



NOTICE OF MEETING

PLANNING COMMITTEE

WEDNESDAY, 31 JANUARY 2024 AT 10.30 AM

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.

Planning Committee Members:

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

Standing Deputies

Councillors Dave Ashmore, Matthew Atkins, 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.

AGENDA

- 1 **Apologies**
- 2 **Declaration of Members' Interests**
- 3 **Minutes of previous meeting held on 10 January 2024 (Pages 5 - 16)**

- 4** **23/00798/FUL North Portsea Island phase 5 Coastline between Portsbridge car park (south) in the west to Althorpe Drive in the east (including all compounds and access to the public highway (Pages 17 - 44)**
- Flood and coastal erosion management scheme comprising a combination of raised earth embankments with rock and concrete revetments (to incorporate a new coastal path), retaining walls, upgrading of existing slipway, encasing of the 2no. bridge abutments, provisions of additional seating and viewing areas, improvements to existing timber fishing platforms and associated works, compounds, utility diversions, tree removal & vegetation clearance, ecological improvements, landscaping and public realm features. The proposal constitutes EIA development.
- 5** **23/01377/FUL - 4 North End Avenue, Portsmouth, PO2 9EB (Pages 45 - 52)**
- Change of use from dwellinghouse (Class C3) to 8 bed/person house of multiple occupation (Sui Generis).
- 6** **23/01466/FUL - 29 Shadwell Road, Portsmouth, PO2 9EH (Pages 53 - 60)**
- Change of use from house of multiple occupation (Class C4) to 7 person House in Multiple Occupation.
- 7** **23/01118/FUL - 43 Derby Road, Portsmouth, PO2 8HW (Pages 61 - 66)**
- Change of use from a 6-bed/6-person House in Multiple Occupation to a 8-bed/8-person House in Multiple Occupation.
- 8** **23/01420/FUL - 25 Tottenham Road, Portsmouth, PO1 1QL (Pages 67 - 72)**
- Change of use from 5-bed/6-person House in Multiple Occupation to 7-bed/7-person House in Multiple Occupation.
- 9** **23/01383/FUL - Homeheights House, Clarence Parade, Southsea PO5 3NN (Pages 73 - 80)**
- Rooftop installation of 3no. pole mounted antennas, 1no. dish, 2no. cabinets and associated ancillary development.

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Agenda Item 3

MINUTES OF THE MEETING of the Planning Committee held on Wednesday 10 January 2024 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)
Peter Candlish
Raymond Dent
Asghar Shah
John Smith
Judith Smyth
Mary Vallely
Darren Sanders

Also in attendance: Councillor Russell Simpson.

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 in case of a fire.

1. Apologies (AI 1)

Councillor Gerald Vernon-Jackson sent apologies. Councillor Sanders was present as his standing deputy. Councillor Raymond Dent apologised that he would need to leave the meeting at 12.45pm for an appointment.

The meeting was adjourned for a short break at 12.50pm and resumed at 1.11pm.

Councillor Raymond Dent left the meeting at 12.50pm and returned at 2.24pm.
Councillor Peter Candlish left the meeting at 1.58pm and returned at 2.24pm.
Councillor Darren Sanders left the meeting at 1.58pm and did not return as he had declared personal and prejudicial interests in Items 9 and 10.

2. Declaration of Members' Interests (AI 2)

Item 5 23/01220/FUL 19 Tamworth Road, Portsmouth PO3 6DL - Councillor Sanders declared that he would not participate or vote on this item because he had already formed a view on the item and would be making deputation against the application.

Item 9 23/01456/HOU 20 Pretoria Road, Southsea PO4 9BB - The Legal Advisor noted that the Applicant is a member of the council. She advised that no members present would have a disclosable pecuniary interest in this item and

provided advice about when it is appropriate to declare personal and/ or prejudicial interests and offered further advice about predetermination, bias and the appearance of bias.

Councillor Sanders declared a personal and prejudicial interest in Item 9 as he knows the Applicant well.

Councillor Peter Candlish declared a personal and prejudicial interest in Item 9 as he attended the Applicant's birthday party at the weekend.

Councillor Chris Attwell declared a personal interest in this item as he is acquainted with the Applicant.

Councillors Sanders and Candlish would leave the meeting when Item 9 is considered.

Item 10 22/01129/FUL Stamshaw and Tipner Leisure Centre, 689 Wilson Road, Portsmouth PO2 8LE - Councillor Sanders also declared that as he is the Cabinet Member with budget responsibility for the facility there could be the appearance of bias and he would leave the meeting when the item is discussed.

3. Minutes of the previous meeting held on 6 January 2023 (AI 3)

RESOLVED that the minutes of the Planning Committee meeting held on 6 December 2023 be agreed as a correct record.

Planning Applications

The Supplementary Matters Report can be seen on the council's website at [Supplementary Matters Report 10 January 2024](#).

Deputations, which are not minuted, can be viewed on the webcast for the meeting at [Planning Committee 10 January 2024 \(youtube.com\)](#)

The Chair amended the order of the agenda to hear the agenda items in the following order:

- 23/01289/FUL - 291 Queens Road, Fratton, Portsmouth PO2 7LY
- 23/01193/FUL - 118 Ophir Road, Portsmouth PO2 7NE
- 23/01220/FUL - 19 Tamworth Road, Portsmouth PO3 6DL
- 23/00543/FUL - 26 Fearon Road, Portsmouth PO2 0NJ
- 23/00568/FUL - 198 Fawcett Road, Portsmouth PO4 0DP
- 23/01456/HOU - 20 Pretoria Road, Southsea PO4 9BB
- 22/01129/FUL - Stamshaw and Tipner Leisure Centre, 689 Wilson Road, Portsmouth PO2 8LE

For ease of reference, the minutes remain in the order published on the agenda for the meeting.

4. **23/01289/FUL - 291 Queens Road, Fratton, Portsmouth PO2 7LY (AI 4)**
Change of use from dwelling house (Class C3) to purposes falling within Class C3 (dwelling house) or C4 (house in multiple occupation) (resubmission of 23/00873/FUL).

The Development Management Lead presented the officer's report. He explained that the application had been brought to the Committee for consideration due to the number of objections received. These relate to the standard of accommodation, parking, waste, loss of amenity, impact on the Solent Protection Areas and other matters. The Development Management Lead noted that the application meets accommodation and community balance policy standards and is therefore considered to be acceptable.

Deputations

Deputations were made by Carianne Wells (Agent) and Poppy Thomas-Taylor (on behalf of Kay Simmons) objecting.

Members' questions

In response to Members' questions, officers clarified:

- The local planning authority may not intervene on works allowed under permitted development rights.
- There is no need to add a condition to prevent double occupancy as the application is for Class C3 dwelling house or C4 house in multiple occupation and the required licence will control occupancy.
- The application before the Committee is for C3 or C4 use with up to 6 individuals living together in the case of C4.
- The previous application was withdrawn, and the proposal resubmitted in this current application once the property purchase had been finalised. This does not affect determination of the current application.

Members' comments

The Chair notes that the Committee must only consider material planning considerations.

RESOLVED to grant conditional permission as set out in the officer's committee report.

5. **23/01220/FUL - 19 Tamworth Road, Portsmouth PO3 6DL (AI 5)**
Change of use from dwelling house (Class C3) to purposes falling within Class C3 (dwelling house) or Class C4 (house in multiple occupation).

The Development Management Lead presented the officer's report which included updated floorplans for the property and drew attention to the Supplementary Matters Report (SMAT). He confirmed that all room sizes (set out in Appendix 1 of the SMAT) are above the minimum size standards. He also informed Members that the SMAT included comments by the Highways officer and a response from the planning officer. There was no change to the officer recommendation due to matters included in the SMAT.

The Development Management Lead explained further that the application had been brought to the Committee for consideration due to the number of objections received and call-in by Councillor Darren Sanders. The objections raised relate to the standard of accommodation, parking, noise, loss of amenity to neighbouring residents and impact on the Solent Protection Areas and other matters. The Development Management Lead noted that the application meets accommodation and community balance policy standards and is therefore considered to be acceptable.

Deputations

A deputation was made by Chris Broyd (Agent) and Sue Thomas representing the residents of Tamworth Road (objecting). Councillor Darren Sanders also made a deputation objecting to the application.

The Chair invited the Development Management Lead to respond to points raised in the deputations. The officer present clarified that:

- The road is narrow once cars are parked on one side and there is a turning circle at the end.
- The hardstanding is 4.4m deep front to back (the current standard is 5m).
- The plans show the property has 4 bedrooms currently.
- The level of activity associated with a single family, or 3-6 occupiers of an HMO would not, in the view of officers, be significantly different.
- The property is in walking distance of shops and transport links.
- Safety of children was raised in objection but in the view of the officer, safety of children is not affected by the application.
- The planning regime does not exist to restrict the occupation of residents whether the property is used as an HMO or family home.
- The Applicant has said they would be seeking occupation by 4 people and the rooms are large enough for 6 individuals. The current arrangements for sanitary facilities, though, are not sufficient for 6 persons. For 6 persons the minimum standard is 2 bathrooms and 2 W/Cs (of which one can be in a bathroom).
- A site notice was displayed, and a photograph taken of it in situ and a letter was sent to all residents.
- Devaluation of property is not a material planning consideration.
- It is not possible to say definitively that noise will increase following a change from occupation by a family or individuals living in an HMO.
- Ownership of the property is not a planning consideration. Planning permission runs with the land.
- Officers do not believe it is necessary to restrict occupancy to 4 persons by condition as it will be for licensing to limit numbers.
- It was accepted that there may not be rear access for cycle storage and that bicycles may need to be pushed through the property, though there may be space for cycle storage at the front of the property.

The Agent confirmed there was side access to the cycle storage between the house and garage.

The Chair confirmed that each application must be considered on own merits.

Members' questions

In response to Members' questions, officers clarified:

- A mixed community is about seeking a mix of residential type rather than who occupies the properties.
- In relation to differences between room size measurements and those on the schematic floorplan, it is accepted that they do not add up but as the room sizes are clearly beyond required minimum standards, in the round this is considered acceptable.

Members' comments

Members expressed concern that the measurements indicate that ensuite bathroom overhangs the storeroom at the rear. Members felt that they could not have confidence in the measurements and floorplans provided and they would like clarification before making a decision.

The Legal Advisor enquired whether the Agent was able to provide clarification. The Agent informed the Committee that although all the rooms had been measured twice using a laser measure, the storeroom had not been measured and would be used for cycle storage and as the tank room. He added that the revised room sizes are accurate and exceed minimum standards.

The Development Management Lead stated that the Agent had confirmed that the storage room had not been measured but that all other rooms had been measured accurately and no extension/overhang was proposed. A Condition 2 could be amended to require detailed plans to be submitted.

Members commented that they must have confidence in all measurements and from the current floorplan is not clear that the first floor would fit above the ground floor without an overhang, and this was not acceptable.

Some Members felt that amending Condition 2 to require detailed drawings would be acceptable while others felt that they could not have confidence in the application as some of the dimension given varied by 300-700mm.

Councillor Dent left the meeting at 12.50pm and took no further part in determining this matter.

The Legal Advisor advised that as there was doubt about the measurements on the plan, the Committee could consider deferring the item to allow clarification to be provided.

A Member suggested that a Condition requiring that all room sizes must meet the council's minimum size standards. However, the Development Management Lead advised that this could lead to a situation where planning permission was granted for something that it later transpired did not actually meet the standards.

RESOLVED to defer determination of the application to allow for clarification of floorplans.

6. 23/00543/FUL - 26 Fearon Road, Portsmouth PO2 0NJ (AI 6)

Change of use from dwelling house (C3) to purposes falling within dwelling house (C3) or 6 bed/6 person house in multiple occupation (C4).

The Development Management Lead presented the officer's report and explained that if planning permission is granted, it can be used as a C3 dwelling house or C4 6 bed/6 person house in multiple occupation interchangeably for a 10 year period. He drew Members' attention to the Supplementary Matters Report. He explained that it was proposed to secure the degree of communal living space by way of Condition, confirmed that the property would need to be licensed and added that Condition 2 would be amended with updated Plan numbers.

The Development Management Lead noted that the main issues raised in the 23 objections received included the principle of the development, the standard of accommodation, parking, waste, amenity impacts on neighbouring residents and the impact on the Solent Protection Areas. The Development Management Lead noted that the application meets accommodation and community balance policy standards and is therefore considered to be acceptable.

Deputations

Deputations were made by Simon Hill (Agent) and Councillor Russell Simpson.

Members' questions

In response to Members' questions, officers clarified:

- In relation to the ground floor W/C opening directly into the kitchen, the licensing team had been asked about this but had not provided a response on this aspect of the application. There are en-suites throughout the property and the Applicant stated that plans have received Building Regulation approval.
- The location of the W/C door is a matter for Building Regulations and licensing, and it would not be appropriate for the location of the door to be subject to Condition.
- A reduction in the size of the ground floor bedroom could increase the size of the communal space which would allow both to exceed minimum space standards.

The Development Management Lead advised that in relation to both these aspects, the application should be determined on the plans before the Committee.

The Agent informed the Committee that the space allocated to the ground floor W/C could be a storage room, or access could be amended to be from the hall or living room. He offered to have an amended plan emailed in during the committee meeting for consideration.

The Legal Advisor confirmed that the plans are clear, and that the Committee should make its decision based on the information before it.

Members' comments

Members expressed concerns about the location of the door to the ground floor W/C, specifically regarding the safety of residents and the quality of their living conditions. A member noted that landlords go to first tier tribunals on matters such as doors going in or out of rooms.

The Development Management Lead commented that the WC apparently complied with Building Regulations and suggested that Members could request a Condition requiring the submission of amended plans regarding the location of the doorway to the ground floor W/C be added.

Members agreed that they could not accept emailed plans sent in during the meeting and that it was preferable to add a condition requiring amended plans on this aspect of the application. Members also noted that receiving a second, future application for additional occupancy would be a waste of public money.

RESOLVED to grant conditional permission as set out in the officer's committee report and the Supplementary Matters Report and an additional condition requiring the submission of new plans regarding the location of the doorway for the W/C (ground floor).

7. 23/01193/FUL - 118 Ophir Road, Portsmouth PO2 7NE (AI 7)

Change of use from purposes falling within dwelling house (Class C3) to 8 person house in multiple occupation (sui generis).

The Development Management Lead presented the officer's report which had been called in by Councillors Russell Simpson and Daniel Wemyss and objections had been received from 44 residents. He informed members of the Committee that the main issues for consideration in the determination of the application include the principle of development including compliance with policy, impacts on amenity including parking, refuse and recycling.

Deputations

Deputations were made by Carianne Wells (Agent) and Christopher Green and Arthur Webb (objecting). A deputation was also heard from Councillor Russell Simpson.

Members' questions

In response to Members' questions, officers clarified:

- The potential mental health impact and impact of developments on children with disabilities are dealt with under Human Rights law and the Public Sector Equality Duty (PSED) rather than planning law. Officers have taken advice on very similar situations in the recent past from the legal team and the council's equalities officer when it was concluded that unfortunately matters concerning impact on mental health and anxiety could not be taken into account in those very similar examples.
- In relation to noise insulation, Building Regulations require noise insulation, and it is ultra vires to require the Applicant to go beyond what is required by

other legislation. Use of a higher standard of insulation would be for the Applicant to consider having heard representations.

- Most of the kitchen-diner will be beyond the main body of the neighbouring property at no. 120, the hall is not living space, and bedrooms adjoin no. 116, so this should limit impact on neighbours.
- It is not known how many people lived at the property when a self-contained dwelling house and it is considered that changing its use would not have a significantly greater impact on local services.
- Fire risk and safety are dealt with by Building Regulations and/ or licensing.
- Planning inspectors have not used access to bike storage through the property as a reason to withhold planning permission. They have noted it as a temporary issue while bikes pushed through the property.
- Building Regulations will require certain head height at various points to ensure access through the property. Information about the rake of the stairs was not available and it was likely the drawing detail was not correct and there would be more space than indicated.
- It was intended to retain the existing structures in the garden for use as cycle storage.

Members' comments

Members were concerned about the impact of noise and disturbance on the mental health and anxiety of children living in neighbouring properties.

The Agent informed the Committee that the Applicant was happy to add additional insulation to both party walls.

The officer noted that an email to the Applicant confirming this would be added to the public file.

Councillor Sanders noted that he would contact the equalities officer about matters relating to mental health and thanked Mr Webb and Mr Green for their deputations. He added that he felt changing a three-bedroom property into one for 8 individuals represented intensification and he asked it to be recorded in the minutes that the Planning Committee supported use of the highest level of noise insulation possible.

Councillor Smyth noted that the plans do not show the size of house which is bigger than many others in the city. She added that she hoped the developer would make the process as easy as possible for the neighbours. The Chair commented that the developer had committed to ensure that.

RESOLVED:

- 1) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:**
 - (a) first receiving 'no objection' from Natural England concerning the LPA's Appropriate Assessment for SPA mitigation, and;**
 - (b) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed development on Solent**

Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.

- 2) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/ amend conditions where necessary.**
- 3) 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.**

In addition, it was also agreed that the Local Planning Authority shall send an email to the Applicant, requesting:

- Achieving the highest standards of noise insulation to the neighbours, above-and-beyond Building Regulations, and;
- Working with the neighbours to minimise disruption and noise during the construction/ conversion period.

8. 23/00568/FUL - 198 Fawcett Road, Portsmouth PO4 0DP (AI 8)

Change of use from a 5-bed/5-person house in multiple occupation to a 7-bed/7-person house in multiple occupation.

The Development Management Lead presented the officer's report and drew Members' attention to the Supplementary Matters Report. He explained that there was a correction to the officer report at paragraph 1.6 which was that there would be a small single-storey extension constructed under permitted development, replacing an existing structure, forming part of Bedroom 7. The roof extensions shown are also allowed under permitted development.

The main issues for consideration in the determination of the application are the principle of Development including compliance with policy, impacts on amenity to neighbouring residents including parking and internal space considerations. The Development Management Lead also explained that in this case, the addition of two additional occupants to the existing lawful HMO is not considered to require planning permission nor does it result in a significant difference in the character of the activities that would occur as an HMO with up to six occupants. He added that it was considered that the proposal would have no impact on the matter of a mixed and balanced community (and the HMO policy therefore) as the property is already an HMO.

Deputations

A deputation was made by Simon Hill (Agent).

Members' comments

Councillor Smyth suggested that the application required planning permission due to the number of HMOs in the area, the addition of two extra people into a small property and the resulting impact on local services, neighbours, and the potential impact on nitrates. This was agreed.

Members considered that the development would result in improved accommodation.

RESOLVED

- 1) The proposal is considered to be development requiring planning permission due to the concentration of HMOs in the area, intensity of the use of the accommodation (two extra people), the impact on local services including waste collection, amenity impact upon neighbouring residents and the impact on the Solent Special Protection area (nitrates).**
- 2) To grant conditional planning permission subject to:**
 - i) Satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution;**
 - ii) Implementation of the permission within 3 years;**
 - iii) The development to be carried out in accordance with the approved plans;**
 - iv) Provision of secure and weatherproof bicycle storage facilities;**
 - v) Water efficiency.**

Councillor Sanders left the meeting at 13.58pm. Councillor Candlish left the meeting at 13.58pm for Item 9 only.

9. 23/01456/HOU - 20 Pretoria Road, Southsea PO4 9BB (AI 9)

Construction of dormer to front roofslope.

The Development Management Lead presented the officer's report and confirmed that the application had been brought to the Committee for determination because the Applicant is a member of the council. He drew attention to the Supplementary Matters Report which sets out submissions made by the Applicant in response to the officer's report. These submissions, and the officer response, is attached to the SMAT as Appendix 2. The Development Management Lead noted that there was no change to the recommendation because of the matters raised in the SMAT as they were not closely comparable to the specifics of the application and so did not support the Applicant's position.

Members' questions

In response to Members' questions, officers clarified:

- Most rear dormers fall within permitted development rights and the local Planning Authority cannot make a judgement on scale or design. Front dormers usually require planning permission. There is no specific policy and officers therefore rely on PCS23 which requires that development must be well designed and respect the character of the street and individual building.
- The design of the dormer (placement of windows) was not considered for amendment as it is considered that the proposed dormer extension was too large and so Officers would not have needed to consider design detail.

- Every site and application is different. In another case recently, the Planning Inspector agreed with a decision to refuse a smaller dormer as it was the only one in the street and was, therefore, not appropriate.
- The local Planning Authority seeks consistency such as when 2-3 dormer extensions have been approved nearby and in the recent past which the LPA considers may affect a current and similar application. However, in cases such as this when there is not another comparable one nearby, then the Planning Authority may make its own decisions. The three nearest examples the Applicant noted did not apply for, nor receive planning permission so there is no formal planning history to affect the current application.

RESOLVED to refuse the application for the reasons set out in the officer's report.

Councillors Peter Candlish and Raymond Dent returned to the meeting at 14.24pm.

10.22/01129/FUL - Stamshaw and Tipner Leisure Centre, 689 Wilson Road, Portsmouth PO2 8LE (AI 10)

Installation of 3no. UPVC opening windows with double glazing and security screens to east and west elevations to create ventilation to sports hall.

The Development Management Lead presented the officer's report and drew Members' attention to the Supplementary Matters Report, noting that for completeness the annotations to the proposed elevations have been corrected vis-à-vis the details of the windows (paragraph 8.8 of the report). He explained that the application had been brought to Committee as the council was the Applicant and it was also subject to a Formal Complaint by a local resident.

Members' questions

In response to Members' questions, officers clarified that a judgment was made to seek planning permission as it was considered that the new windows materially affected that appearance of the building and a formal complaint had been received. It was confirmed that planning permission had not been sought when the original windows had been bricked up.

Members' comments

Some members were not sure why it was necessary for this application to seek planning permission.

RESOLVED to grant conditional permission as set out in the officer's committee report and the Supplementary Matters Report.

The meeting concluded at: 14.35pm

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Agenda Item 4

23/00798/FUL

WARD: HILSEA

NORTH PORTSEA ISLAND PHASE 5 COASTLINE BETWEEN PORTSBRIDGE CAR PARK (SOUTH) IN THE WEST TO ALTHORPE DRIVE IN THE EAST (INCLUDING ALL COMPOUNDS AND ACCESS TO THE PUBLIC HIGHWAY)

FLOOD AND COASTAL EROSION MANAGEMENT SCHEME COMPRISING A COMBINATION OF RAISED EARTH EMBANKMENTS WITH ROCK AND CONCRETE REVETMENTS (TO INCORPORATE A NEW COASTAL PATH), RETAINING WALLS, UPGRADING OF EXISTING SLIPWAY, ENCASING OF THE 2NO. BRIDGE ABUTMENTS, PROVISIONS OF ADDITIONAL SEATING AND VIEWING AREAS, IMPROVEMENTS TO EXISTING TIMBER FISHING PLATFORMS AND ASSOCIATED WORKS, COMPOUNDS, UTILITY DIVERSIONS, TREE REMOVAL & VEGETATION CLEARANCE, ECOLOGICAL IMPROVEMENTS, LANDSCAPING AND PUBLIC REALM FEATURES. THE PROPOSAL CONSTITUTES EIA DEVELOPMENT.

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RWPNKRMOJJ300](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=rwpnkrmojj300)

Application Submitted By:
Coastal Partners

On behalf of:
Coastal Partners
on behalf of Portsmouth City Council

RDD: 26th June 2023
LDD: 17th October 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 The key issues in the determination of this application are whether the principle of the development is acceptable and whether the submitted Environmental Statement adequately assesses the significant environmental impacts of the proposed scheme having regard to the international, national and local nature conservation designations in and around the area. Other important issues include the design of the proposed scheme, heritage impacts, highway impacts, impacts on residential amenity, and impacts mineral resources identified in the Hampshire Minerals and Waste Plan.

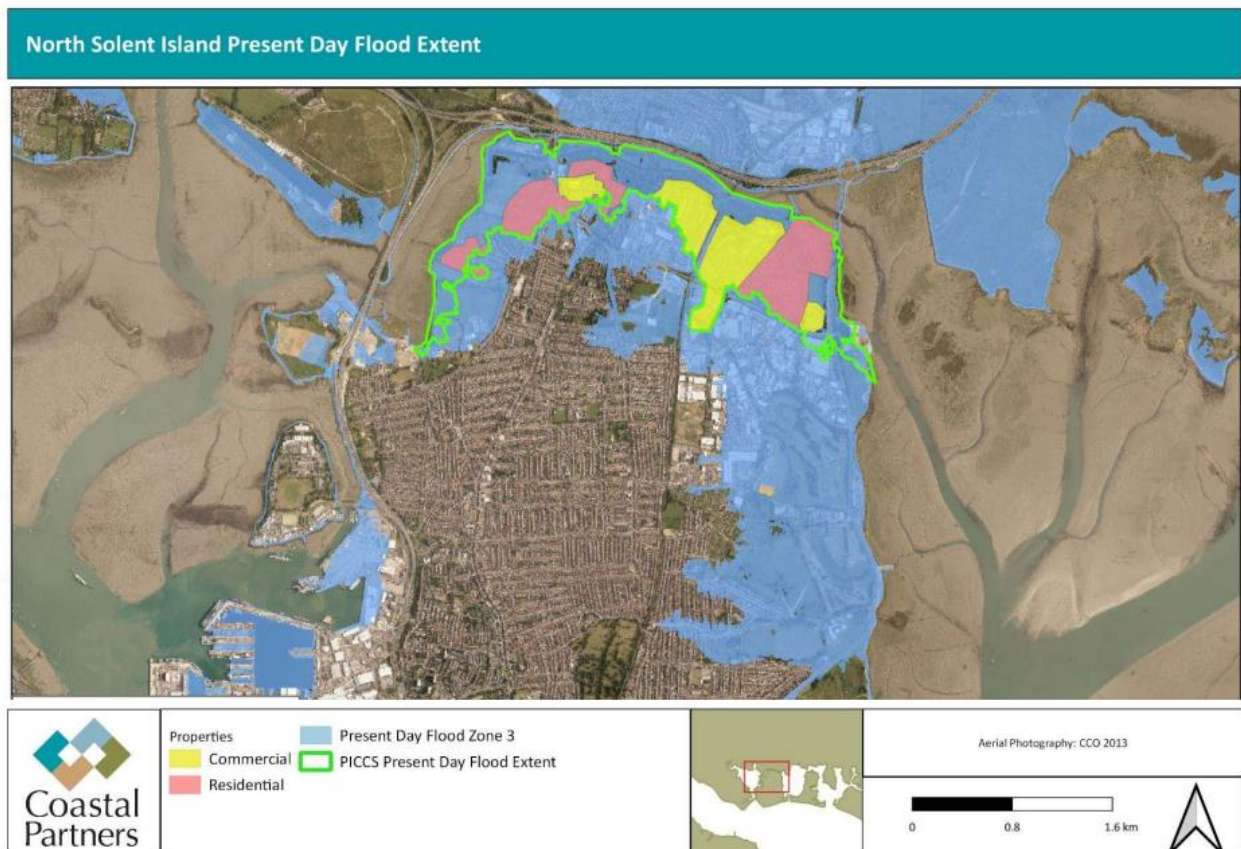
2.0 CONTEXT FOR APPLICATION

- 2.1 The need for and purpose of the North Portsea Island (NPI) Flood Cell 4 Flood and Coastal Erosion Risk Management [FCERM] Scheme is set out in full in Part 1 of the Environmental Statement (link [here](#)).
- 2.2 The Portsea Island Coastal Strategy Study [PICSS] was approved in 2011 and covers the whole of Portsea Island. The strategy confirms the North Solent Shoreline Management Plan [SMP] policy (2010) for Portsea Island of 'Hold the Line' and splits Portsea Island into 7 discrete flood cells. There is no interdependency of flooding between the 7 cells.
- 2.3 The PICSS identifies North Portsea Island as flood cell 4 and recommends that a 0.5% AEP (Annual Exceedance Probability) SoP (standard of protection) is sustained over the next 100 years through a combination of raising and replacing existing defences. This ES considers the full flood cell 4 proposed scheme, but with a focus on the Ports Creek (Phase 5).

2.4 The problem is that North Portsea Island (the location of the full proposed scheme) is a densely populated urban area, home to a mixture of residential and commercial properties along with several key infrastructure assets. PICSS identified the assets at risk from flooding along the full scheme frontage (based on a 0.5% AEP flood event in year 100) as listed below:

- 4,234 residential properties;
- 490 commercial properties;
- 2 MoD properties;
- 2 arterial road access routes on to Portsea Island (leaving only one other route operational to and from the city);
- The only rail route onto Portsea Island;
- 2 scheduled monuments;
- 89 electrical sub-stations; and
- Historic landfill sites (with potential to cause localised pollution).

2.5 Throughout North Portsea Island, many properties have threshold levels below the current coastal defence crest heights. In the event of a failure or breach of the current defences 1,906 residential properties and 160 commercial properties within the North Portsea flood cell would be at risk from a present-day flood event with a return period as low as 1 in 20 years (5% AEP). The present-day flood extent is illustrated below:

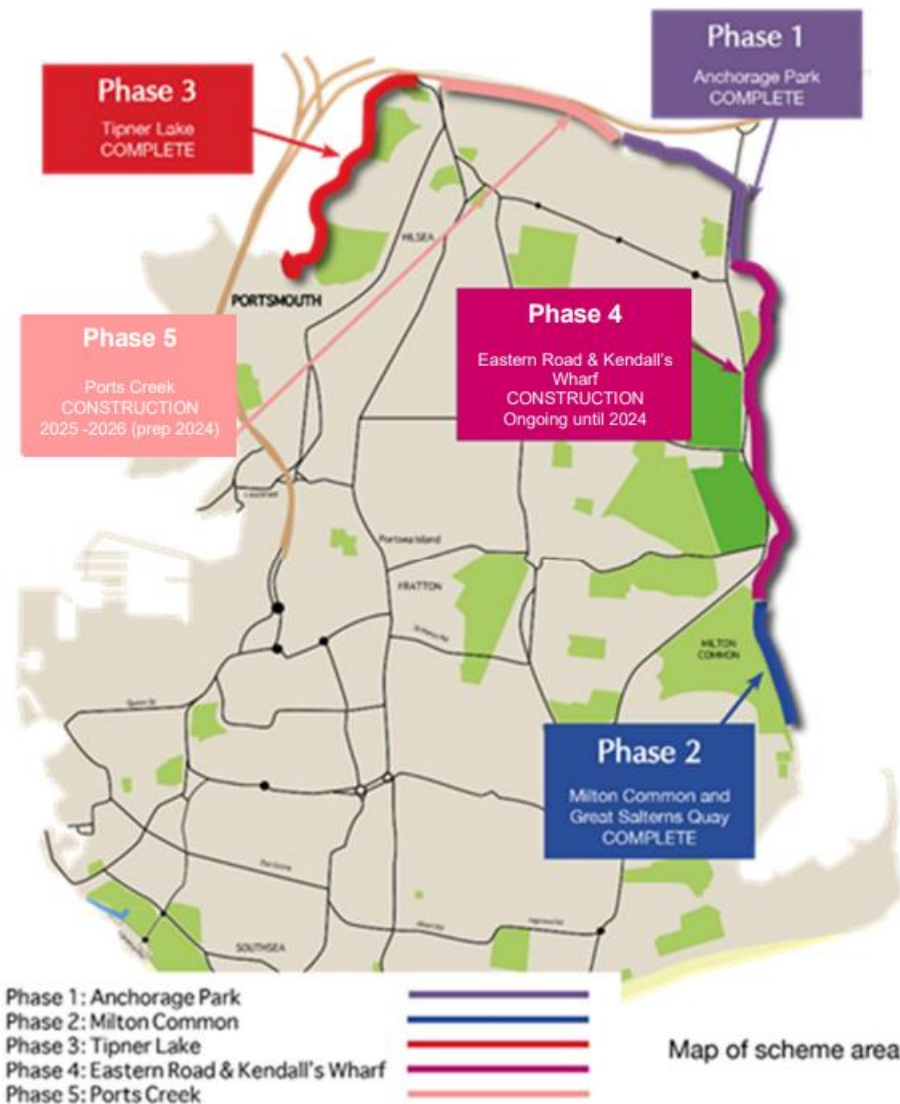


2.6 Visual inspections and intrusive structural investigations assessed the residual life of existing Flood and Coastal Erosion Risk Management (FCERM) assets around the full scheme frontage as less than 5 years. The table below summarises the current Standard of Protection (SoP) and residual life of the FCERM assets for each phase of the full scheme.

Table 1.1: SoP and residual life of current FCERM assets

Phase of works	Standard of protection	Residual life
Tipner Lake (South) – Phase 3	Built to a 1 in 500 (0.2% AEP)	100 years
Tipner Lake (North) – Phase 3	Built to a 1 in 500 (0.2% AEP)	100 years
Ports Creek – Phase 5	1 in 200 (0.5% AEP)	5 – 10 years
Anchorage Park - Phase 1	Built to a 1 in 500 (0.2% AEP)	100 years
Kendall's Wharf – Phase 4a	Built to a 1 in 500 (0.2% AEP)	100 years
Eastern Road (North) – Phase 4b	Built to a 1 in 500 (0.2% AEP)	100 years
Eastern Road (Mid) – Phase 4b	Built to a 1 in 500 (0.2% AEP)	100 years
Eastern Road (South) – Phase 4b	Being built to a 1 in 500 (0.2% AEP)	100 years
Milton Common - Phase 2	Built to a 1 in 500 (0.2% AEP)	100 years

2.7 The figure below shows the location of the proposed Phase 5 works in the context of the completed phases:



3.0 SITE DESCRIPTION

3.1 The Ports Creek frontage (Phase 5) covers a length of approximately 1.3 km and extends from the Ports Bridge roundabout in the west (OSGR465463,104552), along the southern bank of Ports Creek to the eastern side of the railway bridge in the east (466672,104178). The scheme runs between the Hilsea Lines Scheduled Monument and the A27. The actual boundary used for the consents extends further east, to include the access routes and compounds. There are significant areas of housing and

industrial/commercial development alongside the southern edge of the application site. The Portsbridge footbridge crossing the Creek towards its western end, and the railway line towards the east. There are areas of landscape and public access throughout the application area.

- 3.2 It should be noted that the planning area for this scheme (c. 25.65 Ha, 63.4 acres) is significantly larger than the area of actual engineering works, due to other heritage improvements and access to public highways needing to be included within the red line.
- 3.3 The Ports Creek section is the final phase of the scheme and fills the gap between the completed flood defences at Tipner (Phase 3) and those at Anchorage Park (Phase 1). This phase completes the flood defences for Flood Cell 1 in Portsmouth.

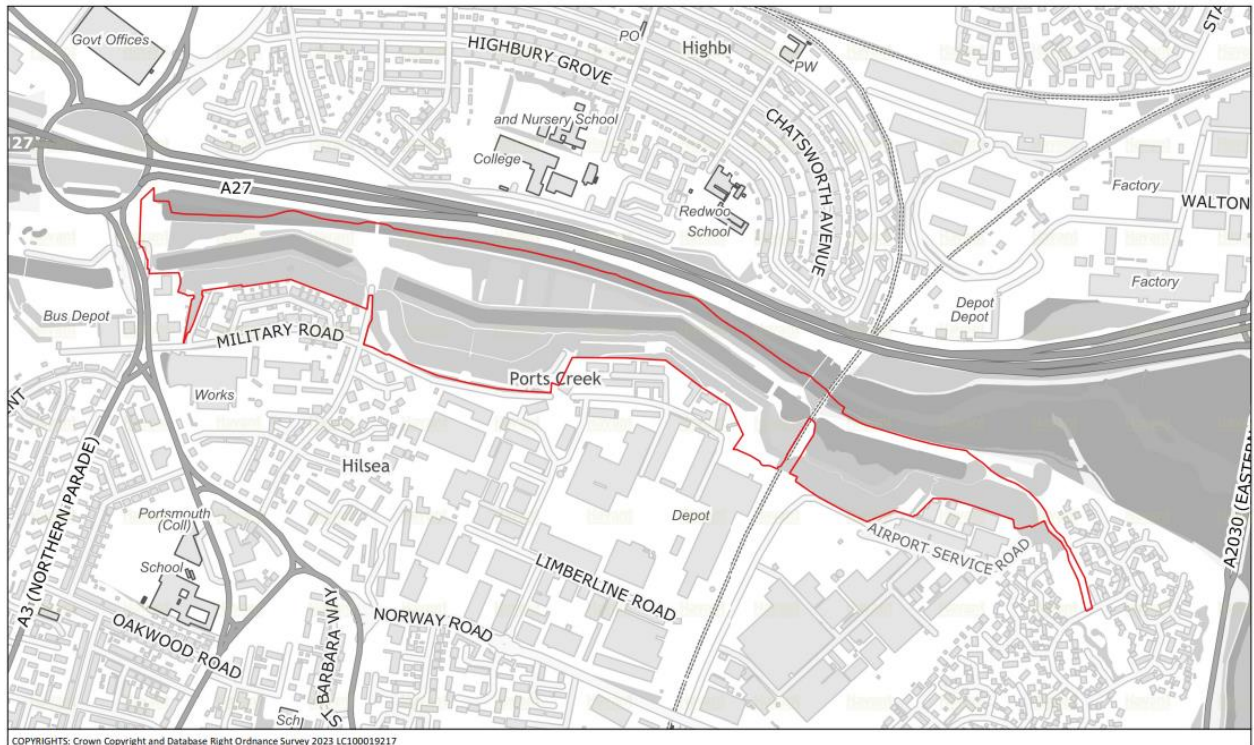


Figure 1 - Red Line Site Plan

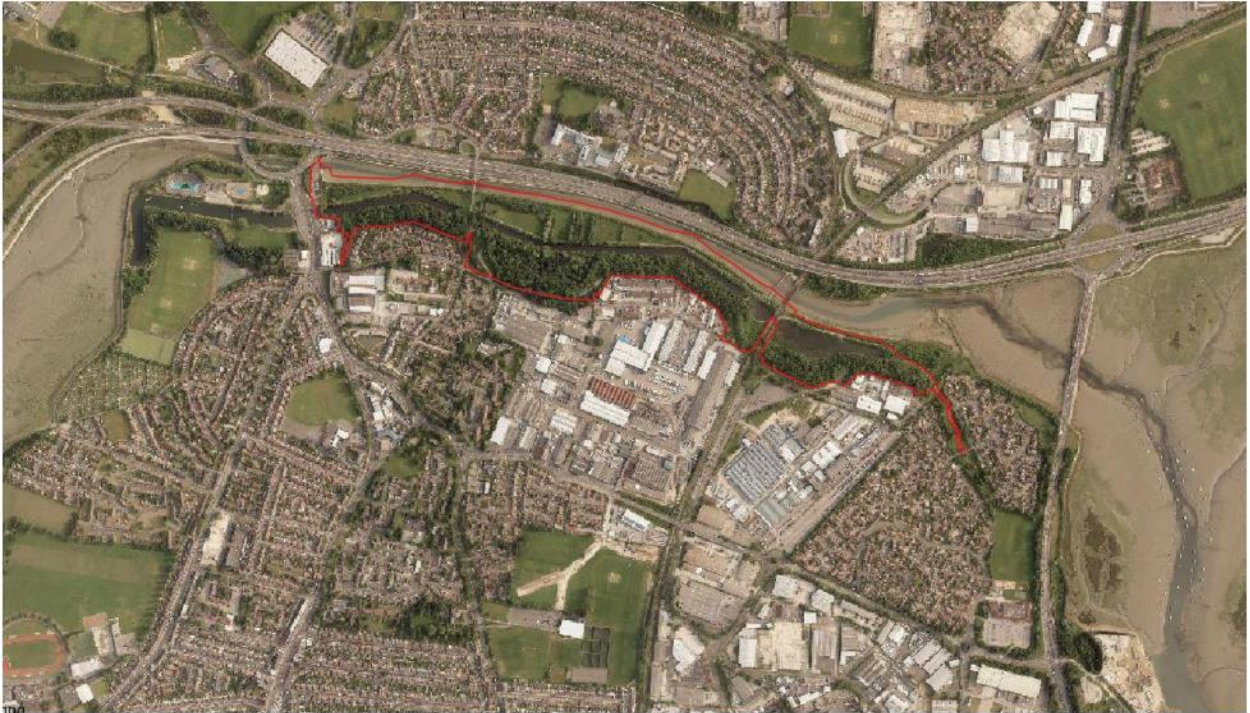


Figure 2 - Red Line Site Plan (Aerial Photo)

4.0 PLANNING CONSTRAINTS

4.1 The site is subject to the following designations:

- Solent and Dorset Special Protection Area (SPA)
- Chichester and Langstone SPA, RAMSAR site and Solent Maritime Special Area of Conservation (SAC)
- Portsmouth Harbour Site of Special Scientific Interest (SSSI)
- Langstone Harbour SSSI
- Milton Common Site of Naure Conservation Interest (SNCI)
- Hilsea Lines SNCI
- Farlington Marshes Local Nature Reserve (LNR)
- Hilsea Lines Conservation Area (No. 27) - <https://www.portsmouth.gov.uk/wp-content/uploads/2020/05/development-and-planning-hilsea-lines-guidelines.pdf>

4.2 The following Listed Building Assets (Scheduled Monuments) are also in close proximity:

List Entry Name	List Entry Number	Link
Hilsea Lines	1001861	https://HistoricEngland.org.uk/listing/the-list/list-entry/1001861
Pickett Hamilton Fort, Hilsea	1001790	https://HistoricEngland.org.uk/listing/the-list/list-entry/1001790

5.0 POLICY CONTEXT

5.1 The relevant policies within the Portsmouth Plan would include:

- PCS12 (Flood Risk)
- PCS13 (A Greener Portsmouth)
- PCS14 (A Healthy City)
- PCS16 (Infrastructure and community benefit)
- PCS17 (Transport)
- PCS23 (Design and Conservation)

Saved policy DC21 (Contaminated Land) of the Portsmouth Plan 2001-2011 is also relevant.

- 5.2 In addition, regard must also be had to the revised National Planning Policy Framework (NPPF) (December 2023), in particular Chapter 14 - Meeting the challenge of climate change, flooding and coastal change, 15 - Conserving and enhancing the natural environment and 16 - Conserving and enhancing the historic environment.
- 5.3 The Hampshire Minerals and Waste Plan (adopted in 2013) is also relevant to the determination of this planning application. This plan seeks to protect minerals and waste infrastructure that provides strategic capacity against redevelopment and inappropriate encroachment. In this case, as the proposal would be located in close proximity to the Hughes Waste 'safeguarded site' off Ackworth Road, Hilsea it is important that the potential impacts of the proposal on the safeguarded site are considered. This issue is addressed further in the comments section of this report.
- 5.4 This application is also supported by an Environmental Statement as the proposals fall within the definition set out in Schedule 2, Infrastructure Projects, of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Criterion 10(m) - 'Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works', which would be likely to have significant effects on the environment.
- 5.5 As set out in the above mentioned regulations and the 'Planning Practice Guidance' (Department of Communities and Local Government), there are specific arrangements set out at [Paragraph: 046 Reference ID: 4-046-20170728](#) for considering and determining planning applications that have been subject to an Environmental Impact Assessment (EIA). This includes consideration of the adequacy of the information provided, consultation, reaching a reasoned conclusion on the significant environmental effects of the proposed development, publicity, and informing the consultation bodies and public of both the decision and the main reasons for it. The local planning authority must take into account the information in the Environmental Statement, the responses to consultation and any other relevant information when determining a planning application.
- 5.6 Further assessment of the submitted Environmental Statement will be made in the comments section of this report.
- 5.7 As well as submitting this planning application, Coastal Partners have also made an application for a marine licence to the Marine Management Organisation (MMO)
- 5.8 Other Legislative Frameworks which are relevant to the proposal are:
 - Water Framework Directive - where permission is sought from the Environment Agency to ensure there is no deterioration to the existing status of relevant water bodies;
 - Waste Framework Directive - requiring a Site Waste Management Plan for the delivery of the scheme;
 - Wildlife and Countryside Act 1981 - approval including Natural England's overall advice regarding habitat regulation and marine license application;
 - Land Drainage Act 1991 and Water Resources Act 1991 and associated bylaws - where the Environment Agency can require flood defence consent, and in this instance has agreed that a Flood Risk Assessment forming part of the Design and Access Statement will cover their requirements;

- Natural Environment and Rural Communities Act 2006 - every public authority must ensure in undertaking its functions it has conserved biodiversity. By complying with the EIA regulations the project will have addressed the requirements of this legislation.
- Section 66 of the Listed Buildings and Conservation Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The Hilsea Lines Scheduled Ancient Monument and Conservation Area adjoin the sea defences and therefore the view of Historic England in terms of the need for Scheduled Ancient Monument consent is required.

6.0 RELEVANT PLANNING HISTORY

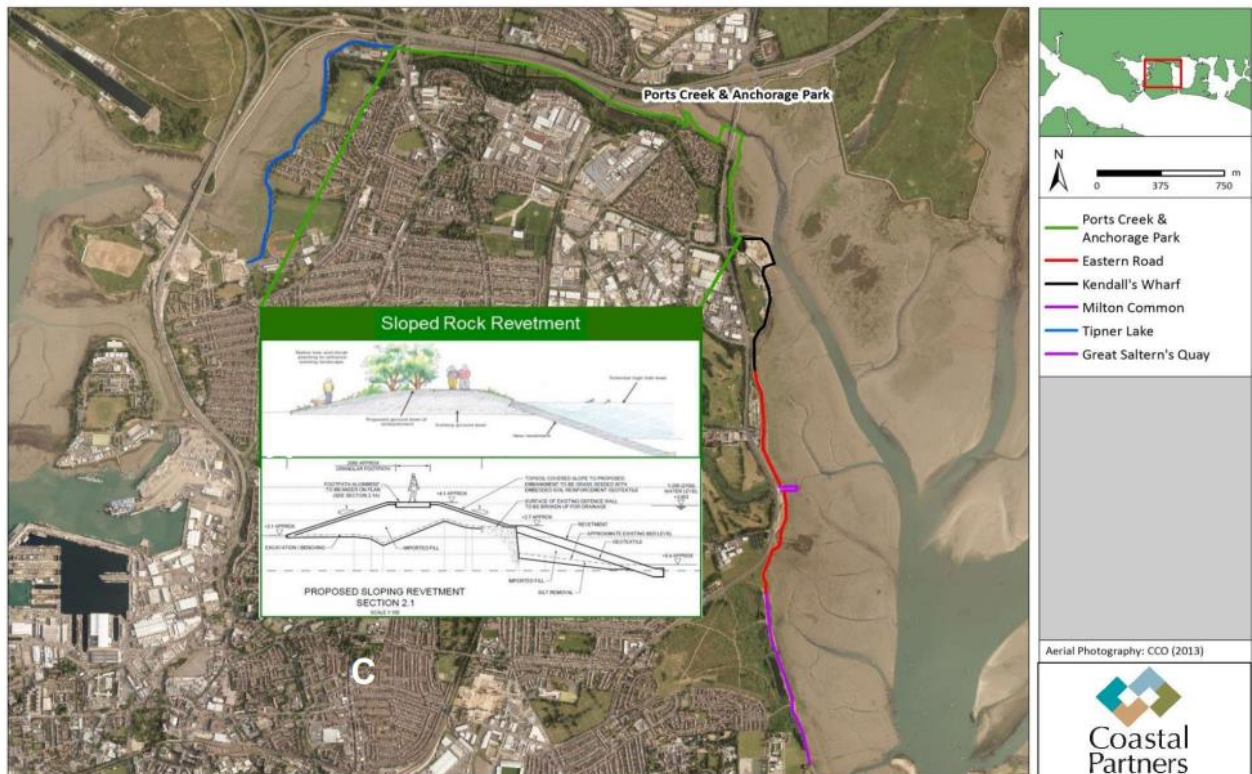
6.1 Due to the scale of the proposed scheme, there will be a significant number of historic planning applications within the red line boundary or immediately adjacent. Those considered to be of direct relevance and key to the design of this phase of the scheme include the following applications:

Ref.	Address	Proposal	Decision
16/01820/FUL	North Portsea Island Phase 3 Tipner Lake Between Mountbatten Centre and Portsbridge Roundabout Portsmouth	Construction of new coastal flood and erosion risk management structures adjacent to Tipner Lake consisting of a concrete sea wall and associated landscaping works	Granted - 10/02/17 Implemented & Completed
15/01769/FUL	North Portsea Island Phase 2	Construction of new coastal defences consisting of a rock revetment along the seaward side of Milton Common and three earth bunds on Milton Common together with the demolition of Great Salterns Quay and associated landscaping works. The planning permission has been implemented and the works are completed	Granted Implemented & Completed
14/01387/FUL	North Portsea Island Phase 1 Coastline Between Ports Creek Railway Bridge and Kendall's Wharf Portsmouth PO3 5LY	Construction of new coastal defences consisting of raised earth embankments with rock armour on the seaward side, together with wave walls to abut the A2030 Eastern Road bridge to tie into the new embankments (along the alignment of the existing coastal defences) and associated landscaped works including a shared footpath constructed along the full length of the new embankment.	Approved - 13/02/15 Implemented Completed

6.2 Other historic applications of relevance include those for a septic tank (A*34002/AA, 1991), footbridge (A*35260/AA, 1992) and a dam (A*31520, 1980)

7.0 PROPOSAL

7.1 This frontage extends from Ports Bridge, along the southern coastline of Ports Creek to the eastern side of the Ports Creek railway bridge, as summarised below:



The proposed works are adjacent and include a small overlap with the Hilsea moat. Hilsea moat comprises a series of four moats of which minor works are also anticipated in the moats to the east as part of the Scheme. Further details of all works proposed are provided below.

7.2 Planning permission is being sought for:

Flood and coastal erosion management scheme comprising a combination of raised earth embankments with rock and concrete revetments (to incorporate a new coastal path), retaining walls, upgrading of existing slipway, encasing of the 2no. bridge abutments, provisions of additional seating and viewing areas, improvements to existing timber fishing platforms and associated works, compounds, utility diversions, tree removal & vegetation clearance, ecological improvements, landscaping and public realm features. The proposal constitutes EIA development.

7.3 As set out in the Design and Access Statement submitted with the application, the works consist of upgrading the existing coastal defences to a 1 in 500 year (plus allowance for climate change to 2100) standard of protection against flooding. The lifespan of the scheme is 100 years including maintenance and covers a length of frontage of approximately 1.25km between the Ports Creek Roundabout at the west of the works and Ports Creek Viaduct at the east. The works comprise:

- Rock revetments
- Earth embankments
- Gabion retaining walls
- Reinforced Concrete walls
- Slipways
- Access
- Accommodation of existing services (e.g. outfalls)

- Encasement of the existing Port Creek Bridge abutment,
- Site clearance
- General reinstatement, public realm enhancements and landscaping.

- 7.4 The general trend of the designed defences follows a continual section of embankment-based approach along the entire length of Ports Creek, which will blend into the newly completed coastal embankment just east adjacent to Anchorage Park, built in 2015. This will be formed using a rock and earth revetment/embankment, supplemented at narrow pinch points by low-key retaining structures to stabilise the landward slopes and protect the moat side edge and vegetation where space is restricted.
- 7.5 The main works consist of constructing a sloping revetment with a raised earth embankment along most of the frontage. There are two typical embankment cross sections (Type A and Type B) used along the frontage.
- 7.6 Both Type A and Type B embankments are formed of two distinct sections: an upper earth embankment, and a lower rock revetment. The upper earth embankment is a grass-faced slope, as it is not as exposed to wave action as the lower rock revetment. This lower slope is faced with rock armour stone from +2.80 m Ordnance Datum Newlyn [ODN], the approximate 2100 predicted Mean High-Water Springs [MHWS] level¹, down to 1 m below the current Ports Creek bed level. Extending the revetment below the bed level will provide some protection to the revetment should the foreshore level drop. During construction the existing natural foreshore material would be excavated and stockpiled adjacent to where it is excavated. This material would then be backfilled over the rock revetment to the approximate original foreshore profile to offset some of the mudflat loss from the scheme. The Type A embankment is set out on the basis that the revetment-foreshore intersection is the same as the existing defence-foreshore intersection. This cross section therefore requires breakout of the existing defence. The Type A embankment has been used wherever possible, as it avoids any encroachment into the environmentally important foreshore.

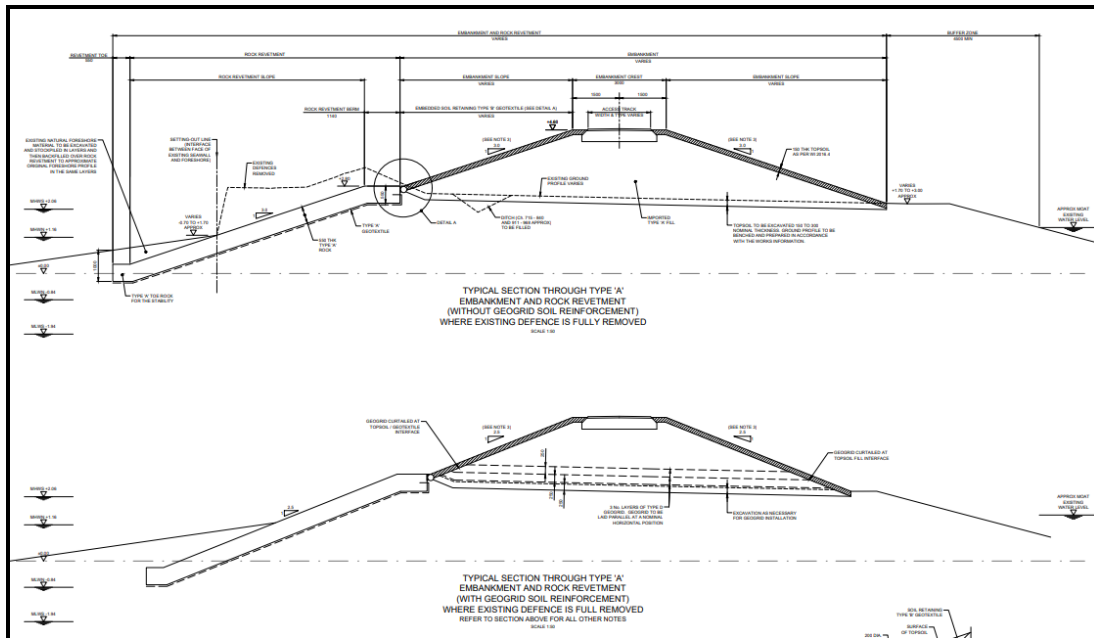


Figure 3 - Typical 'Type A' Embankment Cross Sections

- 7.7 The Type B embankment has been used where there are landward constraints, such as the moat and existing bridge abutments, meaning that the Type A embankment cannot physically be constructed. This embankment is therefore pushed seaward of the existing defence (which does not require any breakout) and makes use of geogrids to steepen

¹ Typical MHWS height for Portsmouth is currently 4.7m above CD or 1.97 mAOD.

side slopes and minimise the overall footprint of the works as far as possible. This section describes the frontage from the western end of the frontage moving in an easterly direction.

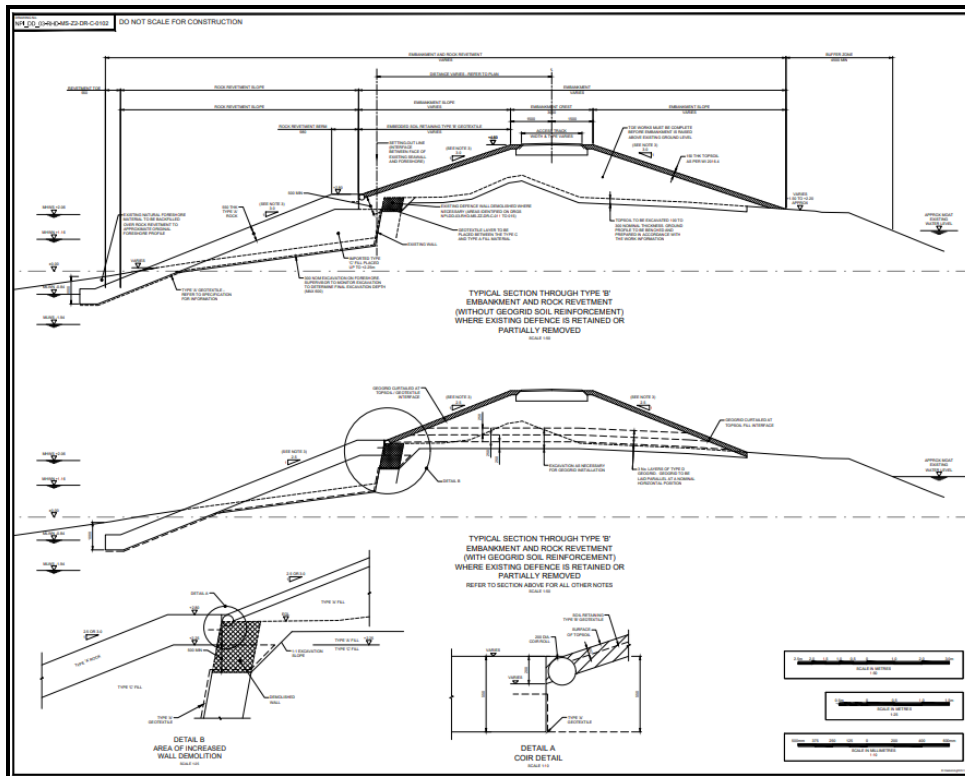


Figure 4 - Typical 'Type B' Embankment Cross Sections

- 7.8 From Chainage² 0 m to 70 m (70 m length), the section spanning from the Ports Creek roundabout car park to the access slipway immediately east of the Ports Creek bridge and the beginning of the earth embankment and revetment, the works along this 70 m length are to encase the existing sloping blockwork revetment between the slipway and the car park in concrete / block work. The existing slipway will be overlaid with a slab of reinforced concrete with areas at the top and bottom broken out. This will be undertaken to meet the height required for the flood defence as well as improve the current condition. The earth embankment (Type B) in this section will include a retaining wall structure on the landward side to make room for the existing utilities in place.
- 7.9 From Chainage 70 m to 1,350 m (1,280 m length), the works consist of creating a sloping defence approximately 1,280 m in length. The sloping defence (embankment) will be formed from imported clean earth fill. This will consist of 800 m Type A embankment, and 404 m of Type B embankment, as well as 20 m of completely new embankment. The embankment will extend up above the current walls to a crest level of +4.6 m AOD. The lower part of the slope will be faced with rock armour stone (revetment) from the 2100 predicted MHWS level (+2.8 m AOD) down to below the current Ports Creek bed level. Extending 4-8 below the bed level will ensure the stability of the new defence should bed levels drop in the future.
- 7.10 The embankment slope above the 2100 predicted MHWS, and down the rear face, will be covered in topsoil and seeded with a coastal wildflower mix. For the steeper embankment option (Type B), a soil reinforcement geotextile will be embedded within the seaward face of the upper section of the embankment to give greater resilience to extreme water levels.

² The Chainage starts at Portsbridge Roundabout and moves in an easterly direction

- 7.11 Shrub and tree vegetation will need to be removed under the footprint of the landward element of the works. Re-planting along the landward slope of the proposed embankment is proposed to enable the work to blend in with the existing environment.
- 7.12 No new discharges are required as a result of the scheme. The existing drainage and outfalls through the scheme will be maintained. A small amount of additional drainage may be required for the works adjacent to the railway at the eastern end of the Scheme to prevent rainwater pooling on Network Rail land, but overall flows will be like for like compared to the existing situation. Non return values will be added to the outfalls to prevent any additional saline ingress to the moats. An outfall and sluice is located at the eastern end of the scheme. Demolition of the existing wing walls is proposed and installation of a small, piled cantilever wall to retain the rock revetment either side of this outfall.
- 7.13 Small retaining walls are proposed landside at the western (chainage 50 m) and eastern end (between chainage 1151-1300 m) of the scheme. At the western end, the retaining wall is proposed to restrict works taking place on the existing raised Portsmouth Water access chamber. At the eastern end, the retaining wall is proposed to widen the existing footpath to approximately 2.2 m, encroaching a further 0.5 m into the moat underneath Ports Creek viaduct. At the time of writing, the details of the retaining walls are unconfirmed. This may include a gabion structure. Worst case this would involve excavating up to approximately 1.5 m within the moat to lay a granular sub-base below the gabion structure. An alternative retaining wall currently under consideration is a vegetated geomodular wall system such as 'Flex MSE' (<https://www.flexmse.com/>).
- 7.14 As part of the works, a number of enhancements or improvements are proposed. Whilst the enhancements are still being developed, they are anticipated to include:
- Improvement to the water quality and ecosystems within the moats. A range of options are currently being considered. This includes enhancing marginal vegetation as well as dredging of the moat to reduce silt levels, which are considered to be key factors in the current poor water quality. If water quality can be improved, an eel pass will also be added to the existing outfall within the scheme to improve accessibility. The removal of redundant fishing platforms is also proposed as well as potential improvements of a pond dipping platform;
 - Improved amenities – For example new picnic tables, bins, seats, play tree trunks, way totems, tree sculptures, log paths, balancing poles, timber climbing posts and potentially a dog agility area. In addition, funding is being sought for research projects such as a feasibility study for the use of Ports Creek as a potential seed bank for habitats and species like seagrass. Improved working methods will also be trailed where possible such as the use of sediment mounds within silt curtains to increase the efficiency and retention of sediment. Further detail relating to enhancements is outlined in Appendix G (Proposed Environmental Improvements Initiatives).

8.0 CONSULTATIONS

8.1 Consultation responses have been received from the following:

Archaeological adviser	No objection, subject to a condition to secure a mitigation plan
Sport England	No comments
Arboricultural Officer	No objection
Drainage Team	No objection
Minerals and Waste Policy	No objection
Historic England	No objection

Traffic England	Recommend that conditions should be attached to any permission granted
Southern Water	No objection subject to conditions
Fareham Borough Council	No comments
Environment Agency	No objection subject to conditions
Ecological adviser	No objection, subject to suitable planning conditions to secure the following key documents: <ul style="list-style-type: none">• Habitats Regulations Assessment• Outline Biodiversity Mitigation and Enhancement Plan (BMEP)• Outline Construction Environmental Management Plan (CEMP)
Regulatory Services	No objection, subject to the recommended mitigation proposed within the ES being secured
Conservation Officer	<p>Object. The Conservation Officer is unconvinced that the targeted and systematic thinning of areas of tree cover along the Lines would outweigh the negative/ harmful impacts of such work on the character and appearance of the Conservation Area.</p> <p>As matters stand the form and size of the Lines whilst obscured to some degree by the presence of tree cover can nevertheless still be readily interpreted. As such the desirability, necessity and appropriateness of this aspect of the scheme remains unclear to me.</p>
Natural England	<p>No objection subject to suitable mitigation being secured</p> <p>We consider that without appropriate mitigation the application could:</p> <ul style="list-style-type: none">• have an adverse effect on the integrity of Portsmouth Harbour Special Protection Area (SPA) or the Chichester and Langstone Harbours SPA. <p>In order to mitigate these adverse effects and make the development acceptable, the mitigation measures set out in section 6.9 of the information to inform Habitats Regulations Assessment should be secured via an appropriate planning condition attached to any planning permission. We generally agree with the conclusions of the information to inform Habitats Regulations Assessment (September 2023). We have been asked to provide more detail on the wording of these conditions but we are not expert in the formatting or writing of planning conditions. It will be for yourselves as the competent authority to ensure that the proposal's likely significant effects are adequately mitigated, and that these measures are secure and certain.</p> <p>Additionally, we would advise that a Cold Weather Stop Notice condition would further support the application by preventing impacts to the designated habitats / supporting habitat.</p> <p>When dealing with development/construction activities, best practice is to avoid scheduling works on or near sites that support non-breeding waterbirds during the winter. During periods of cold weather, birds are more likely to be energetically stressed such that, rather than just an effect of disturbance (e.g. a change in behaviour, flight, stopping feeding, feeding in a less favourable area etc.), there may be an impact (e.g. a reduction in body</p>

condition, starvation, death etc.). Avoiding the winter period, however, may not always be feasible. Operations should not be carried out during periods of severe weather, which is defined as temperatures of 0°C or below recorded locally for five consecutive days. Therefore, the activity associated with this application should be suspended for the duration of the severe weather. With respect to the process of counting days of severe weather, short periods of thaw (1-2 days) have no effect on the counting process, but periods of thaw of three or more days have the effect of resetting the count of severe weather days back to zero.

Highway Authority No objection

Network Rail No objection subject to the applicant / developer engaging with Network Rail's Asset Protection and Optimisation (ASPRO) team prior to works commencing..

9.0 REPRESENTATIONS

- 9.1 Following statutory publicity, one letter of representation has been received concerned with:
- Loss of a wildflower meadow that contains many wildflower species, including Early Spotted Orchids and Pyramidal Orchids.
 - Restricted pedestrian access to Hilsea Lines from the footpaths on the southern side, between the Hilsea Lines raised embankment and the moat.

10.0 COMMENT

- 10.1 The main issues to be considered in the determination of this application are:
- whether the principle of the development is acceptable in the location proposed;
 - whether the submitted Environmental Statement adequately assesses the significant environmental impacts of the proposed scheme and, where appropriate, sets out the measures to avoid, reduce and, if possible, offset any major adverse effects of the development;
 - whether the design of the scheme is acceptable;
 - whether the proposal would have a significant impact on the Portsmouth Harbour Special Protection Area (SPA), and Portsmouth Harbour Site of Special Scientific Interest (SSSI), and Wetland of International Importance under Ramsar Convention (Ramsar Site), and Portsmouth International Bird Area;
 - whether the proposal would have a significant impact on the safeguarded site in the Hampshire Minerals and Waste Plan;
 - whether the proposal is acceptable in highway terms, including during the construction period;
 - whether the proposal would have any significant adverse impacts on the amenity on nearby residents; and
 - whether the proposal will result in a substantial harm to the Hilsea Lines Scheduled Monument or adversely impact on the Hilsea Lines Conservation Area.

Principle

- 10.2 As identified in the Portsmouth Plan (Objective 4 and Policy PCS12), new coastal defences are a key piece of infrastructure required to support the wider economic growth and development of the city, and to protect existing residents and businesses. In addition, the Council's own coastal defence strategy for the city (as set out in its Shoreline Management Plan) is to 'hold the line' in terms of protection from flooding and

coastal erosion, and thus prevent parts of the city becoming permanently lost to flood waters.

- 10.3 This application represents Phase 5 of the larger 'North of Portsea Island 'FCERM³ project to deliver those new coastal defences. Therefore, it is considered that the principle of the scheme would be fully in accordance with the Portsmouth Plan, in particular Policy PCS12 (Flood Risk) and Policy PCS16 (Infrastructure and Community Benefit) and be of significant benefit to the city as a whole.

Environmental Statement

- 10.4 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. The findings of the ES are very briefly summarised here but are further addressed as required later in this report as key topics are considered in more detail. As required by the Regulations, a Non-Technical Summary of the EIA has also been submitted: [Microsoft Word - Phase 5 Non-Technical Summary FINAL 0323 \(portsmouth.gov.uk\)](#)

- 10.5 The issues covered are:

- Coastal Processes
- Environmental Designations
- Ecology
- Fish and Shellfish Ecology
- Landscape and Visual Environment
- Water Environment
- Archaeology and Heritage
- Noise and Vibration
- Traffic and Transportation
- Ground Conditions
- Health and Air Quality
- Amenity and Recreation
- Navigation and Commercial Fisheries.

- 10.6 The ES concludes that there will be local and temporary disturbance and disruption caused by plant machinery, foreshore access, site deliveries and the unavoidable need to remove vegetation within the scheme footprint. In addition, during construction, views and access will also be slightly impacted temporarily. However, upon completion, the site environment will be reinstated and re-planted, with improvements to the landscaping and amenity value of the area.

- 10.7 Also, whilst there will be short-term, localised impacts on the environment, a full recovery is expected. In addition, the scheme will provide wider environmental benefits, such as:
- protecting the harbours from uncontrolled pollution incidents resulting from the flooding or erosion of potentially contaminated land;
 - helping to reduce disturbance to birds through improved screening; and
 - the new defences will require limited on-going maintenance, therefore future disturbance to the environment will be avoided.

- 10.8 It is considered that the likely environmental impacts of the development have been adequately assessed in the ES and subject to the imposition of appropriate conditions to secure the mitigation measures are considered acceptable. The various chapters of the ES are addressed further in the following paragraphs.

³ FCERM = National Flood and Coastal Erosion Risk Management

Environmental Impact Assessment: Summary of Assessment Conclusions and Mitigation

Topic Chapter	Identified Effects	Mitigation Measures (where required)	Residual Impacts (where applicable)
Socio Economics	<p>Significant beneficial - commercial floorspace and 38 net operational jobs and public open space;</p> <p>Minor beneficial - increased construction and operational employment, community/leisure facilities, expenditure by workers and residents.</p> <p>Negligible effects - childcare, primary education, healthcare</p> <p>Minor adverse - play space and secondary education</p>	<p>CIL and s106 to address education and play space provision</p>	<p>Negligible</p>
Traffic and Transport	<p>Moderate to Major Adverse - (construction/HGVs) effect of increased vehicles on pedestrian amenity and delay, fear and intimidation on Twyford Avenue and Tipner Lane;</p> <p>Negligible/minor - (operational vehicle flows) - road safety and accidents on Tipner Lane and Twyford Avenue</p>	<p>Construction vehicle routing and banksman</p> <p>None</p>	<p>Negligible</p> <p>Negligible/minor adverse</p>
Air Quality	<p>High risk - dust soiling during construction</p> <p>Low risk - dust risk to human health</p> <p>Negligible - existing ecological receptors</p> <p>Negligible - road traffic emissions</p>	<p>CEMP</p>	<p>Negligible</p>
Ground Conditions and Contamination	<p>Negligible - due to historic and recent site remedial works</p>		

	Minor Adverse - Re-use of site won material and working below capping layers	CEMP and Materials Management Plan Vapour Protection Measures Measures to prevent Japanese Knotweed	Negligible
Hydrology, Geomorphology, Water Quality and Flood Risk	Minor adverse - temporary surface and groundwater flows during construction	Construction best practice	Negligible
Noise and Vibration	Negligible - construction phase noise and vibration relative to closest existing noise sensitive receptor Moderate short term adverse effect - occupiers of phases 2, 3 and 4 during construction Minor adverse - occupiers of phases 5 and 6 during construction Negligible - operational road traffic	Best practice measures in accordance with BS5228 and BS4142 Double glazing and sound insulation measures, including where necessary vents/louvres or alternative mechanical ventilation	Negligible
Ecology	Minor Adverse - foraging and commuting bats from habitat loss and light pollution; Reptile from habitat loss; nesting and breeding birds from habitat loss; invertebrates from habitat loss.	CEMP Embedded scheme mitigation including Bird Conservation Area Wintering bird mitigation strategy; Reptile mitigation strategy Lighting strategy Nutrient mitigation Bird Aware	Minor Adverse (local level)
Climate Change Mitigation and Adaptation	Minor Adverse (construction) - global climate Negligible (operation) - development resilience (overheating, sea wall, FRA, drought, landscape strategy)	Embedded mitigation inc. energy strategy	Minor Adverse against Carbon Budget Negligible
Townscape and Visual Impact Assessment	Temporary Adverse Effects - demolition and construction phase impact on key townscape receptors, including Tipner and	None	Beneficial Effect (Operational Phase) - Tipner and Portchester Lakes, Tipner Interchange

	Portchester Lakes, Tipner Interchange, Alexandra Park, Hilsea Shore Path, M275 (east) and Portchester Castle		Alexandra Park, Hilsea Shore Path, M275 (east), Neutral effect - Portchester Castle
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Design

- 10.9 A detailed description of the proposal is contained within [Chapter 4 of the ES](#), with supplementary design information provided in [Design and Access Statement](#). As set out in the Design and Access statement submitted with the application, the scheme has been designed to reduce the coastal flood risk to North Portsea island by providing a much improved 1 in 500 year standard of protection, thereby reducing the annual probability of flooding to 0.2% and to have a design life of 100 years.
- 10.10 The design selected for this phase is based on the character the area which is a combination of a narrow tidal creek, secluded open public space with a network of paths and a dense belt of native scrubland vegetation. Consequently, the defence design chosen will comprise a rock and earth revetment / embankment supplemented at pinch points by low key retaining structures to stabilise the 11 landward slopes and protect the moat side edge and vegetation where space is restricted.
- 10.11 Chapter 12 of the Revised NPPF (paragraphs 131 - 141) highlights the importance of good design, stating that it is a key aspect of sustainable development. The creation of high-quality places is fundamental to what the planning and development process should achieve and helps make development acceptable to communities. The design process for this flood and coastal erosion risk management scheme can demonstrate early, proactive and effective engagement with the local community, the LPA and other stakeholders to ensure the final scheme complies with relevant legislation and meets with their expectations and aspirations. Stakeholder engagement is detailed in Chapter 5 and Appendix E of the ES and within section 1.8 of this document.
- 10.12 Chapter 3 of the ES discusses in detail the consideration of alternatives. Of the four alternative options tabled (Options A, B, C and D), Option C - replace or renew the existing assets with a new revetted slope was chosen for the following reasons:
- i. Impacts on mudflats / intertidal habitats, along the Ports Creek Channel: All four of the viable shortlisted options would have an unavoidable impact on the mudflats / intertidal habitat along the frontage. The sloped revetment (options C and D) will partially encroach into the mudflats along part of the frontage. Whilst this will be minimised to the least possible encroachment extent, there are points where encroachment is unavoidable due to landward constraints. These constraints include a moat, linked to the Hilsea Lines Scheduled Ancient Monument [SAM] and bridge abutments to the critical access bridges over the creek. Whilst the vertical wall options (options A and B) would reduce the direct encroachment into the mudflats / intertidal habitat, they would cause other negative impacts via reflection and scouring. In addition, the vertical options provide limited opportunity for intertidal habitat creation, whereas intertidal habitat can be established within the sloped revetment options, providing an opportunity for 'softer, greener edges'. Therefore, no options were ruled out based on their unavoidable impacts on the mudflats / intertidal habitats. However, there was a preference for the sloped revetment options (options C and D), due to their 'softer / greener' edge and the fact that they will tie in well to the sloped revetment structures to the east at Anchorage Park, which were constructed as part of the NPI Phase 1 works.
 - ii. Impacts on Historic Environment: As mentioned above, Hilsea Lines is designated as a SAM. The proposed option (Option C) maintains continuity between the defences

already built at Anchorage Park and is in keeping with the sloping lines of the Hilsea Lines SAM..

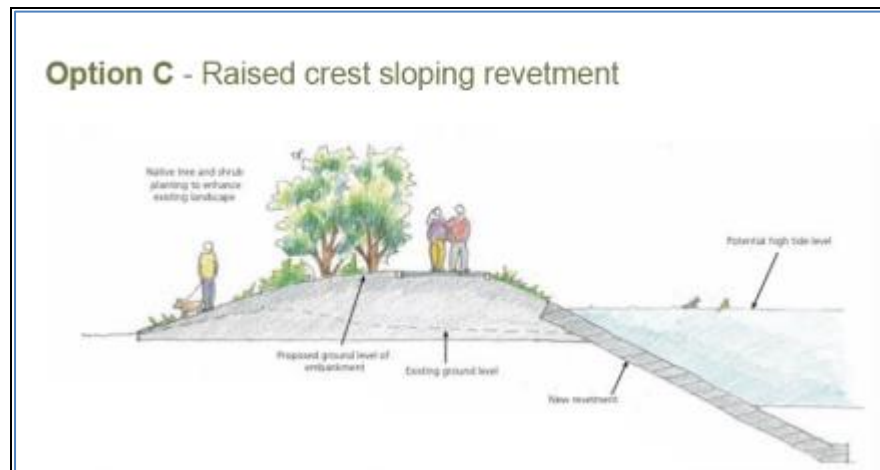


Figure 5- Preferred Option

- 10.13 The design process, where possible, has taken the opportunities to improve the accessibility and secure public realm enhancements to the coastal area. In accordance with local and national planning policies the design has always sought to be visually attractive, enhancing the quality of the area over the lifetime of the development. Through the use of appropriate materials and effective landscaping the functional coastal defence scheme will create an attractive and inviting section of coastline that people can access and enjoy. In terms of design and the design evolution, the proposal is considered to accord with the Revised NPPF and local plan policy PCS23
- 10.14 Given the above, it is considered that the proposed design of the defences would be acceptable when considered against the NPPF, local planning policies and other material considerations.

Impact on Coastal Processes

- 10.15 Chapter 7 of the Environmental Statement sets out the likely impact of the works on coastal processes including hydrodynamics and sediment transport around Ports Creek to the North of Portsea Island having regard for the tidal regime of Portsmouth Harbour, sedimentary processes and wave action. Sea defences have the potential to impact on these coastal processes.
- 10.16 The proposed improvements to the sea defences along Ports Creek will generally follow the alignment of the existing embankment shoreline and foreshore save that at Chainage 275 and 975 there is a planned seaward realignment of the revetment around the original Hilsea Moat footprint to allow for a continuous 3m wide pedestrian footpath along the top of the defence. A further seaward alignment is planned between Chainage 950 and 1250. Whilst these realignments do not end up constricting the channel width by a significant amount the impact of these proposed changes on current velocity, sediment transport etc was modelled and there is very little observed change in current flow speeds between the baseline condition and design. The peak velocity changes are observed during the flood and ebb tides but the overall maximum increase in flow rates does not exceed 0.1 m/s. Interestingly, there is a decrease in flow rates at the toe of the defence at Ch275 by 0.13 m/s. Again, this is considered a slight change and is unlikely to affect scour or deposition patterns already observed.
- 10.17 Any new maximum rates of flow around the proposed design structure are all below existing maximum flow speeds observed along other sections of the channel of similar defence type. It is therefore considered that the slight relative change in flow rates predicted by the model is unlikely to cause any significant effects. Following completion

of the Scheme, routine monitoring of the coastal processes will be undertaken by Coastal Partners

- 10.18 With regard to potential impacts on coastal processes that could result from the delivery of the Phase 5 works, it is anticipated that there may be a temporary increase in suspended sediment concentrations during construction activities but that the resultant impacts are likely to be localised, short term and heavily controlled. Mitigation of these effects is proposed to comprise:
- Limit access to the foreshore fronting the existing defence. This will be a contractual control measure, recorded in the scheme's CEMP and controlled on site by supervisors.
 - Silt curtains will be deployed along the construction area during works, to prevent any suspended sediment impacting the wider Ports Creek Channel and Langstone water body.
 - Works that have the potential to disturb sediments will be undertaken at low tide where possible.
- 10.19 With regard to the local impacts on coastal process as a result of the works the resultant impact is expected to be minor adverse, i.e. having a limited local impact only with no mitigation proposed or required.

Impact on nature conservation and the water environment

- 10.20 The NPI Phase 5 (Ports Creek) works are adjacent to the internationally designated Solent and Dorset Coast Special Protection Area (SPA) and locally designated Hilsea Lines Site of Importance to Nature Conservation (SINC). The proposed works are also within close proximity to the following international and national designated nature conservation sites:
- Chichester and Langstone Harbours SPA and Ramsar site,
 - Portsmouth Harbour SPA and Ramsar site, Solent Maritime Special Area of Conservation (SAC),
 - Langstone Harbour Site of Special Scientific Interest (SSSI)
 - Portsmouth Harbour (SSSI)
- 10.21 A Phase 1 Habitat Survey was carried out for the whole NPI scheme in November 2013. This was followed by specific botany, overwintering bird, breeding bird, seabird colony, breeding assemblage, bat (including preliminary ground level bat roost assessment (trees), bat roosts: emergence surveys, foraging and commuting habitat: bat activity transect survey, foraging and commuting habitat: bat static detector surveys), otter, great crested newt, reptile and tree surveys in 2022.
- 10.22 As a result of these surveys the applicant has submitted a BMEP (Biodiversity Mitigation and Enhancement Plan) with the application. This is to ensure that the existing and potential biodiversity on the site is protected, maintained and enhanced during all stages of development as outlined in the Environmental Statement. The NPI Phase 5 (Ports Creek) Construction Environmental Management Plan (CEMP) outlines the appropriate mitigation measures to be delivered prior to works commencing and during site clearance and construction activities.
- 10.23 The application has been assessed by the Council's Ecological Adviser (Hampshire County Council), Natural England and the Environment Agency who have all raised no objection to the proposed development.
- 10.24 With regard to designated sites, Solent Wader and Brent Goose Strategy (SWBGS) sites P61A and part of P61B are part of the Phase 5 site, with P61C and P101 adjacent to the eastern boundary. Noise impacts of each sub-frontage have been digitally modelled and mitigation is planned to include sensitive timing of works, watching briefs, sensitive scheme design and working methods. The HRA, which includes an Appropriate Assessment, concludes that:

'...providing the proposed mitigation measures are secured via conditions on the relevant consents, the proposed scheme is not likely to have an adverse effect on the integrity of the relevant European sites in view of their Conservation Objectives, either alone or in-combination with other plans or projects'

- 10.25 With regard to Habitats and Biodiversity Net Gain, detailed botanical surveys have been undertaken at the site, confirming a range of habitats present, including grasslands, scrub, woodland, saltmarsh and intertidal habitats. Some notable plant species are also present. There will be losses equating to 8.84 Biodiversity Units (BUs), calculated from the Defra Biodiversity Metric 3.1. The BMEP proposes the purchase of 9.71BU in credits, bringing the final Biodiversity Net Gain to 1.5%. The BMEP outlines future management measures which appear sensible and suitable for the habitats present.
- 10.26 In terms of protected and notable species, ecological surveys have been undertaken at this site in relation to botany, bats, Otter, breeding and wintering shorebirds and breeding terrestrial birds, reptiles, Great Crested Newt and invertebrates. At the time of writing, the scope and age of these surveys is appropriate for the species and species groups surveyed, particularly given the complex history of ecological survey at the site. Some of the surveys are approaching a suitable time for updating in the next year or so, if required. These surveys and the resulting reporting are the product of the professional, proportionate work undertaken and I am satisfied that the results represent current site conditions.
- 10.27 The main terrestrial ecological receptors identified in the BMEP are breeding birds, SPA breeding seabirds, SPA non-breeding/overwintering birds, bats, otter, reptiles, stag beetle and spindle knot-horn moth. Suitable mitigation is outlined for these species and species groups in the BMEP and I would raise no significant concerns.
- 10.28 On-site habitat interventions and improvements are proposed in the BMEP, such as the creation of a wildflower meadow on parts of the revetments and installation of log piles, bee banks and posts, bat boxes and kingfisher tunnels. The CEMP outlines suitable measures during construction for preventing environmental impacts and those upon habitats and protected species. A detailed BMEP and CEMP will need to be secured by condition.
- 10.29 The Reptile Mitigation Strategy details measures proposed for clearing reptiles from key areas. It is noted that the capture period is when reptiles are active from March to September; October can also be a very helpful time for reptile translocation work to take place.
- 10.30 Taking all of the ecological information submitted with the application into account, there is no objection to the proposal, subject to suitable planning conditions to secure the following key documents:
- Habitats Regulations Assessment
 - Outline Biodiversity Mitigation and Enhancement Plan (BMEP)
 - Outline Construction Environmental Management Plan (CEMP)
- 10.31 Natural England have raised no objection to the proposal subject to appropriate mitigation being secured. Without appropriate mitigation the application could have an adverse effect on the integrity of Portsmouth Harbour Special Protection Area (SPA) or the Chichester and Langstone Harbours SPA.
- 10.32 In order to mitigate these adverse effects and make the development acceptable, the mitigation measures set out in section 6.9 of the information to inform Habitats Regulations Assessment should be secured via an appropriate planning condition attached to any planning permission.
- 10.33 In addition to the above, Natural England have also advised that a 'Cold Weather Stop Notice' condition would further support the application by preventing impacts to the

designated habitats / supporting habitat. The reason for this is that when dealing with development/construction activities, best practice is to avoid scheduling works on or near sites that support non-breeding waterbirds during the winter. During periods of cold weather, birds are more likely to be energetically stressed such that, rather than just an effect of disturbance (e.g. a change in behaviour, flight, stopping feeding, feeding in a less favourable area etc.), there may be an impact (e.g. a reduction in body condition, starvation, death etc.). Avoiding the winter period, however, may not always be feasible. Operations should not be carried out during periods of severe weather, which is defined as temperatures of 0°C or below recorded locally for five consecutive days. Therefore, the activity associated with this application should be suspended for the duration of the severe weather. With respect to the process of counting days of severe weather, short periods of thaw (1-2 days) have no effect on the counting process, but periods of thaw of three or more days have the effect of resetting the count of severe weather days back to zero.

- 10.34 Following discussions with NE and the applicant, it has been agreed that this can be included within the Construction Environment Management Plan (CEMP) condition.

Impact on Heritage Assets and Trees

- 10.35 The red line application site boundary includes a significant proportion of the Hilsea Lines Conservation Area and the Hilsea Lines Scheduled Monument. As set out in paragraph 206 of the NPPF 2023, scheduled monuments are to be afforded the highest level of protection:

'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of ... b) assets of the highest significance, notably scheduled monuments, ... should be wholly exceptional.'

- 10.36 With regard to the Conservation Area status, as set out in S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.
- 10.37 As identified by Wessex Archaeology within the Heritage Benefits and Interpretation Statement (Appendix K to the ES), proposed Phase 5 works falls within an area of archaeological interest and significance, pertaining heavily to the history of military defences along the coast of Portsea Island. It also concluded that, while the proposed works have the potential to cause some degree of harm to the significance of the both the Scheduled Hilsea Lines Monument (NHLE1001861) and the wider associated Conservation Area, this can be offset via the implementation of enhanced interpretation materials and monument maintenance activities.
- 10.38 With regard to the scheme as a whole, the proposed works should result in better protection from water inundation as well as improvements to the public open space and an improved understanding of the historical significance. Regarding the Scheduled Monument, the proposed scheme offers opportunities to enhance the historical understanding of the monument by providing improved interpretation, the thinning of trees (branches only) in selected locations, and the addition of brushwood faggots along the moat edge in places where the sea defences edge the moat - this would improve the water quality and help redefine the angular shape of the moat edge. With regard to the Conservation Area, whilst the works as a whole are considered to be of benefit to the Conservation Area, the creation of heritage interpretation boards alongside social areas would improve the public realm and allow a designated area were the Hilsea Lines Monument could be better appreciated and understood within the local environment.
- 10.39 Given the above, Historic England (HE) have not raised any objection to the proposals albeit that they do consider the development would deliver harmful impacts to the significance of the Hilsea Lines through disturbance of potentially significant

archaeological features and or deposits from construction activities, both designated and undesignated. The setting of the Scheduled Monument and character of the Conservation Area would also be impacted by construction of the new earth bund in the location of the killing zone and former 18th century defences. Taken together the impacts would cause a moderate to high level of less than substantial harm to the designated heritage assets.

- 10.40 However following extensive pre-application discussions the proposed Heritage Benefits and Interpretation Statement submitted with the application details a number of positive benefits, namely:
- The protection of the monument from flooding
 - The enhancement of the moat edge with brushwood faggots
 - The thinning of some vegetation cover
 - Provision of heritage information boards to aid public understanding
- 10.41 Historic England do however caveat their support of the scheme by including the need for the vantage points created by the thinning of vegetation to be maintained after the completion of the scheme, for it to be a meaningful long-term benefit and would wish to see this included within a long-term Management and Maintenance Plan (MMP) for the lines, to be conditioned within any planning permission granted. Given the noted archaeological potential and likely impacts, HE would also require that an Archaeological Mitigation Strategy (AMS) is produced by the applicant, prior to commencement of works, to be approved by the Hampshire County Archaeologist and Historic England. This should also be included as a condition of any planning permission granted.
- 10.42 Notwithstanding the views of HE, the Council's Conservation officer has expressed concerns regarding the proposed tree thinning as the Hilsea Lines Conservation Area Appraisal and Management Guidelines Document (2009)⁴ states that, 'of particular importance, is the mixed deciduous tree cover on the Lines which makes an extremely significant contribution to the character of the conservation area'.
- 10.43 Whilst these views are material to the determination of the application, officers consider that given the applicant's proposals supported by Historic England for selective thinning in the form of branch removal on selected trees to enable improved opportunity for interpreting the Scheduled Monument which can be required by condition.

Highways Issues (Local and National)

- 10.44 Given the nature of the scheme, there will be no significant additional traffic generated during the operation and maintenance phase of the new sea defences. As such the impacts to be addressed and mitigated would be during the construction phase only.
- 10.45 As shown below, there are to be three contractor's compounds: 1 off Peronne Road, 2 off Althorpe Drive and 3 accessed off the A3 London Road just south of the Portsbridge Roundabout.

⁴ [development-and-planning-hilsea-lines-guidelines.pdf \(portsmouth.gov.uk\)](#)

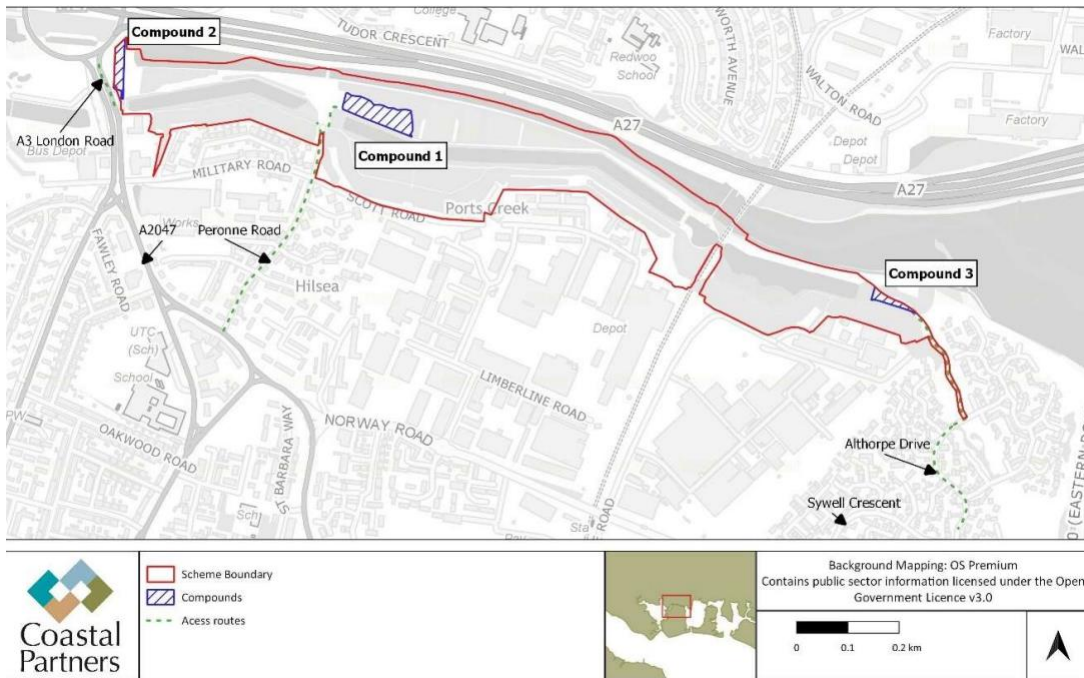


Figure 6 - Overview of Scheme Boundary, Compounds, Key Roads and Access Routes

10.47 Phase 5 is located within a popular amenity area, including paths overlapping and immediately adjacent to the works. The works, particularly the access routes to compounds, are also close to residential areas and commercial properties. The main scheme area is within popular amenity areas containing the only area of woodland (Hilsea lines / Foxes Forest) on Portsea Island. The key receptors considered within this chapter are therefore pedestrians, including residents and people working in the area as well as recreational users, including cyclists.

10.48 With regard to construction traffic, Table 15.6 in the ES sets out estimated HGV movements:

Access Route	Estimated movements	Total	Average daily HGV movements
Route 1 – to compound 2 along the A3	1000 over approximately 15 months		0-102
Route 2 – to compound 1 along Peronne Road	2,200 over approximately 15 months		0-68
Route 3 – to compound 3 (temporary) along Althorpe drive	100 over 4 months		0-32

10.49 On average, based on a construction period of 15 months it is estimated that the proposed works would result in approximately eight additional HGV movements a day, however as illustrated in the table above the average number of HGVs per day will range depending on the activities undertaken at each compound.

10.50 As the phase 5 works would have short term and temporary impacts on the local transport and traffic networks, mitigation measures to be secured through a Construction Traffic Management Plan (CTMP) will be implemented.

10.51 The Highway Authority has raised no objection the application on this basis.

10.52 As well as consideration by the City Council Highway Authority, as the site is adjacent to the A27(T), a road managed by Traffic England. Traffic England initially placed a holding objection on the application due to uncertainties regarding altered tidal effects on drainage outflows and the fact that the Peronne Road footbridge over the A27 is

scheduled for a major refurbishment at some point in the future. However following discussions between the applicant and Traffic England that was removed.

Contaminated Land

- 10.53 With regard to this issue, ground investigations were carried out in 2016 and 2018. The results of these showed that the material onsite is suitable for reuse around the site with the testing analysis revealing sample results are either below limits of detection or are within the relevant thresholds to be reused for Parks, Open Amenity Space.
- 10.54 The investigations also highlighted that some foreshore sediment samples show slightly elevated heavy metal concentrations and elevated hydrocarbon contamination at sample location PC-TP02 adjacent to the Portsbridge roundabout. Mitigation measures include low tide working measures and the use of silt curtains to minimise the remobilisation of contaminated sediments into the wider creek and adjacent harbours.
- 10.55 On this basis the Environment Agency have raised no objection subject to conditions requiring a CEMP, a verification report and a stop pending submission or a suitable remediation strategy, if previously unidentified contamination is found.

Safeguarded Minerals and Waste Site

- 10.56 The application site crosses the safeguarded buffer zone of Howard's Yard, operated by Hughes Waste Limited who supply a wide range of waste disposal and scrap metal recycling services . This site is safeguarded under Policy 26 (Safeguarding – waste infrastructure) of the currently adopted Hampshire Minerals and Waste Plan (2013) (HMWP). Policy 26 seeks to protect current and potential waste sites from pressures to be replaced by other forms of development, including through 'encroachment' where nearby land-uses impact their ability to continue operating.
- 10.57 In this case however whilst there may be an encroachment of the 'buffer zone' shown in blue below by the application site boundary, due to the proximity of the site to the boundary of the Hilsea Lines Scheduled Ancient Monument, there is considered to be no risk to the viability of the Hughes Waste Limited site from this scheme.

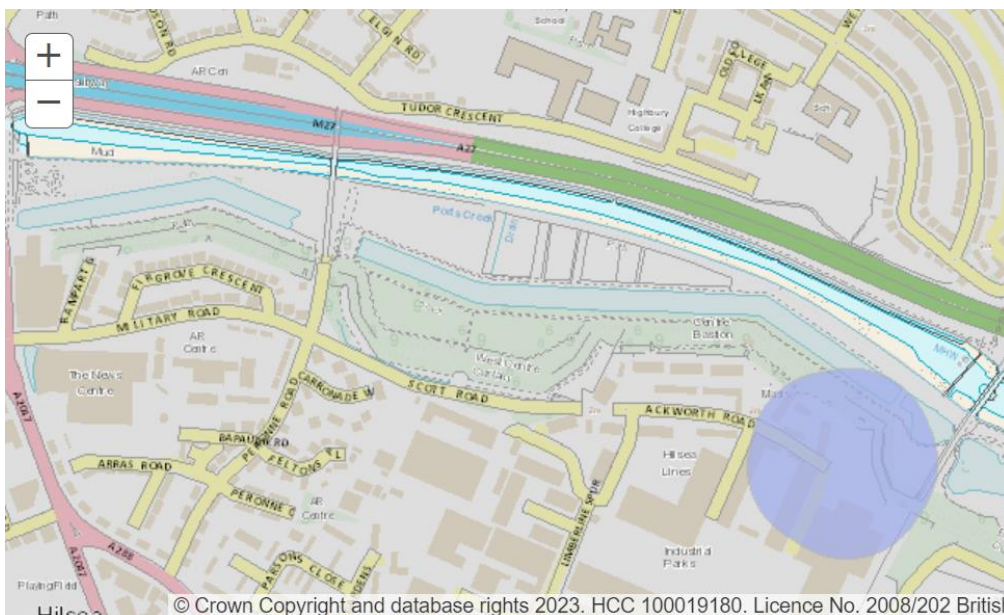


Figure 7 - Howard's Yard- extent of safeguarding

Highways and Traffic

- 10.58 The design and access statement and drawings submitted in support of this application have been reviewed by the Highway Authority. As with previous phrases, it is anticipated there will be a limited number of traffic movements associated with the construction works. It would be considered that the additional trip generation would not have a material impact on the operation of the local highway network.
- 10.59 In terms of the location of the compounds, both Compound 1 and 2 have straight forward access from A2047 and therefore no safety concerns would be raised. Compound 3 is in a residential area and would be used for storage of materials/plant required for works on the eastern side of the railway bridge as plant are unable to access under the railway bridge from the main works area to the west. It is noted however that on street parking occurs in the vicinity and therefore careful management of HGVS will need to be taken.
- 10.60 It is considered that the overall proposal would be beneficial for non motorised users along the shore and whilst during construction there will be an impact to the highway, its short time period would lead the LHA to consider the impacts to be acceptable and not contrary to Paragraph 111 of the NPPF 2023

Local amenity / recreation

- 10.61 With regard to the impact of the scheme on local amenity and recreation, as set out in the ES Chapter 18 the following impacts have been identified:

Issue	Impact	Mitigation and residual impact
Loss of amenity and tourism due to visual intrusion of the construction works along the coastline.	Temporary and short term. Appropriate notices and signage will be displayed to explain the works and the need for them. This impact has been considered further in the L&ViA (Chapter 11). Post works, improved amenity is expected and works themselves may provoke interest.	
Disruption to leisure / recreational interests within the area, including obstruction to footpaths within footprint of works.	Temporary and short-term disturbance will occur from the closure of paths including the footbridge near the railway line. Closures will be minimised where possible and diversions and appropriate signage put in place to reduce impacts on recreation.	
Temporary loss of features of interest (e.g. birds relocate)	No significant impacts on birds are anticipated with mitigation measures in place (see Chapter 9 Ecology) or any other features of interest.	
Benefits to recreation and amenity through associated landscaping / access improvements.	Enhancements are to be promoted where possible including development of the self guided heritage trail and nature trails. Beneficial impacts of the scheme include maintaining and improving public access and protecting and improving certain amenity values into the future that are at risk of flood events.	
Possible restricted views	During operation, views will be altered due to the increase in height of the	

	existing sea wall. However, this will be mitigated where possible.	
Impacts on foreshore access	Access to the foreshore is limited due to the deep mud within the intertidal area. Use of slipway will be suspended during construction, however alternative access points are available in the vicinity.	

11.0 COMMUNITY INFRASTRUCTURE LEVY (CIL)

11.1 The development would not be CIL liable as there is no floorspace being created.

12.0 HUMAN RIGHTS AND THE PUBLIC SECTOR EQUALITY DUTY ("PSED")

12.1 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.

12.2 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.

13.0 CONCLUSION / PLANNING BALANCE

13.1 This application would deliver a key and essential piece of infrastructure for the city in the form of new coastal defences and contribute to the city's wider economic growth and regeneration.

13.2 It is considered that the likely environmental impacts of the development have been adequately assessed in the submitted Environmental Statement, and subject to the imposition of appropriate conditions to secure the mitigation measures, are considered acceptable. Overall, the scheme would not cause significant harm or have any significant adverse impacts on the multiple factors in question, including ecology, heritage, drainage and leisure, residential amenity, the adjacent waste transfer site and the strategic and local highway networks . It is considered that the proposal would have less than substantial harm on the heritage assets and through appropriate conditions the archaeological and heritage assets can be protected. The proposal includes interpretation boards for both the environmental and heritage assets of the site, and this along with landscaping and other environmental improvements would result in an overall beneficial outcome for the area. Whilst during the construction period residents would experience noise and disturbance and inconvenience to the local highway network due to the site access points and construction compounds, it is considered that this would be outweighed by the significant benefit the final completed scheme would provide in protecting the residential properties (and local businesses) from a flood event. In addition, it is considered that the completed development would not lead to any adverse

effects on the amenity of local residents or on the local highway network. In light of the above, this application is considered acceptable.

RECOMMENDATION

RECOMMENDATION I - That planning consent be granted and that delegated authority be granted to the Assistant Director of Planning & Economic Growth to finalise the wording of the conditions as per the list of Condition Headings below, within one month of the committee resolution:

Condition Headings

1. TIME LIMIT
2. APPROVED PLANS AND DOCUMENTS
3. HEIGHT OF DEFENCES
4. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN
5. CEMP IMPLEMENTATION
6. LANDSCAPING PLAN
7. LANDSCAPING - IMPLEMENTATION
8. CONSTRUCTION TRAFFIC MANAGEMENT PLAN
9. RESTRICTION OF DELIVERIES
10. BIODIVERSITY MITIGATION AND ENHANCEMENT PLAN
11. LANDSCAPE ENVIRONMENTAL MANAGEMENT PLAN
12. LANDSCAPE ENVIRONMENTAL MANAGEMENT PLAN - IMPLEMENTATION
13. HERITAGE MITIGATION STRATEGY
14. ARCHAEOLOGY MITIGATION STRATEGY
15. CONTAMINATED LAND - Previously Unidentified Contamination
16. CONTAMINATED LAND Verification report
17. SIGNAGE
18. HERITAGE BENEFITS AND INTERPRETATION STATEMENT

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Agenda Item 5

23/01377/FUL

WARD: NELSON

4 NORTH END AVENUE PORTSMOUTH PO2 9EB

CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO 8 BED/PERSON HOUSE OF MULTIPLE OCCUPATION (SUI GENERIS)

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=S3K8LWMOM2300](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=S3K8LWMOM2300)

Application Submitted By:

Mr Sam Appleton
Applecore PDM Ltd

On behalf of:

Mrs Sheena Mamtora
Moksha Properties Limited

RDD: 06th November 2023

LDD: 2nd January 2024

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee by means of its 7 objections.

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

- Principle of Development including compliance with policy
- Impacts on Amenity including parking
- Other material considerations

1.3 Site and surroundings

1.3 The application site is a semi-detached dwelling in a predominately residential area. It is located at the eastern end of North End Avenue, near the junction with A2047 London Road. There is an MOT garage opposite.

1.4 The Proposal

1.5 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful Class C3 dwellinghouse use to allow up to 8 individuals to live together as an HMO. The property would be extended at the rear ground floor under Prior Approval 22/00026/GPDC, and the loft conversion and extension & all other works (removal of existing side infill structure) under Permitted Development rights.

1.5 Planning History

1.6 22/00026/GPDC: Construction of single-storey rear extension that comes out a maximum of 6m beyond the rear wall of the original house with a maximum height of 3.41m and a maximum height of 2.55m to the eaves. Valid objection received. Decision: Prior Approval Required and Granted

2.0 POLICY CONTEXT

2.1 In addition to the aims and objectives of the National Planning Policy Framework (2023), 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), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Updated Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD')

3.0 CONSULTATIONS

3.1 Private Sector Housing: Required to be licenced under Part 2, Housing Act 2004.

3.2 Highways: the addition of up to five bedrooms would increase the number of residents driving around hunting for a car-parking space, although this is an issue of residential amenity. We do not consider the size of development would lead to a material impact to the function of the highway. Cycle parking should be implemented prior to occupation.

4.0 REPRESENTATIONS

4.1 7 representations have been received, objecting to the proposal on the following grounds:

- a) Inappropriate development types considering the existing density of the street. Parking is already difficult and approval would add to parking issues on the street.
- b) Windows installed in an alley that runs between no4 and no6, and the concern with strangers using this alleyway. Also, a general increase in visits from police.
- c) Not a useful type of accommodation for local families/out of character with local area
- d) Increase in noise and residential disturbances.
- e) Newly installed windows impacting on neighbouring privacy/sunlighting and overlooking.
- f) HMO applications on North End Avenue having a cumulative impact even outside of the 50m radius.

5.0 COMMENT

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

- Principle of Development including compliance with policy
- Impacts on Amenity including parking
- Other material considerations

5.2 Principle

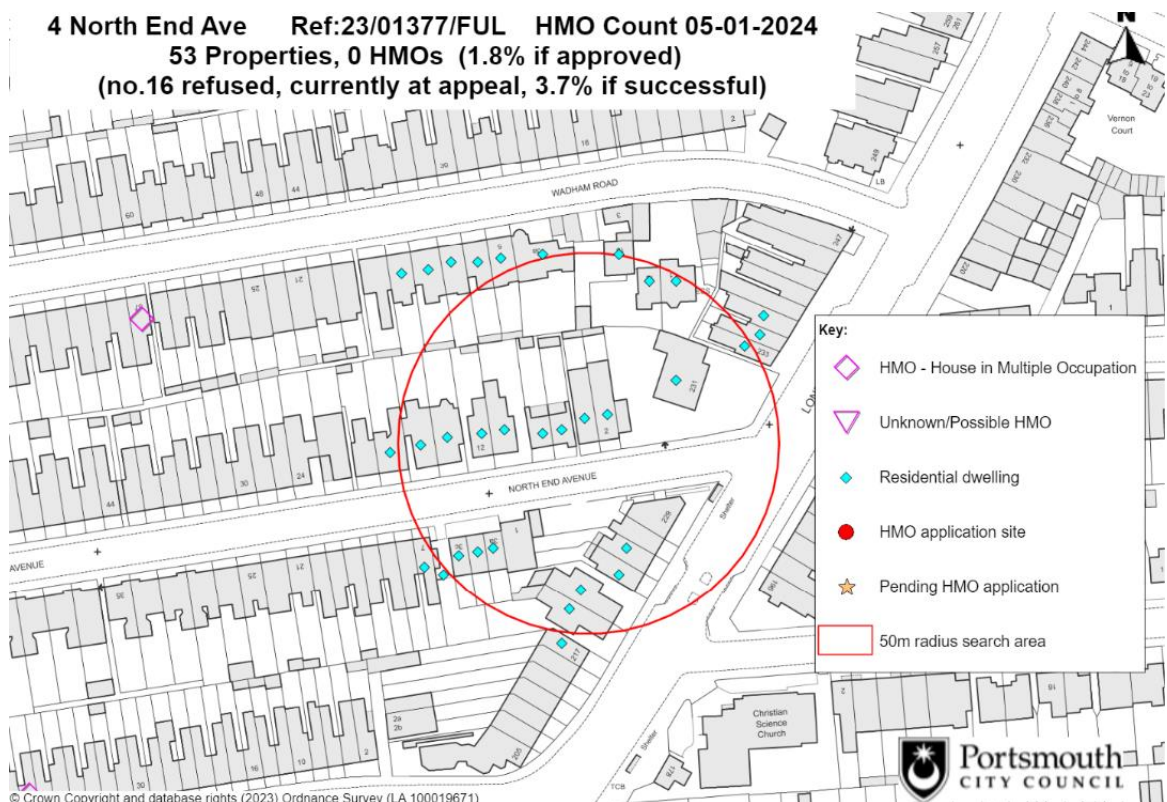
5.3 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.

5.4 Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.

5.5 The HMO count plan shows there are currently no HMOs surrounding the property in the 50m radius. Were the application to be approved, there would be one HMO out of the 53 houses and flats in the 50m radius, equalling 1.8%. There is an application at no.16 which was refused, currently at appeal, which if successful would bring the percentage rate to 3.7%. In accordance with the HMO SPD, either/both would be acceptable in the judgement of the application, being below the policy threshold of 10%. Whilst this is the best available data to the Local Planning Authority (LPA) and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA. Following further Officer Investigation, including current applications for HMOs in the 50m radius, no additional HMOs have been uncovered by the Case Officer.

A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict caused by this proposal with this guidance.

Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).



Amenity and Parking

5.6 The repurposing of internal rooms to accommodate the likely additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as

part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided:	Required Standard:
Bedroom 1	13.17m ²	10.00m ²
Bedroom 2	15.00m ²	10.00m ²
Bedroom 3	17.75m ²	10.00m ²
Bedroom 4	16.79m ²	10.00m ²
Bedroom 5	13.48m ²	10.00m ²
Bedroom 6	15.88m ²	10.00m ²
Bedroom 7	12.96	10.00m ²
Bedroom 8	10.84m ²	10.00m ²
Combined Living Space	25.11m ²	22.5m ²
Ensuite B1	3.20m ²	2.74m ²
Ensuite B2	3.83m ²	2.74m ²
Ensuite B3	2.74m ²	2.74m ²
Ensuite B4	3.01m ²	2.74m ²
Ensuite B5	3.19m ²	2.74m ²
Ensuite B6	2.74m ²	2.74m ²
Ensuite B7	3.69m ²	2.74m ²
Ensuite B8	2.74m ²	2.74m ²

5.7 As is shown in the table above, the proposal results in an internal layout that meets a straightforward appraisal against the Council's adopted space standards except for the communal area. However, the HMO SPD, at para 2.6, advises that more detailed guidance, beyond these headline requirements should be referred to within the Council's standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance applies lower minimum requirements (of 22.5m²) for combined living accommodation in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal space. On the basis of the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment. Aside from room sizes alone, layout and light appear satisfactory.

important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harm associated with the increase in occupancy in this area are considered to be relatively insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces.

5.13 Impact on Special Protection Areas

5.14 Changing the use of the premises from a C3 dwelling to a 8 bed HMO will result in a likely increase in occupancy which will have an adverse impact on the Solent Special Protection Area, through nitrates, and recreational bird disturbance. The Applicant has agreed to make the relevant mitigation, by way of a legal agreement.

5.15 Impact on refuse and recycling

5.16 In Portsmouth an 8 bed HMO is provided with 720 litres of bin capacity, usually in the form of a single 360l bin for recycling and a single 360l bin for residual waste. Considering the surrounding area and refuse capacity, there is not expected to be an identifiable harmful impact on waste collection/capacity as a result of the granting of this permission.

5.17 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 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.

5.18 Other Matters and Considerations

There is an objection about windows installed in the alley that runs between no4 and no6, with a concern about strangers using this alleyway. That appears to be possible currently, as the front of the alley is not secured. The Applicant states they have access rights to this alley, and they have a gate leading from it to the rear of their property. It would appear therefore that the existing access would be physically unaltered by the planning application.

Also, residents have raised concerns about new windows being installed at the property and impacts on privacy/sunlighting and overlooking. New windows would be part of the Permitted Development roof extension or Prior Approval ground floor extension, and so would be outside the control of the local planning authority.

6.0 CONCLUSION

- 6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan and the objectives of the National Planning Policy Framework (2023). It is recommended that permission be granted subject to the imposition of conditions and SPA mitigation.

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

- (a) first receiving 'no objection' from Natural England concerning the LPA's Appropriate Assessment for SPA mitigation, and;
- (b) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational disturbance and nitrates) 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:

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: PG.8158 23-07 Sui Gen Plan, received 7th November 2023. Block Plan, received 7th November 2023.

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

3) Cycle Storage

Prior to the occupation of the dwelling as a HMO for 8 persons, secure and weatherproof cycle storage for four or more bicycles shall be provided as shown on the approved plans and retained thereafter for the storage of bicycles. The storage shall accord with Permitted Development rights.

Reason: To provide adequate cycle storage in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

4) Water Efficiency

The proposal hereby permitted shall not (unless otherwise agreed in writing with the LPA) be occupied until written documentary evidence has been submitted to and approved in writing by the Local Planning Authority demonstrating that the development 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 water efficiency calculator.

Reason: To ensure that the development complies with PCS15 of the Portsmouth Plan and does not exceed the scope of Nitrate Mitigation Credits purchased.

Agenda Item 6

23/01466/FUL

WARD: HILSEA

29 SHADWELL ROAD, PORTSMOUTH, PO2 9EH

CHANGE OF USE FROM HOUSE OF MULTIPLE OCCUPATION (CLASS C4) TO 7 PERSON HOUSE IN MULTIPLE OCCUPATION

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=S4KJ37MOMFI00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=S4KJ37MOMFI00)

Application Submitted By:

Ms Kracinova
HMO Designers

On behalf of:

Kingshott

RDD: 24.11.2023

LDD:

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the blanket call-in by Councillor Vernon-Jackson for this type of proposed change of use.

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

- Principle of development including compliance with development plan policy
- Impacts on amenity including parking and internal space
- Other material considerations

1.3 Site and surroundings

1.4 The application site is a two storey mid-terrace 4-bedroomed property which is located on the south side of Shadwell Road, Hilsea. The surrounding area is densely populated and dominated by similar two storey terrace properties.

1.5 The Proposal

1.6 The Applicant has sought planning permission for the change of use of the property from a C4 House in Multiple Occupation (HMO) to a 7-bed/7-person HMO. This change in occupancy would involve the re-purposing of internal rooms but no external operational development forms part of this application.

1.7 Planning History

1.8 23/00479/FUL- Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation). - Conditional permission.

2.0 POLICY CONTEXT

2.1 In addition to the aims and objectives of the National Planning Policy Framework (2023), 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),

The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Updated Interim Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD')

3.0 CONSULTATIONS

- 3.1 Private Sector Housing: this property would require to be licenced under Part 2, Housing Act 2004. No adverse comments for the proposed size and layout of the property.
- 3.2 Transport: The parking requirement for a 5 bedroom/ 5 person and 7 bedroom/ 7 person HMO is the same 2 vehicle spaces and 4 cycle spaces - the proposal does not increase the parking demand associated with the site.

4.0 REPRESENTATIONS

- 4.1 Five letters of objection have been received from five addresses with the following concerns:
- Noise
 - Parking
 - Drainage
 - Anti-social behaviour
 - Over development - too many people in the household
 - Party wall issues
 - Increase in litter/ rubbish
 - Increase in traffic

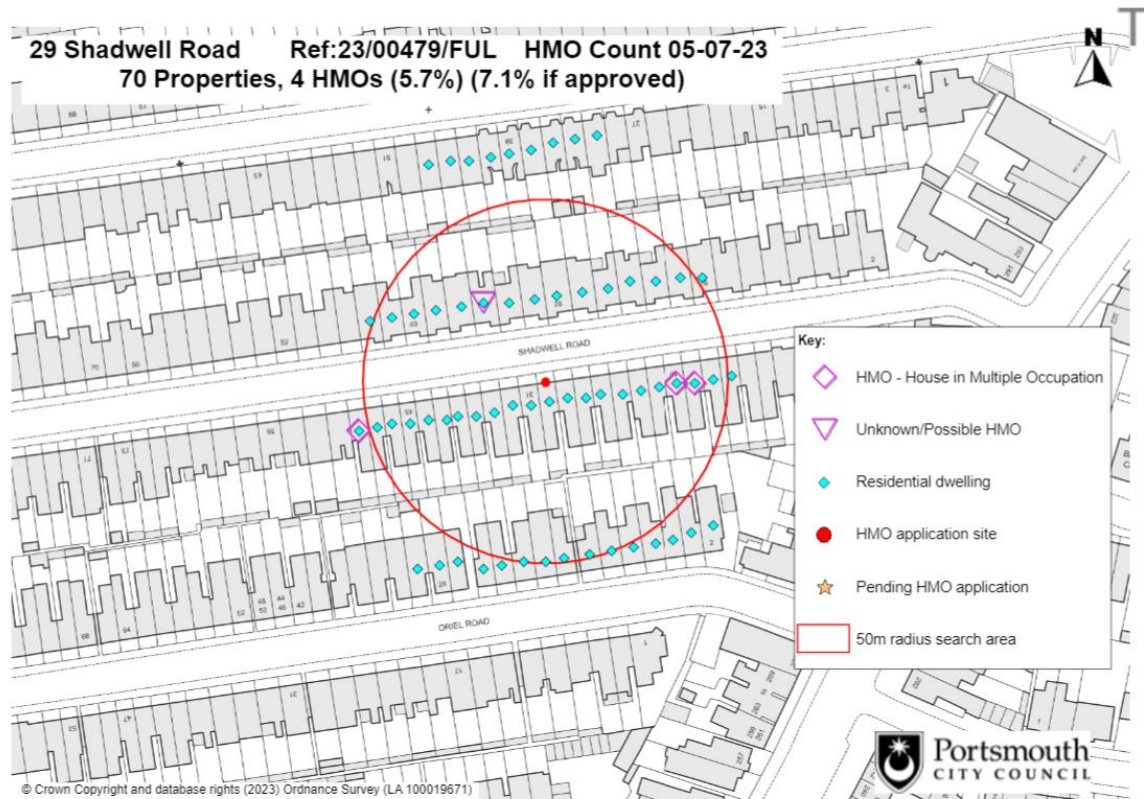
5.0 COMMENT

- 5.1 The main issues to consider in the determination of this application are
- i. Principle of development;
 - ii. Impacts on residential amenity; and
 - iii. Other issues.

5.2 Principle

- 5.3 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.
- 5.4 In this case the application site is already in lawful use as an HMO through means of its permission granted by committee on the 16th November 2023, and the application has been made to recognise the intention to increase its occupation to a 7 bedroom HMO.
- 5.5 Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.

5.6 The permission granted last year establishes that the lawful use of the property is already a Class C4 HMO, so *the relatively minor increase in occupancy proposed does not change the local mix of dwellings* - the proposal would have no impact on the guidance for a mixed and balanced community. For reference, it can be noted that the relevant 50m radius area is currently made up of 4 HMOs out of 70 properties, a percentage of 7.1%. This proposal of course has no effect on that percentage and the small increase of HMO dwelling occupants in this area is not considered to create any demonstrable imbalance or adverse implications. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO, compared to that already consented these considerations are not brought into effect. The below plan is from the permission granted at committee on the 16th November 2023, for the mixed C3/C4 use of the dwelling at 29 Shadwell Road.



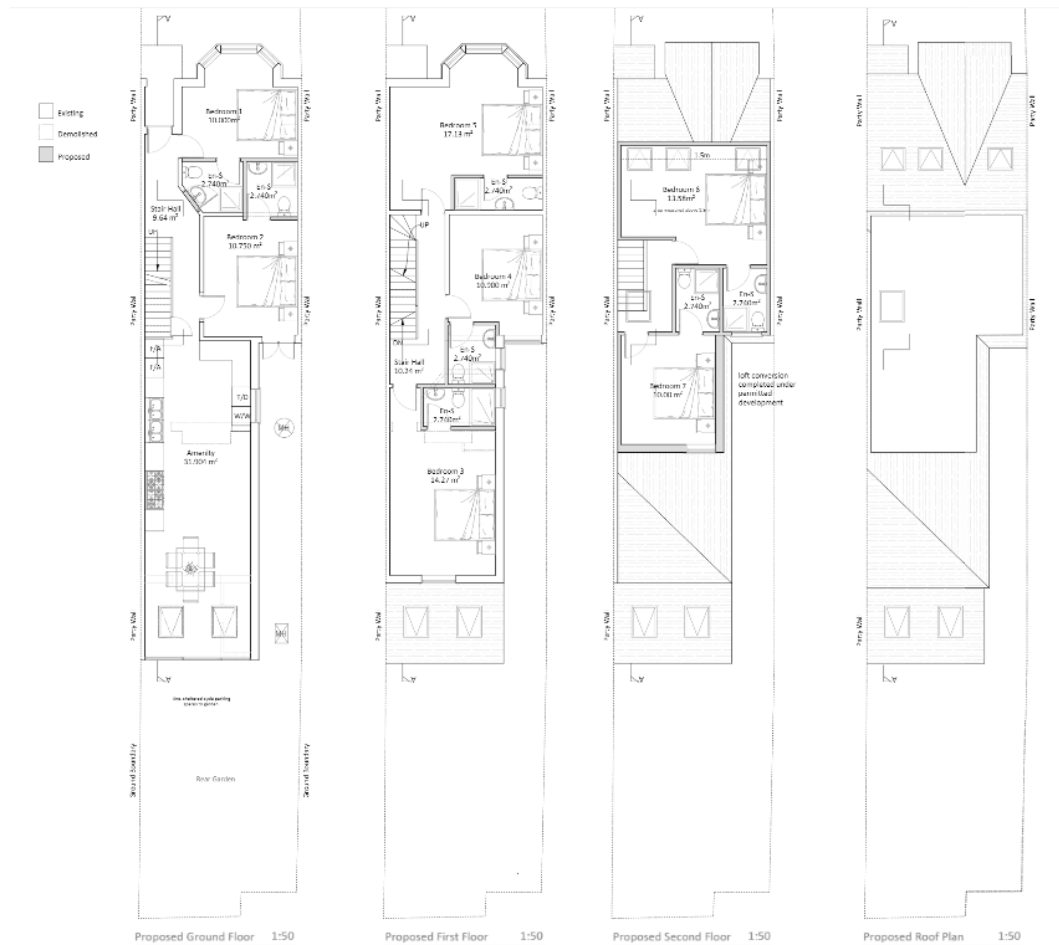
5.7

5.8 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Further below are the existing and proposed floor plans. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided:	Required Standard:
Bedroom 1	10.00m ²	6.51m ²
Ensuite 1	2.740m ²	2.74m ²
Bedroom 2	10.75m ²	6.51m ²
Ensuite 2	2.74m ²	2.74m ²
Bedroom 3	14.27m ²	6.51m ²

Ensuite 3	2.74m ²	2.74m ²
Bedroom 4	10.90m ²	6.51m ²
Ensuite 4	2.74m ²	2.74m ²
Bedroom 5	17.13m ²	6.51m ²
Ensuite 5	2.74 m ²	2.74 m ²
Bedroom 6	13.58m ²	6.51m ²
Ensuite 6	2.74m ²	2.74 m ²
Bedroom 7	10.00m ²	6.51m ²
Ensuite 7	2.74m ²	2.74 m ²
Kitchen/Dining/Living	31.904m ²	22.5m ² (if all bedrooms exceed 10m ²)

Proposed Layout:



5.9 As is shown in the table above, the proposal results in an internal layout that performs positively against the internal space standards set out in the Council's HMO SPD. It is also considered that the rooms have an adequate layout, and access to natural light. As such the scheme is considered on balance to adhere to the objectives of Local Plan Policy PCS23.

5.10 Amenity and Parking

5.10 The proposal would increase the occupancy of the existing HMO by 2 occupants. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area. Further to this there have been no objections raised from the Highways Department.

- 5.11 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. Consequently, the proposal remains in accordance with the Council's adopted guidance on parking provision.
- 5.12 Other Material Considerations
- 5.13 A key and overriding consideration in this case is the necessity to recognise the fall-back position available to the applicant; that is the position they could take if this application is refused. In this case the addition of only two occupants to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 Town and Country Planning Act 1990 ('TCPA') there is a general requirement that development should not be carried out, except with planning permission. However not all changes of use are considered to be 'development' and therefore not all changes require planning permission. Under s55 of the Town and Country Planning Act 1990 'development' is defined as making of a material change in the use of any buildings or land. Whether or not a change is a material change is a matter of fact and degree to be assessed on its own merits. Members will note a number of joint appeal decisions, the 'Campbell Properties' appeal dated 29 April 2021, and the 'Lane' appeal decision dated 9 March 2023 wherein the Inspector considered a number of similar changes of use and, on their individual merits, identified examples whereby a change in the occupancy of an existing HMO with up to 6 occupants to an occupancy up to 7 occupants, and a change in occupancy from up to 6 occupants to an occupancy of up to 8 occupants was not considered to be a material change of use notwithstanding it moved the classification of the dwellings outside of Use Class C4 of the Use Classes Order. While every application must be considered on their own individual merits these examples provide clear guidance on the correct interpretation of s55 of the TCPA and that appeal decision is considered to be a material consideration in the determination of similar applications. Members may also note the previous decisions of Portsmouth's Planning Committee which have contrary to Officer recommendation determined similar changes in occupation amounted to a material change in use, primarily due to a conclusion that 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 the changes considered in those cases on their own individual merits amount to development requiring planning permission. This is of course the case on this site when the committee previously determined that permission was required for this proposal. Members can note that the 'Lane' appeal decisions of 9 March 2023 where against three similar Planning Committee decisions and the Planning Inspector in those case disagreed both with the judgement of the Committee and was critical of the justification, noted above, as a basis for that judgement.
- 5.14 In the circumstances of the case the subject of this report it is considered that the increase in occupancy does not result in a significant difference in the character of the activities that would occur under the proposed occupation compared to the existing lawful use as a HMO with up to six occupants. As such it is considered that the change of use is not material and planning permission is not required for the increase in occupancy described in the application. Consideration to the previous, June 2022, decision of the planning committee at this site has been given, but the weight given to it by professional officers particularly noting the commentary from an inspector in the 'Lane' appeal decisions in March 2023 is very limited. The Applicant therefore has a fall-back position of being able to lawful carry out the change in occupation without the benefit of Planning Permission.
- 5.15 Should it be considered necessary to assess the merits of the application, notwithstanding the advice of Officers' above, the Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of two additional bedspaces of occupation within the HMO.

While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '...significantly and demonstrably outweigh the benefits...'. Any harm associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.

- 5.16 The letters of objection refer to the increase in persons, HMO's, anti-social behaviour, noise, parking and other issues. Whilst such matters are not usually a planning matter the development would only result in an additional 2 additional people. Such an increase would not result in a material increase in the potential for such behaviour and would not thereof represent a reason to withhold planning permission.

Impact on Special Protection Areas

- 5.17 The application is for Class C4 small HMO to a Sui Generis Large HMO. Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development, the applicant's above fall-back position would allow the occupation of the site without Planning Permission. As such it is considered that the proposal would not amount to development and therefore not have Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge

6.0 CONCLUSION

- 6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan. However, notwithstanding the compliance or otherwise of the proposal with the policies of the Local Plan it is noted that the on the details of this case the changes in the character of activities are not sufficiently significant, as a matter of fact and degree, to be considered to result in a material change in the use of this dwelling. As such planning permission is not required for the described in the application and the proposal could be carried out as a fall-back position irrespective of the determination of this application. This is considered a material consideration of overriding weight, and unconditional planning permission should therefore be granted.
- 6.2 Should the Committee conclude, contrary to this recommendation, that the change in occupation, as a matter of planning judgement, fact and degree in this specific case results in a material change of use requiring planning permission then they should consider whether permission should be granted with conditions. In such a circumstance, as the merits of the proposed use comply fully with the relevant policies of the Local Plan and associated guidance, the Committee would need to consider whether to resolve to grant permission, subject to the imposition of conditions requiring implementation of the additional occupancy within 3 year (a Time Limit condition), requiring that the development be carried out in accordance with plans submitted (an Approved Plans condition), and requiring that that increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area.

RECOMMENDATION Unconditional Permission

Conditions: None.

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Agenda Item 7

23/01118/FUL

WARD: NELSON

43 DERBY ROAD PORTSMOUTH PO2 8HW

CHANGE OF USE FROM A 6-BED/6-PERSON HOUSE IN MULTIPLE OCCUPATION TO A 8-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=S0B6QRMOKVY00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=S0B6QRMOKVY00)

Application Submitted By:

Mrs Carianne Wells
Applecore PDM Ltd

On behalf of:

Mr Sharp

RDD: 4th September 2023

LDD: 17th November 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee at the request of Councillor Vernon-Jackson

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

- Principle of Development including compliance with policy
- Impacts on Amenity including parking
- Other material considerations

1.3 Site and surroundings

1.3 The application site is a two storey terraced dwelling in a predominately residential area.

1.4 The Proposal

1.5 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use of as a HMO with up to six individuals living together to allow up to 8 individuals to live together as an HMO. This change in occupancy will involve the repurposing of internal rooms and the construction of roof extension under Permitted Development rights.

1.6 Planning History

1.7 A certificate of lawful use application which evidenced that the property has been in lawful use as a C4 HMO was granted in March 2023 under reference number 23/00211/CPE.

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), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Updated Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD')

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.

4.0 REPRESENTATIONS

4.1 No public comments have been received with regards to this application.

5.0 COMMENT

5.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

5.2 Principle

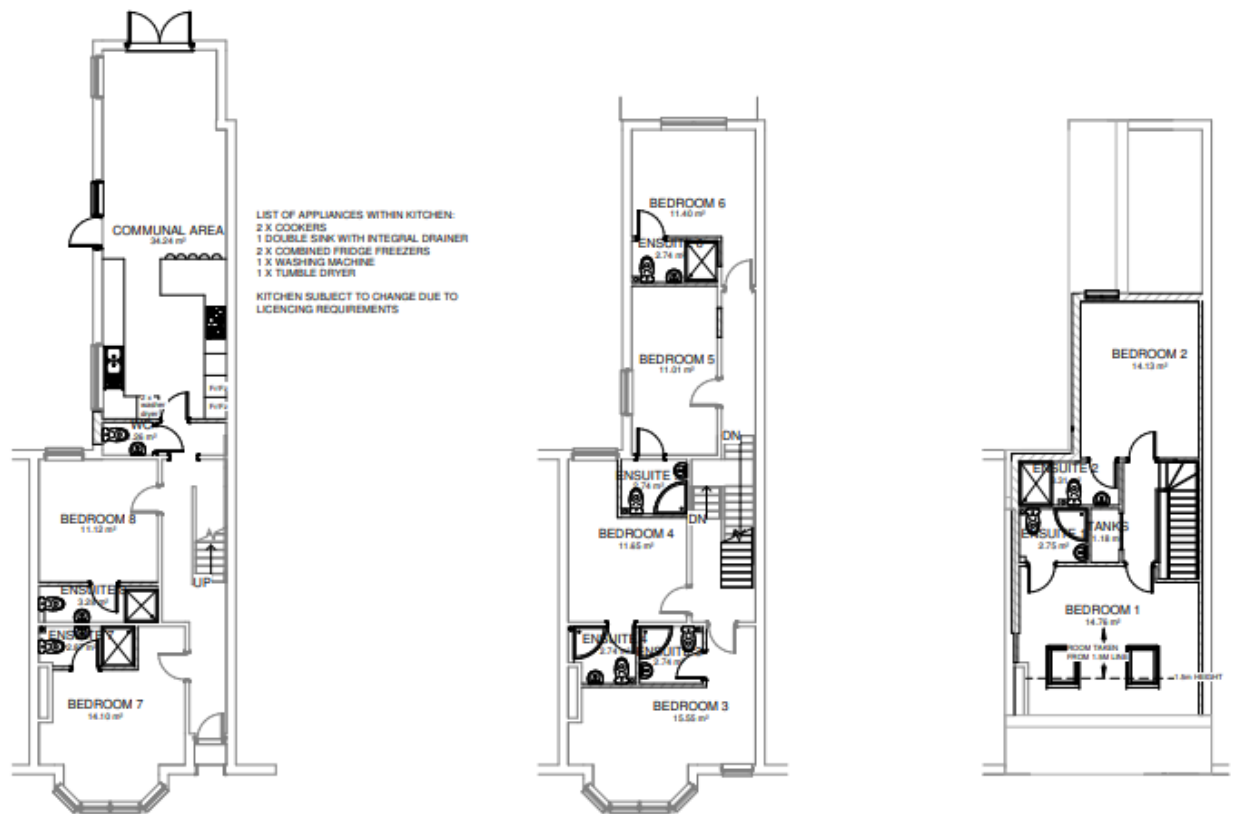
5.3 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.

5.4 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 2 occupants. As such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3, single household, dwellings. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 5 HMOs out of 59 properties, a percentage of 8.47%. This proposal of course has no effect on that percentage and the small increase of HMO dwelling occupants in this area is not considered to create any demonstrable imbalance or adverse implications. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.

5.5 The HMO use of this site currently benefits from a Licence granted by Portsmouth City Council to operate as an HMO with up to 5 occupants. This licence was granted in 2019.

5.6 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided:	Size provided for in Guidance:
Bedroom 1	14.76m ²	6.51m ²
Bedroom 2	14.13m ²	6.51m ²
Bedroom 3	15.55m ²	6.51m ²
Bedroom 4	11.65m ²	6.51m ²
Bedroom 5	11.01m ²	6.51m ²
Bedroom 6	11.4m ²	6.51m ²
Bedroom 7	14.1m ²	6.51m ²
Bedroom 8	11.12m ²	6.51m ²
En Suite 1	2.75m ²	2.74m ²
En Suite 2	3.31m ²	2.74m ²
En Suite 3	2.74m ²	2.74m ²
En Suite 4	2.74m ²	2.74m ²
En Suite 5	2.74m ²	2.74m ²
En Suite 6	2.74m ²	2.74m ²
En Suite 7	2.87m ²	2.74m ²
En Suite 8	3.28m ²	2.74m ²
Combined Living Space	34.24m ²	22.5m ²
GF WC	1.26m ²	1.17 (No requirement)



Proposed Ground Floor
1 : 100

Proposed First Floor
1 : 100

Proposed Second
1 : 100

5.7 As is shown in the table above, the proposal results in an internal layout that meets the Council's adopted space standards, and is therefore considered to result in a satisfactory standard of living environment. Apart from size alone, layout and light are acceptable.

Amenity and Parking

- 5.8 The proposal would increase the occupancy of the existing HMO by 2 occupants. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area.
- 5.9 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. Consequently the proposal remains in accordance with the Council's adopted guidance on parking provision.
- 5.10 Other Material Considerations
- 5.11 A key and overriding consideration in this case is the necessity to recognise the fall-back position available to the applicant; that is the position they could take if this application is refused. In this case the addition of only 1 occupant to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 Town and Country Planning Act 1990 ('TCPA') there is a general requirement that development should not to be carried out, except with planning permission. However not all changes of use are considered to be 'development' and therefore not all changes require planning permission. Under s55 of the Town and Country Planning Act 1990 'development' is defined as making of a *material* change in the use of any buildings or land. Whether or not a change is a material change is a matter of fact and degree to be assessed on its own merits. Members will note a number of joint appeal decisions, the 'Campbell Properties' appeal dated 29 April 2021, and the 'Lane' appeal decision dated 9 March 2023 wherein the Inspector considered a number of similar changes of use and, on their individual merits, identified examples whereby a change in the occupancy of an existing HMO with up to 6 occupants to an occupancy up to 7 occupants, and a change in occupancy from up to 6 occupants to an occupancy of up to 8 occupants was not considered to be a material change of use notwithstanding it moved the classification of the dwellings outside of Use Class C4 of the Use Classes Order. While every application must be considered on their own individual merits these examples provide clear guidance on the correct interpretation of s55 of the TCPA and that appeal decision is considered to be a material consideration in the determination of similar applications. Members may also note the previous decisions of Portsmouth's Planning Committee which have contrary to Officer recommendation determined similar changes in occupation amounted to a material change in use, primarily due to a conclusion that 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 the changes considered in those cases on their own individual merits amount to development requiring planning permission. The 'Lane' appeal decisions of 9 March 2023 where against three such Planning Committee decisions and the Planning Inspector in those case disagreed both with the judgement of the Committee and was critical of the justification, noted above, as a basis for that judgement.
- 5.12 In the circumstances of the case the subject of this report it is considered that the increase in occupancy does not result in a significant difference in the character of the activities that would occur under the proposed occupation compared to the existing lawful use as a HMO with up to six occupants. As such it is considered that the change of use is not material and planning permission is not required for the increase in occupancy described in the application. The Applicant therefore has a fall-back position of being able to lawful carry out the change in occupation without the benefit of Planning Permission.

5.13 Should it be considered necessary to assess the merits of the application, notwithstanding the advice of Officers' above, the Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harm associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.

5.14 Impact on Special Protection Areas

5.16 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development. The applicants above fall-back position would allow the occupation of the site without Planning Permission. As such it is considered that the proposal would not amount to development and therefore not have Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

6.0 CONCLUSION

6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan.

6.2 Should the Committee conclude, contrary to this recommendation, that the change in occupation, as a matter of planning judgement, fact and degree in this specific case results in a material change of use requiring planning permission then they should consider whether permission should be granted with conditions.

RECOMMENDATION

Unconditional Permission

Conditions: None

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Agenda Item 8

23/01420/FUL

WARD:CHARLES DICKENS

25 TOTTENHAM ROAD PORTSMOUTH PO1 1QL

CHANGE OF USE FROM 5-BED/6-PERSON HOUSE IN MULTIPLE OCCUPATION TO 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION

WEBSITE LINK

[23/01420/FUL | Change of use from 5 bedroom house in multiple occupation, to 7 person/7 bedroom house in multiple occupation. | 25 Tottenham Road Portsmouth PO1 1QL](#)

Application Submitted By:

Mr Willment
HMO Designers

On behalf of:

Zengin

RDD: 10th January 2024

LDD: 16th February 2024

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to Cllr Vernon-Jackson's call-in.
- 1.2 The main issues for consideration in the determination of the application are as follows:
 - Principle of Development including compliance with policy
 - Impacts on Amenity including parking
 - Other material considerations
- 1.3 Site and Surrounds
- 1.4 The application relates to a two-storey, mid-terrace property located on the eastern side of Tottenham Road. The property is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden.
- 1.5 The application site is within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style.
- 1.6 The HMO use of this site currently benefits from a Licence granted by Portsmouth City Council to operate as an HMO with up to 5 occupants. This licence was granted on 22/08/2023.
- 1.7 The Proposal

The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use as an HMO with up to five individuals living together to allow up to seven individuals to live together as an HMO. The property would also be extended under Permitted development rights, with a Ground Floor side extension, Ground Floor rear extension, and roof extensions.

1.8 Planning History

23/00103/FUL- Change of use from House in Multiple Occupation (Class C4) to purposes falling within Class C3 (dwelling house) or Class C4 (House in Multiple Occupation).
Conditionally Permitted

13/00159/FUL - Change of use from house in multiple occupation (Class C4) to purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house)
Permitted

2.0 **POLICY CONTEXT**

2.1 In addition to the aims and objectives of the National Planning Policy Framework (2023), the relevant policies within the Portsmouth Plan (2012) 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), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Updated Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD')

3.0 **CONSULTATIONS**

3.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004. The property will need to be inspected by private sector housing to ensure it meets licensing requirements.

3.2 Highways Engineer - No objection. Highlights that there would be no increase in parking requirement (2 spaces). Cycle store is outlined within the rear garden and considered sufficient.

4.0 **REPRESENTATIONS**

4.1 1 objection received, summarised as:

- a) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems
- b) Increase in noise

5.0 **COMMENT**

5.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

5.2 Principle

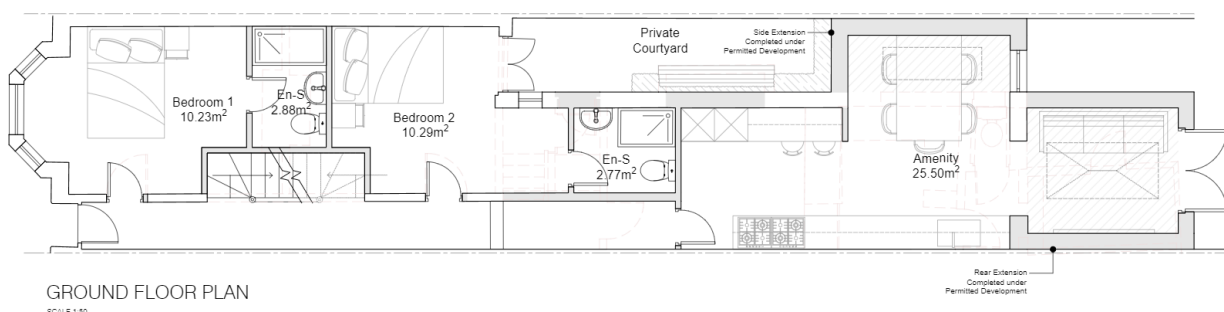
5.3 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.

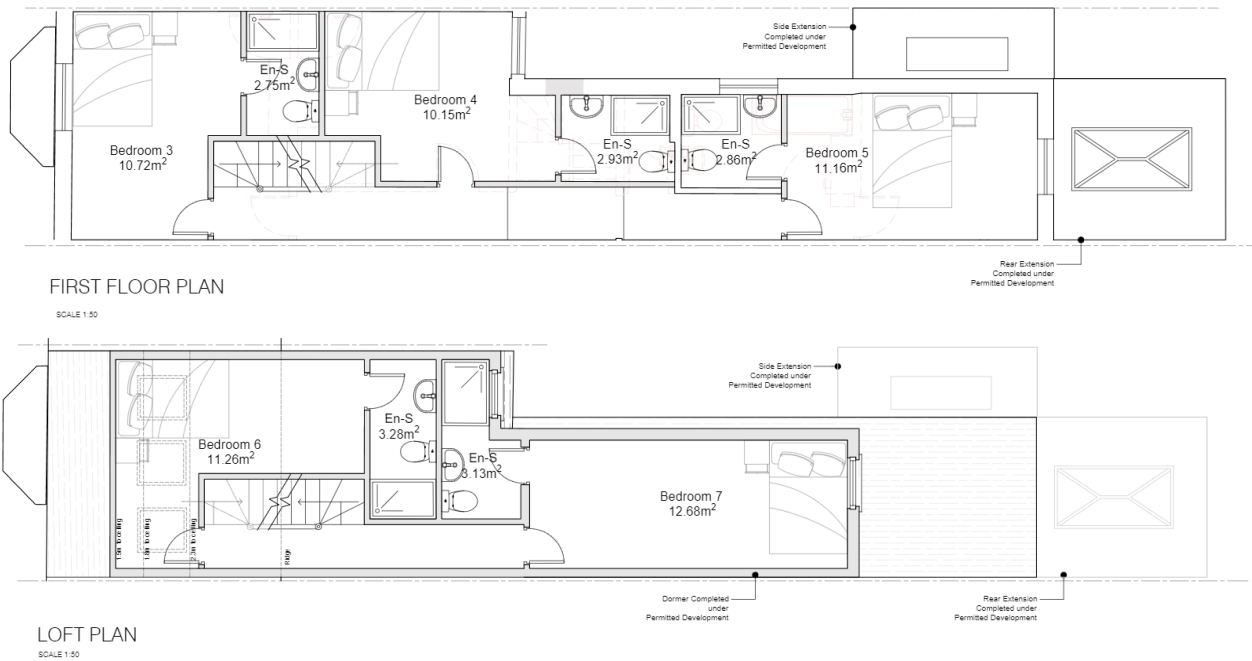
5.4 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 2 occupants. As

such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3, single household, dwellings. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 13 HMOs out of 73 properties, a percentage of 17.8%. This proposal of course has no effect on that percentage. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.

- 5.5 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as measured by the Case Officer and as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided	Required Standard
Bedroom 1 (Single use)	10.1m ²	6.51m ²
Bedroom 2 (Single use)	10.1m ²	6.51m ²
Bedroom 3 (Single use)	10.5m ²	6.51m ²
Bedroom 4 (Single use)	10m ²	6.51m ²
Bedroom 5 (Single use)	11.1m ²	6.51m ²
Bedroom 6 (Single use)	11.2m ²	6.51m ²
Bedroom 7 (Single use)	12.7m ²	6.51m ²
Communal Kitchen/Dining area (ground floor)	25m ²	22.5m ² (22.5m ² if all bedrooms exceed 10m ²)
Ensuite bathroom 1	2.88m ²	2.74m ²
Ensuite bathroom 2	2.77m ²	2.74m ²
Ensuite bathroom 3	2.75m ²	2.74m ²
Ensuite bathroom 4	2.93m ²	2.74m ²
Ensuite bathroom 5	2.86m ²	2.74m ²
Ensuite bathroom 6	3.28m ²	2.74m ²
Ensuite bathroom 7	3.13m ²	2.74m ²





- 5.6 As is shown in the table above, the proposal results in an internal layout that meets the Council's adopted space standards and is therefore considered to result in a satisfactory standard of living environment. Aside from size alone, layout and light appears acceptable.
- 5.7 Amenity and Parking
- 5.9 The proposal would increase the occupancy of the existing HMO by 2 occupants. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area.
- 5.10 Amended plans were received during the application process to increase the level of outlook for bedroom 2, whilst retaining adequate amenity space in the kitchen/lounge room. A private courtyard area has been added. It should be acknowledged that the side extension to the kitchen/diner would benefit from permitted development rights, with a width of less than half the original dwellinghouse and not projecting beyond the original rear wall.
- 5.11 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. Consequently, the proposal remains in accordance with the Council's adopted guidance on parking provision.
- 5.12 Other Material Considerations
- 5.13 A key and overriding consideration in this case is the necessity to recognise the fall-back position available to the applicant; that is the position they could take if this application is refused. In this case the addition of only 1 occupant to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 Town and Country Planning Act 1990 ('TCPA') there is a general requirement that development should not to be carried out, except with planning permission. However, not all changes

of use are considered to be 'development' and therefore not all changes require planning permission. Under s55 of the Town and Country Planning Act 1990 'development' is defined as making of a *material* change in the use of any buildings or land. Whether or not a change is a material change is a matter of fact and degree to be assessed on its own merits. Members will note a number of joint appeal decisions, the 'Campbell Properties' appeal dated 29 April 2021, and the 'Lane' appeal decision dated 9 March 2023 wherein the Inspector considered a number of similar changes of use and, on their individual merits, identified examples whereby a change in the occupancy of an existing HMO with up to 6 occupants to an occupancy up to 7 occupants, and a change in occupancy from up to 6 occupants to an occupancy of up to 8 occupants was not considered to be a material change of use notwithstanding it moved the classification of the dwellings outside of Use Class C4 of the Use Classes Order. While every application must be considered on their own individual merits these examples provide clear guidance on the correct interpretation of s55 of the TCPA and that appeal decision is considered to be a material consideration in the determination of similar applications. Members may also note the previous decisions of Portsmouth's Planning Committee which have contrary to Officer recommendation determined similar changes in occupation amounted to a material change in use, primarily due to a conclusion that 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 the changes considered in those cases on their own individual merits amount to development requiring planning permission. The 'Lane' appeal decisions of 9 March 2023 were against three such Planning Committee decisions and the Planning Inspector in those case disagreed both with the judgement of the Committee and was critical of the justification, noted above, as a basis for that judgement

- 5.14 In the circumstances of the case the subject of this report it is considered that the increase in occupancy does not result in a significant difference in the character of the activities that would occur under the proposed occupation compared to the existing lawful use as a HMO with up to five occupants. As such it is considered that the change of use is not material and planning permission is not required for the increase in occupancy described in the application. The Applicant therefore has a fall-back position of being able to lawful carry out the change in occupation without the benefit of Planning Permission.
- 5.15 Should it be considered necessary to assess the merits of the application, notwithstanding the advice of Officers' above, the Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harms associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.

5.16 Impact on Special Protection Areas

- 5.17 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development the applicants above fall-back position would allow the occupation of the site without Planning Permission. As such it is considered that the proposal would not amount to development and therefore not have Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

6.0 CONCLUSION

- 6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan. However, notwithstanding the compliance or otherwise of the proposal with the policies of the Local Plan it is noted that the on the details of this case the changes in the character of activities are not sufficiently significant, as a matter of fact and degree, to be considered to result in a material change in the use of this property. As such planning permission is not required and the proposal could be carried out as a fall-back position irrespective of the determination of this application. This is considered a material consideration of overriding weight, and unconditional planning permission should therefore be granted.
- 6.2 Should the Committee conclude, contrary to this recommendation, that the change in occupation, as a matter of planning judgement, fact and degree in this specific case results in a material change of use requiring planning permission then they should consider whether permission should be granted with conditions. In such a circumstance, as the merits of the proposed use comply fully with the relevant policies of the Local Plan and associated guidance, the Committee would need to consider whether to resolve to grant permission, subject to the imposition of conditions requiring implementation of the additional occupancy within 3 year (a Time Limit condition), requiring that the development be carried out in accordance with plans submitted (an Approved Plans condition), and requiring that that increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area.

RECOMMENDATION Unconditional Permission

Conditions: None

Agenda Item 9

23/01383/FUL

WARD:ST JUDE

HOMEHEIGHTS HOUSE CLARENCE PARADE SOUTHSEA PORTSMOUTH

ROOFTOP INSTALLATION OF 3NO. POLE MOUNTED ANTENNAS, 1NO. DISH, 2NO. CABINETS AND ASSOCIATED ANCILLARY DEVELOPMENT.

[23/01383/FUL | Rooftop installation of 3no. pole mounted antennas, 1no. dish, 2no. cabinets and associated ancillary development. | Homeheights House Clarence Parade Southsea Portsmouth PO5 3NN](#)

Application Submitted By:

Mr Niall Kelleher
Telent Technology Services Limited

On behalf of:

EE Ltd

RDD: 7th November 2023

LDD: 9th February 2024

1.0 SUMMARY OF MAIN ISSUES

- 1.1 The application has been brought to the Planning Committee for determination as it has received nine objection comments, and one support.
- 1.2 The main issues for consideration are:
 - Sitting and appearance and its impact on heritage assets and amenity; and
 - Other Issues.

2.0 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

2.1 Site and Surroundings

- 2.2 The application site relates to the roof of Homeheights House a 1980s 11-storey flatted block. The building is primarily finished in yellow brick with elements of brown glazing and brick detailing. The proposal primarily relates to the southern half of the main flat roof of the building. Homeheights has an unusual form, with multiple roofs, and some balconies.
- 2.3 Homeheights faces directly onto the Grade II Registered Park and Garden 'Southsea Common', given the open nature of the common the building is highly visible from several angles. The site itself is located within the 'Owen's Southsea' Conservation Area No.2. There are a number of other designated heritage assets within the area and due to the height of the building and openness of the surrounding area, the roof of the building is visible from many of these. These include:

The Grade I Listed:

- Portsmouth Naval War Memorial (located 280m to the south-west);

The Grade II Listed:

- Queens Hotel (located 60m to the north west);
- 1-6 Clifton Terrace (located 45m to the east);
- 1-11 Netley Terrace (located 100m to the east);
- Aboukir Memorial (located 320m to the south-west);
- Crimean Monument (located 400m to the south);

- Tram Shelter (adjacent to the Blue Reef Aquarium) (located 410m to the south);
- Lamp columns to Clarence Esplanade (located 420m to the south-east);
- Trident Memorial (located 350m to the west); and
- Chesapeake Monument, Trafalgar Monument, Peel or Shannon Naval Brigade Monument (located 430m to the west).

2.4 Proposal

2.5 Planning permission is sought for the installation of 3 pole-mounted antennas, 1 dish, 2 cabinets and associated ancillary development on the roof of Homeheights House. The proposed antennae would extend to 5m in height above the existing roof of the building and measure approximately 2m tall, 0.5m in width and 0.2m in depth. Two antennae would be sited on the two corners of the building's southern elevation roof, and the third on a north-west corner, facing the Queen's Hotel. The dish would be located at this third location, at 0.58m diameter, and 0.25m maximum depth. The dish and antennas would both be colour treated grey and this would be conditioned. The two cabinets would be sited next to each other on the western side of the roof, and measure 2.2m tall and as a group approximately 2m wide by 0.65m deep. The antennae and dish would be located 1.4m away from the edge of the roof of the building, and the cabinets 1m from the edge of the building.

2.6 The images below show the Location Plan; Southern Elevation and Roof Plan:

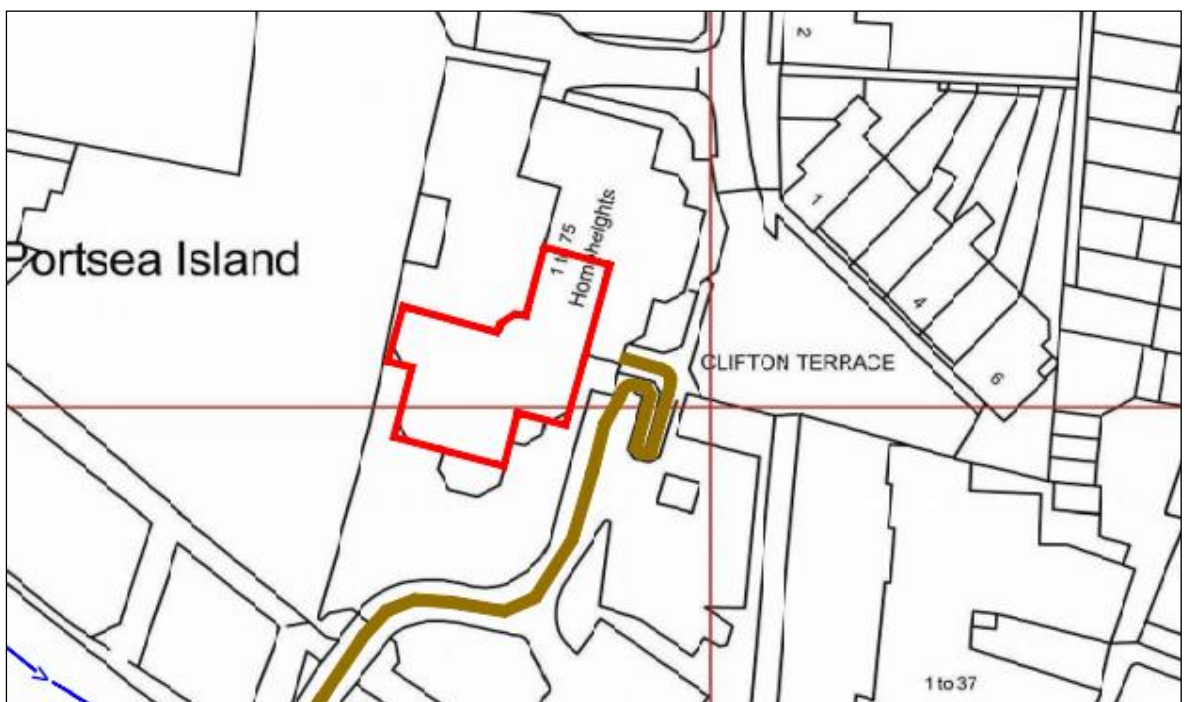


Figure 1 Location Plan

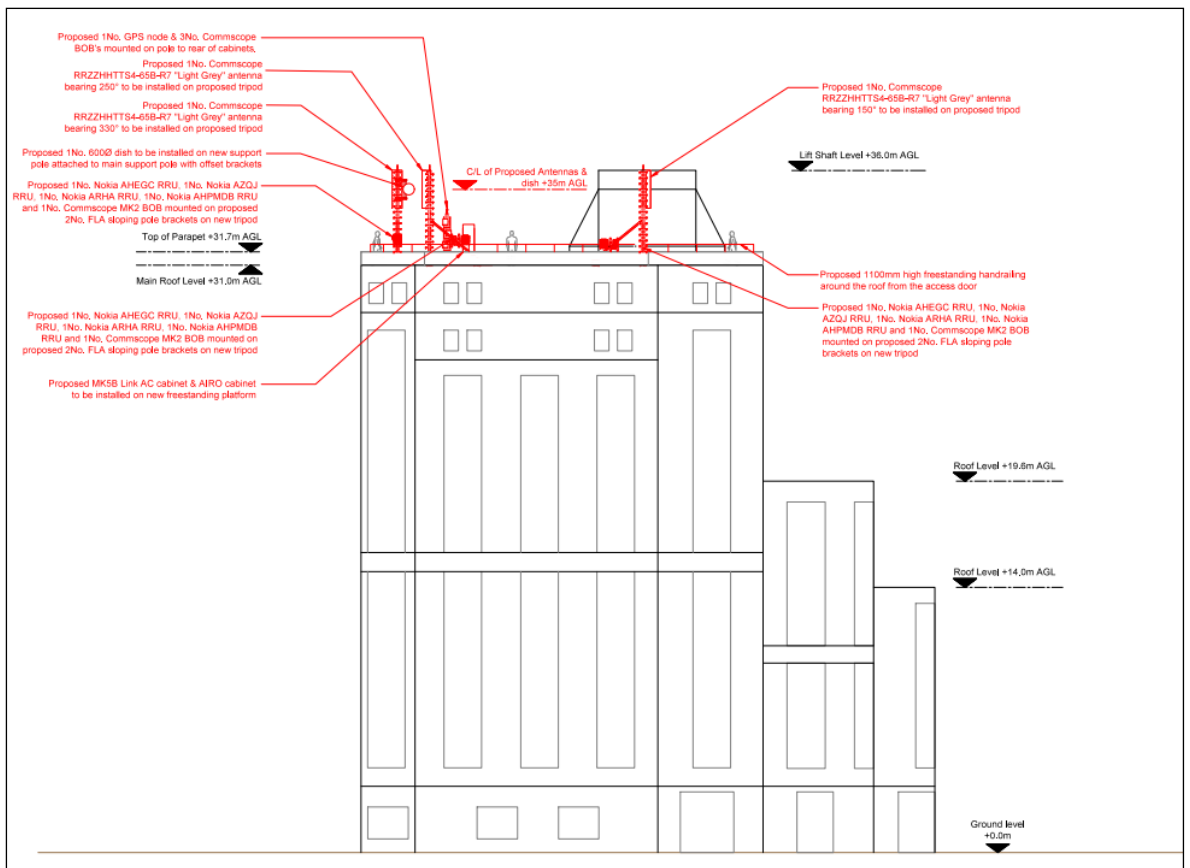


Figure 2 Southern Elevation

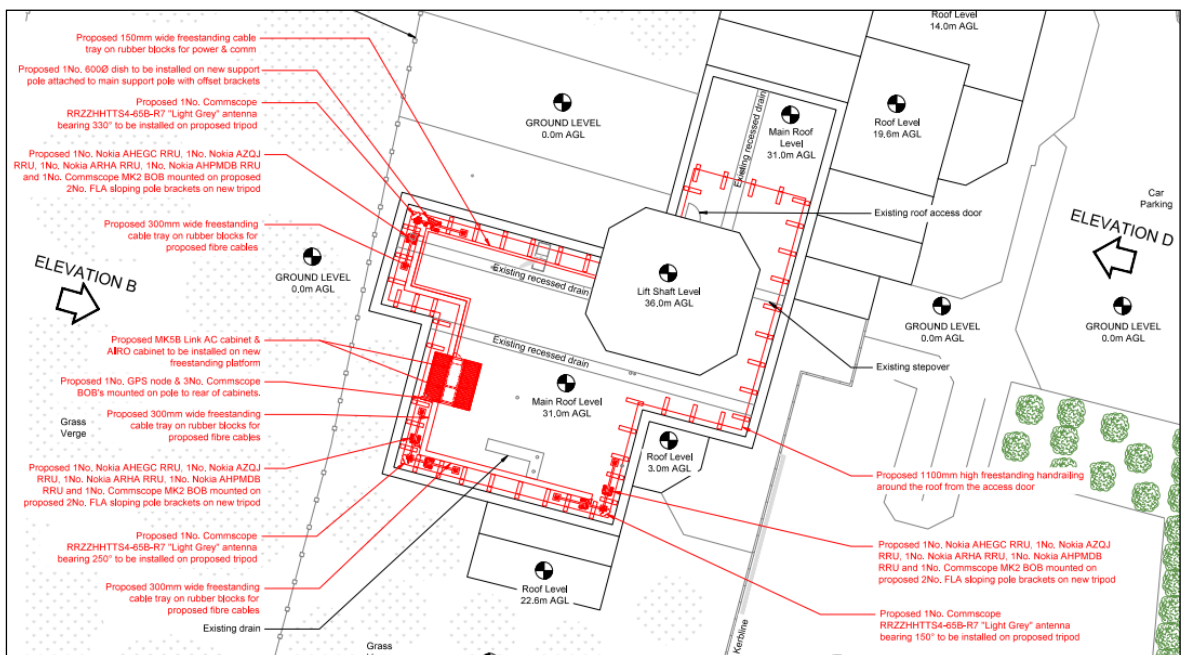


Figure 3 Roof Plan

2.7 Planning history

2.8 A*27302/V: Eleven storey block of 74 elderly persons flats, 2 wardens flats and ancillary accommodation. Conditional Permission (01.23.1985).

3.0 POLICY CONTEXT

3.1 In addition to the aims and objectives of the National Planning Policy Framework (2023), the relevant policies within the relevant policies within the Portsmouth Plan (Jan 2012) would include:

- PCS23 - Design & Conservation

4.0 CONSULTATIONS

- 4.1 Environmental Health - No objections given submission of ICNIRP Certificate (International Commission on Non-Ionising Radiation Protection).
- 4.2 Conservation Officer - Detailed comments provided assessing the siting and appearance of the structure, considers that the equipment would cause some degree of harm in their context albeit the harm would be less than substantial and would represent a low/medium visual impact overall.

5.0 REPRESENTATIONS

- 5.1 Nine representations have been received towards the scheme, 8 of which offer comments of objection, 1 which offers support. The reasons for objections were:
- Impact on the visual setting of Clifton Terrace;
 - Loss of light to rear garden of Clifton Terrace;
 - Set a precedent for future additions to the roof;
 - Errors within the application form;
 - Choice of colour of the clouds in the photomontage hides true impact of structure;
 - Impact of views from War Memorial;
 - Fire risk;
 - Impact of winds blowing structure off roof;
 - No analysis of how the proposal would impact operations in the locality;
 - Impact on residential amenity;
 - Impact on heritage and the Conservation Area;
 - Queries over if other locations have been considered;
 - Lessees are responsible for the upkeep of the roof - contractors may damage roof; and
 - Disruption from installation and maintenance of equipment; and
 - Health concerns from the radiation.

5.2 The support comment received is summarised below:

- Supports improved network coverage.

6.0 COMMENT

- 6.1 The main issues for consideration are:
- Siting and appearance and its impact on heritage assets and residential amenity; and
 - Other issues;
- 6.2 Section 10 the National Planning Policy Framework (NPPF) sets out that *"Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections."* It goes on to set out that the *"use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged."*
- 6.3 Although submitted as a full planning application, the proposed equipment may actually be achieved as a fallback position under a Prior Notification procedure, but the Applicant has, after discussion with the Local Planning Authority, chosen to continue with this full application.

6.4 Sitting and appearance

6.5 Section 12 of the NPPF places an emphasis on achieving high quality sustainable development. Paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places are fundamental to what the planning and development process should achieve. Paragraph 130 sets out that developments should ensure that they function well and add to the overall quality of an area; be visually attractive; be sympathetic to local character and history; establish or maintain a strong sense of place and should optimise the potential of a site to accommodate and sustain an appropriate mix of development.

6.7 In addition, Policy PCS23 of the Portsmouth Core Strategy (2012) states, inter alia, that new development must be well designed and, in particular, respect the character of the city. A range of guiding principles include the need for excellent architecture, public and private spaces, the need to relate well to the city's heritage and to be of an appropriate scale, density, layout, appearance, and materials in relation to the context.

6.8 The proposed telecommunication equipment is utilitarian in design and nature. The existing building itself is not considered to be of the highest architectural quality and is at odds with the more historic setting of the wider Conservation Area. The equipment would have restricted visibility from close quarters, due to the height of the building and the angled views from ground level. As such, it is not considered the proposal would have any undue effect on local residents' amenities (outlook). The equipment would become visible when taking in wider views and this has been demonstrated by the photomontage within the application submission. The antennae and other equipment would be visibly detractive from the setting of Southsea Common and the surrounding heritage assets however, the equipment would not be particularly noticeable given the distances that views would need to be taken from. They would be a small part of a wide visual context. Overall, the proposal would fail to preserve or enhance the character and appearance of the Conservation Area or the setting of the special architectural or historic context of the Grade II Listed Southsea Common and other Heritage Assets. It is therefore considered that harm would be caused to these Assets, though given the factors above it is considered that this harm would be 'less than substantial' (NPPF, paragraph 202). Therefore, the public benefits of the proposal must be considered in order to establish if these benefits can overcome the limited harm identified.

6.9 The applicant in support of the application has set out the need to provide improved telecommunication services within the area as well as setting out alternative sites that have been considered to meet this service requirement. Given the layout of the Seafront and Southsea Common, ground-based infrastructure would be prohibitively more intrusive upon the open and verdant nature of the area. This can be seen by the recent refused application for a monopole within the area at the 'Pavement Outside the Pyramids' (22/01558/PN). It is therefore considered that a building-based proposal may well be a good solution to cover this network gap. As explained above the Local Authority is instructed within the NPPF to give substantial weight for the need to provide such infrastructure. It is therefore considered that given the 'less than substantial' harm present and the public benefit of providing improved telecommunications infrastructure, the proposal is on balance considered to be acceptable in regard to its siting and appearance.

6.10 Other Issues raised in the representations

6.11 The objection points of setting a precedent: the proposal is considered on its own individual merits as would any future application.

6.12 Two minor errors are noted within the application form however they are not considered to be determinantal to the public or Council's assessment of the application.

- 6.13 The colour of the clouds is simply to give an example of how the structure would appear.
- 6.14 The risk of fire is not a planning consideration and would be covered by the Building Control remit as would the securing of the structure to ensure they do not get blown down by the wind.
- 6.15 The application has demonstrated the gap in network coverage and/or capacity and the application would therefore address this network gap.
- 6.16 The impact of the installation/maintenance of the structures is not a material planning consideration, neither are the matters of the interest of the lessees or potential damage from the installation phase on the roof.
- 6.17 The application includes an ICNIRP Certificate which sets out that the equipment would meet the precautionary guidelines set out by the International Commission on Non-Ionizing Radiation Protection and therefore it is not considered that the equipment would result in any health impacts via radiation.
- 6.18 It is not considered that the proposals would affect light or adversely affect other amenity to neighbours.
- 6.19 Human Rights and the Public Sector Equality Duty ("PSED")
- 6.20 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.
- 6.21 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.
- 6.22 Conclusion
- 6.23 The proposed development is considered to result in 'less than substantial' harm towards the Conservation Area, Southsea Common and the setting of the nearby heritage assets. However, in this instance the public benefits of the proposal by way of increase in network coverage and/or capacity is considered to outweigh this harm. It is therefore considered that on balance the proposals constitute sustainable development and should be granted planning permission.

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.

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 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:

- 002 Site Location Plan;
- 150 Proposed Site Plan;
- 250 Proposed Site Elevation A;
- 251 Proposed Site Elevation B;
- 252 Proposed Site Elevation C;
- 253 Proposed Site Elevation D;
- 310 Antenna Headframe and Support Structure Plan; and
- 311 Antenna Headframe and Support Structure Elevations.

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

Colour Treatment

3) The equipment hereby approved shall be colour treated light grey and retained in that colour for the lifetime of the development, unless agreed otherwise in writing by the Local Planning authority.

Reason: In order to preserve the character and appearance of the Conservation Area in accordance with Policy PCS23 of the Portsmouth Plan (2012).

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