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# NOTICE OF MEETING

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## PLANNING COMMITTEE

WEDNESDAY, 14 JUNE 2017 AT 1.00 PM

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

Telephone enquiries to Lisa Gallacher, Democratic Services Tel. 02392 834056  
Email: [lisa.gallacher@portsmouthcc.gov.uk](mailto:lisa.gallacher@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 Jim Fleming (Chair), Frank Jonas (Vice-Chair), Jennie Brent, David Fuller, Colin Galloway, Steve Hastings, Lee Hunt, Hugh Mason, Robert New and Steve Pitt

### **Standing Deputies**

Councillors Suzy Horton, Gemma New, Darren Sanders, Lynne Stagg, 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 4826

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

- 1 Apologies**
- 2 Declaration of Members' Interests**
- 3 Minutes of Previous Meeting - 3 May 2017 (Pages 5 - 16)**

RECOMMENDED that the minutes of the Planning Committee held on 3 May 2017 be agreed as a correct record and signed by the Chair.

4 **Updates on previous planning applications by the Assistant Director of Culture & City Development**

5 **Planning appeal decisions for the month of May (Pages 17 - 22)**

Purpose of report

To advise the Planning Committee on the outcome of recent appeal decisions concluded in May 2017.

**RECOMMENDED**

That individual Inspectors decisions are noted.

**PLANNING APPLICATIONS (Pages 23 - 116)**

- 6 **17/00338/FUL - Cornerstone House 120 London Road Portsmouth PO2 0NB - Conversion of part of ground floor to create 2 no. 1 bed self contained flats and an enlargement to the cycle storage area, with external alterations to include installation of new windows and doors (report item 1)**
- 7 **17/00354/HOU - 68 Central Road Portsmouth PO6 1QX - Construction of first floor extension with alterations to roof 2 include dormer extensions on the front and rear roofslopes, construction of single storey extension to the rear and installation of windows to side elevation at first floor level (report item 2)**
- 8 **17/00198/HOU - 7 Parkstone Avenue Southsea PO4 0QY - Construction of single storey rear extension (after removal of existing ground floor conservatory) (report item 3)**
- 9 **17/00250/FUL - Land bounded by Queen Street, Havant Street, Old Star Place and Wickham Street Portsmouth - Construction of building comprising 4991 sqm of floorspace (GEA) for ground floor restaurant (class A3) and 120-bedroom hotel (class C1) on six upper floors (after demolition of existing buildings) (report item 4)**
- 10 **17/00530/FUL - 25 Newcome Road Portsmouth PO1 5DR - Change of use from House in Multiple Occupation (class C4) to 7 person 7 bedroom house in multiple occupation (sui generis) (report item 5)**
- 11 **17/00623/FUL - 39 Tottenham Road Portsmouth PO1 1QL - Change of use from purposes falling within class C4 (house in multiple occupation) or**

**class C3 (dwelling house) to 7 person 7 bedroom house in multiple occupation (sui generis) (report item 6)**

- 12 17/00063/FUL - 37 Eldon Street/51 King Street Southsea PO5 4BS - Conversion of part of building to form 6 dwellings; external alterations to include rear (east) extension, second floor extensions and changes to fenestration; change of use of part ground floor to form a wine bar (Class A4 - Drinking Establishment - 70sqm) (Amended scheme to 16/01772/FUL) (report item 7)**
- 13 17/00111/FUL - 167-169 London Road Hilsea - Conversion of ground floor retail unit to provide 2no. 2 bed dwellings and 1no. 1 bed dwelling with external alterations to include removal of canopy and replacing shopfront with new windows and doors (re-submission of 16/01049/FUL) (report item 8)**
- 14 17/00332/FUL - Princes House 32 Kings Terrace Southsea, PO5 3AR - Change of use of part basement (storage unit 2) to form an artist studio (Class B1C) (report item 9)**
- 15 16/01957/FUL - 15 Stubbington Avenue Portsmouth PO2 0HP - Change of use of the building to purposes falling within a house in multiple occupation (class C4) (report item 10)**
- 16 17/00443/HOU - 191A Havant Road Portsmouth PO6 1EE - Construction of two storey rear extension (report item 11)**
- 17 17/00555/FUL - 22 Jessie Road Southsea PO4 0EN - Change of use from purposes falling within a C3 (dwelling house) or C4 (house in multiple occupation) to a seven bedroom/seven person house in multiple occupation (sui generis) (report item 12)**
- 18 Date of next meeting**

Members are asked to note the date of the next meeting of Wednesday 28 June at 1pm. The Chair will confirm future dates and times meetings at the meeting on 28 June.

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

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# Agenda Item 3

## PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 3 May 2017 at 1.00 pm in the Conference Room A, Floor 2 of the Civic Offices

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

### Present

Councillors Frank Jonas (Chair)  
Jennie Brent  
Ken Ellcome  
Colin Galloway  
Lee Hunt  
Steve Pitt  
Darren Sanders (Standing Deputy)

Also in attendance:

Councillor M Winnington

### Welcome

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

### Guildhall, Fire Procedure

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

### 45. Apologies (AI 1)

Apologies for absence had been received from Councillor Scott Harris as Vice-Chair, Councillor Yahiya Chowdhury (and his standing deputy Councillor Morgan), Councillor Hugh Mason (who was represented by standing deputy Councillor Sanders) and Councillor Suzy Horton.

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

Councillor Galloway knew a depute for 57 Eastern Parade (report item 6) but this was not a personal or prejudicial interest.

Councillor Sanders would not participate in report item 3 for 27 Fawcett Road, having taken legal advice on the perception of having been spoken to by the applicants but not the objectors.

Councillor Pitt had also spoken to the applicant regarding report item 3 for 27 Fawcett Road but had been clear to them that he could not offer them an opinion and would approach the item with an open mind.

**47. Minutes of Previous Meeting - 5 April 2017 (AI 3)**

**RESOLVED** that the minutes of the Planning Committee held on 5 April 2017 be approved as a correct record to be signed by the Chair.

**48. Updates on previous planning applications by the Assistant Director of Culture & City Development (AI 4)**

There were no updates.

**49. 16/01973/HOU - 75 Bryher Island Portsmouth PO6 4UF - Construction of two-storey extension to side elevation, single-storey extension to rear elevation and extended balcony (Report Item 1) (AI 5)**

(The order of business was varied so that items without deputations were taken later in the meeting. Councillor Hunt had left the meeting when this item was discussed.)

Members' Questions

The number of bedrooms to be provided was queried and confirmed as staying at 5. This had been referred to committee at the request of Councillor Gemma New following representations made by the residents' management company but no reasons had been given by Councillor New.

Members' Comments

There were no further comments.

**RESOLVED** that conditional planning permission be granted, subject to the conditions outlined in the City Development Manager's report.

**50. 17/00069/FUL - 27 Victoria Road North, Southsea PO5 1PL - Change of use from dwelling house (class C3) to purposes falling within class C4 (house in multiple occupation) or class C3 (dwelling house) (report item 2) (AI 6)**

The following deputations were made, which are summarised:

- i) Ms H Taylor objected on behalf of local residents in the St. Thomas area, whose points included:
  - The attractive Victorian property should continue to be a family house and students were not giving balance to the community
  - There was intent to use the C4 use and be basement may also be developed under permitted development rights
  - Protection of the community was hoped for and it was unfortunate that the report on the result of review of the HMO SPD policy had been delayed
- ii) Mr M Willoughby's points of objection included:
  - He did not believe that the 10% threshold rules had been applied properly with not all of the HMOs within the radius being counted; in

February residents had highlighted 8 properties for further investigation but were told that some had been removed from the database or had expiring licences

- iii) Mr May-Clingo spoke as the applicant, in support of his application, whose points included:
- He had looked at properties in the vicinity and was aware that some of the registered HMOs were kept in better condition by the landlords than the privately occupied properties.
  - Low cost rented accommodation did not always require more parking
  - It was hard to sell this large property as a single residence, and this part of the road had many flats accessible for those on lower wages, not just for students.

### Members' Questions

In response to the questions raised on the counting of HMOs in the vicinity attention was drawn to the table showing the checks on database and licences and that there was a difference between HMOs in planning and private sector housing terms. The leaving of a 7<sup>th</sup> bedroom empty/as a study was queried and whether it would be large enough for double occupancy (which was confirmed). The Assistant Director of Culture & City Development stressed that this was not a sui generis but a C4 use being applied for within this application and it should be considered on this basis. With regard to the review of the SPD on HMOs she reported that a report was due to go to the next Planning, Regeneration & Economic Development portfolio meeting in the new municipal year, to seek a 6 week consultation before a further report was brought back for adoption/amendment of the policy.

Bruce Lomax, as Private Sector Housing Manager, explained the Housing Act S257 criteria for a HMO properties for which self-contained flats had less than two-thirds owner-occupiers, and he further explained the licensing programme brought in by PCC in 2013 for which the council only licence those properties in which all the units are being let out by the landlord. Some of the properties identified by the residents had historic use as HMOs and could be served an Article 4 Direction to become lawful. The planning officers would check the evidence available to them.

### Members' Comments

Members hoped that the revised SPD dealing with HMOs would clearly explain the differences between planning and private sector legislative regimes and definitions of HMOs. It was requested that those neighbourhood groups who had made representations on these issues were consulted on the document.

In considering this application the balance between changing the nature of a community (whilst awaiting the updated SPD) and providing more affordable accommodation was discussed. Members were also aware of the Planning Inspectorate's views on HMOs. They had to judge the application as before them based on current policy and it was reported that the application had been submitted in January so the applicant would be able to appeal on the grounds of non-determination if a decision was deferred.

**RESOLVED that conditional planning permission be granted, subject to the conditions outlined in the City Development Manager's report.**

**51. 17/00131/FUL - 27 Fawcett Road, Southsea PO4 0BZ - Change of use of ground floor from retail (Class A1) to massage salon (Sui Generis) (Report item 3) (AI 7)**

(Councillor Sanders had made an earlier declaration of interest and withdrew from the room for this item.)

The City Development Manager reported that the report (page 13 regarding representations) should be amended to reflect that the three ward councillors had not objected but had asked for this to be determined by the committee.

Also the Supplementary Matters List reported three additional representations have been received objecting to the proposal on the grounds of:

- "1. Council has given little consideration to the location of the massage parlour located opposite a school which is completely inappropriate;*
- 2. Impact on established residents;*
- 3. Applicant has visited properties uninvited and council has advised to contact police as they are funded to deal with these issues;*
- 4. Can authority divorce itself from the impact such process can have on people (public comments);*
- 5. Council has stated that assumptions cited in objections are not proven re evidence which shows that massage parlours are notoriously known for conducting business (supported by national evidence) which is not in line with their designated intent but council accepted applicants view that the transport and parking will not be affected;*
- 6. Issues which have an evidence base have not been given the same considerations as issues (use of Fratton Train Station and bus routes) as issues that have not got an evidence base and the additional demand for car parking and pressures this will place on existing occupiers;*
- 7. Council has accepted a best case scenario not worse case or middle ground;*
- 8. Decisions have been made on assumptions;*
- 9. Opening hours not acceptable to current residents or Prior School and will result in noise and disturbance to residents;*
- 10. Objections from Priory School have been dismissed by Council;*
- 11. Question validity and objectivity of the assessment and grant of planning permission;*
- 12. Request Chief Executive to confirm who is responsible for decision making, the independent scrutiny of decisions and process by which the equity of the decision making can be challenged or assured;*
- 13. Register comments as formal complaint and investigate accordingly;*
- 14. Under FOI request similar cases providing assurances and evidence, fairness and robustness of decisions and full evidence of impact analysis;*
- 15. Support requested in raising profile of objection and ensuring the council had followed due process in granting the application, ensuring equal consideration to all concerns raised and that the application is not progressed based on the strength of evidence of risk;*
- 16. Concerned such an application can be granted against the strength of objection and evidence presented to the council;*
- 17. Ask recipient of this email to object to this for the safety of residents and pupils;*
- 18. LPA has a duty in respect of section 66 of the Town and County Planning Act for architectural preservation and any building within the site of a grade II listed building.*

*The presence of a massage salon painted red does not fit with the architectural presentations within a grade II residency;*  
*19. No evidence to suggest there is a need for such services and impact on human rights, privacy and residential amenity; and,*  
*20. Massage salon not in keeping with ethos of road."*

The following deputations were made, which are summarised:

- i) Mr P Ball, objected as a local resident whose points included:
  - There were parking problems already in the area and there was no evidence that public transport would be used by those visiting the premises
  - The design was not suitable when near a Grade II listed building
  - Residential amenity of residents and nature of the road
  - Location unsuitable opposite the school and safety of children concerns
  - Querying the nature of the service, qualifications of staff and if there was a need for medical massages
  - Site notices had been removed
- ii) Mr A Lewis spoke as the applicant in support of his application, whose points included:
  - The general tone of the objections were not appropriate to the application
  - The listed building referred to had PVC window frames
  - The application had the support of officers as outlined in the report

#### Members' Questions

It was asked if the applicant had requested a site visit and it was reported that this request had not been received by the City Development Manager. In response to questions regarding the use, it was reported the Local Planning Authority could not consider or control potential behaviour within the premises but should consider the land use. How the business would be advertised was raised; there may be the need for advertising consent. The consultation period, consultees and use of site notices were also examined.

#### Members' Comments

Members did not believe that this was the appropriate location for the business opposite a large school and it was out of keeping with the surrounding area, which was mainly residential. The members had hoped to hear more from the applicant regarding how the business would be run and advertised.

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

In the absence of more detailed understanding of the nature of the business, the use of the ground floor as a massage parlour would be likely to have a significant impact on neighbouring residential properties and Priory School in terms of increased noise and disturbance, comings and goings, the visual appearance of the development that would therefore represent an inappropriate land use in this location. The proposal would therefore be contrary to the principles of good design and the

protection of residential amenity as outlined in the National Planning Policy Framework and PCS23 of the Portsmouth Plan.

**52. 17/00159/FUL - 26 Jersey Road, Portsmouth PO2 7PY - Change of use from residential dwelling (Class C3) to purposes falling within class C4 (house in multiple occupation) or Class C3 (dwelling house) (report item 4) (AI 8)**

The City Development Manager's Supplementary Matters List reported that: *"On page 17 of the committee report under the Parking Standards SPD section, it has been reported that 'Powerscourt Road and the surrounding roads are difficult to park at peak times'. This should be 'Jersey Road and the surrounding roads are difficult to park at peak times' (although the property is in close proximity to Powerscourt Road)."*

A deputation was made by Mrs Chamberlain (accompanied by Ms Clark) to object to the application, whose points included:

- This would change the nature of this small road of family properties
- The property would be suitable for first time buyers and single mature persons
- The pressure a HMO would create on local services and infrastructure (with the local doctors surgery closing)
- The parking standards were not being met (with reliance on public transport links) and there was pressure on parking in the area
- Residents did not believe that the database of HMOs in the area had been thoroughly checked, with at least 2 others being used as HMOs in Jersey Road
- There would be additional noise and disruption caused by this use to the inconvenience of existing residents

#### Members' Questions

The change in numbers of bedrooms was queried; this would change from 3 to a 4 bedroom property, to be occupied between 3-6 adults. It was asked if/why the parking standards had been ignored: the City Development Manager reported that the SPD related to new developments and had not been ignored; instead there was a comparison of the proposed use to use by a family. Further questions were raised regarding the layout of rooms and how the application had been brought forward.

#### Members' Comments

Members were concerned by the small size of the rooms and the layout giving no additional facilities for communal use for the amenity of the occupiers and the suitability of the property for this conversion.

#### **RESOLVED that permission be refused for the following reason:**

In the opinion of the Local Planning Authority, the proposed change of use of the dwelling (Class C3) to purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwellinghouse) would, as a result of the proposed layout of the ground and first floors in relation to the shared communal areas; fail to provide an adequate standard of living accommodation for future occupiers as they would be exposed to unacceptable and elevated levels of noise and disturbance, representing a poor form of development that would be contrary to the principles of protection of

residential amenity as outlined in the National Planning Policy Framework and Policy PCS23 of the Portsmouth Plan.

**53. 17/00178/FUL - 103 Manners Road, Southsea PO4 0BD - Change of use from Class C4 (house in multiple occupation) to house in multiple occupation for seven persons (Sui Generis) (Report item 5) (AI 9)**

(This item had been deferred from the previous committee meeting.)

A deputation was made by Mr Lonsborough, the applicant in support of his application whose points included:

- He had invested in the property and had rearranged the kitchen layout
- All the necessary licences were in place
- It would be used by 6 paramedic students

Members' Questions

It was asked if any changes had been made to the application since it had previously been deferred? The City Development Manager reported that there had not been changes but the reconfiguration of the bathroom had been discussed but this would be a major undertaking and the existing facilities were seen to be acceptable.

Members' Comments

Whilst some further information had been provided, the size of accommodation and provision of communal facilities were still of concern. There was further discussion regarding the HMO SPD review and the desire to see the outcome of this to help guide the committee members in such decisions.

**RESOLVED that permission be refused for the following reason:**

In the opinion of the Local Planning Authority, the proposed change of use of the building to a House in Multiple Occupation (Sui Generis) would, as a result of the proposed layout, quality and size of its communal facilities (kitchen, living and sanitary facilities), fail to provide an adequate standard of living accommodation for future occupiers representing an over intensive use of the building. The proposal is therefore contrary to Core Planning Principles of the National Planning Policy Framework and Policy PCS23 of the Portsmouth Plan.

**54. 17/00181/HOU - 57 Eastern Parade, Southsea PO4 9RE - Construction of new roof extension, including front gable with balcony, dormers to east roof slope, gable to north elevation and alterations to chimneys. Construction of basement/lightwells and part single/part two-storey side extension to east elevation to include balcony to first floor; external alterations to doors and windows, including replacement bay to south elevation; glazed entrance canopy; new entrance gates up to 1.75m high & 0.3m high trellis above existing walls; raised decking to form terrace; replacement garden shed and formation of dropped kerb access onto Selsey Avenue (amended scheme to 16/01447/HOU) (Report item 6) (AI 10)**

A site visit had been undertaken by some members of the committee on the preceding day.

The City Development Manager's Supplementary Matters List reported on further representation:

*"In addition to the 40 letters of objection within the committee report, a further three letters of representation have been received from local residents regarding the amended drawings to the northern elevation. Their concerns can be summarised as follows: a) loss of privacy b) loss of outlook c) unsympathetic to Conservation Area."*

Councillor Stubbs' representation was appended to the Supplementary Matters List in which he apologised for not being able to attend the meeting and set out his comments:

*"I would however like to make one key observation in respect of the 57 Eastern Parade application. The buildings along that stretch of road are very substantial, but they step downwards towards its eastern end, with the final few houses being of roughly comparable size and being of a scale consistent with the surrounding properties in Selsey Avenue, Marine Court and St. George's Road. This is good design practice in any location and particularly so in a sensitive area. This consideration is perhaps not immediately obvious, but it is an important one and it should be the determining factor in assessing the application before you."*

The following deputations were made, in summary:

- i) Mr P Barker, objecting, whose points included:
  - This should be treated as a new build as the building was being expanded in all directions, with major changes to its footprint and design
  - The bulk of the building for the plot size, reducing privacy and outlook for neighbours
  - It would be out of character with the adjacent buildings in size and the modern glass fronted design was out of keeping with the Conservation Area and did not match the existing building
  - It would result in removal of a parking space and problems would be caused by the entrance in Selsey Avenue
  
- ii) Mr P Smith, objecting, whose points included:
  - Concern with the process as with so much being changed it was hard to see this as an extension when it was more like a new build
  - The impact caused by the layout to Selsey Avenue
  - The bulky building would impact on 3 roads being a corner property
  - The gabled roof design was unlike other nearby properties
  - The design for such a prominent building did not preserve or enhance the street-scene of the Conservation Area or the adjoining ones.
  
- iii) Mr M Duck read out a deputation on behalf of his sister, the applicant, in support of the application, whose points included:
  - The reasons behind the conversion of the house which had become too much for the elderly occupiers (her parents) and was in need of major maintenance and upgrading of facilities
  - The previous design had been withdrawn and there would not be demolition of the existing structure

- The parking would be improved in the area with the new layout and the gate on St. George's Road was being removed.
- iv) Councillor M Winnington then spoke as a ward councillor, whose points included:
- The need for a development of a property to preserve or enhance a Conservation Area, and this was detrimental to the one it was within and was on the cusp of two other Conservation Areas, being one of the most prominent buildings in Eastern Parade, being on a corner plot
  - It had been evident at the site visit that this property would be much closer to the road than nearby properties
  - The house could be repaired without this amount of work taking place, and this was against guidance of extensions not overpowering the original property
  - It could set a precedent in the Conservation Area(s)
  - He agreed with Cllr Stubbs' comments on the roofline and was concerned by the raising of the wall

#### Members' Questions

The access arrangements were clarified; the access was being widened. The Assistant Director of Culture & City Development reported that covenant issues and loss of view were not planning considerations although general amenity for neighbours could be considered, including loss of privacy. The classification as an extension to the existing building was also examined and it was not a new build as the existing structure was not being demolished. The possible attachment of conditions suggested by the Highways Engineer was also raised.

#### Members' Comments

Members were concerned about the distances to the boundaries and impact on neighbouring properties and the street-scene and roofline and the design for such a prominent site at the Seafront and within a Conservation Area, which was adjacent to other Conservation Areas.

#### **RESOLVED that permission be refused for the following reason:**

The proposed extension, due to its excessive height and bulk in a prominent corner location, would overpower the recipient building and would not respect the design and appearance of surrounding properties. The extension would therefore fail to preserve or enhance the character and appearance of the Craneswater and Eastern Parade Conservation Area, and the setting of the Seafront and Eastney Barracks Conservation Areas. The proposal is therefore contrary to the principles of good design as stated in the NPPF and Policy PCS23 of the Portsmouth Plan.

- 55. 17/00381/FUL - 169 Queens Road, Fratton, Portsmouth PO2 7LU - Change of use from purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house) to 7 person 7 bedroom house in multiple occupation (Sui Generis) (Report Item 7) (AI 11)**

(The order of business was varied so that items without deputations were taken later in the meeting. Councillor Hunt had left the meeting when this item was discussed.)

The City Development Manager's report was corrected to refer to bedroom no.1 and not bedroom no.7 being in the roofspace. The Supplementary Matters List reported on a *correction to paragraph detailing internal living conditions on page 34 of the Committee Report which should read:*

*"In terms of internal living conditions, the property currently comprises a plant room at ground and second floor level and a communal w/c and shower at second floor level (containing a shower, w/c and wash basin). In addition, bedrooms 1, 3, 4, 6 and 7 would benefit from en-suite bathrooms. At ground floor level a communal lounge and kitchen would have a floor area of approximately 25sq.m. with access to cooking and preparation facilities. Overall it is considered that the internal facilities at the premises are sufficient to meet the demands from the intended number of occupants and would provide an acceptable standard of living conditions for future occupiers."*

There were therefore the following Corrections to Recommendations to include reference to SPA mitigation, which should read:

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

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

#### Members' Questions

Questions were asked of the Private Sector Housing Manager regarding whether bedroom no.1 was suitable for single person use, which was confirmed and regarding the layout and sizes of the sanitation rooms for which he confirmed that further information on the safe layout of the shower-rooms was being sought. The level of shared communal and cooking facilities was also raised.

#### Members' Comments

The room sizes were seen to be adequate and there was a satisfactory level of communal space.

**RESOLVED that conditional permission be granted, subject to the conditions outlined in the City Development Manager's report, as amended by the Supplementary Matters List.**

- 56. 17/00392/FUL - 26 Manners Road, Southsea PO4 0BB - Change of use from purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house) to 7 bedroom 7 person house in multiple occupation (Sui Generis) (Report item 8) (AI 12)**

A deputation was made by Mr Broyd as the applicant's agent in support of the application, whose points included:

- He had worked with the officers regarding this application and oversaw all of the applicant's HMO properties which had passed the licensing regime and this application exceeded the required standards
- He listed the works taking place to the property to provide communal and sanitation facilities, with replacement plumbing and safety works, opaque windows for privacy
- There would be cycle storage provision in the garage
- The application was for 7 persons rather than up to 9 which could be accommodated to ensure the tenants' safety and comfort in good sized bedrooms and the layout also meant that the property could be used by a family again in the future

(Councillor Sanders had been out of the room during part of the presentation/ deputation and would not therefore participate in this item or vote on it.)

Members' Questions

Further clarification on the shared facilities was sought, especially regarding the shared kitchen/diner space; it was reported that whilst this space was slightly smaller than desired officers felt this was compensated for by the extra size given to the individual bedrooms.

Members' Comments

Whilst members were disappointed that there was not a large space given for communal cooking and eating, there was some compensation in that individual room sizes were of a better size

**RESOLVED that conditional permission be granted, subject to the conditions outlined in the City Development Manager's report.**

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At the conclusion of the meeting Councillor Frank Jonas, as Chair, thanked the officers for their support and the members for their attendance and participation during this municipal year. He also wished Councillor Ellcome well as it was his last meeting of the Planning Committee before becoming Lord Mayor of Portsmouth.

The meeting concluded at 4.45 pm.

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Signed by the Chair of the meeting  
Councillor Frank Jonas

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# Agenda Item 5



Portsmouth  
CITY COUNCIL

**Decision maker:** Planning Committee

**Subject:** Planning appeal decisions for the month of May

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

**Wards affected:** Charles Dickens, Central Southsea, Milton, St. Jude, Drayton & Farlington and Eastney & Craneswater

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## 1. Purpose of report

To advise the Planning Committee on the outcome of recent appeal decisions concluded in May 2017.

## 2. Recommendations

That individual Inspectors decisions are noted.

## 3. Summary

Appeal Site	Proposal	PCC Decision	Inspectors Decision	Costs
The Cabman's Rest, 1 Plymouth Street Southsea PO5 4HW (Charles Dickens)	Change of use from Public House to Sui-Gen HMO (11 People)	Refusal	Allowed-Permission Granted	Award of costs-Refused
3 Nelson Terrace, Victory Road, PO1 3DR (Charles Dickens)	Change of use C3 to C4-HMO	Refusal	Dismissed-Permission refused	N/A
165a Francis Avenue, Southsea, PO4 0EP (Central Southsea)	Conversion of basement to form a self-contained flat and construction of new roof.	Refusal	Dismissed-Permission refused for conversion, but construction of roof allowed	N/A
Appeal Site	Proposal	Officers Recommendation	Inspectors Decision	Costs
75-77 Goldsmith	Vehicle	Refusal	Dismissed-	N/A

Avenue, Southsea PO4 8DX  (Milton)	Crossover		Permission refused	
24 Merton Road, Southsea, PO5 2AQ  (St. Jude)	Change of use from C3 to Sui-Gen HMO	Refusal	Allowed-Permission granted	TBC
46a Lealand Road, Portsmouth PO6 1LZ  (Drayton & Farlington)	Construction of 6 semi-detached houses and single coach house	Refusal	Dismissed-Permission refused	N/A
26 Nettlecombe Avenue, Southsea, PO4 0QW  (Eastney & Craneswater)	Construction of single storey outbuilding	Refusal	Dismissed-Permission refused	N/A

#### 4. Decisions in Focus

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

##### **The Cabman's Rest, 1 Plymouth Street Southsea PO5 4HW-**

The main issue considered in allowing this appeal was whether the proposal would provide acceptable living conditions for the future occupiers in regards to room sizes, access to ablution facilities and waste storage.

The applicant proposed five bedrooms and three W/C's at ground floor with six bedrooms and three bathrooms at first floor. The inspector offered the view that all eleven rooms varied in size but satisfied the minimum floor areas required for single bedrooms as identified in the Nationally Described Space Standard (March 2015). Having regarded ablution facilities the inspector opined *"Based on an individual occupying each bedroom, this would equate to each WC being shared by around two people, with the shower and bathroom facilities each shared between roughly three people. Therefore, the number of people sharing the ablution facilities would not be unusually large. The level of sharing of such facilities would not be dissimilar to that commonly experienced by occupiers of single family dwellings."*

Having examined the evidence, the inspector offered the view that the proposal would not result in an over-intensive use of the building as it would not provide unusually cramped or restricted living accommodation and that given the nature of the previous use, the proposal would not result in a significant increase in noise, disturbance, anti-social behaviour or crime.

## Costs

The applicant made an application for costs on the basis that the Council refused permission because of local opposition and as a result the refusal reason is contrived and it has no policy basis.

The Inspector offered the view that in its written statement; the Council identified a number of matters which it considers would result in a poor standard of living accommodation that would give rise to poor living conditions for future occupiers.

The Inspector concluded *"there is nothing vague or generalised about the Council's reason for refusal; it is underpinned by a body of evidence and it has a basis in the Development Plan. Consequently, in my view the Council was able to substantiate its case at appeal."*

## 46a Lealand Road, Portsmouth PO6 1LZ-

The main issues considered in dismissing the appeal were threefold and can be summarised as follows:

1. The effect on the living conditions of neighbouring occupiers.
2. Whether the proposal would result in an unacceptable risk of flooding
3. The effect the proposal would have on the character and appearance of the surrounding area.

The applicant proposed to demolish existing buildings on the site and replace these with three pairs of two-storey semi-detached houses and a first floor flat above undercroft parking. In addition to this the proposal included a total of thirteen car parking spaces, refuse and recycling storage.

Having regard to the impact the development would have on the living conditions of neighbouring occupiers, the Inspector offered the view that the brick wall of the proposed units 1 & 2 would project above the existing boundary fence and its height, width and lack of articulation would result in the outlook from No's 1 & 3 Central Road being dominated by a large, bulky and blank timber clad wall and further to this would introduce a significant sense of enclosure. Concluding on the impact on living conditions, the Inspector opined: *"In this context I consider that the introduction of a building of this scale, bulk and height would appear both un-neighbourly and overbearing. Even though the separation distances between the proposal and the existing dwellings are generous, I am not persuaded that they would offset the harmful loss of outlook and sense of enclosure that would arise."*

In considering the risk from flooding on the site, the Inspector noted that the property lies within Floodzone 3 and the area has experienced flooding in the past, however the evidence submitted did not conclude that this flooding had penetrated people's homes. Having considered the evidence available, the Inspector offered the view that the most likely cause of flooding in the area is the combined effects of the inability of the area to absorb surface water and for the surface water sewers to take it away. Taking all the factors into account the Inspector concluded: *"the development would not result in an unacceptable residual risk of flooding on the site or increase the risk of flooding elsewhere."*

Taking into account the effect the proposed development would have on the character and appearance of the surrounding area, the Inspector offered the view *"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."*

In conclusion the Inspector was of the view that issues relating to flood risk and the effects on the character and appearance of the area were not substantial enough to warrant dismissing the appeal, however the impact the proposed development would have on the amenity of neighbouring occupiers, particularly those residing in No's 1 & 3 Central Road would be severe and would not merit the granting of planning permission in this instance.

**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.

.....  
 Signed by:

**Appendices:**

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

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

Title of document	Location
Planning application: 16/01601/FUL (The Cabman's Rest 1 Plymouth Street PO5 4HW)	Planning Services
Appeal decision: APP/Z1775/W/17/3166600 (The Cabman's Rest 1 Plymouth Street PO5 4HW)	Planning Services

Planning application: 16/00396/FUL (3 Nelson Terrace, Victory Road, PO1 3DR)	Planning Services
Appeal decision: APP/Z1775/W/16/3160581 (3 Nelson Terrace, Victory Road, PO1 3DR)	Planning Services
Planning application: 16/00661/FUL (165a Francis Avenue, Southsea, PO4 0EP)	Planning Services
Appeal decision: APP/Z1775/W/16/3166153 (165a Francis Avenue, Southsea, PO4 0EP)	Planning Services
Planning application: 16/00923/HOU (75-77 Goldsmith Avenue, Southsea PO4 8DX)	Planning Services
Appeal decision: APP/Z1775/W/16/3161541 (75-77 Goldsmith Avenue, Southsea PO4 8DX)	Planning Services
Planning application: 16/01532/FUL (24 Merton Road, Southsea, PO5 2AQ)	Planning Services
Appeal decision: APP/Z1775/W/16/3165136 (24 Merton Road, Southsea, PO5 2AQ)	Planning Services
Planning application: 15/01671/FUL (46a Lealand Road, Portsmouth PO6 1LZ)	Planning Services
Appeal decision: APP/Z1775/W/16/3161911 (46a Lealand Road, Portsmouth PO6 1LZ)	Planning Services
Planning application: 16/01445/HOU (26 Nettlecombe Avenue, Southsea, PO4 0QW)	Planning Services
Appeal decision: APP/Z1775/D/16/3164348 (26 Nettlecombe Avenue, Southsea, PO4 0QW)	Planning Services

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# Agenda Item 6

## PLANNING COMMITTEE

14<sup>TH</sup> JUNE 2017

1 PM THE EXECUTIVE MEETING ROOM,  
3RD FLOOR, GUILDHALL

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

#### ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

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

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

#### REPORTING OF CONSULTATIONS

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

#### APPLICATION DATES

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

#### HUMAN RIGHTS ACT

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

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

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**CORNERSTONE HOUSE 120 LONDON ROAD PORTSMOUTH PO2 0NB**

**CONVERSION OF PART OF GROUND FLOOR TO CREATE 2 NO. 1 BED SELF CONTAINED FLATS AND AN ENLARGEMENT TO THE CYCLE STORAGE AREA, WITH EXTERNAL ALTERATIONS TO INCLUDE INSTALLATION OF NEW WINDOWS AND DOORS.**

**Application Submitted By:**

WYG

FAO Mr Jacob Goodenough

**On behalf of:**

Prinset Ltd

**RDD:** 23rd February 2017**LDD:** 21st April 2017**SUMMARY OF MAIN ISSUES**

The main determining issues are whether:

- the principle of residential, in land use terms, is acceptable in this location,
- the proposal would have a significant impact on highway safety,
- the proposed external alterations are appropriate, and
- appropriate mitigation has been provided towards the likely effect on the Special Protection Areas (SPAs) along the Solent coast.

**Site Description**

The application site comprises part of the ground floor of a four storey building, known as Cornerstone House, which is located on the east side of London Road with a return frontage to Stubbington Avenue. The building is being converted to residential use on all floors including part of the ground floor under the permissions and prior approval procedures listed within the Planning History section below. The ground floor frontage onto London Road has a retail use. The site is surrounded by other buildings between two and three storeys in height and is within the North End District Centre (policy PCS8 of the Portsmouth Plan refers). The surrounding buildings are predominantly in commercial use at ground floor with a mix of residential and commercial uses above. There is existing telecommunications equipment on the roof of the building.

**Proposal**

The application seeks planning permission for the conversion of part of the ground floor to create 2 no. 1 bed self-contained flats and an enlargement to the cycle storage area, with external alterations to include installation of new windows and doors.

## **Planning History**

The relevant planning history includes:

16/00015/PASBD - Application for prior approval relating to the change of use of part ground floor from shop to form three self-contained flats with external alterations to include amendments to ground floor access and windows - Prior Approval Not Required 08.11.2016

15/01217/FUL - Conversion of second and third floors from dance studio and boxing gym to provide 18 flats with associated external alterations. Conversion and extension of ground and first floor to provide one maisonette. Conversion of part of ground floor to provide cycle and refuse storage - conditional permission 13.05.2016

15/00002/PACOU - Application for prior approval relating to the change of use from office (Class B1) to 10 flats - prior approval not required 13.07.2015

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS23 (Design and Conservation), PCS21 (Housing Density), PCS8 (District centres), PCS17 (Transport), PCS13 (A Greener Portsmouth), PCS10 (Housing Delivery),

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS8 (District Centres), PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS17 (Transport), PCS21 (Housing Density) and PCS23 (Design and Conservation). The Nationally Described Space Standards, Solent Special Protection Areas Supplementary Planning Document (SPD) and Parking Standards SPD would also be a material consideration.

## **CONSULTATIONS**

### **Highways Engineer**

This application is for the change of use from Ground floor retail space (Class A1) to two self-contained one bedroom flats (Class C3). I have reviewed the Transport statement submitted with the application and would make the following comments:

London Road is the A2047, an important North-South route forming part of Portsmouth's primary road network. It is a single carriageway subject to a 30mph limit and is a main bus route and part of an identified Bus Rapid Transit (BRT) corridor. The retail unit on the ground floor of Cornerstone House forms part of a Primary retail area in the North End District centre as designated in the Portsmouth Plan. It is located on the South eastern corner of the junction with Stubbington Avenue; access to the proposed new dwellings will be from Stubbington Avenue. There is no on-street parking outside the applicant site however the roads surrounding the site experience indiscriminate parking controlled by yellow line restrictions.

The existing retail use is likely to have a higher traffic generation than the proposed use as two 1-bed flats therefore the overall network impact is likely to result in a net benefit over the current use.

The Portsmouth Parking SPD sets out the required amount of parking provision that should be provided for at new residential dwellings. This development should provide 2 spaces in order to comply with the SPD. Due to site constraints this is not possible however the applicant argues that the proximity to local amenities and Bus services mitigates the lack of parking provision within the application and the absence of residential parking provision would naturally deter prospective residents from owning a car. Whilst I would agree that residents in these units would be able to make local trips without the use of a car, I do not believe this would result in reduced car ownership.

The stress on the parking in the local area is most critical in the evening and overnight when residents return home from work. The applicant acknowledges this in the TA, "A night time

parking survey undertaken to inform the transport statement accompanying the planning application for 19 dwellings (15/01217/FUL) confirmed the high levels of on-street parking that take place in the nearby roads, recording parking stress at 100% and more in some roads". This severe pressure on parking which has been incrementally increased by previous developments on the site, regularly leads to vehicles parking on double yellow lines on corners of junctions; this blocks visibility at junctions and can impede crossing points and as such is a risk to Highway safety which would be further compromised by the shortfall in parking provision available for this site.

The Portsmouth Parking SPD also gives direction for the level of secure cycle storage that should be provided for new residential developments. This proposal would require 1 no. long stay (secure) cycle parking places for each dwelling. The Transport statement and plans show that the cycle parking previously proposed in an earlier application is to be redesigned to provide a communal bike store with 21 sheffield cycle hoops providing parking for 42 cycles. This store is designed to serve 19 previously consented dwellings within the building that had a total demand for approx. 20 spaces. Therefore I am satisfied that sufficient capacity exists to accommodate the 2 cycle spaces required for this development.

As the application stands I must recommend that planning consent be refused on the following grounds;

Insufficient vehicle parking provision in an area where on-street demand regularly exceeds the spaces available and consequent indiscriminate parking poses a risk to Highway safety.

### **Environmental Health**

Further to the above application I can confirm that this location is within an Air Quality Management Area, however the application has been accompanied with an Air Quality Assessment, which adequately demonstrates that any impacts upon or due to air quality will be negligible.

The acoustic report also indicates that the site should be appropriate for the proposed development provided enhanced sound insulation measures are incorporated into the façade of the structure.

Although the report does not recommend any glazing or ventilation specifications it does provide performance criteria in terms of sound reduction indices and standardised element level difference for windows and trickle vents.

Therefore if the development should be considered appropriate I would suggest the following condition.

Prior to the commencement of construction works, details of the proposed window and ventilation specification shall be submitted to the local authority, which will include the sound insulation performance of each element. Upon approval the specified elements shall be installed and retained.

### **Mineral And Waste Consultation**

The adopted Hampshire Minerals and Waste Plan (2013) includes a number of policies relating to minerals and waste safeguarding. However the proposal is not located within the Minerals Consultation Area (MCA).

This development therefore does not have any implications for Minerals safeguarding, and The Minerals and Waste Planning Authority (MWPA) raises no objection to this proposal.

### **Contaminated Land Team**

The proposal seeks to convert the back-of-house retail floor space to residential use with associated bin and cycle storage. As advised on other conversions of this block, and would have

expected as part of the application is for the applicant to summarise the previous uses of the building to show there is no remaining infrastructure, fuels storage, or previously polluting uses. As the review for 16/00015/PASBD has not been submitted, and the desk study requested as part of 15/01217/FUL has not been conducted, I would ask this submission is requested via condition.

(i) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority, a summary of all the previous and existing land uses of the site. The submission confirm if any waste, electrical equipment, boilers, or chemical storage remain on the site. This summary will help inform whether clean-up of internal areas is required. Part of the submissions should include the premises asbestos register.

Reason: 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.

### **Archaeology Advisor**

Having made a thorough check of our records and considering the likely impact to below ground deposits caused by the proposal, I would advise that there are no archaeological issues that I would wish to raise in this instance.

### **Natural England**

This application is within 5.6km of the Portsmouth Harbour SPA and will lead to a net increase in residential accommodation. Natural England is aware that Portsmouth City Council has adopted Solent Special Protection Areas Supplementary Planning Document (SPD) to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP).

Provided that the applicant is complying with this SPD and an appropriate planning condition or obligation is attached to any planning permission to secure the contribution, Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s).

With the above mitigation in place, Natural England has no objection to this application.

### **REPRESENTATIONS**

None received

### **COMMENT**

The main determining issues are whether:

- the principle of residential, in land use terms, is acceptable in this location,
- the proposal would have a significant impact on highway safety,
- the proposed external alterations are appropriate, and
- appropriate mitigation has been provided towards the likely effect on the Special Protection Areas (SPAs) along the Solent coast.

### **Principle**

The application site comprises part of the ground floor of 120 London Road, which is a corner building having a frontage on both London Road and Stubbington Avenue and is recognised as an accessible area, being within 400m walk of a high frequency bus corridor. The property is

located within the primary area of the North End District Centre as defined by policy PCS8 of the Portsmouth Plan, which encourages shopping (A1) throughout the centre and residential (C3) on upper floors but not at ground floor along the primary frontage. The part of the building the subject of this application fronts Stubbington Avenue and does not form part of the 14.5m long defined London Road primary frontage. Therefore, whilst this is still part of the defined primary area it is recognised that the building's main retail presence resides on its London Road frontage whilst its Stubbington Avenue frontage experiences less footfall as it leads to a predominantly residential area and as such plays a less important retail role than the London Road frontage. The opposite side of the road lies within the secondary area of this district centre. It is considered that the loss of this part of the ground floor to residential within the Stubbington Avenue frontage would not adversely affect the range of services available within the area nor the sustainability of the North End district centre. The remaining retail space at ground floor level, in terms of its corner location fronting London Road and available floor area is considered appropriate and viable to contribute to the retail function of the district centre.

Policy PCS10 states that new housing will be promoted through (among other development) conversions, and whilst in isolation the conversion to 2no. 1 bed flats would make a small contribution towards the housing supply of the city, sites such as this are cumulatively important windfall sites in meeting the housing delivery needs of the Plan.

The proposal meets the Nationally Described Space Standards minimum gross internal floor areas for a 1 bed/1 person and a 1 bed/2 person flat and whilst the flats are single aspect it is considered that the layout of each unit would give satisfactory levels of outlook and light thus creating an acceptable internal living environment for future occupiers. The proposed use is considered compatible with the residential and retail use of the rest of the building. It is noted that part of the adjoining ground floor of this building can be converted to residential (3 x 1 bed units) under the planning reference 16/00015/PASBD which confirmed prior approval was not required in November 2016.

With regard to the above, the principle of the further conversion of part of the ground floor in this location fronting Stubbington Avenue is considered acceptable.

## **Highway Issues**

The Portsmouth Parking SPD sets out the expected amount of parking provision that should be provided for new residential dwellings - in this case, a total of 2 spaces. The constraints of the site are however such that no off-road parking can be provided. It is noted that parking directly outside 120 London Road on both London Road itself and Stubbington Avenue is prohibited and that parking further east along Stubbington Avenue is unrestricted but very limited. There is therefore little capacity in the local area to accommodate further demand and as such this development would exacerbate the existing parking pressure to the detriment of existing residents. The layout plans submitted demonstrate additional cycle provision for the building as a whole in a much improved and accessible layout and more numerous in number (an additional 23) than previously permitted.

The Highway Authority recognises that the stress on the parking in the local area is most critical in the evening and overnight, and that whilst the site's proximity to local amenities/bus services and the lack of available parking would mean that residents would be able to make local trips without the use of a car it does not believe that this would result in reduced car ownership. It states that 'This severe pressure on parking which has been incrementally increased by previous developments on the site, regularly leads to vehicles parking on double yellow lines on corners of junctions; this blocks visibility at junctions and can impede crossing points and as such is a risk to Highway safety which would be further compromised by the shortfall in parking provision available for this site.' As such, the Highway Authority recommends refusal on the grounds of insufficient vehicle parking provision in an area where on-street demand regularly exceeds the spaces available and consequent indiscriminate parking poses a risk to Highway safety.

The planning assessment of this objection from the Highway Authority is balanced against housing need, the sustainable location with good access to a public transport corridor, good levels of cycle storage and that parking is regulated under separate legislation to the planning system. Notwithstanding the highways concerns the Local Planning authority has considered wider factors in arriving at the recommendations.

### **External Alterations**

The external alterations required to convert this part of the building to residential use given its ground floor location directly adjacent the public footway is to retain the stall riser, insert 2 pedestrian doorways (one for each flat) and to replace the large glazed panels with part glazing and part UPVC panels in grey to provide privacy. The pattern of fenestration and panelling is similar to that implemented above (also converted to residential). This is considered an appropriate and consistent solution to the external treatment of this elevation.

### **SPA Mitigation**

The proposal would lead to a net increase in population, which in all likelihood would lead to a significant effect, as described in Regulation 61 of the Habitats Regulations, on the Portsmouth Harbour and the Chichester and Langstone Harbours Special Protection Areas (the SPAs). The Solent Special Protection Areas SPD sets out how the significant affect which this scheme would otherwise cause, could be overcome. Based on the methodology in the SPD, the appropriate scale of mitigation is calculated as £181 per additional dwelling unit.

The applicant has paid £362 (i.e £181 x 2) as a mitigation measure and provided two original copies of a completed S.111 form.

### **Conclusion**

A judgement therefore has to be reached as to whether the provision of an additional 2 x 1 bed dwellings within a building that has already been predominantly permitted for residential use, is located within a district centre in close proximity to local amenities and bus services and would have ample cycle provision could (whilst recognising the pressure on existing on-street parking) reasonably be refused on highway safety grounds when indiscriminate parking by road users could be dealt with as traffic infringements rather than under the planning system.

It is considered, very much on balance, that whilst the local parking availability is extremely limited it is also acknowledged that this site falls within the primary area of the North End district centre which the Local Plan envisages could be put to a residential use for that part of the development which does not have a primary frontage. The site is also close to high frequency bus services and local amenities and would contribute to the housing supply of the city and as such is considered capable of support.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan and Block Plan 15-2092-204 Revision P2, Front Elevation and window details 15-2092-202 Revision P5, Proposed plans and ventilation details 15-2092-203 Revision P4,

3) The cycle and refuse storage facilities shown on the approved drawings shall be provided and made available for use before first occupation of the flats hereby permitted and shall thereafter be retained.

4) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority, a summary of all the previous and existing land uses of the site. The submission shall include the premises asbestos register and shall confirm if any waste, electrical equipment, boilers, or chemical storage remain on the site together with any remedial measures required to address the clean-up of internal areas. All approved remedial measures shall be fully carried out prior to occupation of the flats hereby permitted.

5) Prior to the commencement of development, details of the proposed window and ventilation specification shall be submitted to and approved by the local authority, which will include the sound insulation performance of each element. All approved specified elements shall be installed, and retained thereafter.

**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 the provision of cycle and refuse storage facilities in accordance with policy PCS23 of the Portsmouth Plan.

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.

5) In the interests of the residential amenity of the occupiers of the flats hereby permitted, in accordance with policy PCS23 of the Portsmouth Plan.

**PRO-ACTIVITY STATEMENT**

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

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**68 CENTRAL ROAD PORTSMOUTH PO6 1QX****CONSTRUCTION OF FIRST FLOOR EXTENSION WITH ALTERATIONS TO ROOF TO INCLUDE DORMER EXTENSIONS ON THE FRONT AND REAR ROOFSLOPES, CONSTRUCTION OF A SINGLE STOREY EXTENSION TO THE REAR AND INSTALLATION OF WINDOWS TO SIDE ELEVATION AT THE FIRST FLOOR LEVEL****Application Submitted By:**

Mr &amp; Mrs Jason and Kerry Eames

**On behalf of:**

Mr &amp; Mrs Jason and Kerry Eames

**RDD:** 27th February 2017**LDD:** 4th May 2017**SUMMARY OF MAIN ISSUES**

The determining issues are whether the design of the extensions are appropriate in relation to the existing property and surrounding area; whether there would be an increased requirement for off-road parking and whether there would be a significant impact on residential amenity.

**The site**

This application relates to a detached bungalow located on the north side of Central Road. The property is sited on the west common boundary and benefits from off-road parking with an enclosed rear garden to the rear.

**The proposal**

The applicant seeks permission for the construction of first floor extension with alterations to roof to include dormer extensions on the front and rear roofslopes, construction of a single storey extension to the rear and installation of windows to side elevation at the first floor level.

**Planning History**

There is no relevant planning history for this site.

**POLICY CONTEXT**

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

**CONSULTATIONS**

**None.**

## **REPRESENTATIONS**

One representation has been received from a neighbouring property objecting on the grounds of:

- (a) proximity of windows on western elevation and the extension would tower over No.70s bedroom window on the side elevation that would violate right to privacy from overlooking;
- (b) as the windows will have to be a fire escape they will have to open 90 degrees or folded to 180 degrees;
- (c) ground floor window if opens outward is at risk of being damaged by vehicles using driveway;
- (d) impact on health due to stress of application and potential building work; and,
- (e) high level of obscured glass should be used for side windows.

## **COMMENT**

The determining issues are whether the design of the extensions are appropriate in relation to the existing property and surrounding area; whether there would be an increased requirement for off-road parking and whether there would be a significant impact on residential amenity.

### **Permitted development**

The submitted plans indicate that a window would be installed at ground floor level on the western elevation. Providing the parts of the window that can be opening are above 1.7 metre above finished floor level, an application for planning permission would not be required and could be undertaken as permitted development.

### **Design**

The development would include the construction of a first floor extension, dormers on the front and rear roofslopes, construction of a single storey rear extension and installation of a first floor window on the side elevation.

The existing detached bungalow is relatively modest in terms of its width, height and depth on this large plot and is sited on the western common boundary. The adjacent property No.70 is sited along its west boundary and is a pattern with the detached properties on this side of the street.

The first floor extension would increase the height of the existing roof from 5.3 metres to 7.1 metres. To reduce the building bulk and provide a balance to the property at roof level, two barn hips would be constructed on the east and west side of the property. The increased roofslope would allow for two pitched roof dormers to be constructed on the front roofslope. The pitched dormer would be sited above and aligned with a pitched roof porch and a ground floor bay window. The windows in these dormers would be similar to those on the bay window. These dormers, given their limited height, depth, width and position above two features on the property are considered to be subservient additions.

A dormer extension on the rear roofslope would be constructed that would occupy the central part of the roofslope and would have a shallow pitched roof. The window fenestration would be similar to that at ground floor level although a bi-folding door would be installed on the rear elevation. Given the set in nature from the ridge and the side of the roofslope, the dormer would be subservient and would not appear as top-heavy or an overly-dominant form of development.

On the existing rear elevation of the property, there is a 4.2 metre in length single storey rear extension with a flat roof that dominates the existing rear elevation of the property. As part of the development, the extension would be increased by 0.5 metres in length to a 4.7 metre extension that would cover the full width of the property although it would be sited underneath a long cat-slide roof. The increase in length is considered to be acceptable as any increased bulk would be diminished by virtue of its position underneath the cat-slide.

The submitted plans indicate that the window at first floor level on the side elevation would be fixed shut and obscure glazed. The insertion of an obscure glazed window that could be secured by condition is considered to be acceptable.

### **Highways/Parking**

The Parking Standards provides an expected level of parking for residential development. In this case, the number of bedrooms in the property would increase from two to three. In accordance with the Parking Standards SPD, the required level of parking provision would be 1.5 (2) spaces for two and three bedroom properties. The parking provision is not therefore increased and the development would be compliant with PCS17 and the SPD in relation to parking.

### **Impact on residential amenity**

Having visited the site, it is clear that the siting of dormer extensions on the roofslopes would have no significant impact on the amenities of neighbouring properties due to the distance between them and their windowless flank elevations that would not therefore have any significant impact with regards to loss of light, outlook or result in increased sense of enclosure.

Any likely impact would arise with the adjacent property No.70. Having visited the site and entered No.70 it was observed that this property has a window in the central part of the east elevation that serves a bedroom and a secondary window and door that serves and allows access to a kitchen. Looking from No.70 to No.68, it was noted that the existing building bulk by virtue of its siting on the common boundary and the separation of some 2.5 metres does already result in a sense of enclosure and offers limited outlook. As part of the design, the applicant proposes to use gable ends with barn hips that would reduce any increase in building bulk by reducing it on the common boundary. Whilst the increase at first floor level would have some impact on outlook and sense of enclosure, it is not considered that this would be significant or overbearing given the amount of building bulk that is already sited on the common boundary between Nos. 68 and 70.

In the short term, it is accepted that there would be some noise and disturbance until construction finishes but this is not considered to have any long-term impact on residents.

As the window on the side elevation at first floor level would be obscure glazed and fixed shut that could be secured by condition, it is considered that there would be no significant impact on residential amenity.

## **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 dated 27.02.2017 (scale of 1:1250); Revised Proposed Elevations (received 05.05.2017); Revised Section (received 05.05.2017) and Revised Proposed Floor Plans (received 05.05.2017).
- 3) The first floor window on the west side elevation hereby permitted shall be obscure glazed using glass not film (to a minimum Pilkington Level three or equivalent as may be agreed in writing with the local planning authority) and permanently fixed shut and retained in that condition.

**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 interest of protection of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.

**PRO-ACTIVITY STATEMENT**

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

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**03**

**17/00198/HOU  
CRANESWATER**

**WARD: EASTNEY &**

**7 PARKSTONE AVENUE SOUTHSEA PO4 0QY**

**CONSTRUCTION OF SINGLE STOREY REAR EXTENSION (AFTER REMOVAL OF EXISTING GROUND FLOOR CONSERVATORY)**

**Application Submitted By:**

Design Drawn Ltd  
FAO Mr Joseph Moser

**On behalf of:**

Mr & Mrs Martin and Karen Lee

**RDD:** 7th February 2017

**LDD:** 18th April 2017

**SUMMARY OF MAIN ISSUES**

This application has been called to be determined by the Planning Committee at the request of Councillor Stubbs.

**Summary of main issues**

The determining issues in this application are whether the proposed design would relate appropriately to the recipient building and whether the proposal would have a significant impact on the amenities of the surrounding occupiers. The proposal is located just outside of the 'Craneswater and Eastern Parade' Conservation Area, therefore the impact the proposal could have on the setting of the Conservation Area will be considered when determining the application.

**Site and Surroundings**

This application relates to a semi-detached property which is located on the southern side of Parkstone Avenue on the corner where the road adjoins with Nettlecombe Avenue. Whilst the site itself is not located within a Conservation Area, surrounding properties to the north of the site on Nettlecombe Avenue are located within the 'Craneswater and Eastern Parade' Conservation Area. The surrounding area is characterised by semi-detached and terraced properties.

**Proposal**

The applicant seeks permission to demolish the existing rear conservatory and replace it with a flat roofed extension on the same footprint, along with the infilling of an existing recess between the extension and the main house. The existing conservatory has a lean to roof with a maximum height of 2.5m to eaves and 3m to ridge, which adjoins to a 3.3m high flat roofed extension. The proposed new extension would be 3.3m in height to align with the existing extension. The new extension would therefore be between 0.8 and 0.3m higher than the conservatory.

The proposed extension would be constructed of render to match the recipient building. There would be an entrance door and a set of bi-folding doors on the north east elevation. The

extension would accommodate a utility room and the widening of the existing extension would provide an extension to the kitchen.

### **Planning history**

There is no relevant planning history for this site.

### **POLICY CONTEXT**

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

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

### **CONSULTATIONS**

**None.**

The planning application is not of a type that requires a response from any consultees.

### **REPRESENTATIONS**

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

- 1) Water will run off onto neighbouring properties;
- 2) excessive height;
- 3) loss of light;
- 4) extension would detract from appearance of surrounding area.

### **COMMENT**

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

The proposal would be modest in size and constructed of appropriate materials to match the recipient building and there would also be limited visibility of the extension from Nettlecombe Avenue. It is therefore considered that the proposal would be acceptable in design terms and would preserve the setting of the 'Craneswater and Eastern Parade' Conservation Area.

The extension would align with the adjoining property (No 9) and have the same width and depth as the existing conservatory. Therefore it would not result in a significant impact on the amenities of the occupiers of No 9 in terms of loss of outlook, light or privacy.

The property to the rear of the site (No 43) has raised concerns over loss of light and increased sense of enclosure as a result of the proposal. The extension would be located 4 metres from the property at No 43 Nettlecombe Avenue, and there is a tall boundary brick wall separating the proposal from this neighbouring property. The proposed extension would be 0.8m higher than the eaves height of the existing conservatory and would be the same height as the existing extension.

This is considered to be a modest increase in height that would not result in a significant impact on the occupiers of No 43 Nettlecombe Avenue in terms of increased sense of enclosure, overshadowing or loss of light. The proposed bi-folding doors would face out onto the side courtyard, therefore they would not result in loss of privacy to the surrounding occupiers.

## **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: 282.P100\_A, 282\_P101\_A and 282.P102\_A.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those on the existing building.

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

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

### **PRO-ACTIVITY STATEMENT**

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

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**LAND BOUNDED BY QUEEN STREET, HAVANT STREET, OLD STAR PLACE AND WICKHAM STREET PORTSMOUTH****CONSTRUCTION OF BUILDING COMPRISING 4991 SQM OF FLOORSPACE (GEA) FOR GROUND FLOOR RESTAURANT (CLASS A3) AND 120-BEDROOM HOTEL (CLASS C1) ON SIX UPPER FLOORS (AFTER DEMOLITION OF EXISTING BUILDINGS)****Application Submitted By:**

Walsingham Planning  
FAO Mr Mark Thackeray

**On behalf of:**

Premier Inn Hotels Limited

**RDD:** 14th February 2017

**LDD:** 17th May 2017

**SUMMARY OF MAIN ISSUES**

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

**The site and surroundings**

Covering an area of 0.1ha, the site is in a prominent gateway position on a route into The Hard. The principal frontage in Queen Street is positioned onto a bend in the road opposite the Historic Dockyard wall. The site is also bounded by street frontages to Havant Street, Wickham Street and Old Star Place. The site comprises of three parts: (a) a cleared central plot, following demolition of a sportshall extension formerly part of the Camden Centre, (b) a three-storey disused public house at No1 Havant Street (that turns the corner to Queen Street and a remaining section of the former Camden Centre) and (c) other vacant commercial building occupying the corner of Wickham Street ('Norreys'). The applicant's Planning Statement comments "The buildings on the site are no longer used and are in a poor state of repair."

Adjoining the site to the south is an 18-storey tower, Europa House (ex-Pall Europe), under alteration/conversion to a halls of residence; also to the south and south-west are public houses - The Invincible and The Ship and Castle. Four-storey residential blocks of Drake House (Queen Street) and Benbow House (Hawke Street) adjoin the site to the east and south-east.

The site is located within the 'The Hard' locality of the City Centre as defined by policy PCS4 of the Portsmouth Plan. It is within the 'Portsea' Conservation Area (No23) and it also adjoins and affects the setting of 'HM Naval Base & St George's Square' Conservation Area (No.22). There is a considerable number of other nearby heritage assets, particularly within Portsmouth Historic Dockyard, but the assets in closest proximity to the application are identified below.

Listed Buildings - Grade II unless specified:

Dockyard wall (Grade II\*)

Former Pay Office

Former Royal Naval Academy (Grade II\*)  
No.6 Boathouse (Grade II\*)  
No.5 Boathouse  
The Porter's Lodge  
The George PH 84-85 Queen Street

Undesignated heritage assets:

The Ship and Castle Public House (on the list of locally important buildings)  
HMS Warrior 1860 (on the National Historic Ships register as part of the National Historic Fleet - a list of 206 vessels of pre-eminent national or regional significance)  
Archaeological restraint area

## **Proposal**

Planning permission is sought for a 120-bedroom hotel (Class C1). Six floors of accommodation range from 2-4 person capacity, with 6 rooms (5%) specifically designed to Universal Access standards. The hotel ground floor would provide check-in reception area, in conjunction with an associated restaurant (Class A3) for around 170 covers that will serve breakfasts to hotel guests. The applicants also describe the restaurant as offering light snacks and drinks through the day with evening meals to both hotel guests and the wider public.

The hotel building is designed in mainly seven storeys facing onto Havant Street and in a sweeping curved form along the principal Queen Street/Wickham Street frontages. A single-storey component, providing back-of-house facilities, would face onto Old Star Place. The top floor would be set back by a distance of some significance from Queen Street/Wickham Street and, following amendment, now forms an (opaque) glazed feature.

In addition to the recessed top floor in glass, the building's appearance relies most importantly on a suitably limited palette of high quality external materials. Brickwork in 'Fareham Reds' is the primary finish, also providing ornament by alternate projecting brick courses as bookend panels on the curved street frontage. The brickwork would be complemented by natural Portland stone cladding, as a bold feature of the main (rear) wall facing Old Star Place. On the Queen Street frontage, the various stonework elements include a central bay, other projecting relief courses, with fifth floor and ground floor colonnade horizontal feature bands (which also return on the corners to Havant Street and Old Star Place). A small raised terrace, enclosed by balustrade, would be created onto Queen Street.

The proposal has been subject of amendment. Extensive areas of horizontal metal cladding panels have since been substituted by further brickwork and opaque glazing (including, as already mentioned, to the top setback storey). Another key design change has relocated and secured to removal of a further storey, which was to form a rooftop plant enclosure. The plant enclosure is now shown externally mounted behind louvre screening on the top storey facing Old Star Place.

The planning application is accompanied by a series of supporting documents that include: Planning Statement (Walsingham Planning); Design & Access Statement (Axiom/Walsingham); Tall Buildings Statement (Axiom Architects); Economic Impact Statement (Walsingham Planning); BREEAM Pre-Assessment (GWP Project Services); Heritage Assessment (Cotswold Archaeology); Ecological Assessment (Carrington Ecology); Landscape and Habitat Management Plan (Carrington Ecology); Transport Statement, Travel Plan and Deliveries and Servicing Management Plan (all by Russell Giles Partnership); Energy/Sustainability (Thornley & Lumb); and, Noise Statement (Scotch Partners).

## Planning history

### 1 Havant Street:

16/00026/PLAREG - Retrospective application for conversion of building to form 8 studio flats was refused in March 2016. It was the subject of an Appeal (against both the refusal of planning permission and service of an enforcement notice) that was dismissed in March 2017.

A\*15783/AE - The conversion of the existing building on the corner of Queen Street and Havant Street to form three flats, the construction of six 3-storey houses with rooms in the roof and a 3-storey block comprising two flats and ground floor garage, cycle and bin storage following demolition of the sportshall and adjacent building was permitted in 2002. This permission was not implemented.

A\*15783/AD - Conservation area consent was granted in 2001 for the demolition of the sportshall and part of the adjoining building.

### 1 Wickham Street ('Norreys'):

A\*19963/A - 'Erection of a 3-storey building comprising shop and flat over' permitted in February 1955.

A\*19963/B - 'Erection of an extension to the existing shop and store for use as a cold store in basement and general storage on ground and first floor' permitted in March 1959.

A\*19963/C - 'Erection of a two storey extension for storage purposes' permitted in March 1968.

## POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:

PCS4 (Portsmouth city centre), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS23 (Design and Conservation), PCS24 (Tall buildings),

Saved policy

DC21 (Contaminated land) of the Portsmouth City Local Plan

Objective 3 of the Portsmouth Plan is sought to be achieved by "Providing tourist related facilities, including hotels, to support the visitor industry in the areas linked to the city's waterfront and maritime heritage" (para 2.13, p.15). Tourism South East data (2013) estimates the city has 9.2 million visitors each year with over 12,000 jobs supported by tourism. Portsmouth hotel supply data (March 2015) showed the city to be served by 35 hotels, with 1930 letting rooms. An 84-bedroom Premier Inn in the city centre has subsequently been opened in October 2015.

National Planning Policy Framework

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

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

- 17 Core planning principles for decision making
- 19 Significant weight on the need to support economic growth through the planning system
- 32 Transport Statements and Assessments
- 34 Locate developments generating significant movement where need to travel minimised
- 35 Development designed for sustainable travel

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

The Hard SPD (adopted June 2012) is relevant to the proposal and regeneration of this part of the city centre, with specific reference to 'Site 6: Queen Street' (at paras 3.62-3.69 on p.36). The SPD identifies development opportunities, articulate a clear vision and identity for this part of the city and establish a high quality baseline for design principles, potential mix of uses, and guidance for the built form and public spaces.

The Tall Buildings Supplementary Planning Document (Tall Buildings SPD, June 2012) is also a material consideration when determining this planning application. Policy PCS24 of the Portsmouth Plan and the Tall Buildings SPD identify a number of areas of opportunity for tall buildings within the city. The application site is not within but immediately adjoins one of those areas identified as The Hard 'area of opportunity for tall buildings'. A tall building is defined as any building above 5 storeys and/or 20m in height. In order to facilitate and encourage the design of tall buildings of the highest quality the SPD also identifies criteria which any tall building should meet. These are addressed in the comments section of this report.

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

The applicants recognise that new development of the scale proposed requires the preparation and implementation of an Employment and Skills Plan (E&SP) in accordance with the Council's Achieving Employment and Skills Plans SPD. For commercial development of this nature, an E&SP would normally cover both the construction and future employment opportunities at the site. The applicants have offered to voluntarily undertake an E&SP, following the principles of the SPD, without the need for a s106 agreement.

## **CONSULTATIONS**

### **Mineral and Waste Consultation**

The adopted Hampshire Minerals and Waste Plan (2013) includes a number of policies relating to minerals and waste safeguarding. The proposal is located within the Minerals Consultation Area (MCA), which flags up:

- Areas of known minerals resources (Policy 15),
- Safeguarded minerals and waste infrastructure (Policies 16 and 26) and
- Safeguarded potential minerals and waste wharves and rail depots (Policy 34) together with buffer areas around these sites.

These policies are in line with national planning policy, which sets out the importance and requirement to safeguard mineral resources as well existing minerals or waste infrastructure.

The proposal is located in the Minerals Consultation Area for the safeguarded potential minerals or waste wharf site at 'Land at HM Naval Base and Commercial Port', safeguarded under policy 34. The purpose of the safeguarding within policy 34 is to allow such land to be first considered for mineral and waste wharf uses if it is released from present military or port uses. The MCA includes a buffer around safeguarded sites, and the application site in question lies in that buffer zone.

Given that this area is already extensively used for residential and commercial uses, it would not be introducing new sensitive uses in its own right. There is no reason to believe that this development would prevent potential wharf uses in the future. The Minerals and Waste Planning Authority (MWPA) therefore raises no objection to this proposal.

### **Asset Management Service**

No comments received.

### **Coastal and Drainage**

The statement in the Drainage Strategy part 6.2 "... it is proposed to mimic the site's existing drainage characteristics and continue to discharge surface water flows to the combined sewer by re-using the site's existing outfalls" is not accepted. As is rightly stated draining to combined sewer is our least preferred option for the city. We are always aiming to reduce flood risk in the city, especially by reducing combined sewer flows. There are surface water sewers in the vicinity on Queen Street that could potentially be used to drain site, subject to capacity checks from the sewerage undertaker.

The whole drainage strategy approach is considered completely lacking in innovation, where there is feasible potential for betterment. A roof garden would be beneficial in many ways, especially with the views over the Historic Dockyard and surrounding area, and would also provide a run-off saving for the area.

The drainage strategy must be reviewed with full reasoning as to why each individual solution has been discounted. Clearly infiltration is not feasible, for example.

In response, the Drainage Statement has been updated and now proposes incorporating both a green roof and an attenuation tank. At this stage the applicant has yet to resolve the precise size of either element (although comment that the larger the green roof area the smaller the tank - so it will be a balancing act to deliver the most economical solution), for approval by condition. The Drainage Team reiterates that a green roof would also add amenity value to the hotel and accepts the need for detailed design at a later date.

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

No comments received.

## **Highways Engineer**

The application site is irregular in shape and is bound on all sides by adopted highway forming in effect, an island. The site is located at the western end of Queen Street and adjacent to the Historic Dockyard. Queen Street is a key bus route with many bus services travelling along it to access the Hard bus terminal. Vehicles travelling west along Queen Street are now led onto Wickham Street which forms a one-way system with the northern section of the Hard before re-joining Queen Street. Old Star Place bounds the southern edge of the site and leads to Havant Street, a residential road with on-street parking for residents' permit holders.

## **Access**

Given the compact nature of the site and the location near to major tourist areas and transport hubs, the servicing arrangements for the building were quickly judged to be one of the most challenging aspects of the development. The applicant undertook extensive pre-application discussions with the LHA to determine the best possible arrangements for the site.

The proposed site layout has included a recessed loading bay on Old Star Place with the delivery access into the building located in the south-west corner. The lay-by was deemed necessary to prevent large vehicles blocking Old Star Place and to ensure that the junction with Havant Street was kept clear from delivery vehicles. The applicant notes that due to the narrow carriageway widths of Old Star Place and Havant Street deliveries will only be carried out by 12m rigid vehicle. Tracking diagrams show that such a vehicle can access the proposed loading bay on Old Star Place and then turn in Havant Street before exiting via Old Star Place and Wickham Street. Considering the constraints, this is the best solution to provide servicing to the proposal site and is acceptable, and such limitation of vehicle size delivering to the site should be secured through a S106 agreement.

It should be noted that a s278 agreement will need to be agreed with the LHA prior to undertaking works on the highway. The proposal to install the recessed loading bay will also require the transfer of land from the applicant to the LHA in order to maintain a consistent footway width around the loading bay.

The site is extremely well connected to various travel modes. Both Portsmouth Harbour station and the Hard bus terminal (soon to be reopened following refurbishment) are within approx. 200metres of the site. Many of the city's train and bus services originate from here so frequency of service is very high. Also running from the Hard are passenger ferry services to both the Isle of Wight and Gosport. Also within a very short distance are the Historic Dockyard and Gunwharf Quays providing shopping, leisure and conference opportunities. Overall, the location is highly accessible and provides various options for sustainable travel choices to and from the proposed development site.

## **Trip generation**

Rather than rely on trip rates from the TRICS database, the TS instead uses known trip rates from other Premier Inn locations situated in cities with similar levels of accessibility. Whilst I find it slightly irrational that the Premier Inn in Portsmouth city centre, despite also being similarly close to train and bus services as well as shopping and business facilities, has not been used as an example however an actual trip rate derived from comparable hotels is a sensible and appropriate approach.

The trips rates derived indicate that there would be approximately 20 two-way trips in the AM peak hour and approximately 18 in the PM peak hour. Overall the Hotel is expected to have a total of 162 trips in a day. The proposal includes no on-site car parking therefore it is expected that these trips would relate to journeys to/from local car parks and taxi pick up and drop offs.

In addition to the hotel, the ground floor restaurant will also have an associated trip generation for which trip rates have been derived. The proposal site is fairly unique in that it will have a branded restaurant rather than an integral restaurant as many city centre premier inns have. For this reason many of the comparable restaurants are located in out-of-town locations. To account

for this, a 50% reduction has been applied to reflect the sustainable transport options nearby. Having also provided TRICS outputs for the restaurant, the rates derived from existing restaurants operated by the applicant are acceptable.

The restaurant is estimated to provide approx. 200 covers and on a typical day would have a total of 158 two-way vehicular trips. During the AM peak only 1 trip is expected and during the PM peak 16 trips are expected. Generally restaurants are busiest during lunchtime and in the evenings, both of which are outside of peak times therefore the trip rates quoted for these times are credible.

Overall, the hotel and restaurant will generate in the order of 320 two way vehicular trips in total with 21 in the AM peak and 34 in the PM peak. Section 4.3.25 states "the majority of visitors to both the hotel and restaurant are likely to be doing so as part of an existing pre-determined journey into Portsmouth and would therefore not necessarily represent new trips of the network". This statement is accepted, unless used for conferencing, a hotel is generally not the primary destination. Equally the restaurant in this location is likely to be used largely by hotel guests and visitors to the nearby attractions. As conceded in the TA, the actual figure of "pass-by" trips is extremely difficult to quantify therefore the figure of 320 trips is considered a "worst-case".

The application site has several buildings with a mix of uses albeit many of them have been vacant for many years. Whilst the uses (assumed or established) have not been given, a net impact of the proposed hotel has been given. This totals a net impact of 273 two-way movements meaning a presumed existing trip generation of 47 trips, which would be a reasonable assumption given the size of the site. Therefore the net impact of the development will introduce an additional 18 two-way trips to the network during the AM peak and 31 trips in the PM peak. This would not be considered to be material and a worst case as some of these trips will be linked/pass-by trips.

### **Parking**

The Portsmouth Parking SPD does not give expected levels of parking that should be provided for commercial developments rather any provision (or lack of) is to be determined and justified by a Transport Assessment. The application site is also within the area identified by the SPD that can be considered for a reduced level of car parking.

No car parking has been proposed on site. The site is very close to Portsmouth Harbour station and the Hard bus depot, both of which are the origin point for many train and bus services respectively. The TS argues that many hotel guests will travel by public transport, a survey taken at other similarly located Premier Inn hotels suggest that 42% of guests arrive on public transport. There are also several public car parks with capacity in excess of 2300 spaces.

The TS gives a parking accumulation assessment assuming that the Hotel is full. The combined accumulation of the Hotel and Restaurant peaks at 70 vehicles at approximately 9pm. Given the close proximity of the Gunwharf Quays outlet centre and Historic Dockyard it would be expected that the car parks would be busiest during the day. The nearest car park, Wickham Street car park is primarily used as an overflow car park for Gunwharf Quays. It has a capacity of 420 spaces and that would be available to meet the peak demand.

Paragraph 5.3.2 suggests that the proposed operator is attempting to secure an agreement with the operator of Wickham Street Car Park for Premier Inn customers to use it overnight. This is presumably to make parking for hotel guests more affordable, but arguably, will make car use more attractive. Guests will be notified of the lack of on-site parking at the point of booking and details of the nearest car parking options will be given including associated costs.

The parking accumulation for the restaurant use accounts for approx. 18 spaces at its peak. It is likely that some of these will be associated with other trips in the local area. It has already been established that the overall demand for the hotel and restaurant is 70 spaces. The parking provision in nearby car parks is sufficient to accommodate a peak demand of 70 spaces. The

car-free proposal is wholly appropriate considering its location close to high quality transport links and leisure and employment opportunities.

There is an opportunity to encourage further use of sustainable modes by providing cycle parking facilities for both visitors and staff. No details have been given as to the intended provision however paragraph 3.2.9 suggests that parking facilities will be provided to PCC parking standards. For new commercial developments, the Portsmouth Parking SPD requires developments to gain 2 BREEAM credits. The levels of provision required to achieve this differs depending on the type and size of business however the site can accommodate appropriate cycle parking provision.

### **Summary**

The overall trip rate associated with the proposed development, whilst a considerable increase over the existing uses on the site, is not likely to result in a material impact upon the local highway network. The application site is extremely well connected and provides the best opportunity possible for guests to choose a sustainable travel option. Because of this the development is proposed with no on-site car parking. The Portsmouth Parking SPD allows relaxation of the standard across the city centre area which applies to the application site. A "no-car" development is considered an acceptable approach for this site and sufficient off-street capacity exists to accommodate the likely parking demand.

Whilst a difficult site to service, the applicant has worked closely with the LHA to ensure the best solution is found and this has been satisfactorily achieved with the provision of the recessed loading bay. Therefore, no Highways objection is raised subject to the following conditions:

- Cycle parking meeting the SPD standard is provided prior to occupation of the development, and
- Highway works to provide recessed loading bay is completed prior to occupation of the development.

### **Environmental Health**

There are no outright objections to the proposed development, however, there are some constraints due to the site being located within an Air Quality Management Area (AQMA) and potential noise impacts upon nearby residential dwellings due to the operation of plant / machinery and loading activities within the rear service area.

Having reviewed the Transport Statement it would appear that the development is likely to generate 273 further daily traffic movements. Guidance from The Institute of Air Quality Management on Planning for Air Quality indicates that for a development of this scale an increase in light duty vehicle movements greater than 100 per day within an AQMA would normally require an air quality assessment.

However the City Council's Air Quality Officer has advised that an air quality assessment would not be required for this location, which is accepted unless the combined heat and power unit mentioned in the Energy Statement as an optional alternative should be proposed for the development.

Potential odour impacts from the operation of the commercial kitchen are not envisaged - the planning statement confirms that the extraction system will vent at high level on the roof of the building, consequently dispersion should be adequate to minimise any impacts.

Having reviewed the Acoustic Report submitted with the application, background measurements have been undertaken and an appropriate target operational noise level for mechanical plant has been established in lieu of any specific mitigation measures, which it is accepted would be difficult to specify at this stage of the design.

However, the report does not include any assessment of potential impacts associated with the operation of the service area located at the rear of the development, which is adjacent to the student accommodation and the residential dwellings in Benbow House.

Therefore should permission be considered appropriate it is suggested that the following conditions be imposed to protect the amenity of local residents:

The noise rating level (as defined within British Standard BS4142: 2014) from the operation of all fixed plant and machinery operating simultaneously shall not exceed LAeq(1hr) 43dB (0700 - 23:00hrs) and LAeq(15min) 38dB (23:00-07:00hrs) 1 metre from the façade of any residential dwelling or hostel. Prior to the installation of any fixed plant or machinery a report shall be submitted to the Local Authority demonstrating that the above noise criteria will be achieved.

No loading / unloading of service vehicles or waste collections shall take place between 19:00 and 07:00hrs.

### **Contaminated Land Team**

The following report submitted with the application has been reviewed:

\* Geo-Environmental Report, Premier Inn & Beefeater, Queen Street, Portsmouth, PO1 3HW, Enzygo Ltd., Report Ref: CRM.413.293.GE.R.001.B (July 2016).

The site is situated in an area of Portsmouth which has seen several phases of redevelopment due to bomb damage during World War Two, and as a result various potentially contaminative uses have operated from the property. Limited sources of information have been researched to determine the potential for contamination to exist at the above site, and as such the desk study and initial conceptual model produced are incomplete. As a result, and given the presence of derelict buildings on site, the limited site investigation works carried out to date have not targeted any potential sources of contamination, with the locations limited to areas where access could be gained at the time.

In addition to the above, the report bases its risk assessment on the proposed end use having no areas of soft landscaping, whereas the design and access statement submitted with the application shows some limited areas of soft landscaping and planting. As a result the desk study and site investigation submitted with the application is not considered sufficient to assess the potential risks present at this site.

Given the above, together with the scale of the proposed development, full conditions should be imposed on any planning permission for site investigation/remediation.

### **Southern Electric**

No comments received.

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

Building Regulations: Access for Firefighting

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

Hampshire Act 1983 Section 12 - Access for Fire Service

Access to the proposed site should be in accordance with Hampshire Act 1983 Sect, 12 (Access to buildings within the site will be dealt with as part of the building regulations application at a later stage). Access roads to the site should be in accordance with Approved Document B5 of the current Building Regulations.

Fire and Rescue Services Act 2004

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

### **Access for High Reach Appliances**

High reach appliances currently operated by the Hampshire Fire and Rescue Service exceed the maximum requirements given in Section 17 of the Approved Document B. When considering high rise buildings these variations should be considered as additions and incorporated as follows. Structures such as bridges, which a high rise appliance may need to cross should have a maximum carrying capacity of 26 tonnes. Where the operation of a high reach vehicle is envisaged, a road or hard standing is required 6m wide. In addition, the road or hard standing needs to be positioned so that its nearer edge is not less than 3m from the face of the building.

### **Water Supplies**

Additional water supplies for fire fighting may be necessary. You should contact the Community Response Support, Hampshire Fire and Rescue Headquarters, Leigh Road, Eastleigh, SO50 9SJ (risk.information@hantsfire.gov.uk) to discuss your proposals.

### **Sprinklers**

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

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

The use of AWSS can add significant benefit to the structural protection of buildings from damage by fire.

HFRS are fully committed to promoting Fire Protection Systems for both business and domestic premises. Support is offered to assist all in achieving a reduction of loss of life and the impact on the wider community.

### **Fire fighting and the Environment**

Should a serious un-suppressed fire occur on the premises, the water environment may become polluted with 'fire water run-off' that may include foam. The Fire Service will liaise with the Environment Agency at any incident where they are in attendance and under certain circumstances, where there is a serious risk to the environment, a controlled burn may take place. This of course could lead to the total loss of the building and its contents.

Premises occupiers have a duty to prevent and mitigate damage to the water environment from 'fire water run off' and other spillages.

Further guidance on preventing pollution can be found in the following Environment Agency publications:

- a) Managing Fire Water and Major Spillages: PPG18
- b) Pollution Incident Response Planning: PPG21
- c) Controlled Burn: PPG28

Timber Framed Buildings

These types of buildings are particularly vulnerable to severe fire damage and fire spread during the construction phase.

The UK Timber Frame Association publication '16 Steps to Fire Safety on Timber Frame Construction Sites' provides guidance on this issue and is available from <http://uktfa.com/>

This guidance should be read in conjunction with the 'Joint Code of Practice on the Protection from Fire of Construction Sites and Buildings Undergoing Renovation', published by the Construction Confederation and The Fire Protection Association (Sixth Edition, ISBN 1-902790-33-2). Copies of the 'Joint Codes of Practice' and useful sister publication, 'Construction Site Fire Prevention Checklist' (Second edition, ISBN1-902790-32-4), are available for purchase from the FPA ([www.thefpa.co.uk](http://www.thefpa.co.uk)) and from Construction Industry Press ([www.cip-books.com](http://www.cip-books.com)).

### **Southern Water**

Initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer. SW request that should this application receive planning approval, the following Informative is included:

"A formal application for connection to the public sewerage system is required in order to service this development; Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".

Southern Water requires a formal application for a connection to the public surface water sewer to be made by the applicant or developer. SW request that should this application receive planning approval, the following Informative is included:

"A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development; please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".

It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order-

- A) Adequate soakaway or infiltration system
- B) Water course
- C) Where neither of the above is practicable sewer

Southern Water supports this stance and seeks through appropriate planning conditions to ensure that appropriate means of surface water disposal are proposed for each development. It is important that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development. When it is proposed to connect to a public sewer the prior approval of Southern Water is required. It is requested that should this application receive planning approval, the following condition is imposed on the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises. Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".

### **Archaeology Advisor**

Among the documentation included as part of the planning application is Heritage DBA (31 JAN 2017). This DBA concludes that:

'It can be concluded that there is some potential for the proposed development to disturb currently unrecorded archaeological remains. Whilst this assessment has identified no

overriding archaeological constraints which are likely to prohibit development, it is considered that further investigation of the archaeological resource may be required to assess the presence, extent, survival and significance of archaeological remains and to inform the archaeological mitigation. The scope and extent of any such works should be agreed through consultation with the archaeological advisor to Portsmouth City Council.'

The DBA which suggests that there is some potential for the remains of buildings dating from the earliest settlement phase of the area (17th -18th century) to survive within the site is broadly concurred with. While such archaeological potential is likely to have been impacted by modern development, there is a good chance of 'islands' of surviving stratigraphy from these earlier phases surviving and these 'islands' would be impacted and exposed by ground works associated with the proposed development. In the light of this archaeological potential, it is advised that despite the small scale of the proposed excavations, the chances of exposing useful archaeological deposits and/or features is good.

A condition is recommended, to be attached to any future planning permission, that would require the preparation of a Written Scheme of Investigation (WSI) that sets out the methodology for the archaeological monitoring of ground works associated with the extension of the basement levels to ensure that any archaeological remains encountered are recognised, characterised and recorded. Provision should also be made for the public dissemination of any results and the WSI should satisfy the Local Planning Authority that the scheme is sustainable under the terms of NPPF.

### **Natural England**

This application is within 5.6km of the Portsmouth Harbour SPA and will lead to a net increase in holiday accommodation. Natural England is aware that Portsmouth City Council has adopted the Solent Special Protection Area Supplementary Planning Document (SPD) to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP).

Provided that the applicant is complying with this policy and an appropriate planning condition or obligation is attached to any planning permission to secure the contributions towards this mitigation measure, Natural England is satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s).

As a precautionary measure, as the site lies in close proximity to the SPA boundary, Natural England advises that the following condition is attached to any planning permission:

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

Note: The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. the high tide roosting sites).

With the above mitigation in place, Natural England has no objection to this application.

### **Ecology**

Initial comments (28/3/17):

This application is supported by a Landscape and Habitat Management Plan (Lindsay Carrington Ecological Services, November 2016); the report identifies that the site supports suitability for bats and breeding birds. In summary, concern is raised that the Applicant's ecologist has identified low suitability for roosting bats, yet no further survey work has been undertaken. In addition, the Landscape and Habitat Management Plan does not consider the presence of black restart which have been recorded within close proximity of the site.

### **Bats**

Concern is raised that the development may affect bats, which are protected under UK law via the Wildlife and Countryside Act 1981 (as amended) and under EU law by the Habitats

Directive, which is transposed into UK law by the Conservation of Habitats and Species Regulations 2010 (as amended) (commonly referred to as the Habitats Regulations). It is my advice that permission should not be granted until sufficient information is provided to either confirm that bats are not present, or, if present, that sufficient measures are in place to ensure that impacts will be mitigated / compensated for as appropriate (noting, it is not appropriate to defer bat surveys as a condition of a planning permission).

### **Black Redstart**

Wild birds are protected by the Wildlife and Countryside Act 1981 (further guidance provided), it is an offence to:

- intentionally kill, injure or take any wild bird;
- to intentionally damage or destroy the nest of any wild bird while it is being built;
- to take or destroy an egg of any wild bird.

This applies to every wild bird in Britain. A number of bird species are further protected. They are listed under Schedule 1 of the Act as being subject to additional protection - it is also an offence to:

- intentionally or recklessly disturb birds on Schedule 1 while they are building, or in, on, or near, a nest containing eggs or young, or to disturb their dependent young.

With fewer than 100 breeding pairs in the country (the population has fluctuated between 50 and 99 pairs in the last 30 years), black redstart is listed as a Schedule 1 species. A number of records including records for singing males from 2015 and 2013 are present within close proximity of the site. Therefore, it is possible that the species utilises the site or nearby buildings for breeding. Therefore, the proposed demolition has the potential to damage or destroy a nest or result in the disturbance of black redstart when they are building, or in, on, or near, a nest containing eggs or young, or to disturb their dependent young (either on site or on adjacent buildings) which would be an offence under the Wildlife and Countryside Act 1981 (as amended).

In addition, the loss of black redstart breeding habitat at the site would be contrary to policy PCS13 A Greener Portsmouth which states: "Ensuring that development retains and protects the biodiversity value of the development site and produces a net gain in biodiversity wherever possible. Any unavoidable negative impacts on biodiversity as a result of development should be appropriately mitigated".

Impacts on black redstart could be avoided by undertaking the demolition outside of the breeding bird season (March to August, inclusive) which would be the most simple solution, however, if this is not possible, the demolition work must be preceded by surveys for black redstart. The recommended survey protocol for black redstart is:

- Five visits at least two weeks apart from mid-April to the end of June.
- Visits should be undertaken under favourable weather conditions (warm, windless days) in the early hours of the morning. Black redstarts are notorious for singing an hour before dawn and the visits should be timed to begin 1 hour before dawn.

The proposed demolition will result in the loss of actual or potential nest sites therefore opportunities to provide compensatory nest sites should also be identified by the Applicant's ecologist in accordance with policy PCS13.

Updated comments (16/5/17):

The application is supported by a bat survey report (Lindsay Carrington Ecological Services, May 2017). This satisfactorily represents the current conditions at the application site. No evidence of bats was found during the visual inspection. The buildings were assessed as presenting low (not negligible) roost potential and therefore a single evening visit was carried out to give confidence in the negative visual finding. This is appropriate and in line with the Bat Conservation Trust's good practice survey guidelines. No bats were seen to emerge from the buildings during this survey.

Bats receive protection under UK law via the Wildlife and Countryside Act 1981 (as amended) and under EU law by the Habitats Directive, which is transposed into UK law by the Conservation of Habitats and Species Regulations 2010 (commonly referred to as the Habitats Regulations). Developments that affect bats will need a European Protected Species (EPS) licence from Natural England before any work that affects bats could commence.

Local Planning Authorities are required to engage with the Regulations - planning permission should be granted (other concerns notwithstanding) unless the development is likely to result in a breach of the EU Directive and, if a breach is considered likely, that the development is unlikely to be granted an EPS licence from Natural England to allow the development to proceed under a derogation from the law.

In view of the survey findings you are advised that the development is unlikely to result in a breach of the law protecting bats and no concerns are raised.

It is, however, suggested the following informative note is added to the decision notice:

- 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 2010 (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.

The Applicant's ecologist has identified that the site supports suitability for breeding black redstart. Black redstart is a Schedule 1 species therefore, in addition to the protection afforded to breeding birds under the Wildlife and Countryside Act 1981 (as amended), it is also an offence to:

- intentionally or recklessly disturb birds on Schedule 1 while they are building, or in, on, or near, a nest containing eggs or young, or to disturb their dependent young.

In order to avoid an offence, the Applicant's ecologist has recommended that the demolition is undertaken outside of the breeding bird season which is March to August, inclusive. A compensatory nest site in the form of a black redstart nest box is also proposed. It is recommended that these measures are secured by a suitably worded condition such as:

The measures as detailed in Section 4.2 of the Phase 1 and 2 Report (Lindsay Carrington Ecological Services, May 2017) shall be implemented in full, unless otherwise approved in writing by the LPA. Thereafter, the compensation measures shall be permanently maintained and retained in accordance with the approved details.

Reason: to avoid impacts to nesting birds

### **Design Review Panel**

The panel were disappointed by the latest iteration for this prominent and sensitive site. The architectural approach adopted was not considered to be an improvement. It was noted that the panel's comments on the previous scheme (04.11.16) suggested: "a decision must be made to make historic references and be rigorous and honest, or to adopt a more clearly contemporary approach". It was considered that neither outcome has been satisfactorily achieved here. The building has a monolithic form created in part by the curved approach which has been adopted. This has contributed to its poor massing and articulation. The colonnade on the ground floor would also affect perceptions of scale and was considered inappropriate. It was also noted that the principal (hotel) use of building has a small entrance which was thought to be out of scale. The scheme would affect the setting not only of surrounding conservation areas, but also of high status listed buildings within the nearby historic dockyard. In this context the principal of a curved building adjacent to the more linear listed dockyard wall was questioned by the panel. Overall the scheme's contribution within this context was considered 'brutal'. Despite the redesign which has clearly taken place, it was felt that the scheme had failed to address points previously raised by the panel. It had not achieved the sensitivity or quality of design which the

site justifies, and the panel therefore considered that the scheme requires a fundamentally new design.

The recommendation of the panel is that the scheme is not considered capable of support in its current form.

## **REPRESENTATIONS**

Three representations have been received raising objection (including a letter on behalf of the Trustees of the Royal Maritime Club).

The grounds of objection are:

- (a) the proposed building will not be sympathetic to the historic surroundings, such as the Premier Inn next to Portsmouth & Southsea station, and will ruin the area;
- (b) without dedicated parking provision the proposal will add to the very considerable pressure upon limited parking facilities available in the immediate locality and inconvenience that may be caused by unauthorised parking on or at other nearby premises, including the Royal Maritime Club;
- (c) increased traffic will clog up the local area to Gunwharf, the dockyard and new student accommodation at 'Pall Europe' building, which is already at congestion point;
- (d) within this mainly residential area and following conversion of 'Pall Europe' building to a student halls of residence that will significantly increase noise and pollution, a new hotel/restaurant would create even more; and,
- (e) Portsea already struggles with noise, traffic, pollution and dirt - the area needs residential housing that is affordable rather than more commercial development for hotel rooms.

## **COMMENT**

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

### **Principle of a hotel/restaurant**

Policy PCS4, under 'Other town centre uses', states "There is also a need for an additional 9,500sqm of food and drink (A3, A4 and A5) development in the city centre. This should be provided throughout the city centre, subject to any restrictions in individual localities...".

The Hard SPD identifies development opportunities for land that includes the application site at "Site 6". The SPD covers, amongst other matters, mix of uses, access, key building elevations and important corners, storey heights and implementation issues. The SPD states that this Queen Street site offers a significant opportunity for a mix of uses to be contained within a robust built form that addresses Queen Street - one of two main routes into The Hard from other parts of the city. The site lies opposite the Historic Dockyard wall, in close proximity to the Victory Gate entrance and redevelopment should aim to enhance the character of this 'gateway' into The Hard by signalling the arrival of the pedestrian and other traffic into a high quality, vibrant waterfront area.

The SPD (p.36, para 3.65, Mix of uses) comments "Small scale retail (maximum 280 square metres per unit) restaurant or café bar uses would be appropriate to the ground floor fronting Queen Street." The SPD suggests residential or office uses for the upper floors.

A report was commissioned into future hotel requirements in the city entitled Portsmouth Hotel Futures (2007) that has shown there is need for 12-15 new hotels in Portsmouth up until 2026

and followed by an additional report South Hampshire Hotel Futures (2010) covering the sub-region, identifying the M27/A27 corridor as a likely location for future hotel growth. An updated "Hotel Investment Prospectus" (2015) has no particular planning status but identifies hotel investment opportunities as including The Hard.

The loss of existing commercial floorspace and redevelopment by other commercial uses that could contribute to the character of this part of the defined city centre and The Hard area is considered capable of support, in principle. The hotel would operate 24 hours a day and the hours of operation of the restaurant (Class A3) are proposed to be:

- 06:30 to 23:00 Mondays to Fridays, Sundays and Bank Holidays, and
- 06:30 to 23:30 on Saturdays.

The active ground floor use is considered to represent an acceptable alternative commercial use that would make a positive contribution to the vitality and viability of this part of the city centre and given the relatively busy nature of Queen Street and frequency of buses and other users of The Hard Interchange the proposed hours of operation are considered reasonable.

### **Highways implications**

The views of the Highways Authority are set out in the consultation section of the report and in raising no objection state the following, in summary. The overall trip rate associated with the proposed development, whilst a considerable increase over the existing uses on the site, is not likely to result in a material impact upon the local highway network. The application site is extremely well connected and provides the best opportunity possible for guests to choose a sustainable travel option. Because of this the development is proposed with no on-site car parking. The Parking Standards SPD allows relaxation of the standard across the city centre area which applies to the application site. A "no-car" development is considered an acceptable approach for this site and sufficient off-street capacity exists to accommodate the likely parking demand.

Whilst a difficult site to service, the applicant has worked closely with the LHA to secure the most appropriate solution and has been satisfactorily achieved by provision of the recessed loading bay and limitation of vehicle size (12m rigid) delivering to the site. The LHA request the size limitation be secured through a S106 agreement; planning conditions are also required for provision of the recessed loading bay prior to occupation of the development, reinstatement of redundant dropped kerbs and details for approval of staff/visitor cycle parking.

In response, the applicant suggests the limitation on the size of vehicle can be suitably controlled through planning condition, as specified in their amended Delivery and Servicing Management Plan (DSMP). In reality the road layout and carriageway width to Old Star Place makes it impractical to be serviced by vehicle larger than 12m. The presence of a cycle lane, double yellow lines and the site's position on the bend of the road make servicing from Queen Street by larger vehicles unworkable and therefore a planning condition is considered to provide adequate control.

### **Impact on heritage assets**

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

The NPPF (paragraph 132) also states that when considering the impact of a proposed development on the significance of a designated heritage asset (listed buildings and conservation areas), great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within

its setting; and (paragraph 133) where the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, Local Planning Authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefit that outweigh that harm or loss; or (paragraph 134) where the proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The applicants Heritage Assessment identify relevant heritage assets proximate to the site. It states "The assessment of the potential effects of the proposal on designated heritage assets has established that the development would introduce an element of change into Portsea Conservation Area... and alter the settings of the H.M. Naval Base and the St George's Square Conservation Area, which incorporates the Historic Dockyard and its Listed Buildings. The key contributors to the significance of these assets would not be affected by the development. The proposal would, however, result in the introduction of a structure of a much greater scale, and any effects resulting from such a change would need to be considered in the context of the current deteriorating condition of the site, and the potential benefits of regeneration in this part of Portsmouth. Sympathetic and appropriate standards of design, reflecting local traditions, are unlikely to detract from the appreciation of these assets." It contends that the effects on surrounding heritage assets through changes to their settings would be limited and largely remedied by the benefits of regeneration and "Any resulting harm would be limited and, in terms of the Framework criteria, fall within the lower end of the scale of less than substantial harm. When less than substantial harm to designated heritage assets has been identified, 'this harm should be weighed against the public benefits of the proposal'."

The significance and impact of the proposal on heritage assets has been assessed by officers. The height and scale/massing of the proposed seven-storey building would be appreciably greater than existing on the site, mainly three-storey, radically altering views towards the development particularly from the northern footway of Queen Street. Despite the significance of the change it is recognised that the remaining buildings separated by a cleared area is visually disjointed, in poor condition and unattractive. When considered in overview the findings are that the proposal would cause harm (of varying degrees) to the setting of all of the assessed assets. When considered in aggregate the harm is not however considered sufficient to justify a finding of substantial harm in relation to this proposal. A similar finding is, therefore, drawn of less than substantial harm to heritage assets although the applicant's assessment is considered to downplay the impact. However, it is accepted that overall the harm ('less than substantial') must be weighed against the public benefits. The applicant describes the public benefits deriving from the scheme fall into three categories - heritage, planning and economic.

**Heritage:** The submitted Heritage Statement considers the contribution made to the conservation areas and to the area's historic buildings and uses. It concludes that the existing buildings on the site contribute little to that heritage and that their removal would be a public benefit. The replacement building would be of a high quality that will contribute to and visually enhance the character and appearance of the area.

**Planning:** The LPA has designated the site as one to be redeveloped, so compliance with the approved objectives for the area is itself a public benefit. The introduction of a hotel and restaurant on the site contributes to the activity associated with the historic dockyard, providing facilities for visitors to the city. The ground floor restaurant use introduces a degree of activity and interest at street level lacking from previous uses of the land.

**Economic:** The development brings with it local employment opportunities both in its construction and its operation. The hotel also brings with it the spending power of maybe 40,000 visitors to the city (120 rooms @85% occupancy, 1.2 persons per room \* 365 days). Day-to-day expenditure by these visitors, plus retail / tourism spending, represents a major public benefit to the economy of Portsmouth.

This issue is considered further in the conclusions and related (design) section.

In discussion regarding various iterations of an hotel scheme for this sensitive site, the quality of the external materials - locally sourced 'Fareham Red' bricks, natural Portland Stone cladding and glass (rather than metal panel system) on the upper and rear elements of the building, has been crucial to persuasion on the quality of the scheme. Had the specified materials been of lower quality, support for the scheme would have been difficult to justify. In light of the significance of this aspect of the proposal to the acceptability of the scheme, it is considered absolutely essential to secure approval of samples of the indicated materials by planning condition.

## **Design/tall buildings**

Policies PCS4 (Portsmouth city centre), PCS23 (design and conservation) and PCS24 (Tall buildings) seek well designed and respectful development of architectural excellence, to create a city centre that Portsmouth can be proud of and, in the case of tall buildings, designs that are positive and elegant, well-proportioned and neither bulky nor over dominant. Any proposed development of the application site must have regard to the setting of the nearby listed buildings including the Historic Dockyard wall (Grade II\*), 'Portsea' Conservation Area and the setting of 'HM Naval Base & St George's Square' Conservation Area. At six storeys and over 20m high, the proposed development requires tall buildings assessment.

The Design & Access Statement describes the journey of this proposal to a final iteration and "The ambition is to generate a defined architectural statement with discrete detailing and embellishment, within a restrained palette and geometry."

The proposal was presented to the local independent Design Review Panel at pre-application stage (see 'Consultations' section of the report) that expressed disappointment, recommending it is not capable of support. The Panel considered its monolithic form in part by the curved approach contributes to its poor massing and articulation. The Panel considered the small hotel entrance inappropriate and the overall contribution of the scheme to be brutal.

The proposal has been subject of relatively modest but important amendment. However, since principal elements of the curved form, massing and general appearance are essentially unchanged the amendments are not considered appropriate to put before the Panel again.

Furthermore, the site is not within an 'area of opportunity' for tall buildings. Within the Tall Buildings SPD there is a presumption against tall buildings outside of the areas of opportunity (para 7.4) and strong resistance to the principle (para 7.5). However, it must be recognised that the site immediately adjoins an area of opportunity and could be considered to reinforce the "cluster" of tall buildings that already exists at Admiralty Tower (some 100m to the east), Europa House/annexe (across Old Star Place, to the south), Warrior House (80m to the south) and Brunel House (190m to the south). This cluster characteristic is recognised in the Tall Buildings SPD as one of the reasons for encouraging tall buildings in the city centre. Conversely, even within an area of opportunity there may be some parts considered less suitable than another (such as adjacent to listed buildings). A robust justification for the appropriateness of a location is required; a pre-requisite for any tall building is that the design must be excellent and in the case of this particular site the relationship with heritage assets (such as the nearby listed buildings including the Grade II\* Historic Dockyard wall and conservation areas) should be appropriate. Para 7.8 of the SPD relates to the adjoining area of opportunity at The Hard requiring proposals for tall buildings to have particular regard to their impact on the Spinnaker Tower and other sensitive sites in The Hard area and have sensitive regard for and respond to the historic dockyard (to the north).

The applicant's Tall Buildings Assessment comments "The SPD refers to the clustering of tall buildings... the site abuts an area designated as an opportunity for tall building development. As the existing Europa House is currently being refurbished it is reasonable to assume this structure will be retained in its present form (height and volume)... the Tall Buildings SPD (para 6.10) suggests "Groups of tall buildings should ideally be staggered or graduated..." By

introducing a building of the scale proposed by this application it can be reasoned that the transition from the open nature of the naval dockyard and the width of Queen Street at this western end to the height of Europa House will be improved. If viewed in the wider context, a building of seven storeys between Europa House and Admiralty Tower will psychologically unify two isolated intrusions into the city skyline, if not visibly from distance, certainly from the human scale perspective at pavement level."

The design through its active ground floor use, curved form and siting to visually link the corner of Queen Street and Wickham Street, opposite the Grade II\* Historic Dockyard wall and adjacent to the locally listed building, The Ship and Castle PH, is considered to suitably enliven the street to draw people on this route into The Hard. The design of the top storey at roof level is recessed on the Queen Street/Wickham Street frontage, would not be widely visible at street level and close-up would be essentially viewed as a six-storey building. This (opaque) glazed roof setback on the site frontage would be open to view from longer distance but is considered to form an acceptable design approach. Although concern has been expressed from the Panel that the design is good enough for this important and sensitive city centre site and questions its relationship to the Historic Dockyard wall, this is a value judgement.

As submitted, a rooftop plant enclosure was considered incongruous. It has since been amended and now replaced by louvre screening of externally mounted plant onto the Old Star Place elevation; whilst not ideal or the most attractive design solution, it still represents an improvement to its provision as an additional storey. Furthermore, horizontal metal cladding would not secure the highest quality materials and now also deleted from the scheme. With these modest but important changes (since pre-application when the Panel received their presentation) the form and appearance for the proposed building, on a similar footprint of existing and previous structures at the site, is considered well enough designed in compliance with relevant policies, mentioned earlier in this report, and central government planning advice. Very importantly, significant weight is placed on the limited palette of high quality materials. The accompanying BREEAM pre-assessment demonstrates that the development can fully comply with policy PCS15 (Sustainable design and construction) and an architectural lighting scheme would enliven the building during the hours of darkness, that are matters considered necessary to secure by planning conditions. The applicants recognise the Tall Buildings SPD requirements for architectural lighting and comment "Lighting proposals will be sensitive, considered and efficient."

Having regard to the above and previous observations that remaining buildings separated by a cleared area is visually disjointed, in poor condition and unattractive as well as the public benefits identified by the applicant are considered to outweigh the 'less than substantial' harm to (various) heritage assets.

### **Sustainable design & construction/contamination/drainage**

Policy PCS15 requires new development (non-domestic) of more than 500sqm to contribute to addressing climate change in Portsmouth by achieving (a) at least BREEAM 'Excellent' and (b) to use Low or Zero Carbon (LZC) energy technologies to reduce the total carbon emissions by 10%, as part of the selection of measures to meet the overall BREEAM level. As mentioned above, the applicant's pre-assessment demonstrates achieving BREEAM 'Excellent' with 10% LZC energy technologies. A relevant condition to secure post-construction assessment prepared by a licensed BREEAM assessor and the certificate issued by BRE Global is necessary.

The Contaminated Land Team advises that limited sources of information have researched the potential for contamination to exist. As a result the desk study and site investigation submitted with the application is not considered sufficient to assess the potential risks present. Having regard to this and the scale of proposed development, imposition of full conditions for site investigation/remediation are considered necessary on any planning permission.

The applicant's Drainage Statement has been updated to incorporate the proposal for both a green roof and attenuation tank. It is considered reasonable and necessary for the precise details of the nature and size of these elements to be approved and implemented by planning condition.

### **Impact on residential amenity**

Residential blocks of Drake House (Queen Street) and Benbow House (Hawke Street) adjoin the site, located to the east and south-east respectively, and both have habitable room windows orientated on the north and south sides of the buildings. Drake House has a blank end wall on the west elevation separated from the application site across Havant Street by a distance of some 13m. Benbow House is separated by a distance of around 20m. The Europa House tower/annexe is presently being refurbished as a halls of residence also located south of the application site. The proposed development would be of an appreciably greater height and scale/massing than existing and previous built-form at the site but it is not considered to give rise to any significant impact on the amenities of nearby residential occupiers, in terms of their outlook, light, privacy or sense of enclosure.

In consultation with Environmental Health, a suitable kitchen extraction system is considered likely to ensure that cooking operations would not give rise to excessive nuisance from fumes or odours. In relation to noise, imposition of conditions are suggested for approval of details of all fixed plant/machinery prior to installation and a restriction on deliveries/loading/unloading of service vehicles or waste collections outside of 19:00 and 07:00hrs. The restaurant opening hours would also be appropriate to control by condition.

### **Impact on the Solent SPA**

In their consultation response Natural England suggest a contribution be sought towards mitigation against potential adverse impact on the integrity of the European site(s), by a net increase in holiday accommodation, to comply with the Solent SPA SPD. Contrary to this suggestion, sections 3.2-3.8 of the SPD provides clarification on the types of development where mitigation will be applicable. It includes any net increase in dwellings and purpose-built accommodation for students or sheltered housing/extra care/nursing homes on a case-by-case basis but "All other development will generally not need to provide mitigation". A contribution is not required by the SPD and is considered not necessary and reasonable for this proposal. However, Natural England's request for a condition in relation to piling is included to mitigate against potential adverse effects of the development on the integrity of the Solent SPA.

### **Conclusion**

The use of the site for a hotel and associated restaurant are appropriate to the city centre location and would provide an active ground floor. The seven-storey building is considered well enough designed and very importantly proposes to utilise high quality materials to demonstrate a sustainable design that would make a townscape contribution and the public benefits considered to outweigh the 'less than substantial' harm on heritage assets (including Portsea Conservation Area, the setting of the adjacent conservation area and setting of the Historic Dockyard wall). The proposal raises no significant highway impact.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

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

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers:  
Location Plan/Block Plan - 4019-P1;  
Ground Floor Plan - 4019-P3\_H;  
First Floor Plan - 4019-P4\_D;  
Second & Third Floor Plans - 4019-P5;  
Fourth & Fifth Floor Plans - 4019-P7\_D;  
Sixth Floor Plan - 4019-P9\_E;  
Roof Plan - 4019-P10\_D;  
North & West Elevations - 4019-P13\_B;  
South & East Elevations - 4019-P14\_B;  
Bay Detail Version 2 - 4019-P16\_A;  
Landscaping - 4019-P19\_A;  
Sections - 4019-P20\_A; and,  
Loading Bay & Parking Arrangement - 2016/3424/008\_D.

3) No development (except demolition) shall take place at the site until there has been submitted to and approved in writing by the Local Planning, or within such extended period as may be agreed with the Local Planning Authority:

a) A desk study report documenting all the previous and existing land uses of the site and adjacent land in accordance with best practice including BS10175:2011+A1:2013 Investigation of potentially contaminated sites - code of practice. The report shall contain a conceptual model showing the potential pathways that exposure to contaminants may occur both during and after development;

and unless otherwise agreed in writing by the LPA,

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk study created 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 be accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS) where possible; the report shall refine the conceptual model of the site and state either that the site is currently suitable for the proposed end-use or that will 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 site is developed and proposals for future maintenance and monitoring. For risks related to bulk gases, this will require the production of a design report and an installation report for the gas 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 consider the sustainability of the proposed remedial approach. It shall include nomination of a competent person<sup>1</sup> to oversee the implementation and completion of the works.

4) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition 3(c) that any remediation scheme required and approved under the provisions of conditions 3(c) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation).

Unless otherwise agreed in writing by the LPA such verification shall comprise a stand-alone report including (but not be limited to):

- a) Description of remedial scheme
- b) as built drawings of the implemented scheme
- c) photographs of the remediation works in progress
- d) certificates demonstrating that imported and/or material left in-situ is free of contamination, and records of amounts involved.

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

5) Within six months of first occupation of the development, written documentary evidence shall be submitted to and approved in writing by the local planning authority proving that the development has achieved a minimum of level 'Excellent' of the Building Research Establishment's Environmental Assessment Method (BREEAM), including two credits in issue ENE 05, which will be in the form of a post-construction assessment which has been prepared by a licensed BREEAM assessor and the certificate which has been issued by BRE Global, unless otherwise agreed in writing by the local planning authority.

6) No development (except demolition) shall take place at the site until the following shall have been submitted to and approved in writing by the local planning authority:

(a) samples of the (i) Natural Portland Stone, (ii) Fareham Red facing bricks, (iii) glass spandrel panels, and (iv) powder-coated aluminium windows/window surrounds/doors/louvres, and, (b) details of any other external materials/finishes to be used for the proposed building, to include areas of green roof/other roofing, the outdoor terrace area and hardsurface treatments around the building.

The development shall only be carried out in accordance with the details approved under (a) and (b).

7) Detailed design features of (a) the proposed alternate projecting brick and stone relief courses on the curved street frontage and corner returns onto Queen Street/Havant Street and Wickham Street/Old Star Place and, (b) the proposed windows to be both recessed (with metal window surrounds, to match, within the reveals) and for the subframes to project forward of the wall surfaces, shall be carried out as an integral part of the development as shown on Bay Detail 4019-P16\_A and Elevation drawings 4019-P13\_B & 4019-P14\_B and shall thereafter be retained in such condition.

8) Details of the external architectural lighting effects (during the hours of darkness), including details of the siting and appearance of any luminaires, shall be submitted to and approved in writing by the Local Planning Authority; the architectural lighting shall be carried out as an integral part of the development and shall thereafter be retained.

9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or other enactment modifying or revoking that Order, no structure or plant or apparatus shall be externally mounted on the building and roof including any works permitted by Part 16 of Schedule 2 of that Order (with the exception of the lift overrun shown on the approved roof plan and the louvre screened 'Plant Space' shown on the approved 6th Floor Plan) without the prior written permission of the Local Planning Authority, obtained through the submission of a planning application.

10) Prior to the first use of the hotel secure/weatherproof cycle storage facilities shall be provided and made available for use in accordance with a detailed scheme for both long-stay (staff) and short-stay (visitor) cycle storage provision that shall have been submitted to and approved in writing by the Local Planning Authority beforehand; and such approved secure/weatherproof cycle storage facilities shall thereafter be retained.

11) The facilities to be provided for the storage of refuse and recyclable materials shall be constructed and available for use before the development is first brought into use, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter be retained for those purposes at all times.

12) Before any cooking process is undertaken on the premises, an extract ventilation system incorporating measures to suppress odours and fumes shall have been installed in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning

Authority. The approved extraction system shall be operated and retained in such a manner to effectively suppress the emissions of fumes or smell for as long as the restaurant use continues.

13) No development shall take place at the site until a scheme for biodiversity enhancement shall have been submitted to and approved in writing by the Local Planning Authority, to include the measures detailed in Section 4.2 of the Phase 1 and 2 Report (Lindsay Carrington Ecological Services, May 2017); and the approved biodiversity enhancement shall be implemented in full out before the development is first brought into use. A verification report shall be submitted to and agreed in writing by the Local Planning Authority to demonstrate that the biodiversity enhancements have been implemented in full. The approved biodiversity enhancements shall thereafter be retained, unless otherwise agreed in writing with the local planning authority.

14) Prior to the installation of any fixed plant or equipment, a scheme for protecting residential premises from noise generated by the plant or equipment shall be submitted for approval by the local planning authority. The noise rating level (as defined within British Standard BS4142: 2014) from the operation of all fixed plant and machinery operating simultaneously shall not exceed LAeq(1hr) 43dB (0700 - 23:00hrs) and LAeq(15min) 38dB (23:00-07:00hrs) 1 metre from the façade of any residential dwelling including halls of residence/hostel. On approval, the scheme shall be implemented and thereafter maintained.

15) No development shall take place on site until details of the implementation of a programme of archaeological assessment ensure that any archaeological remains encountered are recognised, characterised and recorded is secured in accordance with a Written Scheme of Investigation that shall have been submitted to and approved in writing by the local planning authority. Before the development is first brought into use a report of findings prepared in accordance with an approved programme of archaeological assessment (including where appropriate post-excavation assessment, specialist analysis and reports, and publication) shall have been submitted to and approved in writing by the local planning authority.

16) No development (except demolition) shall take place at the site until details shall have been submitted to and approved in writing by the Local Planning Authority of the proposed means of foul and surface water sewerage disposal including proposed mitigation measures of a green roof and attenuation tank. The hotel/restaurant shall not be brought into use until the drainage works have been carried out in accordance with the approved details (unless otherwise agreed in writing by the Local Planning Authority); and the approved mitigation measures shall thereafter be retained.

17) No development (except demolition) shall take place at the site until there has been submitted to and approved in writing by the local planning authority:-

(a) A baseline TV/radio reception report that records survey data of the existing television and radio equipment signals in the locality;

and following the substantial completion of the building shell:-

(b) A report to assess the impact that the proposed development may have upon television and radio equipment signals in the locality; and, unless otherwise agreed in writing by the Local Planning Authority:-

(c) A detailed scheme for a scheme for the mitigation of any significant adverse effects upon TV/radio reception created by the building.

Such measures as may be approved shall be implemented within 2 months of the approval of details, or within any other period of time approved in writing by the Local Planning Authority, and thereafter retained.

18) The ground floor restaurant (A3) premises shall be closed and vacated by the public outside of the following hours of operation:

- 06:30 to 23:00 Mondays to Fridays, Sundays and Bank Holidays, and
- 06:30 to 23:30 on Saturdays.

19) No deliveries to or collections (including waste and recyclable materials) from the hotel/restaurant hereby permitted shall take place at the site between 19.00 hours and 07.00 hours.

20) (a) The highway works to provide the recessed loading bay onto Old Star Place shall be laid out and constructed as indicated in drawing no.2016/3424/008\_C (prepared by RGP entitled 'Proposed loading bay and parking arrangement') and the requirements of a Section 278 Agreement under the provisions of the Highways Act 1980 prior to the first occupation of any part of the development; and,

(b) No servicing/deliveries to the site shall take place other than from the recessed loading bay onto Old Star Place and shall fully comply with the approved Delivery and Servicing Management Plan, unless otherwise agreed in writing by the local planning authority.

21) The existing accesses to the site onto Old Star Place and Havant Street shall be stopped up and the footway crossing reinstated before the development hereby permitted is first brought into use.

22) No percussive piling or works with heavy machinery (ie plant resulting in a noise level in excess of 69dbAmax - measured at the sensitive receptor, the nearest point of the SPA or any SPA supporting habitat/high tide roosting sites) to be undertaken during the bird overwintering period, between 1st October and 31st March.

**The reasons for the conditions are:**

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

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

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

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

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

6) To secure the highest quality external finishes to a building in this important gateway site and sensitive location in relation to an array of heritage assets, amongst others, the setting of the neighbouring Grade II\* listed Historic Dockyard wall, the character and appearance of 'Portsea' Conservation Area and the setting of the adjacent 'HM Naval Base & St George's Square' Conservation Area, in the interests of visual amenity in accordance with policies PCS4, PCS23 and PCS24 of the Portsmouth Plan.

7) To secure a high quality design to include the proposed embellishment in this important gateway site and sensitive location in relation to an array of heritage assets, amongst others, the setting of the neighbouring Grade II\* listed Historic Dockyard wall, the character and appearance of 'Portsea' Conservation Area and the setting of the adjacent 'HM Naval Base & St George's Square' Conservation Area, in the interests of visual amenity in accordance with policies PCS4, PCS23 and PCS24 of the Portsmouth Plan.

8) In order to secure the highest design quality for a building in this important and sensitive location over 24 hours (rather than daytime only) in a very visually prominent position and its impact on heritage assets, to accord with policies PCS4, PCS23 and PCS24 of the Portsmouth Plan.

- 9) To ensure the skyline and 'clean lines' of this building remain free of visual clutter, to accord with policy PCS23 and PCS24 of the Portsmouth Plan.
- 10) To ensure that adequate provision is made for cyclists using the premises in accordance with policy PCS17 of the Portsmouth Plan.
- 11) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.
- 12) To prevent nuisance from excessive cooking odours or fumes and ensure a quality design solution for any extraction system, having regard to this important gateway site and sensitive location in relation to an array of heritage assets, amongst others, the setting of the neighbouring Grade II\* listed Historic Dockyard wall, the character and appearance of 'Portsea' Conservation Area and the setting of the adjacent 'HM Naval Base & St George's Square' Conservation Area, in the interests of visual amenity in accordance with policies PCS4, PCS23 and PCS24 of the Portsmouth Plan.
- 13) To enhance biodiversity at the site and to avoid impacts to nesting birds, in accordance with policy PCS13 of the Portsmouth Plan.
- 14) To protect neighbouring uses from excessive noise, in accordance with policy PCS23 of the Portsmouth Plan.
- 15) In the interests of protecting and/or conserving evidence of the City's early heritage and development by assessing any archaeological potential for the remains of buildings dating from the earliest settlement phase of the area (17th -18th century) to survive within the site and ensure information is preserved by record for any future generations, in accordance with policy PCS23 and the aims and objectives of the NPPF.
- 16) To reduce the risk of flooding by the proposed development, without increasing flood risk elsewhere, to accord with policy PCS12 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 17) To protect occupiers of properties in the vicinity of the site from any adverse impact on TV/radio reception, to accord with Policy PCS23 of the Portsmouth Plan.
- 18) To protect nearby residential occupiers from noise/disturbance at night and into early morning hours, and to preserve the character of 'Portsea' Conservation Area, in accordance with policy PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 19) To protect nearby residential occupiers from noise and disturbance (by delivery vehicles through the narrow carriageway widths of Old Star Place and Havant Street) outside of daytime hours, but especially late at night and into early morning hours, to accord with policy PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 20) In the interests of maintaining a safe and efficient highway network, having regard to the narrow carriageway widths of Old Star Place and Havant Street for servicing/deliveries, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 21) In the interests of highway safety in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
- 22) To mitigate against the potential adverse effects of the development on the integrity of the European site, in accordance with policy PCS13 of the Portsmouth Plan.



**25 NEWCOME ROAD PORTSMOUTH PO1 5DR****CHANGE OF USE FROM HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO 7 PERSON 7 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)****Application Submitted By:**

Thorns Young Ltd  
FAO Mr Sam Appleton

**On behalf of:**

KAW Property Ltd  
FAO Mr Mark Woodage

**RDD:** 27th March 2017**LDD:** 24th May 2017**SUMMARY OF MAIN ISSUES**

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

**The Site**

The application relates to a two-storey mid-terraced property located on the western side of Newcome Road. The dwelling fronts directly on to the back edge of the highway and comprises a kitchen, two lounges, shower room, W/C and one bedroom at ground floor level, three bedrooms and shower room at first floor level and two bedrooms and a shower room at roof level. The surrounding area is characterised by dense residential terraces. The property is currently in use as a Class C4 House in Multiple Occupation where between 3 and 6 unrelated individuals living as a household share some form communal facilities.

**Proposal**

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

**Relevant planning history**

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

**POLICY CONTEXT**

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

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

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

## **CONSULTATIONS**

### **Private Sector Housing**

My comments are as follows:

This property would require to be licenced under Part 2, Housing Act 2004 and from the information provided with the application, including the specific room sizes, I have no adverse comments to make. I would however, as part of the application I would like to ensure that the kitchen amenities provided within the property are:

1. Two conventional cooker (a combination Microwave may be used in lieu of second cooker).
2. One double bowl sink and integral drainer (a one bowl sink is acceptable where dishwasher is provided).
3. Two under counter refrigerator and a separate freezer or Two equivalent combined fridge/freezer.
4. Four 500mm base units and two 1000mm wall units with doors or equivalent.
5. 2500mm (L) x 500mm (D) of clear usable work surface. This in addition to any surface which is used by permanent electrical items.
6. Three twin socket, located at least 150 mm above the work surface,

## **REPRESENTATIONS**

None received.

## **COMMENT**

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

### **Principle of the Use**

Planning permission is sought for the use of the property as a seven bedroom, seven person Sui Generis HMO. The property already benefits from a lawful use as a Class C4-HMO which was established prior to the introduction of the Article 4(2) direction in November 2011.

Having regard to the current lawful use of the property as a Class C4 HMO, the proposed change of the use to a larger HMO (Sui Generis) would not result in an overall change to the balance of uses in the context of the surrounding area and would therefore, be in accordance with policy PCS20 of the Portsmouth Plan and the supporting HMO SPD. In considering a recent appeal at 11 Baileys Road (Appeal ref. APP/Z1775/W/16/3159989, February 2017) which related to a similar development, the Inspector opined that: "Policy PCS20 of The Portsmouth Plan seeks to avoid concentrations of HMOs within the city. However, the policy is clear in that it states 'for the purposes of this policy, dwellings in use as Class C4, mixed C3/C4 use and HMOs in sui generis use will be considered to be HMOs'. Consequently, as the appeal property already has consent for a C4 use, the proposal could not result in an increase in concentration of HMOs in the City". (Similar decisions were reached by the Inspector at 37 Margate Road

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

### **Impact on Residential Amenity**

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

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

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

In terms of internal living conditions, the property currently comprises shared bathroom facilities (toilet, basin, shower and bath) at ground level, first floor and second floor levels. At ground floor level a communal lounge and kitchen would have a floor area of approximately 22sq.m. with access to cooking, storage and preparation facilities including one oven, one microwave, multiple cupboards two fridge/freezers, a set of gas hobs, multiple sockets a sink and drainer, a breakfast bar, dishwasher and a washing machine. The applicant has also proposed a seating area with a table/chairs and a sofa. Overall it is considered that the internal facilities at the premises are sufficient to meet the demands from the intended number of occupants and would provide an acceptable standard of living conditions for future occupiers.

The City Council's Private Sector Housing Team (PSHT) have been consulted as part of the determination of this application. They confirm that the standard of accommodation and the associated facilities are sufficient for the intended number of occupants and any licence application for its occupation by up to 7 individuals would be capable of support.

Stepping away from the planning merits of the proposal, the licensing process will also ensure adequate fire safety measures and could provide assistance should the property not be managed appropriately. In addition, other legislation is available beyond the planning system to address concerns relating to any anti-social behaviour at the property.

## Parking

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

In addition, the City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city. It is noted that the number of parking spaces required for a Sui Generis HMO with four or more bedrooms, is the same as would be required for a Class C4 HMO with four or more bedrooms or a Class C3 dwellinghouse with four or more bedrooms.

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

## SPA mitigation

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

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

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £181. As a result, it is considered that with mitigation and payment through an agreement under S111 of the Local Government Act there would not be a significant effect on the SPAs. The requirement for this payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

**RECOMMENDATION A:** That delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £181 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

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

## **RECOMMENDATION**

## **Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: PG 1097 16 3, PG 1097 16 2 Location Plan (1:1250), Site Plan (1:500).

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

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

### **PRO-ACTIVITY STATEMENT**

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

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**39 TOTTENHAM ROAD PORTSMOUTH PO1 1QL****CHANGE OF USE FROM PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE) TO 7 PERSON 7 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)****Application Submitted By:**Thorns Young Ltd  
FAO Mr Sam Appleton**On behalf of:**

Mr Andy Tindall

**RDD:** 10th April 2017**LDD:** 7th June 2017**SUMMARY OF MAIN ISSUES**

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

**The Site**

The application relates to a two-storey mid-terraced property located to the south of Tottenham Road. The dwelling is set back from the highway by a small front forecourt and comprises a kitchen, lounge, and two bedrooms at ground floor level, three bedrooms (one with ensuite) at first floor level and one bedroom, a study and bathroom at roof level. The surrounding area is characterised by dense residential terraces. The property is currently in use as a Class C4 House in Multiple Occupation where between 3 and 6 unrelated individuals living as a household share some form communal facilities.

**Proposal**

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

**Relevant planning history**

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

**POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

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

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

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

## **CONSULTATIONS**

### **Private Sector Housing**

This property would require to be licenced under Part 2, Housing Act 2004 and from the information provided with the application, including the specific room sizes, I have no adverse comments to make with regard to the bedroom or common areas. I do have some concerns regarding the widths of the en-suite bathrooms and I would request a specific floor plan of the en-suite bathrooms, including the size and types of the amenities that will be provided.

I would also like to ensure that the kitchen amenities provided within the property are:

1. Two conventional cooker (a combination Microwave may be used in lieu of second cooker).
2. One double bowl sink and integral drainer (a one bowl sink is acceptable where dishwasher is provided).
3. Two under counter refrigerator and a separate freezer or two equivalent combined fridge/freezer.
4. Four 500mm base units and two 1000mm wall units with doors or equivalent.
5. 2500mm (L) x 500mm (D) of clear usable work surface. This in addition to any surface which is used by permanent electrical items.
6. Three twin socket, located at least 150 mm above the work surface.

## **REPRESENTATIONS**

Two representations have been received from neighbouring occupiers objecting to the development on the grounds of (a) Increased rubbish, (b) increased noise and disturbance, (c) increased congestion and parking issues.

## **COMMENT**

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

### **Principle of the Use**

Planning permission is sought for the use of the property as a seven bedroom, seven person Sui Generis HMO. The property already benefits from a lawful use as a Class C4-HMO which was established prior to the introduction of the Article 4(2) direction in November 2011.

Having regard to the current lawful use of the property as a Class C4 HMO, the proposed change of the use to a larger HMO (Sui Generis) would not result in an overall change to the balance of uses in the context of the surrounding area and would therefore, be in accordance with policy PCS20 of the Portsmouth Plan and the supporting HMO SPD. In considering a recent appeal at 11 Baileys Road (Appeal ref: APP/Z1775/W/16/3159989, February 2017) which related to a similar development, the Inspector opined that: "Policy PCS20 of The Portsmouth Plan seeks to avoid concentrations of HMOs within the city. However, the policy is clear in that it states 'for the purposes of this policy, dwellings in use as Class C4, mixed C3/C4 use and HMOs in sui generis use will be considered to be HMOs'. Consequently, as the appeal property

already has consent for a C4 use, the proposal could not result in an increase in concentration of HMOs in the City". (Similar decisions were reached by the Inspector at 37 Margate Road APP/Z1775/W/16/3159992 - Feb 2017 & 80 Margate Road APP/Z1775/W/16/3159993 - Feb 2017).

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

### **Impact on Residential Amenity**

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

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

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

In terms of internal living conditions, the property currently comprises a shared W/C at ground level and a communal bathroom at second floor level (containing a shower, w/c and wash basin). In addition, bedroom 1, 3, 4 and 5 would benefit from en-suite bathrooms (shower, toilet and basin). At ground floor level a communal lounge and kitchen would have a floor area of approximately 25sq.m. with access to cooking and preparation facilities including two ovens, two fridge/freezers, a set of gas hobs, multiple sockets, two sinks and drainers, a breakfast bar and a washing machine. The applicant has also proposed a seating area with a table/chairs and a sofa. Overall it is considered that the internal facilities at the premises are sufficient to meet the demands from the intended number of occupants and would provide an acceptable standard of living conditions for future occupiers.

The City Council's Private Sector Housing Team (PSHT) have been consulted as part of the determination of this application. They confirm that the standard of accommodation and the associated facilities are sufficient for the intended number of occupants and any licence application for its occupation by up to 7 individuals would be capable of support subject to confirmation of specific details.

Stepping away from the planning merits of the proposal, the licensing process will also ensure adequate fire safety measures and could provide assistance should the property not be

managed appropriately. In addition, other legislation is available beyond the planning system to address concerns relating to any anti-social behaviour at the property.

## **Parking**

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

In addition, the City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city. It is noted that the number of parking spaces required for a Sui Generis HMO with four or more bedrooms, is the same as would be required for a Class C4 HMO with four or more bedrooms or a Class C3 dwellinghouse with four or more bedrooms.

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

## **SPA mitigation**

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

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

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £181. As a result, it is considered that with mitigation and payment through an agreement under S111 of the Local Government Act there would not be a significant effect on the SPAs. The requirement for this payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

**RECOMMENDATION A:** That delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £181 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

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

## **RECOMMENDATION**

## **Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan (1:1250), Site Plan (1:500) PG 1067 17 3 REV A, PG 1067 16 2.

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

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

### **PRO-ACTIVITY STATEMENT**

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

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37 ELDON STREET/51 KING STREET SOUTHSEA PO5 4BS

**CONVERSION OF PART OF BUILDING TO FORM 6 DWELLINGS; EXTERNAL ALTERATIONS TO INCLUDE REAR (EAST) EXTENSION, SECOND FLOOR EXTENSIONS AND CHANGES TO FENESTRATION; CHANGE OF USE OF PART GROUND FLOOR TO FORM A WINE BAR (CLASS A4 - DRINKING ESTABLISHMENT - 70SQM) (AMENDED SCHEME TO 16/01772/FUL)**

**Application Submitted By:**

Town Planning Experts  
FAO Mr Jonathan McDermott

**On behalf of:**

Bizzy Blue Designs Ltd  
FAO Mr L Wright

**RDD:** 13th January 2017

**LDD:** 17th March 2017

**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the principle of development is acceptable in the location proposed; whether the development is of an appropriate design; whether the proposal would affect the significance of a building which is entered on the City Council's Local List of Buildings of Architectural or Historic Interest, whether the proposal would preserve or enhance the character and appearance of the 'King Street' Conservation Area and the setting of the adjoining Listed Buildings; whether the proposal would provide an appropriate standard of living accommodation for future occupiers and whether it would have any significant adverse impact on the amenity of the occupiers of the adjoining properties. Other issues to consider are whether the proposal meets policy requirements in respect of SPA mitigation, car parking and refuse/recyclable materials and bicycle storage.

**The Site**

This application relates to a former public house/restaurant, last known as the Kitsch n d'or, located to the corner of Eldon Street and King Street. The property comprises a three-storey element to the junction incorporating an ornate public house frontage, a two-storey element to its eastern side on King Street which is more in keeping with the scale and appearance of the adjoining terraced properties, and a more irregular two-storey element fronting Eldon Street that contains a number of interesting architectural details.

The application building is entered on the City Council's Local List of Buildings of Architectural or Historic Interest which includes the brief description of: 'Kitsch n d'or (CJs, or Scotts originally Elm Tavern) C.1830/40 which includes former brew-house at rear. Three-storey, red brick and rendered upper floors, original pub front at ground floor. Premises include 51 King Street. Whilst not statutory listed, the building has significant local historic, architectural and cultural interest and exhibits many of the classic hallmarks of a traditional Portsmouth public house.

The application site is located within the 'King Street' Conservation Area which includes a number of listed buildings, most notably within a tree lined pedestrianised section of King Street immediately to the east. The surrounding area is predominantly residential in character with a public house located to the opposite corner to the application site (King Street Tavern).

## **Proposal**

Planning permission is sought for the conversion of part of building to form 6 dwellinghouses with external alterations to include the construction of a first floor extension to the rear (east elevation), second floor extensions and alterations to the fenestration. The application also seeks planning permission for the use of the remaining section of the building as a wine bar (Class A4).

Following discussions with the applicant, amended drawings have been submitted and followed with a further period of public consultation. Whilst these amended drawings do not fundamentally change the proposal, they provide greater clarity over which parts of the building would be affected by the development, the proposed palette of materials and greater clarity in respect of windows and doors including their recesses from each elevation.

## **Relevant Planning History**

There is no relevant planning history for this property.

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS13 (A Greener Portsmouth), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes) and PCS23 (Design and Conservation). The Parking Standards SPD, the Housing standards SPD and the Technical Housing Standards - nationally described space standards, the Solent Special Protection Areas SPD and the 'King Street' Conservation Area Guidelines are also relevant to the proposed development.

## **CONSULTATIONS**

### **Highways Engineer**

The application site is located in Southsea and occupies a corner plot at the junction of Eldon Street and King Street. Both Eldon Street and King Street are primarily residential streets with a mix of housing types. There are on-street parking bays along much of Eldon Street which are part of the LA Resident's parking zone. Eldon Street is subject to a 20mph speed limit while the section of King Street outside the applicant site is pedestrianised.

A transport assessment has not been carried out for the proposed development however given that the majority of the existing restaurant use is to be replaced by housing, The Highways Authority (HA) would expect the number of trips generated by the development to be fewer than that of the existing use. Whilst a restaurant function would be retained, albeit on a smaller scale, The HA is of the opinion that overall the trip generation would not increase beyond current levels and as such the development would not have a material impact upon the local highway network.

The Portsmouth Parking SPD (2014) gives the expected level of parking provision that should be allocated for new developments. The proposed new dwellings are all 2&3 bedroom properties therefore all have a parking demand of 1.5spaces as per the SPD. This would total 9spaces for the residential element of this application. Given the large reduction in restaurant area, the parking demand associated with the restaurant use has lessened significantly.

Whilst no parking has been proposed within the development, the HA believe that the reduction in parking demand from the restaurant could credibly offset much if not all of the demand created by the proposed dwellings. The applicant site is close to both the city centre and Elm Grove/Albert Road local centre and is also located within a resident's parking zone that is approx. 90% subscribed at the time of writing. The HA is of the opinion therefore that despite not

providing parking within the development, sufficient space is available on street to accommodate any marginal increase in parking requirement.

The Parking SPD also gives the expected level of cycle parking that should be provided for new residential developments. The 6 properties proposed would each require 2 secure, overnight spaces. No reference is made in the Design & Access statement to the cycle parking to be provided nor are any details about the quantity/type of provision shown on the plans. An area is marked as "bikes" on the proposed ground floor layout however it is not clear whether the cycle parking is secure or whether sufficient space exists to provide the required extra spaces.

As this application stands, the HA would wish to raise a Highways objection on the grounds that Cycle parking spaces as required by Portsmouth Planning policy have not been provided.

### **Contaminated Land Team**

The application has been reviewed along with information held by the Contaminated Land Team and on the understanding that no ground works are proposed, or areas of soft landscaping, a condition relating to land contamination is not required.

However, the site has previously been used as a brewery from c.1898 - 1968, and as such the potential for contamination to be present should not be discounted. Given the sensitive nature of the proposed end use, should any limited ground works for services etc. be required as part of the conversion, an informative advising of the potential risk is advised.

### **Ecology**

It is highlighted that the development may affect bats, which are protected under UK law via the Wildlife and Countryside Act 1981 (as amended) and under EU law by the Habitats Directive, which is transposed into UK law by the Conservation of Habitats and Species Regulations 2010 (as amended) (commonly referred to as the Habitats Regulations). It is our advice that permission should not be granted until sufficient information is provided to either confirm that bats are not present, or, if present, that sufficient measures are in place to ensure that impacts will be mitigated/compensated for as appropriate.

It is however highlight that the presence of bats (or indeed any protected species) is not a block to development. The legislation is designed to enable development to proceed, provided that the impacts to the affected species have been properly addressed.

Updated Comments 25.04.2017 - The application is now supported by a bat survey report (Hampshire Ecological Services Ltd, March 2017). The Ecology Team are satisfied that this represents the current conditions at the application site. Whilst possible access and roosting features were identified during the survey, no evidence of bat activity was recorded. It was concluded that there was very low/negligible potential for bats to be present owing to the lack of evidence, roosting features and location of the site.

In view of the survey findings the Ecology Team would advise that the development is unlikely to result in a breach of the law protecting bats and no concerns are raised. As a precaution, a condition requiring the development to be carried out in accordance with the measures within the bat survey report (Hampshire Ecological Services Ltd, March 2017) is suggested.

In addition, 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 governments statutory nature conservation advisors, who have provided comments on this proposal) that any net increase (even single dwellings) would have a

likely significant effect on the SPAs when considered in combination with other plans and projects.

To address this issue, 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.

With respect to the Solent sites, funding is to be provided to the Solent Recreation Mitigation Partnership (SRMP). Therefore, if the LPA is minded to grant permission the Ecology Team would advise that this mitigation is secured.

### **Natural England**

Natural England has no objection to the above application subject to the following mitigation being secured;

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

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

### **Environmental Health**

Further to EH's memo dated 22nd February 2017, further information and clarification on the proposed use has been received that requires a new response.

This consultation is with regard to the impacts on local air quality as a result of extra traffic generated by the development and the potential impact on the proposed residential use from neighbouring commercial uses.

The locality is a mix of commercial and residential use in which the restaurant at 37 Eldon Street had existed for many years. The application proposes to introduce residential use to 37 Eldon Street whilst retaining some of the restaurant space on the ground floor but changing this to A4 use.

The A4 use has the potential to impact on the amenity of neighbouring uses through noise from plant, machinery, entertainment and customer noise and also odour from the cooking processes where a significant menu is prepared. An email has been received describing the proposed food offer as follows:

"My plans for the proposed commercial unit at the former Kitsch N Dor site are to run it as a small deli/bistro that specialises in the sale of specialist cheese, charcuterie, deli products and wine from the UK and Europe.

The menu will predominantly consist of cold plates of meat and cheese, a range of bruschetta's and other simply toasted/heated items... These will be served up along side hot and cold soft drinks and a range of specialist wines that are paired with the food.

During the day the unit will be run as a deli, providing hot and cold drinks and light snacks along side the facility for customers to purchase and take away the specialist products. By night the unit will be run as a small bistro selling the above described food and wine to be consumed on the premises.

The menu will be very simple so that food can be stored and prepared behind the bar by the servers; as such no chef will be required. Due to the simple nature of the food I will require no extraction system and like the Southsea Coffee Company on Osbourne Rd I will require no more than a few simple domestic cooking devices to heat a few menu items such as a toaster and domestic oven.

I would therefore be happy to have a condition placed upon the property that prevents anything other than the above basic heating or preparing of cold foods without extraction."

In the circumstances described above, EH agree that kitchen extraction equipment will not be necessary and recommend that this be conditioned.

No information has been provided concerning the sound insulation between the proposed A4 use and the residential use at ground and first floor. Should the LPA be minded to grant planning permission, EH recommend that a condition relating to sound insulation be imposed.

With regard to the proposed hours of use from 09:00 hours until 23:30 hours, this seems appropriate to the mixed residential / commercial nature of the proposal, with a terminal hour earlier than that of the previous use at that address.

The size of the development is such that the impact on local air quality is likely to be negligible and not a material consideration.

## **REPRESENTATIONS**

At the time of writing 22 letters of representation had been received. Of these, 21 were in objection to the proposal, although eight of the comments submitted in respect of the revised drawings were received from individuals who had previously commented. These objections can be summarised as follows:

- a) Inappropriate design that fails to respect the appearance of the recipient building and adjoining properties;
- b) Roof extension completely out of keeping with the area and the Conservation Area Guidelines;
- c) The proposal fails to preserve the character and appearance of the Conservation Area and the setting of heritage assets in the area;
- d) Impact on the street scene;
- e) Potential visual impact of utility cabinets;
- f) Inadequate storage facilities for refuse;
- g) Overlooking and loss of privacy;
- h) Inadequate standard of living conditions for future occupiers;
- i) Impact on parking;
- j) Noise and disturbance associated with the commercial use;
- k) Viability of the commercial unit;
- l) Disruption during construction works;
- m) Development encroaches upon neighbouring land;
- n) Work has already commenced on site;
- o) Impact on property value.

One letter received in support of the proposal highlights that in the absence of any ability to acquire the building as a community asset, it would be more appropriate to redevelop the building rather than it remaining vacant. It was however, highlighted that in their opinion the 'concept of the conservation area has been compromised'.

## COMMENT

The determining issues in the determination of this application relate to:

1. The principle of development;
2. Design including impact on heritage assets;
3. Internal living conditions and Impact on residential amenity;
4. Highway Implications;
5. Special Protection Areas (SPA) mitigation;
6. Other matters raised within representations.

Planning permission is sought for the extension and conversion of the building to form 5 dwellinghouses and one maisonette, retaining a small commercial unit to the junction of King Street and Eldon Street to be used as a wine bar (Class A4). Four of the dwellinghouses would front directly onto Eldon Street and would incorporate extensions to the rear at first floor level and second floor roof extensions following the removal of the existing roofs. The fifth dwellinghouse would be situated to the King Street frontage and would also include an extension at roof level. The maisonette would be situated directly above the commercial unit and would be contained entirely within the existing fabric of the building.

Given the constrained nature of the site, refuse for the residential units would be stored within a communal bin store access via a footpath along the northern elevation and bicycle storage would be to the rear via a communal passageway.

### Principle

The application site is located within a predominantly residential neighbourhood characterised by terraced dwellings and blocks of flats, with the application building and the adjacent public house representing the only non-residential uses with the immediate area. The lawful use of the site as a relatively large restaurant (Class A3) with ancillary living accommodation above would have resulted in a degree of activity with associated levels of noise and disturbance, deliveries and demand for parking. Having regard to the prevailing character of the surrounding area and the absence of any site specific policy restrictions, it is considered that the proposal is acceptable in principle.

### Design including impact on heritage assets

Many of the older buildings in Portsmouth are protected by inclusion in the Statutory List of Buildings of Architectural or Historic Interest or are located within conservation areas which cover areas of particular character or historic interest. These are known as designated heritage assets.

However, there are many historic buildings and structures of visual interest in the city which are not protected because they do not meet national criteria (non-designated heritage assets), but which add interest to the character and variety of the city. Schools, churches and public houses all contribute interest and variety to the streetscape and are often landmarks in areas of terraced housing. The City Council's Local List of Buildings of Architectural or Historic Interest (Local List) was created to help draw attention to a selection of these buildings to highlight the role they play in creating local distinctiveness and to encourage their retention. The former Kitsch n d'or (CJs, or Scotts originally Elm Tavern) is one such building included on the Local List, but which is also located within the 'King Street' Conservation Area that includes a number of Statutory Listed Buildings.

The Local List identifies public houses as playing a key part in the city's architectural and cultural heritage. It states: 'Public Houses have also played an important role in the visual character of the city with varied features and details such as turrets, mosaic fascias, stained glass, ceramic tiles, glazed bricks, half timbering and ceramic murals.'

When determining planning applications the Local Planning Authority (LPA) must consider what impact the proposal would have on both designated and non-designated heritage assets. Paragraph 131 of the National Planning Policy Framework (NPPF) states that: 'In determining applications, LPAs should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness'.

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

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework (NPPF) which requires that all new development: will be of an excellent architectural quality; will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place; will respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; relates well to the geography and history of Portsmouth and protects and enhances the city's historic townscape and its cultural and national heritage; and is visually attractive as a result of good architecture and appropriate landscaping.

The application building comprises a number of elements that reflect differing architectural styles and detailing. The larger 3-storey public house building situated to the corner of King Street and Eldon Street is the most ornate with a traditional pub frontage containing arched topped windows and glazed bricks/tiles. The upper floor is partly rendered with sliding sash windows and two blocked/false openings. This is the most prominent element given its corner position and complements the King Street Tavern located directly opposite. Extending into King Street the building steps down in height comparable to terraced dwellings within the street and is topped with a tall dual-pitched roof, although this is not apparent from ground level due to the width of the street. The Eldon Street frontage is the most irregular element of the building which has been significantly altered and extended, although the precise development history of this section of the building is unclear. This elevation includes a number of interesting architectural details including raised ornate window mouldings, quoin detailing and a 'Julliette' balcony.

The significance of this non-designated heritage asset is derived predominantly from the quality, form and detailing of its south and west elevations. This includes the large and more ordered appearance of the former public house and the more organic and irregular appearance of the Eldon Street frontage with its unusual and seemingly random architectural features. Whilst these elevations make a considerable contribution to the street scene, the rear of the building displays very little in the way of architectural detailing and has fallen into an extremely poor state of repair. An external staircase, timber balustrading around a first floor terrace and a series of timber and polycarbonate structures are clearly visible above the adjoining gardens and detract from the appearance of the conservation area and the setting of the listed terrace to the east.

In terms of alterations to the existing south, east and west elevations, it is considered that the proposed changes have been sensitively designed retaining, where possible, many of the existing architectural details around the door and window openings. The proposed additions to the west elevation would give a more ordered appearance to the façade where part of its existing charm is derived from its irregularity. However, this would not significantly detract from

the charm of this elevation and changes to some window openings (W08, W16, W17, W21, W22 and D55) could be seen as a positive intervention.

To the rear, there would be an increase in bulk as a result of the first floor extension. However, having regard to the existing condition of this elevation, it is considered that the proposed form could be regarded as an enhancement removing a number of unsympathetic and unsightly structures from a first floor terrace. The inclusion of a suitably recessed door to the King Street frontage is also considered to be a sympathetic alteration.

Notwithstanding the view above, it is clear that the greatest impact of the development would result from the changes proposed at roof level. This would not only result in the loss of historic fabric in the form of pitched slate roofs, it would increase the height of much of the building and reduce the relative height to the taller element at the junction. The City Council's Conservation Area guidelines for the 'King Street' Conservation Area state that: 'the City Council will discourage extensions where they would have an adverse visual effect on the existing building or street scene' and that 'the City Council will discourage roof extensions, particularly at the front, where they would have an adverse visual effect on the existing building or street scene or where they would lead to the loss of original historic roofs or their features'.

Whilst the proposed roof extensions would not fully preserve the significance of the building or the character and appearance of the 'King Street' Conservation Area, the applicant has attempted to reduce the impact of these structures through the use of appropriate material and the inclusion of firewalls to break the roof form, but principally through the set back of the roof extensions from the King Street (approx. 2.5m) and Eldon Street (approx. 1.5m) frontages. This would limit views of the roof extensions at ground floor level within the street scene particularly within King Street as a result of its width and the presence of mature trees.

Therefore, whilst it is considered that the roof extensions would result in harm to the significance of the recipient building and the character and appearance of the 'King Street' Conservation Area through the loss of original fabric and increased bulk at roof level, the alterations are limited in scale and would not amount to overly dominant or intrusive features within the street scene. As such, and having regard to the positives alterations to the other elevations highlighted above, it is considered that the harm would be less than substantial.

Paragraph 134 of the NPPF states, 'where a proposed development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including its optimum viable use'. Paragraph 135 states: 'In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset'.

The existing building has been vacant since 2015 when the former restaurant closed. As highlighted above, the rear elements of the structure have already fallen into a poor state of repair and this period of vacancy has resulted in the gradual decline of its condition with elements of the western elevation now showing signs of failure (window surrounds). The proposal would secure a long term viable use of the building ensuring its occupation and upkeep which would be beneficial to the building itself, the wider character and appearance of the conservation area and the setting of the Listed terrace to the east.

The proposal would also contribute towards the city's housing needs as set out within Policy PCS19 of the Portsmouth Plan and would retain a smaller commercial element at ground floor level consistent with the original use of the building. Overall, it is considered that the public benefits arising from the long term viable use for the building, the identified visual enhancements to the structure and the contribution the development would make towards meeting the city's housing need would outweigh the less than substantial harm to the significance of the recipient building and the character and appearance of the 'King Street' Conservation Area.

Notwithstanding the view above in respect of the significance of the recipient building and the character and appearance of the 'King Street' Conservation Area, it is considered that as a result of its set back and the presence of an existing roof structure, the roof extension to No.51 King Street would preserve the setting of the adjacent listed building.

The Local Planning Authority has on a number of occasions sought clarification over the proposed materials and minor details relating to the fabrication of windows and doors. Whilst the applicant has provided additional information, this is not sufficiently precise to ensure the quality necessary at the site. Therefore, it is considered to be necessary and reasonable in this instance to impose a planning condition requiring the submission of a precise schedule of materials. This approach has been agreed with the applicant.

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

The National Planning Policy Framework states at paragraph 9 that "pursuing sustainable development involves seeking positive improvements ... in people's quality of life, including ... improving the conditions in which people live ... and widening the choice of high quality homes". Paragraph 17 states that one of the core planning principles is to "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings". Policy PCS19 of the Portsmouth Plan, the supporting Housing Standards SPD and the 'Technical housing standards - nationally described space standard' requires that all new dwellings should be of a reasonable size appropriate to the number of people the dwelling is designed to accommodate.

Four of the six dwellings would meet the minimum size standards for two-bedroom, 4 person dwellings (79sq.m.) and would provide a good standard of living conditions for future occupiers with access to a good degree of natural light and outlook. Whilst two of the units would fall marginally below this floor area (75.3 & 75.4sq.m.), these units would meet the required area for a two-bedroom, 3 person dwelling (70sq.m.) and would still provide a reasonable standard of living conditions to future occupiers. Whilst all of the units do not benefit from private external amenity space, it is considered that such a provision could not be reasonably achieved at the site.

Having regard to the lawful use of the premises as a relatively large restaurant, it is considered that the use of part of the building for residential purposes with a smaller drinking establishment (Class A4) is unlikely to have a significant adverse impact on nearby residents in terms of noise and disturbance. However, the proximity of the proposed wine bar to new residential properties within the same structure would have the potential to result in a nuisance to future residents.

Whilst future residents of the building would be aware of the proposed commercial use at ground floor level, it is considered necessary and reasonable to control the proposed hours of operation (9:00 - 23:30 daily as requested by the applicant) and to seek precise details in respect of sound insulation between the commercial and residential units. The applicant has confirmed that there would be no significant cooking operations at the premises that would require the installation of extraction equipment. This can be controlled through planning conditions.

The proposed extensions at first and roof level would increase the bulk of the building and its proximity to No.53 King Street. This relationship would be exacerbated by the sunken nature of the rear garden and would certainly be perceptible to the occupiers, although this harm would be mitigated in part by the presence of the existing building, the high boundary treatments and outbuildings on the boundary.

The significance of the harm on the occupiers of the neighbouring property and those further to the east must be balanced against the improvements that would arise from the development. This would include: the significant visual enhancements to the rear elevations; the removal of an external fire escape, first floor balcony and roof terrace that all offer short distance and direct

views into the garden; and the removal of all commercial activity from the rear passageway. Therefore, whilst the extensions would have an impact on the neighbouring occupiers, it is considered that, on balance, the benefits of the proposal would outweigh this harm.

The development would increase the number of dwellings at the site four of which would include windows at upper floor level within the rear elevation overlooking gardens to the east. However, to prevent overlooking, the layout drawings indicate that bathrooms would be located to the rear of the building which would allow for inclusion of non-opening and obscure glazed windows to prevent direct overlooking. This is considered to be an acceptable approach to prevent harm to the neighbouring occupiers and the specification of these windows and can be controlled through a suitably worded planning condition.

The development would result in the creation of dwellinghouses which would then benefit from the full provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) once occupied. Such alterations carried out as permitted development would have the potential to significantly affect the external appearance of the individual dwellings and their impact on the neighbouring occupiers. Therefore, having regard to the specific design of the building, the site layout and close proximity to residential properties to the east, it is considered necessary and reasonable to remove permitted development rights through a suitably worded planning condition.

### **Highways/Parking Implications**

The application site does not benefit from any off-street parking and none is proposed as part of this application (the constraints of the site are such that none can be provided). The Parking Standards SPD sets a requirement of 9 off-road parking spaces for six 2-bedroom dwellings, although it should be recognised that the previous use of the site as a large restaurant would have generated its own demand for parking.

Having regard to the lawful use of the site, it is considered that the likely number of trips generated by the proposed development would be reduced. Whilst a small commercial use would be retained, the Highways Authority is of the view that overall trip generation would not increase beyond current levels and the development would not have a material impact upon the local highway network.

In respect of parking, the Highways Authority highlight that the reduction in parking demand associated with the former use could credibly offset much, if not all, of the demand created by the proposed dwellings. The applicant site is close to both the City Centre and the Elm Grove/Albert Road District Centre and is also located within a residents' parking zone that is approximately 90% subscribed. Therefore, it is considered that whilst not providing parking in accordance with the Parking Standards SPD, there is sufficient space within the surrounding highway network to accommodate any marginal increase in parking requirement associated with the development.

Amended drawings have been provided showing the provision of bicycle storage facilities within the passageway to the rear of the dwellings. The precise details of these facilities can be required through the inclusion of a suitably worded planning condition to address the concerns of the Highways Authority. Whilst the provision would not fully meet the requirements of the SPD, they are considered to be acceptable in this instance given the specific constraints of the site.

The amended drawings show the provision of a communal refuse store for the six residential units at the site accessed via the footpath from Eldon Street. The drawings demonstrate that the facilities are of a sufficient scale to accommodate the anticipated level of refuse and recyclable material generated by the development and that bins can be accessed by collection teams. Whilst communal refuse storage for dwellinghouses is not typical, in this particular instance the facilities are considered to be adequate.

Refuse associated with the commercial unit would be stored internally and accessed through the premises themselves to avoid any mix of commercial and residential activity within the passageway to the rear. It will be for the occupiers of the unit to manage this facility appropriately and arrange more frequent collections should the storage capacity prove inadequate. The City Council's Refuse Team has confirmed that this arrangement would be acceptable.

### **Solent Special Protection Areas mitigation**

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

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. The SPD sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

This proposal would lead to a net increase in population, which would 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). The development is not necessary for the management of the SPA.

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £905 (5 x £181, discounting the existing ancillary residential accommodation at the site). It is considered that, subject to the inclusion of an appropriate level of mitigation within a unilateral undertaking or payment through an agreement under S111 of the Local Government Act, there would not be a significant effect on the SPAs. The requirement for a payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

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

The neighbour of the adjoining dwelling to the east (No.53 King Street) has highlighted that the proposed development encroaches upon their land. This has been raised with the applicant who confirms that the development site is situated solely on land within the applicant's control and that the correct ownership certificates have been completed within the planning application form.

It has been highlighted that work has already commenced at the property. The LPA is aware that some internal works (mainly of stripping out) have taken place within the building but is satisfied that these works do not require the express permission of the LPA.

Despite numerous requests, the submitted drawings do not show the placement of any utility cabinets that would have the potential to significantly affect the appearance of the building if located inappropriately. The applicant has however, subsequently confirmed that all utility cabinets would be located to the rear of the building within the enclosed passageway.

It has been suggested that the retained commercial unit would be unviable as a result of its size. The LPA must consider the application on its merits, and on the basis the applicant has

confirmed that a future occupier is lined up, the unit is considered to be acceptable in the form shown.

Impact on property value is not a material planning consideration.

**RECOMMENDATION A:** That delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £905 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

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

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 1540/E/02 Rev-B, 1540/P/20 Rev-K, 1540/P/21 Rev-G, 1540/P/23 Rev-A, 1540/P/24 Rev-A, 1540/P/25 Rev-A, 1540/P/26 Rev-A, 1540/P/27 Rev-A and 1540/P/28.
- 3)(a) Notwithstanding the submitted details, development shall not commence until a full schedule of materials and finishes (including samples where necessary) to be used in the construction of the external surfaces has been submitted to and approved in writing by the Local Planning Authority.  
(b) The development shall then be carried out in accordance with the approved schedule unless otherwise agreed in writing by the Local Planning Authority.
- 4)(a) Prior to the commencement of development (or such period as may otherwise be agreed in writing with the Local Planning Authority), a scheme for insulating the approved dwellings against noise associated with the operation of the drinking establishment (Class A4) at the application site shall be submitted to the Local Planning Authority for approval in writing. The scheme shall be designed to ensure that the following acoustic criteria will be achieved: Living rooms and bedrooms: Noise criterion curve NC25 based on values of Leq(5mins).  
(b) The development shall then be carried out in full accordance with the approved scheme prior to first occupation of any of the dwellings hereby permitted and permanently retained thereafter.
- 5)(a) Unless otherwise agreed in writing with the Local Planning Authority, all new windows and doors shall be fabricated and installed in accordance with the approved drawings and further details provided with email from Mr McDermott dated 24th April 2017 (confirming all new windows and doors to be timber).  
(b) The windows and doors shall thereafter be permanently retained in that condition.
- 6)(a) The development hereby permitted shall be carried out in full accordance with the measures detailed included within the approved bat survey report (Hampshire Ecological Services Ltd, March 2017), unless otherwise approved in writing by the Local Planning Authority.  
(b) The proposed mitigation/enhancement measures detailed in section 5.6 and Figure 4 of the above mentioned report shall be completed prior to the first occupation of any of the residential

units hereby permitted or such other time period as may otherwise be agreed in writing with the Local Planning Authority.

(c) The mitigation/enhancement measures as required by Condition 6(b) shall thereafter be permanent retained in accordance with the approved details.

7) All windows at upper floor level within the east facing elevation of the dwellings hereby permitted shall be both glazed with obscure glass and be non-opening at least 1.7 metres above internal finished floor levels.

8) Prior to first occupation of any of the dwellings hereby permitted, or within such alternative time period as may otherwise be agreed in writing with the Local Planning Authority, the new boundary wall between the application site and No.53 King Street shall be fully constructed in materials to be agreed pursuant to Condition 3(a).

9)(a) Notwithstanding the submitted details none of the dwellings hereby permitted shall be occupied until secure and waterproof bicycle storage facilities have been provided in accordance with a detailed scheme (to include materials, size and appearance) to be submitted to and approved in writing by the Local Planning Authority.

(b) The approved facilities shall thereafter be retained for the storage of bicycles at all times.

10)(a) Unless otherwise agreed in writing with the Local Planning Authority, prior to first use/occupation of the drinking establishment or any of the dwellinghouses hereby permitted, the associated facilities for the storage of refuse and recyclable materials shall be provided in accordance with the approved drawings;

(b) The approved facilities shall thereafter be retained for the storage of refuse and recyclable materials at all times.

11) No cooking processes other than the preparation of hot beverages; toasting of bread; or the heating of food in a microwave oven, domestic oven or domestic cooking device shall be undertaken within the Class A4 premises hereby permitted (unless a suitable kitchen extract ventilation system has been installed in accordance with a scheme submitted to and approved by the Local Planning Authority through a formal planning application).

12) The drinking establishment (Class A4) hereby permitted shall be closed to and vacated by members of the public outside of the hours of 09:00am and 23:30pm on any day.

13) 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 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.

**The reasons for the conditions are:**

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

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

3) In the interests of visual amenity having regard to the inclusion of the application building on the City Council's Local List of Buildings of Architectural or Historic Interest and its location within the 'Kings Street' Conservation Area and in close proximity to a number of statutory listed buildings in accordance with the aims and objectives of the National Planning Policy Framework and the provisions of policy PCS23 of the Portsmouth Plan.

- 4) In order to protect to amenity of the occupiers of adjoining dwellings from nuisance caused by excessive noise and disturbance in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To ensure the new windows and doors are of a sufficient quality to protect the significance of the non-designated heritage asset and having regard to the location of the site within the 'Kings Street' Conservation Area in accordance with the aims and objectives of the National Planning Policy Framework and the provisions of policy PCS23 of the Portsmouth Plan.
- 6) To enhance biodiversity in accordance with NPPF and the Natural Environment and Rural Communities Act 2006.
- 7) To protect the privacy of the occupiers of adjoining properties and to prevent overlooking having regard to the proximity of the windows to the boundary and their elevated positioning relation to adjoining gardens to the east in accordance with policy PCS23 of The Portsmouth Plan.
- 8) In the interests of visual amenity following the removal of the external fire escape and to protect the privacy of the occupiers of No.53 King Street in accordance with policy PCS23 of The Portsmouth Plan.
- 9) To ensure adequate provision for and to promote and encourage cycling as an alternative to use of the private motor car in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan.
- 10) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.
- 11) In order to protect to amenity of the occupiers of adjoining and nearby properties from nuisance caused by excessive cooking odours and fumes in accordance with policy PCS23 of the Portsmouth Plan.
- 12) In order to protect to amenity of the occupiers of adjoining and nearby properties from nuisance caused by excessive noise and disturbance in accordance with policy PCS23 of the Portsmouth Plan.
- 13) In the interests of visual and residential amenity having regard to the inclusion of the building on the City Council's Local List of Buildings of Architectural or Historic Interest, the specific design of the individual dwellings and the building as a whole, site layout and constrained relationship with neighbouring properties in accordance with policy PCS23 of the Portsmouth Plan.

#### PRO-ACTIVITY STATEMENT

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

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**167-169 LONDON ROAD HILSEA PORTSMOUTH****CONVERSION OF GROUND FLOOR RETAIL UNIT TO PROVIDE 2NO. 2 BED DWELLINGS AND 1NO. 1 BED DWELLING WITH EXTERNAL ALTERATIONS TO INCLUDE REMOVAL OF CANOPY AND REPLACING SHOPFRONT WITH NEW WINDOWS AND DOORS (RE-SUBMISSION OF 16/01049/FUL)****Application Submitted By:**Holman Reading Partnership Llp  
FAO Mark Holman**On behalf of:**

Mr Dereck Priddy

**RDD:** 23rd January 2017**LDD:** 30th March 2017**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle, whether the alterations would be visually acceptable in terms of their relationship with the recipient building, the adjoining properties and the wider street scene, whether the proposal would provide an appropriate standard of living accommodation for future occupiers and whether the proposal would affect the amenities of the occupiers of neighbouring properties. Other issues to consider are whether the proposal meets policy requirements in respect of SPA mitigation, car parking and refuse/recyclable materials and bicycle storage.

**The Site**

This application relates to a three-storey property located to the corner of London Road and Connaught Road. The property comprises a large retail unit (Class A1) at ground floor level with residential accommodation above. The application relates specifically to the ground floor commercial unit which incorporates a glazed shopfront to much of its frontage with a projecting canopy above. The rear section of the ground floor is labelled as a garage on the submitted drawings and currently benefits from a section of dropped kerb onto Connaught Road.

The site is located within the Secondary Area of the North End District Centre as defined by Policy PCS8 of the Portsmouth Plan which comprises a mix of commercial and residential uses at ground floor level predominantly with residential uses above. All of the roads leading from London Road in this vicinity are residential in nature and characterised by terraced dwellings.

**Proposal**

This application seeks planning permission for the conversion of the ground floor retail unit to provide 3 dwellings with external alterations to include the removal of a canopy and the replacement of the shopfront (re-submission of 16/01049/FUL).

## **Relevant Planning History**

Planning permission was granted in March 2012 for the construction of a two-storey and second floor rear extensions, and the conversion of the upper floors to form 6 flats. A second application was granted in December 2012 for the construction of a part 2-storey, part first and second floor extensions to provide 3 flats with associated cycle and bin stores. In combination, these two applications resulted in the creation of 7 self-contained flats at upper floor level with refuse and bicycle storage facilities at ground floor level to the rear of the commercial unit.

Planning permission was granted in 1959 (ref. A\*19803/E) for alterations to the existing shop premises to form an extension to the existing showroom and the installation of showroom windows to the Connaught Road frontage.

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS21 (Housing Density), PCS23 (Design and Conservation),

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS8 (District Centres), PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS21 (Housing Density) and PCS23 (Design and Conservation). The Nationally Described Space Standards, Solent Special Protection Areas Supplementary Planning Document (SPD) and Parking Standards SPD would also be a material consideration.

## **CONSULTATIONS**

### **Environmental Health**

The application specifies the installation of new doors and windows to replace the existing shopfront. No details have been submitted with the application for the glazing specifications.

As the façade of Connaught Road and London Road are likely to be subjected to elevated levels of road traffic noise, the Environmental Health Team would suggest a condition is imposed seeking the submission of a scheme for insulating habitable rooms against road traffic noise.

### **Highways Engineer**

London Road, is the A2047, an important North-South route forming part of Portsmouth's primary road network. It is a single carriageway subject to a 30mph limit and is a main bus route and part of an identified Bus Rapid Transit (BRT) corridor. The retail unit on the ground floor of 167-169 London Road forms part of a secondary retail area in the North End District centre as designated in the Portsmouth Plan. Two of the proposed dwellings will be accessed from Connaught Road with the third dwelling accessed from London Road. There is a limited amount of on-street parking outside and adjacent to the application site however this is often full.

Connaught Road is a residential 'one way' road which is often congested with parked vehicles particularly overnight. The demand for parking on this road by the fronting residential properties exceeds the space available and as a consequence any further development should make appropriate provision for off street parking.

No transport assessment has been provided, however the residential units will undoubtedly generate less trips than the existing retail store and as such the Highways Authority (HA) is satisfied that the proposal would not have a material impact upon the local highway network and an assessment of trip generation is not required.

The PCC SPD 'Parking Standards and Transport Assessments' gives the expected number of parking spaces that should be provided for new residential developments. The parking demand for this proposal would be 1.5 spaces for each of the 2-bed dwellings and 1 space for the 1-bed dwelling; thus in total the proposal would have an associated parking demand of 4 spaces. Connaught Road and other nearby streets are not part of any formalised permit parking scheme rather parking is controlled only by yellow line restrictions. The peak parking demand in residential areas generally occurs in the evenings and weekends, with parking capacity in this area particularly pressured. The parking demand associated with the existing commercial use is generated during the day when it can be accommodated on street. The proposal to convert the commercial space to residential will likely see the parking demand being pushed into the evening period in an area where no space exists on street to accommodate the additional parking shortfall and indiscriminate parking often occurs at junctions resulting in reduced visibility and thus a risk to Highway safety.

The Portsmouth Parking SPD also requires secure, overnight cycle storage is provided for new residential development. A secure cycle parking store has been shown on the plan however it is not clear what the capacity of this store would be. The proposed dwellings would require a total of 5 cycle parking spaces to be provided. The HA is satisfied that the size of the store should accommodate the required level of cycle parking and as such is acceptable.

As this application stands, the HA must raise an objection on the following grounds:

No parking provision is included for a development that increases the parking shortfall by 4-spaces in an area where no space exists on street to accommodate the increased demand and is likely to exacerbate existing Highway safety risks caused by indiscriminate parking.

#### **Contaminated Land Team**

Having regard to the planning history of the site conditions relating to ground testing are not required. An informative is suggested.

#### **REPRESENTATIONS**

None received.

The application has been brought to the Planning Committee as a result of the view of the Highways Authority that the proposal is likely to exacerbate existing Highway safety risks caused by indiscriminate parking.

#### **COMMENT**

The determining issues in the determination of this application relate to:

1. The principle of development;
2. Design
3. Internal living conditions and Impact on residential amenity;
4. Highway Implications;
5. Special Protection Areas (SPA) mitigation;
6. Other matters raised within representations.

Planning permission is sought for the conversion of the ground floor to create three self-contained flats. To facilitate the conversion the existing shopfront and canopy would be removed and replaced with a more typical domestic elevation containing new windows and doors. The applicant has provided amended drawings in this respect.

## **Principle**

The application site is located within the Secondary Area of the North End District Centre as shown on the proposals map accompanying Policy PCS8 of the Portsmouth Plan. Policy PCS8 states that: 'In the secondary areas there are opportunities for town centre uses although residential development will also be supported in principle. This is an acknowledgement of the increasing pressures on the more peripheral areas of the district centres to find long term viable uses, and to encourage commercial uses to condense into the primary frontages to improve the vitality and viability of the centres and continue to provide a range of shops and services for residents within these areas.

Policy PCS10 of the Portsmouth Plan states that: 'New housing will be promoted through conversions, redevelopment of previously developed land and higher densities within defined areas including North End District Centre which reflects the public transport links and proximity to local facilities (PCS21). The supporting text to PCS10 states:

'Portsmouth is a built up city with tight boundaries, numerous physical constraints and no greenfield sites available for development and as such there are a limited number of locations for new housing sites. However, the city needs to provide more homes to cater for the natural increase in population, a decrease in household size and to house those people on the council's housing register. Additional homes are also needed to support economic growth. Providing a large number of new homes in the city is in line with the PUSH strategy of focusing new homes in urban areas to regenerate the cities and to relieve pressure on the surrounding countryside...

New development in Portsmouth should help it become a more sustainable city so the first choice for housing is in locations that are close to public transport routes (or where public transport improvements can be included as part of the development) and every day facilities. Therefore the focus for development to deliver the new housing will be at the strategic sites of Tipner, Port Solent & Horsea Island, Somerstown & North Southsea and the city centre. Opportunities for housing also exist at the district centres above shops and within the secondary frontage areas. Further housing development will be distributed across the city as a whole and will take place through conversions of existing buildings and the redevelopment of previously developed land. In order to help provide for the need for additional housing, high densities will be promoted in the city and town centres, on sites close to public transport routes / networks and on the strategic sites.

A windfall element has been included within the housing supply because due to the particular circumstances of the city, residential development on small sites is likely to continue and this development is unlikely to have a significant impact upon infrastructure provision'.

In light of the policy presumptions set out above, it is considered that the principle of the proposed development which would result in the loss of a Class A1 use and the creation of three dwellings would be acceptable and would make a contribution towards the city's identified housing need.

## **Design**

The conversion would involve the removal of the canopy and shopfront which extends along the London Road and part Connaught Road frontages. This would be replaced with largely rendered elevations to match the floors above which have already been converted to residential accommodation. The applicant has provided amended drawings which provide clarity over the quality of the proposed fenestration and has included a more prominent entrance feature onto London Road which would help define the building as a block of flats rather than a converted commercial building.

In light of the policy presumption in favour of residential uses within the Secondary Area of the centre, it is considered that developments such as this will be more common in the future as

commercial uses condense into the Primary Area and the need for residential accommodation increases. Therefore, it is considered that this development could be seen as a marker for the standard of conversion that would be sought within the area to provide a degree consistency within the street scene. With the additional details provided by the applicant giving clarity of the quality of the finish, it is considered that the proposed alterations would be of a good standard, creating and appropriate residential appearance and making a positive contribution to the street scene.

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

The National Planning Policy Framework states at paragraph 9 that "pursuing sustainable development involves seeking positive improvements ... in people's quality of life, including ... improving the conditions in which people live ... and widening the choice of high quality homes". Paragraph 17 states that one of the core planning principles is to "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings". Policy PCS19 of the Portsmouth Plan, the supporting Housing Standards SPD and the 'Technical housing standards - nationally described space standard' requires that all new dwellings should be of a reasonable size appropriate to the number of people the dwelling is designed to accommodate.

The proposal would result in the creation of two 2-bedroom flats (80 & 63 sq.m.) and one 1-bedroom flat (61 sq.m.). Whilst these units would effectively be single aspect, with windows located either onto Connaught Road and London Road, restricting the amount of light reaching kitchens and bathrooms, the units are considered to be a good size and are laid out appropriately to take advantage of light and outlook from the bedrooms and living rooms.

With the inclusion adequate sound insulation to protect occupiers from noise associated with traffic on the adjoining roads, as highlighted by the Environmental Health Team, it is considered that the proposal would provide an appropriate standard of living conditions for future occupiers.

### **Highway Implications**

The application site does not benefit from any off-street parking and none is proposed as part of this application (the constraints of the site are such that none can be provided). The Parking Standards Supplementary Planning Document sets a requirement of 4 off-road parking spaces for the three dwellings, although it is recognised that the existing lawful use of the site as a shop (Class A1) would generate its own demand for parking.

London Road provides an important north-south route forming part of Portsmouth's primary road network. It is a single carriageway subject to a 30mph limit and is a main bus route and part of an identified Bus Rapid Transit (BRT) corridor. The Highways Authority highlight that Connaught Road is a residential 'one way' road that is often congested with parked vehicles, particularly overnight. The demand for parking in this road exceeds the space available and as a consequence any further development should make appropriate provision for off street parking. None of the surrounding streets are part of any formalised permit parking scheme and parking is controlled only by yellow line restrictions.

The peak demand for parking associated with residential uses is generally during the evenings and at weekends, whereas commercial uses generally create a demand during typical working hours when parking can generally be accommodated on street. On the basis that the residential units will undoubtedly generate less trips than the existing retail unit, the Highways Authority is satisfied that the proposal would not have a material impact upon the local highway network and an assessment of trip generation is not required.

However, it is highlighted that the conversion is likely see the demand for parking associated with this building pushed into the evening period where no capacity exists on street. This would exacerbate the existing on-street parking shortfall and could increase occurrences of

indiscriminate parking at junctions which the Highways Authority consider would result in reduced visibility and the obstruction of crossing points to the detriment of highway safety. It is also noted that increased demand for the limited on-street parking provision is likely to impact the amenity of residents within the area as they as they compete for the finite number of spaces.

Whilst the concern of the Highways Authority is noted, the planning assessment of this application must strike a balance between the objection received on highway safety grounds and the policy presumption in favour of residential development within the Secondary Areas of District Centres and the contribution such development would make towards meeting the city's housing need as set out within Policy PCS10 and PCS21, as detailed above. In this instance significant weight must be placed upon the policies included within the Portsmouth Plan which have been through public examination and found to be sound.

Weight should be placed upon the specific location of the application site in close proximity to shops, services and a high frequency bus corridor allowing residents to make local trips without the use of a car. Regard should also be made to the lawful use of the premises as a shop. In its current form, this places limited pressure on existing on-street parking facilities during the evening due to its current operating hours. However, in the absence of any specific planning restrictions on the hours of operation, it is possible that an alternative form of retail, carried out without the need for planning permission (eg. convenience store), could place equivalent or even greater pressure on the surrounding highway network than the proposed development.

In light of the assessment above it is considered that the benefits arising from the proposal in terms of its contribution towards the city's housing need would outweigh the concerns of the Highways Authority based on the under provision of parking associated with the development and subsequent impacts on the surrounding highway network.

In terms of bicycle storage, the application makes provision within a store to the rear of the building which would also provide altered provision for the residential units previously permitted at upper floor levels.

### **Special Protection Areas (SPA) mitigation**

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

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. The SPD sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

This proposal would lead to a net increase in population, which would 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). The development is not necessary for the management of the SPA.

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £543.00 (3 x £181). It is considered that, subject to the inclusion of an appropriate level of mitigation within a unilateral undertaking or payment through an agreement under S111 of the Local Government Act, there would not be a significant effect on the SPAs. The requirement for

a payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

## **Conclusion**

In this application a judgement has to be reached as to whether the provision of three 1 and 2-bedroom dwellings within a building that has already been converted to residential uses at upper floor levels and which is located within a district centre in close proximity to local amenities and bus services would outweigh the concerns of the Highways Authority on highway safety grounds where indiscriminate parking by road users could be dealt with as traffic infringements rather than under the planning system.

Overall it is considered, very much on balance, that whilst the local parking availability in the area is extremely limited and the pressures of finding a parking space will impact on the amenity of local residents, having regard to the benefits of the proposal highlighted above and principally the contribution the development would make towards the city's housing need, it is considered that the proposal is capable of officer support.

**RECOMMENDATION A:** That delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £543 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

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

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers:
- 3) Unless otherwise agreed in writing with the Local Planning Authority, the materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those on the existing building.
- 4) Prior to first occupation of any of the dwellings hereby permitted, the existing shopfront shall be removed and the proposed alterations to the south and east elevations completed as shown on the approved drawings.
- 5)(a) The habitable rooms of the dwellings hereby permitted shall be insulated against road traffic noise to ensure that the following acoustic criteria will be achieved internally (or such other acoustic criteria as may otherwise be agreed in writing with the Local Planning Authority):  
  
Daytime (Living rooms and bedrooms) LAeq(16hr) (7:00 to 23:00) 35 dB  
Night-time (Bedrooms only) LAeq(8hr) (23:00 to 07:00) 30 dB and LAm<sub>ax</sub> 45dB
- (b) Unless otherwise agreed in writing with the Local Planning Authority, none of the dwellings hereby permitted shall be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification that habitable rooms have been insulated against road traffic in accordance with the requirements of Condition 5(a).

6) Prior to first occupation of any of the dwellings hereby permitted (or within such other period as may otherwise be agreed in writing with the Local Planning Authority) the existing vehicular cross over and dropped kerb onto Connaught Road immediately adjacent to the application site (with the exception of a 1.5 metre section immediately adjacent to the approved refuse store) shall be removed and replaced with a full height kerb and reinstated footway to suit new levels.

7) (a) Notwithstanding the submitted details, prior to first occupation of any dwelling hereby permitted, secure and waterproof bicycle storage facilities for to serve the approved development and dwellings previously approved by planning permission 12/01177/FUL shall be provided in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority.

(b) The approved facilities shall thereafter be retained for the storage of bicycles associated with dwellings approved by this application and those permitted by planning permission 12/01177/FUL at all times.

8) (a) Prior to first occupation of any dwelling hereby permitted, the refuse storage facilities as shown on the approved drawings shall be provided for use by the occupiers of dwellings approved by this planning application and dwellings previously approved by planning permission 12/01177/FUL.

(b) The approved facilities shall thereafter be retained for the storage of refuse associated with dwellings approved by this application and those permitted by planning permission 12/01177/FUL at all times.

**The reasons for the conditions are:**

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 4) In order to secure the satisfactory residential appearance of the development in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To ensure that acceptable noise levels within the dwelling are not exceeded in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 6) In the interests of highway safety in accordance with policy PCS17 of the Portsmouth Plan.
- 7) To ensure adequate provision for and to promote and encourage cycling as an alternative to use of the private motor car in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan.
- 8) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.

**PRO-ACTIVITY STATEMENT**

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

**PRINCES HOUSE 32 KINGS TERRACE SOUTHSEA PO5 3AR**

**CHANGE OF USE OF PART BASEMENT (STORAGE UNIT 2) TO FORM AN ARTIST STUDIO (CLASS B1C)**

**Application Submitted By:**

Design Drawn Ltd  
FAO Joseph Moser

**On behalf of:**

Mr Brian Organ

**RDD:** 23rd February 2017

**LDD:** 21st April 2017

**SUMMARY OF MAIN ISSUES**

The main issue to be considered in the determination of this application is whether the proposal is acceptable in principle, whether it would have a detrimental impact on the living conditions of adjoining and nearby residents and whether it would preserve or enhance the character and appearance of the 'Terraces' Conservation Area. Other considerations relate to parking, the storage of refuse and flood risk.

**The Site**

This application relates to a five-storey building known as Princes house located to the corner of Kings Terrace and Gold Street. The building was originally constructed for use as offices and was converted to form 10 flats with ancillary storage facilities within the basement in the mid-1990s. The application relates specifically to a storage room within the basement which is accessed through the main communal hallways and stairwell from the Kings Terrace entrance with a separate access to the rear.

The surrounding area is predominantly residential in character although some office uses still exist with Kings Terrace to the north. To the east the area is characterised by a small blocks of flats within communal grounds with lock-up garages fronting Flint Street. The site is located within the 'Terraces' Conservation Area.

**Proposal**

Planning permission is sought for the change of use of part of the basement (storage unit 2) to form an artist studio (Class B1c).

**Relevant Planning History**

Planning permission was granted in 1996 (ref.A\*15775/AA) for the conversion of the building to form 10 flats. Condition 3 attached to this permission states: 'The basement shall not be used for any purpose other than for domestic storage purposes (including refuse facilities) incidental to the enjoyment of the flats hereby permitted'. The reason for the condition was as follows: 'In the interests of amenity and to protect the amenities of the occupiers of the ground floor flats from and undue noise/general disturbance'.

## **POLICY CONTEXT**

In addition to the aims and objectives of the Nation Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS17 (Transport) and PCS23 (Design and Conservation).

## **CONSULTATIONS**

### **Environmental Health**

By its very definition, a B1c use can be undertaken in a residential area without damaging the amenity of that area. The specific circumstances of this application, namely within a residential building require closer scrutiny.

Further clarification has been sought regarding the potential impact from the proposed use including what kind of tools might be used and the times of operation (as this was not indicated in the application). The agent has responded that the work is in the form of canvass painting with some abstract work, that the tools used are paint brushes and canvass and the hours of use are daytime until no later than 21:00 hours. It is also noted from the response and the application form itself that the proposed use has been undertaken at these premises since the late 1990's.

The Environmental Health Team (EHT) can confirm that it has received no noise complaints about this use as far back as its records go (2005).

The B1c use as described appears to be low impact. The EHT would be concerned, however, about some other B1c uses that could utilise this basement space if it were unrestricted. As such, the EHT recommend that a condition be applied that restricts the B1c use to that which has been described. It is also recommend that the hours of use be restricted by condition.

## **REPRESENTATIONS**

At the time of writing, seven letters of representation have been received from residents within Princes House and on behalf of the Directors of Princes House. Their objections can be summarised as follows:

- a) The basement is designed for domestic storage;
- b) Impact on the residential nature of the building;
- c) The basement space is not suitable for an artist studio;
- d) Impact on residential amenity from increased noise and disturbance;
- e) Impact on parking;
- f) Impact on security within the building;
- g) Refuse disposal from the commercial operations;
- h) Increased wear and tear on communal areas;
- i) Flooding;
- j) Increased fire hazard;
- k) Current and previous unlawful uses within the basement;
- l) Ongoing ownership issues at the site; and m) Impact on property values.

## **COMMENT**

The determining issues in this application are whether the proposed use is acceptable in principle, whether it would have any significant adverse impact on the amenity of adjoining occupiers, whether it would preserve or enhance the character and appearance of the 'Terraces' Conservation Area, whether it would have a significant impact on the surrounding highway network and whether it would result in any increased risk of flooding at the site.

Planning permission is sought for the change of use of part of the basement (storage unit 2) to form an artists' studio with Class B1(c). The wider basement area is currently restricted to domestic storage purposes ancillary to the flats above by Condition 3 of planning permission

A\*15775/AA which was granted in 1996. The applicant has confirmed that: the studio would primarily be used for the painting on canvas; the only materials and tools required would paint, brushes and canvas; all materials would be stored in appropriate containers; there would be very little waste generation and this could be stored internally or within the rear yard; access would mainly be through the rear of the building; that the artist has the use of toilet facilities within the basement; and that the use would generally cease in the early evening.

It has been suggested that the basement has been used as an artists' studio since 1998. Whilst this cannot be confirmed, based on previous enforcement investigations at the property relating to the use of other parts of the basement as living accommodation, it would appear that the use of this particular store as an artists' studio has existed since at least 2013.

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

The application site is not the subject of any site specific policy restrictions, although it is not located within a designated employment area where B1, B2 and B8 type uses would typically be situated. It is clear from the planning history that whilst the basement area is restricted to ancillary storage uses associated with the residential accommodation above, it has not been used for this purpose for a considerable period of time. Furthermore, it does not appear that all of the residents within the building have the use of the basement or rely upon this space for storage given the generous proportions of the residential accommodation. As a result, the basement area currently offers little purpose to many of the residents within the building.

Therefore, whilst not a use that would typically be found within the basement of a block of flats, having regard to the function of this space, its modest scale and the limited activity that could take place as a result, it is considered that the use of part of the basement as a modest artists' studio on a non-commercial scale would be acceptable in principle subject to the assessment in respect of residential amenity below.

### **Impact on residential amenity**

An artists' studio would fall with Class B1(c) of Part B of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended). The Order defines Class B1(c) as: 'for any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit'.

Therefore, by its very nature and definition, an artists' studio within Class B1(c) should not result in any significant adverse impact on the amenity of neighbouring residential properties. It is however, accepted that the definition of an artists' studio is relatively broad, could include a wide range of process, and the term 'carried out in any residential area without detriment' does not necessarily include areas immediately below residential properties within the same structure.

The application has been considered by the City Council's Environmental Team (EHT) who advise that the use of the space as an artists' studio as described above is considered to be low impact, and that no complaints have been received in respect of the historic unlawful use of the site (since 2005, as far back as records go). It is however, highlighted that alternative activities within Class B1 or alternative forms of artist studio which may rely on the use of power tools could result in a higher risk of impact upon the amenity of adjoining occupiers.

Therefore, on the basis that the use as described by the applicant has existed at the site for a number of years and does not appear to have resulted in any significant adverse impact on the occupiers of neighbouring properties, there is little evidence to suggest that the continued use of this space for the same purpose would result in significant harm in the future. However, on the basis that similar, but alternative forms of artist studio could result in a greater impact, as highlighted by the EHT, it is considered necessary and reasonable to impose planning conditions restricting the use of the site, the use of power tools and the hours of operation.

## **Impact on Heritage Assets**

The application site is located within the 'Terraces' Conservation Area. However, on the basis the proposal would not result in any external alterations to the building, and having regard to its limited scale and the level of activity that would take place, it is considered that the proposal would preserve the character and appearance of the Conservation Area.

## **Highways Impact**

The application site is located within a residents' parking zone (Zone KB) which restricts parking to non-permit holders to 2 hours, and as with many areas in the city it is acknowledged that existing on road parking provision with the area comes under significant pressure. However, given the scale of the studio and the likely numbers of users, it is not considered that the proposal would place significant additional pressure on the surrounding highway network or existing on-road parking provision within the area. Regard is again given to the historic use of the basement area.

Given the limited scale of the development, it is considered that refuse could be adequately stored internally within the studio prior to collection.

## **Flood Risk**

The application site is not shown to be located within one of the Environment Agency's Flood Zones, although representations make reference to flooding within the basement area. On the basis that the flooding issues appear to be specific to the building and having regard to the limited scale of the development, it is not considered that the proposal would result in an increased risk of flooding at the site.

## **Other matters raised within representations**

A number of residents highlight that the applicant does not have approval from the directors to carry out non-residential uses within the basement area, and that the terms of the leases at the building would prevent such activities from taking place. Whilst this is noted, matters relating to land ownership are private interest matters and the granting of planning permission would not negate the need for the applicant to seek the relevant consents/permissions from those with an interest in the land/building. The applicant has completed the relevant ownership certificate within the planning application form.

It is suggested that the basement space is not suitable for an artists' studio given the restricted levels of natural lighting entering the building through high level windows. Whilst located at basement level with restricted outlook, there are reasonable levels of natural light entering the basement through a number of windows on a south facing elevation. Although this space would not be suitable for residential accommodation, it is considered to be appropriate for the proposed use and quality of the facilities would ultimately be a choice for the artist in residence.

It is considered that the limited level of activity associated with the use of this section of the basement would not result in any significant safety issues or place significant addition pressure on the communal areas. Impact on property value is not a material planning consideration.

In considering this application, careful regard has been made to the scale of the proposed studio and the pre-existence of the use at the site without apparent harm to the occupiers of the neighbouring properties. The granting of planning permission in this instance is no indication that similar uses within the remaining sections of the basement would be acceptable as the cumulative impacts of such uses could be materially different.

## RECOMMENDATION

## Conditional Permission

### Conditions

- 1) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 289.E100 Rev-A, 289.E101 Rev-A and 289.P101 Rev-A.
- 2) The premises shall be used as an artist studio (Class B1c and as described within email of 13th April 2017 from Mr Moser) and for no other purpose (including any other purpose within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) The use hereby permitted shall not take place other than between the hours of 09:00 and 21:00 on any given day.
- 4) At no time shall the use of power tools be permitted within the premises without the prior written consent of the Local Planning Authority.

### The reasons for the conditions are:

- 1) To ensure the development is implemented in accordance with the permission granted.
- 2) To control the scope of the permission granted in the interests of amenity having regard to the proximity of the application site to residential properties within the same building in accordance with policy PCS23 of the Portsmouth Plan.
- 3) In the interests of residential amenity having regard to the proximity of the application site to dwellings within the same building in accordance with policy PCS23 of the Portsmouth Plan.
- 4) In the interests of residential amenity having regard to the proximity of the application site to dwellings within the same building in accordance with policy PCS23 of the Portsmouth Plan.

### PRO-ACTIVITY STATEMENT

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

**NB** This permission is granted in accordance with the provisions of Section 73 of the Town and Country Planning Act 1990, which makes provision for the retrospective granting of planning permission for development which has commenced and/or been completed.

**15 STUBBINGTON AVENUE PORTSMOUTH PO2 0HP****CHANGE OF USE OF THE BUILDING TO PURPOSES FALLING WITHIN A HOUSE IN MULTIPLE OCCUPATION (CLASS C4)****Application Submitted By:**

Thorns Young  
Ltd FAO Mrs Rebecca Nash

**On behalf of:**

Mr G Bhakad

**RDD:** 24th November 2016

**LDD:** 20th January 2017

**SUMMARY OF MAIN ISSUES**

This application was initially considered by the Planning Committee on 8 February 2017 and presented with an officers recommendation of conditional permission. Members noted that the proposed changes to alter the use of the building from (an unlawful conversion to) 5 self-contained flats to a house in multiple occupation (Class C4) were not clear. It was resolved that a decision be deferred due to the lack of information available regarding remedial work and the need to further consider the mechanism to ensure that, were planning permission granted, there is clarity on the trigger of commencement of the change of use and the interior alterations necessary to ensure that the unauthorised use had ceased.

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

**The site**

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

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

regularise their use. The available evidence indicates the lawful use of the application site to be as 2 dwellings (1 maisonette on ground/first floors and 1 flat on second floor) - see Planning history below.

## **Proposal**

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

## **Planning history**

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

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

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

## **POLICY CONTEXT**

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

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

## **CONSULTATIONS**

### **Highways Engineer**

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

### **Parking**

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

### **Cycle parking**

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

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

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

### **Environmental Health**

Although houses in multiple occupation (HMO) will potentially result in a higher concentration of persons in a household, we currently have no evidence to support the view that HMOs attract an increased number of noise complaints or are the subject of regular enforcement action. In the absence of any such evidence, it would be difficult to argue that the proposed use can be inherently associated with noise when the alleged impacts occur as the result of the behaviour of individuals and not the behaviour of the residents of HMOs as a whole.

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

### **Private Sector Housing**

No response received.

### **REPRESENTATIONS**

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

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

### **COMMENT**

The main issues to be considered in the determination of this application are the appropriateness of such a C4 HMO use in the context of the balance of uses in the existing community and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of car and cycle parking, and the storage of refuse/recyclable materials.

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

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

In identifying the area surrounding the application property, it has been established that 1 of the 55 residential properties within a 50 metre radius is in use as a HMO. Initially the database identified two existing HMO properties within the area (50m radius) around the application property. No.16 Stubbington Avenue was granted planning permission (ref 14/01263/FUL) in November 2014 for a 'change of use from dwellinghouse (Class C3) to purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwellinghouse)', however, No.4a Stubbington Avenue has no planning permission as a HMO. Following a visit to No.4a, subsequent research from the occupant has established that it is in use as a three-bedroom property by a family. The reason for this property being recorded on the HMO database at the time of its conception was that Council Tax records showed student exemption in 2011; there is no evidence to substantiate that this property is in use as anything other than a Class C3 dwellinghouse and therefore should be removed from the HMO database. Therefore, as the granting of permission would increase the proportion of HMOs from 1.8% (1 out of 55) to just 3.7% (2 out of 54, after net loss of one dwelling), it is considered that the community is not already imbalanced by a concentration of HMO uses and that this application would not result in an imbalance of such uses.

It is generally considered that the level of activity associated with the use of any individual property as a Class C4 HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. In this instance the lawful use of the part of the building the subject of this application is two dwellings. The overall number of occupants in a C4 HMO is unlikely to be greater than level of occupation from the lawful use as 1xbed flat and 2xbed maisonette. This issue has been considered in previous appeals where Inspectors have taken the view that properties used as HMOs within Class C4 would be occupied by similar numbers of occupiers to a C3 use. It is therefore considered that the proposed use of the building within Class C4 would not be demonstrably different from the existing lawful use (as two dwellings) within Class C3 that make up the prevailing residential character of the surrounding area.

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

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

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

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

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

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

### **Additional Comments Following Deferral:**

Members noted that the proposed changes to alter the use of the building from 5 (unlawful) self-contained flats to a house in multiple occupation (Class C4) were not clear. It was resolved that a decision be deferred due to the lack of information available regarding remedial work and the need to further consider the mechanism to ensure that, were planning permission granted, there is clarity on the trigger of commencement of the change of use and the interior alterations necessary to ensure that the unauthorised use had ceased.

### **Amended Information**

Since the deferral, an amended drawing entitled 'Proposed Plans' and an additional statement have been received which seek to clarify and demonstrate the alterations that would need to be carried out to ensure the building would be used as a 5 bedroom house in multiple occupation rather than its current unlawful use as 5 self-contained flats.

The drawing shows the ground, first and second floors accommodating a total of 5 bedrooms. The 4 bedrooms on the first and second floors would continue to benefit from en-suite facilities; the ground floor would continue to have the use of the ground floor bathroom accessible from the kitchen/living room. However, the full kitchen facilities that each of the first and second floor bedrooms currently accommodates would be reduced to a single free standing 600mm<sup>2</sup> unit for placing a kettle to allow tea/coffee making facilities with no plumbing or waste connections. The existing internal connection between the ground floor bedroom and the kitchen/living room would be ceased, according to the drawing, by locking one of the connecting doors and creating a store accessible by the front bedroom.

The drawing is supported by correspondence which states that the 'kitchen units, sinks and cookers in each first and second floor rooms are to be removed completely. Services and wastes are to be sealed and the walls and flooring made good. The ground floor room has no kitchen fittings. This room was to have an en-suite bathroom fitted beneath the stairs and the connecting door to the common area bricked up. This under-stair area will now be a store for this ground floor room and the door to the common area fitted with a secure lock. Each room will have a stand alone small cupboard unit for kettle, tea and coffee facilities only. No fixed plumbing. To minimise disruption, the work is to be carried out in two stages, one kitchen on each floor is to be removed first within the first two months from approval. The other two to be done in the following two months. The existing common area already has a fully fitted kitchen which has been in shared use by all the occupiers for several months now.'

It is considered that the 'Proposed Plans' drawing satisfactorily demonstrates that the building could be occupied as a 5 bedroom house in multiple occupancy. The use of the application site as a house in multiple occupation (Class C4), in accordance with the proposed floor plans submitted, is a proposal capable of support.

### **Existing Unlawful Use**

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

In the event planning permission is granted, the timescales set out by the agent for the removal of the kitchen facilities that create the self-contained units can be used by the Planning Enforcement Team to monitor cessation of the unlawful use. In the event these timescales are not adhered to, then formal enforcement action can be considered.

## **RECOMMENDATION**

## **Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan (1:1250), Block Plan (1:500); and, Existing Floor Plans (1:50).
- 3) Prior to the first occupation of the property as a Class C4 HMO, or such other period as may be agreed in writing by the Local Planning Authority, cycle storage facilities (in the form of long stay secure, enclosed and weatherproof cycle storage for 4 cycles) shall be provided in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be retained for the use of occupiers of the property for that purpose.

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

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To ensure that adequate cycle storage is provided for occupiers of this property in order to encourage an alternative use to the private car in accordance with policies PCS17 and PCS23 of The Portsmouth Plan.

### **PRO-ACTIVITY STATEMENT**

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

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191A HAVANT ROAD PORTSMOUTH PO6 1EE

## CONSTRUCTION OF TWO STOREY REAR EXTENSION

### Application Submitted By:

BJP Projects  
FAO Ben Potter

### On behalf of:

Dr Steve Compton

RDD: 14th March 2017

LDD: 24th May 2017

## SUMMARY OF MAIN ISSUES

This application has been called to be determined at the Planning Committee by a deputation request from a neighbouring resident.

### Summary of main issues

The determining issues in this application relate to the design of the proposal and whether it would relate appropriately to the recipient building. Also, whether the proposal would result in a significant impact on the amenities of the surrounding occupiers.

### Site and Surroundings

This application relates to a detached property, which is located within a small cul-de-sac to the rear of 191 Havant Road, and is accessed via a driveway between 191 and 193 Havant Road. The property neighbours No 191B to the east, which is a two-storey dwelling within the same cul-de-sac. To the north-west of the site is a bungalow, which occupies a backland site to the rear of flats on Solent Road. This bungalow has a garden extending to the south and east and the eastern boundary of the garden adjoins the application site.

### Proposal

The applicant seeks permission for the construction of a two-storey rear extension. The extension would be located on the west side of the northern elevation of the property. It would accommodate a living room at ground floor level and a bathroom at first floor level. There would also be a mezzanine at first floor level. The extension would have the same height as the existing roof on this part of the dwelling at 7.1m and a width of 3.7m.

The ground floor element of the extension would accommodate a conservatory style snug. This would also have a width of 3.7m and a depth of 3.8m. The extension would be finished in white render to match the recipient property. There would be two roof lights on the side rooflopes facing west and east, and one small high level window serving the mezzanine facing north. The en-suite bathroom would have two obscure glazed windows facing north and the ground floor conservatory style snug would be glazed with a set of bi-folding doors opening out onto the garden.

## **Planning History**

There is no relevant planning history for the proposed application.

## **POLICY CONTEXT**

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

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

## **CONSULTATIONS**

### **Contaminated Land Team**

The adjoining site has been used by a tarmacadam' contractors from the mid-1980s. While this is later than when coal tar was used in these products, any recovery or reuse of historic scalpings or if there was an earlier related use on this site, there maybe residue of coal tars. The following informative should therefore be added to any planning approval granted:

In the event that any signs of pollution such as poor plant growth, odour, oily, ashy, odorous or fibrous materials, staining or unusual colouration of the soil, asbestos fragments or fibres, inclusions of putrescible materials, plastics, any liquid other than clean soilwater, or actual remains from a past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if the findings have any impact upon the development. The development must be halted on that part of the site and if the LPA considers it necessary then an assessment of the site undertaken in accordance with BS10175: 2011. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

## **REPRESENTATIONS**

One letter of objection has been received from a neighbouring resident. Their objection can be summarised as follows:

- 1) close proximity to neighbouring property;
- 2) overbearing;
- 3) would result in increased sense of enclosure;
- 4) sky lights would result in overlooking;
- 5) Loss of trees

## **COMMENT**

The determining issues in this application relate to the design of the proposal and whether it would relate appropriately to the recipient building. Also, whether the proposal would result in a significant impact on the amenities of the surrounding occupiers.

The proposal would be constructed on the west side of the north elevation of the property and would therefore not have a significant impact on the occupiers in No 191B to the east.

The application property and the neighbouring property at 14B Solent Road both occupy back land sites and do not have a traditional back to back relationship. No.14B Solent Road has a garden which extends to the east and south of the dwelling and adjoins the rear garden of the application site.. The west elevation of the dwelling on the application site currently abuts part of the garden boundary of No.14B and the proposed extension would result in an increase in building bulk along the same boundary. However, there would be a distance of approximately 15m between the extension and the nearest elevation of this neighbouring dwelling and, having

regard to the orientation of the dwellings, it is not considered that the proposal would result in a significant impact on the amenities of the neighbouring residents in terms of increased sense of enclosure and overshadowing.

The first floor windows would occupy a bathroom and therefore the windows would be obscure glazed. The windows serving the mezzanine would be roof lights and a high level window, which would not directly overlook No 14B Solent Road. Having regard to the position of the windows and the distance between the extension and the neighbouring dwelling at 14B, it is not considered that the proposal would result in a significant loss of privacy to these neighbours.

The proposal may result in the loss of trees and vegetation. These trees are not protected and it is considered that the trees and vegetation do not make a significant contribution the visual amenity of the surrounding area. The removal of these trees and their replacement with alternative boundary treatment such as a fence could be carried out without the need for planning permission.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 1117.02.pl and 1117.01.pl.

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

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

### **PRO-ACTIVITY STATEMENT**

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

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22 JESSIE ROAD SOUTHSEA PO4 0EN

**CHANGE OF USE FROM PURPOSES FALLING WITHIN A C3 (DWELLING HOUSE) OR C4 (HOUSE IN MULTIPLE OCCUPATION) TO A SEVEN BEDROOM/SEVEN PERSON HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)**

**Application Submitted By:**

Thorns Young Ltd  
FAO Mr Sam Appleton

**On behalf of:**

Anthony Lane

**RDD:** 30th March 2017

**LDD:** 26th May 2017

**SUMMARY OF MAIN ISSUES**

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

**The Site**

This application relates to a two-storey mid-terraced property located to the southern side of Jessie Road, just to the east of its junction with Fawcett Road. The dwelling fronts directly onto the back edge of the footway and comprises a kitchen/lounge, two bedrooms and toilet at ground floor level, three bedrooms and a bathroom (bath, w/c and wash basin) at first floor level and two further bedrooms and a shower room (shower, w/c and wash basin) at roof level. The surrounding area is characterised by dense residential terraces with a small local centre just to the west on Fawcett Road. The property is currently in use as a Class C4 House in Multiple Occupation where between 3 and 6 unrelated individuals living as a household share some form communal facilities.

**Proposal**

This application seeks planning permission to use the property as a 7 bedroom, 7 person House in Multiple Occupation (Sui Generis).

**Relevant planning history**

There is no planning history for this property.

**POLICY CONTEXT**

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

## **CONSULTATIONS**

### **Highways Engineer**

Jessie Road is in a residential area in close proximity to a local rail station and with access to regular bus services. Demand for residents parking on-street often exceeds the space available, although there is no controlled residents parking zone in the area. The area has high levels of student accommodation in residential dwellings and experiences increased parking pressure in the evenings when residents return home from work.

The proposal increases the number of beds in the HMO from 6 to 7. An HMO of this size is required to provide 2 vehicle and 4 cycle parking spaces. The existing use as a slightly smaller HMO would also have been required to provide 2 vehicle parking spaces and 4 cycle parking spaces to comply with the PCC Parking Standards & Transport Assessments SPD (July 2014). As a consequence this application would not increase the current car parking shortfall associated with the site.

As the application stands the Highways Authority would raise no highway objection subject to the provision of fully enclosed, secure, weatherproof cycle parking for 4 cycles.

### **Private Sector Housing**

Comments to be provided

## **REPRESENTATIONS**

At the time of writing, one letter of representation had been received from a local resident objecting on the grounds of:

- a) To many HMOs within this part of the city;
- b) Over intensive use of the property;
- c) Increased population density;
- d) Impact on Parking;
- e) Increase in refuse/waste.

The application is brought to the Planning Committee as part of a request from Members for all planning applications relating to the change of use from Class C4 (HMOs) to Sui Generis HMOs to be referred to the Committee for determination.

## **COMMENT**

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

### **Principle of the use**

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

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

recent appeal at 11 Baileys Road (Appeal ref.APP/Z1775/W/16/3159989, February 2017) which related to a similar development, the Inspector opined that: "Policy PCS20 of The Portsmouth Plan seeks to avoid concentrations of HMOs within the city. However, the policy is clear in that it states 'for the purposes of this policy, dwellings in use as Class C4, mixed C3/C4 use and HMOs in sui generis use will be considered to be HMOs'. Consequently, as the appeal property already has consent for a C4 use, the proposal could not result in an increase in concentration of HMOs in the City". (Similar decisions were reached by the Inspector at 37 Margate Road APP/Z1775/W/16/3159992 - Feb 2017 & 80 Margate Road APP/Z1775/W/16/3159993 - Feb 2017).

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

### **Impact on residential amenity**

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

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

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

The licensing process would ensure adequate fire safety measures and could provide assistance should the property not be managed appropriately. In addition, other legislation is available beyond the planning system to address concerns relating to any anti-social behaviour at the property.

In terms of internal living conditions, the property currently comprises a communal toilet at ground floor level (w/c & wash basin), a bathroom at first floor level (containing a bath, w/c and wash basin) and a communal shower room at roof level (containing a shower, w/c and wash basin). At ground floor level a communal lounge and kitchen would have a floor area of approximately 20sq.m. with access to cooking and preparation facilities, a breakfast bar and a communal seating area.

The City Council Private Sector Housing Team (PSHT) has considered the submitted drawings and advise that each of the proposed bedrooms would meet the minimum size standards required (6.52sq.m.) for a single occupant under the Housing Act 2004 and the relevant guidance documents. However, whilst providing a high quality finish and range of facilities within the kitchen, the proposed communal space at ground floor level (20sq.m.) would fall short of the minimum standard required (23sq.m.) to allow for social activities that would be expected for individuals living as a group, as well as a safe environment for the cooking and consuming of food. It is also highlighted that the bathroom located at second floor level appears to be too small for occupants to use safely.

In some circumstances, a reduced communal area may be appropriate where residents have access to a good standard of living environment within their private bedrooms. However, in this particular situation it is noted that a number of the bedrooms (bed 2, 4 & 5) are marginally above the minimum floor area requirements, and other than providing sleeping and limited storage facilities, would not allow occupants to sit and relax comfortably other than in bed.

Whilst the LPA is not bound by the requirements of the Housing Act 2004, the planning system will generally seek to improve upon the bare minimum (as demonstrated by the minimum bedroom floor area set out within the Technical Housing Standards at 7.5sq.m.) to provide a good quality of living environment for future occupants, whether that be within a dwellinghouse (Class C3) or within shared accommodation (Class C4 & Sui Generis HMOs). It could be argued that the provision of a good standard of living environment and sufficient space within bedrooms is more important within shared houses where the only private and secure facilities to store the occupiers' possessions or obtain privacy would be within their private bedrooms.

Therefore, in light of the assessment of the accommodation above, it is considered that the proposed use of the property by seven individuals would fail to provide an adequate standard of living accommodation for future occupiers to the detriment of residential amenity.

It is accepted that the applicant could use one of the ground floor bedrooms to provide additional communal facilities within the building. However, on the basis that none of the remaining bedrooms within the building are considered to be of a sufficient size to allow for double occupation, such a scenario would result in the occupation of the building by 6 individuals, for which it already has permission. The LPA has not therefore, sought amendments to the submitted drawings to provide additional communal facilities.

## **Parking**

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

In addition, the City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city. It is noted that the number of parking spaces required for a Sui Generis HMO with four or more bedrooms, is the same as would be required for a Class C4 HMO with four or more bedrooms or a Class C3 dwellinghouse with four or more bedrooms.

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

## **SPA mitigation**

The Conservation of Habitats and Species Regulations 2010 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is

designated, or otherwise affect protected species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

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

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £181. Whilst indicating a willingness to provide mitigation measures for this development, this has not been provided at this stage. As a result, the scheme would be likely to lead to a significant effect on the SPAs and does not meet the provisions of the Habitats Regulations. As such, the proposals would be contrary to policy PCS13 and the Supplementary Planning Document in relation to the Special Protection Areas.

## **RECOMMENDATION            Refuse**

### **Conditions**

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

1) The proposed change of use of the building to a House in Multiple Occupation (Sui Generis) would, as a result of the proposed layout and size the communal facilities (kitchen, living and sanitary facilities), fail to provide an adequate standard of living accommodation for future occupiers and would represent an over intensive use of the site. The proposal is therefore contrary to Core Planning Principles of the National Planning Policy Framework and Policy PCS23 of the Portsmouth Plan.

2) Without appropriate mitigation the development would be likely to have a significant effect on the Portsmouth Harbour and Chichester and Langstone Harbours Special Protection Areas and so is contrary to Policy PCS13 of the Portsmouth Plan and the Conservation of Habitats and Species Regulations (as amended).

### **PRO-ACTIVITY STATEMENT**

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

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Assistant Director of Culture and City Development  
6<sup>th</sup> June 2017

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