPLICATIONS

Deputations are not minuted in full as these are recorded as part of the web-cast of this meeting which can be viewed here:

<https://livestream.com/accounts/14063785/Planning-07Mar2018>

### **44. 17/02083/FUL - 36-38 Palmerston Road Southsea PO5 3QH (AI 6)**

The Planning Officer introduced the report.

The following deputations were heard:

- (a) Mr Allan Smith (objecting to the application)
- (b) Mr Richard Adair (objecting to the application)
- (c) Councillor Lee Hunt (objecting to the application, before he withdrew from the room to take no further part in the discussion of this item)
- (d) Councillor Linda Symes (as ward councillor who made general comments on the application).

Mr Greenwood and Mr Sutton had registered to speak against the application but did not appear as deputations.

### Members' Questions

In response to questions the following points were clarified:

- The monitoring of shop frontages is undertaken by the planning team on an annual basis. The council's records indicate that the current proportion of class A1 uses in the primary frontage for Palmerston Road is 78%. This is above the 75% threshold as set out in Policy STC3. If the use class of libraries and banks were included this would still keep above the 75% threshold.
- Although the plant looks substantial officers did not have details of the full scheme as to whether it would be sufficient in terms of loss of amenity. This is why a condition had been added that prior to the installation details of the proposed equipment shall be submitted for approval. If the managers approve the system in terms of its ability to combat odours then it should work adequately well.
- The Assistant Director of City Development was not able to confirm whether there was previously a restaurant just inside Stanley Street. She explained that the current Southsea Town Centre SPD was adopted under the 2006 Local Plan and was adopted as a direct result of the in the 2012 Local Plan. Several other members of the committee recalled that there did used to be a restaurant just inside Stanley Street.
- In the past details of extraction systems have been considered by the Planning Committee as they were in a conservation area or a listed building. In this instance the extraction system does not need further planning permission, just control by way of condition and the Environmental Health officers will agree the design with the applicant to ensure it is appropriate.

- Officers said that the proposed opening hours were in line with the restaurants in the south part of Palmerston Road. The committee could choose to amend the proposed hours though if they wished.
- There is a condition proposed for noise generated by the extraction system and the regulatory services manager said officers had an idea of what the applicant should consider. There is a British Standard and the condition refers to that standard.
- Officers confirmed that the existing shopfront would be set back by 2.2m and tables and chairs would be behind this frontage and would not extend onto the pedestrianised area. The red and blue line plan which accompanies the application makes it clear the applicant does not own any land outside the building. It is not a right of ownership in terms of the title that runs with the shop.
- The applicant would need to apply for an amenity on the highway licence to put tables and chairs on the pavement, this is not a planning matter.
- The committee could make a judgement to add a condition to limit tables and chairs outside to a certain hour but this would need a planning justification.

#### Members' Comments

Members felt that it would be good to see this unit come to life although felt it was unfortunate to see retail units closing. Members felt that 23:00 was too late for the premises to be vacated and felt this should be changed to 22:00. This would be in line with the existing hours at Tesco Express. Members also raised concern about noise arising from the outside space and it was proposed to further amend condition 3 so that the use of the outdoor seating area be vacated by 21:00. Members were also concerned that the planning officers were yet to receive details about the extraction process.

**RESOLVED that the application be granted subject to the conditions set out in the City Development Manager's report; with the below amendment to condition 3**

**a) The premises shall be closed and vacated by the public between the hours of:**

- **Sunday to Saturday 22:00 to 08:00 the following day.**

**b) The outdoor seating area shall be vacated by the public between the hours of:**

- **Sunday to Saturday 21:00 to 08:00 the following day.**

The meeting concluded at 2.05 pm.

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Signed by the Chair of the meeting

# Agenda Item 4



**Portsmouth**  
CITY COUNCIL

Agenda item:

**Decision maker:** Planning Committee

**Subject:** Planning appeal decisions concluded up to April 2018

**Report by:** Claire Upton-Brown  
Assistant Director Culture & City Development

**Wards affected:** Eastney & Craneswater, Nelson and Charles Dickens

**Key decision (over £250k):** No

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**1. Purpose of report**

To advise the Planning Committee on the outcome of recent appeal decisions concluded up to April 2018.

**2. Recommendations**

That individual Inspectors decisions are noted.

**3. Summary**

Appeal Site	Proposal	PCC Decision	Inspectors Decision	Costs
22 Jessie Road Southsea PO4 0EN (Central Southsea)	Change of use from purposes falling within a C3 (dwelling house) or C4 (house in multiple occupation) to a 7 bedroom 7 person sui generis house in multiple occupation.	Refusal	Allowed- Permission Granted	Allowed
12 Inglis Road Southsea PO5 1PB (St. Jude)	Construction of single storey rear extension (after demolition of existing)	Refusal	Dismissed- Permission refused	N/A
63 Cornwall Road Portsmouth PO1 5AR (Fratton)	Construction of dormers to side roofslope	Refusal	Dismissed- Permission refused	N/A

<b>Appeal Site</b>	<b>Proposal</b>	<b>PCC Decision</b>	<b>Inspectors Decision</b>	<b>Costs</b>
1 Edmund Road Southsea PO4 0LL (Central Southsea)	Change of use from purposes falling within Class C4 (house in multiple occupation) to a 7 bedroom house in multiple occupation (Sui Generis)	Non-determination	Allowed-Permission Granted	Allowed
59 Liss Road Southsea PO4 8AS (Central Southsea)	Change of use from purposes falling within Class C4 (house in multiple occupation) to a 7 bedroom house in multiple occupation (Sui Generis)	Non-determination	Allowed-Permission Granted	Allowed
Annesley House Queens Crescent Southsea PO5 3HE (St. Jude)	Retrospective application for construction of two outbuildings	Refuse	Split Decision, Part allowed, part refused	N/A
56 Stubbington Avenue Portsmouth PO2 0JA (Copnor)	Formation of dropped kerb/access to serve hardstanding	Refuse	Dismissed-Permission refused	N/A
9 Livingstone Road Southsea PO5 1RS (Central Southsea)	Demolition of existing entrance piers and wall; and construction of new piers and wall to facilitate vehicular access and the formation of a driveway	Refuse	Dismissed-Permission refused	N/A



#### 4. Decisions in Focus

Three of the Inspectors decisions are detailed below to highlight points of interest.

##### **22 Jessie Road, Southsea PO4 0EN-**

The main issue considered in allowing this appeal was whether the proposal would provide satisfactory living conditions for future occupiers of the property.

The inspector made note that the Council refer this type of planning application to the Private Sector Housing Team (PSHT) but concerns were raised due to a lack of clarity around the councils SPD "Standards for Houses in Multiple Occupation" (2014) which the Inspector noted was under review and therefore little weight was given to this document. In addition to this, the PSHT consultation comments for this planning application referred to this document to underpin their rationale, however given the unknown status of this document, the Inspector was left unclear about what weight should be applied to this consultation. The inspector also noted that two of the seven proposed rooms were slightly under the 7.5m<sup>2</sup> limitation as identified in the draft HMO SPD.

In assessing the proposed communal facilities, the Inspector acknowledged that the loss of the communal lounge and the provision of an additional bedroom will have an effect upon the demands for remaining shared space elsewhere within the building. However in considering the suitability of these facilities, the Inspector noted: *"The level of facilities provided in the kitchen appeared to me to be to a good standard. Space around the food preparation area was substantial and there is a reasonably sized sink. The lounge part of this had a large sofa suitable for 4 or 5 people in my view. There is some other space available to bring in further, informal seating if required. I also found the room to be light and airy with good access to outside space. Although there would be greater use of this room, it did not strike me as an area that would feel cramped or claustrophobic even if 7 people were to all use it at the same time."*

A further interpretation of the HMO SPD draft standards as considered at the time provided an insight into the combined living space requirement. The inspector noted that the presence of seven people cooking together would be *"chaotic"* however was of the opinion that this would not be significantly different to six people cooking together at the same time. The inspector opined: *"Furthermore, the SPD requires a combined living space of 27m<sup>2</sup> although I am unconvinced from the submitted evidence that not meeting this guidance would make a critical difference to the comfort of living here with 1 additional resident. The Council's PSH team acknowledges that the room may be satisfactory but that they would need to visit to determine that. It is unfortunate that they did not visit."*

In relation to matters relating to proposed sanitary facilities, the Inspector advised: *"The PSH team refer to concerns over the size of the second floor bathroom and again, this has not been clarified via a site visit. I found the sanitary accommodation to be to a good standard and size. Given that usually 1 person would use a bathroom at a time, it is not clear why these rooms are suitable for 6 people but not 7. Although the requirement of the SPD for 2 separate toilets is not met, the proposal would result in only 1 additional occupant and I do not consider that this should be of decisive weight in relation to this matter."*

In conclusion the Inspector noted: *"Overall, I found that the accommodation within the property would enable a comfortable living environment for occupiers of the building. In relation to the main issue, the proposal would provide for satisfactory living conditions for the prospective occupiers."*

The Inspector found it was appropriate to apply standard conditions relating to time limits and carrying out the development in accordance with approved plans, however applied a condition

restricting the usage of the property to 7 people to avoid any additional strain on the proposed facilities.

### **Costs Decision-**

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 Inspector acknowledged that the Council's decision to refuse planning permission was based on the perceived quality of living environment afforded to future occupiers of the Sui-Generis HMO and that this decision relied heavily on the advice of the Private Sector Housing Team. The Inspector opined: *"At the time of the decision, no set of adopted standards as guidance to inform the decision has been referred to by them other than the Technical housing standards – nationally described space standards. These do not relate directly to Houses in Multiple Occupation and can only be given limited as I have in my appeal decision."*

Discussing the process regarding how this application was assessed, the Inspector noted: *"Whilst the Council's planning officer has also visited the site, given the degree of influence that the PSH officer has had in this case, it is very unfortunate that a site visit was not made by that officer. The quality of a living environment is not solely about floor space as I have made clear within my appeal decision. It is not clear why a visit was not undertaken particularly given that the PSH officer had offered to do so on 11 May 2017 in an e-mail, over a month prior to the Council's Planning Committee."*

Further to this, the Inspector added: *"I found the Council's case unconvincing particularly when I saw the inside of the property for myself and therefore consider that the refusal was vague and generalised, contrary to PPG advice. In this respect, the Council has acted unreasonably."*

In concluding the Costs application the Inspector advised: *"The unreasonable behaviour by the Council has resulted in an appeal that may not have been necessary otherwise. The appellant has employed a planning consultant to prepare his case and I was met at the site by his letting agent. Fees have been incurred. The PPG makes it clear that a costs awards cannot extend to compensation for indirect losses such as those resulting from the delay and the costs would not extend to the loss of income due to the delay in having an additional letting room."*

### **59 Liss Road, Southsea PO4 8AS-**

The main issues considered in allowing this appeal were the effects of the proposal on the mix and balance of the community and secondly, whether the proposed use would provide an adequate standard of accommodation for occupiers.

The Inspector acknowledged the HMO Count Data that identified that 21 properties (inclusive of the application site) were in use as HMO's within a 50m radius equating to a density of 28.76% which is above the 10% threshold, however noted that as the property is already in mixed C3/C4 use that the proposal would not result in a change to the balance of uses in the surrounding area.

Offering an interpretation of the role of SPD's the Inspector noted: *"Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan."* Further to this she added: *"Whilst I give*

*significant weight to the SPD, conflict with the guidance is not in itself a planning harm nor does it necessarily equate to a breach of development plan policy."*

Offering an opinion on the council's interpretation of the impact of HMO's the inspector opined: *"The Council states that consultations with city residents suggest that problems occur at a much greater rate in areas with high concentrations of HMOs. It goes on to refer to areas of the city where HMOs can exceed 30, 40 and in some cases 70%. However, the proposal would not result in an increased percentage of HMOs in the area, and the streets referred to are at some distance north and north-west of Edmund Road."*

The inspector acknowledged that high levels of HMO's within an area may lead to problems for other residential neighbours but went on to state that no evidence had been presented to substantiate this claim and on this basis was in agreement with previous inspectors' decisions: *"In the absence of any such evidence I agree with the Inspector in the 37 Margate Road appeal, that any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernible when considered in the context of the existing activity in the surrounding urban area."*

Having regard to the amended HMO SPD (January 2017) which outlines that application sites already in C4 use would be subject to the 10% rule for changes of use to Sui-Generis HMO's, the inspector offered the following interpretation: *"However, the appeal property is now in HMO use and no change to the balance of uses in the area would therefore occur. Further I have seen no robust evidence that the proposal would result in significant harm, or risk of harm, on its own or cumulatively to the nature of the local community or the popularity of the area. I find no conflict therefore with CS Policy PCS20 and no other consideration of sufficient weight to lead me to refuse the proposal on this basis."*

Picking up on the size standards introduced by the amended HMO SPD the inspector noted that the common shared living space was fractionally undersize and opined: *"At some 26.18sqm this would fall short of the 27sqm standard for 7 or more persons given on the SPD. However, the under provision is small and that of one of the first floor showers is marginal (approximately 0.32sqm), and in my judgement these are off-set by the additional space all of the bedrooms offer in excess of the relevant SPD standards."*

In concluding on the quality of living accommodation she concluded: *"Taking into account the living environment of the house as a whole therefore I conclude that the proposal would provide an adequate standard of accommodation for occupiers. Consequently it would not result in an over-intensive use of the house or a significantly increased risk of disturbance to neighbouring residents. I find no conflict therefore with CS Policy PCS23 which requires amongst other things that new development provides a good standard of living environment for neighbouring and future occupiers."*

### **Costs Decision-**

Planning Policy Guidance states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications.

In this case, the inspector noted that the Planning Committee's decision to defer the decision on this application was to allow time for the revised HMO SPD to be adopted. On this point the Inspector noted: *"No other reason for the deferral was given and no explanation is offered as to the reasons for the inconsistency in the approach to decision making in respect of the three Edmund Road applications."* Two other applications at Edmund Road (No.43 and No.5) were approved at the same Planning Committee and the Inspector failed to see how the decision to refuse No.1 Edmund Road was fairly considered.

In concluding on these matters, the Inspector advised: *"I conclude therefore that the Council acted unreasonably in delaying determination of the application causing the appellant unnecessary expense in making an appeal. Consequently a full award of costs is justified."*

### **59 Liss Road, Southsea, PO4 8AS-**

Similar to the appeal decision above, the main determining issues in allowing this appeal were the effect of the proposal on the mix and balance of the community and secondly, whether the proposed use would provide an adequate standard of accommodation for occupiers.

Again the Inspector noted the HMO Count data (13.95%) exceeded the 10% rule, but similar to the case above stated: *"Policy PCS20 considers Class C4, mixed C3/C4 use and HMOs in sui generis use all to be HMOs, and that the proposed change of use to a larger HMO would not therefore result in a change to the balance of uses in the context of the surrounding area."*

In considering representations made on the case relating to the impact HMO's have on the quality of life/services/housing provision in the surrounding area, the Inspector opined: *"Since the quantity of family housing in the area would thus be unaffected there is no reason why there should be any resulting increased competition for private rented houses, rising house prices and corresponding lack of affordability, decreased demand for some local services, change in leisure, entertainment and retail, or the closure of local services, schools and other community infrastructure."*

Discussing the impact of high number of HMO's within a given area the Inspector advised: *"I have no reason to doubt that problems arising from high levels of HMO occupation in an area could occur. But no evidence has been presented to indicate what the occupation rates in HMOs in the Liss Road area are, whether any of the problems that can occur have occurred in the vicinity of the appeal site, and if so in what way they would be exacerbated by the small increase in occupation proposed."*

Offering some conclusions on the HMO Count Data and the impact of this development on local communities the inspector acknowledged that the proposal would result in more than 10% HMO's with a 50m radius but stated: *"However, the appeal property is now in HMO use and no change to the balance of uses in the area would therefore occur. Further I have seen no robust evidence that the proposal would result in significant harm, or risk of harm, on its own or cumulatively to the nature of the local community or the popularity of the area."*

Commenting on the quality of living accommodation and the SPD's requirements to ensure a minimum size standard, like the decision above, the inspector opined: *"the application is for use of the house for 7 people and I saw at my site visit that the majority of the rooms have on-suite bathroom facilities. In these circumstances the marginal under provision of the shower and bathroom floorspace is unlikely to cause a problem and in my judgement the limited shortfall in common living area would be off-set by the additional space all of the bedrooms offer in excess of the relevant SPD standards."*

Concluding on the matter the Inspector stated: *"I conclude that the proposal would provide an adequate standard of accommodation for occupiers. Consequently it would not result in an over-intensive use of the house or a significantly increased risk of disturbance to neighbouring residents."*

#### **Costs Decision-**

Similar to the appeal decisions above, the Inspector noted that: *"No other reason for the deferral was given and no explanation is offered as to the reasons for the inconsistency in the approach to decision making in respect of the applications."*

Concluding on this costs application the Inspector advised: *"I conclude therefore that the Council acted unreasonably in delaying determination of the application causing the appellant unnecessary expense in making an appeal. Consequently a full award of costs is justified."*

#### **4. Reason for recommendations**

For information to the Planning Committee.

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

None.

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

The report is for information only.

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

The report is for information only.

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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: 17/00555/FUL (22 Jessie Road, Southsea, PO4 0EN)	Planning Services
Appeal decision: APP/Z1775/W/17/3179404 (22 Jessie Road, Southsea, PO4 0EN)	Planning Services
Planning application: 17/01102/HOU (12 Inglis Road, Southsea, PO5 1PB)	Planning Services
Appeal decision: APP/Z1775/D/17/3184345 (12 Inglis Road, Southsea, PO5 1PB)	Planning Services
Planning application: 17/00682/HOU (63 Cornwall Road, Portsmouth, PO1 5AR)	Planning Services
Appeal decision: APP/Z1775/D/17/3181548 (63 Cornwall Road, Portsmouth, PO1 5AR)	Planning Services
Planning application: 17/01215/FUL (1 Edmund Road, Southsea, PO4 0LL)	Planning Services
Appeal decision: APP/Z1775/W/17/3185758 (1 Edmund Road, Southsea, PO4 0LL)	Planning Services
Planning application: 17/00920/FUL (59 Liss Road, Southsea, PO4 8AS)	Planning Services
Appeal decision: APP/Z1775/W/17/3185768 (59 Liss Road, Southsea, PO4 8AS)	Planning Services
Planning application: 17/00274/PLAREG (Annesley House, Queens Crescent, Southsea, PO5 3HE)	Planning Services
Appeal decision: APP/Z1775/W/17/3183699 (Annesley House, Queens Crescent, Southsea, PO5 3HE)	Planning Services
Planning application: 17/01214/HOU (56 Stubbington Avenue, Portsmouth, PO2 0JA)	Planning Services
Appeal decision: APP/Z1775/D/17/3187543 (56 Stubbington Avenue, Portsmouth, PO2 0JA)	Planning Services

Planning application: 17/01397/HOU (9 Livingstone Road, Southsea, PO5 1RS)	Planning Services
Appeal decision: APP/Z1775/D/17/3188027 (9 Livingstone Road, Southsea, PO5 1RS)	Planning Services

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# Agenda Item 6

## **PLANNING COMMITTEE 4 APRIL 2018**

**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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02	18/00061/FUL	2B Merton Road Southsea PO5 2AG	PAGE 24

**46A LEALAND ROAD PORTSMOUTH PO6 1LZ**

**CONSTRUCTION OF 6 SEMI-DETACHED HOUSES AND A SINGLE COACH HOUSE UNIT TO INCLUDE VEHICLE PARKING AND CYCLE/REFUSE STORES WITH ACCESS FROM LEALAND ROAD (FOLLOWING DEMOLITION OF EXISTING DWELLING) (AMENDED SCHEME TO 15/01671/FUL)**

**Application Submitted By:**

Paris Smith LLP  
FAO Mrs Ruth Harding

**On behalf of:**

Rhema Project Management Limited

**RDD:** 27th December 2017

**LDD:** 28th February 2018

**SUMMARY OF MAIN ISSUES**

The application follows a previous refused scheme for 7 dwellings, which was subsequently dismissed at appeal. The main determining issue is whether the current scheme has addressed the concerns raised by the Inspector in dismissing the previous appeal, which specifically related to the impact of the development on the amenities of neighbouring residents.

Other matters to consider in the determination of this application include the following:

- Principle of the proposal;
- Housing mix and density;
- Layout, design and appearance and impact on the character of the area;
- Standard of living accommodation;
- Flood risk and drainage;
- Ecology;
- Access, parking and refuse storage;
- Sustainable construction;
- Impact on the Solent Special Protection Area.

**Site and proposal**

The application relates to an L-shaped plot of land, which lies to the rear of properties in Lealand Road, Central Road and South Road. The site is currently occupied by a vacant single-storey dwelling (No.46A Lealand Road), which lies within the centre of the site, and a detached single-storey garage/workshop in the south-west corner, which has accommodation within the roofspace. The application site also incorporates No.46 Lealand Road, which is a two-storey dwelling with an attached garage on its southern side. The site is accessed via a driveway to the south side of No.46 Lealand Road. The site lies within Flood Zone 2.

The site has been vacant for some time and the land surrounding the dwelling and garage is currently overgrown with grass and shrubs. The boundaries of the site are predominantly enclosed by fencing, although there is a more open boundary to some of the neighbouring properties on Lealand Road to the east.

Planning permission is sought for the redevelopment of the site to provide 7 dwellings, after demolition of the existing dwelling (No.46A) and garage/workshop. The new dwellings would be laid out as three rows of semi-detached properties, with an additional dwelling created within a new coach house building in the south-west corner of the site. The coach house would accommodate parking at ground floor level, with the living accommodation on the first floor. The three rows of semi-detached dwellings have been designed to be single-aspect, with the main elevations facing south, onto southerly facing garden areas. The dwellings would extend across the majority of the width of the site, with pedestrian access to the rear dwellings gained via undercroft footpaths.

Parking facilities for the development would be provided on the southern side of the site. There would be a total 12 parking spaces, including 4 spaces within the coach house. In addition, 2 parking spaces would be retained for No.46 Lealand Road.

Access to the site would be from Lealand Road, via a widened driveway to the south of No.46, after demolition of the existing attached garage. Refuse and cycle storage facilities for each dwelling would be provided within the front gardens, with a separate refuse collection point located adjacent to the access driveway.

The application follows a previous application for 7 dwellings, which was refused in 2016 and subsequently dismissed at appeal (ref. 15/01671/FUL). The reasons for refusal of the previous scheme are set out below. The main difference between the current scheme and the previous one relates to the size and design of the two dwellings proposed on the northern side of the site (Units 1 and 2). In addition, the roof design of the dwellings has been amended and all of the properties have been repositioned slightly further south.

#### **Planning history:**

15/01671/FUL - construction of 6 semi-detached houses and a single coach house, with vehicle parking, cycle and refuse stores accessed from Lealand Road (following demolition of existing dwelling) - refused 28 April 2016 for the following reasons:

1. The proposal is not accompanied by sufficient information to demonstrate that the development would not increase flood risk elsewhere or provide the sustainable benefits that would outweigh any residual flood risk. The proposal is therefore not considered to pass the exception test and as such is contrary to the aims and objectives of the National Planning Policy Framework and to Policy PCS12 of the Portsmouth Plan.
2. The submitted ecological assessment is not supported by adequate information to demonstrate that the proposal would not adversely affect bats and other protected species or that whether sufficient measures are in place to ensure that impacts will be mitigated and compensated for as appropriate. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework and to Policy PCS13 of the Portsmouth Plan.
3. The development would, by reason of the cramped layout, exacerbated by the positioning of the waste storage facility on the internal access road, result in an over development of the site, at odds with the prevailing character of the area. The proposal is therefore contrary to the principles of good design as set out in the National Planning Policy Framework and to Policy PCS23 (design and conservation) of the Portsmouth Plan.

The application was subsequently taken to appeal and the appeal was dismissed on 26 May 2017. The Inspector's reason for dismissing the appeal related solely to the impact of the development on the amenities of the residents of Nos. 1 and 3 Central Road, in terms of loss of outlook and creation of a sense of enclosure. The Inspector determined that the development was acceptable in all other respects, including flood risk. Further commentary on the Inspectors decision is provided within the main comments section of this report.

14/00863/FUL - Construction of 7 dwellings to include vehicle parking and cycle/refuse stores accessed from Lealand Road (following demolition of existing dwelling) - application withdrawn 24 November 2014

A\*30503/RMA1 - Erection of a bungalow - conditional permission 13 September 1978

A\*30503 - Erection of a bungalow - conditional permission 11 January 1978

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS21 (Housing Density), PCS23 (Design and Conservation), PCS10 (Housing Delivery), 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),

In addition to the aims and objectives of the National Planning Policy Framework (NPPF), the relevant policies within the Portsmouth Plan would include:

PCS10 (Housing Delivery), 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), PCS21 (Housing Density), and PCS23 (Design and Conservation).

## **CONSULTATIONS**

### **Eastern Solent Coastal Partnership**

No comments received.

### **Coastal and Drainage**

#### **UPDATED COMMENTS / SUMMARY FOLLOWING REVIEW OF ADDITIONAL INFORMATION**

Summary:

- The site is part of a larger flooding problem, that is rainfall related, and exhibits a particularly flashy reaction;
- There is a groundwater interaction, where evidence seems to point to an underground flowpath;
- There is a likely tidal interaction, as the surface water sewers here drain by gravity through Farlington Marshes to sea. The site is of low topography so is susceptible to tide locking at times of high tides, especially spring tides and/or storm surges;
- The repair to sewer undertaken by Southern Water has not rectified the flooding, as witnessed and evidenced since the repair date.

The LLFA is investigating the flooding in a number of ways. However, this information will not be available to view in final format until May 2018. This includes:

- Groundwater monitoring of almost a year at Central Road (just north of the site) and Station Road (south and west of the site) shows that groundwater at both locations reacts in a very similar fashion and therefore it is reasonable to assume that the site also reacts in this manner. Groundwater information is imminent and will be cross-referenced to rainfall and tide events in graph format. This information has been attained by PCC officers, and funded by a successful RFCC local levy.
- PCC is leading (and in conjunction with the Environment Agency and Southern Water Services) modelling of a range of tide and rainfall scenarios for the Farlington Marshes surface water catchment. Early draft runs of the model are showing that surface water flooding is occurring at the site, with floodwater arriving from outside the site. This work has been funded by the EA (with a contribution from PCC). The

aim of the modelling is to determine how best all the agencies can mitigate flooding in the catchment, which may include other agencies such as Network Rail and Highways England, under which the catchment of surface water flows on its way out to sea. Due to the need to consult stakeholders before a final report and complexities of the model, this workstream is not likely to be available until May 2018.

- CCTV of the local sewer area in the vicinity of the site (South Road, Lealand Road, Central Road) has just been completed. This includes gullies, laterals and surface water sewers. Information expected imminently. Will be used to update the above model.

For the above reasons I cannot give approval for the development in terms of flooding and not increasing flood risk elsewhere, as the reasons and mechanisms for flooding are not fully understood.

## ORIGINAL COMMENTS

As discussed please find my OBJECTION below to the above planning application. I have serious concerns in relation to flooding here and have the following comments based on the December 2017 Flood Risk Assessment

- Section 1.17 - PCC holds a lot more information than the two referenced flood events. This includes evidence in the form of photographs and statements from residents who have witnessed flooding. I have attached a recently attained photograph showing Central Road flooding on 29th December 2017 at 11.15. this shows that the Southern Water sewer fix undertaken earlier in 2017 has not rectified the flooding. I have attached a weather station daily summary email which evidences rainfall on this day
  - The recorded levels on the topographic drawing of around 49m are incorrect, what was used as the datum 0.0 level? Reference is made to the site being 2.01mAOD in section 2.2 of the FRA. This is equivalent to 4.74mCD. It would be good to confirm levels with a drawing (topo drawing not readable, page 62 of FRA)
  - The groundwater trend shows Cover Level of the borehole as 5.24mCD. this is PCC owned data, and was collated in whole by PCC officers using PCC owned equipment. The below extract from the groundwater log below shows that the groundwater reaches a level of 4.40m around the time of heavy rainfall, which is 0.34m below the surface when referring to the above site level of 4.74mCD. this groundwater information has been shared previously, but not incorporated into Appendix A. It is highly likely that during a more severe storm event groundwater levels will exceed this and therefore be even closer to the surface within the site
- | Date and Time    | Level                      | Surface Elevation (m) | Rainfall | Tide level |
|------------------|----------------------------|-----------------------|----------|------------|
| 12/01/2017 17:00 | Barometric Pressure (mBar) | 4.407                 | 1.6      | 1.035      |
|                  | Cover Level (mCD)          | 992.916               | 5.24     |            |
- The FRA still refers to groundwater information that is factually wrong and misleading within Jomas and Associates report dated 3rd April 2016. To clarify:
  - The results as shown in the graphs are incorrect. When air pressure rises there is more pressure on water levels and therefore levels become lower. Also vice versa, when air pressure fall there is less pressure on water levels and therefore they rise. Any groundwater vs atmospheric pressure should produce a resemblance in mirror images
  - This is confirmed by the statement on page 3 of the Groundwater Monitoring Results in the Drainage Survey & Groundwater Monitoring Review
  - Sections 2 and 3 make references Severn Trent and repair to sewer line between manholes 5254 to 6250. however, flooding is still evidenced as occurring. The sewerage undertaker for Portsmouth is Southern Water
  - Section 4.12 - statement of common ground does not state a rate. How has 5.15 l/s flow rate been calculated?

- Section 6.4 discharge rate previously agreed by PCC. Please show evidence
- Statement of Common Ground - Matters On Which Parties Disagree is still relevant for the flooding aspects
- Much of the information sent to the consultant by email 20th December 2017 as a response to a pre-app enquiry, has not been included. This is disappointing. Portsmouth City Council is actively investigating the cause of the flooding in the area, which is not known or fully understood. What is known is that there is a clear rain influence, which in turn is evidenced to influence groundwater levels. We are commissioning a CCTV survey of the surface water sewers in the Lealand Road, South Road and Central Road area, along with undertaking some modelling investigatory work over a wider area which includes the Lealand Road catchment. We should have information to work with in April 2018
- Sections 3.10 and 3.12 - these statements are speculation. I'm not understanding how fixing a broken sewer reduces groundwater flood risk. It may operate in reverse where groundwater enters the drainage system and is taken away
- Section 4.14 - storage area should be a volume or at least should include the permeable paving depth? The proximity of groundwater to the surface will require careful design of permeable paving areas. I would like to see detailed design drawings of the proposed permeable paving areas, which do not seem to be within the application pack
- Section 4.15 - finished floor levels being raised could impact surrounding residences, especially as the low spot in the rear garden of 46a Lealand Road has been evidenced as acting as a flood storage area. If this storage area is removed, the flood water will be deflected, quite possibly to surrounding property
- Section 6.3 - disagree completely with this statement
- Section 6.5 - disagree with the no flooding on or off site statement. This cannot be known if the source of present flood events is not understood, and mitigated as far as reasonably practicable
- The Drainage Strategy drawing at the end of the FRA is unreadable. The drawing should include the Microdrainage model layout node reference numbers. Therefore, I am unable to comment. This is an essential part of the FRA review by the LLFA
- Microdrainage parameters - urbanization should read as 0.37 impermeable, not 0.0

So in short, not happy with the application in terms of flooding matters in the vicinity of the application site and unable to approve. Objection stands

### **Contaminated Land Team**

The original application 15/01671/FUL was submitted in 2015 and included submission of the following report:

Geo-Environmental Desk Study/Preliminary Risk Assessment for 46a Lealand Road, Portsmouth, PO6 1LY, Jomas Associates Ltd., Ref: P8893J507, October 2014.

As the report was preliminary in nature the Contaminated Land Team (CLT) requested that it be updated with some additional information in order to satisfy standard conditions relating to land contamination. This included the need for a site visit and access to the garage on site to check for signs of leaks/spills and storage of chemicals.

On 15 January 2016 the environmental consultant who carried out the desk study report (Jomas Associates Ltd.) submitted a revised desk study report and site investigation proposals planned to commence later that month. The CLT provided further comment on these reports on 22 January 2016. Subsequently not further information has been received.

As there were some outstanding amendments required to the desk study report, and that the site investigation report was not received, the following conditions should be applied to any planning approval granted:

(i) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority or within such extended period as may be agreed with the Local Planning Authority:

a) A desk study (undertaken in accordance with best practice, including BS10175:2011+A1:2013+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the site. The report shall contain a conceptual model showing the potential pathways that exposure to contaminants may occur, including any arising from asbestos removal, both during and post-construction, 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 conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A1:2013 and BS 8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs)'). The laboratory analysis should include assessment for heavy metals, speciated PAHs and fractionated hydrocarbons (as accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS)). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation; and, unless otherwise agreed in writing by the LPA,

c) A remediation method statement detailing the remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, including proposals for future maintenance and monitoring, as necessary. If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in BS 8485:2015 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings. The scheme shall take into account the sustainability of the proposed remedial approach, and shall include nomination of a competent person to oversee the implementation and completion of the works.

(ii) The development hereby permitted shall not be first occupied/brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a stand-alone verification report by the competent person approved pursuant to condition (i)c above, that the required remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). The report shall include a description of remedial scheme and as built drawings, any necessary evidence to confirm implementation of the approved remediation scheme, including photographs of the remediation works in progress and/or certification that material imported and/or retained in situ is free from contamination, and waste disposal records. For the avoidance of any doubt, in the event of it being confirmed in writing pursuant to Condition (i)b above that a remediation scheme is not required, the requirements of this condition will be deemed to have been discharged.

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

Reason (common to all): To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Further info is available at: <https://www.gov.uk/guidance/land-affected-by-contamination>

### **Environmental Health**

No comments received.

### **Highways Engineer**

I have reviewed the design and access statement and drawings submitted in support of this application which proposes the construction of 6 semi-detached houses and a single coach house unit to include vehicle parking and cycle/refuse stores with access from Lealand Road (following demolition of existing dwelling) and I would make the following observations.



This application appears to replicate the access and parking arrangements proposed in application 15/01671/Ful to which the LHA did not raise objection although was refused planning consent and that decision upheld at appeal (although not on highway grounds).

In that light and there having been no material change in circumstances in the intervening period from a highway perspective I would not wish to raise an objection to this application on highway grounds subject to securing the parking and access arrangements detailed on the application drawing prior to the occupation of the development.

#### COLAS COMMENTS

Before any works take place at this location including Demolition works, can the Developer please contact Martin Thompson or Fred Willett at Colas on [martin.thompson@colas.co.uk](mailto:martin.thompson@colas.co.uk) [fred.willett@colas.co.uk](mailto:fred.willett@colas.co.uk)

#### **Environment Agency**

We have no objections to the proposed development, as submitted.

#### **Flood risk**

The site is located within tidal Flood Zone 3 of our Flood Map. This indicates land with a high probability (1 in 200 year) of flooding from the sea, in accordance with the national Planning Practice Guidance (PPG) (ref. 7-065-20140306).

However, more detailed modelling has demonstrated that with the Farlington defence improvements the site is likely to remain free of flooding for the 2115, 1 in 200 year tide event (4.4mAOD).

To mitigate the residual flood risk the Flood Risk Assessment (FRA) has advised that each residential unit will have the benefit of a first floor safe refuge, which is set above the design flood level (4.4mAOD). Furthermore, flood resilient construction and site specific flood warning and evacuation procedures are recommended to help manage the residual flood risk.

It is possible that safe access and egress to the development will not be available if flooding occurs.

The LPA may decide that in the absence of safe access and egress, the risk to the users of the development can be mitigated by alternative means. In coming to a decision on the proposed development, the LPA should therefore give careful consideration, in consultation with relevant specialists, to the mitigation measures proposed.

Specifically, consideration should be given to whether or not the submitted flood warning & evacuation plan and confirmation of safe refuge contained within the FRA would enable users of the development to avoid the flood hazards identified.

If the LPA is not satisfied, taking into account all relevant considerations, that the proposed development can be considered safe then planning permission should be refused.

We will support the decision of the LPA on flood risk matters and should the LPA be minded to refuse the application on the grounds that the mitigation proposed is not considered satisfactory then we would provide our full support at appeal.

#### **Waste Management Service**

I have no problems with the plans overall, though I notice they have individual bins for each property, I can only assume this is for them to store the waste before taking it to the communal bins. One thing I need to make clear is that there will need to be a good surface for the bins to travel across.

## Ecology

Thank you for consulting me on this application for Construction of 6 semi-detached houses and a single coach house unit to include vehicle parking and cycle/refuse stores with access from Lealand Road (following demolition of existing dwelling) (Amended scheme to 15/01671/FUL), which is supported by a Bat Roost Survey Report (Enims, August 2016).

I would note that the approach to ecological impacts was discussed under 15/01671/FUL and whilst elements of the design have changed for this submission, the on-site and wider ecological impacts of the scheme are considered likely to remain the same. These comments are therefore predominately aimed at updating previous comments and ensuring agreed approaches are included in the revised submission.

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) 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 to demonstrate that PCC as a competent authority under the provisions of the Habitats Regulations has had 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 £181 per new dwelling for the SRMP (from April 2017, as updated).

The bat surveys undertaken during 2016 are considered likely to remain valid and bats are not likely to be present; I would however suggest the following informative note is added to the decision notice, if you were minded to grant permission:

- Bats and their roosts receive strict legal protection under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). All work must stop immediately if bats, or evidence of bat presence (e.g. droppings, bat carcasses or insect remains), are encountered at any point during this development. Should this occur, further advice should be sought from Natural England and/or a professional ecologist.

I am aware that previous ecological reports have made a number of recommendations for ecological enhancements, but not all reports have supported this latest planning application, notably the Ecological Constraints and Opportunities Assessment (Enims, December 2015) which supported 15/01671/FUL. Full details of ecological enhancements could be provided under planning condition if you were minded to grant permission. Suitable wording might be:

- Prior to commencement, a scheme of biodiversity enhancements to be incorporated into the development designed for biodiversity benefits shall be submitted for written approval to the Local Planning Authority. The approach shall be informed by the recommendations of the ecological assessments of the site and development shall subsequently proceed in accordance with any such approved details. Reason: to enhance biodiversity in accordance with PCS13 a greener Portsmouth, NPPF and the Natural Environment and Rural Communities Act 2006.

## REPRESENTATIONS

39 representations received, objecting on the following grounds:

- a) increased traffic generation, resulting in increased congestion on local road, harmful to highway safety;
- b) increased pressure for parking on local roads, during construction and from development, creating highway safety concerns and restricting access for emergency vehicles;
- c) poor visibility at the access on a bend in the road, leading to highway and pedestrian safety concerns;
- d) increased noise and pollution;
- e) increased risk of crime;
- f) additional pressure on local services and facilities, exacerbated by potential increase in older people if dwellings designed for downsizers;
- g) design not in keeping with surrounding properties and could set a precedent for similar designs in the area;
- h) loss of privacy to neighbouring residents;
- i) loss of light / overshadowing to neighbouring properties;
- j) concern about toilet access directly from open plan living space;
- k) buildings would be overly dominant;
- l) increased risk of flooding in surrounding area and to adjacent properties; concerns about accuracy of Flood Risk Assessment;
- m) inadequate drainage/sewage system to cope with more development; frequent flooding evidenced by existing residents;
- n) revised plans not significantly different and have not overcome concerns about impact on outlook for neighbours;
- o) loss of trees and wildlife;
- p) increased light pollution;
- q) overdevelopment of the site; development too high density;
- r) potential loss of property value;
- s) inadequate refuse/recycling storage and collection facilities;
- t) concerns as to whether the access would be suitable for emergency vehicles, and whether there would be suitable means of escape for residents;
- u) disturbance to neighbours, health and safety concerns and risk of damage to properties during construction;
- v) concerns about poor weathering of cladding;
- w) misleading information in application - existing dwelling is single-storey, not two-storey;
- x) potential for bats and slow worms on the site;
- y) light pollution from external lights;
- z) potential for asbestos to be present in existing building;
- aa) query about maintenance of new boundary fencing.

Two further emails have been received, advising the Local Planning Authority that the garage at No.46 Lealand Road has recently been removed and new fencing erected.

An additional representation has also been received, following the applicants submission of a Ground Water Management Report. The representation raises the following concerns:

- ab) the report appears to give no consideration to the impact of groundwater flooding on surrounding properties;
- ac) concern about noise and pollution from water pumps, and who would be responsible for maintenance.

## COMMENT

### Principle of the proposal

The application follows a previous scheme for 7 dwellings on the site, which was refused in April 2016 and subsequently dismissed at appeal in May 2017. However, neither the planning application or the appeal were refused on principle. The development would provide an additional 7 dwellings, which would make a positive contribution towards the City's housing needs in accordance with Policy PCS10 of the Portsmouth Plan.

Some concerns have been raised in representations about the impact of the additional population on local services and facilities, particularly if the houses are to be occupied by older people as 'downsize' properties, as referenced by the applicant within the submitted Design and Access Statement. Despite this reference within the Design and Access Statement, the applicants have not applied specifically for age restricted dwellings. The proposal is for private market dwellings and it would not be considered reasonable or appropriate to place any form of restriction on the age of future occupants.

### **Housing mix, density and affordable housing**

Policy PCS19 of the Portsmouth Plan seeks to achieve appropriate mixes of dwellings on new development sites. The policy states that, where appropriate, new development should achieve a target of 40% family homes (3-bedrooms or more), in order to meet the needs of families and larger households. The proposed scheme would provide 3 x 2-bedroom dwellings and 4 x 3-bedroom dwellings, which would accord with this policy aim.

The area around the site is of a low density at approximately 25 dwellings per hectare. The proposed development would be at a density of approximately 45 dwellings per hectare. Policy PCS21 (housing density) of the Portsmouth Plan requires that outside of identified high density areas, the housing density of new development should be no less than 40 dwellings per hectare. The proposed density would be greater than that typical of the locality, however it would not be significantly above the required minimum density to achieve the most effective and efficient use of land and to meet the housing needs of the city.

In accordance with Policy PCS19 and Government Legislation, there is no requirement for the scheme to contribute towards the provision of affordable housing as the development is for less than 10 dwellings.

### **Layout, design and appearance, and impact on the character of the area**

The proposal is for a development of seven dwellings, comprising three rows of semi-detached properties extending east/west across the site (Units 1 to 6), with one additional coach house style dwelling located on the southern side of the site (Plot 7). The dwellings have been designed with a contemporary appearance and a bespoke layout, which seeks to maximise the development potential of the site whilst protecting the amenities of neighbouring residents. The dwellings would be two-storey, but with shallow pitched roofs creating relatively low ridge heights of up to 6m. The elevations of the dwellings would comprise brickwork at ground floor level with timber cladding on the first floor. In terms of layout, the dwellings on Units 1 to 6 would be single-aspect, with large windows and doors located on the southern elevations serving the main habitable rooms. In the case of the coach house (Plot 7), the windows would face west.

It is accepted that the proposed design of the dwellings and density of development is very different to that of the surrounding properties. This was acknowledged by the Appeal Inspector for the previous scheme (ref. 15/01671/FUL). In paragraph 26 of the Appeal Decision, the Inspector noted that whilst the proposal was for a very different style of development in relation to the surrounding area, the self-contained nature of the site allowed it to accommodate a bespoke design:

"The dwellings would be of a contemporary design with flat roofs, extensive use of glass and the upper floors would be timber clad. In all these respects the proposed development would be totally different from any of the surrounding residential dwellings. Nevertheless, as the site is self-contained and does not have strong visual links with nearby development, I consider that it could accommodate a bespoke design using an innovative layout".

The Inspector also considered the matter of density and the relationship of the development to its surroundings. In paragraph 27 of the Appeal Decision, the Inspector considered that whilst the development was not in keeping with the lower density and style of surrounding properties, it would not result in material harm to the areas character of appearance:

"The rear elevation of Units 1 and 2 would be immediately adjacent to the northern boundary of the site. In addition, the flank walls of Units 3-6 and the rear wall of Unit 7 would only be about 1m from the site's boundaries. This has enabled a development of 45 dwellings/hectare to be achieved, but would be at odds with the more traditional, low-density layout in the surrounding area where there are more generous spaces both between and around the buildings. It would also restrict the amount of space available for landscaping, which could soften its appearance and assist with its integration into the surrounding context. However, I do not consider that these factors result in material harm to the area's character or appearance that would justify rejecting the scheme. I have also had regard to the Design Review Panel's view that there was a clear rationale for the design and concluded that the scheme should be supported".

Having regard to the conclusions of the Planning Inspector, it is considered that the proposed layout, density and design of dwellings is acceptable for the site and would not result in material harm to the character or appearance of the surrounding area.

### **Impact on the amenities of neighbouring residents**

Policy PCS23 requires new development to protect the amenity of existing residents.

The Inspector for the previous appeal determined that the neighbouring properties most affected by the development would be Nos. 1 and 3 Central Road and Nos. 38 and 42 Lealand Road. In respect of Nos. 38 and 42 Lealand Road, the Inspector acknowledged that the outlook from these properties would be affected by the development but did not consider that the impact would be significantly harmful when taking account of the height of the dwellings and their position in relation to the garden boundaries.

With regard to the impact on Nos. 1 and 3 Central Road, the Inspector considered that the combined width, height and lack of articulation on the rear elevations of Units 1 and 2 would result in a harmful impact on the amenities of these neighbouring residents in terms of a loss of outlook and creation of a sense of enclosure. In paragraph 10 of the Appeal Decision, the Inspector specifically noted that as a result of the height, width and lack of articulation on Unit 1 and 2, the outlook from Nos. 1 and 3 Central Road would be "dominated by a large, bulky and blank timber wall". She concluded that, despite the separation distance between buildings, the introduction of a building of the scale, height and bulk proposed would "appear both un-neighbourly and overbearing". In the same paragraph, the Inspector went on to note that due to the lack of space between the rear of Units 1 and 2 and the rear boundary, there was no opportunity to provide landscaping to soften the impact.

In response to the issues raised by the Inspector regarding the impact on Nos. 1 and 3 Central Road, the following amendments have been made within the current application:

- Re-siting of all of the dwellings further south by approximately 0.7m to allow for the provision of a gap between Units 1 and 2 and the rear (northern) boundary of the site. The resulting gap would measure approximately 0.5m at its narrowest point and 2m at its widest point.
- Reduction in the width of the ground floor of Units 1 and 2 by approximately 1.1m

- Re-design of the first floor of Units 1 and 2, resulting in a reduced width of up to 8.4m on the northern side, and angled elevations.
- Amendment to the roof forms of Units 3 to 6, resulting in a reduction in height of approximately 0.5m on the eastern and western sides of the roof.

It is considered that the amendments to Units 1 and 2, which include a significant reduction in width at first floor level and the creation of angled walls, would result in a significant reduction in the visual bulk of these buildings when viewed from the rear of Nos. 1 and 3 Central Road. The impact of the dwellings would be further reduced by their re-siting further from the neighbouring boundaries and the gap could allow for some landscaping in the wider sections. Details of any landscaping/planting to this area can be secured by condition. It is therefore considered that the amended design has overcome the concerns raised by the Appeal Inspector and that the development would not result in significant harm to the amenities of the residents at Nos.1 and 3 Central Road.

The re-siting of the other dwellings and change in roof form would also result in a slightly different relationship with Nos. 42 and 38 Lealand Road, with a reduction in the building bulk immediately adjacent to the rear garden boundaries.

Whilst the coach house at Plot 7 would be sited slightly closer to the southern boundary of the site, it is considered that the separation distances that would remain between this building and the nearest neighbouring properties would be sufficient to ensure no significant impact in terms of loss of outlook or light to the neighbouring residents.

As per the previous scheme, none of the proposed dwellings would have any first floor windows facing over the gardens of the neighbouring properties. There would be some windows at ground floor level on the east and west elevations of Units 1 and 2, but these would be secondary windows and views towards the neighbouring properties would be restricted by boundary fencing. It is therefore not considered that the proposed development would result in any significant loss of privacy to neighbouring residents.

Overall, it is considered that the concerns raised by the Appeal Inspector about the impact of the development on the amenities of the neighbouring residents have been addressed in the current scheme.

### **Standard of living environment for future occupants**

One of the requirements of Policy PCS23 is for new development to achieve a good standard of living environment for future occupants and Policy PCS19 states that dwellings should be of a suitable size for the number of people that they are designed to accommodate. Policy PCS19 previously referred to locally set size standards, although these have now been superseded by the Nationally Described Space Standards (NDSS). The NDSS set out minimum sizes for new residential dwellings, which are considered to be the minimum that is required to achieve a suitable standard of living accommodation.

The proposed scheme comprises 2 x 2-bedroom semi-detached dwellings, 4 x 3-bedroom semi-detached dwellings and 1 x 2-bedroom coach house. The internal floor areas of the dwellings, as confirmed within the Design and Access Statement, are as follows:

- 2-bedroom dwellings (2-storey) - 74m<sup>2</sup>
- 3-bedroom dwellings (2-storey) - 96m<sup>2</sup>
- 2-bedroom coach house (one floor) - 67m<sup>2</sup>

The NDSS requires 2-storey, 2-bedroom dwellings to be a minimum of 70m<sup>2</sup>, and 2-storey, 3-bedroom dwellings to be minimum of 84m<sup>2</sup>. For 2-bedroom dwellings over 1 floor, as per the proposed coach house, the minimum requirement is for 61m<sup>2</sup>. All of the dwellings therefore meet the minimum size standards as set out within the NDSS.

The dwellings at Units 1 to 6 have been designed to be single-aspect, with light and outlook gained through large south facing windows and glazed doors. These windows and doors would face out onto southerly facing garden areas to the front of the properties. Given the limited depth of the dwellings and the design of the internal layout with all habitable rooms on the southern side of the buildings, this design is considered to provide a good level of light and outlook for the future occupants. The coach house would be also be single-aspect, but with its main elevation facing east. In addition, this building has been designed with a projecting window to maximise light to the main living and dining space.

Overall, the proposed development is considered to be acceptable in terms of the size and layout of the dwellings to provide a good standard of living environment for future occupants, in accordance with Policies PCS19 and PCS23 of the Portsmouth Plan.

## **Flood risk**

Summary of previous reason for refusal and Appeal Decision:

One of the reasons for refusal of the previous scheme (ref. 15/01671/FUL) related to flood risk. Concerns about increased flood risk have also been raised by many local residents through representations to both the previous and current schemes. The previous reason for refusal was as follows:

'The proposal is not accompanied by sufficient information to demonstrate that the development would not increase flood risk elsewhere or provide the sustainable benefits that would outweigh any residual flood risk. The proposal is therefore not considered to pass the exception test and as such is contrary to the aims and objectives of the National Planning Policy Framework and to Policy PCS12 of the Portsmouth Plan'.

This matter was debated in detail at the subsequent Appeal Hearing. The appellant presented evidence of flood risk investigation works and prepared a detailed drainage strategy for the site. These details were reviewed by the Councils Drainage Engineer who contended that there remained uncertainty about the cause of flooding on the site and in the surrounding area and therefore it was not possible to confirm that the proposed drainage strategy would be sufficient. All of these points and the evidence prepared by both parties were considered by the Appeal Inspector and her concluding comments were set out in paragraphs 22 to 24 of the Appeal Decision. In respect of the cause of flooding, the Inspector did not consider that the Council had provided sufficient evidence to counter the information provided by the appellant. This was noted in paragraph 21 of the Appeal Decision:

"... At the hearing the Councils engineer then suggested that there could be ground water flowing beneath the surface but above the clay bands, although there was little evidence to substantiate this theory."

The Inspector went on to conclude the following in paragraph 22:

"I accept that there is a level of uncertainty about the causes of flooding in the area. However, from the evidence presented, the discussions at the hearing and the experience of local residents, it seems to me that the primary cause is surface water flooding following periods of rain. This may have been compounded by the poor state of repair of the surface water sewers in the area, which added to the problem by preventing water from flowing away. However, following the identification of blockages and collapsed sewers, Southern Water has confirmed that it has undertaken repairs which should ease the problem in the future".

The Inspector then went on to consider the Drainage Strategy put forward by the appellant, which included the separation of foul and surface water on the site, and the provision of an area of storage built into the sub-base of the permeable surfaces to enable water to be collected during rainfall events and discharged to the surface water sewer at a restricted rate. The

Inspector considered that these measures would reduce the risk of flooding both on the site and within the downstream catchment area, and would prevent the displacement of existing water flows into the surrounding area.

The Inspectors concluding points on this matter were set out in paragraph 24 of the Appeal Decision:

"Taking all these factors into account, I conclude that the development would not result in an unacceptable residual risk of flooding on the site or increase the risk of flooding elsewhere. In these respects the proposal would meet the requirements of the Exceptions Test set out in the [National Planning Policy] Framework and the advice of the PPG. It would also comply with Policy PCS12 of the Portsmouth Plan... In coming to my conclusion I have also had regard to the responses from the Environment Agency, Southern Water and the Eastern Solent Coastal Partnership, none of whom objected to the proposal."

Through the appeal process, it was therefore determined that the proposed development would not result in an unacceptable risk of flooding on the site or to the surrounding area and that the reason for refusal on flood risk had been addressed.

#### Current application

For the current application, the applicants have submitted a Flood Risk Assessment and Drainage Strategy (Mayer Brown, December 2017), which proposes the same measures as that put forward at the appeal, comprising the separation of foul and surface water and the provision of a water storage facility within the sub-base of the permeable surfaces.

In response to the information submitted by the applicants, the Councils Drainage Engineer raised a number of comments and queries about the details set out in the Flood Risk Assessment. Within his comments, the Drainage Engineer made the following specific points:

- Data collected by the Council indicated that the groundwater level rises close to the level of the site following heavy rainfall and it is likely to be even higher during more severe storm events.
- Flooding is still being evidenced in the surrounding area even following the repairs to the sewer.
- The Council is in the process of carrying out further investigations into the cause of flooding in the area. This includes a CCTV survey of the surface water sewers in Lealand Road, South Road and Central Road, along with modelling investigatory work over a wider area. The results of these investigations are not currently available.

The Drainage Engineer concluded that an objection to the development is maintained as if the source of flood events is still not known or fully understood, it cannot be determined that the proposed Drainage Strategy will be effective.

The applicants have sought to respond to the queries through submission of an Addendum to the Flood Risk Assessment and a Groundwater Flood Risk Management report (prepared by Mayer Brown). The applicants accept that the groundwater levels at the site are high and could be a source of flooding at the site. However, they consider that the mitigation measures set out within the submitted Groundwater Flood Risk Management report would address any issues relating to groundwater. These measures can be summarised as follows:

- Recommend that all dwellings on site be constructed with 150mm reinforced concrete flooring and as waterproof membrane as a preventative measure for groundwater flooding.
- Filter drain to be installed around the perimeter of the site, comprising a trench and perforated pipe to divert groundwater.



- Sump and pump systems to be installed during the construction phase as a preventable measure and to be regularly monitored and maintained.
- Flood prevention measures to be incorporated into the dwellings, including raising of door thresholds, and location of water, electricity and gas metres, electrical sockets and wiring above flood levels.

It is concluded within the Ground Water Flood Risk Management Report that with the proposed mitigation measures, the residents of the proposed development would be safe from groundwater flooding.

Having reviewed the additional information, the Councils Drainage Engineer has maintained an objection to the scheme, noting that as the cause of flooding remains unknown, it is not possible at this stage to conclude that the proposed drainage scheme would be acceptable to mitigate flood risk or to prevent increased flooding elsewhere.

It is noted that the Environment Agency has raised no objection to the proposal, commenting that each dwelling would have the benefit of a first floor safe refuse in the case of flooding and that flood resilient construction and flood warning and evacuation procedures are recommended within the submitted Flood Risk Assessment. The Environment Agency has noted, however, that the final determination as to whether the site would be safe from flooding should be made by the Local Planning Authority.

Conclusions on flood risk:

The Inspector was very clear in her view that the Drainage Strategy put forward by the appellants during the previous appeal would be acceptable to ensure that the development would be safe from flooding and would not increase flood risk elsewhere. The current proposal incorporates the same Drainage Strategy as well as additional measures to mitigate groundwater flood risk. Whilst the Councils Drainage Engineer maintains an objection, there is currently no specific evidence available to demonstrate that the proposed Drainage Strategy would not be acceptable. Therefore, having regard to the Appeal Decision and the lack of contrary evidence, it is not considered that the Council can reasonably sustain an objection on the grounds of flood risk.

The precise design details of the drainage strategy would need to be secured by condition. This condition would require specific details to be submitted for approval by the Local Planning Authority prior to commencement of the development. It would be possible to consider and approve an amended or alternative drainage strategy through the conditions process if required. The condition would also require a scheme for maintenance of the system to be agreed.

## **Ecology**

One of the reasons for refusal of the previous scheme related to the potential impact of the development on bats. Following the refusal, the applicants carried out further survey work, which determined that there was no evidence of the presence of bats on site. This information was reviewed and agreed by the County Ecologist and the reason for refusal was withdrawn prior to the Appeal Hearing.

The Bat Roost Survey Report (Enims, August 2016), which was prepared prior to the appeal, has been submitted in support of this current application. The County Ecologist has confirmed that the results of the survey are still considered to be relevant and accepts the conclusion that no bats are likely to be present on the site. No specific mitigation measures are therefore required, although it is recommended that an informative be added to any planning permission to make the developers aware of the need to contact an Ecologist if any evidence of bats is subsequently found.

The County Ecologist also considers that there is the potential for biodiversity enhancements to be incorporated as part of the development and such measures can be secured by condition.

It is noted within some of the representations that there could be the potential for the site to accommodate other protected species such as slow worms. It is confirmed that an Ecological Constraints and Opportunities Assessment was carried out as part of the previous planning application on the site, and this did not indicate potential for any protected species other than bats, the presence of which has since been ruled out.

A number of local residents have also raised concerns about the loss of trees on the site. These trees were removed some time ago and as the trees were not protected, their removal did not require the consent of the Local Planning Authority.

### **Access, parking and refuse storage**

The proposed development would be accessed from Lealand Road, via a driveway alongside No.46. The plans show that the driveway would be widened by the removal of an existing attached garage at No.46, and it has recently been confirmed that the garage has already been removed. It is noted that the demolition of a domestic garage did not in itself require planning permission.

Parking for the development would be laid out on the southern side of the site. A total of 12 parking spaces would be provided, including 4 spaces within the coach house undercroft, which would accord with the requirements of the Adopted Parking Standards. The access arrangements are the same as those proposed and determined to be acceptable in the previous scheme. The number of parking spaces has been reduced by 1, but still complies with the amount required in accordance with the Adopted Parking Standards:

7 x 2 and 3-bedroom dwellings - parking requirement of 1.5 spaces per dwelling  
Total spaces required = 10.5(11)

Whilst a number of local residents have raised concerns about lack of parking and potential highway safety concerns resulting from increased traffic, as the parking provision accords with the Councils Adopted Standards and there is no objection from the Highway Engineer, there would be no grounds on which to sustain a highway objection to the scheme. The provision of the parking spaces would be secured by condition. An informative would also be added to advise the applicants to contact COLAS prior to commencing any highway works.

Refuse storage facilities would be provided for each individual dwelling and a separate refuse collection point has been shown adjacent to the access driveway. These arrangements were also agreed at Appeal as part of the previous scheme and are considered acceptable.

### **Energy efficiency**

Policy PCS15 of the Portsmouth Plan requires new development to be designed to be energy efficient and originally required development to meet specific requirements under the Code for Sustainable Homes.

The Ministerial Statement of 25th March 2015 set out that Local Planning Authorities should no longer require compliance with specific levels of the Code for Sustainable Homes (the Code) or to require a certain proportion of the Dwelling Emission Rate (DER) to be offset through Low or Zero Carbon (LZC) Energy. Policy PCS15 has required both of these in all new dwellings since its adoption in 2012. However, the Statement does set out that a standard of energy and water efficiency above building regulations can still be required from new development in a way that is consistent with the Government's proposed approach to zero carbon homes. As such, the standards of energy and water efficiency that will be required from new residential development are as follows:

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

The proposed dwellings have been designed to be single aspect with their main elevations facing either south or west to maximise solar gain and light. The specific requirements of Policy PCS15 in terms of energy and water efficiency can be secured by condition.

### **Impact on the Solent Special Protection Area (SPA)**

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, due to increased recreational pressure. The SPD sets out how development schemes can provide mitigation to remove this effect and enable the development to go forward in compliance with the Habitats Regulations. The mitigation can be provided in the form of a financial contribution towards a Solent wide mitigation strategy, details of which are set out in the Bird Aware Strategy, which is to come into effect on 1 April 2018. The contribution amount per dwelling depends on the number of bedrooms. In this case, the relevant contribution is calculated as follows:

- 3 x 2-bedroom dwellings at £487 each = £1,461
- 4 x 3-bedroom dwellings at £637 each = £2,548
- Total = £4,009

The applicants have agreed to make the relevant contributions, to be secured through a Unilateral Undertaking. Subject to completion of the Unilateral Undertaking the scheme would therefore comply with the requirements of Policy PCS13 of the Portsmouth Plan.

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

A number of representations have been received from local residents, raising a variety of concerns about the scheme, most of which have been addressed in the previous sections of this report. Other matters that have been raised include concerns about the impact on existing residents during the construction phase, including potential damage to homes. A condition would be imposed to require a Construction Management Plan to be prepared and approved by the Local Planning Authority prior to commencement of development. This would include details of site access, materials storage and measures to minimise noise and pollution.

### **Conclusion**

The proposed development is considered to overcome the concerns raised by the Inspector following the appeal against the refusal of the previous scheme (ref. 15/01671/FUL), in respect of the impact on neighbouring residents. Whilst flood risk remains a concern among the local community, there is insufficient available evidence to counter the opinion of the Inspector that the submitted Drainage Strategy would be appropriate to ensure that the site would be safe from flooding and would not increase flood risk elsewhere. The proposed development is considered to be acceptable in all other respects, including design and appearance, parking and ecology.

The development is therefore considered to accord with the relevant policies of the Portsmouth Plan and the National Planning Policy Framework.

## **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 P553 001 P3; SITE PLAN P553 051 P8; SITE PLAN 1:200 P553 052 P6; GROUND FLOOR PLAN UNITS 1&2 P553 061 P4; FIRST FLOOR PLAN UNITS 1&2 P553 062 P5; ROOF PLAN UNITS 1&2 P553 063 P4; UNITS 1&2 ELEVATIONS P553 082 P4; UNITS 1&2 ELEVATIONS P553 081 P3; SECTION PLAN UNITS 1&2 P553 091 P3; GROUND FLOOR PLAN UNITS 3-6 P553 064 P5; FIRST FLOOR PLAN UNITS 3-6 P553 065 P5; ROOF PLAN UNITS 3-6 P553 066 P4; UNITS 3-6 ELEVATIONS P553 083 P4; UNITS 3-6 ELEVATIONS P553 084 P4; SECTION PLAN UNITS 3-6 P553 092 P4; GROUND FLOOR PLAN UNIT 7 P553 067 P5; FIRST FLOOR PLAN UNIT 7 P553 068 P5; ROOF PLAN UNIT 7 P553 069 P5; UNIT 7 ELEVATIONS P553 085 P5; UNIT 7 ELEVATIONS P553 086 P5; SECTION PLAN UNIT 7 P553 093 P5; SURVEY PLAN P553 011 P3; and SITE SECTIONS P553 094 P5.
- 3) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority or within such extended period as may be agreed with the Local Planning Authority:
  - a) A desk study (undertaken in accordance with best practice, including BS10175:2011+A1:2013+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the site. The report shall contain a conceptual model showing the potential pathways that exposure to contaminants may occur, including any arising from asbestos removal, both during and post-construction, 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 conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A1:2013 and BS 8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs)'). The laboratory analysis should include assessment for heavy metals, speciated PAHs and fractionated hydrocarbons (as accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS)). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation; and, unless otherwise agreed in writing by the LPA,
  - c) A remediation method statement detailing the remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, including proposals for future maintenance and monitoring, as necessary. If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in BS 8485:2015 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings. The scheme shall take into account the sustainability of the proposed remedial approach, and shall include nomination of a competent person to oversee the implementation and completion of the works.
- 4) The development hereby permitted shall not be first occupied/brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a stand-alone verification report by the competent person approved pursuant to condition 3c above, that the required remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). The report shall include a description of remedial scheme and as built drawings, any necessary

evidence to confirm implementation of the approved remediation scheme, including photographs of the remediation works in progress and/or certification that material imported and/or retained in situ is free from contamination, and waste disposal records. For the avoidance of any doubt, in the event of it being confirmed in writing pursuant to Condition 3b above that a remediation scheme is not required, the requirements of this condition will be deemed to have been discharged.

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

- 5) (a) Unless otherwise agreed in writing with the Local Planning Authority, no development shall commence on site until, a detailed schedule of materials and finishes (including samples where requested) to be used for all external surfaces of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority;
- (b) The development shall thereafter be carried out in accordance with the approved details.

6) No development shall commence on site until:

a) The detailed design of the drainage and flood risk management scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of site levels, finished floor levels, storage capacity and volumes, layout, sump and pump systems layout and levels, drainage calculations, overland flow routes and types of permeable paving. Unless otherwise agreed in writing by the Local Planning Authority, the scheme shall accord with the details and recommendations outlined within the Flood Risk Assessment and Drainage Strategy and Addendum, and Groundwater Flood Risk Management Report (Mayer Brown, December 2017 and March 2018), and associated Drainage Strategy Plan ref. X/PSLealandRd(AP)10\_001.

b) A strategy for the maintenance of the drainage and flood risk management scheme agreed under part (a) has been submitted to and approved in writing by the Local Planning Authority.

The drainage and flood risk management scheme shall thereafter be implemented and maintained in accordance with the approved details.

7) Prior to occupation of the development hereby permitted, a verification report confirming that the drainage and flood risk management scheme has been implemented fully in accordance with the details agreed under Condition 6(a), shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall thereafter be maintained in accordance with the details agreed under Condition 6(b).

8) Prior to commencement of the development hereby permitted, a scheme of biodiversity enhancements to be incorporated into the development designed for biodiversity benefits shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancement scheme shall thereafter be implemented in accordance with the approved details.

9) (a) Unless otherwise agreed in writing with the Local Planning Authority, none of the dwellings hereby permitted shall be occupied/brought into use until the vehicular accesses and parking spaces have been provided in accordance with the approved Site Plan ref. P553 051 P8.

(b) The parking spaces shall thereafter be permanently retained the parking of vehicles at all times.

10) Prior to commencement of the development hereby permitted, precise details of boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be installed and retained in accordance with the approved details.

11) Prior to commencement of the development hereby permitted, a landscaping scheme, to include details of species, planting sizes, spacing and numbers of trees/shrubs to be planted, shall be submitted to and approved in writing by the Local Planning Authority. The approved

scheme shall be carried out in the first planting and seeding seasons following the occupation of the dwellings. 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.

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order amending, revoking and or re-enacting that Order with or without modification) no building, structure, addition, means of enclosure or other alteration including the installation of windows permitted by Class A, Class B or Class C of Part 1 or Class A of Part 2 of Schedule 2 shall be constructed/erected/carried out without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

13) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by the local planning authority, proving that the development has achieved:

- a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in The Building Regulations for England Approved Document L1a: Conservation of Fuel and Power in New Dwellings (2013 edition). Such evidence shall be in the form of an As Built Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and
- a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

14) (a) No development shall commence on site until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority to include, but not limited to details of: Times of deliveries; Wheel wash facilities; Site office facilities; Contractor parking areas; Loading/off-loading areas; Method Statement for control of dust and emissions from construction and demolition; an Assessment and Method Statement for the control of construction noise.

(b) The development shall be carried out in accordance with the approved details and shall continue for as long as construction/demolition is taking place at the site.

15) Prior to first occupation of the development hereby permitted, the refuse storage and collection facilities shall be provided in accordance with the details shown on the approved Site Plan ref. P553 051 P8, and thereafter retained.

16) Prior to first occupation of the development hereby permitted, the facilities for the secure storage of bicycles shall be provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be retained for the storage of bicycles.

**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 the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 4) To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable

risks to workers, neighbours and other offsite receptors, in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.

- 5) In the interests of the visual amenities of the area in accordance with policy PCS23 of the Portsmouth Plan.
- 6) In order to ensure that the development is safe from flooding and does not increase the risk of flooding to the surrounding area, in accordance with policy PCS12 of the Portsmouth Plan.
- 7) In order to ensure that the development is safe from flooding and does not increase the risk of flooding to the surrounding area, in accordance with policy PCS12 of the Portsmouth Plan.
- 8) To enhance biodiversity in accordance with Policy PCS13 of the Portsmouth Plan, the National Planning Policy Framework, and the Natural Environment and Rural Communities Act 2006.
- 9) To ensure satisfactory provision for on-site parking, in the interest of highway safety, in accordance with Policy PCS17 of the Portsmouth Plan.
- 10) In the interest of visual amenity and to protect the amenities of neighbouring residents, in accordance with Policy PCS23 of the Portsmouth Plan.
- 11) In the interest of visual amenity in accordance with Policy PCS23 of the Portsmouth Plan.
- 12) In the interests of visual and residential amenity having regard to the specific design and layout of the development and relationship with neighbouring properties, in accordance with policy PCS23 of the Portsmouth Plan.
- 13) To ensure that the development as built will minimise its need for resources in accordance with Policy PCS15 of the Portsmouth Plan.
- 14) To protect the amenity of local residents by preventing excessive nuisance and minimise adverse effects on the local environment and the adjoining highway, as far as practicable, during works of demolition/construction in accordance with policy PCS23 of the Portsmouth Plan.
- 15) In the interest of amenity in accordance with Policy PCS23 of the Portsmouth Plan.
- 16) To ensure adequate facilities for cyclists, to encourage sustainable modes of transport, in accordance with Policy PCS17 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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**2B MERTON ROAD SOUTHSEA PO5 2AG**

**CONSTRUCTION OF THREE-STOREY DWELLING OVER BASEMENT FOLLOWING  
DEMOLITION OF EXISTING DWELLING AND GARAGE**

**Application Submitted By:**

Pike Planning  
FAO Mr John Pike

**On behalf of:**

Mr & Mrs Gary and Sarah Bird

**RDD:** 15th January 2018

**LDD:** 13th March 2018

**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 proposed dwelling is of an acceptable design that would preserve the character and appearance of the 'Owen's Southsea' Conservation Area and the setting of adjacent heritage assets, whether the proposed accommodation would provide an acceptable standard of living condition for future occupiers and whether the proposal would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation and car and bicycle parking.

**The Site**

This application relates to a two-storey detached dwelling located to the southern side of Merton Road just to the east of its junction with Ormsby Road. The dwelling, which dates from the late 1950s, is set back from the highway by a verdant front garden and sited towards the western side of its plot. A single-storey garage and driveway provides a degree of separation to the neighbouring dwelling to the east which is also set away from the boundary by a detached garage.

The site is located within the 'Owen's Southsea' Conservation Area and is the subject of an Article 4(2) direction which removes certain permitted development rights. Three trees (T24 - Horse Chestnut, T25 - Lime and T26 - Lime) situated along the eastern boundary are protected by Tree Preservation Order No.44 (Merton Road). The adjoining dwellings (Nos. 4-8) to the east and their front boundary walls are included on the City Council's List of Locally Important Buildings and Structures.

The surrounding area is typical of the early Southsea development by Thomas Ellis Owen with a series of large Victorian Gothic Villas set back from narrow winding roads by large verdant front gardens. A number of plots have either been sub-divided or redeveloped post war with a mix of smaller detached and semi-detached dwellings and larger blocks of flats. This distinct design and layout of the area creates a distinct character, very different to the more typical terraces found further to the east.



## **Proposal**

Planning permission is sought for the construction of a three-storey dwelling over a basement following the demolition of existing dwelling and garage.

## **Relevant Planning History**

Planning permission was granted in 1957 (ref. A\*11171/F) for the construction of a dwellinghouse and garage (in the former grounds of No.2 Merton Road).

Conditional consent was granted in 1995 (ref. A\*11171/AA) for the lopping of a Horse Chestnut (T24) and two Lime Tree (T25 & T26) within Tree Preservation Order 44.

Conditional consent was granted in 1998 (ref. A\*11171/AB) for the topping and lopping of a Horse Chestnut (T24) and two Lime Tree (T25 & T26) within Tree Preservation Order 44.

Conditional consent was granted in 2004 (ref. A\*11171/AC) for the topping and lopping of a Horse Chestnut (T24) and two Lime Tree (T25 & T26) within Tree Preservation Order 44.

Conditional consent was granted in 2017 (ref. 17/00253/TPO) for T24 - crown reduction by 1.5metres and crown lift over road by 5metres to Horse Chestnut, T25 & T26 - crown reduction by up to 3 metres in height and lateral spread to two Lime Trees within Tree Preservation Order 44.

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PSC13 (A Greener Portsmouth), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes) and PCS23 (Design and Conservation). Saved policy DC21 (Contaminated land) of the Portsmouth City Local Plan and Supplementary Planning Documents (SPD) in respect of Housing Standards (January 2013), Parking Standards and Transport Assessments (July 2014), Sustainable Design & Construction (January 2013) and Solent Protection Areas (April 2014) are also relevant to the determination of this application.

## **CONSULTATIONS**

### **Highways Engineer**

This application proposes the construction of new 3 storey dwelling over basement following demolition of existing detached dwelling. The LHA has reviewed the documents submitted in support of the application and would make the following comment;

Merton Road is a residential road in Southsea. The road has an array of different housing types, many of which with off-road parking however there is also on-street parking controlled by double yellow line restrictions along the length of the road; parking demand often outstrips capacity on street.

The proposed new property is to be used as a single dwelling as is the consented use of the existing dwelling. The LHA is therefore satisfied that the trip rate associated with the site will remain broadly the same and as such a formal transport assessment would not be required. The Portsmouth Parking SPD gives the expected parking demand for new residential development. The existing property has 3 bedrooms giving a parking demand of 1.5(2) spaces; two spaces are currently provided on-site and are to be retained. The proposed property would have a parking demand of 2 spaces and as such will not need to provide further parking spaces.

The expected level of cycle parking is also given in the Portsmouth Parking SPD. It is presumed that this is currently provided within the existing garage that is to be demolished. The proposed dwelling would have a demand for 4 cycle parking spaces, increased from the current 2 spaces. With the removal of the garage, there is no cycle parking identified on the plans. The LHA is however of the opinion that the provision of secure, weatherproof cycle storage can be accommodated on site and should be secured by an appropriately worded condition. As the application stands the LHA would not wish to raise a Highways objection subject to securing the following conditions;

- Vehicle parking to be provided as shown in plan 031A prior to occupation of the development and thereafter retained for use by occupiers of the property.
- Details of Cycle parking in line with Portsmouth Parking SPD standards should be submitted to and approved by the LHA and subsequently provided prior to occupation of the development and thereafter retained.

### **Tree Officer**

A site visit was undertaken on 03 February 2017. The weather conditions were cold, dry and bright. Also present was Mr Andy Tomasso of Alpine Tree Surgeons acting as agent for the property owner.

Observations - At the time of the site visit 2B Merton Road was unoccupied having recently changed hands, all three specimens present onsite appeared healthy and vigorous, dead wood was visible throughout the crowns and across the driveways and gardens beneath.

The content of the Arboricultural Impact Statement dated 01 August 2017 is agreed and accepted. The proximity of T3 to an adjacent garage and area of dysfunction in the stem preclude prolonged retention. Largely screened from the street scene by T1 and T2, T3 is of significantly less amenity value than its neighbours.

Sufficient open ground will exist to the front of the property post development to allow planting of a semi mature replacement for T3, the proposed species would be considered acceptable.

Recommendations - There are no objections to the proposal in arboricultural terms - the application be granted subject to conditions requiring an Arboricultural Method Statement.

### **Contaminated Land Team**

The Contaminated Land Team has reviewed the application together with information held by the City Council, and conditions relating to land contamination are not required.

## **REPRESENTATIONS**

At the time of writing five letters of representations had been received from local residents and St. Jude Ward Member, Councillor Hugh Mason. Their objections can be summarised as follows:

- (a) scale, massing, siting and overall design concept is out of keeping with the character and appearance of the conservation area;
- (b) impact on residential amenity including loss of outlook, overbearing impact and overlooking;
- (c) accuracy of the submitted drawings;
- (d) parking; and,
- (e) disruption and safety issues during development works.

The application has been brought to the Planning Committee for determination at the request of St. Jude Ward Member, Councillor Hugh Mason.

## COMMENT

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

1. The principle of development
2. Design including impact on heritage assets
3. Impact on protected trees
4. Internal living conditions and Impact on residential amenity
5. Highways Impacts
6. Sustainable Design and Construction
7. Impact on Special Protection Areas

### **The principle of development**

Planning permission is sought for the construction of a three-storey dwellinghouse with additional accommodation at basement level following the demolition of the existing dwellinghouse and associated garage. Whilst located within a conservation area, the site is not the subject of any site specific policy restrictions. Therefore, the principle of demolition to allow for the construction of a larger dwelling would be acceptable but subject to the detailed assessment below.

### **Design including impact on heritage assets**

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that all new development should be: of an excellent architectural quality; innovative; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; relate well to the geography and history of Portsmouth and protect and enhance the city's historic townscape and its cultural and national heritage; of an appropriate scale, density, layout and appearance and materials in relation to the particular context; and be flexible in response to future changes in use, lifestyle and demography.

In addition, when determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) (LBCAA 1990) places a duty on the LPA to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The proposed dwelling is of a modern design that does not seek to replicate the building it replaces or the more typical 'Owen' style properties that are common within the surrounding area. Comprising a relatively simple form and palette of materials including render at ground floor, high quality facing bricks (roman type bricks) at first floor, timber at second floor level and with large areas of glazing to the north and south elevations, the architect's precedent images hint at Le Corbusier and Alvaar Aalto influences.

Through the course of pre-application discussions, the applicant has sought to limit the overall bulk of the building by reducing its depth at first floor and by setting the second floor in from all elevations with softer wooden curves contrasting the sharp finish of the brick and rendered elevations below. This has resulted in a scale and form that is considered to be acceptable for the site, although it has been highlighted that the success of contemporary design will ultimately depend on the finer detailing and execution of the development. In response, the applicant has provided a series of detailed drawings for important architectural elements including window profiles, window recesses, timber curves and 'ribs' at roof level, and the overhang of the first floor.

It is acknowledged that that proposed dwelling would result in significant additional bulk at the site and the acceptability/suitability of the design is subjective and will divide opinion. However, having very careful regard to the information provided by the applicant demonstrating the

standard of finish, it is considered that in isolation the resultant building would be of a sufficiently high quality required for a piece of bespoke contemporary architecture within one of the city's most important conservation areas. Notwithstanding this assessment of the buildings individual merits, consideration must also be made to the acceptability of the design in relation to the surrounding area and its impact on heritage assets.

In addition to its location within a conservation area, the site sits in close proximity of a number of other non-designated heritage assets including: properties and boundary walls at Nos.4-8 & 3-9 Merton Road and No.3 Ormsby Road (Dalton Cottage); and No.1 Merton Road, all of which are entered on the City Council's List of Locally Important Buildings and Structures. A number of large mature trees within the area are also protected by Tree Preservation Order. The concentration of heritage assets gives an indication of the significance of the area. It is however, noted that the area contains a significant number of post-war developments including dwellings at 1c, 1d, 2 and 2a Merton Road and large blocks of flats at Spencer Court to the east and Admiral Square to the north-west. These properties are not consistent in terms of scale, form or architectural style and do not necessarily reflect the qualities of the original properties within the area.

As required by Paragraph 128 of the National Planning Policy Framework (NPPF), the applicant has provided an assessment describing the significance of the heritage assets affected by the development. This assessment states: 'The conservation area is centred around Thomas Ellis Owen's early Southsea development in the Kent Road and Clarendon Road areas. The significance of the conservation area is its historic association with the development of Southsea as a suburb of the then town of Portsmouth. The key attributes of the area are the sylvan winding lanes, Regency style terraces and Gothic revival villas. The area including the application site is located within the north-eastern quarter of Owen's Southsea. There are a number of surviving Owen buildings in this area, most are located within the St John's College school site but nearby is Ormsby Lodge in Ormsby Road, an Owen building just to the north of the application site. The significance of a heritage asset is the sum of its architectural, historic, artistic or archaeological interest. The Historic England document titled Conservation Principles identifies four types of heritage value that an asset may hold: aesthetic, communal, historic and evidential. The conservation area exudes significant aesthetic value as well historic and communal values through its part in the development of Southsea as an early suburb of the then town of Portsmouth. The application property is not considered to have any particular heritage value. Except for the buff-coloured brickwork the design and general appearance does not reflect the essential character of the conservation area nor does it express a marked and contrasting piece of innovative and distinctive design. Consequently it has a low level of significance and arguably detracts from the character and appearance of the conservation area...The demolition of the existing building would not cause any harm to the significance of the designated heritage asset that is the Owen's Southsea Conservation Area. The old front boundary wall would be retained, as this is an important vestige of the original dwelling that existed on the site and would provide a sense of continuity. The proposed dwelling would be a suitable and appropriate new ingredient in the conservation area, adding innovation and design flair, but also respecting the grain and character of the locality by way of siting, scale and use of a sensitive palette of materials'.

It is considered that the applicant's assessment of the area's significance is reasonable. However, whilst it is agreed that the level of significance derived from the existing dwelling at the site is low and its removal (subject to a suitable replacement) would not in itself be harmful, it is not accepted that the existing dwelling detracts from the character and appearance of the conservation area and limited weight is placed on this view.

As highlighted within representations, the replacement dwelling does not seek to replicate the typical 'Owen' style or even that of post war developments within the area. This does not immediately translate to harm and note that the post war developments that are such a prominent feature of this part of the conservation, the application dwelling included, would not have reflected the typical 'Owen' style of the area when first constructed.

Whilst larger and modern in appearance, the replacement dwelling does retain some of the more typical characteristics of the 'Owen' layout including a significant setback from the highway and verdant front garden maintaining a sense of spaciousness. The proposal is also for a large detached villa in an area originally comprising a series of large detached and semi-detached villa style dwellings, albeit of a significantly different appearance. The resultant building would have a similar footprint to other properties within the area and whilst larger than its post-war neighbour to the west, it would remain smaller than the original 'Owen' inspired dwelling to the west providing an acceptable step in scale and maintaining an acceptable degree of separation.

As a result of the presence of trees within the front garden and following the removal of Tree 26 (addressed below) from the eastern boundary, the replacement dwelling would be most prominent in views from the north across the front garden of No.4 Merton Road. As a result of the site constraints (to avoid overlooking), this is not the most successful elevation of the building, although it still displays the modernist characteristics of form and simplicity. Ultimately the proposed dwelling will be more prominent within the street scene and will change the character and appearance of the conservation area within this locality. However, the tests set out within the NPPF and Section 72 of LBCAA 1990 are not whether a development changes the appearance of a conservation area or setting of a heritage asset, but whether it preserves or enhances the character and appearance of the conservation area and the significance of non-designated heritage assets.

In light of the specific judgements above in terms of individual design and relationship with adjoining properties and the street scene, it is considered that the changes to the heritage assets would not be harmful and that the proposal would be seen to preserve the character and appearance of the conservation area and the setting of the adjoining non-designated heritage assets. As such, the requirements of paragraphs 132-134 of the NPPF, which seeks to address the significance of any harm caused by development, would not be applicable in this instance.

The acceptability of this proposal places significant weight on the overall design solution and the architectural details and high quality materials indicated within drawings 042 E, 043 A and 044 B. Deviation from these particulars could compromise the overall design concept resulting in a materially different proposal for which a separate judgement of impact would need to be made.

Whilst situated within a conservation area and subjected to an Article 4(2) direction, the replacement dwelling would still benefit from certain permitted development rights (once occupied) which would allow fairly significant alterations and additions without the express permission of the LPA. Having regard to the very specific design of the dwelling, limited curtilage to the rear and proximity to neighbouring properties, it is considered necessary and reasonable to impose a planning condition removing permitted development rights.

### **Impact on Protected Trees**

The proposal would result in the loss of a Lime Tree (T26) located on the eastern boundary with No.4 Merton Road which is protected by Tree Preservation Order No.44 (Merton Road). Two other protected trees (T24 - Horse Chestnut and T25 - Lime) situated on the eastern boundary, although positioned closer to the highway, would be retained.

The applicant has submitted an Arboricultural Impact Assessment (AIA) which has investigated the amenity value, health and relationship of the trees with the existing boundary treatments. The report highlights that T26 is located in close proximity to the boundary wall and neighbouring garage increasing the possibility of damage to these features from either the trunk or the roots. It is noted that T24 and T25 have a similar relationship with the boundary wall although there appear to be more appropriate technical solutions to manage their growth in the future. The report also highlights that T26 has been poorly managed in the past, exhibits a disfigured canopy and includes a large decayed cavity at ground floor level which could affect the trees structural stability and life expectancy.

This report has been considered by the City Council's Arboricultural Officer who confirms that whilst the trees at the site appeared healthy and vigorous, T26 offers limit amenity value due to its position behind T24 and T25 and incorporates an area of dysfunction in the stem that precludes its prolonged retention. The content of the AIA is agreed and accepted. It is highlighted that sufficient space would exist to the front of the property to allow for a replacement tree that would make a greater contribution to the street scene.

Policy PCS13 advises that development should be informed and influenced by the presence of trees, particularly those protected by TPO or located within a conservation area. Whilst the loss of T26 is unfortunate, having regard to the form, location, health and life expectancy as highlighted by both the AIA and the City Council's Arboricultural Officer, it is considered that the removal of the tree and its replacement within the front garden would be in the interests of good arboricultural management, and would within a relatively short period of time make an equal and eventually greater contribution to the street scene. The replacement of T26, two additional trees within the rear garden and the protection of retained trees during the development process can be required through appropriately worded planning conditions.

### **Internal living conditions and Impact on residential amenity**

The development would comprise a 4-bedroom dwellinghouse with a gross internal floor area of approximately 370sq.m. far in excess of that required by the nationally described space standards. Whilst the dwelling would include a relative small private rear garden, it would benefit from a good degree of natural light and outlook providing an extremely high quality of living environment for future occupiers.

In terms of residential amenity, the most likely impacts from the development will be on the occupiers of No.2a Merton Road immediately to the west and No.4 Merton Road immediately to the east. Whilst occupiers of other nearby dwellings will appreciate the increased scale, as a result of orientation and degree of separation, it is considered that the proposal would not result in any significant adverse impact on the occupiers of these properties.

The replacement dwelling would have an enlarged footprint, although it would not project any further towards the north than the existing dwelling. To the west the degree of separation to the shared boundary with No.2a would increase by approximately 0.9 metres to 1.8 metres, although to the east this separation distance to the boundary would be reduced from 5.4 metres to 1.8 metres positioning the dwelling at the centre of its plot. To the south, the building would extend approximately 3 metres further than the existing dwelling at ground floor level but just 0.1 metres at first floor level.

To the west, No.2a has a similar sized rear garden to the application site with south facing windows and doors at ground and first floor level. A large outbuilding extends along the full length of its garden adjacent to the boundary with the application site with a maximum height of 3 metres. The enlarged dwelling would certainly be perceptible to its neighbours. However, on the basis it would not project any further to the north, would only project slightly further to the south at first floor level (0.1m), would be sited slightly further to the east (0.9m) and having regard to the presence of a large outbuilding within the rear garden of No.2a, it is considered that the proposal would not have a significant adverse impact on the adjoining occupiers to the west in terms of loss of light, outlook, overbearing impact or increased sense of enclosure.

The greatest impact of the development is likely to be on the occupiers of No.4 Merton Road. This dwelling is positioned to the east of its plot with a detached garage providing a degree of separation to the application site. A private garden wraps around the rear and part western elevation with large windows within its western elevation at ground, first and roof level looking onto the application site. In addition to the increased height and bulk of the replacement dwelling and its siting closer to the shared boundary, the proposal would result in the loss of a mature Lime tree (T26) which is visible from the side windows and garden area.

Having visited No.2a it is apparent that that the increase scale and bulk of the replacement dwelling would certainly be perceptible in views from the west facing windows and the side/rear garden which would have an impact on future living conditions. That said, as a result of their distance from the boundary and alignment with the proposed dwelling, the upper floor windows would maintain views towards the north-west and south-west and would not be significantly affected by reduced levels of natural light. As highlighted above, the applicant has through the course of pre-application discussions, reduced the depth of the building and bulk of the second floor. Notwithstanding the closer proximity, height and bulk, on the basis that the replacement dwelling would maintain an approximate alignment with the existing north and south building lines at first floor level, it is considered that the impact of the development on the occupiers of No.4 would not be unreasonable and an objection on the grounds of loss of light, outlook, increased sense of enclosure or overbearing impact could not be sustained.

To the rear, the proposed dwelling would incorporate a large picture window at first floor level and patio doors at roof level forming a 'Juliette' balcony with a glazed screen restricting access onto the flat roof. Representations raise concerns in respect of overlooking and potential loss of privacy. Whilst these concerns are noted, having regard to the presence of windows at first floor level within the existing building, the retention of the approximate southern building line, set back of the second floor windows/doors and the inclusion of a barrier preventing access onto the flat roof, it is considered that these windows would not result in any significant overlooking or loss of privacy.

A separate planning application would be required should the applicant wish to formally create an external balcony area which would be considered on their individual merits. The applicant has however, been advised through the course of pre-application discussions not to incorporate external balcony areas.

Representations also refer to disruption during development works. Whilst this is inevitable, the applicant will have an obligation to limit disruption during the construction phase and legislation beyond the planning system could assist in this respect.

## **Highways Impacts**

The proposed 4-bedroom dwelling would replace an existing 3-bedroom dwelling at the site retaining at least two off-road parking spaces within a front driveway. On the basis the proposal would not increase the number of dwellings at the site or increase the demand for off road parking in line with the Portsmouth Parking Standards SPD, it is considered that the proposal is unlikely to have a material impact on the surrounding highway network.

The proposal has been considered by the Local Highways Authority who raise no objection to the proposal subject to the inclusion of planning conditions relating to the provision and retention of the off-road car parking spaces and bicycle storage facilities.

## **Sustainable Design and Construction**

The Ministerial Statement of 25th March 2015 set out that Local Planning Authorities should no longer require compliance with specific levels of the Code for Sustainable Homes (the Code) or to require a certain proportion of the Dwelling Emission Rate (DER) to be offset through Low or Zero Carbon (LZC) Energy. Policy PCS15 has required both of these in all new dwellings since its adoption in 2012. However, the Statement does set out that a standard of energy and water efficiency above building regulations can still be required from new development in a way that is consistent with the Government's proposed approach to zero carbon homes. As such, the standards of energy and water efficiency that will be required from new residential development are as follows:

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

These standards will remain in place until the zero carbon homes policy is brought into force in 2016 and could be required through suitably worded planning conditions.

### **Impact on Special Protection Areas**

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.

However, on the basis that the proposal would not result in a net increase in dwellings at the site, it is considered that the proposal would not be likely to lead to a significant effect as described in section 61 of the Habitats Regulations on the Portsmouth Harbour and the Chichester and Langstone Special Protection Areas (SPAs) (as set out in sections 2.8-2.9 of the Solent Special Protection Areas Supplementary Planning Document).

## **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: 041 D, 042 E, 043 A and 044 B.
- 3) (a) Notwithstanding the submitted details, no development shall commence until a detailed schedule of materials and finishes (including samples where requested) to be used for all external surfaces of the development hereby permitted (and including parking areas and front gates) has been submitted to and approved in writing by the Local Planning Authority; and  
(b) The development shall thereafter be carried out in full accordance with the schedule approved pursuant to part (a) of this condition.
- 4) Notwithstanding the submitted details, no development (including demolition) shall commence until a detailed Arboricultural Method Statement & Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority; and  
(b) The development shall thereafter be carried out in full accordance with the Arboricultural Method Statement & Tree Protection Plan approved pursuant to part (a) of this condition.
- 5) (a) A replacement semi-mature Tulip Tree (*Liriodendron Tulipifera* - to the north-west corner of the site) and two standard Crab Apple (*Malus Tschonoskii* - to the southern boundary) or such other species as may otherwise be agreed in writing by the Local Planning Authority shall be planted in accordance with approved drawing 041 D within the first planting season following



first occupation of the dwelling hereby permitted or completion of the development whichever is the sooner.

(b) Any trees required by part (a) of this condition which, within a period of 5 years from the date of planting die, are removed or become damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.

6) (a) Notwithstanding the submitted details, the dwelling hereby permitted shall not be occupied until the off-road parking spaces have been provided in accordance with approved drawing 041 D and the requirements of Condition 3; and

(b) The parking approved by part (a) of this condition shall thereafter be permanently retained for the parking of vehicles at all times.

7) The dwelling hereby permitted shall not (unless otherwise agreed in writing by the Local Planning Authority) be occupied until written documentary evidence has been submitted to, and approved in writing by the Local Planning Authority demonstrating that the development has:

a) achieved a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in The Building Regulations for England Approved Document L1A: Conservation of Fuel and Power in New Dwellings (2013 Edition). Such evidence shall be in the form of an As Built Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and

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

8) (a) Notwithstanding the submitted details, the dwelling hereby permitted shall not be occupied (unless otherwise agreed in writing by the Local Planning Authority) until secure and waterproof bicycle storage facilities have been provided in accordance with a detailed scheme (to include materials, size, appearance and location) to be submitted to and approved in writing by the Local Planning Authority; and

(b) The bicycle storage facilities approved pursuant to part (a) of this condition shall thereafter be retained for the storage of bicycles at all times.

9) (a) All windows installed at upper floor level to the east facing elevation shall be both glazed with obscure glass and be non-opening and thereafter permanently retained in that condition.

10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order amending, revoking and or re-enacting that Order with or without modification) no building, structure, addition or other alterations permitted by Class A, Class B, Class C, Class D or Class E of Part 1 of Schedule 2 of that Order shall be constructed/carried out without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

**The reasons for the conditions are:**

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

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

3) In the interests of the visual amenity having regard to the specific contemporary design of the dwelling and its position within the 'Owens Southsea' Conservation Area in accordance with policy PCS23 of the Portsmouth Plan.

4) In order to protect the existing landscape features of amenity value from damage to health and stability (including root systems) in the interests of visual amenity and good arboricultural management in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.

- 5) In the interests of visual amenity and to provide adequate mitigation for the loss of the existing tree in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
- 6) To ensure that adequate on-site parking facilities are provided in the interests of highway safety and the amenities of the area in accordance with policies PCS17 of the Portsmouth Plan and the aims and objectives of the adopted Residential Parking Standards SPD.
- 7) To ensure that the development as built will minimise its need for resources and be able to fully comply with policy PCS15 of the Portsmouth Plan.
- 8) To ensure that adequate provision is made for cyclists using the halls of residence and to promote and encourage cycling as an alternative mode of transport to the private car, in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan.
- 9) To minimise the potential for the overlooking in the interests of protecting the residential amenity of the neighbouring occupiers to the east in accordance with Policy PCS23 of the Portsmouth Plan.
- 10) In the interests of visual and residential amenity having regard to the specific design of the proposed dwelling, constrained nature of the remaining curtilage and location of the site within the 'Owens Southsea' 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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Assistant Director of City Development  
22<sup>nd</sup> March 2018