



NOTICE OF MEETING

CABINET MEMBER FOR HEALTH, WELLBEING & SOCIAL CARE

THURSDAY, 26 MARCH 2020 AT 2.00 PM

THE EXECUTIVE MEETING ROOM - THIRD FLOOR, THE GUILDHALL

Telephone enquiries to Anna Martyn 023 9283 4870

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

Membership

Cabinet Member for Health, Wellbeing & Social Care

Councillor Matthew Winnington (Cabinet Member)

Group Spokespersons

Councillor Graham Heaney

Councillor Luke Stubbs

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

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Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendations). Email requests are accepted.

AGENDA

- 1 Apologies for absence**
- 2 Declaration of interests**

3 Adult Social Care Charging Arrangements (Pages 5 - 28)

Purpose

The purpose of this report is to respond to the motion adopted by Full Council on 14 January 2020, which sought the Cabinet Member for Health, Wellbeing and Social Care to investigate the introduction of a day care cap for all Social Care client groups and to advise councillors of the financial cost of this.

RECOMMENDED that the Cabinet Member:

a. Consider and approve one of the following options:

- 1. Maintain the current charging arrangements within Adult Social Care, in line with Care Act 2014 and the related charging Regulations; or**
Subject to recommendations (b) and (c) below:
- 2. Reinstate a financial cap for Day Care, Community Support and Health & Independence Services; or**
- 3. Implement a financial cap across all Adult Social Care services.**

b. Confirm the level of the financial cap to be applied from Monday 06 April 2020, should the implementation of a financial cap be approved as set out in recommendation (a2) or (a3) above.

c. Agree that should the implementation of a financial cap be approved as set out in recommendation (a2) or (a3) above, it will on a temporary basis, until the publication and implementation of the anticipated government reforms of the financial arrangements for the Adult Social Care sector and how people fund their care and their eligibility for financial support from Local Authorities in the future.

d. Request the Chief of Health & Care Portsmouth to identify and implement alternative income or savings strategies in order to offset any lost income in 2020-21 and future years, and enable Adult Social Care to maintain a balanced budget.

4 Allocation of Nutrient Neutrality Credits for Longdean Lodge and Edinburgh House sites (Pages 29 - 56)

Purpose

To seek approval from the Health, Wellbeing & Social Care portfolio holder for the transfer of nutrient neutrality credits from the former Edinburgh House residential care home to a new development of 13 flats on the Longdean Lodge site to enable a planning permission be granted and the remainder of credits be transferred to the nutrient credit bank detailed in the Council's Interim Nutrient Neutrality Strategy (Cabinet decision dated 29 November 2019).

RECOMMENDED That the Cabinet Member for Health, Wellbeing & Social Care delegates authority to the Director Adult Services to instruct the

completion of a unilateral undertaking in accordance with section 106 of the Town & Country Planning Act 1990 relating to land at the former Longdean Lodge Site, Hillsley Road, Portsmouth, PO6 4NH and Edinburgh House, Sundridge Close, Portsmouth PO6 3JL.

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Agenda Item 3



Portsmouth
CITY COUNCIL

Title of meeting: Cabinet Member for Health, Wellbeing & Social Care

Date of meeting: 26 March 2020

Subject: Adult Social Care Charging Arrangements

Report from: Innes Richens, Chief of Health & Social Care Portsmouth

Report by: Richard Webb, Finance Manager

Wards affected: All Wards

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 The purpose of this report is to respond to the motion adopted by Full Council on the 14th January 2020, which sought the Cabinet Member for Health, Wellbeing and Social Care to investigate the introduction of a day care cap for all Social Care client groups and to advise councillors of the financial cost of this.

2. Recommendations

- 2.1 It is recommended that the Cabinet Member:

a. Consider and approve one of the following options:

1. Maintain the current charging arrangements within Adult Social Care, in line with Care Act 2014 and the related charging Regulations; or
Subject to recommendations (b) and (c) below:
2. Reinstate a financial cap for Day Care, Community Support and Health & Independence Services; or
3. Implement a financial cap across all Adult Social Care services.

- b. Confirm the level of the financial cap to be applied from Monday 06 April 2020, should the implementation of a financial cap be approved as set out in recommendation (a2) or (a3) above.

- c. Agree that should the implementation of a financial cap be approved as set out in recommendation (a2) or (a3) above, it will on a temporary basis, until the publication and implementation of the anticipated government reforms of the financial arrangements for the Adult Social Care sector and how people fund their care and their eligibility for financial support from Local Authorities in the future.**
- d. Request the Chief of Health & Care Portsmouth to identify and implement alternative income or savings strategies in order to offset any lost income in 2020-21 and future years, and enable Adult Social Care to maintain a balanced budget.**

3. Background

3.1. At the Health, Wellbeing & Social Care Portfolio meeting on 25 September 2018, it was agreed to remove the financial cap of £60.00 per week for client contributions for all client groups, for the following services:

- Day care
- Community Support
- Health & Independence

3.2. Following the removal of the financial cap, clients contribute up to their maximum assessed charge; based on a financial assessment of their means in accordance with the Care Act 2014 and related Care and Support (Charging & Assessment of Resources) Regulations. This is consistent with the charging principles applied to other chargeable Adult Social Care services such as: Domiciliary, Nursing and Residential Care.

3.3. One of the main reasons for removing the financial cap from the above services, was to ensure that clients across Adult Social Care were treated consistently and equitably for charging purposes.

3.4. A motion (9c) was presented to Full Council on the 14th January 2020 which stated:

".....The council believes that charging for both day care and residential care has been unfair in its effect. It therefore calls on the Cabinet member for Health, Wellbeing and Social Care to investigate the introduction of a day care cap for all Social Care client groups and to advise councillors of the financial cost of this. This consideration of all Social Care client groups would protect the council from potential legal action under equalities legislation which would be a risk if a change was made for just one client group...."

3.5. Subsequently, at Full Council on 11 February 2020, it was suggested that any financial cap could be reinstated at £250 per week in respect of Day Care, Community Support and Health & Independence services.

However, any reinstatement of the financial cap would be conditional upon legal opinion confirming that the implementation of such a cap is not discriminatory in law and that clients with a protected characteristic will not be determined to be treated unfairly.

4. Legal Power Charge

- 4.1. The Care Act provides a single legal framework for charging for care and support under sections 14 and 17 of the Act. It enables a local authority to decide whether or not to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs. Where a local authority arranges care and support to meet a person's needs, it may charge the adult, except where the local authority is required to arrange care and support free of charge.
- 4.2. Under the Care Act, Local Authorities have a duty to arrange care and support for those with eligible needs and a power to meet both eligible and non-eligible needs. In all cases, a local authority has the discretion to choose whether or not to charge under section 14 of the Care Act following a person's needs assessment. Where it decides to charge, it must follow the Care and Support (Charging and Assessment of Resources) Regulations and have regard to the Care Act guidance. The detail of how to charge an individual is different depending on whether someone is receiving care in a care home, or their own home, or another setting.
- 4.3. In deciding what it is reasonable to charge, local authorities must ensure that they do not charge more than is permitted under the regulations and guidance.
- 4.4. When choosing to charge, a local authority must not charge more than the cost that it incurs in meeting the assessed needs of the person. It also cannot recover any administration fee relating to arranging that care and support. The only exception is in the case of a person with eligible needs and assets above the upper capital limit (currently £23,250) who have asked the local authority to arrange their care and support on their behalf in a non-care home setting.

5. Financial Assessment Methodology

- 5.1 As highlighted above, where the Council decides to charge for services, it must follow the requirements of the Care Act 2014, the Care and Support (Charging and Assessment of Resources) Regulations as well as having regard to the statutory guidance.

- 5.2 The mechanism for charging an individual will also depend on whether someone is receiving care in a care home, or their own home, or another setting.
- 5.3 In applying the principles of the Care Act and the Charging Regulations, the Council will undertake a means tested financial assessment for each individual.
- 5.4 Capital thresholds and Minimum Income Guarantee (MIG) values are set nationally by the Department of Health and are not a local decision. The current upper capital threshold is £23,250. This means that any client with capital¹ above this threshold is considered as having the financial resources available to meet full cost of services. Where a person refuses a financial assessment the Local Authority can assume the client has sufficient financial resource and will be considered full cost. The Council offers a full welfare benefits check for all clients (including full cost clients) to ensure they are accessing all the financial support available to them to help sustain affordability of care.
- 5.5 Where a person has less than the upper capital threshold a full financial assessment is completed. For care other than that in a care home setting, there are a number of sources of income that the Council is required to disregard. These include:²
- a. Direct Payments
 - b. Guaranteed Income Payments made to veterans under the Armed Forces Compensation Scheme
 - c. War Pension Scheme payments made to veterans with the exception of Constant Attendance Allowance payments
 - d. Mobility component of Disability Living Allowance
 - e. Mobility component of Personal Independence Payments
 - f. Money from employment, such as wages.
 - g. Payments received on behalf of a child, such as child tax credit.
 - h. Charitable payments.
- 5.6 The means tested financial assessment will consider the clients eligible income, allowable expenses, (housing costs and disability related expenditure) and a personal allowance or Minimum Income Guarantee, which is set according to an individual's age bracket, living arrangements and disability³. An example means test assessment is shown below.

¹ Annex B of the Care Act Statutory Guidance provides guidance of the treatment of capital

² Annex C of the Care Act Statutory Guidance provides guidance of the treatment of income

³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772969/Social_care_charging_for_care_and_support_-_LAC_2019.pdf

FINANCIAL ASSESSMENT:

Total Income/Benefits	£276.20
Tariff Income from Total Capital	£0.00
Total Disregarded Income	-£23.20
Total Allowances/Expenses	-£32.50
Minimum Income Guarantee (MIG)	-£151.45
Calculated Disposable Income	£69.05

MAXIMUM WEEKLY CHARGE **£69.05**

ACTUAL WEEKLY CHARGE **£69.05**
(Based on current care package cost)

- 5.7 If, after deducting allowable expenses and the Minimum Income Guarantee (MIG) value from the client's total income there is a remaining value, this is considered to be the client's disposable income and would constitute their maximum weekly charge. Clients are charged either their assessed maximum charge or the actual cost of service(s) whichever is the lower amount.
- 5.8 The Council seeks to comply with the Care Act 2014 charging principles and apply these to all clients across all services. Based on the application of these principles, some clients will pay the full cost of services, some will contribute towards the cost of services and some will pay nothing at all; the determining factor being the individual's financial circumstances.
- 5.9 The principles are that the approach to charging for care and support needs should:
- apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings
 - be sustainable for local authorities in the long-term
 - ensure that people are not charged more than it is reasonably practicable for them to pay
 - be comprehensive, to reduce variation in the way people are assessed and charged
 - be clear and transparent, so people know what they will be charged
 - promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control
 - support carers to look after their own health and wellbeing and to care effectively and safely
 - be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs
 - encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so

6. Financial & Administrative Impact

- 6.1 As at February 2020, 90% of the Adult Social Care Clients in receipt of Day care, Community Support and Health & Independence services, were either paying nothing (37%) or contributing up to £60.00 per week (53%). Of the remaining 10% of clients, 7% were contributing between £60.01 and £100.00 per week.
- 6.2 The table below provides a breakdown of the clients contributing in excess of £60.00 per week according to the level of their weekly contribution.

Weekly Contribution £	Number of Clients No.
60.01 - 100.00	38
100.01 - 150.00	6
150.01 - 200.00	7
200.01 - 250.00	1
250.01 - 300.00	3
300.01 - 350.00	0
350.01 +	1
56	

- 6.3 The table above shows four clients with financial contributions in excess of £250 per week. From an analysis of the financial assessments for these clients, the reasons their current level of contributions, is due to a combination of the level of services being utilised and all clients having capital in excess of the threshold of £23,250.
- 6.4 The motion approved by Full Council sought to understand the financial impact of reinstating a financial cap. The table below shows the potential cost to Adult Social Care (as a consequence of lost income) if the financial cap were to be reintroduced for the Day Care, Community Support and Health & Independence services.

Level of financial cap £	Estimated reduction in income £
60	146,704
100	85,352
150	48,696
200	29,488
250	17,527
300	11,117

- 6.5 As highlighted within the September 2018 report, the removal of the financial cap sought to align the charging policy across all Adult Social Care services, so that all clients would be financial assessed in line with the Care Act and related charging Regulations, and contribute only up to the their maximum assessed charge. This change was also line with the Care Act charging principle which seeks to ensure that the charging rules

are applied equally so those with similar needs or services are treated the same and minimise anomalies between different care settings

- 6.6 Should the reintroduction of the cap be applied across all Adult Social Care services (including Domiciliary, Nursing and Residential Care) the table below shows the potential cost to Adult Social Care, as a consequence of lost income.

Level of financial cap £	No. of clients affected	Estimated reduction in income £	Estimated reduction in income as % of ASC 2020/21 Cash Limit
60	1,057	6,010,500	13.07%
100	724	4,156,200	9.04%
150	331	2,805,000	6.10%
200	201	2,163,900	4.71%
250	128	1,767,600	3.84%
300	90	1,511,300	3.29%

- 6.7 If the financial cap were to be reintroduced, then Adult Social Care would need to identify and implement alternative income or savings strategies to maintain a balanced budget in order to offset any lost income in 2020-21 and future years. The table above also shows the estimated reduction in income as a percentage of the net budget for 2020-21.

Administrative Impact

- 6.8 Since the previous financial cap was removed, the Adult Social Care case management system and related finance systems have been replaced. As a consequence the new systems are configured to apply the Care Act financial assessment framework. Should the financial cap be reintroduced, the application of the change could not currently be applied automatically within the system and therefore manual intervention would be required.
- 6.9 Any manual intervention would need to be undertaken on each client's record on a weekly basis for billing purposes. The staffing resources required to administer the application of any financial cap will be dependent on the level of the cap and the number of clients affected. For every 100 clients that the cap would apply to, it is currently estimated that an additional 1 FTE of billing support staff would be required to process the weekly adjustments.

7. Community Engagement

- 7.1 Throughout the implementation period an engagement exercise was undertaken, which included information letters being sent to clients and/or their representatives. Additionally, visits were offered to all clients, in order to undertake a review of their current assessment and/or a welfare benefits check to ensure clients are in receipt of all the Welfare Benefits that they may be entitled to; specifically Attendance Allowance and Personal Independence Payment. These benefits are non-mean's tested and therefore would offer an additional income stream to minimise impact of the charging policy change.
- 7.2 No formal complaints in relation to this policy change were received through the Adult Social Care complaints team.

8. Options for consideration

- 8.1 There are three main options available for consideration, which are assessed in detail below.
- i. Maintain the current charging arrangements
 - ii. Reinststate a financial cap for specific services
 - iii. Reinststate a financial cap all Adult Social Care services

Option 1 - Maintain the current charging arrangements

Under the current charging arrangements, all clients will only pay for Adult Social Care services up to their maximum assessed contribution, in accordance with the Care Act 2014, the Care and Support (Charging and Assessment of Resources) Regulations. This approach to charging is also consistent with the following Care Act charging principles:

- *apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings*
- *be sustainable for local authorities in the long-term*

As shown above, under these arrangements 90% of the clients in receipts of the Day Care, Community Support and Health & Independence services are either paying nothing (37%) or contributing up to £60.00 per week (53%). A further 7% are contributing between £60.01 and £100 per week.

There are 4 clients who are contributing in excess of £250.00 based on a combination of the level of services they are utilising and their individual financial circumstances.

Option 2 - Reinstate a financial cap for specific services

Reinstating a financial cap for Day Care, Community Support and Health & Independence services would:

- Reduce the costs borne by individual users of these services.
- Create an anomaly in the charging rules between the different care settings, as this would be inconsistent with the Care Act charging principles.
- Potentially not be financially sustainable for Adult Social Care in the long-term.
- Require the disapplication of the charging framework specified in the Care Act and the related Charging Regulations for specific individuals.
- Create additional administrative tasks, as each system generated bill would require manual adjustment.

Based on the data above, under the current charging arrangements 97% of the client cohort are either paying nothing or contributing up to £100 per week for the services they are receiving. Therefore any financial cap above this amount would create a charging anomaly for 18 clients or less.

An alternative sub-option that could also be considered here, is to reinstate a financial cap for Day Care, Community Support and Health & Independence Services, for those clients who were in receipt of these services prior to the removal of the financial cap; and continue to be in receipt of these services. New clients would continue to be assessed in accordance with the Care Act 2014, the Care and Support (Charging and Assessment of Resources) Regulations.

It should be noted that any decrease in an individual's charges for these services may not automatically lead to a decrease in their financial contributions. The reason for this is that if the cost of other services that they utilising, together with the cost of the capped services is equal to or greater than their maximum assessed charge, then the client's contributions will remain at the current level.

Option 3 - Reinstate a financial cap all Adult Social Care services

If a financial cap was implemented for all Adult Social Care Services, then it would ensure there was consistency in the charging principles applied across all services and client groups. It was also reduce the costs borne by individual users of these services (where their charges would have been in excess of any proposed financial cap). However the changes would:

- Potentially not be financially sustainable for Adult Social Care in the long-term.
- Require the disapplication of the charging framework specified in the Care Act and the related Charging Regulations for specific individuals.
- Create additional administrative tasks, as each system generated bill would require manual adjustment.

Any level of financial cap across all services would result in significant reductions in income for Adult Social Care. Therefore the service would need to identify and implement alternative income or savings strategies to maintain a balanced budget in order to offset any lost income in 2020-21 and future years. The table at paragraph 6.6 shows estimated loss of income at different levels of financial cap.

- 8.2 Should it be considered appropriate to reintroduce a financial cap on the financial contributions expected from Adult Social Care clients, then a further option for consideration may be to time limit the application of any financial cap.
- 8.3 The Adult Social Care sector has been awaiting the publication by the government of its proposals for the potential reform of the financial arrangements for this sector and how people fund their care and their eligibility for financial support from Local Authorities in the future. These potential reforms could therefore affect the future charging arrangements for Adult Social Care service, including Day Care, Community Support and Health & Independence services.

9. Reasons for recommendations

- 9.1 The report provides a response to the motion adopted by Full Council on the 14th January 2020 and seeks to consider the impacts of implementing a financial cap to the charging arrangements for Adult Social Care services. The recommendation requests the Cabinet Member to consider and approve one of the potential options available in response to the motion.
- 9.2 Any reinstatement of the financial cap would be conditional upon legal opinion confirming that the implementation of such a cap is not discriminatory in law and that clients with a protected characteristic will not be determined to be treated unfairly.

10. Integrated Impact Assessment (IIA)

- 10.1 A preliminary Integrated Impact Assessment (IIA) has been carried out (Appendix 1). From this it was been determined that a full IIA would not be required.
- 10.2 As highlighted within the Legal Comments section below, the reason the original cap of £60 per week was looked at (September 25th 2018) was that it created wide disparity, was inconsistent, inequitable and confusing.
- 10.3 The current position is that all service users are financially assessed in accordance with the Care Act 2014 and related charging regulations. Under this arrangement clients may pay different amounts, but their expected contribution will be based on their individual circumstances.
- 10.4 Should any financial cap be reintroduced then it is likely to increase the level of disparity, inconsistency and inequality across, and therefore create charging anomalies across different care settings.
- 10.5 In order to minimise the risk that the introduction of the financial cap will create direct discrimination, any financial cap should be equally to services across all client groups. Additionally, the policy should not differentiate on the basis of age or disability.
- 10.6 In terms of indirect discrimination, the reinstatement of the financial cap would will have a financial impact and will result in those with higher levels of disposable income and higher levels of need, paying less proportionately towards the cost of their care and support.

11. Legal Comments

- 11.1 The power to set charges is found in sections 14 and 17 of the care Act 2014 and the Care and Support (Charging and Assessment of Resources) Regulations 2014. The Local Authority (LA) has a power to charge and currently charges service users up to their maximum assessed charge based upon the individual service users own financial assessment.
- 11.2 There is nothing wrong with the premise that a) a charge can be made and b) it is based upon the statutory regulations.
- 11.3 The fact that individual service users may all pay different amounts is purely based upon their own individual circumstances.
- 11.4 Looking back, the reason the original cap of £60 was looked at (September 25th 2018) was that it created wide disparity was inconsistent, inequitable and confusing. The change meant that moving on post September all those who made a contribution were assessed as

having to pay the maximum amount, this Provision Criteria or Practice (PCP) being applied to the whole group (circa 71 service users at the time).

- 11.5 The current position is that all service users make the assessed contribution.
- 11.6 Claims based upon engaging the Equality Act 2010 could potentially be initiated. The duty here is in the provision of services or indeed in interpreting the process for financial assessment as part of the initial process. The starting point is section 29 of the Equality Act that prohibits service providers and persons exercising public functions from doing anything that constitutes discrimination. This duty applies to most protected characteristics, which for our purposes are confined to age and disability.
- 11.7 What is a service is not defined in the act other than to say that the provision of a service includes the provision of goods or facilities in the exercise of a public function (here we as the LA are engaged in providing the facilities). The question to ask is in providing the service and applying the provision criterion or practice (paying the full assessed contribution) does that amount to a discrimination in the sense that a service user is being treated less favourably than those because of the protected characteristic. On a direct basis there is limited possibility of a claim being raised because:
- a. We are looking at the same policy for all with the same application process being applied to all.
 - b. We do not differentiate about contribution just saying that the maximum assessed payment will be taken.
 - c. We do not differentiate on the basis of age, or disability.
- 11.8 The existing policy in its current form and application exposes the LA to very limited challenge.
- 11.9 On the issue of indirect discrimination that occurs when the service provider applies a provision, criterion or practice that places service users sharing a protected characteristic at a particular disadvantage that cannot be justified. The current blanket PCP whilst costing more to some than others is such that on the face of it is not placing any user at a particular disadvantage and even if that was the case it could be justified that the PCP is a proportionate means of achieving a legitimate aim. The LA could suggest that the removal of the cap was to redress the unfairness as in the original 2018 decision.
- 11.10 The fact that persons pay more or less is a fact and may seem unfair which of itself is not an illegality.

- 11.11 The reinstatement of the financial cap would have as the report espouses a financial impact along with a potential argument about the rationality of such a decision as in effect those with higher need would be in receipt of a higher disposable income as their contribution would be less. There is an argument that this is an unreasonable decision and not one any reasonable LA would make.

12. Finance Comments

- 12.1 Under the current charging arrangements, clients are only expected to contribute up to their maximum assessed charge; based on a financial assessment of their means in accordance with the Care Act 2014 and related Care and Support (Charging & Assessment of Resources) Regulations.
- 12.2 Any decision to introduce a financial cap to any assessed client charges will result in a reduction in the level of income received by Adult Social Care. The tables within the report provide estimates of the potential lost income at different levels of financial cap, depending on whether they are applied to all Adult Social Care services or limited to Day Care, Community Support and Health & Independence services.
- 12.3 If a financial cap was to be implemented, Adult Social Care would need to identify and implement alternative income or savings strategies to maintain a balanced budget in order to offset any lost income in 2020-21 and future years.

.....
Signed by:

Appendices:

1 - Integrated Impact Assessment

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
The Care Act	www.legislation.gov.uk
The Care and Support (Charging and Assessment of Resources) Regulations	www.legislation.gov.uk

Care & Support Statutory Guidance	https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#charging-and-financial-assessment

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

.....
Signed by:

Integrated Impact Assessment (IIA)

Integrated impact assessment (IIA) form December 2019

www.portsmouth.gov.uk

The integrated impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies that could impact positively or negatively on the following areas:
 - Communities and safety
 - Regeneration and culture
 - Environment and public space
 - Equality & diversity

Directorate:

Adult Social Care

Service, function:

Chargeable Services

Title of policy, service, function, project or strategy (new or old) :

Adult Social Care Charging Arrangements

Type of policy, service, function, project or strategy:

- ☒ Existing
- ☐ New / proposed
- ☐ Changed

What is the aim of your policy, service, function, project or strategy?

The purpose of this is to respond to the motion adopted by Full Council on the 14th January 2020, which sought the Cabinet Member for Health, Wellbeing and Social Care to investigate the introduction of a day care cap for all Social Care client groups and to advise councillors of the financial cost of this.

Has any consultation has been undertaken for this proposal? What were the outcomes of the consultations?
Has anything changed because of the consultation? Did this inform your proposal?

No.

A - Communities and safety

Yes

No

Is your policy, proposal relevant to the following questions?

A1-Crime - Will it make our city safer?

☐☒

In thinking about this question:

- How will it reduce crime, disorder, ASB and the fear of crime?
- How will it prevent the misuse of drugs, alcohol and other substances?
- How will it protect and support young people at risk of harm?
- How will it discourage re-offending?

If you want more information contact Lisa.Wills@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-spp-plan-2018-20.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How will you measure/check the impact of your proposal?

A - Communities and safety

Yes

No

Is your policy, proposal relevant to the following questions?

A2-Housing - Will it provide good quality homes?

☐☒

In thinking about this question:

- How will it increase good quality affordable housing, including social housing?
- How will it reduce the number of poor quality homes and accommodation?
- How will it produce well-insulated and sustainable buildings?
- How will it provide a mix of housing for different groups and needs?

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/psh-providing-affordable-housing-in-portsmouth-april-19.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

A - Communities and safety

Yes

No

Is your policy, proposal relevant to the following questions?

A3-Health - Will this help promote healthy, safe and independent living?

☐☒

In thinking about this question:

- How will it improve physical and mental health?
- How will it improve quality of life?
- How will it encourage healthy lifestyle choices?
- How will it create healthy places? (Including workplaces)

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/psh-providing-affordable-housing-in-portsmouth-april-19.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

A - Communities and safety

Yes

No

Is your policy, proposal relevant to the following questions?

A4-Income deprivation and poverty-Will it consider income deprivation and reduce poverty?

☐☒

In thinking about this question:

- How will it support those vulnerable to falling into poverty; e.g., single working age adults and lone parent households?
- How will it consider low-income communities, households and individuals?
- How will it support those unable to work?
- How will it support those with no educational qualifications?

If you want more information contact Mark.Sage@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-homelessness-strategy-2018-to-2023.pdf>
<https://www.portsmouth.gov.uk/ext/health-and-care/health/joint-strategic-needs-assessment>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

A - Communities and safety

Yes

No

Is your policy, proposal relevant to the following questions?

A5-Equality & diversity - Will it have any positive/negative impacts on the protected characteristics?

☒

In thinking about this question:

- How will it impact on the protected characteristics-Positive or negative impact (Protected characteristics under the Equality Act 2010, Age, disability, race/ethnicity, Sexual orientation, gender reassignment, sex, religion or belief, pregnancy and maternity, marriage and civil partnership,socio-economic)
- What mitigation has been put in place to lessen any impacts or barriers removed?
- How will it help promote equality for a specific protected characteristic?

If you want more information contact gina.perryman@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cmu-equality-strategy-2019-22-final.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

The current position is that all service users are financially assessed in accordance with the Care Act 2014 and related charging regulations. Under this arrangement clients may pay different amounts, but their expected contribution will be based on their individual circumstances.

The comments provided by Legal services within section 11 of the attached Portfolio report, should be considered in deciding whether to reintroduce any financial cap.

Should any financial cap be reintroduced then it is likely to increase the level of disparity, inconsistency and inequality across, and therefore create charging anomalies across different care settings.

In order to minimise the risk that the introduction of the financial cap will create direct discrimination, any financial cap should be equally to services across all client groups. Additionally, the policy should not differentiate on the basis of age or disability.

How are you going to measure/check the impact of your proposal?

Any reinstatement of the financial cap will be conditional upon legal opinion confirming that the implementation of such a cap is not discriminatory in law and that clients with a protected characteristic will not be determined to be

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B1-Carbon emissions - Will it reduce carbon emissions?☐☒

In thinking about this question:

- How will it reduce greenhouse gas emissions?
- How will it provide renewable sources of energy?
- How will it reduce the need for motorised vehicle travel?
- How will it encourage and support residents to reduce carbon emissions?

If you want more information contact Tristan.thorn@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cmu-sustainability-strategy.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B2-Energy use - Will it reduce energy use?☐☒

In thinking about this question:

- How will it reduce water consumption?
- How will it reduce electricity consumption?
- How will it reduce gas consumption?
- How will it reduce the production of waste?

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/psh-providing-affordable-housing-in-portsmouth-april-19.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B3 - Climate change mitigation and flooding-Will it proactively mitigate against a changing climate and flooding ?

☐☒

In thinking about this question:

- How will it minimise flood risk from both coastal and surface flooding in the future?
- How will it protect properties and buildings from flooding?
- How will it make local people aware of the risk from flooding?
- How will it mitigate for future changes in temperature and extreme weather events?

If you want more information contact Tristan.thorn@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/env-surface-water-management-plan-2019.pdf>

<https://www.portsmouth.gov.uk/ext/documents-external/cou-flood-risk-management-plan.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B4-Natural environment-Will it ensure public spaces are greener, more sustainable and well-maintained?

☐☒

In thinking about this question:

- How will it encourage biodiversity and protect habitats?
- How will it preserve natural sites?
- How will it conserve and enhance natural species?

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/pln-solent-recreation-mitigation-strategy-dec-17.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B5-Air quality - Will it improve air quality?☐☒

In thinking about this question:

- How will it reduce motor-vehicle traffic congestion?
- How will it reduce emissions of key pollutants?
- How will it discourage the idling of motor vehicles?
- How will it reduce reliance on private car use?

If you want more information contact Hayley.Trower@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/env-aq-air-quality-plan-outline-business-case.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B6-Transport - Will it improve road safety and transport for the whole community?☐☒

In thinking about this question:

- How will it prioritise pedestrians, cyclists and public transport users over users of private vehicles?
- How will it be safe and comfortable for children and older people to cycle and walk in the area?
- How will it increase the proportion of journeys made using sustainable and active transport?
- How will it reduce the risk of traffic collisions, and near misses, with pedestrians and cyclists?

If you want more information contact Pam.Turton@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/travel/local-transport-plan-3>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B7-Waste management - Will it increase recycling and reduce the production of waste?

☐☒

In thinking about this question:

- How will it reduce household waste and consumption?
- How will it increase recycling?
- How will it reduce industrial and construction waste?

If you want more information contact Steven.Russell@portsmouthcc.gov.uk or go to:

<https://documents.hants.gov.uk/mineralsandwaste/HampshireMineralsWastePlanADOPTED.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

C - Regeneration of our city

Yes

No

Is your policy, proposal relevant to the following questions?

C1-Culture and heritage - Will it promote, protect and enhance our culture and heritage?

☐☒

In thinking about this question:

- How will it protect areas of cultural value?
- How will it protect listed buildings?
- How will it encourage events and attractions?
- How will it make Portsmouth a city people want to live in?

If you want more information contact Claire.Looney@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/pln-portsmouth-plan-post-adoption.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

C - Regeneration of our city

Yes

No

Is your policy, proposal relevant to the following questions?

C2-Employment and opportunities - Will it promote the development of a skilled workforce?

☐☒

In thinking about this question:

- How will it improve qualifications and skills for local people?
- How will it reduce unemployment?
- How will it create high quality jobs?
- How will it improve earnings?

If you want more information contact Mark.Pembleton@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-regeneration-strategy.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

Is your policy, proposal relevant to the following questions?

C3 - Economy - Will it encourage businesses to invest in the city, support sustainable growth and regeneration?

☐☒

In thinking about this question:

- How will it encourage the development of key industries?
- How will it improve the local economy?
- How will it create valuable employment opportunities for local people?
- How will it promote employment and growth to the city?

If you want more information contact Mark.Pembleton@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-regeneration-strategy.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

Q8 - Who was involved in the Integrated integrated assessment?

Richard Webb

This IIA has been approved by: Andy Biddle

Contact number: 8697

Date: 06/03/20



Title of meeting:	Health, Wellbeing & Social Care Decision
Date of meeting:	26 th March 2020
Subject:	Allocation of Nutrient Neutrality Credits - Longdean and Edinburgh Sites
Report by:	Angela Dryer - Director Adult Services
Wards affected:	Cosham and Paulsgrove
Key decision:	Yes
Full Council decision:	No

1. Purpose of report

- 1.1 To seek approval from the Health, Wellbeing & Social Care portfolio holder for the transfer of nutrient neutrality credits from the former Edinburgh House residential care home to a new development of 13 flats on the Longdean Lodge site to enable a planning permission be granted and the remainder of credits be transferred to the nutrient credit bank detailed in the Council's Interim Nutrient Neutrality Strategy (Cabinet decision dated 29 November 2019).

2. Recommendation

- 2.1 **That the Cabinet Member for Health, Wellbeing & Social Care delegates authority to the Director Adult Services to instruct the completion of a unilateral undertaking in accordance with section 106 of the Town & Country Planning Act 1990 relating to land at the former Longdean Lodge Site, Hillsley Road, Portsmouth, PO6 4NH and Edinburgh House, Sundridge Close, Portsmouth PO6 3JL.**

3. Background

- 3.1 The Edinburgh House and Longdean Lodge sites are both in the Health, Wellbeing & Social Care portfolio.
- 3.2 The Council have approved an interim nutrient neutral mitigation strategy for new dwellings (November 2019) to mitigate the impact of the adverse effects arising from the occupation of new developments in respect of nitrogen and phosphorous input into the Solent.
- 3.3 There is a capital programme approved scheme to develop 13 flats of supported accommodation for people with learning disabilities on the Longdean Lodge site and a planning permission can be granted, provided the issue of nutrient impact upon Special Protection Areas has been satisfactorily addressed.

- 3.4 By way of a unilateral undertaking by the Council, part of the previous water use of the Edinburgh House residential care home (demolished in December 2019 but still having a lawful planning use as a care home) can be apportioned to the Longdean development, which would result in the scheme becoming nutrient neutral because the undertaking to cease use of the Edinburgh House site weighed against the new proposed use at the Longdean House site would not result in a net increase in water use and associated nutrient discharge or "nitrate load"
- 3.5 This report also seeks authority from the Member for Health, Wellbeing & Social Care for the remaining nitrate load from the Edinburgh House site to be allocated to the nutrient credit bank detailed in the Council's Interim Nutrient Neutrality Strategy.
- 3.6 As the building/s at the Longdean site had been demolished in 2015, their impact in respect of Nitrate load had ceased, as advised by Natural England. If the remaining credits from the Edinburgh House site are not transferred to the nutrient credit bank, there is a risk that a similar view could be taken at the Edinburgh House site and any remaining credits (following transfer in part to Longdean) would be lost following the demolition process.
- 3.7 A unilateral undertaking has been drafted, which would obligate the Council and any successive owners of the Edinburgh House site not to develop the Edinburgh House site unless it can reasonably be demonstrated that the development will not have a likely significant effect upon special protection areas as described in the Interim Nutrient Neutrality Strategy or the prevailing policy of the Council at the time having regard to its legal obligations.

4. Reasons for recommendations

- 4.1 The new Longdean development will provide much needed homes for residents and support Portsmouth City Council's corporate priority 1: "Make Portsmouth a city that works together, enabling communities to thrive and people to live healthy, safe and independent lives".
- 4.2 The scheme will allow Adult Services to move adults into better quality and more suitable homes, designed to meet need and within the Portsmouth City Council boundary.
- 4.3 The unilateral undertaking to secure the 'nitrate load' off-setting is necessary to ensure that the Council accords with its obligations under the Conservation of Habitats and Species Regulations 2017 with regard to mitigation of the impact of the Longdean development.
- 4.4 Committing the remaining 'nitrate load' at Edinburgh House to the Council's nutrient credit bank allows the Council to facilitate mitigation for other development sites in the city, also in accordance with aforementioned corporate objective.

5. Integrated impact assessment

- 5.1 An Integrated Impact Assessment has been completed with no adverse integrated implications identified.

6. Legal implications

- 6.1 The recommendation is within the power of the Cabinet Member for Health, Wellbeing & Social Care to adopt and accords with the strategy envisaged by the Cabinet in approving the Interim Nutrient Neutrality Strategy (Cabinet decision dated 29 November 2019). The legal implications are two-fold: Firstly, the apportioning of an extant nitrate load from the Edinburgh House site to the benefit of the Longdean House site; secondly, to then commit the remaining 'nitrate load' at Edinburgh House to the Council's central nutrient credit bank, to operate in accordance with the Interim Nutrient Neutrality Strategy.

Control of the Edinburgh House site will remain within the Health, Wellbeing & Social Care portfolio but the portfolio is being asked to actively cede any control over the apportionment of 'nitrate load' as described in this report and specifically detailed in the draft unilateral undertaking. In practical terms, this means that any future development at Edinburgh House for a use within that portfolio is likely (on the assumption that it would entail overnight, residential stays) to need to overcome environmental nutrient neutrality objections in the same way as any other development in the city as detailed in the Interim Nutrient Neutrality Strategy.

7. Director of Finance's comments

- 7.1 The proposals contained within this report seek approval for the transfer of nutrient neutrality credits from the former Edinburgh House residential care home to a new development of 13 flats on the Longdean Lodge site to enable a planning permission be granted and the remainder of credits be transferred to the nutrient credit bank detailed in the Council's Interim Nutrient Neutrality Strategy.
- 7.2 On the 25th February 2019, the Housing Cabinet approved the capital expenditure of £6.6m, to deliver 13 new properties housing 28 adults with Learning disabilities, comprising of five, 4 bed shared flats and eight, 1 bed flats to be held in the Supported Housing Portfolio within the Housing Revenue Account. As highlighted within that report, the General Fund is anticipated to benefit by c.£325,000 per annum from a reduction in the cost of care packages.
- 7.3 As highlighted above, any future development at Edinburgh House for a use within that portfolio is likely (on the assumption that it would entail overnight, residential stays) to need to overcome environmental nutrient neutrality objections in the same way as any other development in the city as detailed in the Interim Nutrient Neutrality Strategy.

- 7.4** Nutrient neutrality objections may lead to delays in the development of the Extra Care - Dementia accommodation on the former Edinburgh House site. Should delays occur, then there will impact on the ability of the service to realise anticipated reductions in care packages, in line with the Adult Social Care Medium Term Financial Strategy.

.....
Signed by:
Angela Dryer - Director Adult Services

Appendices:

- A - Unilateral Undertaking
B - Integrated Impact Assessment

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

The recommendation(s) set out above were approved/ approved as amended/ deferred/

rejected by on

.....Signed by:

DATED

**PLANNING OBLIGATION BY WAY OF UNILATERAL UNDERTAKING UNDER
SECTION 106 OF THE TOWN & COUNTRY PLANNING ACT 1990
RELATING TO LAND AT:**

**FORMER LONGDEAN LODGE SITE, HILLSLEY ROAD, PORTSMOUTH,
PO6 4NH**

AND

EDINBURGH HOUSE, SUNDRIDGE CLOSE, PORTSMOUTH PO6 3JL

by

PORTSMOUTH CITY COUNCIL

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THIS DEED is dated _____ 2020

- (1) Portsmouth City Council whose office is at Civic Offices, Guildhall Square, Portsmouth PO1 2AL ("**Owner**") who shall be manifested through the Director of Adult Services (or their successor from time to time) as the senior officer with responsibility for the portfolio within which the Property is held pursuant to statutory duties relating to adult social care.

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
- (B) The Owner owns the Property and the Nitrate Mitigation Land.
- (C) The Owner has made the Planning Application and is proposing to carry out the Development.
- (D) The Owner is desirous of ensuring that the Development is implemented and used in accordance with the principles of nutrient neutrality described in the Council's Interim Nutrient Neutrality Strategy and enters this deed accordingly.
- (E) The Owner gives this undertaking to perform the obligations set out in this deed.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this deed and for no other purpose, the following operations: demolition works; site clearance; ground investigations; site survey works; temporary access construction works; archaeological investigation; and erection of any fences and hoardings around the Property.

Commenced and Commences shall be construed accordingly.

Commencement Date: the date of Commencement of Development.

Council: Portsmouth City Council of Civic Offices, Guildhall Square, Portsmouth PO1 2AL, manifested through the Assistant Director of Planning and Economic Development.

Development: the development of the Property described in the Planning Application.

Interim Nutrient Neutrality Strategy: the Council's Interim Nutrient Neutral Mitigation Strategy for New Dwellings (November 2019) to mitigate the impact of the adverse effects arising from the occupation of the Development in respect of nitrogen and phosphorous input into the Solent European Designated Sites of:

- (a) The Portsmouth Harbour Special Protection Area/RAMSAR Site;
 - (b) The Chichester and Langstone Harbours Special Protection Area/RAMSAR Site;
- the Solent and Isle of Wight Lagoons Special Area of Conservation; and
- (c) the Solent Maritime Special Area of Conservation.

Nitrate Mitigation Land: the freehold land edged blue on Plan 2 attached to this Deed, being land known as Edinburgh House, Sundridge Close, Portsmouth PO6 3JL registered at HM Land Registry with absolute title under title number PM24907.

Plan 1: the plan so marked depicting the Property edged red attached to this deed.

Plan 2: the plan so marked depicting the Nitrate Mitigation Land edged blue attached to this deed.

Property: the freehold land at Former Longdean Lodge Site, Hillsley Road, Portsmouth, PO6 4NH shown edged red on Plan 1 being part of the land registered at HM Land Registry with absolute title under title number PM20910.

Local Plan: 'A spatial plan for Portsmouth - the Portsmouth Plan (Portsmouth's Core Strategy) Adopted 24 January 2012'.

Planning Application: an application for planning permission validated by the Council on 7 March 2019 under reference number 19/00371/CS3 for construction of a part 3, part 4 storey building to provide 13 supported living flats with staff and communal facilities and associated landscaping.

Planning Permission: the planning permission to be granted by the Council in respect of the Planning Application.

TCPA 1990: Town and Country Planning Act 1990.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 1.6 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to the Council shall include the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** excludes faxes and e-mail.
- 1.11 A reference to **this deed** or to any other deed or document referred to in this deed is a reference to this deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.
- 1.12 References to clauses are to the clauses of this deed.
- 1.13 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.14 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISIONS

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 of the Local Government Act 1972 and any other enabling powers, and a local land charge in its own right in accordance with section 1(b)(i) Local Land Charges Act 1975 and any other enabling powers.
- 2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and a local land charge for the purposes of section 1(b)(i) Local Land Charges Act 1975 and any other enabling powers and are entered into by the Owner with the intention that they bind the interests held by those persons in the Property and the Nitrate Mitigation Land and their respective successors and assigns.

- 2.3 This deed shall come into effect on the date of grant of the Planning Permission.
- 2.4 The obligations contained in clause 3 of this deed are enforceable by the Council against successors in title in accordance with section 106 of the TCPA 1990 and any other enabling powers.

3. COVENANTS WITH THE COUNCIL

The Owner covenants with the Council:

- 3.1 to comply with the obligations in the Schedule to this deed at all times and in perpetuity; and,
- 3.2 to give the Council not less than 5 Working Days' notice of Commencement of Development.

4. RELEASE

No person shall be liable for any breach of an obligation, restriction or covenant contained in this deed after parting with all of its interest in the Property or the Nitrate Mitigation Land respectively, except in respect of any breach subsisting prior to parting with such interest in so far as that obligation, restriction or covenant related to its respective interest(s).

5. DETERMINATION OF DEED

This deed shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development;
- (b) is varied or revoked other than at the request of the Owner; or
- (c) is quashed following a successful legal challenge.

6. LOCAL LAND CHARGE

This deed is a local land charge and shall be registered as such by the Council.

7. OWNERSHIP

- 7.1 The Owner warrants that no person other than the Owner has any legal or equitable interest in the Property.
- 7.2 The Owner will give to the Council 20 Working Days' notice of the following details of any conveyance, transfer, lease for a term certain in excess of 3 years, assignment,

mortgage or other disposition to be entered into in respect of all or any part of the Property:

- (a) the name and address of the person to whom the disposition was made; and
- (b) the nature and extent of the interest disposed of.

8. NOTICES

8.1 A notice or other communication to be given under or in connection with this deed must be in writing and must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service.

8.2 Any notice or other communication to be given under this deed must be sent to the relevant party as follows:

- (a) to the Council at: Planning Services, Regeneration Directorate, Civic Offices, Guildhall Square, Portsmouth PO1 2AL marked for the attention of Assistant Director of Planning and Economic Development;
- (b) to the Owner at: Adult Social Care Services, Civic Offices, Guildhall Square, Portsmouth PO1 2AL marked for the attention of Director of Adult Services;

or as otherwise specified by the relevant person by notice in writing to each other person.

8.3 Any notice or other communication given in accordance with clause 8.1 and clause 8.2 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt provided that if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day;
- (b) if sent by pre-paid first class post or other next working day delivery service at 9.00 am on the second Working Day after posting.

8.4 A notice or other communication given under this deed by e-mail may only be accepted at the sole discretion of the Council.

8.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

9. GOVERNING LAW

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

The common seal of PORTSMOUTH
CITY COUNCIL was affixed to this
deed in the presence of:

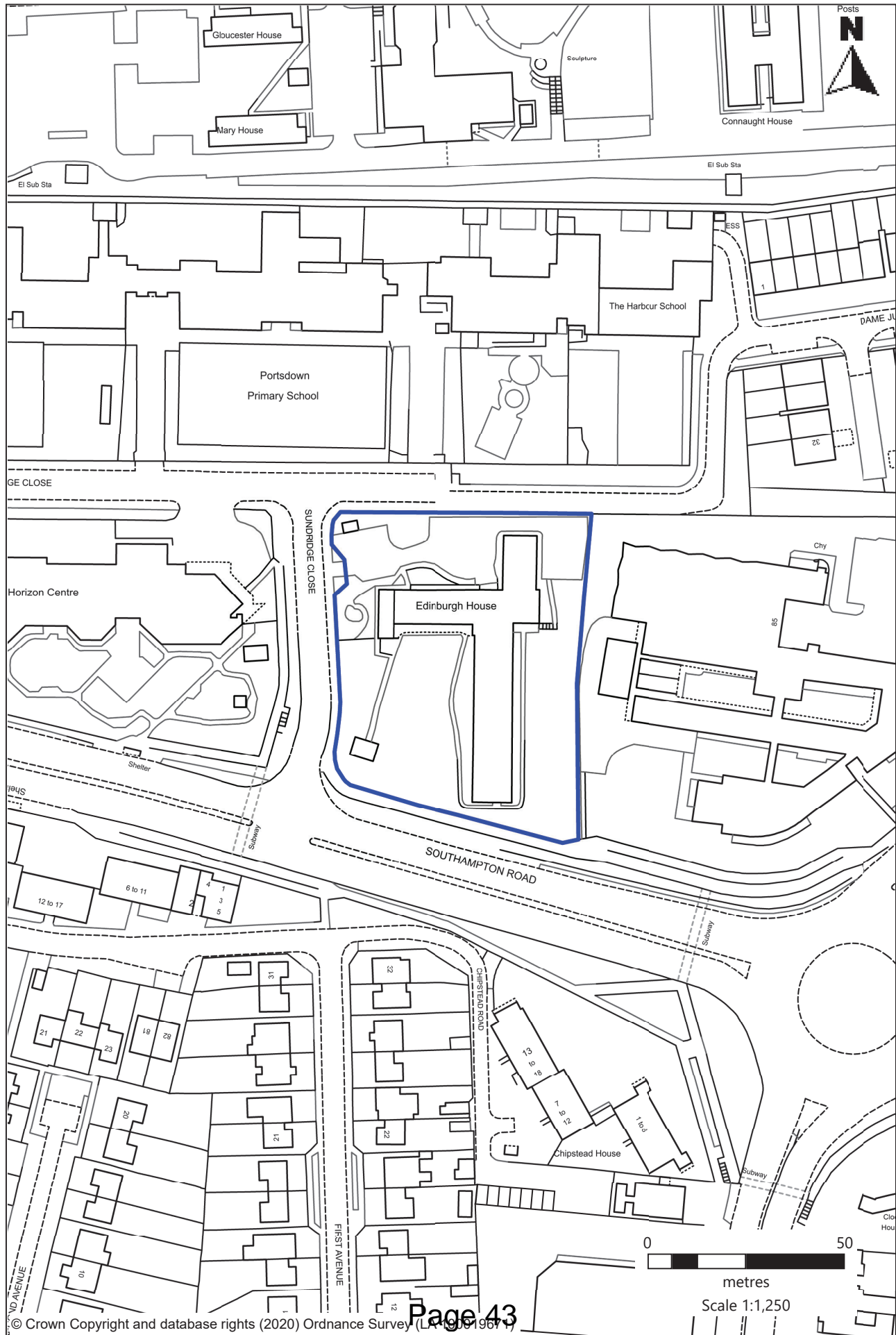
.....
Authorised Signatory

Schedule

Nutrient Neutrality Obligations

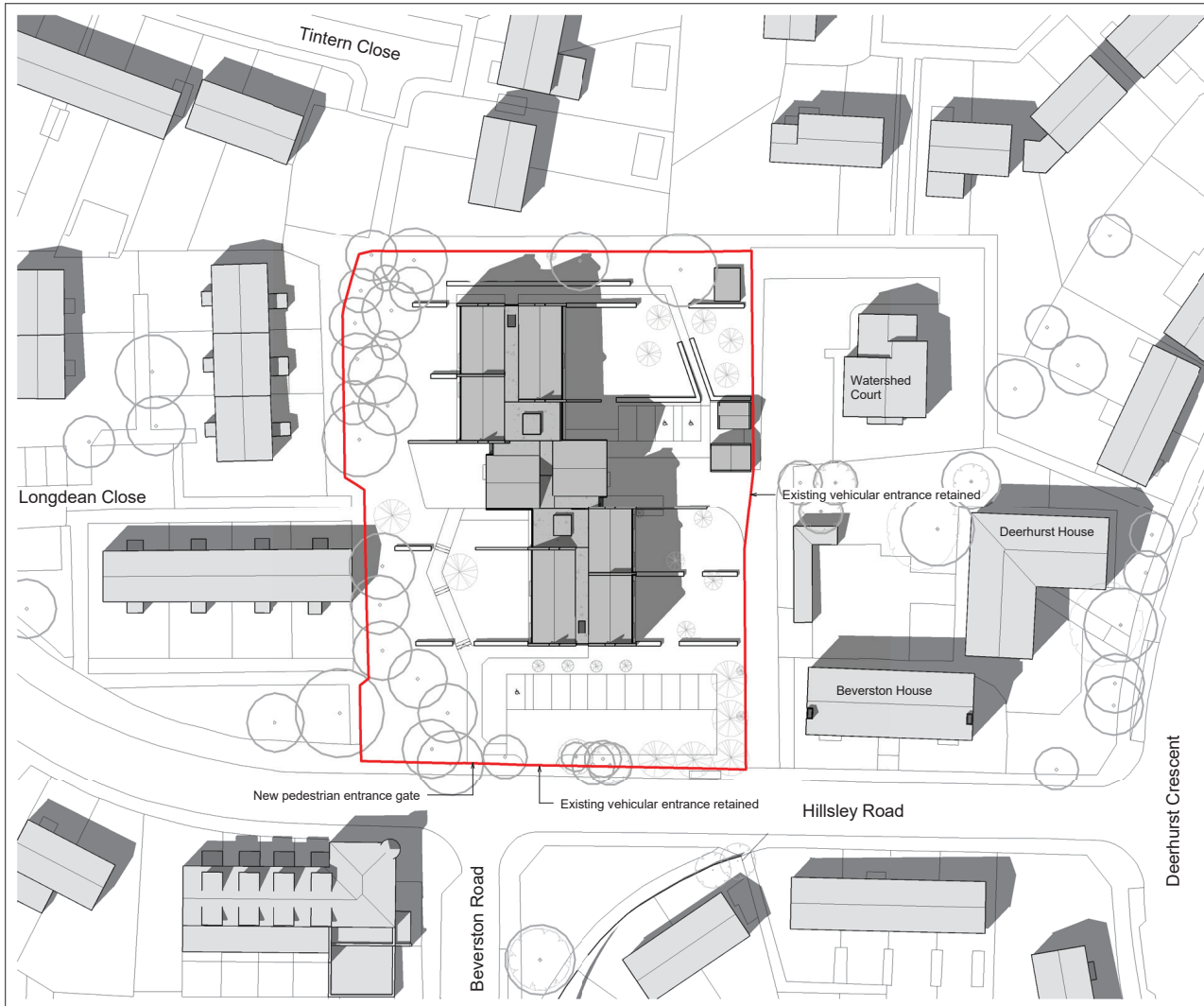
1. The Owner acknowledges that the lawful planning use of the Nitrate Mitigation Land as a 32-bed care home prior to the implementation of the Planning Permission resulted in a nitrate load, assuming a water use of 300litres per person per day, of 30.59kg/TN/year.
2. The Owner acknowledges that the use of the Property in accordance with the Planning Permission will create a nitrate load of 11.77kg/TN/year and proposes to off-set the nitrogen load of the Development by restricting its use of the Nitrate Mitigation Land.
3. The Owner covenants that upon completion of this deed 11.77/kg/TN/year of nitrate load shall be subtracted from the extant 30.59kg/TN/year of the Nitrate Mitigation Land and applied for the benefit of the Development at the Property and for no other purpose.
4. The Owner further covenants further to a resolution of the Cabinet Member for Health, Wellbeing and Social Care dated _____ 2020 to apply the remaining 18.82kg/TN/year from the Nitrate Mitigation Land to the credit bank detailed in the Council's Interim Nutrient Neutrality Strategy.
5. In accordance with the covenants in paragraphs 3 and 4 of this Schedule, the Owner covenants not to develop or use the Nitrate Mitigation Land for use (whether solely, mixed, composite or otherwise) within use classes C1, C2, C2a, C3, or C4 of the Town and Country Planning (Use Classes) Order 1987, *sui generis* use as a house in multiple occupation for any number of residents, or any other use entailing overnight stays of a residential or tourist nature that could lead to an increase in nitrogen and phosphorous as described in the Interim Nutrient Neutrality Strategy unless it can reasonably be demonstrated that the development will not have a likely significant effect upon special protection areas as described in the Interim Nutrient Neutrality Strategy or the prevailing policy of the Council at the time having regard to its legal obligations.
6. The Owner covenants not to develop the Property other than in accordance with the terms of this deed.

Plan 2



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This is a C.A.D drawing and may only be modified by hand in accordance with QA Procedure



NOTE: All dimensions to be checked on site prior to commencement of any work.
 DO NOT SCALE FROM THIS DRAWING EXCEPT FOR THE PURPOSES OF DETERMINING A PLANNING APPLICATION
 Notify C.A. of any discrepancies before ordering materials.
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Plan 1

Rev	Date	Description	Approved By
P1	18.03.19	Issued for planning	
P2	18.03.19	Correction of southern ramp and updated tree and cycle views	
Rev	Date	Revision Details (Amended By)	Approved By
Project			
Longdean Lodge Site Supported Living Flats			
Drawing Title			
Block Plan			
Date	03/01/19	Scale (A3)	1 : 500
Housing, Neighbourhood & Building Services Portsmouth City Council JAMES HILL Head of Service			
DEPARTMENTAL SECTION ARCHITECTS GROUP: Swan Whitehouse Dip L.A. M.L.L. Design Group Head Tel No: 023 92 84518 Fax No: 023 92 83478			
Design Survey By	CG	Drawn By	CG
Design Survey By	CG	Drawn By	CG
Drawing No.			
1234 / 1101 / P3			
SURVEY	DESIGN	DRAWING	
FEASIBILITY	TENDER	AS BUILT	
INFORMATION	CONTRACT		

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Integrated Impact Assessment (IIA)

Integrated impact assessment (IIA) form December 2019

www.portsmouth.gov.uk

The integrated impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies that could impact positively or negatively on the following areas:
 - Communities and safety
 - Regeneration and culture
 - Environment and public space
 - Equality & - Diversity This can be found in Section A5

Directorate:

Adult Services

Service, function:

Accommodation Strategy

Title of policy, service, function, project or strategy (new or old) :

Allocation of Nitrates Credits - Longdean and Edinburgh Sites

Type of policy, service, function, project or strategy:

- ☐ Existing
- ☒ New / proposed
- ☐ Changed

What is the aim of your policy, service, function, project or strategy?

Transfer of nitrates credits from the former Edinburgh House residential care home to a new development of 13 flats on the Longdean Lodge site to enable a planning permission be granted for supported living opportunities for adults with learning disabilities

Has any consultation been undertaken for this proposal? What were the outcomes of the consultations? Has anything changed because of the consultation? Did this inform your proposal?

No

A - Communities and safety

Yes

No

Is your policy/proposal relevant to the following questions?

A1-Crime - Will it make our city safer?

☐☒

In thinking about this question:

- How will it reduce crime, disorder, ASB and the fear of crime?
- How will it prevent the misuse of drugs, alcohol and other substances?
- How will it protect and support young people at risk of harm?
- How will it discourage re-offending?

If you want more information contact Lisa.Wills@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-spp-plan-2018-20.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

n/a

How will you measure/check the impact of your proposal?

n/a

A - Communities and safety

Yes

No

Is your policy/proposal relevant to the following questions?

A2-Housing - Will it provide good quality homes?

☒☐

In thinking about this question:

- How will it increase good quality affordable housing, including social housing?
- How will it reduce the number of poor quality homes and accommodation?
- How will it produce well-insulated and sustainable buildings?
- How will it provide a mix of housing for different groups and needs?

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/psh-providing-affordable-housing-in-portsmouth-april-19.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

The project will deliver 13 flats of supported living opportunities for adults with learning disabilities

How are you going to measure/check the impact of your proposal?

By monitoring commissioning targets of the Learning Disabilities service

A - Communities and safety

Yes

No

Is your policy/proposal relevant to the following questions?

A3-Health - Will this help promote healthy, safe and independent living?



In thinking about this question:

- How will it improve physical and mental health?
- How will it improve quality of life?
- How will it encourage healthy lifestyle choices?
- How will it create healthy places? (Including workplaces)

If you want more information contact Dominique.Letouze@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cons-114.86-health-and-wellbeing-strategy-proof-2.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

The project will deliver 13 flats of supported living opportunities for adults with learning disabilities

How are you going to measure/check the impact of your proposal?

By monitoring commissioning targets of the Learning Disabilities service

A - Communities and safety

Yes

No

Is your policy/proposal relevant to the following questions?

A4-Income deprivation and poverty-Will it consider income deprivation and reduce poverty?



In thinking about this question:

- How will it support those vulnerable to falling into poverty; e.g., single working age adults and lone parent households?
- How will it consider low-income communities, households and individuals?
- How will it support those unable to work?
- How will it support those with no educational qualifications?

If you want more information contact Mark.Sage@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-homelessness-strategy-2018-to-2023.pdf>
<https://www.portsmouth.gov.uk/ext/health-and-care/health/joint-strategic-needs-assessment>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

n/a

How are you going to measure/check the impact of your proposal?

n/a

A - Communities and safety

Yes

No

Is your policy/proposal relevant to the following questions?

A5-Equality & diversity - Will it have any positive/negative impacts on the protected characteristics?



In thinking about this question:

- How will it impact on the protected characteristics-Positive or negative impact (Protected characteristics under the Equality Act 2010, Age, disability, race/ethnicity, Sexual orientation, gender reassignment, sex, religion or belief, pregnancy and maternity, marriage and civil partnership,socio-economic)
- What mitigation has been put in place to lessen any impacts or barriers removed?
- How will it help promote equality for a specific protected characteristic?

If you want more information contact gina.perryman@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cmu-equality-strategy-2019-22-final.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

It will provide more suitable accommodation opportunities for adults with learning disabilities. There is no negative impact

How are you going to measure/check the impact of your proposal?

By monitoring commissioning targets of the Learning Disabilities service

B - Environment and climate change

Yes

No

Is your policy/proposal relevant to the following questions?

B1-Carbon emissions - Will it reduce carbon emissions?☐☒

In thinking about this question:

- How will it reduce greenhouse gas emissions?
- How will it provide renewable sources of energy?
- How will it reduce the need for motorised vehicle travel?
- How will it encourage and support residents to reduce carbon emissions?

If you want more information contact Tristan.thorn@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cmu-sustainability-strategy.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

This is new development, which will necessarily create carbon emissions but the building design meets all current statutory emissions targets

How are you going to measure/check the impact of your proposal?
Building Control will assess the development throughout design and construction

B - Environment and climate change

Yes

No

Is your policy/proposal relevant to the following questions?

B2-Energy use - Will it reduce energy use?☐☒

In thinking about this question:

- How will it reduce water consumption?
- How will it reduce electricity consumption?
- How will it reduce gas consumption?
- How will it reduce the production of waste?

If you want more information contact Triston.thorn@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/pln-portsmouth-plan-post-adoption.pdf>

<https://democracy.portsmouth.gov.uk/documents/s24685/Home%20Energy%20Appendix%201%20-%20Energy%20and%20water%20at%20home%20-%20Strategy%202019-25.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

This is new development, which will necessarily consume energy but the building design meets all current statutory energy usage targets

How are you going to measure/check the impact of your proposal?
Building Control will assess the development throughout design and construction

B - Environment and climate change

Yes

No

Is your policy/proposal relevant to the following questions?

B3 - Climate change mitigation and flooding-Will it proactively mitigate against a changing climate and flooding?

☐☒

In thinking about this question:

- How will it minimise flood risk from both coastal and surface flooding in the future?
- How will it protect properties and buildings from flooding?
- How will it make local people aware of the risk from flooding?
- How will it mitigate for future changes in temperature and extreme weather events?

If you want more information contact Tristan.thorn@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/env-surface-water-management-plan-2019.pdf>

<https://www.portsmouth.gov.uk/ext/documents-external/cou-flood-risk-management-plan.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

The development's location means that flooding is not an issue

How are you going to measure/check the impact of your proposal?

n/a

B - Environment and climate change

Yes

No

Is your policy/proposal relevant to the following questions?

B4-Natural environment-Will it ensure public spaces are greener, more sustainable and well-maintained?

☐☒

In thinking about this question:

- How will it encourage biodiversity and protect habitats?
- How will it preserve natural sites?
- How will it conserve and enhance natural species?

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/pln-solent-recreation-mitigation-strategy-dec-17.pdf>

<https://www.portsmouth.gov.uk/ext/documents-external/pln-portsmouth-plan-post-adoption.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

n/a

How are you going to measure/check the impact of your proposal?

n/a

B - Environment and climate change

Yes

No

Is your policy/proposal relevant to the following questions?

B5-Air quality - Will it improve air quality?☐☒

In thinking about this question:

- How will it reduce motor vehicle traffic congestion?
- How will it reduce emissions of key pollutants?
- How will it discourage the idling of motor vehicles?
- How will it reduce reliance on private car use?

If you want more information contact Hayley.Trower@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/env-aq-air-quality-plan-outline-business-case.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

n/a

How are you going to measure/check the impact of your proposal?

n/a

B - Environment and climate change

Yes

No

Is your policy/proposal relevant to the following questions?

B6-Transport - Will it improve road safety and transport for the whole community?☐☒

In thinking about this question:

- How will it prioritise pedestrians, cyclists and public transport users over users of private vehicles?
- How will it allocate street space to ensure children and older people can walk and cycle safely in the area?
- How will it increase the proportion of journeys made using sustainable and active transport?
- How will it reduce the risk of traffic collisions, and near misses, with pedestrians and cyclists?

If you want more information contact Pam.Turton@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/travel/local-transport-plan-3>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

n/a

How are you going to measure/check the impact of your proposal?

n/a

B - Environment and climate change

Yes

No

Is your policy/proposal relevant to the following questions?

B7-Waste management - Will it increase recycling and reduce the production of waste?



In thinking about this question:

- How will it reduce household waste and consumption?
- How will it increase recycling?
- How will it reduce industrial and construction waste?

If you want more information contact Steven.Russell@portsmouthcc.gov.uk or go to:

<https://documents.hants.gov.uk/mineralsandwaste/HampshireMineralsWastePlanADOPTED.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

n/a

How are you going to measure/check the impact of your proposal?

n/a

C - Regeneration of our city

Yes

No

Is your policy/proposal relevant to the following questions?

C1-Culture and heritage - Will it promote, protect and enhance our culture and heritage?

☐☒

In thinking about this question:

- How will it protect areas of cultural value?
- How will it protect listed buildings?
- How will it encourage events and attractions?
- How will it make Portsmouth a city people want to live in?

If you want more information contact Claire.Looney@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/pln-portsmouth-plan-post-adoption.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

n/a

How are you going to measure/check the impact of your proposal?

n/a

C - Regeneration of our city

Yes

No

Is your policy/proposal relevant to the following questions?

C2-Employment and opportunities - Will it promote the development of a skilled workforce?

☒☐

In thinking about this question:

- How will it improve qualifications and skills for local people?
- How will it reduce unemployment?
- How will it create high quality jobs?
- How will it improve earnings?

If you want more information contact Mark.Pembleton@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-regeneration-strategy.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

The construction activities will provide short term employment for local people

How are you going to measure/check the impact of your proposal?

A key performance indicator will monitor use of local trades people

Is your policy/proposal relevant to the following questions?

C3 - Economy - Will it encourage businesses to invest in the city, support sustainable growth and regeneration?

☐☒

In thinking about this question:

- How will it encourage the development of key industries?
- How will it improve the local economy?
- How will it create valuable employment opportunities for local people?
- How will it promote employment and growth in the city?

If you want more information contact Mark.Pembleton@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-regeneration-strategy.pdf>

Please expand on the impact your policy/proposal will have, and how you propose to mitigate any negative impacts?

n/a

How are you going to measure/check the impact of your proposal?

n/a

Q8 - Who was involved in the Integrated impact assessment?

Andrew Lewis

This IIA has been approved by: Angela Dryer

Contact number: 023 9284 1248

Date: