

PLANNING COMMITTEE 4 NOVEMBER 2020

2 PM 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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SOUTHSEA SEAFRONT FROM LONG CURTAIN MOAT IN THE WEST TO EASTNEY MARINE BARRACKS IN THE EAST

APPLICATION TO SEEK APPROVAL OF DETAILS RESERVED BY CONDITIONS 3 (PHASING), 4(I) (CONTAMINATED LAND METHOD), 17 (SOFT LANDSCAPING), 19 (DRAINAGE), 20A (CEMP), 21 (CTMP), 22 (EXTERNAL LIGHTING), 23 (STREET FURNITURE), 24 (FLOOD GATES), 25 (HARD SURFACES), 27 (ROADS/FOOTPATHS), 36 (ROCKS) & 37 (DEFENCE HEIGHTS) OF PLANNING PERMISSION 19/01097/FUL [FOR SUB-FRONTAGE 1 ONLY, LONG CURTAIN MOAT TO CLARENCE PIER]

Application Submitted By:
Portsmouth City Council

On behalf of:
Eastern Solent Coastal Partnership (for PCC)

RDD: 28th July 2020
LDD: 24th September 2020

SUMMARY OF MAIN ISSUES

The Southsea Coastal Scheme is a Flood and Coastal Erosion Risk Management (FCERM) scheme to upgrade the existing coastal defences along a 4.5km length of frontage at Southsea. It extends from Long Curtain Moat in the west to the Eastney Barracks in the east.

A planning application for the proposed flood defence works was submitted in July 2019. It constituted Environmental Impact Assessment (EIA) development and was accompanied by an Environmental Statement. It was determined by the Planning Committee on 4 December 2019 and planning permission granted, subject to conditions. The decision notice (dated 5 December 2019) includes the conditions worded such that the required information could be submitted and approved prior to each phase of flood defences commencing. ESCP seek approval of details reserved by condition for the first phase of the scheme at the frontage of Long Curtain Moat to Clarence Pier car park.

At the Planning Committee meeting, Members also requested that certain conditions, relating to public realm elements, came back to Members for a decision rather than being determined under officer's delegated powers. The specified conditions were:

17 (soft landscaping), 22 (lighting), 23 (street furniture), 25 (hard surfacing), 27 (roads and footpaths) and *38 (public art and interpretation) [*not part of this submission]

POLICY CONTEXT

The relevant policies within the Portsmouth Plan (2012) would include: PCS9 (The seafront), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS23 (Design and Conservation),

In addition, the National Planning Policy Framework (2019) is also a relevant consideration.

CONSULTATIONS

Historic England

HE do not wish to comment in detail. HE has already provided comments on planning case 19/01097/FUL in letters dated 8 October 2019 and 18 November 2019, in which the significance of the affected Scheduled Monuments, the impact of the proposals and the necessary requirements to limit the harm and provide heritage benefits to offset any that remains is set out. HE has been working closely with the ESCP to ensure the proposals achieve these objectives. The primary vehicle for delivering archaeological mitigation will be the Historic Environment Mitigation Strategy which has been submitted as a separate application (20/00941/DOC) and, as such, any further comments will be reserved for said application. HE suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

As details of the proposals affecting the Scheduled Monument will be subject to the requirement for Scheduled Monument Consent (SMC), HE will control and discharge these via the conditions of the SMC.

Natural England

The views of NE are still awaited (but will not relate to details of the public realm).

Ecology

Following review of the submitted CEMP (Southsea Coastal Scheme, July 2020), which includes detailed measures for providing interim habitat for brent geese for Sub-frontage 1 (Long Curtain Moat), along with other measures, as required by Condition 20a, is considered to satisfy the requirements for suitable protection for species and habitats during construction, and would have nothing to add. On this basis, Condition 20a can be approved in relation to ecology.

Coastal And Drainage

Some additional technical detail is subject of further review by drainage on Condition 19.

Seafront Manager

No comments received.

Environment Agency

The EA has reviewed the submitted information and raise no objection to the approval of condition 20A in relation to Phase 1 (subfrontage 1, Long Curtain Moat).

Landscape Group

Updated comments awaited, to be reported at the meeting.

Highways Engineer

Condition no.s 21 (CTMP) and 27 (roads /footpaths) are relevant to the local highway authority.

A CTMP has been provided with the stated intention that this be updated following each phase of the work. Phase 1 of the works will require the closure of Clarence Pier car park together with diversion of the seafront footpath through this section. Section 3.2 of the CTMP explains that 69 daily car trips are likely to be associated with phase 1 which is assumed to be a number of vehicles rather than trips and will result in 138 car movements. Whilst the LHA is comfortable with the routes and likely scheduling of construction traffic movements outside of peak periods the CTMP is not clear where the 69 cars nor those displaced from the Clarence Pier car park will be parked. Whilst the loss of the car park and diversion of the footpath will be wholly negative for highway users, these are necessary to allow the implementation of phase 1. Subject to clarifying the intended parking arrangements given the broader objectives of the scheme the highways impacts are not considered sufficient to justify objection to the discharge of condition 21 in respect of phase 1.

The planning statement provided explains with regard to condition 27 that: 'The only element of Phase 1 that is relevant to this condition relates to the alterations and improvements to the existing car park. The size of the car park will remain the same but the topography and layout will see some amendments. The access road into the car park is being upgraded as part of a future phase of the scheme.'

The LHA is satisfied that there are no fundamental highway issues arising from the proposed arrangements which would prevent the discharge of condition 27 in respect of the first phase of the development.

The most significant change to the car park is its relationship to the promenade, with the proposed raising of the promenade to the height of the car park. The barrier between the car park and the new promenade will comprise concrete planters, and the suitability of these are most appropriately considered through discharge of condition 17.

Contaminated Land Team

The details so far submitted for the sub-frontage (Long Curtain Moat) pursuant for condition 4)i) are acceptable to the CLT.

This sub-frontage consists of sea defences and hard landscaping with the excavated soils being stored and replaced as structural material rather than forming soft landscaping for public use as in some other areas of the City's coastal defences. The testing of the frontage identified areas where concentrations of pollutants exceeded the low screening values within the made ground and occasionally the natural soils. Pursuant to discharge details are to be submitted of the locations of where soil will be stockpiled whilst it is assessed before replacement, and if failing screening criteria further soils delineated for disposal.

REPRESENTATIONS

Applications for details reserved by planning condition(s) are not normally subject to publicity. Discretionary publicity by site notices have been displayed seeking comments up to 4 November.

One representation has been received from a local resident, written on behalf of the Victorious Festival that is annually held on Southsea Common over the August Bank Holiday weekend.

This objection describes that the festival brings in over £12.5m to the local economy and creates the equivalent of over 154 full time jobs each year. It explains there have been 2 consultation meetings with the team organising the sea defence works and the extent of the compound marked in Serpentine Road and also works on the road in this area is considered surprising. The festival has an entrance on the road past the Clarence Pier bus terminal which services 25,000 people per day over the festival weekends, predominantly arriving by public transport and the park and ride service provided.

The plans preclude the use of this area for busses or train arrivals and would mean the closing of all roads to the north of the festival site for 3 days over the event along with the associated outcry and costs. In addition, the compound area at the end of Serpentine Road and the potential roadworks are located in the only viable crossover area between our 2 main arenas and an inability to use this area makes the event unviable on this site from a crowd safety perspective.

The objection recognises the necessity for the works but welcomes re-locating the compound (even temporarily) and having clarity on the road situations to enable planning of one of the biggest events in the UK suggesting most large events are planned over a year in advance and necessitate more detailed consultation and guarantees of access.

COMMENT

The public realm elements that were specified to be determined by the committee were: 17 (soft landscaping), 22 (lighting), 23 (street furniture), 25 (hard surfacing), 27 (roads and footpaths) and 38 (public art and interpretation).

- Condition 17 (soft landscaping)

There is limited scope for soft landscaping in Phase 1. It would be provided as new planters between the Clarence Road car park and the raised promenade along its southern edge.

The planting selection seeks to reflect the existing character of vegetated shingle along the seafront. A mix of native and non-native plants would increase biodiversity, and include space for existing self-colonisers within the local area. The planting bed would be made of various depths of flint gravel, providing a natural barrier against weeds and reducing future maintenance requirements. *Griselinia* (hedging) would be utilised to replace existing bollards adjacent to Spur Redoubt, screening the car park and creating a natural edge.

The planting approach represents changing heights and flowering habits throughout the year. There are three distinct species habits—evergreen, seasonal and annual wildflowers. The palette is designed for the evergreen species to provide year-round structure and colour. The seasonal plants form a mixture of those existing on the local beaches and additional plants with biodiversity interest. The annual wildflowers provide sparks of colour through the year, changing locations year after year, as they self-seed and colonise.

- 22 (lighting)

The details submitted pursuant to this condition relate to the functional lighting only for Phase 1, to ensure adequate lighting levels along the promenade. The existing festoon lighting in place towards the eastern end, adjacent to Clarence Pier, would not be replaced within this frontage and there is no purely decorative lighting intended. Architectural lighting is, however, to enhance the interpretation of the scheduled ancient monument, including around Spur Redoubt; this lighting would be dealt with under Condition 38, in conjunction with the other public art and interpretation features.

The proposed lamp columns would be fabricated from a durable and sustainable softwood timber with a natural finish. The lamp columns would be 5m in height, square and have two lanterns per column. Twelve lamp columns would be located along the upper promenade to replace the existing millennium walk lamp columns.

- 23 (street furniture)

The street furniture for Phase 1 is designed to both provide resistance to the harsh exposed coastal conditions of Southsea and complement the existing heritage assets.

o Balustrading and handrails

The design has been kept simple, with anodised aluminium specified in order to overcome existing problems of rust encountered by using steel and stainless steel. The balustrading top rail would be a suitable softwood timber. Where pedestrian steps are located, the same materials would be used to give a consistent appearance. The balustrading would be positioned on the new promenade edge (landward and seaward extends from the Caponier to Spur Redoubt). The existing balustrading on the section leading down to the moat bridge would be unaffected by the scheme but intended to be replaced for a consistent appearance. To the east of Spur Redoubt, there is balustrading to the rear of the car park but the front edge of the promenade would be a concrete upstand wall.

o Seating

The seating design comprises a mix of timber benches and timber seating terraces, to provide an opportunity for people to stop/sit and appreciate the historic asset.

o Bollards

The existing variety of bollards would be replaced with simple timber bollards for a consistent appearance.

o Bins

Powder-coated bins would be located to avoid visual clutter to the promenade, to match the balustrading.

o Life buoy

To be provided.

- 25 (hard surfacing)

The key promenade material of exposed aggregate concrete was identified in the original planning application, including at Long Curtain Moat but with the addition of another suitable quality material to be used to delineate the line of the old moat.

The materials finishes are being reviewed in detail as part of the ongoing discussions with Historic England. Due to two Scheduled Ancient Monuments (SAM) occupying a significant proportion of this construction phase, the material choices, and design details, have to be acceptable to Historic England. Since the grant of planning permission, discussions have continued with Historic England and the material details now submitted comprise those that have been agreed in principle.

At the heart of the design intent for the public realm surfacing is a requirement to complement the historic setting of the SAM. It is considered appropriate that the public realm be restrained and uncluttered, for the historic asset be visually understood and appreciated. Alongside this, the surfacing must fulfil fundamental requirements of longevity in a harsh coastal environment and the functional requirements of a 100 year-life flood defence scheme. In-situ decorative surfacing has been chosen to fulfil this. By making a bespoke mix not only can ESCP make the surface suit the colouration of the historic walling, but can also adjust the texture, grain and jointing in order to ensure it creates an unspoiled backdrop to the SAM.

In order to differentiate between the new structure and where the historic structure lies beneath the surface, the design proposes two different etch finishes be used on the in-situ decorative surfacing. The colouration of the aggregate used in the two surface finishes would match and compliment the SAM but will allow differentiation between the designated promenade surface of the SAM and the adjacent non-designated promenade surface.

In addition to the decorative local aggregate surfacing, natural stone setts would be used along the length of the upper promenade (to the west of Spur Redoubt) to delineate the line of the historic counterscarp wall. This design detail is intended to assist in the interpretation of the designated asset. In terms of future maintenance requirements, the surfacing would out-last any other surface that could be used within such a harsh marine environment. By removing the requirement and reliance for regular future maintenance visits and repairs, ESCP seek to ensure that a high-quality setting to the monument is retained, for as long as possible.

- 27 (roads and footpaths)

Only the alterations to the existing car park are relevant to this condition for Phase 1. The size of the car park would remain unchanged but the topography and layout would be amended. The access road into the car park would be upgraded as part of a future phase of the scheme. The most significant change to the car park would be its relationship to the promenade, with the proposed raising of the promenade to the height of the car park.

- 38 (public art and interpretation)

Condition 38 is not a pre-commencement requirement and an application to discharge this condition is intended to be submitted once the first phase is complete.

This is an element of the scheme that has opportunities for the public to be involved, with the design and nature of the public art and interpretation needing to be reflective of what Southsea, and the specific frontages mean to local people. Engagement will commence in the near future. The details pursuant to conditions 17 (soft landscaping), 22 (lighting), 23 (street furniture), 25 (hard surfacing), 26 (feature walls) and 27 (roads and footpaths), for Phase 1 only, are considered acceptable.

With regard to the representation of objection, Phase 1 of the flood defence works may bring some localised disruption or inconvenience during construction but is not considered likely to have any significant impact on the holding of potential events on Southsea Common.

RECOMMENDATION **Approve**

65 GOLDSMITH AVENUE SOUTHSEA PO4 8DX**INSTALLATION OF DROPPED KERB****Application Submitted By:**

Mr Richard Leonard

RDD: 10th January 2020

LDD: 9th March 2020

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is being heard at Committee due to a request from Councillor Vernon-Jackson following publication on the Members Information Service, as he believes the permission should be granted for the proposal.

1.2 The main issue for consideration is;

- Highway safety.

1.3 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY**1.4 Site**

1.5 This application relates to a two-storey (with loft conversion) terraced dwellinghouse, located on the southern side of Goldsmith Avenue, close to the junction with Clovelly Road to the east. The property features a two-storey bay window and is set back from the road by a front forecourt with an approximately 1m high boundary wall and hedging above it. Milton Park lies directly opposite the property. The surrounding area is predominantly residential in character. Goldsmith Avenue is designated as a Primary or Distributor Road under saved Policy DC26 of the Portsmouth City Local Plan 2001 - 2011 and is also a classified road (A2030).

1.6 It is noted that the property to the east (63 Goldsmith Avenue) features a front forecourt which is used for the parking of vehicles, though it does not benefit from a dropped kerb and cars have to illegally bump up the kerb to park on the forecourt. An application for a dropped curve was refused in 2018 under planning ref: 18/00730/HOU at the site due to a lack of visibility for both pedestrians and vehicles and for not being able to turn on site.

1.7 Proposal

1.8 This application seeks planning permission for the installation of a dropped kerb to facilitate vehicular access. In conjunction, the existing front boundary wall would be removed and the existing front forecourt paved over.

1.9 Planning history

1.10 No planning history can be identified for the site.

2.0 POLICY CONTEXT

2.1 The relevant policies within Portsmouth City Local Plan 2001-2011 would include: PCS17 (Transport), PCS23 (Design and Conservation), DC26 (Access onto Primary & Distributor Roads),

2.2 The aims and objectives of the revised NPPF (Feb 2019) would also be relevant in the determination of this application.

3.0 CONSULTATIONS

3.1 Contaminated Land Team

The installation of a drop curb in the surficial highway is unlikely to encounter this infill material and so no conditions are requested.

3.2 Highways Engineer

12th February 2020

Goldsmith Avenue is a classified road (A2030) subject to a 30mph speed restriction and forms part of the primary road network in Portsmouth. Goldsmith Avenue has a wide single carriageway with wide pedestrian footways on either side. It provides access to a number of local access roads via simple major / minor junction arrangements with frequent signal controlled crossing facilities of pedestrians.

3.3 Bus stops are provided both in laybys and on street and local bus service numbers one and thirteen operate along Goldsmith Avenue providing a 10 minute frequency service to Fratton Station / Fratton Park throughout the day reducing to a 30 minute frequency in the evenings.

3.4 To the east of Ruskin Road a significant number of the residential properties do have direct vehicular access to Goldsmith Avenue these being peppered along the road, although there are no such accesses on the north side of the road at the Milton Park Frontage.

3.5 The authority operates a policy to resist the formation of private vehicular accesses to the Strategic Road Network in principle in order to protect the integrity and functionality of the SRN and promote the safety of all road users. However it has been agreed that policy will be relaxed in respect of the section of Goldsmith Avenue east of the junction with Ruskin Road subject to there being sufficient space on the property to accommodate a vehicle without that overhanging the public highway - this practically requires a frontage with a minimum depth of 5m.

3.6 This application does not include details of the proposed parking area or a dimensioned drawing of the space available and I am therefore unable to determine whether or not a typical private car could be so accommodated on the property.

3.7 As this application stands insufficient information has been provide to allow an appropriate assessment and the application should be refused or the applicant requested to provide such information. This should include details of the boundary treatment and specifically identify pedestrian visibility splays which will be secured on each side of the access.

3.8 19th February 2020

I have reviewed the additional dimensioned drawing of the proposed parking area and photographs provided in support of the application.

3.9 The depth of the plot between the edge of the footway and front of the bay window is sufficient to accommodate a parking space without a typical private car overhanging the public highway.

3.10 The 6.5m width of the plot is also sufficient to provide adequate pedestrian visibility on either side of the access if a 2.5m wide parking space was created centrally on the plot. To secure that the low boundary walls should be retained on either side of the access.

3.11 Subject to such an arrangement I would not wish to raise a highway objection to this application

4.0 REPRESENTATIONS

4.1 Two representations have been received from neighbouring residents, one in support and one objecting to the proposed dropped curve.

4.2 The support comment, gave their reasons below:

- (a) Existing difficulties parking;
- (b) Supporting the use of electric cars; and
- (c) Appropriate visibility and lack of highways safety concerns.

4.3 The objection comment, gave their reasons below:

- (a) Concerns towards pedestrian and bicycle safety;
- (b) Loss of front garden space;
- (c) Similar applications refused in the past;
- (d) The busyness of the road; and
- (e) Ample parking available currently.

4.4 Following publicity on the Members information Service on 29th May, Councillor Vernon-Jackson has requested that the application is determined at Planning Committee.

4.5 Publicity dates (full Covid-19 lockdown started 24 March 2020)

- Neighbour letters sent : 16/01/20, expiry 06/02/20

5.0 COMMENT

5.1 The determining issue relates to

- Highway safety.

5.2 Highway Safety

5.3 As part of the application the Highways Officer was asked to assess the proposal and he reached a position of no objection.

5.4 While the comments from highways are noted the LPA has won a series of appeals along this section of Goldsmith Avenue. Refusals were based on the resulting highway danger and interference with the free flow of traffic that dropped kerbs and crossovers may cause, if accompanied by restricted visibility (caused by parked cars on the kerbside, in this instance. I also note that the road is used by cyclists, who are particularly vulnerable to vehicles emerging from behind another parked car, especially in the dark and/or wet conditions.

5.5 Most recently an appeal at 75-77 Goldsmith Avenue (APP/Z1775/W/16/3161541) which was refused and subsequent appeal dismissed in 2017 and at 53 Goldsmith Avenue (APP/Z1775/D/15/3133936) which was refused and subsequent appeal dismissed in 2016.

5.6 Within the appeal decision for 53 Goldsmith Avenue (APP/Z1775/D/15/3133936) the inspector noted the resolution to the report to the Traffic and Transport Cabinet meeting in March 2014 however went on to explain that the report is caveated with the words 'subject to there being no over-riding highway safety concerns'. Further while having

regards to this report still considered there to be a *"high degree of risk caused by multiple turning movements of vehicles in close proximity to each other and with very limited visibility. I consider that further risk would be particularly high for cyclists who could be confronted by a vehicle emerging between parked cars with little advance visibility which would be a danger whether the vehicle was exiting in a forward or reverse manner. However it would be particularly the case if a vehicle was reversing, and the presence of a lamp column directly adjoining the eastern boundary of the site, would reduce turning movements still further. A combination of the above factors would in my view result in a serious potential concern for highway safety along this part of the road."* Looking at the individual merits of the previous appeal decision and the current application, both would have similar access arrangement, requiring them to pull in and out between parked cars. Given that these sites are both located in close proximity it is considered that the access arrangement for both is nearly identical in terms of amount, speed and type of traffic using the roadway.

- 5.7 Similar concerns were raised by the inspector in the 75-77 Goldsmith Avenue appeal decision (APP/Z1775/W/16/3161541) where the inspector considered *"that there is a real prospect of cars emerging without adequate inter-visibility. Cyclists and motorcyclists, who are likely to be positioned in the nearside part of the carriageway, would be especially difficult to see, and as they are some of the most vulnerable road users, the crossover would be potentially dangerous."* Once again this application had a near identical access arrangement on to the same road as this application and as such the concerns around highway safety are considered to be relevant in the determination of this application.
- 5.8 It is noted that No.73 Goldsmith Avenue features an access which serves an integral garage. However, a car may still be parked legally on the kerbside between that access and no. 75, thereby still restricting visibility. Otherwise dropped kerbs are not a regular feature of the road and in those few cases where they are present, the properties mostly benefit from sufficient room to turn within their land, allowing them to enter and exit in a forward gear.
- 5.14 Having regards to the views of the Highways Officer and the relevant appeal decisions, it is considered that the proposal would potentially cause significant harm to the highway safety of road users and it is contrary to the aims and objectives of saved policy DC26 of the Portsmouth City Local Plan 2001-2011 and policy PCS17 of the Portsmouth Plan.

RECOMMENDATION Refuse

- 1) The proposed dropped kerb would, in the absence sufficient space to turn a vehicle and approach the highway in a forward gear, be likely to cause a conflict of traffic movement along Goldsmith Avenue resulting in additional hazard to users of the highways and to the detriment of highway safety. The proposal is therefore contrary to the aims and objectives of Section 9 (promoting sustainable transport) of the NPPF, Policies PCS17 of the Portsmouth Plan and saved policy DC26 of the Portsmouth City Local Plan 2001-2011.

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 it was not considered that the harm arising from the proposal could be overcome and the application has been refused for the reasons outlined above.

9 VICTORIA GROVE SOUTHSEA PO5 1NE

DEMOLITION OF GARAGE FRONTING ST. BARTHOLOMEW'S GARDENS. CONSTRUCT SINGLE STOREY OUTBUILDING IN PLACE OF ORIGINAL GARAGE TO FORM SUN LOUNGE/CHANGING/PLANT ROOM AND OUTDOOR SWIMMING POOL SET INTO RAISED SURROUNDING PLATFORM. SINGLE STOREY REAR/SIDE EXTENSION TO KITCHEN, FOLLOWING DEMOLITION OF SIDE LEAN-TO ELEMENT

Application Submitted By:

ACHIEVE - Town Planning and Urban Design Ltd
FAO Mr Steve Lawrence

On behalf of:

Mrs E O'Shea

RDD: 21st May 2020

LDD: 14th August 2020

1.0 SUMMARY OF MAIN ISSUES

1.1 The application is being heard at planning committee due to the deputation request of a neighbour.

1.2 The main issues for consideration are;

- Principle of Development;
- Design and Impact Upon Heritage;
- Impact upon Amenities.

1.3 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY**1.4 Site and surroundings**

1.5 This application relates to a substantial two-storey detached property, bounded to the south by Victoria Grove and to the north by St Bartholomew's Gardens. The property is set back from the roadway either side and is bounded by a solid brick wall along its north and southern boundary. The property has a large rear garden and includes a garage accessed by St Bartholomew's Gardens. Four trees protected under TPO 61 are present within the rear garden. The site is located within the Campbell Road Conservation Area (No.15) and subject to an Article 4 Direction though is not relevant to this proposal.

1.6 Proposal

1.7 Planning permission is sought for two elements:

- a single storey extension to the main house, and;
- a detached outbuilding.

1.8 The proposed extension would measure 3.4m in height (including parapet), 8.5m in depth and 2.5m in width. The proposed extension would be finished in brickwork to match the recipient property and include a set of bi-fold doors along its northern elevation. The proposed extension would be located to the north-western corner of the property, as an in-fill extension and would abut the common boundary with No.7 Victoria Road. It is noted that No.7 Victoria Road, features an existing single storey lean-to along this boundary.

- 1.9 The proposed outbuilding would feature an 'L' shaped foot print, with a depth of 6.5m and width of 7.4m. Due to uneven ground level of the site, the outbuilding would measure 2.5m in height from street level and 3m from the site, with a flat roof. The proposal would include two pergolas, one at each end of the outbuilding. The new building would replace an existing outbuilding/garage.
- 1.10 Additional work would take place to install raised decking around the outdoor pool to a height of 0.45m, for a 58m² area of the garden.
- 1.11 Amended plans were received 11.08.2020, which reduced the size of the decking and removed a previously proposed 'fire pit' from the scheme. Previous revisions had already reduced the height of the proposed outbuilding.
- 1.13 Planning history
- 1.14 The demolition of damaged front boundary wall (1.3m) and piers/gate and reconstruction to same height and appearance and removal of side conservatory was permitted in 2020 under planning ref: 20/00419/HOU.
- 1.15 The construction of the front boundary wall with piers and gates (following demolition of the existing), demolition of the existing conservatory and formation of dropped kerb to facilitate off-road parking was refused permission in February 2020 under Planning Ref: 19/01696/HOU.
- 1.16 The felling of the three trees fronting Victoria Grove was granted consent in December 2019 under planning ref: 19/01695/TPO.
- 1.17 There is no other relevant planning history associated with the application site.

2.0 POLICY CONTEXT

- 2.1 The relevant policies within the Portsmouth Plan would include: PCS23 (Design and Conservation), and the 'Campbell Road' Conservation Area (No.15).
- 2.2 The aims and objectives of the revised National Planning Policy Framework (Feb 2019) - the NPPF - would also be relevant in the determination of this application.

3.0 CONSULTATIONS

3.1 Arboricultural Officer

No arboricultural objections to this proposal.

3.2 Environmental Health

Further to visiting the site and viewing the revised plans, it is unlikely that noise from the use of plant will cause a loss of amenity to nearby residential properties subject to the pump room being lined with acoustic materials and louvre, as specified on drawing 04082020 1A1. I therefore wish to raise no objections to this application being granted.

4.0 REPRESENTATIONS

- 4.1 16 representations have been received objecting to the proposed development on the following grounds:
- Unsympathetic and obtrusive design;
 - Conflicting with the Conservation Area Guidelines;
 - Loss of light and outlook to No.11 Victoria Grove;

- Noise from the proposed pump room and swimming pool;
- Fumes and smoke from the fire pit;
- Out of scale and an overdevelopment;
- Drainage from pool;
- Loss of parking;
- Impact on trees;
- Use of pool and outbuilding;
- No room for scaffolding for No.7 Victoria Grove - issues with maintenance and guttering;
- Pollution from pool chemicals; and
- Fire Access.

4.2 Publicity dates (full Covid-19 lockdown started 24 March 2020):

- Neighbour letters sent : 01/07/20, expiry 13/09/20
- Site Notice displayed : 03/07/20, expiry 15/09/20

5.0 COMMENT

5.1 The main considerations within this application are:

- Principle;
- Design/impact upon the Conservation Area;
- Amenity; and
- Other raised matters.

5.2 Principle of Development

5.3 The application relates to an existing residential property where development is considered acceptable in principle subject to relevant material considerations.

5.4 Design/Impact on Conservation Area

5.5 When determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The proposal is located within the 'Campbell Road' Conservation Area (No.15) and therefore, the impact of the proposal on the character or appearance of the conservation area is a material consideration when determining this application. Paragraphs 193-202 of the NPPF also sets out how Local Authorities should assess and consider any harm caused by development upon the heritage assets and how to appropriately balance any harm against the public or private benefit.

5.6 The Campbell Road Conservation Guidelines state *that 'Extensions will be discouraged where they would have an adverse visual effect on the existing building or townscape' and 'Where extensions are permitted they should match the existing original property in respect of design, materials and detail. The size of an extension should not overpower the original building size.'* While the proposal extension would be a contemporary addition to the site, it would provide a suitable, good quality contrast to the existing character of the property. Further the use of matching brickwork is considered to suitably reflect the recipient dwelling and the proposal is not considered to overpower the existing property in scale. The proposal is therefore considered to accord with the key criteria outlined in this document and is not considered to pose any risk to the built heritage in the area.

- 5.7 While the Campbell Road Conservation Guidelines do not make mention of outbuildings, the proposal is considered to provide an interesting contrast and is not considered to pose any risk to the built heritage in the area. With neither element causing harm to the Conservation Area, the further tests in Paragraphs 193-202 of the NPPF are not engaged (to justify any harm).
- 5.8 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework and requires that all new development:
- will be of an excellent architectural quality;
 - will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - will establish a strong sense of place;
 - will respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
 - relates well to the geography and history of Portsmouth and protects and enhances the city's historic townscape and its cultural and national heritage; and
 - visually attractive as a result of good architecture and appropriate landscaping.
- 5.9 Single storey rear extension
- 5.10 The proposed single storey side extension would feature a simple and contemporary parapet roof design which would adjoin to the north-western corner of the property, and would abut the common boundary with No.7 Victoria Road. The proposed extension would be obscured from public view by the existing property and high boundary treatment. Further the use of a matching brick work the property would allow it to appear sympathetic to the existing dwelling, while appearing as a more modern and clear insert into the site. Given the existing property, it is considered that this approach is more suitable than trying to replicate the exact character of the dwelling. The bi-folding doors along the northern elevation are considered to be appropriate as they would help break up the massing of the built form along the northern elevation. Though flat roof extensions are not typically encouraged within conservation areas, given the modest scale and other mitigating factors, the proposal is considered to preserve the character and appearance of the conservation area.
- 5.11 Outbuilding
- 5.12 The proposed outbuilding would replace an existing and run down rear garage, with an increased footprint along the northern boundary of the site. The outbuilding would be set away from the northern boundary wall by an approximate distance of 1m. The existing solid brick boundary wall has an approximate height of 2m and would obscure a large proportion of the outbuilding and other works to the garden from public view. It is also acknowledged that this section of St Bartholomew's Gardens features a number of large more modern garages and properties and has a less historic character than the frontage along Victoria Grove. The proposed outbuilding would have a modest overall height and would feature a contemporary appearance similar to that of the proposed extension. Overall given the existing built form that the outbuilding would replace and the appropriate appearance of the outbuilding it is considered to be preserve the character and appearance of the conservation area.
- 5.13 To allow for the construction of the outbuilding one small tree has been removed from the northern boundary of the site. While unfortunate, this has been considered by the Council Arboricultural Officer, and he has not raised an objection towards its removal.
- 5.14 Swimming pool and other works to the rear

- 5.15 While it is acknowledged that swimming pools are not a traditional feature of the conservation area, the proposal is considered to be relatively modest in its overall scale. Further given its position recessed below the existing ground level, it is not considered to be a dominant feature and would not be viewable from the normal public realm. As such this element is considered to be acceptable and to preserve the character and appearance of the conservation area.
- 5.16 Lastly an associated decked area is proposed to the north section of the rear garden. The property benefits from a large garden to the rear and side. The proposed decking would be considered to relate to the contemporary appearance of the proposed outbuilding. Although the whole ensemble amounts to a fairly significant feature, the garden is spacious and can accommodate such a development and I do not consider the effect of the garden proposals would cause a cramped sense or undue loss of more natural garden space. The combined works are therefore considered to be appropriate and preserve the character and appearance of the conservation area.
- 5.17 Amenity
- 5.18 Policy PCS23 of the Portsmouth Plan includes, amongst other things, that new development should ensure the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development.
- 5.19 The neighbouring properties opposite to the north (No.10 St Bartholomew's Gardens) are set away from the site by an approximate distance of 20m. Given the existing boundary treatment at the site to a height of 2m, and the existing built form, it is not considered that the development would give rise to any significant impact upon this neighbour's amenity through a loss of light or increased sense of enclosure.
- 5.20 The neighbouring property to the east (No.11 Victoria Grove) features an existing rear garage which is set away from the common boundary by their pedestrian rear access and an approximate width of 1.35m. The existing rear garage on site (to be demolished) abuts this boundary. While the proposed outbuilding would increase the eaves height along this boundary it is only a modest increase and considering the existing use of the land as a walkway, it is not considered that the proposed outbuilding or pergola would result in any significant impact upon this neighbour's amenity.
- 5.21 The neighbouring property to the west (No.7 Victoria Grove) is sub-divided into flats. The property features a ground floor lean-to along its eastern boundary with No.9 Victoria Grove and runs to along the depth of the entire property. Given this built form along the boundary, it is not considered that the proposed single storey rear/side extension would give rise to any significant loss of light or result in an increased sense of enclosure. The boundary between the two properties is an approximately 1.8m brick boundary wall and it is noted that there are a number of rear windows to the west (No.3, 5 & 7 Victoria Grove) which overlook the rear garden of the property. While the raised decking area would increase the amount of overlooking, between the site and neighbours to the west and east, given this existing relationship and distance between the decked area and the eastern boundary of the site (7.15m) it is not considered to be sufficient as to justify refusal of the application.
- 5.22 Noise concerns have been raised around the plant room, however the Council's Environmental Health Officer has reviewed the plans and subject to the plant room being lined with acoustic materials and louvre, as specified they have raised no objections to the proposal.

- 5.23 Further while the proposed works would likely increase the use of the garden, it is not be considered that the noise from the property would be sufficiently different from its existing state.
- 5.24 Other raised matters
- 5.25 Concerns have been raised by surrounding residents have been raised about fumes and smoke from a fire pit, which has been removed from the proposal due to issues with root protection for the nearby trees.
- 5.26 The proposal was supported by a Tree Survey which has been approved by the Councils Arboricultural Officer.
- 5.27 The use of the outbuilding would be conditioned to restrict its use to only incidental uses to the enjoyment of the dwellinghouse.
- 5.28 Issues with access for the neighbour to the west around scaffolding and maintenance are not planning considerations.
- 5.29 The loss of the garage and the impact on parking is noted, however there is no condition restricting the use of the garage for parking or for its retention. Additionally the existing garage is undersized for a modern car and appears disused. While the garage would be removed, so would the dropped curve at the rear of the property, enabling the space to be used for parking by the general public.
- 5.30 The issues regarding the drainage of the pool are not a material planning concern and is a matter for Southern Water (owner of the sewers) as they may request a licence for the swimming pool, due to chemicals and water volumes etc.
- 5.31 Conclusion
- 5.32 The proposal is therefore considered to preserve the character and appearance of the conservation area and to accord with Policy PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the revised NPPF (2019).

RECOMMENDATION CONDITIONAL PERMISSION

Conditions

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

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

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: Proposed Outbuilding and Site Plan - 18092020 1A1 A1; Proposed Elevations - 210919 1A1 A1; Proposed Elevations - 210919 1A1 A1; Block Plan - 00517002-0AC102; and Location Plan - 00517003-F7866A.

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

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those on the existing building.

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

4) The proposed pump room shall be lined with acoustic materials and louvre prior to its first use, as specified on drawing 04082020 1A1, and maintained as such thereafter.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with policy PCS23 of the Portsmouth Plan.

5) The outbuilding hereby permitted shall be used/occupied solely as incidental and in conjunction with the residential use of the main dwelling known as 9 Victoria Grove, Portsmouth, and by a person related to such a person in ownership of the dwelling known as 9 Victoria Grove, Portsmouth. It shall not be separately used, occupied or let for any non-incidental use.

Reason: The site is unsuitable for an independent residential unit or any non-incidental use because separation of the curtilage of 9 Victoria Grove, Portsmouth, enabling use of this building hereby permitted as a single dwelling house or any non-incidental use, would have an adverse impact on the character of the locality. Use as a separate dwelling or any non-incidental use would also fail to provide adequate levels of amenities for its occupants and occupiers of the main dwelling and neighbouring residential dwellings, in accordance with PCS23 of the Portsmouth Plan (2012).

PRO-ACTIVITY STATEMENT

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

46 MERLIN DRIVE PORTSMOUTH PO3 5QY

RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE OF OUTBUILDING TO HAIR SALON

Application Submitted By:

Mrs Karen Clarke

On behalf of:

Mrs Karen Clarke

RDD: 3rd January 2020

LDD: 30th March 2020

1.0 SUMMARY OF MAIN ISSUES

- 1.1 The application is being presented to the Planning Committee for determination due to deputation requests.
- 1.2 The main considerations are :
- whether the principle of the proposed use is acceptable,
 - whether the proposed use is likely to result in any significant adverse highway and/or parking implications,
 - whether the proposed use would be likely to result in any significant loss of residential amenity to those residing nearby.
- 1.3 The Site and its Surroundings
- 1.4 The application site comprises an end-of-terrace dwellinghouse fronting a private parking court at the head of the Merlin Drive cul-de-sac. The rear garden is bounded to the north and west by a private path giving rear access to the application site and a couple of other neighbouring gardens. Beyond the path to the north is another private parking court accessed via an undercroft in Hobby Close. To the rear (west) are properties fronting Green Farm Gardens.
- 1.5 There is an existing timber outbuilding/summer house located within the north-western corner of the rear garden of the application site.
- 1.6 Proposal
- 1.7 The application has been submitted retrospectively for the continued use of an existing outbuilding for business purposes as a hair salon specialising in wedding hair trials. The only member of staff is the applicant, who resides with her family at the application site.
- 1.8 The applicant states within the application details that the business use commenced on 25/11/19. At that time she was operating from the outbuilding as a hairdresser however during the course of the application her business practices have changed. She now rents a chair at a local salon and only intends to carry out wedding hair trials (primarily involving putting up hair in various styles as opposed to cutting, colouring or drying hair) from her property.

- 1.9 The applicant has indicated she is willing not to operate the business from her property on weekends or recognised Bank Holidays. Working days previously proposed were each weekday, however, the Applicant has amended that to three days a week (9am-3pm) from home on Tuesdays, Wednesday and Thursdays. A maximum of two appointments per day is proposed. Clients would either attend alone or (if Covid-19 conditions allow) be accompanied by another.
- 1.10 The red line identifying the site does not include any parking provision although it is understood that the property has the dedicated use of 2 of the spaces within the parking court immediately to the front of the property.
- 1.11 Relevant Planning History
- A*32760/D - Construction of 85 dwellings, access roads and provision of parking facilities (now Hobby Close and Merlin Drive) - Conditional permission dated 24.09.1986. Condition 8 of this permission reads as follows:
 - Those car parking spaces shown on the approved plan as being allocated to a particular plot shall only be used for the parking of a vehicle incidental to the enjoyment of the dwellinghouse as such.
Reason: To minimise the likelihood of cars parking outside the areas provided for parking purposes.

2.0 POLICY CONTEXT

- 2.1 The relevant policies within the Portsmouth Plan would include:
- PCS23 (Design and Conservation),
- 2.2 In addition to the above policy, the aims and objectives of the National Planning Policy Framework (February 2019) are relevant.

3.0 CONSULTATIONS

3.1 Environmental Health

- 3.2 Based upon the proposed hours of operation I do not envisage that the proposed use will have a significant impact upon amenity in terms of environmental noise.
- 3.3 Therefore I would recommend that the operation be restricted to the hours contained within the latest email from the applicant dated 13th May 2020 i.e. Monday to Friday 9am till 3pm and excluding bank holidays.

4.0 Highways Engineer

- 4.1 No objection.
- 4.2 Merlin Drive is an unclassified residential road with the majority of the terraced dwellings. The majority of parking is accommodated through parking courts and unallocated on street parking laybys. The road is subject to a 30mph speed restrictions and is a no through route.
- 4.2 No traffic assessment has been provided in support of this application. However I assume given the size and location of the proposal that this will be operated by the resident of 46 Merlin Drive and will only have scope to serve one client at a time. As a

consequence I would not anticipate that the traffic generation associated with this use would have a material impact on the operation of the local highway network.

- 4.3 Portsmouth City Council's Parking SPD does not give an expected number of spaces for non-residential developments rather it requires applications to make an assessment of parking demand and demonstrate how this can be satisfied. No such assessment has been provided in support of this application and no parking can be provided on site for customers, therefore any demand associated with the site would have to be accommodated on street. Given that the location and scale of the proposal is within a rear garden within a residential area, it is unlikely to serve more than local clientele. I am satisfied that sufficient parking opportunities exist nearby for customers of the site and is acceptable given the nature of the development.

5.0 REPRESENTATIONS

- 5.1 13 objections (from 7 identified properties in Merlin Drive and Hobby Close, and 3 with address withheld) and 3 in support (2 from the application site (the applicant's husband), and another from Merlin Drive) have been received as a result of the initial publicity and the re-publicity following amended proposed working days.

- 5.2 The objections raised the following issues :

- noise disturbance for immediate neighbour/limits when garden can be used as a result of noise from hairdryers, communication levels between applicant and clients/outbuilding has no sound insulation/doors left open when clients inside
- detrimental increase in traffic in a quiet cul-de-sac location
- insufficient public parking availability to support a business use in this area
- already been examples of indiscriminate and inconsiderate parking by clients of the business/could potentially hinder emergency access
- like to support local businesses but a quiet residential development is not appropriate for a commercial use
- accuracy of applications details questioned/does applicant adhere to health and safety/waste disposal rules?
- start date of business use disputed/doubts whether applicant would adhere to limited days/hours as previously has operated for longer days/hours
- concern about security of area if non-residents are encouraged into the cul-de-sac
- query whether planning permission is required for the outbuilding itself.

- 5.3 The matters raised within the support representations are as follows :

- fully support the application and consider it would be an asset to the area
- older residents of Merlin Drive and Hobby Close would benefit from a hair salon so close to home for easy access
- parking for such a small operation would not be an issue as every house has at least one off road parking space and there is plenty of on-street parking available
- since operating the single-chair salon at least 1 of the 2 private assigned parking spaces for the application site has been available as well as various unassigned roadside parking spaces in Merlin Drive, therefore no negative impact on parking availability.

- 5.4 Publicity dates (full Covid-19 lockdown started 24 March 2020) :

- Neighbour letters sent : 10/2/20, expiry 5/3/20
- Additional 14 day neighbour letters (following revisions to days/times) sent : 15/7/20, expiry 29/7/20
- Site Notice displayed : 13/2/20, expiry 5/3/20

6.0 COMMENT

6.1 The main considerations are :

- whether the principle of the proposed use is acceptable,
- whether the proposed use is likely to result in any significant adverse highway and/or parking implications,
 - whether the proposed use would be likely to result in any significant loss of residential amenity to those residing nearby.

6.2 Principle

6.3 Proposals to work from home do not always require planning permission. However, in this case, the business use is considered to have resulted in a material change of use for which planning permission is required.

6.4 It is noted that the location of the application site is not within a local centre, but it is a relatively small-scale business, discreetly located and likely to be used predominantly by people who live in the area. As such the residential area is not considered an unsuitable location in principle for a hair salon use operating from a private dwellinghouse providing the manner of the activity is reasonable so as to not significantly adversely affect parking availability and residential amenity.

6.5 Highway/Parking

6.6 It must be assumed that any customers who drive to the application site will park on-street in the immediate area. Whilst Merlin Drive is a cul-de-sac location it does offer a number of on-street unallocated parking spaces. It is understood that the earlier operation of the business had offered appointments on the weekends and evenings, however the applicant is willing to limit the days and hours of operation to 9am-3pm Tuesdays, Wednesdays and Thursdays only and therefore this is not considered to conflict with the typically busier times of the week when parking demand is higher due to residents being at home (i.e. evenings, weekends and Bank Holidays). Given that the applicant is the only staff member (and will use the property's allocated spaces) and can only deal with one client at a time, the use of one on-street parking space in connection with the business at any one time is not considered significantly detrimental to parking availability within the area.

6.7 The Highway Authority consultant does not anticipate that the traffic generation associated with the use would have a material impact on the operation of the local highway network.

6.8 Residential Amenity

6.9 The hair salon business has operated for a number of months unfettered by restrictions. It is reported that the use has resulted in loss of residential amenity particularly for the immediate neighbours at No.45 Merlin Drive in terms of associated noise and disturbance. However, given the limited hours of operation proposed on three working days only, finishing by mid-afternoon, it is not considered that undue disturbance to neighbours would result. It is noted that tall close-boarded fences surround the garden which assist in containing any noise and views to neighbouring properties' gardens and ground floor windows. Controlling the proposed hours by condition would offer neighbours a level of certainty as to when they could expect no business activity whatsoever from the application site.

- 6.10 It is noted that the applicant has rented a chair in a local salon in order to carry out appointments and therefore wishes to only use the outbuilding for wedding hair trials. This would typically avoid the need for the use of hairdryers or the use of the main house to wash the client's hair (as there are no wash facilities within the outbuilding). However, the nuance between these particular services in planning terms is considered negligible and therefore no restrictions on the services offered under the umbrella term 'hair salon' are recommended and as such the proposed use could entail wider hair salon services than just wedding hair trials. Accordingly, the words 'wedding hair trials' have been deleted from the Development Description.
- 6.11 The Applicant proposes only two appointments per working day. It is considered the essential control relates to the hours proposed (9am-3pm) rather than number of appointments within that timeframe, so it is proposed not to condition the number of appointments.
- 6.12 A condition is however recommended to ensure the business use is contained within the outbuilding (or main house if hair washing facilities are required) and that no business activity takes place within the rear garden area to limit the impact on the residential amenities of those residing nearby.
- 6.13 Response to additional issues raised in representations :
- 6.14 The outbuilding satisfies the criteria of Class E of the GPDO permitted development allowances for dwellinghouses in terms of its location and dimensions.
- 6.15 Matters of health and safety are dealt with under legislation outside of the remit of planning control.
- 6.16 Notwithstanding any inaccuracies of details within the application forms, the recommended conditions seek to control essential elements of the proposed use.
- 6.17 It is not considered that the business use would encourage or give rise to a loss of security within the area. Customer visits would be appointment based as opposed to offering a drop-in/without appointment service.

7.0 Conclusion

- 7.1 The use of the outbuilding as a hair salon business is considered acceptable, subject to the limitations imposed by the recommended conditions, in terms of its impact on the residential character of the area, the availability of on-street parking and residential amenity and as such is considered to accord with the aims and objectives of Policy PCS23 of the Portsmouth Plan.

RECOMMENDATION Conditional Permission

Conditions

Approved Plans:

- 1) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan no. TQRQM20028203936921, and Floor Plan of site dated 1/2/20.

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

Restricted Hours/Days:

- 2) The hair salon use hereby permitted shall only be open to customers between the hours of 0900-1500 on Tuesdays, Wednesdays and Thursdays and shall be closed to, and vacated by, customers at any other time or day (including recognised Bank Holidays).
Reason : In the interests of protecting the residential amenity of occupiers of surrounding properties in accordance with policy PCS23 of the Portsmouth Plan.

Business Use Excludes Use of Garden :

- 3) The hair salon business use shall only be carried out within the confines of the outbuilding and the main dwellinghouse and not at all within the rear garden area (apart from necessary customer access to and from the outbuilding).
Reason: In the interests of protecting the residential amenity of occupiers of surrounding properties in accordance with policy PCS23 of the Portsmouth Plan.

47 DRAYTON LANE PORTSMOUTH PO6 1HG

APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR THE PROPOSED CONSTRUCTION OF LOG CABIN FOR ANCILLARY USE TO DWELLING

Application Submitted By:

Mr Kevin Rough

On behalf of:

Mr Kevin Rough

RDD: 8th June 2020

LDD: 16th November 2020

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is being presented to the Planning Committee as the applicant is related to Councillor Frank Jonas.
- 1.2 This application for a Lawful Development Certificate seeks to establish whether the proposed development would be lawful. A certificate is not a planning permission. The planning merits of the proposed works are not relevant. The issue of a certificate depends entirely on factual evidence, that is, conformity with the General Permitted Development Order (GPDO). The responsibility is on the applicant to provide evidence to support the application.
- 1.3 Site and Surroundings
- 1.4 The application site is a two-storey (by virtue of permission being granted for dormers) detached dwelling located to the west of Drayton Lane. The surrounding area is characterised by residential dwellings.
- 1.5 Proposal
- 1.6 Application for a Lawful Development Certificate for the proposed construction of log cabin for ancillary use to dwelling.
- 1.7 The proposed log cabin would be located within the rear garden of the application site, tight to the western boundary. The proposed log cabin would have a maximum height of 2.5m and eaves height of 2.1m. The proposed log cabin would measure 7m in length and 4m in width, cumulating to a foot print of 28 metres squared. The drawings imply that the proposed log cabin would be a wood construction.
- 1.8 History
- 1.9 A*39317/AA
Construction of single storey and two-storey rear extensions; and dormer windows to front and side rooflopes
Conditional Permission (24.03.2006)

2.0 POLICY CONTEXT

2.1 Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

3.0 CONSULTATIONS

3.1 None.

4.0 REPRESENTATIONS

4.1 None received.

5.0 COMMENT

5.1 This application proposes the construction of a log cabin under permitted development. This would relate to Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The relevant criteria are:

5.2 Class E - Outbuilding

5.3 E. The provision within the curtilage of the dwellinghouse.

5.4 E.1 Development is not permitted by Class E if:

5.5 (a) *'permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use)';*
- The dwellinghouse was not granted by virtue of Classes M, N, P or Q of Part 3 of this Schedule (changes of use).

5.6 (b) *'the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)';*
- The proposed construction of a log cabin within the rear garden would not exceed 50% of the total area of the curtilage of the site.

5.7 (c) *'any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse';*
- The proposed outbuilding, subject to this application, would be situated within the rear garden, therefore not being situated on land forward of the principal elevation of the original dwellinghouse.

5.8 (d) *'the building would have more than a single storey';*
- The proposed outbuilding would be single storey in nature, with a maximum height of 2.5m.

5.9 (e) *'the height of the building, enclosure or container would exceed—*
(i) 4 metres in the case of a building with a dual-pitched roof,
(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
(iii) 3 metres in any other case';
- The proposed outbuilding would be located within the rear garden tight to the western boundary, thus being within 2m of the boundary of the curtilage of the dwellinghouse. Due to this location and proximity to the boundary, the proposal cannot exceed 4m or 3m in height. The proposal would have a maximum height of 2.5m as shown on plan titled "specifications & detailed sketches".

- 5.10 (f) *'the height of the eaves of the building would exceed 2.5 metres'*;
 - The eaves of the outbuilding would not exceed 2.5m in height. As shown on plan titled "specification & detailed sketches" the outbuilding would have eaves measuring approx. 2.1m.
- 5.11 (g) *'the building, enclosure, pool or container would be situated within the curtilage of a listed building'*;
 - The application site is not a listed building, therefore the proposed outbuilding would not be situated within the curtilage of a listed building.
- 5.12 (h) *'it would include the construction or provision of a verandah, balcony or raised platform'*;
 - The proposed outbuilding would not include the provision of a verandah, balcony or raised platform.
- 5.13 (i) *'it relates to a dwelling or a microwave antenna'*;
 - The proposed outbuilding does not relate to a dwelling or a microwave antenna.
- 5.14 (j) *'the capacity of the container would exceed 3,500 litres'*;
 - The capacity of the outbuilding would not exceed 3,500 litres.
- 5.15 (k) *'the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)'*;
 - The application site is not a dwellinghouse built under Part 20 of this Schedule.
- 5.16 E.2 *'In the case of any land within the curtilage of the dwellinghouse which is within -
 (a) an area of outstanding natural beauty;
 (b) the Broads;
 (c) a National Park; or
 (d) a World Heritage Site,
 Development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres'*.
 - The application site is not located within an area of outstanding natural beauty, the Broads, a National Park, or a World Heritage Site.
- 5.17 E.3 *'In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse'*.
 - The application site is not located within article 2(3) land.
- 5.18 E.4 Interpretation of Class E
 For the purposes of Class E, "purpose incidental to the enjoyment of the dwellinghouse as such" includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.
- 5.19 Conclusion
 For the reasons set out above, it is considered that the proposed outbuilding would fall within the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order.

RECOMMENDATION

Grant CLUD

36 PAINS ROAD SOUTHSEA PO5 1HE**CHANGE OF USE FROM HOUSE OF MULTIPLE OCCUPATION (CLASS C4) TO 7 BEDROOM/7 PERSON HOUSE OF MULTIPLE OCCUPATION (SUI GENERIS)****Application Submitted By:**

Thorns Young Ltd
FAO Mrs Carianne Wells

On behalf of:

Mr Simon Birmingham

RDD: 11th September 2019

LDD: 4th December 2019

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought to the Planning Committee due to a series of identical objections submitted by residents via the East St Thomas Residents Association.

1.2 The main issues for consideration relate to:

- The Principle of Development;
- The standard of accommodation;
- Parking;
- Waste
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Special Protection Area; and
- Any other raised matters.

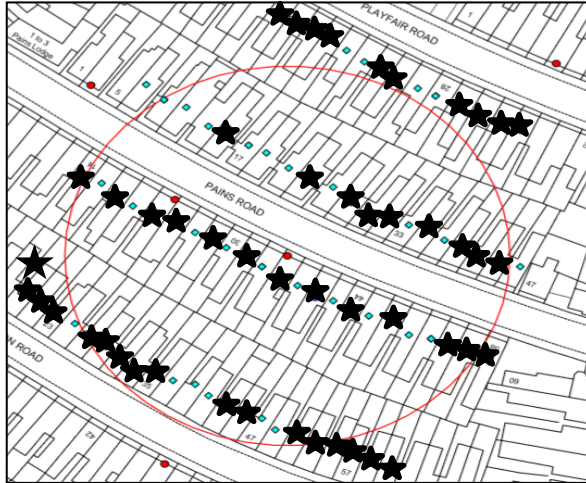
1.3 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

1.4 Site and surrounding

1.5 This application relates to a two-storey mid-terrace property, located on the southern side of Pains Road, which features a front box dormer and is set back from the roadway by a small front forecourt.

1.6 The application site is within a predominately residential area that is characterised by rows of similar two-storey terrace and semi-detached properties within a similar visual style.

1.7



Occupancy within 50m

Total properties - 85

HMOs - 47

HMOs -

1.8

Proposal

1.9 Planning permission is sought for a change of use from Class C4 (house in multiple occupation) to a 7 bedroom/7 person Sui Generis (Large house in multiple occupation).

1.10 The existing front lounge is proposed for a bedroom use, to increase the bedrooms from six, to seven. Internal accommodation would comprise the following:

- Basement - Two entertainment rooms;
- Ground floor - Two bedrooms, a shower room, and a kitchen/living room;
- First floor - three bedrooms and a WC;
- Second floor - two bedrooms and a shower room (with WC).

1.11 Planning history

1.12 The change of use from House in Multiple Occupation (Class C4) to purposes falling within Class C3 (Dwelling House) or Class C4 (House in Multiple Occupation) was permitted in 2019 under planning ref: 19/00052/FUL.

1.13 The previous application shows that the property previously featured 6 bedrooms.

1.14 The previous HMO License which ran from 2012-2017 was for 6 occupants.

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

2.0 POLICY CONTEXT

2.1 Portsmouth Plan (2012)

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation)

2.2 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 Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Technical Housing Standards - nationally described space standards (2015)

- The Solent Recreation Mitigation Strategy (2017)
- The Interim Nutrient Neutral Mitigation Strategy (2019)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019)

3.0 CONSULTATIONS

3.1 Private Sector Housing

Based on the layout and sizes provided there are no adverse comments to be made by Private Sector Housing. This property would require to be licenced under Part 2, Housing Act 2004.

4.0 REPRESENTATIONS

4.1 44 identical objections have been submitted by residents, via the East St Thomas Residents Association, raising the following points:

- (a) Existing area is above the 10% threshold;
- (b) Impact on housing mix;
- (c) Parking
- (d) Noise and disturbance
- (e) Anti-social behaviour and
- (f) Rubbish.

4.2 In addition to the above, one additional objection comment has been received, objecting to the proposal on the ground of:

- (a) Too many Sui Generis HMOs within Pains Road already;
- (b) Noise and disruption;
- (c) Car parking; and
- (d) Late night noise.

4.3 Publicity dates (full Covid-19 lockdown started 24 March 2020)

- Neighbour letters sent : 10/10/2019, expiry 4/11/2019
- Site Notice displayed : 10/10/2019, expiry 4/11/2019

5.0 COMMENT

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

- The Principle of Development;
- The standard of accommodation;
- Amenity impacts upon neighbouring residents;
- Parking;
- Waste
- Impact upon the Solent Special Protection Area; and
- Any other raised matters.

5.2 Principle of the use

5.3 Planning permission is sought for the use of the property to a 7 bedroom/ 7 person (Sui Generis) House in Multiple Occupation. Policy PCS20 of the Portsmouth Plan states that applications for the change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (HMO SPD) as amended in October 2019, sets out how Policy PCS20 will be implemented and

details how the City Council will apply this policy to all planning applications for HMO uses.

- 5.4 The amended HMO SPD has been published to provide a tool for addressing the recognised negative impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity and housing mix of certain communities.
- 5.5 At paragraph 2.3, the HMO SPD document states that in situations such as this *"where planning permission is sought for the change of use of a class C4 or mixed C3/C4 use to a HMO in Sui Generis use, in areas where concentration of HMOs exceed the 10% threshold, the Council will consider the potential harm to amenity caused by an increase in the number of bedrooms in an already unbalanced community."*
- 5.6 The 10% threshold contained within the HMO SPD applies to an areas within a 50m radius of an application site. In this instance a total of 85 properties fall within this area, 47 of which are in HMO use. This accounts for 55.29% of properties within a 50m radius. These statistics reflect the high degree of imbalance between residential properties and HMO's in the wider area, far in excess of the 10% threshold outlined within the HMO SPD.
- 5.7 In light of the fact that there is already an existing and significant imbalance, and there would be no change in the percentage of HMOs, a judgement must then be made on the potential harm to amenity resulting from the proposed additional bedroom in accordance with Paragraph 2.3 of the HMO SPD.
- 5.8 In making this judgement, the existing use of the premises at the time the application was made has been taken into account. In planning terms, authorisation for flexible C3/C4 use was made in 2018, and at the time of the Case Officer's site visit, the property was laid out to provide 6 bedrooms and communal living and bathroom facilities in accordance with the submitted existing plans (Drg. No. PG.4000.19.5 Rev B). Based on these observations, the existing use of the site is deemed to be more consistent with and reflective of an HMO than a self-contained dwelling. As such, the potential impacts of the proposal have been assessed against those of a 6-bed HMO rather than a C3 dwelling.
- 5.9 In determining the amenity impacts of the proposal, a large degree of consideration has been made to adjacent dwellings, in this particular instance the properties either side of the site (Nos.34&38 Pains Road) are both C3 dwellinghouses. Examining the surrounding area in further detail, the property would back onto (south) two C3 dwellinghouses and the property directly opposite (north) is also in use as a C3 dwellinghouse, as such while there is a high proliferation of HMOS in the area, the immediate neighbours to the site appear to retain Class C3 use. However, as the works to implement a 6-bed HMO have already been carried out, it should be recognised that this application does not seek to create a new HMO, and would not in itself result in any further neighbouring property being sandwiched between two HMO's (as has already happened to both neighbours). With this in mind, it is not considered that the addition of one extra occupier to the property would lead to further significant harm to the amenity of the occupiers of any other nearby properties.
- 5.10 In summary, whilst it is recognised that the authorised flexible C3/C4 use has increased the imbalance between C3 dwelling and HMO's in the area to a degree, in light of the fact that works have already been carried out to create 6 bedrooms within the property and mindful of the proliferation and concentration of HMO's within Pains Road, it is considered that the existing imbalance between HMOs and C3 dwellings within the area would not be demonstrably worsened to the extent that there would be harm to the community imbalance. Furthermore, it is deemed unlikely that permitting an additional bedroom would have a demonstrably adverse impact on the amenity of local residents over and above levels that would be associated with a 6-bed HMO.

5.11 Standard of accommodation

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

5.13 (HMO SPD-October 2019)	Area Provided:	Required Standard:
Entertainment room 1 (Basement)	11.54m ²	undefined
Entertainment room 2 (Basement)	11.54m ²	undefined
Bedroom 7 (Ground floor)	8.44m ²	6.51m ²
Bedroom 6 (Ground floor)	11.25m ²	6.51m ²
Shower room (Ground floor)	3.76m ²	3.74m ²
Combined living space (Ground floor)	27.1m ²	34m ²
Bedroom 5 (First floor)	10.74m ²	6.51m ²
Bedroom 4 (First floor)	10.26m ²	6.51m ²
Bedroom 3 (First floor)	8.83m ²	6.51m ²
WC (First floor)	3.38m ²	undefined
Bedroom 2 (Second floor - in roof)	10.18m ²	6.51m ²
Bedroom 1 (Second floor - in roof)	10.08m ²	6.51m ²
Shower room (Second floor - in roof)	3.77m ²	3.74m ²
Total:	130.87m²	87.05m²

5.14 The HMO SPD (October 2019) states that HMOs for 6-10 people should incorporate a communal living area measuring a minimum of 34m². At paragraph 2.6 the SPD states that this guidance has been set to reflect licencing standards provided within the Council's 'Standards for Houses in Multiple Occupation' guidance document (2018) (produced by the private sector housing department), and that this document should be referred to when assessing requirements in detail.

5.15 In this instance while the combined living space located at ground floor level is under the required standard by 6.9m². The property however benefits from not only some larger than required standard bedrooms but also features two rooms located at basement level for communal use which total to 23.08m². While these rooms receive reduced light and outlook, and so would not be suitable for as the principle communal area, they are considered to mitigate the under provision of the primary communal space at ground floor level.

5.16 It is therefore considered that the proposal is in accordance with the requirements outlined on pages 8 and 9 of the HMO SPD (October 2019) and therefore is considered to provide an adequate standard of living accommodation to facilitate 7 persons sharing.

5.17 Impact upon Residential Amenity

5.18 Appendix 5 of the amended HMO SPD identifies that 9% of all known HMOs in Portsmouth have received complaints with regard to issues such as waste, noise and disturbance. This is significantly above the 1% of complaints that are registered against all non-HMO properties. This highlights the importance of considering the potential amenity impacts of HMO proposals in all cases, and of assessing specific impacts, such as noise, traffic, privacy and general disturbance as described in Para 2.17 of the amended HMO SPD

5.19 In this instance, it has been established that there is an imbalance between C3 dwellings and HMOs within Pains Road and within a 50m radius of the property. Having regards to

the layout of the surrounding HMOs, there is no identifiable pattern or specific concentration of HMOs in the prescribed area. Mindful of the fact that this property is already being used as a 6 person HMO, it is not considered that the proposal would be likely to result in a demonstrably higher level of harm to existing general levels of residential amenity in the area, whether from noise, additional vehicle use or any other form of nuisance / disturbance.

- 5.20 In terms of potential impacts on immediate adjoining properties, whilst the accommodation of a single additional resident would lead to a more intensive occupation of the property, regard must be made to the lawful use of the property that allows occupation by six unrelated individuals or a family of an unrestricted size. In light of the existing situation and the fact that the proposal would create an additional bedroom at ground floor in place of the existing lounge, it is deemed unlikely that the proposal would be significantly more harmful to the amenity of immediate neighbouring residents when compared to the existing situation.
- 5.21 Therefore the proposal is deemed to be in accordance with the amended HMO SPD (including with guidance on potential impacts described in para 2.17), and Policy PCS23 of the Portsmouth Plan.
- 5.22 Highways (Parking)
- 5.23 There is no parking associated with the property and no proposal to provide on-site parking.
- 5.24 The Councils Adopted Parking Standards set out a requirement for Sui Generis HMO's to provide space for the storage of at least 4 bicycles. The property has a rear garden where secure cycle storage could be located. This requirement could be secured by condition.
- 5.25 Waste matters
- 5.26 In relation to refuse requirements, the owners of the site would need to apply for communal waste collection. It is considered that the waste facilities could be stored within the rear garden, and could be secured by condition.
- 5.27 Impact on the Solent Special Protection Area (SPA) and Nitrates
- 5.28 The application site is within 5.6 m of Portsmouth Harbour Special Protection Area (SPA) and will lead to a net increase in residential accommodation.
- 5.29 The Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant likely effect on the interest features of the Solent Special Protection Areas, or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.
- 5.30 There are two potential impacts resulting from this development the first being potential recreational disturbance around the shorelines of the harbours and the second from increased levels of nitrogen and phosphorus entering the Solent water environment.
- 5.31 Wading birds:
- 5.32 The Solent Recreation Mitigation Strategy (December 2017) was adopted by Portsmouth City Council on 1st April 2018 and replaces the Interim Solent Recreation Mitigation

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

- 5.33 Based on the methodology set out within the Strategy, an appropriate scale of mitigation for this development is £350, which the Applicant has opted to pay through a Section 111 agreement prior to planning consent being issued, rather than through the s.106 legal agreement. With this mitigation, the LPA has concluded that the adverse effects arising from the proposal are wholly consistent with and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy. The LPA's assessment is that the application complies with this strategy and that it can therefore be concluded that there will be no adverse effects on the integrity of the designated sites identified above. The requirement for a payment to secure mitigation is both directly related to the development and is fairly and reasonably related in scale to the development.
- 5.34 Nitrates:
- 5.35 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.
- 5.36 The Council's Interim Nutrient-Neutral Mitigation Strategy expects Applicant to explore their own Mitigation solutions first. These solutions could be Option 1: 'off-setting' against the existing land use, or extant permission, or other land controlled by the Applicant. Or it could be Option 2: mitigation measures such as Sustainable Urban Drainage Systems (SUDS), interception, or wetland creation. If, however, the Applicant sets out to the Council that they have explored these options but are unable to provide mitigation by way of these, they may then request the purchase of 'credits' from the Council's Mitigation Credit Bank. 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.
- 5.37 The Council's Mitigation Strategy sets out that the credit per new unit for non-major schemes will be charged at £200. The credit costs required to mitigate against this scheme in its entirety would therefore amount to £200.
- 5.38 At the time of publication of this application report, Natural England have confirmed they have no significant objections to the approach of the Council's Interim Strategy, subject to feedback from their own legal team in due course. The LPA will also send its own 'Appropriate Assessment' of the application, for Natural England's comment.
- 5.39 The applicant has provided a statement, which confirms they are unable to provide nitrate mitigation via Option 1 or 2, and so would like to provide mitigation by using the Council's Mitigation Credit Bank. This is accepted in this instance. A condition is attached which prevents occupation of the development until the mitigation is actually provided, i.e. the credits are purchased, which will be just prior to actual occupation. In

accordance with the Strategy, the sum charged for the credit will be finalised and secured by way of a Section 106 legal agreement.

5.40 Therefore, the nitrates mitigation will be provided, by way of the condition and legal agreement, and subject to further consultation 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.

5.41 Conclusion

5.42 Having regards to the above matters the proposed change of use is considered to be acceptable and appropriate in this location, given the minimal impact the additional bedroom will have on community balance, amenity, living space standards, on the highway (parking) and nitrates levels in the Solent when compared to the current situation. It is therefore deemed to be subject to conditions and legal agreement, in accordance with Policies PCS17, PCS20 and PCS23 of the Portsmouth Plan (2012).

5.43 RECOMMENDATION I - That delegated authority be granted to the Assistant Director Planning & Economic Growth to grant Conditional Permission subject to the satisfactory completion of a Legal Agreement to secure the development as Nutrient-Neutral.

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

5.45 RECOMMENDATION III - That delegated authority be granted to the Assistant Director Planning & Economic Growth to refuse planning permission if a Legal Agreement to secure the development as Nutrient-Neutral, pursuant to Recommendation I has not been satisfactorily completed within four months of the date of this resolution.

RECOMMENDATION Conditional Permission

Conditions

Time limit

- 1) The development hereby permitted shall be begun before the expiration of 1 years 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: Drawing numbers: Location Plan - 1:1250@A4; Block Plan - 1:500@A4; and Floor Plans - PG.4000.19.5 Rev B.

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

Number of occupants

- 3) The premises shall only be used as a house in multiple occupation for a maximum of 7 residents.

Reason: To allow the Local Planning Authority to assess the impact of any further intensification of the use on the amenity of neighbouring residents and the character of the area, in accordance with Policies PCS13, PCS20 and PCS23 of the Portsmouth Plan.

Cycle storage

- 4) Prior to first occupation of the property as a seven person/seven bedroom (Sui Generis) House in Multiple Occupation, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times unless otherwise agreed in writing by the LPA.

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

Waste storage

- 5) Prior to the first occupation of the property as a seven person/seven bedroom (Sui Generis) House of Multiple Occupation, two 360L refuse bins and one 360L recycling bin shall be provided and thereafter retained in the rear garden of the property (or such other waste arrangements as may be submitted to and approved by the Local Planning Authority in writing).

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

Nitrates 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.

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, the Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981.

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.

FOREST LODGE LOCKSWAY ROAD SOUTHSEA PO4 8LU**CONSTRUCTION OF THREE STOREY BUILDING TO FORM 66 BEDROOM ADULT RESIDENTIAL CARE HOME WITH ASSOCIATED ACCESS, CAR PARKING AND LANDSCAPING****Application Submitted By:**

Mr Alistair Wood, LNT Construction Ltd

On behalf of:

LNT Care Developments Ltd

1.0 UPDATE REPORT

- 1.1 Members may recall the above proposal, considered by the Planning Committee on 22nd July. The Officer recommendation was to refuse the application. After careful discussion and debate, Members did not support refusal and delegated the decision in respect of the application to Officers, subject to resolution of habitats matters, especially the completion of a legal agreement. Councillor Sanders subsequently requested that an Update Report be prepared for the Planning Committee at the appropriate juncture.
- 1.2 Subsequent to the 22nd July, Officers have progressed planning conditions and the legal agreement with the applicant. The conditions address the normal wide range of matters including drainage, biodiversity, sustainability measures, tree protection, landscaping, materials, etc., while the legal agreement secures mitigation to the Special Protection Areas (SPAs) of the Solent and harbours (due to nitrates). For both conditions and the legal agreement and the SPAs, further work has been carried out with Natural England and details have agreed between all parties. For all the other matters, both the conditions and the legal agreement are now well-advanced, and it is anticipated that the Decision Notice will be issued after publication of the Agenda for the Planning Committee of 4th November, but prior to the actual meeting.
- 1.3 For information the draft conditions that are intended to be attached to the final Decision Notice are attached below for information. The s106 Planning Obligation has also been drafted to cover the issues of:
- Nitrates Mitigation

DRAFT 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

- A01-A - SITE LOCATION PLAN
- A02-A - TOPOGRAPHICAL SURVEY
- A03-C - PROPOSED SITE PLAN
- A04-A - PROPOSED FLOOR PLANS
- A05-A - PROPOSED ELEVATIONS
- A05.1-A - PROPOSED ELEVATIONS
- A06 - PROPOSED 3D VIEWS
- A07-A - VEHICLE TRACKING
- A08 - TREE INFORMATION PLAN

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

Construction Management Plan

3) No development shall commence on site, including demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Construction Environmental Management Plan and shall continue for as long as construction/demolition is taking place at the site. The CEMP shall provide for the following:

- a) hours of construction (including demolition) and delivery;
- b) details and method of demolition;
- c) provision for parking of vehicles during works;
- d) provision for storing of equipment, materials and waste;
- e) details for the erection and maintenance of any security hoarding;
- f) measures to control emission of dust and noise;
- g) provision of road sweepers and/or wheel washing facilities;
- h) details of proposed external lighting to be used during construction, which should be limited;
- i) waste management and litter control, including prohibiting burning of materials/waste; and
- j) a Tree Protection Plan to protect the retained trees on site.

Reason: To ensure that the construction works are properly managed to minimise impacts on adjoining residents and users of the local highway network during the construction period, and to preserve protected trees, in accordance with policies PCS13, PCS17 and PCS23 of the Portsmouth Plan.

Flood Risk and Drainage

4) The development hereby approved shall be implemented in full accordance with the Drainage Strategy and Details prepared by BSP Consulting Ltd submitted to the Local Planning Authority on 7th October 2020. That Strategy and Details shall be made fully operational prior to first occupation of the approved development and thereafter retained and maintained as such for the lifetime of the said development.

Reason: To ensure the new development is adequately drained without overloading existing provision giving rise to a risk of localised flooding during extreme weather events, to reduce

flood risk to future occupiers, and to accord with the aims and objectives of policy PCS12 of the Portsmouth Plan.

Biodiversity Enhancement

5) No development shall commence on site until a Biodiversity Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. These measures shall be fully implemented in accordance with the approved scheme and retained as such in perpetuity.

Reason: In order to conserve and enhance biodiversity, in accordance with policy PCS13 of the Portsmouth Plan and the aims and objectives of the NPPF.

Contaminated Land - Asbestos

6) No Demolition shall commence until an [Asbestos Refurbishment and Demolition Survey](#) has been submitted and approved in writing by the Local Planning Authority. The subsequent demolition shall proceed in accordance with the recommendations of that Survey.

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 to comply with saved policy DC21 of the Portsmouth Local Plan 2001- 2011.

Contaminated Land - Investigation/Remediation

7) a) No works above ground shall commence until a Desk study and Site Investigation Report (update) has been submitted and approved in writing by the Local Planning Authority. The risk assessment shall contain a conceptual model (diagram, plan, and network diagram) created in accordance with *BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice'* and include proposals for intrusive testing to supplement the data in the existing report (*GeoEnvironmental Appraisal Calabrian 7030/1 Rev D September 2020*). The subsequent development shall proceed in accordance with the recommendations of the Desk study and Site Investigation Report (update).

7) b) No works above ground shall commence until a Remediation Method Statement Report has been submitted and approved in writing by the Local Planning Authority. The subsequent development shall proceed in accordance with the recommendations of the Remediation Method Statement Report.

The Remediation Method Statement shall detail the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, including proposals for verification checks and sampling. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors to comply with saved policy DC21 of the Portsmouth Local Plan 2001- 2011.

Contaminated Land - Verification

8) 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 (7)b above. The report shall demonstrate that the remedial scheme and verification testing has been implemented fully in accordance with the remediation method statement. Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions (7) b.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors to comply with saved policy DC21 of the Portsmouth Plan.

Materials

9) No construction works above the foundation / slab level 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 shall 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, in accordance with policy PCS23 of the Portsmouth Plan.

Water Efficiency

10) 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 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.

Sustainability Measures

11) The development hereby permitted shall not be occupied until a scheme for sustainable 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 measures thereafter permanently retained. This should include, but is not limited to, measures to: reduce carbon emissions; implementation of sustainable energy and technologies; and other considerations to address climate change in Portsmouth.

Reason: To ensure sustainable development in accordance with policy PCS15 of the Portsmouth Plan.

Nitrates Mitigation

12) 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, the Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981.

Trees and Landscaping

13) The development hereby permitted shall not be occupied until there has been submitted to and approved by the Local Planning Authority a scheme of tree replanting and landscaping which shall specify: species, planting sizes, spacing and numbers of trees/shrubs to be planted, boundary treatments and other hard and soft landscaping. The approved removed trees shall be replaced on site on at least a 1:1 basis of suitable species and maturity. The works approved shall be carried out in the first planting and seeding seasons following first occupation of the building. Any trees or plants which, within a period of 5 years from the date of planting, die, are

removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.

Management Scheme

14) The development shall be carried out and operated in perpetuity in accordance with the following measures:

- a) not allowing pet ownership with regards to cats and dogs
- b) not allowing resident car parking
- c) not allowing overnight staff accommodation
- d) for all occupants of the care home to be elderly and unable to independently leave the site

Reason: To minimise impacts on the nearby Special Protection Area with regards to protected species, in accordance with policy PCS13 of the Portsmouth Plan.

Car and Cycle Parking

15) The facilities to be provided for the parking of cars, including turning areas, and storage of bicycles shall be constructed and completed before any part of the development is first occupied, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter be retained in perpetuity for the continued use by the occupants of the development for their intended purpose.

Reason: To ensure that adequate provision is made for the storage of cycles in accordance with policy PCS17 of the Portsmouth Plan.

Refuse Storage

16) The facilities to be provided for the storage of refuse and recyclable materials shall be constructed and completed before any part of the development 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 development for that storage at all times.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance