

PLANNING COMMITTEE

10 AUGUST 2022

1030 AM COUNCIL CHAMBERS,
GUILDHALL

REPORT BY THE ASSISTANT DIRECTOR - PLANNING AND ECONOMIC GROWTH ON PLANNING APPLICATIONS

ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

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

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

REPORTING OF CONSULTATIONS

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

APPLICATION DATES

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

HUMAN RIGHTS ACT

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

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

INDEX

Item No	Application No	Address	Page
01	21/01446/FUL	78 Oriel Road, PO2 9EQ	PAGE 3
02	22/00810/FUL	10 Rampart Gardens, PO3 5LR	PAGE 13
03	21/01735/PLAREG	Unit 14, Fitzherbert Spur, PO6 1TT	PAGE 20
04	21/01620/FUL	Former Knight And Lee, PO5 3QE	PAGE 24
05	21/01621/LBC	Former Knight And Lee, PO5 3QE	PAGE 48
06	21/00730/FUL	Bedsit 1, 15 St Ursula Grove, PO5 1LT	PAGE 56
07	22/00164/FUL	11 Prinsted Crescent, Portsmouth, PO6 1NS	PAGE 61
08	21/01732/FUL	26 Norman Road, Southsea, PO4 0LP	PAGE 72
09	20/01270/HOU	24 Havelock Road, Southsea, PO5 1RU	PAGE 81
10	22/00502/FUL	1-40 Lombard Court, Lombard Street	PAGE 86

78 ORIEL ROAD, PORTSMOUTH, PO2 9EQ

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

<https://publicaccess.portsmouth.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R07841MOME000>

Application Submitted By:

Applecore PDM Ltd

On behalf of:

Mr Christian Reynolds

RDD: 30th September 2021

LDD: 25th November 2021

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to the number of objections as well as a request from Councillor Cllr Wemyss. The application has also now been taken to appeal on grounds of non-determination and the Secretary of State is now the determining authority in this case.
- 1.2 The main issues for consideration in the determination of the application/appeal are considered to be as follows:
 - The principle of development;
 - Standard of accommodation;
 - Parking;
 - Waste;
 - Amenity impacts upon neighbouring residents;
 - Impact upon the Solent national and internationally designated sites.

2.0 SITE AND SURROUNDINGS

- 2.1 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the northern side of Oriel Road as shown in **Figure 1** below. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden. The existing layout comprises of a living room, snug room, kitchen, dining room, conservatory and WC at ground floor level and three bedrooms and a bathroom at first floor level.
- 2.2 The application site is within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style. Some of the properties on the road have been subdivided into flats, the nearest being at Nos.68 and 88 Oriel Road.



Figure 1 - Site Location Plan

3.0 THE PROPOSAL

- 3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to interchangeable dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4) use with up to six individuals living together.
- 3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:
- Ground Floor - One bedroom (with a shower, toilet and handbasin ensuite), home office, shower room with wash basin, WC with wash basin and Kitchen/Dining Communal room;
 - First Floor - Three bedrooms (each with a shower, toilet and handbasin ensuite); and
 - Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).
- 3.3 The Applicant intends to erect a single storey rear extension, a rear dormer extension within the main roof and over part of the back addition roof and insert two rooflights within the front roofslope plus a side ground floor kitchen window under permitted development, as marked on the submitted drawings shown below, to facilitate the enlargement of the property before undertaking the proposed change of use.
- 3.4 Given the external alterations and enlargements to the property are considered to be permitted development, it is not possible to consider the design or amenity impact of the rear dormer or rear ground floor extension as part of this application. There would be no external operational development forming part of this application with the exception of an

indicative siting of a cycle store within the rear garden, details of which could be secured by planning condition.

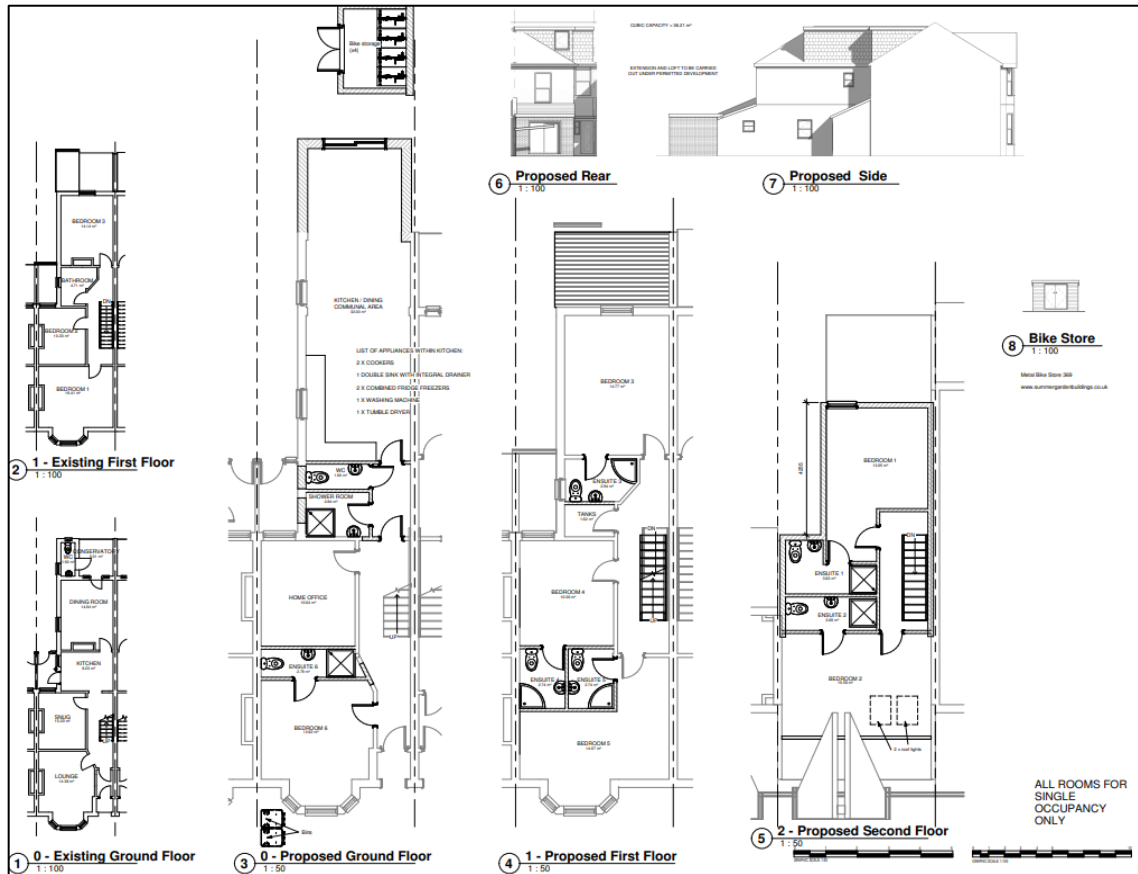


Figure 2 - Existing and Proposed Plans

4.0 PLANNING HISTORY

4.1 There is no planning history for the property.

5.0 POLICY CONTEXT

Portsmouth Plan (2012)

5.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

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

Other Guidance

5.2 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Guidance (revised 2021)
- The Parking Standards Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Interim Nutrient Neutral Mitigation Strategy (2022)

- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

6.0 CONSULTATIONS

6.1 Private Sector Housing - No comments received.

6.2 Highways Engineer - No comments received.

7.0 REPRESENTATIONS

7.1 A Site Notice was displayed on 06/10/21 and Neighbour letters were sent on 06/10/21. The public consultation period formally ended on 03/11/21.

7.2 In response, 25 representations have been received with 1 representation of support and 24 representations from nearby residents objecting to the proposed development.

7.3 In addition, a petition of objection has also been received collectively objecting to 7 applications for HMOs within the local area at 23 Oriel Road (ref. 21/01087/FUL), 49 Oriel Road (ref. 21/00509/FUL), 78 Oriel Road ('the application property' - ref. 21/01446/FUL), 15 Shadwell Road (ref. 21/01162/VOC), 84 Shadwell Road (ref. 21/01160/CPE), 38 Orphir Road (ref. 21/01383/FUL) and 73 Orphir Road (ref. 21/00252/FUL).

7.4 The petition has been submitted on behalf of 132 properties and 160 residents within the local area (41 properties on Oriel Road (61 signatures), 29 properties on Shadwell Road (32 signatures), 20 properties on Wadham Road (22 signatures), 40 properties on Orphir Road (43 signatures), 1 property on Randolph Road (1 signature) and 1 property from Saint Stephens Road (1 signature).

7.5 The above petition and individual representations of objection have raised the following concerns:

- Loss of family home from the existing housing stock;
- Over concentration of HMOs on the road;
- Overdevelopment of the site;
- The proposed extensions are excessively large leaving little rear garden area. No dormer loft extension should be permitted;
- The proposed bedrooms and communal area are too small to ensure a good quality of life and mental well-being for future occupiers of the HMO;
- The proposed bicycle shelter is impractical and unusable with occupiers having to go through the whole property to access it;
- Loss of privacy;
- Increase in noise and disturbance;
- The proposal will lead to an increase in crime and anti-social behaviour;
- Overall effect on health and well-being to the detriment of families who live on Oriel Road;
- Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- Prejudicial to road safety;
- Increase in pollution to the detriment of air quality;
- Increase in nitrate levels as a result in population increase;
- Undue strain on local services and infrastructure;
- Increased strain on sewage systems and drains;
- Concerns around maintenance and upkeep; and

- Waste and litter concerns.

8.0 COMMENT

8.1 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 national and internationally designated sites.

Principle of development

- 8.2 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 share basic amenities such as a kitchen or bathroom*'.
- 8.3 Policy PCS20 of the Portsmouth Plan states that applications for 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.
- 8.4 Based on the information held by the City Council, of the 74 properties within a 50 metre radius of the application site, there is only 1 confirmed HMO (Class C4) at 94 Oriel Road as shown in **Figure 3** below. 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.
- 8.5 The LPA has in the last year approved HMO applications within the vicinity of the application site at 23 Oriel Road (ref. 21/01087/FUL), 38 Ophir Road (ref. 21/01383/FUL) and 84 Shadwell Road (ref. 21/01383/FUL). Planning permission has also been granted on appeal for an HMO at 73 Ophir Road (ref. 21/00252/FUL). It should, however, be noted that all of these properties fall outside of the 50m radius and therefore do not affect the count data for this site. No other HMOs have been identified. Including the application property, the proposal would bring the percentage of HMOs within the area up to 2.70%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



Figure 3 - Existing HMOs within 50m of the application site

- 8.6 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. There is no conflict caused by this proposal with this guidance.
- 8.7 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

Standard of accommodation

- 8.8 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would, in planning terms, technically allow occupation by up to six individuals. On the basis the property (in either C3 or C4 use) could be occupied by up to six individuals, the room sizes have been assessed against the space standards for an HMO as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 (second floor)	13.05m ²	6.51m ²
Bedroom 2 (second floor)	15.50m ²	6.51m ²
Bedroom 3 (first floor)	14.77m ²	6.51m ²

Bedroom 4 (first floor)	10.00m ²	6.51m ²
Bedroom 5 (first floor)	14.67m ²	6.51m ²
Bedroom 6 (ground floor)	12.62m ²	6.51m ²
Home Office (ground floor)	10.04m ²	Undefined
Communal Kitchen/Dining/Lounge area (ground floor)	32.03m ²	22.5m ² or 34m ²
Ensuite bathroom 1 (second floor)	3.63m ²	2.74m ²
Ensuite bathroom 2 (second floor)	3.08m ²	2.74m ²
Ensuite bathroom 3 (first floor)	2.94m ²	2.74m ²
Ensuite bathroom 4 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 5	2.74m ²	2.74m ²
Ensuite bathroom 6	2.79m ²	2.74m ²
Shower Room (ground floor)	2.84m ²	2.74m ²
WC (ground floor)	1.60m ²	1.17m ²

Table 1 - HMO SPD (Oct 2019) compliance

- 8.9 The bedrooms and communal living area would exceed the minimum size requirements for six individuals, and the combination of ensuites and a shared WC would provide a suitable overall arrangement of sanitary facilities. Furthermore, all habitable rooms would have good access to natural light, and would have a suitable configuration/ layout, as well as size.
- 8.10 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.

Impact on neighbouring living conditions

- 8.11 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 from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.
- 8.12 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.
- 8.13 Concerns have been raised in the representations regarding a potential increase in crime and anti-social behaviour as a result of the proposed change of use. However, the Council does not have any evidence to suggest that HMOs result in higher levels of crime or anti-social behaviour than a Class C3 dwellinghouse.
- 8.14 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 as a dwellinghouse (Class C3), would not be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.

- 8.15 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.

Highways/Parking

- 8.16 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Class C4 HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces. In light of the same requirements set out within the Parking Standards SPD and the view that the level of occupation associated with a HMO is not considered to be materially greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on either highway safety grounds, or car parking standards would not be a sustainable reason for refusal. It should be noted that the property could be occupied by a large family with adult children, each owning a separate vehicle.
- 8.17 The Council's Adopted Parking Standards set out a requirement for C4 HMOs 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 - it is acknowledged that access to the cycle storage can only be achieved through the house given that there is no rear access to the garden, but this is not an atypical arrangement. The requirement for cycle storage is recommended to be secured by condition.

Waste

- 8.18 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.

Impact on the Solent national and internationally designated sites

- 8.19 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 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 designated sites.

Community Infrastructure Levy (CIL)

- 8.20 The development would not be CIL liable as there would be no increase in the Gross Internal Area of the application property.

Human Rights and the Public Sector Equality Duty ("PSED")

- 8.21 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights

and must be balanced against competing interests as permitted by law. This report seeks such a balance.

- 8.22 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

Other Matters raised in the representations

- 8.23 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 dwellinghouse, it is considered the use of the property would not have a significantly greater impact on local services than the existing use which could be occupied by a similar number of occupants.
- 8.24 Concerns have been raised regarding drainage; it is considered that the use of the property would not have a significantly greater impact on the local drainage system than the existing use of the property as a C3 dwelling which could be occupied by 6 persons.
- 8.25 Additional concerns have been raised regarding external works being carried out under permitted development. No external works are being proposed as part of this application, however, as the property still has its permitted development rights intact, some works, such as the extensions and external alterations identified, can be completed under permitted development (without the need for planning permission).

9.0 CONCLUSION

- 9.1 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

That the Secretary of State be advised that Portsmouth City Council Planning Committee resolve to GRANT conditional planning permission with the following conditions suggested:

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.

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; Block Plan; and Dual Use Plan PG6177.21.01 Rev B.

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 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.

10 RAMPART GARDENS PORTSMOUTH PO3 5LR

CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO 4-BED HOUSE IN MULTIPLE OCCUPATION (CLASS C4) (RESUBMISSION OF 22/00105/FUL)

LINK TO ONLINE DOCUMENTS:

<HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RCO54BMOK3I00>

Application Submitted By:

Town Planning Experts
FAO Jon McDermott

On behalf of:

Ms K Mellor

RDD: 6th January 2022

LDD: 9th 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 was called in by Councillors Weymss and Payter-Harris.

1.2 The main issues for consideration relate to:

- The principle of development;
- The standard of accommodation;
- Parking;
- Amenity impacts upon neighbouring residents; and
- Impact upon the Solent Special Protection Area and Ramsar sites.

1.3 SITE PROPOSAL AND RELEVANT PLANNING HISTORY

1.4 Site and surroundings

1.5 This application relates to a three-storey 5-bed end of terrace dwelling, which features a second-storey rear balcony and is located on the southern side of Rampart Gardens. The property is set back from the roadway by a two car driveway and benefits from a rear garden with a side access.

1.6 Proposal

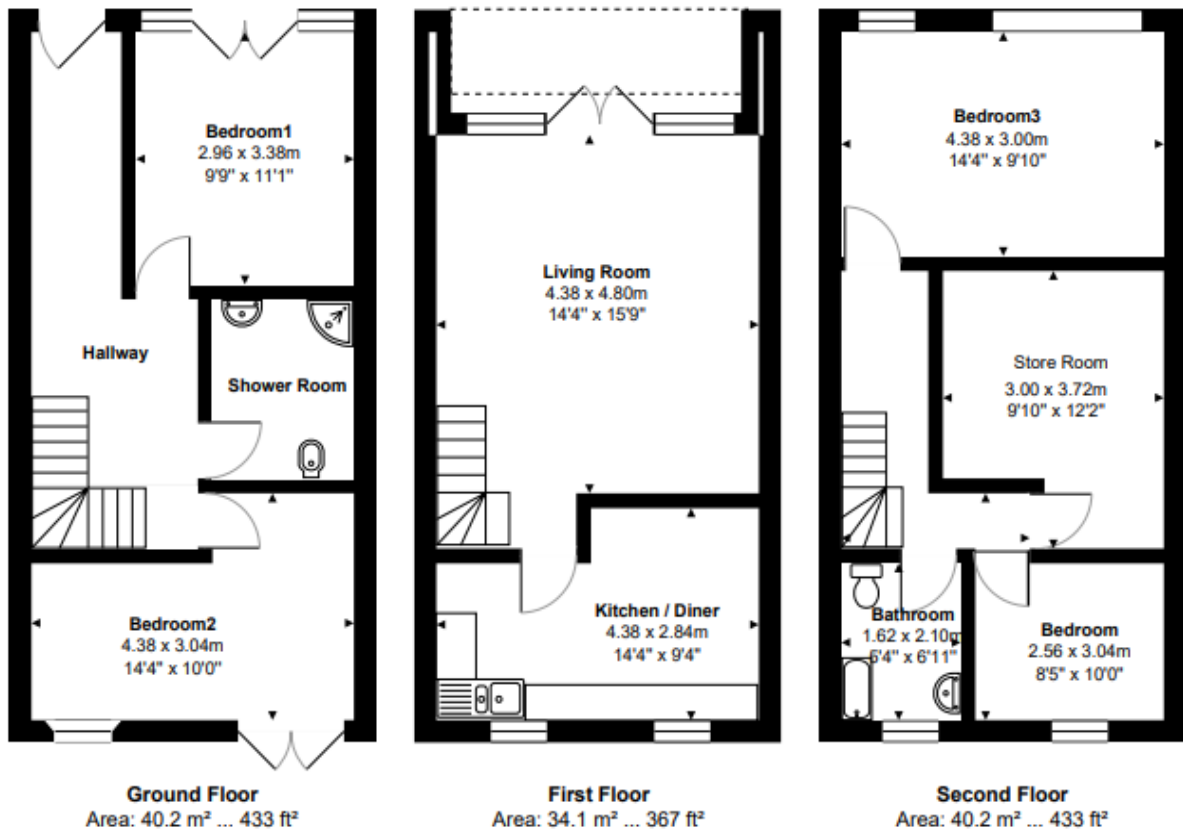
1.7 Planning permission is sought for the change of use from dwelling house (Class C3) to purposes falling within Class C4 (house of multiple occupancy) for four unrelated individuals.

1.8 The proposed internal accommodation comprises the following:

1.9 Ground Floor - two bedrooms, shower room

First Floor - Living room with balcony, opening into kitchen/diner
 Second Floor - Two bedrooms, one bathroom and one storeroom

1.10 The applicant's plans indicate that the bedrooms would be single occupancy.



1.11 Planning History

1.12 This application is a resubmission of 22/00105/FUL which was refused due to the poor outlook caused by a lack of a window in the 5th bedroom, which is now labelled as "store room" on the second floor.

The application under consideration by the committee is materially identical to the previously refused application other than the change from bedroom to the second floor store room as shown in the above plans.

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 (2019)

3.0 REPRESENTATIONS

3.1 A total of 32 objections have been received specifically on this application, including a petition with 202 signatures opposing the development which was also submitted to the original application.

3.2 This is in addition to the 28 objections received against the previous application (the majority of which are from the same objectors as the application under consideration). As all of the objections relate to the principle of the development, and this remains the same as the previous application (which this application is a resubmission of), it is considered reasonable that regard is given to these objections.

3.3 The objections can be summarised as.

- Parking
- Waste build up in alleyway
- Loss of amenity to neighbours
- Loss of property value*
- General objection to the development
- Anti-social behaviour of the current tenants*
- Poor management of the property*
- A HMO is a business use which is prohibited through the property's covenants**
- Erosion of a family orientated area
- Concerns it does not meet fire safety regulations*
- Sets a precedent for other developments in the area
- Littering by the current tenants*
- Tenants parking on pavement causes access issue for wheelchair users and buggies/prams*
- Vermin*
- That the application is retrospective*
- The application is a resubmission and has not addressed the reason for refusal.

*These objections are not considered to be material planning considerations and are best dealt with by other Council departments and the Police.

**The objections stating that a HMO use is a business use is not correct as Use Class C4 is a residential use.

4.0 COMMENT

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

- The principle of development;
- The standard of accommodation;
- Impact upon amenity of neighbouring residents;
- Parking; and

- Impact upon the Solent Special Protection Area and Ramsar sites.

4.2 Principle of development

4.3 Permission is sought for the change of use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO). 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.

4.4 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.



4.5 Based on information held by the City Council, of the 85 properties within a 50 metre radius of the application site, 0 HMOs are identified. 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. No other HMOs have been identified by Councillors or Residents.

4.6 One HMO (No.302 Queens Road) was missed off the original dataset. Following Officer Investigation, no further HMOs have been uncovered and none have been removed from the list of HMOs in the area. Including the application property, the proposal would bring the percentage of HMOs within the area up to 1.17%. This would be significantly below the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.

- 4.7 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.
- 4.8 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.
- 4.9 Standard of Accommodation
- 4.10 The application seeks 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 (msq):	Required Standard (msq)
Bedroom 1	10	6.51
Bedroom 2	13.3	6.51
Bedroom 3	13.1	6.51
Bedroom 4	7.8	6.51
Shower Room	4.5 (Approximately)	3.74
Combined Living Area	33.5	24
WC with HWB	3.4	No requirement
Storage	11.1	No requirement

- 4.11 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 also 'The Standards for Houses in Multiple Occupation' document dated September 2018. The first floor balcony provides covered outdoor amenity space that positively contributes to the standard of living accommodation for the occupiers.
- 4.12 The combination of shared shower rooms and WCs would provide a suitable overall arrangement of sanitary facilities. Furthermore, all habitable rooms would have good access to natural light and would be of an appropriate configuration/layout. This is a result of amendments to the plans addressing the previous reason for refusal.
- 4.13 The previously identified 5th bedroom is now shown to be a storeroom as it was not suitable for habitation as a bedroom due to the lack of outlook or natural light. This is especially important in a HMO where residents are likely to spend more time in their bedroom. Private Sector Housing confirm that the second floor room marked as "Storeroom" is not suitable to be used as sleeping accommodation and thus would not be able to be licensed.
- 4.14 Impact on amenity
- 4.15 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. There is no evidence to suggest that the use of the first floor balcony, while the property is in C4 HMO use, would cause any quantifiable amenity issues further than if the property was in C3 use as this would depend on the behaviour of tenants in either case.

4.16 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 of the SPD 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 in this case, it is considered that the impact of one further HMO would not be significantly harmful.

4.17 Highways/Parking

4.18 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 bedrooms. This property provides 2 off-road spaces and therefore meets the requirement.

4.19 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 with a side access where secure cycle storage is proposed as well as front forecourt where bicycles could be stored. Such facilities can be secured by condition.

4.20 Waste

4.21 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.

4.22 Appropriate Assessment - Special Protection Area and Ramsar sites

4.23 Whilst it is acknowledged that there are ongoing issues around the eutrophication 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 C4 use with no net increase in overnight stays, both C3 and C4 use classes enabling occupancy of the property by up to 6 unrelated persons living together as a single household. The development would therefore not give rise to likely significant effects on these national and internationally designated sites.

4.24 Other matters

4.25 The use of the property as a HMO has been ongoing for some time prior to the submissions of the planning applications to regularise the use. Whilst regrettable, this is a lawful course of action and should not have any bearing on the consideration of the application, which should be assessed on its planning merits.

4.26 There has been much attention on this property through Planning Enforcement and through the course of both applications from residents, Councillors and MPs. This has generally been focussed on the behaviour of tenants and there would appear to be a neighbour dispute with accusations from both parties. The behaviour of the tenants is not a material planning consideration and is beyond the control of the planning system.

5.0 Conclusion

5.1 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: Plans - 073 PL03; and Elevations - 073 PL04.

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.

UNIT 14 FITZHERBERT SPUR PORTSMOUTH PO6 1TT
RETROSPECTIVE APPLICATION FOR CHANGE OF USE FROM WAREHOUSE (CLASS B8)
TO GENERAL INDUSTRIAL (CLASS B2)

WEB LINK TO DOCUMENTS: [HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=R3C8PWMOG9M00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=R3C8PWMOG9M00)

Application Submitted By:

Mr Simon Coles
Town Planning Expert

On behalf of:

T Bell
Marlin Environmental
RDD: 29th November 2021
LDD: 25th January 2022

1. SUMMARY OF MAIN ISSUES

1.1 This application is brought to the Planning Committee due to the number of objections and also at the request of Councillor Mick Giles and by reason of an objection from the local highway authority.

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

- Principle of Development
- Impacts on Amenity
- Parking
- Other material considerations

1.3 Site

1.4 This application relates to an industrial warehouse building located to the north-east corner of Fitzherbert Spur. It backs onto residential properties along Second Avenue and Hardy Road and also north of existing flats within The Fairways to the south. Fitzherbert Spur is a primarily industrial road made up of almost exclusively B1, B2 and B8 uses within the Farlington Industrial Estate.

1.5 The property falls within employment land as defined on the Proposals Map of the Portsmouth Plan.

1.6 The Proposal

1.7 Retrospective application for change of use from warehouse (Class B8) to General Industrial (Class B2)

1.8 Relevant Planning History

Q*18049/AB - Change of use to warehouse (Class B8)
Granted 25/01/2002

A*22691/E - Change of use from warehouse (Class x) to light industrial (Class III) premises
Permission granted - 28/03/1984

2. POLICY CONTEXT

2.1 The relevant policies within would include:

The relevant policies within the Portsmouth Plan would include: PCS11 (Employment Land), PCS17 (Transport), PCS23 (Design and Conservation). Saved policies - DC21 (Contaminated Land), DC31 (Employment sites outside the primary areas).

2.2 In addition to the above policies, the aims and objectives of the National Planning Policy Framework (2021) and the Parking Standards and Transport Assessments SPD (July 2014) are relevant.

3. CONSULTATIONS

3.1 Environmental Health:

3.2 Regulatory Services received a complaint in March 2021 in relation to fan noise being emitted from a stack on the roof of the warehouse; however, upon investigation no statutory nuisance was established.

3.3 Since the initial complaint, the company have continued with their existing business without further cause of complaint to nearby residents. The company have therefore demonstrated that they can operate without causing a loss of amenity to residential occupants. Therefore, no objections raised to this change of use.

3.4 Contaminated Land Team:

3.5 A condition relating to land contamination is not required in this particular instance due to the nature of the change of the use and lack of required groundworks meaning that the contamination exposure scenario would not be changing.

3.6 Highways Engineer:

3.7 The application proposes a change of use from warehouse to General Industrial. The proposal includes the installation of a workshop and ancillary ground and first floor offices, although does not address the issue of the increased parking demand which will arise from the change of use.

3.8 Portsmouth City Council's Parking SPD does not give an expected level of vehicle spaces for non-residential developments, rather requires the applicant to make an assessment of parking demand using the methodology established within the SPD and ensure sufficient provision to meet that. The application makes no such assessment of parking demand and in the absence of that I am unable to determine whether or not sufficient parking would be obtained to meet the peak demand of the site. Having said that, there is no scope to accommodate any parking shortfall within the public highway and it will be important to ensure that adequate provision is made on site for both vehicle and cycle parking.

3.9 Therefore as this application stands a refusal is being recommended due to the inadequacy of the information supplied.

4. REPRESENTATIONS

4.1 Five letters of objection (2 from the same address) received raising the following summarised concerns:

- Noise
- Pollution from fumes and chemicals
- Surface water flooding

- Retrospective application
- Lack of public consultation (*Officer note: 25 neighbour letters were sent in accordance with the Council's SCI/Constitution*)

5.0 COMMENT

5.1 The main considerations are:

- Principle
- Impact on residential amenity
- Highway and parking impact

5.2 Principle

5.3 The application site is an industrial building within an identified and established industrial estate known as the Portfield Industrial Estate. Policy PCS11 of the Portsmouth Plan is relevant and states that sustainable economic development will be promoted by the provision of a flexible supply of good quality office, manufacturing and warehouse land and floorspace in identified locations, totalling a target of 243,000m² by 2027. The Farlington Industrial Estate, being an existing industrial estate/employment site, is one of the sites identified.

5.4 Within existing industrial estates, the city council will promote office, manufacturing and warehouse (B1, B2, B8) development recognising that these estates have the potential to provide approximately 62,000m² of B2/B8 floorspace. The loss of existing B1, B2, B8 uses in the areas highlighted on the proposals map will be resisted.

5.5 The existing building has been used as Class B8 warehouse (Class B8) and recently changed use to General Industrial (Class B2) and this proposal is seeking to regularise this change of use. No employment floor space would be lost as a result. This proposal is considered in accordance with the aims and objectives of Policy PCS11 and is therefore acceptable in principle subject to all other matters being addressed.

5.6 Impact on residential amenity

5.7 The Regulatory Services department was consulted with regards to noise, pollution and contamination and no objections were raised.

5.8 Parking

5.9 Whilst the Highways Engineer has recommended a refusal due to lack of information regarding parking demand assessment, it is considered that given the history of the site having been previously in use for light industrial before changing use to warehouse the development is not expected to raise any new highway and parking impacts in this industrial estate or adjoining residential area over and beyond the existing, and the use of the building for B2 general industrial purposes is entirely in accordance with adopted policy PCS11 for employment sites.

5.10 There are no changes being proposed to the floor layout of the building. It is therefore not considered that the objection on parking can be sustained. In view of Local Highway Authority concerns, a travel plan to counter their concerns can be requested via a planning condition. A travel plan is not considered unreasonable having regard to the location of the application site within an established industrial estate.

6. CONCLUSION

6.1 The proposal is considered to accord with the aims and objectives of policies PCS11, PCS17 and PCS23 of the Portsmouth Plan and therefore capable of support.

7. RECOMMENDATION

GRANT PERMISSION subject to the following 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 published on 29/11/2021 - Location plan; C3477-1 floor plans; C3477-2 ground floor offices

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

2) Within 3 months of this planning permission a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented upon commencement of the development hereby approved and in line with provisions and timescales set out within the Travel Plan.

Reason: In the interests of local amenity and highway safety in accordance with policies PCS17 and PCS23 of the Portsmouth Plan (2012).

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.

KNIGHT & LEE 53-57 PALMERSTON ROAD SOUTHSEA PO5 3QE**MIXED USE DEVELOPMENT COMPRISING CONVERSION AND CHANGE OF USE OF EXISTING BUILDING TO PROVIDE RETAIL, FOOD AND DRINK/BAR, OFFICE, HOTEL, CINEMA AND GYM USES; EXTERNAL ALTERATIONS TO INCLUDE PARTIAL DEMOLITION OF ROOFTOP STRUCTURES, CONSTRUCTION OF ROOFTOP EXTENSION, REPLACEMENT SHOPFRONTS TO NORTH AND SOUTH ELEVATIONS, INSTALLATION ROOF TOP PLANT ENCLOSURES, VENTS TO FAÇADES AND WORKS TO CANOPIES****Application Submitted By:**Terence O'Rourke Ltd
FAO Mr Andrew Elliott**PUBLIC ACCESS LINK:**<https://publicaccess.portsmouth.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R22162MOFMS00>**On behalf of:**

THAT Portsmouth Company 2 Ltd

RDD: 9th September 2019**LDD:** 5th November 2019**1) SUMMARY OF MAIN ISSUES**

- 1.1 The application has been brought to the Planning Committee for determination as it is a major application-

The main issues for consideration are:

- The principle of the development;
- Design and impact upon heritage assets;
- Impact upon residential amenity;
- Flood risk;
- Highway Impacts;
- Appropriate Assessment: Nutrient Neutrality and Recreation effects upon the Solent habitat sites.

2) SITE, PROPOSAL AND RELEVANT PLANNING HISTORYSite and Surroundings

- 2.1 The application relates to the former Knight & Lee department store, an impressive three storey building bounded by Stanley Street, Clarendon Road and a pedestrianised section of Palmerston Road. Constructed in the mid-1950s following bomb damage sustained in 1941, the building provided a significant retail presence within Southsea Town Centre until its closure in the summer of 2019.
- 2.2 Following the previous approval the building has been given statutory listing by Historic England. In May 2021 the building was given a Grade II Listed status for both its architectural history and

its historic significance. The listing refers to its well articulated and cohesive 1950's commercial design, good-quality architectural detailing, good use of materials and that the building retains a good proportion of its notable 1950's features and finishes. The historic element relates to the building's good example of commercial rebuilding in Britain's city centres in the post-war period.

- 2.3 Following on from the above, the building is a fine example of a 1950's department store and includes a number of interesting and elegant architectural features that contribute to its local historic significance. In combination with the former Debenhams department store opposite, the two buildings provide distinctive and popular local landmarks that form the gateway to the pedestrianised section of the town centre and contribute significantly to the character of the area. In addition, the site backs directly onto the 'Stanley Street' Conservation Area to the east, and is sited opposite the 'Owen's Southsea' Conservation Area that also extends to the south, east and north.
- 2.4 The surrounding area has a mixed character but is typified by commercial uses at ground floor level with residential uses above. The pedestrian precinct provides the main retail focus of the centre with a mix of national retailers, cafes and a library, with smaller independent boutiques, cafes and restaurants extending into Marmion Road and Grove Road South further to the north. A large supermarket site (Waitrose) is located to the north-east on Marmion Road which incorporates a large car park. Osborne Road, Clarendon Road and the southern section of Palmerston Road contain a greater mix of restaurants and drinking establishments which form a more vibrant night time economy in comparison to the quieter pedestrian precinct and Marmion Road. Whilst many of the surrounding buildings incorporate residential uses above commercial premises, Stanley Street, located immediately to the east and extending eastwards from Richmond Place, is solely residential in character in the form of terraced houses.
- 2.5 The application site is located within the 'Primary frontage' of the town centre as defined by Policy STC3 of the Southsea Town Area Action Plan. The area is well served by bus routes, although the nearest railway stations at Portsmouth & Southsea and Fratton are both located approximately 2km to the north. At its western extent where it meets the Pedestrianised precinct, Stanley Street includes a number of loading bays, an emergency vehicle parking bay and two disabled parking spaces.

Proposal

- 2.6 Planning permission is sought for a mixed use development comprising conversion and change of use of existing building. The scheme would provide retail (Class E(a)), food and drink bar and restaurant (Class E(b)), office space (Class E(c)(i)), hotel (Class C2), cinema (Sui Generis) and gym (Class E(d)) uses; External alterations to include partial demolition of rooftop structures, construction of rooftop extension, replacement shopfronts to north and south elevations, installation roof top plant enclosures, vents to façades and works to canopies.
- 2.7 The proposal seeks alterations and variations from that which was approved following the granting of application 19/01382/FUL on 17th July 202 for "Mixed use development comprising change of use of building, with partial demolition and extension at roof level (500sq.m. net floorspace) and excavation works at basement level, to provide retail (Class A1), Cafe (A3), Bars (A4), 43-bed Hotel (C1), Gymnasium (D2), Cinema (D2) and Offices (B1) with associated plant, equipment and enclosures." The differences are set out below:
- Mixed use permission included co-work and event space in addition to general office space
 - 43 hotel bedrooms compared to 64 as currently proposed;
 - The ground floor only comprised retail unit, food and drink retail, cinema and back of house;
 - First and second floors comprised co-work and office space along with hotel accommodation;
 - Third floor roof top extension comprised hotel rooms and gym and bar along with gym and bat terraces;

- Scheme had an additional roof top plant store atop to additional third floor extension.
- Current scheme proposes all the general commercial and hospitality uses including the gym and bar on the ground floor;
- As currently proposed only office and hotel space proposed on floors one to three.

2.8 Much of the original building fabric externally and internally would be retained with the applicant stating that key features to be retained including the existing staircases, ground floor vestibule entrances, external facades and glazing, canopy signage with much of the building being sensitively refurbished and restored.

2.9 The table below sets out the uses and the floors within which they would be located while the images show the Location Plan, proposed Site Plan, West Elevation (from Palmerstone Road) and the Proposed Ground - Third Floor Plans.

Proposed Site Plan



Proposed Ground Floor Plan



Colour	Use
Grey	Kitchens/Stores/Back of House
Purple	Food/Drink Retail & Dining
Pink	Reception/Bar
Turquoise	Cinema
Green	Retail Units
Crème	Gym

Proposed First Floor Plan (First, Second and Third Floors - Light Green - Office & Purple - Hotel)



Proposed Second Floor



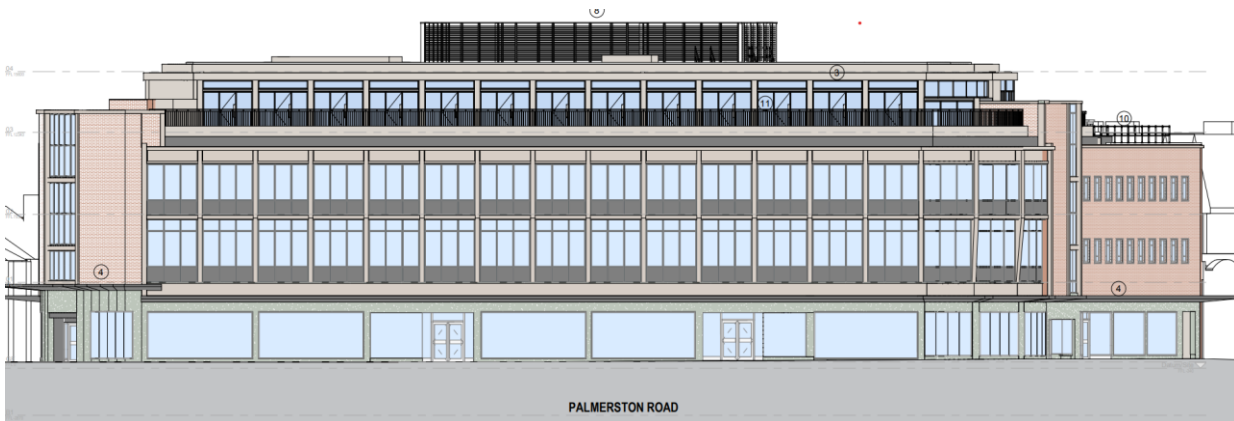
Proposed Third Floor



Proposed West Elevation:



Previously Approved Western/Palmerstone Road Elevation:



Ground Floor

Circulation/service riser/storage/utilities/plant room	485 sqm
Hotel Entrance	231 sqm
Kitchen/Hotel Service Area	225 sqm
Public Food Hall	247 sqm
Retail 1	24 sqm
Retail 2	57 sqm
Cinema	153 sqm
Gym	303 sqm

First Floor

Circulation/service riser/storage	307 sqm
Hotel BOH Service Area	77 sqm
x17 Hotel Rooms	430 sqm
x2 BOH staff rooms	35 sqm
Office	789 sqm

Second Floor

Circulation/service riser/storage	339 sqm
-----------------------------------	---------

x24 Hotel Rooms	569sqm
Office	702sqm

Third Floor

Circulation/service riser/storage	233 sqm
x24 Hotel Rooms	518 sqm

2.10 The proposed roof extension would be of a similar height as the existing floors with a similar materials palette and would be set back approximately 5m from the existing elevations of the building to reduce the overall mass of the existing building whilst much of the other changes would be to the ground floor to provide for additional openings and sliding doors that will serve the food and drink and gym uses.

2.11 Additional reference is made to the proposed extension and alterations below in more detail.

Planning History

2.12 The relevant planning history is listed below:

1. **19/01382/FUL** - Mixed use development comprising change of use of building, with partial demolition and extension at roof level (500sq.m. net floorspace) and excavation works at basement level, to provide retail (Class A1), Cafe (A3), Bars (A4), 43-bed Hotel (C1), Gymnasium (D2), Cinema (D2) and Offices (B1) with associated plant, equipment and enclosures - Approved 17th July 2020.
2. **20/00803/FUL** - Mixed use development comprising change of use of existing building, with external alterations to include partial demolition and extension at roof level, alterations to fenestration and associated plant & equipment, to provide shops, food & drink, drinking establishment, cinema, gym, hotel and office uses (amended scheme to 19/01382/FUL) - Withdrawn 23rd February 2022
3. **21/01621/LBC** - External alterations to include partial demolition of rooftop structures, construction of rooftop extension, replacement shopfronts to north and south elevations, installation roof top plant enclosures, vents to façades and works to canopies; Internal alterations, reconfiguration and sub-division to facilitate alternative uses, installation of secondary glazing - Note: this accompanying application is reported separately on this Agenda.

3) POLICY CONTEXT

3.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the Portsmouth Plan (Jan 2012) would include: PCS13 (A Greener Portsmouth), PCS17 (Transport), and PCS23 (Design and Conservation). Saved policy DC21 (Contaminated Land) of the Portsmouth City Local Plan, The Southsea Town Centre Area Action Plan (July 2007), the Parking Standards SPD, the Solent Recreation Mitigation Strategy and Interim Nutrient Neutral Mitigation Strategy (June 2022) would also be material to the determination of the application.

4) CONSULTATIONS

Historic England

4.1 Historic England acknowledge that there are benefits associated with the development however they still consider the proposals would have less than substantial harm to the significance of and

the fabric of the listed building. Such harm would be at the middle of the scale. An assessment pursuant to paragraph 202 of the NPPF is made below.

- 4.2 See Heritage Section below for more details.

The Portsmouth Society

- 4.3 No comments received.

Environment Agency

- 4.4 The Environment Agency were previously consulted on the application with a condition being suggested relating to flood warning and evacuation plan as the site was located in Flood Zone 2.

- 4.5 The Environment Agency have updated the flood zones. Following the revisions to flood zones the site is now located within Flood Zone 1, areas at least risk of flooding and as such no consultation with the Environment Agency has been undertaken.

Natural England

- 4.6 In summary, Natural England state that with regard to both the deterioration of the water environment and recreation disturbance further information is required prior to determination.

Deterioration of the water environment – further information required.

- 4.7 Natural England state that by virtue of the hotel element of the proposal and the associated additional overnight stays that the scheme will have inevitable waste water implications . Regarding recreational disturbance, Natural England state that the scheme will result in additional visitors which will impact upon the SPA and Ramsar Sites.

- 4.8 Natural England have set out that in order to address their first issue, nitrate impacts on water environments, the development must demonstrate through an Appropriate Assessment that the scheme will achieve nitrate neutrality and that, regarding recreational disturbance, it is the responsibility of the City Council to determine whether the development would have a likely significantly impact on the SPA and Ramsar Sites

- 4.9 Additional reference is made to the nitrate neutrality and Bird Aware issues below together with the Council's current guidance on these matters below.

Coastal Partnership

- 4.10 No objection in principle subject to the inclusion of a planning condition relating to the implementation of mitigation measures set out within the Flood Risk Assessment.

Ecology

- 4.11 The Ecology Officer had initially requested additional information regarding protected species, recreational impacts, nutrients and biodiversity enhancement measures.

- 4.12 Following the submission of an updated Ecological Impact Assessment the Ecology officer has stated that they are satisfied with the proposed mitigation measures and has set out a number of conditions and contributions relating to the Solent SPAs, Nutrient Neutrality Mitigation Strategy, Construction Environment Management Plan (CEMP), Biodiversity Enhancements and Lighting.

- 4.13 Additional reference is made to ecological matters below in more detail.

Crime Prevention Design Advisor

- 4.14 The development has both hotel rooms and offices located on the same floors and that it is important that those within the offices are unable to access the hotel and vice-versa. They refer to the use of access controlled doors and the need to minimise the opportunities for 'tail gating' through such doors. Additional reference is made to the need for a CCTV system to be provided together with the necessary CCTV Operational Requirement and consideration given to furniture within the public realm, particularly when the premises is closed and that such issues should be secured by way of an appropriately worded condition imposed on any planning consent. Additional reference is made to crime in more detail below.

Highways Engineer

- 4.15 No further comments received. However, LHA comments from the previous application are noted below in italics. As set out in more detail below, additional consultation with the LHA is not considered necessary.

The site is located within a highly accessible area and the LHA would not anticipate the associated traffic generation to be of such a scale as it would have a material impact on the operation of the local highway network.

Essentially the same servicing arrangements as are provided for the existing use are proposed to be retained to service the proposed use. The LHA is content that these are adequate to meet the servicing demands of the proposal.

The principal issue of concern in relation to the redevelopment of this site is the availability of sufficient parking facilities as none are proposed to be provided on the site. A parking accumulation assessment for the proposed development establishes a peak parking demand of 28 spaces on a weekday and 22 at a weekend.

The on-street parking survey establishes that there are very few on street parking opportunities available in close proximity to the site although there is reasonable capacity in Clarence Parade and Avenue De Caen within a 220m - 400m walking distance. As a consequence the LHA is satisfied that there are adequate on street parking opportunities within a reasonable walking distance of the site to accommodate the anticipated parking accumulation.

No highway objection raised subject to a planning condition requiring the submission and approval of a construction management plan.

Environmental Health

- 4.16 *Cinema* - Env. Health note that with the cinema being within a central part of the building noise shouldn't be an issue for neighbouring properties/occupiers.
- 4.17 *Commercial Kitchens* - With 5 commercial kitchens extraction flue details will need to be agreed. Technical solutions should however be available.
- 4.18 *Gym* - Vibration borne noise can be an issue with gyms that share party boundaries. With the free weights being within a more central part will mitigate this potential impact. Such details to ensure noise and vibration are mitigation should be agreed however.
- 4.19 *Fixed Plant* - Plant on the roof can give rise to noise issues. Technical solutions should however be available to mitigate such impacts and such details can be agreed by way of a conditions.

4.20 *Loading / servicing Area* - The main loading / service area is located within Stanley Street and will probably be approached via Marmion Road and Richmond Place.
Where issues have been reported in the past with deliveries / servicing of commercial premises in Richmond Place being undertaken at anti-social hours, impacting upon residents in both Marmion Road and Stanley Street and as such Env. Health request an hours of deliveries conditions.

4.21 Whilst raising no objection in principle, conditions to minimise the impacts identified above are requested.

Contaminated Land Team

4.22 The Contaminated Land Team have stated that given the scale of the development and its location on and near potentially contaminated land two conditions are requested. The conditions requested relate to a Desk Study Report being undertaken along with the necessary remediation strategy being submitted to the City Council with the second condition requiring a follow up Verification Report being compiled.

4.23 Additional reference is made to contamination below.

Lead Local Flood Authority/Drainage

4.24 No objection raised.

Archaeology Advisor

4.25 No comments received.

Waste Management Service

4.26 No comments received - Previous concerns regarding the loading bay have been addressed with the loading bay now coming straight out onto Stanley Street.

Licensing

4.27 No comments received.

Twentieth Century Society

4.28 No comments received.

Hampshire Swifts

4.29 Owing to the increase in the population of swifts since 1995, approximately 58%, a condition is requested to secure at least 8 integral swift boxes are provided. Additional reference is made to ecology and biodiversity below.

5) REPRESENTATIONS

5.1 At the time of writing four letters of representation had been received, one objecting and two neutral comments. The objections and concerns can be summarised as follows:

- i. The hours of use, particularly any outside elements should be conditioned.
- ii. Overlooking from the development to a rooftop terrace/garden area.
- iii. Careful consideration must be given to the potential impacts on parking, in particular Stanley Street, needs to be given and the impact on the amenities of residents.

- iv. The proposal should have parking provided as the uses proposed will generate additional car trips.
- v. Secure bicycle parking should be provided as Portsmouth has a particular problem with bike theft.

6) COMMENT & MAIN ISSUES

The main issues for consideration are:

- The principle of the development;
- Design and Impact on heritage assets;
- Impact on residential amenity;
- Flood risk;
- Highway Impacts;
- Impact on nature conservation interests.

The principle of the development

- 6.1 The application site is located within the 'Primary frontage' of the town centre as defined by Policy STC3 of the Southsea Town Area Action Plan (AAP) (July 2007). The AAP was produced to address a decrease in footfall and the potential impact of significant retail proposals within the city centre at that time (Northern Quarter development). It was considered that the centre would be facing significant changes and needed to redefine itself to create a clear identity, to protect and develop businesses, drive footfall and deliver customer loyalty.
- 6.2 It was envisaged that the document would cover a ten-year period from the date of adoption but remains the relevant local policy document for the centre until the City Council adopts a revised local plan. It is acknowledged that the document is now 15-years' old and developments foreseen within the city centre at the time of adoption have not materialised. However, whilst the town centre has not seen the predicted impacts resulting from the expansion of the city centre shopping offer, there have been significant changes within high streets across the country with changing shopping habits providing different challenges for the centre.
- 6.3 Southsea Town Centre mirrors national trends with the loss of major national retailers across the plan period including Woolworths, Laura Ashley and more recently Knight & Lee (John Lewis) at the application site, a general reduction in demand for retail floorspace (now Class E) and the growth of supporting uses such as cafés, bars restaurants and community uses including the introduction of Southsea Library into the precinct. The large department store (Debenhams) located opposite the site has now closed and benefits from planning permission from November 2021 (20/00620/FUL) for a mixed use commercial development on the ground floor and 134 new apartments.
- 6.4 Policy STC2 of the AAP states that within the Town Centre as a whole, planning permission will be granted for: A1-A5 uses (subject to restrictions set out elsewhere in the AAP); offices B1a (upper floor only on the primary frontage); leisure uses (D2); community uses, including arts, tourism and cultural facilities (D1 & D2) and theatres; and residential uses (upper floors only). The majority of such uses have now been subsumed into Use Class E (Commercial, Business and Service) and Use Class F (Local Community and Learning). The objectives of the APP to encourage the enhanced vitality and viability of the town centres remains unchanged regardless of the change in the Use Classes Order in September 2020. While not referred to specifically in the Policy the provision of hotels are supported by Objective 3 of the Portsmouth Local Plan that seeks to develop Portsmouth as a city of innovation and enterprise with a strong economy and employment opportunities that states, inter alia, that planning should support other uses including hotels and provide for additional tourist facilities including hotels

- 6.5 Policy STC3 of the AAP states that within the Primary Frontage planning proposals for town centre uses (as set out by STC2), other than A1 Shops, will only be granted permission if at least 75% of the Primary Frontage would be in A1 use after the development is completed.
- 6.6 Whilst Policy STC3 of the AAP refers to now superseded Use Classes such as A1 (retail) the overarching objectives of the Policy and the AAP in seeking to enhance the vitality and viability of such town centres remains a key consideration which has, in part, underpinned Policy STC17 which allocates the application building for a mixed-use development including retail (Use A1 now Use Class E(a); community uses (i.e library); offices (now Use Class E(c)); restaurant (now Use Class E(b)) and residential (Use Class C3).
- 6.7 With the existing building having been vacant since July 2019 and paragraph 120(c) of the NPPF making it clear that substantial weight should be given to the value of using brownfield sites in settlements for homes as other uses, together with the application building being designated as a mixed use allocation within the AAP, it is considered that the proposal is acceptable in principle subject to an assessment against development plan policies as a whole, in particular heritage related policies following the sites statutory listing in May 2021.

Design and Impacts upon heritage assets

- 6.8 As noted above, the building has, since the previous permission being granted has been given a Grade II Statutory Listing and as such the protection and enhancement of the buildings historic and architectural significance is of particular importance. Policy PCS23 ensures, inter alia, that the city's historic townscape and its cultural and natural heritage is protected and enhanced which echoes the objectives of Section 16 of the NPPF which notes that such heritage assets are an irreplaceable asset and should be conserved in a manner appropriate to their significance.
- 6.9 The building was given a Grade II Listed Status in May 2021 due to its architectural and historic significance. The List Entry, regarding the building's architectural significance, refers to the buildings cohesive and well-articulated example of 1950's commercial design with good quality architectural detailing across three distinct harmonious street elevations; good use of materials and that the building retains a good proportion of its notable characteristics whilst the historic significance refers to the building being a good example of mid-1950's commercial rebuilding in Britain's city centres in the post war years.
- 6.10 The building benefits from planning permission for a similar mixed use development which has in part been implemented following the demolition of a number of ad-hoc structures on the roof including plant room structures and plant stores. The applicant has however sought to revise the scheme in order to better retain and restore key aspects of the building following its Grade II Listing.
- 6.11 In addition to the building's Listed status it does, by reasons of its siting and prominence have a notable contribution to the Owen's Southsea Conservation Area that stems from the buildings presence in oblique single views from east-west views from the Conservation Area.
- 6.12 Given both the prominent siting of the building at the southern end of the pedestrianised Palmerstone Road and its historic significance following its listing the application has been revised by both Historic England and the City Council's consultant Conservation Officer.
- 6.13 Historic England have stated in their response that the proposal would, in its current form, harm the significance of the building. They consider the most harmful element to be the rooftop extension by virtue of the change in the building's appearance and the prominent horizontal banding on the roof top extension. In addition, they consider the use of terracotta air bricks, metal fixed grilles for ventilation together with changes to the openings and windows on the ground floor (including the new access door to the gym and bi-fold doors to the restaurant area) have a negative impact.

- 6.14 Internally the principal source of concern relates to the enclosure of the main central staircase with glass bricks (required for fire safety reasons) together with the siting of fitted bar furniture on the ground floor further detract and harm the building's significance.
- 6.15 Historic England do acknowledge however that, due to the size and prominence of such a building sitting empty, this is itself harmful to Southsea's heritage. Furthermore, it is recognised that some aspects are required for fire safety reasons. As such, in order to secure a long term sustainable and viable use, they consider the proposal would give rise to less than substantial harm.
- 6.16 The City Council's Conservation Officer has commented on the application. Initial comments focused on a range of elements of the scheme. Certain aspects required changes and/or additional justification from the applicant relating to the need to ensure the rooftop extension followed the curved approach to the existing elevations, the colour of the spandrel glass panel; the number and siting of ventilation bricks and the concrete panel system. Other areas including the new ground floor openings, balustrade dwarf wall and the bar are supported. The conclusion was that the scheme would have a '*medium-low overall impact*' on the building and such an impact was not sufficient to warrant a refusal on heritage grounds. A number of conditions have been sought including materials and ventilation bricks which have been discussed at length and agreed between Officers and the applicants. The full list of recommended conditions are set out below.
- 6.17 Because of the less than substantial harm identified by Historic England an assessment against the public benefits arising from the scheme needs to be undertaken pursuant to paragraph 202 of the NPPF with further consideration given to the NPPF to ascertain the weight to be given to potential impacts and benefits of the proposal.
- 6.18 Paragraph 199 of the NPPF makes it clear that great weight should be given to an asset's conservation and as such great weight must therefore be given to any harm to an asset. There are other statutory listed buildings to the north and south east, however these are considered to be of a sufficient distance from the site with intervening distance such that their settings would be unaffected. The building is visible from the Owen's Southsea Conservation Area although the Conservation Officer doesn't identify any harm to the setting of the Conservation Area as a result of the proposal.
- 6.19 The proposed mixed use development would bring about numerous public benefits which include the economic benefits associated with the jobs that would be created with both the office and the other hospitality aspects of the scheme including the hotel and restaurant and bar as well as the retail and gym. Based on the 2015 Employment Density Guide the office element alone could create between 114 and 186 jobs. This is likely to be more than doubled when the jobs associated with the hotel, gym, retail unit and restaurant and bar are considered, although these are more difficult to quantify. Nevertheless, paragraph 81 makes it clear that significant weight should be given to proposals which support economic growth.
- 6.20 The proposal would, by bringing the building back into use in accordance with its allocation, bring about an enhancement to the overall vitality and viability of the Southsea town centre. Such a benefit would represent both an economic and social benefit and attracts significant weight in the planning balance. The proposal would also bring about a long term sustainable use of the heritage asset, which, pursuant to Section 16 of the NPPF, attracts similarly significant weight in favouring the proposals.
- 6.21 Furthermore, and as noted below, the development would bring about (subject to conditions) an enhancement to the building's ecological value through the provision of bird and bat boxes, whilst compliance with current building regulations would contribute to further environmental benefits including reduced carbon emissions and water usage.
- 6.22 Based on the foregoing it is considered that, pursuant to paragraph 202 of the NPPF, the public benefits associated with the development outweigh the less than substantial harm identified by

Historic England. The support of the Council's consultant Conservation Officer, subject to the recommended conditions outlined below, is also significant having regard to the Grade 2 Listing.

- 6.23 The National Planning Policy Framework (NPPF) places an emphasis on achieving sustainable development, for which good design is a fundamental element. The key planning objectives seek to help to build strong, vibrant and healthy communities; create well-designed and safe built environments and to contribute to protecting and enhancing natural, built and historic environments. Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places are fundamental to what the planning and development process should achieve. Paragraph 130 sets out that developments should: ensure that they function well and add to the overall quality of an area; be visually attractive; be sympathetic to local character and history; establish or maintain a strong sense of place and should optimise the potential of a site to accommodate and sustain an appropriate mix of development.
- 6.24 When determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 6.25 With the exception of minor changes to the fenestration at ground floor level on Stanley Street and the extension at roof level, the proposal retains all of the existing, and largely original, external fabric of the building which is extremely positive.
- 6.276 The most significant changes would come at roof level where an extension would be constructed towards the western side and central areas of the building following the removal of various smaller structures. This would be set back from the main façade of the building by approximately 5m so as to not compete visually, and has been designed to mirror the architectural form of the southern elevation façade with a series of vertical glazed openings and curved elements that will respect the existing elevations. An external terrace along the western elevation would be enclosed by metal railings, and whilst the precise details are not known at this stage, it has been indicated that these will take inspiration from the internal staircases. Overall, it is considered that the new third floor has been sensitively designed and positioned to appear as a subservient addition that would respect the original character of the building.
- 6.27 The plant store that was above the roof top extension on the previous permission has been removed which is considered a betterment over and above that which was previously approved.
- 6.28 The application site backs directly onto the 'Stanley Street' Conservation Area to the east which contains a number of locally listed properties (Nos.14-44 evens only) to the southern side of the road and Nos.49 & 51 towards its eastern end which are statutory listed (Grade II). 'Owen's Southsea' Conservation Area extends to the south-east, west and north of the application site. In short range views the alterations at roof level would not be noticeable from within the public realm but would be more obvious in longer range views along Clarendon Road, Palmerston Road, Osborne Road, Stanley Street and between gardens areas between Stanley Street and Clarendon Road.
- 6.29 As set out above, it is considered that the third floor has been sensitively designed and would preserve the setting of the adjoining heritage assets.
- 6.30 The Crime Prevention Design Advisor has raised some concerns in respect of the internal layout of the building. These concerns relate principally to the management of the building, although the applicant has provided further details indicating how visitors will be managed between the separate uses. This includes details showing the secure demise and circulation areas of each individual use and the location of key card access points.

6.31 From a purely design perspective, it is considered that the removal of the upper plant store and the subservient design of the roof top extension is considered to respect the overall architectural style and detailing of the existing building thereby complying with the objectives of Section 12 of the NPPF and the objectives of Policy PCS23 of the Portsmouth Plan.

Impact on residential amenity

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

6.33 Whilst the proposal incorporates a wider range of uses than previously operated from the site, it must be acknowledged that until recently the building was extensively used throughout the day and attracted large numbers of visitors with associated members of staff and deliveries to and from the site on Stanley Street. Therefore, whilst the nature of the activity is likely to change, it is considered that the general day to day activities associated with the proposed uses would not be significantly different from the previous or lawful use of the site which is appropriate for a town centre location.

6.34 The proposal does incorporate uses that could extend later into the evening/night in the form of food and drink, bar, restaurant and cinema use. However such uses are located on the ground floor, appropriate to the location of the site within a town centre and acknowledging that the building's position is very much at a junction where the character of the centre begins to change later into the evening. This is acknowledged by the AAP which encourages bars and restaurants to locate within the 'restaurant quarter' including Clarendon Road, the southern section of Palmerston Road and Osborne Road which has a vibrant late-night economy.

6.35 Extending northwards, the number of late night uses reduces within the pedestrian precinct where residential properties are located immediately above commercial premises. Marmion Road is quieter still and Stanley Street immediately to the east beyond Richmond Place is entirely residential in character. Therefore, whilst the principle of further late night uses at this location is considered to be acceptable, careful regard must be given to the proposed hours of operation striking a balance with typical hours of operation to the north and south and potential impact on the amenity of closest residents. In this respect the LPA has had regard to a recent (December 2018) appeal decision at 36-38 Palmerston Road (currently the Panero Lounge café/restaurant) where the Inspector acknowledged the changing character and proximity to residential properties concluding that the premises should remain closed between 23:00 and 08:00 the following day and that the initial request for 23:30 opening was "unsocially late" in that location.

6.36 No suggested hours of operation or noise impact assessment has been submitted by the applicant. Whilst it is considered that the noise within the building will be relatively well contained and self-regulated to a degree by the inclusion of hotel accommodation, sources of noise would still exist from the operation of the roof terraces and from customers leaving the premises and dispersing through the precinct and into the surrounding streets. On the basis the application site is located slightly further to the south than 36-38 Palmerston Road and does not incorporate residential accommodation above, it is considered that a midnight closing time for the food and drink uses and the bar and 01:00 for the cinema use would be reasonable.

6.37 The Environmental Health Team (EHT) has reviewed the application and a number of conditions are suggested seeking a scheme of insulation for the cinema screens and to control smells and odours from cooking operations given the proximity of the site to neighbouring dwellings.

6.38 As highlighted above within the public comments, concern has been raised about the roof top plant. The EHT raise no objection to this approach and consider that there are technical solutions

to minimise the impacts of noise, smells and odours associated with their use. Conditions to this effect are suggested.

- 6.39 Concerns have been raised by residents of Stanley Street in respect of the proximity of hotel windows to the gardens and rear facing windows of their properties. These concerns are acknowledged and having observed the outlook from the vast majority of windows on the east and north facing elevation of the application building, it is apparent that there are direct and short distance views into the garden spaces and towards rear windows. Windows at lower floor levels offer more direct views towards these dwellings whereas views from windows at upper floor levels tend to oversail the roof slopes and beyond.
- 6.40 Whilst the LPA recognises residents' concerns, it must be acknowledged that these are existing relationships and only a small number of additional windows would be created on the roof top extension. Furthermore, whilst the spaces served by these windows within the application building were previously used as a mix of offices, storerooms, toilet facilities and plant rooms, alternative uses could have been relocated to these spaces which would have offered a greater degree of overlooking without the need for planning permission.
- 6.41 Therefore, whilst the nature of activity behind the windows would change from retail to office and hotel rooms as a result of this planning application, on the basis that the facing windows already exist and with a very limited number of new openings that would serve a small number of the upper floor hotel windows that are proposed, it is not considered that the LPA could sustain a reason for refusal on overlooking or privacy grounds.
- 6.42 The applicant has indicated that the hotel rooms would incorporate secondary glazing and elements of obscure glazing to the lower sections of windows to protect the privacy of neighbours and their own hotel guests. However, based on the assessment above, it is not considered that the inclusion of a planning condition to this effect would meet the statutory planning tests of 'necessity' for conditions.
- 6.43 As noted above the proposal would re-use the building there are no new windows and the use of the upper floors would change from retail to office or hotel would not in itself result in any increased levels of overlooking. Windows within the upper third floor may have the chance to result in increased overlooking. The majority of the windows would overlook existing commercial uses to the north, west and south and as such would not impact any local residents. Three hotel rooms have the potential to overlook two properties on Stanley Street. However, one room would be obscured by the stairwell and two would have, by virtue of the levels and distances involved, such an oblique line of sight that there would be no material loss of privacy to the rear facing rooms to 6 and 8 Stanley Street and their rear garden areas.

Flood Risk

- 6.44 Flood Risk issues were discussed in detail as part of the previous application. The Environment Agency have since revised their Flood Risk data which has resulted in the application falling within Flood Zone 1.
- 6.45 With the site falling in Flood Zone 1 and with there being no increase in the footprint of the building, the scheme would not be expected to increase the risk of flooding on or off site.

Highway Impacts

- 6.46 The application is accompanied by a Transport Statement (TS) that sets out in detail all the relevant highway and transport related issues as well as the differences between and similarities with the previous 2019 application and subsequent permission. The TS confirms that the site is in a highly accessible and sustainable located that ensures there is significant opportunities to generate trips by sustainable means.

- 6.47 The TS confirms that a parking analysis has been undertaken that has factored in existing availability, committed development and proposed parking accumulation and concludes that maximum parking requirement can be conformably accommodated within the available surrounding parking provision. The TA further states that the development would result in a reduction in weekday parking requirement and only 1 additional weekend parking requirement over that the subject of permission 19/01382/FUL.
- 6.48 While no highways comments have been received for this application, in considering the highway merits of the previous application that proposed a largely identical range of uses there was a degree of concern raised regarding the level of on street parking particularly in relation to Stanley Street and Clarendon Road.
- 6.49 The application was supported by a Transport Statement which was considered by the Local Highways Authority (LHA). The LHA highlighted that the site is located within a highly accessible area and did not anticipate that the associated traffic generation would be of such a scale that would have a material impact on the operation of the local highway network. Whilst there will be some changes to the nature of the use, it is considered that the existing servicing arrangements from Stanley Street would be adequate to meet the servicing demands.
- 6.50 The principal issue of concern for the LHA, and raised within a number of representations, centres around the availability of sufficient off-site parking facilities. It is accepted that the previous use of the building as a large shop typically generated a greater demand for parking during the day and was generally closed in the evening and overnight when there is a greater demand for resident parking. Whilst this pattern of use is likely to be reflected by the proposed office and retail elements, the hotel is likely to introduce additional demands for overnight parking.
- 6.51 An on-street parking survey provided by the applicant during the previous application established that there are very few on street parking opportunities available in close proximity to the site which is reflected by the City Council's own records held for the KC Residents' Parking Zone. The parking survey did however, establish that there is reasonable capacity in Clarence Parade and Avenue De Caen within a reasonable walking distance to the application site (220m-400m) where parking is controlled by pay and display parking meters. These surveys were undertaken on multiple days both during the day when the greatest parking accumulation associated with the proposal is anticipated and in the evenings/overnight when the resident demand for on street parking is greatest.
- 6.52 Based on the results of the parking survey, the LHA was satisfied that there are adequate on street parking opportunities within a reasonable walking distance of the site and no objection to the proposal was raised. It should also be noted that there are currently no planning conditions restricting opening times at the site and an alternative retailer could choose to operate a large shop at the existing premises later into the evening and overnight without the need for planning permission.
- 6.53 While the parking survey was compiled during the previous application; that submitted with this application and the nature and characteristics of the surrounding highway network remaining unchanged while the provision of Council controlled car parking in the area would ensure that the scheme would not have a materially detrimental impact on highway safety and as such there are no highways and transport matters that would warrant a reason for refusal.. Any impact arising from the proposal would not be considered severe pursuant to paragraph 111 of the NPPF that would prevent permission being withheld on highway grounds.
- 6.54 The site bounds the public realm along much of its perimeter and is located in close proximity to residential properties. Having regard to the extent of the internal fit out works, construction activity at roof level and limited servicing opportunities from Clarendon Road, a condition requiring the submission and approval of a Construction Environmental Management Plan (CEMP) is considered necessary to minimise disruption to residents and the surrounding highway network.

6.55 The City Council's Waste Team had previously raised concerns in respect of the location of the waste store. However, the applicant has clarified that the facilities for the storage or refuse and recyclable materials would be directly linked to the loading bay and can be collected through the existing loading bay doors. As the proposal would result in a larger building with a number of separate uses operating from within, it is considered necessary and reasonable to impose a planning condition seeking the submission and approval of a Delivery and Servicing Strategy to ensure that delivery and collection vehicles are adequately managed to avoid stacking on the surrounding highway network and disruption to neighbouring occupiers.

Appropriate Assessment

6.56 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 likely significant effect on the interest features of the national and internationally designated habitat sites in the Solent, notably within Portsmouth harbour.

6.57 Since the previous permission was granted the City Council has a revised Nitrate Neutrality Mitigation Strategy. The reasons for such a Strategy has remain unchanged however. Following changes in European Case Law, all new development capable of generating overnight stays should be nitrate neutral due to high levels of nitrogen drainage from the Solent catchment area which subsequently causes excessive growth of green algae which is having a recognised and detrimental impact upon the regions internationally protected marine habitats.

6.58 Neutrality had initially focused on bringing about enhancements to the city's housing stock that would reduce the amount of water entering the system thereby ensuring there was no new nitrates entering the water system. The further strategy has, in conjunction with the Hampshire & Isle of White Wildlife Trust (HIOWWT) has involved bringing about significant changes to farming practises to reduce the amount of nitrates arising from agriculture thereby off-setting those from new housing and, in this case, hotels that increase overnight stays. The updated Strategy sets out three Mitigation options which are listed below:

- Mitigation Option 1: Offsetting against the existing lawful land use on an application site, extant permissions or other land controlled by the applicant; and/or
- Mitigation Option 2: bespoke direct and in-direct mitigation measures, agreed in discussion with the Council and Natural England. For instance, Sustainable Urban Drainage Systems (SUDS), interception or wetland creation; and/ or
- Mitigation Route 3: Purchasing of 'mitigation credit' from recognised source of nitrogen mitigation: Purchase of 'mitigation credit' from the Council or other landowner/ recognised source of 'mitigation credit', secured in perpetuity. See route 3a & 3b for major and minor development respectively.

6.59 By virtue of the proposal being a major development Mitigation Option 3b, set out below, requires the applicant to secure the necessary nitrate neutrality credits with a third party, usually the HIOWWT and the necessary contributions for that credit secured by way of a Section 106 legal Agreement. This process requires an assessment of the existing nitrate levels to be assessed based upon the sites existing or lawful use, in this case retail.

6.60 Option B would allow for a bespoke neutrality measures to be agreed with the City Council and Natural England. Such measures could include an appropriate Sustainable urban Drainage Scheme (SuDS), interception methods or wetland creation.

6.61 The existing nitrate discharge levels would be assessed via the Council's updated Budget Calculator that has been agreed in conjunction with natural England. This would also inform the

- 6.62 In order to facilitate the bringing forward of this development as soon as possible, a planning condition is proposed seeking to prevent the occupation of the hotel accommodation until an agreed scheme of mitigation is secured by way of s.106 Legal Agreement.
- 6.63 With this mitigation secured, the LPA as competent authority, can conclude that potential likely significant effects can be adequately mitigated.
- 6.64 The City Council's Ecologist concludes that the site currently has limited potential to support protected species and there are no concerns that the development would adversely affect any locally-designated sites of wildlife importance, or any legally protected or notable habitats or species. It is however, highlighted that the flat roof may be attractive to nesting gulls and an informative in this respect is proposed. In line with the aims and objectives of the NPPF, emerging provisions outlined in the Environment Act 2021 and Policy PCS13 of the Portsmouth Plan which seek to encourage a net gain in biodiversity wherever possible, a planning condition seeking the submission of a Biodiversity Mitigation and Enhancement Plan is proposed.

7) Conclusion

- 7.1 Having regard to all of the material planning matters which have been explored above, it is considered that the proposal would represent a positive and ambitious form of development that would rejuvenate a socially and historically important listed building and local landmark with opportunities to establish and support local businesses that would contribute to the vitality and viability of the town centre. Having considered that there would be no significant/unacceptable adverse impacts on residential amenity, heritage assets, the surrounding highway network, flood risk and nature conservation interests, the development would contribute to the achievement of sustainable development as required by the NPPF.

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to grant Conditional Permission subject to completion of a Legal Agreement to secure the necessary mitigation for purposes of Nutrient Neutrality within the Solent and Bird Aware Strategies;

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

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

RECOMMENDATION Conditional Permission

Conditions

Time Limit

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

Approved Plans

- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: P010 E;

P011 D; P012 D; P013 E; P014 D; P015 D; P016 D; P017 A; P020 A; P100 A; P101 B; P102; P103 A; P104 A; P105 -; P106 -; P110 A; P120 -; 500; 501; 510; 511; 512 & 515.

Environmental Protection

3) Prior to the commencement of any building operation associated with the building's conversion or enlargement, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not limited to details of: Construction vehicle routing; Site access management; Times of deliveries; Loading/offloading areas; Crane siting; Site office facilities; Contractor parking areas; Method Statement for control of noise, dust and emissions from construction work. The development shall be carried out in accordance with the CEMP approved pursuant to this condition and shall continue for as long as building operations are taking place at the site, unless otherwise agreed in writing with the Local Planning Authority.

Materials and Architectural Details

4) Unless otherwise agreed in writing with the Local Planning Authority, no building operations associated with the external alterations and additions hereby permitted shall commence until detailed constructional drawings of key architectural features and a full schedule of materials and finishes to be used in the construction of the external surfaces of the development (including but not limited to: samples where requested; full facade and window design and detailing at 1:20 scale; plant enclosure design and colour treatment; and railing design and colour treatment) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the architectural details and the schedule of materials and finishes agreed pursuant to this condition.

Biodiversity Enhancement

5) Prior to the commencement of construction works at roof level, a biodiversity enhancement management plan (BEMP) shall be submitted to and approved in writing by the Local Planning Authority. A verification report demonstrating that the biodiversity enhancements contained within the approved BEMP have been fully implemented shall be submitted to and approved in writing prior to first occupation/use of the enlarged third floor of the building hereby permitted. The approved biodiversity enhancements shall thereafter be retained, unless otherwise agreed in writing with the Local Planning Authority.

Residential Amenity

6) Prior to the commencement of any building operations associated with formation of the cinema uses, a scheme of sound insulation measures designed to reduce the transmission of sound (including vibration from deep-toned noise) from the cinema screens to adjoining noise sensitive uses shall be submitted to and approved in writing by the Local Planning Authority. The scheme of sound insulation measures approved pursuant to this condition shall be completed in full prior to first use of any cinema screen hereby permitted and thereafter permanently retained.

7) Notwithstanding the submitted details, prior to the installation of any external fixed plant or mechanical equipment, an assessment of noise from the operation of the plant or equipment shall be undertaken using the procedures within British Standard BS4142:2014 and a report detailing the results, any noise attenuation measures to mitigate any identified observed adverse effect levels and a maintenance programme shall be submitted to and approved in writing by the Local Planning Authority. Any fixed plant, mechanical equipment or associated noise attenuation measures approved pursuant to this condition shall be installed and operated in accordance with the approved details and thereafter permanently retained in that condition unless replaced with equivalent plant, mechanical equipment or associated noise attenuation measures which do not exceed the noise levels as approved.

8) Notwithstanding the submitted details, prior to first use of each commercial kitchen, precise details of any fixed plant and mechanical equipment required to suppress and disperse odours and fumes, and an associated maintenance programme shall be submitted to the Local Planning Authority for approval in writing. This shall include a risk assessment as per the method in 'The Guidance on the control of odour and noise from commercial kitchen exhaust systems'. Any fixed plant and mechanical equipment approved pursuant to this condition shall be installed and operated in full accordance with the approved details and thereafter permanently retained in that condition unless otherwise agreed in writing with the Local Planning Authority.

9) Prior to first use of the gym and the cinemas, an assessment of noise and vibrations from the operation of the gym shall be submitted to and approved in writing with the Local Planning Authority. The report shall include, but not limited to: An assessment of existing ambient noise levels; A prediction of noise at peak trading times; The impact on neighbouring residential uses; and any mitigation measures considered necessary to minimise impacts. Any mitigation measures required pursuant to this condition shall be fully implement prior to first use of any terrace area and thereafter permanently retained.

Sustainable Transport

10) Unless otherwise agreed in writing with the Local Planning Authority, prior to first occupation/use of any part of the development hereby permitted a Travel Plan based upon the Framework Travel Plan contained within the Transport Assessment (produced by TPA transport planning associates, dated September 2019) shall be submitted to and approved in writing with the Local Planning Authority. The Travel Plan shall set long term strategies for each of the permitted uses with the objectives of reducing dependency on single occupancy vehicles, and encouraging sustainable travel. The development shall thereafter be implemented in accordance with the measures set out within the Travel Plan approved pursuant to this condition.

Commercial Servicing Arrangements

11) Unless otherwise agreed in writing with the Local Planning Authority, prior to first occupation/use of any part of the development hereby permitted a Delivery and Servicing Strategy (including refuse and recyclable materials management) shall be submitted to the Local Planning Authority for approval in writing. The Plan shall require that all servicing takes place from Stanley Street and that no deliveries to or dispatched from the site takes place outside of the hours of 07:30hrs and 20:00hrs Mondays to Saturday or between 09:00hrs and 17:00hrs on Sundays and any recognised public holidays. The development shall thereafter be permanently operated in full accordance with the Delivery and Servicing Strategy approved pursuant to this condition.

Flood Risk

12) The development hereby permitted shall be carried out in full accordance with the approved Flood Risk Assessment (Ref: 2180722 by Elliott Wood Partnership Ltd) including the mitigation measures specified by Section 4.2 (flood resilient/proofing measures) and 4.3 (Flood Warning and Flood Alerts) which shall thereafter be permanently retained.

Bicycle Storage

13) Unless otherwise agreed in writing with the Local Planning Authority, no part of the building shall be occupied/brought in to use until the facilities for the storage of bicycles have been provided in accordance with the approved drawings. The approved facilities shall thereafter be permanently retained for the storage of bicycles at all times.

Ecological Protection

14) None of the hotel rooms hereby permitted shall be occupied/brought into use until a scheme for the mitigation of increased nitrogen and phosphorus levels resulting from the development

(hotel/overnight stay element) has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in full accordance with the scheme of mitigation approved pursuant to this condition with any mitigation measures thereafter permanently retained.

Residential Amenity

15) The 'Food and Beverage' areas at ground floor level, as shown and annotated on the approved drawings shall remain closed to and vacated by members of the public (excluding guests of the hotel use at the site) between the hours of 00:30hrs and 07:00hrs.

16) The cinema screens at ground floor level as shown on the approved drawings shall remain closed to and vacated by members of the public (excluding guests of the hotel use at the site) between the hours of 01:00hrs and 08:00hrs.

17) The areas of flat roof as annotated on the approved drawings shall not be accessed other than for the purposes of maintenance and repair.

Restrictions on Use

18) The areas shown green and annotated as 'retail' at ground floor level on the approved drawings shall only be used for purposes falling within Class E(a) of the Schedule to the Town and Country Planning (Use Classes) Order (2020) (as amended) and for no other purpose without the prior written permission of the Local Planning Authority sought through the submission of a formal planning application.

19) The areas annotated as 'office' floorspace on the approved drawings shall only be used for purposes falling within Class E(g) of the Schedule to the Town and Country Planning (Use Classes) Order 2020 (as amended) and for no other purpose without the prior written permission of the Local Planning Authority sought through the submission of a formal planning application.

20) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking, amending, or re-enacting that Order) the guestrooms and associated hotel facilities shown on the approved drawings shall be used in connection with a hotel use only and for no other purpose, including any other purpose falling within Use Class C1, without the express permission of the Local Planning Authority obtained through the submission of a planning application.

21) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking, amending, or re-enacting that Order) the area shown and annotated as 'gym' on the approved drawings shall be used as a gym and for no other purpose whatsoever, including any other purpose falling within Use Class E, without the express permission of the Local Planning Authority obtained through the submission of a planning application.

22) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking, amending, or re-enacting that Order) the area shown and annotated as 'cinema' on the approved drawings shall be used as a cinema (including activities associated with the delivery of lectures, talks, presentations etc.) and for no other purpose whatsoever, without the express permission of the Local Planning Authority obtained through the submission of a planning application.

The reasons for the conditions are:

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

- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To minimise the potential for conflict with users of the surrounding highway network and to protect the amenity of neighbouring occupiers having regard to the close proximity of the site in accordance in with Policies PCS17 and PCS23 of the Portsmouth Plan.
- 4) To secure a high quality finish in the interests of visual amenity having regard to the specific architectural character of the application building and proximity to the 'Stanley Street' and 'Owen's Southsea' Conservation Areas in accordance with Policy PCS23 and the aims and objectives of the National Planning Policy Framework.
- 5) To enhance biodiversity value of the development site in accordance with Policy PCS13 of the Portsmouth Plan and Paragraph 175 of the National Planning Policy Framework..
- 6) To protect the residential amenity of neighbouring occupiers against noise associated with the use of the cinema screens in accordance with Policy PCS23 of the Portsmouth Plan.
- 7) To protect the residential amenity of neighbouring occupiers against noise associated with the use of external plant and equipment in accordance with Policy PCS23 of the Portsmouth Plan.
- 8) To protect the residential amenity of neighbouring occupiers against odours and fumes associated with cooking operations at the premises in accordance with Policy PCS23 of the Portsmouth Plan.
- 9) To protect the residential amenity of neighbouring occupiers against noise and vibrations associated with the use of the gym and cinema areas in accordance with Policy PCS23 of the Portsmouth Plan.
- 10) To reduce dependency on single occupancy vehicles and encouraging sustainable modes of travel in the interests of reducing impacts on the surrounding highway network in accordance with Policy PCS17 of the Portsmouth Plan.
- 11) In the interests of residential amenity and Highway Safety having regard to the proximity of the site to residential properties on Stanley Street and the wider range of uses that will operate within the building in accordance with Policy PCS17 and PCS23 of the Portsmouth Plan.
- 12) To minimise the risk from flooding in accordance with Policy PCS12 of the Portsmouth Plan.
- 13) 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.
- 14) To ensure that the development would not have an adverse effect on the integrity of the Solent Special Protection Area in accordance with Policy PCS13 of the Portsmouth Plan, the Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981.
- 15) To protect the residential amenity of neighbouring occupiers against noise and light disturbance associated with the use of the cinema and gym in accordance with Policy PCS23 of the Portsmouth Plan.
- 16) To protect the residential amenity of neighbouring occupiers against noise associated with late night food and drink uses and associated comings and goings having regard to the quieter character of the town centre precinct and proximity to residential properties in accordance with Policy PCS23 of the Portsmouth Plan.

- 17) To protect the residential amenity of neighbouring occupiers against noise associated with the cinema uses and associated comings and goings in accordance with Policy PCS23 of the Portsmouth Plan.
- 18) To protect the residential amenity of neighbouring occupiers from noise and overlooking having regard to the proximity of these spaces to residential dwellings at an elevated position in accordance with Policy PCS23 of the Portsmouth Plan.
- 19) To ensure a shopping element is retained at the site in the interests of maintaining the vitality and viability of the Town Centre in accordance with Policy STC3 of the Southsea Town Centre Area Action Plan.
- 20) To control the scope of the permission granted in the interests of residential amenity and highway safety having regard to the range of uses within the building and potential alternative trip generation and parking demands in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan.
- 21) To allow the Local Planning Authority to consider the implications of alternative uses having regard to the range of uses within Class C1 and the potentially more intensive pattern of activity/parking/servicing, adverse effects on the Solent SPAs and impact on the adjoining and nearby occupiers and differing policy implications associated with other specialist residential uses for temporary term-time accommodation as a Halls of Residence for example, to accord with policies PCS13, PCS17, PCS19 and PCS23 of the Portsmouth Plan and the aims and objectives of the National Planning Policy Framework.
- 22) To allow the Local Planning Authority to consider the implications of alternative uses having regard to the wide range of uses within Class D2 and the potentially more intensive pattern of activity and associated noise and disturbance in close proximity to residential properties, to accord with policies PCS23 of the Portsmouth Plan and the aims and objectives of the National Planning Policy Framework.

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.

KNIGHT & LEE 53-57 PALMERSTON ROAD SOUTHSEA PO5 3QE

EXTERNAL ALTERATIONS TO INCLUDE PARTIAL DEMOLITION OF ROOFTOP STRUCTURES, CONSTRUCTION OF ROOFTOP EXTENSION, REPLACEMENT SHOPFRONTS TO NORTH AND SOUTH ELEVATIONS, INSTALLATION ROOF TOP PLANT ENCLOSURES, VENTS TO FAÇADES AND WORKS TO CANOPIES; INTERNAL ALTERATIONS, RECONFIGURATION AND SUB-DIVISION TO FACILITATE ALTERNATIVE USES, INSTALLATION OF SECONDARY GLAZING.

Public access link:

[21/01621/LBC | External alterations to include partial demolition of rooftop structures, construction of rooftop extension, replacement shopfronts to north and south elevations, installation roof top plant enclosures, vents to façades and works to canopies; Internal alterations, reconfiguration and sub-division to facilitate alternative uses, installation of secondary glazing | Former Knight And Lee 53 - 57 Palmerston Road Southsea PO5 3QE \(portsmouth.gov.uk\)](https://www.portsmouth.gov.uk/planning-and-building-control/planning-applications/21/01621/LBC)

Application Submitted By:

Terence O'Rourke Ltd
FAO Mr Andrew Elliott

On behalf of:

THAT Portsmouth Company 2 Ltd

RDD: 9th September 2019

LDD: 17th March 2022

1) SUMMARY OF MAIN ISSUES

- 1.1 The application has been brought to the Planning Committee to accompany its sister application 21/01620/FUL, which is considered elsewhere on this agenda.
- 1.2 As this is a Listed Building application, the issue for determination is the potential impact on the historic fabric and setting of the listed building.

2) SITE, PROPOSAL AND RELEVANT PLANNING HISTORYSite and Surroundings

- 2.1 The application relates to the former Knight & Lee department store, an impressive three storey building bounded by Stanley Street, Clarendon Road and a pedestrianised section of Palmerston Road. Constructed in the mid-1950s following bomb damage sustained in 1941, the building provided a significant retail presence within Southsea Town Centre until its closure in the summer of 2019.
- 2.2 Following the previous approval the building has been given statutory listing by Historic England. In May 2021 the building was given a Grade II Listed status for both its architectural history and its historic significance. The listing refers to its well articulated and cohesive 1950's commercial design, good-quality architectural detailing, good use of materials and that the building retains a good proportion of its notable 1950's features and finishes whilst the historic element relates to

the buildings good example of commercial rebuilding in Britain's city centres in the post-war period.

- 2.3 Following on from the above, the building is a fine example of a 1950's department store and includes a number of interesting and elegant architectural features that contribute to its local historic significance. In combination with the Debenhams department store opposite, the two buildings provide distinctive and popular local landmarks that form the gateway to the pedestrianised section of the town centre and contribute significantly to the character of the area. In addition, the site backs directly onto the 'Stanley Street' Conservation Area to the east, and is sited opposite the 'Owen's Southsea' Conservation Area that extends to the south.
- 2.4 The surrounding area has a mixed character but typified by commercial uses at ground floor level with residential uses above. The pedestrian precinct provides the main retail focus of the centre with a mix of national retailers, cafes and a library, with smaller independent boutiques, cafes and restaurants extending into Marmion Road and Grove Road South further to the north. A large supermarket site (Waitrose) is located to the north-east on Marmion Road which incorporates a large car park. Osborne Road, Clarendon Road and the southern section of Palmerston Road contain a greater mix of restaurants and drinking establishments which form a more vibrant night time economy in comparison to the quieter pedestrian precinct and Marmion Road. Whilst many of the surrounding buildings incorporate residential uses above commercial premises, Stanley Street, located immediately to the east and extending eastwards from Richmond Place, is solely residential in character in the form of terraced houses.
- 2.5 The application site is located within the 'Primary frontage' of the town centre as defined by Policy STC3 of the Southsea Town Area Action Plan. The area is well served by bus routes, although the nearest railway stations at Portsmouth & Southsea and Fratton are both located approximately 2km to the north. At its western extent where it meets the Pedestrianised class E(b) precinct, Stanley Street includes a number of loading bays, an emergency vehicle parking bay and two disabled parking spaces.

Proposal

- 2.6 Listed building consent is sought for the demolition of existing roof top plant structures and the construction of a rooftop extension, replacement plant structures, replacement shopfronts to the north and south elevations, vents to facades and works to canopies, internal alterations and reconfiguration to provide for the proposed uses and the installation of secondary glazing.
- 2.7 The proposed roof extension would be of a similar height as the existing floors with a similar materials palette and would be set back approximately 5m from the existing elevations of the building to reduce the overall appearance of the existing building whilst much of the other changes would be to the ground floor to provide for additional openings and sliding doors that will serve the food and drink and gym uses.
- 2.8 Additional reference is made to the proposed extension and alterations below in more detail.

Planning History

- 2.9 The relevant planning history is listed below:
 4. **19/01382/FUL** - Mixed use development comprising change of use of building, with partial demolition and extension at roof level (500sq.m. net floorspace) and excavation works at basement level, to provide retail (Class A1), Cafe (A3), Bars (A4), 43-bed Hotel (C1), Gymnasium (D2), Cinema (D2) and Offices (B1) with associated plant, equipment and enclosures - Approved 17th July 2020.

5. **20/00803/FUL** - Mixed use development comprising change of use of existing building, with external alterations to include partial demolition and extension at roof level, alterations to fenestration and associated plant & equipment, to provide shops, food & drink, drinking establishment, cinema, gym, hotel and office uses (amended scheme to 19/01382/FUL) - Withdrawn 23rd February 2022
6. **21/01620/FUL** - External alterations to include partial demolition of rooftop structures, construction of rooftop extension, replacement shopfronts to north and south elevations, installation roof top plant enclosures, vents to façades and works to canopies; Internal alterations, reconfiguration and sub-division to facilitate alternative uses, installation of secondary glazing - See Item X of this Committee.

3) POLICY CONTEXT

- 3.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the relevant policies within the Portsmouth Plan (Jan 2012) would include: PCS23 (Design and Conservation).

4) CONSULTATIONS

Historic England

- 4.1 Historic England acknowledge that there are benefits associated with the development however they still consider the proposals would have less than substantial harm to the significance of and the fabric of the listed building.
- 4.2 See below for more details.

The Twentieth Century Society

- 4.3 No in-principle objection. Concern is raised regarding the roof top extension however they accept this is required to facilitate the sustainable long-term use of the building. In addition, concern is raised regarding the choice of finishes and materials in terms of the doors and bi-fold doors, banding, the concrete effect from materials and enclosure of the main stairwell.

City Council's Heritage Advisor

- 4.4 The City Council's Conservation Officer has commented on both applications. Initial comments focused on a range of aspects and required changes and/or additional justification from the applicant. These related to the need to ensure the rooftop extension followed the curved approach to the existing elevations, the colour of the spandrel glass panel; the number and siting of ventilation bricks and the concrete panel system. Other areas including the new ground floor openings, balustrade dwarf wall and the bar are supported.
- 4.5 Their conclusion, on both applications, was that the scheme would have a 'medium-low overall impact' on the building and such an impact was not sufficient to warrant a refusal on heritage grounds. A number of conditions have been sought including materials and ventilation bricks which have been discussed at length and agreed between Officers and the applicants. The full list of recommended conditions are set out below.

5) REPRESENTATIONS

- 5.1 At the time of writing two letters have been received. One objecting on privacy grounds and a neutral letter commenting on car parking and bicycle theft.

6) COMMENT

- 6.1 The main issue for determination is the potential impact the proposed works would have on the historic fabric, architectural character and setting of the listed building.
- 6.2 The building, while outside of a Conservation Area, is in close proximity to two. Potential impacts on these heritage assets is made in the Committee Report associated with the planning application 21/01620/FUL.

Impacts on the Listed Building

- 6.3 Section 16 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990, which states that "In considering whether to granted listed building consent for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possess".
- 6.4 As noted above, the building has, since the previous permission being granted has been given a Grade II Statutory Listing and as such the protection and enhancement of the buildings historic and architectural significance is of particular importance. Policy PCS23 ensures, inter alia, that the city's historic townscape and its cultural and natural heritage is protected and enhanced which echoes the objectives of Section 16 of the NPPF which notes that such heritage assets are an irreplaceable asset and should be conserved in a manner appropriate to their significance.
- 6.5 The building was given a Grade II Listed Status in May 2021 due to its architectural and historic significance. The List Entry, regarding the building's architectural significance, refers to the buildings cohesive and well-articulated example of 1950's commercial design with good quality architectural detailing across three distinct harmonious street elevations; good use of materials and that the building retains a good proportion of its notable characteristics whilst the historic significance refers to the building being a good example of mid-1950's commercial rebuilding in Britain's city centres in the post war years.
- 6.6 The building benefits from planning permission for a similar mixed use development which has in part been implemented following the demolition of a number of ad-hoc structures on the roof including plant room structures and plant stores. The applicant has however sought to revise the scheme in order to better retain and restore key aspects of the building following its Grade II Listing.
- 6.7 In addition to the building's Listed status it does, by reasons of its siting and prominence have a notable contribution to the Owen's Southsea Conservation Area that stems from the buildings presence in oblique single views from east-west views from the Conservation Area.
- 6.8 Given both the prominent siting of the building at the southern end of the pedestrianised Palmerstone Road and its historic significance following its listing the application has been revised by both Historic England and the City Council's consultant Conservation Officer.
- 6.9 Historic England have stated in their response that the proposal would, in its current form, harm the significance of the building. They consider the most harmful element to be the rooftop extension by virtue of the change in the building's appearance and the prominent horizontal banding on the roof top extension. In addition, they consider the use of terracotta air bricks, metal fixed grilles for ventilation together with changes to the openings and windows on the ground floor (including the new access door to the gym and bi-fold doors to the restaurant area) have a negative impact.
- 6.10 Internally the principal source of concern relates to the enclosure of the main central staircase with glass bricks (required for fire safety reasons) together with the siting of fitted bar furniture on the ground floor further detract and harm the building's significance.

- 6.11 Historic England do acknowledge however that, due to the size and prominence of such a building sitting empty, this is itself harmful to Southsea's heritage. Furthermore, it is recognised that some aspects are required for fire safety reasons. As such, in order to secure a long term sustainable and viable use, they consider the proposal would give rise to less than substantial harm.
- 6.12 The City Council's Conservation Officer has commented on the application. Initial comments focused on a range of elements of the scheme. Certain aspects required changes and/or additional justification from the applicant relating to the need to ensure the rooftop extension followed the curved approach to the existing elevations, the colour of the spandrel glass panel; the number and siting of ventilation bricks and the concrete panel system. Other areas including the new ground floor openings, balustrade dwarf wall and the bar are supported. The conclusion was that the scheme would have a 'medium-low overall impact' on the building and such an impact was not sufficient to warrant a refusal on heritage grounds. A number of conditions have been sought including materials and ventilation bricks which have been discussed at length and agreed between Officers and the applicants. The full list of recommended conditions are set out below.
- 6.13 Because of the less than substantial harm identified by Historic England an assessment against the public benefits arising from the scheme needs to be undertaken pursuant to paragraph 202 of the NPPF with further consideration given to the NPPF to ascertain the weight to be given to potential impacts and benefits of the proposal.
- 6.14 Paragraph 199 of the NPPF makes it clear that great weight should be given to an asset's conservation and as such great weight must therefore be given to any harm to an asset. There are other statutory listed buildings to the north and south east, however these are considered to be of a sufficient distance from the site with intervening distance such that their settings would be unaffected. The building is visible from the Owen's Southsea Conservation Area although the Conservation Officer doesn't identify any harm to the setting of the Conservation Area as a result of the proposal.
- 6.15 The proposed mixed use development would bring about numerous public benefits which include the economic benefits associated with the jobs that would be created with both the office and the other hospitality aspects of the scheme including the hotel and restaurant and bar as well as the retail and gym. Based on the 2015 Employment Density Guide the office element alone could create between 114 and 186 jobs. This is likely to be more than doubled when the jobs associated with the hotel, gym, retail unit and restaurant and bar are considered, although these are more difficult to quantify. Nevertheless, paragraph 81 makes it clear that significant weight should be given to proposals which support economic growth.
- 6.16 The proposal would, by bringing the building back into use in accordance with its allocation, bring about an enhancement to the overall vitality and viability of the Southsea town centre. Such a benefit would represent both an economic and social benefit and attracts significant weight in the planning balance. The proposal would also bring about a long term sustainable use of the heritage asset, which, pursuant to Section 16 of the NPPF, attracts similarly significant weight in favouring the proposals.
- 6.17 Furthermore, and as noted below, the development would bring about (subject to conditions) an enhancement to the building's ecological value through the provision of bird and bat boxes, whilst compliance with current building regulations would contribute to further environmental benefits including reduced carbon emissions and water usage.
- 6.18 Based on the foregoing it is considered that, pursuant to paragraph 202 of the NPPF, the public benefits associated with the development outweigh the less than substantial harm identified by Historic England. The support of the Council's consultant Conservation Officer, subject to the recommended conditions outlined below, is also significant having regard to the Grade 2 Listing.
- 6.19 The National Planning Policy Framework (NPPF) places an emphasis on achieving sustainable development, for which good design is a fundamental element. The key planning objectives seek

to help to build strong, vibrant and healthy communities; create well-designed and safe built environments and to contribute to protecting and enhancing natural, built and historic environments. Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places are fundamental to what the planning and development process should achieve. Paragraph 130 sets out that developments should: ensure that they function well and add to the overall quality of an area; be visually attractive; be sympathetic to local character and history; establish or maintain a strong sense of place and should optimise the potential of a site to accommodate and sustain an appropriate mix of development.

- 6.20 When determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 6.21 With the exception of minor changes to the fenestration at ground floor level on Stanley Street and the extension at roof level, the proposal retains all of the existing, and largely original, external fabric of the building which is extremely positive.
- 6.22 The most significant changes would come at roof level where an extension would be constructed towards the western side and central areas of the building following the removal of various smaller structures. This would be set back from the main façade of the building by approximately 5m so as to not compete visually, and has been designed to mirror the architectural form of the southern elevation façade with a series of vertical glazed openings and curved elements that will respect the existing elevations. An external terrace along the western elevation would be enclosed by metal railings, and whilst the precise details are not known at this stage, it has been indicated that these will take inspiration from the internal staircases. Overall, it is considered that the new third floor has been sensitively designed and positioned to appear as a subservient addition that would respect the original character of the building.
- 6.23 The plant store that was above the roof top extension on the previous permission has been removed which is considered a betterment over and above that which was previously approved.
- 6.24 The application site backs directly onto the 'Stanley Street' Conservation Area to the east which contains a number of locally listed properties (Nos.14-44 evens only) to the southern side of the road and Nos.49 & 51 towards its eastern end which are statutory listed (Grade II). 'Owen's Southsea' Conservation Area extends to the south-east, west and north of the application site. In short range views the alterations at roof level would not be noticeable from within the public realm but would be more obvious in longer range views along Clarendon Road, Palmerston Road, Osborne Road, Stanley Street and between gardens areas between Stanley Street and Clarendon Road.
- 6.25 As set out above, it is considered that the third floor has been sensitively designed and would preserve the setting of the adjoining heritage assets.
- 6.26 The Crime Prevention Design Advisor has raised some concerns in respect of the internal layout of the building. These concerns relate principally to the management of the building, although the applicant has provided further details indicating how visitors will be managed between the separate uses. This includes details showing the secure demise and circulation areas of each individual use and the location of key card access points.
- 6.27 From a purely design perspective, it is considered that the removal of the upper plant store and the subservient design of the roof top extension is considered to respect the overall architectural style and detailing of the existing building thereby complying with the objectives of Section 12 of the NPPF and the objectives of Policy PCS23 of the Portsmouth Plan.

7) Conclusion

- 7.1 Having regard to the reasons for the buildings listing is considered that the proposals would represent a positive approach to preserving the buildings special qualities and balancing these against the need to ensure the long term sustainable use of the building. Subject to conditions regarding details it is considered that the proposal accords with the objectives of Policy PCS23 of the Local Plan and Section 16 and the Planning and Listed Building Act.

RECOMMENDATION - That delegated authority be granted to the Assistant Director Planning & Economic Growth to grant Conditional Listed Building Consent.

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.

Approved Plans

- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: P010 E; P011 D; P012 D; P013 E; P014 C; P015 C; P016 D; P017 A; P100 1; P101 B; P102; P103; P104 1; P105; P106; 500; 501; 510; 511; 512; 515; 1513 P1; 1806 P1; 1807 P1; 1808 P1; Proposed Floor Plan Area Assessment; Back Bar & Staircase (F); Staircase Feature (F).

Architectural Details & Materials

- 3) Unless otherwise agreed in writing by the Local Planning Authority, no building operations associated with the third floor external alterations and additions hereby permitted shall commence, until such time as a full schedule of materials (including samples), colours and finishes, and a supporting statement detailing the offsite construction methods, and method and pattern of fixing (with constructional drawings at a scale of 1:20) of the proposed concrete effect panels and, the detailed design and colour treatment of the plant enclosure have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out and retained in accordance with the details approved.
- 4) Unless otherwise agreed in writing by the Local Planning Authority, no building operations associated with the installation of new glass spandrel panels at third floor level hereby permitted shall commence until such time as details and a sample, of the proposed glass spandrel panel - that has been colour matched to the third floor panelling - have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and retained in accordance with the details approved.
- 5) Unless otherwise agreed in writing by the Local Planning Authority, no building operations associated with the installation of new air bricks/ vents on any part of the application building shall commence until such time as a sample of any proposed air bricks and/or vents (of different designs), and a supporting Method Statement confirming the processes/ techniques for

the removal of any existing bricks - using hand tools only - and the subsequent installation of any new air bricks - using a mortar whose mix, texture, colour, depth and profile match the existing, have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out and retained in accordance with the details approved.

The reasons for the conditions are:

- 1) To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To secure a high quality finish to the application building in the interests of its historic and architectural fabric and visual amenities of the Listed Building and proximity to the 'Stanley Street' and 'Owen's Southsea' Conservation Areas in accordance with Policy PCS23 and the aims and objectives of the Section 16 of the National Planning Policy Framework.
- 4) To secure a high quality finish to the application building in the interests of its historic and architectural fabric and visual amenities of the Listed Building and proximity to the 'Stanley Street' and 'Owen's Southsea' Conservation Areas in accordance with Policy PCS23 and the aims and objectives of the Section 16 of the National Planning Policy Framework.
- 5) To secure a high quality finish to the application building in the interests of its historic and architectural fabric and visual amenities of the Listed Building and proximity to the 'Stanley Street' and 'Owen's Southsea' Conservation Areas in accordance with Policy PCS23 and the aims and objectives of the Section 16 of the National Planning Policy Framework.

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.

06

21/00730/FUL

WARD: ST THOMAS

BEDSIT 1, 15 ST URSULA GROVE, SOUTHSEA, PO5 1LT.

CONSTRUCTION OF SINGLE STOREY REAR EXTENSION.

LINK TO ONLINE DOCUMENTS:

[21/00730/FUL | Construction of single storey rear extension | Bedsit 1 15 St Ursula Grove Southsea PO5 1LT \(portsmouth.gov.uk\)](https://www.portsmouth.gov.uk/planning-and-building-control/planning-applications/21/00730/FUL)

Application Submitted By: -Town Planning Experts.

On behalf of: Mr Andrew Crump.

RDD: 12.05.2021

LDD: 08.07.2021

1.0 SUMMARY OF MAIN ISSUES

1.1 The application is being presented to the Planning Committee as the Local Planning Authority has received a call in request from Councillor Rob Wood.

The principal matters to address include:

- The principle of development
- Design
- Amenity;
- Highways.

1.2 Site and surroundings

1.3 The application site comprises a three storey building currently in use as a House in Multiple Occupation, and located on the northern side of St.Ursula Grove. The property is red-brick and has a tiled roof. The building is separated from the road by a paved front forecourt.

1.4 To the eastern side of the site is a garage block serving the flatted block at no. 7 St Andrews Road. The attached building to the west, no. 13 St. Ursula Grove is a residential dwelling, with an enclosed garden to its rear.

1.5 Proposal

1.6 The proposal is for construction of a single storey rear extension measuring a maximum depth of 4.8m (3m beyond rear wall of attached neighbour), 3.3m in height (flat roof) and 3.7m in width.

1.7 The plans propose a dining room and w/c within the extension.

1.8 The drawings show that matching brickwork is proposed.

1.9 **Planning history**

21/00479/CPL - Application for lawful development certificate for the proposed use of 7 bedroom house in multiple occupancy (Sui Generis) to 8 bedroom house in multiple occupancy (Sui Generis). Consent 30.03.2021.

19/01309/FUL - Change of use from a 7 person HMO (Sui Generis) and a self-contained dwelling (Class C3) into a single family dwellinghouse (Class C3). Approved 22.10.2019.

19/00659/CPE - Application for certificate of lawful development for the existing use as a 7 bedroom house in multiple occupation (Sui-generis). Consent 19.08.2019.

18/01561/CPE - Application for certificate of lawful development for the existing use of part of ground floor as a self-contained dwelling. Consent 06.12.2018.

18/01560/CPE - Application for certificate of lawful development for the existing use as a 7 bedroom house in multiple occupation (Sui-generis) Refuse certificate 06.12.2018.

18/01273/FUL - Alterations to rear (North) roofslope and installation of rooflights. Conditional permission. 20.09.2018.

18/01014/CPE - Application for certificate of lawful development for the existing use as a 8 bedroom house in multiple occupation (Sui Generis). Certificate Refused 07.09.2018.

18/00896/FUL - Conversion to 15 bed student halls of residence (class C1); external alterations to include construction of part 3/part single storey side/rear extension with balcony to rear, installation of windows to side elevation. Refused 18.07.2018.

2.0 **POLICY CONTEXT**

2.1 The relevant policies within the Portsmouth Plan would include: PCS23 (Design and Conservation).

2.2 The aims and objectives of the revised NPPF (Feb 2021) would also be relevant in the determination of this application.

3.0 **CONSULTATIONS**

3.1 Southern Gas Network - No objection.

4.0 **REPRESENTATIONS**

4.1 Two objections have been raised by local residents objecting to the proposal on the following grounds:

- Overbearance

- Loss of light
- Impact on bin storage
- Dominance
- Loss of privacy
- Overdevelopment
- Impact on trees
- Inadequate ventilation

5.0 COMMENT

5.1 The determining issues within the application relate to:

- The principle of development;
- Design;
- Impact on neighbour amenity; and
- Highway matters

5.2 Principle of development

5.3 The application site is an existing residential building, where extensions and alterations to such are considered acceptable in principle subject to relevant material considerations.

5.4 Design

5.5 Policy PCS23 of the Portsmouth Plan requires excellent architectural quality in new buildings and changes to new buildings, development that relates well to Portsmouth's history and protection and enhancement of important views and settings of key buildings.

5.6 It is acknowledged that the extension would increase the footprint of the building. However it is located at the rear and would be single storey in height. As such it is not considered to appear dominant within the streetscene.

5.7 The proposed materials would be in keeping with those of the existing building. (matching red brick)

5.8 In conclusion, the development would not result in harm to the character and appearance of the locality, and so would be in general accordance with PCS23 and the NPPF.

5.9 Amenity

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

5.11 The extension would project beyond the attached neighbour's at no 13. by approximately 3m. To the east of the site is a garage block, beyond which is a flatted block. In this instance and given the single storey nature of the extension, it is not considered to result in any detrimental impact on occupiers of neighbouring

properties. In the case of no 13, the extension would project 3m beyond its rear wall and would not have any windows in the western elevation. It is therefore considered that occupiers of this property are protected in terms of light, privacy and overbearance in this instance.

5.12 The resulting dining room and W/C would provide adequate accommodation for these purposes and windows shown on the drawings would provide acceptable light and ventilation.

5.13 Given separation distances, the design and location of the east facing windows are not considered to result in loss of privacy to neighbouring occupiers.

5.14 There are no protected trees which would be impacted by the proposal. Given the size and location of the proposed extension, it is not considered to result in any significant harm in this regard.

5.15 Highways

5.16 The proposals are not seeking additional bedrooms. The extensions would provide a dining room and a toilet. As such parking and transport conditions would remain unchanged.

5.17 Equality Duty and Human Rights

5.18 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

5.19 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who don't. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010

6.0 Conclusion

6.1 The proposal is not considered to result in harm to the character of the local area. Neither would it have an overbearing impact on neighbouring residents or give rise to a sufficient loss of light or outlook or privacy to justify refusing permission. As such, the proposal is considered to accord with Policy PCS23 of The Portsmouth Plan and the aims and objectives of the revised NPPF (Feb 2021).

RECOMMENDATION

Conditional Permission

Conditions

Time Limits

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 agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - PG6016 · 21 · 3E, Location Plan,

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

Materials

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

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

07

22/00164/FUL

WARD: DRAYTON & FARLINGTON

11 PRINSTED CRESCENT PORTSMOUTH PO6 1NS

CONSTRUCTION OF NO.3 BED DWELLINGHOUSE (RESUBMISSION OF 20/01062/FUL)

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=R6ZJA1MOHU600](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=R6ZJA1MOHU600)

Application Submitted By:

Mr C Mallen
Thorns Young Architectural

On behalf of:

Ms Stone

RDD: 8th February 2022

LDD: 6th April 2022

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 Site and Surroundings
- 1.3 The site is a gap between semi-detached residential properties, comprising the northern side garden and driveway of number 11 Prinsted Crescent. The site is situated on the western side of Prinsted Crescent, within a residential island surrounded by Nutbourne Road to the west and Prinsted Crescent on all other sides. The predominant character of the surrounding area is residential, comprising two-storey, mostly semi-detached homes with some terraces of 3 and 4 houses.
- 1.4 There are no constraints with regards to heritage or protected trees, and the site is within Flood Zone 1, the area at lowest risk of flooding.
- 1.5 Proposal
- 1.6 The application seeks planning permission for construction of a 3 bed dwellinghouse. The proposed dwelling would adjoin to the existing property at No.11 and be set back from the front elevation by 0.5m and set back from the rear of the property two storey element of the building by 0.5m. The dwelling would include a single storey rear element, which would mirror the extension at the adjoining dwelling. The additional dwelling would match the appearance and materials of the existing property and the properties within the surrounding area.
- 1.7 To the front of the property the existing dropped kerb would be retained and a low 0.8m brick boundary wall would be constructed within the centre of the site's frontage, and the front portion of the site would be used for parking for 3 cars. Following the construction of the property, the existing dwelling at No.11 Prinsted Crescent would retain 35m² of rear garden space. The new dwelling would benefit from 71m² of rear and side garden space. These two gardens would be separated by a 1.8m high boundary fence.

- 1.8 The submitted plans have been revised following officer discussions to alter the car parking arrangement and access; correct the placement of a street tree to the frontage; add a side facing first floor window to serve the rear bedroom; and clarify that the rear facing bedroom window would be obscure glazed and non-opening below 1.7m.
- 1.9 Following these amendments the scheme was re-advertised to neighbours for two weeks.
- 1.10 Relevant Planning History
- 1.11 The construction of new 3 x bed dwelling house was refused in January 2022 under planning ref: 20/01062/FUL. The reasons for refusal were:
- 1.12 *1. It has been identified that any residential development in the city will result in a significant effect on the Solent Special Protection Areas, through additional recreational pressures and nutrient output; with mitigation against these impacts being required. No justification or mitigation measures have been secured and, until such time as this has been provided, the proposal would have a significant detrimental impact on the Special Protection Areas; contrary to Policy PCS13 of The Portsmouth Plan (2012), the Conservation of Habitats and Species Regulations (2017), the Wildlife and Countryside Act (1981), and Section 15 of the National Planning Policy Framework (2019).*
- 1.13 *2. The proposed development would, by reason of scale, mass and proximity, create a dwelling which would be harmful to the spacious character of the street scene and would result in material loss of amenity for occupiers of No. 28 Nutbourne Road by reason of loss of privacy and an overbearing impact, contrary to Policy PCS23 of the Portsmouth Plan.*
- 1.14 This application is a resubmission of this previously refused scheme and has beside those changes within the application itself, set the property back from the frontage of the street and the first-floor element back from the neighbours to the rear. There have also been minor aesthetic changes to the proportions and location of the front windows, door, and roof form.

2.0 POLICY CONTEXT

- 2.1 The relevant policies within the Portsmouth Plan would include:
- 2.2 PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth specifically SPA mitigation), PCS14 (A Healthy City), PCS15 (Sustainable Design and Construction), PCS16 (Infrastructure and Community Benefit), PCS17 (Transport), PCS19 (Housing Mix, Size and Affordable Homes), PCS21 (Housing Density) and PCS23 (Design and Conservation).
- 2.3 Regard is also had to the following:
- The National Planning Policy Framework (NPPF) 2021
 - The National Planning Practice Guidance (NPPG)
 - The Nationally Described Space Standards (NDSS) 2015
 - PCC Supplementary Planning Document (SPD) - Housing Standards

3.0 CONSULTATIONS

3.1 Highways Engineer

- 3.2 I have reviewed the amended drawing no. 6012.22.2 Rev B which shows the trees correctly plotted at the site frontage and rotates the proposed parking spaces through 90

degrees, setting those back to the site boundaries on either side to improve access to the front doors of the property.

- 3.3 The intent is that these parking spaces are accessed via a shared private drive and subject to that being provided at no greater than a 5.5m width I would not wish to raise a highway objection to this application on the basis of the access arrangement. However please note that the amendment to the building regulations relating to EV charging provision for residential development came into effect on 15th June 2022 and as a consequence two of these spaces will need to be provided with active EV charging facilities with at least passive provision made for the other one.
- 3.4 The drawing has not been modified to include provision for secure cycle parking which could justify a reason for refusal of the application although I am satisfied that there is sufficient space within each plot to accommodate a cycle store. Should you be minded to approve the application such provision should be secured by condition.
- 3.5 **Contaminated Land Team**
- 3.6 The developer should be made aware that the proposed development area is located on the former 'Langstone View Nurseries' (c.1932-1955), and the area surrounding the property was subject to bomb strikes during World War II. As such there is the potential for contamination associated with horticultural chemicals and infill to be present. Given the sensitive nature of the proposed end use, an informative is requested.

4.0 REPRESENTATIONS

- 4.1 11 Letters, have been received from 8 addresses objecting to the proposal on the following grounds:
- Increase noise from the additional occupiers;
 - Overlooking from additional bedroom window - resulting in a loss of privacy;
 - Loss of light from the increased built form;
 - Overbearing impact of the built form;
 - Impact on the character of the area;
 - Increased parking demand;
 - Unclear how foul sewage will be removed;
 - Located on a flood plain;
 - No rear access for No.11 Prinsted Crescent;
 - Bin storage located to front of the property;
 - Issues with the Design and Access Statement;
 - Noise and disturbance from construction process;
 - Loss of grass verge and impact on street trees;
 - Stress of public services; and
 - Relatives of the owners submitting support comments.
- 4.2 1 Letter has been received from a neighbouring resident offering support to the scheme on the following grounds:
- Pre-application advised the scheme would not have a significant impact on the amenity of adjoining neighbours;
 - Sufficient parking for both properties;
 - Significant development within the surrounding area;
 - Development in keeping; and
 - Provide much needed family home.

5.0 COMMENT

- 5.1 The main considerations within the application are:
- Principle of development;
 - Design;
 - Internal living conditions
 - Impact on residential amenity;
 - Highway Implications and parking;
 - Waste;
 - Sustainable design and construction and
 - Appropriate Assessment in respect of Special Protection Area and Ramsar designated sites.
- 5.2 Principle
- 5.3 The application site is not subject to any land use policy restrictions which restrict new dwellings on this site.
- 5.4 Furthermore, there is a recognised need for new housing within Portsmouth, as outlined in Policy PCS10 (Housing Delivery) of the Portsmouth Plan. The provision of new housing would also accord with the general housing delivery objectives set out within the National Planning Policy Framework (NPPF). Paragraph 60 of the NPPF (July 2021) states: *'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'.*
- 5.5 In addition, Policy PCS10 of the Portsmouth Plan states that: *'New housing will be promoted through conversions, redevelopment of previously developed land and higher densities within defined areas'.*
- 5.6 National policy states (Paragraph 11. d) that permission should be granted unless
- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 5.7 The starting point for the determination of this application is the fact that Authority does not have a 5 year housing land supply, and the proposed development would contribute towards meeting housing needs. Planning permission should therefore be granted unless either test (i) or test (ii) above is met. The proposed development has been assessed on this basis and is deemed to be acceptable in principle as a residential development with reasonable access to jobs, shops, services and public transport. However, the specific impacts of the proposal must be considered as to whether the development is appropriate in detail and whether visual harm and/or harm to neighbouring amenity would occur. The detailed assessment is set out below.
- 5.8 Design and Impact on the character and appearance of the conservation area
- 5.9 Policy PCS23 of the Portsmouth Plan requires new development to be well designed and appropriate in terms of scale, layout and appearance in relation to the context in which it is set.

- 5.10 As mentioned above, a previous application was refused in part as the proposed *"scale, mass and proximity, create a dwelling which would be harmful to the spacious character of the street scene"*. Since this refusal, the proposed scheme has been revised by the applicant, to reduce the overall scale of the dwelling and its setting within the streetscene. This has been achieved by better aligning the roof form of the proposed dwelling as well as setting the property back from the front elevation of the adjoining dwelling. This has helped provide a clear distinction between the original dwelling and the new addition.
- 5.11 It is acknowledged that while the scheme would result in an additional dwelling within the plot of No.11 Prinsted Crescent and reduce the spacious character of the area, the curtilage of the site is sufficiently large as to accommodate the dwelling without appearing overtly cramped, retaining 2.4m of undeveloped land, between the new building and the adjoining site to the north (No.13 Prinsted Crescent) at its narrowest point and a respective 3.4m separation at the frontage of the new dwelling.
- 5.12 The proposal would mirror the existing dwelling in regard to window and door fenestration, which is a characteristic of the area and retain/reinstate a low brick boundary wall. The existing access and dropped kerb would be retained and there would be no material impact to the existing street trees.
- 5.13 While it is acknowledged that the proposal would increase the quantum of built form in the locality, given the otherwise acceptable nature of the design, the proposal is considered on balance to be acceptable in design terms and to have overcome this element of the previous refusal.
- 5.14 Standard of accommodation
- 5.15 The NPPF states at paragraph 9 that *"pursuing sustainable development involves seeking positive improvements ... in people's quality of life, including ... improving the conditions in which people live ... and widening the choice of high quality homes"*. Paragraph 17 states that one of the core planning principles is to *"always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings"*.
- 5.16 Policy PCS19 of the Portsmouth Plan, the supporting Housing Standards SPD and the Nationally Described Space Standard (NDSS 2015)' requires that all new dwellings should be of a reasonable size appropriate to the number of people the dwelling is designed to accommodate.
- 5.17 The minimum floor space for a three bedroom two-storey dwellinghouse must be 84m² for 4 people with 2.5m² built-in storage. The proposed dwellinghouse would exceed the minimum gross internal floor area and would benefit from amenity space in the form of an enclosed garden to the rear. The dwelling would meet the NDSS requirements.
- 5.18 Each of the rooms would have suitable access to natural light and would have an acceptable form of outlook.
- 5.19 For the reasons stated above, it is considered that the proposed development would be acceptable in terms of standard of accommodation, in accordance with Policy PCS19 of the Portsmouth Plan.
- 5.20 Impact on residential amenity
- 5.21 Policy PCS23 of the Portsmouth Plan includes, amongst other things, that new development should ensure the protection of amenity and the provision of a good

standard of living environment for neighbouring and local occupiers as well as future residents and users of the development.

- 5.22 The proposed new dwelling would be located approximately 7m away from the main two-storey element of the dwelling to the north (No.13 Prinsted Crescent). The neighbour to the north features a single storey garage which intercepts these two points. There is one obscure glazed side door which faces the site as well as two obscure glazed side facing ground floor windows on the dwelling (there is one small side window on the garage). The revised scheme features a side facing first floor window which would look onto this neighbour. Given the separation distance between the site and No.13 Prinsted Crescent, as well as the already stated obscure-glazed side facing windows, it is not considered that the scheme would result in a significant level of overlooking, loss of light, outlook or increased sense of enclosure upon the neighbour to the north.
- 5.23 The main two storey body of the new dwelling would be set in by 0.5m from the adjoining property (No.11 Prinsted Crescent) with a single storey aspect extending past the rear of the dwelling by 3.3m. The single storey would feature a flat roof to a height of 3m. The two-storey element of the building would be set away from the neighbouring site to the west (No.28 Nutbourne Road) by 7.7m and set away from the actual building itself by 11.8m. As mentioned the first floor bedroom window would now be obscure glazed and non-opening below 1.7m. The other rear facing window serves a bathroom and would also be obscure glazed and non-opening below 1.7m (above FFL). Given the existing level of shared overlooking between the properties along this section of the road it is not considered that the proposal would result in a material loss of privacy.
- 5.24 As mentioned above the scheme was previously refused in part due to a "*material loss of amenity for occupiers of No. 28 Nutbourne Road by reason of loss of privacy and an overbearing impact*". The issue of loss of privacy has now been addressed and obscure glazing will be secured through condition. In regard to the overbearing impact, the revised submission has been set back from the neighbouring property to the west (No. 28 Nutbourne Road) by 0.5m. Whilst a single storey rear extension has been added, given the height of the element, it is not considered to result in concerns due to an overbearing impact. While it is acknowledged that the revised proposal will still have an impact on the surrounding neighbours to the west, through a loss of some morning light and will have an impact on outlook from the rear garden and windows, given the separation distances between the proposed development and these neighbours, the scheme is considered on-balance to be acceptable and to have overcome the previous reason for refusal. This is further enhanced by the council's lack of a 5-year housing supply and the requirement for new housing.
- 5.25 The proposal is not therefore considered to result in harm to the amenity of the neighbours and therefore considered to be Policy PCS23 compliant.
- 5.26 Highways Implications and Parking
- 5.27 The Portsmouth Parking SPD expects new residential development to provide vehicle parking. For a property of the size proposed, 1.5(2) spaces would be required. It is proposed to accommodate these within the site frontage with one further space retained for use by the existing house. These spaces meet the required amount and size standards set in the SPD and as such the Local Highway Authority are therefore content that the parking arrangements are acceptable.
- 5.28 The Parking SPD also requires new residential developments to provide cycle parking for residents. A total of two secure, weatherproof spaces have been proposed for the new dwelling which meets the requirements of the SPD. Both the existing and proposed properties, benefit from front and rear gardens (with the new dwelling also featuring a side garden) which could be used for the required cycle storage and the LHA would not

wish to raise a highways objection subject to a condition securing cycle storage for both sites.

5.29 Waste

5.30 Both the existing and proposed properties benefit from front and rear gardens (with the new dwelling also featuring a side garden) which could be used for the required waste storage. The level of occupancy of a three-bedroom house is unlikely to generate significant waste and details of bin storage can be secured through a suitably worded planning condition and assuming standard residential refuse collection services are pursued.

5.31 Sustainable design and construction

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

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

5.33 Although the applicant would have been expected to submit a pre-assessment estimator, this shortcoming can be resolved by the imposition of a suitably worded condition.

5.34 Appropriate Assessment in respect of Special Protection Area and Ramsar designated sites.

5.35 The application site is within 5.6 m of Portsmouth Harbour Special Protection Area (SPA) and will lead to a net increase in residential accommodation.

5.36 The Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended) place duties on the Council to ensure that the proposed development would not have a likely significant effect on the interest features of the national and international site network of designated habitat sites (Portsmouth Harbour SPA, Ramsar and SAC sites), or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the designated nature conservation sites along the Solent coast will continue to be protected.

5.37 There are two potential impacts resulting from this development the first being potential recreational disturbance around the shorelines of the harbours and the second from increased levels of nitrogen and phosphorus entering the Solent water environment.

5.38 Wading birds:

5.39 The Solent Recreation Mitigation Strategy (December 2017) was adopted by Portsmouth City Council on 1st April 2018 and replaces the Interim Solent Recreation Mitigation Strategy (December 2014) and the associated Solent Special Protection Areas

Supplementary Planning Document (SPD) which was revoked by the City Council from 1st April 2018. The Strategy identifies that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. It sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations. This development is likely to have an impact on the management of the SPA which would require mitigation.

- 5.40 Based on the methodology set out within the Strategy and taking into consideration the existing maisonette on the site an appropriate scale of mitigation for this development is £735, which will be secured through a legal agreement. With this mitigation, the LPA has concluded that the adverse effects arising from the proposal are wholly consistent with and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy.
- 5.41 The LPA's assessment is that the application complies with this strategy and that it can therefore be concluded that there will be no adverse effects on the integrity of the designated sites identified above. The requirement for a payment to secure mitigation is both directly related to the development and is fairly and reasonably related in scale.
- 5.42 Nutrient Neutrality:
- 5.43 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 nationally and internationally designated sites.
- 5.44 The Council's Updated Interim Nutrient-Neutral Mitigation Strategy expects applicants to explore their own mitigation solutions first. These solutions could be Option 1: 'off-setting' against the existing land use, or extant permission, or other land controlled by the applicant. Or it could be Option 2: mitigation measures such as Sustainable Urban Drainage Systems (SUDS), interception, or wetland creation. If, however, the applicant sets out to the Council that they have explored these options but are unable to provide mitigation by way of these, they may then request the purchase of 'credits' from the Council's Mitigation Credit Bank. These credits are accrued by the Council's continuous programme of installation of water efficiencies into its own housing stock, and making these credits available to new development.
- 5.45 The Council's current Mitigation Strategy sets out that the credit per new unit for non-major schemes will be charged in the order of £2,175 subject to calculator outputs. The credit costs required to mitigate against this scheme in its entirety are calculated to amount to £275. The applicant has provided a statement which confirms they are unable to provide nitrate mitigation via Option 1 or 2, and so would like to provide mitigation by using the Council's Mitigation Credit Bank. This is accepted and in line with the updated Strategy, the applicant has been asked to complete a s111 Agreement to confirm payment of the required mitigation. The recommendation below allows for circumstances whereby this Agreement is not complete at the time of the Committee resolution. It is also considered necessary to restrict the time implementation (condition) limit to one year, given the limited availability of Council mitigation 'credits'.
- 5.46 Natural England have been consulted on the application and have raised no objection subject to the above mitigation being secured. On this basis, the LPA as competent authority is satisfied that the development would not give rise to likely significant effects detrimental to the integrity of these designated habitat sites.
- 5.47 Other matters raised in representations

- 5.48 It is not considered that the proposal (one further residential dwelling) would result in a significantly harmful quorum of noise and disturbance.
- 5.49 Foul sewerage connection is not a planning consideration, and the matter will need to be resolved by Building Control. However, as a matter of note, it is not considered that the increase waste from one dwelling would have a significant impact on the wider waste water network.
- 5.50 Noise and disturbance from construction are an unfortunate result of any building work and not considered to be a material planning consideration for a development of this scale.
- 5.51 The addition of one dwelling is not considered to have a significant impact on local public services.
- 5.52 The relationship between the applicants and any objector supporter would not invalidate the comments put forward.

6.0 Conclusion

- 6.1 Having regard to all of the material planning matters which have been assessed above, the proposed development is considered to be in accordance with the relevant development plan policies and it would contribute to the Council's five year housing supply. It provides a good standard of living accommodation, of an appropriate design within the local context and would have no significant adverse effect on local amenity. The proposed revisions from the previous scheme are on balance considered to have overcome the previous reasons for refusal and therefore it is recommended that planning permission be granted subject to the conditions set out in this report and the required s.111 legal agreement.

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory completion of a s.111 Legal Agreement to secure the following:

- Mitigating the impact of the proposed development on the Solent Special Protection Areas, Special Areas of Conservation and Ramsar designated habitat sites (recreational disturbance and nutrient neutrality) by securing the payment of a financial contribution

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

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

Conditions

1. Time Limit

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

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

2. Approved Plans

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 - 6018.22.CM; Block plan - 6018.22.CM; and Proposed Floorplans, Elevations & Site - 6018.22.2 Rev B.

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

3. Materials

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

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

4. Cycle Storage

Prior to first occupation, details and plans of a secure and weatherproof bicycle parking facilities (including elevational and material details) shall be submitted to and approved in writing by the Local Planning Authority. The facilities approved pursuant to this condition shall thereafter be permanently retained for the storage of bicycles.

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.

5. Refuse Storage

Prior to first occupation, details and plans of a secure and weatherproof waste and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority. The facilities approved pursuant to 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).

6. Obscure glazing

The rear bedroom window shall be glazed with obscured glass (and non-opening below 1.7m (above finished floor level (FFL)) in accordance with details submitted to and approved by the Local Planning Authority in writing and shall be permanently maintained in that condition.

Reason: To protect the privacy of the adjoining property and to prevent overlooking in accordance with policy DC5 of the Portsmouth City Local Plan 2001-2011.

7. Sustainable construction

Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall not be occupied until written documentary evidence has been submitted to,

and approved by, the local planning authority, demonstrating that the development has achieved:

- a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in The Building Regulations for England Approved Document L1a: Conservation of Fuel and Power in New Dwellings (2013 edition). Such evidence shall be in the form of an As Built Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and

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

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

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.

26 NORMAN ROAD SOUTHSEA PO4 0LP

CHANGE OF USE FROM HOUSE OF MULTIPLE OCCUPATION (CLASS C4) TO SUI
GENERIS 7 BEDROOM HMO

LINK TO DOCUMENTS:

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-
APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=R3C0D
6MOG9B00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=R3C0D6MOG9B00)

Application Submitted By:

Applecore PDM Ltd
FAO Mrs Carianne Wells

On behalf of:

Appleton
Applecore Living Ltd

RDD: 29th November 2021

LDD: 9th February 2022

1 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to the request of Cllr Vernon-Jackson and the receipt of seven letters of objection.
- 1.2 The application is currently the subject of appeal on grounds of non-determination and the Secretary of State is now the determining authority in this case and the Council is required to produce its statement of case no later than 19 August 2022.
- 1.3 The main issues for consideration in the determination of the application are as follows:
 - 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
- 1.4 Site and surroundings
- 1.5 This application relates to a two storey mid terrace property situated on the northern side of Norman Road. The application site comprises of; two bedrooms, a living area, kitchen, bathroom and separate WC at ground floor level and three bedrooms at first floor level.
- 1.6 The application site is within a predominantly residential area that is characterised by rows of similar two-storey terraced properties with a similar visual style.

2 The Proposal

- 2.1 Planning Permission is sought for change of use from dual use Dwelling house (Class C3)/House in multiple occupation (Class C4) to a House in multiple occupation for more than six people (Sui Generis) in this case with 7 bedrooms.
- 2.2 This change in occupancy will involve the repurposing of the ground floor lounge but no external operational development forms part of this application.

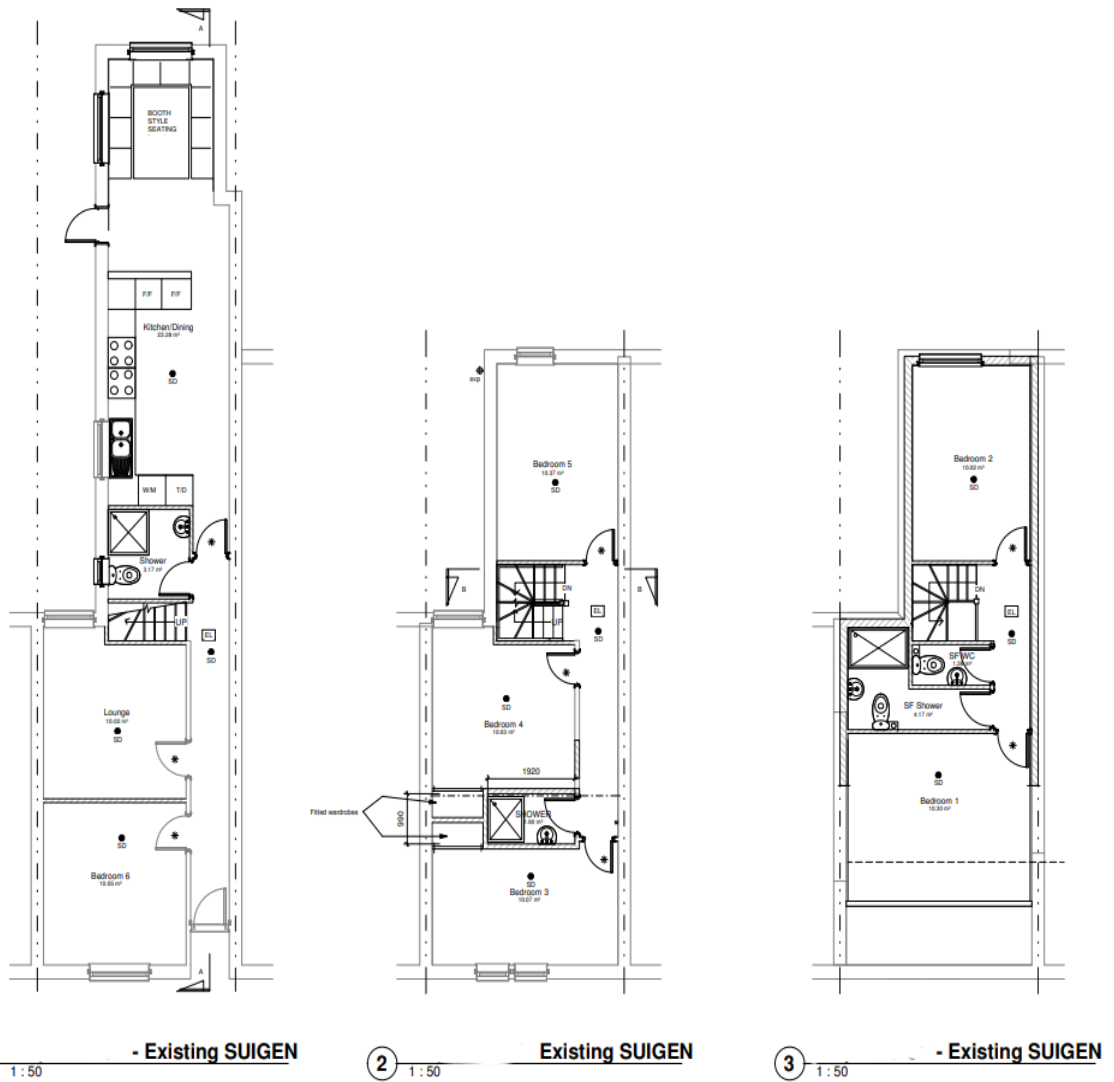


Figure 1: Existing floor plans

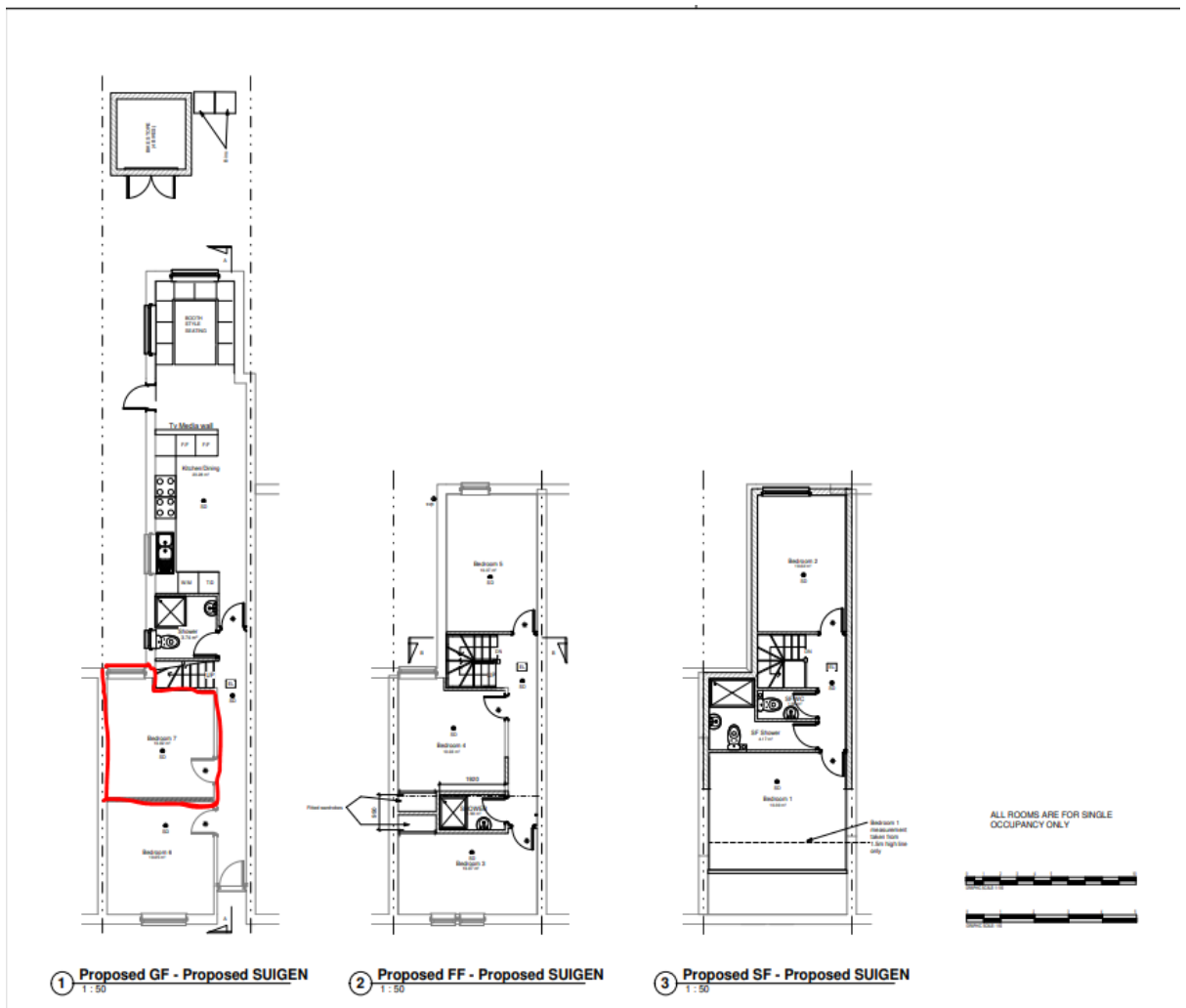


Figure 2: The only change proposed within the property is the use of the room outlined in red above, from a living room, to the proposed seventh bedroom.

2.3 Planning History

2.4 22/00932/FUL - Change of use from dwellinghouse (Class C3) to House in Multiple Occupation for seven people (Sui Generis).
Concurrent application awaiting decision

2.5 19/01777/FUL- Change of use from a house in multiple occupation (Class C4) to purposes falling within Class C4 (house in multiple occupation) and Class C3 (dwellinghouse).
Planning permission was granted February 2020

2.6 22/01028/CPL- Certificate of lawful development for the proposed use of Class C4 property for occupation by seven persons.
Withdrawn

2.7 20/00040/GPDC - Construction of single-storey rear extension that comes out a maximum of 6m beyond the rear wall of the original house with a maximum height of 3m and a maximum height of 2.8m to the eaves.
Withdrawn

3 **POLICY CONTEXT**

3.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the Portsmouth Plan (2012) would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation) and PCS23 (Design and Conservation).

3.2 Guidance for the assessment of applications that is relevant to the application includes The Parking Standards and Transport Assessments Supplementary Planning Document (2014), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Interim Nutrient Neutral Mitigation Strategy (2019), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

4 CONSULTATIONS

4.1 Private Sector Housing

4.2 With regard to licensing, it does not currently have a license, but as it appears to be unoccupied at present (we have checked council tax records) it is not required to have a license.

4.3 At the point of occupation as a HMO the landlord should apply for a license.

4.4 We monitor HMOs that have been through the planning process to ensure that they apply when the property is occupied, and applicants are made aware during the planning process that they will need to apply for a license if the HMO will be occupied by 5 or more people.

4.5 REPRESENTATIONS

Seven letters of representation received objecting on the following summarised grounds:

- False representation of the existing floor plan
- Imbalance between 21 HMOs of 38 houses in Norman Road
- Lack of parking and no rear access to the property
- Increase in noise
- Waste increase
- Strain in the infrastructure
- Antisocial behaviour
- Reduction of family homes
- Erodes the quality life
- Inadequate standard of living for future occupiers
- Inadequate amenity space
- Lack of privacy
- Security concerns

- Non-planning concerns
- House prices will be affected

4.6 COMMENT

- 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 Principle

5.1 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.

5.2 In this case the application site is already in lawful use as an HMO having been granted permission for flexible C3/C4 Use under planning permission ref 19/01777/FUL which was implemented. This application has been made to recognise the intention to increase its occupation by 1 occupant. As such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3, single household, dwellings. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 34 HMOs out of 73 properties, a percentage of 46.58%. This proposal of course has no effect on that percentage. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.

5.3 **Standard of accommodation**

5.4 The application seeks, in addition to a flexible C3/C4 use, the opportunity to use the property as a 7 person (sui generis) HMO which would, in planning terms, allow occupation by up to seven individuals.

5.5 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

5.6

Room	Area Provided:	Required Standard:
Bedroom 1	10.3m ²	6.51m ²
2 nd Floor Shower	4.17m ²	2.74m ²
Bedroom 2	10.02m ²	6.51m ²
2 nd floor WC	1.38m ²	1.17m ²
Bedroom 3	10.07m ²	6.51m ²
Bedroom 4	10.03m ²	6.51m ²
Bedroom 5	10.37m ²	6.51m ²
1 st floor Shower	1.90m ²	2.74m ²
Bedroom 6	10.05m ²	6.51m ²
Bedroom 7	10.02m ²	6.51m ²
Ground Floor Shower	3.74m ²	2.74m ²
Combined Living Space	23.3m ²	22.5sqm (based on 10m ² sized bedrooms)

5.7 As is shown in the table above, all of the bedrooms 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. Given the bedrooms all meet or exceed 10sqm, the size expected of the communal living area is 22.5sqm, and 23.3m² combined living space would be provided. Additionally, a separate living room would be provided.

5.8 The combination of shower rooms and toilets would provide a suitable overall arrangement of sanitary facilities. The shared bathroom at first floor level would fall short of required room size by approx. 0.64sqm and this small shortfall is not considered a reason to warrant a refusal and besides this is an existing HMO which could change use from C4 to a 7 person HMO as proposed without the need for planning permission as established by the Campbell properties appeal. Furthermore, all habitable rooms would have good access to natural light and would be of an appropriate configuration/layout.

5.9 As such, it is considered the proposal would provide an adequate standard of living accommodation to facilitate up to 7 persons sharing and the proposals would accord with the SPD.

5.10 **Impact on neighbour amenity**

5.11 The proposal would increase the occupancy of the existing HMO by 1 occupant. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area.

5.12 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 this application would not impact on or result in over-concentration of HMOs within the surrounding area, it is considered that the impact of one further occupant within the existing HMO would not be significantly harmful.

5.13 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.

5.14 **Amenity and Parking**

5.15 The minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. Where no on-site parking is provided, it is assumed that existing parking demand is met on-street and as such would not be required to provide any car parking spaces despite an increase in the number of bedrooms. It is therefore considered that an objection on car parking requirement cannot 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.

- 5.16 The Portsmouth parking SPD also gives the expected level of cycle parking that should be provided for residential developments. An existing property with 4bedrooms has an expected demand for 4 cycle parking spaces; upon changing to a HMO (Sui generis), the cycle parking provision required would remain the same as the current use and therefore additional cycle parking spaces are not required. It should however be ensured that the existing property already provides for 4 cycle parking spaces as per SPD standards.
- 5.17 According to the submitted drawing no. PG.5034 · 20 · 6, the property will provide 4no. weatherproof bicycle storage facilities. No details of the bicycle storage facilities have been submitted with this application, but this can however be secured via condition.
- 5.18 **Waste**
- 5.19 The storage of refuse and recyclable materials would remain unchanged and an objection on waste grounds would not form a sustainable reason for refusal.
- 5.20 **Other Material Considerations**
- 5.21 A key and overriding consideration in this case is the necessity to recognise the fall-back position available to the applicant; that is the position they could take if this application is refused. In this case the addition of only 1 occupant to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 Town and Country Planning Act 1990 ('TCPA') there is a general requirement that development should not be carried out, except with planning permission. However not all changes of use are considered to be 'development' and therefore not all changes require planning permission. Under s55 of the Town and Country Planning Act 1990 'development' is defined as making of a *material* change in the use of any buildings or land. Whether or not a change is a material change is a matter of fact and degree to be assessed on its own merits. Members will note a recent joint appeal decision (the 'Campbell Properties' appeal dated 29 April 2021) wherein the Inspector considered a number of similar changes of use and, on their individual merits, identified examples whereby a change in the occupancy of an existing HMO with up to 6 occupants to an occupancy up to 7 occupants, and a change in occupancy from up to 6 occupants to an occupancy of up to 8 occupants was not considered to be a material change of use notwithstanding it moved the classification of the dwellings outside of Use Class C4 of the Use Classes Order. While every application must be considered on their own individual merits these examples provide clear guidance on the correct interpretation of s55 of the TCPA and that appeal decision is considered to be a material consideration in the determination of similar applications. Members may also note the decision of Portsmouth's Planning Committee on 23rd February 2022 which assessed applications both for certification of lawfulness and in respect of planning permission for change of use, to alter the occupation of 83 Margate Road from an HMO with up to 6 occupants to a 7 bedroom, 7 occupant HMO, references 21/01287/CPE and 21/00883/FUL respectively. Contrary to Officer recommendation in response to the appeal described above the Committee determined that this change in occupation amounted to a material change in use in that case and assessed those applications on that basis.
- 5.22 In the circumstances of the case the subject of this report it is considered that the increase in occupancy does not result in a significant difference in the character of the activities that would occur under the proposed occupation compared to the existing lawful use as a HMO with up to six occupants. As such it is considered that the change of use is not material and planning permission is not required for the increase in occupancy described in the application. The Applicant therefore has a fall-back position of being able to lawful carry out the change in occupation without the benefit of Planning Permission.
- 5.23 The objection points concerning intensity / character of use of the property and effect on the wider area are covered by the text above.

5.24 Impact upon the Special Protection Area

Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development, the applicant's above fall-back position would allow the occupation of the site without Planning Permission. As such it is considered that the proposal would not amount to development and therefore not have a likely significant effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

Community Infrastructure Levy (CIL)

- 5.25 The development would not be CIL liable as there would be no increase in the Gross Internal Area of the application property.

Human Rights and the Public Sector Equality Duty ("PSED")

- 5.26 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 5.27 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who don't. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

6 CONCLUSION

- 6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan. However, notwithstanding the compliance or otherwise of the proposal with the policies of the Local Plan it is noted that on the details of this case the changes in the character of activities are not sufficiently significant, as a matter of fact and degree, to be considered to result in a material change in the use of this dwelling. As such planning permission is not required for the use described in the application and the proposal could be carried out as a fall-back position irrespective of the determination of this application. This is considered a material consideration of overriding weight, and unconditional planning permission should therefore be granted. This is now the decision to take for the Planning Inspectorate, given the appeal against the LPA's non-determination of the application.
- 6.2 Should the Committee conclude, contrary to this recommendation, that the change in occupation, as a matter of planning judgement, fact and degree in this specific case results in a material change of use requiring planning permission then they should consider whether permission should be granted with conditions. In such a circumstance, the committee can note that the merits of the proposed use comply fully with the associated guidance regarding the relevant local plan policies in respect of room sizes to support a good standard of living, the Committee would therefore need to consider whether to resolve to grant permission, subject to the imposition of conditions requiring

implementation of the additional occupancy within 1 year (a Time Limit condition), requiring that the development be carried out in accordance with plans submitted (an Approved Plans condition), and requiring that that increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area.

RECOMMENDATION That the Secretary of State be advised that Portsmouth City Council Planning Committee resolve to grant unconditional planning permission.

Conditions: None

24 HAVELOCK ROAD SOUTHSEA PO5 1RU

CONSTRUCTION OF SINGLE STOREY REAR EXTENSION, SINGLE STOREY SIDE EXTENSION, A ROOF TERRACE TO REAR ROOF SLOPE, ALTERATIONS TO EXISTING FRONT DORMER WINDOW AND EXTENSION TO EXISTING PORCH.

WEBLINK:

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=QJA22WMOLVR00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=qja22wmolv00)

Application Submitted By:

Carl Architect Ltd
FAO Mr Carl Leroy-Smith

On behalf of:

Mr & Mrs Critchley

RDD: 4th November 2020

LDD: 5th April 2021

1.0 SUMMARY OF MAIN ISSUES

1.1 The application is presented to the Planning Committee due to the receipt of nine objections (from 6 addresses).

1.2 The main considerations within this application are:

- Design
- Impact upon residential amenity

1.3 Site and Surroundings

1.4 The application site comprises a late 19th century semi-detached dwellinghouse located on the southern side of Havelock Road. The property has a double height bay window to the front, shallow walled forecourt, porch to the side set back from the front elevation and an east facing dormer to the front roofslope. To the rear is a two storey outrigger (with internal levels lower than the rest of the house) and a single storey sun room with steps leading to the patio/garden. Externally the property is finished in painted brickwork on all elevations and has a profiled clay tiled roof.



- 1.5 The property is located within the Campbell Road conservation area and is the subject of an Article 4(2) Direction.
- 1.6 Proposal
- 1.7 The application seeks planning permission for:
- a single storey rear flat roof extension 4.8m deep x 3.64m high, to create a kitchen/seating area across the whole width of the house incorporating internal steps to accommodate a change in floor level to allow level access to the garden,
 - a single storey lean-to side extension for bike storage etc. Brick walls with translucent polycarbonate roof,
 - a recessed roof terrace to the rear roof slope (1.2m deep x 2.6m wide), set behind the existing roofslope (see plan below),
 - alterations to existing front east facing dormer window to increase its width by 2.47m and,
 - extension to the existing porch to the north by 1.5m.
- 1.8 The proposed single storey rear extension, porch extension and alterations to extend the front dormer would be externally constructed in materials to match those existing (i.e. painted brickwork/matching clay roof tiles).
- 1.9 Amended drawings were received on 27/6/22 (002 Revision F).

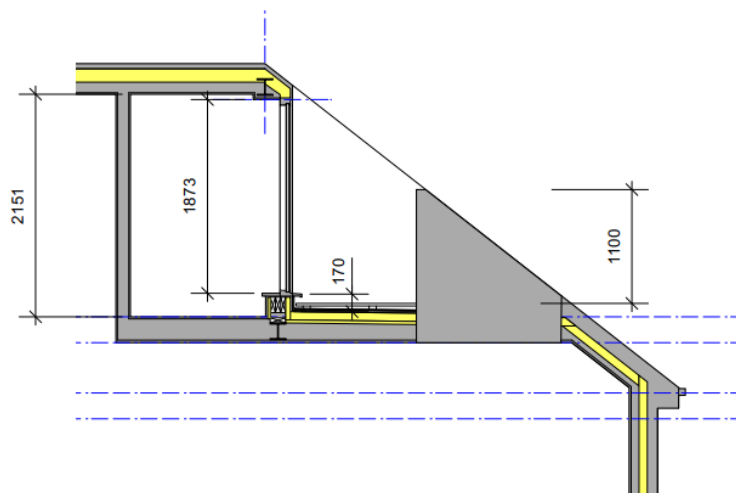


Figure 3 Proposed rear roof terrace, section

1.10 Relevant Planning History

1.11 None

2.0 POLICY CONTEXT

2.1 The relevant policies within the Portsmouth Plan (2012) would include: PCS23 (Design and Conservation)

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

3.0 CONSULTATIONS

3.1 None

4.0 REPRESENTATIONS

4.1 Nine objections (from 6 addresses in Livingstone Road to the south) were received and can be summarised as follows:

- a) Objection to the principle of a roof terrace
- b) Concern that the glazed balcony is not in keeping with area or character of conservation area
- c) Roof terrace would result in overlooking/loss of privacy
- d) Noise pollution from high level of roof terrace
- e) Insufficient publicity of application

4.2 Officer notes:

- * Publicity of the application has been carried out in accordance with adopted procedures: neighbour letters, a site notice and a press notice;
- * Amended drawings have been received removing glazed balustrade, setting the terrace back behind the existing roof slope and reducing the height of the proposed single storey rear extension.

5.0 COMMENT

5.1 Design

5.2 Policy PCS23 of the Portsmouth Plan states that all new development must be well designed and, in particular, respect the character of the city.

5.3 The application site is considered to be of adequate size to accommodate the proposed development and it would not be considered over-development of the plot.

5.4 The proposed single storey rear extension, lean-to side extension and porch extension are considered acceptable in design terms. The proportions of the single storey rear extension are considered improved following receipt of amended drawings (002 Revision F) reducing its overall height and in turn the extent of brickwork above the proposed bi-fold doors. These proposed single storey additions to the property are considered to preserve the character and appearance of the Campbell Road conservation area.

5.5 Whilst dormers are common within the immediate area, roof terraces are not typical, although there is an example of another recessed balcony a few doors to the east of the

application site at 7 Lorne Road (06/00078/FUL) which was permitted in 2006. Given that the proposed terrace would be recessed in design and that no part of it would project beyond the plane of the existing roof structure, it is not considered harmful to the character and appearance of the recipient building nor to the wider conservation area.

5.6 Views of the proposed extended front dormer would only be visible when approaching the site from the east as a pedestrian (as the road is one way from west to east). Subject to matching materials (secured by condition), the proposed increased width of the dormer is considered acceptable and would preserve the character and appearance of the conservation area.

5.7 Impact on Residential Amenity

5.8 Given the intervening distances, the existing 2.4m high boundary wall in the vicinity of the extension, and the backdrop of the existing outrigger as seen from no.26 to the east, it is not considered that the proposed rear and side extensions would be unduly overbearing features as seen from the nearest neighbouring property or result in any significant overshadowing or increased sense of enclosure. Other neighbours would be less affected, with further comments below with regard to the objectors.

5.9 Only neighbours to the rear (south) have objected. The intervening distance from the proposed roof terrace to the end of the two storey outriggers of those properties to the south fronting Livingstone Road would be approximately 42m. It is not considered that a modest roof terrace to the rear of the application site would result in undue overlooking, loss of privacy or excessive noise disturbance to those residing in properties in Livingstone Road.

5.10 The proposed roof terrace is significantly set back from the eaves. It is considered that a person standing in a forwardmost position on the proposed terrace would not have significant or direct vision to the private patio area of no.26 to the east. The same applies to the patio area of the adjoining property to the west (no.22). Given the modest dimensions of the proposed terrace, it is not considered of sufficient size to accommodate intensive use or activity which might result in unacceptable noise levels. It is therefore considered on balance that the proposed roof terrace is capable of support.

5.11 The extension to the existing front dormer would not result in any significant loss of residential amenity given its position on the roof slope, east/west orientation and relationship with surrounding development.

5.12 The extension to the side porch would not result in any loss of residential amenity and as such is capable of support.

5.13 CIL

Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012 with a basic CIL rate of £105/sqm. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2022 basic rate is £156.32/sqm. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy. However, exclusions, exemptions and reliefs from the levy may be available. In this case the proposed new floor space created would be less than 99sqm and therefore it is unlikely a CIL charge would be applicable.

5.14 Human Rights

The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications

engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

5.15 Equality Act

Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who don't. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

RECOMMENDATION Conditional Permission

Conditions

Time Limits

- 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 and Proposed Block Plan no.003 Revision B (received 30/06/22), and Proposed Elevations, Floor Plans and Sections 002 Revision F.
Reason: To ensure the development is implemented in accordance with the permission granted.

Materials

- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those on the existing building.
Reason: In the interests of visual amenity and to preserve the character and appearance of the Campbell Road conservation area in accordance with policy PCS23 of the Portsmouth Plan.

PRO-ACTIVITY STATEMENT

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

1-40 LOMBARD COURT LOMBARD STREET PORTSMOUTH PO1 2HU

FORMATION OF ROOF TERRACES ON MAIN ROOF, TO INCLUDE STEEL BALUSTRADES.

WEBLINK:

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RA8DC1MOJ5D00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=ra8dC1moj5d00)

Application Submitted By:

Mr John Pike
Pike Planning

On behalf of:

Ms Ella Savidge
Lombard Court Residents Association Limited

RDD: 13th April 2022

LDD: 20th July 2022

2.0 SUMMARY OF MAIN ISSUES

1.1 The application is presented to the Planning Committee due to three objections received.

1.2 The main considerations within this application are:

- Design and Impact upon heritage assets and the Conservation Area;
- Impact upon residential amenity.

1.3 Site and Surroundings

1.4 The application site comprises a 5 storey building with a flat roof accommodating 40 flats fronting Lombard Street to the west and St Thomas's Street to the south. Flats nos.41-56 lie to the north within a separate block outside of the application site (and accommodate a 4th floor roof terrace appearing to serve a single flat). Surrounding properties are predominantly 2-3 storeys in height.

1.5 The property is located within the Old Portsmouth conservation area. It is surrounded by a significant number of listed buildings in both Lombard Street and St Thomas's Street, and the Grade I Cathedral Church of St Thomas is in the High Street to the south-west of the site.

1.6 Proposal

1.7 The application seeks planning permission for:

- The formation of 2 terraces on the roof of 1-40 Lombard Court, incorporating 50mm diameter steel balustrading, to a height of 1.1m from the roof top floor level (as the existing roof upstand does not provide sufficient height to act as a balustrade).
- The terraces would be located at the northern and southern ends of the building around two existing access points to the roof.

- 1.8 The northern roof terrace would have an area of approximately 116m² and the southern terrace would be approximately 85m². The roof terraces would be available to all residents of 1-40 Lombard Court.
- 1.9 The applicant states in an email dated 18.7.22 that *'the roof is intended as a 'viewing platform' only. There will be strict rules prohibiting parties, BBQ, etc; and terms and conditions will be signed by residents when requesting a key for access. If they fail to keep to the 'rules' access will be removed.'*
- 1.10 The applicant has stated subsequent to submitting the application that access to the rooftop for residents as a viewing platform *'has always been available, it is just the size of the area we are looking to increase and so the use is not intended to change.'* The Planning Agent however has confirmed there is no safety balustrading on the roof at present apart from the parapet upstand which is less than 1.1m in height.

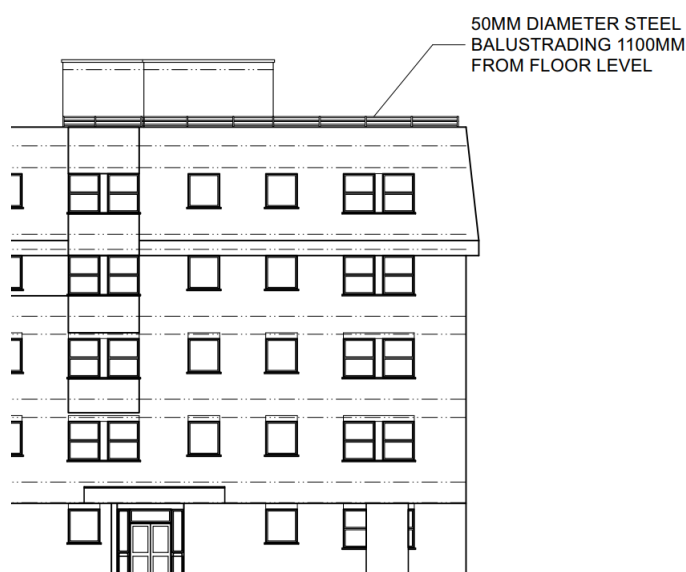


Figure 4 - Part of Proposed South-West Elevation

- 1.11 Relevant Planning History
- 1.12 A*22613/U - Conversion of existing buildings into 39 flats and construction of new building comprising 16 flats (modified scheme) - conditional permission dated 29.01.1986
- 1.13 A*22613/V - Construction of additional two penthouse flats on roof of building - refused dated 08.06.1987

2.0 POLICY CONTEXT

- 2.1 The relevant policies within the Portsmouth Plan (2012) would include: PCS23 (Design and Conservation)
- 2.2 In accordance with the National Planning Policy Framework (NPPF) July 2021 due weight has been given to the relevant policies in the above plan.

3.0 CONSULTATIONS

3.1 None

4.0 REPRESENTATIONS

4.1 Three objections have been received (from Lombard Terrace to the west and 2 residents of Lombard Court itself) and can be summarised as follows:

- a) concern about potential noise from use of terraces, particularly if used for large gatherings
- b) it will be an eyesore
- c) concerned about costs of such a provision
- d) access to the terraces will be limited to only some residents.

4.2 A revised location plan and Ownership Certificate have been received during the course of the application.

5.0 COMMENT

5.1 Design and Impact upon heritage assets and the Conservation Area

5.2 Policy PCS23 of the Portsmouth Plan states that all new development must be well designed and, in particular, respect the character of the city.

5.3 The proposed steel balustrading would be laid in a horizontal manner, with only approximately 400mm projecting above the existing roof upstand, but much less would be visible from surrounding properties and street level given the relative angles.

5.4 In light of the open nature of the balustrading, the modest projection above the existing roof upstand and the limited area of accessible terrace created, it is considered that the proposed roof terraces and associated balustrading would preserve the character and appearance of the Old Portsmouth Conservation Area and not represent harm to the setting of the nearby listed buildings, nor to the Conservation Area. As such, the development would accord with local policy and the provisions of the NPPF.

5.5 Impact on Residential Amenity

5.6 Given the intervening distances, the orientation of the terraces and that outlook from the roof would be towards the public, front elevations of the properties in St Thomas's Street (bar no.79) and Lombard Street it is not considered that any overlooking or loss of privacy that may result from the use of the roof terraces by residents would amount to a significant loss of residential amenity.

5.7 Active use of the roof terraces could result in some increased noise levels within the immediate area, but this is not considered likely to be so significant as to justify refusal on this ground alone and having regard to relative height and siting of the two terraces and noting likely lease obligations and other regulatory powers in place to respond to occasions of noise nuisance should this occur.

5.8 CIL

Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012 with a basic CIL rate of £105/sqm. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2022 basic rate is £156.32/sqm. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy. Since the

proposals do not create internal area or a new dwelling, it would appear they would not attract a CIL payment.

5.9 Human Rights

The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

5.10 Equality Act

Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who don't. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

5.11 Conclusion

5.12 For the above reasons, the creation of the proposed roof terraces and their associated safety balustrading is considered acceptable and capable of support.

RECOMMENDATION Conditional Permission

Conditions

Time Limits

- 4) 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

- 5) 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 - Location and Site Plans no.0001 B, Proposed Elevations no.0012 C and Proposed Roof Plan no.0010 D.
Reason: To ensure the development is implemented in accordance with the permission granted.

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.