

# PLANNING COMMITTEE

## 3RD JUNE 2020

### VIRTUAL MEETING

#### **REPORT BY THE ASSISTANT DIRECTOR - PLANNING AND ECONOMIC GROWTH 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 - Planning and Economic Growth 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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27-29 KINGSTON ROAD PORTSMOUTH PO2 7DP

**CONSTRUCTION OF ADDITIONAL STOREY AND EXTENSION AT FIRST FLOOR TO PROVIDE 6NO. 2 BEDROOM FLATS AND 1NO. 1 BEDROOM FLAT WITH ACCESS FROM SULTAN ROAD; GROUND FLOOR ALTERATIONS TO INCLUDE PROVISION OF 2 COMMERCIAL UNITS FOR A1 (SHOP), A2 (FINANCIAL AND PROFESSIONAL SERVICES) OR D1 (NON-RESIDENTIAL INSTITUTION), AND UNDERCROFT STORAGE FACILITIES WITH PROVISION OF 7 PARKING SPACES (RESUBMISSION OF 19/01423/FUL) (AMENDED DESCRIPTION)**

**Application Submitted By:**

Martin Ralph Architects  
FAO Mr Olafur Olafsson

**On behalf of:**

Ms Potheary

**RDD:** 22nd January 2020

**LDD:** 19th March 2020

## 1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is being heard at planning committee as the scheme is for more than 6 new dwellings.
- 1.2 The main issues in the determination of the application are as follows:
  - Principle of the proposal and housing provision
  - Housing mix and density
  - Design and appearance
  - Standard of living accommodation
  - Access and parking
  - Impact on neighbouring amenity
  - Noise and air quality
  - Energy and water efficiency
  - Ecology
  - Contaminated land
  - Impact on the Solent Special Protection Areas

### Site and surroundings

- 1.3 The application site lies on the west side of Kingston Road, on the corner with Sultan Road. The building is two storey in height and is currently occupied by a commercial unit on the ground floor, with a 3-bedroom flat and a separate unit previously used as a nursery on the first floor. The first floor and rear of the building are constructed of red brick, which is the predominant material used on adjacent and surrounding buildings. To the rear of the site is an enclosed yard area, with a gated entrance and dropped kerb access from Sultan Road.
- 1.4 The site lies within the Kingston Road Local Centre, as defined by Policy PCS18 of the Portsmouth Plan. The surrounding area is characterised by a mix of commercial and

residential uses. The adjoining building to the north is in use as a cleaning business at ground floor level and has 2 flats above. Other surrounding commercial uses include a convenience store, barbers / hairdressers and takeaways. To the rear of the site is a public car park, which is owned by Portsmouth City Council.

### Proposal

- 1.5 The proposal is for the extension and conversion of the existing building to form two new commercial units at ground floor level with 7 flats above. The applicant has applied for a flexible use of the commercial units, to allow for either A1 (retail), A2 (financial and professional services), or D1 (non-residential institution / community use). The building would be extended to the rear (west) and above the existing first floor level to create an additional floor of accommodation.
- 1.6 The scheme would include 7 parking spaces, three of which would be accessed from Sultan Road. The other 4 car parking spaces would be accessed through an adjacent car park via Sultan Road. The car park is owned by the City Council and the applicants have negotiated with the Council for the purchase of part of the car park land to accommodate the parking spaces.
- 1.7 The proposed building layout would comprise the following:
  - 1.8 Ground floor - 2 x commercial units accessed from Kingston Road; 7 x parking spaces; cycle and refuse storage;
  - 1.9 First floor - 3 x 2-bedroom flats and 1 x 1-bedroom flat;  
Second floor - 3 x 2-bedroom flats; communal outdoor terrace.
- 1.10 Access to the new flats would be via Sultan Road, through a communal entrance door on the south elevation.
- 1.11 The proposed plans were amended during the course of the application to enlarge the height of the proposed new windows at first and second floor level (to be more in keeping with the appearance of adjacent windows), and to enlarge some of the bedroom sizes to accord with nationally described space standards.

### Planning history

- 1.12 19/01423/FUL - Demolition of existing building containing a single commercial unit on ground floor and upper floor accommodation. Construction of three-storey building to provide 2 x commercial units (Use Class A1 or D1) and 8 x 2-bedroom flats with associated cycle and refuse storage and parking accessed from Sultan Road - application withdrawn 2 December 2019
- 1.13 The application was withdrawn due to concerns about the proposed design, standard of living accommodation for future occupants and impact on neighbouring residents.
- 1.14 Other planning history relating to the site dates back to the 1950s and includes permissions for alterations, new shop fronts and signage. In 1987 and 1992, permission was granted for the use of part of the premises (27A Kingston Road) for daycare/playschool purposes (ref. C\*15843/F and C\*15843/F-1).

## **2.0 POLICY CONTEXT**

- 2.1 The Portsmouth Plan (2012):
  - PCS10 (Housing Delivery)
  - PCS13 (A Greener Portsmouth)

- PCS15 (Sustainable Design and Construction)
  - PCS17 (Transport)
  - PCS18 (Local Shops and Services)
  - PCS19 (Housing mix, size and affordable homes)
  - PCS21 (Housing Density)
  - PCS23 (Design and Conservation)
- 2.2 Portsmouth City Local Plan 2001-2011 (Adopted 2006):
- Saved policy DC21 (Contaminated Land)
- 2.3 Other Guidance:
- National Planning Policy Framework (NPPF) (2019)
  - National Planning Practice Guidance
  - Parking Standards and Transport Assessment Supplementary Planning Document (2014)

### **3.0 CONSULTATIONS**

#### Ecology

- 3.1 The development would result in a net increase in dwellings within 5.6km of the Solent Special Protection Areas. The development has the potential to impact on these protected areas through increased recreational use and increased nitrogen and phosphorus release. The developer will need to secure relevant mitigation of the impacts.
- 3.2 A desktop review of the building indicates that has limited potential to accommodate bats, being of simple architecture with a flat, well sealed roof. No requirement for a bat survey, but informative notes should be added to any decision to explain the requirements should bats be found.

#### Highways Engineer

- 3.3 Capacity - It is not anticipated that any associated traffic generation would have a material impact on the operation of the local highway network.
- 3.4 Safety - The proposal involves widening the access from Sultan Road, which improves visibility to the left in comparison to the existing situation.
- 3.5 Accessibility and parking - The site lies within an area where residential parking demand frequently exceeds the capacity available on street, particularly overnight and at weekends.
- 3.6 The parking expectation for the residential development is 10 spaces and 13 cycle parking spaces. The application provides 7 vehicle parking spaces on site and 9 cycle spaces. This would result in a shortfall of 3 spaces, which is the same as the shortfall that currently exists.
- 3.7 5 of the spaces would be achieved through purchase of spaces within the Council owned car park. As the car parks are not operated by the Local Highway Authority, the loss of spaces within the car park is not a material planning consideration.
- 3.8 The proposal would reduce the active commercial floorspace on the site and is likely to result in a reduction in commercial parking demand.
- 3.9 It is noted that access to the car parking spaces to the rear is not direct from the public highway. Rights of access should be confirmed.

- 3.12 No objection subject to conditions for:  
provision of pedestrian visibility splays of 2m x 2m on either side of the Sultan Road access;  
provision and retention of 7 vehicle spaces and 9 cycle spaces.

#### Environmental Health

- 3.13 Traffic noise - there are potential issues with traffic noise at this location therefore a condition is recommended requiring detail of a scheme for insulating habitable rooms against road traffic noise to be submitted and approved. The scheme would need to meet the following criteria:  
Daytime: LAeq(16hr) (07:00 to 23:00) 35 dB, Night-time: LAeq (8hr) (23:00 to 07:00) 30 dB and LAmax 45dB.
- 3.14 Commercial use - recommend restricting opening hours of the commercial uses to protect the amenities of the residents above. Suggested opening times would be 07:30 to 18:30.

#### Contaminated Land Team

- 3.15 Given the relatively limited scope of the works (conversion and extension), a condition relating to land contamination is not required. However, given the proximity to potentially contaminative historical uses, such as an adjacent colour smith, together with the sensitive nature of the proposed end use, the developer must be made aware of the requirements should contamination be found.
- 3.16 The potential presence of asbestos must also be screened prior to the refurbishment. If asbestos is found, a scheme for mitigation would be required.

#### Natural England

- 3.17 The application could have the potential significant effects on Portsmouth Harbour Special Protection Area and Site of Special Scientific Interest, Chichester and Langstone Harbours SPA. The effects would result from increased nitrogen and phosphorus from waste water, and from increased recreational pressure. An Appropriate Assessment is required to assess the potential impacts.

#### Highways Contractor (Colas)

- 3.18 Developer advised to contact COLAS before any highway works commence.

### **4.0 REPRESENTATIONS**

- 4.1 Publicity dates (full Covid-19 lockdown started 24 March 2020):
- Neighbour letters sent: 4 February 2020, expiry: 27 February 2020
  - Site Notice displayed: 11 February 2020, expiry: 27 February 2020
  - No Press Notice required
- 4.2 No representations received.

### **5.0 COMMENT**

#### Principle of the proposal

- 5.1 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has

concluded otherwise (paragraph 177). Where a local planning authority cannot demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 5.2 Currently, the Council can demonstrate 4.7 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing and this development would contribute towards meeting housing needs through a net gain of 6 dwellings.
- 5.3 The site lies within the Kingston Road local centre, as defined by Policy PCS18 of the Portsmouth Plan. This policy seeks to ensure that the vitality and viability of local service centres are maintained, and gives support to the provision of A1 retail and other appropriate town centre uses. The policy states that residential use will be encouraged above ground floor level only. The proposal is to redevelop and extend the existing building to accommodate two commercial units on the ground floor and 7 residential flats above. The applicant has applied for a flexible use of the commercial units, to allow for either A1 (retail), A2 (financial and professional services), or D1 (community use), all of which would be deemed appropriate for a local centre location. The scheme would therefore maintain an active commercial frontage to Kingston Road, and provide residential development on the upper floors in accordance with Policy PCS18.
- 5.4 The principle of the proposal is therefore considered acceptable, subject to assessment in accordance with the tests set out in paragraph 11 (i and ii) of the NPPF and paragraph 177, which is provided within this report.

#### Housing mix and density

- 5.5 Policies PCS19 and PCS21 of the Portsmouth Plan set requirements for housing mix and density. Policy PCS19 states that all new development should provide 40% family housing (3 or more bedrooms) where appropriate, although it is recognised that not all sites would be suitable for such a provision. In this case, it is considered that the location and restricted size of the site makes it more suited to flatted development, and the mix of 1 and 2-bed flats is considered appropriate.
- 5.6 In terms of density, Policy PCS21 states that development should achieve a density of at least 40 dwellings per hectare (dph), with higher densities of 100dph sought in more accessible locations. The proposal is for 7 dwellings on a site of 0.04ha, representing a density of 175dph. Given the accessible local centre location, this density is considered appropriate.

#### Design and appearance

- 5.10 Policy PCS23 of the Portsmouth Plan requires new development to well designed and appropriate in terms of scale, layout and appearance in relation to the context in which it is set.
- 5.11 The building as existing fronts directly onto Kingston Road to the east and Sultan Road to the south, and has a fairly simple form with a red brick flat roof first floor element above a ground floor commercial unit. The building is noticeably smaller in scale than the adjacent building to the north, which is three-storeys in height and extends further to the west.

- 5.12 The proposed extensions would reflect the simple form of the existing building and would match the height of the adjacent building to the north. Materials would comprise red brick with decorative brick soldier courses above the windows. A decorative soldier course of brickwork is also proposed between the ground and first floors, in line with the fascia above the commercial units, to add interest to the elevations and provide a visual break between the commercial and residential elements of the building. The windows themselves would have a vertical emphasis and would be of a size and style similar to those on the adjoining building. Given the prominent corner position of the building, it is considered reasonable to impose a condition requiring precise details of the proposed materials to be submitted and approved, to ensure a high quality finish is achieved.
- 5.13 Overall, the proposed design is considered to be appropriate and in keeping with the character and appearance of the surrounding area. Whilst the extensions to the building would make it quite significantly larger than existing, the resulting scale of the development is not considered to appear out of place in its context, where there are other buildings of a similar scale. The development is therefore considered to be in accordance with Policy PCS23 of the Portsmouth Plan.

#### Standard of living accommodation

- 5.14 Policy PCS23 of the Portsmouth Plan requires new development to provide a good standard of living environment for future occupiers and Policy PCS19 states that dwellings should be of a reasonable size appropriate to the number of people that they are designed to accommodate.
- 5.15 The Nationally Described Space Standards (NDSS) provides guidance on acceptable sizes for dwellings, including room sizes, depending on the number of proposed occupants.
- 5.16 In accordance with the Nationally Described Space Standards, 2-bedroom flats are required to be a minimum of 61m<sup>2</sup> for 3 persons or 70m<sup>2</sup> for 4 persons, and 1-bedroom flats designed for 1 person are required to be at least 39m<sup>2</sup>. Bedrooms are required to be 7.5m<sup>2</sup> for single occupancy or 11.5m<sup>2</sup> for double occupancy.
- 5.17 The proposed 2-bedroom flats would range between 64m<sup>2</sup> and 76m<sup>2</sup> and the 1-bedroom flat would be 52m<sup>2</sup>. All of the flats therefore meet the minimum size standards, with the smaller 2-bed units designed for 3 persons. In addition, the plans were amended during the course of the application to ensure that all of the bedrooms would also meet the minimum size requirements of 7.5m<sup>2</sup> for a single and 11.5m<sup>2</sup> for a double.
- 5.18 All of the flats would have the majority of their habitable room windows facing either south, east or west, providing a good level of light and outlook for the residents. It is noted that there would be three bedrooms within the development that would have windows facing either north or east into the proposed lightwell (Units 1, 4 and 5), where light and outlook would be more restricted. However, having regard to the layout and position of other windows within those flats (which would face east or west on the main elevations), it is not considered that the impact of restricted light and outlook to one bedroom window would be significantly harmful to the overall living conditions for future residents of those units. There would also be some potential for overlooking across the lightwell between the east facing bedroom window of Unit 4 and the west facing kitchen window of Unit 1. To address this, the kitchen window to Unit 4 is proposed to be obscure glazed to 1.6m above floor level and this can be secured by condition.
- 5.19 The scheme would include the provision of a communal terrace area at second floor level on the north-west side of the building. Whilst this terrace would not receive much direct sunlight, other than in the afternoon, it would nevertheless provide an outdoor space for the residents and appropriate planting could be used to create an attractive setting.



Although it may be desirable for more amenity space to be provided, the opportunity for such provision is limited due to the constrained nature of the site and its location adjacent to a busy main road where air quality would be a concern if balconies were proposed. It is also relevant to note that the site is located close to two large public parks/ open spaces (Buckingham Green and Buckland Adventure Playground), and it is considered that on balance, the level of on-site amenity space provision is appropriate for this scheme.

### Access and parking

- 5.20 The application site is considered to be in a sustainable location. Kingston Road is a classified road and one of 3 strategic main routes into the city. There are high frequency bus services that run along Kingston Road, including those running to the city centre and Southsea at 10 minute intervals during the day, which also provide links to two nearby train stations (Portsmouth and Southsea and Fratton). The site is also located close to a variety of commercial uses and services within the Kingston Road local centre.
- 5.21 The main highway considerations for this scheme relate to traffic generation and parking.
- 5.22 The Highway Engineer is satisfied that the proposed development would not result in a level of traffic generation that would have any significant impact on the operation of the local highway network.
- 5.23 In relation to parking, the Highway Engineer is satisfied that parking for the commercial element of the scheme could be met through existing on-street and car park capacity. It is also noted that the proposed commercial element would be smaller than existing and is therefore unlikely to result in any additional commercial parking demand compared with the existing situation. For the residential element of the scheme, in accordance with the Council's Adopted Parking Standards, the proposal would require 10 parking spaces. There is only 1 parking space associated with the existing property (within the rear yard), although there is also some on-street parking available in Sultan Road, and there is a Council owned car park to the rear of the site.
- 5.24 The proposal would provide a total of 7 parking spaces on the site, 3 of which would be accessed from Sultan Road and 4 from the adjacent car park, which would be achieved through the purchase of a section of car park land from the Council. The submitted application form confirms that the Council has been notified of the application and it has been confirmed with the Council's Property Team that an agreement to purchase the relevant section of the car park has been reached. The proposed level of parking would represent a shortfall in 3 spaces, but the Highways Engineer has noted that this is the same as the existing shortfall of spaces relating to the current use. Having regard to the location of the site within the Kingston Road Local Centre, with frequent bus services, and given that the parking shortfall created by the proposal would be no greater than existing, the parking provision for the scheme is considered to be acceptable. The Highway Engineer has noted that there is a requirement for 2m x 2m visibility splays at the access from Sultan Road and this can be secured by condition.
- 5.25 The Highway Engineer notes that the SPD would require 13 cycle parking spaces. The scheme only shows provision for 9 spaces, but there is additional storage space shown on the ground floor level of the building that could accommodate additional bikes. The level of bicycle storage provision is therefore considered acceptable.
- 5.26 The ground floor of the extended building has been designed to incorporate and retain the existing pedestrian entrance to the adjacent flats to the north. Access to the proposed new flats would be via a shared entrance from Sultan Road. Details of external lighting to the entrance areas would be requested by condition to ensure that a safe environment is created for the future residents.

5.27 Overall, the access and parking provisions for the scheme are considered to be acceptable and in accordance with Policy PCS17 of the Portsmouth Plan.

#### Impact on neighbouring amenity

5.28 Policy PCS23 of the Portsmouth Plan requires new development to protect the amenity of neighbouring residents.

5.29 The adjoining property to the north is in use as a commercial unit at ground floor level with two flats above. There are some windows facing south towards the application site at first and second floor level, and from a discussion with the owner of the building, it is understood that the south facing windows serve kitchens and bathrooms. The windows to the living rooms and bedrooms of these adjacent flats face east and west. There is also a structure that has the appearance of a conservatory on the southern elevation of the adjoining building, but it has been confirmed that this is an entrance porch and does not provide habitable living space. Access to these adjacent flats is via Sultan Road to the rear of the application site.

5.30 The proposed second floor extension would inevitably impact on light and outlook to the south facing windows of the adjoining building to the north. However, the development has been designed to create a light well on the northern side, along with a terrace area at second floor level, which would ensure that the new built form would be set away from the neighbouring windows to minimise the impact on outlook and retain a level of light. Given that the south facing windows are non-habitable room windows and having regard to the provision of a light well, it is not considered the impact on light and outlook to these windows would be significantly harmful to the amenities of the neighbouring residents.

5.31 The proposed rear extension would project beyond the rear elevation of the neighbouring property to the north by approximately 5.3m. Having assessed the position of the neighbouring windows in relation to the proposed extension, it is not considered that the resulting loss of light would be significant.

5.32 With regard to the proposed terrace, this has been designed with a 1.6m high privacy screen on the northern side, to prevent any significant overlooking towards the neighbouring property.

5.33 Overall, it is considered that the development would not have a significant impact on the amenity of neighbouring residents, and would accord with Policy PCS23 of the Portsmouth Plan in this respect.

#### Noise and air quality

5.34 The Environmental Health Officer has commented that there is the potential for occupants of the proposed building to be impacted by noise from traffic on Kingston Road. An appropriate scheme for insulating the east facing habitable room windows against road traffic noise is therefore required, and this can be secured by condition.

5.35 The Environmental Health Officer has also recommended restricting the opening hours of the commercial units to between 7.30am and 6.30pm, to ensure that the occupants of the flats above are not adversely impacted by noise from commercial activities.

5.36 In relation to air quality, it is understood that there are potential air quality issues around the Kingston Road area and comments are awaited from the Environmental Health service. Any necessary conditions will be added and an update provided at planning committee if required.

#### Energy and water efficiency

- 5.37 Policy PCS15 of the Portsmouth Plan requires new development to be designed to be energy efficient and originally required development to meet specific requirements under the Code for Sustainable Homes. 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:
- 5.38 Energy efficiency - a 19% improvement in the DER over the Target Emission Rate as defined in Part L1A of the 2013 Building Regulations
- 5.39 Water efficiency - 110 litres per person per day (this includes a 5 litre allowance for external water use).
- 5.40 It is noted in the Design and Access Statement that the scheme would be designed to meet the required standards and that the use of solar panels would be explored (as shown indicatively on the proposed roof plan). The applicants also intend to consider the installation of electric charging points within the parking spaces if demand arises.
- 5.41 A condition will be imposed to ensure that the energy and water efficiency standards are met.

#### Ecology

- 5.42 The application site is almost entirely made up of built form and hard surfacing, with no soft landscaping or trees. The County Ecologist was consulted on the application and has commented that the existing building appears to have limited potential to accommodate bats, due to its style of architecture and well sealed roof. However, an informative is recommended to advise the developers of the need to contact an ecologist if bats are subsequently found to be present.
- 5.43 Given the lack of ecological features on the existing site, the opportunity exists to enhance biodiversity, and appropriate measures can be secured by condition.

#### Contaminated land

- 5.44 The Council's Contaminated Land Officer has noted that there is the potential for contamination to exist on the site, but given the relatively modest level of building work involved with the scheme, an informative is recommended rather than conditions, to make the developers aware of the need to contact the service if contamination was found to be present.

#### Impact on the Solent Special Protection Areas

- 5.45 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.

- 5.46 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, due to increased recreational pressure as well as an increase in nitrogen and phosphorus input into the Solent causing eutrophication.
- 5.47 Recreational pressure:
- 5.48 In relation to recreational pressure, the Solent Recreation Mitigation Strategy (Bird Aware), which came into place in April 2018, sets out how development schemes can provide a contribution towards a Solent Wide mitigation scheme to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.
- 5.49 The mitigation contribution depends on the size of the proposed dwellings and takes account of any existing dwellings on the site. In this case, the amount is calculated as follows:
- 5.50 Proposed:
- 1 x 1-bedroom dwelling at £356 = £356
  - 6 x 2-bedroom dwellings at £514 = £3,084
  - Total = £3,440
- 5.59 Existing:
- 1 x 3-bedroom flat at £671
- 5.60 Total: £3,440 - £671 = £2,769
- 5.61 Subject to securing the required mitigation through a legal agreement, it is considered that the scheme would not have a significant effect on the SPA as a result of increased recreational pressure.
- 5.62 Nitrates:
- 5.63 Natural England has provided guidance advising that increased residential development is resulting in higher levels of nitrogen and phosphorus input to the water environment in the Solent, with evidence that these nutrients are causing eutrophication at internationally designated sites. A sub-regional strategy for the nitrates problem is being developed by the Partnership for South Hampshire, Natural England and various partners and interested partners. However, in the meantime, to minimise delays in approving housing schemes and to avoid the damaging effects on housing supply and the construction industry, Portsmouth City Council has developed its own Interim Strategy, which has been agreed with Natural England.
- 5.64 The Council's Interim Nutrient-Neutral Mitigation Strategy expects Applicants to explore their own Mitigation solutions first. These solutions could be Option 1: 'off-setting' against the existing land use, or extant permission, or other land controlled by the Applicant. Or it could be Option 2: mitigation measures such as Sustainable Urban Drainage Systems (SUDS), interception, or wetland creation. If, however, the Applicant sets out to the Council that they have explored these options but are unable to provide mitigation by way of these, they may then request the purchase of 'credits' from the Council's Mitigation Credit Bank. These credits are accrued by the Council's continuous programme of installation of water efficiencies into its own housing stock, and making these credits available to new development.
- 5.65 In this instance, the applicant has provided a Nitrate Statement, explaining that Options 1 and 2 have been considered but that the applicant does not own or control any other land suitable for providing off-site mitigation, and a SUDs scheme would not be feasible given

the nature of the scheme and constrained site. It has therefore been agreed for the applicant to rely on the Council's Strategy. As this is a minor scheme, 'credits' can be purchased for £200 per net additional dwelling. In this case there would be a net increase in 6 dwellings, therefore the mitigation requirement would be **£1,200**.

- 5.66 This mitigation would be secured by a legal agreement, and a condition is also attached to this recommendation, which would prevent occupation of the development until the mitigation is actually provided, i.e. the credits are purchased. It is also considered necessary to restrict the time implementation (condition) limit to one year, given the limited availability of Council mitigation 'credits'.
- 5.67 Subject to the legal agreement to secure mitigation, it is determined that the development would not have a significant likely effect on the interest features of the Solent Special Protection Areas.

#### Community Infrastructure Levy (CIL)

- 5.68 For new residential development the relevant CIL charge for 2020 (taking into account indexation) is £157.26 per square metre. CIL money is subsequently used to improve and enhance infrastructure throughout the city.

#### Conclusion

- 5.69 The proposed development would make a positive contribution towards the housing needs of the city and is considered to be acceptable in terms of layout, design, standard of living accommodation and impact on residential amenity. It is not considered that there are any adverse impacts from the scheme that would outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 5.70 In relation to the impact on habitats sites, subject to the provision of financial contributions to mitigate the impact of the development on the Solent SPAs, it is determined that the development would not affect the integrity of these protected areas.
- 5.71 In conclusion, the development is considered to accord with all relevant local policies and would meet the tests set out in paragraph 11 of the NPPF, and is therefore recommended for permission.

## **RECOMMENDATION**

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory completion of a Legal Agreement to secure the following:

- SPA nitrate mitigation
- SPA recreational impact mitigation

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

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

#### **Conditions**

#### **Time Limit**

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 and to prevent an accumulation of unimplemented planning permissions.

### **Approved Plans**

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers:

Location and Block Plans, 20A\_001 01 Rev. A  
Site Plan as Proposed, 20A\_001 06 Rev. A  
Ground Floor as Proposed, 20A\_001 07 Rev. A  
Sultan Road Elevation as Proposed, 20A\_001 32 Rev. A  
Rear Elevation as Proposed, 20A\_001 33 Rev. A  
Kingston Road Elevation as Proposed, 20A\_001 31 Rev. A  
Street Elevation Existing and Proposed, 20A\_001 30 Rev. B  
First Floor as Proposed, 20A\_001 08 Rev. C  
Second Floor as Proposed, 20A\_001 09 Rev. B  
Roof Plan as Proposed, 20A\_001 10  
Cross Section A-A, 20A\_001 35 Rev. A

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

### **Materials**

3) Notwithstanding the details shown on the approved plans, no development shall take place at the site (other than internal conversion works), until details, including samples, of the types and colours of external materials and windows (including depth of window recesses), has been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

Reason: To ensure a high quality development, in the interest of visual amenity, in accordance with Policy PCS23 of the Portsmouth Plan.

### **Biodiversity Enhancements**

4) (a) No development (other than internal conversion works), shall take place at the site until a scheme for proposed biodiversity enhancements and their timing shall have been submitted to and approved in writing by the Local Planning Authority;

(b) The scheme for biodiversity enhancement shall be fully implemented in accordance with the details approved under part (a) of this condition and thereafter retained.

Reason: To achieve a net gain in biodiversity in accordance with Policy PCS13 of the Portsmouth Plan.

### **Noise Insulation**

5) No development shall take place at the site until a scheme for insulating habitable rooms against road traffic noise has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the first occupation of the building and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved in all habitable rooms:

Daytime: LAeq(16hr) (07:00 to 23:00) 35 dB; Night-time: LAeq (8hr) (23:00 to 07:00) 30dB and LAm<sub>ax</sub> 45 dB.

Reason: To protect the amenity of residents of the flats from road traffic noise, in accordance with Policy PCS23 of the Portsmouth Plan.

### **Commercial Unit Opening Hours**

6) The ground floor commercial units hereby permitted shall be closed to and vacated by the public outside the hours of 07:30 and 18:30 daily.

Reason: To protect the amenity of residents of the flats above, in accordance with Policy PCS23 of the Portsmouth Plan.

### **Parking Provision**

7) Prior to occupation of the development hereby permitted, the 7 parking spaces shown on Plan refs. 20A\_001 06 and 20A\_001 07 shall be provided in accordance with the approved details and shall thereafter be retained for vehicle parking only.

Reason: To ensure satisfactory provision is made for parking, in the interest of highway safety, in accordance with Policy PCS17 of the Portsmouth Plan.

### **Visibility Splays**

8) Prior to occupation of the development hereby permitted, pedestrian visibility splays of 2m by 2m shall be provided at either side of the car port parking access from Sultan Road and shall thereafter be retained.

Reason: In the interest of highway and pedestrian safety, in accordance with Policy PCS17 of the Portsmouth Plan.

### **Bicycle Storage**

9) Prior to occupation of the development hereby permitted, bicycle storage facilities shall be provided in the location shown on Plan ref. 20A\_001 07 and in accordance with details of the internal rack / stacking system (including details of secure locking facilities), that have first been submitted to and agreed in writing by the Local Planning Authority. The bicycle storage facilities shall thereafter be retained for bicycle storage purposes.

Reason: To ensure that adequate provision is made for cyclists using the premises to encourage alternative means of travel to the private car, in accordance with policy PCS17 of the Portsmouth Plan.

### **Refuse Storage**

10) The facilities to be provided for the storage of refuse and recyclable materials, as shown on Plan ref. 20A\_001 07, shall be provided before the building hereby permitted is first occupied, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter be retained for the continued use by the occupants of the building for that storage at all times.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials, in the interest of residential amenity, in accordance with policy PCS23 of the Portsmouth City Plan.

### **Energy and Water Efficiency**

11) The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that the development has 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
- a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

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

#### **Flat Roof Balcony Restriction**

12) Notwithstanding the provisions of Schedule 2, Part 1, Classes A and C of the Town and Country Planning (General Permitted Development) Order 1995 (or any orders amending or re-enacting that Order with or without modification), the flat roof area to the north of the terrace as shown on Plan ref. 20A\_001 09 Rev. B, and the flat roof to the lightwell as shown on Plan ref. 20A\_001 08 Rev. C, shall not be used as a balcony, roof terrace, sitting out area or similar amenity are without the grant of further planning permission from the Local Planning Authority.

Reason: To protect the amenity of the neighbouring residents in accordance with Policy PCS23 of the Portsmouth Plan.

#### **Terrace Privacy Screen**

13) Prior to occupation of the development hereby permitted, a privacy screen of at least 1.6m in height shall be erected on the north side of the communal terrace in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be retained.

Reason: To protect the amenity of the neighbouring residents in accordance with Policy PCS23 of the Portsmouth Plan.

#### **Obscure Glazing**

14) The west facing kitchen window to Unit 1 at first floor level (as shown on Plans ref. 20A\_001 08 Rev. C and 20A\_001 35 Rev. A), shall be glazed with obscure glass to Level 3 or equivalent up to 1.6m above finished floor level, and shall thereafter be retained.

Reason: To minimise overlooking between flats to protect residential amenity, in accordance with Policy PCS23 of the Portsmouth Plan.

#### **Lighting**

15) Prior to occupation of the development hereby permitted, external lighting shall be installed within communal external areas adjacent to pedestrian entrance doors, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The lighting shall thereafter be retained.

Reason: In the interest of safety in accordance with Policy PCS23 of the Portsmouth Plan.

#### **Nitrate Mitigation**

16) The development hereby permitted shall not be occupied until a scheme for the mitigation of increased nitrogen and phosphorus levels resulting from the development has been (a) submitted to, and approved in writing by the Local Planning Authority, and (b) implemented in accordance with the approved scheme with any mitigation measures thereafter permanently retained.

Reason: To ensure that the development would not have an adverse effect on the integrity of the Solent Special Protection Area in accordance with Policy PCS13 of the Portsmouth Plan (2012), the Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981.



**62 MIDDLE STREET SOUTHSEA PO5 4BP****OUTLINE APPLICATION FOR THE CONSTRUCTION OF FOUR STOREY BUILDING COMPRISING 21NO. STUDENT ACCOMMODATION UNITS (CLASS C1) AND GROUND FLOOR COMMERCIAL UNIT (CLASS B1A), FOLLOWING DEMOLITION OF EXISTING BUILDING (PRINCIPLES OF SCALE AND ACCESS TO BE CONSIDERED) (RESUBMISSION OF 18/01968/OUT) (AMENDED DESCRIPTION)****Application Submitted By:**

Hybrid Planning and Development  
FAO Mrs Danielle St Pierre

**On behalf of:**

C/O agent  
PV DEVELOPMENTS LIMITED

**RDD:** 6th February 2020

**LDD:** 3rd April 2020

**1.0 SUMMARY OF MAIN ISSUES**

- 1.1. This application is a revision to a previous scheme that was refused at planning committee on 18 December 2019.
- 1.2. The application has been submitted in outline form, with the main matters for consideration being Scale and Access. In addition, the following matters are relevant to the determination of the scheme:
  - Principle of the proposal having regard to the policy context;
  - Impact on amenity, overshadowing, light and outlook (part of the consideration of Scale);
  - Ecology, including impact on the Solent Special Protection Areas;
  - Flood risk and drainage;
  - Land contamination.
- 1.3. Matters relating to appearance (including external materials, finishes, design and visual impact), layout (including standard of accommodation, refuse and cycle storage), and landscaping (including planting species and layout), would be dealt with through a separate Reserved Matters submission.

**Site and surroundings**

- 1.4. The application site is located on the corner of Middle Street and Earlsdon Street in the Somerstown area of the city. It is currently occupied by a two storey building used by the PDSA with an associated car parking area on the south side. It forms part of an existing block of 2 to 3-storey commercial / business units which fall between Middle Street and Earlsdon Street, a number of which are currently vacant. The immediate adjacent unit to the north is in use as a stained glass window shop (58/60 Middle Street), and adjacent to this is a café (56 Middle Street).
- 1.5. The site is located close to the University Eldon building and a number of halls of residence. On the adjacent site to the west is a 4-storey student accommodation block (Unilife Earlsdon), and to the north, on the corner of Middle Street, Melbourne Place and

Earsldon Street, is an 8-storey student accommodation building with commercial units on the ground floor (Unilife Middle Street). Further to the north of this is a 16-storey building (Trafalgar Halls), which has a co-op shop on the ground floor and student accommodation above. The most substantial building in the vicinity is the now vacant 18-storey residential tower block known as Leamington House.

- 1.6. To the east of the site, on the opposite side of Middle Street is a public house, and the rest of the surrounding area is residential in character, predominantly comprising a mix of 2 and 4-storey flats and houses. The boundary of the King Street Conservation Area runs along Sackville Street, to the south of the application site.
- 1.7. The application site is located in the Somerstown Core Regeneration Area of the city, as identified under Policy PCS6 of the Portsmouth Plan. A Somerstown Area Action Plan was adopted in July 2012, which identifies a number of specific sites in the area and sets out proposals for their future development. The application site falls within 'Site 1', which is identified as a site for development of between 4 to 8 storeys with employment use (Use Class B1) at ground floor level and residential accommodation above.

### Proposal

- 1.8. The application seeks outline planning permission (scale and access only, with all other matters reserved), for a 4-storey building comprising an office (Use Class B1a) at ground floor level and a student hall of residence above. The indicative plans indicate that the upper floors of the building could accommodate up to 21 student rooms.
- 1.9. The indicative ground floor plan shows the access points into the proposed development, which would be from Middle Street and Earlsdon Street (pedestrian access only).
- 1.10. The proposed building would fill the majority of the site, but would be set back from the eastern and southern boundaries. No on-site parking is proposed.
- 1.11. The application is supported by a Planning Statement, a Design and Access Statement, an Ecology Appraisal, a Transport Assessment, a Geo-Environmental Report and a Noise Impact Assessment.

### Planning history

- 1.12. 18/01968/OUT - outline application for the demolition of existing buildings and the construction of student residential accommodation (21 units) in a four storey building (scale and access to be considered) - refused 7 January 2020. The reason for refusal was as follows:
  - The proposed development would fail to retain employment uses on the site, contrary to policy PCS6 of the Portsmouth Plan and the allocation for ground floor employment uses set out in Policy SNS8 of the Somerstown and North Southsea Area Action Plan, resulting in a failure to retain and improve employment opportunities in the area needed to act as a springboard for social and economic regeneration.
- 1.13. 18/00007/EIASCR - Environmental Impact Assessment Screening Opinion (combined with adjacent site to north, 32-62 Middle Street) - not EIA development

Other relevant planning history (application site and adjacent sites):

- 1.14. 18/01967/OUT - 32-60 Middle Street - demolition of existing buildings and construction of a building of six to eleven storeys to provide 163 flats and two commercial units, for A1, A2, A3, B1(a), or D1 use - currently under consideration

- 1.15. 18/00613/TMPCOU - Change of use from D1 (non-residential institutions) to B1 business use for a temporary period of 2 years - permitted development (notification acknowledged on 13 April 2018)
- 1.16. A\*35527/AA - construction of single storey building attached to western boundary wall to form store for gas cylinders and extraction pump - conditional permission 24 January 1994
- 1.17. A\*15427/D - erect two storey building to form PDSA treatment centre and two staff flats - conditional permission 10 June 1987
- 1.18. A\*15427/B (62 Middle Street and 61 Earlsdon Street) - erection of warehouse building including class III light industrial unit with associated office car parking accommodation - conditional permission 5 November 1975
- 1.19. A\*15427/A (62 Middle Street and 61 Earlsdon Street) - development of the unit by erection of a laundrette with 2 flats over/ single storey building / office / 2 car ports under - conditional permission 22 September 1966

## **2.0 POLICY CONTEXT**

### **2.1. Portsmouth Plan (2012):**

- PCS6 (Somerstown and North Southsea)
- PCS13 (A Greener Portsmouth)
- PCS15 (Sustainable design and construction)
- PCS19 (Housing mix, size and affordable homes)
- PCS17 (Transport)
- PCS23 (Design and Conservation)

### **2.2. Portsmouth City Local Plan (2001 - 2011) - retained policy January 2012**

- Saved Policy DC21 (Contaminated land)
- In accordance with the National Planning Policy Framework (NPPF) 2019 due weight has been given to the relevant policies in the above plan.

### **2.3. Other guidance:**

- National Planning Policy Framework (2019)
- National Planning Practice Guidance (2014)
- The Somerstown and North Southsea Area Action Plan (2012): Policy SNS8 (Employment) and SNS11 (General Design principles)
- The Car Parking and Transport Assessments Supplementary Planning Document SPD (2014)
- Halls of residence SPD (2014)

## **3.0 CONSULTATIONS**

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

- 3.1. Applicant advised to contact COLAS before any works commence.

### **Natural England**

- 3.2. The development has the potential to have significant effects on the Portsmouth Harbour and surrounding SPAs, due to an increase in nitrogen and phosphorus into the Solent. An appropriate assessment is required to address this matter.

#### Ecology

- 3.3. International Designated Sites -The applicant will be required to mitigate the impact of the development on the Solent Special Protection Areas.
- 3.4. Protected Species - The buildings on site were found to be unsuitable for roosting bats and no evidence of nesting birds was recorded from the site. Recommend adding an informative to the decision to make the developers aware of the procedures to take if protected species are subsequently found.
- 3.5. Ecological Enhancements - The scheme presents the opportunity for biodiversity enhancements and the measures set out in the submitted report are considered suitable. These should be secured by condition.

#### Waste Management Service

- 3.6. Refuse storage plans acceptable, provided that the doorway for the bins is at least 1.5m wide to allow for bin movements. The entrance also needs to be flush with the pavement outside.
- 3.7. The developers would need to apply for private waste collection.

#### Crime Prevention Design Advisor

- 3.8. No comments received.

#### Highways Engineer

- 3.9. No objection. The site is located in a comparatively accessible location close to the city centre and bus/rail transport hubs although is beyond the zone recognised within the SPD as being sufficiently accessible that a reduction in parking standard can be considered. However, satisfied that it is an appropriately accessible location for a student hall of residence, which could operate as car free. A condition is required to control occupation to students, and a management plan would be required to control arrival and departure periods. 21 cycle parking spaces would be required.

#### Environmental Health

- 3.10. There are several commercial uses to the north of the site, including a stained glass window shop and a restaurant. There are no open complaints regarding these businesses, although there has been one previous noise complaint relating to the restaurant, therefore there is the potential for conflict between the restaurant use and student halls in terms of noise disturbance.
- 3.11. A Noise Report has been submitted, which recommends minimum requirements for sound insulation. These sound insulation measures should be secured by condition.
- 3.12. The proposed B1 use is a use that could operate in a residential area without detriment to amenity. The applicant should consider sound insulation between the B1 use and the residential use above.

- 3.13. No details of plant or equipment is included in the application. Should plant or equipment be required, it has the potential to impact on neighbouring residents and future occupants.
- 3.14. Recommend a condition ensuring that a noise assessment of any proposed plant is carried out and any mitigation measures approved before it is implemented.

#### Contaminated Land Team

- 3.15. A desk study has been submitted with the application. There is the potential for contamination on the site and asbestos in the buildings.
- 3.16. Further information is required and the desk study needs updating. The required information can be requested by condition.

#### Private Sector Housing

- 3.17. No comments received.

#### Environment Agency

- 3.18. No comments received.

#### Eastern Solent Coastal Partnership

- 3.19. No comments received.

### **4.0 REPRESENTATIONS**

- 4.1. Publicity dates (full Covid-19 lockdown started 24 March 2020):
- Neighbour letters sent: 12 February 2020, expiry: 6 March 2020
  - Site Notice displayed: 17 February 2020, expiry: 6 March 2020
  - No Press Notice required
- 4.2. One representation received, raising the following objections:
- no loading or delivery facilities, or storage for ground floor office;
  - loss of parking spaces;
  - proposed 4-storey height inappropriate in relation to adjacent buildings; significant step-up in relation to neighbouring property to north;
  - inappropriate 'piecemeal' development;
  - student accommodation in Portsmouth likely to be oversubscribed;
  - need for more affordable housing, not student accommodation;
  - no evidence that student halls are freeing up HMOs in the city;
  - previous loss of a cherry tree on site has harmed the site's ecology; tree should be replaced.

### **5.0 COMMENT**

- 5.1. The main issues in the determination of this application are whether the proposed use of the site is acceptable in principle, whether the scale of the building is appropriate and whether the access arrangements are acceptable.
- 5.2. All other matters of detail would be dealt with in any subsequent reserved matters application should outline planning permission be granted.

#### Principle of development

- 5.3. The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 177). Where a local planning authority cannot demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 5.4. Currently, the Council can demonstrate 4.7 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing and this development would contribute towards meeting housing needs albeit in the form of student accommodation.
- 5.5. The site is located within the Somerstown Core Regeneration Area as defined by Policy PCS6 of the Portsmouth Plan. This policy seeks to regenerate the Somerstown and North Southsea areas of the city, with objectives including the redevelopment of existing housing stock and provision of additional dwellings, and the retention and consolidation of employment uses. The policy states that specific proposals for development would be guided by relevant Area Action Plans. For Somerstown, an Area Action Plan (AAP) was adopted in 2012 and the application site forms part of a site identified as 'Site 1', which incorporates Nos. 22 to 62 Middle Street. Policy SNS8 of the AAP allocates Site 1 for employment uses (Class B1) on the ground floor with residential accommodation (Class C3) above. The supporting text to Policy SNS8 indicates that the purpose of the ground floor employment allocation is to ensure that development contributes to the wider objective of retaining and improving employment opportunities in the area.
- 5.6. The previous application relating to this site was solely for a student hall of residence and was refused on the basis that it did not include any employment use and therefore failed to retain and improve employment opportunities in the area. This revised application would include a 73.6m<sup>2</sup> B1(a) office unit on the ground floor of the building, which would ensure that an employment use is retained on the site in accordance with the objectives of the Area Action Plan and the specific allocation requirement of Policy SNS8. Further explanation regarding the employment use is set out in the following section of this report.
- 5.7. In relation to the proposed student halls, there is no specific policy within the Portsmouth Plan relating to Student Halls of residence, but the Plan highlights the important role of Portsmouth University and the need for purpose built accommodation to meet the demand from university students and those of the various language schools within the city. The Council also has an Adopted Student Halls of Residence Supplementary Planning Document (SPD), which further highlights the need for student accommodation and sets out guidance and principles for determining relevant applications.
- 5.8. The SPD defines a student hall of residence as follows:
- Accommodation that is used during term time solely by persons who are undertaking a full time course of further or higher education in Portsmouth;
  - Accommodation that would be for more than 15 persons and as a minimum should provide communal kitchens and lounges of a suitable size for the number of residents.
- 5.9. The proposal is for a multi-storey building to provide student accommodation (over 15 rooms) and the provision of communal space would be a requirement of any subsequent

reserved matters submission. The proposal therefore meets the definition set out in the SPD and the proposal is considered to be acceptable in principle to meet a specific housing need within the city, subject to complying with all other relevant policy requirements.

- 5.10. One of the points raised within the representation is that there is no need for further student halls and there is no evidence that the provision of student halls frees up former HMO's for family housing. However, the need for student halls is led by market demand and there is no policy that seeks to control the number of such developments. Furthermore, developers of student accommodation are now encouraged to design their developments to be adaptable for alternative uses such as housing in the future, should the market change. This is a matter that would be considered in more detail at the reserved matters stage as part of the detailed layout and design.
- 5.11. The principle of the proposal is therefore considered acceptable, subject to assessment in accordance with the tests set out in paragraph 11 (i and ii) of the NPPF and paragraph 177, which is provided within this report.

#### Principle of the proposed employment use

- 5.12. The previous application for this site (ref. 18/01968/OUT), was refused on the grounds that it was for student halls only and did not include any form of employment use on the ground floor, as required by Policy PCS6 of the Portsmouth Plan and SNS8 of the Somerstown and North Southsea Area Action Plan (AAP). The reason for the employment use requirement as set out within the relevant policies is to ensure that employment provision is retained and improved in the Somerstown area as part of its wider regeneration.
- 5.13. The application site forms part of a larger site identified as 'Site 1' within the AAP, which incorporates all buildings from Nos.22 to 62 Middle Street. Looking at this site as a whole, there is currently a mix of older and more modern buildings, the majority of which have some form of employment use on the ground floor. Existing uses include a stained glass window shop at No.58-60 Middle Street and a café/restaurant at No.56 Middle Street. Despite the B1 allocation set out within the AAP, in recent years the Council has recognised that there is a need for flexibility in the types of employment uses in the area to meet market demand. This has led to some of the newer developments incorporating different types of employment use such as a recently permitted wellbeing clinic (Class D1) at 22 Middle Street (ref. 19/01004/FUL). The proposed development at Nos.32-60 Middle Street (current application ref. 18/01967/OUT), also proposes a flexible use for the proposed new commercial units.
- 5.14. When the previous application was submitted on this application site, the applicants provided information to justify why an employment use was not considered appropriate, referring to issues relating to market demand and problems with finding tenants for other commercial units in the area. However, following the refusal, the applicants have further considered options for the site and have determined that a small office suitable for a start-up business would be most appropriate (within Use Class B1(a)). More specifically, they consider that the unit could attract small businesses associated with the University, given the close proximity of the site to University buildings. The applicant has confirmed that the scheme would remain economically viable with the provision of the office unit.
- 5.15. The proposed office would accord with the specific allocation set out within Policy SNS8 of the AAP and it is considered that it would further enhance the range of employment uses in the area, in accordance with the wider regeneration objectives for Somerstown. The proposal would therefore address the reason for refusal of the previous scheme. A condition would be imposed to restrict the use to that of an office, so that the Local Planning Authority could fully consider the merits and potential implications (e.g. in terms

of employment provision, amenity and access), of any alternative use in the future through submission of a new planning application.

### Scale

- 5.16. Policy PCS23 of the Portsmouth Plan requires new development to be of an appropriate scale in relation to its context.
- 5.17. The site lies within an area where there is a wide variety of building heights, ranging from 2-storey dwellings to blocks of flats and student halls over 10-storeys high. The adjacent building to the west of the site is a 4-storey student hall of residence. The Somerstown Area Action Plan identifies the application site (along with the adjacent units to the north, cumulatively known as Site 1), for development of between 4 and 8 storeys.
- 5.18. The adjacent units to the north of the site are subject to a separate planning application for the construction of a mixed residential and commercial scheme, which is proposed to range in height between 6 and 11 storeys. These two schemes have been designed in conjunction with one another, which, if both approved, would create a development that would visually 'step-up' in height from south to north, which is considered appropriate.
- 5.19. In the event that the development proposed on the adjacent site to the north was not approved or implemented, the new building would be viewed in relation to the adjacent 2 and 3-storey commercial units. Given the range of building heights that already exist in the area, the difference in scale between the proposed 4-storey building and the adjacent 3-storey building to the north is considered to be acceptable.
- 5.20. In conclusion, the scale of the proposed development at No.62 Middle Street is considered to be acceptable in relation to the wider context of existing and proposed development, in accordance with Policy PCS23 of the Portsmouth Plan (2012), the Somerstown and North Southsea Adopted Area Action Plan (2012) and guidance contained within the NPPF (2019) and NPPG.
- 5.21. As part of the consideration of scale, it is necessary to consider the impact of the development on the amenities of neighbouring and future residents in accordance with Policy PCS23 of the Portsmouth Plan.
- 5.22. The main issue in this case is the impact on the light and outlook from the adjacent student accommodation block to the west. This adjacent building has three windows on the eastern elevation which would be within 0.5m of the western elevation of the proposed building. Having reviewed the floorplans of the adjacent building, it is noted that the windows on the east elevation are secondary windows to bedrooms. The main windows to these bedrooms are on the south elevation, from which a good level of light and outlook would be achieved. Whilst such a close relationship to adjacent windows is not an ideal situation, on balance, given that the windows are secondary windows to the bedrooms, it is not considered that the impact of loss of light to the existing occupants would be so significant as to warrant refusal of the application.
- 5.23. There are also windows to stairwells / hallways on the northern side of the east elevation of the adjacent student block. This part of the eastern elevation is set back further from the application site and given that the windows do not serve habitable rooms, it is not considered that the amenities of the existing occupants would be significantly impacted by loss of light to these windows.
- 5.24. The nearest residential properties to the south of the site are located approximately 18m away and there are no windows on the northern elevation. To the south-east, the nearest residential dwelling is approximately 25m away on the opposite side of Middle Street. Given the distance between buildings, and the orientation of the proposed



development to the north, it is not considered that the amenity of these existing residents would be significantly affected by loss of outlook, light or privacy from the proposed development.

- 5.25. Any potential impacts from the student use on the surrounding community (e.g. by way of noise disturbance or anti-social behaviour), could be mitigated through an effective Student Management and Community Liaison Plan, which could be secured via a S106 Agreement.
- 5.26. With regard to future occupants of the site, there is the potential for future occupants to be impacted by noise disturbance from vehicle movements on Middle Street. The applicants have also submitted a Noise report which refers to potential noise from plant and equipment installed within the building. In order to protect the amenity of future occupants, the Environmental Health Officer has requested further noise assessments to include details of mitigation schemes for traffic and plant noise, which can be secured by condition.
- 5.27. The Environmental Health Officer has also commented that the occupants of the student halls could potentially be impacted by noise from a nearby café / restaurant at No.56 Middle Street. At the time of writing this report, this café is an unauthorised use which does not benefit from planning permission, although it is understood that an application is forthcoming. Any potential noise issues / conflicts would need to be addressed by the applicants for the café when a planning application is submitted.
- 5.28. Subject to implementation of a Student Management and Community Liaison Plan, and conditions relating to noise, it is considered that the amenities of neighbouring and future residents of the site would be protected in accordance with Policy PCS23 of the Portsmouth Plan.

### Access

- 5.29. The site lies within easy walking and cycling distance of the University and language schools, close to bus stops and the main station. The scheme does not include any provision for on-site parking and therefore proposes pedestrian access only. The office would have direct pedestrian access from Middle Street, providing an active frontage for the business onto the main road. The site has an existing vehicle access point from Earlsdon Street and this would therefore require stopping up, which can be secured by condition.
- 5.30. The Adopted Parking Standards and Transport Assessments SPD (2014) does not set a specific requirement for car parking provision for student halls of residence. The Local Highway Authority accepts that the proposed student accommodation could practically operate as a car-free development on a day to day basis, subject to proper management of drop-offs and pick-ups at the start and end of term, which could be secured through the provision and implementation of a Student Management Plan.
- 5.31. In the representation, concern is raised about the potential increase in delivery vehicle traffic associated with the new office use, and the lack of delivery or servicing facilities. However, the proposed office would be of a modest size and offices by their nature are unlikely to generate any significant requirements for deliveries or servicing. The Highway Engineer has not raised any objection to the proposed office use.
- 5.32. The applicants have agreed to enter into a S106 Agreement to secure the agreement and implementation of a Student Management Plan (among other requirements), and on this basis the proposal is considered to be acceptable in relation to access and highway safety.

- 5.33. The Local Highways Authority stipulated that the development would require 21 cycle parking spaces. Details of these would need to be included as part of any future reserved matters submission.

### Ecology

- 5.34. A Preliminary Ecological Appraisal has been submitted with the application, and bat surveys of the building were undertaken in October 2018. The building on the application site is of modern construction and the roof tiles are well fitted with the ends fitted with an eaves closure device which prevents bat and bird access. The report concludes that there was no evidence of bats being present, and no evidence of nesting birds. The nature of the surrounding development means it is of negligible potential for foraging bats and due to the complete coverage by hardstanding and buildings the site is not a suitable habitat for any other protected species.
- 5.35. There is potential to enhance the ecological value of the site through planting of appropriate native species and the incorporation of a green roof, hanging baskets and nest boxes and details of such provisions can be secured through condition. The Ecologist has also requested an Informative be added to any decision to inform the developers about the need to protect nesting birds if any are found to be present.
- 5.36. Given the limited ecological value of the existing site, the redevelopment offers an opportunity for increasing habitats and achieving a net gain in biodiversity to comply with policy PCS13 of the Portsmouth Plan.
- 5.37. Within the representation, reference has been made to the removal of a cherry tree from the site. This was removed prior to the application being submitted and was not subject to a tree preservation order, meaning that its removal did not require the consent of the Local Planning Authority.

### Impact on the Solent Special Protection Area

- 5.38. The application site is within 5.6 m of Portsmouth Harbour Special Protection Area (SPA) and is for residential accommodation. As such there are potentially two impacts to consider.
- 5.39. First there is the impact of increased recreational activity. The Solent Recreation Mitigation Strategy (Bird Aware), outlines a mitigation scheme, with a financial contribution towards the delivery of these measures being required from proposals resulting in additional residential development within the defined catchment area. Paras 6.5 and 6.6 of the mitigation strategy states: "In the case of self-contained student accommodation, a case by case approach is taken because it is recognised that due to the characteristics of this kind of residential development, specifically the absence of car parking and the inability of those living in purpose built student accommodation to have pets, the level of disturbance created, and thus the increase in bird disturbance and associated bird mortality, will be less than dwelling houses (use class C3 of the Use Classes Order). The SDMP research showed that 47% of activity which resulted in major flight events was specifically caused by dogs off of a lead. As such, it is considered that level of impact from purpose built student accommodation would be half that of C3 housing and thus the scale of the mitigation package should also be half that of traditional housing. Whilst these units of accommodation are assessed on a case by case basis, not purely on their numbers of bedrooms, a general model for calculation follows: As the average number of study bedrooms in a unit of purpose built student accommodation is five, for the purposes of providing SPA mitigation, every five study bedrooms will be considered a unit of residential accommodation and charged accordingly (i.e. 50% of the rate of the 5-bedroom property charge)".

- 5.40. The mitigation calculation for this scheme (based on a maximum of 21 rooms), can be summarised as follows:
- Proposal - 21 x student rooms
  - Each 5 student rooms = 1 unit of accommodation:  $21/5 = 4.2$  (rounded up to 5)
  - Amount calculated based on half the amount for a 5-bed property:  $£927 / 2 = £463.50$ ;  $£463.50 \times 5 = £2,317.50$
  - Existing - 2 x 2 bedroom flats
  - Amount for 2 bedroom flat =  $£514$ ;  $2 \times £514 = £1028$
  - Total mitigation amount required:
  - $£2,317.50 - 1,028 = £1,289.50$
- 5.41. The applicant has agreed to secure the relevant mitigation via a S106 Agreement.
- 5.42. Secondly Natural England has provided guidance advising that increased residential development is resulting in higher levels of nitrogen and phosphorus input to the water environment in the Solent with evidence that these nutrients are causing eutrophication at internationally designated sites. A sub-regional strategy for the nitrates problem is being developed, by the Partnership for South Hampshire, Natural England, and various partners and interested parties. In the meantime, Portsmouth wishes to avoid a backlog of development in the city, with the damaging effects on housing supply and the construction industry, so the Council has therefore developed its own interim strategy.
- 5.43. The Council's Interim Nutrient-Neutral Mitigation Strategy expects Applicants to explore their own Mitigation solutions first. These solutions could be Option 1: 'off-setting' against the existing land use, or extant permission, or other land controlled by the Applicant. Or it could be Option 2: mitigation measures such as Sustainable Urban Drainage Systems (SUDS), interception, or wetland creation. If, however, the Applicant sets out to the Council that they have explored these options but are unable to provide mitigation by way of these, they may then request the purchase of 'credits' from the Council's Mitigation Credit Bank. These credits are accrued by the Council's continuous programme of installation of water efficiencies into its own housing stock, and making these credits available to new development.
- 5.44. In this case, the applicants have provided a statement explaining that a number of water efficiency measures are proposed to be included within the new development. However, this in itself would not make the development Nutrient Neutral. The applicants have requested to rely on Option 3 of the Interim Mitigation Strategy, to purchase nitrate 'credits' from the Council's Credit Bank and this has been accepted.
- 5.45. In accordance with the Council's Strategy, for minor schemes, the Council will offer the credit in perpetuity for a £200 per unit administration and monitoring fee. This application is classified as a minor scheme, being a development with a floorspace of less than 1000sqm. The £200 per unit payment would therefore apply.
- 5.46. Taking account of the two flats within the existing building, the nitrate contribution requirement has been calculated as follows:
- Existing 2 x 2-bedroom flats - average occupancy of 2.4 persons - total persons = 4.8
  - Proposed 21 student rooms - total persons = 21
  - $21 - 4.8 = 16.2$  (rounded up to 17)
  - Contribution at £200 per unit;  $200 \times 17 = £3,400$

- 5.47. A condition is attached which prevents occupation of the development until the mitigation is actually provided, i.e. the credits are purchased. Therefore, the nitrates mitigation will be provided by way of the condition and a legal agreement and subject to further negotiation with Natural England. Subject to these matters, the development would not have a significant likely effect on the interest features of the Solent Special Protection Areas.

#### Flood risk and drainage

- 5.48. The site is located in Flood Zone 1 and is therefore at low risk of flooding. A detailed drainage strategy for the site can be secured through condition.

#### Land contamination

- 5.49. There is the potential for contamination to be present on the site and this would need to be assessed through detailed analysis and site investigation. The Council's Contaminated Land Officer has recommended specific conditions that would need to be adhered to should permission be granted.

#### Conclusion

- 5.50. The proposed development is considered to be acceptable in terms of access and scale in relation to the character and appearance of the surrounding area and would not significantly impact on the amenities of neighbouring residents. The proposed development would make a contribution towards the housing needs, in the form of student accommodation. Subject to conditions, the scheme would meet relevant requirements in relation to biodiversity enhancements and ground contamination, and the impact of the development on the Solent Special Protection Area would be satisfactorily mitigated.
- 5.51. The reason for refusal of the previous scheme has been addressed through the provision of a B1(a) office unit on the ground floor of the building, which would ensure the retention of employment uses in accordance with Policy PCS6 of the Portsmouth Plan and Policy SNS8 of the Somerstown and North Southsea Area Action Plan. The proposal is in accordance with the objectives of the National Planning Policy Framework and the relevant policies of the Portsmouth Plan and is therefore recommended for conditional permission.

## **RECOMMENDATION**

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory completion of a Legal Agreement to secure the following:

- SPA Nitrate mitigation
- SPA recreational impact mitigation
- Occupation restriction to students only
- Provision and implementation of Student Management Plan and Community Liaison Plan
- Payment of auditing fee of £5,500 for Student Management Plan (traffic management)
- Payment of £620 project management fee

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

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

## **Conditions**

### **Time limit outline**

1) The development hereby permitted shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is later.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 and to prevent an accumulation of unimplemented planning permissions.

### **Reserved Matters**

2) (i) Plans and particulars showing the detailed proposals for all the following aspects of the development, the 'Reserved Matters', shall be submitted to the Local Planning Authority prior to any works taking place on the site:

(a) the layout of the site and building, to include details of pedestrian entrances / pathways, internal room sizes, refuse and cycle storage facilities;

(b) the appearance and architectural design with a detailed schedule (including any samples, as may be necessary) specifying the proposed materials and finishes to be used for the external surfaces of the building;

(c) the hard and soft landscaping of the site specifying species, planting sizes and numbers/densities of planting and proposed finished levels or contours as well as all hard surfacing materials/finishes and details of the alignment, type, appearance, dimensions and materials/finishes of all walls, fences and other means of enclosures.

(ii) An application for the approval of the outstanding Reserved Matters shall be made in writing to the Local Planning Authority before the expiration of three years from the date of this Outline Permission.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 91 and Section 92 of the Town and Country Planning Act 1990 (as amended).

### **Approved Plans**

3) 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: Existing Site Plan, 277-ACG-B2-00-DR-A-0005 Rev. B; Proposed Site Location Plan, 277-ACG-B2-00-DR-A-1001 Rev. C; Proposed Ground Floor Plan - Outline, 277-ACG-B2-00-DR-A-2034 Rev. B; Proposed Elevation East - Outline, 277-ACG-B2-00-DR-A-4017 Rev. B; and Proposed Elevation South - Outline, 277-ACG-B2-00-DR-A-4016 Rev. B.

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

### **Potential for Contamination**

4) 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 CLR11\* following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the 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 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 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 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<sup>‡</sup> to oversee the implementation and completion of the works.

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

### **Contamination Verification**

5) 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 4c, 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 verification of gas protection schemes the approach should follow CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. For the avoidance of any doubt, in the event of it being confirmed in writing pursuant to Condition 4b 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 4c.

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

### **Cycle Storage Provision**

6) The cycle storage facilities as approved in accordance with Condition 2(a) shall be provided prior to first occupation of the building and shall thereafter be retained for cycle storage purposes.

Reason: To ensure adequate provision is made for cycle storage to encourage the use of alternative means of transport to the private car, in accordance with Policy PCS17 of the Portsmouth Plan.

### **Refuse Storage Provision**

7) The refuse storage facilities as approved in accordance with Condition 2(a) shall be provided prior to first occupation of the building and shall thereafter be retained for refuse storage purposes.

Reason: To ensure that adequate provision for refuse storage is provided in the interest of protecting the amenity of future residents and neighbouring residents, in accordance with Policy PCS23 of the Portsmouth Plan.

### **Landscaping Implementation**

- 8) (a) The soft landscaping scheme approved under condition 2(c) shall be carried out in the first planting season following the occupation of the building or the completion of the development whichever is the sooner;
- (b) Any trees or plants which, within a period of 5 years from the date of Practical Completion of the landscaping scheme, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- (c) The hard surface treatments shall be carried out in accordance with the hard landscaping scheme approved by condition 2(c) before first occupation of the building and shall thereafter be retained.

Reason: To enhance the city's green infrastructure network in accordance with Policy PCS13 of the Portsmouth Plan.

### **Biodiversity Enhancements**

- 9) (a) No development (except demolition) shall take place at the site until a scheme for proposed biodiversity enhancements and their timing shall have been submitted to and approved in writing by the Local Planning Authority;
- (b) The scheme for biodiversity enhancement shall be fully implemented in accordance with the details approved under part (a) of this condition and thereafter retained.

Reason: To achieve a net gain in biodiversity in accordance with Policy PCS13 of the Portsmouth Plan.

### **Noise Insulation**

- 10) (a) No development (except demolition) shall take place at the site until a scheme for insulating habitable rooms against road traffic noise has been submitted to and approved in writing with the Local Planning Authority. The scheme shall be designed to ensure that the following acoustic criteria will be achieved in all habitable rooms:
- o Daytime LAeq(16hr) (07:00 to 23:00) 35dB
  - o Night time LAeq(8hr) (23:00 to 07:00) 30dB and LAmax 45dB
- (b) The noise insulation scheme approved under part (a) of this condition shall be implemented before first occupation of the development and thereafter retained.

Reason: To mitigate the impact of road traffic noise to protect the amenity of future residents, in accordance with Policy PCS23 of the Portsmouth Plan.

### **Plant and Equipment Details**

- 11) (a) Prior to the installation of any fixed plant or equipment, an assessment of noise from the operation of the plant shall be undertaken using the procedures within the British Standard BS4142:2014, to include measures to mitigate any identified adverse effects, and a report shall be submitted to and approved by the Local Planning Authority in writing.
- (b) Any mitigation measures shall be implemented in accordance with the details approved under part (a) of this condition and thereafter retained.

Reason: To assess and mitigate noise impacts from proposed plant and equipment to protect the amenities of future residents in accordance with Policy PCS23 of the Portsmouth Plan.

### **Foul and Surface Water Treatment**

- 12) (a) No development (except demolition) shall take place at the site until full details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water; and

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

Reason: To ensure that the scheme incorporates adequate provisions for drainage to minimise flood risk in accordance with Policy PCS12 of the Portsmouth Plan.

#### **Stopping Up of Existing Access**

13) Prior to first occupation of the development hereby permitted, the existing access to the site from Earlsdon Street shall be stopped up and the kerb reinstated.

Reason: In the interest of highway safety, in accordance with Policy PCS17 of the Portsmouth Plan.

#### **Energy and Water Efficiency**

14) The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that the development has 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
- a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

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

#### **Use Restriction**

15) Notwithstanding the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that order with or without amendment), the office unit hereby permitted shall only be used for purposes falling within Use Class B1(a) of the Town and Country Planning (Use Classes) Order 2015 (as amended) (or any order revoking or re-enacting that order with or without amendment), and for no other purpose without the prior written permission of the Local Planning Authority through submission of a formal planning application.

Reason: To enable to the Local Planning Authority to fully assess the merits of any alternative use in terms of employment generation, access and amenity, in accordance with Policies PCS6, PCS17 and PCS23 of the Portsmouth Plan.

#### **Nitrate Mitigation**

16) The development hereby permitted shall not be occupied until a scheme for the mitigation of increased nitrogen and phosphorus levels resulting from the development has been (a) submitted to, and approved in writing by the Local Planning Authority, and (b) implemented in accordance with the approved scheme with any mitigation measures thereafter permanently retained.

Reason: To ensure that the development would not have an adverse effect on the integrity of the Solent Special Protection Area in accordance with Policy PCS13 of the Portsmouth Plan (2012), the Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981.



17 CLARENCE PARADE SOUTHSEA PO5 3NU

**CONSTRUCTION OF ADDITIONAL STOREY TO PROVIDE THREE BEDROOMED APARTMENT**

**Application Submitted By:**

Mrs Tracey Parker  
Bespoke Architects

**On behalf of:**

Mr Julian Savin

**RDD:** 24th June 2019

**LDD:** 27th September 2019

**1.0 SUMMARY OF MAIN ISSUES**

- 1.1 This application is being heard at committee due to an objection and deputation request from a third party.
- 1.2 The main issues in the determination of this application are as follows:
- Principle of residential development
  - Design, scale, appearance and impact on conservation area
  - Amenity of neighbouring properties
  - Amenity of future occupiers
  - Highways and parking
  - Ecology and biodiversity
  - Impact on the Solent Special Protection Areas
  - Other matters and material considerations

The Site and Surroundings

- 1.3 The application site is a four-storey terraced property with an additional basement storey situated below street level, with a flat on each storey (five existing), situated on the northern side of Clarence Parade. The building sits at the end of a terrace of three other properties which are similar in terms of their design and scale, albeit the other three properties have an additional storey of rooftop accommodation slightly set-back, and are rendered/painted white. The application property comprises unpainted grey and grey/brown stonework, with the neighbouring properties either side (including the three similar terraces) comprising white render and white painted stonework. The surrounding properties are residential, forming a terraced row along this section of the street, albeit with greater variety of built form, height and design.
- 1.4 The site is within The Seafront Conservation Area. There are no nearby listed buildings but Southsea Common lies on the opposite side of Clarence Parade and is a Grade II Listed Park and Garden. The site is within Flood Zone 1. The site is also on the edge of Southsea Town Centre, whereby there are a range of shops, services and bus links.

Proposal

- 1.5 The application proposes the creation of an additional storey to the roof of the property, forming a single 3-bedroom apartment of roughly 94 sq m (exclusive of balcony).

- 1.6 The apartment would provide a front south-facing balcony, kitchen, lounge/diner and 2no bathrooms including an en-suite. External materials and finish would match the existing, utilising uPVC window frames, powder coated aluminium doors, with a felt membrane flat roof and 1.1m glass balustrade to balcony.
- 1.7 The application is supported by a Design & Access Statement, Heritage Statement, Nutrient Neutrality Statement, Ecology Survey, Highways information, and relevant drawings.
- 1.8 Since original submission, the scheme has been amended slightly to reduce the overall height by approximately 150mm in-line with the neighbour's roof line, and introduce a sloping/pitched side wall rather than a vertical wall/gable end. Revised drawings also show neighbouring properties for context.

### Planning History

- 1.9 There is no recent or relevant planning history for the site.

## **2.0 POLICY CONTEXT**

- 2.1 The following policies and guidelines are relevant in the assessment of this application:

- 2.2 Portsmouth Plan (2012)

- PCS10 (Housing Delivery)
- PCS13 (A Greener Portsmouth)
- PCS17 (Transport)
- PCS19 (Housing Mix, Size and the Provision of Affordable Homes)
- PCS23 (Design & Conservation)

- 2.3 Other Local Guidance

- The Car Parking and Transport Assessment SPD 2014
- The Solent Special Protection Areas SPD 2017
- PCC Interim Nutrient Neutral Mitigation Strategy for New Dwellings 2019
- The Seafront Conservation Area Guidelines 2006

- 2.4 National Guidance

- National Planning Policy Framework (NPPF) 2019
- National Planning Practice Guidance
- Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- The Nationally Described Space Standards (NDSS) 2015

## **3.0 CONSULTATIONS**

### Natural England

- 3.1 Provided the applicant is complying with the requirements of the Interim Strategy and that the Council, as competent authority, is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

### Environment Agency

- 3.2 No comments received to date.

- 3.3 N.B. Given the recent change in Flood Zones of the site from 2 to 1 (lowest risk), EA is no longer a statutory consultee.

#### PCC Highways Engineer

##### Initial response (received 21/08/19)

- 3.4 Clarence Parade is a classified road (A288) and provides an important strategic link within the local highway network. Clarence Parade is predominately residential with a mixture of flats to the north and is bounded by Southsea Common to the south. Parking is restricted to the site frontage by pay and display parking bays. Few of the properties along Clarence Parade have adequate off street parking provision and consequently the demand regularly exceeds the space available particularly overnight and at weekends. This site is not located in that part of the city centre found to be sufficiently accessible so as to allow the consideration of a reduction of the parking standards and any new residential development is required to meet those in full. No traffic assessment has been provided alongside this application however given the small scale of the development, I am satisfied that the proposal would not have a material impact upon the local highway network.
- 3.5 Portsmouth City Council's parking SPD gives the expected level of vehicle parking to be provided within new residential developments. The requirement for a 3bedroom dwelling is 1.5 vehicle parking spaces and 2 secure cycle parking space per dwelling. This increases the existing shortfall by 1.5 spaces to 9 spaces. This compares with no vehicle parking spaces and no secure cycle provisions proposed as part of this application. No parking survey information has been submitted in support of this application to establish the availability of on-street parking overnight and at weekends which could potentially accommodate the shortfall.
- 3.6 As a consequence the effect of this proposals would be to increase the local parking demand by 1.5 vehicle parking spaces making it more inconvenient for local residents to find a place to park with the consequent implications for residential amenity and will result in both instances of vehicles being parked indiscriminately raising highway safety concerns and residents driving around the area hunting for a parking space with the consequent implications for air quality / pollution.
- 3.7 As the application stands I must recommend refusal on the ground of insufficient information regarding the likely parking demand and how that would be accommodated in an area where the demand often exceeds the space available.
- 3.8 Should an overnight parking survey reveal sufficient capacity to service the application site and 2 secure cycle storage facilities provided I would be minded to remove my objection. N.B this should not include those parking areas anticipated to be lost to allow implementation of sea defence works.

##### Response to additional information (received 11/12/19)

- 3.9 I've reviewed the further information submitted in support for this application although the 'parking survey' provided has not been undertaken in accordance with the appropriate methodology, it does not consider the times when the resident parking demand is at the greatest – i.e. overnight / at weekends and it does not take account of those extant applications / approvals which also seek to rely on these parking spaces (there are a number I think) nor the impact of the sea defence scheme which both removes parking spaces and will displace people to park closer to this proposal. Consequently I would not wish to amend the LHA previous objection to this application

Final response (received 26/03/20)

- 3.10 I write to clarify the LHA representation as requested. In short the 'parking survey' provided has not been undertaken in accordance with the appropriate methodology, it does not consider the times when the resident parking demand is at the greatest - i.e. overnight / at weekends and it does not take account of those extant applications / approvals which also seek to rely on these parking spaces nor the impact of the sea defence scheme which both removes parking spaces and will displace people to park closer to this proposal.
- 3.11 As a consequence we do not have an understanding of the degree to which the parking shortfall can be accommodated on street. Whilst the proposal does not give rise to any fundamental highway safety or traffic capacity concern, the absence of sufficient parking provision on site to meet the parking demand anticipated in the SPD is an amenity issue and could justify a reason for refusal. In the absence of an understanding of the degree to which the parking shortfall can be accommodated on street it is difficult to advise on the weight which should be given to this consideration in your determination of the application.
- 3.12 In summary there is a policy conflict with the parking expectation in the SPD which could justify a reason for refusal of the application but other planning merits of the proposal may be sufficient to tip the balance in favour of the application. The weight to be given to the respective matters is an issue for the decision maker and I am unable to help with that as the requested information relating to on street parking capacity has not been provided. I am of the view that significant weight should be given to this as we know that the residential demand for parking in this locale exceeds the on street capacity particularly overnight and at weekends although the planning balance is a matter for the decision maker and the LHA is not raising an objection from a safety or capacity perspective

PCC Ecology Officer

- 3.13 Thank you for forwarding the applicant's Bat Scoping Survey letter report in support of the above application (The Ecology Co-op, December 2019). I have the following comments.
- 3.14 I am satisfied that the Bat Scoping Survey represents the current conditions at the application site. No evidence of bats was found and all accessible crevices were examined internally with an endoscope. The ecological consultant concluded that these features should be hand-stripped with a licensed bat ecologist present and I support this approach in this instance, given the limited visual access to these features for the purpose of further survey.
- 3.15 Bats receive protection under UK law via the Wildlife and Countryside Act 1981 (as amended) and under EU law by the Habitats Directive, which is transposed into UK law by the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitats Regulations). Developments that affect legally protected species are also likely to be contrary to policy PCS13 A Greener Portsmouth of the Portsmouth Plan. Developments that affect bats will need a European Protected Species (EPS) licence from Natural England before any work that affects bats could commence.
- 3.16 Local Planning Authorities are required to engage with the Regulations – planning permission should be granted (other concerns notwithstanding) unless the development is likely to result in a breach of the EU Directive and, if a breach is considered likely, that the development is unlikely to be granted an EPS licence from Natural England to allow the development to proceed under a derogation from the law.

- 3.17 In view of the survey findings I would advise that the development is unlikely to result in a breach of the law protecting bats and I would raise no concerns.
- 3.18 I would however suggest the following condition is added to the decision notice: Removal of roofing materials identified in the Bat Scoping Survey (The Ecology Co-op, December 2019) shall be carried out by hand under the supervision of a licensed bat ecologist. If bats, or evidence of bat presence (e.g. droppings, bat carcasses or insect remains), are encountered at any point during this development, all work shall stop immediately while a bat licence is sought from Natural England. Reason: To avoid harm to bats.

#### **4.0 REPRESENTATIONS**

- 4.1 Publicity dates (noting full Covid-19 lockdown began 24<sup>th</sup> March 2020):
- Neighbour letters sent 16/08/19, expiry 13/9/19
  - Site notice displayed 20/08/19, expiry 13/9/19
  - Press notice published 23/08/19, expiry 13/9/19
- 4.2 A total of 3 public comments have been received in relation to this application; all of which object to the proposed development. The comments made within these representations are summarised as follows, and assessed within the main body of the report:
- loss of view (to rear properties)
  - loss of light/overshadowing (to rear properties)
  - loss of privacy (to rear properties)
  - out-of-keeping with housing along Auckland Road West
  - lack of parking
  - no neighbour notification (to number 5 Auckland Road West)
  - loss of financial value (to rear properties)
  - considers the development unnecessary

#### **5.0 COMMENT**

##### Principle of residential development

- 5.1 The NPPF states that planning decisions should be based on a presumption in favour of sustainable development (Paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (Paragraph 177). Where a local planning authority cannot demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 5.2 Currently, the Council can demonstrate 4.7 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing and this development would contribute towards meeting housing needs through a net gain of 1 dwelling. More specifically, this dwelling provides a good sized 3-bedroom family home; as preferred within Local Plan Policy PCS19.

- 5.3 The principle of the proposal is therefore considered acceptable, subject to assessment in accordance with the tests set out in Paragraph 11 (i and ii) of the NPPF and Paragraph 177, and against local policies and any other material considerations, which are provided within this report.

#### Design, scale, appearance and impact on conservation area

- 5.4 Policy PCS23 of the Portsmouth Plan relates to design and heritage and requires new development to be well-designed and appropriate in terms of scale, layout and appearance in relation to the context in which it is set; having special regard to heritage assets such as conservation areas. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special attention to be paid to the desirability of conservation preserving or enhancing the character or appearance of that area.'
- 5.5 The Seafront Conservation Area Guidelines characterises Clarence Parade as follows: *"Buildings in Clarence Parade are much more varied in character than in Western Parade. This road has probably always had a mixed character with a mixture of houses and short terraces of varying ages and heights from two-storey to five or six."*
- 5.6 The scale and form of the proposed penthouse would match those three penthouse apartments within this part of the terrace, also matching their front and rear building lines. Since submission, the scheme has been amended to ensure this is the case, with the height being lowered and the side elevation introducing a pitch to match the design and ridge height of the adjacent penthouses. Materials also broadly match these neighbours and surrounding properties, comprising predominantly render complementary to the host building. As outlined above, there are a variety of designs, scales and materials evident within this part of the conservation area and the proposal would not be out-of-keeping with the surrounding appearance and finish of nearby buildings. Most importantly, however, is the resultant increase in height of the application site - which would restore a degree of uniformity to this part of the terrace and between the four terraced buildings which share mostly the same characteristics; thus can be considered to preserve and enhance the special character and appearance of the conservation area.
- 5.7 A condition can be attached to ensure the external materials and finishes are specified and acceptable in relation to their host building and surrounds. The proposal is therefore considered to be of good design, appropriate within its context, and in accordance with Policy PCS23 of the Portsmouth Plan, local guidance, Sections 12 and 16 of the NPPF, and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Amenity of neighbouring properties

- 5.8 Policy PCS23 of the Portsmouth Plan requires new development to protect the amenity of neighbouring residents.
- 5.9 The proposed apartment and its front balcony would be in-line with the neighbouring three penthouse apartments within this block, and thus would not result in any loss of light or privacy to these dwellings. Similarly, there would be no significant impact in this regard to lower neighbours to the east or material change in relationship at the rear and with residential properties to the north, given the existing relationship between the immediate neighbouring top-storey flats and fourth floor apartments below, the distance from neighbours to the north/rear and limited glazing facing the site on neighbouring dwellings to the east.
- 5.10 In terms of light, it is noted that a number of objections have been raised by neighbours to the north; concerned that the increase in height would affect their views, outlook and level of light received. It is acknowledged that given the application site's orientation to

the south of these properties, there is scope for a greater potential loss of sunlight. However, the proposal would only result in a minor increase in height, of a maximum of 1.8m above the parapet, and there is good separation distance to all neighbouring buildings to the rear/north of at least 35m. Furthermore, the proposal would match the height of the existing neighbouring roofs and would only increase the width by roughly 8m; thus not substantially changing the overall built form and height of this section of the terrace. Therefore, the proposal is not considered to result in any significant loss of light to those neighbours to the rear, or indeed loss of amenity to any neighbouring properties; in accordance with Portsmouth Plan Policy PCS23.

#### Amenity of future occupiers

- 5.11 Policy PCS23 of the Portsmouth Plan also requires new development to provide a good standard of living environment for future occupiers. Additionally, Local Plan Policy PCS19 states that dwellings should be of a reasonable size; appropriate to the number of people that they are designed to accommodate.
- 5.12 The internal space of the proposed apartment is approximately 94 sq m; well above the minimum size outlined within the Nationally Described Space Standards. Similarly, all bedrooms are above minimum standards and storage space is provided. The internal layout is good, providing all habitable rooms with windows for adequate light levels and outlook. External amenity space is also provided in the form of a balcony to the front, providing exceptional views of Southsea Common and Solent. The proposal is therefore deemed to provide a high quality living environment for future occupiers, in-line with Policies PCS19 and PCS23 of the Portsmouth Plan, and national guidelines.

#### Highways and parking

- 5.13 The Council's Highways Engineer has raised concerns about application on the grounds that insufficient parking space for the new dwelling has been provided; contrary to the Adopted Parking Standards which requires 1.5 vehicle spaces and 2 cycle spaces for a three-bedroom dwelling. Subsequently, the Highways Engineer considers there will be secondary issues resulting from increased parking pressures within the surrounding area, such as more people driving around looking for a space and the impacts this would have for air pollution and amenity. The Highways Engineer does not, however, object to the application on the grounds of highway safety.
- 5.14 As raised by the Highways Engineer, it is acknowledged that the road immediately to the rear of the application site is residential in nature, dominated with two and three storey dwellings, some of which have on-site parking, and that the demand for residential parking on-street frequently exceeds the space available particularly overnight and at weekends. This road is located within a residential speed limit of 20mph, with time-limited waiting and permitted opportunities to park immediately outside (to the rear of) the site and within the surrounding roads. Additionally, to the front of the site is pay and display parking along both sides of the road, which is also free between the hours of 6pm to 8am.
- 5.15 The proposed development is minor, only creating one additional dwelling, and is not considered to result in a material increase of either parking need or transport movements within the area. Similarly, no access or changes to access are proposed and it cannot be considered that there would be any direct highway safety implications.
- 5.16 With regards to the potential pollution arising from emissions of a greater number of cars driving around the area looking for a space to park, this is not considered to be significant in relation to the scale of the scheme. Paragraph 109 of the NPPF makes it clear that developments should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the impacts on the road network would be

'severe'. The impact from this development of one additional dwelling is not considered to be substantial or 'severe'. Furthermore, it could be considered that a reduction in car parking will encourage an overall reduction in number of cars; and hence a decrease in emissions.

- 5.17 It is noted that there is space to accommodate cycle storage within the proposed flat (adjacent to the staircase). However, the practicality of carrying a bike up five flights of stairs would not make this a realistic or appropriate storage area for bicycles. The applicant has since indicated that there is an existing cycle storage area within the shared rear garden, which the proposed flat would have access to, and they are willing to increase the capacity of this or provide an additional cycle storage area within the rear to create secured cycle parking for two additional bikes. This can be conditioned, and would then accord with the Council's Parking Standards in this regard.
- 5.18 Section 9 of the NPPF generally, and Paragraph 110 specifically, encourage the use of non-car travel and public transport ahead of a reliance of the car. As illustrated by the applicant through submission of highways justification/information, there is available night time parking in front of the site which can accommodate parking if required. Furthermore, the site is in a relatively sustainable location; having access to nearby bus services and shops, approximately 1 mile from train stations, and is therefore well suited to residents travelling by foot, bicycle, bus or train, rather than requiring a private vehicle.
- 5.19 Given scale and sustainable location of the development, opportunity for adequate cycle parking, and sustainable transport policies nationally, a nil car parking provision and departure from the Adopted Parking Standards is considered to be acceptable in this instance.

#### Ecology and biodiversity

- 5.20 Following request of the Council's Ecology Officer, a Bat Scoping (Stage 1) Survey was commissioned and undertaken by the applicant. An Ecology Report has been submitted outlining the results of these investigations; concluding that there was no evidence of bats or other protected species and that the building does not provide suitable roosting opportunities at present. The Council's Ecology Officer has reviewed the report and agrees with the conclusion. However, they have requested a condition requiring a precautionary approach to be adopted, and for a licensed Ecologist to be present during the undertaking of certain works; which is also recommended by the report and should be included. The proposal is therefore considered acceptable in terms of biodiversity and it can be reasonably concluded that no protected species will be harmed, in accordance with Portsmouth Plan Policy PCS13 and national wildlife legislation.

#### Impact on the Solent Special Protection Areas

- 5.21 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.
- 5.22 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, due to increased recreational pressure, as well as an increase in nitrogen and phosphorus input into the Solent causing eutrophication.
- 5.23 *Recreational pressure:*



In relation to recreational pressure, the Solent Recreation Mitigation Strategy (Bird Aware), which came into place in April 2018, sets out how development schemes can provide a contribution towards a Solent-wide mitigation scheme to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

- 5.24 The mitigation contribution depends on the size of the proposed dwellings and takes account of any existing dwellings on the site. In this case, the amount for a 3-bedroom dwelling is £653.
- 5.25 Subject to securing the required mitigation through a legal agreement, it is considered that the scheme would not have a significant effect on the SPA as a result of increased recreational pressure.
- 5.26 *Nitrates:*  
Natural England has provided guidance advising that increased residential development is resulting in higher levels of nitrogen and phosphorus input to the water environment in the Solent, with evidence that these nutrients are causing eutrophication at internationally designated sites. A sub-regional strategy for the nitrates problem is being developed by the Partnership for South Hampshire, Natural England and various partners and interested partners. However, in the meantime, to minimise delays in approving housing schemes and to avoid the damaging effects on housing supply and the construction industry, Portsmouth City Council has developed its own Interim Strategy.
- 5.27 The Council's Interim Nutrient-Neutral Mitigation Strategy expects Applicants to explore their own Mitigation solutions first. These solutions could be Option 1: 'off-setting' against the existing land use, or extant permission, or other land controlled by the Applicant. Or it could be Option 2: mitigation measures such as Sustainable Urban Drainage Systems (SUDS), interception, or wetland creation. If, however, the Applicant sets out to the Council that they have explored these options but are unable to provide mitigation by way of these, they may then request the purchase of 'credits' from the Council's Mitigation Credit Bank. These credits are accrued by the Council's continuous programme of installation of water efficiencies into its own housing stock, and making these credits available to new development.
- 5.28 Natural England have endorsed the Council's Interim Strategy. The LPA has also sent its own 'Appropriate Assessment' of the application, for Natural England's specific comment; and a response has been received confirming no objections, subject to securing the mitigation as proposed.
- 5.29 In this instance, the applicant has provided a Statement, which confirms that it is not possible to make the development nitrate neutral using either Option 1 or Option 2. The applicant therefore wishes to rely on the Council's Strategy and this has been agreed. In accordance with the Strategy, for minor schemes, credits can be purchased at £200 per net additional dwelling. The required contribution for this scheme would therefore be £200 (net increase in 1 dwelling). This mitigation would be secured by a legal agreement, and a condition is also attached to this recommendation, which would prevent occupation of the development until the mitigation is actually provided, i.e. the credits are purchased. It is also considered necessary to restrict the time implementation (condition) limit to one year, given the limited availability of Council mitigation 'credits'.
- 5.30 Subject to the legal agreement to secure mitigation against additional recreational pressure and nutrient output, it is determined that the development would not have a significant likely effect on the interest and features of the Solent Special Protection Areas.

#### Other matters and material considerations

- 5.31 Since submission, whereby the site was within Flood Zone 2, additional flood re-modelling has been undertaken by EA, with certain areas being re-classified, including that which the application site falls in; resulting in the site no longer being within Flood Zone 2. Given the development proposed is limited to the top floor, there are not otherwise considered to be any flood risk or drainage implications.
- 5.32 Most of the issues raised within representations have been addressed within the above section. The remaining are considered as follows:
- implications for personal property values, or whether or not a development is considered 'necessary', are not material planning considerations
  - in terms of neighbour notification and publicity, a total of 40 neighbours were consulted, including all those sharing a boundary with the application site, in accordance with the Council's Statement of Community Involvement. Number 5 Auckland Road W does not share a boundary with the site, and is not directly to the rear, being located more than 50m away to the north-west. Therefore, it was not deemed necessary to issue a neighbour letter to this address. A site notice was nevertheless displayed on 20th August for a three week period, and an advert was published within the local newspaper on 19th August. The Council has therefore carried out publicity in accordance with both statutory and local requirements.
- 5.33 There are not considered to be any other material planning considerations which would outweigh the recommendation.
- 5.34 In reaching this conclusion, the human rights of the applicants and nearby occupiers have been taken into account and it is deemed that the recommendation to permit is justified and proportionate.

### Conclusion

- 5.35 The proposed development would make a positive contribution towards the housing needs of the city and is considered to be acceptable in terms of its layout, design, conservation area context, and standard of living accommodation. Matters relating to highway safety and parking have been assessed and determined to be acceptable, and it is not considered that the development would have an adverse impact on the amenities of neighbouring residents. In relation to the impact on habitats sites, subject to the provision of financial contributions to mitigate the impact of the development on the Solent SPAs, it is determined that the development would not affect the integrity of these protected areas. In conclusion, the development is considered to accord with all relevant local policies and national guidance and would meet the tests set out in paragraph 11 of the NPPF, and is therefore recommended for permission.

## **RECOMMENDATION**

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory completion of a Legal Agreement to secure the following:

- SPA nutrients mitigation
- SPA recreational impact mitigation

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

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

## **CONDITIONS**

### **Time Limit**

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 and to prevent an accumulation of unimplemented planning permissions given the limited supply of Council 'credits' forming the SPA mitigation.

### **Approved Plans**

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers:

- P01 (Location Plan & Site Plan)
- P02A (Proposed Floor Plans)
- P03B (Proposed Front & Side Elevations)
- P04B (Proposed Rear Elevation & Section)
- P11 (Proposed Street Scene)

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

### **Details of Materials**

3) No construction of external walls shall take place until a detailed schedule of the type, texture and colour of all external materials/finishes to be used for the external walls and roof of the proposed buildings, including detailed elevation and samples where necessary, have been submitted to and approved in writing by the local planning authority; and the development shall be carried out in accordance with the approved materials/finishes.

Reason: To ensure that the materials used are of a high quality appropriate to the character of the area, and will preserve and enhance the conservation area, in accordance with Policy PCS23 of the Portsmouth Plan.

### **Bicycle Storage**

4) Prior to occupation of the dwellings hereby permitted, provision shall be made for the secure storage of bicycles in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be retained.

Reason: In the interests of sustainable transport principles and amenity, in accordance with Policy PCS23 of the Portsmouth Plan.

### **Energy and Water Efficiency**

5) The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that the development has 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, or as otherwise agreed in writing by the Local Planning Authority; and
- a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

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

### **Nitrate Mitigation**

6) The development hereby permitted shall not be occupied until a scheme for the mitigation of increased nitrogen and phosphorus levels resulting from the development has been (a) submitted to, and approved in writing by the Local Planning Authority, and (b) implemented in accordance with the approved scheme with any mitigation measures thereafter permanently retained.

Reason: To ensure that the development would not have an adverse effect on the integrity of the Solent Special Protection Area in accordance with Policy PCS13 of the Portsmouth Plan (2012), the Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981.

### **Precautionary Ecological Approach**

7) Removal of roofing materials identified in the Bat Scoping Survey carried out by The Ecology Co-op and dated December 2019, shall be carried out by hand under the supervision of a licensed bat ecologist. If bats, or evidence of bat presence (e.g. droppings, bat carcasses or insect remains), are encountered at any point during this development, all work shall stop immediately while a bat licence is sought from Natural England.

Reason: To ensure that the protection of ecology is fully taken into account during the construction process and to ensure the development will not be detrimental to protected bats.

## **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.

## **INFORMATIVES**

### **Refuse Collection Arrangements**

1) The applicant is advised to consult the Local Waste Authority (Portsmouth City Council) to discuss the suitability of refuse arrangements, including required capacity, purchase of bins and collection.