



NOTICE OF MEETING

PLANNING COMMITTEE

WEDNESDAY, 31 MAY 2023 AT 10.30AM

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

Telephone enquiries to Democratic Services
Email: Democratic@portsmouthcc.gov.uk

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

Please note the public health requirements for attendees at the bottom of the agenda.

Public health guidance for staff and the public due to Winter coughs, colds and viruses, including Covid-19

- Following the government announcement 'Living with Covid-19' made on 21 February and the end of universal free testing from 1st April, attendees are no longer required to undertake any asymptomatic/ lateral flow test within 48 hours of the meeting; however, we still encourage attendees to follow the public health precautions we have followed over the last two years to protect themselves and others including vaccination and taking a lateral flow test should they wish.
- We strongly recommend that attendees should be double vaccinated and have received any boosters they are eligible for.
- If unwell we encourage you not to attend the meeting but to stay at home. Updated government guidance from 1 April advises people with a respiratory infection, a high temperature and who feel unwell, to stay at home and avoid contact with other people, until they feel well enough to resume normal activities and they no longer have a high temperature. From 1 April, anyone with a positive Covid-19 test result is still being advised to follow this guidance for five days, which is the period when you are most infectious.
- We encourage all attendees to wear a face covering while moving around crowded areas of the Guildhall.
- Although not a legal requirement, attendees are strongly encouraged to keep a social distance and take opportunities to prevent the spread of infection by following the 'hands, face, space' and 'catch it, kill it, bin it' advice that protects us from coughs, colds and winter viruses, including Covid-19.
- Hand sanitiser is provided at the entrance and throughout the Guildhall. All attendees are encouraged to make use of hand sanitiser on entry to the Guildhall.
- Those not participating in the meeting and wish to view proceedings are encouraged to do so remotely via the livestream link.

Planning Committee Members:

Councillors Chris Attwell (Chair), Lee Hunt (Vice-Chair), Hannah Brent, Peter Candlish, Raymond Dent, Asghar Shah, John Smith, Judith Smyth, Mary Vallely and Gerald Vernon-Jackson CBE

Standing Deputies

Councillors Dave Ashmore, George Fielding, Lewis Gosling, Ian Holder, Mark Jeffery, Steve Pitt, Darren Sanders, Russell Simpson and Daniel Wemyss

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

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

Representations by members of the public may be made on any item where a decision is going to be taken. The request needs to be made in writing to the relevant officer by 12 noon the day before the meeting and must include the purpose of the representation (e.g. for or against the recommendations). Email requests to 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 the previous meeting held on 12 April 2023 (Pages 5 - 16)**
RECOMMENDED that the minutes of the meeting held on 12 April 2023 be agreed as a correct record.
- 4 21/01357/FUL - Tipner East, Land off Twyford Avenue and Tipner Lane, Portsmouth (Pages 17 - 44)**

Construction of 221 dwellings, new accesses onto Tipner Lane and Twyford Avenue, internal access roads & cycleways, open space, parking and associated infrastructure, including potential linkages to the proposed residential development to the north, existing residential development to the south and to the existing and proposed enhanced park & ride facilities to the west. The proposal constitutes EIA development. (Revised scheme).
- 5 22/00226/FUL - Former Royal British Legion, Sixth Avenue, Portsmouth PO6 3PD. (Pages 45 - 62)**

Construction of 4 storey building, comprising 23 no. flats with on site car parking and bicycle storage (following demolition of existing building).

- 6 23/00079/FUL - 360 Copnor Road, Portsmouth PO3 5EN (Pages 63 - 68)**
Conversion and extension of existing garage/ outbuilding to rear to form ancillary annexe accommodation with associated external alterations.
- 7 Request by coastal partners to have their discharge of condition applications on Southsea frontage determined by planning offices. (Pages 69 - 72)**
Purpose.
The purpose of this report is to seek Planning Committee's approval that applications submitted to discharge Conditions 17 [soft landscaping], 22 [external lighting], 23 [street furniture and walls], 25 [hard surfacing materials], 26 [feature walls], 27 [roads and footpaths], and 38 [public art and / or interpretation boards] of Planning Application ref.19/01097/FUL can be delegated back to officers.
- 8 23/00325/CPL - West Battery Field, Clarence Esplanade, Southsea PO5 3PA (Pages 73 - 74)**
Certificate of lawful development for the construction of wall along seaward edge of field.
- 9 23/00066/FUL - Car park, Prospect Road, Portsmouth PO1 4QY (Pages 75 - 82)**
Change of use car park and public highway to port operational land, to include fencing to boundary and diversion of footpath.
- 10 23/00558/ADV - The Spinnaker Tower, Gunwharf Quays, Portsmouth PO1 3TT (Pages 83 - 88)**
Display of externally illuminated lettering to lower leg of tower and 2no. signs at entrance.
- 11 22/00205/FUL - 2-6 Spencer Road, Southsea PO4 9RN (Pages 89 - 102)**
Change of use from care home (class C2) to 6 no. dwelling houses (class C3); to include removal of rear extensions, external alterations to doors and windows; provision of parking, cycle and refuse storage.

Members of the public are permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting nor records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue. Whilst every effort is made to webcast this meeting, should technical or other difficulties occur, the

meeting will continue without being webcast via the Council's website.

PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 12 April 2023 at 10.30 am in the Council Chamber - The Guildhall, Portsmouth

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

Present

Councillors Chris Attwell (Chair)
Hugh Mason
Russell Simpson
John Smith
Linda Symes
Gerald Vernon-Jackson CBE

Welcome

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

Guildhall, Fire Procedure

The Chair explained to all present the procedures for the meeting and the fire evacuation procedures including where to assemble and how to evacuate the building.

The Chair advised this was the last Planning Committee of the municipal year and extended his thanks to the Committee Members for their work during the past year and in particular to Councillor Linda Symes who was standing down as a Councillor for Portsmouth.

47. Apologies (AI 1)

Apologies were received from Councillor Darren Sanders and Councillor George Fielding.

48. Declaration of Members' Interests (AI 2)

There were no declarations of interest.

49. Minutes of the previous meetings held on 1 March 2023 & 22 March 2023 (AI 3)

RESOLVED: That the minutes of the Planning Committees held on 1 March 2023 and 22 March 2023 be agreed as correct records.

50. Report on HMO appeal decisions regarding Houses of Multiple Occupation (AI 4)

The Assistant Director, PCC Regeneration, presented the report the purpose of which was:

- To inform members of the recent appeal decisions addressing that there was a need for planning permission for the change of occupancy of Houses of Multiple Occupancy (HMOs) from 6 beds/occupants to 7 beds/occupants.
- To advise members that these appeal decisions were a material consideration for HMO applications, in particular, where there was a change of occupancy of an HMO from 6 beds/occupants to 7 beds/occupants.
- To advise members that where there was an appeal decision for the application site to have regard to that appeal decision as a material consideration when determining the application.
- To advise members of the need to produce sound, substantive and defensible reasons for the refusal of planning permission.

Members' questions

In response to Members' questions, officers clarified:

- There had been 26 appeals since the Campbell Properties decision in 2021 as noted in paragraph 3.5 of the report. In those decisions, the planning inspectors either said nothing or expressly said they would not give an opinion on whether planning permission was needed.
- The Planning Officer was not aware of how many inspectors took a view on this aspect of the decision and how many did not.
- The 26 inspectors expressly or implicitly did not answer the question regarding planning permission and the officers strongly advised the Committee not to be derelict in their duty in addressing this issue when making their decisions.
- Officers were not able to provide a generalised form of words for the Committee to use as each case should be considered on its own merits and concise, clear reasons should be given that related to the proposal in question. The decision should be based on an actual assessment of the change in nature of the accommodation and the attributes of the two different occupancies between the last lawful occupation and the proposed lawful occupation.
- The appeal decision was a material consideration whenever similar matters are proposed. Where works have been carried out to extend or alter a building, planning permission will be either under permitted development or a separate planning application. The Lane Decisions concerns the changes of use of those buildings, and are concerned with the question of whether, after having done the lawful works to alter the building, the change of use of the buildings require planning permission. Within the agenda of the meeting were examples of where officers considered it did require it and examples where it didn't. There are two unrelated and separate tests to consider regarding alterations to the building and change of use.
- The starting point for determining an application and whether it is development is set out in section 55 of the Town and Country Planning Act. There are two

separate parts: one about operational development and one about the change of use.

- In relation to producing a paper to the Committee regarding work on the Local Plan, officers advised that a paper had been produced in May 2022 which Members had debated. This paper had formed the background papers for workshops held 3 weeks prior to debate the HMO policy and the Local Plan.

PLANNING APPLICATIONS

The Supplementary Matters report and deputations (which are not minuted) can be viewed on the Council's website at:

[Agenda for Planning Committee on Wednesday, 12th April, 2023, 10.30 am Portsmouth City Council](#)

[Planning Committee, 12 April 2023 on Livestream](#)

51. 21/00941/FUL 14 Hudson Road, Southsea PO5 1HD (AI 5)

Change of use from house in multiple occupation (Class C4) to seven bedroom/seven person house in multiple occupation (Sui Generis).

The Assistant Director, PCC Regeneration presented the report and drew attention to the additional information in the Supplementary Matters report which had amended the application description but had not led to a change in the recommendation.

The description of the development was amended to:

Change of use from a 6 bedroom/6 person House in Multiple Occupation to a 7 bedroom/7 person House in Multiple Occupation.

Deputation

Maise Durrant (for the agent)

Members' questions

In response to Member's questions, officers clarified:

- The applicant had confirmed they were willing to enter into a S166 agreement to resolve the issue of the conflict with the Development Plan and the Habitats Regulations as noted in the Planning Inspectors report.
- If Member's made the decision, against the officer recommendation, that planning permission was required, there was nothing in the Habitat's Regulations or Development Plan to lead the application to be turned down as the applicant was willing to enter into the appropriate legal agreement.

Member's comments

Members noted concerns that there was no bike storage at the property as the alleyway was very slim and with insufficient room. In addition, the bedroom on the top floor was considered to potentially be an issue for someone over 5 foot 5 inches tall due to the design of the room. On the whole, Members considered the

development to be converted well and the standard of accommodation to be of a good standard.

A proposal was put forward that the application required planning permission, but this was not seconded at this point.

A further proposal (which was seconded) was put forward to grant the application as per the officer recommendation.

In light of the Lane Decisions report that had been discussed earlier, there was a discussion between Members and Officers regarding the form of words to be used in relation to the consideration of planning permission.

The Committee adjourned briefly at 11:12am to consider the matter and recommenced at 11:24am.

Following the adjournment, a proposal was put forward that the application required planning permission. This was seconded.

Officers advised Members that the wording they had used was wording used previously and that had been found to be vague and generalised by the planning inspectorate and any decision made on that basis was highly likely to fail on appeal and may result in costs awarded against the Council.

The Legal officer advised that prior to the adjournment a motion had already been made by Councillor Smith, which had been seconded and a vote should be taken on this first. The vote was taken, and the motion failed.

A vote was then taken on the second proposal and the motion passed.

Officers advised the Committee that as it had now resolved that planning permission was required, the conditions to be imposed should be considered when deciding whether to grant planning permission.

RESOLVED:

- (1) The proposal is considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.**
- (2) To grant conditional planning permission subject to a legal agreement for SPA mitigation (recreational disturbance and nitrates) and conditions requiring implementation within 1 year, requiring the development to be carried out in accordance with the approved plans and managing impacts on the Special Protection Area.**

52. 22/00963/FUL 101 Oxford Road, Southsea PO5 1NP (AI 6)

Change of use from dwelling house (Class C3) or house in multiple occupation (Class C4) to house in multiple occupation for eight people (Sui Generis)

The Assistant Director, PCC Regeneration presented the report and drew attention to the additional information in the Supplementary Matters report which had amended the application description but had not led to a change in the recommendation.

The description of the development was amended to:
Change of use from a 5 bedroom/5 person House in Multiple Occupation to an 8 bedroom/8 person House in Multiple Occupation.

Members' questions

In response to Members' questions, officers clarified:

- The number of bathrooms in the property was adequate for 8 people in accordance with the Private Sector Housing guidance. The provision of bathrooms and the downstairs WC did meet the minimum requirements for this scale of HMO.
- The only way to get a bicycle to the storage area was to wheel a bike through the hall, kitchen, and lounge.

Member's comments

Members noted that two of the bedrooms were marginally below the PCC standards and considered the property did not provide a satisfactory standard of accommodation. They considered the provision of communal living space was insufficient and did not result in the quality of living environment deemed appropriate contrary to PCS23 of the local plan.

RESOLVED to refuse planning permission as the provision of communal living space was insufficient to result in a quality of living environment deemed to be appropriate and the development is therefore contrary to policy PCS23 of the Local Plan.

53. 22/01166/CPL 59 Manners Road, Southsea PO4 0BA (AI 7)

Application for certificate of lawful development for the proposed change of use from house in multiple occupation (Class C4) to an 8 bedroom house in multiple occupation (Sui Generis)

The Assistant Director, PCC Regeneration presented the report and drew attention to the additional information in the Supplementary Matters report which had not led to a change in the recommendation.

The description of the development was amended to:
Application for certificate of lawful development for the proposed change of use from a 5 bedroom/5 person House in Multiple Occupation to an 8 bedroom/8 person House in Multiple Occupation.

Deputations

Mr Robert Tutton (agent)
Councillor Suzy Horton

Officers advised Committee Members that for a Certificate of Lawfulness, the applicant is obliged to provide evidence to prove their point. Therefore, the Committee needed to consider whether the applicant had evidenced there had not been a material change of use in light of officers' comments in the assessment report. Committee Members should consider whether the change in the nature of the accommodation from 5 occupants to 8 occupants was materially different and therefore required planning permission.

Members' questions

There were no questions.

Member's comments

Members were advised by officers that they should not consider the percentage increase in occupation but should consider the implications of the increase in occupancy by 3 people and the materiality of the change of use, as noted in the officer's report. Members considered that there was a case for the requirement of planning permission and agreed with the officer recommendation.

RESOLVED to refuse the Certificate of Lawfulness as per the officer's recommendation.

54. 22/01101/FUL 24 Norman Road, Southsea PO4 0LP (AI 8)

Change of use from Class C3 (dwelling house)/Class C4 (house in multiple occupation) to seven person house in multiple occupation (Sui Generis)

The Assistant Director, PCC Regeneration presented the report and drew attention to the additional information in the Supplementary Matters report which had amended the application description but had not led to a change in the recommendation.

The description of the development was amended to:

Change of use from a 6 bedroom/6 person House in Multiple Occupation to a 7 bedroom/7 person House in Multiple Occupation.

Deputation

Maise Durrant (for the agent)
Councillor Suzy Horton

Members' questions

In response to Members' questions, officers clarified:

- The provision of two shower rooms and one separate toilet met the space standard requirements.

Members' comments

Members did not consider the design of the application and the amount of shower facilities was appropriate despite it meeting the adopted PCC space standards.

Members proposed that the application was considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact

on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.

Members were advised by officers that as demonstrated by the fact they had used identical wording to other decisions, the reason was generalised and that in line with the Lane decision, a decision made on that basis was unlikely to be successful on appeal, should an appeal be made, and costs would likely be ordered against the council.

RESOLVED:

- (1) The proposal is considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.**
- (2) To grant conditional planning permission subject to a legal agreement for SPA mitigation (recreational disturbance and nitrates) and conditions requiring implementation within 1 year, requiring the development to be carried out in accordance with the approved plans, and managing impacts on the Special Protection Area.**

55. 22/01142/FUL 160 Chichester Road, Portsmouth PO2 0AH (AI 9)

Change of use from Class C3 (dwelling house)/Class C4 (house in multiple occupation) to 7 person House in multiple occupation (Sui Generis)

The Assistant Director, PCC Regeneration presented the report and drew attention to the additional information in the Supplementary Matters report which had not led to a change in the recommendation.

The description of the development was amended to:
Change of use from a 5 bedroom/5 person House in Multiple Occupation to a 7 bedroom/7 person House in Multiple Occupation.

Deputation

Simon Hill (for applicant)

Members' questions

In response to Members' questions, officers clarified:

- The dotted lines on the plan were where from structural alterations and where structural beams were installed due to the rebuilding of that part of the property.

Members comments

Members considered the application to provide above adequate accommodation space.

Members proposed that the application was considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.

Officers reiterated their advice given in the previous application.

RESOLVED:

- (1) The proposal is considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.**
- (2) To grant conditional planning permission subject to a legal agreement for SPA mitigation (recreational disturbance and nitrates) and conditions requiring implementation within 1 year, requiring the development to be carried out in accordance with the approved plans and managing impacts on the Special Protection Area.**

56. 22/01484/FUL 57 Hudson Rd, Southsea PO5 1HB (AI 10)

Change of use from house in multiple occupation (Class C4) to house in multiple occupation for seven persons (Sui Generis)

The Assistant Director, PCC Regeneration presented the report and drew attention to the additional information in the Supplementary Matters report which had amended the application description but had not led to a change in the recommendation.

The description of development was amended to :
Change of use from a 6 bedroom/6 person House in Multiple Occupation to a 7 bedroom/7 person House in Multiple Occupation

Deputation

Maise Durrant (for the agent)

Members' questions

There were no questions.

Member's comments

Members proposed that the application was considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.

Officers reiterated their advice as given previously.

RESOLVED:

- (1)The proposal is considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.**

(2) To grant conditional planning permission subject to a legal agreement for SPA mitigation (recreational disturbance and nitrates) and conditions requiring implementation within 1 year, requiring the development to be carried out in accordance with the approved plans, and managing impacts on the Special Protection Area.

57. 22/01494/FUL 98 Beresford Rd, Portsmouth PO2 0NQ (AI 11)

Change of use from house in multiple occupation (Class C4) to house in multiple occupation for seven persons (Sui Generis)

The Assistant Director, PCC Regeneration presented the report and drew attention to the additional information in the Supplementary Matters report which had amended the application description but had not led to a change in the recommendation.

The description of the development was amended to:

Change of use from a 6 bedroom/6 person House in Multiple Occupation to a 7 bedroom/7 person House in Multiple Occupation.

Deputation

Maise Durrant (for the agent)

Members' questions

In response to Members' questions, officers clarified:

- As the start date for the planning appeal had not been advised, the Planning Committee were able to determine the application. If the appeal started before the decision letter could be dispatched, the resolution the Committee reached would inform the response to the appeal.

Members' comments

Members noted the difficulties in this area, as in other areas of Portsmouth, with parking and the comments in the report in relation to this 'not being considered a material change' but going on to say '... this could justify a reason for refusal and consequently you should give this due weight in your determination on the planning application'. They noted the regularity with which parking issues are considered in the planning applications.

Officers advised this was a matter of judgement for Members, but officers' advice was that one more occupant was unlikely to cause unreasonable parking stress.

Members proposed that the application was considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.

Officers reiterated their advice as given previously.

RESOLVED:

- (1) The proposal is considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.
- (2) To grant conditional planning permission subject to a legal agreement for SPA mitigation (recreational disturbance and nitrates) and conditions requiring implementation within 1 year, requiring the development to be carried out in accordance with the approved plans, and managing impacts on the Special Protection Area.

58. 22/01552/FUL 32 Kingsland Close, Portsmouth PO6 4AL (AI 12)

Change of use from house in multiple occupation (Class C4) to 8 bedroom house in multiple occupation (Sui Generis)

The Assistant Director, PCC Regeneration presented the report and drew attention to the additional information in the Supplementary Matters report which had led to a change in the recommendation.

The description of the development was amended to:

Change of use from a 5 bedroom/5 person House in Multiple Occupation to an 8 bedroom/8 person House in Multiple Occupation

Deputation

Maise Durrant (for the agent)

Officers advised, following the deputation, that they had received new information from the applicant that they had, without licence, moved 6 occupants into the property. Noting that this had been done without licence, the last lawful occupation of the property was 5 people and therefore, the officers' recommendation was that this did require planning permission. Members therefore needed to judge the application on its merits and decide whether to grant that planning permission or not, as per the Supplementary Matters report.

Members' questions

There were no questions.

Members' comments

There were no comments.

RESOLVED to grant conditional planning permission as per the changed officer recommendations in the Supplementary Matters Report.

59. 23/00189/FUL 75 Grosvenor Street, Southsea PO5 4JG (AI 13)

Change of use from house in multiple occupation (Class C4) to 7 person house in multiple occupation (Sui Generis)

The Assistant Director, PCC Regeneration presented the report and drew attention to the additional information in the Supplementary Matters report which had

amended the application description but had not led to a change in the recommendation.

The description of the development was amended to:

Change of use from a 6 bedroom/6 person House in Multiple Occupation to a 7 bedroom/7 person House in Multiple Occupation.

Deputation

Maise Durrant (for the agent)

Members' questions

In response to Members' questions, officers clarified:

- The downstairs toilet does have a door which opens inwards.
- The shower room on the first floor is of an adequate size to contain a toilet. Although it appeared on the plans there was no toilet, officers considered it may have been overlaid with the printed words 'Shower Room'.

Members' comments

Members proposed that the application was considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.

Officers reiterated their advice as given previously.

RESOLVED:

- (1)The proposal is considered to be development requiring planning permission due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.**
- (2) To grant conditional planning permission subject to a legal agreement for SPA mitigation (recreational disturbance and nitrates) and conditions requiring implementation within 1 year, requiring the development to be carried out in accordance with the approved plans, and managing impacts on the Special Protection Area.**

Before the meeting closed, the Chair offered his thanks to officers for their support to the Planning Committee during the current municipal year.

The meeting concluded at 12.48 pm.

Signed by the Chair of the meeting
Councillor Chris Attwell

Agenda Item 4

21/01357/FUL

WARD: NELSON

TIPNER EAST LAND OFF TWYFORD AVENUE AND TIPNER LANE PORTSMOUTH

CONSTRUCTION OF 221 DWELLINGS, NEW ACCESSES ONTO TIPNER LANE AND TWYFORD AVENUE, INTERNAL ACCESS ROADS & CYCLEWAYS, OPEN SPACE, PARKING AND ASSOCIATED INFRASTRUCTURE, INCLUDING POTENTIAL LINKAGES TO THE PROPOSED RESIDENTIAL DEVELOPMENT TO THE NORTH, EXISTING RESIDENTIAL DEVELOPMENT TO THE SOUTH AND TO THE EXISTING AND PROPOSED ENHANCED PARK & RIDE FACILITIES TO THE WEST. THE PROPOSAL CONSTITUTES EIA DEVELOPMENT. (REVISED SCHEME).

WEBLINK: THE PLANS AND DOCUMENTS ASSOCIATED WITH THE APPLICATION CAN BE VIEWED [HERE](#).

Application Submitted By:

Savills
FAO Mr Cliff Lane

On behalf of:

Bellway Homes Ltd (Wessex) And Homes England

RDD: 13th September 2021

LDD: 4th January 2022

SUMMARY OF MAIN ISSUES

This application is being presented to Planning Committee as it is Major development involving the development of ten or more dwellings.

The main considerations are:

- whether the proposals comprising the construction of new housing on this site would contribute to the achievement of sustainable development in accordance with national and local planning policy
- the acceptability of the design (layout, scale and access);
- traffic/transportation implications;
- ecology
- loss of trees;
- flood risk/drainage;
- sustainable design and construction;
- site contamination; and
- residential amenities

SITE DESCRIPTION

The application site comprises an irregularly shaped parcel of land approximately 3.17 Ha (7.83 acres) in size, and includes previously developed, recently raised and part-remediated land. The site was previously developed and now consists of a few small buildings, hardstanding, a demolished greyhound track, scrubby grassland and some smaller trees.

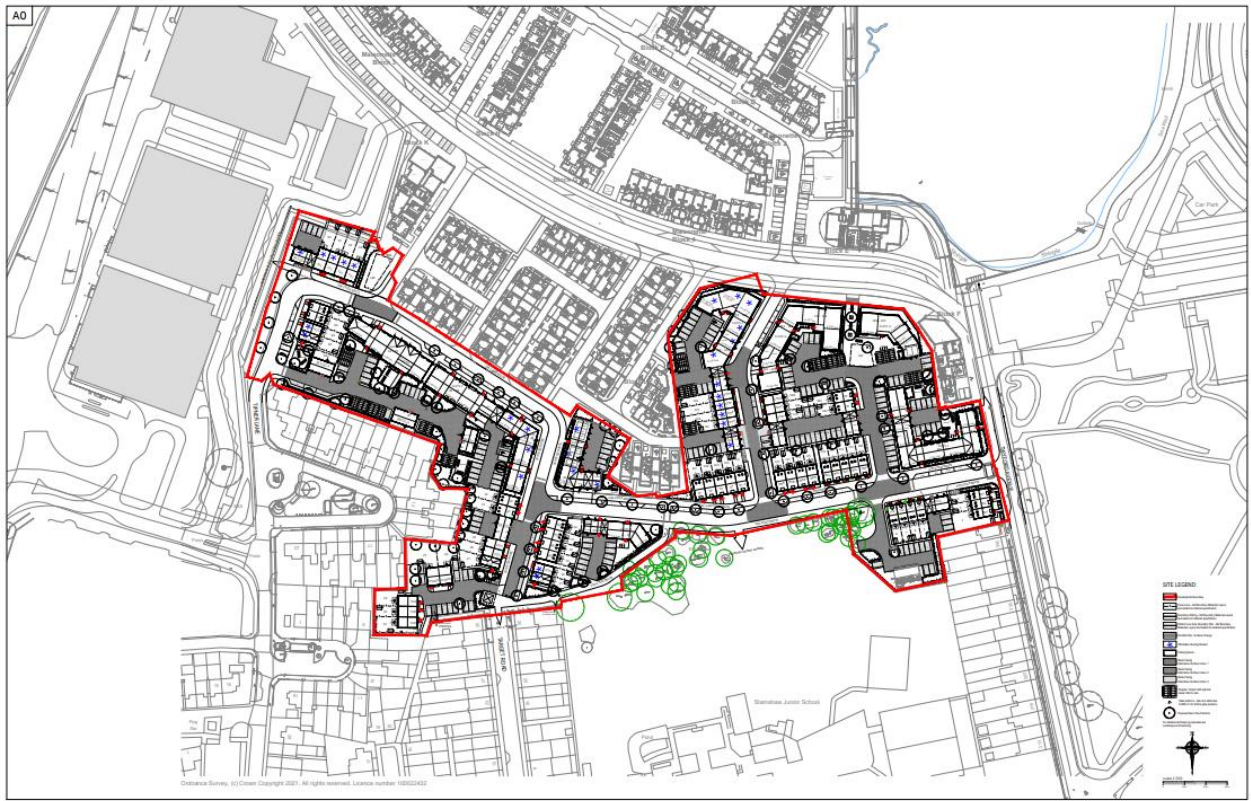


Figure 1- Site Location Plan



Figure 2 - Site Layout in colour

The application site, shown in Figure 1 above, is within the Tipner policy area of Portsmouth, approximately 3km to the north of Portsmouth City Centre and around 1.8km north of HM Naval Base Portsmouth. The Tipner policy area is split in two, Tipner East and West, with the M275 dividing the two areas. The Site is located within the southern parcel of Tipner East. It is close to

several strategic highways including the M275 approximately 130m west of the site, 1.6km south of the M27 and 130m north-west of the A3.

The site extends from Twyford Avenue to the east, and Tipner Lane to the west, and is directly accessible from an existing access off Twyford Avenue. Twyford Avenue, connects to the A3 to the south and would serve as the primary vehicular access to the Site. Tipner Lane to the west, would provide pedestrian and cycle access, as well as providing the eastern part of the Site with vehicular access for 41 units.

The Pilgrims Trail (a long-distance footpath) is a Public Right of Way (PRoW) which runs east to west across the south of the site (linking Twyford Avenue to the east with Target Road to the south west of the Site). Pedestrian and cycle connectivity will remain from the site to Target Road, but no vehicular access is proposed in this location. National Cycle Network 22 (NCN22) also runs through the site to Target Road.

PLANNING CONSTRAINTS

The site is subject to the following constraints:

- Contaminated land
- Flood Zone 2/3 (part of the site only)
- Adjacent to Portsmouth Harbour RAMSAR, Portsmouth Harbour SSSI and Portsmouth Harbour SPA

POLICY CONTEXT

The planning policy framework for Portsmouth is currently provided by:

The Portsmouth Plan (The Portsmouth Core Strategy) adopted in January 2012 and two Area Action Plans for Somerstown and North Southsea (2012) and Southsea Town Centre (2007).

This framework is supplemented by a number of saved policies from the Portsmouth City Local Plan (2006).

Having regard to the location of this site within the Tipner area of the city, the relevant policies within the Portsmouth Plan are:

PCS1 - Tipner
PCS10 - Housing Delivery
PCS12 - Flood Risk
PCS13 - A Greener Portsmouth
PCS14 - A Healthy City
PCS15 - Sustainable Design and Construction
PCS16 - Infrastructure and Community Benefit
PCS17 - Transport
PCS19 - Housing Mix, Size and the Provision of Affordable Homes
PCS21 - Housing Density
PCS23 - Design and Conservation

This framework is supplemented the following saved policy from the Portsmouth City Local Plan (2006).

Policy DC21 - Contaminated Land

Regard should also be had, albeit affording it very limited weight at this time, to the Draft Portsmouth Local Plan (September 2021).

Regard also has to be had to the following SPDs:

- Air quality and pollution

- Developing Contaminated Land
- Housing Standards
- Nitrate mitigation strategy
- Planning Obligations
- Parking Standards and Transport Assessments
- Reducing Crime Through Design
- Solent Special Protection Area
- Sustainable Design and Construction

STATUTORY DUTIES

The Local Planning Authority has statutory duties relating to the determination of the application which are set out in the following legislation:

- Section 70 of The Town and Country Planning Act 1990
- Section 38(6) of The Planning and Compulsory Purchase Act 2004
- The Equality Act 2010

RELEVANT PLANNING HISTORY

The complex planning history of this site is best illustrated on a site plan:



Figure 3 - Tipner Planning History - image © Savills

In detail:

- i. 10/00849/OUT - An application for outline planning permission which provided a detailed plan to remediate the land and sought permission for 518 dwellings, CHP plant, sea wall and coastal path. This was conditionally granted on the 30th March 2012.
- ii. 11/00362/OUT - An application for outline planning permission for up to 80 dwellings and up to 615 sqm (gross external) of commercial floor space for uses within classes A1/A2/A3/A5; construction of a new access from Twyford Avenue. A conditional outline approval was granted on the 30th March 2012.

- iii. 13/00202/OUT - An application for outline planning permission for 23 dwellings which also sought consideration of the access and layout. This was granted on the 29th March 2018.
- iv. 13/00203/OUT. An application for outline planning permission for 5 dwellings, conditionally granted on the 29th March 2018. It also considered the access and layout of the scheme.
- v. 15/01854/REM - A Reserved Matters application in respect of layout, scale, appearance and landscaping, for the construction of 80 dwellings and 235 sqm of commercial floor space for uses within classes A1/A2/A3/A5 pursuant to outline planning permission ref 11/00362/OUT. This was approved on the 9th February 2016

In addition, development proposals on the adjacent Park and Ride (P&R) site and the ex TRC land to the north of the application site (now owned by VIVID Homes) are material to this application.

With regard to the P&R site, an outline planning application, with all matters reserved, for the construction of a multi-storey Transport Hub (up to 28.5m above existing ground level) incorporating a park and ride facility and ancillary uses (up to 840sqm), with access from Junction 1 on the M275 was granted on 6 July 2022 (Ref. 22/00024/OUT); the submission of reserved matters is awaited.

In respect of VIVID Homes, a planning application was submitted in September 2022 (Ref. 22/01292/FUL). This application was determined at Planning Committee meeting held on 1 March 2023 wherein it was resolved that:

1. Permission was granted subject to a s106 agreement and conditions, including the obligation to provide an Employment and Skills Plan as part of the finalised s106 agreement;
2. Authority was delegated to the Assistant Director of Planning and Economic Growth to finalise the wording of the draft conditions and to finalise the s106 agreement in line with the Heads of Terms listed in the report.

PROPOSAL

The planning applications that is now for determination has been through a number of revisions since it was originally submitted in September 2021 as set out below:

Date	Notes
Sept 2021	Original submission
June 2022	Revised drawings and additional information, when numbers increased 203 > 221
Sept 2022	Updated and supplementary information and drawings following consultation
Nov 2022	Further updated and supplementary information and drawings
April 2023	Latest updated drawings and supplementary information

The key changes have been

- An increase in the number of units from 203 to 221
- A requirement to integrate the scheme with the VIVID proposals north of the site
- Providing family housing in line with Council policy
- Including pocket parks and LAPs
- Respecting local context and residential amenity for the adjacent establish community to the south of the site
- Providing a highway layout that could accommodate a bus route in the future and provide safe passage for cyclists and pedestrians as well as cars

As such the latest iteration of the scheme comprises:

- 221 dwellings (a 42% increase in dwellings since the preapplication process started in November 2018),
- Increased use of apartments and strategically located flats over garages to raise density,
- A greater proportion of 4 storey buildings and stronger building enclosure to the streets, routes and spaces,
- Reduced parking levels to a maximum of 1 space per apartment and less for smaller 1 bed units,
- Open space and green infrastructure provided in the form of; LAPs and street trees, innovative vertical green walling to the ends of 'public' roadside parking pergolas, private and communal gardens and pocket spaces, with juliette balconies to blocks with communal space at a premium, but large open spaces now deleted at the SEDRP / Council's request in favour of densification and mitigated by contributions towards off-site provision,
- Amendments to the NE corner / northern edge apartments to a flat roof design echoing the likely 'language' of the Vivid proposals,
- An east-west spine to the fore with street trees and cycle ways within it linking new and existing facilities including a potential pedestrian / cycle link to the proposed park and ride facility and the Alexandra Park / Mountbatten Centre,
- A contemporary design language with 70% of the dwellings within bespoke designed buildings,
- Aspirations to embed public art in key locations across the wider Tipner West regeneration area to reinforce local distinctiveness and culture (two southern 'gateway' locations proposed for the Bellway/HE land and 3 no. strategic (eastern gateway, central space and waterfront) locations for the Vivid/TRC land.
- A contemporary design language that will stand the test of time and link both new and existing communities with a materials palette and colour scheme suited to a marine environment, and
- A commitment to meeting the interim 2023 Future Homes standard in advance of it becoming a formal national requirement (fabric first, efficient water use and services, MVHR, air source heat pumps and solar pv used to secure measurable carbon reduction) plus exploration of innovation in construction for Bellway through the experimental use of SIPPs construction.

The proposed development would comprise 221 new homes comprising a mix of apartments and family homes, 30% of which would be affordable.

Access to the site would be via Twyford Avenue. Tipner Lane may become available subject to future enhanced bus route provision. Pedestrian and cycle access would use the same access points including Tipner Lane and Target Road

It is anticipated that the development would be constructed in one continuous phase lasting approximately 3 years.

CONSULTATIONS

Responses were received from the following consultees:

Consultee	Response
Archaeology Advisor	No objection
Coastal And Drainage	The overall principle of surface water run-off for the development site (discharge to Tipner Lake) is sound and acceptable to LLFA, however this is assuming Southern Water permissions are attained in writing and submitted to LPA. Without this information the LLFA is unable to approve the Drainage Strategy at this time
Contaminated Land Team	No objection subject to conditions requiring: <ul style="list-style-type: none"> • Remediation method statement • Verification • Removal of PD rights

Crime Prevention Design Advisor (Hampshire Constabulary)	The proposed design and layout is considered to be conducive to crime and disorder for the reasons outlined in their response. In our opinion the design does not conform to the adopted Local Plan (Core Strategy), Policy PCS23; Hampshire Constabulary cannot support this application.
Ecology	<p>Comments received on 19 January 2023: No objection, subject to a Reptile Mitigation Strategy being secured via a Planning Condition). Also recommend that the measures detailed within the ES Addendum Chapter A09 'Biodiversity' are secured via a Planning Condition.</p> <p>In addition, in order to address the impacts on loss of Priority Habitat on site, you may wish to request the creation of high distinctiveness habitats offsite, if the reduction of proposed residential units and onsite habitat creation is not possible. This will ensure compliance with the NPPF, The Environment Act 2021 (Commencement No. 5 and Transitional Provisions) Regulations 2022</p>
Environment Agency	No objection, subject to conditions.
Environmental Health	<p>No objection, subject to conditions requiring:</p> <ol style="list-style-type: none"> 1. details of mitigation methods to lessen vibration activities shall be submitted for approval, prior to any works commencing, where pile driven activities are to be carried out within 20 meters of sensitive dwellings (existing or newly occupied). 2. Details of the glazing and ventilation specification shall be agreed with the Local Authority prior to installation.
Fareham Borough Council	No comments
Hampshire & Isle of Wight Fire & Rescue Service	No objection. The development will need to be constructed in accordance with Approved Document B5 of the Building Regulations, Section 12 of the Hampshire Act 1983 and the Fire and Rescue Services Act 2004.
Havant Borough Council	No comments
Health & Safety Executive	<p>No objection, subject to a 'Grampian Condition' requiring the Hazardous Substances site licence that affects the land being revoked prior to first occupation of the development:</p> <p><i>'No residential units shall be occupied within the inner and middle zones until the hazardous substances consent for Hattons Gas (H1777) has been revoked in its entirety under the provisions of the Planning (Hazardous Substances) Act 1990, and written confirmation of the necessary revocation has been issued by the Hazardous Substances Authority'.</i></p>
Highways Engineer	<p>No objection subject to conditions and a S106 agreement to secure the following:</p> <ul style="list-style-type: none"> • Full details of the means of access to Twyford Avenue to be submitted to and agreed by the LPA/LHA prior to commencement of development with the access to be provided as agreed via a S278 agreement prior to first occupation of the development. • NCN route to be retained at the existing width, with details of layout, surfacing, waymarking etc to be submitted to and agreed by the LPA/LHA and subsequently provided prior to first occupation of the development. • A s106 contribution (value to be agreed) toward the implementation of active travel improvements at the A3 Northern Parade and LCWIP route 307 section C is to be paid prior to the first occupation of the development

	<ul style="list-style-type: none"> • Mitigation works at Twyford Avenue/Walker Road junction (as identified in the Transport Assessment) to be implemented prior to occupation of the development • Details of parking provision (including total spaces, size and layout, and EV provision) to be submitted to and agreed by the LPA/LHA prior to commencement of development and parking spaces provided as agreed prior to occupation of the development and thereafter retained for use by residents/visitors of the development • Travel Plan to be submitted to and agreed by the LPA/LHA prior to first occupation of the development to cover a period of 5years • A travel plan audit fee of £5500 is to be paid prior to first occupation of the development • A Construction Traffic Management Plan is to be submitted to and agreed by the LPA/LHA prior to commencement of development <p>These conditions are required to ensure the safety of all highway users and for the promotion of sustainable travel in support of NPPF paras 112 & 113; and Portsmouth Plan policy PCS17.</p>
Housing Enabling Officer	The new development scheme will provide desperately needed new affordable housing for the city as well as new private housing and is fully supported by Housing
Landscape Group	<p>We have reviewed the submitted information and have the following comments regarding the landscaping:</p> <ul style="list-style-type: none"> • Comments submitted in November 2021 specifically regarding tree size and species mix of the mixed perimeter hedge still apply, as well as comments regarding the dominance of cars. • Fencing - LAP area 1 shows a rectangular fenced area set within a wider area of wildflower. It would be preferable to extend the railings around the whole area to avoid creating a little 'holding pen' and make the entire area more useable. • There appears to be a very small strip of planting between property 171 and the back garden of property 172 which is shown as a planted area surrounded by a 1.8m brick wall and 1.8m close board fence, this should be reviewed. At the moment it looks like this space might become a problem as it appears to be just a leftover bit of land with no apparent use. Narrow strips surrounded by high fences/walls with no apparent use filled with planting should be avoided in general. • Hard surfacing - a sample of the coloured tarmac, as well as blocks and slabs proposed, should be submitted for approval prior to installation.
National Highways	<p>No objection, subject to the following condition:</p> <p>1. No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with Highways England). It should include but not be limited to construction traffic routes, parking and turning provision to be made on site, measures to prevent mud from being deposited on the highway and a programme for construction. Agreed details should be fully implemented prior to start of construction works.</p> <p>Reason: To mitigate any adverse impact from the development on the M27 Motorway and to ensure that the M27 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.</p>
Natural England	No Objection – Subject to Appropriate Mitigation being secured.

Portsmouth Cycle Forum	<p>Object.</p> <p>Portsmouth Cycle Forum recognise improvements have been made we are still in objection to the proposed provision for cycling at this site. The three main reasons for this are:</p> <ol style="list-style-type: none"> 1. The proposed segregated cycle route on Twyford Avenue is not LTN1/20 compliant. 2. The north south crossing of the new site access road is not on the 'desire line' 3. The internal shared use path on the north side of the access road is proposed at 2.5m wide with car parking on one side, and house frontages on the other, reducing its effective width to 1.5m. This is clearly in contravention with LTN1/20 and would be awful to cycle on with or without pedestrians being present
Portsmouth Water	No objection, subject to consideration being given to higher standards of water efficiency in new developments.
RSPB	
Scottish & Southern Electric	No objection provided the existing underground cables are not interfered with.
Southern Gas Network	No objection
Southern Water	<p>No objection subject to:</p> <ol style="list-style-type: none"> 1. the applicant making formal application to connect to the public sewer network 2. the applicant applying to adopt the on-site SuDS
SUSTRANS	No objection, subject to the developer providing an LTN1/20 compliant cycle track.
Tree Officer	<p>No objection subject to the following conditions:</p> <p>Landscaping</p> <p>Tree protection</p> <p>Pre-commencement meeting</p> <p>Arboricultural site supervision (pre-commencement and post completion)</p> <p>Tree planting</p> <p>Tree pruning</p> <p>Tree retention</p>
Waste Management Service	Expressed concerns regarding bin collection points, accessibility to bin stores by future residents, and the need for level access accessibility by RCVs and their crews.

REPRESENTATIONS

Following the re-consultation and re-notification exercise following receipt of amended plans in April 2023 a further 9 objections have been received. These raise the following issues:

- Increased traffic on Tipner Lane
- Parking
- Local infrastructure - schools, GP surgeries
- Noise disturbance during construction
- Access should only be via Twyford Avenue
- Reduction in air quality

Prior to this, a total of 45 representations had been received from 29 addresses, including 4 deputation requests and a petition of 378 signatures, raising the following issues:

- Access to my garage at 35 Target Road
- Access via Tipner Lane
- Blocks of flats out of keeping with the area

- Congestion
- Contaminated Land
- Energy efficiency measures within the development
- Flats out of keeping with the character of the area
- Highway safety
- Impact on ecology
- Impact on local, infrastructure (schools, GP surgeries etc)
- Inadequate car parking
- Inadequate environmental mitigation
- Inadequate parking
- Increase in traffic
- Increase in traffic on Tipner Lane
- Loss of day / sun light
- Loss of privacy due to overlooking
- Loss of trees
- Noise and disturbance
- Object to vehicle access off Tipner Lane due to impact on amenity of residents and air pollution etc.
- Opening up of Tipner Lane to traffic and amenity issues
- Overdevelopment of the site
- Overlooking and loss of privacy
- Proximity of proposed flats to rear of property (Range Green)
- Risk of contamination
- Specific objections to Plots 85 and 86 - overlooking & loss of privacy
- Traffic congestion
- Unsuitability of Tipner Lane / Twyford Avenue

POSITIVE AND PROACTIVE ENGAGEMENT

The National Planning Policy Framework requires local planning authorities to work with the applicant in a positive and proactive manner to resolve problems before the application is submitted and to foster the delivery of sustainable development. This requirement is met in Portsmouth through the availability of pre-application advice.

As set out in the Statement of Community Involvement submitted with the application, the applicant carried out extensive pre-application consultation and engagement both with the council and with local residents and businesses. In addition, the scheme was reviewed by a Design Review Panel set up by Design South East. The application is also subject to a Planning Performance Agreement.

The Design Panel Report has been submitted with the application. The key recommendations were as follows:

- 'Provide a composite plan that shows all three development sites (Bellway, Vivid and Tipner West sites) in their broader context in order to understand how they will come together to form a new neighbourhood adjoining the existing suburban neighbourhood of Tipner.
- Clarify the 'vision' for this new neighbourhood, moving beyond consideration of planning constraints to envision who will live here, how they will live and what kind of place this will be, taking a place making- or landscape-led approach to the masterplan, rather than a capacity-led approach.
- Introduce a range of alternative housing typologies to increase densities across the site, which will also be achieved through additional height, less slack space between buildings and addressing different edge conditions to inform the location of higher density in the masterplan
- Foreground the east-west spine that unites the scheme and connects this development with the surrounding amenities, to create a high quality, green pedestrian and cycle route that links with wider networks.

- Reduce the parking ratios to take up less space, support car-free living and active travel and allow for increased building footprint, given the proximity of the adjacent Park and Ride site.
- Consider the introduction of some additional uses to support the new community and address future ways of living.
- Rethink the location and function of the green open spaces within the masterplan to ensure their use and value to the community.
- Enhance the sustainability credentials of the scheme, given Homes England's commitment to biodiversity net gain and Portsmouth City Council's sustainability aspirations.'

PLANNING CONSIDERATIONS / COMMENT

Principle of the development

As set out in the NPPF (paragraph 2), 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken. Whilst third party representations are regarded as material planning considerations (assuming that they raise town planning matters) the primary consideration, irrespective of the number of third-party representations received, remains the extent to which planning proposals comply with the Development Plan.

The key issue in the determination of this application is whether this proposal would contribute to the achievement of sustainable development, in accordance with national and local planning policy.

As such the main planning considerations are:

- The principle of the development
- Design considerations;
- Impact on adjacent residential amenities
- Traffic/transportation implications;
- Ecology
- Flood risk/drainage;
- Sustainable design and construction;
- Site contamination;

Principle of the development

With regard to the principle of this development, the National Planning Policy Framework makes it clear that in order to support the Government's objective of significantly boosting the supply of homes, a sufficient amount and variety of land can come forward where needed (NPPF July 2021, paragraph 60).

Objective 5 and Policy PCS1 of the Portsmouth Plan seeks to tackle the issue of accommodating development and housing mix and to revitalise the Tipner area transforming it from a underused derelict site to a thriving community creating a new gateway for the city.

The policy states that any development at Tipner would need to:

- Include measures to avoid and mitigate any adverse effect on the integrity of European sites, in particular the Brent goose feeding sites at Tipner Range and Alexandra Park;
- Include measures to avoid and mitigate the impact on the Portsmouth Harbour SSSI;
- Have appropriate separation of foul and surface water;
- Contribute towards increasing the capacity of nearby schools as necessary;
- Mitigate noise from the motorway through the location / height of buildings;
- Be designed to take advantage of waterside location and this key gateway to the city;
- Take into account, and where appropriate protect, view points and the wider visual impact across Portsmouth Harbour;
- Create attractive and safe streets and spaces avoiding featureless and monotonous elevations;
- Retain, repair and find suitable new uses for the listed buildings at Tipner Point;
- Enhance the settings of the listed buildings; and
- Provide public open space with access to the waterfront, if this can be achieved without an adverse effect on the ecological integrity of Portsmouth Harbour

Policy S2 in the emerging draft Local Plan sets out three options for Tipner East. All three options put forward in the draft plan state that the area could potentially accommodate up to 700 dwellings albeit subject to safe vehicular access and highways mitigation where necessary.

As can be seen from the planning history section there have been previous planning applications on the land within the Bellway / Homes England redline:

- i. 10/00849/OUT - Detailed application for land remediation and raising including thermal desorption. Outline application for up to 518 dwellings, CHP plant, sea wall, coastal path. Main access from Twyford Ave. (Access, layout & scale to be considered)
- ii. 11/00362/OUT Outline application - upto 80 dwellings and upto 615sqm (gross external) of commercial floorspace for uses within classes A1/A2/A3/A5; construction of a new access from Twyford Avenue (only matter for approval)
- iii. 13/00202/OUT - Outline application for 23 dwellings (access & layout to be considered)
- iv. 13/00203/OUT - Outline application for 5 dwellings (access and layout to be considered)
- v. 15/01854/REM - Application for approval of reserved matters in respect of layout, scale, appearance and landscaping, for construction of 80 dwellings and 235sqm of commercial floorspace for uses within classes A1/A2/A3/A5 pursuant to outline permission ref 11/00362/OUT

On the basis that these were granted planning permission, albeit those permissions have now been allowed to lapse, this nevertheless demonstrates that acceptability of the site for redevelopment.

A further key consideration in favour of permitting this scheme is in terms of housing delivery. Based on figures in the recently published [Annual Monitoring Report](#) the council can only demonstrate 2.9 years supply (Table 4.5, page 28). Whilst the Government has announced plans to scrap the 5-year housing supply test that is only for councils with up to date plans. As the development plan in Portsmouth is more than 5 years old, paragraph 74 of the National Planning Policy Framework (NPPF) states that housing delivery should be measured against local housing need as defined by the standard method set out in national planning guidance.

Consequently, there is a presumption in favour for the development of this site as long as the proposal does not have a significant effect on a habitat site (either alone or in combination with other projects), unless an appropriate assessment has concluded that the project will not adversely affect the integrity of that site (NPPF, paragraph 182).

Environmental Impact Assessment: Summary of Assessment Conclusions and Mitigation

The application is considered to be 'EIA Development' pursuant to Schedule 2 Part 10(b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as

amended) and an Environmental Statement (ES) is accordingly submitted. A Scoping Opinion for the ES was sought by the applicants in January 2021 and issued in March 2021.

As required by the Regulations, a Non-Technical Summary of the EIA has also been submitted <https://publicaccess.portsmouth.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RHQS4RMOLV400>

The findings of the ES are briefly summarised here:

Topic	Identified Effects	Mitigation Measures	Residual Impacts
Transport, Access and Movement	Likely significant impact on Twyford Avenue Moderate impact at the junction of Walker Road and Twyford Avenue	Mitigation measures will be required by planning condition and through the S106 (discussed below)	No significant impacts
Air Quality	The impacts of emissions from two main sources associated with the Proposed Development have been assessed at nearby sensitive receptors. These are: • Emissions of dust and fine particles (PM10) from construction; and, • Traffic emissions from vehicles travelling to and from the Proposed Development during operation	Construction dust and pollution will be controlled through the CEMP Traffic emissions arising once the site is operating as a housing development will not be mitigated	
Noise & vibration	Noise impacts during site preparation and construction Impact of noise when site is in operation as a housing development has been assessed as Not Significant	To be mitigated through the imposition of planning conditions requiring a CEMP	
Drainage and Flood Risk	There is limited existing drainage on the Site, therefore disposal of surface water runoff from the eastern part of the Proposed Development will be made either direct to Tipner Lake or to an existing public surface water sewer on Twyford Avenue that also drains into Tipner lake. Runoff from the	To mitigate potential effects of future tidal flooding on the Site, floor levels will be raised above peak predicted sea levels, which will result in an insignificant flood risk and drainage effect. Potential effects of surface water runoff on Tipner Lake will be mitigated by measures	

	<p>western part of the development will be drained through the neighbouring Park and Ride site and discharged into an existing sewer in the north western corner of the Park and Ride, which also discharges into Tipner Lake.</p> <p>It has been established from previous studies that the Site could be at risk of future tidal flooding due to the existing levels, no other existing sources of flooding have been identified</p>	<p>detailed within the Drainage Strategy. These are to include permeable pavements and “downstream defender” devices for impermeable roads.</p> <p>Potential construction effects will be mitigated by strategies which are detailed in the CEMP which is submitted alongside this application.</p> <p>The assessment concludes that there will be no significant effects following the proposed mitigation strategies outlined in the chapter</p>	
Biodiversity	<p>Chapter 9 of the ES assessed the effects of the Proposed Development on biodiversity, including nearby European designated sites, Statutory and non-statutory sites and other habitats and species..</p>	<p>Measures will be required to mitigate the effects associated with construction on the nearby European Designated Sites, which will be secured by the CEMP. A Landscape and Ecological Management Plan (LEMP) will be required to mitigate habitat loss with Open Mosaic Habitat and bats. Reptiles must be translocated to an off-site receptor area to mitigate for the habitat loss caused by the Proposed Development.</p> <p>Mitigation for the loss of the SWBGS low use site P136 is to be in the form of enhancement works at the HIWWT Reserve at Southmoor, discussed below.</p> <p>Mitigation for the increased nitrogen load is to be via the implementation of land use changes at Knowle and the purchase of nitrogen credits from a suitable offsetting scheme such as Meon</p>	<p>some non-significant residual effects are predicted during construction for open mosaic habitat, reptiles and bats. The removal of open mosaic habitat is considered to be a moderate, permanent and irreversible impact due to only 7% of the area being mitigated for with habitat creation. Reptile translocation during construction is predicted to result in a negative minor impact due to it being unlikely that all animals will be caught or that all will survive at the receptor site. There is predicted to be a negative negligible impact on bats due to a temporary loss of habitat until soft landscaping is installed</p>

		Springs or Warneford Park for the residual nutrient levels not covered by capacity at Knowle	
Landscape & visual impact	Considering the site's current derelict condition a change in landscape condition is likely	Landscape strategy and mitigation planting to be secured by planning condition	
Ground Conditions	Historic ground contamination	Mitigation will be necessary to ensure that piling works do not result in the contamination of the underlying aquifer. Measures must also be put in place to prevent the propagation of Japanese Knotweed. Once these mitigation measures have been put in place the potential significance of these effects are considered to be negligible.	Residual risks relate to the reuse of site won material and working beneath the capping layers, which can be managed through the provision of a CEMP and Materials Management Plan. In addition, vapour protection measures, will be required for new buildings within Parcel IV.
Population and Economic effects	<p>Potential for residents to be affected by construction operations</p> <p>Increases in population as a result of the development could result in a significant effect on nearby schools due to lack of capacity to keep up with demand</p> <p>Local healthcare appears to have capacity to accommodate the proposed development</p>	<p>The potential for residents to be adversely affected by construction operations would be controlled and managed through implementation of the CEMP. This will be secured by planning condition and agreed with PCC prior to commencement of works at the Site. This will result in a negligible residual effect which is not considered significant</p> <p>This effect would be mitigated by a developer contribution to cover an increase in capacity to the local schools that may be required to meet the additional demand for school places resulting from the development. The specific details will be agreed and secured via the Community Infrastructure Levy (CIL). The proposed mitigation results in a negligible residual effect which is not significant.</p>	

	On site open space provision is less than that required by PCS13`	<p>However, should further analysis by the Portsmouth Clinical Commissioning Group identify a requirement to increase the consulting room capacity in the Primary Care Network, a developer contribution would be made and secured via section 106</p> <p>The open space needs of the new residents is considered to be met by existing local open space and play provision at Alexandra Park and Stamshaw Park, both located within 0.5 km of the Site</p>	
Consideration of other potential receptors / impacts: • Heritage; • Greenhouse Gases and Climate Change; • Waste and Materials; • Human Health; and, • Accidents and Disasters	No significant effects	n/a	n/a
Cumulative effects	Whilst there may be some potential cumulative effects should construction take place at the same time, the length of the construction period means that these are not significant.	Managed through the package of measures identified in the individual chapters including the provision of a CEMP	n/a

Design Considerations

This application has been subject to a number of design and layout changes since originally submitted. These can be summarised as follows:

1. Iterative Design Changes - August 2021 – September 2022
 - a. Unit Numbers increased from 203 to 221 dwellings.

- b. Noted as a 42% increase in dwellings since the preapplication process started in November 2018.
- c. Density and number increase achieved by adding more flats over previous single flats over garages, adding linked flats over garages between terrace rows and swapping dwellings for flats at Flat Block J.
- d. Amendments result in a greater proportion of 4 storey buildings and stronger building enclosure to the streets, routes and public realm.
- e. Reduced parking levels to a maximum of 1 space per apartment and less for smaller 1 bed units.
- f. Open space and green infrastructure provided in the form of; LAPs and street trees, innovative vertical green walling to the ends of 'public' roadside parking pergolas, private and communal gardens and pocket spaces.
- g. Juliette balconies to blocks with communal space at a premium.
- h. Noted that large open space deleted at the SEDRP / Council's request in favour of densification and mitigated by contributions towards on-site provision.
- i. NE corner / northern edge apartment Blocks F G & H amended to a flat roof design to reflect the change in architectural language towards the Vivid proposals.
- j. An east-west spine to the fore with street trees and cycle ways within it linking new and existing facilities including a potential pedestrian / cycle link to the proposed park and ride facility and the Alexandra Park / Mountbatten Centre.
- k. A contemporary design language with 70% of the dwellings being bespoke design.
- l. Proposals to embed public art in 2 key locations which will then act as a contemporary design language that will stand the test of time and link both new and existing communities with a materials palette and colour scheme suited to a marine environment.
- m. A commitment to meeting the Future Homes standard in advance of it becoming a formal national requirement (fabric first, efficient water use and services, Mechanical Ventilation with Heat Recovery, air source heat pumps and solar pv used to secure measurable carbon reduction) plus exploration of innovation in construction for Bellway through the potential experimental use of SIPP's construction.

2. Further Design Changes - September 2022

- a. The following further design refinements have been made to respond to consultee comments (notably housing, highways, ecology and designing out crime), to define complex ownership boundaries along its northern edges and to respond to submitted development proposals in Vivid's detailed planning application for 835 new homes 22/01292/FUL for validated 29th September 2022 on the land at Tipner East to the north of the HE / Bellway site:
- b. Layout Revisions J-K Submitted September 2022:
- c. Affordable Housing Balance: plots 5-8 changed to Affordable and Plots 82-83 changed to Private and wheelchair accessible parking spaces indicated.
- d. Enlarged bin collection points.
- e. Flat Block J internal bin stores amended to decrease residents travel distances.
- f. Fencing and / or gates added to provide security to meet crime prevention objectives.
- g. Rear garden / 'garage' accesses provided for off-site dwellings at 30 and 35 Target Road.
- h. Highway amendments opposite Plots 90-93 and Twyford Road junction to accommodate potential future bus route.
- i. Flat Blocks A, B, E and F - Disabled Units added.
- j. Flat block plan references updated.
- k. House type swapped to FLE at Plots 4-8
- l. Site Sections prepared to show relationships between existing residential and proposed VIVID proposals.
- m. Additional information Submitted 28th September 2022: Ecology Technical Advice Note, Illustrative Materials and Identities Plan- 01 (ref. BELL180906 IP-01 REV P1) & Illustrative Identities Plan - CGI Views (ref. BELL180906 IP-02 Rev P1)

3. Further Design Changes - October – November 2022

- a. Further amended submissions made as follows:

- b. Changes to road surfaces to indicate cycle and pedestrian priority (changes to continuous level tarmac cycleway) at crossings beside plots 8, 111 & 180.
- c. Low retaining walls instead of graded banks on the northern edges around Flat Blocks F, G, H & J to align to the agreed boundary and allow the development to be independent from other potential / future planning approvals.
- d. Potential Future Bus link connection into VIVID Site re-located to LAP Adjacent to plot 93.
- e. Note LAP and junction re-configured to accommodate the potential link.
- f. Affordable housing / private house locations amended in agreement with HEO requirements: Plots 20-21, 84-85 & 111-117 revert to Affordable Housing whilst Plots 5-8 & 9-14 revert to private.
- g. Wheelchair accessible locations re-allocated and bespoke internal layouts as agreed directly with HEO & Occupational Therapists.
- h. Wheelchair accessible units now located in flat Block B - 2 No x 1 Bed, Block E – 1 No x 1 Bed & Flat Block F – 1 No x 2 Bed.
- i. External windows to Wheelchair units amended to omit cross bar at wheelchair eye level.
- j. Flat Block H – Southern flat internal layout amended to respond to the submitted design of VIVIDs adjacent Flat Block: Lounge / Kitchen / Dining relocated to southern end of block with additional windows / bays added to the South & West aspects.

The resultant proposed layout is as shown below:



Figure 4 - Design Rationale

The overall effect of these changes is to create a new extended neighbourhood that is an evolution of the existing character to the south of the site and which provides a linkage to the VIVID site to the north. The proposed site is laid out to provide a strong continuous street frontage with minimal setbacks from the roads. Dwelling typologies to the main street frontages are predominantly long terrace rows often linking directly with flat blocks. Where the site meets Target Road the scale increases gradually from 2 storeys to 4 storeys within the street. Where the development meets the surrounding streets the roof forms are retained as traditional pitched roofs changing to flat roofed (flat blocks) where the proposals merge with VIVID site in the north-eastern area. To mirror the feel of the surrounding streets contemporary materials and design

features such as bay projections are used to provide a vertical emphasis within the street. Overall, by matching the scale, dwelling typologies, creating a strong street frontage and reflecting the character of the surrounding context the new development will provide a contemporary extension to the existing neighbourhood.

Whilst Officers are satisfied that the amended scheme would result in an acceptable layout in design terms with no materially adverse impact on the residential amenities of the existing development to the south or for future occupiers of the proposed development, the Council's Designing Out Crime advisers (Hampshire Police) have concerns from a public safety and crime viewpoint. They consider that the proposed mitigation measures would not be effective. However, officers consider that the proposed layout does allow for reasonably effective surveillance of the car parking areas and results in a well-connected and logical layout.

Housing Provision

The proposed housing mix comprises a total of 221 units comprising 41, 1-bed units (21 market and 20 Affordable), 133, 2-bed units (94 market and 39 affordable) and 47, 3-bed units (39 market and 8 affordable). This mix is considered to meet local housing market needs and is acceptable.

The provision of 67 affordable units (30.3%) is policy compliant. In addition, following detailed discussion between the applicant and the council's housing enabling officer these units are to be provided in the following mix:

12 x 1-bed flats, 36 x 2-bed flats (in blocks B, E and F and including 4 disabled ground floor flats which have been specifically designed for PCC), 1 x 2-bed FOG, 2 x 2-bed FOGs, 4 x 2-bed houses, 4 x 3-bed 5 person houses and 4 x 3-bed 6 person houses. These all meet or exceed the minimum space standards as set out in the NDSS.

With regard to tenure type, the tenures will potentially be made up of a combination of Affordable rent (possibly Social Rent) and Low-Cost Home Ownership (LCHO - Shared Ownership). The tenure can be agreed later once there is a Registered Provider partner on board. All Affordable/Social rent units will be nominated to through the Portsmouth City Councils Housing Waiting Register and the LCHO through the 'Help to Buy - (South)' agent

As such the new development scheme will provide policy compliant affordable housing for the city as well as new private housing and is fully supported by Housing

As housing delivery within the city has fallen below 75% of the housing requirement over the previous three years the Council must apply the presumption in favour of sustainable development when making decisions on planning applications. This means that, in accordance with para. 11 d) of the NPPF, decisions on applications involving the provision of housing should be granted permission, unless NPPF protected areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF taken as a whole.

However, as Portsmouth has also been unable to demonstrate a five-year housing land supply in recent years, this presumption currently applies already.

The Government's Standard Method has identified a need for the city of 16,161 homes for the plan period to 2038. However, the assessed need for the draft Portsmouth Local Plan (PLP) going forward will need to take into account, amongst other factors, the actual deliverable level of housing in Portsmouth given the city's number of constraints, including the availability of land, impacts on the protected coastal habitat, local capacity of local infrastructure, and the financial deliverability of development. Nevertheless, the draft PLP has identified the necessity to have an uplift to housing delivery numbers compared to the adopted PP strategy, recognising the increased need for more housing in the city. The proposal is for 221 dwellings within a site area of approximately 3.2 ha (equivalent to 69 dph). As such whilst the proposal, on its own, falls

short of the policy requirements under Portsmouth Plan Policy PCS21 for a minimum of 100 dph for Tipner as this application site is adjacent to and shares common infrastructure with the development approved on the adjacent site to be developed by VIVID homes which proposes 835 units on a site of approximately 5.95 ha this results in an density across the two sites of 130 dph. For information, the draft PLP stipulates that development at Tipner should be at least 120 dph.

With regard to mix, current Policy PCS19 requires that 'developments should achieve a target of 40% family housing where appropriate'. The proposed total number of 3-bed units (private and affordable flats and houses) account for 103 units (17.6%). This is below the aspiration of policy PCS19. Officers have consideration whether the applicant has done all that is possible to provide for family housing in line with the policy aspirations for the site given the known geographical constraints, and the need to balance overall supply of both market and affordable housing. It is considered that the failure to meet the aspiration of policy PCS19 in this case is a product of the applicant's intention, with the encouragement of Portsmouth City Council, to increase the density of development on the site and overall it is a reasonable response to the development constraints and opportunities of the site.

It is noted that the proposed affordable housing provision would meet the adopted policy requirement of 30%, which is supported.

Site Layout and Living conditions for Future Residents

The surrounding streets to the south of the application site are predominantly 2 – 2.5 storey dwellings grouped into terraced rows with occasional semi-detached dwellings. The dwellings have a minimal set back from the street thus providing a strong continuous street frontage. The dwellings are traditional in style with front to back pitched roofs. The application proposals seek to reflect the character of the surrounding context to the south and link into the emerging contemporary proposals to the north (VIVID Site).

In keeping with the surrounding context, the proposed site is laid out to provide a continuous street frontage with minimal setbacks from the roads. Dwelling typologies to the main street frontages are predominantly long terrace rows often linking directly with flat blocks. Where the site meets Target Road the scale increases gradually from 2 storeys to 4 storeys within the street. Where the development meets the surrounding streets the roof forms are retained as traditional pitched roofs changing to flat roofed (flat blocks) where the proposals merge with VIVID site in the north-eastern area. To mirror the feel of the surrounding streets contemporary materials and design features such as bay projections are used to provide a vertical emphasis within the street. Overall, by matching the scale, dwelling typologies, creating a strong street frontage and reflecting the character of the surrounding context the new development will provide a contemporary extension to the existing neighbourhood.

Impact on Amenities of Neighbouring Residents

With regard to the impact of the proposed development on the amenities of existing neighbouring residents living on Twyford Avenue, Target Road and Tipner lane, the site shares a 55 metre boundary with the curtilages of properties on Twyford Avenue and a 330 metre shared boundary with those on Target Road / Tipner Lane. The site has been designed so as to minimise adverse impacts on existing neighbours and is considered to represent a well-designed layout.

Highways and parking issues

The proposal is for the construction of 221 dwellings, new access onto Tipner Lane, internal access roads, open space, parking and associated infrastructure.

The proposed development occupies part of a site that was previously in receipt of an outline consent to construct up to 518 dwellings (10/00849/OUT). There are several other relatively recent consents relevant to this site or the wider Tipner East strategic allocation site. However,

one of these consents has since expired and a further two are for much smaller developments (5 & 23 dwellings respectively) than proposed by the planning application.

The site proposes two accesses from the public highway, the main access is from Twyford Avenue, a 20 mph road that has housing and on street parking along its west side. The road is ultimately a "dead-end" however does also provide access for the Mountbatten Leisure Centre located east of the development site. This part of Twyford Avenue, from Tipner Lake to its junction with Northern Parade (A3) is not part of the classified road network.

The second access to the site is via Tipner Lane and will effectively extend the road northwards into the site. Tipner Lane is a 20mph road and is part of a predominantly residential area and is, like Twyford Avenue, ultimately a "dead-end". There is a link to M275 junction 1, though this is closed with bollards and is solely for use by active modes and emergency vehicles. There is not currently a route proposed through the site to join the two accesses, this is the result of an existing restriction placed upon one of the land parcels forming the wider site that prevents any access for vehicles or utilities to pass to the neighbouring land parcel. Therefore, only a small part of the development can be accessed via Tipner Lane (by vehicle) under the proposals. The site also incorporates a part of the National Cycle Network (NCN) route 22 which passes through the site to the southern boundary and joins Target Road.

Extensive discussions that have taken place between the highway authority and the applicant's consultants during the life of this application.

Following the submission of a further technical note by the applicant's consultants and review by the Highway Authority, it would appear that the outstanding issues are now:

- Twyford Road access has been improved, though could still go further to place pedestrians/cyclists on the desire line. The final design (and subsequent delivery) of this could acceptably be secured by condition to be submitted to and agreed by the LHA prior to occupation as part of a package of s278 works.
- Future bus route through the site remains unresolved. The inclusion of turning space to the east of the site at Tipner Lane is welcomed and is reasonably the most that could be delivered within the existing proposed spine road alignment. However, a reciprocal allocation of a bus route through the neighbouring Vivid site will be required to ensure this is not redundant.
- Principle of securing a contribution towards active travel improvements at the A3 Northern Parade, particularly focused around the roundabout junction with Twyford Avenue is agreed, with the value/method of proportioning scale of contribution to be agreed.
- All internal side roads should be engineered in such a way to afford priority to pedestrians and cyclists (where appropriate) to reflect the updated road user hierarchy within the Highway Code 2022.
- It is recommended that permitted development rights are extinguished in relation to the conversion of front gardens to car storage for units where this may be feasible (i.e. forecourts are of a sufficient size to accommodate a vehicle).
- The LHA retains a desire to adopt the main spine road(s) of the development, this is currently precluded by the inclusion of allocated parking spaces along the spine road. These should be relocated so as to not preclude to possibility of the development roads being adopted in future.
- Off road NCN 22 section is re-provided to a lesser width than the existing facility. It is acknowledged that the new path will almost certainly be of a higher quality, with improved boundaries, increased natural surveillance, and a better surface. However, the route is to be provided at the absolute minimum prescribed within latest guidance (3.0m).

Notwithstanding these issues, the Highway Authority is of the view that the application can be recommended for approval subject to conditions and a S106 agreement to secure the following:

- Full details of the means of access to Twyford Avenue to be submitted to and agreed by the LPA/LHA prior to commencement of development with the access to be provided as agreed via s278 agreement prior to first occupation of the development.

- NCN route to be retained at the existing width, with details of layout, surfacing, waymarking etc to be submitted to and agreed by the LPA/LHA and subsequently provided prior to first occupation of the development.
 - A S106 contribution (value to be agreed) toward the implementation of active travel improvements at the A3 Northern Parade and LCWIP route 307 section C is to be paid prior to the first occupation of the development
 - Mitigation works at Twyford Avenue/Walker Road junction (as identified in the Transport Assessment) to be implemented prior to occupation of the development
 - Details of parking provision (including total spaces, size and layout, and EV provision) to be submitted to and agreed by the LPA/LHA prior to commencement of development and parking spaces provided as agreed prior to occupation of the development and thereafter retained for use by residents/visitors of the development
 - Travel Plan to be submitted to and agreed by the LPA/LHA prior to first occupation of the development to cover a period of 5 years
 - A travel plan audit fee of £5500 is to be paid prior to first occupation of the development
 - A Construction Traffic Management Plan is to be submitted to and agreed by the LPA/LHA prior to commencement of development
- These conditions are required to ensure the safety of all highway users and for the promotion of sustainable travel in support of NPPF paras 112 & 113; and Portsmouth Plan policy PCS17.

Impact on Biodiversity / Ecology

Protecting biodiversity and nature conservation areas is a key objective of the Portsmouth Plan and development at Tipner would be expected to deliver biodiversity enhancements. Policy PCS13, A Greener Portsmouth, seeks to ensure that development retains and protects the biodiversity value of the development site and produces a net gain wherever possible with any unavoidable negative impacts being appropriately mitigated.

In this case reptiles, bats and a priority habitat have been identified on the site along with the requirement to carry out a Habitat Regulations Assessment (HRA).

With regard to reptiles, it has been confirmed that a receptor site has been found, which is currently not suitable for reptiles as the majority of the site is managed as short grassland. Therefore, prior to commencement of the development, a Reptile Mitigation Strategy should be submitted to the LPA with the receptor made suitable prior to any translocation being carried out (to be secured via a Planning Condition).

With regard to bats, further updated bat surveys have been carried out. The survey results are similar to those previously recorded but it is noteworthy that barbastelle passes have been recorded on site. As the proposals will result in new lighting which is likely to deter these species from using the site, with no meaningful green buffers created along the boundaries, the proposals will result in a minor adverse impact on foraging/commuting bats.

With regard to the issue regarding the loss of an area of 'open mosaic priority habitat (OMH)', the proposed development will result in the loss of all areas and due to the nature of the scheme there is no possibility of providing meaningful and connective replacement habitats on the site. This has been acknowledged by the applicant's ecologist and is therefore a matter that has to be weighed up in the balance.

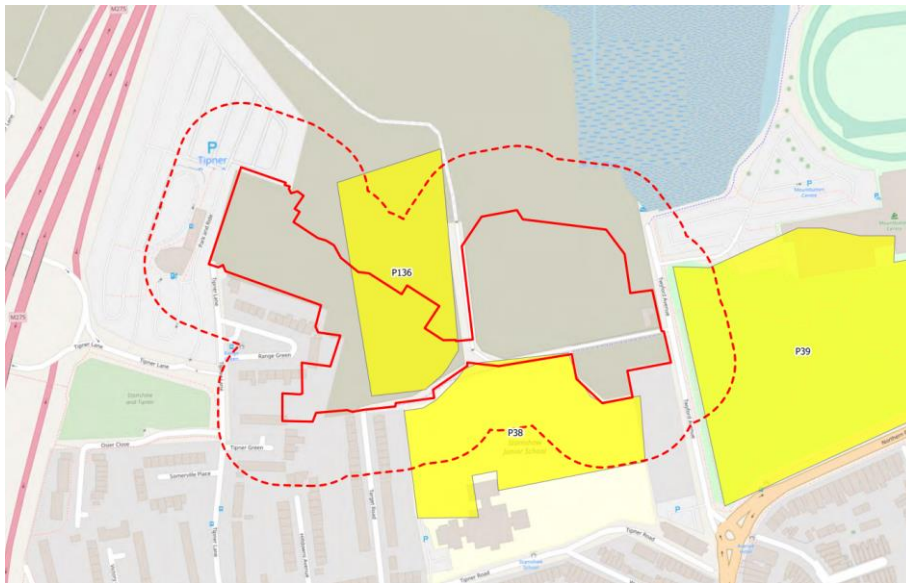
As such, whilst OMH is a priority habitat¹ given that the proposal would deliver much needed housing on a brownfield site, regard has to be had to the NPPF which states that 'Local authorities should 'encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value'. There is no statutory definition of high environmental value. As such it has to be assessed in this case as to whether the OMH on this site is of sufficiently high value to warrant refusing the application on the basis of no suitable mitigation being proposed.

¹ [Open mosaic habitats on previously developed land \(UK BAP Priority Habitat description\) \(jncc.gov.uk\)](https://www.jncc.gov.uk/information-and-services/our-work-programs/nature-conservation-programme/priority-habitats/open-mosaic-habitats)

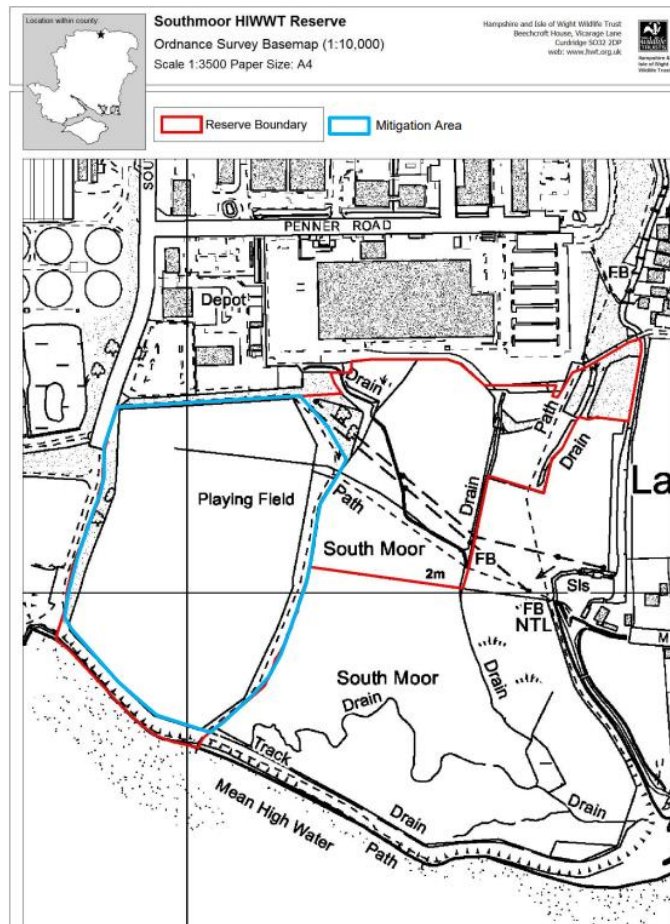
Officers consider that taking all matters into account that the need for housing delivery on this site including 30% affordable housing given the limited housing land supply available when assessed against the Government's 5-year standard are factors that weigh heavily in allowing this proposal.

By way of partial mitigation for this loss, the applicant has submitted updated landscape plans which identify proposed locations within the site where habitat creation is proposed (using site won soils and seed where possible) in accordance with Chapter 9 (Ecology) of the Environmental Statement (ES). These plans are in broad accordance with Figure 9.11 of the ES and also accommodate a number of further amendments to the site layout. These do not result in any significant change to the impact assessment set out in Chapter 9, including the assessment of residual effects (which are significant adverse for OMH).

With regard to the loss of SPA supporting habitat for Solent Waders and Brent Geese, the proposed development results in the partial loss of a low use site (P136), as shown below:



A reason as to why this application has taken so long to be presented to Planning Committee is due to the difficulties experienced by the applicant to find a suitable site to compensate for this loss. This has now been found in the form of land within the Hampshire and Isle of Wight Wildlife Trust's reserve off Southmoor Lane in Havant. Following consultation with Natural England, their opinion is that this mitigation appears ecologically robust and in line with the Solent Wader and Brent Goose Strategy Mitigation Guidance, and provided that this mitigation and management can be secured and provided for the lifetime of the development, Natural England can agree that there would be no adverse integrity on the Qualifying Features of the SPA.



A further issue that needs to be addressed is that of the impact of the development on nationally and internationally important wildlife sites in the Solent Catchment arising from excessive nutrients from wastewater discharge. In this case the applicant has secured suitable mitigation as it proposes to utilise HCA land at Knowle in the borough of Winchester

Flood Risk and SUDS

Part of the site falls within Flood Zone 2 and 3 meaning that the site is at high risk of flooding. Based on the Flood Risk Assessment submitted with the application and following consultations with the Environment Agency and the City Council as Lead Local Flood Authority (LLFA), no objection is raised to the proposed development subject to conditions dealing with flood risk, previously unidentified contamination, SuDS infiltration of surface water, and Piling.

CIL and S106

Part 11 of the Planning Act 2008 provides for the introduction of the Community Infrastructure Levy (CIL). The detail of how CIL works is set out in the Community Infrastructure Regulations CIL is intended to be used for general infrastructure contributions whilst S106 obligations are for site specific mitigation. The regulations have three important repercussions for S106 obligations:

- Making the test for the use of S106 obligations statutory (S122)
- Ensuring that there is no overlap in the use of CIL and S106 (S123)
- Limiting the use of 'pooled' S106 obligations post April 2014 (S123)

Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012 with a basic CIL rate of £105/sqm. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2023 basic rate is £167.15 / sqm. Most new development which creates over 99sqm of gross internal area

or creates a new dwelling is potentially liable for the levy. However, exclusions, exemptions and reliefs from the levy may be available.

Based on figures provided by the applicant the gross CIL Liability for this site would be circa £2,819,523.

S106 - Heads of Terms

The applicant has indicated its willingness to enter into a legal agreement under S106. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

These tests are set out as statutory tests in regulation 122 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. These tests apply whether or not there is a levy charging schedule for the area.

The Heads of Terms are to be agreed with the applicant but are likely to comprise, inter alia, the following:

1. ENVIRONMENTAL
 - 1.1. SANG/SAMM Solent Protection Area contribution (TBC)
 - 1.2. Ecological Management and Enhancement
 - 1.3. Open Space Management Plan
 - 1.4. Replacement Open Mosaic Habitat
 - 1.5. Bird Aware Financial Contribution
 - 1.6. Nutrient Mitigation Delivery
2. HIGHWAYS AND TRANSPORT
 - 2.1. Public Highway Works (Highway Improvements):
 - 2.2. Highways (junction improvement works - Twyford Avenue)
 - 2.3. Travel Plan Audit Fee
 - 2.4. Bus Routing
 - 2.5. Car Club
3. INFRASTRUCTURE
 - 3.1. Affordable housing
 - 3.2. Linkage to VIVID
 - 3.3. SUDS

Human Rights and the Public Sector Equality Duty ("PSED")

The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who don't. The

protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

CONCLUSION AND PLANNING BALANCE

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004, the decision on a planning application should be made in accordance with the development plan unless material consideration(s) indicate otherwise. In considering Section 38(6) the proposal does not materially conflict with the development plan and the material considerations do not indicate otherwise.

This is a complex application that if implemented would take a significant period of time to complete. However, there are significant planning benefits in redeveloping this vacant site. These are:

- the delivery of much needed housing at a high density that makes efficient and effective use of land (a limited resource in Portsmouth) and at a time when PCC cannot deliver a five year land supply
- the provision of at least 30% affordable housing
- environmental improvements and enhancements compared with the existing site situation
- job creation

The officer recommendation is therefore to grant planning permission

RECOMMENDATIONS

Grant planning permission subject to conditions and a S106 Agreement.

Delegate authority to the Assistant Director for Planning and Economic Growth to finalise the wording of the Draft Conditions (listed below) and finalise the S106 agreement in accordance with the draft Heads of Terms listed above.

That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within six months of the date of this resolution.

Draft Conditions (Headings)

1. TIME LIMIT
2. APPROVED PLANS AND DOCUMENTS
3. MATERIALS
4. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN
5. CONSTRUCTION TRANSPORT MANAGEMENT PLAN
6. CONTAMINATED LAND - RISK MITIGATION
7. *CONTAMINATED LAND - VERIFICATION*
8. CONTAMINATED LAND - WATCHING BRIEF

9. PREVIOUSLY UNIDENTIFIED CONTAMINATION
10. FLOODING - IMPLEMENTATION OF FLOOD RISK ASSESSMENT
11. FLOODING - GROUND LEVELS
12. SURFACE WATER DRAINAGE SCHEME
13. PILING METHOD STATEMENT
14. LOCAL HIGHWAY IMPROVEMENTS
15. LANDSCAPING - DETAILS
16. LANDSCAPE IMPLEMENTATION
17. LIGHTING SCHEME
18. RETENTION OF GARAGES
19. PERMITTED DEVELOPMENT RIGHTS
20. COMMERCIAL UNITS
21. ECOLOGICAL MITIGATION
30. GLAZING - SOUNDPROOFING (M275 NOISE)
31. CAR PARKING
32. CYCLE PARKING
33. CAR PARKING ACCESS AND MANAGEMENT PLAN
34. PROVISION OF REFUSE AND RECYCLING FACILITIES

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Agenda Item 5

22/00226/FUL

WARD: COSHAM

FORMER ROYAL BRITISH LEGION, SIXTH AVENUE, PORTSMOUTH, PO6 3PD.

CONSTRUCTION OF 4 STOREY BUILDING, COMPRISING 23 NO. FLATS WITH ON SITE CAR PARKING AND BICYCLE STORAGE (FOLLOWING DEMOLITION OF EXISTING BUILDING)

LINK TO ONLINE DOCUMENTS:

[22/00226/FUL | Construction of 4 storey building, comprising 27no. flats with on site car parking and bicycle storage \(following demolition of existing building\) | Cosham Royal British Legion Sixth Avenue Portsmouth City Of Portsmouth PO6 3PD](#)

Application Submitted By:

Darryl Howells

Darryl Howells Planning Consultancy

On behalf of:

Lawish One Ltd

RDD: 21st February 2022.

LDD: 23rd May 2022.

REPORT BACK, 31st May 2023

Members will recall this application being considered at the Planning Committee meeting of 22nd March. The application was recommended for approval by officers, but with a request to retain delegated powers to try and resolve the matter of Affordable Housing with the Applicant. The Committee raised no objection to the development but did decline the request about the process for Affordable Housing. It was determined that the matter would return to the Committee for its decision. The original Committee report is set out below.

Since the March Committee meeting, Natural England have provided a comment of no objection to the proposed mitigation for the Special Protection Areas (SPA).

Affordable Housing:

The NPPF considers a 15-20% profit (on Gross Development Value (GDV)) to be an acceptable return for a developer. The Applicant considered the development would not yield such a profit were Affordable Housing provision to be made.

The Applicant's submitted development finances were considered and adjusted by the Local Planning Authority's (LPA) financial advisor, who determined the scheme would yield 14.9% profit if a policy-compliant 7 Affordable Units were provided. Profit would be 17.5% with no Affordable Housing.

The submissions, however, under-calculated the Community Infrastructure Levy (CIL) due, and did not account for the costs of mitigation for the SPAs. Taking these matters in to account as well as the adjustments to costs and values provided by the LPA's financial advisor, the LPA considers the scheme's finances would be as follows:

With 7 Affordable Units

GDV	£3,956,669
Total costs	£3,595,295
= Profit	£361,374 (9.1%)

No Affordable Units

GDV	£4,269,500
Total costs	£3,750,508
= Profit	£518,992 (12.2%)

Planning Officers have corresponded and met with the Applicants. The Applicant does not agree with Officers' assertion that some degree of Affordable Housing can and should be provided, as the Applicant considers the scheme does not provide sufficient profit to do so. The Applicant, nevertheless, has made an offer of £25,000, which would be used towards Affordable Housing at another site(s). The Applicant noted the offer was contingent on the CIL being calculated as per the Council's website, the LPA has provided what it considers to be the correct CIL charge.

Officers note that the Applicant is apparently prepared to proceed with the development at a rate of profit lower than the NPPF suggested range, with or without Affordable Housing. The scheme, would nevertheless remain in healthy profit, even with full, policy-compliant Affordable Housing (7 units), with £361,374 profit (9.1%). The LPA's financial advisor notes how relatively small changes in sales values (increased) and/or in build costs (decreased) would significantly change scheme viability. The Advisor notes *"it is not the Affordable Housing that is making an otherwise viable development unviable, there seems little difference in scheme viability either with or without Affordable Housing"*. Your Officers conclude that the Applicant's offer is not good enough and the Council's Housing Officer concurs. Therefore, and regrettably, Officers recommend that the scheme should not be approved.

The amended Recommendation, for Refusal, is as per below. Given a Reason for Refusal on the matter of Affordable Housing, the mitigation for the Special Protection Areas cannot be achieved by way of a planning consent, and so that matter must form a second Reason for Refusal, also set out below.

RECOMMENDATION:

Refuse:

1. The development does not propose a satisfactory degree of Affordable Housing and so fails to comply with PCS19 of the Portsmouth Local Plan, and NPPF Chapter 5;
2. In the absence of a legal agreement to secure the necessary mitigation for the effects of the development on the Special Protection Areas (nitrates, and recreational bird disturbance), the development is contrary to PCS13 of the Portsmouth Local Plan and to the Conservation of Habitats and Species Regulations 2017 (as amended) and to the NPPF (paragraphs 11, 180-182).

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ORIGINAL REPORT, 22nd March 2023

SUMMARY OF MAIN ISSUES

- 1.1 This application is being presented to Planning Committee due to the number of objections received (from 18 addresses).
- 1.2 The main considerations are:
 - The principle of a residential development;

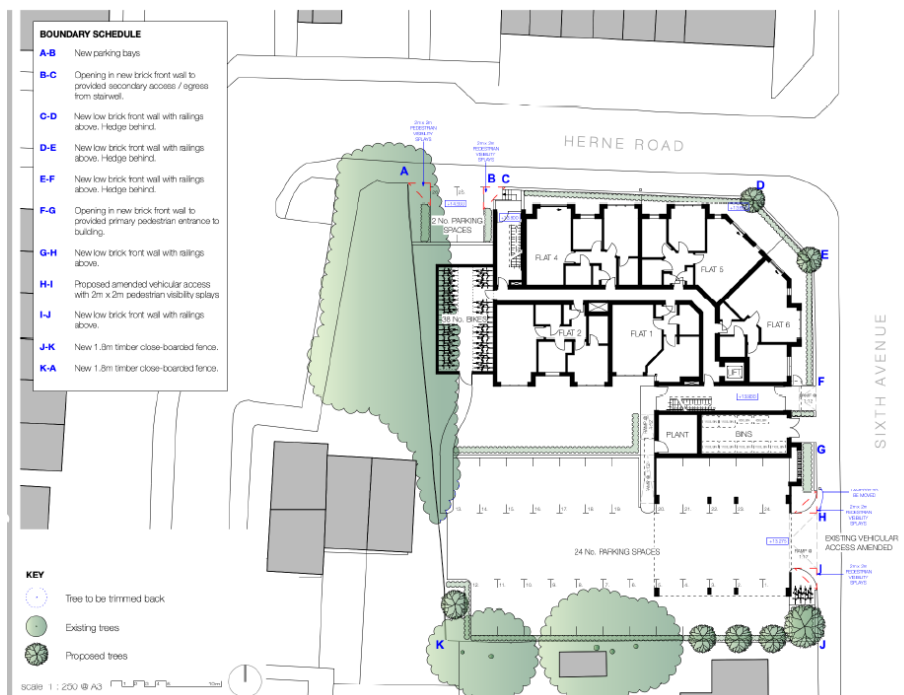
- Housing Mix & Affordable Housing;
- Design Consideration;
- Living Conditions for Future Occupants;
- Impact on Amenity of Adjoining
- Highways & Parking;
- Appropriate Assessment & Biodiversity
- Trees
- Flooding
- Ground Conditions & Pollution (Contaminated Land)

SITE AND SURROUNDINGS

- 2.1 The Site is located at the junction of Sixth Avenue and Herne Road in Cosham. The site is roughly rectangular and is located in a predominantly residential area with Wymering Methodist Church opposite the site to the north east.
- 2.2 The site comprises the former Cosham branch of the Royal British Legion Social Club. The building is a single storey brick structure, rectangular in shape that measures approximately 531 sq.m. It has been disused for a number of years.
- 2.3 The surrounding residential development varies considerably from two storey terrace and semi-detached properties to 3 storey apartments which vary in their appearance and materials which gives the surrounding area a very mixed character. The land slopes up from south to north. Trees are located to the site's south and western boundaries, just outside the site on other parties' land. The site measures 0.05 hectare and is located 700m west of Cosham Town Centre, with Southampton Road and the Queen Alexandra Hospital nearby to the north.

PROPOSAL

- 3.1 The development proposes the demolition of the existing building and the subsequent erection of a part 2, part 3 and part 4 storey building to provide for a total of 23 residential apartments together with associated courtyard parking accessed via an undercroft off Sixth Avenue, open space and landscaping.
- 3.2 The development would comprise a total of 8 one bedroom units and 15 two bedroom units together with 26 car parking spaces. There would be 38 secure bicycle parking spaces (and four visitor spaces).
- 3.3 The main parking area would be located off Sixth Avenue and would comprise a total of 24 parking spaces. To the north a further two parking spaces are proposed off Herne Road.
- 3.4 In addition, the apartments would be served by two areas of communal space, one to the rear of the block and one above the bicycle store. In addition, the top floor (3rd floor) flats would have their own private roof terraces.
- 3.5 The building would be constructed using lighter brick work with slate style render on the upper floor with a mixture of hedging and low wall with railings to the front of the site. The sloping topography of the site would entail a degree of regrading of the land which is set out below.
- 3.6 The images below show the Proposed Site Plan and East/Front elevation:



East Elevation
Scale 1: 200 @ A3

PLANNING CONSTRAINTS

4.1 The site is subject to the following key constraints

- Tree Preservation Order (TPO 156)
- Flood Zone 1 (Lowest Risk)

POLICY CONTEXT

- 5.1 The planning policy framework for Portsmouth is currently provided by:
- 5.2 The Portsmouth Plan (The Portsmouth Core Strategy) adopted in January 2012.
- 5.3 Having regard to the location of this site and the nature of the proposal, the relevant policies within the Portsmouth Plan would include:

PCS10 - Housing Delivery
 PCS12 - Flood Risk
 PCS13 - A Greener Portsmouth
 PCS15 - Sustainable Design and Construction

PCS17 - Transport
 PCS19 - Housing Mix, Size and the Provision of Affordable Homes
 PCS21 - Housing Density
 PCS23 - Design and Conservation

5.4 This framework is supplemented the following saved policies from the Portsmouth City Local Plan (2006).

Policy DC21 - Contaminated Land

5.5 Regard should also be had, albeit affording it very limited weight at this time, to the Draft Portsmouth Local Plan (September 2021).

5.6 Regard also has to be had to the following SPDs:

- Housing Standards.
- Updated Interim Nitrate mitigation strategy
- Planning Obligations
- Parking Standards and Transport Assessments
- Reducing Crime Through Design
- Solent Recreational Special Protection Area
- Sustainable Design and Construction

STATUTORY DUTIES

6.1 The Local Planning Authority has statutory duties relating to the determination of the application which are set out in the following legislation:

- Section 70 of The Town and Country Planning Act 1990
- Section 38(6) of The Planning and Compulsory Purchase Act 2004
- The Equality Act 2010

RELEVANT PLANNING HISTORY

7.1 The site has a short planning history dating back to the 1970's which relates to former use of the site as a social club. There is no history of apparent relevance to the current proposal.

CONSULTATIONS

8.1 The consultee comments are summarised in the table below:

Highways Development Control	The Highway Authority had previously objected to the scheme, following the submission of additional information relating to pedestrian visibility splays they raise NO OBJECTION to the proposal subject to conditions regarding visibility splays.
Landscape Officer	The Officer has stated they would like to see more details on landscaping. Such details can reasonably be conditioned.
Contaminated Land Team	NO OBJECTION subject to conditions.
Ecology Adviser	Following the receipt of additional information NO OBJECTION is raised to the scheme subject to conditions to secure biodiversity enhancements.
Tree Officer	Following the receipt of an Arboricultural Impact Assessment the Officer has NO OBJECTION.

Drainage Team	NO OBJECTION subject to suitably worded conditions including existing drainage detail, porous paving and a proposed drainage scheme.
Designing Out Crime Officer	Guidance issued regarding access, boundary treatments and the provision of a 'defensible space'.
Highways (COLAS)	NO OBJECTION, subject to the developer contacting COLAS
Waste Reduction Officer	The officer has advised more space may be required for refuse and recycling storage.
Natural England	Further information required. Discussed below
Housing Enabling Officer	Affordable Housing matters are discussed below.
Hampshire Swifts	Hampshire Swifts recommend the installation of 8 swift boxes. Such biodiversity measures would be the subject of the Biodiversity Enhancement measures condition.

REPRESENTATIONS

9.1 Objections have been received from 18 addresses in the vicinity of the site. These are concerned with:

- The height of the building proposed will overlook surrounding homes and gardens;
- The block of flats is out of keeping in terms of height and appearance and surrounding character
- The scheme represents an overdevelopment of the site;
- The scheme will impact the amount of light received by and outlook from surrounding properties;
- The development does not provide enough parking; this will exacerbate an already congested area;
- The areas parking is made worse with people, and staff, when using the surrounding roads to park when visiting the Queen Alexandra Hospital and Tesco superstore.
- The scheme would be contrary to former Cllr. Hockaday's road/pedestrian safety campaign, increased parking will further impact pedestrian safety.

PLANNING CONSIDERATIONS / COMMENT

Principle of the development

- 10.1 As set out in the NPPF (paragraph 2), '*Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise*'. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.
- 10.2 Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application; any local finance considerations, so far as material to the application; and

any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken. Whilst third party representations are regarded as material planning considerations (as long as they raise town planning matters) the primary consideration, irrespective of the number of third-party representations received, remains the extent to which planning proposals comply with the Development Plan.

- 10.3 The site comprises the former club house building of the Cosham Branch of the British Legion that closed several years ago and therefore the site constitutes previously developed land. Policy PCS10 of the 2012 Portsmouth Plan states that the provision of additional housing in the city will be through, inter alia, the redevelopment of previously developed land.
- 10.4 Such an approach is consistent with the objectives of Section 11 of the NPPF, and in particular, paragraph 120(c) that states substantial weight should be given to the value of using suitable brownfield land for the provision of homes and other needs of a community.
- 10.5 While the former British Legion social club use ceased a number of years ago, the proposed residential development is, in principle, fully in accordance with the objectives of Policy PCS10 of the 2012 Portsmouth Plan.
- 10.6 Furthermore, and with regard to the principle of this development, the National Planning Policy Framework makes it clear that in order to support the Government's objective of significantly boosting the supply of homes, a sufficient amount and variety of land can come forward where needed (NPPF July 2021, paragraph 60).
- 10.7 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 182). Where a local planning authority cannot demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:
- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
 - II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 10.8 Currently, the Council can demonstrate 2.9 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing. This development would provide 23 new dwellings to make a good contribution towards the City's housing needs, at a highly sustainable location in Cosham, with very good public transport (bus routes and train stations nearby), retail and services, employment, leisure, health facilities, etc.. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

Housing: Mix, density, affordable housing provision

- 10.9 With regard to mix, current Policy PCS19 requires that '*developments should achieve a target of 40% family housing where appropriate*'. The development proposed only

provides for 1 and 2 bedroom units and as such does not provide any 3 bedroom units suitable for families and therefore the scheme would be contrary to this aspect of Policy PCS19. Officers consider the proposal, given the limited size of the site and nature of the surrounding area which includes several blocks of flats, the scheme represents an appropriate form of development in this case.

- 10.10 The NPPF requires sites of ten dwellings or larger should make provision for Affordable Housing, at 30% of the number of units. For this scheme that equates to 7 units (rounded up from 6.9).
- 10.11 The Housing Enabling Officer has stated that 30% of the units provided would need to be affordable units and that of that 30%, 70% would need to be social/affordable rent and 30% intermediate. The officer also stated that housing provided are often reluctant to take on mixed blocks and as such an off-site contribution would be acceptable in this case.
- 10.12 The Applicant has submitted a financial assessment that states the proposals cannot make the provision of affordable housing *and* remain viable for development, that is, taking into account reasonable profit. The NPPF sets out that a developer's expected profit may be 15-20% of GDV (Gross Development Value). The Applicant's position has been tested by the Council's independent financial consultant who, broadly, concurs that the scheme may struggle to provide Affordable Housing and make a reasonable profit.
- 10.13 The LPA's further analysis suggests that both a scheme with Affordable Housing, and a scheme without Affordable Housing, may not reach the reasonable profit level. While it is considered the application as a whole can be progressed positively to decision to the Committee meeting, Officers would respectfully request that further discussion, and if necessary, any negotiation, may take place with the Applicant, after the Committee resolution. That is because some reduction in Affordable Housing provision below policy-expected level may be appropriate. The discussions would be in order to finalise the *exact* level of Affordable Housing provided, if any, and the corresponding legal agreement contents.
- 10.14 **Design Considerations**
- 10.15 The National Planning Policy Framework (NPPF), Chapter 12, 'Achieving Well Designed Places', states that 'the creation of high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve'. The NPPF is also supplemented by the National Design Guide (NDG).
- 10.16 Policy PCS23 (Design & Conservation) echoes the principles of good design set out within the NPPF requiring all new development to be well designed, seeking excellent architectural quality; public and private spaces that are clearly defined, as well as being safe, vibrant and attractive; relate to the geography and history of Portsmouth; is of an appropriate scale, density, layout, appearance and materials in relation to the particular context; create new views and juxtapositions that adds to the variety and texture of setting; and protection of amenity and provision of good standard of living environment for neighbouring and local occupiers as well as future residents/users of the development.
- 10.17 The surrounding area is mixed in character and comprises two storey houses and 3 storey apartment blocks as well as the Wymering Methodist Church which is a red brick building of a simple yet attractive traditionally designed pitched roof building. The area's buildings vary considerably in terms of their roof form with flat roof, pitched and gable roofs and their materials comprising red brick, render and pebble dash. The variety of the surrounding built form is what contributes to the character of the surrounding area.

- 10.18 The proposed apartment block comprises an L shaped building that is part 2, part 3 and part 4 stories and would be of a contemporary appearance with rendered construction with slate-clad recessed fourth floor.
- 10.19 The applicant had previously proposed the contemporary rendered appearance with additional contrasting window surrounds. The contrasting elements have been removed at the advice of Officers to ensure a more subtle appearance of the building. The revised rendered appearance with contrasting and recessed roof is considered to be more respectful of the surrounding built form that comprises a more traditional materials palette.
- 10.20 In terms of the size and scale of the proposal, Sixth Avenue comprises 2 storey dwellings that are approximately 7m in height to 3 storey apartment blocks that are approximately 11m in height. The increase in the height highlights the rising levels that increase from south to north with an approximate 6m increase in height from the southern end of Sixth Avenue to the north adjacent to the Southampton Road.
- 10.21 The building proposed rises from south to north to follow the existing topography. To the south the 2 storey element measures approximately 8m in height, marginally taller than the 7m high 2 storey property, no. 23 which together with the approximate 5.5m gap between the two structures would ensure an appropriate relationship. To the north the building measures approximately 11m that is similar to the apartment block to the north.
- 10.22 Regarding the building line, properties facing Sixth Avenue have a more defined building line which the proposal would continue further ensuring for an appropriate form of development. To the north where the scheme fronts Herne Road, there is a more varied building line with buildings having a varied set back of between 1.5 and 4m. The set back to the Herne Road frontage would measure between 1 and 3m which is considered appropriate.
- 10.23 In summary, the scheme proposes a part 2,3 and 4 storey apartment block that would use a simple materials palette that respects the surrounding varied character, would respect the established building lines to both Sixth Avenue and Herne Road and the scale would respect the height of the buildings to the south and north of the site. Together with conditions regarding materials and landscaping (discussed below) it is considered that the scheme represents a well designed proposal that accords with the overarching objectives of Policy PCS23 of the 2012 Portsmouth Plan.

Living Conditions for Future Occupiers

- 10.24 As annotated on the submitted plans with the application, the proposed units meet or exceed the minimum gross internal floor areas as set out in Table 1 of the Technical Housing Standards - Nationally Described Space Standard¹
- 10.25 In terms of the physical layout of the scheme, it is considered that the layout would ensure adequate light to each of the units proposed. In addition, the scheme proposes an area of outdoor space to the rear and a communal terrace above the cycle store. These two areas would provide for approximately 110 sq.m of communal outdoor space. This is in addition to the 3 units that have their own private terraces. It is considered that with the units themselves meeting or exceeding the minimum space standards, the appropriate layout and provision of outdoor space it is considered that future residents would have a good standard of residential amenity.

Impact on amenities of adjoining properties

¹ [Technical housing standards – nationally described space standard \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/Technical_housing_standards_-_nationally_described_space_standard.pdf)

- 10.26 With regard to the impact of the proposed development on the amenities of existing residents, owing to the siting and relationship with surrounding residents there are two main areas that need to be assessed, these are the properties to the south, in particular no. 23 Sixth Avenue and no's 24 and 25 Glebefield Gardens to the west.
- 10.27 Regarding no. 23 to the south, no. 23 has a row of mature trees that extend along the length of the shared boundary that are outside of the applicant's control. Notwithstanding the trees, the southern wing of the proposed would only protrude beyond the rear elevation of no. 23 by approximately 2/3 metres would be approximately 5.5m from the flank elevation of no. 23. Such separation distances are appropriate and would ensure there is no material loss of light to the rear windows or dominance of the neighbour's rear garden. There is a side facing window to no. 23, observations on site would suggest this serves a stairwell, a non-habitable area. Any impact would not warrant a refusal on such grounds.
- 10.28 Regarding overlooking, then applicant has revised the first floor layout following advice from officers. The revision has relocated a bedroom window to the front elevation. Following the revision there are only two windows on the southern elevation which are both secondary sources of light. One of which serves bedroom 1 of Flat 12 while the other serves the living room. With both being secondary sources of light it is considered that they can both be of obscured glass there would be no loss of privacy.
- 10.29 Regarding the windows to the rear of the northern wing, these would be approximately 23m from the shared boundary with no. 23 and would not therefore result in a materially harmful impact to the privacy of no. 23.
- 10.30 With regard to the potential impact on the occupants of the terrace off Glebefield Gardens to the west of the site, there is only one side facing window, at first floor to no. 25. Observations on site show this to be a small obscure glazed window that would appear to serve a bathroom/en-suite. In conjunction with the 10m separation distance from the block proposed there would be no loss of light to these properties, or unreasonable dominating effect.
- 10.31 Regarding overlooking, the rear facing windows off the north wing would have a very, oblique angle of view towards the front windows on the Glebefield terrace that there would be no harmful loss of privacy. The development's rear, west-facing windows would be approximately 20m from the shared boundary with the Glebefield Garden properties.
- 10.32 The properties to the north and east off Herne Road and Sixth Avenue would have a front-to-front relationship with the development proposed. This would be across the public realm and would entail separation distances of between 17/18m to the east and approximately 16 m to the north. With such separation distances and the relationship between the buildings across the public realm it is considered that there is no unreasonable impact upon the amenities of these residents.
- 10.33 To conclude on this point, it is considered by virtue of the that the separation distances to surrounding properties, the positioning of windows and the oblique angles involved that the proposal would not have an undue impact on the amenities of the surrounding properties thereby according with the objectives of Policy PCS23 of the 2012 Portsmouth Plan

Highways and Parking

- 10.34 Section 9 of the NPPF sets out an overarching objective of increasing sustainable modes of transport by ensuring development is located in the right place.
- 10.35 The site is located approximately 700m from the Cosham designated Retail Area that contains a range of everyday retail and other such needs. Furthermore, there are bus

stops within 150m of the site on the A3 Southampton Road and Cosham Railway station is approximately 1.1km walk from the site. With such services and public transport links being within an acceptable walking distance of the site it is considered that it is within a sustainable and accessible location that will encourage sustainable non-car modes of travel.

- 10.36 With regard to bicycle parking, the scheme proposes a total of 38 long stay spaces for residents which accords with the City Council's Parking & Transport SPD as does the provision of 4 short stay visitor bicycle space which also accords with the Parking SPD. The provision of an appropriate level of bicycle parking will encourage sustainable modes of transport thereby according with the broad objectives of Policy PCS17 of the 2012 Portsmouth Plan.
- 10.37 Regarding the level of car parking, the scheme would provide for a total of 26 spaces, 24 would be within the main car park accessed off Sixth Avenue via the undercroft access with two in a parking bay off Herne Road.
- 10.38 The Highways Authority have said this represents a shortfall of 8 parking spaces and that the site is not within an area of the City where lower parking standards would be accepted. Notwithstanding the comments in the applicants Transport Statement that claims car ownership levels have fallen, the Highways Authority notes the site is outside of an area where a reduction in parking provision would be supported and that the shortfall would be contrary to the Parking SPD. From the Local planning Authority's perspective, however, the site is, as noted above, considered to be in a sustainable and accessible location.
- 10.39 The Highways Authority have concluded that subject to the imposition of a condition regarding pedestrian visibility for a distance of 2m on either side of the access they would have no objection to the scheme on highways grounds.
- 10.40 Subject to the above visibility splay condition and a further condition ensuring the parking areas are laid out prior to first occupation the scheme is considered acceptable on highway grounds.

Appropriate Assessment and Biodiversity

Appropriate Assessment

- 10.41 Pursuant to the [Conservation of Habitats and Species Regulations 2017 \(as amended\)](#) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended), all plans and projects (including planning applications) which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site.
- 10.42 Where the potential for likely significant effects cannot be excluded, a [competent authority](#) must make an appropriate assessment of the implications of the plan or project for that site, in view of the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitat site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of overriding public interest and if the necessary compensatory measures can be secured.
- 10.43 The LPA, as the competent authority in this case, upon successful recommendation by Committee, will require the necessary nitrate and bird aware mitigation in consultation with Natural England. The Applicant has agreed to make such mitigation, secured by

way of Section 106 Legal Agreement in conjunction with the Hampshire & Isle of Wight Wildlife Trust and there would be a further linking agreement with the LPA.

Biodiversity

- 10.44 The overarching objective of Policy PCS13 of the 2012 Portsmouth Plan and Section 15 of the NPPF is to ensure planning preserves and enhances a sites biodiversity.
- 10.45 Regarding ecology, the County Council's Ecologist had initially requested a protected species survey prior to the grant of any permission. Following the submission of both an initial protected species survey and follow up emergence survey the Ecologist has raised no objection regarding protected species subject to an informative.
- 10.46 The site is of low ecological value and the County Council's Ecologist has stated that a biodiversity enhancement condition should be imposed on any permission requiring biodiversity enhancement measures be approved and implemented as approved.
- 10.47 Subject to such a biodiversity enhancement condition and the bat informative, and the Section 106 for nitrate and bird aware mitigation, the proposal is considered acceptable in ecological terms and accords with Policy PCS13 of the 2012 Portsmouth Plan and Section 15 of the NPPF.

Trees

- 10.48 The surrounding trees are the subject of a Tree Preservation Order (TPO 156). The Tree officer had initially requested a comprehensive arboriculture impact assessment to be submitted. Following the receipt of the Arboricultural Report the Tree Officer raises no objections to the proposal.
- 10.49 it is considered necessary however, in the interests of tree preservation, to impose a condition ensuring the tree protection measures set out in the tree report are implemented prior to construction work commencing and retained until all construction works have been completed.

Flooding

- 10.50 When determining planning applications, LPAs should ensure that flood risk is not increased elsewhere. The site is located in Flood Zone 1, areas at least risk of flooding. While no drainage information has been submitted with the application the Drainage Officer has stated that the information they would require regarding a Drainage Strategy, infiltration investigation, porous paving details and existing suite drainage assessment can be secured by way of an appropriate condition(s).
- 10.51 Subject to the imposition of such a condition it is considered that the proposal would accord with the objectives of Policy PCS12 of the 2012 Portsmouth Plan.

Ground Conditions and Pollution (Contaminated Land)

- 10.52 The Contaminated land team have requested a two part condition that will ensure the necessary contamination surveys are compiled and submitted to the LPA and that a further remediation survey, if necessary, is submitted and that any works are undertaken in accordance with the reports submitted.
- 10.53 Due to the extensive groundworks that would be associated with such a development such conditions are considered appropriate.

CIL

- 10.54 Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2023 basic rate is £167.15 per sqm. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy.
- 10.55 The applicant has stated in their application form that the use as a social club ceased several years ago the CIL charge would be on the complete apartment block proposed.

Human Rights and the Public Sector Equality Duty (PSED)

- 10.56 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 10.57 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

CONCLUSION AND PLANNING BALANCE

- 11.1 There is no objection to the replacement of the discussed social club land use with a flatted development in a residential area, with good access to a town centre, public transport, hospital, shops, services and employment.
- 11.2 The development is of an appropriate scale, form and design, and would make a good townscape addition to the local area without unreasonable impact on neighbouring residents' amenities or nearby trees. Good living conditions for occupiers would be provided. The provision of 23 new dwellings is particularly welcomed.
- 11.3 As such, the proposals constitute Sustainable Development, they accord with the Local Plan and the NPPF, and planning permission should be granted subject to various conditions and legal agreement.

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) Receipt of 'no objection' from Natural England concerning the SPA Mitigation, and;
- (b) satisfactory completion of Legal Agreements necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates), and the provision of any Affordable Housing deemed achievable by the LPA (with the possible inclusion of a Review Mechanism in the event that no Affordable Housing can be provided).

RECOMMENDATION II - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

RECOMMENDATION III - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within six months of the date of this resolution.

Conditions

1. Time Limit

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

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

2. Approved Plans

Unless otherwise 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: 2125 01B; 2125 02B; 2125 03B; 2125 04C; 2125 05B; 2125 06B; 2125 07C; 2125 08C; 2125 09C & 2125 10C.

Reason: In the interest of good planning.

3. Contamination Surveys

Prior to Demolition

3i) No demolition works shall occur until there has been submitted to and approved in writing by the Local Planning Authority or within such extended period as may be agreed with the Local Planning Authority:

a) The developer must pre-screen the building for asbestos and confirm that asbestos is not present. Where one exists, the building's asbestos register must be obtained and unless asbestos is known to not be present an intrusive asbestos refurbishment and demolition survey conducted in accordance with HSG264. The mitigation scheme to control risks to future occupiers must be verified. The scheme must be written by a suitably qualified person and shall be submitted to and approved by the LPA prior to demolition.

b) A desk study (undertaken following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the building(s), land, and wider area. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages (including consideration of asbestos), including proposals for site investigation if required with the sampling rationale for all proposed sample locations and depths being shown in the conceptual model (Phase 1 report).

Prior to Groundworks

(ii) No works (referring to ground works and/or amendment to the substructure) pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority (or within such extended period as may be agreed with the Local Planning Authority) the following in sequential order:

a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs)'). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation (Phase 2 report).

b) A remediation method statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, including proposals for future maintenance and monitoring, as necessary (Phase 3 report). If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in BS8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and have consideration of CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. The remedial options appraisal shall have due consideration of sustainability as detailed in ISO 18504:2017 Soil quality — Sustainable remediation. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion.

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

4. Contamination Remediation (if necessary)

The development hereby permitted shall not be first occupied/brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a stand-alone verification report by the competent person approved pursuant to condition (i)c above. The report shall demonstrate that the remedial scheme has been implemented fully in accordance with the remediation method statement. For the verification of gas protection schemes the applicant should follow the agreed validation plan.

Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions 3(ii)b.

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

5. External Materials and architectural details

No development shall commence on site until details of the types and colours of external materials (including window and door recesses and the provision of a rear door canopy) to be used has been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

Reason: in the interests of good design and visual amenity pursuant to Policy PCS23 of the 2012 Portsmouth Plan

6. Hard and Soft Landscaping/Materials

Prior to the occupation of the building hereby approved details of the hard and soft landscaping details shall be submitted to and approved in writing by the Local planning Authority. The details shall then be implemented as approved. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted. The works approved shall be carried out in the first planting and seeding seasons following the occupation of the building(s). Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: in the interests of good design and visual amenity pursuant to Policy PCS23 of the 2012 Portsmouth Plan

7. Highways - visibility splays

Prior to first occupation a plan showing the pedestrian visibility splays shall be submitted to and approved in writing by the Local planning Authority showing the pedestrian visibility splays to/from the Herne Road car parking spaces. The visibility splays shall then be kept clear of all obstructions over 1m in height.

Reason: In the interests of highway safety pursuant to policy PCS17 of the 2012 Portsmouth Plan

8. Highways - parking

The parking areas shown on the approved plans shall be laid out and permanently retained as such in accordance with the approved plans prior to the first occupation of the development hereby permitted.

Reason: In the interests of highway safety pursuant to policy PCS17 of the 2012 Portsmouth Plan

9. Drainage

Prior to above ground works commencing a comprehensive Flood Risk & Surface Water Drainage Report shall be submitted to and approved in writing by the Local Planning Authority. The report shall include, but not limited to existing infiltration rates, areas of porous paving proposed and existing and proposed drainage methods. The details shall then be implemented as approved.

Reason: In the interests of flood risk and surface water drainage pursuant to Policy PCS12 of the 2012 Portsmouth Plan

10. Finished floor level plan/survey.

Prior to any above ground works commencing a detailed topographical survey shall be submitted detailing existing and proposed ground floor levels for the approval in writing by the Local Planning Authority. The floor and ground levels of the building and site hereby approved shall then be laid out in accordance with the approved details.

Reason: in the interests of good design and residential amenity pursuant to Policy PCS23 of the 2012 Portsmouth Plan.

11. Ecology

The construction and demolition phase shall be undertaken in accordance with the Ecological Appraisal (25 Sixth Avenue Ecology Appraisal, Cherry tree Ecology Ltd, 19th July 2022) unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of ecology and biodiversity pursuant to Policy PCS13 of the 2012 Portsmouth Plan.

12. Ecology

Details of the biodiversity enhancement measures shall be submitted to and approved in writing by the Local Planning Authority. The details and measures shall be implemented prior to the first occupation of the building hereby approved and permanently retained thereafter.

Reason: In the interests of ecology and biodiversity pursuant to Policy PCS13 of the 2012 Portsmouth Plan.

13. Glazing

The Flat 12 windows in the south elevation shall be of installed with obscure glass prior to first occupation and retained thereafter in accordance with details submitted to and approved by the Local Planning Authority in writing and shall be permanently maintained in that condition.

Reason: To protect the privacy of the adjoining property and to prevent overlooking in accordance with Policy PCS23 of the 2012 Portsmouth Plan

14. Refuse and Recycling

The facilities to be provided for the storage of refuse and recyclable materials shall be constructed and completed before first occupied, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter be retained for the continued use by the occupants of the building hereby approved for that storage at all times.

To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with Policy PCS23 of the 2012 Portsmouth Plan

15. Tree protection measures

The tree protection measures set out in the Arboricultural Report (Arboricultural Impact Assessment and Tree Protection Scheme, Hearne Arboriculture, 23rd June 2022 [JH/AIA/22/068]) shall be implemented prior to the commencement of development and permanently retained until the construction phase of the development is complete.

Reason: In the interests of tree protection and ecology pursuant to Policy PCS13 of the 2012 Portsmouth Plan.

16. Sustainable Construction

Prior to the above ground works commencing a Sustainable Construction Plan (which shall include sustainable building and water efficiency measures) shall be submitted to and approved in writing by the Local Planning Authority. The measures shall then be implemented as approved.

Reason: In the interests of sustainability and environmental protection pursuant to Policy PCS15 of the 2012 Portsmouth Plan.

17. Boundary treatments

Prior to first occupation of the building hereby approved all boundary treatment details shall be submitted to and approved in writing by the Local planning Authority. Such treatments shall include security and access gates to the undercroft car park access. The treatments shall be implemented as approved.

Reason: In the interests of good design and reducing crime and antisocial behaviour pursuant to Policy PCVS23 of the 2012 Portsmouth Plan.

Bat Informative: Bats and their roosts receive strict legal protection under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017. 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.

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Agenda Item 6

23/00079/FUL

WARD:COPNOR

360 COPNOR ROAD PORTSMOUTH PO3 5EN

CONVERSION AND EXTENSION OF EXISTING GARAGE/ OUTBUILDING TO REAR TO FORM ANCILLARY ANNEXE ACCOMMODATION WITH ASSOCIATED EXTERNAL ALTERATIONS

[23/00079/FUL | Conversion and extension of existing garage/ outbuilding to rear to form ancillary annexe accommodation with associated external alterations | 360 Copnor Road Portsmouth PO3 5EN](#)

Application Submitted By:

Mr Adam Yates

On behalf of:

Mr Adam Yates

RDD: 20th January 2023

LDD: 20th March 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 The application is being presented to the Planning Committee due to the eight objections received.

1.2 The main issues for consideration in the determination of the application are as follows:

- Design and impact on the character of the streetscene
- Impact on neighbour amenities
- Loss of parking
- Amenity
- Impact on Special Protection Areas
- Other material considerations

1.3 Site and surroundings

1.4 The application site comprises a garage outbuilding sited at the rear (east) end of the garden of no.360 Copnor Road, an end-of-terrace two-storey dwellinghouse located to the east of Copnor Road and off the junction with Allcot Road.

1.5 The garage has vehicle access from Allcot Road, and backs on (east elevation) to a shared vehicular access to other neighbours' rear garages/outbuildings .



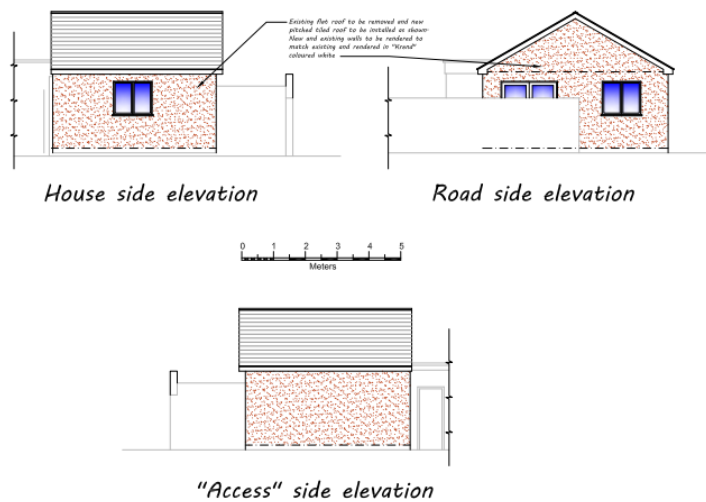
Figure 1: Aerial view of the site (marked by red pin and star symbols)



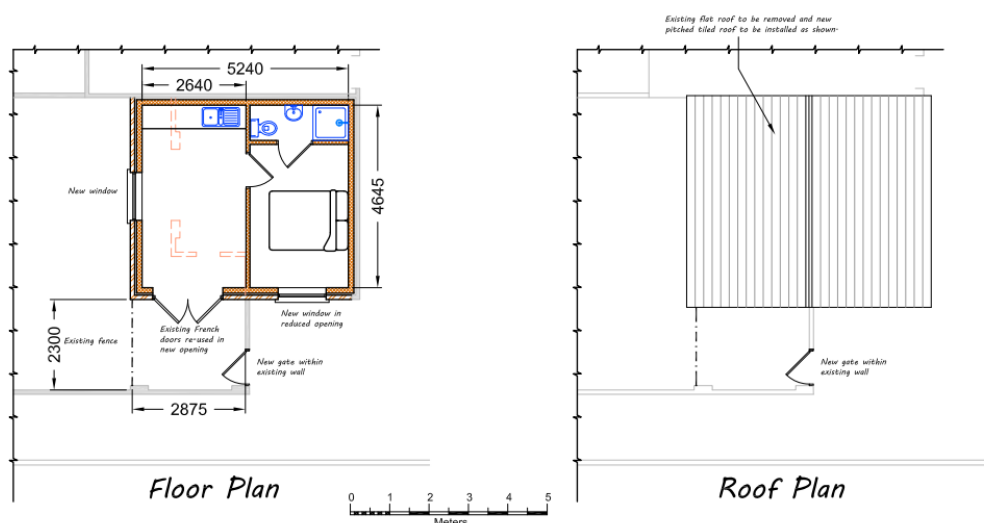
Figure 2: The garage marked by a red star

1.6 The Proposal

- 1.7 The application seeks planning permission for the conversion and extension of the existing garage/ outbuilding to form ancillary annexe accommodation with associated external alterations. It would provide what is commonly called a 'granny annex'.



Figures 3 and 4: Proposed elevation plans above, floor plan below.



1.8 The proposed floor area is approx. 24.5sqm and the accommodation comprises an open plan kitchen-living space and a separate ensuite bedroom. -A new pitched roof would be provided, and the building be finished in render painted white.

1.9 A new access gate would be created within the existing wall, but this would fall under permitted development.

1.10 Planning History

07/00994/FUL- Construction of single storey rear extension. Approved 24/07/2007 and implemented.

2.0 **POLICY CONTEXT**

2.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the Portsmouth Plan (2012) would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation and PCS23 (Design and Conservation).

2.2 Guidance for the assessment of applications that is relevant to the application includes The Parking Standards and Transport Assessments Supplementary Planning Document (2014).

3.0 **CONSULTATIONS**

3.1 Private Sector Housing: The City Council Private Sector Housing team advise that this property would require to be licenced under Part 2, Housing Act 2004.

3.2 Local Highway Authority : no objection

4.0 **REPRESENTATIONS**

4.1 Eight objections, on the following grounds:

- Parking issues
- Loss of existing garden

- The increase in height would cause loss of light for neighbours
- Overlooking
- would set a precedent
- Mechanical works carried out in the garden are disruptive
- Pollution from fumes and noise
- Likely to be an HMO
- Will it be possible to separate the rainwater and sewage, does the soakaway not have to be 5 metres away from either property? (Officer response – this is not a planning matter)

4.2 Non-planning considerations:

- Down-grading of the area
- Council Tax reduction
- Loss of view

One letter of support : current state looks to be a row of garages and not very appealing to the eye, proposal would add character to the area and make for much nicer view.

5.0 COMMENT

5.1 The main issues to consider in the determination of this application are:

5.2 Principle of Development

5.3 The description of development on the application form refers to the conversion of the outbuilding to form ancillary annex accommodation – a ‘granny annex’.

5.4 An outbuilding could be constructed incidental to the enjoyment of the host dwelling under permitted development rights. The proposal is for ancillary ‘granny annexe’ accommodation and there is no in-principle conflict with the adopted Local Plan to prevent this kind of development.

5.5 Design and impact on the character and appearance of the area

5.6 The proposed alterations to the existing garage building would include a pitch roof to replace a flat roof and extension to the side. The scale and design of the resultant building is not considered out of keeping with the character of the host building or of the streetscene.

5.7 Amenity and living standards of future occupiers

5.8 The proposed floor area is approx. 24.5sqm and the accommodation comprises an open plan kitchen-living space and a separate ensuite bedroom. The habitable space would be served by adequately sized windows and thus would have adequate level of natural light and outlook for future occupier. The outlook would be towards the main house and garden.

5.9 The proposed internal floor space of 24.5qm would fall short of the required 37sqm by the Nationally Described Space Standards(NDSS) for a 1bed 1person single-storey unit. However, since this would provide annexe accommodation with the unit sharing some facilities with the host property this would not strictly be required to meet the NDSS standards. To ensure an entirely separate single residential unit does not occur, a condition over the use of the annex would be set.

- 5.10 The existing garden would be retained save for the small section that would be taken up by the extension to the outbuilding. The size of the retained amenity space is considered acceptable for the occupiers.
- 5.11 Impact on neighbour amenity
- 5.12 No.362 Copnor Road is the nearest and the most likely to be affected. This neighbour has a garage attached to the garage the subject of this application.
- 5.13 Given the scale, orientation, separation distance and relationship the proposed building would not have detrimental impacts on the amenities of the adjacent occupiers in terms of overshadowing or loss of light, dominance, outlook and loss of privacy.
- 5.14 Impact on parking
- 5.15 The Local Highway Authority was consulted and they commented that whilst the proposal would result in the loss of one parking space and potentially add additional demand for parking on street, given the intended user and the existing dimensions of the garage being unable to accommodate a modern day vehicle, it is not considered that the proposal would have any detrimental impact on Highway Safety or result in a severe impact to the function of the highway network and therefore no objection would be raised. The Local Planning Authority notes the front garden parking space would remain unaffected and, therefore, parking arrangements overall would remain as existing.
- 5.16 Impact on Special Protection Areas
- 5.17 Whilst it is acknowledged that there are ongoing issues around the effects of new housing on the Special Protection Areas of the Solent, this application is for the provision of annexe accommodation to an existing dwelling house and as such it is not considered to represent an additional dwelling unit. The development would therefore not have a likely significant effect on the Solent Protection Areas or result in an increased level of nitrate discharge.
- 5.18 Human Rights and the Public Sector Equality Duty ("PSED")
- 5.19 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 5.20 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is

not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

6.0 CONCLUSION

- 6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan. Having regard to all material planning consideration and representations it is concluded that the proposed development is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (2021).

7.0 RECOMMENDATION

7.1 Approve subject to the following conditions:

Time limit

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

Approved Plans

- 2) Unless otherwise 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:

- 220901 - 01 A - SITE AND BLOCK PLAN
- 220901 - 05 - ELEVATIONS AS PROPOSED
- 220901 - 04 - PLANS AS PROPOSED

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

Ancillary Use

- 3) The proposed development hereby approved shall remain solely ancillary to the main dwellinghouse to which it relates being 360 Copnor Road, PO3 5EN.

Reason: In the interests of residential amenity (occupiers of the building and the host building no. 360 Copnor Rd).

Agenda Item 7

REPORT TO PLANNING COMMITTEE - 31 MAY 2023

REQUEST BY COASTAL PARTNERS TO HAVE THEIR DISCHARGE OF CONDITION APPLICATIONS ON SOUTHSEA FRONTAGE DETERMINED BY PLANNING OFFICERS

The purpose of this report is to seek Planning Committee's approval that applications submitted to discharge Conditions 17 [soft landscaping], 22 [external lighting], 23 [street furniture and walls], 25 [hard surfacing materials], 26 [feature walls], 27 [roads and footpaths], and 38 [public art and / or interpretation boards] of Planning Application ref.19/01097/FUL can be delegated back to officers.

The above request is made because the determination of applications to discharge conditions is almost always carried out by Officers. However, following the determination by the Planning Committee in December 2019 of application ref. 19/01097/FUL Southsea Seafront from Long Curtain Moat in the West to Eastney Marine Barracks in the East, the Committee minuted that:

'It was also agreed that an informative note be added to the minutes that it is the opinion of this committee that the planning aspects of matters referred to in conditions 17, 22, 23, 25, 26, 27 and 38 should be brought back to this committee and supported by a report about the consultation on those matters'

The main driver for this decision was that there was only minimal (but acceptable) detail of public realm features and highway layouts contained within that particular planning application. Since this original application, however, the detailed design process has continued and the Coastal Partners have submitted two subsequent applications for amended proposals under Section 73. Both of these applications (one for Sub-Frontage (SF) 4 at Southsea Castle and one for SF5West at The Pyramids/Speakers Corner) have contained much more detail than the original application.

To date, Coastal Partners have completed Phase 1 of construction at SF1 (Long Curtain Moat) and this has received positive feedback from the community, stakeholders and Members. Coastal Partners are also progressing well with Phase 2 (SF4 Southsea Castle) and both of these phases had the conditions approval applications determined by the Planning Committee, where Members approved the proposed details.

Whilst Coastal Partners are happy to continue on this basis, given the progression of the scheme, the positive public response and that Coastal Partners are seeking a coherent approach to the public realm along the whole seafront, they are requesting, through your officers, whether Members of the Planning Committee would still like each condition application to come before them, or whether they are happy to delegate this decision back to officers, as per the usual process.

Members of Planning Committee should note that the general hard surfacing, street furniture, planting approach, and lighting will be very similar across all frontages. Coastal Partners will also be submitting Section 73 planning applications for all subsequent frontages as the detailed design progresses. The highway layout, including the provision of parking, a two-way cycle lane, promenade and single carriageway will therefore come before Members for approval. These future applications will contain similar level of detail as those for SF4/SF5West.

To aid members on this issue, the relevant conditions and the reasons for imposing them are listed out below:

17 - Soft Landscaping	
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<p>No development shall take place within each approved phase until there has been submitted to and approved by the Local Planning Authority a scheme of tree and any other relevant soft landscaping works; the scheme shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted in the area of that phase. The approved tree works (and other planting where relevant) shall be carried out in the first planting season following the completion of the development within each approved phase. Any trees or plants which, within a period of 5 years from the date of planting in each approved phase, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.</p>	<p>Reason: In the interests of visual amenity, to protect the biodiversity of the site and preserve the character and appearance of the 'listed' park/conservation areas and the setting of other heritage assets, in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).</p>
<p>22 - External Lighting</p> <p>No development shall take place in each approved phase until details (including siting/alignment, type and appearance including materials/finishes) of the proposed external lighting (including any proposed decorative/festoon feature lighting) in the area of that relevant phase have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried in strict with the approved details.</p>	<p>Reason: To preserve the character and appearance of the listed park and conservation areas and the setting of other designated heritage assets across the whole of the site addressing an existing uneven distribution along the promenade and enhancing the sense of safety for all users by sub-frontage, in accordance with policies PCS9, PCS17 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).</p>
<p>23 - Street Lighting and Walls</p> <p>No development shall take place in each approved phase until details (including siting/alignment, type and appearance including materials/finishes) of the proposed street furniture and secondary defence walls (including include refuse bins, signage, seating, bollards, railings and other means of enclosure) in the area of that relevant phase have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried in strict with the approved details.</p>	<p>Reason: To preserve the character and appearance of the listed park and conservation areas and the setting of other designated heritage assets across the whole of the site, in accordance with policies PCS9 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).</p>
<p>25 - Hard Surfacing Materials</p>	

<p>No works shall take place at each approved phase which involves the provision of promenade or other hard surfacing materials until details of the materials to be used in the relevant area have been submitted for the prior written approval of the local planning authority. Thereafter the works shall be fully implemented in accordance with the approved details. The details for approval shall include a detailed scheme of (a) type/texture/colour finishes (including any samples as may be necessary) including natural stone blocks at key public realm and historic areas; and (b) the proposed pattern treatments to add local distinctiveness within the floorspace at key public realm areas.</p>	<p>Reason: To preserve the character and appearance of the listed park and conservation areas and the setting of other designated heritage assets across the whole of the site and deliver attractive textural interest to the public realm by sub-frontage, in accordance with policies PCS9, PCS17 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).</p>
<p>26 - Feature Walls</p> <p>Prior to the installation of the Feature Walls as shown in the approved drawings details of the final surface treatment including details of the pattern, text or picture treatment including type/texture/colour finishes, and any samples as may be necessary, for the wall's surface shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried in strict with the approved details.</p>	<p>Reason: To ensure the feature walls are delivered with differing finishes to soften their appearance and add local distinctiveness to enhance the character and appearance of the listed park and conservation areas, to preserve the setting of other designated heritage assets across the whole of the site and deliver attractive textural interest by sub- frontage, in accordance with policies PCS9, PCS17 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).</p>
<p>27 - Roads and Footpaths</p> <p>No development shall take place on each approved phase at the site until the following details, relevant to the area within that phase, have been submitted to and approved in writing by the Local Planning Authority:-</p> <ul style="list-style-type: none"> (i) a specification of the type of construction for the roads and footpaths, including all relevant horizontal cross-sections and longitudinal sections showing the existing and proposed levels, together with details of materials, sightlines and kerbs, street lighting and the method of disposing surface water; (ii) a programme for constructing the roads and footpaths; and, (iii) details and specifications for the proposed works to car parks, including final finished levels and layout of spaces. 	<p>Reason: To ensure that the roads/footpaths are constructed to an appropriate standard in the interests of highway safety, to create a safe and attractive environment and to preserve the character and appearance/setting of the array of designated heritage assets across the site, to accord with policies PCS17 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).</p>

<p>38 - Public Art and/or interpretation boards</p> <p>Within 12 months of the completion of each approved phase details of the proposed measures for public art and/or interpretation of heritage assets and the timetable for the design/delivery of the measures by approved phase shall be submitted to and approved in writing by the local planning authority; and the approved public art and interpretation measures shall be carried out in full accordance with those approved details and thereafter retained (unless otherwise agreed in writing by the local planning authority).</p>	<p>Reason: To ensure proposed public heritage benefits make a positive contribution to outweighing the substantial harm of development effecting a nationally important scheduled monument and less than substantial harm to other heritage assets, to enhance or better reveal their significance, in accordance with policy PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).</p>

Your Planning Officers note that there is now a higher level of knowledge of the character, quality and consistency of design than when the first application was determined in December 2019. They also note the need for efficient decision-making, to aid the overall Planning Service and of course the delivery of the coastal defences. Your Officers consider the Coastal Partner's request to be fair and reasonable for the reasons set out above and one that also accords with the aims and objectives of determining planning applications in a timely manner.

It is noted that any Member can still call-in a particular Section 73 application or a Discharge of Condition application for determination by the Planning Committee. These applications are advertised in the Weekly List of new applications circulated to Members.

RECOMMENDATION

That Planning Committee agree that the determination of further application(s) submitted to discharge the above conditions can be delegated to officers, subject to the usual procedures regarding publicity, the number of representations received, the responses of statutory consultees, and the ability of any Member to call-in any individual application, etc..

Agenda Item 8

23/00325/CPL

WARD:ST JUDE

WEST BATTERY FIELD CLARENCE ESPLANADE SOUTHSEA PO5 3PA

CERTIFICATE OF LAWFUL DEVELOPMENT FOR THE CONSTRUCTION OF WALL ALONG SEAWARD EDGE OF FIELD

[23/00325/CPL | Certificate of lawful development for the construction of wall along seaward edge of field | West Battery Field Clarence Esplanade Southsea PO5 3PA \(portsmouth.gov.uk\)](https://portsmouth.gov.uk/23/00325/CPL)

Application Submitted By:

Nicola Reid
Coastal Partners

On behalf of:

Portsmouth City Council

RDD: 15th March 2023

LDD: 11th May 2023

1. SUMMARY OF MAIN ISSUES

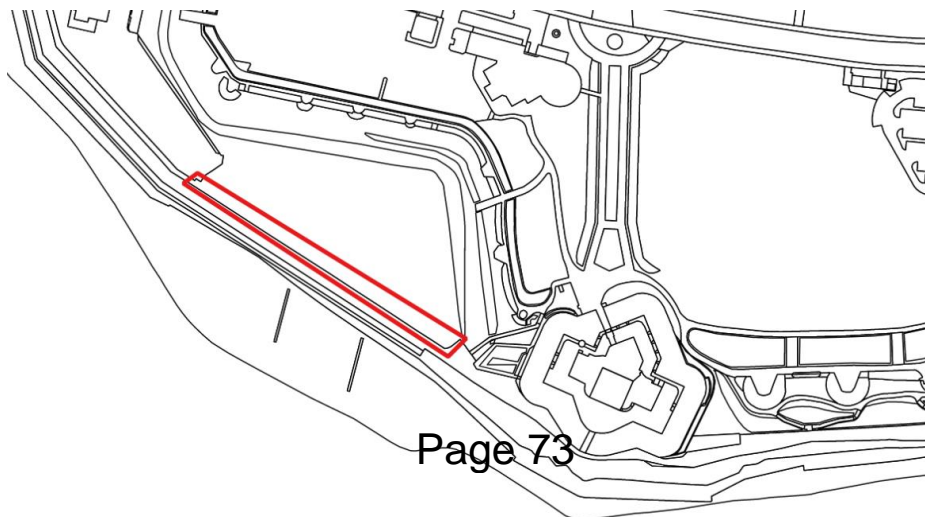
- 1.1. The application is brought to committee as Portsmouth City Council are the applicant.
- 1.2. The main and only determining issue is whether the proposed new wall accords with Schedule 2, Part 2, Class A of the General Permitted Development Order (2015). As this is an application for a certificate of proposed lawful development, no matters of local policy or other material planning considerations are relevant.

2. SITE AND SURROUNDINGS

- 2.1. The area in question is the boundary between the footpath that runs alongside the sea wall and the Bandstand Field to the north. There is an existing wall in place to separate the footpath and the field which is fairly old and worn. The area will have changed significantly once the relevant phase of the sea defence works have been completed, and it would appear that the proposed wall seeks to fit with the more up to date surroundings produced by the works.
- 2.2. The site falls within the Seafront Conservation Area.

3.0. PROPOSAL

- 3.1. The application seeks to erect a 0.6m high wall within the extent shown below:



4.0. REQUIREMENTS OF PERMITTED DEVELOPMENT

4.1. The relevant piece of legislation against which the application should be assessed is Schedule 2, Part 2, Class A. For reference, this is inserted below (with unnecessary points deleted), with the relevant part highlighted:

A. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Development not permitted

A.1 Development is not permitted by Class A if—

(a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—

1 metre above ground level;

(b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.

5.0. CONSULTATIONS

5.1. As the only determining factor in this case is whether the proposal benefits from Permitted Development there are no relevant consultees and no representations.

6.0. COMMENT

6.1. As the proposed wall is not adjacent to a highway used by vehicular traffic, it could have a maximum height of 2m. The proposed height of the wall is 0.6m and it therefore would accord with the legislation.

6.2. The location of the wall does not involve development within the curtilage of a listed building.

RECOMMENDATION

The proposed development is considered to fall within the tolerances of Permitted Development and therefore the Certificate of Proposed Lawful Development should be issued.

Agenda Item 9

23/00066/FUL

WARD: CHARLES DICKENS

CAR PARK PROSPECT ROAD PORTSMOUTH PO1 4QY

CHANGE OF USE OF CAR PARK AND PUBLIC HIGHWAY TO PORT OPERATIONAL LAND, TO INCLUDE FENCING TO BOUNDARY AND DIVERSION OF FOOTPATH

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=ROMQ6EMOGIZ00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=ROMQ6EMOGIZ00)

Application Submitted By:

Mr Steve Williams

On behalf of:

Mr Steve Williams

Portico Shipping Ltd

RDD: 18th January 2023

LDD: 20th April 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 The application has been brought to the Planning Committee for determination due to the applicant, Portico, forming part of Portsmouth City Council. Therefore, as the Council have an interest in the application, it is not possible to determine it under delegated authority.

1.2 The main issues for consideration are:

- Principle and Design
- Highways/Parking implications
- Ecological impacts
- Right of way implications
- Permitted Development rights afforded to the proposed use

2.0 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

2.1 Site and Surroundings

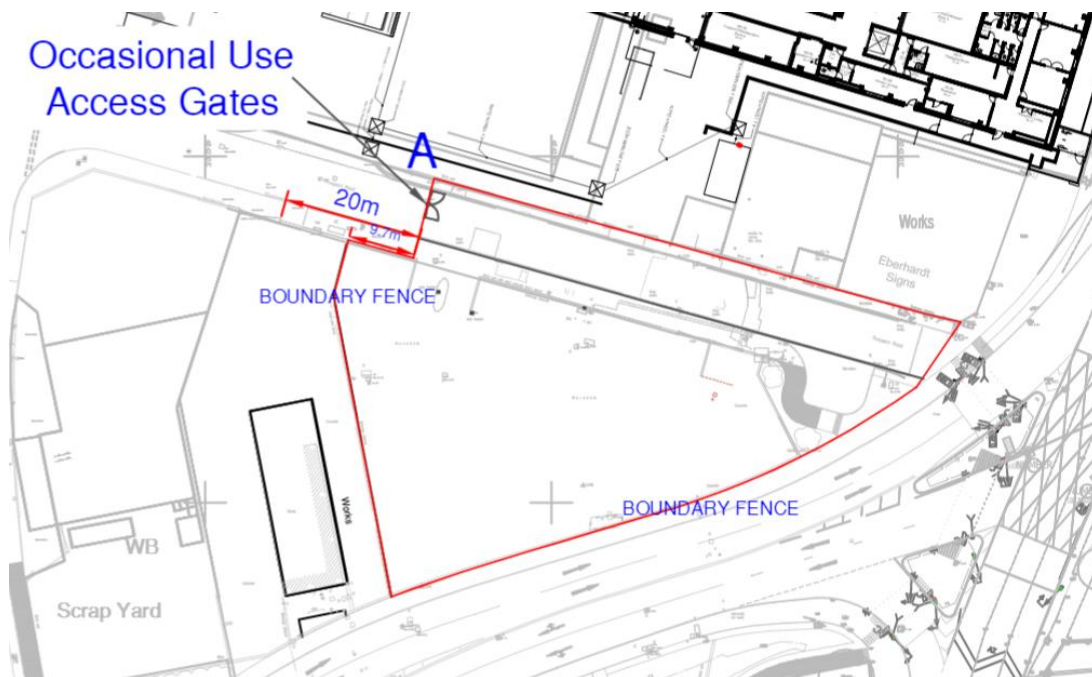
2.2 The application site comprises a car park located between Princess Royal Way and Prospect Road, with access on the northern boundary on Prospect Road. The car park shares a boundary with an industrial yard to the west (H&S Demolition Contractors) and across Prospect Road to the north is Portico House and Customs Agency, which also fall within the applicants ownership. Prospect Road cannot be accessed by vehicles from Princess Royal Way, with access being via Flathouse Road. H&S and Portico are the only users of Prospect Road to access their respective sites.

2.3 Proposal

2.4 The principal aspect of this application is the change of use from a car park and public highway to port use, being that the proposal seeks to incorporate much of Prospect Road and the car park into one site. The applicant has described the operations that would be carried out on the land, should permission be granted, as "parking of HGV Tractor Units, trailers and other vehicles. Storage of cargo including (but not limited to) timber, palletised bricks, palletised cargoes, bagged cargoes, empty containers, steel, project cargo, cates/modules. Cargo handling would be handled by electric / diesel

mechanical handling equipment as currently used within the port area." Given that the proposal would remove around 90 parking spaces, the applicant has stated that parking provision would be relocated to other nearby PCC owned car parks at Estella Road (ground level car park - 66 spaces) and Grafton Street Block C (ground level car park - 82 Spaces).

- 2.5 The application also includes some minor operational development to enable operations. This includes alterations to boundary treatments, which are described as new 2.4m high metal palisade fencing similar to the existing port boundaries. For security reasons, this must be topped with three lines of barbed wire, measuring 0.5m, taking the overall boundary height to 2.9m. This boundary treatment is to be erected in the lengths as shown below:



- 2.6 Existing brick walls in and around the site are to be demolished to enable the new boundary treatments to be installed and remain secure. The site does not fall within a conservation area and has no heritage designations and as such the demolition of existing walls could not reasonably be resisted.
- 2.7 Due to the incorporation of a large portion of Prospect Road into the proposal site, the application also requires the stopping up of that length of highway, which also forms part of the English Coastal Footpath Route. The applicant has asserted in their planning statement that they have agreed the stopping up of the highway with Natural England, who are the promotor of the path, and agreed in principle with PCC Highways and Property Investment teams. The application proposes that the route would be redirected along Princess Royal Way. A stopping up order would be completed, if required, outside of this application.
- 2.8 Planning History
- 2.9 The site's most relevant planning history is listed below:
- A*11322/AB - USE OF LAND AS CAR PARK FOR MMD (SHIPPING SERVICES) AFTER DEMOLITION OF EXISTING BUILDING, SITING OF PORTACABIN, CONSTRUCTION OF 2.4M HIGH WALL AT REGENT STREET, RAISE HEIGHT OF EXISTING WALL AT EAST BOUNDARY. **APPROVED 1997.**

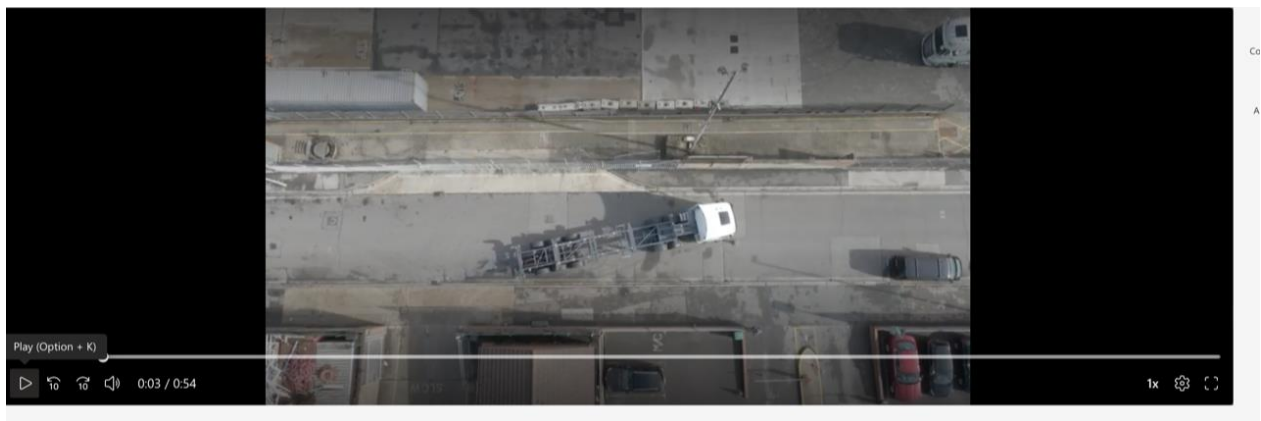
3.0 POLICY CONTEXT

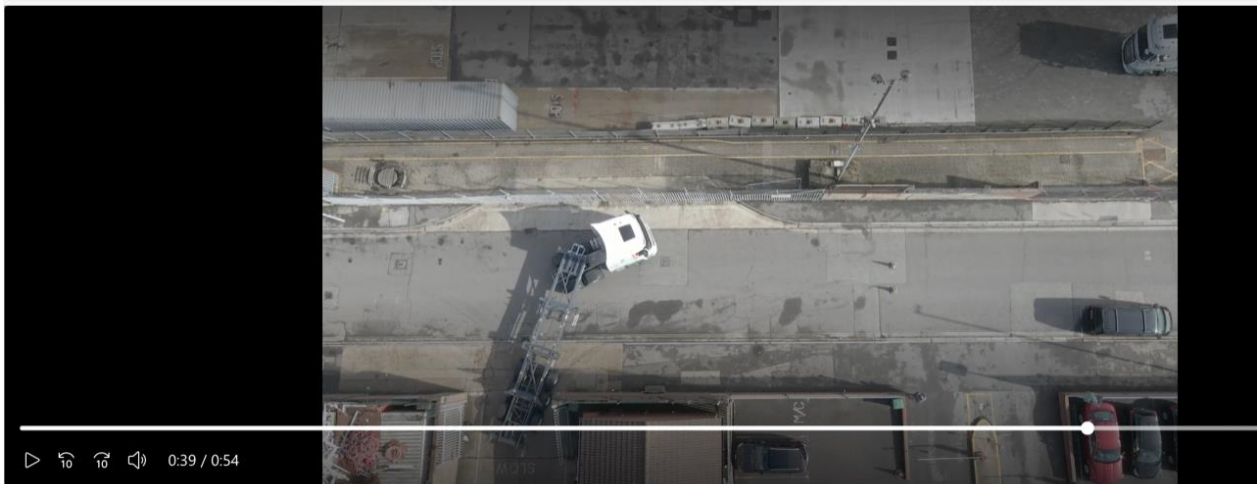
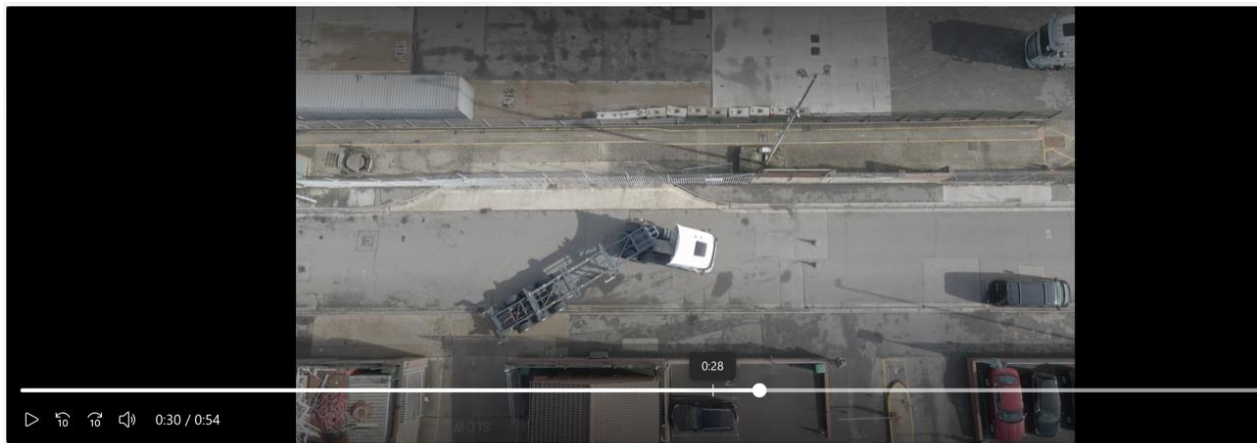
- 3.1 The Council concurs with the applicant in that the key policy relating to the proposed use, as well as the aims and objectives of the NPPF is **PCS11** (Employment Land) which, in summary, looks to ensure that land uses are retained for uses that provide employment (generally industrial uses and those that serve them). The applicant has also highlighted PCS4 but it should be noted that the site falls just outside of the City Centre boundary. As operational development is taking place, **PCS23** (Design and Conservation) should be considered, and although the application is not proposing the construction of any new buildings, it should be noted that the site falls within a designated Area for Tall Buildings, which falls under **PCS24**. While not directly relevant to this application, the General Permitted Development Order allows extensive Permitted Development rights for development on Port Operational Land.

4.0 CONSULTATIONS

Highways

- 4.1 The Highways Officer has been involved in the application to overcome concerns. Initially, concerns had been raised around whether the proposal would lead to a net loss of parking spaces and whether the proposed relocation of parking allocation was sufficient. Plans of the proposed new parking allocation locations were provided, and as explained in p2.5 above, there is no shortfall.
- 4.2 Further concerns were raised by the Highways Officer following an objection (as below). The concerns from both parties were around whether a large lorry could be manoeuvred into H&S' yard next door. The applicant undertook a test run, which was filmed from above using a drone, which showed that a large lorry could be backed into H&S yard from the location of the proposed fence, which was marked out using bollards. This led to an amended drawing being submitted to clearly show the location of the new boundary treatment, which overcomes the concern with regards to manoeuvrability. Screengrabs of the test run video can be viewed below for reference:





Ecology

- 4.3 In summary, no concerns have been raised by the Council's ecological advisor. The site itself contains limited ecological value is approximately 110m to the south-east of the Solent and Dorset Coast SPA. Diversion of the existing highway and England Coast Path and installation of perimeter fencing is not considered to create noise and visual disturbance levels which are likely to affect the qualifying features of the SPA.

- 4.4 Contaminated Land do not require a condition but recommend an informative.

5.0 REPRESENTATIONS

- 5.1 1 objection received from H&S to the west, who were concerned that the new boundary treatments would not allow for enough space to manoeuvre lorries into their yard. This has been overcome through amendments to the plans, which is discussed previously in this report in para. 4.2.

6.0 COMMENT

- 6.1 The main issues for consideration are:

- Principle and Design
- Highways/Parking implications
- Ecological impacts
- Right of way implications
- Permitted Development rights afforded to the proposed use

6.2 Principle of the development

- 6.3 The site falls within PCS11 Employment Land, and is surrounded by industrial uses, mostly associated with the Port. As such, it is considered to be a highly appropriate location for Port use and the proposal is considered acceptable in principle.

6.4 Design

- 6.5 Very little operational development is proposed apart from the new boundary treatment. Metal fences topped with barbed wire will not be attractive in their appearance, but it is acknowledged that they are required for security purposes and are very much an existing feature of the area (and would be in any industrial/port setting). While some aspects of the existing wall have higher aesthetic value than the proposal (mostly in the small pieces of artwork on the boundary wall) no part form a heritage asset and therefore the LPA would have no scope to require their retention, especially in such an area and in light of the operational security needs specific to the Port.

6.6 Highways Implications

Parking and manoeuvring:

- 6.7 The submission of further information and amended drawings has overcome concerns. The concern that there would be a net loss of parking as a result of the development has been addressed through the submission of plans showing that the proposed parking locations will be more than sufficient to prevent any issues associated with a lack of car parking. The concern raised by the adjacent commercial premises, that the installation of new boundary treatments on Prospect Road would make it difficult to manoeuvre into the neighbouring yard, which has been addressed through a recorded test run and the submission of an amended boundary plan.
- 6.8 The intention to relocate, principally employee, parking on to the adjacent residential area of the undercrofts of residential blocks at Grafton Street and Estella Street results, from the perspective of the operation of this important employment site, in a neutral parking provision in close proximity. This management strategy does of course result overall in a loss of parking provision in this part of the city. Any inconvenience to alternative users, such as the originally intended users (residential occupiers of the blocks) on these sites is considered, on balance to be outweighed by the economic benefits arising from the provision of an enlarged Port estate. This balance is reinforced by the overall beneficial outcome of reducing parking for private cars in the city as part of the wider encouragement to shift to sustainable and active transport.

Stopping-up:

- 6.9 The road is a dead-end, blocked at the eastern end and with a turning head. It does not provide access to any other sites. As such, the stopping-up of the highway to traffic raises no concerns. With respect to pedestrians, the closure of this stretch of road also is not a concern, as routes remain to the west and south on Flathouse Road and Princess Royal Way. Stopping up of highways and rights of way is achieved outside the process of applying for planning permission and the applicant will need to consider making the appropriate separate application under the applicable legislation. Additionally, the applicant states that the diversion of the same stretch of Prospect Road with regard to its status as Coastal Path has been agreed with Natural England and this is considered to be reasonable being that Prospect Road does not offer a particularly beneficial route and would offer no intrinsic amenity value to any walkers. An alternative routing for the Coastal Path is considered to be capable of agreement outwith the planning application and would also be considered under separate legislation.

6.10 Ecology

- 6.11 No concerns are raised by the Council's ecology advisor. It was advised that the Council may wish to impose a condition requiring that a CEMP (Construction Environment Management Plan) be submitted and complied with but being that there is such a small amount of operational development proposed, this is not deemed to be necessary or reasonable in this case.

6.12 PD (Permitted Development) Rights Afforded to Port Operational Land

- 6.13 While only a small amount of operational development is proposed and no real building work has been included as part of this application, members should be aware that the General Permitted Development Order allows for extensive works to be carried out on Port Operational Land under Part 8, Class B. For completeness, this allows for:

Development on operational land by statutory undertakers or their lessees in respect of dock, pier, harbour, water transport, or canal or inland navigation undertakings, required (a) for the purposes of shipping, or (b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking.

- 6.14 As such, there is no restriction of the size, design or otherwise of any building that could be erected on the site in the future under permitted development in connection with the operation of the port. Members may choose to impose a condition restricting any future development on the site but it is not recommended that this is either necessary or reasonable being that the site is designated as an area for tall buildings and no particular sensitive neighbours, likely to be affected by such development have been identified.

6.15 Other Considerations and Conclusions

- 6.16 The proposed development is relatively modest in size, and falls below the threshold that requires direct consideration under Environmental Implication Assessment. The Applicant has suggested that the project can be considered as an independent and discrete matter and as such does not require consideration in combination with other development proposals by Portsmouth International Port or its occupiers. Officers have reviewed this contention and are satisfied that this matter can be considered in isolation as no other development directly leading to the need for, or outcomes of, the proposal has been identified to the LPA.

- 6.17 As such the proposal, as a relatively minor reallocation of land already functionally occupied by an element of port activity and reallocation of land currently in sole Port use within the highway is not considered to result in any demonstrable adverse impacts that would prevent the grant of planning permission. The development supports the NPPF and local policy (PCS11) aspirations to support economic growth and the operational implications on local parking can be adequately accommodated within the alternative parking strategy and overall parking reduction proposed and controlled by planning condition.

RECOMMENDATION

Conditional Permission

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.

Time Limit

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

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

Approved Plans

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: Plan 3 Footpaths - POR012/003, Plan 2 (Revised) Showing Access Point A - POR12/001 H, Details of boundary treatments contained within Planning Statement (20230117), Block C (Ground Level Car Park), Estella Road (Ground Level Car Park)

Parking

3) Unless otherwise agreed in writing with the LPA, prior to the change of use occurring, the off-site parking shown in the approved plans (Block C (Ground Level Car Park) and Estella Road (Ground Level Car Park)) shall be made available for car parking for employees/users of the Port as the operator sees fit. The off-site parking spaces shall be maintained for the use of the employers and users of the port only thereafter.

Reason: In order to prevent parking issues as a result of the change of use from a car park, in accordance with Policy PCS17 of the Portsmouth Plan.

Informatives:

- a) Effort should be made to preserve the artwork on the existing brick boundary wall if possible.
- b) The Contaminated Land Team (CLT) has reviewed the above application and a condition relating to land contamination is not required. As the site is has previously been used for industrial purposes, arisings should be disposed of off-site appropriately in line with Technical Guidance WM3.
- c) The applicant should seek advice regarding stopping-up and diversion orders, and appropriation.

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Agenda Item 10

23/00558/ADV

WARD: ST THOMAS

THE SPINNAKER TOWER GUNWHARF QUAYS PORTSMOUTH PO1 3TT

DISPLAY OF EXTERNALLY ILLUMINATED LETTERING TO LOWER LEG OF TOWER AND
2NO. SIGNS AT ENTRANCE

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RU6HG9MO0JP00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RU6HG9MO0JP00)

Application Submitted By:

Ms Charlotte Smith

On behalf of:

Ms Charlotte Smith

Portsmouth City Council

RDD: 4th May 2023

LDD: 30th June 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 The application is presented to the Planning Committee as it has been submitted by Portsmouth City Council.

1.2 The main considerations within this advert application are:

- Impact on visual amenity of the area; and
- Impact on public safety.

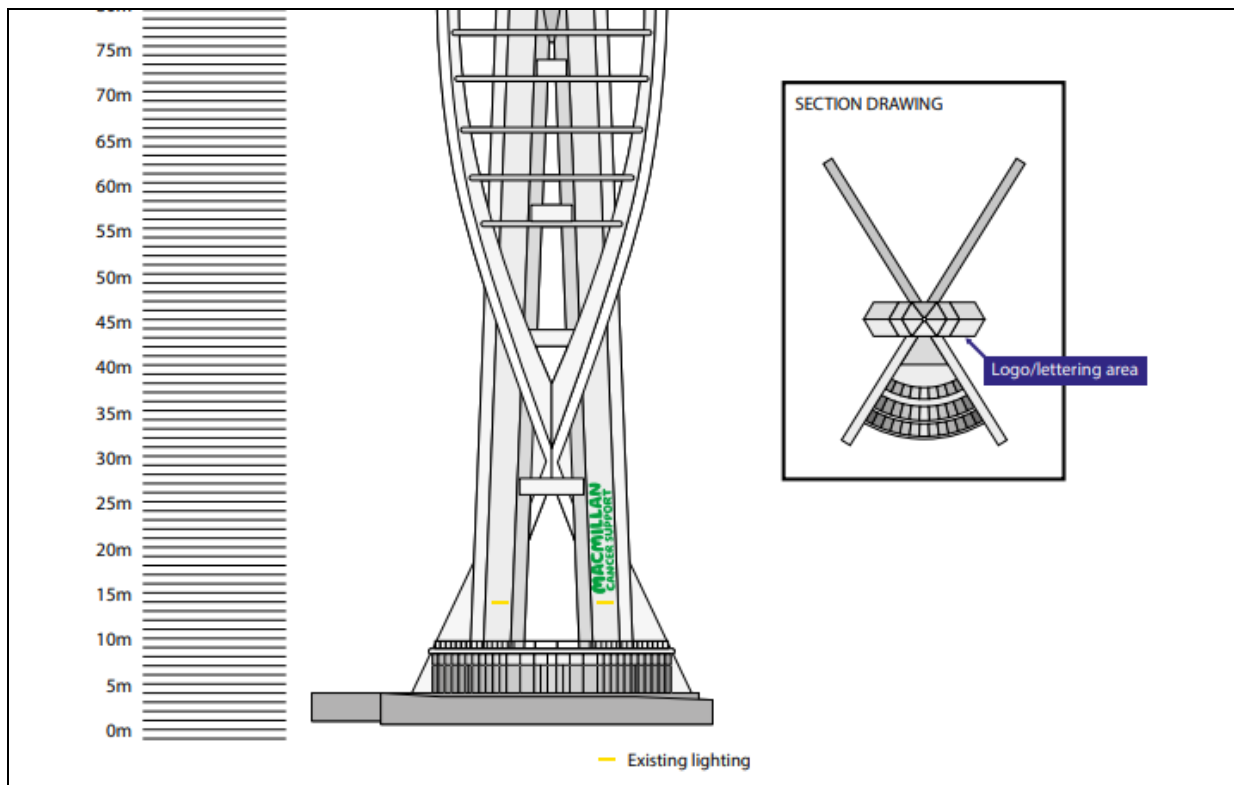
1.3 Site and Surroundings

1.4 This Portsmouth City Council application relates to the Spinnaker Tower which is located to the north-west corner of Gunwharf Quays at the entrance to Portsmouth Harbour. The Tower is primarily a viewing platform with three viewing decks at 100, 105 and 110 metres above sea level, but also incorporates a café and supporting facilities at ground floor level. The structure is constructed primarily in concrete, steel and Glass Reinforced Plastic, all of which is finished in white. However, architectural lighting to the Tower legs and 'sail' allows the Tower to be illuminated in various colours at night.

1.5 The site is situated within the Gunwharf Quays shopping centre and adjacent to Portsmouth Harbour Railway station that incorporates ferry links to Gosport and the Isle of Wight. The immediate area surrounding the Tower comprises a mix of leisure and retail uses with residential accommodation located further to the south. The site is located within the Gunwharf Quays Conservation Area (No.25), but as a result of its overall height (170m) also forms a prominent feature within the adjoining conservation areas to the north and south (H.M. Naval Base & St. George's Square (No.22), and Old Portsmouth (No.4) respectively).

1.6 Proposal

1.7 Advertisement consent is sought for the display of externally illuminated signage in the form of individual lettering to the eastern leg of the Tower, between approximately 15 and 27m above ground level. The lettering would be illuminated by the existing architectural lighting on the Tower. Additionally, two non-illuminated signs are proposed at ground floor level.



Eastern leg of tower



New logo (left) to two ground-floor signs (right)

1.8 Planning History

- 1.9 Advertising consent was granted in 2015 (Ref: 15/00902/ADV) for the display of various illuminated and non-illuminated signage by individual lettering, logos and branding to the Tower legs, and ground floor facilities.
- 2.0 POLICY CONTEXT**
- 2.1 The relevant policies within the Portsmouth Plan (2012) would include:
- PCS23 (Design and Conservation)
- 2.2 In accordance with the National Planning Policy Framework (NPPF) July 2021 due weight has been given to the relevant policies in the above plan.
- 3.0 CONSULTATIONS**
- 3.1 Queen's Harbour Master**
- 3.2 Comments yet to be received at the time of writing.
- 3.3 Gosport Borough Council**
- 3.4 No objections raised.
- 4.0 REPRESENTATIONS**
- 4.1 At the time of writing, no representations have been received.
- 5.0 COMMENT**
- 5.1 The main considerations within this advert application are:
- Impact on visual amenity of the area; and
 - Impact on public safety.
- 5.2 Impact on Amenity
- 5.3 The National Planning Policy Framework States: *'The quality and character of places can suffer when advertisements are poorly sited and designed.'*
- 5.4 When determining applications, the Local Planning Authority (LPA) must consider what impact a 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.
- 5.5 The Spinnaker Tower stands as a significant landmark at the entrance to Portsmouth Harbour, the gateway to the city of Portsmouth from the sea. The Tower was constructed to mark the Millennium celebrations and to form a focal point to the 'Renaissance of Portsmouth Harbour' including the redevelopment of what is now known as Gunwharf Quays. The Tower has become an iconic feature of the skyline, intrinsically linked with the city of Portsmouth, and instantly recognisable on a national and international level. The success of its design is derived not only from its obvious height (170m), but from its simple elegant form that represents a wind-filled Spinnaker Sail.
- 5.6 The Tower previously featured branding for the Emirates Spinnaker Tower, which included painting blue and gold up the majority of the body of the tower. The proposed Macmillan branding is considerably more discreet than this previous consent and only

features lettering for Macmillan on one of the legs of the Tower. Additionally, the Tower would retain its white colour.

- 5.7 As a result of the height of the Tower's height, the advertisement would be visible from within the Gunwharf Quays development as well as Old Portsmouth, the harbour and Gosport. The contrast between the green proposed lettering and the white of the tower would be quite strong but inevitable with that white background. Given the Tower's setting against a backdrop of a large commercial development, it is considered that the prominence of the advertisement would not be out of character with the surrounding area and would not detract from the character or the original integrity of the Tower or Gunwharf Quays. Brightly coloured advertisements are often found within marine environments and are even a common feature of the spinnakers that influenced the Tower's original design concept.
- 5.8 It is accepted that the tower is visible beyond Portsmouth and Gosport. Long distance views can be observed from Portchester, Hayling Island, the Isle of Wight, across The Solent and as far afield as Calshot to the west and Goodwood to the east. However, whilst the Tower's unique silhouette may be visible at these distances, it is considered that individual letters/logos that make up the advertisement would not be perceptible.
- 5.9 In terms of heritage assets, the Tower is located within the Gunwharf Quays Conservation Area (No.25) that contains a number of Grade II Listed Buildings including the Old Customs House, The Royal Marines Infirmary, The Vulcan Building, The Perimeter Wall and the Main Gate and Lodges. To the south the Old Portsmouth Conservation Area (No.4) includes Spice Island/'Point' (northern end of Broad Street) located directly opposite the Spinnaker Tower, a popular gathering place for residents and tourist wishing to observe activity in and around the harbour. The Spice Island Inn and the Still and West Public Houses, both Grade II Listed, are prominent features of this peninsular.
- 5.10 Across the Harbour a number of heritage assets are located with the shadow of the Tower within Gosport. This would include the 'Haslar Peninsula', 'Royal Clarence Yard' and 'High Street' Conservation Areas that are home to a number of Scheduled Ancient Monuments, Listed Buildings and Buildings of Local Interest (The Local List).
- 5.11 It is accepted that the Spinnaker Tower represents a significant feature of the skyline when viewed from certain positions within the adjoining conservation areas. However, due to the degree of separation provided by Portsmouth Harbour and the presence of intervening structures, it is not considered that the advertisement, would not affect the character and appearance of the conservation areas themselves or the or the integrity or immediate setting of any of the heritage assets located within them.
- 5.12 Whilst Gunwharf Quays is designated as a conservation area, many of the buildings surrounding the Tower are of a modern design having been constructed within the last 20-years. The area's significance is derived from the quality of these new build elements, particularly those on the waterfront and accessible to the general public, and their relationship with other heritage assets and features of historic interest retained to reflect the former naval use of the area. The conservation area also forms part of a busy leisure facility where advertisements are an established feature of the street scene. The local planning authority has worked closely with the operators of Gunwharf Quays and individual businesses to ensure that advertisements are of a high quality and sympathetic to their setting. It is considered that the display of the adverts on a large modern structure within a busy commercial development would preserve the overall character and appearance of the Gunwharf Quays Conservation Area. The degree of separation and number of intervening structures would also prevent harm to the integrity or immediate setting of the Grade II listed buildings and structures within the Gunwharf Quays.

- 5.13 The advertisements proposed to the ground floor entrance of the Tower would replace existing adverts, are non-illuminated and of modest size, and design. Given the existing and surrounding adverts within Gunwharf Quays they would be considered accepted in their visual amenity.
- 5.14 As the proposal is seen to preserve the character and appearance of the Gunwharf Quays and adjoining conservation areas, and the integrity or immediate setting of other heritage assets, so meet the requirements of the NPPF and the Listed Buildings and Conservation Areas Act.
- 5.15 Impact on Public Safety
- 5.16 The Spinnaker Tower is a prominent feature of Portsmouth Harbour which sees significant leisure, commercial and naval shipping movements throughout the day and night. Whilst the advert on the Tower itself is of a considerable scale, it is proportionate to the size of the Tower and would not be illuminated other than by the existing architectural lighting to the tower which is static in nature. As the proposed advert would not obstruct or appear similar to navigation aids or physically oversail the harbour, it is considered that it is unlikely to interfere with navigation within the harbour to the detriment of public safety.
- 5.17 Any comments received from the Queen's Harbour Master will be considered and provided at the meeting of the Planning Committee.
- 5.18 Conclusion
- 5.19 The proposed advertisements are considered to be appropriate and supportable.

RECOMMENDATION Conditional Consent

Conditions

Standard Advert Time Limit

- 1) This consent shall expire at the end of a period of five years from the date of this approval.

Reason: This condition is specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Standard Advertisement Conditions

- 2) a. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- b. No advertisement shall be sited or displayed so as to -
- (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military)
 - (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air
 - (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- c. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

d. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

e. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: These conditions are specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Plans

- 3) Unless otherwise 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: Section 1: Application of the Macmillan logo to the Spinnaker Tower; Section 2: Two x triangular signs at the entrance to the Spinnaker Tower; and Site Plan: 100019671 (2020).

Reason: 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.

Agenda Item 11

22/00205/FUL

WARD:EASTNEY & CRANESWATER

2-6 SPENCER ROAD SOUTHSEA PORTSMOUTH PO4 9RN

CHANGE OF USE FROM CARE HOME (CLASS C2) TO 6 NO. DWELLING HOUSES (CLASS C3); TO INCLUDE REMOVAL OF REAR EXTENSIONS, EXTERNAL ALTERATIONS TO DOORS AND WINDOWS; PROVISION OF PARKING, CYCLE AND REFUSE STORAGE

Application Submitted By:

Alana Shihadeh

Now Build It Developments

On behalf of:

Mr Hooda

RDD: 16th February 2022

LDD: 14th April 2022

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought to Planning Committee due to 9 public objections.

1.2 The main issues for consideration in the determination of the application are:

- The principle of development;
- The loss of a care home
- Design and Impact on the character and appearance of the area;
- Impact on residential amenity;
- Highway Implications;
- Waste;
- Impact on the Solent Special Protection Area (SPA) and Nitrates.

2.0 SITE AND SURROUNDINGS

2.1 The application site contains 2 and a half storey care home building (Class C2) fronting Spencer Road (as shown in **Figure 1** below) constructed from painted rendered facing brick and a tiled roof, hardstanding to the front and a front boundary wall. The building is located outside of, however is adjacent to the boundary of the Craneswater & Eastern Parade Conservation Area and located in flood zone 1

2.2 The building has a substantial width, and its design has incorporated several front bays. It is understood that the property at one point in time formed three separate dwellings which are now linked to one another by way of two storey infill additions. The site due to its location and width appears very prominent within the Spencer Road streetscene, particularly when entered from Eastern Parade. The property benefits from on site parking by way of the hardstanding to the front of the building.

2.3 The surrounding area is predominately residential in nature characterised by good-sized two-storey detached (west side of Spencer Rd) and semi-detached (east) dwellings. A substantial, four-storey, post-war flatted block lies to the rear (east) of the site.



Figure 1 - Site Location Plan

3.0 THE PROPOSAL

- 3.1 Planning permission is sought for a change of use from Care Home (currently operating as "Aquarius Nursing Home") which provides personal and nursing care for up to 38 adults (Class C2 use), to C3 residential use for 6no. 4-bedroom Townhouses with associated external works.
- 3.2 Proposed changes to the existing rear elevation would see the removal of previously added single-storey rear extensions to provide rear garden amenity space for each of the proposed dwellings, and the inclusion of additional windows.
- 3.3 Proposed changes to the existing front elevation would include additional windows at first floor level and doors at ground floor level (as shown in **Figure 2** below).
- 3.4 The proposed materials as stated in the accompanying application form, indicate that wall, window, door and roof materials are to match the existing. For reasons of maintaining acceptable visual amenity, should the proposal be approved it is recommended that a condition is included that external materials used shall match, in type, colour and texture those on the building.

- 3.5 The submitted plans confirm that the proposal would provide one off street parking spaces for each of the proposed dwellings (6 in total) and with an area of hardstanding that could provide 1 overspill parking space, and substantial areas of soft landscaping across the front gardens. Two existing vehicular access points would be changed to four.



Figure 2 Existing & Proposed Front Elevation

4.0 PLANNING HISTORY

Extensive planning history, mostly 1983 – 2013, apparently not particularly relevant to the current proposal, apart from ref. A*27474/A – Change of use to rest home, approved 6 April '83.

5.0 POLICY CONTEXT

Portsmouth Plan (2012)

- 5.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS10 (Housing Delivery)
- PCS13 (A Greener Portsmouth specifically SPA mitigation)
- PCS14 (A Healthy City)
- PCS15 (Sustainable Design and Construction)
- PCS16 (Infrastructure and Community Benefit)
- PCS17 (Transport)
- PCS19 (Housing Mix, Size and Affordable Homes)
- PCS21 (Housing Density)
- PCS23 (Design and Conservation).

Other Guidance

5.2 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Framework (revised 2021)
- The Parking Standards Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Interim Nutrient Neutral Mitigation Strategy (2022)

6.0 CONSULTEE RESPONSES

6.1 Contaminated Land

No objection - *"Groundworks will be required in removal of the existing extensions to create the garden areas and it is recommended that the developer import clean horticultural soil from a known source to achieve this".*

6.2 Natural England

The Local Planning Authority is awaiting Natural England's response to its Appropriate Assessment concerning mitigation for Special Protection Areas.

6.3 Highways

- Satisfied that the proposal would not have a material impact on the local highway network.
- The requirement for a 4-bedroom dwelling is 2 vehicle spaces and 2 cycle space for each dwelling. The revised layout provides 7 spaces.
- Given the new crossovers, there would be a loss of on-street parking space.
- NPPF Para. 112E outlines that developments should provide electric charging facilities, therefore a suitably worded condition should be attached (Officer response – this is required by the updated Building Regulations, so no need for a condition).
- Secure cycle storage indicated for each dwelling, need condition to secure this.

7.0 REPRESENTATIONS

7.1 9 letters of objection have been received in relation to the proposed development:

- Boundary wall should be retained.
- Overdevelopment
- Parking
- Proposed alteration to the front elevation of the properties not compatible with the other houses in the road
- Loss of Care Home - Concerns from objectors regarding their family members resident at the care home being displaced and the social and mental affect.

7.2 2 letters received in support of the proposal

8.0 COMMENT

8.1 The main determining issues for this application relate to the following:

- The principle of development;
- Design and impact on the character and appearance of the area;
- Standard of accommodation;
- Impact on neighbouring residential amenity;
- Highways and parking;
- Waste; and

- Impact on the Solent Special Protection Area (SPA) and Nitrates.

The principle of development

- 8.2 The application site is not subject to any land use policy restrictions which restrict new dwellings on this site.
- 8.3 Furthermore, there is a recognised need for new housing within Portsmouth, as outlined in Policy PCS10 (Housing Delivery) of the Portsmouth Plan. The provision of new housing would also accord with the general housing delivery objectives set out within the National Planning Policy Framework (NPPF). Paragraph 60 of the NPPF (July 2021) states: *'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'*.
- 8.4 In addition, 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'*.

In this case the loss of a care home facility would be counterbalanced by the provision of 6 new family dwellinghouses.

- 8.5 National policy states (Paragraph 11. d) that permission should be granted unless (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 8.6 The starting point for the determination of this application is the fact that Authority does not have a 5 year housing land supply (it has 2.9 years), and the proposed development would contribute towards meeting housing needs. Planning permission should therefore be granted unless either test (i) or test (ii) above is met. The proposed development has been assessed on this basis and is deemed to be acceptable in principle as a residential development with reasonable access to jobs, shops, services and public transport. However, the specific impacts of the proposal must be considered as to whether the development is appropriate in detail and whether visual harm and/or harm to neighbouring amenity would occur. The detailed assessment is set out below.

Loss of a Care Home

- 8.7 There are no policies in the local plan preventing the loss of care homes or housing for the elderly or to prevent their change of use or redevelopment.
- 8.8 The Aquarius Care Home at 2-6 Spencer Road has been operating as its current company for 28 years. The Care Quality Commission (CQC) inspected the home in 2022 and stated that it did not comply with all the necessary standards¹. The overall rating for this service was judged as Inadequate and the service is therefore in 'special measures'. The CQC identified areas of the home which were not in a good state of repair, and constraints with the size and layout of the building presented some limitations regarding meeting the social needs of people. The applicant states Aquarius cannot practically be retrofitted or redesigned to meet the increasingly complex needs of nursing home patients in the next 15-20 years. On this basis there is evidence to suggest that there is a likelihood of the home closing in the immediate future, regardless of the ownership and

¹ <https://api.cqc.org.uk/public/v1/reports/31efc83e-b11c-4016-94fe-28befdbd3781?20220714120000>

lease arrangements. It is not fulfilling the need for this service within the local community effectively. This is also a matter of significant weight.

- 8.9 The applicant states that in the event that Aquarius does cease operating, the support and relocation of the residents would follow clear guidance and would be a collaborative process with the Local Authority, NHS, and other regulatory teams to ensure the well-being of residents during this transition, and that all decisions would be made in accordance with the desires of the residents and would take into account their best interests.

Design and Impact on the character and appearance of the area

- 8.10 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework and requires all new development be well designed and respect the character of the city. The following will be sought in new development, appropriate scale, density, layout, appearance and materials in relation to the particular context.
- 8.11 The dwellings have been designed using mostly the existing building and layout with minimum additional external changes. The design and appearance of the building is considered to be appropriate for its setting and values the adjacent existing development in terms of its form and architectural features and detailing. The design of the proposed dwellings draws on the style and character of the existing building and surrounding. The design of the roof and height would remain unchanged and would not create a dwelling disproportionate to the existing mix of dwellings within the surrounding area, and the positioning of the proposed dwellings within the plot maintains an acceptable vertical and horizontal rhythm.
- 8.12 Previously added single storey rear extensions would be removed to create a more visually appealing rear elevation and to provide the future occupants with individual rear gardens. Each garden would have access to the front of the site via a shared path.
- 8.13 The dwellinghouses are appropriate in size and scale and would not result in the overdevelopment of the site and would be a development within a plot size that would not be too dissimilar to those within the existing street scene.
- 8.14 The on-site parking layout has been designed to integrate areas of soft landscaping to reduce the visual impact of the parking to the front of the proposed dwellings, to soften the urban street scene and provide some special containment and separation. A wall would be retained/re-built with suitable gaps where a dropped kerb would be present and planted with landscaping behind to properly enhance the site. The areas of soft landscaping would reduce the visual impact of parked vehicles dominating the front of the proposed dwellings and would add value to the proposal and soften the urban street scene and provide visual and sensory interest. This is considered a betterment of the current existing layout which consists of a large area of hard surface without soft landscaping giving a bleak outlook.
- 8.15 As such, the proposal is considered to be in keeping with the appearance of the surrounding properties on Spencer Road, and the scale and appearance of the proposed dwellings would be acceptable in design terms. Consequently, the proposal would comply with the design requirements of Policy PCS23 of the Portsmouth Plan (2012).and would preserve the character and appearance of the adjacent Craneswater & Eastern Parade Conservation Area.

Standard of accommodation

- 8.16 Policy PCS19 of the Portsmouth Plan, the supporting Housing Standards SPD and the Nationally Described Space Standard (NDSS 2015) requires that all new dwellings should be of a reasonable size appropriate to the number of people the dwelling is designed to accommodate.
- 8.17 The nationally described space standards for a three storey 4 bed dwelling seek a gross internal area of a minimum of 103m². and a dwelling with two or more bedspaces to have at least one double (or twin) bedroom. In order to provide one bedspace, a single bedroom should have a floor area of at least 7.5 sq. m and is at least 2.15 m wide. In order to provide two bedspaces, a double (or twin bedroom) should have a floor area of at least 11.5 sq. m. While the Council has not formally adopted these standards, they are useful as a broad gauge against which to consider the quality and density of development.
- 8.18 The proposed 6x 4-bedroom dwellings would have the following floor areas:
Dwelling 1 – 166.8 sqm
Dwelling 2 - 135.44 sqm
Dwelling 3 – 141.97 sqm
Dwelling 4 - 191.28 sqm
Dwelling 5 – 130.96 sqm
Dwelling 6 – 185.89sqm

Combined with the good-sized dwellings, internal layout is also appropriate, providing a reasonable outlook and an appropriate source of natural light and ventilation, delivering an acceptable living environment for future occupiers and compliant with national space standards.

- 8.19 Policy PCS19 of the Portsmouth Plan states private amenity space should be provided for as part of all new build residential units. An important component of good quality residential design is the provision of useable outside private space where residents can take advantage of fresh air and direct access to the natural environment, and that external private space is usually provided by back or side gardens, where a certain measure of privacy (e.g., Not directly overlooked by neighbouring outdoor sitting areas or living rooms) should be provided. Each of the proposed new dwellings would benefit from access to a private amenity area, to the rear the properties.
- 8.20 The proposed garden amenity space for the dwellings as positioned would experience a degree of overlooking by the adjoining apartment block to the rear, Cresta Court, and the windows to both developments would experience inter-visibility at reasonably close-quarters (c.12 – 18m). Notwithstanding, relatively pragmatic decisions tend to be taken in recognition of the constraints of the site. Such decisions are helped by the fact that with the existing compact and tight relationships between neighbouring dwellings, similar relationships exist between neighbouring houses and therefore residents would be more tolerant and accepting of such impact.
- 8.21 It is therefore considered that the proposed outside amenity space is sufficient and due to the positioning and levels of screening of the rear garden amenity area from the public realm, the space would provide a reasonable degree of outlook from habitable rooms and shall enable natural ventilation to occur, and provide space sufficient for everyday activities, such as clothes drying, relaxation and recreation.
- 8.22 The layout would include an access path to the rear of all six dwellings with cycle and bin storage to be contained in the rear garden space of each of the dwellings. This would create a suitable level of access to each of the dwellings benefiting the amenity of the future occupiers.

- 8.23 Plans show overall, it is considered that the proposed new dwellings would provide a reasonable quality of living environment for the proposed occupiers.

Impact on neighbouring residential amenity

- 8.24 Policy PCS23 of the Portsmouth Plan includes, amongst other things, that new development should ensure the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development.
- 8.25 Having regard to the neighbouring residential properties surrounding the site, the proposed dwellings would decrease the built form on this plot. Additional windows would be provided to the rear of the site although given the existing arrangement it is considered that there would be no additional overlooking above that of the existing building. The change of use of the existing 38 bedroomed care home as 6 separate dwellings would not introduce any significant concerns in terms of light, outlook or privacy. Given the proposed scale, position and appearance of the dwellings, they would not harm outlook or result in a loss of light to nearby properties.
- 8.26 Accordingly, the proposal would be consistent with Policy PCS23 of the Portsmouth Plan (2012), in that it is considered the proposal would not result in any unacceptable loss of privacy, light or outlook to neighbouring properties.

8.27 Highways and parking

- 8.28 Spencer Road is an unclassified residential road and within the Cranswater Residents Parking Zone which operates 11am to 12pm and 6pm to 7pm daily. Several of the properties along the road have off street parking with the remaining accommodated via on street parking. Given the existing lawful use of the site (Care Home) and the relatively small scale of the development, it is concluded that the proposal would not have a material impact on the local highway network.
- 8.29 Portsmouth City Councils Parking SPD gives the expected level of vehicle and cycle parking within new residential developments. The requirement for a 4-bedroom dwelling is 2 vehicle spaces and 2 cycle space for each dwelling. The layout provides 7 spaces, and it is assumed that the proposal would allocate 1 vehicle space per dwelling with 1 space potentially for visitors or one property having an additional space. Consequently, this proposal is not compliant with the policy established in the SPD. It is noted that given the new crossovers, there would be a loss of on street parking available.
- 8.30 Notwithstanding this the planning officer considers that the existing use of the building and site as a 38 bedroomed care home would generate a kerbside parking demand greater than that expected for the proposed 6 x 4 bed dwellings, when considering the possibility of vehicle traffic movements generated by the 27 staff members and visitors to the care home.
- 8.31 A number of site visits observed that during typical weekday evenings there was a sufficient level of on-street parking space available (c. 23 spaces). It is therefore considered that, the change of use from a care home to 6 dwellings, the loss of some on-street parking space due to re-arranged and increased dropped kerbs, and accommodating any additional off-site parking demand for the development itself, would not result in a potential for increased instances of residents driving around the area seeking for a parking space (particularly in the evening) as sufficient parking availability would still be able to be accommodated on the street

Waste

- 8.32 A condition is proposed that will secure full details of waste storage for the proposed dwellings.

Flood risk, drainage and utilities

- 8.33 The site is located within Flood Zone 1 (areas of least risk) and there is no increase in the extent of hardstanding on site and as such the scheme is unlikely to give rise to any flood risk and drainage issues.

Impact on the Solent Special Protection Area (SPA) and Nitrates

- 8.34 The application site is within 5.6 km of Portsmouth Harbour Special Protection Area (SPA) and will lead to a change in the level and type of residential accommodation.
- 8.35 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 likely effect on the interest features of the Solent Special Protection Areas, 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.
- 8.36 There are two potential impacts resulting from this development the first being potential recreational disturbance around the shorelines of the harbours and the second from increased levels of nitrogen and phosphorus entering the Solent water environment.

Wading birds

- 8.37 The Solent Recreation Mitigation Strategy (December 2017) was adopted by Portsmouth City Council on 1st April 2018 and replaces the Interim Solent Recreation Mitigation Strategy (December 2014) and the associated Solent Special Protection Areas Supplementary Planning Document (SPD) which was revoked by the Council from 1st April 2018. The Strategy identifies 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. It 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 development is likely to have an impact on the management of the SPA which would require mitigation.
- 8.38 Based on the methodology set out within the Strategy and taking into consideration that the proposed development being assessed is a conversion of an existing care home (which provides accommodation for up to 38 residents) to 6 x 4 bedroomed dwellings, there would be a decline in the number of overnight stays compared to the current existing use. Notwithstanding this as the current use is a care home (C2) it is considered that the more elderly residents are arguably less active than the proposed C3 occupiers. Residents of care homes may partake in walks etc, but this is likely to be very local and probably not travelling to more sensitive parts of the harbours or Solent. Even though the resident population would decrease due to the conversion of the care home, occupiers of the proposed 6x 4 Bedroom C3 dwellings would be considered more prone to additional recreation disturbance to the SPA as it would be likely they are more actively and extensively mobile within the SPA.
- 8.39 Based on the methodology set out within the Strategy and taking into consideration the current use compared with the proposed, an appropriate scale of mitigation for this development is £5880.00 (net gain of 6 x (C3) dwellings), which will be secured through

a S111 legal agreement. With this mitigation, the Council has concluded that the adverse effects arising from the proposal are wholly consistent with and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy.

Nitrates

- 8.40 Natural England has provided guidance advising that increased residential development is resulting in higher levels of nitrogen and phosphorus input to the water environment in the Solent with evidence that these nutrients are causing eutrophication at internationally designated sites. A sub-regional strategy for the nitrates problem is being developed by the Partnership for South Hampshire, Natural England, and various partners and interested parties.
- 8.41 In the meantime, the Council wishes to avoid a backlog of development in the city, with the damaging effects on housing supply and the construction industry, so the Council has therefore developed its own interim strategy.
- 8.42 The Council's Interim Nutrient-Neutral Mitigation Strategy expects Applicant to explore their own Mitigation solutions first. These solutions could be Option 1: 'off-setting' against the existing land use, or extant permission, or other land controlled by the Applicant. Or it could be Option 2: mitigation measures such as Sustainable Urban Drainage Systems (SUDS), interception, or wetland creation. If, however, the Applicant sets out to the Council that they have explored these options but are unable to provide mitigation by way of these, they may then request the purchase of 'credits' from the Council's Mitigation Credit Bank.
- 8.43 The development would result in a reduction of overnight stays compared to the current existing use of the site as a 38 bedroomed care home. Using Natural England's updated published Advice on Achieving Nutrient Neutrality for New Development in the Solent Region for Local Planning Authorities (Version 2, March 2022), the development would result in a negative net change in the total nitrogen load and is therefore able to achieve nitrate neutrality. The development would therefore not affect the integrity of the SPA through deterioration of the water environment.
- 8.44 The authority has concluded that would be no adverse effects arising from the development in respect of the deterioration of the water environment and there is no requirement for an offset using the Portsmouth City Council Interim Nutrient Neutral Mitigation strategy for New Dwellings (June 2022). Therefore, nitrates mitigation would not need to be provided, by way of the condition and legal agreement. Subject to Natural England confirming no objection to this approach.

Human Rights and the Public Sector Equality Duty ("PSED")

- 8.45 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 8.46 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender

reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

9.0 CONCLUSION

- 9.1 The proposal would contribute to the Council's five year housing supply providing a good standard of living accommodation for future occupiers and being of an appropriate design within the local context and having no significant adverse effect on local amenity.
- 9.2 Having regard to all material planning considerations and representations it is concluded that the proposed development is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) Receipt of 'no objection' from Natural England concerning the SPA Mitigation, and;
- (b) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance) by securing the payment of a financial contribution.

RECOMMENDATION II - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

RECOMMENDATION III - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

CONDITIONS

Time Limit:

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

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

Approved Plans:

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers:
- SITE LOCATION PLAN - 2-6SPENCER1250 - Plan Ref: TQRQM20212114318719
 - PROPOSED FLOOR PLANS - Dwg No: PG.5102.20 - SHEET - 03 - REV H
 - PROPOSED AREA PLANS - Dwg No: PG.5102.20 - SHEET - 04 REV F
 - PROPOSED ELEVATIONS - Dwg No: PG.5102.20 - SHEET - 05 REV D
 - PROPOSED SITE PLAN AND 3D VISUALS - Dwg No: PG.5102.20 - SHEET - 06 REV D
 - PROPOSED STREET ELEVATIONS - Dwg No: PG.5102.20 - SHEET - 07 REV D

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

Materials:

- 3) The external materials to be used to form the 6 X 4 bedroomed dwellings hereby permitted, shall match, in type, colour and texture those on the building.

Reason: In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan (2012).

Cycle Storage

- 4) Prior to first occupation of the development, secure and weatherproof bicycle storage facilities for 2 bicycles per dwelling shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan (2012).

Refuse Storage

- 5) Prior to the first occupation of the development, refuse and recyclable materials storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing, and those facilities shall thereafter be retained for the continued use by the occupants of the 6 permitted dwellinghouses.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan (2012).

Water use

- 6) Unless otherwise agreed in writing by the Local Planning Authority, the dwelling hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved in writing by the Local Planning Authority demonstrating that each of the dwellings has:

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

Reason: To ensure that the development as built will minimise its need for resources and be able to fully comply with Policy PCS15 of the Portsmouth Plan (2012).

- 7) Hard and Soft Landscaping

No construction works above the foundation / slab level shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:

a) the alignment, height and full architectural details of all boundary treatments (front, rear and side) walls, gates and fences and other means of enclosure. With samples being provided including brick bonding, mortar colour and striking.

b) the landscaping for the site to include and soft landscaping and planting which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted, as well as details of any hard surfacing.

c) details of the lighting scheme of the front parking area, to include design location and the intensity of the illumination.

d) Unless otherwise agreed in writing with the Local Planning Authority, all boundary treatments approved pursuant to part (a) of this Condition shall be completed prior to first occupation of the building hereby permitted.

e) Unless otherwise agreed in writing with the Local Planning Authority, the hard landscaping schemes approved pursuant to part (b) of this Condition shall be completed prior to first occupation of the building hereby permitted.

f) The soft landscaping schemes approved pursuant to part (b) of this Condition shall be carried out within the first planting/seeding season following the first occupation of the building or the completion of the development whichever is the sooner. Any trees/shrubs which, are removed or become damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.

Reason: To secure a high-quality setting to the development and in the interests of amenity and biodiversity ensuring of an appropriate visual appearance for the development in accordance with Policy PCS23 of the Portsmouth Plan (2012)

8) Parking Provision

i) The development hereby permitted shall not be occupied until a minimum of 6no. car parking spaces have been provided within the curtilage of the site and thereafter maintained and kept available.

ii) The development hereby permitted shall not be occupied until the parking area has been provided in accordance with the approved plans and thereafter permanently retained and used only for the purpose of accommodating private motor vehicles incidental to the enjoyment of the dwelling house as a residence.

Reason: To make provision for off street parking for the purpose of highway safety.

9) Withdrawal of Permitted Development Rights

Notwithstanding the provisions of the Town and Country Planning [General Permitted Development] Order 2015 [or any order revoking and re-enacting that Order with or without modification], no development permitted by Classes A and F of Part 1 of Schedule 2, and Class A of Part 2 of Schedule 2, of the Order shall be carried out without the prior written consent of The Local Planning Authority.

Reason: To ensure the provision of an appropriate level of amenity space for the future occupiers of the development (Part 1, Class A), in the interests of local character and biodiversity (Part 1, Class F), and to maintain local character (Part 2, Class A), in accordance with PCS13 and PCS 23 of the Portsmouth Local Plan.

INFORMATIVE

You will need to make an application for the dropped kerb to Colas who manage the highway on behalf of the Local Highways Authority (i.e. Portsmouth City Council).

You are able to use a private contractor to carry out the dropped kerb work, but Colas must approve the works to the public highway. Colas have their own specific size standards that you will need to comply with for an application to be successful.

Colas can be contacted on **02392 310900** and further information can be found at <https://www.colasportsmouth.co.uk/licenses-permits/application-for-vehicle-crossover/> .