

# PLANNING COMMITTEE

## 20 OCTOBER 2021

10:30 AM  
COUNCIL CHAMBERS, GUILDHALL

### 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>

## **INDEX**

<b>Item No</b>	<b>Application No</b>	<b>Address</b>	<b>Page</b>
01	21/01219/FUL	2 Prospect Road, PO1 4QY	PAGE 3
02	21/01136/FUL	Victoria Park, Anglesea Road, PO1 3HJ	PAGE 14
03	21/01137/LBC	Victoria Park, Anglesea Road, PO1 3HJ	PAGE 25
04	18/01967/OUT	32 - 60 Middle Street, PO5 4BP	PAGE 31
05	21/01150/VOC	Queen Alexandra Hospital, Southwick Hill Road	PAGE 58

## 2 PROSPECT ROAD PORTSMOUTH PO1 4QY

### CONSTRUCTION OF BORDER CONTROL POST AND CHANGE OF USE TO OPERATIONAL PORT LAND (SUI GENERIS)

[21/01219/FUL | CONSTRUCTION OF BORDER CONTROL POST AND CHANGE OF USE TO OPERATIONAL PORT LAND \(SUI GENERIS\) | 2 PROSPECT ROAD PORTSMOUTH PO1 4QY](#)

#### Application Submitted By:

Savills

#### On behalf of:

Portsmouth International Port

RDD: 18th August 2021

LDD: 24th November 2021

### SUMMARY OF MAIN ISSUES

The key issue is whether the proposal represents sustainable development to accord with national and local planning policies; relevant to its consideration are:

- The principle of use of the land for port purposes;
- The principles of good design;
- Impact on Heritage Assets;
- Highways impact;
- Contaminated land, and
- Sustainable construction.

Portsmouth International Port (PIP) is a service of Portsmouth City Council.

#### Site and surroundings

The application site covers 0.72ha. It forms a parcel of employment land (as defined by policy PCS11 of the Portsmouth Plan). Generally flat and level, the land was last used for container storage typically stacked 4 to 5 containers high. The site is bounded by Prospect Road (to the south) and A3 - Mile End Road (to the east), which runs parallel to the elevated section of M275

south of the Rudmore flyover and where a right-turn traffic-light controlled junction crosses the A3 northbound lanes. The commercial port adjoins the west and north sides of the site.



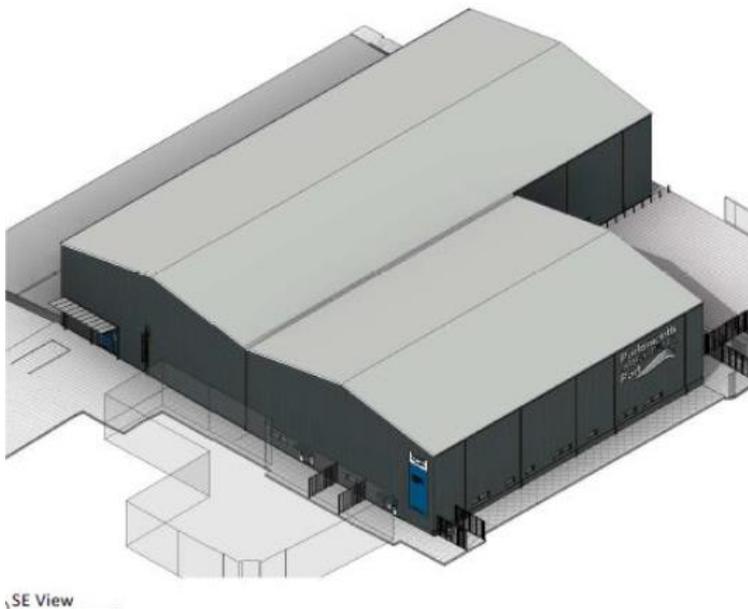
There are heritage assets proximate to the site. These include 'Mile End' Conservation Area and the Grade II listed buildings within it, as well as 'Market House Tavern' (472 Mile End Road), a milestone adjacent 'Market House Tavern' and former 'Air Balloon' PH Mile End Road. There is existing tree/other planting to the east of the site, a distance between the site and the heritage assets (c. 120m) and the intervening A3 resulting in no significant intervisibility between the site and the assets.

#### Proposal

An 'L' shaped building with a floorspace of just over 3,500sqm is sought for a Border Control Post (BCP), with use of the land linked to PIP for port purposes.

From the start of 2021, the UK became a third party country for trading with the European Union and subject to new regulations when exporting and importing live animals and products of plant or animal origin. The BCP seeks to provide a government inspection facility for carrying out checks, which need to be at the gateway for the entrance of goods into a trade area and are to protect animal welfare, public health and environmental health. The project programme requires

this infrastructure for border operations to be in place by 1 January 2022. The application is retrospective and works continue on site. Images of construction and 3D visual are below:



#### Relevant planning history

None, for this site.

Regard has been given to a (dismissed) appeal for 2,000sqm of industrial premises nearby, under ref 17/00912/FUL. It was at the 'Vanguard Holdings' site, which is located around 150m further south and markedly closer to heritage assets, including 'Mile End' Conservation Area. The Inspector concluded the proposal to be in conflict with the development plan as a whole and "There are no material considerations, including the benefit of the use of the site for employment, that would outweigh the conflict with the development plan in respect of harm to the character and appearance of the area, harm to the conservation area and heritage assets, and conflict with the safeguarding of land for highway improvements." In comparison, the current BCP site does not conflict with such policy for highways improvements.

## **POLICY CONTEXT**

The relevant policies within The Portsmouth Plan would include: PCS11 (Employment Land), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS15 (Sustainable Design & Construction), PCS23 (Design and Conservation), and saved policy DC21 (site contamination) of the Portsmouth City Local Plan 2012.

The planning system plays an important role in supporting economic growth that is acknowledged throughout the NPPF (July 2021) and has a presumption in favour of sustainable development. The NPPF, at para 81, states that policies and decisions should help to create the conditions which businesses can invest, expand and adapt. Portsmouth International Port (PIP) seeks to expand and adapt the operations in response to the regulatory and financial challenges of the UK's exit from the EU. Para 83 states that planning decisions should recognise and address the locational requirements of different sectors. PIP is the second largest Cross Channel Port with more destinations to the EU than any other UK port. PIP is also the third largest Short Sea Passenger Port in the UK. Para 83 supports the necessity for this BCP development in this location.

Objective 3 of the adopted plan is to develop Portsmouth as a city of innovation and enterprise, with a strong economy and employment opportunities for all. The sub-text states that the objective will be delivered through (inter alia) supporting development that strengthens the marine sector and supports the commercial port.

The Parking Standards and Transport Assessments Supplementary Planning Document, Achieving Employment and Skills Plan SPD and Sustainable Design & Construction SPD would also be material to this application.

## **CONSULTATIONS**

### **Coastal And Drainage**

The drainage strategy is acceptable from an LLFA perspective and no objection raised.

### **Highways Engineer**

This proposal provides for on-site processing of goods arrivals in the UK at the port. It will not in itself generate additional transport movements to and from the port. However, the routing of vehicles within the port to the facility will require vehicles to U-turn at the Rudmore roundabout, due to the arrangement of the internal junction within the estate which prevents right turns. The arrangement of this junction should be revised to accommodate such movement without requiring vehicles to U-turn at the roundabout to access the BCP. Having said that, the predicted movement times are largely outside of peak periods on the network and of a scale that are unlikely to have a material impact on the operation of the roundabout.

The proposal anticipates the recruitment of 20 staff. Whilst shift scheduling means their movements are likely to arise outside of traffic peaks, demand for parking will overlap and the intended approach to manage this additional parking demand is not detailed in the application.

The LHA is satisfied that there is sufficient land within the broader land holding to accommodate such additional parking and would not wish to object to this application, subject to a condition

requiring that details of the staff parking facilities are submitted to and approved by the LPA prior to the occupation/operation of the facility.

### **Regulatory Services**

Any comments received will be reported at the meeting.

### **Contaminated Land Team**

The Contaminated Land Team (CLT) holds information on several former uses on and adjacent to the property associated with the surrounding port which have the potential to cause contamination, including:

- Vosper & Co Ltd Shipyard (c.1898-1936),
- Timber Merchants (H Woolfe c.1867-1913),
- Oil Merchants (c.1910 B Hill, motor spirit manufacturers, c.1925 Eclipse Oil Co Ltd, oil merchants),
- Plastics and Signage Manufacturer with associated cancelled petroleum storage license (B11-9 Eberhardt & Co Ltd, 120 Litres Petroleum Mixtures).
- Royal Navy Mechanical Repair and Training Establishment (c.1950-1979).

In order to protect ground workers and end users, it is recommended that further groundworks are not carried out until the risk assessment process has been completed. The site must be risk assessed based on a review of historical information, including previous reports held by CLT.

Given the above, conditions are requested for submission/approval details of desk study/Phase 2 site investigation/remediation strategy (before further development) and verification post-construction (before first brought into use).

### **Natural England**

Natural England has no comments to make on this application.

### **Ecology**

After review of the HRA Screening report, its conclusions are accepted. The potential likely effects identified include impacts on water and air quality and noise disturbance. Whilst the application site is located approximately 170m east of the Solent and Dorset Coast SPA, due to the nature of the site and surrounding area, the generated noise during the construction phase will not be of an extent to have an adverse impact on the qualifying features of this designation (i.e. foraging terns). Furthermore, any surface water runoff during construction and operational phase can be controlled through the existing drainage systems and by adhering to good practice principles. Provided that Natural England agree with the findings of the Air Quality assessment, no concerns are raised.

On the basis of above, it is satisfied that there will be no likely significant effects alone or in-combination on the integrity of the designated sites as a result of the proposals.

A Phase 1 bat report is provided. The proposal is only supported by a Hard Landscaping Plan, with no measures incorporated to enhance the biodiversity value of the site. Simple measures such as planting of native trees, shrubs and hedges will result in an overall net biodiversity gain.

It is requested that a biodiversity enhancement strategy for the site is secured via a planning condition.

### **Environment Agency**

It is requested that (pre-commencement) conditions relating to potential site contamination be imposed on any planning permission, and that the details be submitted and approved by the Local Planning Authority.

### **Coastal Partners**

No objection in principle raised from a tidal flood risk perspective.

The site is currently located within the Environment Agency's (EA) present day Flood Zone 1, and is predicted to remain so until at least 2115. Therefore it can be considered at low risk (less than 1 in 1000 year / 0.1% annual probability) of experiencing an extreme tidal flood event. However, CP recommend sign up to the EA's Flood Warning Service, to ensure adequate warning before any type of extreme flood event.

## **REPRESENTATIONS**

None received.

## **COMMENT**

The main issues for consideration are the principle of use of the land for port purposes, the principles of good design, impact of heritage assets, highways impact, contaminated land and sustainable construction.

### Use for port purposes

In relation to the commercial port, policy PCS11 (employment land) states "The city council will protect land at the port for uses directly related to the operational requirements of the port." The proposed use as operational port land is wholly consistent with the aims and objectives of policy PCS11 and the NPPF (2021).

### Principles of good design

Policy PCS23 and the NPPF (2021) requires all new development must be well designed and amongst other things, be appropriate in scale, layout and appearance in relation to its context and respect the character of the city.

The site is visually prominent from the M275/A3 and with a ridge height of 15m, this new building is substantial.

The applicant's supporting Planning Statement rather candidly comments:

"The proposed appearance of the development, use of materials and uncomplicated detailing is deliberately simple, efficient and easy to maintain. The design is intended to project a strong industrial vernacular with minimal embellishment or enhancement other than building signage and the subtle entrance canopies. The proposed BCP is somewhat utilitarian in appearance, however, this is a direct result of its intended function. The BCP will serve a very particular purpose and has been designed to fulfil that role within the wider operational Port area. When viewed in context, the building will sit comfortably within its surrounds."

These comments fairly describe the unsophisticated and fit-for-purpose character and appearance of the proposal. Its design limitations against any planning for beauty yardstick are

considered to be outweighed by the necessity for this port infrastructure and to be operational by January 2022.

### Impact of heritage assets

Particular obligations fall upon the council in determining any application which affects a listed building or its setting or within a conservation area, including its setting. The Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) at section 66 places a duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, at section 72 it is required that Local Planning Authorities pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

When considering potential impacts, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be) at para 199 of the NPPF; and, any harm/loss of a designated heritage asset requires clear and convincing justification (at para 200).

The NPPF and policy PCS23 gives presumption in favour of the conservation of heritage assets and applications that directly or indirectly impact such assets require appropriate and proportionate justification. The site is not located within a conservation area and contains no above ground heritage asset. However, there are a number of heritage assets in close proximity [circa 120m]. These include 'Mile End' Conservation Area and the Grade II listed buildings within it, as well as 'Market House Tavern' (472 Mile End Road), a milestone adjacent 'Market House Tavern' and former 'Air Balloon' PH Mile End Road.

Given the existing vegetation to the east of the site, the distance between the site and the heritage assets (c. 120m) and the intervening A3 it is considered there will be no significant intervisibility between the site and the assets, and there is unlikely to be any effect upon their setting or significance.

### Highways Impact

This proposal provides for on-site processing of goods arrivals in the UK at the port and will not in itself generate additional transport movements to and from the port. However, the routing of vehicles within the port to the facility requires vehicles to U-turn at the Rudmore roundabout due to the arrangement of the internal junction within the estate that prevents right turns.

A Transport Statement accompanying the application comments:

*'... the majority of the route taken by HDVs travelling from the ferry terminal to the BCP fall within the internal road network of Portsmouth International Port. The exception to this is the U-turn that is required at Rudmore Roundabout... it is anticipated that a maximum of 60 HDVs will be required to undertake this U-turn on any one day... ferry arrival times do not coincide with typical highway peak times when the highway network would be sensitive to increases in traffic, as such no capacity assessments are required in regards to the impact of these movements.'*

The Local Highways Authority note it would be much better to reconfigure the internal arrangement of traffic movements without having to U-turn at Rudmore roundabout but acknowledge predicted movement times are largely outside of peak periods on the network so unlikely to have a material impact on the operation of the roundabout.

The proposal anticipates the recruitment of 20 staff. Unfortunately the parking implications were not detailed in the original submission. The LHA note that shift scheduling means their

movements are likely to arise outside of traffic peaks and on land within the broader port estate to accommodate it.

To address the parking issue, the agent has provided an update, as follows:

*"The Port have confirmed that there is sufficient car parking within the Operational Port to accommodate the employees of the Border Control Post (most likely within the existing multi-storey car park). To this end, they would be happy to accept a suitably worded planning condition requiring the details of the staff parking facilities to be submitted to and approved by the LPA prior to the occupation / operation of the facility."*

5The matter is considered suitable to resolve by planning condition.

### Contaminated Land

The Council's Contaminated Land Team (CLT) and the Environment Agency lead on comments concerning potential land contamination. The legacy of the use of the site presents a risk of contamination that could be mobilised during construction to cause pollution, including to controlled waters beneath and around the site.

Both consultees have raised no objections subject to imposition of important planning conditions requiring usual matters of site investigation, remediation, verification of remediation, and subsequent monitoring and maintenance. Normally such requirements are imposed before development commences, which is clearly now impractical. Unfortunately, additional supporting information has only since been forwarded by the agents (following expiry of the consultation period); this late information is still under review. The extent of risk from potential contamination and the suitable wording of relevant planning conditions will need to be updated at the meeting.

### Sustainable Design & Construction

The Sustainable Design & Construction SPD (in relation to policy PCS15) encourages applicants to undertake BREEAM pre-assessment. No pre-assessment or acknowledgement of the requirements of relevant policy in PCS15 as part of the original application. PCS15 seeks to achieve at least 'Excellent' level and use Low or Zero Carbon energy technologies (to reduce the total carbon emissions from the development by 10% as part of the selection of measures to meet the overall BREEAM level).

To address the BREEAM issue, the agent has provided an update, as follows:

*"In order to facilitate the construction of the BCP, PIP made a £32m bid to the Government's Port Infrastructure Fund. By virtue of the new BOM, the Port Infrastructure Fund was substantially oversubscribed and subsequently all bids were cut, contingencies reduced to just 10% (contrary to green book principles) and then allocated 66% of the reduced amount to each qualifying port to align to the nominal £200m fund. Despite being informed that the Port's bid was compliant and therefore necessary for the trade changes with the European Union, Portsmouth International Port have been allocated £17.1m which has left a significant shortfall to implement the most critical changes as well as omitting significant parts of the proposals. One such unfortunate omission has been the ability to formally pursue BREEAM standards. A large number of the BREEAM credits will have been fulfilled but formal accreditation is beyond the budget of this project."*

Under the heading 'Flexibility', policy PCS15 adds "The standards achieved should be as detailed above, though are a matter for negotiation at the time of the planning application,

having regard to abnormal costs, economic viability, the feasibility of meeting the standards on a specific site and other requirements associated with the development."

BREEAM is a scheme for assessment and certification of the environmental performance of a building project from beginning-to-end. It is not practical to assess the level or secure accreditation by planning condition, in this case.

### Other matters

With regard to ecology, a HRA Screening Assessment accompanies this application concluding it is unlikely to result in significant effects upon the qualifying features and conservation objectives of the Habitats sites identified. No comments have been offered by Natural England. The city's ecologist requests that a biodiversity enhancement strategy for the site is secured via a planning condition. An update from the agent states:

*"As discussed, in line with the requirements of the NPPF, opportunities for biodiversity enhancement should be incorporated into new development. These often include bat bricks and/or tubes, bird boxes and native tree and shrub planting. The Port have confirmed that they would have no objection to making provision for biodiversity net gain enhancements within the BCP site, however, given the nature of the site soft landscaping interventions would not be acceptable. The Port have accepted the principle of providing bird and bat boxes around the site/on key elevations. Given the quality of the existing site in biodiversity terms it is considered that these interventions would deliver net gain for biodiversity in compliance with the NPPF and Local Plan Policy PSC13."*

An Air Quality Screening Assessment also accompanies the submission. It concludes that the BCP does not meet the 1000AADT criteria proposed by Natural England for possible effects from traffic on designated ecological sites. However, it does meet the IAQM criteria for air quality assessment due to the proximity to, and potential effects on, the Portsmouth Air Quality Management Areas. Whilst overall traffic flows are low, due to the nature of the area, it is not possible to rule out possible increases in air pollutants associated with increases in nutrient nitrogen deposition or ammonia within a 200m radius of the affected road network.

There are residential dwellings on the east side of the Mile End Road. Having regard to the existing noise environment (traffic on M275/A3 and port operations, including former container storage on the BCP land) it is considered that the proposal would not give rise to any significant noise impact changes.

The Achieving Employment and Skills Plan SPD would normally seek to define what the development will provide in terms of employment and training opportunities to local residents, before development commences. Regrettably it is not acknowledged in the original supporting information with this planning application, to the detriment of the scheme. An update from the agent does, however, welcome the opportunity to discuss this further. This is noted but given the extent of the development already undertaken the opportunity has effectively passed.

### Conclusion

5.35 Although the proposal presents design limitations and does not create a complete picture of 'sustainability' by failing to demonstrate how it complies with all relevant national and local planning policies, these disappointing aspects of the development are still considered to be outweighed by the economic significance and statutory necessity for the port to have new infrastructure in place by 1 January 2022 (to meet the UK government's Border Operating Model).

## 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: DR-A-1006\_GA PLAN - ROOF; DR-A-1010\_GROUND FLOOR GA PLAN; DR-A-3001\_GA SECTIONS A-A; DR-A-3002\_GA SECTION B-B; LEVELS AND CONTOURS PLAN\_C02; CIVILS GENERAL ARRANGEMENT; DR-A-1004\_GA PLAN - GROUND FLOOR; DR-A-1005\_GA PLAN - MEZZANINE FLOOR; DR-A-1008\_GROUND FLOOR GA PLAN; DR-A-1011\_GROUND FLOOR GA PLAN; DR-A-1502\_C6 GIFA PLANS; DR-A-1502\_C2 GIFA PLANS; DR-A-2105\_EXTERNAL ELEVATIONS; DR-A-2107\_EAST GA ELEVATION; DR-A-2109\_WEST GA ELEVATION; DR-A-4202\_EXTERNAL WINDOWS AND LOUVRES; DR-A-6201\_PERIMETER DETAILS; DR-A-9002\_LANDSCAPE PLAN; DR-A-9302\_EXTERNAL WORKS DETAILS; DR-A-V002\_AERIAL 3D VIEWS; DR-C-1005\_POAO B2 - CIVILS SERVICES COORDINATION PLAN; DR-C-2501\_DRAINAGE TYPICAL DETAILS SHEET; DR-C-2503\_DRAINAGE TYPICAL DETAILS SHEET; DRAINAGE TYPICAL DETAILS SHEET 2 OF 3\_C04; GROUND FLOOR GA PLAN - AREA 1 (BCP2)\_C1; GROUND FLOOR GA PLAN - AREA 3 (BCP2)\_C6; GROUND FLOOR PROPOSED PIP-STL-B2-00-DR-A-1104\_C6; NORTH GA ELEVATION (BCP2)\_C6; SOUTH GA ELEVATION (BCP2)\_C5; PAVEMENT AND KERBS PLAN; SETTING OUT - GROUND FLOOR (BCP2)\_C6\_2; VEHICLE SWEEP PATH PIP-RAM-B2-XX-DR-C-1\_C01; WALL FLOOR AND ROOF TYPES (BCP2) PIP-STL-B2-XX-DR-A-6001\_C1; DRAINAGE STRATEGY PLAN PIP-RAM-B2-XX-DR-C-2001\_CO7; and, SURFACE WATER MANHOLE DETAIL PIP-RAM-B2-XX-DR-C-2504\_POAO B2 - CO1\_2.

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

#### Biodiversity Enhancements

2) (a) A scheme for biodiversity enhancements shall be submitted to and approved in writing by the Local Planning Authority;  
(b) Before the development is first brought into use such approved biodiversity enhancements shall be carried out and a verification report shall be submitted to and approved in writing by the local planning authority that the approved biodiversity enhancements shall have been carried out fully in accordance with the approved scheme; and  
(c) The approved biodiversity enhancements shall thereafter be retained, unless otherwise agreed in writing with the local planning authority.

Reason: To conserve and enhance biodiversity, in accordance with policy PCS13 of the Portsmouth Plan [2012], the NPPF (2021) and the Natural Environment and Rural Communities Act 2006.

#### Staff Parking

3) Details of the proposed staff parking facilities shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation / operation of the facility; and the approved staff parking scheme shall be made available for use and thereafter be retained, unless otherwise agreed in writing with the local planning authority.

Reason: To ensure that adequate staff parking facilities are provided to serve the development, in the interests of highway safety and the amenities of the area in accordance with policies PCS17 and PCS23 of the Portsmouth Plan [2012].

#### Site contamination/remediation

[Conditions to be updated at the meeting]

## 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.

NB This permission is granted in accordance with the provisions of Section 73A of the Town and Country Planning Act 1990, which makes provision for the retrospective granting of planning permission for development which has commenced and/or been completed.

## VICTORIA PARK ANGLESEA ROAD PORTSMOUTH PO1 3HJ

**CONSTRUCTION OF SINGLE-STOREY COMMUNITY BUILDING (CLASS F1) AND ALTERATIONS TO EXISTING BOILER HOUSE WITH ASSOCIATED LANDSCAPING WORKS FOLLOWING DEMOLITION OF EXISTING GREENHOUSES; AND INSTALLATION OF ENTRANCE ARCH TO NORTH-WEST PARK ENTRANCE**

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=QXD8YQMOKY700](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=qxd8yqmoky700)

**Application Submitted By:**

Thomas Ford And Partners  
FAO Mr Christopher Kiernan

**On behalf of:**

Ms. Laura Young  
Portsmouth City Council

**RDD:** 30th July 2021

**LDD:** 21st October 2021

**SUMMARY OF MAIN ISSUES**

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

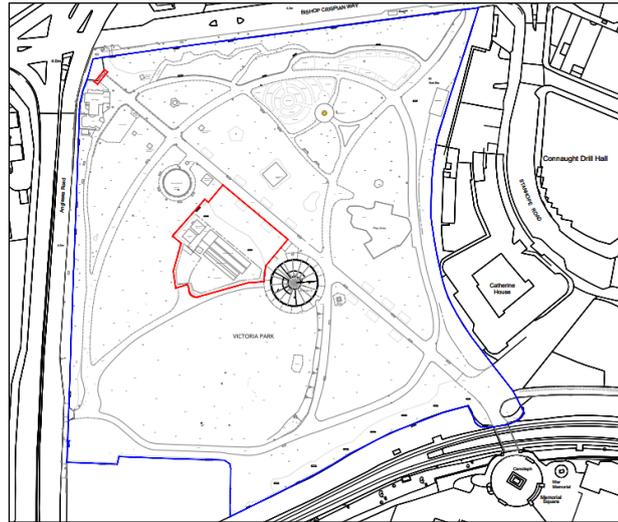
- Principle of Development;
- Design including impact on heritage assets;
- Highways Impacts;
- Sustainable Design & Construction;
- Ecology

Site and surroundings

This Portsmouth City Council application relates to Victoria Park situated between Anglesea Road, Bishop Crispin Way and Stanhope Road within the City Centre. The park is a fine example of late 19th century municipal landscaping with belts of vegetation screening the park from surrounding roads and buildings, and providing a verdant break to the dense urban environment within the city centre. It also provides a key pedestrian route between communities along Queen Street and the main city centre facilities on Commercial Road.

As a result of its special historic interest, the park is included within the Register of Historic Parks and Gardens (Grade II) by Historic England. The park also contains a number of monuments and memorials including: the HMS Royal Sovereign Memorial; HMS Centurion Memorial; HMS Active Memorial; HMS Powerful Memorial; HMS Shah Memorial; Monument to Admiral Napier; HMS Victoria Monument; HMS Orlando Monument; and the Centenary Fountain, all of which are Grade II. The southern boundary of the park is flanked by the railway embankment with the Portsmouth War Memorial, the Guildhall and the University of Portsmouth Park Building beyond (all Grade II). The Cathedral Church of St John the Evangelist (Grade II) flanks the northern boundary to the park with HMS Nelson (Grade II) to the west. The site is also located within the 'The Guildhall and Victoria Park' Conservation Area.

The planning application relates specifically to a collection of structures towards the centre of the park within a maintenance compound, and the entrance to the north-west corner fronting the junction of Anglesea Road and Queen Street.



### The Proposal

Planning permission is sought for the construction of a single-storey building and canopy following the demolition of the existing greenhouses within the maintenance compound. The building, described as the 'hub', would provide an indoor space for education and exhibition use, office and meeting spaces and two public toilets.

The 'hub' building would have a footprint of approximately 15 metres by 7.5 metres and would be topped with a mono-pitched roof measuring 4.5 metres at its highest point and 3.5 metres at its lowest. Externally the building would be finished predominantly with arrowhead clay tiles with smaller sections of brickwork. The southern section of the building would incorporate large folding windows/doors with powder coated metal frames, and with smaller windows and doors to the north-west elevation. A green roof would also incorporate solar photovoltaic panels.

An oak framed canopy with a polycarbonate roof would continue the form of the building and cover an area of approximately 10.5 metres by 7.5 metres. The existing maintenance compound around the new building would be opened up to the public by the removal of sections of the existing high hedge and fencing, and re-landscaped to form the new setting to the 'hub' building.

Planning permission is also sought for alterations to an existing boiler house within the maintenance compound to reduced opportunities for anti-social behaviour and facilitate an air source heat pump for the 'hub' building. A new entrance comprising brick piers and a decorative metal archway is also proposed to the north-west entrance to the park fronting the junction of Anglesea Road and Queen Street.

The works, the subject of this planning application are limited to those within the red line plan above. However, for Members' information and as shown in illustrative drawings provided with the application, they relate to a wider on-going restoration project within Victoria Park that includes the refurbishment of the central aviary, the restoration of two of the Grade II listed naval monuments and memorials, the restoration of the Grade II listed Centenary Fountain, a new younger children's play area, alterations to the landscaping and park entrances, and additional new landscape habitat areas. Works to the listed structures are currently proposed through listed building consent application (21/01137/LBC), whilst remaining works within the Park are expected to be undertaken by way of permitted development rights.



No comments received.

### Ecology

Having reviewed the submitted Preliminary Roost Assessment Report by Hampshire Ecological Services Ltd (September 2021), the ecology team is satisfied that the buildings to be affected by the works have negligible bat potential and therefore there will be no impact on bats. It is acknowledged that no trees are to be removed as part of this planning application and therefore no further information is required.

A condition requiring the biodiversity enhancements set out within the Preliminary Roost Assessment Report is suggested to ensure a net gain in biodiversity value at the site.

### Landscape Group

Overall, the development of a hub building in the centre of Victoria Park and the enhancements to the wider park in keeping with the heritage setting is welcomed.

The planting shown on plans requires more detail with regards to species, sizes, density etc. to be able to comment on these specifically;

Street furniture: the proposed picnic benches in the wider park should be considered to be specified as recycled plastic or metal, rather than timber, with regards to longevity, as timber picnic benches would require a higher maintenance effort and have a shorter lifespan.

### Arboricultural Officer

T285 Hybrid Black Poplar has historically shed limbs (cladogenesis), currently enclosed by the 'works compound' risk to the public has been minimal. Removal of hedging and fencing to increase publicly accessible open space may carry some risk. Cladogenesis is unpredictable and little understood, it is therefore suggested a detailed tree survey be undertaken in order to fully establish the current condition and health of T285.

The Victoria Park, Portsmouth and Access Statement dated July 2021 (P35) identifies vehicle access and use of open space for events: as a consequence consideration must be given to the identification of clear Root Protection Areas within which no vehicles or heavy equipment must enter, thus preventing soil compaction, damage to the rhizosphere and ultimately impacting upon tree health and longevity.

Victoria Park currently exhibits an arboretum quality through the diversity of tree planting this should be maintained.

### Archaeology Advisor

The key archaeological issue associated with the site of the proposed hub building is the past existence of the outer works and glacis of the defences that extended into the park as far as the location of the hub building. This has been demolished to ground level and no surface sign remains. It is possible that archaeological evidence may exist below ground in an extremely truncated form. However it is noted that the proposed foundation of the hub building is 150mm ground slab which is shallow and unlikely to expose archaeological remains in a manner which would merit the burden of an archaeological condition.

There is an archaeological interest in the site and artefacts might be encountered that are of social interest in relation to the pre-park and park era uses of the land. Whilst this does not merit

the burden of an archaeological condition it has been urged in the past that consideration be given to community archaeological engagement within the project to recognise and recover artefacts and use them as a stimulus to the community enjoyment of the history of the site.

#### Contaminated Land Team

Conditions in respect of land contamination are requested.

#### Coastal And Drainage

A condition seeking the approval of a drainage strategy is requested.

#### Environmental Health

No comments received.

#### National Amenities Society

No comments received.

#### Highways Engineer

No comments received.

#### Historic England

No comments received.

### **REPRESENTATIONS**

None received.

### **COMMENT**

The main issues to consider in the determination of this application is whether the proposal is acceptable in principle and whether the proposed works are acceptable in design terms having regard to the setting of the Grade II listed park, the designated heritage assets within it and the character and appearance of the 'The Guildhall and Victoria Park' Conservation Area.

When determining planning applications, the Local Planning Authority (LPA) must consider what impact the proposal would have on both designated and non-designated heritage assets. Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The park, which was planned and laid out in 1878 by Alexander Mackenzie (also responsible for Alexandra Palace Park and the Victoria Embankment), a garden designer of national significance in the mid/late Victorian period, is situated on the former glaciis and adjacent open land of the Portsea ramparts and is a fine example of late 19th century municipal landscaping with belts of vegetation screening the park from surrounding roads and buildings. A collection of monuments (as detailed above) were moved to the park from various sites around the city. The design of the park was influenced by picturesque principles which can be seen in the meandering layout of the paths, and the strong diagonal axis bisecting it. It forms one of only

three listed parks in the City of Portsmouth. These factors, in combination with the Park's attractive arboretum style planting, make it a rare and extremely valuable historic asset in the context of the city and is considered to enjoy a high degree of significance.

### Principle

The principal element of the proposal would involve the replacement of two existing greenhouses, which are in an extremely dilapidated condition, with a smaller 'hub' building at the centre of the park. Alterations to the existing maintenance compound to open-up a previously restricted section of the park would provide a new landscaped setting to the building which would be used for a range of community activities and provide new accessible public toilets.

The proposed uses are considered to be entirely appropriate within both the park and city centre context and would complement the facilities currently offered by the Victoria Park Lodge Café to the north-west corner of the park. Subject to an appropriate scale and design, which is explored below, it is considered that the introduction of a community building at the heart of the park within a new open landscaped setting would be regarded as a positive addition to both the park and the communities that use it. The proposal is therefore, considered to be acceptable in principle.

The park is allocated as protected open space by Policy PCS13 of the Portsmouth Plan. This policy seeks to protect, enhance and develop the city's green infrastructure network and resist proposals which would result in the net loss of existing areas of open space and those which would compromise the overall integrity of the green infrastructure network in the city, unless the wider public benefits of the development outweigh the harm.

The proposed building would be situated just to the north of the existing greenhouses within an area currently laid out as lawn and landscaped beds. Whilst this would result in the loss of approximately 192m<sup>2</sup> of protected open space, with the removal of the existing greenhouses (approximately 243m<sup>2</sup>) the proposal would result in a net gain of open space at the site.

### Design including impact on heritage assets

The proposed 'hub' building would be orientated parallel to the central footway and located within the footprint of a former larger greenhouse that was removed from the park c.1998. This site and adjoining maintenance compound has historically included buildings and structures and is therefore, considered to be an appropriate location for the development.

Its relatively restrained footprint, height, sympathetic materiality utilising handmade clay tiles in a range of subdued 'natural' colours/textures, and well considered, but nevertheless slightly 'quirky' cladding specification, give the proposed design a polite and sympathetic character within its sensitive context. Although more contemporary in appearance, and sited with a landscape context that seeks to visually 'open up' the interior of the park to make it more accessible and inviting, it is considered that the building would sit comfortably within its setting, harmonising sympathetically within views across and through the surrounding historic park.

It is accepted that the proposal would involve the loss of established and not insignificant areas of mature landscaping that contribute positively to the character of the park and provide natural screening of the built structures within the maintenance compound. Whilst this is unfortunate, it is considered that opportunities exist for replacement planting which could provide a visually appropriate setting to, and assist the 'hub' building settle into its surroundings. Whilst indicative drawings are provided, a planning condition is proposed seeking the submission of detailed hard and soft landscaping schemes.

The alterations to the adjoining boiler house involve the raising of the eaves and re-roofing with clay tiles. These alterations are considered to be relatively modest in scale and maintain the building's more interesting chimney feature. The decorative arch to the north-west entrance

would be sympathetic in its design and appearance and improve legibility for those arriving from Queen Street.

Overall, it is considered that proposals have been sensitively developed having regard to the extremely valuable historic asset in which they would be located. It is considered that the proposals would preserve the setting of the historic park and garden, the specifically designated heritage assets located within and adjacent to the park, and the character and appearance of the 'The Guildhall and Victoria Park' Conservation Area.

### Ecology

The application is supported by a Preliminary Roost Assessment Report which concludes that the buildings affected by the proposal have negligible potential for bat roosts and no evidence of bats was found at the site. The report and its findings has been agreed by the City Council's ecologist.

No trees are proposed to be removed as part of this planning application, although other tree works are proposed as part of the wider Victoria Park restoration project. The applicant has been made aware of the need to survey these features and assess their potential as bat roosts or for the presence of nesting birds before any works take place.

Elements of existing landscaping features, including sections of a large hedge would be removed to accommodate the 'hub' building and 'open-up' the maintenance compound. The submitted information indicates that these features are of limited ecological value and a replacement planting/landscaping scheme is proposed as mitigation and to provide the setting to the new building. The Council's ecologist raises no concerns in respect of these works and is fully supportive of proposals for a 'wild' planting area, green roof and additional planting.

### Sustainable Design and Construction

As set out within the Sustainable Design and Construction SPD, non-residential developments which involve the construction of less than 500m<sup>2</sup> of new floorspace are not required to meet any specific sustainable design standards. Notwithstanding, the submitted Design and Access Statement highlights that the 'hub' building will conform to Part L of the Building Regulations to the highest level incorporating a fully insulated floor slab, walls and roof zones, Thermally efficient glazing, Dual flush toilets and taps which will limit water use, Hot water heated via air-source heat pump, LED lighting, a green roof, Photovoltaic panels, and the use of clay tiles as a sustainable material.

### Highways

Given the relative scale of the building and siting within a city centre park, it is not considered that the proposal would have a material impact on the surrounding highway network.

### Conclusion

Overall it is considered that proposals have been sensitively developed having regard to the extremely valuable historic asset in which they would be located. The proposed 'hub' building and the opening-up of the maintenance compound within a new open landscaped setting would represent a positive addition to the park to the benefit of its users and the surrounding communities.

## **RECOMMENDATION**

## **Conditional Permission**

### **Conditions**

### **Time Limit**

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

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

### **Approved Plans**

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

A1805-L-DR-001 PL1 (Location Plan);  
A1805-L-DR-101 PL0 (Existing Site Plan);  
A1805-L-DR-1002 PL0 (Portsea Entrance NW Elevation);  
A1805-L-DR-601 PL0 (Demolition and Clearance Plan - Hub Area);  
535801 - PL-100 Rev-P1 (Proposed Floor Plan);  
535801 - PL-102 Rev-P1 (Proposed Roof Plan);  
535801 - PL-111 Rev-P1 (Proposed Demolition Plan);  
535801 - PL-200 Rev-P1 (Proposed SW & SE Elevations);  
535801 - PL-201 Rev-P1 (Proposed NE & NW Elevations);  
535801 - PL-202 Rev-P1 (Sections BB & CC);  
535801 - PL-210 Rev-P1 (Proposed SW & SE Elevations with Shutters);  
535801 - PL-211 Rev-P1 (Proposed NE & NW Elevations with Shutters);  
535801 - PL-300 Rev-P1 (Proposed SW & NE Context Elevations);  
535801 - PL-301 Rev-P2 (Proposed SE & NW Context Elevations);  
535801 - PL-500 Rev-P (Hub Building Wall Details);  
535801 - PL-501 Rev-P (Hub Building Wall & Roof Details).

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

### **Land Contamination - Investigation/Remediation**

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

- a) A Phase 1 desk study (undertaken following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the site. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages (including consideration of asbestos), including proposals for site investigation if required with the sampling rationale for all proposed sample locations and depths being shown in the conceptual model (Phase 1 report);
- b) A Phase 2 site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs)'). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation (Phase 2 Report); and
- c) A remediation method statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, including proposals for future maintenance and monitoring, as necessary (Phase 3 report). If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in

BS8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and have consideration of CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. The remedial options appraisal shall have due consideration of sustainability as detailed in ISO 18504:2017 Soil quality - Sustainable remediation. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion.

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

#### **Land Contamination - Verification**

4) The development hereby permitted shall not be first occupied/brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a stand-alone verification report by the competent person approved pursuant to condition (3)c above. The report shall demonstrate that the remedial scheme has been implemented fully in accordance with the remediation method statement. For the verification of gas protection schemes the applicant should follow the agreed validation plan. Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions (3)c.

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 in accordance with saved Policy DC21 of the Portsmouth City Local Plan 2001-2011.

#### **Tree Protection**

5) Unless otherwise agreed in writing with the Local Planning Authority, no works pursuant to this permission shall commence until the tree protection measures as shown on approved drawing A1805-L-DR-601 Rev-PL0 have been installed and shall thereafter be retained for as long as development works/construction is taking place at the site.

Reason: To ensure that the trees which make a positive contribution to the character of the park are adequately protected from damage to health and stability throughout the construction period in the interests of amenity in accordance with Policies PCS13 and PCS23 of the Portsmouth Plan (2012).

#### **Drainage Strategy**

6) (a) Notwithstanding the submitted details, no development works other than those of demolition shall take place until precise details of the proposed means of foul and surface water sewerage disposal has been submitted to and approved in writing by the Local Planning Authority; and

(b) The development shall then be completed in accordance with the details approved pursuant to part (a) of this condition and thereafter permanently retained.

Reason: In order to minimise flows into the public sewerage network and minimise risks of flooding at this and adjoining sites in accordance with Policy PCS12 of the Portsmouth Plan (2012).

#### **Materials**

7) (a) Notwithstanding the submitted details, no development works other than those of demolition, and construction of the 'hub' building's foundations shall take place until a full and

detailed schedule of all materials and finishes (including samples of each material type) to be used in the construction of the external surfaces of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority; and

(b) The development shall be carried out in full accordance with the schedule of materials and finishes agreed pursuant to part (a) of this Condition.

Reason: To secure a high quality finish having regard to the significance of the heritage asset and the specific weight that has been placed on the need for high quality design and use of robust materials in the interests of visual amenity in accordance with Policies PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the National Planning Policy Framework (2021).

### **Archway Design**

8) (a) Notwithstanding the submitted details, prior to the installation of the archway feature to the north-west entrance to the park hereby permitted, precise details of design, materials and fabrication at a scale of 1:10 (or such other appropriate scale as may be agreed), shall be submitted to and approved in writing by the Local Planning Authority; and

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

Reason: To secure a high quality finish having regard to the significance of the heritage asset in the interests of visual amenity in accordance with Policies PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the National Planning Policy Framework (2021).

### **Landscaping**

9) (a) Notwithstanding the submitted details, the 'hub' building hereby permitted shall not be occupied/brought into use until a detailed hard and soft landscaping scheme for the areas around the building and maintenance compound has been submitted to and approved in writing by the Local Planning Authority. The scheme shall specify: surface materials; street furniture; lighting and signage; planting location, species, sizes, spacing and density/numbers of trees/shrubs; and the phasing and timing of planting; and

(b) Unless otherwise agreed in writing with the Local Planning Authority, the hard landscaping scheme approved pursuant to part (a) of this condition shall be completed prior to first occupation of the 'hub' building hereby permitted; and

(c) The soft landscaping scheme approved pursuant to part (a) of this condition shall be carried out within the first planting season following the first occupation of the building. Any trees or plants which, within a period of 5 years from the date of planting, die, fail to establish are removed or become damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.

Reason: To secure a high quality setting to the building and provide adequate mitigation for the loss of existing landscaping features having regard to the significance of the heritage asset in the interests of visual amenity in accordance with Policies PCS13 and PCS23 and PCS24 of the Portsmouth Plan (2012) and the aims and objectives of the National Planning Policy Framework (2021).

### **Biodiversity Enhancements**

10) (a) Unless otherwise agreed in writing with the Local Planning Authority, the 'hub' building hereby permitted shall not be occupied/brought into use until the proposed biodiversity enhancement measures detailed within Sections 5.6.3, 5.6.5, 5.6.6 & 6 of the approved Preliminary Roost Assessment Report by Hampshire Ecological Services Ltd (September 2021) have been provided; and

(b) The biodiversity enhancement measures detailed by part (a) of this condition shall thereafter be permanently retained.

Reason: To produce a net gain in biodiversity value at the development site in accordance with Policy PCS13 of the Portsmouth Plan (2012) and the aims and objectives of the National Planning Policy Framework (2021).

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 pre-application process to achieve an acceptable proposal without the need for further engagement.

VICTORIA PARK ANGLESEA ROAD PORTSMOUTH PO1 3HJ

ALTERATIONS, CLEANING AND REPAIRS OF HMS SHAH MEMORIAL, MONUMENT TO ADMIRAL NAPIER AND CENTENARY FOUNTAIN

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=QXD8Y SMOKY800](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=qxd8y-smoky800)

**Application Submitted By:**

Mr Christopher Kiernan  
Thomas Ford and Partners

**On behalf of:**

Ms. Laura Young  
Portsmouth City Council

**RDD:** 5th August 2021

**LDD:** 21st October 2021

**SUMMARY OF MAIN ISSUES**

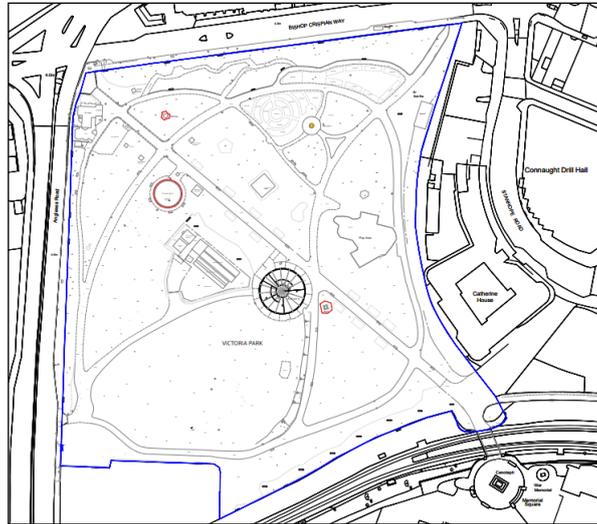
The determining issue in this application is whether the proposed works would preserve the special architectural or historic interest of the Grade II listed heritage assets.

Site and surroundings

This Portsmouth City Council application relates to Victoria Park situated between Anglesea Road, Bishop Crispin Way and Stanhope Road within the City Centre. The park is a fine example of late 19th century municipal landscaping with belts of vegetation screening the park from surrounding roads and buildings, and providing a verdant break to the dense urban environment within the city centre. It also provides a key pedestrian route between communities along Queen Street and the main city centre facilities on Commercial Road.

As a result of its special historic interest, the park is included within the Register of Historic Parks and Gardens (Grade II) by Historic England. The park also contains a number of monuments and memorials including: the HMS Royal Sovereign Memorial; HMS Centurion Memorial; HMS Active Memorial; HMS Powerful Memorial; HMS Shah Memorial; Monument to Admiral Napier; HMS Victoria Monument; HMS Orlando Monument; and the Centenary Fountain, all of which are Grade II. The southern boundary of the park is flanked by the railway embankment with the Portsmouth War Memorial, the Guildhall and the University of Portsmouth Park Building beyond (all Grade II). The Cathedral Church of St John the Evangelist (Grade II) flanks the northern boundary to the park with HMS Nelson (Grade II) to the west. The site is also located within the 'The Guildhall and Victoria Park' Conservation Area.

This Listed Building Consent application relates specifically to the HMS Shah Memorial, the Monument to Admiral Napier and the Centenary Fountain.



### The Proposal

Listed Building Consent is sought for relatively minor alterations, cleaning and repairs to the HMS Shah Memorial, the Monument to Admiral Napier and the Centenary Fountain.

This would include:

- HMS Shah Memorial - Removal of four black marble plaques and specialist steam cleaning. The non-original plaques would be removed by experienced operatives cutting away (or alternatively breaking up) the redundant plaques using hand tools;
- Monument to Admiral Napier - Specialist lime mortar repointing repairs to the base plinth and specialist steam cleaning. The existing incorrectly installed cementitious pointing would be carefully removed to a depth of 20mm ensuring that no damage occurs to the surrounding masonry or arises. Replacement mortar will be selected in consultation with 'The Lime Centre' in Winchester and the LPA to ensure the best colour and texture match.
- Centenary Fountain - Restoration and enhancement of the upper jet to the fountain, and specialist steam cleaning and jet washing where required. Also repainting of the cast ironwork, four swans and surrounding metal railings.



### Planning History

There is no relevant planning history.

### **POLICY CONTEXT**

PCS23 (Design and Conservation) of the Portsmouth Plan (2012);  
The National Planning Policy Framework (2021).

### **CONSULTATIONS**

#### Historic England

3.2 On the basis of the information provided, it is not considered that it is necessary for the application to be notified to Historic England under the relevant statutory provisions.

#### National Amenities Society

No comments received.

#### The Portsmouth Society

No comments received.

### **REPRESENTATIONS**

None received.

### **COMMENT**

Historic England's list description for the assets includes the following:

HMS Shah Memorial (Grade II) - 'Monument. c1880. Granite. 4 sided obelisk on base set on sandstone plinth. Inscription reads: "Erected by the Officers and Ships Company of H.M.S. Shah To the memory of the Officers and men who died during the Commission in the Pacific and in the Zulu War. Commissioned 1876". (Berridge DW: Monuments and Memorials in the City of Portsmouth: 1984-: 14)';

Monument to Admiral Napier (Grade II) - 'Monument. 1863. Stone. Sandstone column with Portland stone Romanesque capital and finial surmounted by stone lion. 6-sided Portland stone pedestal, 3 sides concave set on tapering rusticated sandstone base, uncoursed rubble lower base on granite slab. Commemorates death of Admiral Napier 1860. Inscription reads: "The monument was erected by the Petty Officers, Non-Commissioned Officers, Seamen and Marines of Her Majesty's Navy 1863 - to commemorate the untiring efforts of a gallant Officer and true hearted man (Charles Napier c1786 - d1860) in advancing the welfare of the British sailor." The monument was originally sited at the junction of Commercial and Edinburgh Roads. (Lloyd DW: Buildings of Portsmouth and its Environs: Portsmouth: 1974-: 86; The Buildings of England: Pevsner N & Lloyd DW: Hampshire: Harmondsworth: 1967-: 456; Berridge DW: Monuments and Memorials in the City of Portsmouth: 1984-: 21)';

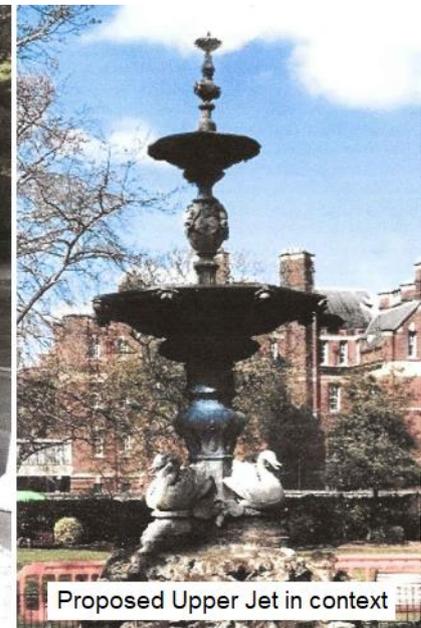
Centenary Fountain (Grade II) - 'Fountain. c1880. Iron. Ornate cast-iron fountain with moulded base supporting 4 bronze swans, then wide bulbous pipe with large ornamental tray, bulbous pipe with lead motif supporting small circular tray and at top a moulded pipe with water spout. Fountain is set on random rubble stone base. (Berridge DW: Monuments and Memorials in the City of Portsmouth: 1984-: 52)';

Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

The applicant has provided comprehensive Heritage and Method Statements setting out the scope of the proposed works and the historic and architectural significance of each of the assets. It is considered that the applicant's interpretation of the assets significance is balanced, appropriate and indicative of a sympathetic and positive interpretation of their ongoing needs. Each of the assets have been the subject of thorough condition surveys, the results of which have informed the proposal and have been provided to support the application.

These assets enjoy both individual and collective 'group' value in terms of their period design, the extent of their preservation, their contribution to the character and 'feel' of the park, and their historic interest. The range of works and methods proposed are well considered, appropriate and necessary to help secure the sympathetic restoration and long term future of the assets. As such it is considered that the proposals would preserve significance of the heritage assets and would therefore preserve their special architectural or historic interest.

The precise details of the replacement upper jet to the Centenary Fountain have yet to be determined and the final design will be the subject of further testing and modelling to ensure appropriate water flow rates. The precise methodology for this and the works to the HMS Shah Memorial and the Monument to Admiral Napier are set out within supporting documents. Planning conditions are proposed to ensure the works are carried out in accordance with the approved methodology, and to approve the final design of the upper jet to the Centenary Fountain.



## RECOMMENDATION

## Conditional Consent

### Conditions

#### Time Limit:

1) The development to which this consent relates shall be begun before the expiration of 3 years from the date of this consent.

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to prevent an accumulation of unimplemented consents.

#### Plan Numbers:

2) Unless otherwise agreed in writing by the Local Planning Authority, the consent hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: A1805-L-DR-001A PL1 (Location Plan); A1805-L-DR-1004 PL0 (Centenary Fountain Restoration Proposals); and A1805-L-DR-1006 PL0 (HMS Shah Memorial).

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

#### Method Statements:

3) Unless otherwise agreed in writing with the Local Planning Authority, the works to the HMS Shah Memorial, the Monument to Admiral Napier and the Centenary Fountain hereby consented shall be carried out in full with the method statements included within the following approved documents: Method Statement - Portsmouth Memorials - Admiral Charles Napier & HMS Shah (produced by Stonewest, dated July 2021 ref.41479 issue No: 01); and A1805-L-DR-1004 PL0 (Centenary Fountain Restoration Proposals).

Reason: To protect the special architectural and historic interest of the designated heritage assets in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the National Planning Policy Framework (2021).

**Details of Upper Jet:**

4) (a) Prior to installation of the replacement upper jet hereby consented to the Centenary Fountain, precise details of the of replacement features (including mock up design where requested) shall be submitted to and approved in writing by the Local Planning Authority; and (b) The replacement upper jet shall then be installed in accordance with the details approved pursuant to part (a) of this condition.

Reason: To ensure the upper jet arrangement is of an appropriate scale and form in the interests of protecting the special architectural and historic interest of the designated heritage asset in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the National Planning Policy Framework (2021).

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 pre-application process to achieve an acceptable proposal without the need for further engagement.

**32 - 60 MIDDLE STREET SOUTHSEA PO5 4BP**

**OUTLINE APPLICATION FOR THE DEMOLITION OF EXISTING BUILDINGS AND THE CONSTRUCTION OF A BUILDING OF SIX TO ELEVEN STOREYS, TO PROVIDE 163 FLATS, AND THREE COMMERCIAL UNITS ((USE CLASSES A1 (RETAIL) AND/OR A2 (FINANCIAL & PROFESSIONAL SERVICES) AND/OR A3 (CAFÉ/RESTAURANT) AND/OR B1(A) (OFFICES) AND/OR D1 (NON-RESIDENTIAL INSTITUTION)) TO INCLUDE PROVISION OF BASEMENT CAR PARK (SCALE AND ACCESS TO BE DETERMINED) (AMENDED DESCRIPTION)**

**LINK TO ONLINE DOCUMENTS:**

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=PIUY7ZMOKF900](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=PIUY7ZMOKF900)

**Application Submitted By:**

Vail Williams LLP  
FAO Mr Ben Christian

**On behalf of:**

C/O Agent  
PVD1 Ltd

**RDD:** 27th November 2018

**LDD:** 14th March 2019

**SUMMARY OF MAIN ISSUES**

An appeal against non-determination has been received in relation to this planning application (ref. 3271870). This report is included on the Agenda in order for Members to determine what the resolution would have been had the Local Planning Authority (LPA) still been able to proceed to determine the application. The LPA's Appeal Statement is due by 26<sup>th</sup> October.

This application has been submitted in Outline form for Scale and Access to be considered. The following matters are relevant to the determination of the scheme:

- Principle of the proposal having regard to the policy context
- Viability and affordable housing
- Scale
- Access including parking
- Public open space
- Ecology
- Drainage
- Land contamination
- Impact on the Solent Special Protection Areas

Matters relating to Appearance (including external materials, finishes, design and visual impact), Layout (including standard of accommodation, refuse and cycle storage); and Landscaping (including planting species and layout), would be dealt with through a separate Reserved Matters submission.

## Site and surroundings

The application site comprises a row of 2 and 3-storey buildings located on the west side of Middle Street. The buildings have their main frontages onto Middle Street, with the rear elevations fronting onto Earlsdon Street to the west. The existing buildings have had a variety of commercial uses over the years and some are now vacant. Current uses within the site include a stained glass window shop and a café.

The surrounding area is characterised by a mix of commercial and residential development, including a number of student accommodation blocks. The adjacent building to the north is an 8-storey student hall of residence (22 Middle Street), with commercial units on the ground floor, and beyond this is a 16-storey student hall of residence with a convenience store on the ground floor (Trafalgar Hall). A further 4-storey student hall of residence (Unilife Earlsdon) is located to the south-west of the site on the corner of Earlsdon Street. The adjacent property to the south of the site is a 2-storey building currently used by the PDSA (People's Dispensary for Sick Animals). This site was subject to two separate planning applications for the construction of a new four-storey 21-bed student hall of residence, both of which were refused and is now subject to appeal. To the east of the site is the Eldon university building and associated car park, and The Raven public house is located to the south-east of the site. To the west is the now vacant residential tower block (Leamington House), and a row of 4-storey residential flats. There are long term plans for the redevelopment of Leamington House and Horatia House, and for the street and environmental re-modelling of further surrounding areas. These are in the early stages of design, but Leamington House will be demolished in the coming months.

The application site is located in the Somerstown Core Regeneration Area of the city, as identified in Policy PCS6 of the Portsmouth Plan. A Somerstown Area Action Plan (AAP) was adopted in July 2012, which designates a number of specific sites in the area and sets out proposals for their future development. The application site falls within 'Site 1', which is allocated as a site for development of between four to eight storeys with employment use at ground floor level and residential accommodation above. Table 1 of the AAP identifies Site 1 as a whole for the development of 179 dwellings.

The site also lies within a 'high density' area as defined by Policy PCS21 of the Portsmouth Plan, which sets out that housing densities should be at least 100dph. The boundary of the King Street Conservation Area runs along Sackville Street, to the south of the application site.

## Proposal

The proposal is for the construction of a new building of between six and eleven storeys in height, comprising 3 commercial units and 163 residential flats, following demolition of the existing buildings. The scheme has been amended during the course of the application to add a basement car park, removing some car parking previously indicated for the ground floor and allowing for more space to provide the third commercial unit. In total the plans show 8 parking spaces at ground floor level on the Earlsdon Street frontage, and 46 spaces within the proposed basement (total parking provision, 54 spaces) (accessed from Earlsdon Street).

The application has been submitted as an Outline application, with matters of Scale and Access only to be considered. Indicative layout plans have been provided to show how 163 dwellings could be accommodated within a building of the proposed scale, including roof terraces, but precise details of Layout, design/Appearance and Landscaping would be assessed at Reserved Matters stage.

The indicative plans show a building form designed to appear as five, linked flat-roofed blocks, ranging in height from 6-storeys to 11-storeys. From south to north, the proposed maximum storey heights are shown to be as follows: 6-storey (22m); 10-storey (35m); 9-storey (32m); 11-storey (38m); 9-storey (32m). The maximum depth of the building would be 25.5m, allowing for a set back on both the east and west frontages.



Figure One - Location Plan



Figure Two - Indicative Ground Floor Plan (North is to right hand side)

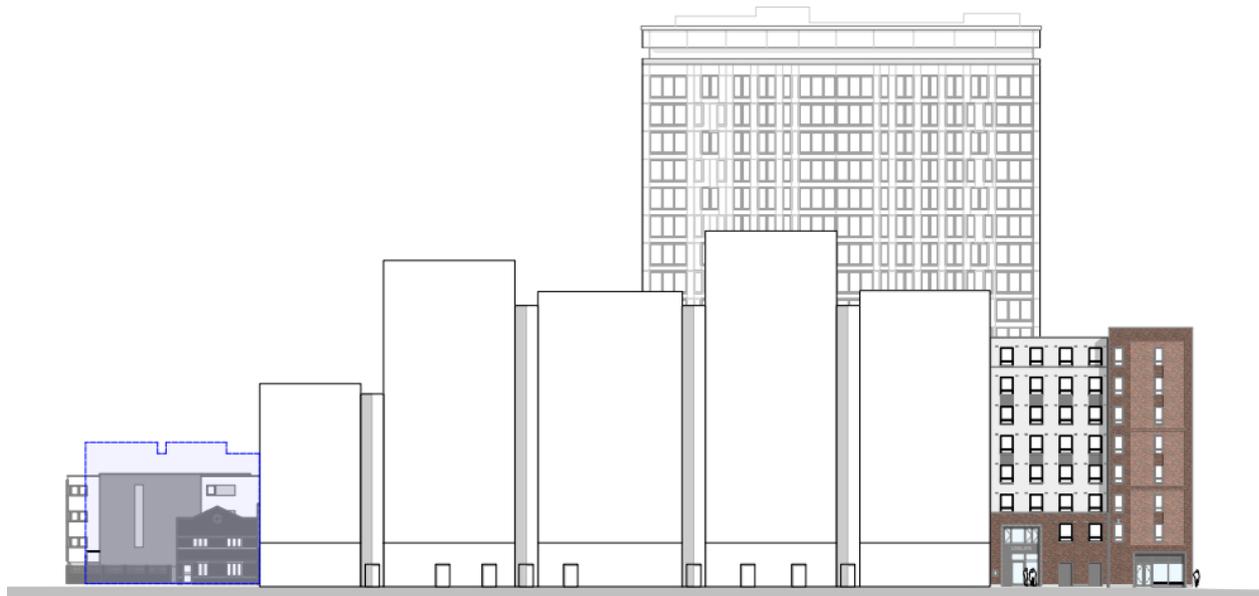


Figure Three - Indicative East Elevation (Middle St elevation)

### Planning history

An Environmental Impact Assessment Screening Opinion (ref. 18/00007/EIASCR) was submitted in December 2018 for 32-62 Middle Street, which incorporates the application site and the adjacent site to the south (No.62 Middle Street). It was determined that the development as a whole would not constitute EIA development.

Alongside this application, a separate outline planning application for the construction of a four storey building to provide a 21 room student hall of residence at 62 Middle Street (currently the PDSA site) was submitted (ref. 18/01968/OUT). This application was recommended for Approval but was refused by the Planning Committee on 24 June 2020 and is currently subject to a separate appeal (Appeal ref.

APP/Z1775/W/20/3265574), the decision for which is awaited. The reasons for refusal were as follows:

1. *The proposed development would fail to retain sufficient employment uses on the site, contrary to policy PCS6 of the Portsmouth Plan and the allocation for ground floor employment uses set out in Policy SNS8 of the Somerstown and North Southsea Area Action Plan, resulting in a failure to retain and improve employment opportunities in the area needed to act as a springboard for social and economic regeneration.*
2. *In the absence of a completed S106 obligation, the development would result in an unmitigated adverse effect on the integrity of the Solent Special Protection Area in accordance with Policy PCS13 of the Portsmouth Plan (2012), the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981.*

The planning history relating to the use of the various existing buildings on the site is outlined below.

#### 32 Middle Street

- A\*20679/AA - established use as light industrial premises - permission 8 August 1990
- A\*20679/B - first floor extension for use for manufacturing of baby clothes, ground floor to be used for storage - conditional permission 28 August 1974

#### 34 Middle Street

- A\*21079/AB - change of use of ground floor to form office (class B1) including installation of new shopfront and alterations to boundary wall with access gates and provision of car parking - conditional permission 5 August 2002
- A\*21079/AA - conversion of ground floor to printing works (B2), first floor to offices (B1) and external alterations - conditional permission 30 July 1990

#### 36-40 Middle Street

- A\*17664/AC - vary condition 3 attached to planning permission A\*17664/AB to enable the premises to be used by organisations other than access to music - permission 16 September 2005
- A\*17664/AB - change of use of ground floor for music/educational/workshop/studio purposes and first floor for teaching and ancillary office purposes (Class D1) - conditional permission 10 July 2003

#### 42 Middle Street

- A\*19155/D - change of use from warehousing to preparation packaging and storage of meat - conditional permission 7 March 1974
- A\*19155 - the erection of an ice cream depot office and garage - 12 June 1953
- A\*16488 - the development of a site comprising joinery workshop paint and cellulose spraying shop workshop, store and residential flat - conditional permission 9 February 1951

### 56 Middle Street

- A\*20221/AA - use for Portsmouth University as printing reprographics department (Class B1c) - conditional permission 12 October 1995

### 42-56 Middle Street

- 13/01492/FUL - Construction of 4-storey building to form 66 unit student halls of residence (within Class C1) & three commercial units to ground floor for purposes within Use Class B1(c) (Light Industry)(after demolition of existing building) with P.V. array at roof level - conditional permission 10 February 2015

It was noted on site that No.56 Middle Street is currently in use as a café.

### 58-60 Middle Street

- A\*16284/D - the erection of new office and ancillary accommodation over the existing workshop and stores - permission 15 December 1966
- A\*16284/B - the erection of an additional two storeys over existing showroom to provide a residential flat - conditional permission 25 September 1953

In addition to the above, there have also been various applications for alterations and signage to some of the properties.

### Other relevant planning history relating to nearby properties

- 13/01414/FUL (22 Middle Street) - Construction of 8-storey building to form 124 bed student halls of residence (within Class C1) & two commercial units to ground floor for purposes within use Classes A1 or B1 - conditional permission 24 July 2014.
- 11/00961/FUL (61 Earlsdon Street) - Construction of 4 storey building to form 35 bed halls of residence for student use (Class C1) and office unit (Class B1) at ground floor level - conditional permission 28 March 2012

## **POLICY CONTEXT**

### Portsmouth Plan (2012):

- PCS6 (Somerstown and North Southsea)
- PCS10 (Housing Delivery)
- PCS12 (Flood Risk)
- PCS13 (A Greener Portsmouth)
- PCS15 (Sustainable design and construction)
- PCS16 (Infrastructure and Community Benefit)
- PCS17 (Transport)
- PCS19 (Housing mix, size and affordable homes)
- PCS21 (Housing Density)
- PCS23 (Design and Conservation)
- PCS24 (Tall Buildings)

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

- Saved Policy DC21 (Contaminated land)
- In accordance with the National Planning Policy Framework (NPPF) 2021 due weight has been given to the relevant policies in the above plan.

### Other guidance:

- National Planning Policy Framework (2021)
- National Planning Practice Guidance
- The Somerstown and North Southsea Area Action Plan (2012): Policy SNS8 (Employment) and SNS11 (General Design principles)
- The Car Parking and Transport Assessments Supplementary Planning Document SPD (2014)
- Achieving Employment and Skills Plans Supplementary Planning Document (2013)
- Tall Buildings Supplementary Planning Document (2012)

## **CONSULTATIONS**

### Highways Engineer

Further comments received July 2020 following receipt of amended plans to provide basement car park and additional commercial unit.

The 8 surface parking spaces from Earlsdon Street would have acceptable access but would result in the loss of 8 on-street spaces and would therefore not contribute to net increase in parking provision. The new basement parking spaces (46) would reduce the parking shortfall to 140 (not counting the surface parking spaces), which is an improvement but does not approach the parking expectation anticipated for the development. Content that the proposed dual lift access arrangement serving the basement car park would have sufficient capacity to meet the demands of 46 spaces.

The absence of parking capacity to meet increased demand and the absence of an assessment of the parking demand from the non-residential uses conflicts with the Adopted Parking Standards SPD. The impact would essentially be one of residential amenity and air quality rather than highway safety or capacity, due to residents having to drive around looking for on-street parking spaces in the area.

Original comments received December 2018:

The site does not fall within the part of the city found to be sufficiently accessible as to allow consideration of a reduction in parking expectation from the Adopted Parking Standards SPD. The submitted Transport Statement considers car ownership trends and draws from census data to suggest that the parking expectations for new residential development established in the SPD exceed that likely to be required by future occupiers. However, the development of the parking standards was informed by census data referenced within the SPD and those have been set to ensure that new development does not materially worsen on street parking opportunities for local residents.

The site lies within the Local Authority controlled parking zone and residents of these properties would be entitled to buy resident permits. In this case, the residential component of the development would have a parking expectation of 186 car spaces and 209 long stay cycle parking spaces with 21 short stay cycle parking spaces. Only 21 car spaces are proposed, leading to a 165 space shortfall. Cycle parking for 120 spaces is proposed across two stores, with space for 2 bikes within the 2 bed and larger flats.

The submitted Transport Statement suggests future occupiers would not be allowed to apply for parking permits, which could be controlled through S106 Agreement. However, a recent court case has determined that S106 Agreements cannot be used to preclude occupiers from applying for permits to park on the public highway.

Whilst the parking surveys reported in the Transport Statement suggest availability of 61, this does not reflect the actual situation where the resident demand for parking exceeds the space available particularly at night and over the weekends. The applicant's parking surveys rely on the Lambeth survey methodology as well as the Lambeth analysis/assessment methodology. Whilst Portsmouth City Council agrees with the survey methodology, it does not agree with the approach to the analysis of the results, which has not been adopted as a suitable approach for Portsmouth. The Transport Statement makes no assessment of the parking demand likely to arise from the non-residential uses on the site.

The Transport Statement suggests a proposal for a car club associated with the development, but this is not considered to offer a practical solution to a 160 parking space shortfall.

The trip rate analysis within the Transport Statement appears to over-estimate the trip rates associated with the existing uses and under estimate those associated with the proposed development. Consequently it is considered that the development could generate a material increase in vehicle movements during peak periods. Overall, there is no confidence that the Transport Statement reasonably assesses the likely development impact nor that sufficient parking provision is made for vehicle parking.

#### Drainage

Detailed drainage strategy required at detailed application stage. This should include a ground investigation in relation to the basement car park, to determine any necessary groundwater mitigation measures that may be required. The applicant would need to confirm if the basement is proposed to be a sealed structure.

#### Waste Management Service

Waste storage proposals look generally acceptable. Some matters to be considered such as manoeuvring space, size of bin store doors, requirement for dropped kerb access, barriers and bump boards. Also query as to where commercial bins would be located.

#### Contaminated Land Team

No objection subject to conditions. A Desk Study has been submitted, which confirms that the next stage of assessment will be an intrusive investigation with testing of soils on site. The Desk Study needs updating to follow BS10175:2017 standards, to consider sources of pollution and to be made specific to this site and end-use. There is the potential for asbestos containing material to be present on the site due to the age of the buildings. An asbestos refurbishment and demolition survey should therefore be conducted.

#### Environmental Health

The locality is largely residential with a public house located east of the development site at The Raven in Bedford Street and the University Eldon Building further north in Middle Street. University accommodation already exists at the adjacent site at 61 Earlsdon Street and a number of commercial properties occupy the space for the development which are proposed to be demolished.

A noise report has been submitted which includes a background noise survey and target criteria for noise levels from proposed plant installation. Both are considered acceptable. The report does not state, however, what the plant is or where it is located. Two plant rooms are shown on the plans and there may be more plant and equipment required for

the commercial units. Careful consideration should be given to opening hours of the commercial units to achieve the right balance between commercial and residential use. Further information as to how the external amenity areas are to be managed would be useful, with regard to whether they would be accessible at night.

No objection subject to conditions relating to plant and equipment, sound insulation and glazing specifications.

#### Crime Prevention Design Advisor

Comments made about security of access doors and need for good security around the building. Matters to be addressed as part of detailed layout design.

#### Private Sector Housing

With regard to housing need, there appears to be an imbalance between the studio / 1-bedroom flats and the family sized 2 and 3-bedroom accommodation, with around 68% being studio or 1-bed. The required level of affordable housing would be 49 units (30%). Tenure split to be agreed as part of a Section 106 Agreement. Confirmation of floor sizes for the flats is required. Disabled units may just about meet required size standards. If on-site affordable housing cannot be provided, an off-site commuted sum payment should be considered.

Concerns about the internal design of some of the flats, in terms of the positions of the kitchens and fire safety. Also concern about lack of car parking.

#### Ecology

The Ecology Appraisal was carried out in 2018. The Appraisal report concluded that there was negligible potential for the buildings to support bats, with no evidence of bats found on site and no potential roost locations / access points identified. Recommend an informative explaining the need to consult an ecologist if bats are subsequently found to be present.

Some of the buildings have the potential to accommodate nesting birds, particularly herring gulls. An informative should be added to explain the need to undertake clearance of any bird nesting habitat outside of the bird nesting season.

#### Natural England

Since the application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Areas and Ramsar sites may result from increased recreational disturbance. This impact can be mitigated through appropriate financial contribution towards the agreed strategic solution. Appropriate Assessment required to conclude on this matter.

#### Planning Policy

Updated comments received 15 September 2020, on amended plans:

The alterations appear to increase the commercial potential of the scheme, which would be in line with the policy position set out in the Local Plan and Somerstown SDP. No policy objection to the proposed changes.

Original comments:

Residential proposal: The proposed dwellings have the potential to make a significant contribution towards the 539 additional dwellings expected to be delivered in the Somerstown and North Southsea area of the city as set out in Policy PCS10 of the Portsmouth Plan. Policy PCS19 requires development to seek to provide 40% family housing where appropriate (3 bedrooms or more). The scheme is a flatted development and does include an element of three-bed units potentially suitable for families. Given the density of the development and the location of the site, the overall mix of dwelling sizes seems acceptable. Policy PCS19 also requires provision of on-site affordable housing, but the proposal consists entirely of market housing. Further evidence is required to justify this.

Employment: The site currently forms an existing block of commercial units, a number of which are vacant. Policy PCS6 of the Portsmouth Plan looks to regenerate Somerstown through a number of measures, including retaining and consolidating employment uses in the area. This is reinforced by Policy SNS8 of the Somerstown and North Southsea Area Action Plan, which allocates the frontage to Middle Street, Earlsdon Street and Melbourne Place for ground floor employment uses with C3 residential above. Overall, it is considered that the levels of commercial floorspace re-provision represents a reasonable balance with competing ground floor uses including parking, cycle parking and servicing for the flats, whilst maintaining an active frontage to Middle Street.

Conclusion: The Portsmouth Plan and the Somerstown and North Southsea Area Action Plan propose Middle Street as being a suitable location for commercial floorspace at ground floor level with residential development above. This approach requires a compromise between the level of commercial floorspace and parking provision that the block can accommodate on the ground floor as these uses compete with each other and the servicing requirements of the flats above. The proposed mix of uses and layout creates active frontages on both Middle Street and Earlsdon Street, with the amount of active frontage being broadly similar to that fronting Middle Street now.

The proposed development is of a high density and while it does not meet the required parking standards, the potential benefits of provision of a large number of residential units in the city in a sustainable location could potentially outweigh the impacts of lack of parking.

## **REPRESENTATIONS**

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

- Neighbour letters sent:
  - First round: 5 December 2018; Expiry: 6 January 2019
  - Second round: 17 August 2020; Expiry: 10 September 2020
- Site notices displayed:
  - First round: Displayed: 21 December 2018; Expiry: 14 January 2019
  - Second round: Displayed: 19 August 2020; expiry: 10 September 2020
- Press Notice: 17 December 2018; expiry: 11 January 2019

Following the original round of consultation, 5 representations were received, raising objection on the following grounds:

- a) Too much development for the site;
- b) Lack of car parking, leading to increased parking problems in the area;
- c) Restricting residents from applying for a parking permit is not an appropriate solution (referring to recent case law);
- d) Applicants parking surveys do not provide an accurate reflection of the existing parking situation, which is restricted by pay and display spaces, disabled spaces and time restricted loading bays;
- e) Parking survey does not take account of recently permitted schemes in the area;

- f) Too much variation in building height; development does not 'step-up' well from the adjacent lower buildings;
- g) Concern about piecemeal development if one of the business units does not agree to be redeveloped;
- h) Excessive scale of development;
- i) Loss of a cherry tree from car park of 62 Middle Street and resulting negative impact on ecology;
- j) Lack of loading and storage facilities for commercial units, meaning they would not be desirable for occupation;
- k) Height of buildings would not adequately 'taper down' towards the nearby Conservation Area;
- l) Leamington House is due to be demolished due to structural issues and should not be the basis for a precedent for high rise development in the area;

Following the neighbour consultation on amended plans in August 2020, 1 further representation was received, raising objection for the following extra reasons (others were repeated from the first round of consultation):

- a) proposed buildings too tall for a road which leads down to 2-storey housing;
- b) height out of keeping with surrounding 2 and 3-storey developments;
- c) inappropriate to show Leamington House in context plans as too far from site and due for demolition;
- d) there is no agreement in place for development from existing freeholders and leaseholders; risk of piecemeal development;
- e) development of the site should be considered cohesively with that of Leamington and Horatia House;
- f) even with the basement car park, the level of parking is far too low;
- g) lack of green space;
- h) lack of affordable housing;
- i) development would be too high density.

## **COMMENT**

The main issues in the determination of this application are whether the proposed use of the site is acceptable in principle, whether the Scale of the building and number of flats are appropriate and whether the Access arrangements are acceptable.

Matters of detailed Layout, Appearance and Landscaping, would be dealt with in a subsequent Reserved Matters application(s) should Outline planning permission be granted.

### Principle of development

The National Planning Policy Framework (NPPF) states that decisions on planning applications should apply a presumption in favour of sustainable development (Paragraph 11). That presumption, however, does not apply where the project is likely to have a significant effect on a 'habitats site', unless an appropriate assessment has concluded otherwise (Paragraph 182). The NPPF states that the adopted plan policies are deemed to be out-of-date in situations where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. In that case, national policy states (Paragraph 11. d) that permission should be granted unless (i) the application of policies in this Framework that protect areas or assets of particular importance (including 'habitat sites', 'heritage assets' & areas at 'risk of flooding') provides a clear reason for restricting the overall scale, type or distribution of development in the plan area; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The starting point for the determination of this application is the fact that Authority does not have a five year housing land supply, and the proposed development would contribute towards meeting housing needs through a net gain of up to 163 dwellings. Planning permission should therefore be granted unless either test (i) or test (ii) above is met, or an appropriate assessment has concluded that the project would have a significant effect on a habitats site. The proposed development has been assessed on this basis and is still deemed to be acceptable in principle, the reasons for which are detailed within this report.

The site is located within the Somerstown Core Regeneration Area as defined by Policy PCS6 of the Portsmouth Plan. This policy seeks to regenerate the Somerstown and North Southsea areas of the city, with objectives including the redevelopment of existing housing stock and provision of additional dwellings, and the retention and consolidation of employment uses. The policy states that specific proposals for development would be guided by relevant Area Action Plans. For Somerstown, an Area Action Plan (AAP) was adopted in 2012 and the application site forms part of a site identified as 'Site 1', which incorporates Nos. 22 to 62 Middle Street. Policy SNS8 of the AAP allocates Site 1 for employment uses (Class B1) on the ground floor with residential accommodation (Class C3) above.

The proposal seeks permission for a development comprising a mix of commercial and residential use at ground floor level and residential use on the upper floors. Whilst detailed layout plans are not for consideration at this stage, the ground floor access plan indicates access to commercial units from Middle Street and access to some residential units from Earlsdon Street. It is noted that the buildings on the existing site have their main commercial frontages onto Middle Street, with the rear of the buildings and service areas fronting onto Earlsdon Street. The proposed development would therefore maintain the active commercial frontage onto Middle Street as per the existing situation.

In relation to the residential element of the scheme, the applicants have confirmed that this would be a form of 'Build to Rent' accommodation, which is defined by the NPPF as: *'Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising of either flats or houses, but should be on the same site and /or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professional managed stock in single ownership and management control.'* The applicants have provided an example Management Document, which sets out how the development would be managed on behalf of residents, through a concierge service and operations manager. This would include management of the individual apartments and communal areas.

The provision of residential development at ground floor level is not something that was envisaged within the Somerstown Area Action Plan. However, it is considered that the introduction of active residential frontages onto Earlsdon Street would create the opportunity to significantly enhance the streetscene, which is currently dominated by the rear elevations and service areas of the commercial units. The provision of a small amount of ground floor residential development fronting Earlsdon Street is also considered to respect the more residential character of development to the west of the site.

In terms of employment provision the indicative plans suggest that the proposed development could provide approximately 620m<sup>2</sup> of employment floorspace, extending along the Middle Street frontage. Existing buildings have a cumulative total of 2,556m<sup>2</sup> of non-residential floorspace over multiple floors. This includes a mixture of office use, warehousing and retail and incorporates ancillary storage space and staff facilities. It is therefore difficult to provide a direct comparison between employment floorspace from existing to proposed. However, the applicants have provided an analysis of existing and potential employment creation. Currently, there are approximately 32 employees within

the buildings on the site and it is estimated that the proposed units could employ up to 41 persons, therefore potentially creating an increase in employment. Whilst Policy SNS8 within the Somerstown Area Action Plan requires employment use on the ground floor, it does not prescribe the actual amount of provision that is required. The proposal to retain employment use along the Middle Street frontage is considered appropriate and the level of provision is considered proportionate to the size of the site and overall scheme.

The applicants have applied for a flexible use for the commercial units, specifically referencing shops, professional services, cafes/restaurants, offices and community uses. These uses would fall within the new Use Classes E(a),(b) and (c), B1 and F of the Town and Country Planning Use Classes Order (UCO), although the original designations are retained in the Development Description, which pre-dates the UCO changes. All of these uses are considered appropriate in principle for a mixed residential and commercial area. The proposed flexible use is also considered appropriate given changing market conditions and demand in light of the COVID-19 pandemic, and it is relevant to note that following the recent changes to the UCO many of the uses would fall within the new Use Class E meaning that the interchange between these uses would not require planning permission in any case. The flexible use would minimise the risk of the units remaining vacant and ensure that they contribute to the aim of enhancing employment provision in the area. However, in order to ensure the provision and retention of some non-retail and non-food/café employment, control would be needed over the land uses, exercised by a condition proposed at the end of this report.

The scale of the development meets the threshold set out in the Adopted Employment and Skills Plans SPD, for when an Employment and Skills Plan will be sought. This would be secured by condition and would ensure that that the developer works with the local community in securing local jobs and training opportunities during the construction process.

#### Viability and Affordable housing

Policy PCS19 of the Portsmouth Plan requires developments of 15 dwellings or more to provide 30% affordable housing (to comprise, where appropriate, 70% social rented and 30% intermediate products). For this scheme, the policy requirement based on 30% provision would be 49 units. However, the policy acknowledges that there are some circumstances where a development may be rendered unviable if the policy requirement for affordable housing is provided. In such cases, the applicant is required to provide robust evidence to justify any under provision, in the form of a Viability Appraisal.

Any affordable housing provided as part of a Build to Rent scheme would be expected to be in the form of Affordable Private Rent units, which would comprise units marketed for at least 20% below local market rent, in accordance with the definitions set out in the NPPF (2021).

A Viability Assessment has been submitted as part of this application process, which has taken account of factors including land value, development value, construction costs and fees. The Assessment concludes that the scheme cannot provide any affordable housing (in the form of Affordable Private Rent) and remain viable. An independent review of the applicant's Viability Assessment concurred that the scheme cannot support the delivery of on-site affordable housing and also provide for a reasonable return for the developer. Without affordable housing, the independent review established that the developer would achieve a profit of around 15% of gross development value (GDV). Whilst this is greater than the applicant's own assessment, which concluded there would be a profit of around 8% of GDV, it still only just meets the expected reasonable return for developers of 15 - 20%, as confirmed in the National Planning Practice Guidance (para.018). The provision of affordable housing is therefore considered to render the scheme unviable, and no affordable housing provision is proposed.

However, in the event of permission being granted, the matter could be addressed by a Review Mechanism in a legal agreement, so that should the scheme finances improve, monies could still be provided towards the provision of some affordable housing (likely to be in the form of off-site contribution). At the time of publication, the Review Mechanism has not yet been agreed by the Applicant. Given it is a standard provision in scenarios such as with this application's viability, the Applicant's agreement is expected to be received prior to your Committee meeting. If it is not received in time, the entire application Recommendation would likely need changing.

### Scale

Policy PCS23 of the Portsmouth Plan requires, amongst other matters, development to achieve an appropriate scale and density in relation to its context.

In relation to density, the scheme would provide 163 dwellings on a 0.23ha site, representing a density of around 708 dwellings per hectare (dph). Policy PCS21 of the Portsmouth Plan identifies the Somerstown and North Southsea area of the city to be suitable for more intensive development of at least 100dph. The provision of a high density development in the proposed location is considered to be acceptable in principle, given the proximity to the employment, retail, services and leisure available in the city centre and Southsea, and excellent public transport.

The site lies just outside of the area identified under Policy PCS24 of the Portsmouth Plan as opportunity area for tall buildings, which extends just south of Winston Churchill Avenue. However, there is a wide variety of building heights in the immediate area, ranging from two storey dwellings to blocks of flats and student halls over 10 storeys high. The adjacent property to the north (No.22 Middle Street), is an eight storey student hall of residence, and to the north of this is a sixteen storey student hall of residence (Trafalgar Hall). In addition, to the west of the site is the now vacant residential tower block known as Leamington House, which is 18 storeys high (although this is due to be demolished).

The Somerstown Area Action Plan (AAP) identifies the application site (along with the adjacent site to the south, 62 Middle Street, cumulatively known as Site 1), for development of between 4 and 8 storeys. The proposal is for a development ranging between 6 and 11 storeys and is therefore taller than envisaged within the AAP. However, given the range of building heights that already exists in the area, the proposal for a building of up to 11 storeys is considered to be acceptable and in keeping with the character of the area.

Furthermore, the proposal to create a building formed of five linked blocks of varying heights, with lower heights on the southern side, would ensure that the development 'tapers down' to the smaller scale development to the south. The proposed variations in the heights of the blocks was also a direct response to Design Review Panel comments provided at pre-application stage, to break up the overall visual mass of the development.

Whilst detailed design is not for consideration as part of this application, the submission is accompanied by a number of indicative images including visuals showing how the elevations of the development could be treated, along with visuals of the development in context. From a review of these indicative images, it is considered that an appropriate design of development could be achieved within the parameters of scale proposed through this outline application.

Scale - amenity impact:

Policy PCS23 seeks to ensure that the living environment of existing, and surrounding residents are not adversely affected through new development. This therefore forms part of the consideration of scale.

To the north of the site is an 8-storey student hall of residence. This building has a blank, windowless façade to its southern side. The position of the proposed building adjacent to the southern elevation would therefore not result in any adverse impact on the residents of that student block in terms of loss of outlook, light or privacy.

To the south of the site, the new development would lie adjacent to an existing 2-storey building in use by the PDSA. This building currently adjoins the neighbouring commercial unit (stained glass business) and therefore has no windows on its northern elevation. The proposed development would therefore not impact on the occupiers of the building to the south in terms of outlook, light or privacy.

There are some windows on the north and east elevation of the student accommodation block at No.61 Earlsdon Street to the south-west of the site. The windows on the east elevation serve stairwells and hallways, and those on the north elevation serve bedrooms. It is noted that light and outlook to all of these windows is already somewhat restricted due to their orientation and the presence of existing adjacent buildings. The main impact to consider in relation to No.61 is the impact on the north facing bedroom windows. The proposed development would be significantly taller than existing buildings, but given its orientation to the north / north-east of No.61, it would not impact upon sunlight to the windows. In terms of outlook, it is recognised that the outlook from these windows would change, with a substantially taller building to the north. However, a distance of approximately 11.5m would remain between the proposed building and these bedroom windows and it is not considered that the impact on outlook to these windows alone would be significant enough to warrant refusal of the application. Any potential privacy impact from any new windows proposed for the southern elevation of the new building would be dealt with at Reserved Matters stage as part of the consideration of layout and design.

To the west of the site is a development of 4-storey flats, set back from Earlsdon Street. There would be a minimum distance of approximately 21.5m between the western elevation of the new building and the eastern elevation of these adjacent flats. The applicants have prepared a shadow analysis as part of the Design and Access Statement, which concludes that in the summer, there would be some increased overshadowing of the residential properties in Earlsdon Street during morning hours, but no impact from midday onwards. During winter months due to the lower level of the sun, the shading to the residential properties on Earlsdon Street would not be significantly greater than that from the existing buildings. Overall, whilst there would be some degree of increased overshadowing of properties on the west side of Earlsdon Street, the impact is not considered to be significantly harmful to the amenity of the occupiers. In addition, given the separation distance between buildings, it is not considered that the occupiers of these nearby properties would be significantly impacted by loss of privacy or outlook.

This application has been submitted by the same applicant as for the proposed student block with commercial floorspace at no. 62 Middle Street. Consequently the two developments were designed together and this current application for 163 flats would not adversely impact on the amenities of the future proposed occupiers of no. 62, and vice-versa.

The Council's Environmental Health Officer has noted the need to ensure the protection of the amenities of future residents of the development from potential noise and disturbance from plant and equipment associated with the commercial uses. There is also the potential for residents to be impacted by road noise. These matters can be addressed by condition requiring appropriate noise surveys and mitigation measures to

be agreed. Lastly, a tall building may affect wind conditions/micro-climate especially at street level. A condition is attached to address the matter.

### Access, including parking

#### Access:

Vehicle access to the proposed parking spaces would be from Earlsdon Street. The Highway Engineer is satisfied that the proposed access arrangements from this street, to the surface parking spaces and the basement, would be acceptable.

Pedestrian access to the commercial units would be solely from Middle Street and this is considered appropriate to maintain an active commercial frontage onto this main street. Pedestrian access to the residential flats on the upper floors would also be from Middle Street, with separate access to the 6 units on the west side of the site from Earlsdon Street. There are no specific concerns regarding these access arrangements. It is noted that the Crime Prevention Design Officer has raised concerns about internal access arrangements but these matters, along with details of entrance layouts and security measures, would be dealt with through a subsequent Reserved Matters application. Details of servicing management for the commercial units can be secured by condition.

#### Parking:

The application site forms part of a larger site known as Site 1 as identified within the Somerstown and North Southsea Area Action Plan, to provide a development of around 179 dwellings with B1 employment use on the ground floor. In the Area Action Plan it was envisaged that parking for the development would be provided to the rear of the site, with access from Melbourne Place and Wiltshire Street / Earlsdon Street. The Area Action Plan envisaged a comprehensive development of the whole of Site 1, but this has not occurred. Instead, Site 1 has been developed in a piecemeal way, with two student hall developments permitted and constructed on the northern and southern sides of the site (No.22 Middle Street and No.61 Earlsdon Street). Both of these developments have essentially reduced the land available within Site 1 for parking and has prevented any possibility of providing vehicle access to the current application site from Melbourne Place.

Based on the size of dwellings shown on the indicative plans, the development would require 186 parking spaces in accordance with the Council's Adopted Parking Standards. The proposed scheme would provide up to 54 spaces, which represents a substantial shortfall of 132 spaces and the Council's Highway Engineer has raised concerns about the amenity impact of this parking shortfall. The scheme also includes provision for cycle storage with 209 spaces indicatively shown, plus additional visitor provision, which would meet the SPD standard. The applicants also intend to provide electric vehicle charging points to encourage the uptake of electric vehicles. The applicants suggest 20% active provision (with charging facilities in place), and 20% passive provision (where wires would be included to provide charging facilities in future). No parking is proposed for the commercial units.

There is limited free on-street parking in the surrounding area, with the streets immediately surrounding the site falling within a Residential Parking Zone (North Southsea), limiting visitors and non-permit holders to 3 hour stays. There is pay and display parking available in and around the city centre. Where a reduction in parking against the Adopted standards is proposed, the onus is on the applicant to make a case for the amount being provided. The submitted Transport Statement provides details about the accessibility of the site, parking capacity and likely parking demand from the development.

In terms of accessibility, some of the facilities located within 800m of the site, which is recognised as a reasonable walking distance, include:

- Local shops/services including 2 convenience stores;
- Shops and services within the city centre, approx. 650m to southern end of the main shopping street;
- Bus stops located between 135m and 220m away on Winston Churchill Avenue. Bus services include those linking to The Hard, Southsea, Hover Terminal and Cosham, with some services running at 10 minute intervals on weekdays.
- Portsmouth and Southsea Station approx. 530m away.

The Transport Statement also includes a parking survey. This found that there was some capacity for parking on surrounding streets overnight (up to 61 spaces). However, the Council's Highway Engineer has questioned the methodology used for the parking surveys and considers the findings to be an overestimate. In any case, the parking survey does not show sufficient on-street parking capacity to make up for the shortfall in provision on-site.

An additional point raised in the applicant's case is the likely level of car ownership. The applicant's Transport Consultants have considered census data regarding car ownership within flatted developments (particularly rented flats), and have concluded that the levels of car ownership are likely to be lower than for other development such as owner occupied housing.

In addition, the applicants have noted that information on sustainable transport options would be provided to residents as part of the management package for the development. The applicants have also made reference to the possibility of linking to an existing car club within the city. The provisions for encouraging alternative means of transport to the private car could be agreed through a Travel Plan, the provision, implementation and monitoring of which could be secured via S106 Agreement.

In reaching a determination on the acceptability of this application, a balance needs to be made between the potential highway impacts, having regard to the location of the development, and the benefits of the development in terms of contributing towards housing need. The NPPF paragraph 11 states that permission should be granted for development unless either of its two tests are met. In this case the scheme would provide 163 residential dwellings making a significant contribution towards the city's housing need. The site is also located in a highly accessible location, close to the city centre with its variety of shops, services and community facilities, and public transport links including buses and trains. It is also worth noting that to provide a level of parking closer to the Council's Adopted parking standards would require a substantial change to the scheme, to either significantly reduce the number of dwellings (thereby reducing the amount of required parking), or to provide more parking at ground floor level, which would be likely to result in the loss of all or part of the proposed employment units, and a less attractive and interactive development. Neither of these scenarios is considered desirable given the need for housing within the city and the desire to retain employment uses in this part of Somerstown.

In conclusion, the Local Highways Authority has not objected, and it is considered that any potential harm arising from a lack of on-site parking provision is outweighed by the provision of much needed housing in an accessible and sustainable location.

## **Other matters**

### Space standards

Although full details of the internal layout would be dealt with as a reserved matter, indicative plans have been provided to show how 163 flats could be accommodated within the building. Based on these plans a mix of 1, 2 and 3 bed flats could be accommodated and would be able to meet nationally described space standards. The indicative plans show proposals for roof gardens and landscaping.

### Public open space

Policy PCS13 of the Portsmouth Plan requires that all developments providing 50 dwellings or more must provide on-site pocket parks to a standard of 1.5ha per 1,000 population. Whilst this would normally be expected, the LPA accepts that this is not always feasible or practical on all city centre sites given their limited size and the need to accommodate commercial and ancillary facilities at ground floor level.

In this case, there are a number of public open spaces and facilities near to the site. The nearest children's play area is at Dunsmore Close approximately 150m away to the east, and Victoria Park (a large public park with play facilities, café etc), lies approximately 500m to the north. The University's Ravelin Park, which is accessible to the public, lies approximately 350m to the west and the site is within 1km of Southsea Common. Given the constrained size and shape of the site, it would be extremely difficult to provide any public open space without prejudicing its overall development potential.

The Council would normally seek to secure a financial contribution towards off-site improvements to public open space as an alternative. The Viability Assessment suggests there may not be the potential to secure further financial contributions and maintain a viable scheme. However, given the Applicant was prepared to pursue a scheme at 8% profit, and the Independent assessor shows the scheme to have 15% profit, the Local Planning Authority (LPA) considers that there is ability to find some monies for open space provision, probably in the form of improvements to an existing area nearby. Given there is no more time to address this point before submission of the LPA's Appeal Statement, it is requested that the Planning Inspectorate consider the matter further instead, prior to determination. The LPA would attempt to address the matter in the meantime and communicate any progress to the Inspectorate. At the time of publication, the principle of Public Open Space provision has not yet been agreed by the Applicant. If agreement is not received in time for your Committee meeting, the application Recommendation may need changing.

### Other matters raised in representations

Within the representations, concern has been raised about the potential for piecemeal development, if not all of the existing units on the site were made available for redevelopment. The scheme as submitted would involve the demolition of all of the existing business units and has been assessed on that basis. If there was any future change affecting the land available for development, this current proposal could not be built and a new scheme would need to be considered and would be subject to a separate planning application. Specific matters relating to land ownership, lease or sale agreements are outside of the control of the planning system and are not a material planning consideration.

Reference to loss of a cherry tree relates to the adjacent site to the south (No.62 Middle Street), where a tree was removed prior to submission of an application for student accommodation. This tree was not protected and the Local Planning Authority had no control over its removal.

In addition, it is noted the Housing Team has raised some concerns about the layout of some of the flats shown on the indicative plans in terms of the layout of kitchens and fire

safety. These matters would be addressed through reserved matters submissions and fire safety is a matter dealt with by Building Regulations.

### Ecology

The application is supported by a Preliminary Ecological Appraisal and Bat Assessment report. The report notes that the site comprises of hardstanding and buildings and concludes that it is of negligible ecological value and unlikely to support any protected species such as reptiles and dormice. A survey of the existing buildings also gave no indication of the presence of bats.

The development offers the potential to enhance the ecological value of the site and provide a net gain in biodiversity. Recommendations outlined within the submitted report include the provision of trees and planting along site boundaries, potential for green walls and roofs, and installation of bird nest boxes. Full details of biodiversity enhancements can be requested by condition.

### Drainage

The site does not lie within an area at risk of flooding. However, the Council's Drainage Engineer has requested that a detailed drainage strategy be provided to demonstrate how surface water run-off and ground water will be managed / mitigated, which can be secured by condition.

### Land contamination

A Desk Top Study has been submitted with the application which determines that there is the potential for contamination to exist on the site. It is also considered that the existing buildings have the potential for asbestos to be present. The Council's Contaminated Land Officer has raised no objection to the scheme subject to conditions ensuring that further investigations are carried out and appropriate mitigation measures agreed.

### Impact on the Solent Special Protection Area

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

It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast, due to increased recreational pressure as well as an increase in nitrogen and phosphorus input into the Solent causing eutrophication.

SPA recreation mitigation calculation:

In relation to recreational pressure, the Solent Recreation Mitigation Strategy (Bird Aware), which came into effect on 1 April 2018, sets out how development schemes can provide a contribution towards a Solent Wide mitigation scheme to remove this effect and enable the development to go forward in compliance with the Habitats Regulations. The mitigation contribution depends on the size of the proposed dwellings and as this is an Outline scheme with matters of Layout reserved, it would not be possible to calculate and confirm the exact level of financial contribution required at this stage. Based on the

indicative scheme, which would likely be the resultant successful scheme or close to it, the Bird Aware mitigation sum would be in the region of £67,000, calculated as follows:

- Studio/1-bed flats x 117 = £361 x 117= £42,237
- 2-bed flats x 40 = £522 x 40 = £20,880
- 3-bed flats x 6 = £681 x 6 = £4,086
- Total = £67,203

A requirement to provide a financial contribution to mitigate the impact would be secured by a legal agreement.

Nitrates:

Natural England has provided guidance advising that increased residential development is resulting in higher levels of nitrogen and phosphorus input to the water environment in the Solent, with evidence that these nutrients are causing eutrophication at internationally designated sites. A sub-regional strategy for the nitrates problem is being developed by the Partnership for South Hampshire, Natural England and various partners and interested partners. However, in the meantime, to minimise delays in approving housing schemes and to avoid the damaging effects on housing supply and the construction industry, Portsmouth City Council has developed its own Interim Strategy, which has been agreed with Natural England.

The Council's Interim Nutrient-Neutral Mitigation Strategy expects Applicants to explore their own Mitigation solutions first. These solutions could be Option 1: 'off-setting' against the existing land use, or extant permission, or other land controlled by the Applicant. Or it could be Option 2: mitigation measures such as Sustainable Urban Drainage Systems (SUDS), interception, or wetland creation. If, however, the Applicant sets out to the Council that they have explored these options but are unable to provide mitigation by way of these, they may then request the purchase of 'credits' from the Council's Mitigation Credit Bank. These credits are accrued by the Council's continuous programme of installation of water efficiencies into its own housing stock, and making these credits available to new development, subject to availability.

At this point in time, the Council has calculated the likely availability of nitrate credits for upcoming developments, taking account of likely implementation timeframes. This has determined that by the time this scheme is likely to be implemented (in at the very least approx. 12 to 18 months time given the Appeal and the requirement for Reserved Matters submissions should the appeal be successful), there is currently no guarantee of credits being available. However, the Council is in the process of considering other mitigation options that would increase the availability of credits in the longer term. In the meantime the applicants have been encouraged to explore other options for mitigation.

The LPA is aware of a number of third party mitigation strategies that would be available for the applicants to utilise, an example of which is the Nutrient Reduction Programme provided by the Hampshire and Isle of Wight Wildlife Trust. Provided that the applicant can secure third party mitigation, the development will satisfactorily off-set the nitrate impact on the Solent SPA. Subject to securing this mitigation by way of a planning condition, it can be concluded that there will be no adverse effect on the integrity of the designated sites through deterioration of the water environment. It is understood that the Applicant has advanced its discussions for the securing of the requisite mitigation with a third party, and approval of the application would be lawful with respect to the Habitats Regulations.

The LPA has not submitted an Appropriate Assessment to Natural England at this stage on the basis that the Planning Inspectorate is now the 'Appropriate Authority'. However, the LPA is satisfied that the matter can be properly addressed.

There is also a question as to the impact of the nitrate mitigation on development viability. The applicants did not appear to factor the nitrate mitigation requirement into their second Viability Appraisal. In the document they have noted that had credits been secured under the Council's Nitrate Strategy, this would have required a payment of £709,729.71 (163 x £4,354.17), which would have a material adverse impact on the viability of the scheme. Whilst the options of dealing with nitrate mitigation externally will be cheaper (more likely to be in the region of £2,500 per dwelling), an assessment has not been provided to demonstrate the impact on this on the viability of the scheme. This is a matter that will need to be considered as part of the appeal.

### Community Infrastructure Levy

For new residential development the relevant CIL charge for 2021 (taking into account indexation) is £156.79 per square metre. The proposed scheme would be CIL liable, with any funds used to pay for a range of infrastructure, including a proportion towards infrastructure within the application site ward.

### Conclusion

The proposal to provide 163 new dwellings and new employment floorspace would contribute positively towards the housing and employment needs of the city, and would accord with the aims of the Somerstown and North Southsea Area Action Plan.

The development is considered to be acceptable in terms of its Scale in relation to surrounding development, and the Access arrangements are acceptable. Whilst the development would not provide sufficient parking to meet the requirements of the Council's Adopted Parking Standards, account has been given to the sustainable and accessible location of the site including proximity to the city centre and public transport links. The potential impacts resulting from a shortfall in parking are not considered to demonstrably outweigh the benefits of the scheme. The application would not provide on-site public open space in accordance with Policy PCS13, but the LPA wishes to secure off-site improvements to existing open space, by way of financial contribution secured in a legal agreement.

The development has the potential to impact upon the Solent Special Protection Areas through increased recreational impact and increased nitrate release, but appropriate mitigation can be secured through a legal agreement and condition, ensuring that test (i) of Paragraph 11 of the NPPF would be met. With regard to test (ii) of Paragraph 11 of the NPPF, taking account of the assessment outlined within this report, it is concluded that there would be no adverse impacts of granting the development that would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. The scheme is considered to constitute Sustainable Development and is therefore recommended for conditional planning permission.

## **RECOMMENDATION                      Conditional Outline Permission**

**RECOMMENDATION I** - That had there been no Appeal against Non-Determination, and subject to the Applicant's agreement to the suggested Heads of Terms below, the Local Planning Authority would have granted delegated authority to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory completion of a Legal Agreement to secure the following:

- SPA recreational impact mitigation;
- SPA Nitrates mitigation;
- Public Open Space;

- Viability Review Mechanism;
- Implementation and monitoring of a Travel Plan;
- S106 Administration fee of £620 per obligation.

[ if any element is found to be not required or compliant with the tests for planning obligations, an equivalent amount may be offered towards the affordable housing contribution instead ]

**RECOMMENDATION II** - That had there been no Appeal against Non-Determination, the Local Planning Authority would have granted delegated authority to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary, and;

**RECOMMENDATION III** - That had there been no Appeal against Non-Determination, the Local Planning Authority would have granted delegated authority to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

## **Conditions**

### **Outline implementation**

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

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

### **Reserved matters**

2. Approval of the details of the following matters (hereinafter called "the Reserved Matters"), shall be obtained from the Local Planning Authority in writing before any development is commenced:

- The design and external Appearance of the development, to include details and samples of type, colour and texture of all external materials;
- The Layout of the development, to include: the size and internal layout of all residential and commercial units; the layout of all external communal spaces and amenity areas; cycle and refuse storage layout; and car parking layout (basement and ground level);
- The Landscaping of the site, to include species, size, density/numbers of planting, phasing of planting and provision for future maintenance.

Reason: In order to secure a satisfactory form of development, in accordance with Policies PCS13 and PCS23 of the Portsmouth Plan (2012).

### **Approved plans**

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

- 0001 - Existing Site Location Plan
- 1000 - Proposed Site Location Plan
- 4020 - Proposed Elevation North - Outline
- 4021 - Proposed Elevation East - Outline
- 4022 - Proposed Elevation South - Outline
- 4023 - Proposed Elevation West - Outline
- 2020 - Proposed Ground Floor Plan - Outline
- 2019 - Proposed Basement Plan

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

### **Building parameters**

4. The height and footprint of the building hereby permitted shall not exceed the parameters as shown on the approved outline plans ref. 4020, 4021, 4022 and 4023.

Reason: To achieve an appropriate scale of development in relation to its surroundings, in accordance with Policy PCS23 of the Portsmouth Plan (2012).

### **Contaminated land (pre-demolition)**

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

- a) The developer must pre-screen the building for asbestos and confirm that asbestos is not present. Where one exists, the building's asbestos register must be obtained and unless asbestos is known to not be present an intrusive asbestos refurbishment and demolition survey conducted in accordance with HSG264. The mitigation scheme to control risks to future occupiers must be verified. The scheme must be written by a suitably qualified person and shall be submitted to and approved by the LPA prior to demolition.
- b) A desk study (undertaken following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice') documenting all the previous and current land uses of the building(s), land, and wider area. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages (including consideration of asbestos), including proposals for site investigation if required with the sampling rationale for all proposed sample locations and depths being shown in the conceptual model (Phase 1 report).

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 in accordance with Saved Policy DC21 of the Portsmouth City Local Plan (2006).

### **Contaminated land (pre-construction)**

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

- a) *A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs)'). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation (Phase 2 report).*
- b) A remediation method statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, including proposals for future maintenance and monitoring, as necessary (Phase 3 report). If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in BS8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and have consideration of CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. The remedial options appraisal shall have due consideration of sustainability as detailed in ISO 18504:2017 Soil quality — Sustainable remediation. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy DC21 of the Portsmouth City Local Plan (2006).

#### **Contaminated land (pre-occupation)**

7. 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 6b above. The report shall demonstrate that the remedial scheme has been implemented fully in accordance with the remediation method statement. For the verification of gas protection schemes the applicant should follow the agreed validation plan. Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions 6b.

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 in accordance with Saved Policy DC21 of the Portsmouth City Local Plan (2006).

#### **Drainage scheme**

8. No development shall commence on site until a detailed scheme for foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved drainage scheme.

Reason: To ensure that the development would not increase flood risk to the site or surrounding area, in accordance with Policy PCS12 of the Portsmouth Plan (2012).

#### **Construction Environmental Management Plan**

9. (a) Unless otherwise agreed in writing with the Local Planning Authority, no works pursuant to this permission (including demolition) shall commence until a Construction Environmental Management Plan (CEMP), to cover both demolition and construction phases, has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not limited to details of: development site compound and hoarding; method of demolition; cleaning of the wheels and bodies of vehicles leaving the site; construction vehicle routing; site access management; working hours & times of deliveries; loading/offloading areas; storage of materials; site office facilities; contractor parking areas; method statement for control of noise, dust and emissions from demolition/construction work; and  
(b) The development shall be carried out in accordance with the CEMP approved pursuant to part (a) of this condition and shall continue for as long as demolition and construction works are taking place at the site, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To minimise the potential for conflict with users of the surrounding highway network and to protect the amenity of nearby occupiers in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan (2012).

#### **Wind mitigation**

10. (a) Unless otherwise agreed in writing with the Local Planning Authority, no works pursuant to this permission shall commence until a scheme produced and/or assessed by a suitably competent person for mitigating the impacts of downdraughting, wind flow and wind channelling between the proposed and neighbouring developments shall be submitted to and approved in writing by the Local Planning Authority;  
(b) No part of the development shall be occupied/brought into use until all of the wind mitigation measures have been provided in accordance with the scheme approved pursuant to part (a) of this condition; and

(c) The wind mitigation measures shall thereafter be permanently retained in accordance with the scheme approved pursuant to part (a) of this condition unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure suitable wind conditions are achieved within adjoining thoroughfares and entrances to the development in the interests of public amenity and safety in accordance with Policies PCS23 and PCS24 of the Portsmouth Plan.

### **Road noise insulation**

11. a) No works pursuant to this permission shall take place until a scheme for insulating habitable rooms against road traffic noise has been submitted and approved in writing by the Local Planning Authority. The scheme shall be designed to ensure that the following acoustic criteria will be achieved in all habitable rooms:

- Daytime LAeq(16hr) (07:00 to 23:00) 35dB
- Night-time LAeq(8hr) (23:00 to 07:00) 45dB

b) The approved scheme shall be implemented before first occupation of the building and thereafter retained.

Reason: To protect the amenities of future residents, in accordance with Policy PCS23 of the Portsmouth Plan (2012).

### **Plant and equipment noise**

12. Prior to the installation of any fixed plant or equipment, an assessment of noise from the operation of the plant and equipment shall be undertaken using the procedures within British Standard BS4142:2014, and a report shall be submitted to and approved in writing the Local Planning Authority to demonstrate that the proposed noise emissions criteria set out in Table 4.1 of the submitted Noise Impact Assessment (ref. 18117.PPCR.01, KP Acoustics Ltd, 2018) will be achieved.

Reason: To protect the amenities of future residents, in accordance with Policy PCS23 of the Portsmouth Plan (2012).

### **Transmission noise**

13. Prior to construction of the roofs and walls of any of the commercial units for restaurant purposes, a scheme of sound insulation measures designed to reduce the transmission of airborne sound across the separating floor between the ground floor and first floor residential dwellings, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the separating floor can achieve a minimum standard of Dntw+Ctr 60dB and that the Reverberation Time as measured within the trading area shall not exceed 0.8 seconds. The scheme shall thereafter be implemented in accordance with the approved details.

Reason: To protect the amenities of future residents, in accordance with Policy PCS23 of the Portsmouth Plan (2012).

### **Servicing plan**

14. (a) Unless otherwise agreed in writing with the Local Planning Authority, prior to first occupation/use of any part of the development hereby permitted a Delivery and Servicing Strategy (including refuse and recyclable materials management) shall be submitted to the Local Planning Authority for approval in writing; and

(b) The development shall thereafter be operated in full accordance with the Delivery and Servicing Strategy approved pursuant to part (a) of this condition.

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

### **Opening hours**

15. Unless otherwise agreed in writing by the Local Planning Authority, the commercial units hereby approved shall be closed to and vacated by the public between the hours of 7pm and 7am daily.

Reason: To protect the amenity of future residents and existing residents of the surrounding area, in accordance with Policy PCS23 of the Portsmouth Plan (2012).

### **Parking provision**

16. The vehicle parking spaces shall be provided in accordance with the details approved under Condition 2 prior to occupation of the development, and shall thereafter be retained for the parking of vehicles only.

Reason: To ensure satisfactory vehicle parking provision in the interest of amenity, in accordance with Policy PCS17 of the Portsmouth Plan (2012).

### **Sustainable construction**

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

- a) achieved a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in The Building Regulations for England Approved Document L1A: Conservation of Fuel and Power in New Dwellings (2013 Edition). Such evidence shall be in the form of an As Built Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and
- b) Achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

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

### **Landscape implementation**

18. (a) The landscaping of the site shall be carried out in accordance with the details approved under Condition 2 in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner;

(b) Any trees or plants which, within a period of 5 years from the date of Practical Completion of the landscaping scheme, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interest of visual amenity, in accordance with Policies PCS13 and PCS23 of the Portsmouth Plan (2012).

### **Biodiversity enhancements**

19. (a) No development above foundation/slab level shall take place at the site until a scheme for proposed biodiversity enhancements and their timing, to achieve a net gain in biodiversity, as per recommendations set out within Part 4, General Site Enhancements, of the Preliminary Ecological Appraisal and Internal and external Bat Assessment (The Ecology Partnership, November 2018), shall have been submitted to and approved in writing by the Local Planning Authority;

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

Reason: To achieve a net gain in biodiversity in accordance with Policy PCS13 of the Portsmouth Plan (2012).

### **Employment and Skills Plan**

20. No development shall commence on site until an Employment and Skills Plan has been submitted to and approved in writing by the Local Planning Authority, to include arrangements for working with local employment and/or training agencies and provisions for training opportunities and initiatives for the workforce employed in the construction of the development. The Employment and Skills Plan shall thereafter be implemented in accordance with the approved details.

Reason: To enhance employment and training opportunities for local residents in accordance with Policy PCS16 of the Portsmouth Plan (2012) and the Achieving Employment and Skills Plans Supplementary Planning Document (2013).

### **Commercial use restriction**

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any other enactment modifying or revoking that Order with or without modification, the ground floor level commercial units hereby approved shall be used for purposes falling within Class E(a), E(b), E(c), E(e), E(g) or F1 of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose whatsoever, including any other purpose falling within Use Class E or F, without the express permission of the Local Planning Authority obtained through the submission of a planning application. No more than 170 sqm of the ground floor 'Commercial/Office' space shall be used for Retail or Café/Restaurant purposes (Classes E(a) and E(b)).

Reason: To offer flexibility but also allow the Local Planning Authority to consider the implications of alternative uses having regard to the wide range of uses/activities within Classes E and F; the potentially more intensive pattern of activity, parking, servicing and noise; the potential impact on the amenity of the occupiers of adjoining dwellings, including immediately above, and the surrounding highway network; and the need for further mitigation measures. Also, in order to retain a majority of the non-residential ground floorspace in 'Commercial-Employment' uses. In accordance with the aims and objectives of the National Planning Policy Framework, Policies PCS6, PCS17 and PCS23 of the Portsmouth Plan (2012), and Policy SNS8 of the Somerstown and North Southsea Area Action Plan.

### **Nitrate mitigation**

22. No development works other than those of demolition and construction of the buildings' foundations, shall take place until a scheme for the mitigation of the effects of the development on the Solent Special Protection Area arising from the discharge of nitrogen and phosphorus through waste water, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for the delivery of nutrient neutrality in accordance with the published mitigation strategies of the Council. In the event that the proposal is for the physical provision of mitigation to achieve nutrient neutrality, that provision shall be provided in accordance with the approved scheme before the first residential unit is occupied.

Reason: To ensure that the development, either on its own or in combination with other plans or projects, would not have an adverse effect on the integrity of a European site within the Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981.

### **Electric Vehicle Charging**

23. The development hereby permitted shall incorporate electric vehicle charging with at least 20% active provision and 20% passive provision, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of encouraging more sustainable forms of transport, in accordance with Policy PCS17 of the Portsmouth Plan (2012).

**QUEEN ALEXANDRA HOSPITAL SOUTHWICK HILL ROAD PORTSMOUTH PO6 3LY****APPLICATION TO REMOVE CONDITION 14 OF PLANNING PERMISSION 21/00232/FUL (AMENDED UNDER 21/00687/NMA) IN RELATION TO BOUNDARY PLANTING**

Weblink: [21/01150/VOC | Application to remove condition 14 of planning permission 21/00232/FUL \(amended under 21/00687/NMA\) in relation to boundary planting | Queen Alexandra Hospital Southwick Hill Road Portsmouth PO6 3LY](#)

**Application Submitted By:**

Brian Kavanagh  
Nicholas Taylor + Associates

**On behalf of:**

Portsmouth Hospitals University NHS Trust

**RDD:** 2nd August 2021

**LDD:** 28th September 2021

**SUMMARY OF MAIN ISSUES**

This application is included on the Agenda as the Condition to which the application relates was imposed at the request of members at the planning committee held on 30 March 2021.

The determining issue is whether it is reasonable to allow removal of Condition 14 having regard to the reason for its inclusion, which related to the amenity of neighbouring residents.

**Site and proposal**

Planning permission was granted for a new multi-storey car park on the north side of the North Car Park at QA Hospital on 1st April 2021 (ref. 21/00232/FUL). Condition No.14 of the planning permission required a scheme for enhanced boundary planting to take place along the western boundary. The condition was worded as follows:

- a) No construction works above the foundation / slab level shall take place until a scheme for enhanced boundary planting along the western boundary of Harvey Road, to include plant species, sizes and numbers, planting pit and preparation details, and maintenance plans, has been submitted to and approved in writing by the Local Planning Authority;
- b) The planting scheme shall be carried out in accordance with the approved details in the first planting season following first use of the car park or the completion of the development, whichever is the sooner;
- (c) Any trees or plants which, within a period of 5 years from the date of Practical Completion of the landscaping scheme, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To enhance landscaping and protect the amenity of neighbouring residents in accordance with Policies PCS13 and PCS23 of the Portsmouth Plan.

This application seeks permission to remove Condition 14 on the basis that further survey work has determined it is not possible to provide enhanced planting along the western boundary.

### Planning history

21/00232/FUL - Construction of four level multi-storey car park with elevated link bridge and associated landscaping - Conditional permission 1 April 2021

21/00687/NMA - non-material amendment to planning permission 21/00232/FUL, to seek approval of amended plans relating to link bridge, landscaping and parking layout - Approved 26 May 2021

## **POLICY CONTEXT**

Portsmouth Plan (2012):

- PCS13 (A Greener Portsmouth)
- PCS23 (Design and Conservation)

## **CONSULTATIONS**

### Landscape Group

No objection. The applicants have adequately demonstrated why planting cannot be achieved.

## **REPRESENTATIONS**

One representation received, objecting on the following grounds:

- a) Purpose of the condition was to minimise loss of light and privacy to adjacent residents; application may not have been approved without it;
- b) Why was tree planting included in the original application if not feasible?

## **COMMENT**

### Justification for removal of Condition 14

The western boundary of the application site for the new multi-storey car park adjoins the rear gardens of residential dwellings in Boston Road and Peterborough Road. Condition 14 was imposed at the planning committee in March 2021 in order to provide enhanced landscaping along the boundary to protect the amenities of the neighbouring residents.

Following the grant of permission, some options for additional tree planting along the western boundary were discussed with the Council's Landscape Architect. However, it was subsequently determined through additional survey work that there were electrical services running beneath the ground in the proposed locations of the trees, severely restricting the available space for planting. These services are at depths of between 350mm and 550mm and comprise high voltage cables (HVAC). Any works to move the cables would be significant and unlikely to be agreed due to the impact on electricity supply to the hospital.

The main issues relating to the potential for tree planting have been summarised as follows:

- the zone between the boundary fence line and the electric service route is limited, between 0.75m and 2m wide;

- there would be a need for a no-dig buffer of at least 0.5m from the service ducting, further reducing space available for planting pits;
- there would also be a need for spacing away from the fence line, of at least 0.7m, to allow for future growth of the roots without impacting on the boundary fence;
- any tree planting within the root protection areas of existing trees could affect their health;
- even with constrained root areas, it would not be possible to avoid the services.

The applicants also considered alternative options for hedge planting instead of tree planting. However, this would encounter similar problems with conflicts with roots as with the trees, and it is unlikely that hedging would provide any significant additional screening beyond the height of the boundary fence.

### Conclusion

Whilst the provision of enhanced tree planting along the western boundary would be desirable to provide further protection to the amenities of neighbouring residents, it is considered that the applicants have provided sufficient justification to explain why the planting cannot be achieved. It is therefore not possible for the requirements of Condition 14 to be met. Paragraph 56 of the National Planning Policy Framework (NPPF) 2021, makes it clear that conditions on planning applications should be kept to a minimum and must be:

- necessary;
- relevant to planning;
- relevant to the development permitted;
- enforceable;
- precise; and
- reasonable in all other respects

Whilst Condition 14 was considered to meet these tests at the time it was imposed, in light of the subsequent information provided by the applicants, it is considered that this condition is no longer reasonable or enforceable. It is therefore appropriate to allow its removal.

## **RECOMMENDATION Approve**

### **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:

- J1708-STRIPE-XX-XX-M3-AX-00001 Version P06 - Site Location Plan
- J1708-STRIPE-XX-00-DR-AX-90002 Version P04 - Proposed Site Plan / Level 0 Plan
- J1708-STRIPE-XX-01-DR-A-30001 Version P03 - Level 01
- J1708-STRIPE-XX-01-DR-A-30002 Version P03 - Level 02
- J1708-STRIPE-XX-01-DR-A-30003 Version P03 - Level 03
- J1708-STRIPE-XX-01-DR-AX-30501 Version P06 - Proposed elevations 1 of 2
- J1708-STRIPE-XX-01-DR-AX-30502 Version P04 - Proposed elevations 2 of 2
- J1708-STRIPE-XX-01-DR-AX-30602 Version P02 - Proposed Sections 1 & 2

- J1708-STRIFE-XX-XX-M3-AX-00001 - Soft Landscape Plan
- Arbtech TPP 01 - Tree Protection Plan

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

- 3) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority or within such extended period as may be agreed with the Local Planning Authority:
- a) A detailed Contamination Method Statement, undertaken following the risk assessment approach in BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice'. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages and locations of likely contamination as identified in historical reports. The report shall detail how these areas will be delineated during works and remediated by source-removal, or other appropriate technique, to avoid residual risk from contaminants and/or gases when the development hereby authorised is completed. It shall contain a watching brief to identify further areas during development. These further areas when identified should be notified to the LPA and remediated and then verified according to the Method Statement. The report 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.
  - b) The development shall be carried out in accordance with the agreed Contamination Method Statement.

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 offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006).

**Condition 3 approved by Notice dated 16<sup>th</sup> June 2021**

- 4) The development hereby permitted shall not be first occupied/brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a stand-alone verification report by the competent person approved pursuant to condition 3 above. The report shall demonstrate that each area of remediation undertaken has been implemented fully in accordance with the Contamination Method Statement. For the verification of gas protection schemes the applicant should follow the agreed validation plan. Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions 3.

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 offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006).

- 5) (a) Prior to first use of the multi-storey car park hereby permitted, a Parking Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority;
- (b) the Parking Mitigation Strategy shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that the loss of parking on site is properly managed during the various stages of construction and occupation, to prevent additional parking pressure within the hospital site and on the surrounding road network in the interest of amenity and highway safety, in accordance with Policies PCS23 and PCS17 of the Portsmouth Plan (2012).

- 6) (a) Unless otherwise agreed in writing with the Local Planning Authority, the car park shall not be operated until a Travel Plan with the aim of reducing staff car use/dependency and encourage sustainable modes of travel, has been submitted to and approved in writing by the Local Planning Authority; and  
(b) The development shall thereafter be carried out in full accordance with the provisions of the Travel Plan approved pursuant to part (a) of this condition.

Reason: To encourage the use of alternative means of travel to the private car, in accordance with Policy PCS17 of the Portsmouth Plan (2012).

- 7) No development above foundation/slab level shall be commenced until precise details of the colour treatment and size of the cladding panels to the car park facades and lift/stair cores, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved material details.

Reason: To ensure a high quality appearance in the interest of visual amenity, in accordance with Policy PCS23 of the Portsmouth Plan (2012).

- 8) The development shall be carried out in accordance with the approved Construction Phase Plan prepared by Ballast Nedam Parking, for as long as construction is taking place at the site.

Reason: To minimise disruption to the operation of the hospital site and surrounding highway network in the interest of highway safety, in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan (2012).

- 9) (a) The soft landscaping scheme shall be carried out in accordance with the details shown on the approved Soft Landscape Plan ref. J1708-STRIFE-XX-XX-M3-AX-00001, in the first planting season following commencement of the use of the car park;  
(b) Any trees or plants which, within a period of 5 years from the date of Practical Completion of the landscaping scheme, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interest of visual amenity to achieve a high quality development in accordance with Policies PCS13 and PCS23 of the Portsmouth Plan (2012).

- 10) The multi-storey car park hereby approved shall incorporate a minimum of four bat access, egress or roosting features, and four built-in swift nest boxes, unless alternative features are first submitted to and approved in writing by the Local Planning Authority. The bat and bird boxes shall be installed in accordance with manufacturers instructions and thereafter retained.

Reason: To achieve a net gain in biodiversity in accordance with Policy PCS13 of the Portsmouth Plan (2012).

11) Unless otherwise agreed in writing with the Local Planning Authority, the drainage strategy for the development shall be implemented in accordance with the details set out within the approved Drainage Strategy Report (Stripe Consulting, February 2021).

Reason: To ensure that the development would not increase flood risk at the site in accordance with Policy PCS12 of the Portsmouth Plan (2012).

12) The development shall be carried out in accordance with the details set out in the approved Lighting Design report (Stripe Consulting, February 2021).

Reason: To minimise light glare in the interest of visual and residential amenity, in accordance with Policy PCS23 of the Portsmouth Plan (2012).

13) Prior to installation of the noise mitigation barriers to Levels 1, 2 and 3 (as per the recommendations of the approved Noise Impact Assessment, EAS Ltd, March 2021), details of the barriers shall first be submitted to and approved in writing by the Local Planning Authority. The barriers shall thereafter be installed in accordance with the approved details and thereafter retained.

Reason: To ensure no adverse noise impact on nearby residents and patients, in accordance with Policy PCS23 of the Portsmouth Plan (2012).

---