

# PLANNING COMMITTEE

## 10 APRIL 2019

1 PM EXECUTIVE MEETING ROOM,  
3<sup>RD</sup> FLOOR, GUILDHALL

### REPORT BY THE ASSISTANT DIRECTOR - CITY DEVELOPMENT ON PLANNING APPLICATIONS

#### ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

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

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

#### REPORTING OF CONSULTATIONS

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

#### APPLICATION DATES

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

#### HUMAN RIGHTS ACT

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

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

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**01**

**19/00259/FUL**

**WARD:COPNOR**

**63 BEDHAMPTON ROAD PORTSMOUTH PO2 7JX**

**CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLINGHOUSE).**

**Application Submitted By:**

Ms Nuria Perez Alcantara

**On behalf of:**

Ms Nuria Perez Alcantara  
Granada NG Developments Ltd

**RDD:** 18th February 2019

**LDD:** 19th April 2019

**SUMMARY OF MAIN ISSUES**

This application is brought to the Planning Committee for determination following a deputation request from neighbouring residents.

The main issues to be considered in the determination of this application are the appropriateness of such a use in the context of the balance of uses in the surrounding area and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in regards to an adequate standard of accommodation and in respect of car and cycle parking.

**The site**

This application relates to a two-storey, terrace dwelling located to the west side of Bedhampton Road. The property is set back from the highway by a small forecourt and benefits from a garden to the rear. The surrounding area is characterised by densely populated residential terraces and is in close proximity to a range of shops and services located on Copnor Road and is also well serviced by bus routes.

**The Proposal**

Planning permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or within Class C4 (House in Multiple Occupation). The interchange between Class C3 and Class C4 would normally be permitted development within the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, on 1st November 2011 a city wide Article 4 Direction relating to HMOs came into force removing this permitted development right. As such, planning permission is now required in order to interchange between the uses of a Class C3 dwellinghouse and a Class C4 HMO where between three and six unrelated people share at least a kitchen and/or a bathroom. The lawful use of the property is currently as a dwellinghouse within Class C3.

The existing property comprises of a living room, kitchen, lounge, conservatory and WC & cupboard at ground floor, with three bedrooms and a bathroom at first floor. The proposal would see the ground floor living room converted into a fourth bedroom and the ground floor WC and cupboard converted into a shower room.

## **Planning History**

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

## **POLICY CONTEXT**

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)) and PCS23 (Design and Conservation). The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (July 2018) and the Parking Standards SPD would also be material to this application.

## **CONSULTATIONS**

### **Private Sector Housing**

Based on the layout and sizes provided with this application this property would not be require to be licensed under Part 2, Housing Act 2004.

The Private Sector Housing Team (PSHT) has offered comments in relation to the standard of internal accommodation with respect to the Housing Act 2004. These comments will be passed to the applicant via an informative.

## **REPRESENTATIONS**

Seven individual objections, a petition of objection containing 73 signatures, and a Facebook petition of objection of some 500 signatures have been received on the following grounds:

- (a) The development will place further pressure on parking;
- (b) Property is not big enough for multiple occupancy/future occupiers;
- (c) Loss of family homes;
- (d) Increase in noise and anti-social problems;
- (e) HMO will be adjacent to family homes and will create an undesirable precedent;
- (f) HMO database held by Portsmouth City Council is not fit for purpose. There are clearly more HMOs within a 50m radius than the list suggests;
- (g) Increase in rubbish associated with HMOs;
- (h) The number of residents could double and will cause extreme pressure on services and amenities;
- (i) Increase in rodents due to poor waste management;
- (j) Property in the area will devalue;
- (k) HMOs result in overpopulation/overcrowding;
- (l) The planning policy should be amended;
- (m) The Officer should visit every property in the 50m radius to check on occupation.

## **COMMENT**

The main issues to be considered in the determination of this application are the appropriateness of such a use in the context of the balance of uses in the surrounding area and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in regards to an adequate standard of accommodation and in respect of car and cycle parking.

## **Principle**

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the

flexibility to change freely between the two use classes. The property currently has a lawful use as a dwellinghouse (Class C3). For reference, a Class C4 HMO is defined as a property occupied by between three and six unrelated people share who share basic amenities such as a kitchen or bathroom.

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

Based on information held by the City Council, of the 76 properties within a 50 metre radius of the application site, none (0) are considered to be in lawful use as HMOs. Therefore, as the granting of planning permission would increase the proportion of HMOs to 1.32%, it is considered that the community is not already imbalanced by a concentration of HMO uses and this application would not result in an imbalance of such uses.

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 C3 Dwellinghouses or Class C4 HMOs without requiring the express permission of the LPA. Some residents have requested the officer visit all the properties in the 50m radius. This is highly likely to constitute a poor use of officer time as the Council's data sets are considered to be robust. It is not considered likely that enough further HMOs not already accounted for would transpire to tip the balance beyond the 10% policy threshold.

### Standard of Accommodation

The Houses in Multiple Occupation SPD (July 2018), sets out minimum size standards for rooms in order to ensure that an appropriate standard of living accommodation is achieved. A summary of the sizes of the rooms within this property in comparison to the minimum standards within the SPD is set out below. In terms of internal living conditions, the property benefits from the following:

Area:	Proposed:	Required Standard: (HMO SPD-JULY 2018)	
		Single	Double
Bedroom 1 (First Floor)	14.72m <sup>2</sup>	7.5m <sup>2</sup>	11.5m <sup>2</sup>
Bedroom 2 (First Floor)	7.80m <sup>2</sup>	7.5m <sup>2</sup>	11.5m <sup>2</sup>
Bedroom 3 (First Floor)	8.10m <sup>2</sup>	7.5m <sup>2</sup>	11.5m <sup>2</sup>
Bedroom 4 (Ground Floor)	11.68m <sup>2</sup>	7.5m <sup>2</sup>	11.5m <sup>2</sup>
Combined living space - 3 to 6 persons	23.04m <sup>2</sup>	24m <sup>2</sup>	
Shower Room (Ground Floor)	2.60m <sup>2</sup>	(no standard for WC)	
Bathroom (First Floor)	3.25m <sup>2</sup>	3.74m <sup>2</sup>	

The HMO SPD (July 2018), states that for an HMO for 5-6 people, there must be 1 bathroom and 1 separate WC with washbasin. It is noted that whilst the bathroom measures slightly undersize, the shower room (toilet, wash basin, shower) would significantly exceed the size of the required WC and washbasin.

For bedrooms, to accommodate the maximum of six persons a Class C4 use would allow, two of the bedrooms would need to be double beds. Bedrooms 1 and 4 exceed the SPD minimum size standard for double rooms. The other two bedrooms, both singles, also exceed the SPD minimum size standard, for single rooms.

The combined living space falls short of the standard (24m<sup>2</sup>), by 0.96m<sup>2</sup>. It is noted that in previous allowed appeals, the Inspector was satisfied with an under-sized communal living room because (some) bedrooms were large, the logic being that with more space in some bedrooms there would be less demand on the living room. In this instance, Bedroom 1 exceeds the minimum size by more than 3m<sup>2</sup>, while the shortfall of communal living space is less than 1m<sup>2</sup>. It is not considered this should constitute a reason for refusal.

For the reasons stated above, in accordance with the requirements outlined on pages 8 and 9 of the HMO SPD (July 2018), the property is considered to provide an adequate standard of living accommodation to facilitate 3-6 persons sharing.

### **Impact on amenity**

In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3) which involves occupation by a single family, or other groups living as a single household, would be unlikely to be significantly different than the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation. The HMO SPD is however, supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities.

Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. The use of the property as a HMO is not therefore considered to result in a change of character of the property, the area or represent over-development of the site. Whilst high concentrations of HMOs can negatively impact upon the local area, the percentage if granted would be 1.32%. As it is considered that there are few material planning differences between a Class C3 or a Class C4, the property could be used flexibly in either class and would not result in the loss of a family home.

In dismissing an appeal (July 2017) at 239 Powerscourt Road ref. APP/Z1775/W/17/3169402, the Inspector stated that:

'Turning to noise and disturbance, the proposed Class C4 HMO would comprise between 3 and 6 persons. Although the persons within the HMO are unrelated, there is no evidence that they would generate greater activity than a typical family household or group of people living as a household. The proposed use would, therefore, be unlikely to have an unacceptable impact on the living conditions of the occupiers of neighbouring dwellings by reason of noise and disturbance.'

Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the use of the property within Class C3 or C4.

### **Highways/Parking**

The Parking Standards SPD does not require an increased parking provision for a Class C4 HMO. The application site is within 500m of a high frequency bus route. The application site benefits from a rear garden and a condition could be imposed to secure cycle parking. In dismissing an appeal at 239 Powerscourt Road, the Inspector stated that: 'However the Council's Parking Standards and Transport Assessments Supplementary Planning Document (SPD) 2014 requires 2 car parking spaces for the current dwelling use and the same for the HMO use. Furthermore the HMO property is close to a high frequency bus route and within a short walk of the North End District Centre. Such accessibility to shops, services and transport facilities would substantially reduce the necessity for a car by future occupiers. For all these reasons, it has not been demonstrated that there would be a significant worsening of the current car parking issues that have been identified'.

The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Class C4 HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces. Whilst the concerns of local residents in respect of parking are noted, in light of the requirements set out within the Parking Standards SPD and the view that the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on car parking standards could not be sustained. It should be noted that the property could be occupied by a large family with grown children, each owning a separate vehicle.

Having regard to the considerations above and this appeal decision, it is not considered that an objection on highways grounds could be sustained. The submitted drawings do not indicate the provision of bicycle storage facilities in line with the Parking Standards SPD. However the rear yard is considered appropriate for the provision and retention of suitable bicycle storage facilities which can be required through a suitably worded planning condition

### **Waste**

The storage of refuse and recyclable materials would remain unchanged and an objection of waste grounds would not form a sustainable reason for refusal.

### **Matters Raised in Representations**

The majority of matters raised by local residents in this report have been addressed already, the remaining are as follows:

- The development would set a precedent.

Actually, each application is assessed on its own merits.

- Undesirable behaviour.

The planning system cannot assume that the occupants of a Class C4 HMO are any more likely to cause such problems than the occupants of a Class C3 family dwellinghouse. In response to representations relating to undesirable behaviour, in addition to ensuring adequate size standards, sanitary facilities and fire safety, the City Council's Private Sector Housing Team can assist should the property not be managed in an appropriate manner.

- The policy needs to be changed.

The 10% threshold was considered to be suitable during the careful formulation of the HMO policy, and it has been applied successfully since.

- Decrease in property value

Decrease in property value and the ability to sell property is not considered a material planning consideration.

### **Conclusion**

Having regards to all material consideration, raised representation and planning policy, it is concluded that the development is acceptable.

### **RECOMMENDATION**

### **Conditional Permission**

## **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location and block plan (001/A); and, proposed floor plans (002).
- 3) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

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

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To ensure that adequate provision is made for cyclists using the premises in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan.

### **PRO-ACTIVITY STATEMENT**

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

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**142 MILTON ROAD PORTSMOUTH PO4 8PN****CONSTRUCTION OF 4 STOREY RESIDENTIAL BLOCK TO FORM 12 FLATS; TO INCLUDE 13 CAR PARKING SPACES WITH ASSOCIATED BICYCLE AND REFUSE STORAGE (FOLLOWING DEMOLITION OF PUBLIC HOUSE)****Application Submitted By:**Mr Mark Holman  
HRP Architects**On behalf of:**Mr Karim Sattari  
KRS Retail Ltd**RDD:** 20th December 2018**LDD:** 22nd March 2019**SUMMARY OF MAIN ISSUES**

The principal matters raised by this application include:

- \* The principle of demolition of the former public house, and the residential use of the land;
- \* Scale, design and townscape;
- \* Neighbouring residents' amenities;
- \* Future residents' amenities;
- \* Transportation matters;
- \* Ecology;
- \* Other environmental matters.

Councillor Vernon Jackson has requested the application be determined by the Planning Committee.

**PROPOSALS**

The application proposes the demolition of the former public house and the erection of a four storey building to contain twelve flats. The building would be predominantly three storey, with the fourth storey set back from all elevations. The building would be clad in brick (buff colour shown), with white, projecting window surrounds and to the central entrance feature, and a stonework course between ground/first floor, and at parapet level. The top (roof) storey would be finished in dark grey cladding. Design is contemporary, with a distinctive appearance provided by the central entrance feature and window placing and surrounds. The building would be set back between 2 and 4.7m from the back of pavement. Thirteen car parking spaces would be provided to the northern side of the development, three of which would be in an undercroft. The integral cycle store indicates space for a minimum of fifteen bikes. Landscaped gardens would be provided to the front side and rear of the site, with a brick and railing front boundary shown.

The development would provide:

- o six no. one-bedroomed flats;
- o five no. two-bedroomed flats, and;
- o one no. three-bedroomed flats.

The Applicant has offered that 75% of the units be delivered as Affordable Housing.  
The Application is supported by a Design and Access Statement.  
Site area: 838 sqm, development density: 142 dwellings per hectare.

## SITE AND SURROUNDS

The Applicant states that the former public house was last open in December 2017. It is a three storey original, 19th Century building (two storeys plus roofspace) with extensive, single-storey additions to its side and rear. These buildings occupy the northern part of the site, they are vacant and boarded-up. The southern half of the site is hoarded off from the street and consists of the former car park. The site is bounded by a recent three-storey flatted development to the north (Holmes Park), a petrol station with car wash to the south, and houses on Maylands Avenue to the west (rear). Two-storey Victorian housing is sited on the opposite side of Milton Road, with a church and church hall (with children's day nursery) opposite to the south-east. Inter-war, two-storey, terraced housing lies to the rear (west) of the site on Maylands Avenue. These properties have back gardens of 14m to 17m length, albeit with mostly fairly substantial single-storey outbuildings at their foot, alongside the application site's rear boundary.

## PLANNING HISTORY

No relevant planning history apparent apart from noting that the applicant sought pre-application advice from the Local Planning Authority (LPA).

## CONSULTATIONS

### Colas

The Developer should contact Colas for Highway coordination purposes.

### Transportation

The trip generation is not likely to have a material impact on the capacity of the local highway network and as a consequence I would not require a transport assessment to be provided, I also note the site is reasonably proximate to public transport services.

Need to widen vehicular access to 5.5m to avoid a vehicle standing in the carriageway waiting to enter the site while one exits. Boundary treatment should be a maximum of 1m high for a distance of 2m on either side of the access to ensure that drivers are able to see pedestrians when emerging.

The SPD 'Parking Standards and Transport Assessments' expectation for this proposal is 15 vehicle parking spaces and 18 cycle parking spaces. Only 13 vehicle parking spaces are provided, and the number cycle parking spaces is not identified although the space provided for those does not appear sufficient to accommodate more than a dozen cycles. No parking survey has been provided to establish the scope for this parking shortfall to be accommodated on-street. This site is located in a predominately residential part of the city where few of the properties have off street parking provision. As a consequence, the existing demand for local parking does not provide capacity to accommodate further demand, particularly overnight and at weekends. The site is not located in that part of the city found to be sufficiently accessible so as to allow the consideration of a reduction in the residential parking standards and consequently it is essential that any new development achieves those standards. Therefore, I must recommend that the application be refused.

### Waste Reduction

The requested amendment/ clarification of the storage capacity, and layout of the bins, has been satisfactorily provided.

#### Contaminated Land Team

Given the residential occupation and siting between current and former fuel storage sites, need conditions to address contaminated land.

#### Environmental Health

Noise: No objection subject to insulating habitable rooms from road traffic noise and the operation of the petrol station.

Air Quality: The latest air quality monitoring has generated provisional data that shows that nitrogen dioxide levels in this Air Quality Management Area (AQMA) is still exceeding the national Air Quality Objective (NAQO). The development would introduce a very limited number of parking spaces, generating very limited car movements, having a negligible impact on local air quality. However, given that the proposal would introduce additional relevant exposures (the new residents) into the AQMA the building design has to make sure that the air quality impact on them is kept to a minimum - a design that can draw clean air into the building from an area other than the front of the building, secured by condition.

#### Lead Local Flood Authority

It would appear the site is currently 100% impermeable (or close to) in which case there is an opportunity to provide betterment in terms of surface water run-off from the site. This would be PCC's favoured approach as the site must currently drain to the combined sewer as there are no surface water sewers or watercourses in the vicinity of the site according to our mapping. Implementing even a 20% landscaped / greenfield area on the site would imply a near 20% decrease in run-off from the existing. It would also likely mean that attenuation of any sort will not be required. I would welcome a view of the Drainage Strategy once it is available.

#### Southern Water

No objections, request condition to address the means of foul sewerage and surface water disposal. It appears that the existing site may be discharging surface water runoff to the public sewer. The public sewer is a combined system, receiving both foul and surface water flows, and no flows greater than currently received can be accommodated in this system. If the applicant wishes to investigate this option, the applicant will be required to provide Southern Water with a topographical site survey and/or a CCTV survey. The survey should show the existing roof, drive and highway areas draining to the sewer and their connection points, pipe sizes, gradients and calculations confirming the proposed flows will be no greater than the existing flows received by the sewer. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

#### Environment Agency

No response received.

#### Housing

The S106 offsite Commuted Sum figure for the Affordable Housing provision due from this particular development is £235,500.

#### Police

No response received.

### **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS15 (Sustainable design and construction),

PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes) and PCS21 (Housing Density), PCS23 (Design and Conservation). Saved policy DC21 (Contaminated Land) of the Portsmouth City Local Plan. Supplementary Planning Documents (SPD) in respect of Housing Standards (January 2013), Parking Standards and Transport Assessments (July 2014), Sustainable Design & Construction (January 2013) Solent Protection Areas (April 2014), Reducing Crime Through Design SPD (March 2006), Air Quality and Pollution are also relevant to the determination of this application.

## REPRESENTATIONS

Six letters of objection received, raising the following points:

- (a) Should be no higher than Holmes Park, 3 storey would be better. Will lose light to our properties;
- (b) Oppose proposed balconies, would cause loss of privacy including for our young children, please remove or relocate to front of building. Also, we were told that the windows would be angled away;
- (c) For privacy, noise reduction and security, request a new, tall wall in line with existing wall at rear of petrol station;
- (d) Should not be yet more flats for the area;
- (e) We applied for planning permission for our house opposite to be changed into just two flats, we were refused on the basis that there were too many flats in the area, this seems a bit unfair. Can I re-submit my plans and get planning consent?
- (f) Not enough parking spaces provided.
- (g) Bend in the road will make the vehicular access dangerous. The access will also disrupt traffic flow south, as cars wait to turn into the site. There are accidents in this area;
- (h) Would it be more sensible to place the parking area next to the petrol station, rather than the flats? Why were people to the rear (Maylands Avenue) favoured over Holmes Park residents?
- (i) Need to avoid construction dirt and dust for the neighbours;
- (j) Putting a family-sized, three-bedroomed flat at the top, with no lift, is not good planning;
- (k) There should have been pre-application consultation, as nothing will be changed once the application is made.

## COMMENT

The principal issues arising with this application include:

- o The principle of demolition of the former public house, and the residential use of the land;
- o Scale, design and townscape;
- o Neighbouring residents' amenities;
- o Future residents' amenities;
- o Transportation matters;
- o Ecology.

### The principle of demolition of the former public house, and the residential use of the land

The building has been subject to unfortunate alterations over the years, principally the forward extensions and the paintwork, reducing the quality of what appeared to have been quite an attractive building originally. Also, there have been extensive single-storey additions around the side and rear of the original building. While these alterations and additions are probably reversible and/or able to be mitigated and the building restored to a better quality visually, I do not consider it would make such an important contribution to the streetscene that its retention could be insisted upon. As such, I have no objection to its demolition.

The site lies within the urban area and within a predominantly residential area, it is 'previously developed land', it is within close distance of various shops, services, public open space and is on a bus route. As such, the principle of the residential use of the land is acceptable.

On 19th February, the Government confirmed its proposed changes to the National Planning Policy Framework and Planning Practice Guidance regarding housing needs and housing supply. Following those changes, the Council can demonstrate 4.7 years supply of housing land. The NPPF states that for applications involving the provision of housing, the adopted plan policies are deemed to be out-of-date in situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, and the permission in favour of sustainable development applies.

In that case, national policy states (Paragraph 11. d) that permission should be granted unless (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The starting point for the determination of this application is the fact that Authority does not have a 5 year housing land supply, and the proposed development would contribute towards meeting housing needs. Planning permission should therefore be granted unless either test (i) or test (ii) above is met. The proposed development has been assessed on this basis and is still deemed to be acceptable in principle, the reasons for which are detailed below.

#### Scale, design and townscape

The main body of the existing building is not of large footprint but it is of a good height, with its two-storey eaves matching those of the adjacent three storey building (Holmes Park) to the north. There is a strong pitched roof above. The proposed building would be of broadly-similar height, albeit with a recessed top storey and much greater footprint and mass. Milton Road is a heavily-trafficked and wide distributor road with a strong urban form, with three and four storey buildings nearby. As such, I consider the scale of the three-storey-plus-roof building proposed would make an entirely acceptable addition to the streetscene. It would also provide a suitable built-form to front the highway and provide a link to the petrol station to the south, where there is presently what could be viewed as a weak gap.

Aside from its scale, I consider the elevational design to be of good quality also - there is a positive articulation and rhythm to the elevations (assisted by the projecting framework around the windows), and the front door and access core above are clearly marked by a similar framework approach. Subject to choice of good quality materials (controlled by condition), and the quality of construction, I consider the building would make a good addition to Milton Road.

#### Neighbouring residents' amenities

The proposed building constitutes a significant change to the amount of built form on the site, especially for the nearest residents to the rear (west) on Maylands Avenue. This would affect their outlook, light and privacy.

The site's rear boundary is approximately parallel to the rear elevations of the houses on Maylands Avenue. The proposed building, though, like the existing, would be parallel to Milton Road, and splayed away from the Maylands Avenue houses (by c. 30 degrees). This means the nearest parts of the proposed building would be 20.4m from the nearest rear elevations on Maylands Avenue (nos. 20-24), and a maximum of 23.3m (from no. 18). The building would be between 4.6m and 6.6m from the shared boundary with Maylands Avenue gardens.

## OUTLOOK

No. 24 Maylands Avenue is at the northern end of the road, and looks directly at the rear of the existing building (which has a large, unattractive kitchen flue). The northern element of the new building would be of similar scale to the existing, positioned slightly closer (1.9m) but further to the south (5.2m). The impact of the new building, could therefore be deemed to be similar to the existing. However, these residents' more open aspect further to the south, across the former pub car park, would be significantly altered by the new building, as would the more direct aspect from nos. 22 - 18. Therefore, I have to carefully consider the acceptability of this change.

I note the separation of between 20.4m and 23.3m is not excessively close, especially in a densely-developed city like Portsmouth. Further, a building of this sort of form and scale is to be expected at a site such as this, fronting a sizeable and busy main road. I consider the design of the building, with its stepped rear elevation and well-composed fenestration, would also assist in reducing the overall perceived impact of the development.

## LIGHT

Daylight: I do not consider daylight reaching residents' gardens, and windows especially, would be affected to an extent to consider refusing the application.

Sunlight: by my own judgement on site, I considered early-morning, low sunlight would be blocked by the new building, to Maylands Avenue gardens and windows. This is corroborated by the Applicant's shadow diagrams. However, this would be short-lived at the start of the day only, and the residents' own garden structures would already cast their own shadows over the gardens in a similar manner. Again, given the densely-developed nature of the city, such an impact is to be expected and I do not consider the effect would be unreasonable for nearby residents.

## PRIVACY

The distance of 20.4m to 23.3m is at the margins of acceptability in my opinion, for inter-visibility between habitable rooms. Similarly, I consider the distance between new windows and the nearest points of the Maylands Avenue gardens (beyond their outbuildings) to be close, at some 7-8m. Again, the angle of the proposed building would also assist slightly in lessening perceptions of loss of privacy, as would the outbuildings in the Maylands Avenue gardens. As originally submitted, the upper storeys had sizeable, rear-facing balconies. This raised concerns about privacy from the Maylands Avenue Residents, and I shared that concern. The Applicant has therefore removed the rear balconies. Also, I considered the full-height rear windows would have given a perception of more visual connection between new and existing residents, and so the Applicant has replaced the lower glass pane with an opaque or tinted panel (details to be agreed, by condition).

With all the above considerations, and notwithstanding the scale and proximity of the new building proposed, I am not persuaded, on balance, that the effect would be so significant on Maylands Avenue residents' amenities as to withhold planning consent.

With respect to the 5 year housing supply set out earlier in this report, the NPPF states that permission should be granted unless either of its two tests are met. I have identified a significant effect on residents' amenity that I consider this proposed development would produce. With respect to the two NPPF tests:

The site is not affected by an 'area or asset of particular importance', so NPPF test (i) is not engaged.

For test (ii), the development would provide twelve new dwellings to help meet the city's housing supply, which is below the required 5 year total. The new dwellings are an important benefit of

the application. I consider the impacts on residents' amenity of granting permission would not 'significantly and demonstrably outweigh the benefits' of the scheme, when assessed against the policies in the NPPF taken as a whole. As such, planning permission must be granted.

For the neighbouring residents away from Maylands Avenue:

The Holmes Park flats building to the immediate north has a first-floor side window, facing the application site. Approved plans suggest it serves a corridor, and no neighbour has objected concerning this matter. In any event, the new building would be site further away from the window than the existing, so there would be an improvement in amenity for the neighbouring site.

Lastly, for residents opposite on Milton Road, the effect of the proposal on amenity is acceptable, given existing scale in the area, and the width of and traffic movements on the main road between.

#### Future residents' amenities

The flats all exceed the minimum sizes set out in the Nationally Described Space Standards. The development would have landscaped gardens to the front and rear and the site is near the pleasant Milton Park and other public open space. As such, I am satisfied the future residents would have suitable amenity.

#### Transportation matters

PCC Highways requested the vehicular access be widened to 5.5m, the Applicant has made the amendment. PCC Highways note the importance of visibility of pedestrians for vehicles exiting the site, that will be secured by condition.

PCC Highways object due to the shortfall of two parking spaces on-site: the SPD standard for this development would be fifteen, thirteen spaces are proposed. They note existing high on-street parking demand in the area. Notwithstanding, I note the sustainable nature of the site, close to a wide range of shops and services, parks, bus routes, and 1.3km from Fratton train station. Along with meeting the city's housing need strongly in favour of the application, and the shortfall of just two spaces, there would be no justification for withholding planning consent on the matter of parking.

One resident considers the position of the proposed site access is dangerous, and would also cause a disruption to traffic flow south as cars wait to turn into the site. Your Highways Officer has not raised any concerns on these matters.

#### Ecology

Bats: an assessment of bats' presence is required for the demolition of an older building. The LPA consulted the Hampshire Ecologist at pre-application stage, who advised that given the site location and apparent good quality of the roof, a bat survey would not be necessary.

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

The Solent Recreation Mitigation Strategy (December 2017) was adopted by Portsmouth City Council on 1st April 2018 and replaces the Interim Solent Recreation Mitigation Strategy

(December 2014) and the associated Solent Special Protection Areas Supplementary Planning Document (SPD) which was revoked by the City Council from 1st April 2018. The Strategy identifies that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. It sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations. This development is not necessary for the management of the SPA.

Based on the methodology set out within the Strategy, an appropriate scale of mitigation for this development is £5,094, which the Applicant has opted to pay through a Section 111 agreement prior to planning consent being issued, rather than through the s.106 legal agreement. With this mitigation, the LPA has concluded that the adverse effects arising from the proposal are wholly consistent with and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy. The LPA's assessment is that the application complies with this strategy and that it can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above. The requirement for a payment to secure mitigation is both directly related to the development and be fairly and reasonably related in scale to the development.

## OTHER MATTERS

### Affordable Housing

Although the Applicant offered 75% Affordable Housing, the policy requirement for on-site affordable housing derived from a development of twelve flats is 25%. This figure is increased to 33% for off-site provision which, in this instance equates to a sum of £235,500. On-site provision would very likely be unattractive to a Registered Provider as part of a small block with private housing, so the preference is to provide it off-site, by way of a commuted sum. The applicant has agreed to pay that sum, by way of a S.106 legal agreement.

### Sustainable Design and Construction

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

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

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

### Other environmental matters

The Contaminated Land Team have noted current and past land uses adjacent to the site, and its wider current context, and requested conditions for contaminated land.

The site is in an Air Quality Management Area. Our Air Quality colleague was consulted on the proposals at pre-application stage and again following application submission, and he requires a special scheme to draw clean air into the flats (from the rear of the building), given the pollution problems on the Milton Road frontage. Such a condition is attached.

Drainage - the site should achieve drainage 'betterment', as it is covered in 100% impermeable surfaces currently, and areas of landscaping would be introduced with the new development.

One resident has raised concern about construction dust. This matter can be controlled to at least some extent by a construction management condition.

### Letters of objection

The majority of the points raised in the letters of objection have been addressed in my report. I address the last points as follows:

Some residents have requested a new, tall wall at the site rear, this will be addressed by the boundary treatment condition.

One resident has questioned consistency of decision-making, but has not provided the address in question so I cannot reply.

One resident has questioned the wisdom of having a 'family-sized', three-bedroomed flat at the top with no lift, but this is not a planning matter.

## **CONCLUSION**

The site is well-located within the urban area for a range of shops, services and public transport and is acceptable in principle for residential development. The development would provide the benefit of contributing towards the city's housing supply, which currently does not meet the 5 year requirement. Scale and design is appropriate for the context. Amenity for Maylands Avenue residents would certainly be affected, but not unduly and on balance in my opinion. Also, as set out above, it is considered that any harm on residents' amenities would not significantly and demonstrably outweigh the benefit of providing new dwellings and an affordable housing contribution. The NPPF therefore requires that the application should be approved. I consider the development is acceptable, constitutes Sustainable Development, and should be approved, subject to the following conditions and a legal agreement to secure the affordable housing.

RECOMMENDATION A: that delegated authority be given to the Assistant Director of Planning & Regeneration to grant planning permission, subject to the following conditions, and subject to completion of a Section 106 Legal Agreement to secure the off-site contribution for Affordable Housing (£235,000);

RECOMMENDATION B: that delegated authority be given to the Assistant Director of Planning & Regeneration to refuse planning permission if the Section 106 Legal Agreement has not been completed within three months of the date of this resolution.

## **RECOMMENDATION                      Conditional Approval**

### **Conditions**

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

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 8716 01 Rev. A (Site plan)

8716 03 Rev.A (main Proposed Elevations)

8716 04 Rev.\*\*\* (other Proposed Elevations)

3) No development shall commence on site until details of the types and colours of external materials to be used has been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

4) (a) Works related to the landscaping of any phase of the development hereby permitted shall not take place, unless otherwise agreed in writing by the Local Planning Authority, until a detailed landscaping scheme for the external areas, which shall specify species, planting sizes, spacing and density / numbers of trees / shrubs to be planted; the phasing and timing of planting; a detailed scheme of ground preparation and maintenance for planting areas, and provision for its future maintenance has been submitted to and approved by the Local Planning Authority in writing.

(b) The works approved shall be carried out in the first planting and seeding season following occupation of the buildings within that phase of the development, or the completion of that phase of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.

5) No part of the development hereby permitted shall be occupied until boundary treatments have been completed in accordance with a scheme detailing the type, alignment, height, appearance, materials / finishes of any boundary treatment or other gate / fence / railing / barrier / bollard or similar means of enclosure that shall previously be submitted to and approved in writing by the Local Planning Authority.

6) A lighting scheme shall submitted to and approved in writing by the Local Planning Authority, and the approved scheme shall be implemented prior to first occupation of the development hereby approved. The development shall be occupied in accordance with the approved scheme thereafter.

7) No works pursuant to the construction of the new build blocks hereby permitted shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority:

a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011+A1:2013;

and unless otherwise agreed in writing by the LPA,

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA,

c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

8) None of the residential accommodation hereby permitted shall be occupied until it has been insulated against external noise in accordance with a scheme that shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall thereafter be retained.

9) None of the residential accommodation hereby permitted shall be occupied until a scheme for clean air ventilation has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall thereafter be retained.

10) a) Development shall not commence until a Construction Management Plan (to include construction vehicle routing, deliveries timing, the provision of loading/offloading areas, wheel wash facilities, site office, contractors parking area and any temporary traffic restrictions) has been submitted to and approved in writing by the Local Planning Authority.

b) The approved plan shall be implemented and maintained until the development is complete.

11) (a) Development shall not commence, unless otherwise agreed in writing by the Local Planning Authority, until details of (i) the proposed means of foul and surface water sewerage disposal, (ii) the measures to be undertaken to protect any existing public sewers infrastructure, and (iii) the details of any 'sustainable urban drainage' systems (including future management and maintenance), shall have been submitted to and approved in writing by the Local Planning Authority, and

(b) No part of each phase of the development shall be occupied until the drainage works referred to in (a) above and any required attenuation have been carried out in accordance with the approved details relating to that phase, unless otherwise agreed in writing by the Local Planning Authority.

12) Boundary treatment and landscaping should be a maximum of 1m high for a distance of 2m on either side of the access to ensure that drivers are able to see pedestrians when emerging.

The reasons for the conditions are:

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

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

3) In the interests of the visual amenities of the area in accordance with policy DC1 of the Portsmouth City Local Plan 2001-2011.

4) To secure a high quality setting for the development in the interests of the visual amenity of the area and to conserve and enhance biodiversity, in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.

5) To secure a high quality appearance to the development in a visually prominent location, to protect the privacy (where relevant) of users of the scheme in the interests of the amenity of the area and to balance safety/security needs with townscape improvement, in accordance with policy PCS23 of the Portsmouth Plan, Reducing Crime Through Design SPD and the principles of good design in the NPPF.

6) In order to protect residents' and local amenity, and provide adequate security/safety for the residents of the development, in accordance with PCS23 of the Portsmouth Plan.

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

8) To ensure that acceptable noise levels within the dwellings and the curtilages of the dwellings are not exceeded in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.

9) To ensure that acceptable air quality within the dwellings is provided, in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.

10) To minimise environmental effect on neighbouring residents, and to minimise the potential for conflict with or hazard to existing users of the surrounding highway network in accordance with policy PCS17 and PCS23 of the Portsmouth Plan.

11) To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system in accordance with the aims and objectives of the NPPF and policy PCS12 of the Portsmouth Plan.

12) To protect pedestrian/highway safety in accordance with the aims and objectives of the NPPF and policy PCS17 of the Portsmouth Plan.

### **PRO-ACTIVITY STATEMENT**

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

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**65 MARMION ROAD SOUTHSEA PO5 2AX**

**CONVERSION OF ALL FLOORS OF NO.65 TO FORM SINGLE DWELLING HOUSE, EXTERNAL ALTERATIONS TO INCLUDE DEMOLITION OF SINGLE STOREY EXTENSION (FORMER SHOP FRONT) FRONTING MARMION ROAD, REINSTATEMENT OF GROUND FLOOR BAY WINDOW, CONSTRUCTION OF DORMER TO WEST FACING ROOFSLOPE AND ERECTION OF FRONT BOUNDARY WALL AND PIERS WITH NEW ACCESS ONTO MARMION ROAD; DEMOLITION OF SINGLE STOREY STRUCTURES/WORKSHOP TO REAR; CONSTRUCTION OF A SINGLE STOREY EXTENSION TO REAR OF NO.65 AND A NEW DETACHED 1 BEDROOM SINGLE STOREY DWELLING TO REAR (NORTH) OF SITE.**

**Application Submitted By:**

Stuart Bone  
PWP Architects

**On behalf of:**

Mr George Pound

**RDD:** 1st December 2017

**LDD:** 1st March 2018

**SUMMARY OF MAIN ISSUES**

The application is being re-presented to the Planning Committee for determination for the following reasons:

- a) The Planning Committee at its meeting on 12 December 2018 resolved to defer consideration of the application to allow further discussion with the applicant regarding the possibility of removing the single dwelling at the rear from the application and to look at the possible redesigning of the roof of the proposed new dwelling on the eastern boundary to reduce the impact on neighbours in Marmion Avenue;
- b) a deputation request;
- c) an objection from the Highway Authority on highway safety grounds; and
- d) the creation of a residential use at ground floor level would be contrary to policy STC2 of the Southsea Town Centre Area Action Plan.

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

- whether the principle of residential development is acceptable
- whether the loss of the retail and workshop uses in this location are acceptable in principle
- whether the design of the proposed development is appropriate
- whether the proposal would preserve or enhance the character or appearance of the Owens Southsea Conservation Area
- the likely impact on the residential amenity of those occupying nearby residential properties
- highway/parking implications
- impact on the Solent Special Protection Area (SPA)

**Site and Proposal**

The application site is located on the northern side of Marmion Road, some 26m to the west of the junction with Marmion Avenue. It lies within Owens Southsea Conservation Area and an

indicative area at risk of flooding by sea water (zone 2 and 3). The southern half of the site also lies within the defined boundaries of Southsea Town Centre. The site is almost entirely covered by buildings - the southernmost section comprises a two storey, semi-detached rendered building with rooms in the roofspace and single storey flat roofed extensions to the east, west and south whilst to the rear are two shallow pitched, interconnected outbuildings.

The site as a whole is currently vacant; the upper floors of the two storey building contain a maisonette and the whole of the ground floor of the site was last used by CP Fastenings and Supplies, a fastening and hardware business with the majority of the ground floor of the site used as workshops with a retail element at the front open to the trade and public Monday-Saturdays. To the north, separated from the application site by the garden area of No.5 Marmion Avenue, are two locally listed properties at 16 and 18 Nelson Road (Hillsborough Mansions and Horatio Court respectively). To the east are numbers 1-5 Marmion Avenue (a cul-de-sac leading from Marmion Road) and to the west a residential development known as Yves Mews. A pedestrian accessway along part of the eastern boundary of the site links the rear of properties 1-5 Marmion Avenue and the application site with this highway. This strip of land is unadopted and gated at its junction with the road.

The application seeks planning permission for the conversion of all floors of No.65 to form a single dwelling house, external alterations to include the demolition of the single storey extension (former shop front) fronting Marmion Road, the reinstatement of the ground floor bay window, construction of a dormer window to the west facing roofslope (serving a second floor bathroom); the erection of a front boundary wall and piers with new access onto Marmion Road; demolition of the single storey structures/workshop to the rear; construction of a single storey extension to rear of No.65 and a new detached 1 bedroom single storey dwelling to rear (north) of site.

Revisions to the proposal following the deferral at Planning Committee:

The application does not see the removal of Unit 2 from the scheme and apart from the replacement of the lantern style rooflight with a flatter one, the overall scheme remains unchanged. It is understood that whilst alterations to the roofline on the eastern side of Unit 2 were explored by the applicant, it was considered that to do so would compromise the overall aesthetics and balance of the external appearance of the proposed building. The application has however been supported by a sun study (for the winter and summer solstices and spring equinox at half hour intervals) demonstrating the shadow lines created by the proposed development on neighbouring land and sectional drawings clarifying the relationship between the site (both existing and proposed) and the rear of the Marmion Avenue properties.

The applicant also makes observations that the improvements to Unit 1 are to be offset by the proposal for Unit 2; the houses east of the application site fronting Marmion Road up to the junction with Marmion Avenue have small north facing gardens and it is not unreasonable to carry on this pattern of development for Unit 1 leaving a reasonable sized plot for Unit 2; and that the extant permission for a replacement workshop on the site was to be clad in plastic coated steel sheeting of an unspecified colour which may not sit well within the conservation area.

The relevant planning history includes:

16/00655/FUL - Construction of single storey storage building to rear of property to replace existing - Conditional Permission 05.07.2016

A\*23411/AA - Installation of new shopfront - Conditional Permission 21.05.2004

A\*23411/B - New shop front - Permission 22.09.1973

A\*23411/A - Erection of a storage building - Conditional Permission 13.04.1967

A\*23411 - Demolition and rebuilding of a store for spare parts at the rear - permission  
22.09.1960

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:  
PCS23 (Design and Conservation), PCS12 (Flood Risk), PCS17 (Transport), STC2 (Southsea Town Centre), DC21 (Contaminated Land), PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth),

In addition to the above policies, the aims and objectives of the National Planning Policy Framework, the Parking Standards and Transport Assessments SPD, the Solent Recreation Mitigation Strategy (December 2017) and the Owens Southsea Conservation Area Guidelines are relevant.

## **CONSULTATIONS**

### **Highways Engineer**

UPDATED COMMENTS: 17th May 2018

I have reviewed the revised parking arrangement proposed at the property frontage as shown on drg no. 1200 C and note that whilst this does now provide two independently accessible parking spaces it does not provide adequate visibility for emerging drivers to see pedestrians walking along the footway.

As I have previously advised these should be provided as 2m by 2m splays on either side of the access which would be practically achievable if the access was located centrally on the plot. In the absence of such provision I must object to the proposal on highway safety grounds and would note that whilst the proposed arrangement is consistent with those accesses immediately to the east of the property such accesses with inadequate pedestrian visibility should not be perpetuated.

15th January 2018

I have reviewed the drawings submitted in support of this application which proposes the conversion of the retail unit and residential accommodation above to form single dwelling house, including the demolition of single storey extension (former shop front) fronting Marmion Road to provide 2 parking spaces and demolition of single storey structures to rear; construction of a single storey extension to rear of dwelling and a detached single storey dwelling to rear of property. I would make the following observations.

The existing residential use on the site has a parking requirement of 1.5 spaces although none are provided. The proposal would increase the residential parking requirement to 3 spaces and proposes the provision of an additional 2 spaces on the property frontage. As a consequence the effect of this proposal will be to reduce the overnight on street parking demand associated with this site which is the critical consideration in this locale.

Unfortunately the proposed arrangement of the parking spaces on the frontage does not allow for those to be accessed independently nor provide adequate visibility for pedestrians.

As a consequence as this application stands I must recommend refusal although if the parking spaces were rearranged such that they could access the highway independently and provision was made to secure pedestrian visibility splays of 2m by 2m on either side of the access then I would not wish to raise a highway objection to this application.

## **Environment Agency**

The proposed development will only meet the requirements of the National Planning Policy Framework (NPPF) if the following measures as detailed in the Flood Risk Assessment (September 2018) submitted with this application are implemented and secured by way of a planning condition on any planning permission.

The Environment Agency requests that the following condition be attached to any planning permission granted, and that the details in relation to these condition be submitted and approved by the Local Planning Authority.

### **Condition**

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

- o The finished floor levels of Unit 2 should be set no lower than 4.6mAOD.

### **Reasons**

- o To ensure the safety of the development and future occupants.

The condition is in line with the Planning Practice Guidance ("PPG") to the NPPF for Flood Risk and Coastal Change.

### **Comments**

The proposed development is located within tidal flood zone 3 and is considered to have a high probability of flooding (0.5%, 1 in 200) from the sea in any year. The current 1 in 200 year tide level is given as 3.2mAOD, rising to 4.3mAOD by 2115, when considering the effects of climate change and sea level rise.

We have reviewed the submitted FRA and note that the site could be subject to significant depths of flooding over its lifetime with worst case flood depths of 1.5m which means the ground floor of the building is subject to inundation.

The road levels are identified as 2.8mAOD. Therefore, safe access to and from the building will not be possible in case of a flooding. As a result, emergency services will not be able to operate and the safety occupants will be reliant on safe refuge within the building or prior evacuation.

#### **Advice to the Local Planning Authority**

Unit 2 is a self-contained new build one storey dwelling, which will be located in the garden of the main dwelling. Residents of Unit 2 will be entirely reliant on safe refuge within the building in case of a flood event. The Local Planning Authority needs to be satisfied that safe refuge within the building is adequate and that the building will remain structurally sound given the potential depth of flooding possible at the site.

The Local Planning Authority may decide that in the absence of safe access and egress, the risk to the users of the development can be mitigated by alternative means. In coming to a decision on the proposed development, the Local Planning Authority should therefore give careful consideration, in consultation with relevant specialists, to the mitigation measures proposed. Specifically, consideration should be given to whether or not the availability of safe refuge, the submitted flood response plan contained within the FRA and recommended resilience measures would enable users of the development to avoid the flood hazards identified.

If the Local Planning Authority is not satisfied, taking into account all relevant considerations, that the proposed development can be considered safe without the provision of safe access and exit then planning permission should be refused.

The Environment Agency will support the decision of the Local Planning Authority on flood risk matters and should the Local Planning Authority be minded to refuse the application on the grounds that the mitigation proposed is not considered satisfactory, the Environment Agency would provide full support at appeal.

In reviewing the site flood response plan, we recommend that the Local Planning Authority consult their emergency planners, the emergency services and the Local Resilience Forum. It is essential that this consultation takes place prior to the granting of planning permission, as the agreement and securing of a suitable flood response plan will be crucial for the safety of the development.

Advice to Applicant

Flood warning and evacuation

We recommend that the owner/occupants sign up to the Environment Agency Flood Warning Service and have a flood evacuation plan.

Please note that it is not our role to assess any details on flood evacuation or emergency plans, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise Local Planning Authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

The PPG states that Local Planning Authorities should consult their emergency planning staff to ensure evacuation plans are suitable through appropriate planning conditions (PPG Ref ID: 7-057-20140306).

Therefore, we recommend seeking comments from your Local Authority emergency planners.

### **Flood mitigation measures**

We recommend that consideration be given to use of flood mitigation measures to reduce the impact of flooding when it occurs. Flood mitigation measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels.

### **Eastern Solent Coastal Partnership**

UPDATE 2/10/18:

Following submission of the updated Flood Risk Assessment Report (dated 24th September 2018), the Eastern Solent Coastal Partnership (ESCP) are happy to remove their previous objection to the proposed development.

The site is shown to lie within the Environment Agency's Flood Zone 3 and is therefore considered to be at risk of experiencing a 1:200 year (0.5% annual probability) extreme tidal flood event. For information, the present day 1:200 year extreme tidal flood level for Portsmouth Harbour is 3.2 mAOD, increasing to a predicted 4.3 mAOD by the year 2115, due to the effects of climate change.

The applicant has submitted a Flood Risk Assessment Report, compiled by Cowan Consultancy and dated 18th June 2018, which sufficiently outlines how flood risk at the site will be mitigated. As stated within the FRA, safe evacuation of the site may not be possible during an extreme tidal flood event, therefore occupants of the site will be reliant upon the provision of safe internal refuge. No sleeping accommodation is proposed to be located on the ground floor of the main dwelling and will instead be located on the first floor, above the 1:200 year extreme tidal flood level of 4.3 mAOD for Portsmouth Harbour in 2115. In addition, the FRA advises that the finished floor level of the proposed 1-bedroom single storey unit will be set at 4.6 mAOD, allowing for a 300mm freeboard above the design tide level of 4.3m AOD.

Furthermore, a number of flood resilience measures have been proposed, as well as the installation of sealed covers for all new drainage inspection chambers. Finally, the applicant has proposed that a Flood Warning and Evacuation Plan be prepared prior to occupation of the site, in accordance with advice from the Environment Agency.

#### Southsea Coastal Defence Scheme:

The Eastern Solent Coastal Partnership on behalf of Portsmouth City Council are currently designing the next generation of coastal flood defences in Southsea. These defences are subject to funding - if the necessary contributions and consents can be secured, construction of these defences will significantly reduce the risk of coastal flooding to the area and will be of direct benefit to this proposed development.

#### Contaminated Land Team

Part of the site has been used for manufacturing. As a precaution given the residential end-use the following standard conditions are requested:

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

a) A desk study (undertaken in accordance with best practice, including BS10175:2011+A1:2013+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the site. The report shall contain a conceptual model showing the potential pathways that exposure to contaminants may occur, including any arising from asbestos removal, both during and post-construction, and unless otherwise agreed in writing by the LPA,

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A1:2013 and BS 8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs)'). The laboratory analysis should include assessment for heavy metals, speciated PAHs and fractionated hydrocarbons (as accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS)). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation; and, unless otherwise agreed in writing by the LPA,

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

shall include nomination of a competent person to oversee the implementation and completion of the works.

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

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

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

### **Environmental Health**

No objections or recommendations to make.

### **REPRESENTATIONS**

At the time of presenting the application to the Planning Committee on the 12 December 2018, 19 letters of objection had been received from 6 neighbouring residential properties (67 and 69 Marmion Road, 14E Nelson Road, 1, 2, 3 and 4 Marmion Avenue) and Cllr David Tomkins raising the following issues:

- a) proposed height of Unit 2 would be a significant increase as compared with current structure and permitted replacement workshop (under 16/00655/FUL),
- b) the bulk, height and proximity to boundaries of Unit 2 would:
  - \* be overbearing/unneighbourly,
  - \* cause loss of daylight and outlook,
  - \* increase the sense of enclosure,
  - \* result in loss of privacy,
  - \* create additional noise pollutionto the rear of adjacent properties in Marmion Avenue and Marmion Road
- c) have an inappropriate impact on properties in conservation area and be contrary to policy PCS23
- d) the increased height of Unit 2 would result in the building being more readily visible from properties to the north (14B-E Nelson Road)
- e) proposed skylight in Unit 2 would cause light pollution and affect privacy of rear windows of Marmion Avenue properties
- f) proposed new gate from garden of Unit 2 to rear passageway serving 1-5 Marmion Avenue would compromise security and privacy of Marmion Avenue and Marmion Road properties; concern regarding its more regular use or use during event of flooding - question whether the proposed new position of gate serving Unit 2 has legal access to the alleyway (was understood to be a necessary emergency exit for former retail unit not a regular entrance)
- g) concern that as Unit 2 has no parking provision that Marmion Avenue would be used which is already overcrowded and would cause inconvenience to residents of the road (encouraged by pedestrian access into passageway)
- h) concern about potential prospect of another storey being added in the future - want condition/covenant imposed to prevent this

- i) concern that demolition of any structure containing asbestos should be disposed of properly
- j) potential negative impact on surrounding property values

Most objectors do not object to the proposals for Unit 1 and would have no objection if Unit 1 had a rear garden area extending the length of Marmion Avenue.

3 letters of representation received from 67 Marmion Road, raising the following issues:

- a) In general in favour of development, and provided that the issues raised by neighbours objections can be resolved, would consider the proposal would convert the current eyesore into much needed residential housing
- b) Removal of the rundown shopfront and the sympathetic restoration of the house would undoubtedly make a great improvement to the appearance of Marmion Road
- c) satisfied that revised plans address previous omissions and inconsistencies.

Following the deferral of the application by the Planning Committee on 12th December 2019, further publicity was undertaken on receipt of amended plans (showing alterations to the rooflight of Unit 2) and additional information in the form of the sunlight study and separate drawings showing the relationship with Marmion Avenue properties. Three additional letters were received from nos.3 and 4 Marmion Avenue and 14E Nelson Road raising the following new matters:

- \* the applicant has not addressed either of the expectations set out by the Committee at the time of deferral;
- \* the sense of enclosure would not be lessened by alteration to rooflight;
- \* the sun study does not wholly reflect living experience at the rear of the Marmion Avenue properties in that they have sun in mid summer beyond what the study suggests, but even this study reflects a significant reduction in sunlight during this time;
- \* the current planning permission on the application site is not relevant as it was a like-for-like replacement of a commercial premises;
- \* permitted development outbuilding allowances would be lower than proposal.

## **COMMENT**

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

- whether the principle of residential development is acceptable
- whether the loss of the retail and workshop uses in this location are acceptable in principle
- whether the design of the proposed development is appropriate
- whether the proposal would preserve or enhance the character or appearance of the Owens Southsea Conservation Area
- the likely impact on the residential amenity of those occupying nearby residential properties
- highway/parking implications
- impact on the Solent Special Protection Area (SPA)

Principle of residential development within the site:

On 19th February, the Government confirmed its proposed changes to the National Planning Policy Framework and Planning Practice Guidance regarding housing needs and housing supply. Following those changes, the Council can demonstrate 4.7 years supply of housing land. The NPPF states that for applications involving the provision of housing, the adopted plan policies are deemed to be out-of-date in situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, and the permission in favour of sustainable development applies.

In that case, national policy states (Paragraph 11. d) that permission should be granted unless (i) the application of policies in this Framework that protect areas or assets of particular

importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The starting point for the determination of this application is the fact that Authority does not have a 5 year housing land supply, and the proposed development would contribute towards meeting housing needs. Planning permission should therefore be granted unless either test (i) or test (ii) above is met. The proposed development has been assessed on this basis and is deemed to be acceptable in principle, the reasons for which are detailed below.

Principle of loss of retail and workshop uses:

The proposal is located in the Marmion Road section of the Southsea Town Centre secondary frontage. The frontage of no. 65 Marmion Road is a vacant unit previously in retail use (CP Fastings and Supplies).

The proposal would be contrary to Southsea Town Centre Area Action Plan Policy STC2 which states that planning permission will be granted for residential uses at upper floors only. However, the supporting text for the policy notes that while the Primary Frontage should have a high proportion of shops, the Secondary Frontage provides more opportunities for flexibility and diversity of uses. Southsea Town Centre Primary Frontage has a high proportion of retail uses - exceeding the policy requirement for at least 75% of the frontage to be in retail (A1) use. The area of Secondary Frontage where no.65 Marmion Road is located is already largely residential, in terms of both the adjoining properties (61-63 & 67 Marmion Rd) and the opposite parade of properties (Trafalgar Court, Richmond Rd). The removal of the retail unit would result in the loss of 3.91 metres of retail frontage (currently recorded as vacant frontage).

In summary, whilst the proposal is contrary to the criteria of Policy STC2 this must be weighted against any potential merits of the proposal (to be discussed below), and other considerations, including the sites location in the secondary frontage where a more flexible range of uses are generally considered acceptable. The loss of the retail element is therefore not resisted.

The workshop structures to the rear are in close proximity to residential development on all sides and as such is not an ideal location for an industrial use in terms of residential amenity and access/deliveries. The loss of this industrial floorspace in this particular location is not therefore resisted.

Design:

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

Unit 1

The principle of the proposed conversion of No.65 (being the main semi-detached building within the plot) to one x 5 bed roomed dwellinghouse (including modest pitched roofed dormer to the west facing roofslope) is supported. It would make a contribution to the city's shortage of family sized houses, would be entirely compatible with the adjoining semi-detached property which has remained in a single residential use and would facilitate the removal of the flat roofed extensions to the west and south thereby vastly improving the setting of building within the wider

streetscene. In terms of flood risk, the main house is considered acceptable as no bedrooms are proposed on the ground floor and refuge can be sought on the upper two floors given that it would be a single dwelling.

## Unit 2

The creation of a separate additional dwelling within the site, located to the rear is more challenging. The site is significantly constrained by the proximity of surrounding residential development on all sides but particularly those to the east given that they face directly into the site and have limited garden depths of approximately 6.4-6.6m. In addition, the site lies within an indicative area at risk from flooding and must be considered in the context of the heritage assets of the Owens Conservation Area and the locally listed buildings to the north.

The proposal seeks to address these constraints by limiting the new dwelling to a modest sized, 1 bedroom, single storey, single aspect flat roofed unit located at the northern end of the site. The dwelling would achieve a gross internal floor area of 50.103m<sup>2</sup> thereby meeting the minimum nationally described space standards of 50m<sup>2</sup> for a 1 bed, 2 person single storey dwelling. The unit would offer an open plan kitchen/dining/living area, bathroom and double bedroom - the living area and bedroom would have an outlook southwards into a private garden area which would have a depth of 4.0-4.5m and the kitchen/dining area would be lit by a flat rooflight.

The height of the proposed building has been revised during the course of the application in order to satisfy concerns regarding the risk to the building and those who occupy it from sea water flooding. The most recent plans demonstrate an internal finished floor level of 4.60m AOD for Unit 2. This is considered acceptable to the Environment Agency provided it is secured by condition. It is noted that the road levels are identified as 2.8m AOD and therefore safe access to and from the building would not be possible in case of a flooding. As a result, emergency services would not be able to operate and the safety occupants will be reliant on safe refuge within the building or prior evacuation.

In reply to the final paragraph of the Environment Agency consultation comments regarding emergency plans and responses, PCC has the following Plans in place to deal with an emergency in the event of flooding in the City:

- \* PCC Flood Response Plan - detailing the council specific response to a flooding event
- \* PCC Emergency Response Plan - detailing the generic council command and control arrangements for emergency response, including flooding and evacuation
- \* PCC Rest Centre Plan - detailing the provision of welfare support to evacuated residents and communities
- \* Hampshire and Isle of Wight Local Resilience Forum (HIOW LRF) Multi Agency Flood Response and Recovery Plan Part One - detailing the generic emergency responders arrangements for dealing with a flooding event
- \* Hampshire and Isle of Wight Local Resilience Forum (HIOW LRF) Multi Agency Flood Response and Recovery Plan Part Two - providing a summary profile of flooding in each Lead Local Flood Authority area, including Portsmouth
- \* Hampshire and Isle of Wight Local Resilience Forum (HIOW LRF) Multi Agency Flood Response and Recovery Plan Part Three - operational plans detailing flooding in each EA flood warning area of Portsmouth.

Given its single storey height (albeit raised to address flood risk issues) and the intervening distances (and garden area of 5 Marmion Avenue), it is not considered that Unit 1 would cause harm to the setting of the locally listed buildings to the north.

It is acknowledged that this is a small unit which has a bespoke design in order to address the physical constraints of the site. Whilst compact in its internal layout and offering only a single aspect living environment with limited out-door open space it is considered on balance that this

would provide adequate living accommodation for its occupiers and would contribute, as a windfall site, to the city's housing numbers.

### Proposed Extension to Unit 1

Following demolition of the existing flat roofed extension and pitched roofed workshops surrounding and to the rear of No.65, it is proposed that Unit 1 would have a single storey flat roofed 'L' shaped extension to the rear, wrapping around to the east. Internally this would create an open-plan kitchen/dining area. This extension would not be dissimilar in footprint to that existing at present. The smooth rendered finish would match that on the existing building. The extension is considered acceptable in design terms in the context of the main dwelling and the wider surrounding area.

### Ecology

It is noted that a Phase 1 Ecological Survey was carried out on behalf of the applicant by EcoSupport Ltd in May 2018 that considered the site to be of negligible ecological value and that at the time of the survey, there were no features on site that were suitable to support legally protected and/or notable species. An assessment of the buildings to be demolished were noted as having negligible potential to support roosting bats (supported by a lack of evidence of bats recorded during the Phase 1 Assessment).

### Conservation Area:

S.72 of the Planning (Listed Building and Conservation Area) Act 1990 states within S.72 that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

### Unit 1

The proposed removal of the single storey extension to the front of the main building (No.65) offers the opportunity to enhance the character and appearance of this part of the conservation area. The current flat roofed extension covers the whole of the area in front of the main building and wraps around the western side. Whilst not an unattractive shopfront, its removal would open up the original forecourt in front of the building, allow the re-instatement of the original ground floor bay window (elements of the opening still remain internally) incorporating double glazed sliding sash timber windows (within the new ground floor bay and also the existing first floor bay which currently has UPVC framing) and reveal and re-instate where necessary the pillaster features on the front elevation. In addition the forecourt would be block paved in slate grey colour with a raised brick planting bed incorporated adjacent the western wall. The east and west boundary walls would be made good following demolition and a small section of wall with two piers to match those at No.67 adjacent would be constructed. In combination these works are considered likely to significantly improve the setting and appearance of No.65, re-balance the pair of semi-detached properties of No.65 and 67, and create a frontage consistent with others to the west at Nos. 67, 69 and 71. In turn these improvements would enhance the character and appearance of the Owens Southsea conservation area.

The proposed pitched roof dormer to the west is modest in scale and appropriate in design and the extension to the rear of Unit 1 is considered by reason of its single storey nature and appropriate scale, design and external treatment to preserve the character and appearance of the Owens Southsea conservation area.

### Unit 2

The external design of the proposed unit is flat roofed, with the higher element to the western side (closest to Yves Mews) stepping down slightly on the eastern and northern sides. In order to visually break up the building, the higher element would be clad with vertical cedar cladding

whilst the lower part would be smooth white render. This is not a design typical of this conservation area and would represent a contemporary contrast to its surroundings in response to the significant constraints of the site. The use of cedar cladding would introduce a new material to the general area whilst render is found on the main building within the site, on properties within Yves Mews and on the locally listed buildings to the rear. Given its single storey height, existing and proposed boundary treatments and its northern position within the site, Unit 2 would not be readily visible from the public domain and as such would not be viewed within the wider context of the Marmion Road streetscene. This contrasting approach to the design of the building is considered appropriate for this particular site and would be considered to preserve the character and appearance of the conservation area.

Residential Amenity:

#### Unit 1

The proposed use of No.65 as a single dwellinghouse, the removal of the extension to the front, the addition of a rear single storey extension and west facing dormer window, and the works to the front of the building is not considered development likely to result in any significant adverse impact on occupiers of surrounding residential properties. Indeed representations received have not raised objection to these elements of the application.

#### Unit 2

The existing floor levels within the site increase from south to north. The proposed unit at the rear (Unit 2) is shown to have a finished floor level of 4.6m AOD to satisfy flood risk issues. This would result in the proposed building (excluding the rooflight) being a maximum of 300mm higher than the highest point of the existing workshop. The existing workshop has a shallow pitched roof with a ridge running north-south - the proposed flat roofed building would therefore increase the height on the eastern and western boundaries by approximately 700mm and 1100mm respectively.

This increased height is not considered to significantly adversely affect the properties to the north in terms of any loss of light, outlook or sense of space given the intervening distances and orientation of the properties in question. The adjacent property to the west, No.8 Yves Mews, is in close proximity to Unit 2 however it is noted that this dwelling has only 2 openings facing into the site, both at ground floor level (a window serving a cloakroom and a side door into the kitchen which has its primary window facing north) which already face onto a solid boundary wall (to be retained) exceeding a height of 2.5m within 1m. The additional height of a structure to the east of this boundary wall is not considered to have a significant impact on these openings which already have very limited outlook and light.

The main properties to be affected by the proposal would be 1-5 Marmion Avenue which lie to the east of the site. The rear of these dwellings face into the site, separated by the garden depth of between 6.4m-6.6m and a narrow passageway linking the rear of these properties (and a door leading from the existing workshop) to Marmion Avenue. The removal of the existing workshops would improve the westerly outlook from the rear of 1 and 2 Marmion Avenue but would increase the height of the building directly overlooked by 3 and 4 Marmion Avenue. However, whilst the new building would be readily visible above the existing boundary fence of these properties the proximity, bulk and height of Unit 2 and its proposed boundary treatment would not be excessive and would not be considered to result in a significant loss of available light, outlook or sense of space.

The submitted sun study shows the level of shadow that would result from the proposed development (as compared with the shadow line already created by existing development) at three points throughout the year - June 21st (longest daylight hours), 21st December (shortest daylight hours) and March 21st between the hours of 11am and 8pm. None of these demonstrate an excessive degree of overshadowing of the west facing rear gardens of nos.1-5

Marmion Avenue when compared with the shadows already experienced from the existing workshop and boundary treatment. In respect of this issue the relationship is considered acceptable.

The proposed rooflight has been altered from a projecting lantern style to one flatter in design. Whilst the lantern style rooflight was not considered of sufficient size to cause significant light pollution or disturbance to properties within Marmion Avenue, the flatter version would help reduce horizontal light spill during darker hours. The finished floor height of Unit 2 would not be likely to cause any significant loss of privacy given the orientation of, and relationship between, the buildings involved and boundary treatments proposed.

#### Highway/Parking

The site currently does not benefit from any off-road parking provision. The proposal would provide 2 off-road parking spaces to serve the 5 bed property (Unit 2) and none for the 1 bed property at the rear (Unit 1).

The site lies within Southsea Town Centre and is therefore considered a sustainable location for which no car parking provision can be justified in this particular site for the rear 1 bed unit given the highly constrained nature of the site.

The revised drawings demonstrate that 2 parking spaces can be provided on the new forecourt, they do not however provide the visibility splay recommended by the Highway Authority (HA). As such the HA has raised an objection on highway safety grounds as the proposed access between the two piers does not provide adequate visibility for emerging drivers to see pedestrians walking along the footway.

Whilst a visibility splay would usually be incorporated into a new access, in this particular case it is also necessary to consider the impact of such a feature on the character and appearance of the conservation area. The access proposed is typical of entrances within this part of the conservation area, being flush with the back edge of the footway. Many also have high gates. An entrance with a 2m x 2m splay would result in virtually no meaningful length of boundary walling along the back edge of the footway and have a splayed feature that would be out of character with other entrances within the area. Given that the proposed entrance piers and walling are an essential part of the overall improvements sought to the frontage of this property it is considered that significant weight should be given to the impact on the conservation area and that, on balance, support can be given to the entrance design proposed.

#### Special Protection Areas (SPA) mitigation

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

The Solent Recreation Mitigation Strategy (December 2017) and its charging schedule became effective in the Portsmouth City Council area from 1st April 2018. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. The Strategy sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

The proposal would result in a net increase in units within the site by the creation of the 1 bed dwelling at the rear of the site which in turn would result in an increased population, which would

be likely to lead to a significant effect as described in section 61 of the Habitats Regulations on the Portsmouth Harbour and the Chichester and Langstone Special Protection Areas (SPAs) (as set out in the Solent Recreation Mitigation Strategy). The development is not necessary for the management of the SPA.

Based on the methodology in the Strategy, the appropriate scale of mitigation at the time of presentation to the December Planning Committee was calculated as £337 (for the proposed 1 bed unit). The applicant has provided mitigation through an agreement under S111 of the Local Government Act. With this mitigation, it is considered that there would not be a likely significant effect on the SPAs.

It is noted that the level of developer contributions was reviewed in line with the Retail Price Index and as from 1st April 2019 the contribution for a 1 bed dwelling increased to £346. However, it is acknowledged that this increase is only applicable to this application due to the deferral of the application and that the current shortfall in mitigation offered is only £9. It is not considered expedient or reasonable to require the additional payment and associated documentation for this modest amount.

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

Comment regarding other issues raised within representations:

The legality or otherwise of the revised position of the pedestrian gate giving access from the application site to the alleyway to the rear of the Marmion Avenue properties is a private matter beyond the remit of the planning application.

The concerns regarding the potential for another storey to Unit 2, in the event the application is permitted, are noted. However, any additional storey would require a planning application and neighbour observations would be invited under the usual publicity procedures.

The proper disposal of any asbestos at the site would be dealt with by legislation outside of the planning remit.

Any impact on surrounding property values is not a material planning consideration.

Conclusion

The site is well-located within the urban area for a range of shops, services and public transport and is acceptable in principle for residential development. The development would provide the benefit of contributing towards the city's housing supply, which currently does not meet the 5 year requirement. Nearby residents' amenities would not be unduly affected. It is considered that scale and design is appropriate. As such, the proposals constitute Sustainable Development, comply with the NPPF and they should be approved.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

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

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan L1021\_SKE\_171130\_05, Proposed Elevations and Section 1300 Revision K, Proposed Ground Floor 1200 Revision G and Proposed Upper Floor Plans 1201 Revision E, East

Elevation from the Rear Access 1301 Revision A, Cranked Section Through Application Site to Marmion Avenue 1302 Revision A.

- 3) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority or within such extended period as may be agreed with the Local Planning Authority:
  - a) A desk study (undertaken in accordance with best practice, including BS10175:2011+A1:2013+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the site. The report shall contain a conceptual model showing the potential pathways that exposure to contaminants may occur, including any arising from asbestos removal, both during and post-construction, and unless otherwise agreed in writing by the LPA,
  - b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A1:2013 and BS 8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs)'). The laboratory analysis should include assessment for heavy metals, speciated PAHs and fractionated hydrocarbons (as accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS)). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation; and, unless otherwise agreed in writing by the LPA,
  - c) A remediation method statement detailing the remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, including proposals for future maintenance and monitoring, as necessary. If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in BS 8485:2015 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings. The scheme shall take into account the sustainability of the proposed remedial approach, and shall include nomination of a competent person to oversee the implementation and completion of the works.
- 4) The development hereby permitted shall not be first occupied/brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a stand-alone verification report by the competent person approved pursuant to condition (3)c above, that the required remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). The report shall include a description of remedial scheme and as built drawings, any necessary evidence to confirm implementation of the approved remediation scheme, including photographs of the remediation works in progress and/or certification that material imported and/or retained in situ is free from contamination, and waste disposal records. For the avoidance of any doubt, in the event of it being confirmed in writing pursuant to Condition (3)b above that a remediation scheme is not required, the requirements of this condition will be deemed to have been discharged. Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under conditions (3)c.
- 5) The parking forecourt and boundary treatment (along east, west and southern boundaries and within the site) shall be surfaced, laid out and constructed in strict accordance with the details and materials shown on approved drawings no. 1200 Revision G (Proposed Ground Floor Plan) and 1300 Revision I (Proposed Elevations and Section), unless otherwise agreed in writing by the Local Planning Authority, and shall be fully implemented prior to the first occupation of the 3 storey dwellinghouse within the site (Unit 1).
- 6) Within 14 days of the demolition of the retail unit at the front of the property, a detailed scheme for the remedial measures proposed for both the boundary walls to the east and west of the site (forward of No.65) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully carried out prior to occupation of either of the dwellings within the site.

7) The windows within the re-instated ground floor bay opening and first floor bay hereby permitted shall be timber framed, and vertical sliding sash in design and manner of opening, and shall be constructed and finished in accordance with detailed drawings (scale 1:20) to be submitted to and approved in writing by the local planning authority, and shall thereafter be retained.

8) No development shall take place on site until a planting scheme, including maintenance responsibilities, for the raised planting bed within the parking forecourt has been submitted to and approved in writing by the Local Planning Authority. The planting scheme shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted. The works approved shall be carried out in the first planting and seeding seasons following the occupation of the buildings). Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

9) Prior to the first occupation of the 2 dwellings bicycle storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing, and those facilities shall thereafter be retained for the continued use by the occupants of the each dwelling for that storage at all times.

10) The finished floor levels of Unit 2 shall be no lower than 4.6m AOD, as shown on approved drawings 1300 Revision I. The development hereby permitted shall, unless otherwise agreed in writing by the Local Planning Authority, be carried out in accordance with the Flood Risk Assessment (FRA) Report produced by Cowan Consultancy (ref: 403936) dated 14 September 2018.

**The reasons for the conditions are:**

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

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

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

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

5) In the interests of the well planned development and preserving the character and appearance of the Owens Southsea Conservation Area in accordance with policy PCS23 of the Portsmouth Plan.

6) In the interests of the well planned development and preserving the character and appearance of the Owens Southsea Conservation Area in accordance with policy PCS23 of the Portsmouth Plan.

7) In the interests of the visual amenities of the area in accordance with policy PCS23 of the Portsmouth Plan and to ensure that the proposed replacement windows would enhance the character and appearance of the Owens Southsea Conservation Area.

8) To improve the appearance of the site in the interests of visual amenity of the area and to enhance the character and appearance of the Owens Southsea Conservation Area in accordance with policy PCS23 of the Portsmouth Plan.

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

10) To ensure the safety of the development and its future occupants in accordance with Policy PCS12 of the Portsmouth Plan and Planning Practice Guidance to the National Planning Policy Framework for Flood Risk and Coastal Change.

### **PRO-ACTIVITY STATEMENT**

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

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**141 HIGHLAND ROAD SOUTHSEA PO4 9EY****CONSTRUCTION OF 4-STOREY BUILDING TO FORM TWO DWELLINGHOUSES (CLASS C3) FOLLOWING DEMOLITION OF EXISTING BUILDING****Application Submitted By:**

Mick Morris AADipl Architect  
FAO Mick Morris

**On behalf of:**

Mr Stephen New

**RDD:** 28th August 2018

**LDD:** 12th November 2018

**SUMMARY OF MAIN ISSUES**

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

**The Site**

This application relates to a two-storey property located to the corner of Highland Road and Clegg Road. This comprises a commercial unit at ground floor level with a large open forecourt area onto Highland Road and a self-contained flat above accessed from a side entrance on Clegg Road. The property currently terminates a terrace of three-storey buildings to the east and a later (early 1990s) terrace of 3-storey (with additional accommodation at roof level) dwellings to the north.

This particular stretch of Highland Road historically incorporated a mix of commercial units at ground floor level with ancillary and residential uses above. However, many of these commercial uses have now been lost with a number of unsympathetic conversion schemes that have not made a positive contribution to the wider street scene. More traditional terraced properties occupy roads to the north and a large cemetery is located immediately to the south.

**Proposal**

This application seeks planning permission for the construction of a 4-storey building to form two dwellingshouses (Class C3) following the demolition of the existing building.

**Relevant Planning History**

Planning permission was granted in 1988 (ref.A\*29175/D) for the construction of a first floor extension to form a self-contained flat and lock-up shop.

Planning permission was granted in 1989 (ref.A\*29175/AC) for the construction of three 4-storey dwellings with integral garages.

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework (NPPF), the relevant policies within the Portsmouth Plan would include: PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS15 (Sustainable design and construction), (PCS17 (Transport), PCS19 (Housing mix, size and affordable homes) and PCS23 (Design and Conservation). Saved policy DC21 (Contaminated Land) of the Portsmouth City Local Plan, the Parking Standards SPD and the Solent Recreation Mitigation Strategy would also be material to the determination of the application.

## **CONSULTATIONS**

### **Environmental Health**

No objections are raised to the proposed development in principle, however the windows on the Highland Road and Clegg Road façades are likely to be subjected to elevated levels of road traffic noise.

Therefore should permission be considered appropriate the EHT would suggest the inclusion of planning conditions relating to the insulation of habitable rooms.

### **Contaminated Land Team**

Given the sensitive end-use, conditions in respect of land contamination are requested.

### **Highways Engineer**

The LHA has reviewed the drawings and highways assessment submitted in support of this application which proposes the construction of a four storey building to form two maisonettes (1 one bed roomed and 1 two bed roomed) following the demolition of the existing property which includes one 1 bed roomed dwelling. The following observations are made:

The site is located at the junction of Highland Road with Clegg Road. Highland Road is a classified road (B2154) operating as a primary route within the strategic highway network. This road is used by bus service numbers 1, 2 and 17. Clegg Road is a residential access road. Few of the properties in this locale have off street parking provision and as a consequence the demand for parking on street by local residents frequently exceeds the space available particularly overnight and at weekends.

It is noted in the highways assessment that the site is '...not within an area of high accessibility to public transport and services' and the LHA can confirm that it is not located within that part of the city found to be sufficiently accessible so as to allow consideration of a reduction in or relaxation of the residential parking standards.

The LHA would not anticipate that this proposal would generate sufficient traffic movement so as to have a material impact in the operation of the local highway network during peak periods and would not require a formal transport assessment to inform determination of the application.

The effect of the proposal is to increase the existing residential parking shortfall associated with the site from 1 space to 2.5 spaces whilst requiring an additional 2 cycle parking spaces. No additional vehicle parking facility is proposed as a part of this application and only 2 cycle parking spaces are provided whereas 3 are required. No parking survey undertaken in accordance with the Lambeth model has been submitted with the application to confirm the availability of overnight on street parking spaces within 200m of the property, rather it appears to be accepted by the applicant in the highways assessment that no such further on street parking capacity is available.

The highways assessment advances the case that the increase in parking shortfall resulting from the proposal would not prove detrimental to the safety of users on the surrounding highway network and as such the lack of on-site parking would be justified. The current SPD has been established in the knowledge of the limited parking availability on street and is intended to ensure that new development does not make parking availability materially more difficult for existing residents thereby having an unacceptable impact on their residential amenity. In this case the demand for parking on street exceeds the space available particularly overnight and at weekends and the LHA is mindful of the cumulative impact of developments which have had an incremental impact on the scope to accommodate the residential parking demand on street.

We now observe numerous instances of vehicles being parked in contravention of the parking controls at junctions and obstructing accesses particularly overnight and at weekends with a consequent impact on both highway safety and residential amenity and in that light the LHA must recommend refusal as:

Parking provision is not made on site in accordance with the requirements of the SPD in an area where the demand for parking on street frequently exceeds the spaces available particularly overnight and at weekends.

## **REPRESENTATIONS**

Four letters of representation have been received from local residents including the occupier of the immediately adjoining property to the north. Their objections can be summarised as follows: a) Highway safety concerns during construction works and parking once completed; b) Cumulative impact of developments within the area for on-street parking; c) Design is considered to be unsympathetic to the character of the surrounding area; d) Impact of the development on No.1 Highland Mews (structural and weatherproofing); and e) General disruption to local residents during construction works.

This application has been brought to the Planning Committee for determination at the request of Milton Ward Member Councillor Vernon-Jackson.

## **COMMENT**

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

1. The principle of development;
2. Design;
3. Internal living conditions and Impact on residential amenity;
4. Highways Implications;
5. Special Protection Areas (SPA) mitigation.

Planning permission is sought for the construction of a four-storey building to provide two maisonettes, 1 x 1-bed and 1 x 2-bed, following the demolition of the existing 2-storey building.

### Principle of the proposal

The application site is located to the northern side of Highland Road in an area that was once a vibrant local centre comprising a mix of commercial uses at ground floor with ancillary and residential accommodation above. The area is no longer the subject of any site specific policy restrictions and a number of commercial premises have been converted to residential uses, including most recently No.143 Highland Road on the opposite corner. In the absence of any site specific policy restrictions and the gradual movement away from commercial uses in this area, it is considered that the proposal is acceptable in principle.

In addition, Policy PCS10 of the Portsmouth Plan states that: 'New housing will be promoted through conversions, redevelopment of previously developed land and higher densities within defined areas. The supporting text to PCS10 states:

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

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

On 19th February, the Government confirmed its proposed changes to the National Planning Policy Framework and Planning Practice Guidance regarding housing needs and housing supply. Following those changes, the Council can demonstrate 4.7 years supply of housing land. The NPPF states that for applications involving the provision of housing, the adopted plan policies are deemed to be out-of-date in situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, and the permission in favour of sustainable development applies.

In that case, national policy states (Paragraph 11. d) that permission should be granted unless (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The starting point for the determination of this application is the fact that Authority does not have a 5 year housing land supply, and the proposed development would contribute towards meeting housing needs. Planning permission should therefore be granted unless either test (i) or test (ii) above is met. The proposed development has been assessed on this basis and is deemed to be acceptable in principle, the reasons for which are detailed below.

## Design

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; protect and enhance the city's historic townscape and its cultural and national heritage; be of an appropriate scale, density, layout appearance and materials in relation to the particular context; and should protect amenity and provide a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development.

The application site is currently occupied by an unusual two-storey building which incorporates a projecting dormer feature and a heavy fascia detail. As a result of its limited height, the taller blank gables of the two adjoining terraces are left exposed above resulting in a rather awkward junction and relationship at a prominent corner site. As highlighted above, a number of commercial uses within the stretch of Highland Road have been converted to residential uses and have been subjected to a number of unsympathetic and piecemeal changes that have resulted in an incoherent and untidy streetscene.

The proposed development would comprise a full four-storey element to the corner of Highland Road and Clegg Road topped with a fully hipped roof. Two slightly lower flanking elements containing accommodation within the roof space would connect with the adjoining terraces to the north and west. The building would be completed with a fully rendered finish with slight steps in the building line to form appropriate junctions with the adjoining properties and would incorporate a number of large windows to each elevation. Whilst of a slightly unusual form, the proposed building is considered to be of an acceptable scale and design that would provide a more appropriate termination of the two terraces and make a positive contribution to the streetscene. The enclosure of the front forecourt similar to that carried out at No.143 Highland Road to provide an area of defensible space would also be seen as a positive intervention.

The incorporation of four stories, will inevitably result in some misalignment in fenestration with the three-storey terraced properties to the west. Whilst this is unfortunate, it is noted that there is a mix of window styles and sizes within the terrace and this relationship would not appear obtrusive within the streetscene.

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

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

The development would comprise a 1-bedroom maisonette at ground and first floor level and a 2-bedroom maisonette at third and fourth floor level. These would meet the size standards set out within the nationally described space standards and would provide a good degree of access to natural light and outlook for future occupiers. It is acknowledged that the dwellings have no access to external amenity space. Whilst this is unfortunate, given the nature of the site it is considered that appropriately designed external amenity space would be difficult to achieve.

The application has been considered by the City Council's Environmental Health Team who raise no objection to the proposal subject to a condition requiring the installation of appropriate glazing to mitigate the impact of traffic noise.

Given the existing use of the site, it is not considered that the proposal would result in any significant adverse impact on the amenity of the adjoining occupiers in terms of increased noise and disturbance or general activity. Furthermore, having regard to the building's position adjacent to two tall blank gable walls and not extending beyond the building line of its neighbours to the north and east, it is considered that the proposal would not result in any significant adverse impacts in terms of loss of light, outlook, privacy, overbearing impact or increased sense of enclosure.

Representations raise concerns over the proximity of the proposed development to the gable wall of No.1 Highland Mews, Clegg Road. The submitted drawings indicate that the proposed

building would be freestanding but would directly abut the gables of the adjoining properties. This is considered to be a good planning approach rather than leaving a small voids between buildings which could accumulate rubbish/debris resulting in damp and maintenance issues. Legislation beyond the planning system is available to ensure the structural integrity of the adjoining buildings and that the junctions are suitably weathertight.

Unfortunately it is inevitable that there will be some potential for disruption during the demolition and construction phases of development. This will however, be for a limited period and legislation beyond the planning system is available to limit any harm.

### Highways Implications

The application site does not benefit from any off-street parking and none is proposed as part of this application (the constraints of the site are such that none can be provided). The Parking Standards Supplementary Planning Document sets a requirement of 3.5 off-road parking spaces for the two dwellings proposed, although it is recognised that the existing lawful use of the site as a commercial unit and a self-contained dwelling would generate its own demand for parking.

The Local Highways Authority highlight that Highland Road is a classified road (B2154) operating as a primary route within the strategic highway network and is used by bus service numbers 1, 2 and 17. Clegg Road is a residential terraced street similar to others to the north where very few properties have access to off-road parking facilities. As a consequence, the demand for parking on street by local residents frequently exceeds the space available, particularly overnight and at weekends.

Whilst indicating that the proposal is unlikely to have a material impact on the surrounding highway network in terms of trip generation, the LHA raise concerns that the proposal would result in a further parking shortfall at the site of 1.5 (2) parking spaces where a reduced parking provision would not be expected. The LHA observe numerous instances of vehicles being parked in contravention of the parking controls at junctions and obstructing accesses which has been exacerbated as a result of incremental development within the surrounding area with a consequent impact on both highway safety and residential amenity. As a result the LHA conclude that the application does not accord with the requirements of the Parking Standards SPD in an area where the demand for parking on street frequently exceeds the space available.

Whilst the concern of the Highways Authority is noted, the planning assessment of this application must strike a balance between the objection received on highway safety and amenity grounds and the contribution this development would make towards meeting the city's housing need in light of the current position in respect of 5 year housing land supply, and its positive visual benefits, as set out above. Regard should also be made to the lawful commercial use of the premises at ground floor level which would have its own associated parking demand, albeit at different times of day, the site's location on a key bus route and its proximity to a range of shops services and recreational facilities.

Having careful regard to all of the issues identified above, it is considered that in this particular instance the benefits arising from the proposal, principally its contribution towards the city's housing need and the visual enhancements to the Highland Road streetscene, would outweigh the concerns of the Highways Authority on the grounds of the under provision of parking and subsequent impacts on the surrounding highway network.

The proposal makes adequate provision for bicycle and refuse storage facilities which can be required through suitably worded planning conditions.

### Sustainable Design and Construction

The Ministerial Statement of 25th March 2015 set out that Local Planning Authorities should no longer require compliance with specific levels of the Code for Sustainable Homes (the Code) or

to require a certain proportion of the Dwelling Emission Rate (DER) to be offset through Low or Zero Carbon (LZC) Energy. Policy PCS15 has required both of these in all new dwellings since its adoption in 2012. However, the Statement does set out that a standard of energy and water efficiency above building regulations can still be required from new development in a way that is consistent with the Government's proposed approach to zero carbon homes. As such, the standards of energy and water efficiency that will be required from new residential development are as follows:

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

These standards can be required through suitably worded planning conditions.

#### Special Protection Areas (SPA) mitigation

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

The Solent Recreation Mitigation Strategy (December 2017) was adopted by Portsmouth City Council on 1st April 2018 and replaces the Interim Solent Recreation Mitigation Strategy (December 2014) and the associated Solent Special Protection Areas Supplementary Planning Document (SPD) which was revoked by the City Council from 1st April 2018. The Strategy identifies that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. It sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations. This development is not necessary for the management of the SPA.

Based on the methodology set out within the Strategy, an appropriate scale of mitigation would be calculated as £500.00 (1 x 2-bedroom units @ £500 having regard to the existing one-bedroom dwelling at the site). The applicant has provided a mitigation contribution of £487 (prior to 1st April 2019) through an agreement under S.111 of the Local Government Act. Whilst the mitigation contribution increased by £13 on 1st April 2019, it is not considered expedient to seek this further uplift. With the mitigation provided, the authority has concluded that the adverse effects arising from the proposal are wholly consistent with and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy. The authority's assessment is that the application complies with this strategy and that it can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above. The requirement for a payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

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

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: J 03 141 HR Rev-A (received 17.03.2019).

3) Unless otherwise agreed in writing with the Local Planning Authority, no works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority:

a) A desk study (undertaken in accordance CLR11 following best practice including aS1 0175:2011 +A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the site. The report shall contain a conceptual model showing the potential pathways to contaminants (including any arising from asbestos removal) both during and post-construction, and summarise the sampling rationale for every proposed sample location and depth; and unless otherwise agreed in writing by the LPA;

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with aS1 0175:2011 +A2:2017 and as 8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs) '). Unless agreed in advance, the laboratory analysis of soils should include assessment for heavy metals, speciated PAHs and fractionated hydrocarbons (as accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS) and asbestos. The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation; and, unless otherwise agreed in writing by the LPA;

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

4) The development hereby permitted shall not be first occupied/brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a stand-alone verification report by the competent person approved pursuant to condition 3c above, that the required remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). The report shall include a description of remedial scheme and as built drawings, any necessary evidence to confirm implementation of the approved remediation scheme, including photographs of the remediation works in progress and/or certification that material imported and/or retained in situ is free from contamination, and waste disposal records. For gas protection schemes the report should follow CIRIA 735. For the avoidance of any doubt, in the event of it being confirmed in writing pursuant to Condition 3b above that a remediation scheme is not required, the requirements of this condition will be deemed to have been discharged.

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

5)(a) Prior to the commencement of construction works, a scheme for insulating habitable rooms against road traffic noise shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed to ensure that the following acoustic criteria will be achieved in all habitable rooms: Daytime LAeq(16hr) (7:00 to 23:00) 35 dB and Night-time LAeq(8hr) (23:00 to 07:00) 30 dB and L<sub>Amax</sub> 45dB; and

(b) The scheme approved by part (a) of this condition shall be fully implemented prior to first occupation of the dwellings hereby permitted and shall thereafter be permanently retained.

6)(a) Prior to the commencement of construction works, a full schedule of materials and finishes, and details of all architectural features (including window reveals, cills, window/door design, eaves brackets etc.) associated with the external finish of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority; and

(b) The development shall thereafter be carried out in full accordance with the details approved pursuant to part (a) of this Condition.

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

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

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

8)(a) Prior to the first occupation of any dwelling hereby permitted (or such other period as may be agreed in writing with the Local Planning Authority) facilities for the storage bicycles shall be provided in accordance with drawing J 03 141 HR Rev-A and made available for use by the occupiers of the dwellings hereby permitted; and

(b) The facilities approved pursuant to part (a) of this condition shall thereafter be permanently retained for the storage of bicycles associated with approved dwellings.

9)(a) Notwithstanding the submitted information, prior to the first occupation of any dwelling hereby permitted (or such other period as may be agreed in writing with the Local Planning Authority) facilities for the storage refuse and recyclable materials shall be provided in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority; and

(b) The facilities approved pursuant to part (a) of this condition shall thereafter be permanently retained for the storage of refuse and recyclable materials associated with the approved dwellings.

10) Prior to the first occupation of any dwelling hereby permitted (or such other period as may be agreed in writing with the Local Planning Authority) the boundary wall and gate to enclose the front forecourt area shall be completed in accordance with the approved details.

**The reasons for the conditions are:**

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

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

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

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

5) To protect the amenities of the occupiers of the dwellings hereby approved in accordance with policy PCS23 of the Portsmouth Plan.

6) In the interests of the visual amenity in accordance with policy PCS23 of the Portsmouth Plan.

7) To ensure that the development as built will minimise its need for resources and be able to fully comply with policy PCS15 of the Portsmouth Plan.

8) To ensure adequate provision for and to promote and encourage cycling as an alternative to use of the private motor car in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan.

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

10) In the interests of visual amenity and to provide an appropriate residential appearance in accordance with policy PCS23 of the Portsmouth Plan.

### **PRO-ACTIVITY STATEMENT**

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

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**58 CROMWELL ROAD SOUTHSEA PO4 9PN****CONVERSION OF EXISTING BUILDING TO FORM FOUR SELF-CONTAINED FLATS; AND CONSTRUCTION OF ONE DWELLINGHOUSE (FOLLOWING DEMOLITION) WITH ASSOCIATED PARKING; AND REFUSE AND CYCLE STORE, TO INCLUDE INSTALLATION OF BOUNDARY FENCE; AND RELOCATION OF DROPPED KERB (RE-SUBMISSION OF 18/01143/FUL)****Application Submitted By:**Mr Jason Bonner  
PLC Architects**On behalf of:**

Mr Dunprop Ltd

**RDD:** 14th December 2018**LDD:** 15th February 2019**SUMMARY OF MAIN ISSUES**

The application is being presented to the Planning Committee for determination in light of the previous planning history.

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

- Whether the principle of the proposed development is acceptable;
- Whether the layout/design is acceptable and what impact this would have on the surrounding streetscene;
- Whether the proposal would have a significant impact on designated heritage assets;
- Whether the proposed development would provide an adequate standard of living accommodation for future occupiers;
- Whether the proposal would have a significant impact on the amenity of adjoining occupiers;
- Whether the proposal would have a significant impact on the local highway network;
- Whether the proposal would provide adequate bicycle/refuse storage;
- Whether the proposal has provided the relevant Special Protection Areas (SPA) mitigation.
- Whether the proposal has overcome previous reasons for refusal.

**The site**

The application site lies on the corner of Cromwell Road and Tokar Street in Southsea. The site is occupied by a three-storey building, which has a lawful use as a Public House (Class A4) (Royal Marine Artillery Tavern), with ancillary living accommodation above. The property is currently vacant and not accessible to the public. To the rear of the Public House there is a yard area and a large single-storey outbuilding (this structure would be demolished) fronting Tokar Street, which was previously used as a function room. There is no vehicle access or parking on the site.

The surrounding area is predominantly residential in character. To the west of the site is the flank wall of No.1 Tokar Street, which is located at the end of a terrace of two-storey dwellings.

To the north of the site there is a part two, part single-storey building on the northern corner of Tokar Street and Cromwell Road (No.56 Cromwell Road), which is in residential use following conversion and extension of a former public house. The rest of Tokar Street is characterised by two-storey terraced housing.

To the south of the site is a three-storey block of flats (Cavalier Court), which has a parking court to the rear with a tall brick wall along its northern boundary with the application site.

To the east of the site are the former Eastney Barracks, which are now in residential use. A number of the buildings within this development are Grade II listed including the 'Gatehouse' and the brick perimeter wall is designated as a Scheduled Ancient Monument (Eastney Barracks Perimeter Wall). These buildings also lie within the Eastney Barracks Conservation Area.

## **The proposal**

Planning permission is sought for the conversion of the existing building to form four self-contained flats and the construction of one dwellinghouse with associated parking and refuse/cycle store. The proposal would also include the installation of a boundary fence and the relocation of the dropped kerb.

Internally, the converted public house would accommodate a total of 4 flats and would be comprised of:

- 2 x 1 bed flats at ground
- 1 x 2 bed flat at first floor
- 1 x 2 bed flat at second floor

On the east elevation of the building there is an existing gated pedestrian access from Cromwell Road, which would be retained. This would provide access to the cycle store for Flat 2 and the general integral waste. The ground floor flats would be accessed via existing doorways fronting on to Cromwell Road whilst the upper floors and integral ground floor cycle store would be accessed via an existing doorway located on Tokar Street.

To the west of the site, one dwelling has been proposed (following the demolition of the existing single-storey projections/extensions). The new dwelling would abut the western two-storey projection of the existing Public House (No.58) and would be two-storeys in height with a gable roof. The ridge height of the dwelling would match the height of the other two-storey properties located on Tokar Street and would measure approx. 8.1m in height. The eaves have been designed to match the terrace row to the west at a height of 6.2m The new dwelling would measure 6.1m in width and would have a max depth of 8.5m A single storey, lean-to extension has been proposed to the rear elevation of this dwelling with a height of 3.6m To the south, the new dwelling would have access to a garden with an area of 51.36m<sup>2</sup>. This garden would be enclosed with a 1.8m high boundary fence and would have access to bin/bicycle storage. The submitted plans also indicate the provision of a tree to the rear of this dwelling.

To the western end of the Tokar Street frontage, a new vehicular access and hardstanding has been proposed. The dropped kerb access would be 3m wide and would be enclosed by brick finished boundary walls/powder coated black railing enclosures either side. A total of no.5 vehicle parking spaces have been proposed, one for each apartment and one for the standalone dwelling.

A similar scheme (ref.18/01143/FUL) for the conversion of existing building to form four self-contained flats; and construction of one dwellinghouse with associated parking; and refuse and cycle store, to include installation of boundary fence; and relocation of dropped kerb was considered by the Planning Committee on 17th October 2019. It was recommended for approval by Officers but the Committee decided to refuse the application. The reasons for refusal were as follows:

1) The proposed dwelling house to the west of the site would, by reason of its extent of site coverage and inconsistent fenestration represent a visually harmful form of development that would fail to relate appropriately to the adjoining terrace of properties on Tokar Street and the wider streetscene resulting in an over-development of the site that would be at odds with the character and appearance of the area. Therefore the proposal would be deemed to be contrary to Policy PCS23 of the Portsmouth Plan and the principles of good design set out within the National Planning Policy Framework.

2) The proposed internal courtyard area represents a cramped layout, lacking adequate space to sufficiently accommodate the different activities relating to the movement of cars, bicycles and bins and would therefore represent an overdevelopment of the site contrary to Policy PCS23 of the Portsmouth Plan.

The main changes between the previously refused scheme and the current proposal are:

- The proposed dwelling has been moved away from No.1 Tokar Street and relocated to the east and now abuts the two-storey projection of the existing Public House (No.58). The relocation of the proposed dwelling has shifted the parking area to the west of the site and the amenity space associated with the new dwelling to the east.

- The proposed fenestration to the north elevation of the proposed new dwelling has been altered to sliding sash (while they were casement for the previous scheme).

- The internal bin and cycle store have swapped positions. The proposed cycle store would now be accessed from Tokar Street and the proposed bin store would be accessed from Cromwell Road via a pedestrian entrance. In addition, there is a further secure cycle store area for Flat 2 provided to the south of the site, adjacent to the integral waste store.

### **Planning history**

17/01119/FUL: Proposed conversion of existing building to form 6, one and two bed apartments following demolition of existing single storey building and construction of 2, three bedroom houses with associated refuse and cycle store to rear. Refused (15th January 2018).

14/01610/PLAREG: Retrospective application for the siting of rear smoking shelter. Conditional permission (3rd February 2015).

08/01166/ADV: Display of two externally illuminated fascia signs. Consent (3rd September 2008).

There are also previous applications for alterations dating back to the 1950s and 70s.

Other relevant planning history relating to nearby sites includes the following:

16/01423/FUL (56 Cromwell Road): Conversion to form 5 flats following demolition of existing single storey rear extensions and construction of single storey rear extension and first floor extensions to rear with associated refuse and cycle store (re-submission of 16/00170/FUL). Conditional permission (19th October 2016).

A\*39183/AA (60-66 and rear of 68-74 Cromwell Road - now Cavalier Court): Construction of three-storey building to form 11 flats with gable and balconies to front and rear roofslopes to provide accommodation within roofspace, associated parking to rear through undercroft with access from Cromwell Road, associated bicycle/refuse stores after demolition of existing garage and workshop. Conditional permission (8th November 2005).

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework (NPPF), the relevant policies within the Portsmouth Plan would include: PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), and PCS23 (Design and Conservation). The Parking Standards Supplementary Planning Document (SPD), the Solent Special Protection Areas SPD and the Nationally Described Space Standards (NDSS) would also be a material consideration.

## **CONSULTATIONS**

### **Waste Management Service**

Following the submission of amended plans the waste/recycling storage is considered acceptable.

### **Natural England**

#### Appropriate Assessment

Please note that, recent case law (Sweetman II) outlines that mitigation measures should not be assessed through a Habitats Regulations Assessment (HRA) to screen out impacts at the stage of considering Likely Significant Effects (LSE), rather avoidance/mitigation measures should be considered through an Appropriate Assessment. Therefore in this case, the HRA will need to move on to the Appropriate Assessment stage where avoidance/mitigation measures to offset recreational impacts on the Chichester and Langstone Harbours SPA sites can be outlined.

#### Solent Recreation Mitigation

This application is within 5.6km of the Chichester and Langstone Harbours SPA and will lead to a net increase in residential accommodation. As a result, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Natural England is aware that Portsmouth City Council has recently adopted a planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP). Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). Our advice is that this needs to be confirmed by the Council, as the competent authority, via an appropriate assessment to ensure there is no adverse effect on the integrity of the site(s) in accordance with the Conservation of Habitats & Species Regulations 2017.

#### Water Environment

Natural England recommends that all new development adopt the higher standard of water efficiency under the Building Regulations (which equates to 110 litres /head/day including external water use) and re-use in line with best practice. Consideration should be given to the use of grey water recycling systems and efficient appliances.

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

Before any works take place including any demolition the Developer should contact Colas. This is for highway coordination purposes.

### **Ecology**

We have made comments on previous applications at this site. In summary, the development will result in a net increase in residential dwellings within 5.6km of Portsmouth Harbour Special

Protection Area (SPA). This distance defines the zone identified by research where new residents would be considered likely to visit coastal areas and supporting habitats. The SPA supports a range of bird species that are vulnerable to impacts arising from increases in recreational use of the sites that result from new housing development. While clearly one new house on its own would not result in any significant effects, it has been demonstrated through research, and agreed by Natural England (the government's statutory nature conservation advisors, who have provided comments on this proposal) that any net increase (even single dwellings) would have a likely significant effect on the SPAs when considered in combination with other plans and projects. To address this issue, a strategy of securing funding to the Solent Recreation Management Partnership developer contributions has been agreed that would fund the delivery of measures to address this issue. Provided this is secured, the LPA can be confident that the development would not adversely affect the integrity of the SPA.

## **Environmental Health**

**Additional Traffic Movement:** No objections in principle and due to the size of the proposed development it is unlikely that the proposed development will significantly generate additional traffic movements in the area.

**Traffic Noise:** A standard thermal glazing as required by the Building Regulations will be sufficient to protect the proposed occupants from traffic noise on Cromwell Road.

**Sound Insulation:** Due to the age of the building and the change of use, the sound insulation within the property may be inadequate for residential accommodation. Approved Document E - Resistance to the passage of sound makes requirements that appropriate sound insulation should be installed where there is a material change of use in a building. I anticipate that Building Control will be making appropriate comments about the measures required to protect the proposed occupant's from day to day living noise.

## **Contaminated Land Team**

No objection, subject to conditions: The Contaminated Land Team has reviewed the information held on our geographical information system and a site in close proximity had slightly elevated concentrations of lead in the soil. The site is also adjacent to a former garage, and as such standard conditions are requested: \* desk top study; \* site investigation report; \* remediation method statement; \* verification report.

## **Highways Engineer**

No objection. The site is located in a primarily residential area where few of the properties have off street parking facilities and the demand for parking by local residents significantly exceeds the space available on street particularly in the evenings and at weekends. No parking survey undertaken in accordance with the Lambeth model has been submitted with the application to confirm the availability of overnight on street parking spaces within 200m of the property rather it appears to be accepted by the applicant that no such further on street parking capacity is available.

In terms of access to public transport within the city the site is of low accessibility, not being within 400m of a high frequency bus corridor or 800m of a railway station. Notwithstanding the accessibility of the site I am satisfied that the scale of the proposal would not be likely to generate a material increase in trips on the local highway network during peak period. However it is not located within that part of the city defined in the SPD and being sufficiently accessible to allow consideration of a reduction in or relaxation of the residential parking standards.

The application proposes 6 cycle parking spaces to serve the 4 apartments with a dedicated cycle store for the house. Whilst this meets the cycle parking requirement it is not particularly well located for the one bedroomed ground floor apartments being accessed through a different

front door which does not provide access to any other element of those properties. Five parking spaces are indicated accessing to Tokar Street. The relevant parking standard for a development of this scale is 6.5 spaces although the property includes an existing 6 bedroomed flat with a parking requirement of 2 spaces; none are currently provided and as a consequence the site has an existing parking shortfall of 2 spaces. This shortfall will not be increased as a result of this development.

The access to Tokar Street is via a new dropped crossing which extends for a 3m wide access width bounded with low walls topped with railings securing adequate pedestrian visibility. There is no scope for vehicles parked in 2 of the spaces to be able to turn on site and so enter and leave the highway in a forward gear, although given the status and function of Tokar Road I would not wish to object to the proposal on that basis.

In that light I would not wish to raise an objection to this application although would suggest that an internal access is provided to the hallway / cycle store from the ground floor apartments.

## **REPRESENTATIONS**

None received.

## **COMMENT**

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

- Whether the principle of the proposed development is acceptable;
- Whether the layout/design is acceptable and what impact this would have on the surrounding streetscene;
- Whether the proposal would have a significant impact on designated heritage assets;
- Whether the proposed development would provide an adequate standard of living accommodation for future occupiers;
- Whether the proposal would have a significant impact on the amenity of adjoining occupiers;
- Whether the proposal would have a significant impact on the local highway network;
- Whether the proposal would provide adequate bicycle/refuse storage;
- Whether the proposal has provided the relevant Special Protection Areas (SPA) mitigation.
- Whether the proposal has overcome previous reasons for refusal.

### **Principle of the proposal**

There is a recognised need for new housing within Portsmouth, as outlined in Policy PCS10 of the Portsmouth Plan. The provision of new housing would also accord with the general housing delivery objectives set out within the National Planning Policy Framework (NPPF). Paragraph 59 of the NPPF (July 2018) states: 'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'.

In addition, Policy PCS10 of the Portsmouth Plan states that: 'New housing will be promoted through conversions, redevelopment of previously developed land and higher densities within defined areas. The supporting text to PCS10 states:

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

large number of new homes in the city is in line with the PUSH strategy of focusing new homes in urban areas to regenerate the cities and to relieve pressure on the surrounding countryside...

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

I consider the principle of development before also going on to considering it in the light of the 5 year housing supply. The proposal would involve the loss of an existing Public House (Class A4), which is vacant and has fallen into a poor state of repair. The applicants have not provided any specific information to justify the loss of the public house, although Environmental Health records indicate that there have been a number of historic complaints about noise and disturbance from the premises. Whilst, the NPPF states that 'planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities and other local services, there are no specific policies within the Portsmouth Plan to resist the loss of Public Houses. Furthermore, it is noted that there are other Public Houses nearby and no objections have been raised/received in relation to the loss of this Public House. Therefore it is not considered that an objection could be sustained on this basis and the principle of the proposal is considered acceptable, subject to meeting all other relevant policy requirements.

On 19<sup>th</sup> February 2019, the Government confirmed its proposed changes to the National Planning Policy Framework and Planning Practice Guidance regarding housing needs and housing supply. Following those changes, the Council can demonstrate 4.7 years supply of housing land. The NPPF states that for applications involving the provision of housing, the adopted plan policies are deemed to be out-of-date in situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, and the permission in favour of sustainable development applies.

In that case, national policy states (Paragraph 11. d) that permission should be granted unless (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The starting point for the determination of this application is the fact that Authority does not have a 5 year housing land supply, and the proposed development would contribute towards meeting housing needs. Planning permission should therefore be granted unless either test (i) or test (ii) above is met. The proposed development has been assessed on this basis and is deemed to be acceptable in principle, the reasons for which are detailed below.

### **Layout, design and visual impact**

The National Planning Policy Framework (NPPF) places an emphasis on achieving sustainable development, for which good design is a fundamental element. One of the Core Planning Principles set out in the NPPF is to: 'support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of

present and future generations and by fostering a well-designed and safe built environment with accessible services and open spaces'. Paragraph 124 of the NPPF further emphasises that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Paragraph 127 sets out that developments should ensure that they function well and add to the overall quality of an area; developments are visually attractive; developments are sympathetic to local character and history; developments should 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.

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

The proposal to convert and extend the public house has been designed to retain as much of the existing appearance of the main elevations as possible. The external elevations of the RMA Tavern represent an attractive street frontage with distinctive brick elevations, painted cornice, arched window headers, timber window/doors and natural slates. At ground floor level fronting Cromwell Road and Tokar Street, all of the existing public house window openings are to be retained. There would be limited external alterations to the appearance of the main north and east elevations of the public house and this is considered appropriate to retain the character and appearance of the building within the streetscene. Windows would be replaced with conservation style, slim line uPVC windows with similar opening methods (slide and sash) to those existing. New windows and render panels below would be introduced on the north and east elevations to match those existing on the pub to replace existing door openings. Existing doors would be colour treated black. The existing roof form, cornice detailing, traditional signage and chimney stacks would all be retained. No other extensions or alterations to the existing pub have been proposed, however the existing single storey projection onto Tokar Street would be demolished alongside other internal structures including a polycarbonate link corridor which connects the main building to this function room.

Overall it is considered that the proposals to convert the public house would respect the character and appearance of the existing building and surrounding area. Whilst this building does not benefit from any listed building designations, the building makes a valuable contribution to the character and appearance of the streetscene and its local distinctiveness. As such, the Local Planning Authority (LPA) have sought conditions from the developer regarding details of replacement windows and doors to ensure that any development is sympathetic to the original features of the building.

The proposed new dwelling to the west of the RMA Tavern would have the appearance of a traditional two-storey house, similar to the style of adjoining housing within Tokar Street. The revised scheme sees the proposed dwelling moved away from No.1 Tokar Street and relocated to the east, abutting the two-storey projection of the existing Public House. Subsequently, the parking area has been moved to the west of the site and the amenity space associated with the new dwelling to the east (to the rear of the proposed dwelling).

The proposed dwelling would match the ridge height (8.1m) and eaves height (6.2m) of No. 1 Tokar Street which would help the dwelling integrate with existing terraced properties. Window openings have been arranged to match properties within the streetscene and window header/cill details would also be replicated. In addition, the proposed fenestration to the north elevation of the proposed new dwelling has been altered to sliding sash to blend in with the streetscene. The

dwelling would be constructed from red/brown brick work and would have black rainwater goods.

There are no concerns about the style, design and materials of the dwelling. The current application has addressed the previous issues relating to 'inconsistent fenestration' and its 'relationship to the adjoining terrace property', but it cannot address issues relating to 'overdevelopment of the site' and whether the 'parking courtyard is cramped'. The matter of balancing policy and the merits of the proposal are returned to later in this report.

### **Impact on Heritage assets**

When determining planning applications the Local Planning Authority (LPA) must consider what impact the proposal would have on both designated and non-designated heritage assets. Paragraph 185 of the NPPF (July 2018) states: "Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account: a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation; b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring; c) the desirability of new development making a positive contribution to local character and distinctiveness; and d) opportunities to draw on the contribution made by the historic environment to the character of a place."

Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

To the east of the site are the former Eastney Barracks, which are in residential use. A number of the buildings within this development are Grade II listed including the 'Gatehouse' which is opposite the application site. The brick perimeter wall that encloses the barracks is designated as a Scheduled Ancient Monument (Eastney Barracks Perimeter Wall). These buildings also lie within the Eastney Barracks Conservation Area (No.17).

The existing Public House can be viewed in relation to the Eastney Barracks when viewed from the north or south on Cromwell Road, or when looking east along Tokar Street. As noted in the previous section of this report, the proposed works to the existing Public House have been designed to maintain and respect its existing appearance and it is not considered that these works would harm the setting of the nearby heritage assets. From Tokar Street, there are views of the former Eastney Barracks buildings when looking east along the road and the listed Clock Tower can be seen above the Public House. Due to the two-storey height of the proposed dwelling, it would have some impact on the views of the Clock Tower from Tokar Street, but the Clock Tower would still be visible above the dwelling by virtue of its height. The main views of the Barrack buildings and Clock Tower are from Cromwell Road and these views would not be impacted by the construction of the new dwelling. Overall, having regard to the separation distance between the proposed dwelling and the nearby listed buildings and structures, and the presence of intervening buildings, it is considered that the development would have a neutral impact on the setting of the nearby heritage assets.

### **Standard of Living Accommodation**

Policy PCS23 of the Portsmouth Plan requires development to achieve a good standard of living environment for future residents and Policy PCS19 of the Portsmouth Plan states that new development must be of a reasonable size and appropriate to the number of people that it is designed to accommodate. PCS19 previously referred to size standards set by Portsmouth City Council but these have since been superseded by National standards set out within the

Nationally Described Space Standards (NDSS, March 2015). The NDSS sets out minimum sizes for new dwellings that are considered appropriate to provide a suitable standard of living accommodation.

The minimum size standards relevant to this proposal are as follows:

- 1-bed, 2 person - 50m<sup>2</sup>
- 2-bed, 3 person - 61m<sup>2</sup>
- 2-bed, 4 person - 70m<sup>2</sup>
- 3-bed, 5/6 person - 99m<sup>2</sup>/108m<sup>2</sup>

The proposals provide the following floor areas:

- Flat 1 (GF): 1 bedroom for 2 persons: 50m<sup>2</sup>
- Flat 2 (GF): 1 bedroom for 2 persons: 51m<sup>2</sup>
- Flat 3 (FF): 2 bedroom for 4 persons: 82m<sup>2</sup>
- Flat 4 (SF): 2 bedroom for 3 persons: 68m<sup>2</sup>
  
- House: 3 bedroom for 5/6 persons: 97m<sup>2</sup>

The submitted plans indicate that all of the proposed flats would meet the minimum size standards, albeit that the 1-bedroom units would be at the minimum size. Furthermore, it is noted the site is located within walking distance to the seafront/Southsea Common and several areas of open green space (e.g. Bransbury Park and Eastney sports ground).

The new standalone dwelling would have 3-bedrooms and the plans indicate that they would be designed for 5/6 persons, with a floor area of 97m<sup>2</sup>. This would represent a limited shortfall of 2m<sup>2</sup> in the case of a 5 person dwelling and a shortfall of 11m<sup>2</sup> in the case of a six person dwelling. However, it is acknowledged the dwelling would have access to a south-facing, enclosed amenity space to the rear measuring approx. 50m<sup>2</sup> in area. In addition, it is noted that although confirmation from the agent could be sought to confirm the new dwelling would only be occupied by 5 people, this could not reasonably be enforced by way of condition. On this basis, it is considered that an objection on standard of accommodation could not be sustained.

It is therefore considered that the proposed 5 new residential dwellings provide a suitable standard of living accommodation for future residents, in compliance with Policies PCS19 and PCS23 of the Portsmouth Plan.

In relation to light and outlook for the future residents, the flats have been designed to have their habitable room windows facing north, west and east, where the best level of light would be achieved. It is noted that the revised scheme would, as a result of the re-positioned dwelling, see the loss of a west facing windows serving Bedroom 1 in Flat 2. However, in the previous scheme, these windows only had a view of a parking space immediately adjacent. The Flat would retain the larger south-facing window, albeit with a view and light from its only cycle store only. However, it is considered this change is of limited effect and is acceptable.

The house would be orientated north/south, with habitable room windows facing over the road or into the rear garden, and this is also considered appropriate to achieve a suitable level of light and outlook.

The Environmental Health Officer has noted that there is the potential for residents of the dwellings fronting Cromwell Road to be impacted by traffic noise, but that this impact could be mitigated by the provision of appropriate window glazing which would be controlled through the Building Regulations regime.

### **Impact on Neighbouring Amenity**

Policy PCS23 of the Portsmouth Plan includes, amongst other things, that new development should ensure the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development.

Adjacent to the western boundary of the application site is No. 1 Tokar Street which has a blank gable wall. This blank elevation extends the full depth of the western boundary of the application site to a height of two-storeys and it is therefore not considered that the residents of this property would be adversely impacted in terms of loss of outlook, light or privacy from the proposed pub conversion and erection of a house.

To the south of the site, there is a three-storey block of flats (Cavalier Court), which has a number of windows on its rear elevation facing west and there is a rear parking area that is separated from the application site by a tall boundary wall. There are no windows on the northern elevation of the flats. This neighbouring block of flats extends further to the west than the existing public house. It is therefore not considered that the conversion of the public house would significantly impact on the relationship with the adjacent flats, or cause any harm to the outlook, light and privacy of the residents.

The proposed dwelling has been moved away from No.1 Tokar Street and relocated to the east and now abuts the two-storey projection of the existing Public House (No.58). The relocation of the proposed dwelling has shifted the parking area to the west of the site and the amenity space associated with the new dwelling to the east. Given the separation distance of approx. 11m it is not considered the proposed standalone dwelling would have a significant impact upon No.1 Tokar Street, in terms of loss of light or increased sense of enclosure/overlooking.

This dwelling would be two-storeys in height and would introduce new windows facing south over the site of Cavalier Court. Whilst views from the ground floor windows would be restricted by the existing boundary wall, the new first floor windows would have views over the neighbouring site. There would be an angled separation distance of approximately 8m between the nearest rear windows of the flats and the nearest first floor windows on the proposed dwelling. Having regard to the separation distance and angled views, it is not considered that the development would have a significant impact on the amenities of the residents of the flats in terms of overlooking/loss of privacy. Also, due to the orientation of the proposed development to the north, it is not considered that it would result in any significant loss of light to the residents of the flats.

To the north of the site, there would be a distance of approximately 10m between the front elevations of the proposed dwelling and the front of the nearest dwellings on the opposite side of Tokar Street. This is no less than the separation distance that already exists between dwellings on either side of Tokar Street and it is therefore not considered that the proposed dwellings would have a harmful impact on the amenities of the residents to the north.

### **Access and parking**

The site is located in a primarily residential area where few of the properties have off street parking facilities and the demand for parking by local residents significantly exceeds the space available on street particularly in the evenings and at weekends. No parking survey undertaken in accordance with the Lambeth model has been submitted with the application to confirm the availability of overnight on street parking spaces within 200m of the property rather it appears to be accepted by the applicant that no such further on street parking capacity is available.

In terms of access to public transport within the city the site is of low accessibility, not being within 400m of a high frequency bus corridor or 800m of a railway station. Notwithstanding the accessibility of the site the Local Highways Authority (LHA) are satisfied that the scale of the proposal would not be likely to generate a material increase in trips on the local highway network during peak period. However, it is not located within that part of the city defined in the

SPD and being sufficiently accessible to allow consideration of a reduction in or relaxation of the residential parking standards.

The application proposes 6 cycle parking spaces to serve the 4 apartments with a further secure cycle store area for Flat 2 to the south of the site and a dedicated cycle store for the house, which meets the cycle parking requirement. Five parking spaces are indicated accessed via Tokar Street. The relevant parking standard for a development of this scale is 6.5 spaces although the property includes an existing 6 bedroomed flat with a parking requirement of 2 spaces; none are currently provided and as a consequence the site has an existing parking shortfall of 2 spaces. This shortfall will not be increased as a result of this development.

The access to Tokar Street is via a new dropped crossing which extends for a 3m wide access width bounded with low walls topped with railings securing adequate pedestrian visibility. There is no scope for vehicles parked in 2 of the spaces to be able to turn on site and so enter and leave the highway in a forward gear, although given the status and function of Tokar Road the LHA would not wish to object to the proposal on that basis. Subject to conditions the LHA raise no objection to the proposal.

### **Refuse provision**

The Waste Management Officer initially raised concerns about the location of the bin store proposed for the flats and whether this could be accessed appropriately as it was noted that the doors to the store would need to open flat against the external wall to ensure suitable access.

In response to these comments the applicant has amended the plans. The size and quantity of the bins provided has been amended to now provide 4 x 360L bins and the doors to the bin store serving the flats have been altered. One door would now be larger to allow for the bins to be moved. This has resolved issues regarding the suitability of the bin store and the proposal is now considered to be acceptable in this regard.

### **Ecology**

The County Ecologist has reviewed the proposals and local biodiversity data and considers that the site has negligible potential to support protected species or habitats. It is therefore not considered that the development would have an adverse impact on protected species or habitats or any locally designated wildlife sites. However, due to the increase in population proposed on the site, the County Ecologist has noted that there is the potential for the development to have a negative impact on the Solent Special Protection Area (SPA). This matter is addressed under the following heading of this report.

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

The Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated as a Special Protection Area, or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth Policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

The Solent Recreation Mitigation Strategy (December 2017) was adopted by Portsmouth City Council on 1st April 2018 and replaces the Interim Solent Recreation Mitigation Strategy (December 2014) and the associated Solent Special Protection Areas Supplementary Planning Document (SPD) which was revoked by the City Council from 1st April 2018. The Strategy

identifies that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. It sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

The proposal would lead to a net increase in population, which would be likely to lead to a significant effect as described in section 61 of the Habitats Regulations on the Portsmouth Harbour and the Chichester and Langstone Special Protection Areas (SPAs). The development is not necessary for the management of the SPA.

In considering this application regard has been made to the benefits of the proposal in providing new dwellings within the city and the contribution it would make towards the city's housing targets. An appropriate assessment has been carried out which has identified the required mitigation for the development would be £1405. The applicant has provided this payment, in accordance with Policy PCS13 of the Portsmouth Plan and the Conservation of Habitats and Species Regulations (as amended). This contribution is sufficient to mitigate the likely significant effect of the proposal on the Solent Special Protection Areas.

## **Conclusion**

The previous application was refused and this new application has not been able to address the previous concerns of 'over-development of the site', and whether the parking courtyard is 'cramped'. However, the position on the determination of the application is now changed, due to the fact that the Local Authority does not currently have a 5 year supply of housing:

As set out earlier in this report, the NPPF states that permission should be granted unless either of its two tests are met. Test (i): in this instance, the relevant asset(s) are the nearby heritage assets. The development would not harm nearby heritage assets. Test (ii): it is not considered that the limited harm to local amenity/character derived from the proposals would significantly and demonstrably outweigh the benefits of providing new housing when assessed against the policies in the NPPF taken as a whole. As such, planning permission must be granted. This new situation of housing supply supersedes the position recently taken by the local Planning Authority, i.e. the refused application of last October and it is considered the application must now be approved, to follow national policy.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

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

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location and block plan (17-2233-133/P2); proposed site layout (17-2233-130/P1); proposed floor plans (17-2233-131/P3); and, proposed elevations (17-2233-132/P3).

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

(a) A desk study (undertaken in accordance with best practice, including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the site. The report shall contain a conceptual model showing the potential pathways that exposure to contaminants may occur,

including any arising from asbestos removal, both during and post-construction, and unless otherwise agreed in writing by the LPA; and,

(b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS 8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs)'). Unless agreed in advance, the laboratory analysis should include assessment for heavy metals, speciated PAHs and fractionated hydrocarbons (as accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS) and asbestos. The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation; and, unless otherwise agreed in writing by the LPA; and,

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

4) The development hereby permitted shall not be first occupied/brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a stand-alone verification report by the competent person approved pursuant to Condition 3(c) above, that the required remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). The report shall include a description of remedial scheme and as built drawings, any necessary evidence to confirm implementation of the approved remediation scheme, including photographs of the remediation works in progress and/or certification that material imported and/or retained in situ is free from contamination, and waste disposal records. For the avoidance of any doubt, in the event of it being confirmed in writing pursuant to Condition 3(b) above that a remediation scheme is not required, the requirements of this condition will be deemed to have been discharged. Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under Conditions 3(c).

5) (a) Prior to installation, precise fabrication details (including the profile of all framing, jamb, glass thickness, glazing bar thickness, finish and colour of spacer) of all of the replacement windows at a scale of 1:10 including materials and finish shall be submitted to and approved in writing by the Local Planning Authority; and, (b) The windows agreed pursuant to part (a) of this condition shall then be installed in complete accordance with the approved details and permanently retained in that condition.

6) (a) Unless otherwise agreed in writing with the Local Planning Authority, no works pursuant to this permission shall commence until a full schedule of materials and finishes (including samples where requested) to be used in the construction of the external surfaces of the development (pub conversion and new dwelling) hereby permitted (also including car park surfaces, hard landscaping and boundary treatments) has been submitted to and approved in writing by the Local Planning Authority; and, (b) The development shall thereafter be carried out in full accordance with the schedule of materials and finishes agreed pursuant to part (a) of this condition.

7) Notwithstanding the submitted details, all boundary walls shall be constructed in brickwork to match the main dwelling and railings shall be colour treated in black or such alternative materials as may be approved in writing with the Local Planning Authority.

8) (a) The proposed works to provide vehicular access and 5 no. parking spaces from Tokar Street shall have been surfaced, marked out and made available for use in accordance with the Proposed Site Layout Plan (drawing ref: 17-2233-130/P1) and with a timetable that shall have been submitted to and approved in writing by the Local Planning Authority before the dwellings are first brought into use; and, (b) The approved parking provision as detailed by part (a) of this condition shall thereafter be provided in accordance with the approved timetable and permanently retained for the continued use by the occupiers of the dwellings hereby permitted for the off-road parking of vehicles.

9) (a) Unless otherwise agreed in writing with the Local Planning Authority prior to the first occupation of the dwellings hereby permitted; a detailed landscaping plan which shall specify: areas of new soft landscaping; species; planting sizes; spacing and density/numbers of trees/shrubs to be planted; the phasing and timing of planting and provision for future maintenance has been submitted to and approved in writing by the Local Planning Authority; and, (b) The approved landscaping scheme shall then be carried out in full within the first planting and seeding seasons following the first occupation of any part of the building or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of 5 years from the date of planting die, fail to establish are removed or become damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.

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

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

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

11) Prior to the first occupation of the dwellings (Class C3) hereby permitted, cycle parking shall be provided in accordance with the submitted Proposed Site Layout Plan (drawing ref: 17-2233-130/P1) and Proposed Floor Plans (drawing ref: 17-2233-131/P3). Unless otherwise agreed in writing; the approved cycle parking facilities shall thereafter be retained.

12) Prior to the first occupation of the dwellings (Class C3) hereby permitted, waste/recyclable storage shall be provided in accordance with the submitted Proposed Site Layout Plan (drawing ref: 17-2233-130/P1) and Proposed Floor Plans (drawing ref: 17-2233-132/P3). Unless otherwise agreed in writing; the approved waste/recyclable storage facilities shall thereafter be retained.

**The reasons for the conditions are:**

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

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

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

- 4) To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 5) To ensure that the final specification of the replacement windows is of an appropriate standard to protect the special architectural or historic interest of the building in accordance with the aims and objectives of the National Planning Policy Framework and in accordance with Policy PCS23 of The Portsmouth Plan.
- 6) In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 7) In the interests of the visual amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 8) To meet necessary parking requirements and to minimise any impact on the safety and inconvenience of all road users through the city, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 9) To secure the provision of appropriate tree-planting and landscaping to soften the urban edge of development in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF.
- 10) To ensure that the development as built will minimise its need for resources and be able to fully comply with policy PCS15 of the Portsmouth Plan.
- 11) To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
- 12) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.

#### PRO-ACTIVITY STATEMENT

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

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**06**

**18/02058/FUL**

**WARD:ST JUDE**

**14 WISBOROUGH ROAD ST JUDE SOUTHSEA PO5 2RE**

**CHANGE OF USE FROM PURPOSES FALLING WITHIN A C4 (HOUSE IN MULTIPLE OCCUPATION) TO 7 PERSON 7 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS) (RESUBMISSION OF 18/00728/FUL)**

**Application Submitted By:**

Thorns Young Ltd  
FAO Mrs Carianne Wells

**On behalf of:**

Mr Anthony Lane

**RDD:** 13th December 2018

**LDD:** 8th February 2019

**SUMMARY OF MAIN ISSUES**

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

- a) Whether the intensification of the use is acceptable in accordance with Policy PCS20 of the Portsmouth Plan;
- b) Standard of living accommodation;
- c) Impact on the amenities of neighbouring residents;
- d) Parking and refuse storage;
- e) Impact on the Solent Special Protection Area.

**Site and proposal**

The application relates to a flat fronted mid terraced property, located on the north side of Wisborough Road in Southsea. The surrounding area is predominantly characterised by terraced housing.

The property has already been extended into the roofspace through the construction of a rear dormer window. This dormer is of a size that falls within the remit of permitted development and is therefore not for consideration as part of this planning application.

Planning permission was granted in 2014 for the use of the property as either a dwellinghouse (Use Class C3), or a House in Multiple Occupation (HMO, Use Class C4), for up to 6 unrelated people (ref. 14/00277/FUL). This new application seeks permission for the change of use to a 7-bedroom HMO, which is classed as a Sui Generis use. The applicant has confirmed that the maximum occupancy would be 7 persons.

The property is currently in the process of being renovated internally, to provide the following accommodation:

Ground Floor - two bedrooms; one shower room and communal kitchen/dining/living space;  
First Floor - three bedrooms and one shower room;  
Second Floor (Loft) - two bedrooms and shower room.

All the shower rooms are incorrectly labelled as 'ensuite' although they are not directly connected to any bedroom.

### Planning history

14/00277/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). Permission (18.03.2014).

18/00728/FUL: Change of use from purposes falling within a C4 (house in multiple occupation) to 7 person 7 bedroom house in multiple occupation (sui generis). Refused (16.07.2018). Appeal dismissed (11.12.2018). The reasons for refusal were as follows:

1) The proposed change of use of the building to a seven-person, seven-bedroom House in Multiple Occupation (Sui Generis) would fail to support mixed and balanced communities by further imbalancing an area already imbalanced by a high concentration of HMO uses. The proposal is therefore contrary to Policy PCS20 of the Portsmouth Plan and the supporting Houses in Multiple Occupation Supplementary Planning Document (Nov 2017).

2) The use of the building as a seven bedroom, seven person House in Multiple Occupation (Sui Generis) would, as a result of the restricted size of the communal space and the number of WCs, fail to provide an adequate standard of living accommodation for future occupiers, and represent an over intensive use of the property. The proposal is therefore contrary to Core Planning Principles of the National Planning Policy Framework and Policies PCS20 and PCS23 of the Portsmouth Plan.

3) Without appropriate mitigation the development would be likely to have a significant effect on the Portsmouth Harbour and Chichester and Langstone Harbours Special Protection Areas and so is contrary to Policy PCS13 of the Portsmouth Plan and the Conservation of Habitats and Species Regulations (as amended).

The application went to appeal and was dismissed, but the only issue outstanding with the Planning Inspector was the impact upon SPA mitigation, and his concluding comments were:

"I have found that the development provides an adequate standard of accommodation for the occupiers and it does not result in harm to the mix and balance of the community. While it provides additional accommodation, it does not outweigh its failure to mitigate its effect on the SPAs. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed."

There is no other relevant planning history associated with the application site.

### **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), PCS23 (Design and Conservation), PCS20 (Houses in Multiple Occupation (HMOs)),

The aims and objectives of the revised NPPF (July 2018) would also be relevant in the determination of this application

### **CONSULTATIONS**

#### **Private Sector Housing**

It would require to be licenced under Part 2, Housing Act 2004 and comply with the accommodation standards of that Act.

## REPRESENTATIONS

Three representations have been received from neighbouring residents raising objection on the grounds of: (a) Property size, overcrowding & fire safety; (b) the number of HMO's in the surrounding area; (c) noise and anti-social behaviour; (d) parking; (e) cycle storage and, (f) waste.

## COMMENT

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

Planning permission was refused in July 2018 for: 'Change of use from purposes falling within a C4 (house in multiple occupation) to 7 person 7 bedroom house in multiple occupation (sui generis)', under planning ref. 18/00728/FUL. A subsequent appeal was dismissed in August 2018.

The submitted plans for this current application are identical to the previously refused scheme, as the first two reasons were over-ridden by the appeal Inspector, leaving only the SPA habitats issue outstanding.

### Principle of the use

Planning permission is sought for the use of the property to a 7 bedroom Sui Generis HMO. The property already benefits from a flexible lawful use as either a Class C4 HMO or a dwellinghouse, following the grant of planning permission in 2014 (ref. 14/00277/FUL).

Policy PCS20 of the Portsmouth Plan states that applications for the change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (as amended, July 2018), 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.

The Planning Inspector said in relation to the above policy:

*"The Council has found that 18 of the 89 residential properties surrounding the appeal site, or 20%, are in HMO use. It considers that the intensification of this HMO worsens the imbalance. I acknowledge the list of impacts which the Council suggests this intensification could have on the community. However, the number of houses in the area has not been reduced so I cannot see how the additional bedroom increases the competition for rented houses, or inflates house prices. There is no substantive evidence that it reduces the affordability of housing or decreases the demand for services.*

*I acknowledge that consultations with residents suggest that problems occur at a greater rate in areas with high concentrations of HMOs or where the numbers of occupants within large HMOs exceed a family dwelling. However, the proposal would not increase the number of HMOs, and there is no evidence of the occupancy of those in the area. Moreover, there is no evidence of the problems referred to occurring in this area, nor any indication that the increase by 1*

*additional person would either singly or cumulatively exacerbate any ill effect, including community cohesion and the quality of the local environment.*

*Whilst this proposal is not for a new HMO use, it does propose an intensification of the use. The HMO SPD states that where planning permission is sought to change the use of a Class C4 or mixed C3/C4 use to a HMO in Sui Generis use, the City Council will seek to refuse applications in areas where concentrations already exceed the 10% threshold. This is to protect residents against potential negative impacts associated with further intensifications of HMO uses in areas that are already imbalanced.*

*I conclude on this issue that while I give significant weight to the Council's guidance, the house is already in HMO use and no material change to the balance of uses in the area has occurred. There is no substantive evidence that the proposal has resulted in harm to the mix and balance of the community. It does not therefore conflict with CS policy PCS20."*

Given the views of the Inspector, it is not considered to be reasonable or practical to refuse the application again based on the above policy. In essence, the property is already an HMO and its continued use as a HMO (albeit larger HMO) would not materially impact upon the mix and balance of the local community.

#### Standard of accommodation

The Houses in Multiple Occupation SPD, as amended (July 2018), sets out minimum size standards for rooms in order to ensure that an appropriate standard of living accommodation is achieved. A summary of the sizes of the rooms within this property in comparison to the minimum standards within the SPD is set out below:

In terms of internal living conditions, the property proposes the following accommodation:

Area Provided:	Required Standard:	(HMO SPD-July 2018)
Bedroom 1 (Ground floor)	8.55m <sup>2</sup>	7.5m <sup>2</sup>
Bedroom 2 (First floor)	8.25m <sup>2</sup>	7.5m <sup>2</sup>
Bedroom 3 (First floor)	8.55m <sup>2</sup>	7.5m <sup>2</sup>
Bedroom 4 (First floor)	11.7m <sup>2</sup>	7.5m <sup>2</sup>
Bedroom 5 (Second floor - in roof)	8.09m <sup>2</sup>	7.5m <sup>2</sup>
Bedroom 6 (Second floor - in roof)	13.26m <sup>2</sup>	7.5m <sup>2</sup>
Bedroom 7 (Ground floor)	8.09m <sup>2</sup>	7.5m <sup>2</sup>
Shower room/WC (Ground floor)	3.84m <sup>2</sup>	3.74m <sup>2</sup>
Shower room/WC (First floor)	3.84m <sup>2</sup>	3.74m <sup>2</sup>
Shower room/WC (Second floor)	3.69m <sup>2</sup>	3.74m <sup>2</sup>
Kitchen/Dining (Ground floor) 7+ persons	24.9m <sup>2</sup>	27m <sup>2</sup>

The Planning Inspector said in relation to the above:

*"The area of the kitchen/dining/living room, at 24.9m<sup>2</sup>, is around 2m<sup>2</sup> below the minimum area indicated in its HMO guidance<sup>1</sup> of 27m<sup>2</sup>. However I note that the floor area guidance of 27m<sup>2</sup> applies equally to proposals greater than 7 people as it does to development containing 7 people. Given that all the bedrooms meet the minimum area required, and that some are substantially greater, as well as the arrangement, utility and standard of the kitchen/dining/living room provided, in my judgement the shortfall in this case does not lead to an inadequate standard of accommodation.*

*This conclusion is consistent with the appeal decision 2 at Jessie Road where a large HMO for 7 people was allowed despite a greater shortfall. The Council refers to an appeal decision<sup>3</sup> at Pitcroft Road; however that concerned a shortfall of living space of 3.5m<sup>2</sup> against a minimum of*

14m2. Moreover, unlike in this case, some of the bedrooms in that appeal were below the minimum floor area.

*The Council's guidance also advises that houses for 7-10 people should provide 2 separate bathrooms and 2 separate WCs, one of which may be in a bathroom. The house contains 3 bathrooms, each including a WC. Whilst there is therefore a shortfall of 1 WC against the SPD, again I note that it applies equally to 10 people as it does to 7, which is the number of occupiers in this case. I recognise the convenience an additional WC would provide. However, given that there is a bathroom on each of the 3 floors, and noting the facilities within each, which are shared by 2 bedrooms at ground and second floors and by 3 at first floor, the shortfall would not have a significant effect on the living conditions of occupiers in terms of health, hygiene and physical comfort.*

*I conclude that the development provides an adequate standard of accommodation for occupiers. While I see less relevance of CS policy PCS 20 to which the Council refers, it does not conflict with CS policy PCS23 where it seeks a good standard of living environment for future residents and users of a development."*

Given the views of the Inspector, it is not considered to be reasonable or practical to again refuse the application based on the above policy.

Aside from the above planning considerations with respect to our SPD guidance, Private Sector Housing have made comments about the adequacy of the proposed accommodation with respect to the Housing Act 2004. These will be passed to the Applicant by way of an Informative.

#### Impact on residential amenity

The proposal is to increase the number of bedrooms within the property from 6 to 7, allowing for occupation by up to 7 people. The current proposal therefore represents an increase of 1 person over the level of occupancy that would be allowed within the current C4 use.

The impact of increasing the occupancy of an HMO on the amenities of neighbouring residents has been considered in a number of recent appeals.

In an appeal decision relating to 11 Baileys Road (Appeal ref: APP/Z1775/W/16/3159989, February 2017), the Inspector opined that: *"The current use of the property for C4 purposes would enable occupation by up to six residents. The appeal concerns the accommodation being increased by 2 additional bedrooms, making a total of 8 bedrooms; however, this would not change the nature of the use. To effect this change the ground floor lounge and study would be converted to bedrooms. No other rooms would be affected... I am not persuaded that sufficient evidence has been submitted to substantiate that the proposed 2 additional bedrooms, would result in material harm to their [local residents] living conditions or unbalance the local community".*

Similarly, in an appeal decision relating to 37 Margate Road (Appeal ref. APP/Z1775/W/16/3159992, February 2017), which would have resulted in an increase in 1 bedroom, the Inspector commented as follows: *"...having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernible when considered in the context of the existing activity in the surrounding urban area".*

In a more recent appeal at 59 Liss Road (Appeal ref. APP/Z1775/W/17/3185768, February 2018), the Inspector agreed with the decision of the previous Inspector for 37 Margate Road in respect of the impact of the additional occupancy.

Having regard to these various appeal decisions, and on the basis that the proposal would only result in 2 additional occupants, it is not considered that an objection could reasonably be sustained on the basis of the impact on the amenities of neighbouring residents in terms of increased noise or disturbance.

### Parking and refuse store

There is no parking associated with the property and no proposal to provide on-site parking.

The Council's Adopted Parking Standards set out a requirement for Sui Generis HMO's to provide space for the storage of at least 4 bicycles. The property has a rear garden where secure cycle storage could be located. This requirement could be secured by condition.

In relation to refuse requirements, the owners of the site would need to apply for communal waste collection. It is considered that the waste facilities could be stored within the rear garden, and could be secured by condition.

In relation to these matters and the above section the Planning Inspector stated: *"I understand the concerns of neighbours which include additional parking demand and refuse generation. However, an additional occupier is unlikely to place unsustainable pressure on the surrounding street parking or cause environmental harm from waste storage. I note that the highways authority considered the change to a large HMO would not conflict with the Council's Parking Standards, and it did not object."*

Given the views of the Inspector, it is not considered to be reasonable or practical to refuse the application based on the above policy.

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

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

It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas, due to increased recreational pressure. A Bird Aware Strategy came into effect on 1 April 2018. This sets out how development schemes can provide mitigation to remove this effect and enable development to go forward in compliance with the Habitats Regulations. The mitigation can be provided in the form of a financial contribution towards a Solent wide mitigation strategy. For proposals for a change of use from C4 HMO's to sui generis HMO's the amount sought depends on the number of additional bedrooms proposed. In this case, the floorplans submitted with the previous application in 2014 confirm that the property previously had 4 bedrooms and the proposal is to increase the number of bedrooms to 7, resulting in a net increase in 3 bedrooms. The required mitigation amount for an increase in 3 bedrooms is £637.

The requirement for the payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development. The applicant has paid the full SPA mitigation and the proposal is therefore in accordance with Policy PCS13 of the Portsmouth Plan. The reason this sum was not paid with the previous application was that the LPA does not seek the sum if it is clear an application will be refused. However, now the other matters have been decided by the Appeal Inspector, the remaining issue of habitat levy is straightforward to resolve.

## RECOMMENDATION

## Conditional Permission

### Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan - 1:1250@A4; Block plan - 1:500@A4 and Elevations & Plans - PG 3019 18 REV A.
- 3) Prior to first occupation of the property as a 7 person, 7 bedroom Sui Generis (Large HMO), details of secure and weatherproof bicycle storage facilities for at least 4 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The bicycle storage facilities shall thereafter be retained for the parking of bicycles at all times
- 4) Prior to the first occupation of the property as a ten person/8 bedroom (Sui Generis) House of Multiple Occupation, one 360L refuse bin and one 360L recycling bin shall be provided and thereafter retained in the rear garden of the property (or such other waste arrangements as may be submitted to and approved by the Local Planning Authority in writing).

### The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
- 4) In the interest of amenity, in accordance with Policy PCS23 of the Portsmouth Plan.

### PRO-ACTIVITY STATEMENT

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

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**PUBLIC HOUSE 84-90 PALMERSTON ROAD SOUTHSEA PO5 3PT****CHANGE OF USE OF UPPER FLOORS WITH ASSOCIATED EXTERNAL ALTERATIONS TO FORM A HOTEL (CLASS C1); CONSTRUCTION OF LIFT ENCLOSURE AND PERGOLA WITH PITCHED GLAZED ROOF, AND INSTALLATION OF BALUSTRADING AND ACOUSTIC SCREEN ASSOCIATED WITH THE USE OF THE ROOF AT FIRST FLOOR LEVEL AS A SEATING TERRACE****Application Submitted By:**

Mr Robert Gilmore  
nineteen47 Ltd

**On behalf of:**

JD Wetherspoon PLC

**RDD:** 22nd November 2018

**LDD:** 4th April 2019

**SUMMARY OF MAIN ISSUES**

## The Site

The application site is on the west side of Palmerston Road, between its junction with Osborne Road and Auckland Road West. To the rear is Ashby Place with a 24 hour public car park for 73 vehicles (59 cars and 14 motorcycles). On the far side of the car park are residential properties, with the nearest approximately 35 m away.

It is a part 3/part 4 storey Victorian terrace with bays at first and second floor levels framed by pilasters and other stone detailing on the front elevation. At the rear there is a single-storey element with a flat-roof; it is enclosed by the flank walls of the first and second storeys with a wooden fence along the rear edge and a fire escape to ground level along with another smaller flat-roof element at second floor level, which is similarly enclosed.

The premises are occupied by the Lord Palmerston public house (which operates as a club at the weekends) with a bar, kitchen and toilets at ground floor. Rooms at first floor at the front are used for a staffroom and offices whilst rooms on second and third floors are currently empty. The opening hours are 08.00-00.00 Monday to Thursday and Sunday and 0.800-01.30 Friday and Saturday.

The flat-roof at first floor level is currently used to station a large amount of air handling/conditioning plant and equipment associated with the pub use and a smoking area for staff.

The site is located within the designated boundaries of the Southsea Town Centre Area Action Plan and is within the area designated as being secondary frontage and restaurant quarter. It is adjacent to 'Owen's Southsea' Conservation Area (No2).

## Proposal

The application is for the change of use of upper floors of the existing building from public house (Class A4) to a 24 bed hotel (Class C1). The proposal hotel layout shows 9 bedrooms on the first floor, 4 on the second, 8 on the third and 3 on the fourth whilst retaining the ground floor bar

and the staff room and offices as part of the public house. The entrance to the hotel will be separate from the pub entrance utilising an existing service entrance that leads to a corridor and existing staircase up to the first floor.

In addition, the extraction equipment is to be removed from the flat-roof at first floor level in order to use it as a roof terrace in association with the public house (73 covers). Half of the useable area will be covered with a glass structure on timber supports 3 m high to the ridge and 2.8 high to the eaves. This terrace will be accessed by the existing stairs on the first floor and by a new lift. The lift housing will be 3.5 m high and 2 m square and project through the glass cover. A toughened glass acoustic screen 1.5 m high will replace the existing wooden balustrade in front of the seating with some planting between this screen and the edge of the roof. A further acoustic screen of timber is proposed at the back of the terrace and in front of the windows to the first floor rooms, which are to be part of the hotel. The additional customer area provided by the roof terrace will be 125 sq metres. It is proposed to close access to the terrace after 9pm.

Some air conditioning equipment is proposed on the second floor flat-roof.

### Planning History

-1996- An application for the use of the ground floor as a diner/bar (class A3) including music and dancing (class D2) with ancillary wc/staff facilities on part of first floor/ mezzanine level and installation of new shopfront was granted conditional permission May 1996 (ref E\*13218/AB).

-2010- An application for the use of premises for cafe/bar purposes (mixed use class A3/A4) by JD Wetherspoon PLC was granted conditional permission in May 2010 (ref 10/00336/FUL).

In recent years a number of applications seeking to extend the opening hours on Friday and Saturday nights from 2am to 3am have been refused.

-2017- An application for the change of use of upper floors and ancillary areas of existing building from public house (Class A4) to hotel (Class C1) and the creation of a first floor roof terrace (ref 17/00777/FUL) was refused in June 2017 for the following reasons:

1. The proposed construction of the first floor roof terrace would have an adverse impact on adjoining occupiers in terms of overbearing noise and disturbance and would fail to meet the requirements regarding residential amenity as identified by Policy PCS23 of the Portsmouth Plan.
2. The proposed parking provision is not in accordance with the requirements of the City Council's Parking Standards SPD and insufficient information has been submitted to justify a reduced level of parking. Accordingly the development would fail to provide an adequate level of car parking for the proposed hotel use which would be likely to increase demand for limited on-street car parking facilities to the detriment of the environment of the area and contrary to policies PCS17 and PCS23 of the Portsmouth Plan and the aims and objectives of the adopted Parking Standards SPD to maintain a balanced approach between car parking and sustainable transport.

A resubmission (ref 17/01864/FUL) was also refused on 22 February 2018.

### **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include: PCS23 (Design and Conservation), STC4 (Restaurants and Cafes), STC5 (Drinking Establishments and Take-aways), PCS17 (Transport),

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

policies STC4 (Restaurants and Cafes) and STC5 (Drinking Establishments and Take-aways) within the Southsea Town Centre Area Action Plan. The Parking Standards and Transport Assessments Supplementary Planning Document would also be material to this application.

## **CONSULTATIONS**

### **Highways Engineer**

Having considered the Design & Access Statement, parking technical note and associated plans submitted in support of the application comments as follows:

Palmerston Road is predominantly a shopping street with a mix of shops, cafes and bars. The site is within a shared space area that forms part of the southern half of Palmerston Road.

Palmerston Road is bisected by Osborne Road which forms a part of a key bus route and also houses a Taxi rank as well as some on-street limited wait parking on Osborne Road and within the Southern half of Palmerston Road. Pay & Display parking is provided for visitors to the shops in nearby Ashby Place car park with capacity for 64 vehicles 24hrs a day with no charge between 18:00-06:00hrs.

A traffic assessment has been submitted with the application as part of the parking technical note. The TRICS database has been interrogated to provide expected trip rates associated with the proposed use. This shows that whilst there would be an increased level of traffic associated with the site as a result of the proposal, the increase would not result in a material impact upon capacity on the immediate or wider highway network and as such any further traffic assessment is not required.

Portsmouth City Council does not specify an expected standard for numbers of parking spaces for non-residential developments rather expect that developers justify any provision. This application has made no parking assessment and there is no evidence that any parking will be made available primarily for this development. It is proposed to create 24 rooms within the hotel element as well as opening up additional space for the public house customers. On the assumption the hotel is on average 60-70% occupied parking demand associated with the hotel is expected to be in the region of 14-17 spaces.

Existing pay & display parking areas are used primarily for retail visits during the day and for the bars/restaurants in the evenings. Many of the nearby streets are included within a resident's parking scheme therefore these areas would be unavailable for hotel guests to park in. The applicant has produced a parking assessment in response to an earlier refusal for a hotel use at this site (refused on parking grounds); this focuses predominantly on the availability of parking at nearby Ashby Place which has capacity for 64 vehicles. Overnight parking surveys were conducted for several consecutive evenings during October 2018. The results showed that the car park experienced a peak demand of 40 cars with the average occupancy in the evenings sitting at around 30-32 vehicles. This would suggest that sufficient space does exist within the car park to accommodate the likely demand associated with the hotel use and is acceptable. No details of cycle parking is provided. The Portsmouth Parking SPD does not give an expected standard for cycle parking for a Hotel use however I would expect some provision for staff. This should be in line with BREEAM standards however can be secured by an appropriately worded condition.

As the application stands no Highways objection however the following condition should be secured;

o Details of cycle parking to be submitted to and approved by the LPA and subsequently provided prior to occupation of the development.

### **Environmental Health**

Air Quality:

The site is not located in an AQMA; parking demand does not exceed 11 spaces at any given day at the highest hours for am and pm (under 18% of the existing car park capacity) - not

significant enough to trigger the request of an AQ assessment as AQ is not perceived to be a material consideration.

Noise:

Document RK2615/17239/Rev 2 dated 8th November 2018 covers noise from the proposed use of the external drinking and eating area and also noise from additional external plant.

Confirmation required that all the plant /ducting to be removed.

## **REPRESENTATIONS**

20 representations, from 12 individuals, have been received raising objection on the grounds of:

- o noise from roof terrace and adverse impact on living conditions of neighbouring residents
- o lack of parking for hotel
- o not clear how many additional staff will be employed
- o errors in acoustic report
- o ineffective acoustic barriers
- o air conditioning units will be on 24 hours a day and impact not assessed
- o not clear how access to roof will be managed
- o hotel use acceptable provided condition to ensure waste collections and goods deliveries are to the rear to prevent traffic congestion and consequent impact on highway safety and air quality in Palmerston Road
- o neighbour notification should have been more extensive
- o lack of concern for residents in way PH is operates
- o legal position needs to be confirmed on whether the use of the terrace requires consent
- o rear access is controlled by condition on previous consent

3 letters of support:

- o will support vitality of the centre
- o will bring derelict looking upper floors back into use
- o shortage of hotel accommodation
- o plenty of public parking
- o sufficiently distant from residential properties and in a mixed area where retail and leisure activity is to be expected
- o no loss of privacy

## **COMMENT**

The determining issues for this application are whether the use of the premises as a hotel is acceptable, design (including any impact on heritage assets) and whether there will be any significant impact on local residents or the amenity of the area as a result of the proposal.

Principle of the use

The site is within a secondary frontage in the Southsea Town Centre where redevelopment of existing buildings for leisure and tourism is acceptable. As such the proposal complies with policies STC2 and STC5 of the Southsea Town Centre Action Plan. It will help meet the demand for hotel accommodation identified in the Hampshire Hotel trends Survey. Moreover it will bring the upper storeys of the building back into use and contribute to the vitality of the area. The ground and first floor, including the flat roof area, are already in use as part of the Lord Palmerston public house. However external alterations are proposed in order to facilitate the use as a terrace and the impact on residential amenity and the amenity of the area are considered below.

## Design and impact on heritage assets

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

The NPPF (paragraph 193) also states that when considering the impact of a proposed development on the significance of a designated heritage asset (including conservation areas), great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting; and (paragraph 195) where the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, Local Planning Authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefit that outweigh that harm or loss; or (paragraph 196) where the proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The application site adjoins and thereby affects the setting of 'Owen's Southsea' Conservation Area. Facing onto the adjacent car park is No2 Ashby Place that along with the nearby Nos1A-3 (odd) Auckland Road West are included on the list of locally important buildings (non-designated heritage assets). The applicants supporting documents are silent on the significance and impact of the proposal on these designated and non-designated heritage assets. Views from this conservation area are currently into the tangle of air handling/conditioning equipment on the flat-roof of the application site and the boarded up windows on the upper floors of the building the subject of this application. The boundary of the conservation area wraps around Ashby Place excluding the surface car park. The significance and impact of the changes by the proposed development to the rear of the building on views across this car park are considered to represent an improvement (not giving rise to harm) and as such will preserve the setting of the Conservation Area in compliance with policy PCS23 of the Portsmouth Plan.

### **Impact on Residential Amenity**

The main potential for impacting on residential amenity is noise from the terrace. The enclosure of the seating both by the flank brick walls either side of the terrace, the glass pergola and the erection of acoustic barriers is shown by the acoustic report to reduce noise to an acceptable level. The applicant has set out details of a management plan to reduce disturbance and agreed to a condition to prevent access to the terrace after 9pm. Subject to conditions to control these aspects of the development the impact from noise is not considered to be significant.

Due to the enclosure of the terrace, and as the nearest property is more than 35m away across 2 roads and a public car park, there is not considered to be a loss of privacy as a result of the proposals for either the hotel or the car park.

### **Highways and Transport**

The public house is within an accessible area with less than 100m to bus stops and reasonable walking distance of the station. The submitted Traffic Assessment demonstrates that the increased level of traffic generated by the proposal would not materially affect the capacity of the highway network. A car parking survey demonstrates sufficient capacity in the Ashby Place car park. As such there is no conflict with Policy PCS17 of the Portsmouth Plan.

## Other matters raised in representations

### - Number of staff unclear:

The applicant's Planning Statement makes reference to "...the hotel will generate jobs which will predominantly be recruited from the local area" but the number of staff to be directly employed appears to be unspecified.

### - Acoustic report errors/24-hour operation of air conditioning not assessed:

Consultation advice is offered by the Environmental Health Officer on the impact of noise from the proposed use of the external drinking/eating area and from additional external plant, referencing updated noise document RK2615/17239/Rev 2 (dated 8th November 2018).

### - Condition suggested for waste collection/deliveries from Palmerston Road only, for reasons of highway safety and air quality:

Neither the Highways Authority nor Environmental Health indicate the development would be unacceptable without a condition to prevent waste collection/deliveries from Palmerston Road where servicing of the existing PH use may already take place.

### - Inadequate neighbour notification:

It was undertaken in accordance with normal procedures.

### - Legal position on use of roof terrace without requiring consent:

The application by JD Wetherspoon PLC on the ground and first floors permits "use of premises for cafe/bar purposes (mixed use class A3/A4)" (under ref 10/00336/FUL). The flat-roof over the single-storey element of this building is used for ancillary purposes by an array of roof-mounted plant. If such roof plant was installed elsewhere, use of this roof for other ancillary activity such as eating/drinking associated with the permitted A3/A4 use it would not amount to development requiring planning permission.

### - Rear access is controlled by condition under on 10/00336/FUL:

The imposition of condition 4 to prevent publicly available access to or from the premises from Ashby Place (except for staff, deliveries and emergency escape) cannot reasonably be interpreted to prevent access onto the flat-roof over the single-storey element of this building.

## Conclusion

For the reasons set out above the proposal is considered to be an acceptable form of development which complies with the relevant policies in the Portsmouth Plan, the Southsea Town Action Plan and the NPPF.

## RECOMMENDATION                      Conditional Permission

### Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 7275 PL02; 7275PL03C, 7275PL04B; 7275PL05; 7275PL06; 7275PL07revB; 7275PL08; and, JDH TLP001.
- 3) No customers are permitted on the roof terrace between the hours of 21.00 and 08.00.
- 4) Before the use of the premises as a hotel are commenced cycle parking shall be provided in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority; and the approved cycle parking facilities shall thereafter be retained.

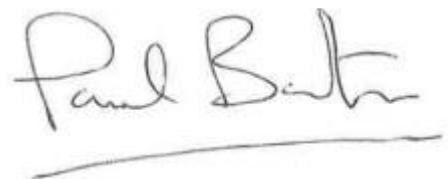
**The reasons for the conditions are:**

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In the interests of residential amenity and to comply with Policy PCS23 of the Portsmouth Plan
- 4) To ensure that adequate provision is made for cyclists using the premises in accordance with policy PCS17 of the Portsmouth Plan.

**PRO-ACTIVITY STATEMENT**

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

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Assistant Director - City Development  
1<sup>st</sup> April 2019