

PLANNING COMMITTEE

13 APRIL 2022

**10:30 AM COUNCIL CHAMBER,
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

Item No	Application No	Address	Page
01		Compton Road	PAGE 3
02	21/01828/FUL	297 Powerscourt, PO2 7JL	PAGE 31
03	16/00497/PLAREG	The Parade Tearooms, PO5 3JF	PAGE 39
04	21/01191/VOC	The Parade Tearooms, PO5 3JF	PAGE 40
05	18/00848/OUT	The Invincible, 6 Wickham Street, PO1 3EF	PAGE 46
06	21/01613/FUL	Cosham Fire Station, Northern Road, PO6 3EP	PAGE 64
07	19/00747/OUT	Clock House, Spur Road, PO6 3DY	PAGE 82
08	21/01409/FUL	63 Dorking Crescent, PO6 2QL	PAGE 103

01

Title of meeting:	Planning Committee
Date of meeting:	13 April 2022
Subject:	Application for a Definitive Map Modification Order to record a public footpath between Compton Road and Battenburg Avenue
Report by:	Tristan Samuels
Wards affected:	Hilsea
Key decision:	No
Full Council decision:	No

1. Purpose of report

1.1. To seek authority from Planning Committee for the making of a Definitive Map Modification Order (DMMO) to record a Public Footpath in Hilsea between Compton Road and Battenburg Avenue.

2. Recommendations

2.1. It is recommended that authority is given for the making of a Definitive Map Modification Order to record a public footpath with a width of 1.4 and 2.7 metres as shown between Points A and B on the attached plan (Appendix A). The route will commence at a junction with Compton Road and terminate at a junction with Battenburg Avenue in Hilsea, as outlined in the Hampshire Report (Appendix B).

2.2. To delegate authority to the Director of Regeneration for them to, as necessary, either:

a) confirm (bring into legal force) the said Definitive Map Modification Order in the event of no objections being made in the subsequent consultation (or withdrawal of all objections); or,

b) pursue confirmation of the Definitive Map Modification Order before the Secretary of State/Planning Inspectorate in the event objections are received and not withdrawn where the Director of Regeneration in his sole discretion believes confirmation should be pursued; or,

c) return to Planning Committee in the event that objections are received and consequently the Director of Regeneration in his sole discretion believes that the Order should not be confirmed.

3. Background

3.1. The Definitive Map and Statement are the City's legal record of Public Rights of Way (PROW), and in 2018 an application was submitted to Portsmouth City under Section 53 of the Wildlife and Countryside Act 1981, to record a Public Footpath between Compton Road and Battenburg Avenue in Hilsea. The application under consideration was supported by user evidence and maps showing the route being

claimed.

3.2. Under Section 53 of the Wildlife and Countryside Act 1981, there is a duty on the surveying authority to '...keep (the) definitive map and statement under continuous review', and to make modifications to the map and statement if there is evidence which shows that a right of way is not shown but, '...subsists or is reasonably alleged to subsist over land in the area to which the map relates...'

3.3. The City Council commissioned Hampshire County Council to investigate this application in 2020 under the provision of the Local Government Act 1972, and their report details the evidence, criteria, and legislation relevant for determination of this (Appendix A).

4. Reasons for recommendations

4.1. The reasons for recommendation, as set out in the Hampshire County Council report, are as follows:

- a) There is no historic documentary evidence which demonstrates that the claimed route has ever been a public right of way.
- b) The user evidence demonstrates that local people have enjoyed using the claimed route on foot without force, without secrecy and without permission since 1979. The use of the route appears to have been frequent and of a considerable volume. Whilst the landowner has stated their opposition to the application, they do not appear to have taken any steps to restrict use of the route during the relevant period. For these reasons, the user evidence was sufficient to meet the tests set out under s31 of the Highways Act 1980 and under the provisions of common law.
- c) The user evidence also demonstrated regular use of the route by cyclists. However, a sign prohibiting cycling has clearly been displayed onsite for many years and has been acknowledged by a number of the witnesses. This means that there is insufficient evidence to recommend that bridleway rights should be recorded under the provisions of either s31 of the Highways Act 1980, or common law.

5. Integrated impact assessment

A preliminary IIA has been carried out.

6. Legal implications

6.1. This matter is before the Planning Committee in accordance with the Council's Constitution, Part 2 - Planning Committee, Section 2 - Committee Responsibilities, Highways, para 24. It follows a claim made by members of the public for the Definitive Map and Statement to recognise a right of way pursuant to s.53(5) Wildlife and Countryside Act 1981.

6.2. The relevant legal framework for making the Order is presented in the Hampshire County Council report appended, detailing the s.53 Wildlife and Countryside Act 1981 duty to keep the Definitive Map and Statement under review. PCC Legal Services commend the analysis of the legal framework and the particular evidence in the HCC report to the Committee.

6.3. If Planning Committee decides to authorise the making of a DMMO, a consultation period of not less than 42 days will be held providing the public, affected landowners and other stakeholder groups with the opportunity to make representations about the made Order, including objections. In the event that there are no objections (or any objections made are withdrawn), the Council is free to

'confirm' the Order. 'Confirm' is legalese for 'bring the Order into legal force'. On the other hand, if an objection is made and the objector refuses to withdraw it, the Order must be referred to the Planning Inspectorate on behalf of the Secretary of State to consider the objection and decide whether or not to confirm the Order. That is the reason for the second resolution to delegate onward decision-making to officers so that the matter is dealt with swiftly and without the delay associated with returning to Planning Committee.

7. Director of Finance's comments

7.1 The Council would not be liable for maintenance of the footpath as a consequence of this Order because even when the Order is eventually confirmed it is merely declaratory of the existence of the footpath as shown from the evidence. It does not transfer any liability to the Council.

7.2 The anticipated financial costs concerning the processing of the DMMO through the making and confirmation stages will be managed from existing Traffic and Transport budgets.

.....
Signed by:

Appendices:

Appendix A - Route Plan

Appendix B - Hampshire Decision Report

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Section 53 of the Wildlife and Countryside Act 1981	https://www.legislation.gov.uk/ukpga/1981/69/section/53
Local Government Act 1972	https://www.legislation.gov.uk/ukpga/1972/70/contents
Highways Act 1980	https://www.legislation.gov.uk/ukpga/1980/66/section/31

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

.....
Signed by:

Appendix B
HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Portsmouth City Council
Date:	14 January 2021
Title:	Application for a Definitive Map Modification Order to record a public footpath between Compton Road and Battenburg Avenue in Hilsea City of Portsmouth

Contact name: Jennifer Holden-Warren, Map Review Officer

Tel: 0370 779 0383

Email: Jennifer.holden-warren@hants.gov.uk

1. The purpose of this report is to assist Portsmouth City Council in determining whether to accept an application for a Definitive Map Modification Order to record a public footpath in Hilsea near St Nicholas Church.

Recommendation(s)

2. That authority is given for the making of a Definitive Map Modification Order to record a public footpath with a width of 1.4 and 2.7 metres as shown between Points A and B on the attached plan. The route will commence at a junction with Compton Road and terminate at a junction with Battenburg Avenue in Hilsea.

Executive Summary

3. This is an application made to Portsmouth City Council by two residents of Compton Road ('the applicants') in 2018 under Section 53 of the Wildlife and Countryside Act 1981, to record a public footpath between Compton Road and Battenburg Avenue. The application is supported by user evidence which the applicant believes demonstrates that the public have acquired a right of way along the route by virtue of long use.

4. Under the provisions of the Local Government Act (1972), Portsmouth City Council delegated the investigation of this application to Hampshire County Council.

5. Having considered the evidence submitted with the application, and undertaken additional research of historic documentary evidence, it is considered that there are sufficient grounds to record a public footpath along the claimed route.

Legal framework for the decision

WILDLIFE AND COUNTRYSIDE ACT 1981 - Section 53: Duty to keep definitive map and statement under continuous review

(2) As regards every definitive map and statement, the surveying authority shall:

b) ... keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence.... of any of [the events specified in sub-section (3)] by order make such modifications to the map and statement as appear to them to be requisite in consequence of that event.

(3) The events referred to in sub-section (2) are as follows: -

(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows...

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;

HIGHWAYS ACT 1980 – Section 31: Dedication of way a highway presumed after public use of 20 years.

a) Where a way over any land...has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

b) The period of 20 years...is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice...or otherwise.

PRESUMED DEDICATION AT COMMON LAW

Use of a way by the public without secrecy, force or permission of the landowner may give rise to an inference that the landowner intended to dedicate that way as a highway appropriate to that use, unless there is sufficient evidence to the contrary. Unlike dedication under S.31 Highways Act 1980, there is no automatic presumption of dedication after 20 years of public use, and the burden of proving that the inference arises lies on the claimant. There is no minimum period of use, and the amount of user which is sufficient to imply the intention to dedicate will vary according to the particular circumstances of the case. Any inference rests on the assumption that the landowner knew of and acquiesced in public use.

Description of the Claimed Route (please refer to the map attached to this report as Appendix 1)

6. The claimed route commences along Compton Road near the scout hut and St Nicholas Church Hall (see Point A on the attached plan, and Figure 1 below) The route continues along a metalled path in a southerly direction alongside the church hall. Between the church hall and St Nicholas Church, there are two staggered metal barriers (Figure 2). The route continues southwards beside the church (Figure 3) and terminates on Battenburg Avenue (at Point B, see Figure 4).

7. The length of the claimed route is approximately 80 metres.

8. The land over which the claimed route runs is owned by the Anglican Diocese of Portsmouth and by a developer. The developer has secured planning permission to demolish the church hall and scout hut and build residential dwellings on the site; there will also be a new church hall and a new public footpath along the western perimeter of the plot. The intended route of the new public footpath was previously used by the public until around 2010-12, when it was fenced off to create a play area for the preschool which met in the church hall at that time. Both routes are shown on the plan at Appendix 2.



Figure 1 - The start point of the claimed route on Compton Road. The signs circled in red are photographed at closer range at Figure 5.



Figure 2 - Staggered barriers between the church hall (on the left) and the church (on the right).



Figure 3 - From the north-western corner of the church, looking southwards.



Figure 4 - Termination point on Battenburg Avenue.

Issues to be decided

9. The primary issue to be decided is whether there is clear evidence to show that public rights subsist or are 'reasonably alleged' to subsist. Case law has decided that the burden of proof associated with Map Modification Orders is 'on the balance of probabilities', so it is not necessary for evidence to be conclusive or 'beyond reasonable doubt' before a change to the Definitive Map can be made. If there is genuine conflict in the evidence, for example between the evidence of users on the one hand and landowners on the other, an order should be made so that the evidence can be tested at a public inquiry. Officers do not consider that there is such a conflict in this case.

10. Any changes to the Definitive Map must reflect public rights that already exist. It follows that changes to the Definitive Map must not be made simply because such a change would be desirable, or instrumental in achieving another objective. Therefore, before an Order changing the Definitive Map is made, it must be demonstrated that any change to the map is supported by evidence. This might be proved by historic documentary evidence or by evidence of use in the recent past.

11. If a right of way is considered to subsist or reasonably alleged to subsist, then the route, status and width of that way must also be determined, and authority for the making of an Order to record that right on the Definitive Map should be given.

12. Where a Map Modification Order is made, the process allows for objections to the Order to be made. Further evidence could potentially be submitted for examination along with an objection. In these circumstances, the City Council cannot confirm the Order, and the matter would need to be referred to the Secretary of State.

13. Where an Order has been made, and no objections to the Order are received, the City Council can confirm the Order. In the event of an application under Section 53 being refused, the applicant has the right to appeal against the City Council's decision to the Secretary of State, who may direct the City Council to make the Order that is sought.

Background to the Application

14. The application was submitted in 2018 by two residents of Compton Road. It appears that the plans for the redevelopment of the church hall site were the primary motivation behind the submission of the application.

15. The applicants submitted 58 user evidence forms outlining the public's use of the route. These are examined in detail at paragraph 21 below.

16. Under the provisions of the Local Government Act (1972), Portsmouth City Council delegated the investigation of this application to Hampshire County Council in 2020.

Consultations

17. The Open Spaces Society and the Ramblers have been consulted on this application.

The six City Council elected Members for Hilsea and Copnor wards were also made aware of the application. Additionally, the applicants were notified when the case was taken up for investigation and invited to submit any additional comments or evidence. Where responses were provided, these are set out below.

18. The Ramblers

"Today I had a look at the pathway near St Nicholas Church. There were three other people using the path when I arrived. The surface underfoot is good and there were no obstructions plenty of space for two people side by side. As a regular walker I cannot see a problem with this path being made into a public footpath."

Documentary Evidence

Documents held in archives, including online archive collections, are marked by an 'A'.

Please refer to Appendix 3 for a brief background and introduction to the documents. Images of maps are annotated with letters which correspond with letters on the Report Plan.

19. Ordnance Survey Maps - County Series (25 inches to 1 mile) – 1858-1939 (A)¹

Five maps were published by the Ordnance Survey at a scale of 25 inches to 1 mile between 1858 and 1939.

The earlier three editions of this map, published between 1858 and 1910, show the area as undeveloped, with a gradual increase in development by the 1910 edition. By 1910, the western end of Battenburg Avenue had been created, creating a short cul de sac.

By the fourth edition (published in 1933), Battenburg Avenue and Compton Road appear as they are today and St Nicholas Church is also depicted; there is no indication of a path between the two roads and the church hall is not shown. Notably, there is a solid line between the plots of land which now contain the Church and the church hall; this may indicate a solid boundary feature such as a fence.

On the fifth edition, the church hall is depicted (albeit as a smaller building to that which stands today) and a path is shown alongside it, terminating at the end of the land parcel. There is no indication that the path connected to Battenburg Avenue, and the solid line across the end of it may indicate the presence of a gate or fence. Additionally, the presence of part of the claimed route on these editions does not provide proof that it was a public footpath at these times. Ordnance Survey surveyors marked what was visible on the ground rather than showing any public rights which may or may not have existed. These documents therefore provide, at best, neutral evidence for the existence of part of the claimed route in 1939.



Figure 1 - Ordnance Survey County Series Third Edition (1910)

¹ The four later versions are available from the National Library of Scotland on the weblink below. The first edition is held by Hampshire County Council.

<https://maps.nls.uk/geo/find/#zoom=15&lat=50.81908&lon=-1.07883&layers=101&b=1&z=1&point=50.81602,-1.07673>

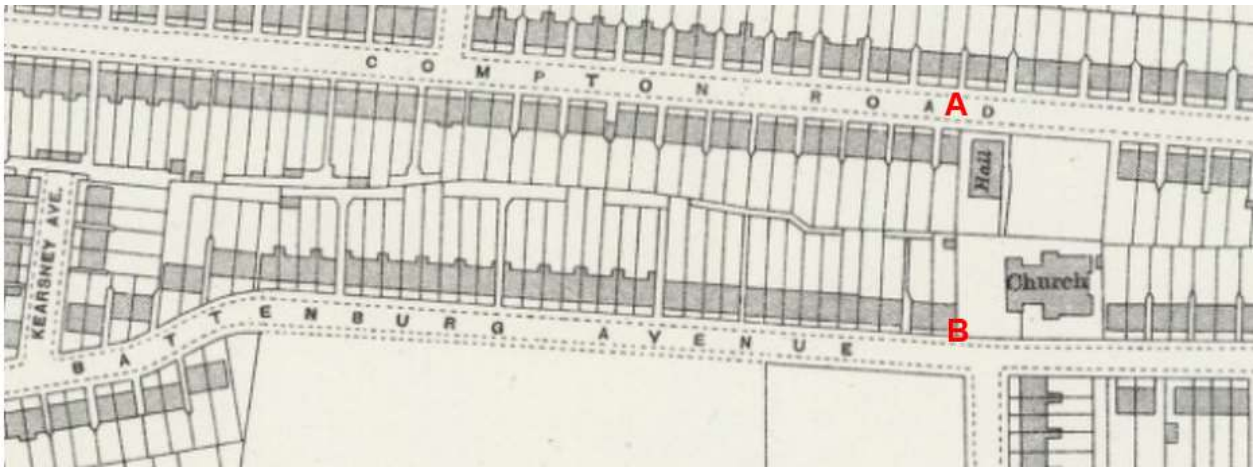


Figure 2 - Ordnance Survey County Series Fifth Edition (1939)

Analysis of Documentary Evidence

20. There is no historic documentary evidence which supports the application. This case will therefore rely on user evidence.

User Evidence

21. The application was supported by the evidence of 58 people who completed user evidence forms: these forms document public use of the claimed route from 1979 up until 2018. The dates of use are summarised on the chart at Appendix 4; the chart is, by necessity, a generalisation, but it provides an insight into the evidence which has been put forward in support of the application.

22. Claimed use of the route is largely by pedestrians; 57 witnesses claimed to use the route on foot and 23 of these individuals claimed to also use the route on a bicycle. One individual claimed use on foot, with a bicycle and with a vehicle.

23. Reported frequency of use varies, but there appears to be regular and consistent use of the route, which reflects its urban setting. 48 users claimed to use the route on a daily basis (with five of these users stating that they used the route several times each day). Four users claimed weekly use of the route.

24. A wide range of reasons for using the route were provided. These include for access to the shops, park, church, schools, nursery, bus stop, post box or gym, to visit friends and family, to go to the doctor, chemist or dentist, to get to work, for dog walking and to access parking. A number of witnesses stated that they used the claimed route as a short cut, with two users pointing out that the alternative way around was much longer. A further witness stated that they were unable to manage the alternative longer route.

25. 56 witnesses had seen other people using the route (two individuals did not answer this question); the majority of this use was reportedly by pedestrians and cyclists.

26. 15 users acknowledged the presence of gates along the claimed route, although none of the witnesses stated that these were ever locked.

27. A range of signage along the route was acknowledged by 18 witnesses. According to the witnesses, this signage includes 'Please do not let your dog foul the footpath', 'noball games', 'no cycling', and a range of signs relating to community events. When a site visit was conducted in December 2020, most of this signage was still on display, including those shown below.



Figure 3 - signs displayed on the northern side of the church hall

28. Only one user stated that there had ever been an obstruction along the route; this was apparently due to maintenance and appears to have been a short-term obstruction.

29. No witnesses reported being challenged or seeking permission to use the claimed route.

30. Two witnesses stated that they had been either a relative, tenant or employee of the landowner, with one of these individuals explaining that they had previously been employed at the church hall.

31. Seven witnesses stated that their use of the route was in exercise of a private right and they provided details relating to this: for access to their properties, to go to church or to the church hall, or to visit friends.

32. All users agreed that the route is between Compton Road and Battenburg Avenue.
57

witnesses stated that they always used the same route.

At a site visit conducted in December 2020, it was observed that there were two potential routes across the land: one along the claimed route (Route A), and one to the east of the church hall (Route B, this was fenced off around 2010-12). These have been annotated on the plan provided at Appendix 2. A sign stating that there is no right



Figure 4 - sign on the southern side of the church hall, covering the closed off route alongside the building (Route B)

of way along Route B was clearly displayed at one end of the route.

A representative of the landowner stated that they believed that there had previously been an identical 'no right of way' sign along Route A. They also said that Route A had, historically, been closed once a year by virtue of locked gates to prevent a public right of way being established.

33. Following the site visit, an email was sent to the 37 witnesses for whom an email address was held. Witnesses were asked about which route they had used and clarification questions were also asked about locked gates and signage along the route. The additional comments received are summarised below and included as Appendix 5.

- *We have used Route A since we moved into the area in 2014. There has never been a sign saying that it is not a public right of way and it has never been closed, locked or obstructed. A handrail and a safety barrier have been provided along the route for public convenience.*
- *I've used both routes from 1986 until 2010, then Route A from 2010 onwards.*
- *I used Route B from 1995 until it closed and Route A from 1995 until now.*
- *We have always used Route A.*
- *We used Route B from 1994 until 2010, then Route A from 2010 to present.*
- *I used to use Route B until it was closed. Route A was and is such a godsend.*
- *We have only ever used Route A. Route B has been fenced off for as long as I can remember. I have never come across locked gates along Route A and it would be a significant inconvenience if this route was closed.*
- *I used both routes throughout my childhood in the 1980s. I can't remember when Route B was closed, but I still used Route A.*
- *Route A was in use when I started senior school in September 1996 and has been in use ever since. There have never been any signs to say that Route A is private.*
- *I have always used Route A from 1999. I have never noticed the sign you have said is along Route B. I often have to park my car on Battenburg Avenue and Route A enables me, as an elderly person, to get to my property.*
- *I've been using Route A on a daily basis for over 29 years. Route B was closed to make an outside nursery space; we were consulted at the time and agreed to the closure as the ground was uneven and there were antisocial behaviour issues along the route. The sign confirming that Route B is not a public right of way has always been there, so we used Route A instead. Route A is lit, and a gate was moved to enable push chairs and bikes to use the path. The sign relating to dog fouling is confirmation that the route is a footpath.*

- *We have lived here for 20 years and there has only been one way to get between Compton Road and Battenburg Avenue; we use the route on a daily basis.*
- *I have lived here for 39 years and have always used Route A, which has never been blocked or gated in any way. There is a sign along Route A saying 'Do not let your dogs foul the footpath'. Route B is clearly marked 'not a right of way' and was closed in 2010 following antisocial behaviour.*
- *I've used both routes before Route B was closed on the advice of the police following a problem with antisocial behaviour.*

Summary of user evidence

34. Analysis of the evidence of 58 witnesses indicates that use of the claimed route has been overwhelmingly by pedestrians and, to a slightly lesser extent, by cyclists, between 1979 and 2018 when the application was submitted.

35. Use of the claimed route has been frequent and of a considerable volume. The witnesses used the route for a wide variety of reasons and, with two exceptions, none of the witnesses were employees, tenants, or relatives of the landowner.

36. Whilst 15 witnesses acknowledged the presence of a gate along the route, nobody stated that this was ever locked, and no witnesses had ever been challenged whilst using the path or sought permission to use the route.

37. 18 witnesses described a range of signage along the claimed route, although none of these signs stated that the route was private or not to be used by the public. It appears that the sign stating 'please do not let your dog foul the footpath' was interpreted as confirmation that the route was a public footpath, in addition to the absence of any sign to the contrary. Additionally, some users stated that there was a 'no right of way' sign along Route B and the fact that there was not such a sign along Route A was interpreted that the route was intended for public use.

38. Seven of the 58 witnesses stated that they had a private right to use the claimed route.

Comments by the Landowners

39. Consultation letters were sent to the landowners identified on the Land Registry as owning the two parcels of land over which the claimed route runs. These landowners are the Portsmouth Diocesan Finance Board, the incumbent vicar of St Nicholas Church, and the North End Ministry Team.

40. The vicar of St Nicholas Church advised that part of the land had recently been sold for development and they advised that the consultation letter had been passed on to the new owner.

41. A representative of the landowners met the investigating officer during the site visit A

response to the consultation was also supplied in the form of a letter written on behalf of St Nicholas Church in response to the consultation. The letter stated their opposition to the application for a public right of way along the claimed route:

The church urgently needs to redevelop the hall buildings as they are beyond repair. The church is working on plans which provide modern facilities, for the local community to hire for events and weekly activities. The local community needs a place to bring together the elderly vulnerable and young people and our plans for a cohesive building will seek to do that. The addition of a right of way will prevent the

development being connected to the North Porch of the church and would make it quite impractical to rebuild a substantial enough extension for the local community to use.

The new plans of the property developer has ensured that there is still a walk way for the public to use to cut through from Battenburg Avenue to Compton road, it is my view that this walk way will be safer for those who cut through at night time and it will remove issues of anti-social behaviour and drug dealing which have had to be continuously addressed by the local police for many years.

42. During the site visit, the representative explained that Route B was fenced off in 2012 to create a play area for the pre-school which was based in the church hall. This was funded by the City Council on the provision that the fencing remained in place for five years.

43. The representative also provided eight statements from people linked to the church. These statements are summarised below:

a. The former Priest in Charge at St Nicholas (from 1975-1979) stated that the path was closed every year on Boxing Day for 24 hours and that members of the public used to visit the clergy house to complain about the closure. *“There was also a sign on the buttress to the north porch where the path turns round the corner of the hall building which said ‘no public right of way’. This may have been removed when the hall was resurfaced (after my time).”*

b. The former Priest in Charge at St Nicholas (from 1982-1986) stated that, during his tenure, the path was closed *“every year on the first day of January. This was to affirm that the footpath was not considered as a public right of way, but merely a courtesy, offered by the church council, to allow people a short-cut access between the two roads.”*

c. A long-term parishioner who lives close to the claimed route stated that there was previously a gate at the Compton Road end of the claimed route and this and the gate in front of the church were locked after the Christmas morning service, remaining closed *“until the day after Boxing Day”*. This course of action was unpopular *“and some locals always tried to climb over the gates”*. The church hall was built during the 1960s and this caused a change to the fencing and gates, which made closing the route more difficult; *“I believe that it was at this time the shutting of the path stopped”*.

d. A parishioner who has lived near the claimed route since 1983 wrote that Route B was previously available for use by cyclists following ‘many near misses’ between cyclists and pedestrians both using Route A. The sign at the end of Route B stating that the route is not a right of way was a health and safety requirement due to the fire exits from the hall opening onto the route.

e. An individual who has attended St Nicholas Church since 1984 wrote that Route B was always open until the playgroup started to use the space as a play area, but Route A *“has remained open for the whole period of time”*.

f. A parishioner who has lived in the area since 1978 wrote that there have been two paths available between the church car park and Compton Road.

g. A parishioner of St Nicholas Church since 1958 wrote that Route A has never been closed and locked. Route B was cleared of brambles during the 1980s and was then in continuous use until it was closed to facilitate the playgroup play area.

h. A parishioner who ran a weekly meeting in the church hall for around 40 years stated that they had “*clear memories of being able to get from Battenburg Avenue to Compton Road via the church hall site on both sides of the building*”. They also said that they were able to run right around the outside of the church hall during games.

Analysis of the Evidence under Section 31, Highways Act 1980

44. For Section 31 of the Highways Act 1980 to operate and give rise to a presumption of

dedication, the following criteria must be satisfied:

- the physical nature of the path must be such as is capable of being a right of way at common law
- the use must be ‘brought into question’, i.e. challenged or disputed in some way
- use must have taken place without interruption over a period of twenty years before the date on which the right is brought into question
- use must be *as of right*, i.e. without force, without stealth and without permission
- use must be by the public at large
- there must be insufficient evidence that the landowner did not intend to dedicate a right of the type being claimed

45. Physical nature of the route

A public highway must follow a defined route. As the claimed route is linear, follows a tarmacked path and links two public highways, it does follow a clearly defined route and is therefore capable of being a right of way at common law.

46. The bringing into question of the public’s right to use the path

There is no objective evidence that the public’s right to use the path on foot has been brought into question at any stage prior to the application being submitted in 2018 (notwithstanding the assertions of the landowner regarding the annual closure of the route and possible existence of a sign stating that the claimed route is not a public right of way). In the absence of any prior event that called use into question, the application itself can be said to have done so, giving a relevant period of 1998 – 2018.

24 witnesses stated that they used the route by bicycle, which would potentially have given rise to bridleway rights. However, a sign stating ‘no cycling’ is clearly displayed along the route (see Figure 5 above) and this was acknowledged by four witnesses. This sign brings into question the public’s presumed right to use the path with a bicycle.

47. Twenty years’ use without interruption

Relating to pedestrian use of the route; 31 users stated that they used the path for the entirety of the relevant 20-year period of 1998-2018. The usage chart clearly demonstrates that the route has been in use continuously from 1979 until the time the application was submitted in 2018.

The clarification sought following the site visit indicated that some users had used both Routes A and B, and a very small number had only started using Route A after Route B

was closed off. However, it is not considered that this is sufficient to bring into question whether the requirement for 20 years' of interrupted use has been met.

Whilst the landowners stated that the route had previously been blocked off annually for at least one day during the Christmas period, this took place before the 20-year period of use and therefore cannot be taken into account. The only obstruction reported by the witnesses during the relevant period was one user stating that the route had previously been obstructed due to maintenance. No other obstructions were described, and users appear to be unaware of the historic closure of the route at Christmastime. In relation to use of the claimed route by cyclists; it is not known when the sign prohibiting cycling was first displayed, but it was still in situ when the site visit was conducted, and it appeared to be well-established and of the same age as the other signage on the building, meaning that it may have been on display since around the 1970s. As there is no user evidence prior to 1979, it is not possible to establish whether a 20-year period of use of the route by cyclists was met before the sign was erected. This means that there is insufficient evidence to further examine whether public bridleway rights have been acquired along the claimed route by virtue of long, unchallenged use by cyclists.

48. 'Without force, stealth or permission'

Force – to be as of right, use must not be as the result of the use of force.

The Planning Inspectorate's *Definitive Map Order Consistency Guidelines* describe the use of force as including "the breaking of locks, cutting of wire or passing over, through or around an intentional blockage, such as a locked gate." No users stated that there were any obstructions in place intended to prevent use of the route. Witnesses do not appear to have used any force to access the claimed route. Whilst 15 users acknowledge the presence of gates along the route, they all stated that these were never locked.

Stealth – to be as of right, use must be open and of the kind that any reasonable landowner would be aware of, if he or she had chosen to look.

The accounts of users of the path indicate that access to the land was open and without secrecy.

Permission – users as of right should not be using the way with any kind of licence or permissions.

None of the users stated that they had sought permission to use the route.

49. Use by the Public

Use must be by the public, and that should be reflected in its volume and the breadth of the type of users. The use must be of a volume that is capable of coming to the attention of a landowner. It should consist of enough users, and the number may reflect the setting of a path, such as whether it is in a rural or urban area and the type of use being claimed.

The volume of user evidence forms, the regularity of use, and the breadth of reasons for accessing the route (including for leisure, to run errands, for the school run and commuting, and for making social visits) are sufficient to demonstrate that the path has been used by the public and in a sufficient volume that use of the route would have come to the attention of the landowner. Whilst seven individuals claimed to have a

private right to use the route, this does not undermine the volume of users who did not have such a right and is therefore insufficient to cast doubt on whether this test has been met.

50. Use of a way should not consist solely of a particular class of person, such as the employees of a particular employer, tenants of a particular landlord, or customers of a particular business, if it is to be recorded as public.

With two exceptions, none of the users indicated that they were related to, employed by, or a tenant of the owner or occupier of the land in question. One witness stated that they had previously been employed at the church hall. Another witness indicated that they had been a tenant of the landowner.

Conclusions under Section 31, Highways Act (1980)

51. Analysing the evidence reviewed above, the conclusion reached is that the provisions of s31 of the Highways Act (1980) have been satisfied relating to pedestrian use of the route: the public have enjoyed use of the path as of right and without interruption for a period of 20 years.

52. There is insufficient evidence to demonstrate that the provisions of s31 of the Highways Act (1980) have been satisfied in relation to use of the claimed route by cyclists, as a sign prohibiting cycling has clearly been displayed along the path since around the 1970s. There is no user evidence of cyclists using the route prior to 1979 and it is therefore not possible to establish whether 20 years of free and unchallenged use of the path had passed before the sign was erected.

Analysis of the evidence under Common Law

53. This matter can also be considered at common law. For a claim to succeed at common law, the onus is on the applicant to show that the owners were aware of, and acquiesced in, the use of a route by the public. The users must be able to show that it can be inferred from the conduct of the landowners that they had intended to dedicate the route as a public right of way of the type that has been applied for. This may be by an express act of dedication, or it may be implied from a sufficient period of public use without secrecy, force or permission, and the acquiescence of those landowners in that use. This is required in order to meet the two pre-conditions for the creation of a highway - that is dedication and public acceptance of that way by use. The length of time that is required to demonstrate sufficient user is not fixed under common law, and depends on the facts of the case. The user must be obvious to the landowners, who may rebut any suggestion of a dedication by acts such as putting up a physical barrier, erecting notices stating that the route is not a public right of way of the type being claimed, or turning people back. The more notorious the use, the easier it will be to infer dedication.

Conclusions under Common Law

54. Unlike Section 31, the total period spanned by the user evidence can be considered. The user evidence indicates that there has been regular, unchallenged use of the claimed route by pedestrians since 1979 until the submission of the application in 2018. Use of the route was without force, without secrecy and without permission.

55. There is no objective evidence that the landowner has taken any actions to restrict access to the claimed route by pedestrians; this suggests that they acquiesced in public use of the path. Whilst the statements submitted by the landowner refer to the annual locking of gates, this is not borne out by the user evidence, and no further

evidence (such as photographs) was submitted to support these assertions. Additionally, a number of witnesses stated that the amenities along the route (such as lighting, a safety barrier and a handrail), the phrasing of a sign relating to dog fouling along the 'footpath', and the absence of a sign stating that the route was not a right of way (with such a sign covering an adjacent route which was previously available), suggested to them that the route was intended for public use.

56. It is considered that the evidence of use of the claimed route is sufficient for a deemed dedication to be inferred at common law.

57. As the landowner erected a sign prohibiting cycling along the claimed route at some point around the 1970s and this sign has been on display since that time, there is no evidence that the landowner has acquiesced with cyclists using the path. There is therefore insufficient evidence for a deemed dedication to be inferred at common law.

Conclusions

58. As set out earlier in the report, for an Order to be made to modify the Definitive Map, it must be on the basis of evidence which shows that the existence of a public right of way is 'reasonably alleged'.

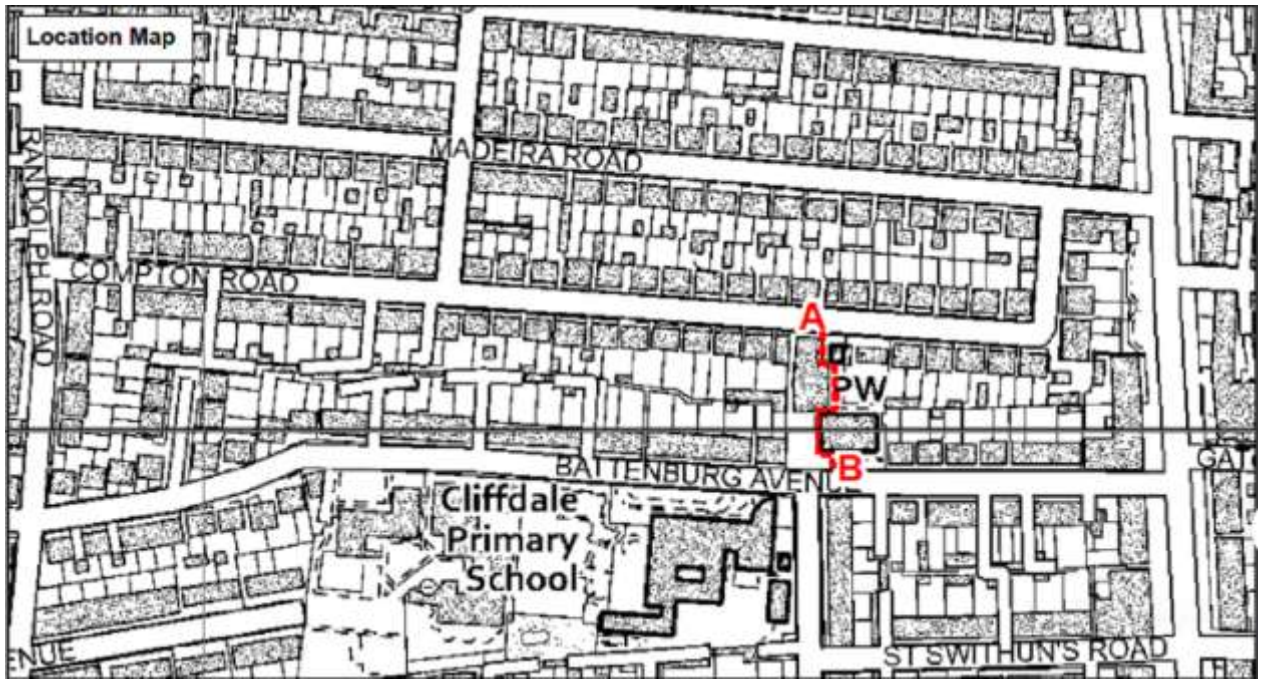
59. There is no historic documentary evidence which demonstrates that the claimed route has ever been a public right of way.


60. The user evidence demonstrates that local people have enjoyed using the claimed route on foot without force, without secrecy and without permission since 1979. The use of the route appears to have been frequent and of a considerable volume. Whilst the landowner has stated their opposition to the application, they do not appear to have taken any steps to restrict use of the route during the relevant period. For these reasons, the user evidence was sufficient to meet the tests set out under s31 of the Highways Act (1980) and under the provisions of common law.

61. The user evidence also demonstrated regular use of the route by cyclists. However, a sign prohibiting cycling has clearly been displayed onsite for many years and has been acknowledged by a number of the witnesses. This means that there is insufficient evidence to recommend that bridleway rights should be recorded under the provisions of either s31 of the Highways Act (1980), or common law.

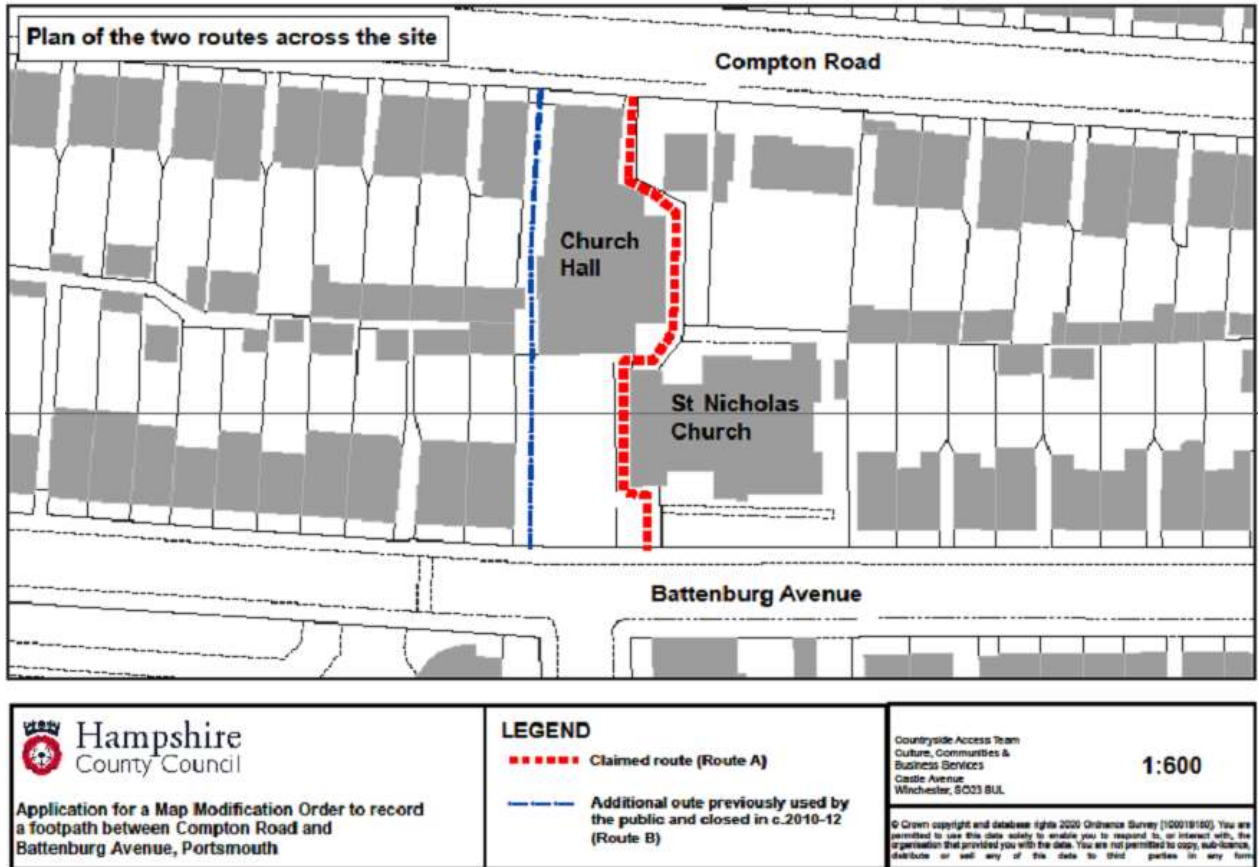
62. The recommendation is therefore that authority is given for the making of a Definitive Map Modification Order to record a public footpath along the claimed route with a variable width of between 1.4 and 2.7 metres. This width reflects the width of the route that the public appear to have used in order to acquire a right of way.

Appendix 1 - Plan 1 - Application Route



 <p>Hampshire County Council</p> <p>Application for a Map Modification Order to record a footpath between Compton Road and Battenburg Avenue, Portsmouth</p>	<p>LEGEND</p> <p>----- Claimed route</p>	<p>Countdown Access Team Culture, Communities & Business Services Castle Avenue Winchester, SO23 8UL</p> <p style="text-align: right;">1:2,000</p> <p><small>© Crown copyright and database rights. 2008 Ordnance Survey (100019192). You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, re-transmit, distribute or use any of the data in any other way.</small></p>
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Appendix 2 - Plan 2 - Route Comparison



Appendix 3 - Interpretation of Historical Documents

Under Section 32 of the Highways Act 1980, any court or tribunal determining the existence of public highway rights is required to take all evidence tendered into consideration before determining whether a way has or has not been dedicated as a highway, giving such weight to each document as it considers is *“justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it was produced.”*

The Planning Inspectorate’s Definitive Map Orders Consistency Guidelines have the following to say on the analysis of evidence:

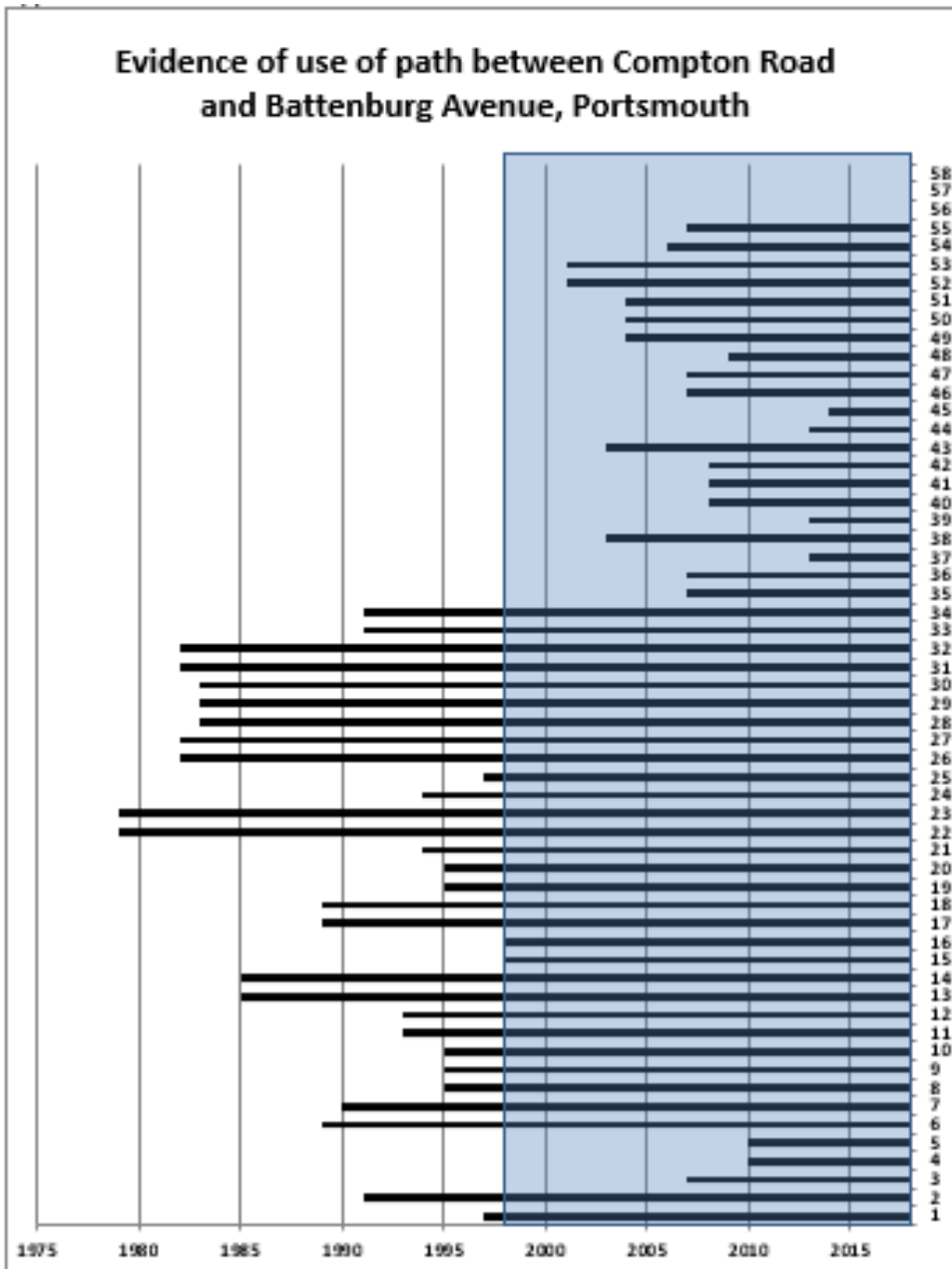
“There is a distinct and important difference between the ‘cumulative’ and ‘synergistic’ approach to the weighing of evidence. Under the cumulative approach a number of relatively lightweight pieces of evidence (e.g. three commercial maps by different cartographers, all produced within the same decade or so) could be regarded as mere repetition. Thus, their cumulative evidential weight may not be significantly more than that accorded to a single map. If, however, there is synergy between relatively lightweight pieces of highway status evidence (e.g. an OS map, a commercial map and a Tithe map), then this synergy (co-ordination as distinct from repetition) would significantly increase the collective impact of those documents. The concept of synergism may not always apply, but it should always be borne in mind. “

Ordnance Survey Maps and Records

The first maps of Hampshire produced by the Ordnance Survey and commercially available date from the early 19th century and were a great improvement on contemporary maps of a similar genre. The most useful series of maps are the 1:2,500 County Series maps, produced at intervals between the late 1860s and the 1940s. These maps provide an accurate picture of the landscape at the date of survey, and carry strong evidential weight, but it should always be borne in mind that the surveyors mapped physical features and not legal rights. These maps cannot be taken in isolation as evidence of the legal status of the paths and tracks shown on them.

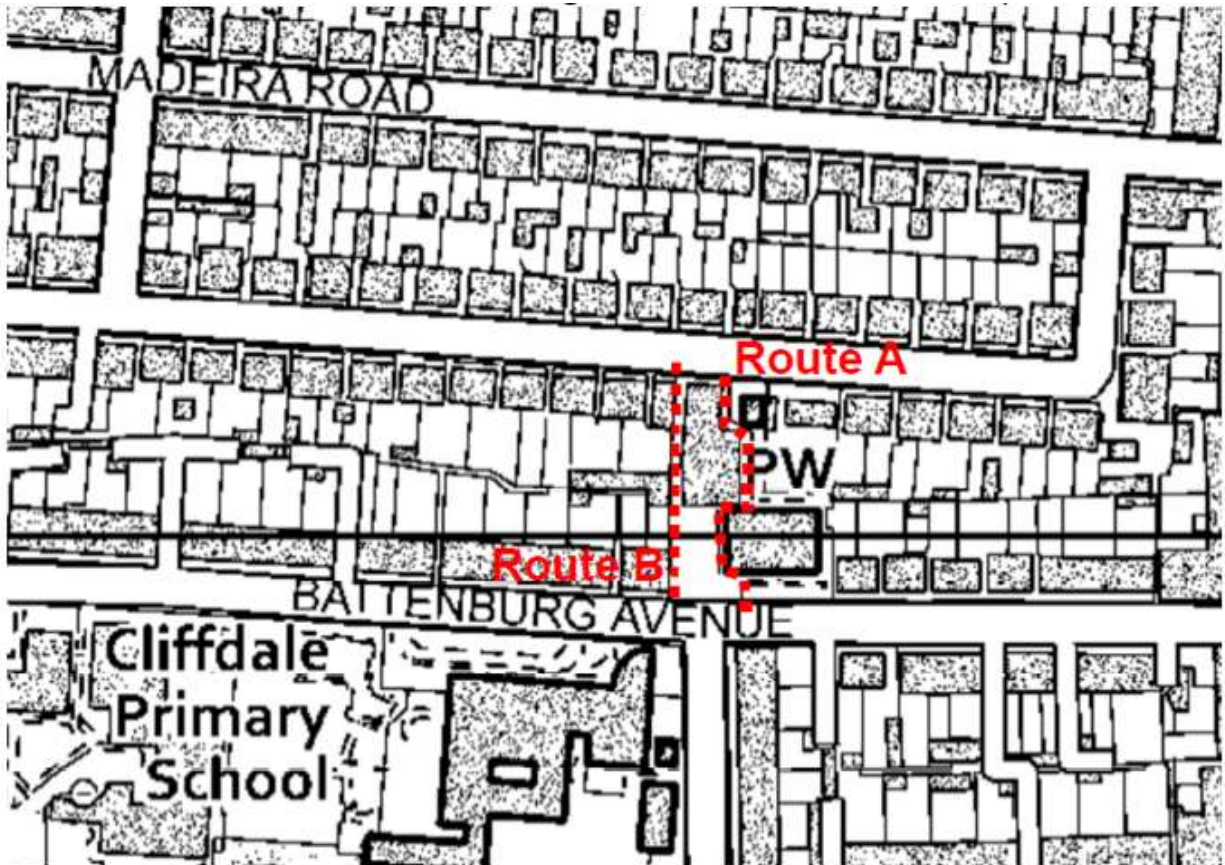
Additional help in determining the status of a path can be found in other Ordnance Survey Records: the first edition County Series Map was accompanied by a Book of Reference, which identified ‘Roads’ (and sometimes even ‘Public Roads’ or ‘Occupation Roads’); the object name books (some have survived for the third edition, circa 1909) relied on local knowledge (for example, the Overseer of Highways) to describe features, including public roads; boundary books can record public highways where they also form parish boundaries and levelling records may also refer to roads and other features.

Appendix 4 - User evidence chart



Appendix 4 – Comments submitted by witnesses during the investigation

Witnesses were presented with the map shown below and asked to comment on which of the routes they had used. They were also asked about whether they had seen any obstructions or locked gates along the route, and whether a sign stating 'no public right of way' had ever appeared along Route A to their knowledge (a photograph of the sign attached to the church hall along Route B was circulated).



The responses received are as follows. Some responses have been edited for length or clarity.

I have lived in Compton road since 2014 and have only known one route since we've been here, route A. We use this route daily as the shape of this road doesn't allow you to exit without going back on yourself.

I have never known any sign to say it wasn't public right of way (on route A, never looked at route B as this was always part of the pre school) and it has never been closed, locked or obstructed. It's actually really nicely set up for the public with the bars/hand rail separating the path from the car park (by the side of the church) and the cross bars (that you zig zag through) at the back of the church to stop little ones running straight out into the car park.

I really hope we get to keep the path it's so useful for school runs, going to the local park, corner shop and the dreaded evenings when there's no parking so you have to park down the next road, which I feel will be much more often when these houses go up.

I and my family have been using both Routes A and B since 1986 when we first moved to Compton Road. Then Route A from 2010 until now. I'm not sure when the sign on the hall wall appeared, probably when it was fenced off for the playgroup.

I have used Route B from 1995 until it closed, then I used Route A from 1995 (or from when it opened) until now.

My family have lived in Compton Road since August 2003 and have always used Route A especially for College Park and the school run.

I'm not aware of Route B and didn't know it was available to use.

We have lived in Copnor Road since 1994, so we have used Route B from 1994 until 2010, then used Route A from 2010 until now.

I walk path every day and have not noticed a sign stating not a public right of way and have never been challenged.

We have lived in Compton Rd since 1994 and both of our children have attended St Nicolas Pre-School which used to be there and Mayfield School.

I remember using the route B until it was removed for the public, unfortunately can't remember the dates.

I used to work in Battenburg Avenue and came home every lunch hour. The path was and is such a godsend.

We have only ever used route A indicated on the map. Route B has been fenced off for as long as I can remember (I didn't even realise this was a route) and looks like it is used as storage for the church hall.

We have used route A in both directions most days since moving to Compton Road in February 2014, and have never come across any locked gates or similar. It would be a significant inconvenience if route A were to close.

I have never seen the sign shown in the photo, perhaps because it isn't anywhere near the footpath shown as route A.

I used both routes throughout my childhood from mid to late 80s as I used to go through the youth club. I cannot exactly remember when Route B was closed off but Route A is the one I have and indeed still use to this day along with my wife and children.

Can't remember exactly when the route was changed but know the current route (Route A) was in use when I started senior school in September 1996 and has been in use ever since. There have never been any signs to say that Route A is private or can't be used by the public.

I have always used Route A from 1999 and earlier. I have never noticed the Route B sign. I would wish for Route A to remain, as I often have to park my car in Battenburg Avenue so this pathway is invaluable to me being an elderly person and having to walk back to my property.

I and my family have lived in Compton Road for over 29 years. Route A is used daily by myself, my dad and my brother and has been since we moved in. I work 12-hour days and the footpath saves me some time on this. The footpath issue has also been going on for a while, this has caused concern: my parents are 75 and 80 and my dad has mobility issues and likes to walk and get the paper using Route A daily. Our road has lots of older people and many families with lots of babies and small children. The houses in our road are family homes and our footpath (Route A) is used daily.

Route B has been closed for some time due to the nursery group; when they were in the church hall, the footpath was closed as they made this as an outdoor space for the children. We were asked if we were ok with this and we confirmed 'yes' as we didn't really use this route because the ground was uneven. It was not possible to use a pushchair down there or for anyone with mobility issues due to the uneven ground. There are also no lights. The nursery group have since had to leave the church hall due to the impending building work.

Our neighbours were very pleased about Route B being closed as we were aware of anti-social behaviour down the walkway, including rubbish thrown over the wall, noise, drug taking and lots of graffiti. Our neighbours have since moved away as this was causing them a great deal of concern, like us all in our road.

As you have confirmed in your email, Route B is not a public right of way, so we use Route A. The sign on the church hall has always been there confirming that Route B is private since I can remember (back to 1991). There is also a gate on Route A which was moved so that push chairs and bikes can get through. There are no signs on Route A advising us that this is not a footpath, and the route was lit, unlike Route B.

When we moved to Compton Road in 1991 we had a scout hut and one footpath and a vicarage. In 2020, we have no scout hut and no vicarage and one footpath, which is being dealt with by yourselves. If we are left with no footpath this will affect my dad and us all in our road as we use this daily. We also have 2 schools nearby and the children use the path to go to school.

I appreciate and understand people need homes but we have had no contact with anyone from the Church. I do feel that we were asked by the church for Route B to be closed because it was beneficial to them. They have now asked for Route A to be closed, as again it's beneficial to the church but it's not beneficial to me or my family or our neighbours. The building work will go ahead and I understand this, but our road will change for ever. I just feel that closing our footpath is a step too far.

I have recently seen the signs regarding anti-social behaviour in the car park I have to say that we have not seen this since Route B was closed. I arrive home at different times of the evening and walk through the car park to my house via the footpath and have not seen this.

There is a sign on Route A confirming that this is a footpath. It has always been



there. [photo supplied]

We have lived in Compton Road for 20 years and there has only been one way to get between Compton Road and Battenburg Avenue. We use it daily for school, work, doctor's surgery, all local shops, hairdressers, take away, chemist and to get into the church itself. We also used to access the play group in the church hall. We go to College Park with our dogs twice daily and visit family and friends in Battenburg Avenue and streets nearby. We as a family of 5 all use this path on numerous occasions daily. As do all our neighbours and the local secondary school when they walk from Mayfield to Roko.

I have lived in Compton Road for 39 years and have always used Route A which has never been blocked or gated in any manner during that time. You may not be aware but there is also sign on Route A which states "Do not let dogs foul the footpath".

During that time, I have not used Route B as it is clearly marked 'not a right of way' and was potentially dangerous as you would often encounter push bikes and motorcycles being driven recklessly. The Compton Road end was fitted with a gate and this was removed and the fence extended somewhere before 2010 to close off the access (the actual date I cannot remember). In 2010 both ends of this route were finally closed with the erection of a tall fence to which nobody objected as my house had two attempted burglaries as well as the anti-social behaviour which ceased with the closure of Route B.

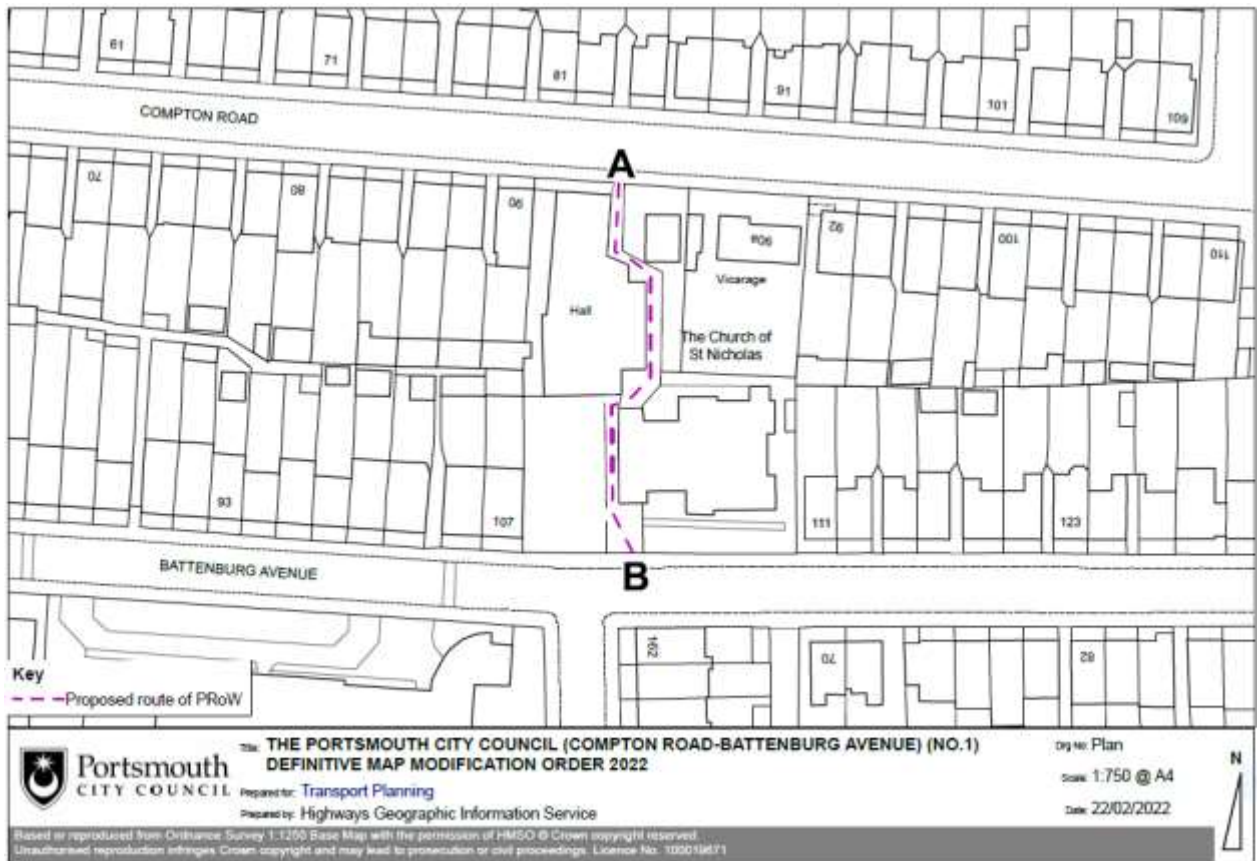
I am surprised it has taken since 2018 for this matter to be resolved as planning permission has been granted to build on the site prior to Route A being accepted.

I have lived in Compton Road for nearly 38 years.

Both routes have been used but unfortunately I cannot remember the dates. I do however remember that Route B was closed following advice from the Police. It was being used by people on motorbikes to evade capture after numerous thefts in the area. Subsequently the church hall users took over the pathway and a door access was made with the path lowered outside the door.

If this route was reinstated then the pathway would need changing to allow use by wheelchairs and pushchairs.

APPENDIX A Route Plan



21/01828/FUL

WARD: COPNOR

297 POWERSCOURT ROAD PORTSMOUTH PO2 7JL

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

LINK TO ONLINE DOCUMENTS:

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=R4KH79MOGSF00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=R4KH79MOGSF00)

Application Submitted By:

Collective Studio
FAO Mr Edward Kercher

On behalf of:

Mr Chris Burton

RDD: 23rd December 2021

LDD: 7th March 2022

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought to Planning Committee due to the number of objections received in response to the application and due to a request of Copnor Ward Member Councillor Swann (who has also objected, his comments are set out later in this report).

- 1.2 The main issues for consideration relate to:
- The principle of Development;
 - The standard of accommodation;
 - Parking;
 - Amenity impacts upon neighbouring residents;
 - Impact upon the Solent Protection Areas; and
 - Any other raised matters

1.3 SITE PROPOSAL AND RELEVANT PLANNING HISTORY

1.4 Site and Surroundings

1.5 This application relates to a two-storey, mid-terrace property located on the northern side of Powerscourt Road. The property is set back from the highway by a front forecourt and benefits from a rear garden.

1.6 Proposal

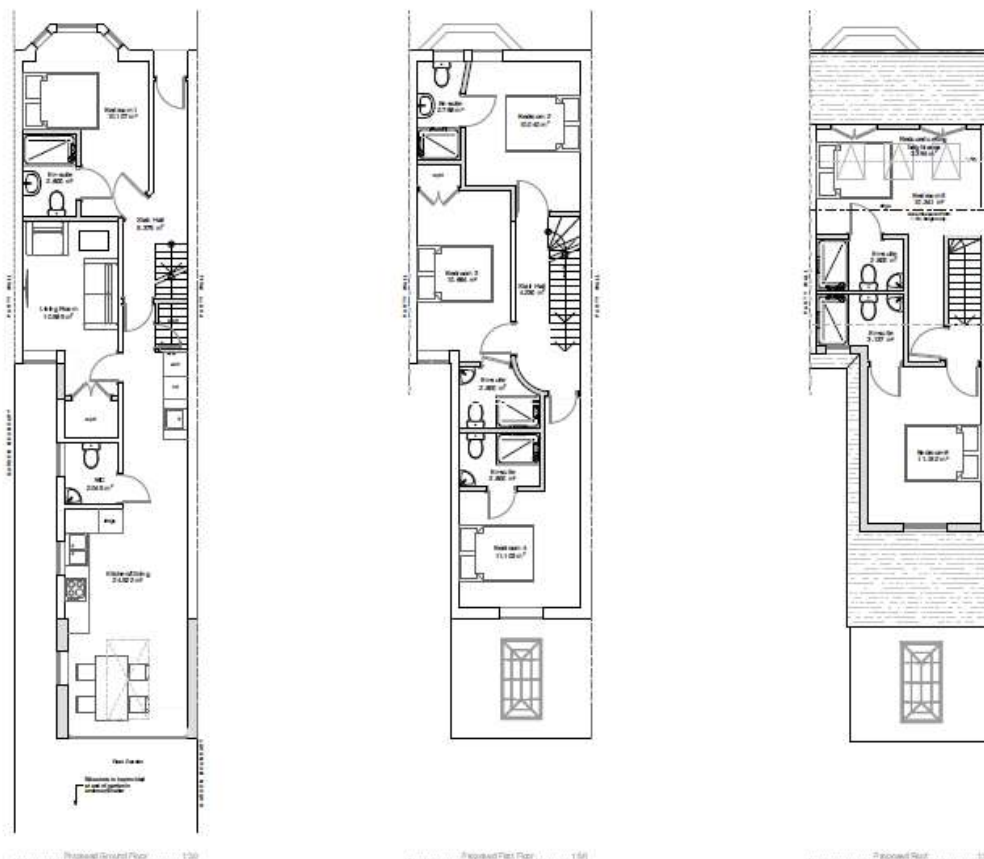
1.7 Planning permission is sought for the change of use from dwelling house (Class C3) to purposes falling within Class C3 (dwelling house) or C4 (house of multiple occupancy).

1.8 The proposed internal accommodation would comprise the following:

Ground Floor- One bedroom (with an ensuite), Living room, WC and a combined kitchen/ dining room;

First Floor -Three bedrooms (each with their own ensuite); and

Second Floor - Two bedrooms (each with their own ensuite).



1.9 The applicant states that the bedrooms would be single occupancy.

1.10 The submitted drawings indicate a rear dormer and single storey rear extension which are to be constructed as permitted development and will fully accord with the limitations and conditions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such, the application relates to the use of the property only. The single storey rear extension is a smaller version of the refused application 21/00161/GPDC (below), precisely to bring it within Permitted Development criteria.

1.11 Relevant Planning History

1.12 21/00161/GPDC - Construction of single-storey rear extension that comes out a maximum of 5m beyond the rear wall of the original house with a maximum height of 3m and a maximum height of 2.8m to the eaves. Refused February 2022: overbearing impact and the creation of a strong sense of enclosure to no. 295 to the west.

2.0 POLICY CONTEXT

- 2.1 Portsmouth Plan (2012)
- PCS17 (Transport)
 - PCS20 (Houses in Multiple Occupation)
 - PCS23 (Design and Conservation)
- 2.2 In accordance with the National Planning Policy Framework (NPPF) 2021 due weight has been given to the relevant policies in the above plan.
- 2.3 Other guidance:
- National Planning Policy Framework (2021)
 - National Planning Practice Guidance
 - The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
 - The Houses in Multiple Occupation (HMOs) Supplementary Planning Document.

3.0 CONSULTATIONS

- 3.1 Private Sector Housing - Based on the proposed layout and sizes, would require to be licenced under Part 2, Housing Act 2004. A verification inspection might be required to establish usable space of some rooms.

4.0 REPRESENTATIONS

- 4.1 Site notice displayed 3/3/22, expiry 25/3/22
- 4.2 Neighbour letters sent 14/01/22, expiry 11/02/22
- 4.3 19 letters of objection from 15 households have been received and can be summarised as follows;
- a) Query regarding neighbour notification
 - b) Increased demand for parking and highway safety
 - c) Properties in the area have been subdivided into flats
 - d) Loss of family homes
 - e) Over concentration of HMOs in the area
 - f) Increased pressure on local services
 - g) Antisocial behaviour
 - h) Noise
 - i) Increased waste
 - j) Works have already commenced
- 4.4 Councillor Swann has also submitted an objection comment and requested to make a deputation. His objection raises the following points:
- a) Increased pressure on local services (eg doctors, dentists) in a heavily populated area
 - b) A request that all HMO applications in Copnor Ward are halted until the HMO Database can be reviewed before a formula to calculate density of HMO can be affectively applied; and
 - c) More road congestion and less parking.

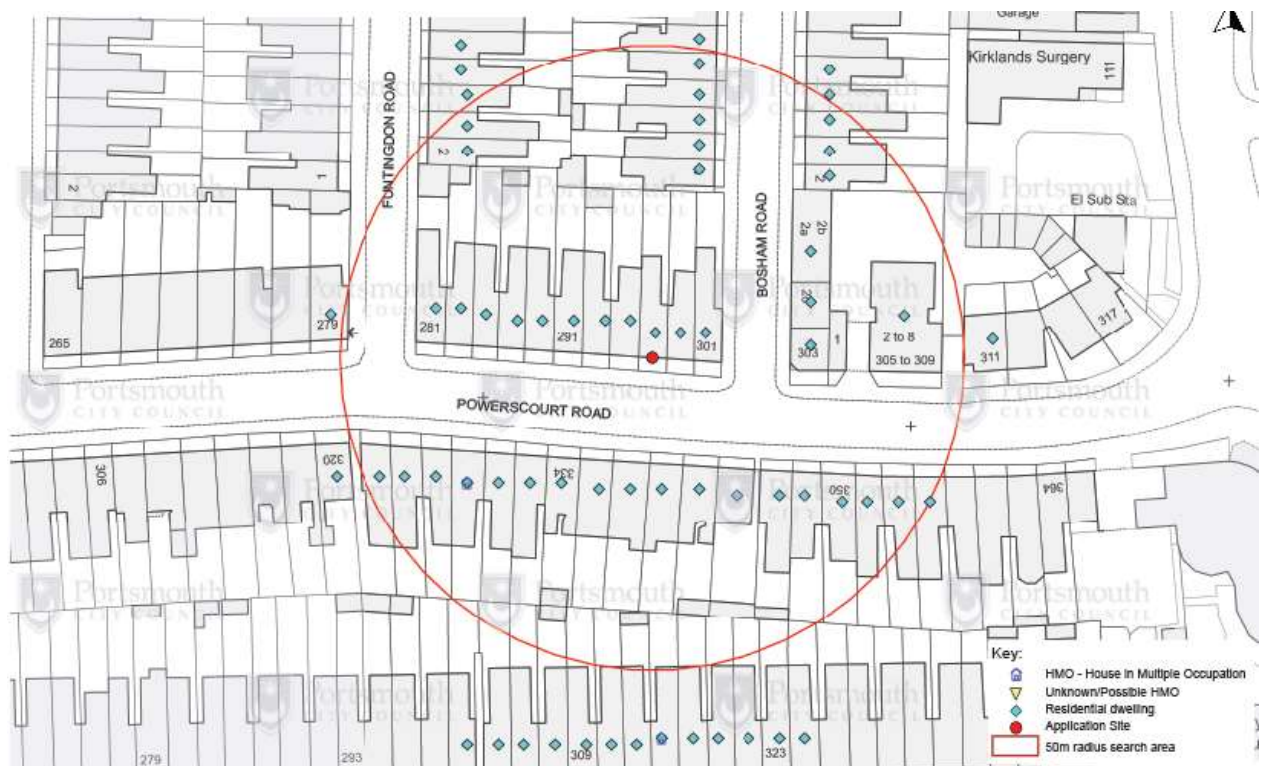
5.0 COMMENT

- 5.1 The main determining issues for this application relate to the following:
- The principle of Development;
 - The standard of accommodation;
 - Impact upon amenity neighbouring residents;

- Parking;
- Impact upon the Solent Protection Areas; and
- Any other raised matters.

5.2 Principle of development

- 5.3 Permission is sought for the flexible use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO) or Class C3 (dwellinghouse). The property currently has a lawful use as a self-contained dwelling (Class C3). For reference, a Class C4 HMO is defined as a property occupied by between three and six unrelated people who shared basic amenities such as a kitchen or bathroom.
- 5.4 Policy PCS20 of the Portsmouth Plan states that applications for the change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.



- 5.5 Based on information held by the City Council, of the 74 properties within a 50 metre radius of the application site, 2 HMOs were identified (no.328 Powerscourt Road and no. 315 Queens Road). Whilst this is the best available data to the Local Planning Authority (LPA) and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA. . Including the application property, the proposal would bring the percentage of HMOs within the area up to 4%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.

- 5.6 Local representations also suggested that other HMO properties in the area. The objectors were contacted by the LPA and asked to confirm which addresses they considered to be in HMO use. Of the six addresses given, only one (no.328 Powerscourt Road) was located within the 50m radius of the application site. No.328 is included on the Council's HMO database and has already been included in the calculations.
- 5.7 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. Neither of these cases would apply to this application.
- 5.8 Having regard to the above, the proposal would comply with the aims and objectives of Policy PCS19 and PCS20 of the Portsmouth Plan (2012) and the supporting HMO SPD.
- 5.9 Standard of Accommodation
- 5.10 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would, in planning terms, allow occupation by up to six individuals.

(HMO SPD October 2019)	Area Provided	Required Standard
Bedroom 1	10.2m ²	6.51m ²
Bedroom 1 Ensuite	2.8m ²	undefined
Bedroom 2	10m ²	6.51m ²
Bedroom 2 Ensuite	2.7m ²	undefined
Bedroom 3	10.6m ²	6.51m ²
Bedroom 3 Ensuite	2.8m ²	undefined
Bedroom 4	11.1m ²	6.51m ²
Bedroom 4 Ensuite	2.8m ²	undefined
Bedroom 5	10.5m ²	6.51m ²
Bedroom 5 Ensuite	2.8m ²	undefined
Bedroom 6	11.1m ²	6.51m ²
Bedroom 6 Ensuite	3.1m ²	undefined
Kitchen/ Dining Room	24.7m ²	22.5m ²
Living Room	10.5m ²	Not Required
WC	2m ²	undefined

- 5.11 A footnote to the amenity space standards set out within the HMO SPD (October 2019) refers to the PCC 'The Standards for Houses in Multiple Occupation' document dated September 2018. This guide was written to comply with the Licensing and Management of Houses in Multiple Occupation (Additional provisions) (England) Regulations 2007 in addition to the requirement of the 2006 Regulation and other parts of the Housing Act 2004. This document sets out the room space sizes expected where all bedrooms are over 10 sqm. Where all bedrooms are over 10 sqm, for an HMO accommodating between 6-10 people, the property is not required to include a separate living room and the required size for a communal living area can be reduced to 22.5sqm. In this instance, the combined kitchen dining area would meeting the minimum size requirements. Furthermore, an additional living room is proposed.
- 5.12 With regards to bathroom facilities, the ensuite to each bedroom, plus a communal WC, would provide good sanitary facilities.

- 5.13 It is considered that all of the bedrooms and the communal living areas accord with the standards as set out within the HMO SPD (October 2019) and 'The Standards for Houses in Multiple Occupation' document dated September 2018. Furthermore, all habitable rooms would have a reasonable layout and good access to natural light. The front bedroom in the loftspace would have three rooflights instead of a dormer window. While a window would be preferable for outlook, it is considered the three, south-facing rooflights would allow lots of light in to the room and provide adequate overall amenity. They are shown to have a cill height of 1.5m, which would allow many to see out.
- 5.14 Impact on amenity
- 5.15 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity associated with the use of any property as a dwellinghouse (Class C3) for a single family, would be unlikely to be significantly different than the occupation of the property by up to 6 unrelated persons as an HMO.
- 5.16 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful.
- 5.17 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 5.18 Highways/Parking
- 5.19 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Class C4 HMOs with six bedrooms. This results in an under provision of 0.5 spaces against the existing use of the property. It is not considered the likely parking demand is significantly greater than the occupation of the property as a Class C3 dwellinghouse. It is therefore considered that an objection on car parking requirement can be sustained on refusal. It should also be noted that the property could be occupied by a large family with grown children, each owning a separate vehicle.
- 5.20 The Council's Adopted Parking Standards set out a requirement for C4 HMO's to provide space for the storage of at least 4 bicycles. The property has a rear garden where secure cycle storage is proposed as well as front forecourt where bicycles could be stored. This requirement can be secured by condition. The storage of refuse and recyclable materials would remain unchanged.
- 5.21 Waste
- 5.22 The storage of refuse and recyclable materials would remain unchanged, being located in the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.
- 5.23 Special Protection Areas
- 5.24 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development, this application is for the change of use of the property from C3 (dwellinghouse) to a flexible C3/C4 use (both would allow up to 6 occupants), and as such it is not considered to represent a net increase in overnight stays. The development would therefore not have a likely

significant effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

5.25 Other Matters Raised in Representations

5.26 The request from Cllr Swann to pause the determination of all HMO applications within the Copnor Ward until a full and detailed review of HMO's already in the area has taken place is noted. However, on the basis the LPA has adopted policies in place to consider the impacts of HMO developments, it would be considered unreasonable not to progress applications that have been submitted for consideration. Failure to determine planning applications within statutory or agreed timescales would allow the applicant to appeal to the Planning Inspectorate against the non-determination of the application. Separate mechanisms are in place to review adopted planning policies which will be undertaken in consultation with Members and the public. In the meantime, it is considered that the data sources and further checks that officers carry out are robust enough to base decisions upon.

5.27 Concerns have been raised by neighbouring residents regarding the pressure the additional occupants would put on local services. However, having regard again to the existing lawful use of the property as a self-contained dwelling, it is considered the use of the property would not have a significantly greater impact on local services than the existing use.

5.28 The publicity was carried in accordance with the Planning requirements and fully advertised.

5.29 Work has started on site. However this is undertaken at the applicant's risk of permission being refused on the scheme, and should permission be refused, the expediency of taking enforcement action would be explored.

5.30 As discussed above, it is not considered that the proposal would result in a significant increase in noise, anti-social behaviour, parking demand, waste or air pollution.

5.31 The HMO SPD established in what situations the change of use is acceptable from family housing, in this instance the application accords with that policy.

5.32 Conclusion

5.33 Having regard to all material planning considerations and representations it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

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: Dual Use and Location Plan PL02; and Proposed Extension Elevations PL03.

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

External Works as Shown

- 3) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, the building operations indicated within approved drawing Elevations - PL 03., namely the construction of the single storey rear extension, shall be completed.

Reason: To ensure that adequate and communal living space is provided in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the Houses in Multiple Occupation Supplementary Planning Document (2019).

Cycle Storage

- 4) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be permanently retained for the parking of bicycles at all times.

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

PRO-ACTIVITY STATEMENT

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

THE PARADE TEAROOMS WESTERN PARADE SOUTHSEA PO5 3JF

RETROSPECTIVE APPLICATION FOR CHANGE OF USE OF PART OF BUILDING TO FORM CAFE (CLASS A3) TO INCLUDE EXTERNAL ALTERATIONS AND SINGLE STOREY EXTENSIONS AFTER REMOVAL OF EXISTING CANOPY (AMENDED SCHEME 15/00380/FUL)

REPORT BACK

- 1.0 This Report Back follows the granting of Conditional Permission at the last month's (23.03.2022) Planning Committee for the construction of a single storey front extension to provide storage and freezer facilities under planning ref: 20/01167/FUL. Your Committee requested a Report Back in order for an update on the enforcement-related matters at the site, due to a reported breaching of Condition 6 of the original permission (16/00497/PLAREG) relating to the Delivery Hours. Additionally, Committee Members queried and requested an update over the status of the tearoom's van, which is parked to the front of the site on the public highway and is used for storage. The matter of the opening of the kitchen door and associated condition is addressed by the next item on this agenda.
- 1.1 Condition 6 restricted deliveries to the site to between 8am and 9pm Monday to Saturday, and between 10am and 6pm on Sundays and any recognised Bank or public holidays. A complaint was received that this condition was not being complied with.
- 1.2 The Planning Enforcement Team report that deliveries outside of the specified restricted hours have ceased and the tearoom now appears to be complying with Condition 6. No complaints have been received about deliveries to site since October 2021.
- 1.3 With regards to the parked van on the public highway, the Applicants have stated that this is intended to be removed once the now-approved storage facilities (20/01167/FUL) have been installed on site. In any event, the City Council issued the Applicant with a permit for the van to be parked on the highway, there is no breach of planning control.
- 1.4 Conclusion
- 1.5 There is no current Planning breach, there is no action to be taken.

THE PARADE TEAROOMS WESTERN PARADE SOUTHSEA PO5 3JF

APPLICATION TO REMOVE CONDITION 4 OF APPLICATION 16/00497/PLAREG TO ALLOW EXTERNAL KITCHEN DOOR TO REMAIN OPEN FOR VENTILATION AS REQUIRED

LINK TO ONLINE DOCUMENTS:

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=QXQ3T8MO0MP00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=qxq3t8mo0mp00)

Application Submitted By:

Mr Mark Hogan

On behalf of:

Mr Mark Hogan

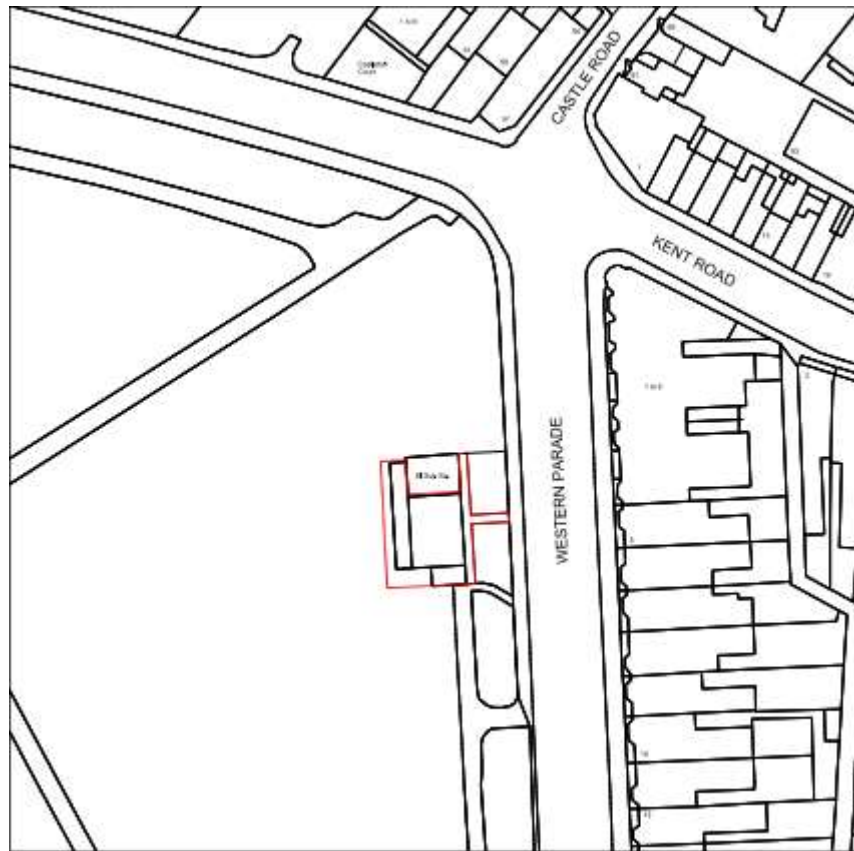
RDD: 10th August 2021

LDD: 14th January 2022

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is included on the Planning Committee agenda due to the number of objections received.
- 1.2 Site
- 1.3 This application relates to the Parade Tearooms located to the north-west corner of Southsea Common on Western Parade, to the south of its junction with Castle Road. The building is completed largely in painted brickwork with large areas of glazing along the western elevation. The northern section of the building remains in use as an electricity sub-station.
- 1.4 The site is located within Southsea Common, one of three registered historic parks within the city. Of the three roads behind the Common, it is noted that Western Parade has retained the most consistent character making a significant contribution to the character and appearance of the 'Seafront' Conservation Area in which the application site is located and the adjoining 'Castle Road' Conservation Area. The site is also located within the indicative flood plain (Flood Zone 3).
- 1.5 Proposal
- 1.6 Planning permission was granted in 2016 for the building to be converted into a café (Class A3, now Class Eb). The permission was subject to several conditions, one of which (condition 4) required the external kitchen door to the south elevation to remain closed at all times, other than for the purpose of access to and from the premises. The reason for this condition was to protect the neighbouring properties from smells and odours by ensuring ensure that smells and odours from cooking operations at the

premises are expelled from the building through the kitchen extraction system. This application seeks to remove condition 4.



Looking north on Western Parade. Kitchen door circled.

1.7 Relevant Planning History

1.8 20/01167/FUL - Construction of single storey front extension to provide storage and freezer facilities. Conditional Permission 25.03.2022.

1.9 16/00497/PLAREG - Retrospective application for change of use of part of building to form cafe (Class A3) to include external alterations and single storey extensions after

removal of existing canopy (amended scheme 15/00380/FUL). Conditional Permission June 2016.

Other, earlier history concerning the tearooms, not apparently relevant to current proposal.

2.0 **POLICY CONTEXT**

2.1 The relevant policies include:

Policy PCS23 of the Portsmouth Plan (2012).

2.2 The aims and objectives of the revised National Planning Policy Framework (2021) would also be relevant in this application.

3.0 **CONSULTATIONS**

3.1 Environmental Health - In terms of odour, provided the extraction system is designed correctly and running efficiently the kitchen will be under negative pressure so air will be drawn into the kitchen and cooking odours should be driven up the canopy located above the hob / stove.

Extract systems actually require an air intake to operate effectively so the door being open should not really be a major issue in terms of odour release.

Gas appliances in commercial kitchens also have an interlock to ensure the extraction system operates for safety purposes whenever gas is being used. Therefore this guarantees the system will always be operating whenever cooking is taking place.

In terms of noise, an open door will obviously allow noise to escape. However the nearest residential dwelling is approx. 26m from the door which would provide around 27dB of attenuation. There are no outdoor amenity areas associated with dwellings therefore any associated impacts be, via an open window, which would provide a further 15dB attenuation. Therefore it is probably unlikely that noise from normal activities within the kitchen would be a major issue.

I note that one of the objector's mention that loud music is often played in the kitchen. This would obviously be a potential problem but is not really a necessary activity for the operation of a commercial kitchen so it should be possible to deal with this using statutory nuisance provisions if it is an issue.

Therefore I would find it difficult to make a technical argument that the door being open would result in a significant impact upon amenity especially when the premises are restricted to close 21:00hrs latest.

4.0 **REPRESENTATIONS**

4.1 The application was advertised by neighbour letters, Site Notice, and Press Notice.

4.2 Three letters of objection have been received raising concerns regarding noise and odours impacting the neighbouring properties to the east of the application site as a result of the kitchen door being left open. Objectors have stated if the extraction system is working effectively, the door should remain closed.

5.0 **COMMENT**

- 5.1 The determining issues in this application are whether the removal of condition 4 would be acceptable. Whilst the approval of this application would result in the grant of a new planning permission, there are no material changes in site/area circumstances, nor in local or national policy, that would lead the LPA to reach any different conclusion in respect of the principle of the development's use and extension reached by planning permission 16/00497/PLAREG. It is noted that the development permitted under 16/00497/PLAREG has been completed and in operation for a number of years. This application therefore focusses on the condition at issue and the impact on residential amenity alone.
- 5.2 This applicant states in their application the kitchen door is the only access where rubbish and stock can be taken out and brought in from the bin area and refrigeration room directly outside and states it is difficult to ensure the door is kept closed, in compliance with the condition. The applicant is therefore seeking to remove this condition.
- 5.3 The Council's Environmental Health Team have been consulted on the application and have raised no objection to the application. The Environmental Health Officer states in terms of odours, extract systems normally require an air intake to operate effectively so the door being open is not considered to be a significant concern. Furthermore, the Environmental Health Officer states, providing the extraction system is running efficiently the kitchen will be under negative pressure so air will be drawn into the kitchen and cooking odours should be driven up the canopy located above the hob. The Council's enforcement officer carried out a site visit following complaints regarding noise and odours and was satisfied the extraction system had been implemented in accordance with the details approved as part of application reference: 16/00497/PLAREG and is indeed operating correctly.
- 5.4 In terms of noise, an open door would allow noise to escape, however, the nearest residential dwelling is approximately 26metres from the door and the Environmental Health officer states this would provide around 27dB of attenuation. There are no outdoor amenity areas associated with dwellings therefore any associated impacts be, via an open window, which would provide a further 15dB attenuation. Therefore, the Environmental Health officer considers it unlikely that noise from normal activities within the kitchen would have a significant impact on the amenity of neighbouring properties.
- 5.5 This general conclusion is to have been expected, for the reasons given above, along with other factors not mentioned: the noise of people in the road and park, traffic noise, hovercraft noise, and the windy location.

5.6 Conclusion

It is therefore considered the removal of condition 4 would not have a significant impact on the amenity of neighbouring properties .The proposed removal of condition 4 is considered to be acceptable and in compliance with the Portsmouth Plan (2012) and the aims and objectives of the National Planning Policy Framework (2021). As this decision will result in a new permission at the site, it is considered to be necessary and reasonable to re-impose several relevant planning conditions from planning permission 16/00497/PLAREG.

RECOMMENDATION

Conditional Permission

Conditions

- 1) 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: PL40.16 01, PL40.16 03 and PL40.16 04.

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

- 2) The kitchen extraction system permitted under planning permission 16/00497/PLAREG shall be permanently retained in accordance with the submitted details (specification as detailed within letter from Glenn Archdale of JAG Services Uk Ltd. dated 18.03.2016) unless otherwise agreed in writing with the Local Planning Authority.

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

- 3) The external air conditioning units permitted under planning permission 16/00497/PLAREG shall be permanently retained in accordance with the submitted details (Mitsubishi units - 2 X PUHZX-ZRP71VHA, 2 x PLA-RP125BA & 1 x PCA-RP7HAQ) unless otherwise agreed in writing with the Local Planning Authority.

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

- 4) The café/restaurant (Class A3 (now Class E(b)) premises hereby permitted shall remain closed to and vacated by members of the public outside of the hours of 8:00am to 9:00pm on any day.

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

- 5) No deliveries shall be carried out outside of the hours of 8:00am to 9:00pm Monday to Saturday, and 10:00am to 6:00pm on Sundays, and on any recognised Bank or public holidays.

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

- 6) The refuse store shown on approved drawing PL40.16 03 permitted under planning permission 16/00497/PLAREG shall be retained for the storage of refuse at all times.

Reason: To ensure that adequate visually acceptable provision is made for the storage of refuse and recyclable materials having regard to the sites location within a conservation area in accordance with policies PCS15 and PCS23 of the Portsmouth Plan.

- 7) Unless otherwise agreed in writing with the Local Planning Authority, the café/restaurant (Class A3) now Class E(b)) hereby permitted shall operate in accordance with the Servicing Management Plan submitted under application 16/00497/PLAREG .

Reason: To accommodate practical and efficient delivery/collection of goods/supplies and refuse/recyclable materials in the interests of the safety and convenience of users of the

highway network in accordance with the aims and objectives of policies PCS17 and PCS23 and the NPPF.

- 8) The bicycle storage facilities comprising four 'Sheffield Stands' and located as shown in application 20/01167/FUL shall be retained for the storage of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists in accordance with policies PCS14 and PCS17 of the Portsmouth Plan.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and or re-enacting that Order with or without modification) the application site shall not be used for any purpose other than as a café/restaurant within Class A3 (Now Class E(b)) without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

Reason: In order that the Local Planning Authority may exercise further control of potential uses having regard to the specific judgement that has made in respect of the wider public benefits of the proposal which outweigh the presumption against the loss of protected open space; and to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the Seafront Masterplan SPD.

- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and or re-enacting that Order with or without modification) no enlargement, improvements or other alteration permitted by Part 7 of the Order shall be carried out without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

Reason: In order to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.

PRO-ACTIVITY STATEMENT

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

THE INVINCIBLE 6 WICKHAM STREET PORTSMOUTH PO1 3EF

OUTLINE APPLICATION FOR CONSTRUCTION OF A TWELVE STOREY BUILDING (3,317SQM GEA) TO PROVIDE 76NO. 'CO-LIVING' BEDSPACES WITH SHARED COMMUNAL FACILITIES COMPRISING GYMNASIUM, KITCHENS, LAUNDRY AND RESIDENTS' LOUNGES; TOGETHER WITH EXTERNAL AMENITY AREAS (SUI GENERIS) (PRINCIPLES OF APPEARANCE, LAYOUT, ACCESS AND SCALE TO BE CONSIDERED)

Application Submitted By:

D Rose Planning LLP

On behalf of:

PVD2 Limited

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought to the Planning Committee for determination as the development constitutes a Major Form of Development and it is in the interest of the public for the application to be determined by the Planning Committee.
- 1.2 The main issues for consideration in the determination of the application are as follows:
- Principle of Development
 - Design and character
 - Standard of accommodation
 - Impact on residential amenity
 - Highways and Parking
 - Nitrates

2.0 Site Description

- 2.1 The site is located on the eastern corner of Wickham Street and to the south of Old Star Place. Directly opposite the principal frontage of the Invincible PH is the site of a relatively new 'Premier Inn' hotel, which includes a 'Beefeater' restaurant a ground floor level.
- 2.2 Adjoining the site to the west is 'The Ship and Castle PH' and the rear of Hooper Court (No's 3-5 The Hard); the residential block of Benbow House is situated to the east, across Havant Street. Bounded to the south and east is a 16-storey halls of residence (which is a recent alteration/conversion of the former Pall Europe offices) with multi-decked car park on the lower levels of the building.
- 2.3 The application site is broadly rectangular in shape and at 0.03ha is very restricted in size. Most of the site is occupied by the Invincible PH, with the exception of a service yard area and narrow access way around the building. The site comprises a part single (flat roof)/part two-storey ('L' shaped, pitched roof) building that has been vacant for several years.
- 2.4 There is an existing crossover providing vehicular access onto Wickham Street. The site is located within a Controlled Parking Zone with limited on-street parking spaces for permit holders nearby on Havant Street and double yellow line restrictions in the immediate

vicinity. Also nearby is a PCC operated pay and display parking with 62 spaces on Havant Street and privately operated multi-decked car park providing 420 spaces.

- 2.5 The site is located within the 'The Hard' locality of the City Centre as defined by policy PCS4 of the Portsmouth Plan. The site is situated approximately within a 5 minute walk away from the Portsmouth Harbour Train Station, situated to the south. The Gunwharf Quays shopping centre is also a similar distance away.
- 2.6 Although not within the defined boundaries, the site immediately adjoins and thereby affects the setting of both 'HM Naval Base & St George's Square' Conservation Area (No.22) and 'Portsea' Conservation Area (No.23). There is a considerable number of other nearby heritage assets, particularly within the Portsmouth Historic Dockyard (5 min walk away), but the assets in closest proximity to the application are identified below.

Listed Buildings - Grade II unless specified:

- Dockyard wall (Grade II*) (designated 1999)
- Former Pay Office
- Former Royal Naval Academy
- No.6 Boathouse
- No.5 Boathouse
- The George PH 84-85 Queen Street

Undesignated heritage assets:

- The Ship and Castle Public House (on the list of locally important buildings)
- HMS Warrior 1860 (on the National Historic Ships register as part of the National Historic Fleet - a list of 206 vessels of pre-eminent national or regional significance)
- The site is also designated as being within an Archaeological restraint area

3. Development Proposal

- 3.1 The development proposal seeks Planning Permission in Outline form for the approval of appearance, layout, access and scale on this compact site by the construction of a substantial 11-storey building for 76no. 'co-living' bedspaces (sui generis) with communal facilities.
- 3.2 The proposal would include shared communal facilities covering 472sqm floorspace comprising of a gymnasium, kitchens, and residents' lounges. These facilities, together with external amenity areas, are arranged as follows:
 - Concierge service for residents (ground floor):
 - Residents gymnasium
 - Living and dining areas (interspersed);
 - Panorama lounge with cooking/dining areas on full (11th) floor; and,
 - Roof terraces (7th and 11th floors).
- 3.3 The outline application has been the subject of amendment. As originally submitted, it proposed a House in Multiple Occupation for 76no. persons and the submitted drawings initially showed 76no. self-contained flats although confusingly their Planning Statement referred to bedsits i.e. non self-contained accommodation. The lack of clarity around the proposal for such an intensive HMO use by 76no. persons choosing to live communally was raised with the applicants. In response, the applicants have set out the intentions for a 'co-living' scheme (quoted in their words) below:

"Although recently revived, co-living is not an unfamiliar historic model. Looking back in time, examples such as Hakka Houses, the Chinese vernacular of co-living, could house

up to 500 villagers displaying the value and efficiency of self-sufficient communities. Within the UK this has also existed in various models such as the Isokon building (1934), which was the first example of modernist communal living in the UK. Studies show there is a belief that society is becoming lonelier with 35% of people not feeling connected to their wider community. 'Anomie' a sense of not belonging to a community has also grown across the UK over the past 30 years. Many factors have contributed to this including the rise of living alone, in much smaller families, globalization and advances in technology which detract from face-to-face encounters.

Co-living offers a non-conventional, innovative and affordable solution to the traditional residential market. As a new typology within Portsmouth, co-living would provide increased rental choice in the city and attract a wide range of new tenants into the area. An increased access to community is desirable for tenants including: experiences, convenience, affordability within a central location. The proposed scheme seeks to create a variety of different community spaces including "communal living spaces" on every floor and "social hub" spaces on the ground and roof levels. These spaces bring residents together in small communities. Additional facilities found across the buildings include a gym, laundry, bar, cycle store and roof terraces.

One of the unique aspects of the "co" market is the ability to offer much shorter-term contracts. Co-living accommodation is for rental periods longer than traditional short stay accommodation, but not for permanent occupation. This supports those who prefer a more transient lifestyle (for example: testing out an area in the city) without being tied down to location. The age/demographic of many example co-living developments currently show a clear market towards the single millennial within the 20s-30s age bracket. We have taken information from the Demographic report prepared by Propertonomics to identify the types of tenants who may rent within the development. The socio-economic profile within Portsmouth shows a mixed community.

There is a strong representation of young professionals and students within the largest population group of 20-24 years reflecting young people starting out in their careers. Over half the population includes financially stretched residents, however there are also several pockets of affluent areas including Southsea. The smaller than population of people who own "starter homes" suggests rent will be a viable choice for those saving to get onto the property market.

Tenant Types:

1. *Urban Nesters: New to renting post university, flexibility is important, idealistic - they want to own in a few years but not ready, they want to live in the buzz of the city centre.*
2. *Professionals: Desire the flexibility that short term accommodation provides, saving towards ownership, choose to live close to the city centre for the best work opportunities within striking distance of shops & restaurants and socialising.*
3. *Transient: Fixed term contract workers, frequent travellers for work/ relationships, move properties often flexibility in tenancy, could be hospitality/ naval, working remotely.*
4. *Empty Nesters, may be retired, young attitude to life, chosen to downsize to release money for travel/experience, want to be located centrally, planning for later life, loneliness and community support is important, monetize experiences and community and location over space.*

Co-development studies show that tenants have levels of what they consider is acceptable to share and not share in terms of spaces. The rise of social media, and the openness of digitally sharing daily updates on life in the home doesn't necessarily correlate with the physical spaces people are willing to share. Utilities, internet, gardens and workspaces

were the main areas rated most highly to share with bedrooms the least. The threshold between personal space and the shared environment is something that has to be addressed and determined.

Within the proposed development each tenant has access to a private kitchenette within their room alongside a range of large communal kitchen/ living areas on every floor. This gives the option of flexibility of where tenants can have meals and store their food. This is a similar arrangement to The Collective's co-living schemes. The scheme encourages residents to be able to live within individual tailored bedspaces while contributing to the community. Service and convenience is essential to any co-living development. The scheme offers a Concierge who is a Community Leader in the development who will plan on-site and off-site community events for residents. This could include anything from arranging cooking demonstrations in the "Social Hub" to scheduling summer yoga classes on the roof terraces. Cleaning of communal areas is included within the development."

3.4 The nature and intensity of the proposed co-living scheme will be examined further in the comments section of this report.

3.5 The outline application is supported by the following documents:

- Design and Access Statement, including Tall Building Statement, prepared by ACG Architects;
- Heritage Statement, prepared by ACG Architects;
- Historic Environment Assessment, prepared by MOLA;
- Transport Statement and Travel Plan, prepared by Sanderson Associates;
- Preliminary Ecological Appraisal and Bat Assessment, prepared by The Ecology Partnership;
- Noise Impact Assessment, prepared by KP Acoustics;
- Air Quality Assessment, prepared by Air Quality Assessments;
- Fire Safety Strategy, prepared by IFC Group;
- Sustainability and Energy Statement, prepared by SRE; and,
- Phase 1 Geo-Environmental Site Assessment, prepared by REC.

3.6 The co-living concept is new to Portsmouth City with the applicant arguing that the development proposal being substantially different to a HMO. This includes highlighting that the development proposal would include a concierge facility, the role of which is to cover:

- Maintaining a security Management record
- Online induction process and meet and greet
- Resident liaison and satisfaction
- Property maintenance
- Ensuring that residents comply with their obligations as occupants
- Support with the promotion of community living
- Waste management and cleaning

The concierge service will be over a 35-hour week and is to be across Monday to Saturday. The service is to be responsible for

1. Organisation of building Maintenance and general repairs, contractors and visitors.
 2. The building and the good relationship with local authorities and neighbours.
 3. Complying with Health & Safety regulations as per company policy.
- The applicant has also confirmed that the management of the site will be supported by a management plans and providing Guidelines document to tenants which outlines the expectations and requirements of future occupiers. This occupant handbook for future occupiers provides a detailed outline of the operations and running's of the co-living facility

including cleaning, travel, bicycle storage, rent and charges, laundry damages and repairs. During the determination of the application, the Management Plan, Handbook and Guidelines documents were provided for review by Officers, all of which appear to be comprehensive and well thought out documents, which should provide sure footing for a well run facility.

4. Consultation Responses

- 4.1 **Southern Water:** No Objection raised
- 4.2 **Natural England:** No objection raised. The development proposal is unlikely to have a significant impact upon the natural environment.
- 4.3 **Hampshire Fire and Rescue and Service:** No objection raised. Advice and guidance provided in relation to Access for firefighting, Access for high-reach appliances, water supplies and fire protection.
- 4.4 **County Archaeologist:** No objection raised subject to the imposition of conditions.
- 4.5 **County Ecologist:** No objection raised. From the information provided it is unlikely that the proposal would result in an impact to the European designated sites of the Solent alone.
- 4.6 **Colas Asset Management:** No objection raised. Request that before any works take place at this location for highway coordination purposes.
- 4.7 **Eastern Solent Coastal Partnership:** No objection raised from a flood risk perspective, subject to the imposition of conditions.
- 4.8 **Waste & Refuse management:** No objection raised
- 4.9 **Contaminated Land Team:** No objection raised subject to the imposition of conditions
- 4.10 **Drainage Consultant:** No objection raised
- 4.11 **Portsmouth Cycle Forum:** Raise No objection to this development but suggest a condition securing cycle parking
- 4.12 **Office for Nuclear Regulation:** No objection raised
- 4.13 **Highway Authority:** Object to the scheme as no parking is provided though are satisfied with the cycle storage provision. The LHA note that there may be an argument for a reduced parking provision against current standard but the scheme does not provide for any parking.
- 4.14 **Private Sector Housing Team:** Confirm that the site does not meet the definition of an HMO and note that the individual units do not meet the size criteria stated by the Nationally Described Space Standards and go on to advise that they are concerned therefore the occupant would appear not able to use the dwelling in a safe manner.

5. REPRESENTATIONS

- 5.1 Following neighbour notification seven letters of representation were received. The comments and issues raised were as follows:
- The site is a prime for development
 - The proposal would impact upon light and create shadowing

- Additional tall building would block the sky line
- Loss of privacy to the communal garden of Hooper Court
- Proposal would result in loss of light
- High density of development
- Wickham Street has become congested since the introduction of a one way system

6. Planning Policy

6.1 In addition to the aims and objectives of the National Planning Policy Framework, the relevant adopted Local Plan policies are:

- PCS4 (Portsmouth City Centre)
- PCS12 (Flood Risk)
- PCS13 (A Greener Portsmouth)
- PCS15 (Sustainable Design and Construction)
- PCS17 (Transport)
- PCS19 (Housing Mix, Size and Affordable Homes)
- PCS20 (Houses in Multiple Occupation: Mixed and Balanced Communities)
- PCS24 (Tall Buildings)
- PCS23 (Design and Conservation)

Supplementary Planning Documents (SPD) also provides relevant policy guidance:

- Sustainable Design & Construction SPD (January 2013)
- Reducing Crime Through Design SPD (March 2006)
- Achieving Employment and Skills Plan (July 2013)
- Solent Recreation Mitigation Strategy (2017)
- Parking Standards and Transport Assessments (July 2014)
- City Centre Masterplan (Jan 2013)
- Parking Standards and Transport Assessments (July 2014)
- Planning for Walking 2015
- Air Quality and Air Pollution (March 2006)

6.2 The Hard SPD (adopted November 2010) is relevant to the proposal and regeneration of this part of the city centre, with specific reference to 'Site 5: Clock Street' (at paras 3.48-3.61 on p's.33-35). The SPD identifies development opportunities, articulate a clear vision and identity for this part of the city and establish a high quality baseline for design principles, potential mix of uses, and guidance for the built form and public spaces.

6.3 The Tall Buildings Supplementary Planning Document (Tall Buildings SPD, June 2012) is also a material consideration when determining this planning application. Policy PCS24 of the Portsmouth Plan and the Tall Buildings SPD identify a number of areas of opportunity for tall buildings within the city. The application site is within an identified as The Hard 'area of opportunity for tall buildings'. A tall building is defined as any building above 5 storeys and/or 20m in height. In order to facilitate and encourage the design of tall buildings of the highest quality the SPD also identifies criteria which any tall building should meet.

7. Planning history

7.1 The Invincible PH was substantially altered/reconstructed in the mid-1950s and ground floor altered again in the mid-1980s. However, there are no recent applications relevant to the site.

8. Planning Assessment

- 8.1 The main issue is whether this proposal would contribute to the achievement of sustainable development, in accordance with national and local planning policy. Key issues for consideration are the principles of a co-living (sui generis) scheme, design including the appropriateness for a tall building in this location, impact on heritage assets, highways implications, impact on the residential amenity of nearby occupiers, sustainable design and construction, and site contamination/drainage.

COMMENT

- 8.2 The main issues for consideration in the determination of the application are as follows:
- Principle of Development
 - Design and character
 - Impact on Heritage Assets
 - Standard of accommodation
 - Impact on future residents
 - Nitrates
 - Flooding
 - Land contamination

Principle of Development

- 8.1 Policy PCS10 outlines the strategy for the delivery of housing within the city over the plan period, stating that new housing will be promoted through conversions, redevelopment of previously developed land and higher densities in defined areas. This is supported by para 61 of the NPPF which states that "...the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people [etc]...)".
- 8.2 The NPPF states that decisions on planning application 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') provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 8.3 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. The Council can presently demonstrate 3.8 years supply of housing land. There is a demand for 1 bedroom properties within the City (requirement of 1,546 rented units as Local Housing Needs Assessment 2019) which the development proposal would go some way towards.
- 8.4 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 deemed to be acceptable in principle subject to the further consideration below on the

specific impacts of the scheme and the standard of accommodation created in this new housing typology.

The design of the proposal and its impact on the character of the area

- 8.5 The NPPF in paragraphs 124 and 130 state that development should function well and add to the overall quality of the area while being visually attractive as a result of good architecture, layout and appropriate and effective landscaping Paragraph 130c) that's that developments should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). It also emphasises that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions".

Design/tall buildings

- 8.6 Policies PCS4 (Portsmouth city centre), PCS23 (design and conservation) and PCS24 (Tall buildings) seek well designed and respectful development of architectural excellence, to create a city centre that Portsmouth can be proud of and, in the case of tall buildings, designs that are positive and elegant, well-proportioned and neither bulky nor over dominant. Any proposed development of the application site must have regard to the setting of the nearby listed buildings including the Historic Dockyard wall (Grade II*) and setting of both 'Portsea' Conservation Area and 'HM Naval Base & St George's Square' Conservation Area. At six storeys and over 20m high, the proposed development requires tall buildings assessment.
- 8.7 The site is within an 'area of opportunity' for tall buildings. The site would reinforce the "cluster" of tall buildings that already exists at Admiralty Tower (some 100m to the east), Europa House/annexe (to the east and south), Warrior House (80m to the south) and Brunel House (190m to the south).
- 8.8 This cluster characteristic is recognised in the Tall Buildings SPD as one of the reasons for encouraging tall buildings in the city centre; para 7.8 of the SPD relates to the adjoining area of opportunity at The Hard requiring proposals for tall buildings to have particular regard to their impact on the Spinnaker Tower and other sensitive sites in The Hard area and have sensitive regard for and respond to the historic dockyard (to the north).
- 8.9 The proposed building is considered well enough designed and very importantly proposes to utilise high quality materials to demonstrate a sustainable design that would be a welcomed addition for the site, while satisfactorily integrating with the character of the sites wider context and townscape. A sustainable construction condition is recommended to be imposed in the event of permission being granted. The condition would include specifications of the materials and construction techniques to be employed in the development proposal, inclusive of renewable energy provisions.
- 8.10 As such, it is considered that the proposed development subject to the imposition of a condition securing the final detailing of the external façade would result in a form of development that could satisfactorily integrate within the Wickham Street and Old Star Place streetscenes in accordance with the aims and objectives of policies PCS13 and PCS23 of the Portsmouth Plan.

Impact on heritage assets

- 8.11 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 and at section 72

requires that Local Planning Authorities pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

- 8.12 The NPPF (paragraph 194) also states that when considering the impact of a proposed development on the significance of a designated heritage asset (listed buildings and conservation areas), great weight should be given to the asset's conservation.
- 8.13 Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting; and (paragraph 195) where the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, Local Planning Authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefit that outweigh that harm or loss; or (paragraph 201 -202) where the proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 8.14 The applicants Heritage Assessment identify relevant heritage assets proximate to the site. It states "The assessment of the potential effects of the proposal on designated heritage assets has established that the development would introduce an element of change into Portsea Conservation Area... and alter the settings of the H.M. Naval Base and the St George's Square Conservation Area, which incorporates the Historic Dockyard and its Listed Buildings.
- 8.15 The key contributors to the significance of these assets would not be affected by the development. The proposal would, however, result in the introduction of a structure of a much greater scale, and any effects resulting from such a change would need to be considered in the context of the current deteriorating condition of the site, and the potential benefits of regeneration in this part of Portsmouth. Sympathetic and appropriate standards of design, reflecting local traditions, are unlikely to detract from the appreciation of these assets." It contends that the effects on surrounding heritage assets through changes to their settings would be limited and largely remedied by the benefits of regeneration and "Any resulting harm would be limited and, in terms of the Framework criteria, fall within the lower end of the scale of less than substantial harm. When less than substantial harm to designated heritage assets has been identified, 'this harm should be weighed against the public benefits of the proposal'."
- 8.16 The significance and impact of the proposal on heritage assets has been assessed by officers. The height and scale/massing of the proposed seven-storey building would be appreciably greater than existing on the site, which is mainly three-stories in height.
- 8.17 The development proposal would undoubtedly alter views towards the development particularly from the northern footway of Queen Street. Despite the significance of the change it is recognised that the remaining buildings separated by a cleared area is visually disjointed, in poor condition and unattractive.
- 8.18 When considered in overview the findings are that the proposal would cause harm (of varying degrees) to the setting of all of the assessed assets. When considered in aggregate the harm is not however, considered sufficient to justify a finding of substantial harm in relation to this proposal. A similar finding is, therefore, drawn of less than substantial harm to heritage assets although the applicant's assessment is considered to downplay the impact. However, it is accepted that overall the harm ('less than substantial') must be weighed against the public benefits. The applicant describes the public benefits deriving from the scheme fall into three categories - heritage, planning and economic.
- 8.19 Had the specified materials been of lower quality, support for the scheme would have been difficult to justify. In light of the significance of this aspect of the proposal to the acceptability

of the scheme, it is considered absolutely essential to secure approval of samples of the indicated materials by planning condition.

Impact upon future residents and standard of accommodation

- 8.20 Policies PCS19 and PCS23 of the Portsmouth Plan support the principles of sustainable development as set out in the National Planning Policy Framework, which includes the provision of a good standard of living environment and ensuring the protection of amenity of neighbouring and local occupiers as well as future residents and users of the development. PCS19 of the Portsmouth Plan, Housing Standards SPD and the 'Technical Housing Standards - Nationally Described Space Standard' require that all new dwellings should be of a reasonable size appropriate to the number of people the dwelling is designed to accommodate.
- 8.21 There are no other examples of this type of communal living within the city. With 76 residents sharing a building on such a restricted size site it must be recognised that this would represent a highly intensive use. Such dwellings would fall considerably short of the adopted minimum floorspace standards for single person occupation set out in the Nationally Described Space Standards at 37sqm. However the development proposal is not to be considered as either a HMO or self-contained C3 residential units.
- 8.22 'Co-living' is a different approach to residential accommodation than envisaged within current Portsmouth CC policy, and indeed largely within national policy. The individual units, consisting of a sleeping/living/cooking area of around 15-18sqm each with a approx. 3sqm en-suite bathroom, on a purely technical basis meet the definition of a self-contained flat as it provides for the exclusive use of its occupants the three identified basic amenities of a toilet, personal washing facilities and cooking facilities. However the proposal is not to create 76 self-contained flats but a single site of which a significant amount of floor space would be communal shared floor space available to all residents. Similarly the site cannot be considered to be a 76-bed HMO as each unit can be considered to be a self-contained flat and consequently the site as a whole does not meet the standard test to be defined as an HMO. The use of the building and accommodation therefore falls between the two definitions and the Council must accordingly make a bespoke judgement as to the acceptability of the standard of living environment created for the future residents to ensure it meets the standard expected by Local Plan policy PCS23. In doing so the concerns of the Private Sector Housing team, described above, should be noted.
- 8.23 In reaching that judgement however the guidance provided by the adopted SPDs on Housing Standards and HMOs is useful to provide a comparative framework. The PCC Housing Standards SPD brings into local consideration the national space standards for dwellings. As noted above this national standard for 1 bed, 1 occupant dwellings is 37m², and at 18.5-22.1m² the individual units fall short of this. However the contribution to the quality of the living environment created by the provision of numerous and varied shared amenity spaces must be given due consideration. To provide, purely for comparative purposes an evaluation against PCC's adopted space standards for HMOs it can be noted that a large HMO (10 single occupancy bedrooms) would be expected to provide around no more than 15m² per occupant as the amount of combined floor space, both in private bedrooms and a proportion of shared communal areas. Under the current proposal each resident has over 18m² of private floor space, in addition to significant areas of shared communal areas consisting of shared kitchen/living spaces of varied sizes, and a gym. If the proposal is therefore compared to the standards required for HMOs it, numerically, would be considered superior.
- 8.24 As well as a numerical consideration of the amount of floor space provided Members must also consider whether those spaces are usable and make the contribution to the quality of living environment that is both necessary and that the applicant suggests would be achieved. As noted by the applicant this is a new typology of housing for Portsmouth,

though similar provisions elsewhere in the country are discussed within the application submission. The particular attraction of this type of housing is, on the applicant's contention attractive to a number of different demographic groups (see para 3.3 above), though this is of course somewhat untested. More significantly however a specific and interventionist management regime is also suggested, which can be further secured by planning condition, to promote the collective social inclusion that forms part of 'co-living' as a distinction to other forms of higher density residential accommodation. With this mix of tenants, even supported by a shared community ethos and associated management, it is unknown whether all the spaces described in the application will make a full contribution to the quality of the living environment suggested by the applicant. The provision of a residents gym, for example, is only of benefit to those that chose to use that facility and would not offer flexibility of alternative uses in the way the kitchen/living spaces could do. Some of the kitchen/living spaces may also be less attractive to residents than the applicant suggests. The ground floor communal living space, for example is somewhat visually exposed and also forms the entrance lobby to the building, these factors would seriously reduce its usability for residents and may discourage them from using it as intended. Other kitchen/living spaces, for example on the 3rd, 4th, 6th and 8th, floor are all each anticipated to provide amenity for 6 residents, though each of them falls short of the size of combined living space that a six-bed HMO would be expected to deliver. As noted above this direct comparison with HMOs standards is not necessarily a fair evaluation, as these communal spaces are intended to offer an addition and alternative to the living and cooking provision in the individual rooms rather than the sole amenity for residents, but the usability of such spaces, should that number of residents wish to access them simultaneously requires consideration.

- 8.25 Overall, and while it is a careful balance of judgement, it is considered that with individual rooms in excess of 18m²; a significant and diverse provision of further shared communal spaces dispersed throughout the building; and a focussed management regime to embed the 'co-living' ethos for those residents that choose to live in this form of housing in preference to more traditional HMO or other lower cost housing options, the scheme represents through a combination of these attributes a quality of living environment that meets the requirement laid down by policy PCS23.

Transport & Highways Considerations

- 8.26 The development proposal would be a car free development and would provide 76 resident cycle storage bays and 8 'Sheffield Cycle racks' visitor parking bays.
- 8.27 The application site is considered by Officers to be located within a highly sustainable location, within close proximity to the city centre and bus links. The site's location is recognised within the SPD on Parking Standards and Transport Assessments as being sufficiently accessible to the extent that a reduction in the parking standard which is applied elsewhere within the city can be considered.
- 8.28 In accessing this application, Officers are mindful of the presence of the adjacent multi storey carpark, within close proximity to The Hard public transport interchange (trains, buses and ferries). Bus stops are located on Queen Street and The Hard. The Hard Interchange Bus and Coach Station, which provides a wide range of services, is located approximately 200m from the site. The interchange has 10 bays, each with real-time information screens, used by First Bus, Stagecoach, National Express, Megabus and Park & Ride. The nearest rail station to the site is Portsmouth Harbour Station which is located approximately 0.3km to the south of the site and represents a 3 ½ minute walk or a 1½ minute cycle from the site. The accompanying Transport Statement advises that future occupiers of the development would be able to join a car club.
- 8.29 The applicant has expressed the view that the 'co-living' nature of the development would require no applicable parking standards, as whilst there are car parking standards for

HMOs and flats there are no standards for Co-living developments. The applicant advises that Co-Living tenure means that tenancies are short and flexible, and all units are marketed as being car free. On this basis, the stance taken with future occupiers is that, if car ownership is a requirement or reliance, then a prospective occupant would not choose to live within the development. This position is not supported by the Local Highway Authority who have expressed an opinion that there would be car ownership, inappropriate to be accommodated in commercial off street parking outside of the site. Officers, examining all of these factors are however satisfied that the nature of the accommodation, the location of the site and the connectivity to public transport is such that the lack of parking provision does not warrant a reason for refusal of planning permission.

- 8.30 The proposed cycle storage provisions would meet the requirements of the development proposal and would be secured, to the appropriate quality, by condition.

Archaeological considerations

- 8.31 The application has been accompanied by a Heritage Statement which contains a map regression from which some insight into the archaeological potential of the site can be gained.
- 8.32 The County Archaeologist in their assessment and consideration of the accompanying Heritage Statement has recommended that an archaeological condition is imposed in the event of permission being granted, which would ensure that archaeological remains encountered during the construction phase are recognised and recorded, this would provide insight into the early dockyard side of the site.

Recreational Disturbance - Wading birds

- 8.33 As set out in the (Solent Recreation Mitigation Strategy - Portsmouth City Council), the City Council is part of the Solent Recreation Mitigation Partnership, which is set up to co-ordinate efforts from local authorities to ensure that the Special Protection Areas (SPAs) continue to be protected. SPAs are internationally recognised for their habitat value, particularly for overwintering coastal birds, which need to be able to feed and rest undisturbed.
- 8.34 Research has shown that new homes in proximity to these areas lead to more people visiting the coastline for recreation, potentially causing additional disturbance to the birds. Within the Portsmouth area there are the Portsmouth Harbour SPA, Chichester and Langstone Harbours SPA and the Solent and Southampton Water SPA. The Solent Recreation Mitigation Strategy (April 2021) and its charging schedule is effective in the Portsmouth City Council area from 1st April 2018. The Partnership's final Solent Recreation Mitigation Strategy contains measures to protect the SPAs from recreation disturbance from proposed new housing up to 2034. The mitigation measures are to be funded by developer contributions for each net additional dwelling within a 5.6km radius of the SPAs. The updated Solent Recreation Mitigation Strategy charges are effective from 1st April 2022 and would be based on the quantum of development proposed in this scheme. An agreement would be required to be in place to secure these contributions in the event of permission being granted, in order for any adverse impacts to wading birds being adequately mitigated, in accordance with policy PCS13 and The Solent Recreation Mitigation Strategy (2017) and Paragraph 182 of the NPPF.

Nitrates:

- 8.35 Natural England has provided guidance advising that increased residential development is resulting in higher levels of nitrogen and phosphorus input to the water environment in the Solent with evidence that these nutrients are causing eutrophication at internationally

designated sites. A sub-regional strategy for the nitrates problem is being developed by the Partnership for South Hampshire, Natural England, and various partners and interested parties. In the meantime, Portsmouth City Council wishes to avoid a backlog of development in the city, with the damaging effects on housing supply and the construction industry, so the Council has therefore developed its own interim strategy. The Council's Interim Nutrient-Neutral Mitigation Strategy expects Applicant to explore their own Mitigation solutions first. These solutions could be Option 1: 'off-setting' against the existing land use, or extant permission, or other land controlled by the Applicant. Or it could be Option 2: mitigation measures such as Sustainable Urban Drainage Systems (SUDS), interception, or wetland creation. If, however, the Applicant sets out to the Council that they have explored these options but are unable to provide mitigation by way of these, they may then request the purchase of 'credits' from the Council's Mitigation Credit Bank. These credits are accrued by the Council's continuous programme of installation of water efficiencies into its own housing stock, and making these credits available to new development.

- 8.36 However on 16th March 2022 Natural England updated their advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites. This advice included catchment Specific Nutrient Neutrality Calculators and associated Guidance. This new guidance and calculator reflects the best available scientific knowledge and as such, with immediate effect, represents the only robust method to assess the likely significant effects on the Solent Marine Habitats sites.
- 8.37 Natural England have confirmed they have no objection to the approach of the Council's Interim Strategy, subject to mitigation.
- 8.38 In this case, the applicant has provided a statement, which confirms they are unable to provide nitrate mitigation via Option 1 or 2, and they would like to provide mitigation by using the Council's Mitigation Credit Bank. This is accepted in this instance but, crucially, that being subject to credits actually still being available at the time of the commencement of development. A condition would be attached to any consent which prevents occupation of the development until the mitigation is provided, i.e. the credits are purchased, either from the Council or from an open market source. In accordance with the Strategy and updated to reflect the methodology shared on 16th March by Natural England, the mitigation would be secured by way of a Section 106 legal agreement if a resolution to grant permission is passed.

Ecological considerations

- 8.39 The application has been accompanied by a Preliminary Ecological Appraisal, as well as an External Bat Assessment. The County Ecologist was consulted on the development proposal and has advised that the proposal would be unlikely to result in an impact on the European designated sites of the Solent alone.

Land Contamination

- 8.40 The application site is known to have suffered some bomb damage as a result of World War II and as such has undergone various stages of historic redevelopment. The Council's Contaminated Land Team have advised of several former potentially contaminative uses that may have operated on, adjacent or within close proximity to the application site, inclusive of a former garage with underground petroleum storage. For these reasons, there is a strong possibility for contamination to be present at the site and thus there is a requirement for further investigation. The development proposal is thus considered acceptable from a land contamination perspective, subject to the imposition of conditions requiring an initial desk study and subsequent verification report to ensure the identification and mitigation of any potential land contaminants of the site.

Flooding

- 8.41 The application site is designated as being within Flood Zone 1. The site is therefore considered to be of low risk (1:1000 year/ 0.1% annual probability) of experiencing an extreme tidal flood event. The application has been accompanied by a Flood Risk Assessment (FRA) which was compiled by Civic Engineers (dated April 2018). Officers consider that the FRA sufficiently outlines how flood risk at the site will be mitigated. It is also noted that the ground floor level of the premises will not provide any residential accommodation, which would provide any future occupants with safe internal refuge in the case of an extreme tidal flood event.
- 8.42 The eastern Solent Coastal Partnership were consulted on the development proposal and have raised no objection to the proposal, however, due to the scale of the development, it is recommended that a condition is imposed, requiring that a Flood Warning and Evacuation Plan for the occupants of the development is prepared in accordance with advice from the Environment Agency and PCC's Emergency Planning Team. The Council's Drainage specialist was consulted on the proposal and advised that they are supportive of the principle of the drainage strategy as it stands. The development proposal is thus considered acceptable from a Flood Risk and Drainage perspective.

Waste and Refuse Collection

- 8.43 The waste requirement for 76 individuals equates to 7 x 1100L refuse bin. The refuse doors are in excess of 1.1m wide and there is also sufficient clearance in front of the bin store to allow for the access and the independent manoeuvrability of the refuse bins. On this basis, the development proposal is considered capable of providing sufficient refuse storage provisions.

9. Conclusion and Planning Balance

- 9.1 The use of the site for a co-living form of residential development is considered appropriate to the city centre location. The 11-storey building is considered to be well enough designed in order to satisfactorily integrate within the sites prominent location. The indicative material palette which could be controlled by condition and proposes to utilise high quality materials to demonstrate a sustainable design that would make a townscape contribution and the public benefits considered to outweigh the 'less than substantial' harm on heritage assets (including the setting of the adjacent conservation areas and setting of other heritage assets nearby including the Historic Dockyard wall).
- 9.2 On balance, with appropriate conditions to ensure the good management of the site as a co-living building the resultant standard of accommodation and transport implications are considered to be acceptable. Noting the lack of the 5 year housing supply set out earlier in this report, the NPPF states that permission should be granted unless either of its two tests are met. It is considered any adverse effects would not be significant enough to outweigh the benefits brought of new housing units and therefore the proposal is considered to comply with the NPPF. Officers consider that the development proposal would constitute a sustainable form of Development and therefore it is recommended that planning permission be granted.

RECOMMENDATION

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to secure necessary legal agreements and to add/amend conditions where necessary.

Conditions

1. Time Limit

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

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

2. Approved Plans

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

266_PLN_100-PROPOSED BLOCK PLAN
266_PLN_101-PROPOSED SITE PLAN
266_PLN_222-COMMUNAL LIVING AREAS (1)
266_PLN_223-COMMUNAL LIVING AREAS (2)
266_PLN_301-PROPOSED SECTION B-B
266_PLN_302-EX+PROP SECTION A-A
266_PLN_303-EX+PROP SECTION B-B
266_PLN_224-COMMUNAL LIVING AREAS (3)
AMENDED ELEVATION DETAIL
EXISTING AND PROPOSED NORTH ELEVATION
AMENDED EXISTING AND PROPOSED WEST ELEV
AMENDED PROPOSED GROUND FLOOR PLAN
AMENDED PROPOSED 1ST to 10th FLOOR PLANS
AMENDED PROPOSED EAST ELEVATION
AMENDED PROPOSED EXISTING EAST ELEVATION
AMENDED PROPOSED FLOOR PLANS + COMMUNAL
AMENDED PROPOSED NORTH ELEVATION
AMENDED PROPOSED PANORAMA LOUNGE FLOOR PLAN
AMENDED PROPOSED ROOF PLAN
AMENDED PROPOSED SOUTH ELEVATION
AMENDED PROPOSED UNIT TYPES
AMENDED PROPOSED WEST ELEVATION
Noise Impact Assessment - 16891.NIA.01.REV.C

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

3. Details of Materials

Prior to above ground construction works, details of the external materials and finishes within the development proposal hereby approved shall be provided in writing and approved by the LPA.

Reason: In the interests of the visual amenity of the area and objectives of the National Planning Policy Framework (2021) and Policy PCS23 of the Portsmouth Plan (2012).

4. Residential Management Plan

Within four weeks of the granting of the development hereby permitted, full details relating to how the site will be managed, inclusive of premises entrance, security measures and the maintenance of the communal spaces, shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In order to ensure that a high quality co-living building is provided in the interest of amenity in accordance with Policy PCS23 of the Portsmouth Plan.

5. Refuse Storage Facilities

(a) Before the development hereby permitted is first occupied/brought into use (or such other period as may otherwise be agreed in writing with the Local Planning Authority) facilities for the storage of refuse and recyclable materials shall be provided in accordance with approved drawings and made available for use by the residents of the development hereby permitted; and

(b) The facilities approved pursuant to part (a) of this condition shall thereafter be permanently retained for the stated purposes at all times.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with Policy PCS23 of the Portsmouth Plan (2012).

6. Details of construction management plan

The development works hereby permitted shall not commence until a Construction Environmental Management Plan (CEMP), is provided to the Council and approved in writing. The development shall accord with the CEMP and shall continue for as long as construction is 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 having regard to the absence of any site curtilage and proximity to sensitive uses in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan (2012).

7. Site Management Statement

Within four weeks of the granting of the development hereby permitted, full details relating to how the site will be managed, inclusive of security measures, shall be submitted to and agreed in writing by the Local Planning Authority. They shall be installed as approved within one month of their approval, and shall thereafter be retained as approved unless agreed in writing otherwise.

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

8. Land Contamination

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

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

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS 8576:2013 'Guidance on investigations for ground gas - Permanent gases and volatile

organic compounds (VOCs)'). The laboratory analysis should include assessment for heavy metals, speciated PAHs and fractionated hydrocarbons (as accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS)). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation; and, unless otherwise agreed in writing by the LPA.

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

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

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

Reason: 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. Further info is available at: <https://www.gov.uk/guidance/land-affected-by-contamination>.

9. Foul and surface water disposal

Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that appropriate measures are in place for satisfactory drainage provision for the area.

10. Archaeology

No development shall take place within the site until the implementation of a programme of archaeological work including a watching brief during the relevant stages of development in order to ensure that archaeological remains encountered are recognised and recorded so providing an insight into the early dockyard dock side development.

Any findings shall be submitted to and approved by the Local planning Authority.

Reason: To ensure that the archaeological investigation is initiated at an appropriate point in development procedure.

11. Archaeology structural recording

No development shall take place within the site until the implementation of a programme of recording has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.

Reason: To ensure that the recording of a significant structure is initiated at an appropriate point in development procedure.

12. Sustainable construction

A report detailing the specifications of the materials and construction techniques to be employed should be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development hereby granted consent. This should include information demonstrating that the materials are, to the extent possible, durable, locally sourced, recycled, non-pollutant emitting, non-ozone depleting and with low embodied energy. The report should also include evidence that all new timber will be obtained from a certified sustainable source. The Local Planning Authority must be satisfied that developer has met the agreed requirements and this must be approved by them in writing prior to the first occupation of the development hereby granted consent. Only materials to the specifications agreed must be used in the construction of the development.

Reason - To ensure the development minimises its overall demand for resources and to ensure that the sustainable design and construction standards set out in PCS15 of The Portsmouth Plan are achieved.

13. Flood Risk Evacuation Plan

Prior to the first occupation of the development a Flood Evacuation Plan for future occupiers for the whole site (buildings and open areas) shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure the safeguarding of future occupiers in the event of a flood event.

INFORMATIVES

1. Please contact Martin Thompson or Fred Willet at Colas at martin.thompson@colas.co.uk or fred.willet@colad.co.uk prior to any development works take place.
2. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk



06

21/01613/FUL

WARD: COSHAM

WORKSHOPS & OFFICES, NORTHERN ROAD, PORTSMOUTH, PO6 3EP

CONSTRUCTION OF A FIRE STATION WITH OFFICES, TRAINING TOWER, TRAINING FACILITIES, AND ASSOCIATED CAR PARKING AND LANDSCAPING (FOLLOWING DEMOLITION OF EXISTING BUILDINGS)

Application Submitted By:

Vail Williams LLP

On behalf of:

Hampshire & Isle of Wight Fire & Rescue Service

RDD: 2nd November 2021

LDD: 2nd February 2022

1.0 SUMMARY OF MAIN ISSUES

1.1 This application has been brought to the Planning Committee because it is on Portsmouth City Council land.

1.2 The main issues for consideration relate to:

- The principle of Development
- Design
- Transportation
- Amenity
- Ecology
- Surface water drainage
- Landscaping & trees
- Sustainability
- Contamination
- Other

2.0 SITE AND SURROUNDINGS

2.1 The application site is located to the north of Cosham town centre on the northern side of the A3 Northern Road. To the north of the site is the Harbour School, Portsdown Primary School, and existing residential properties around Dame Judith Way. To the east of the site is Solent NHS owner land in two parcels, including the Highclere site (immediately adjacent to the site) and Treetops, while immediately to the west is the Edinburgh House site. Further to the north is the Queen Alexandra Hospital campus.



Figure 5 - Site Location Plan

- 2.2. The site covers an area of 0.83 hectares and currently accommodates a collection of brick structures. These buildings constructed around the 1960s are generally single storey (apart from the two storey entrance building) with courtyards, car parking and landscaping that have become overgrown. The site and buildings were previously used as a printing works. Mature trees exist on the site, predominantly along the sites boundaries. Portsmouth City Council owns the freehold on the site but is currently negotiating a land swap with the Fire Service for the existing Fire Station site to the south of this site.
- 2.3. Vehicular access into the site is gained direct from the A3 Northern Road, with pedestrian access into the site from the footpath alongside Northern Road. Pedestrians are able to access the site from Cosham town centre either via the 'at grade' crossing over Northern Road or the A3 underpasses (see Figure 1 - Site Location Plan).
- 2.4. The site is sited on land rising up towards Portsdown Hill and slopes by approximately 4 metres from the highest part of the site to the north down to the lowest part of the site to the south. Existing properties immediately to the north of the site have been built higher up the slope of Portsdown Hill, while the buildings within the QA Hospital campus provide a visual backdrop to the application site particularly when looking northwards from Cosham town centre.
- 2.5. In terms of public transport services, the site is serviced by bus routes along the A3 between Portsmouth, Gosport, Havant, Waterlooville, and Cosham town centre to the south. Cosham train station is only a short distance to the south of the site just off Cosham High Street. It should be noted, as part of the South East Hampshire Rapid Transit Scheme, Portsmouth City Council is proposing improvements along Southampton Road and Northern for bus, pedestrian and cycle links.
- 2.6. As mentioned in paragraph 2.1, the application site is located directly adjacent to the NHS Highclere site, for which a separate planning application is currently under consideration

proposing the construction of a new health centre (Ref: 21/01260/FUL). While to the west is the Edinburgh House site which is also subject to a separate planning application, proposing the construction of an 'Extra Care' housing development (Ref: 21/01710/CS3).



Figure 6 - Composite plan for 3 Cosham sites

3.0 PROPOSAL

- 3.1 The proposed new station will be built across the site to suit site levels, and will be a mix of two and three storeys in the main building. The new station will provide 2,919 square metres gross of internal floorspace, and will accommodate a range of activities including overnight sleeping accommodation and facilities for overnight fire service staff, office floorspace, plant room, gym, storage space, etc. Ancillary facilities such as a training yard and training tower will be built to the southwest of the site. The proposal seeks to retain mature trees, hedging and vegetation. Community facilities including a community room and lecture room will be provided towards the eastern end of the main station building. Principal building materials will be a mix of brick with red and silver cladding.
- 3.2 The layout of the proposed new station has been designed to ensure emergency vehicles parked within the appliance bays are able to access directly onto the A3 (Northern Road). Vehicular access into the site for all other vehicles and returning fire service vehicles will be from the northwest of the site, across the Edinburgh House site via Sundridge Close. It is proposed that Wig Wags and Blue light systems would be in place at the egress onto Northern Road alongside yellow caging markings on the carriageway. Car parking and cycle storage will be sited at the higher level to the rear and north of the main fire station building.



Figure 7- Visualisation of new fire station, looking towards the north-west

4.0 PLANNING HISTORY

- 4.1 Since 2000, there are no planning history records for this site. However, pre-application discussions took place in 2020 with Officers and concluded in October 2020 when Officers made the following comments/ recommendations.
- Officers support the principle of providing a new fire station in this location.
 - The applicant should work closely with the developers for the two neighbouring sites 'given the close proximity of the sites and their potentially conflicting uses'
 - The scheme should be presented to a Design Review Panel.
 - The proposed design and use of materials will need to reflect the setting and context of the site and surroundings
 - To satisfy Policy PCS15 of the Portsmouth Plan the development should achieve BREEAM excellent standard.
 - The new development should enhance the areas surrounding the new building with high quality landscaping.
 - The scheme should seek to achieve a net gain in biodiversity.
 - The impact of potential noise and disturbance, including from returning fire engines, on the proposed development at the Edinburgh House site should be carefully considered.
- 4.2. The applicant was invited to take place in an on line Design Review Panel workshop held on the 16th December 2021 to review the three developments neighbouring schemes, comprising;
- Health centre on the Highclere Site (Ref: 21/01260/FUL).
 - Fire Station
 - Extra Care' housing development on the Edinburgh House site (Ref: 21/01710/CS3)
- 4.3 The applicant made the decision not to attend the workshop as they considered "*a second public consultation day was a more appropriate approach for the type of development*".

Notwithstanding, the workshop went ahead with the Panel making a number of comments and recommendations, including;

- the lack of a masterplan for Cosham and the failure to look beyond the red line boundary of each of the application sites has resulted in three proposals that have little relation to one another in terms of architecture, landscape, or usage
- site appears very large given its function (and) a more compact footprint could be explored.
- relationship between Fire Station and Edinburgh House be as neighbourly as possible
- make the sites more permeable for pedestrians and cyclists and explore the possibilities of north-south/ east-west links.
- encourage the training yard to be shifted away from the site boundary so it is not viewed and heard by those in the dementia care home, as this may be distressing
- north end could be landscaped for ecology & amenity, and the secure line shifted south
- explore incorporating green roofs or a photovoltaic system on the roof
- the pedestrian experience of entering the site and building should be improved

4.4 A copy of the Design Review Panel report was shared with the applicant (copy available on Public Access). Subsequently, based upon the Panel's recommendation, Officers sought a number of design modifications. Details on the recommended modifications and the responses from the applicant are set out later in this report under the Design section.

5.0 POLICY CONTEXT

5.1 Portsmouth City Local Plan 2001-2011 (adopted July 2006) (saved policies)

- Policy DC21 contaminated land
- Policy DC26 (access onto primary and distributor roads)

5.2 Portsmouth Plan (2012)

- Policy PCS11 (Employment)
- Policy PCS15
- Policy PCS17 (transport)
- PCS23 (Design and Conservation)

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

5.3 Other guidance:

- National Planning Policy Framework (2021)
- National Planning Practice Guidance
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

6.0 CONSULTATIONS

Highway Authority

6.1 No objections. Conditions to address:

- * construction management plan (CEMP), with all construction traffic to access/egress the site via Sundridge Close and limit materials deliveries during peak periods;
- * installation of WIGWAG controls for exiting fire appliances, integrated with the committed scheme for signalisation of the pedestrian crossing as part of SEHRT funded through the Transforming Cities Fund due to be delivered by end March 2023;

* use of access limited to liveried emergency service vehicles only.

Public Health

- 6.2 Concerns about potential impact of noise from Fire Station operations on future residents of proposed Edinburgh House extra-care development (see 21/01710/CS3). Specifically, "*Public Health has been contacted by Healthwatch Portsmouth, representing concerns from members of the public that the choice of site for the two facilities next to each other has not considered the potential wider social and psychological impact on the Edinburgh House residents*" and that "*the purpose of the proposed extra-care facility adjacent to the proposed Fire Station is to provide appropriate housing for residents with dementia, physical and learning disabilities. As a community, there may be needs and vulnerabilities to the immediate environment that are more acute than that of the general population*".

Drainage Team

- 6.3 No objections, requested further work undertaken which explores opportunities for SuDs.

Environment Agency

- 6.4 No objections subject to the imposition of conditions:

- Remediation strategy
- Verification report
- Previously unidentified contamination
- Piling

- 6.5 The EA has also requested that two informatives are included on the decision notice concerning;

- Discharges affecting groundwater
- Fuel and oil storage

County Ecologist

- 6.6 Requested further information including;

- Incorporating a minimum of 3 no. bat tubes (e.g. 2FR Schwegler Bat Tube or equivalent) in the walls, in a suitable aspect such as the south elevation, should be considered.
- applicant's ecologist to review the landscape plan and agree on the necessary amendments to ensure the retention/enhancement and creation of this habitat on site.

Regulatory Services

- 6.7 No objection. Condition to protect the amenity of neighbouring residents from noise due to the operation of any associated fixed mechanical plant / machinery.

Contaminated land team

- 6.8 No objection, requested the imposition of three contaminated land conditions.

Arboricultural Officer

- 6.9 No objection.

Natural England

- 6.10 No objection.

Coastal & drainage

- 6.11 No comments submitted.

7.0 REPRESENTATIONS

- 7.1 The applicant has advised that public consultation events took place on the following dates at Cosham Library, Portsmouth:
- Tuesday 14th September 2.30pm – 7.30pm
 - Wednesday 15th September 7.30am -11.30am
- 7.2 The Public Consultation was a joint event with the schemes of Edinburgh House (Dementia Care), King George V playing fields, Road Improvement Schemes, Portsmouth Clean Air Zone and Healthwatch Portsmouth, also being displayed.
- 7.3 Eight site notices were displayed 12/11/21, expiry 21/12/21
- 7.4 Neighbour letters sent 12/11/21, expiry 01/11/21
- 7.5 At the time of writing the report, no representations have been received.

8.0 COMMENT

- 8.1 The main issues for this application relate to the following:
- The principle of Development
 - Design
 - Transportation
 - Amenity
 - Ecology
 - Surface water drainage
 - Landscaping & trees
 - Sustainability
 - Contamination
 - Other

Principle of Development

- 8.2 The application site is located immediately to the north and just outside the defined primary and Secondary Cosham district centre as delineated in the Portsmouth Plan (2012). The site benefits from direct access onto the strategic road network, which will enable the fire service to be able to respond quickly to emergency calls within its catchment area.
- 8.3 The application was listed as a 'Brownfield' site in the Council's Brownfield Land Register. The NPPF and the Portsmouth Plan (2012) supports the redevelopment of 'brownfield' sites, such as the application site. Furthermore, in pre-application discussions Officers have expressed support for the principle of developing a new fire station on the site.
- 8.4 The development of a new fire station on this highly accessible 'brownfield' site accords with the NPPF and Portsmouth Plan and is therefore acceptable in principle.

Design

- 8.5 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF, and requires that all new development must be well designed and, respect the character of the City. It sets out a number of criteria which will be sought in new development, including; excellent architectural quality, public and private open spaces which are clearly defined, safe, vibrant and attractive, appropriate scale, density, layout, appearance and materials in relation to

the particular context, creation of new views and juxtapositions that add to the variety and texture of a setting, amongst others.

- 8.6 The proposed new fire station has been designed to meet the operational needs of the fire station, and in general terms the proposed layout and design of the proposed new fire station is considered acceptable.
- 8.7 Notwithstanding, the acceptance in principle of the development of a new fire station in this location and general acceptability of the design of the new fire station, some concerns have been raised about the manner in which development on the three sites has been planned and designed. The Design Review Panel commented that "*the lack of a masterplan and failure to look beyond the red line boundary of each of the application sites has resulted in three proposals that have little relation to one another in terms of architecture, landscape, or usage*". The panel also commented that the proposed fire station "*site appears very large given its function (and) a more compact footprint could be explored*".
- 8.8 Policy PCS23 of the Portsmouth Plan (2012) requires that development is of an appropriate scale and density. The site is also identified under Policy PCS24 as a preferred location for tall buildings. While a higher density and height, and a mixed use, scheme might have been achievable at the site and may well have been preferable, this was not apparently explored by the applicant but it is not considered a matter that amounts to a reason to withhold planning permission.
- 8.9 The Design Review Panel also made a number of other more detailed recommendations, including making "*the sites more permeable for pedestrians and cyclists and explore the possibilities of north-south/ east-west links*". The suggested north/ south link between the Edinburgh House site and the Fire station would be challenging to deliver because of the changes in levels. The NHS Trust on the neighbouring Highclere Site has agreed to provide a pedestrian connection from their site, which could have then connected into a pedestrian route along the northern boundary of the fire station site. However, the applicant has commented that it is unviable and that the fire service will not deliver this pedestrian connection. The main reasons put forward for not delivering the footpath are: security, cost and no identified need.

Transport

- 8.11 Policy PCS17 of the Portsmouth Plan (2012) states that "*the Council will work with its partners to deliver a strategy that will reduce the need to travel and provide a sustainable and integrated transport network, which will implement highway improvements associated with the strategic sites, and promote walking and cycling and improved integration with other modes*".
- 8.12 The location of the site is well suited to a fire station as there is direct access onto the strategic highways network (A3). The proposed development is anticipated to generate an additional 29 vehicle movements in the AM and PM periods and 82 vehicle movements across a 12-hour period when compared to the former industrial uses of the site.
- 8.13 The Highway Authority has confirmed that the additional traffic generated by the development is unlikely to have a material impact on the operation of the wider highway network, and has also commented that "*the access to Northern Road is entirely unsuitable for southbound movements which will be obstructed by traffic queuing at the roundabout during peak periods. This access will need to be equipped with WIGWAG traffic signals linked to an upgraded traffic signal*

controlled pedestrian crossing to provide both safe and priority access for emergency vehicles and utilised for such vehicles only".

- 8.14 The council already has a committed scheme for signalisation of the existing zebra pedestrian crossing as a part of SEHRT funded through the Transforming Cities Fund due to be delivered by end March 2023. Any installation of WIGWAG controls will need to be integrated with that scheme and implementation secured by condition before the development is brought into use with use of the access limited to liveried emergency service vehicles only (exiting the site only). It should also be noted that the highway authority has requested that a further condition is added which requires the submission and approval of a CEMP. From the Highway Authority's perspective, the key issue is to make sure that all construction traffic accesses the site via Sunridge Close.
- 8.15 The Transport Statement demonstrates, in accordance with Portsmouth Plan Policy PCS17, that the proposed development will not have a significant effect on the operation, safety or capacity of the local highway network.

Amenity

- 8.16 The Council's Public Health Officer raised concerns about the fire station proposals and the proposed Edinburgh House extra-care development (see 21/01710/CS3), and suggested that the applicant has not considered the potential wider social and psychological impact on the Edinburgh House residents. Concerns were also raised by the Design Review Panel about this relationship, and recommended that the training yard to be shifted away from the site boundary and that offices could instead form the western boundary.
- 8.17 In response to suggested design changes, the applicant commented that the Environmental Health Officer had not raised any objections, subject to the imposition of a condition restricting noise levels. The Extra Care future occupier knows the full details of the fire station proposals. Given their lack of objection, and the fairly noisy local environment (traffic noise), this matter does not appear to inhibit the proposal.
- 8.19 The Air Quality Assessment submitted with the application states that there will be no significant impacts expected from traffic generation, and that the provision of Electric Vehicle charging and bicycle parking encouraged through a Travel Plan will further reduce potential air quality impacts. Training exercises within the training tower will use synthetic non-toxic smoke and will be dispersed at roof level from the tower resulting in optimal dispersion.
- 8.20 Pollution from construction particularly in terms of noise/ disturbance, dust and vibration has the potential to have a detrimental impact upon the amenity of surrounding properties if not properly controlled. To address such concerns conditions will be attached which will restrict construction and delivery hours and require the submission and approval of a Construction Environmental Management Plan [CEMP]. The CEMP will require the developer to submit for approval method statements for dust suppression and control of emissions from construction and demolition and the control of construction noise/visual/vibrations. These safeguards will ensure that development particularly during construction will not impact unacceptably upon the amenities of neighbouring properties.

Ecology

- 8.21a Policy PCS13 of the Portsmouth Plan (2012) requires that new development should "*retain and protect the biodiversity value of the development site and produce a net gain in biodiversity wherever possible*".
- 8.21b The preliminary ecology appraisal, submitted with this planning application, identified the need for bat surveys which took place in July and August 2021 by Eco Support. The outcome of these surveys, was that bat activity exists on site including use of the existing buildings. To facilitate the development, mitigation in the form of licences, timed and monitored demolition and provision of bat boxes on trees within the site are proposed, to provide alternative roosting locations. Lighting will also be managed to minimise the impact of artificial light on bats.
- 8.21c The County Ecologist has requested further information and accordingly two conditions will be imposed which require that development proceeds in accordance with the Phase II Bat Survey & Mitigation report (6th July 2021) and prior to occupation the submission and approval of a Biodiversity Management and Enhancement Plan (BMEP).
- Surface water drainage
- 8.22 The Portsmouth Plan (2012) promotes "*development in lower flood risk areas first, ensuring that the siting, design and layout of developments mitigate against flooding and implementing sustainable drainage systems*" (see paragraph 2.16 of the Portsmouth Plan (2012)).
- 8.23 A Drainage Strategy Report submitted with this planning application advises that the "*surface water flows generated by the development's roof and areas of external hardstanding will be captured and discharged via gravity at a controlled rate into a new connection into Southern Water's 1050mm diameter sewer to the south west*". The Report also suggest that run off will be attenuated by;
- Through the use of lined sub base storage beneath porous asphalt parking bays
 - Attenuation tank formed of lined geocellular crates
- 8.24 The Council's Drainage Team in commenting on the proposals has suggested opportunities which the applicant should investigate further to ensure a more sustainable drainage strategy, which the applicant has not responded to. A condition will therefore be imposed which requires prior to commencement of development the submission and approval of a detailed sustainable drainage strategy.
- Landscape & trees
- 8.25 Significant tree coverage exists on the site particularly adjacent to the boundaries. During pre-application discussions, the Council's Arboricultural officer accepted that the removal of trees is acceptable due to their low quality but the preference should be to retain boundary trees and where possible replacement tree planting is encouraged.
- 8.26 An Arboricultural Impact Assessment accompanies this planning application and identifies the trees for removal and the reasoning. The Impact Assessment also provides information around tree protection to ensure the retained trees are not damaged during construction.
- 8.27 A preliminary landscaping scheme has been provided within the Design and Access Statement. The scheme outlines the proposed hard and soft landscape treatments including the provision of additional tree planting and the use of different materials to ensure the fire station is a safe and secure site. To ensure that landscaping undertaken on the site is satisfactory conditions will be imposed which requires the submission of;

- Details of earthworks
- Landscape details
- Implementation of landscape works
- Tree protection

Sustainability

- 8.28 All development within the City must comply with the sustainable design and construction standards set out within Policy PCS15 of the adopted Local Plan and the Council's 'Sustainable Design and Construction' SPD (as amended by the Portsmouth Housing Standards Review). The policy requirement is that non domestic development should achieve an overall 'Excellent' BREEAM standard.
- 8.29 An Energy Statement submitted with the application advises that "passive building design and energy efficiency measures will form the basis of the energy and carbon reduction of the building", and the proposed building is predicted to produce 43% less regulated carbon than a Part L2A 2013 Building Regulations compliant building. The proposal is to incorporate air source heat pump and a photovoltaics on the roof.
- 8.30 The proposed building is predicted to produce 43% less regulated carbon than a Part L2A 2013 Building Regulations compliant building (24.4 kg/CO2/m2 compared to 43.0 kg/CO2/m2). The proposed building is predicted to generate 15% of the regulated energy from renewable sources as it incorporates a PV Array.
- 8.31 To ensure compliance with Policy PCS15 of the adopted Local Plan and the Council's 'Sustainable Design and Construction' SPD (as amended by the Portsmouth Housing Standards Review) and condition will be imposed which requires the submission 6 months after completion of the development proving that the development has achieved 'Excellent' standard of the Building Research Establishment's Environmental Assessment Method (BREEAM).

Contamination

- 8.32 A desktop contamination assessment accompanies this planning application and has identified a number of potential sources of contamination that need to be investigated further. Further investigation is proposed to understand the sources and associated risks further. This includes intrusive investigations post demolition and a pre-demolition asbestos survey. These investigations can be conditioned.

Other issues

- 8.33 During pre-application discussions about how this development can contribute towards improving local employment and skills. Accordingly a condition has been added which requires the submission and approval of an Employment and Skills Plan.

Conclusion

- 8.34 The proposed new fire station will be built in a highly accessible 'brownfield' site in Cosham and is therefore acceptable in principle. It would meet the needs of the fire service to provide a modern emergency facility for the public good, and be of acceptable scale and design, with acceptable environmental impacts, achieved with the assistance of a range of conditions.

8.36 The proposals are in all other respects accord with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021). Therefore the proposals are considered acceptable and are recommended for approval.

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 -

- Site Plan - COS-HLM-00-00-DR-A-000003 - PO5
- Training Tower Plans- COS-HLM-00-ZZ-DR-A-00110-PO2
- Training Tower Elevations - COS-HLM-00-ZZ-DR-A-00206-PO2
- Training Tower Sections - COS-HLM-00-ZZ-DR-A-00310-PO2
- Isometric Views - COS-HLM-00-ZZ-DR-A-00311-PO3
- Street View Render - COS-HLM-00-ZZ-DR-A-00312-PO1
- Training Tower Views - COS-HLM-00-ZZ-DR-A-00313-PO1
- Totems and Signage - COS-HLM-00-ZZ-DR-A-00320-PO1
- Proposed Block Plan - COS-HLM-00-ZZ-DR-L-00002-PO1
- Proposed Ground Floor Plan - COS-HLM-01-00-DR-A-00100-PO9
- Proposed First Floor Plan - COS-HLM-01-01-DR-A-00101-PO9
- Proposed Second Floor Plan - COS-HLM-01-R1-DR-A-00103-PO5
- Proposed Roof Plan - COS-HLM-01-R1-DR-A-00103-PO5
- Proposed North Elevation - COS-HLM-01-ZZ-DR-A-00200-PO5
- Proposed South Elevation - COS-HLM-01-ZZ-DR-A-00201-PO5
- Proposed East Elevation - COS-HLM-01-ZZ-DR-A-00204-PO4
- Proposed West Elevation - COS-HLM-01-ZZ-DR-A-00205-PO5
- Proposed Sections – Longitudinal - COS-HLM-01-ZZ-DR-A-00300-PO4
- Proposed GA Sections - COS-HLM-01-ZZ-DR-A-00301-PO2
- Proposed Cross Sections - COS-HLM-01-ZZ-DR-A-00302-PO4
- Landscape GA - COS-HLM-XX-ZZ-DR-L-00007-PO4
- Hard Landscaping Plan - COS-HLM-XX-ZZ-DR-L-00008-PO4
- Soft Landscaping Plan - COS-HLM-XX-ZZ-DR-L-00009-PO4
- Fencing Plan - COS-HLM-XX-ZZ-DR-L-00010-PO3

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

Restrictions on access onto A3

3) Prior to first occupation of the development the installation of WIGWAG controls will need to be integrated with the signalisation of the nearby pedestrian crossing and that access direct onto the A3 shall be limited to liveried emergency service vehicles only.

Reason: In the interests of highway safety.

Sample of materials

4) Development above ground level shall not take place until a sample panel of the materials to be used in the construction of the external surfaces has been prepared on site for inspection and approved in writing by the Local Planning Authority. The sample panel shall be at least 1m x 1m and show the proposed material, bond, pointing technique and palette of materials to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from site until the completion of the development

Reason: In the interests of the visual amenities of the area and to accord with Policy PCS23 of the Portsmouth Plan (2012) and NPPF.

Construction Environmental Management Plan (CEMP)

5) (a) No works shall take place at the site until a Construction Environmental Management Plan shall have been submitted to and approved in writing by the Local Planning Authority to include, but not limited to details of:

- Site storage of construction materials/chemicals and equipment;
- Location of construction compound 56
- Movement of construction traffic/routes and delivery times
- Contractors parking area
- Wheel washing facilities
- Method Statement for dust suppression and control of emissions from construction and demolition
- Assessment and Method Statement for the control of construction noise/visual/vibrational impacts for the site specifying predicted noise levels, proposed target criteria, mitigation measures and monitoring protocols
- Chemical and/or fuel run-off from construction into nearby drains or watercourse(s)
- Demolition and waste disposal

(b) The development shall be carried out in accordance with the approved Construction Environmental Management Plan (CEMP) and shall continue for as long as construction/demolition is taking place at the site.

Reason: To ensure that measures are in place to ensure the amenities of surrounding areas are adequately protected during construction in accordance with the requirements of policies PCS14 and PCS23 of the Portsmouth Plan (2012) and NPPF.

Avoidance, Mitigation and Compensation Measures: Roosting Bats

6) Development shall proceed in accordance with the measures set out in the Phase II Bat Surveys & Mitigation (date 6th September 2021) unless varied by a European Protected Species (EPS) license issued by Natural England. Thereafter, the replacement bat roost features and enhancements shall be permanently maintained and retained in accordance with the approved details.

Reason: To ensure appropriate measures are in place to ensure the protection/ conservation of bats in accordance with Policy PCS13 of The Portsmouth Plan (2012) and NPPF.

Biodiversity Management and Enhancement Plan (BMEP).

7) Prior to first occupation, a detailed Biodiversity Management and Enhancement Plan (BMEP) to be incorporated into the development shall be submitted for written approval to the Local Planning Authority. Development shall subsequently proceed in accordance with any such approved details, with

photographic evidence provided to the Local Planning Authority within 6 months of occupation. The BMEP should seek to secure enhancements for wildlife within the new urban areas by incorporating the following biodiversity net gain measures:

- A bat mitigation and enhancement strategy
- A lighting strategy
- A long term woodland management strategy for the on-site plantation woodland.
- Planting of native trees characteristic to the local area to make a positive contribution to the local landscape and biodiversity.
- Using native plants in landscaping schemes to provide nectar and seed sources for pollinators and birds.

Development shall subsequently proceed in accordance with any such approved BMEP, with photographic evidence provided to the Local Planning Authority within 6 months of occupation.

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

PCC Drainage

8) Prior to commencement of development a full sustainable drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The details of the drainage strategy shall include the following:-

- Finished Floor Levels (FFL),
- layouts,
- pipe sizes,
- invert levels,
- infiltration tests results,
- porous paving cross-sections
- written confirmation of S185 and S106 Agreements
- any other supporting information

The approved details shall be implemented and maintained for the lifetime of the development. Reason: To prevent environmental and amenity problems arising from flooding and to comply Policies PCS12 and PCS16 of the Portsmouth Plan 2012 and NPPF.

Details of Earthworks

9) Development shall not commence until details of earthworks have been submitted to and approved in writing by the local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the details of the earthworks are acceptable and accords with the requirements of policies PCS13 and PCS23 of the Portsmouth Plan (2012) and NPPF.

Landscaping Details (hard and soft)

10) No development shall take place above ground level until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. All details shall be fully dimensioned and shall include proposed finished levels or contours; means of enclosure; car park layouts, other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, cycle parking,

refuse or other storage units, signs, lighting); accurate proposed and existing functional services above and below ground (e.g. drainage including rain gardens and swales, power, communications cables, pipelines indicating lines, manholes, supports. Soft Landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation programme.

Reason: In the interests of visual amenity and to ensure that suitable hard and soft landscape is provided as part of the development and accords with the requirements of policies PCS13 and PCS23 of the Portsmouth Plan (2012) and NPPF.

Implementation of landscape works

11) All hard and soft landscape works shall be carried out in accordance with the approved details, and to a reasonable standard in accordance with the relevant recommendation of the appropriate British Standard or other recognised code of good practice. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed by the local planning authority in writing. The maintenance shall be carried out in accordance with the approved schedule. Any trees or plants that, within a period of five years after planting, are removed, die or become in the opinion of the local planning authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the local planning authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of 55 landscaping in accordance with the approved design and accords with the requirements of policies PCS13 and PCS23 of the Portsmouth Plan (2012) and NPPF.

Landscape Maintenance

12) Prior to first occupation a schedule of landscape maintenance for a minimum period of five years should be submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation.

Reason: To ensure that the landscaped areas are maintained in a healthy condition in the interests of visual amenity and accords with the requirements of policies PCS13 and PCS23 of the Portsmouth Plan (2012) and NPPF.

Tree Protection

13) No development shall commence on site until a scheme for the safeguarding of all trees, shrubs and other natural features not scheduled for removal during the course of the site works and building operations in accordance with Tree Protection Plan 19140-BT6 and Arbor-Call Arboricultural Assessment dated 21st July 2021 (Ref: MW.21.060.AIA) with British Standard:5837 (2005) has been submitted to and approved in writing by the Local Planning Authority. All trees, shrubs or features to be protected shall be fenced along a line to be agreed with the Local Planning Authority with:

- a) 1.5 m high chestnut paling securely mounted on scaffold framing which is firmly secured in the ground and braced to resist impact; or
- b) 2.4 m high heavy duty hoardings securely mounted on scaffold framing which is firmly secured in the ground and braced to resist impact.

Such fencing shall be maintained during the course of the works on site. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by landscape features of communal public, nature conservation or historical significance in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and NPPF.

BREEAM standard

14) Within 6 months of completion of the development hereby permitted, written documentary evidence shall be submitted to, and approved in writing by the Local Planning Authority proving that the development has achieved 'Excellent' standard of the Building Research Establishment's Environmental Assessment Method (BREEAM), which will be in the form of a post-construction assessment which has been prepared by a licensed BREEAM assessor and the certificate which has been issued by BRE Global, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy PCS15 of the Portsmouth Plan (2012).

Employment and Skills Plan

15) No development shall commence above ground level 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).

Remediation strategy

16) No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

- a) A preliminary risk assessment which has identified: • all previous uses; • potential contaminants associated with those uses; • a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
- b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- c) The results of the site investigation and the detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved. Reasons for condition

Reason: The geology beneath this proposed development comprises Head deposits underlain by the Chalk, which are designated as Secondary and Principal Aquifers respectively. It is not within a Source Protection Zone. Controlled waters are particularly sensitive in this location because the proposed

development site is located upon a Principal Aquifer. The previous use of the proposed development as a print works and industrial workshops presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters.

Verification report

17) Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reasons: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the NPPF

Previously unidentified contamination

18) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the NPPF.

Piling

19) Piling and using penetrative methods shall not be carried out other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: Piling and using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. As stated previously, groundwater is particularly sensitive in this location because the proposed development site is located upon a Principal Aquifer. In light of the above, the proposed development will only be acceptable if a planning condition controlling disturbance of the aquifer is imposed. Without this condition we would object to the proposal in line with paragraph 174 of the NPPF because it cannot be guaranteed that the development will not present unacceptable risks to groundwater resources

Noise Levels

20) The rating level, of the noise from the operation of all fixed mechanical plant or machinery, as defined within British Standard BS4142, shall not exceed the following values measured 3m from the façade of any residential dwelling at a height of 1.5m above ground level.

- Dame Judith Way / Sundridge Close LAeq(15mins) 45dB
- Ashurst Road LAeq (15mins) 41dB

Reason: To protect the amenities of nearby residential properties

INFORMATIVES

Discharges affecting groundwater

Discharges affecting groundwater is an offence under Environmental Permitting Regulations. The Drainage Strategy Report states that all surface water and foul water will be discharged to the main sewer network. However, confirmation has yet to be obtained from Southern Water that they have the capacity to take this additional load. We would highlight that the Environmental Permitting (England & Wales) Regulations 2016 make it an offence to cause or knowingly permit a groundwater activity unless authorised by an Environmental Permit which we will issue. A groundwater activity includes any discharge that will result in the input of pollutants to groundwater. Further information can be found here - <https://www.gov.uk/guidance/discharges-to-surface-water-and-groundwater-environmental-permits>.

Fuel and oil storage

A fuel storage area is proposed for this development and any fuel or oil storage must comply with the Oil Storage Regulations (<https://www.gov.uk/guidance/storing-oil-at-home-or-business>). The Best Available Technique (BAT) for the design of a containment system for fuel and oil includes the following:

- All storage vessels are contained using a bund;
- The capacity of the bund is either 110% of the largest vessel or 25% of the aggregate capacity of all the vessels that it contains, whichever is greater;
- The bund is capable of withstanding the hydrostatic head of liquid when full;
- The bund is constructed of a material which is impermeable to crude oil and water and is resistant to fire;
- If there are joints in the bund construction, then metal water stops are installed to prevent leakage from joints;
- Sealants used in bund joints are resistant to crude oil and water and are capable of maintaining a seal with thermal expansion and contraction of the bund;
- Pipework, cables and instruments do not penetrate the bund walls or floor;
- The bund is fitted with a high level alarm; and
- The bund is fitted with a sump to allow removal of accumulated liquid.

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

CLOCK HOUSE SPUR ROAD PORTSMOUTH PO6 3DY

OUTLINE APPLICATION FOR CONSTRUCTION OF PART 2/3/4/5/7 STOREY BUILDING TO FORM STUDENT HALLS OF RESIDENCE (CLASS C1) COMPRISING 44 STUDY STUDIOS AND ASSOCIATED FACILITIES (PRINCIPLES OF ACCESS, APPEARANCE, LAYOUT AND SCALE TO BE CONSIDERED), FOLLOWING DEMOLITION OF THE EXISTING SITE BUILDING (AMENDED DESCRIPTION)

LINK TO ONLINE DOCUMENTS:

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=PR6KLXMO0LG00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=PR6KLXMO0LG00)

Application Submitted By:

Edward Caush Associates

On behalf of:

Clock House 2017 Ltd

RDD: 7th May 2019

LDD: 26th September 2019

1.0 SUMMARY OF MAIN ISSUES

This application has been submitted in Outline form, with matters of Access, Layout, Scale and Appearance to be considered. Landscaping, therefore, is the only Reserved Matter, for future consideration. The main issues in the determination of the application are as follows:

- Principle of the proposal
- Scale of the development
- Appearance, including materials, architectural detailing and sustainable construction
- Layout, including internal and external layout and standard of living accommodation
- Access and parking
- Impact on the amenities of neighbouring occupiers
- Ecology
- Land contamination
- Drainage
- Impact on the Solent Special Protection Areas (SPAs).

1.2 Site and surroundings

1.3 The application site lies on the northern side of Cosham District Centre, on the corner of Northern Road and Spur Road, opposite a major roundabout junction. The site is currently occupied by a single storey building with a small clock tower on the roof, which is centrally located on the site and surrounded by a hard surfaced parking area. At the time of the site visit in August 2019, there were also two portacabins on the site, one on the northern side and one on the southern side. The site is currently being/was last used for hand car washing, while Google Streetview shows previous uses including car sales, and later the sale of doors/windows/conservatories.

- 1.4 The area immediately surrounding the site is characterised predominantly by commercial uses, with some residential uses above ground floor level. The adjacent property to the east is in use as a design/print shop at ground floor level and the planning history suggests that the first floor is in use as offices. The adjacent property to the south, No.64 Northern Road, is in use as a chiropodist. That property, and other properties to the south, are sited at a lower ground level to the application site.
- 1.5 There is an existing vehicle access to the site from Northern Road and adjacent to this is a pedestrian access to an underpass beneath Northern Road. The middle of the Spur Road roundabout is formally landscaped and the wider area to the north of the site has a fairly verdant feel, with mature trees and hedges along site boundaries. The site itself is almost entirely hard surfaced with no existing trees or other landscaping.
- 1.6 The site lies within the secondary area of Cosham District Centre as defined by Policy PCS8 of the Portsmouth Plan, and within a High Density area as defined by Policy PCS21.
- 1.7 Proposal
- 1.8 Planning permission is sought for the construction of a building up to 7-storeys in height, accommodating 44 rooms for student occupation. Although the application is submitted in Outline form, only Landscape has been Reserved for future consideration (through a subsequent Reserved Matters application).
- 1.9 The layout of the building would comprise the following:
Semi-basement - 2 x bedrooms; cycle stores;
Ground floor - 9 x bedrooms; 1 x communal room;
First floor - 9 x bedrooms; 1 x communal room;
Second floor - 8 x bedrooms; 1 x communal room;
Third floor - 6 x bedrooms; 1 x communal room;
Fourth floor - 5 x bedrooms; 1 x communal room;
Fifth floor - 5 x bedrooms; 1 x communal room.
- 1.10 The main entrance to the building would be on the north-west side, fronting Spur Road, and there would be lift access to all floors. The building would present six storeys to the front elevation in its central element, dropping down to four/three storeys and then to two at either side. With land falling from north to south, the rear elevation would present the full seven storeys to the south, with the same step-downs to either side. The principal facing material would be brick, with two main colours suggested thus far. The building would have flat roofs.
- 1.11 The land surrounding the building would be landscaped (detailed proposals subject to separate reserved matters submission), and a refuse store would be located on the north-east side of the site.



Ground Floor Plan



North-West (front) elevation.



3D visual from west

1.12 Planning history

1.13 The most recent planning decisions relating to the site are as follows:

10/00918/OUT - outline application for construction of 5-storey building for surgery/medical centre (Class D1), with pharmacy (Class A1) on ground/1st floor and 8 flats above with basement car park - refused 21 September 2011. Reasons for refusal related to a lack of planning obligations to make the development acceptable in respect of highway matters and open space. The scheme was not refused on design grounds.

06/00752/OUT - construction of part 3/4/5 storey building to form offices (Class B1) and associated parking and refuse storage (outline application) - conditional outline permission, 15 January 2010. This planning permission was not implemented.

A*19194/AD - construction of 10 storey building to form offices (Class B1) to part ground floor and 28 flats - refused 22 October 2004. Reasons for refusal related to scale and massing and impact of noise and air pollution on future occupants. A subsequent appeal was dismissed on 30 September 2005.

A*19194/AC-1 - continued use for the sale or display for sale of cars including associated sales office use of existing single storey building (renewal of temporary permission) - conditional temporary permission 25 January 2006

A*19194/AC - change of use for the sale or display for sale of cars including associated sales office use of existing single storey building - conditional temporary permission 7 November 2003

Planning permission for the construction of the existing building on the site was granted in the 1950s:

A*19194/D - erection of a single storey office - conditional permission 23 July 1954

This was followed by various applications, including those relating to uses of the land, signage and alterations to the access, dating between the 1950s and 1980s.

2. POLICY CONTEXT

2.1 Portsmouth Plan (2012)

- PCS8 (District centres)
- PCS10 (Housing Delivery)
- PCS13 (A Greener Portsmouth)
- PCS14 (A Healthy City)
- PCS15 (Sustainable design and construction)
- PCS16 (Infrastructure and community benefit)
- PCS17 (Transport)
- PCS21 (Housing Density)
- PCS23 (Design and Conservation)

2.2 Portsmouth City Local Plan 2001-2011 (Adopted 2006):

- Saved Policy DC21 (Contaminated Land)

2.3 Other Guidance:

- National Planning Policy Framework (NPPF) (2021)
- National Planning Practice Guidance
- National Design Guide (2019)
- Tall Buildings Supplementary Planning Document (SPD) (2012)
- Student Halls of Residence SPD (2014)
- Parking Standards and Transport Assessments SPD (2014)

3. CONSULTATIONS

3.1 Environmental Health

3.2 Road traffic noise:

No objection in principle. An Acoustic Design Statement is required to demonstrate that the amenity of future residents would not be harmed by elevated levels of traffic noise. This can be secured by condition.

3.3 Air quality:

No objection, contents of Air Quality Assessment agreed. Ventilation to the ground floor shall be supplied via air intakes located at the rear façade of the building and away from combustion sources, achieved through mechanical ventilation.

3.4 Environment Agency

No comments to make.

3.5 Coastal and Drainage

The Flood Risk Assessment is quite comprehensive. Some points to clarify relate to finished floor levels, maintenance regime, and overland flow routes. The investigation of existing sewer networks and confirmation of Southern Water approvals can be secured by condition.

3.6 Southern Water

Initial investigations indicate that SW can provide foul sewage disposal.

SW's desk study of the impact of the development on the existing public surface water network indicates a potential increased risk of flooding from surface water run-off. Condition required to ensure that details of the means of surface water run off disposal are submitted and approved, as well as details of foul and surface water sewerage disposal.

Further advice provided for the Applicant, including the need to protect basement accommodation from flooding, and application required to SW for connection to public sewer.

3.7 Portsmouth Water

No comments received.

3.8 Local Highways Authority

- Existing access has substandard visibility but proposal would not result in increased traffic generation compared to consented use of site;
- Satisfied that the proposal is substantially similar to traditional student accommodation and can reasonably operate as a car-free development. Use by students only needs to be secured by condition;
- Further details required re procedures for start/end term drop-off and pick-up, by condition;
- Stopping up of existing vehicle access from roundabout would improve highway safety at the roundabout exit. Cycle storage is adequate.

3.9 Highways Contractor (Colas)

The developer is advised to contact COLAS before any works, including demolition, takes place: informative.

3.10 Waste Management Service

Amended bin store location, now adjacent to Spur Road, is acceptable, subject to providing ventilation, lights and suitable combination lock. Private collection needs to be arranged.

3.11 Contaminated Land Team

Potentially polluting historical uses adjacent to the site including former timber yard, infilled canal and WW2 bomb strike on the site. As there is a sensitive end-use proposed, conditions are requested to assess the potential for contamination and to agree any necessary mitigation.

3.12 Head of Community Housing

No affordable housing requirement for student accommodation.

3.13 Private Sector Housing

Meets required space standards for bedroom size and kitchen/dining area. Would encourage the provision of additional communal space for use by the students.

3.14 Archaeology Advisor

No archaeology issues relating to the site.

3.15 Natural England

3.16 *Recreational Disturbance:*

This application is within 5.6km of Portsmouth Harbour Special Protection Area (SPA) and will lead to a net increase in residential accommodation. The City Council has adopted planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership/Bird Aware Solent.

Provided that the applicant is complying with the Solent Recreation Mitigation Strategy (SRMS), Natural England is satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s), and has no objection to this aspect of the application. Detailed information is included in the SRMS with regard to calculating the contribution for student accommodation.

3.17 *Deterioration of the water environment:*

There is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the international sites. There is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites.

The proposal comprises new housing development and has inevitable waste water implications. It is Natural England's view that these implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the European site), or there are uncertainties, a competent authority should fully assess (by way of an "appropriate assessment") the implications of the proposal in view of the conservation objectives for the European site(s) in question.

3.18 *Biodiversity Mitigation and Enhancement:*

Further advice in relation to protected species and local sites should be sought from relevant consultees. The development should achieve a biodiversity net gain. Recommend submission of a Biodiversity Mitigation and Enhancement Plan (BMEP).

3.19 Hampshire Ecologist

Phase 1 Ecological Survey report reviewed:

Bats - satisfied that existing building is largely unsuitable for bats. Suggest informative to advise applicant about requirements if bats are subsequently found.

Biodiversity enhancements - the report suggests a suitable scheme for biodiversity enhancements, which should be secured by condition.

4. REPRESENTATIONS

Application advertised by Neighbour letters, Site Notice, and Press Notice.

One representation received from a neighbouring business, commenting that whilst they do not object to the plan, they are concerned about disruption to their business during construction.

5. COMMENT

5.1 Principle of the proposal

5.2 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 182). Where a local planning authority cannot demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
 - II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 5.3 Currently, the Council can demonstrate 3.8 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing. This development would provide student accommodation which is a recognised form of housing that contributes towards the City's housing needs. The applicants have explained that this would be for medical students associated with the nearby Queen Alexandra Hospital, with students staying for a maximum of 38 weeks and 2 days of a year. Matters relating to the type of occupants and length of stays could be satisfactorily secured through a legal agreement, although it should be noted that there is no reason why occupation should be restricted to medical students at the hospital, as opposed to any other students.
- 5.4 The site lies within the secondary area of Cosham District Centre, as defined by Policy PCS8 of the Portsmouth Plan. The policy states that in the secondary area there are opportunities for town centre uses, although residential development will also be supported in principle. A previous planning permission was granted in 2010 for an office development but this was never implemented and the site has been vacant for a number of years (with the exception of temporary uses). Given that the site has not been in use for any commercial purpose for some time and the policy allows for residential developments within the secondary areas of the town centres, the proposed student hall of residence is considered acceptable in principle.
- 5.5 With respect to location, the site is very well-placed and so is appropriate for student accommodation (or many other uses classes). There is public transport nearby: bus routes along the A3 between Portsmouth, Gosport, Havant, Waterlooville, and Cosham town centre to the south. Cosham train station is only a short distance to the south of the site just off Cosham High Street. It should be noted, as part of the South East Hampshire Rapid Transit Scheme, Portsmouth City Council is proposing improvements along Southampton Road and Northern Road for bus, pedestrian and cycle links.
- 5.6 Scale
- 5.7 Policy PCS23 of the Portsmouth Plan echo's the principles of good design set out within the National Planning Policy Framework (NPPF), and requires new development to be of appropriate scale in relation to its context. The principle of providing large scale development on the site has been established through previous planning applications. In January 2010, planning permission was granted for an office block. This scheme had a similar footprint to the current proposal and would have had a maximum height of 5-storeys. Subsequently, a further application was submitted in 2010 for a 5-storey building comprising a medical centre at ground floor level and 8 flats above. Whilst this scheme was refused, it was only refused due to the absence of a planning obligation to secure required mitigation for highway matters and open space, and the scheme was otherwise determined to be acceptable in terms of scale and design.
- 5.8 The building would be located on a highly prominent curved corner site on a main roundabout junction. The most significant views of the building would be gained when travelling north, south and east towards the Spur Road roundabout. The building has been designed with a variety of stepped heights so as to visually 'step up' in height from the lower scale buildings either side, to the centre of the site. This has been illustrated in various visuals submitted with the application. The architect has explained in the Design and Access Statement that: *'The building rises from a modest height to each boundary*

condition and builds up in an organic manner to the main central element...'. This design approach to scale is considered acceptable.

- 5.9 Whilst buildings in the surrounding area are lower in scale than the proposed development, it is considered that this prominent corner site presents a good opportunity to create a landmark building. At seven storeys, the proposal meets the Council's definition of a 'tall building'. The Tall Buildings SPD does not identify the site as an 'area of opportunity' for tall buildings, although the land to the northwest side of the roundabout is identified as such. Considering the open scale of the major road junction that the site fronts, it is considered this is a particularly appropriate location for a 'landmark' tall building to be provided. The scale actually proposed is considered to be appropriate, and appearance is addressed in the following section.
- 5.10 Appearance
- 5.11 Policy PCS23 of the Portsmouth Plan requires new development to achieve excellent architectural quality, provide delight and innovation and to be appropriate in terms of appearance in relation to its context. These requirements mirror the key design principles of the National Planning Policy Framework (NPPF).
- 5.12 The application submission followed an extensive pre-application process, which included the involvement of the Design Review Panel and discussed matters specifically relating to scale, appearance, building line, mass and bulk. Through the pre-application discussions it was determined that any scheme for the site needed to respond positively to the curved shape of the site, provide clearly defined space between the building frontage and boundary, and respect the building line and scale of adjacent buildings so as not to over-dominate the site. Previous proposals for the use of cladding on the building were considered poor quality and inappropriate for such a prominent location.
- 5.13 The proposed scheme was presented to the Design Review Panel (DRP) on 18th October 2019. The Panel had a generally positive response, noting that the scheme related better to the building line and scale of neighbouring properties and to the wider surrounding area than previous iterations, and that the mass had been broken up with better articulation of the elevations. Some concerns were raised with respect to elements of the North East and South West elevations, which appeared featureless and would benefit from more relief. It was also questioned whether the overall mass of the building could be further broken up.
- 5.14 The Local Planning Authority has continued to work extensively with the architect through the application process to seek to achieve an acceptable design. In response to the DRP comments and further comments made by officers, the following changes were made to the scheme:
- Removal of forward projecting element on the south-west side of the building to reduce the visual bulk when viewed from the south, and to soften its appearance within the streetscene;
 - Provision of side access road and parking on southern side of site, partially within basement, to provide drop off/pick up parking;
 - Additional windows inserted at fourth and fifth floor level on the north-east and south-west elevations to break up the blank areas of brickwork;
 - Addition of contrasting brick detailing to the elevations to enhance the design, with darker brick proposed for the lower levels;
 - Bin store relocated to north-east side of site and constructed of brick to match the building.
- 5.15 Further plans showing window and entrance details have also confirmed the intention to provide a set back for the fenestration from the external walls, which helps to enhance the visual appearance of the building, adding shadow and definition. The architect has

also provided various visuals demonstrating how the building would look within the streetscene and how it relates to neighbouring development.

5.16 Following the various amendments made to the scheme, it is considered that subject to securing high quality, the proposed development is of an acceptable design, in accordance with Policy PCS23 of the Portsmouth Plan and the objectives of the NPPF (2021).

5.17 Layout

5.18 Whilst the building would be of a large scale, the site plan shows how the development has been designed to incorporate a landscape frontage to the main road, and a communal landscaped amenity area to the rear. These areas of landscaping would visually enhance the development and would provide an improvement on the existing site conditions, which comprise predominantly hard surfacing. Full details of landscaping would be dealt with as a reserved matter.

5.19 Layout - standard of accommodation

5.20 The rooms on each floor would be accessed via a central corridor, served by a communal stair and lift core. The Council's Student Halls SPD states that appropriate rooms sizes will vary depending on the type of accommodation but as a guide the Council would expect single rooms to be 7m² and single en-suite rooms to be between 10 and 15m². In cluster flats where 6 to 10 students share facilities, the SPD recommends that a kitchen/diner of 19.5m² is provided.

5.21 In relation to bedrooms sizes, all of the rooms would exceed the minimum size requirements, with some rooms measuring up to 35m².

5.22 In relation to communal space, the proposal has been reviewed by the Council's Housing Team who have provided more specific guidance on the communal space standards that would be expected for the proposed accommodation. A summary of the size of communal rooms against the expected size is outlined below:

<u>Floor</u>	<u>No. bedrooms</u>	<u>Communal room size</u>	<u>Expected size</u>
Semi-basement & Ground	11	31.23m ²	23.5m ²
First floor	9	28.36m ²	22.6m ²
Second floor	8	28.36m ²	22.6m ²
Third floor	6	28.36m ²	22.6m ²
Fourth floor	5	21.84m ²	19m ²
Fifth floor	5	21.84m ²	19m ²

5.23 As the above summary demonstrates, all of the communal room sizes would exceed the expected standard. The proposed building is therefore considered to provide adequate levels of communal space for the number of students that it is intended to accommodate.

5.24 All of the proposed bedrooms would have windows facing either north-west or south-east. Due to the elevated position of the site, these windows would provide good levels of light and outlook to the rooms, particularly those on the upper floors. There are two bedrooms proposed at semi-basement level and the windows to these rooms would face south east and would overlook a landscaped communal garden.

5.25 The two bedrooms in the semi-basement would be located on the same floor as the cycle storage. The layout plans of the cycle storage area has been amended to move lockers away from the adjoining walls with the rooms, so as to ensure that the occupants

of the rooms are not impacted by significant noise from the opening and closing of lockers.

5.26 The Environmental Health Officer has commented that the impact of road traffic noise on future residents could be satisfactorily addressed by condition, through submission and agreement of a noise mitigation scheme.

5.27 Access

5.28 There would be vehicle accesses to the site from Northern Road, via an existing access point. This would lead to two parking spaces to be utilised during student drop off/pick up. As the proposal is for student accommodation there would be no need for further on-site parking. The Highway Engineer has commented that visibility at the existing access is substandard but given the limited amount of traffic generation from the proposed development, this is not considered to result in a highway safety concern. The Highways Engineer is also satisfied that the development would not materially impact on the local highway network. Some further details are required in relation to how the vehicles would be managed for student drop off and pick up and this could be secured by condition with an updated Student Management Plan.

5.29 Pedestrian access to the site would be on the site front, via a single communal entrance door and lobby. There would also be a rear entrance at semi-basement level leading to the communal garden. The plans indicate that the frontage and entrance to the site would be landscaped to provide an attractive entrance and full details of the landscaping would be dealt with at reserved matters stage.

5.30 The location of the proposed bin store has been negotiated in liaison with the Councils Waste Management Service. The bin store would be positioned on the north-eastern side of the building where appropriate and safe access can be gained by refuse vehicles/staff.

5.31 Overall, the access arrangements to the site are considered acceptable, in accordance with Policy PCS17 of the Portsmouth Plan.

5.32 Impact on neighbouring amenity

5.33 The properties immediately surrounding the site to the east and south are predominantly in commercial use. To the east is a two storey building which has a business use at ground floor level and planning history suggests there were offices on the upper floor although these would appear to be vacant. To the south, the adjacent property is in use as a chiropodist. The rear of both of these adjacent properties are dominated by hard surfaced parking. To the south-east of the site is a Tesco store and associated multi-storey car park. There are no residential properties immediately adjacent to the site, although there may be some residential use above commercial premises further to the east and south. There are also residential properties to the west of the site, although these are located on the opposite side of the multi-lane Northern Road.

5.34 Given the nature of adjacent uses and the separation distances between nearby residential properties, it is not considered that the proposed student hall would result in any significant impact on the local community in terms of increased noise and disturbance. Any such matters that did arise could be successfully managed through a Student Management Plan. The applicants have submitted a Student Management Plan which outlines various measures for the security and management of the site, including:

- 24 hour CCTV security;
- Daytime concierge service;
- Residents to have access to management team helpline;

- Management team to be responsible for management and maintenance of outdoor amenity areas.
The Student Management Plan could be secured by condition or S106 Agreement.
- 5.35 Despite the large scale of the building, given the location of the site, the predominantly commercial nature of the immediate surroundings and the orientation of the building to the west and north of adjacent properties, it is not considered that it would result in any significant loss of outlook or light to adjacent occupiers.
- 5.36 Sustainable design and construction
- 5.37 Policy PCS15 of the Portsmouth Plan requires new development to be designed to be energy efficient. Following a Ministerial Statement on 25th March 2015, the former policy requirements to meet Code for Sustainable Homes Standards were superseded with a requirement to achieve a standard of energy and water efficiency above building regulations standards, as follows:
- Energy efficiency - a 19% improvement in the DER over the Target Emission Rate as defined in Part L1A of the 2013 Building Regulations
 - Water efficiency - 110 litres per person per day (this includes a 5 litre allowance for external water use).
- 5.38 The water saving requirement also relates to the Council's Interim Nitrate Strategy, which aims to ensure water usage within new developments is minimised to reduce the risk of pollution from increased nutrients into the Solent Special Protection Areas.
- 5.39 The applicants have outlined some of the energy saving measures that would be included as part of the development, including the use of locally sourced materials, high levels of insulation within external cavity walls, use of water efficient bathroom features and energy efficient lighting. It is also noted that the roof could incorporate solar panels. Further details regarding energy efficiency could be secured by condition to ensure that the development accords with the requirements of Policy PCS15 of the Portsmouth Plan (2012).
- 5.40 Ecology
- 5.41 The site is predominantly laid to hardstanding and has limited ecological potential other than for the potential for bats to be present within the existing building. The application is supported by a Phase 1 Ecological Survey, which concludes that the existing building on the site is unsuitable for bats and the County Ecologist concurs with this assessment. An informative note would be added to any decision to make the developers aware of the protected status of bats and the need to cease work and contact an ecologist if bats were subsequently found to be present.
- 5.42 The Ecological Survey report also sets out proposals for biodiversity enhancements including the provision of native planting and fruit bearing trees/shrubs within the landscaping scheme, and the installation of bird boxes and features on the building. The biodiversity enhancements could be secured by condition to ensure that a net gain in biodiversity is achieved in accordance with Policy PCS13 of the Portsmouth Plan and the objectives of the NPPF.
- 5.43 Land contamination
- 5.44 There are known to be potentially polluting historical land uses in the area around the application site, including a former timber yard, infilled canal and WW2 bomb strike site. The Council's Contaminated Land Officer has therefore requested conditions to assess the potential for contamination and to agree any necessary mitigation.

5.45 Air Quality

5.46 The site lies adjacent to two busy main roads and a roundabout junction. The Council's Air Quality Officer has commented that there is the potential for future residents to be adversely affected by poor air quality and has requested

5.47 An Air Quality Assessment has been carried out to determine the potential impact and the need for any mitigation, it has raised no objection from the Council's Air Quality Officer, subject to ventilation condition.

5.48 Drainage

5.49 The application is supported by a Flood Risk Assessment (FRA) and further information relating to the drainage strategy has been provided during the application process. A fully detailed drainage strategy can be requested and secured by condition. Subject to conditions, the development would provide suitable drainage to ensure no increased flood risk on the site or to the surrounding area, in accordance with Policy PCS12 of the Portsmouth Plan (2012).

5.50 Impact on the Solent Special Protection Areas (SPA)

5.51 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.

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

5.53 Recreational pressure:

5.54 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.

5.55 The required mitigation amount for this development has been calculated as follows:

Each 5 student rooms = 1 dwelling equivalent

$44/5 = 8.8$, rounded up to 9

Mitigation amount based on half that for a 5-bed dwelling = $\pounds 1,014 / 2 = \pounds 507$

Total amount = $\pounds 507 \times 9 = \pounds 4,563$

The requirement to make the contribution would need to be secured through a S106 legal agreement at Outline Stage.

5.56 Nitrates:

5.57 Natural England has provided guidance advising that increased residential development is resulting in higher levels of nitrogen and phosphorus input to the water environment in the Solent, with evidence that these nutrients are causing eutrophication at

internationally designated sites. A sub-regional strategy for the nitrates problem is being developed by the Partnership for South Hampshire, Natural England and various partners and interested partners. However, in the meantime, to minimise delays in approving housing schemes and to avoid the damaging effects on housing supply and the construction industry, Portsmouth City Council has developed its own Interim Strategy, which has been agreed with Natural England.

- 5.58 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. Option 3 of the Strategy currently allows developers to purchase nitrate 'credits' from the Council's own credit bank, which the Applicant has requested.
- 5.59 The final, formal agreement of Natural England to both sets of mitigation to the SPAs is now awaited.
- 5.60 Conclusion
- 5.61 The principle of the proposal is considered acceptable, and the Layout, Scale, Access and Appearance have been subject to extensive discussion to achieve a supportable scheme. Various environmental matters are deemed acceptable, with a usual suite of conditions to address these and other matters.

RECOMMENDATION I - That the agreement of Natural England is achieved for the proposed mitigation for the effects of the development on the Solent SPAs, prior to the positive determination of the application.

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

- Use of each study bedroom as temporary residential accommodation for an individual Student during their period of study and limited to the Academic Study Period (not exceeding 51 weeks in total in any given year); and as temporary residential accommodation for any person outside of the periods of study of the University of Portsmouth for a maximum of 2 months;
- Mitigating the impact of the proposed development on Solent Special Protection Areas by securing the payment of a financial contribution prior to first occupation for the recreational disturbance element, and by the securing of offsetting nitrogen credits for the nitrates element;
- A financial contribution towards the set-up and auditing of a Traffic Management Plan and Employment & Skills Plan, with the payment of associated fees upon implementation of planning permission.

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

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

Conditions

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 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:18:2075:L(2)

- Location Plan, 001
- Proposed Ground Floor Plan, 011 Rev.I
- Proposed Semi Basement Floor Plan, 010 Rev.G
- Proposed First Floor Plan, 012 Rev.F
- Proposed Second Floor Plan, 013 Rev.F
- Proposed Third Floor Plan, 014 Rev.F
- Proposed Fourth Floor Plan, 015 Rev.F
- Proposed Fifth Floor Plan, 016 Rev.E
- Proposed North West Elevation, 022 Rev.D
- Proposed South West Elevation, 024 Rev.D
- Proposed South East Elevation, 023 Rev.B
- Proposed North East Elevation, 021 Rev.C

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

Levels

4. No development works other than those of demolition shall take place until full details of existing and proposed ground levels, and proposed finished floor levels (semi-basement and Ground Floor) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved levels details.

Reason: In the interests of visual amenity in accordance with Policies PCS23 and PCS24 of the Portsmouth Plan (2012), the Tall Buildings SPD and the aims and objectives of the National Planning Policy Framework (2021).

Materials

5. (a) Notwithstanding the submitted details, no development works other than those of demolition, and construction of the building's foundations, shall take place until:
i) a full and detailed schedule of all materials and finishes (including a samples board) 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

ii) a sample panel (minimum 2 metres square) for each of the proposed masonry types to demonstrate: colour; texture; bedding and bonding pattern; mortar colour and finish has been installed at the application site 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)i) of this Condition; and the sample panels approved pursuant to part (a)ii) of this Condition retained on site for verification purposes until completion of the construction works.

Reason: To secure a high quality finish to a tall building on a prominent and important site locally, having regard to the specific weight that has been placed on the need for high quality of design and use of robust materials in the interests of visual amenity in accordance with Policies PCS23 and PCS24 of the Portsmouth Plan (2012), the Tall Buildings SPD and the aims and objectives of the National Planning Policy Framework (2021).

Architectural Detailing

6. (a) Notwithstanding the submitted details, no development works other than those of demolition, and construction of the building's foundations, shall take place until precise constructional drawings of key architectural features at a 1:20 and 1:5 scale (or such other appropriate scale as may be agreed) have been submitted to and approved in writing by the Local Planning Authority. This shall include, but not limited to:

- Window bay (for each type) fabrication details including: window frame profile/dimensions; method of opening; spandrel panels; perforated panels; colour treatment; reveal depth and detailing; junctions at headers and cills; relationship with internal floors and ceilings;
- Glazing and surroundings to ground and semi-basement levels including: frame profile/dimensions; doors and glazing types; infill panels; colour treatment.
- Soffit treatments;
- Lighting;
- The siting and appearance of any externally mounted equipment/platforms/cradles required for the cleaning and maintenance of the external surfaces of the building; and

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

Reason: To secure a high quality appearance to a tall building on a prominent and important site having regard to the specific weight that has been placed on the need for high quality of design and detailing in the interests of visual amenity in accordance with Policies PCS23 and PCS24 of the Portsmouth Plan (2012), the Tall Buildings SPD and the aims and objectives of the National Planning Policy Framework (2021).

Architectural & Security Lighting

7. (a) Unless otherwise agreed in writing with the Local Planning Authority, no development works other than those of demolition, and construction of the building's foundations, shall take place until details of all external lighting schemes (architectural and security) including the number, siting, appearance and specification of any luminaires and details of an on-going maintenance and management strategy has been submitted to and approved in writing by the Local Planning Authority. The submitted schemes, which should form an integral part of the building's design, shall take into account: the prominent location of the site; height; pedestrian and highway safety; and residential amenity; and

(b) The lighting schemes approved pursuant to part (a) of this Condition shall be fully implemented as an integral part of the development, completed prior to first occupation of the building and thereafter permanently retained and operated in accordance with the approved maintenance and management strategy unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity having regard to the scale, appearance and prominence of the proposed building, and public safety in accordance with Policies PCS23 and PCS24 of the Portsmouth Plan (2012), the Tall Buildings SPD (2012) and the aims and objectives of the Reducing Crime Through Design SPD (2006).

Acoustic Design Statement

8. Unless otherwise agreed in writing with the Local Planning Authority, no development works other than those of demolition, and construction of the building's foundations, shall take place until an Acoustic Design Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall demonstrate that the amenity of future residents would not be harmed by elevated levels of traffic noise. The development shall be occupied and maintained in accordance with the approved Statement, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that an acceptable noise environment within the residential accommodation is provided, in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.

Ventilation to the ground floor

9. Unless otherwise agreed in writing with the Local Planning Authority, no development works other than those of demolition, and construction of the building's foundations, shall take place until details of ventilation to the ground floor, supplied via air intakes located at the rear façade of the building and away from combustion sources, achieved through mechanical ventilation, have been submitted to and approved in writing by the Local Planning Authority. The development shall be occupied and maintained in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that acceptable air quality within the residential accommodation is provided, in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.

Drainage

10. Before the development hereby approved commences, details of foul and surface water sewerage disposal (including surface water layout, surface water run off disposal, foul water layout, details of construction materials, infiltration tests and ground water investigation (if necessary) and any permissions that are or will be required by Southern Water) shall be submitted to and agreed in writing by the Local Planning Authority. The development shall only proceed in accordance with the approved details.

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

SPA Mitigation - Nitrates

11. No development works other than those of demolition and construction of the building's foundations shall take place until a scheme for the mitigation of the effects of the development on the Solent Waters Special Protection Area arising from 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 study bedroom is occupied/brought into use.

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 on a European site within the Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981.

Use of Study bedrooms

12. (a) 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 study bedrooms within the Student Halls of Residence (Class C1) hereby permitted, shall be used for temporary residential accommodation for a student during his or her period of study, and for no other purpose including any other purpose within Class C1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason; Having regard to the specific planning judgement that has been made in respect of the proposed Class C1 use (Student Halls of Residence), and the specific policy requirements that have been put aside in respect of residential space standards, parking, on-site open space provision, affordable housing and reduced mitigation in respect of the Solent Special Protection Areas in accordance with policies PCS13, PCS17, PCS19 and PCS23 of the Portsmouth Plan (2012).

Traffic Management Plan

13. (a) Notwithstanding the submitted details, prior to first occupation of the student halls of residence, a plan for managing the traffic associated with moving students in/out at the start and end of term times shall be submitted to and approved by the Local Planning Authority; and (b) Thereafter the approved plan shall be implemented in accordance with the approved details at the start and end of each term.

Reason: To minimise impact on the surrounding highway network and to encourage the use of more sustainable modes of transport in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan (2012).

Bicycle Storage

14. (a) Unless otherwise agreed in writing with the Local Planning Authority, the development hereby permitted shall not be occupied/brought into use until bicycle storage facilities have been provided in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to: details of any storage structures, lockers, maintenance facilities, electric changing points, security measures to protect cycles and users; and (b) The bicycle storage facilities approved pursuant to part (a) of this Condition shall thereafter be permanently retained for the storage of bicycles at all times.

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

Refuse Storage

15. (a) Notwithstanding the submitted details, no part of the development hereby permitted shall be occupied/brought into use until facilities for the storage of refuse and recyclable materials (for both the student halls and ground floor commercial uses) have been provided in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority; and (b) The facilities approved pursuant to parts (a) of this Condition shall thereafter be permanently retained for the storage of refuse and recyclable materials at all times.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan (2021).

Construction/Demolition Environmental Management Plan

16. (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).

Land Contamination - evaluation

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

a) A *desk study* (undertaken in accordance CLR11* following best practice including BS10175:2011+A2:2017 '*Investigation of Potentially Contaminated Sites Code of Practice*') documenting all the previous and current land uses of the site. The report shall contain a conceptual model (diagram, plan, with network diagram) showing the potential pathways to contaminants (including any arising from asbestos removal) both during and post-construction, and summarise the sampling rationale for every proposed sample location and depth. Once this '*Phase 1*' report is accepted by the LPA, unless otherwise agreed in writing by the LPA:

b) A *site investigation* report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS 8576:2013 '*Guidance on investigations for ground gas - Permanent gases and volatile organic compounds (VOCs)*'). Unless agreed in advance, the laboratory analysis of soils should include assessment for heavy metals, speciated PAHs and fractionated hydrocarbons (as accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS) and asbestos. The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end-use or can be made so by remediation; if so the remedial options appraisal shall include consideration of sustainability. Once this '*Phase 2*' report is accepted by the LPA, unless otherwise agreed in writing by the LPA:

c) A *Phase 3 remediation method statement* report detailing the remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, including proposals for future maintenance and monitoring, as necessary. If identified risks relate to bulk gases, this will require the submission of the *design report, installation brief, and validation plan* as detailed in 8485:2015+A1:2019 *Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings*, and shall include nomination of a competent person‡ to oversee the implementation and completion of the works.

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

Land Contamination - remediation verification

18. 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 17. (i) c) above, that the required remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). The report shall include a description of remedial scheme and as built drawings, any necessary

evidence to confirm implementation of the approved remediation scheme, including photographs of the remediation works in progress and/or certification that material imported and/or retained in situ is free from contamination, and waste disposal records. For the verification of gas protection schemes the approach should follow CIRIA 735 *Good practice on the testing and verification of protection systems for buildings against hazardous ground gases*. For the avoidance of any doubt, in the event of it being confirmed in writing pursuant to Condition 17. (i) b) above that a remediation scheme is not required, the requirements of this condition will be deemed to have been discharged.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 17. (i) 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).

Biodiversity Enhancements

18. (a) Unless otherwise agreed in writing with the Local Planning Authority, no development works other than those associated with the demolition and construction of the building's foundations shall take place until a detailed scheme of biodiversity enhancements to be incorporated into the development has been submitted to and approved in writing by the Local Planning Authority; and

(b) The scheme of biodiversity enhancements approved pursuant to part (a) of this Condition shall be carried out as an integral part of the construction process and verified through photographic evidence submitted to the Local Planning Authority within 6 months of first occupation; and

(c) The scheme of biodiversity enhancements approved pursuant to part (a) of this Condition shall thereafter be permanently retained.

Reason: To enhance biodiversity at the site in accordance with Policy PCS13 of the Portsmouth Plan (2012), the aims and objectives of the National Planning Policy Framework (2021) and the Natural Environment and Rural Communities Act 2006.

Sustainable Design & Construction

19. Unless otherwise agreed in writing with the Local Planning Authority, before the building hereby permitted is first brought into use, written documentary evidence shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a minimum level of 'Excellent' in the Building Research Establishment's Environmental Assessment Method (BREEAM), which will be in the form of a post-construction assessment which has been prepared by a licensed BREEAM assessor and the certificate which has been issued by BRE Global. The potential for electric vehicle charging shall form part of the assessment.

Reason: To ensure that the development as built will minimise its need for resources in the interests of mitigating the effects of climate change in accordance with Policy PCS15 of the Portsmouth Plan (2012) and the aims and objectives of the National Planning Policy Framework (2021).

Employment & Skills Plan

20. Unless otherwise agreed in writing with the Local Planning Authority, no works associated with the construction of the development hereby permitted (including foundations and drainage works) until an Employment & Skills Plan has been submitted to and approved in writing with the Local Planning Authority. The Plan shall incorporate a package of measures aimed at improving the training, skills and employability of the workforce to be employed for the construction and occupation of the development, and mechanisms to review and report back on progress achieved to the Local Planning Authority; and

(b) The development shall then be carried out in accordance with the Employment & Skills Plan approved pursuant to part (a) of this Condition.

Reason: To contribute towards the provision of training and employment opportunities for local residents during the construction phase of the development in accordance with Policy PCS16 of the Portsmouth Plan and the Achieving Employment and Skills Plans SPD (2013).

PRO-ACTIVITY STATEMENT

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

63 DORKING CRESCENT PORTSMOUTH PO6 2QL

CHANGE OF USE FROM A DWELLINGHOUSE (C3) TO A HOUSE OF MULTIPLE OCCUPATION FOR UP TO 6 PEOPLE (C4).

LINK TO ONLINE DOCUMENTS;

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/SIMPLESEARCHRESULTS.DO?ACTION=FIRSTPAGE](https://publicaccess.portsmouth.gov.uk/online-applications/simplesearchresults.do?action=firstpage)

Application Submitted By:

Morfeas Ltd
FAO Miss Vasiliki Dionysiou

On behalf of:

South Coast Housing Ltd
FAO Mr Paul Heywood

RDD: 23rd September 2021

LDD: 9th December 2021

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought to Planning Committee due to the number of objections received in response to the application.

1.2 The main issues for consideration relate to:

- The principle of Development;
- The standard of accommodation;
- Parking;
- Waste;
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Protection Areas; and
- Any other raised matters

1.3 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

1.4 Site and Surroundings

1.5 This application relates to a three-storey, detached property that is separated from the road by a paved parking area. To the rear of the dwelling is an enclosed garden. The internal layout currently comprises of a living room, kitchen/dining area, utility and bedroom with en suite at ground floor level, two bedrooms at first floor level and two bedrooms and a bathroom at second floor level.

1.6 The site is located on the northern side of Dorking Crescent. The application site is within a predominantly residential area which is characterised by a combination of two-storey and three-storey dwellinghouses.

1.7 Proposal

1.8 Planning permission is sought for the change of use from a dwellinghouse (Class C3) to a house in multiple occupation (Class C4).

1.9 The internal accommodation would comprise the following:
Ground Floor - Kitchen/ Dining Area, 'Social Space' (living room), WC and Two Bedrooms, both with En suites;
First Floor - Two bedrooms, both with ensuites
Second Floor - Two bedrooms, both with en suites.

1.10 The applicant states the bedrooms would be single occupancy.



1.11 During the course of the application the scheme has been amended to alter the internal layout of the ground floor to create a more useable communal living space.

1.12 It is noted that re-building/alterations are being proposed to the existing single-storey side extensions to the west elevation. The applicant has confirmed these works do not form part of the application and as the property still has its permitted development rights intact, these works can be completed under permitted development (without the need for planning permission).

1.13 Relevant Planning History

1.14 No relevant planning history

2.0 POLICY CONTEXT

2.1 Portsmouth Plan (2012)

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

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

- 2.3 Other guidance:
- National Planning Policy Framework (2021)
 - National Planning Practice Guidance
 - The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
 - The Houses in Multiple Occupation (HMOs) Supplementary Planning Document.

3.0 CONSULTATIONS

- 3.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004. Fire Exit Arrangements for Bedroom 1 will need verifying. Kitchen layout appears to be restrictive and will require verification including position of amenities. 1.2m distance between units should be maintained to allow for safe passing etc. Lounge room arrangements need confirming

4.0 REPRESENTATIONS

- 4.1 Site notice displayed 21.10.2021, until 11.11.2021
- 4.2 Neighbour letters sent: 15.10.2021, expiry 15.11.2021
- 4.3 3 letters of objection have been received and can be summarised as follows;
- a) Insufficient parking;
 - b) Excess rubbish
 - c) Increased pressure on local amenities
 - d) Lack of maintenance
 - e) Lack of provision of family homes

5.0 COMMENT

- 5.1 The main determining issues for this application relate to the following:
- The principle of Development;
 - The standard of accommodation;
 - Impact upon amenity neighbouring residents;
 - Parking;
 - Waste;
 - Impact upon the Solent Protection Areas; and
 - Any other raised matters.
- 5.2 Principle of development
- 5.3 Permission is sought to change the use of the property from a dwellinghouse (Class C3) to a house in multiple occupation Class C4. For reference, a Class C4 HMO is defined as a property occupied by between three and six unrelated people who shared basic amenities such as a kitchen or bathroom.
- 5.4 Policy PCS20 of the Portsmouth Plan states that application for the change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will

be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.



- 5.5 Based on the information held by the City Council there is one other confirmed HMO within a 50m radius of the application site. Within this 50m radius (including the application site) there are 35 properties. This number takes into account any properties which have been subdivided into flats. The addition of the proposal would result in 5.7% of properties being an HMO within the 50m radius, thus falling within the 10% threshold.
- 5.6 Whilst the above HMO count is the best available data to the Local Planning Authority (LPA) and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.
- 5.7 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. In this instance, the proposal would not result in three or more HMOs adjacent to each other, nor would it result in any residential property being 'sandwiched' between two HMOs.
- 5.8 Having regard to the above, the proposal would comply with the aims and objectives of Policy PCS19 and PCS20 of the Portsmouth Plan (2012).
- 5.9 Standard of accommodation
- 5.10 The application seeks the opportunity to use the property as a C4 HMO which would, in planning terms, technically allow occupation by up to six individuals. The room sizes have been assessed against the space standards for a 6 person HMO.

HMO SPD (Oct 2019)	Area Provided	Required Standard
Bedroom 1	13.1sqm	6.51sqm

Bedroom 1 En suite	3.8sqm	Undefined
Bedroom 2	19.1sqm	6.51sqm
Bedroom 2 En suite	3.6sqm	Undefined
Bedroom 3	14sqm	6.51sqm
Bedroom 3 En suite	3.6sqm	Undefined
Bedroom 4	18.2sqm	6.51sqm
Bedroom 4 En suite	3.6sqm	Undefined
Bedroom 5	15sqm	6.51sqm
Bedroom 5 En suite	3.6sqm	Undefined
Bedroom 6	18.2sqm	6.51sqm
Bedroom 6 En suite	3.6sqm	Undefined
Combined Living Area	24.4sqm	22.5sqm or 34sqm
'Social Space' living room	8.6sqm	Undefined
WC	1.7sqm	Undefined

- 5.11 A footnote to the amenity space standards set out within the HMO SPD (October 2019) refers to the PCC 'The Standards for Houses in Multiple Occupation' document dated September 2018. This guide was written to comply with the Licensing and Management of Houses in Multiple Occupation (Additional provisions) (England) Regulations 2007 in addition to the requirement of the 2006 Regulation and other parts of the Housing Act 2004. This document sets out the room space sizes expected where all bedrooms are over 10 sqm. Where all bedrooms are over 10 sqm, for an HMO accommodating between 6-10 people, the property is not required to include a separate living room and the required size for a communal living area can be reduced to 22.5sqm. In this instance, the combined kitchen dining area would meet the minimum size requirements. Furthermore, an additional communal social space is proposed, albeit a room of restricted width (the 'social space' living room).
- 5.12 With regards to bathroom facilities, the proposed change of use would exceed the requirements for a 6 person HMO.
- 5.13 It is considered that all of the bedrooms and the communal living areas accord with the standards as set out within the HMO SPD (October 2019) and 'The Standards for Houses in Multiple Occupation' document dated September 2018. Furthermore, all habitable rooms would have good access to natural light and are of a reasonable configuration. There is a rear garden of adequate size. The Applicant amended the kitchen-dining room space during the course of the application at the request of the Planning Officer and in order to address the comments of Private Sector Housing (set out earlier in this report).
- 5.14 Impact on neighbouring living conditions
- 5.15 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3) which involves occupation by a single family, would be unlikely to be significantly different than the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation. The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful.
- 5.16 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3), would not be significantly different that the

occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation. Furthermore, the host dwelling is a detached property therefore, it is not considered the proposal would result in any significant harm to the amenity of immediate neighbouring residents when compared to the existing situation.

- 5.17 Whilst activity may be increased with the introduction of a HMO in this location, it is not considered to result in an overconcentration of HMOs within the surrounding area, and therefore it is considered that the impact of one further HMO would have any demonstrable adverse impact to wider amenity.
- 5.18 Highways/Parking
- 5.19 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Class C4 HMOs with four or more bedrooms. The application site currently has provision for three off-road spaces which would be retained as part of the change of use. The proposal is therefore considered to comply with the City Council's Parking Standards SPD.
- 5.20 The Council's Adopted Parking Standards set out a requirement for C4 HMO's to provide space for the storage of at least 4 bicycles. The property has a rear garden where a proposed secure cycle storage is shown to be located and it is noted the rear garden can be accessed via a separate entrance to the side of the property. The requirement for cycle storage is recommended to be secured by condition.
- 5.21 Waste
- 5.22 The storage of refuse and recyclable materials would remain unchanged, the applicant has confirmed refuse storage would be located in the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.
- 5.23 Impact on Special Protection Areas
- 5.24 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development, this application is for the change of use of the property from C3 (dwellinghouse) to C4 use (both would allow up to 6 people), and as such it is not considered to represent an increase in overnight stays. The development would therefore not have a likely significant effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.
- 5.25 Other Matters Raised in the Representations
- Concerns have been raised by neighbouring residents regarding the pressure the additional occupants would put on local services. However, having regard again to the existing lawful use of the property as a self-contained dwelling, it is considered the use of the property would not have a significantly greater impact on local services than the existing use.
- 5.26 Future maintenance of the property is not a material planning consideration.
- 5.27 Conclusion
- 5.28 Having regard to all material planning considerations and representations it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

RECOMMENDATION

Conditional Permission

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: Location Plan (dated 1/8/22); Floor Plans _As Proposed ASPROP1_Rev2; Elevations S_N_AS PROPOSED ASPROP2 Rev1 Elevations E&W_AS PROPOSED ASPROP3 Rev1.

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

Cycle Storage:

3) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be permanently retained for the parking of bicycles at all times.

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

PRO-ACTIVITY STATEMENT

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