

PLANNING COMMITTEE

9 JULY 2014

2 PM EXECUTIVE MEETING ROOM,
3RD FLOOR, GUILDHALL

REPORT BY THE CITY DEVELOPMENT MANAGER 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 City Development Manager's report 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*, *Article 6- Right to a fair hearing* and *Article 8- The Right for Respect for Home, Privacy and Family Life*. Whilst these rights are not unlimited, any interference with them must be sanctioned by law and go no further than necessary. In taking planning decisions, private interests must be weighed against the wider public interest and against any competing private interests Planning Officers have taken these considerations into account when making their recommendations and Members must equally have regard to Human Rights issues in determining planning applications and deciding whether to take enforcement action.

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

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6 HOLDENBY COURT PORTSMOUTH**EXTEND EXISTING DROPPED KERB TO PROVIDE VEHICULAR ACCESS****Application Submitted By:**

Mr Keith Alexander

RDD: 1st May 2014

LDD: 8th July 2014

SUMMARY OF MAIN ISSUES

The main issue to be considered in the determination of this application is whether the proposed extension of the existing dropped kerb by 3.6m would be acceptable in highway safety and convenience terms.

Whilst the site falls within the indicative area at risk of flooding, the proposal to increase the width of an existing vehicular access is not considered to increase the vulnerability of the property and its occupants to any significant degree.

The site and its surroundings

The application site comprises a detached dwelling with a triple garage to the front on the eastern side of Holdenby Court, a cul-de-sac within Anchorage Park close to Langstone Harbour. The property currently benefits from a dropped kerb measuring 3.3m wide.

Planning permission is sought to extend an existing dropped kerb access to the highway. The applicant considers it would enable a safer and easier access on and off the driveway.

Under Part 2 Minor Operations Class B of the General Permitted Development Order 1995 (as amended) 'the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part)' is considered permitted development. However, Holdenby Court is not a trunk or classified road and the proposed extension of the existing dropped kerb is not required in connection with permitted development by any Class in the Schedule and as such the proposal requires planning permission.

The relevant planning history includes:

A*39400/AA - Construction of single storey extension to north elevation of No.6 to form additional garage - permission granted 31/5/06.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:
PCS23 (Design and Conservation), PCS12 (Flood Risk).

In addition to the policies above, the aims and objectives of the National Planning Policy Framework are relevant.

CONSULTATIONS

Highways Engineer

The proposal is to extend the existing dropped kerb (3.30m) by 3.6m.

The extension to the existing dropped kerb is unlikely to have a significant impact on the adjoining highway. Recommendation: Raise no objection.

Natural England

No objection in relation to statutory nature conservation sites.

Coastal Partnership

No comments.

Langstone Harbour Board

No objection to the proposal.

Southern Gas Networks

Information provided to advise that there is the presence of a low/medium/intermediate pressure gas main in the proximity of the site and that there should be no mechanical excavations taking place above or within 0.5m of the low pressure system, 0.5m of the medium pressure system and 3m of the intermediate pressure system. Where required, the position of mains should be confirmed using hand dug trial holes. An informative is requested advising that a copy of the plans and gas safety advice booklet should be passed to the senior person on site.

REPRESENTATIONS

One letter of objection has been received from a neighbour concerned about the proposed reduction of already limited on-street parking given that the number of cars per property often exceeds the number that can be accommodated on their driveways.

COMMENT

The determining issue is whether the proposed extension of the existing dropped kerb by 3.6m would be acceptable in highway safety and convenience terms.

Highway Issues

The Highways Authority advises that the extension to the existing dropped kerb is unlikely to have a significant impact on the adjoining highway and as such raises no objection to the proposal.

The proposed development would result in the loss of 3.6m of existing on-street parking space that currently exists in front of the additional garage constructed under the planning permission ref A*39400/AA. Given that a standard parking space is 4.9m in length, the on-street space that would be lost as a result of this proposal would not equate to a full space. Whilst it is recognised that on-street parking is limited within this cul-de-sac it is not considered that the loss of 3.6m of kerb would cause such demonstrable harm and inconvenience to parking provision within the immediate area so as to justify refusal of the application.

The applicant has submitted additional supporting information to demonstrate that several other houses with double garages within the area have dropped kerbs of 6.2m in length or greater. However, each site is considered on its own merits and this does not necessarily set a precedent within the area.

Conclusion

The proposal, for the reasons set out above, is considered capable of support.

RECOMMENDATION

Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 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: A1-01-29-14.

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.

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.

02

14/00529/FUL

WARD:HILSEA

424A LONDON ROAD PORTSMOUTH

INSTALLATION OF EXTERNAL STAIRS TO INCLUDE NEW DOOR TO FIRST FLOOR LEVEL AND NEW WINDOW TO GROUND FLOOR LEVEL OF THE REAR ELEVATION AND FORMATION OF COURTYARD

Application Submitted By:

Town & Country Architecture Ltd

On behalf of:

Mr & Mrs Tim Brown

RDD: 13th May 2014

LDD: 10th July 2014

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this application are whether the proposed alterations would be acceptable in design terms and whether they would be acceptable in terms of their impact on the residential amenities of any adjoining occupiers.

The Site and surroundings

This application relates to 424A London Road. This property is currently used for storage purposes associated with the ground floor shop use. This property is located within the London Road (North) Local Centre.

Proposal

Permission is sought for the installation of external stairs to include a new window and door to the first floor rear elevation and the formation of a courtyard.

The ground floor of this property is currently occupied by The Art Centre (a picture framing shop) whilst the first floor is used for ancillary storage purposes. Under the provisions of Part 3, Class F of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), this property could be used for a mixed use within Class A1 (shops) and as a single flat. The use of the first floor of this property for residential purposes does not however, form part of this application.

There are a number of existing extensions to the rear of this property resulting in full site coverage.

The first element of this proposal concerns the installation of external stairs to the rear of this property. These would project outwards from the original rear elevation by approximately 9.5m and would measure approximately 8.5m in height by 1.8m in width. At first floor level within the rear elevation, a new door would be installed at the top of the proposed staircase to provide access to the residential flat. There is an existing door at ground floor level within the side elevation. As a result of this proposal, this would be replaced by a new window.

The second element of this proposal concerns the establishment of a rear courtyard following the demolition of an existing single storey rear extension. This would measure approximately 5m by 8.4m.

Relevant planning history

In 2002, conditional permission (ref.A*32113/AA) was granted for the construction of a first floor rear extension.

In 1986, conditional permission (ref.A*32113/A) was granted for the construction of a single storey extension to form picture gallery to existing art shop.

POLICY CONTEXT

In addition to the NPPF, the relevant policies within the Portsmouth Plan would include: PCS23 (Design and Conservation).

CONSULTATIONS

None.

REPRESENTATIONS

One letter of representation and deputation request has been received. This is based on the grounds that: a) the first floor of this property has, for over 25 years, been used as a storage and picture framing area; b) this proposal would establish an additional bedroom and would result in over occupation of this property; c) the proposed external staircase would be dangerous in poor weather; d) the proposed access to the residential property at first floor level would result in people exiting the property via a small access way to the rear and could introduce a safety risk in this location; e) the proposed external yard area would result in an increase in noise and disturbance; f) the potential increase in occupation at first floor level would result in an increase in noise and disturbance; and g) the potential increase in occupation would increase demand for parking in this area.

COMMENT

The main considerations in the determination of this application are:-

1. Design.
2. Impact on residential amenity.

Design

The proposed external staircase would be located to the rear of this property and would not be readily visible from Merrivale Road or London Road. It would be adequately screened by the original two storey projection at this property and the existing projections to the rear of this property and would not therefore, have a significant impact on the wider streetscene. The proposed staircase would be sited appropriately and this element of the scheme is therefore, considered acceptable in design terms in accordance with policy PCS23 of the Portsmouth Plan.

Both the proposed door at first floor level and window at ground floor level would be sited appropriately and would be of an appropriate scale in relation to the recipient building. These two elements of the scheme are therefore, considered acceptable in design terms in accordance with policy PCS23 of the Portsmouth Plan.

The proposed rear yard would provide much needed outdoor amenity space for the first floor residential flat. It would be of an appropriate size and scale and would therefore, be considered acceptable in design terms in accordance with policy PCS23 of the Portsmouth plan.

Impact on amenity

In terms of residential amenity, the main issue for consideration is the impact of the proposed rear yard on any nearby residential properties. The proposed external staircase, new door and new window are not considered to give rise to any adverse impacts upon this. At present, there is no outdoor space to the rear of this property. As with the majority of properties in this block, this property did originally have some element of outdoor space. However following the construction of a number of rear extensions at this property, this outdoor space has been lost. As such, the reinstatement of a rear yard is considered to be acceptable in this location. This would not be any different to the rear yards which are present at any neighbouring properties and as such, this element of the proposal is not considered to give rise to any adverse impacts on the residential amenities of any adjoining occupiers.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 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: 14/18/02.

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.

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.

03

14/00411/FUL

WARD:ST JUDE

34 TASWELL ROAD SOUTHSEA

RETROSPECTIVE PLANNING APPLICATION FOR USE AS A HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS) FOR UPTO EIGHT PERSONS

Application Submitted By:

Spectrum Town Planning Consultants

On behalf of:

Mr H Ruso

RDD: 10th April 2014

LDD: 9th June 2014

SUMMARY OF MAIN ISSUES

This application was deferred by the Committee at its meeting on 11th June to enable further work to be undertaken to establish the number of HMOs in the area around the application site.

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and cycle parking.

The Site

The application site comprises a two-storey, mid-terraced property. The site is located on the eastern side of Manners Road. The lawful planning use of the property is as a dwellinghouse within Class C3.

Proposal

This application seeks planning permission to use the property as an eight bedroom house in multiple occupation. This use has commenced and has been in operation for a number of years.

Relevant planning history

There is no planning history relating to the application site.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation).

In addition to the above policies the National Planning Policy Framework and adopted Houses in Multiple Occupation and Solent Special Protection Areas SPDs are also relevant to the determination of this application.

CONSULTATIONS

None.

REPRESENTATIONS

Objections have been received from the occupiers of three neighbouring properties on the grounds that there are already too many HMOs in the area, the proposal would exacerbate existing parking problems and lead to increased noise and disturbance

COMMENT

This application was deferred by the Committee at its meeting on 11th June to enable further work to be undertaken to establish the number of HMOs in the area around the application site.

The determining issues for this application relate to the suitability of the proposed HMO use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and cycle parking.

This application seeks retrospective planning permission for a change the use from a dwellinghouse within Class to an eight bedroom House in Multiple Occupation. The property is currently in use (without permission) as a HMO and has been since around 2008 (due to the scale of the HMO use it remains unauthorised).

Principle of HMO Use

Policy PCS20 of the Portsmouth Plan states that applications for changes 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 Houses in Multiple Occupation SPD provides further detail on how this policy will be implemented and how the City Council will apply this policy to all planning applications for HMO use.

Following a review of the number of properties within the 50 metres radius in accordance with the methodology set out in the HMO SPD it has been established that there are 90 residential properties in this area. Whilst there was a discussion at the previous Committee meeting about whether some properties should be included or discounted, the adopted SPD clearly sets out how properties will be counted and must be applied consistently to all relevant applications. Following site visits and liaison with other Council Services (in particular Housing Standards and Council Tax) it has been established that there are a total of 7 properties (including the application site) which are known to be or are likely to be in use as HMOs. This equates to a proportion of 7.8%. Two of the properties queried at the previous Committee (35 Wimbledon Park Road and 24 Taswell Road) are not in use as HMOs.

The Houses in Multiple Occupation SPD states that a proposed HMO use 'will create an imbalance where granting the application would 'tip' the ratio of HMOs to Class C3 residential uses within the area surrounding the application property over the 10% threshold'. Therefore, given that this threshold would not be exceeded by granting permission, the continued use of the site as a HMO would not give rise to an imbalance of such uses.

Impact on Residential Amenity

With regard to the impact of the proposed use upon the living conditions of adjoining occupiers, the level of activity associated with the use of this property as a HMO is considered unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. The Houses in Multiple Occupation SPD is supported by an assessment of the supply, demand and community impacts of shared housing in Portsmouth. Paragraphs 9.1-9.10 discuss the negative impacts upon local communities resulting from concentrations of HMOs. In allowing a number of previous appeals, Inspectors have consistently taken the view that the level of activity and resultant noise associated with an HMO are not significantly different to that which could be associated with a large family or other similar group occupying the property as a single dwelling. It is therefore considered that the use of this property as HMO does not have a significant impact upon the living conditions of local residents.

Car Parking and Cycle Storage

There is no off street parking provision at this property and none is proposed as part of this application however, this property is located within a short walk of local transport links, shops and services. No cycle provision is demonstrated on the submitted plans and consequently, a condition would be required to ensure that cycle storage is provided and retained at this property.

SPA Mitigation

The proposal would lead to a net increase in population, which would be likely to lead to a significant effect on the Solent Special Protection Areas (SPAs), as is described in more detail in sections 2.8-2.9 of the Solent Special Protection Areas Supplementary Planning Document. The development is not necessary for the management of the SPA. The applicant has proposed a mitigation package based on the methodology in section 3 of the SPD with the scale of mitigation being calculated as £172. The applicant has submitted an agreement pursuant to Section 111 of the Local Government Act to secure mitigation for the net increase in occupation as a result of the development. The level of mitigation which will be provided is considered sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur.

RECOMMENDATION Conditional Permission

Condition

1) Within three months of the date of this permission (or such other period of time as may be agreed in writing by the Local Planning Authority) secure and weatherproof cycle storage facilities shall be provided in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall therefore be retained.

The reason for the condition is:

1) To ensure that provision is made for cyclists to promote the use of sustainable modes of transport in accordance with Policy PCS23 of the Portsmouth Plan.

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

PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the pre-application process to achieve an acceptable proposal without the need for further engagement.

04

14/00414/FUL

WARD: EASTNEY & CRANESWATER

NORTHERN PAVILION AND BOWLING GREEN ADJACENT TO EASTERN PARADE SOUTHSEA

CHANGE OF USE FROM BOWLS CLUB TO DAY NURSERY AND CONSTRUCTION OF SINGLE STOREY SIDE EXTENSION, ENCLOSURE OF VERANDA, CONSTRUCTION OF REFUSE STORE AND INSTALLATION OF 1.8M HIGH CHAIN LINK BOUNDARY FENCE

Application Submitted By:

PLC Architects

On behalf of:

Mrs Samia McMinn

RDD: 11th April 2014

LDD: 19th June 2014

This application has been called to the Planning Committee at the request of Eastney & Craneswater Ward Member Councillor Terry Hall

SUMMARY OF MAIN ISSUES

The key issues in this application are whether the principle of the development is acceptable in the location proposed having regard to its designation as protected open space and previous leisure use, whether the development would be acceptable in design terms, whether it would preserve or enhance the character and appearance of the 'Seafront' and 'Craneswater & Eastern Parade' Conservation Areas, whether it would preserve the setting of Cumberland House which is listed for its special architectural or historic interest (Grade II), whether it would have a significant adverse impact on the residential amenity of adjoining occupiers, whether it would be acceptable in highways terms and whether the proposal would result in an increased risk of flooding at the site.

The Site and surroundings

This application relates to a former bowling club located to the south of Eastern Parade within part of the seafront commonly referred to as Canoe Lake. The site itself incorporates one of two bowling greens (north), the former main pavilion and two triangular plots of ground that provide landscaping and an area of lawn. The site is bounded by Eastern Parade to the north, allotment gardens and Cumberland House (Grade II Listed) to the west, a tree lined footpath and grass tennis courts to the east, and the remaining section of the bowling club to the south. The site is located within the 'Seafront' Conservation Area (No.10), within the boundary of Southsea Common which is included on the Register of Historic Parks and Gardens and abuts the 'Craneswater & Eastern Parade' Conservation Area to the north. The site is also located within the indicative flood plain (Flood Zones 2 & 3).

The wider Canoe Lake area comprises a range of leisure uses and attractions including a boating lake, child play areas, a museum, model village, grass and hard surface tennis courts, basketball court, cricket club, 9-hole golf course, formal gardens and large open grassed areas popular for sporting and recreational activities. There are also a number of small tearooms and cafés. A mix of residential properties along Eastern Parade forms the backdrop to the seafront and marks the boundary between the open character of the coastline and denser residential development to the north. Generally the Canoe Lake area has a pleasant verdant character with an air of spaciousness provided by large areas of open space. This is however, reduced to the south and east of the application site where a mixture of hedges and fences divide the various recreational uses, and views towards the sea are obscured by the partially dismantled Lumps Fort.

The proposal

Planning permission is sought for the change of use from a bowls club to a day nursery, the construction of a single-storey side extension and refuse store, and the installation of a 1.8 metre high chain link boundary fence.

A separate planning application (14/00375/FUL) for the change of use and alterations to the southern section of the bowling club is also pending consideration. There is an element of overlap between the two applications, with 14/00375/FUL also proposing a temporary access and ground levelling works across the current application site. However, these works do not form part of the current application (14/00414/FUL) and should be offered no weight in its determination.

Relevant planning history

Permission was granted in 1964 (ref.A*25528) for the construction of a bowls pavilion.

Permission was granted in 1987 (ref.A*25528/A) to replace fences around the bowling greens, footpath works and associated tree and shrub planting.

POLICY CONTEXT

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS9 (The Seafront), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS17 (Transport) and PCS23 (Design and Conservation). Saved policy DC21 of the Portsmouth City Local Plan 2001-2011, The Seafront Masterplan Supplementary Planning document (SPD) and Conservation Area appraisals for the 'Seafront' and 'Craneswater & Eastern Parade' Conservation Areas would also be material to the determination of this application.

CONSULTATIONS

Sport England

The site is not considered to form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184), therefore Sport England has considered this a non-statutory consultation and has not applied its planning policy- A Sporting Future for the Playing Fields of England.

Sport England consulted England Bowls (EB) as the National Governing Body for Bowls to seek comments on this proposed development. This green and the other one to the south were previously home of three Bowling Clubs. EB advised that Portsmouth City Council wrote to the Canoe Lake Bowling Association (CLBA) in 2012 advising them that the existing lease on the clubhouse would terminate and if the Association wished to continue using the facility they would need to maintain the greens and associated building. The Association were not in a

financial position to do so which resulted in them leaving the facilities and finding alternative arrangements.

Paragraph 70 of the National Planning Policy Framework (NPPF) requires policies to plan positively for the provision and use of shared space, community facilities and other local services including sports venues to enhance the sustainability of communities and residential environments. Decisions should guard against the unnecessary loss of valued facilities and services. Paragraph 74 includes a strong presumption against building on open space and other sports and recreation building unless one of the three strict criteria can be met: an assessment has shown the open space, building or land to be surplus to requirement; or the proposed loss to be replaced by equivalent or better provision in terms of quality and quantity in a suitable location; or the development is for an alternative sports and recreational provision which clearly outweighs the loss of existing.

If the Council are minded to approve the application it must be satisfied that the proposal complies with paragraph 74 of the NPPF and Policy PCS13 (A Green Portsmouth - Core Strategy) which identifies this bowling green for protection. In the absence of a detailed justification demonstrating that the proposed development complies with paragraph 74 of the NPPF, Sport England formally objects to the loss of this built sports facility.

Garden History Society

No comments received.

Highways Engineer

The site occupies a plot east of south Parade Pier, directly adjacent to Portsmouth Natural History Museum, and in the vicinity of Canoe Lake and Lumps Fort. The existing building has been associated with its previous use as a changing room / clubhouse for the local bowls club. The site adjoins open spaces and public recreation grounds and sees many sports related uses, such as golf and tennis. The site has good pedestrian accessibility, with both the seafront esplanade to the south and Eastern Parade bordering the site to the North.

The site fronts onto Eastern Parade, which has no parking restrictions. Residential development is located on the north side of Eastern Parade only, with many properties benefitting from off-road parking facilities. Eastern Parade is well-used by visitors in summer months for access to the seafront, Canoe Lake and various leisure facilities, who take advantage of the free parking availability.

Accident analysis for the past 5-year period indicates no pedestrian injury accidents in the vicinity of the site. With ample on street car parking available in the surrounding area and general light trafficking the Highway Authority cannot foresee a highway safety issue for the development.

The proposal is unlikely to have a significant impact on the adjoining highway.

Contaminated Land Team

Historic maps show the bowling green as MoD land until c.1923, then croquet lawn/bowling green etc. until the present day. A bomb strike is also noted on the centre of the bowling green, and as such the potential for fill material to be present beneath the site cannot be discounted.

In addition to the above, a site investigation report is held for the Canoe Lake area which identified some elevated concentrations of contaminants. Although the report concluded there was no human health risk based on the current end use of public open space, it would be prudent to sample and assess the shallow soils used on the bowling green site given the sensitivity of the proposed end-use.

Therefore, conditions relating to land contamination are requested.

Environmental Health

Environmental Health have been consulted with regard to the potential impact from odour, noise, dust or air pollution in relation to the change of use of the bowls clubhouse, to the day nursery and the construction of a single storey extension.

I do not anticipate that there will be a significant impact upon local residents as the nearest residential property is 28 metres away. Due to the size of the nursery the childcare is likely to be limited to small numbers; hence the noise from outside play will not be detrimental to the area.

There are a number of nurseries that operate throughout the city that are within close proximity to residential accommodation and I can confirm that Environmental Health have not received any complaints concerning the running of these learning establishments in relation to noise.

OFSTED - Office for Standards in Education

No comments received.

Hampshire Garden Trust

No comments received.

REPRESENTATIONS

At the time of writing 38 letters of representation had been received in respect of the proposal. Of these 37 were in objection and one broadly in support on the basis that the site was no longer required as a bowls club. The objections can be summarised as follows: (a) Loss of open space and recreational facilities contrary to Policy PCS13 of the Portsmouth Plan; (b) Proposed use out of keeping with the character of the surrounding uses; (c) Other more appropriate locations for a nursery; (d) Other more appropriate uses should be found for the site; (e) There would be no public benefit from the proposal; (f) Proposal fails to preserve the character and appearance of the conservation area; (g) Proposal fails to preserve the special architectural or historic interest of the adjoining Listed Building; (h) Highways issues including the safety of children, parents and other road users; (i) Increase pressure on parking; (j) Increase in noise and disturbance; (k) Proposal would set a precedent for similar private businesses along the seafront; and (l) Issues relating to the tendering process.

Representations also referred to a petition in objection to the proposal. However, despite requesting a copy of this petition, it has not been formally submitted in objection to the application and the grounds of objection are not known.

COMMENT

The determining issues in this application are:

1. Principle of the proposed development;
2. Design, including impact on the setting of a building listed for its special architectural or historic interest and the character or appearance of 'The Seafront' and 'Craneswater & Eastern Parade' Conservation Areas;
3. Impact on residential amenity
4. Highways/Parking Implications;
5. Flood risk
6. Others including matters raised within representations

Permission is sought for the use of the application site as a day nursery for up to 49 children with 8 full and part time members of staff. A small side extension, enclosure of the existing veranda, a small refuse store and a new boundary fence are also proposed. With the exceptions of these small additions the vast majority of the site would remain unchanged in visual terms. It is accepted that small incidental play equipment associated with the use of the site as a day nursery may be positioned on the former green. However, this would not necessarily require planning permission in its own right and does not form part of this application.

Principle of the proposed development

As part of Portsmouth City Council's budget savings in February 2011, it was agreed that the maintenance costs of bowling greens and pavilions across the city would be transferred to the

Bowls Clubs/Associations when their leases expired in March 2013. The clubs based at Canoe Lake opted not to take on these responsibilities and this site ceased its use as a bowling green on 1 April 2013. This planning application relates to the northern half of the former bowling club which has remained vacant since 1 April 2013 and has been subjected to various forms of vandalism as a result of inactivity and the quiet, dark and relatively secluded character of the area at night.

Following its closure, suitable alternative uses were considered having regard to the City Council's Seafront Strategy and The Seafront Masterplan Supplementary Planning Document (SPD). A market engagement exercise between 22 July and 23 August 2013 identified an interest for the use of the site for early years childcare provision, which was not initially envisaged. No proposal was received to continue the use of the site as a bowling club at no cost to Portsmouth City Council.

In light of interest received, the City Council's Early Years Team highlighted that in September 2013 the Government introduced a new statutory requirement on all local authorities to ensure sufficient places for 20% of 2yr olds. In Sept 2014 the statutory duty will rise to 40% of 2yr olds in the City (a total of 1200 children). The Eastney and Craneswater Ward was highlighted as one of five areas of the city where there was a significant gap in early years childcare provision (source - Childcare Sufficiency Assessment 2011). Consequently the suitability of the site for future early years provision was recommended and approved by the Cabinet Member for Culture, Leisure and Sport on October 11 2013. An open tender process took place between November 2013 and January 2014.

Whilst the need for early years places has been clearly identified, as highlighted within a number of representations, the site is allocated as protected open space by policy PCS13 of the Portsmouth Plan. This policy states that: 'The City Council will work collaboratively to protect, enhance and develop the green infrastructure network in the following ways: Refusing planning permission for proposals which would result in the net loss of existing areas of open space and those which would compromise the overall integrity of the green infrastructure network in the city, unless there are wider public benefits from the development which outweigh the harm'. The supporting text to this policy states: 'There is a great deal of pressure on Portsmouth's green infrastructure network from increasing population numbers to climate change and the need for new development sites. The city lacks suitable spaces to provide additional green infrastructure assets to absorb this pressure. Therefore the council's priority will be to focus resources on protecting, enhancing and linking together the existing network. There will be a presumption against any development involving the net loss of open space unless there are wider public benefits that outweigh the harm of this loss'.

Whilst the site is allocated as protected open space, it should be noted that the policy does not, at any point, refer to public open space. There are a number of areas of protected open space across the city that are not readily open to the general public (free of charge) or are occupied by private business and the MOD (eg. 'Tenth Hole' 9-Hole Golf Course, 'Goals' football pitches, HMS Temeraire, HMS Excellent, Portsmouth Grammar School Playing Fields). Whilst these areas generally provide sports and recreation facilities, they are also protected due to the contribution they make to natural habitats, green corridors and the visual relief they provide to the dense urban environment in which they are located.

With the exception of a small extension (20sq.m.) to the southern elevation of the pavilion building and small refuse store located on an existing concrete plinth, there would be no further loss of open space across the site. Therefore, whilst the bowling green would no longer be publicly accessible, its open character providing visual relief from the built environment and the contribution it makes to the green infrastructure network would be retained. It is also noted that whilst the bowling club did allow paying members of the public to use the facilities, the vast majority of users were members of the bowling club. Therefore, whilst representations have referred to the site as public open space, it could never be considered as a fully accessible public space. It is also noted that the proposed extension would be located on an area of hard

surface that forms part of the entrance to the site and does not form part of any physical playing surface. The quality and value of this small area of land is reduced as a result.

As highlighted by Sport England, Section 8 the National Planning Policy Framework (NPPF) highlights the role the planning system can play in facilitating social interaction and creating healthy, inclusive communities. Paragraphs 73 & 74 state: Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up to date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required...Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss'.

However, Paragraph 72 of the NPPF states: 'The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted'. Whilst the proposal is not for a new school it would provide early years educational facilities in an area with an identified need. The City Council's Early Years Team also highlights that the proposed nursery would have one of the largest outdoor play spaces in the City. This would benefit a large number of local families, allowing the provider to develop their outdoor education programme, focussing on the 'forest schools' model.

Sport England have confirmed that that the site does not form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure)(England) Order 2010. On that basis and having discussed the proposal in more detail, Sport England has confirmed that their objection has been raised in the absence of a detailed justification as required by the NPPF. Whilst not initially provided, the applicant has now provided a brief justification for the small physical loss of protected open space (PCS13) and the sports and recreational facilities. Whilst this justification is relatively brief, it does highlight a number of key issues including the benefits of providing early years child care places.

The applicant also suggests that the proposal would secure the long term use and maintenance of the site which has been left vacant since April 2013 and has attracted various forms of anti-social behaviour. This has resulted in the building and boundary treatments falling into a poor state of repair which detracts from the immediate character and appearance of the conservation area and Southsea Common. Furthermore, it is highlighted that the proposal would bring activity back into the area and would provide 8 full and part time job opportunities.

Whilst there is a presumption against the loss of protected open space (20sq.m. in this instance) and the sports and recreation facilities at the site, weight must also be offered to the need for the existing facilities and wider public benefits of the proposal. In light of public spending cuts, it is clear that the City Council can no longer afford to fund the maintenance of the facility and in the absence of tax payer funding, no alternative viable sports and recreational uses have been identified.

Therefore, having regard to all of the issues highlighted above, it is considered that on balance, the wider public benefits of the proposal in the absence of any alternative sports or recreational use, would outweigh the loss of the existing facilities. As such, the proposed use of the site as a day nursery is considered to be acceptable in principle, and on balance, would comply with the Policy PCS13 of the Portsmouth Plan and the provisions of the NPPF. Whilst the proposal was not envisaged during the conception of the Seafront Masterplan SPD, it is considered that the proposal would not conflict with the wider vision for the seafront area and would ensure the long term use and maintenance of a site that is no longer required for recreational purposes.

Notwithstanding the foregoing assessment of the planning merits of the proposal, regard must also be given to the 'fall back' position (development that could take place without the need for planning permission). The Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO) gives certain permitted development rights that would allow the change of use of land and/or buildings without the express consent of the Local Planning Authority. Changes brought into force on 30th May 2013 and subsequently amended on 6th April 2014 give permitted development rights for 'development consisting of a change of use of a building and any land within its curtilage to use as a state-funded school or a registered nursery, from a use falling within Classes B1, C1, C2, C2A, and D2 (assembly and leisure) of the Schedule to the Use Classes Order' (Class K as amended). For reference a bowls pavilion and green would fall within Class D2.

The order defines a 'registered nursery' as a non-domestic premises in respect of which a person is registered under Part 3 of the Childcare Act 2006 to provide early years provision. The City Council's Early Years Team has confirmed that the applicant would be registered under Part 3 of the Childcare Act 2006. On that basis and notwithstanding the loss of the recreational facilities at the site, it is considered that the change of use of the site from a leisure use within Class D2 to a registered nursery could be carried out without the need for planning permission, subject to the prior approval process. The prior approval process would consider issues such as transport and highways impacts, noise impacts, contamination risks and flood risk (all detailed below), but would disregard the site's allocation as protected open space and the loss of the recreational facilities. Therefore, it is considered that a reason for refusal on loss of open space and/or recreational facilities could not be sustained.

Once in use, the proposed day nursery would acquire the same permitted development rights as schools, colleges universities and hospitals (Part 32 of Schedule 2 of the GPDO) that are generally located on much larger sites. This could allow relatively generous additions and alterations at the site significantly affecting its appearance and open character. On that basis, and having regard to the sites location within a conservation area forming part of Southsea Common (included on the register of Historic Parks and Gardens) and its designation as protected open space, it is considered necessary and reasonable to impose a suitably worded planning condition removing permitted development rights at the site.

Design, including impact on the setting of a building listed for its special architectural or historic interest and the character or appearance of 'The Seafront' and 'Craneswater & Eastern Parade' Conservation Areas

Due to the limited scale of the pavilion in relation to the wider site, the applicant considers that an enlargement of the building is necessary to make the proposed use economically viable. This would involve the construction of a small extension to the southern elevation adjacent to the site entrance. This would measure approximately 2.7 metres wide by 7.3 metres deep and would be finished in vertical cedar boarding, stained dark brown to match the recipient building. The applicant also proposes the enclosure of the front (west) veranda with similar cedar cladding and a series of timber windows each with a pair of timber louvres for aesthetic and security purposes. A small refuse store located on located on an existing concrete based would be constructed adjacent to the northern elevation of the building and would be finished in matching materials. As a result of the proposed use as a day nursery, a new 1.8 metre high chain link

fence is proposed to the north and eastern boundaries of the site, set in slightly from the existing timber boundary fence.

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; relate well to the geography and history of Portsmouth and protect and enhance the city's historic townscape and its cultural and national heritage.

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.

The original pavilion is considered to be of relatively limited architectural quality with a simple flat roof design. As a result of its limited height, set back from Eastern Parade and the presence of landscaped boundary treatments, the building does not represent a prominent feature within the street scene when viewed from Eastern Parade. The enclosure of the front veranda and the small extension would represent fairly minor alterations that would not significantly change the appearance of the building within its setting. A consistent rhythm of timber windows along the western elevation with white timber shutters could be considered a visual improvement to the existing fenestration which is currently boarded as a security measure. The permanent use of the site would also ensure its long term maintenance and deter vandalism that has recently detracted from the quality of the area.

Fencing to the north and part eastern boundaries would be consistent with the appearance of fencing that currently encloses the adjoining grass tennis courts. The fencing would also be set back behind the existing timber fencing which is obscured from view along much of its length by a strip of landscaping at the back edge of the pavement along Eastern Parade. As such the fencing would not appear overly obtrusive within the street scene and would continue to provide views across the application site, retaining the sense of openness that is apparent within the area.

Having regard to the limited scope of the physical works, predominantly to the east of the site, and the degree of separation from Cumberland House (Grade II listed) with intervening boundary features, it is considered that the proposal would preserve the open nature of the site and the contribution it makes to the character and appearance of the Conservation Area. In addition the proposal is considered to preserve the setting of the Cumberland House and this particular section of Southsea Common.

As the proposal is seen to preserve the setting and character of the designated and non-designated heritage assets within the area, the requirements of paragraphs 132-134 of the NPPF, which seeks to address the significance of any harm caused by development, would not be applicable in this instance.

Impact on residential amenity

A number of residential properties are located immediately to the north of the application site beyond Eastern Parade. The majority of these properties are flats located within purpose built blocks which include balconies to the southern elevation. Due to the scale of the application site, the degree of separation to the nearest residential property varies from 25 metres at its northern point to more than 80 metres at its southern point.

The application has been considered by the City Council's Environmental Health Team who consider that as a result of the physical size of the nursery (internal capacity) the number of children using the external play area would be limited. As a result noise and disturbance from outside play would be restricted and is unlikely to be detrimental to the amenity of local residents. They highlight that a number of nurseries operate across the city within close proximity of residential properties without significant impact to adjoining occupiers.

Therefore, having regard to the comments of the City Council's Environmental Health Team, the lawful use of the site for sports and recreational facilities which could include more audible activities, and the general range of activities within Canoe Lake, it is considered that the proposal would not have a significant adverse impact on the amenity of the adjoining occupiers in terms of increased noise and disturbance.

Highways/Parking Implications

Many residential properties to the north benefit from off road parking facilities with additional unrestricted on-road parking provided along Eastern Parade and the adjoining side roads. In the absence of any parking restrictions or requirement for payment, these roads can be busy with visitors to the Canoe Lake area and the wider seafront, particularly at weekends and week days during summer months. However, it is considered that the area does not suffer from any significant parking issues that are common elsewhere within the city.

Notwithstanding the generally light traffic flows on the surrounding highway network which encourages walking and cycling, it is accepted that the proposal would result in a number of children arriving and leaving the site by car. Activity associated with the pick-up and drop-off of children at a nursery would generally be spread across a longer period when compared to that of a school, and will vary depending on parents working patterns. This would reduce the number of vehicles manoeuvring during at any given period, unlike a school where all pupils start and finish at the same time. Regard must also be given to the existing lawful use of the site where there is not only a demand for pick-up and drop-off, but also a requirement for long term parking spaces for members of the bowling club throughout the day.

The application has been considered by the City Council's Highways Engineer who concludes that for the reasons highlighted above, the proposal would not have a significant adverse impact on the surrounding highway network and would not significantly increase the demand for parking beyond that of the existing lawful use. Given the proposed hours of operation the nursery would not affect resident and visitor parking facilities during the evening and weekends. Furthermore, and as highlighted above, having regard to the proximity of residential development within the surrounding area and the ease of access on foot, it cannot be assumed that all staff and children would arrive by car.

In respect of safety concerns raised within representations, the City Council's Highways Engineer has confirmed that accident analysis for the past 5-year period indicates no pedestrian injury accidents in the vicinity of the site. With ample on street car parking available in the surrounding area and general light trafficking, the Highway Authority cannot foresee any highway safety issues with the development.

Flood risk

The application site is shown to be located within, but on the very edge, of the indicative flood plain (Flood Zones 2 & 3 of the Environment Agency's Flood Maps). However, the site is also located within the Southsea flood cell as identified in the Portsea Island Coastal Defence Strategy. This area is covered by the Interim Position between Portsmouth City Council and the Environment Agency for the provision of flood defences. This agreement assumes that the flood risk management infrastructure will be provided to at least the 1:200 year standard of protection by the time that it is required.

The proposal has been considered in line with paragraphs 100-108 of the NPPF which seeks to ensure that inappropriate development in areas at risk of flooding is avoided where possible by directing development away from areas at highest risk. Having regard to Policy PCS12 (Flood Risk) of the Portsmouth Plan, there is no requirement in this instance for the applicant to apply the sequential test, which would identify more suitable sites within areas of the city at lower risk of flooding. However, there is a requirement for the exception test to be met.

In this respect, it is accepted that the proposal would represent a more vulnerable use when compared to the previous 'sports and recreation' use. However, the wider sustainable benefits of the use have been identified and it is considered that the proposal would not result in an increased risk of flooding elsewhere. Safe/dry escape routes would also be available towards the south and east should a sudden flood event occur, which is considered unlikely. Improvements to flood risk infrastructure along the seafront has also been taken into consideration.

The application is also supported by a Flood Risk Assessment that seeks to demonstrate that the development and its occupiers would be safe from flooding. The conclusions of this assessment are considered to be reasonable and residual flood risk measures that can be taken at the site are appropriate. These residual measures include, sealed service ducts, location of electrical equipment above predicted flood levels and access to a flood warning services can be required through the inclusion of a suitably worded planning condition.

Other matters raised within representations

A number of representations suggest that there are a number of alternative more suitable locations for nurseries within the city. However, there is no requirement for a sequential test and therefore, the application must be determined on its own merits. This would be the case for all future applications within the area and any decision on this application would not set a precedent.

Conclusion

In conclusion, it is considered that the wider public benefits of the proposal in providing early years childcare places in an area of the city where there is an identified need would outweigh the presumption against the loss of protected open space and existing sports facilities at a site. The minor physical alterations and additions would be acceptable in design terms preserving the open character of the site and the contribution it makes to the conservation area and the wider seafront area and the setting of Cumberland House and Southsea Common. Having regard to the current lawful use of the site for sports and recreational activities, it is considered that the proposal would not put significant additional pressure on the surrounding highway network or have a significant adverse impact on the amenity of the occupiers of adjoining and nearby properties. Based on the points above it is considered that the proposal would be in accordance with policies PCS9, PCS12, PCS13, PCS17 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF and The Seafront Masterplan SPD.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 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: 14.1993.100, 14.1993.104 Rev-A, 14.1993.102 Rev-A and fencing image received on 24.4.2014.

- 3) Development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority, or within such extended period as may be agreed with the Local Planning Authority:
- a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the history of the site [as discussed above] and in accordance with BS 10175:2011 +A 1 :2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA,
 - b) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.
- 4) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition (3)b that any remediation scheme required and approved under the provisions of conditions (3)b has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). Unless otherwise agreed in writing by the LPA such verification shall comprise (but not be limited to):
- a) as built drawings of the implemented scheme
 - b) photographs of the remediation works in progress
 - c) certificates demonstrating that imported and/or material left in situ is free of contamination.
- Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under conditions (3)b.
- 5) No development shall commence on site until a scheme for the safeguarding of all trees, shrubs and hedges on and immediately adjoining the application site from damage as a result of proposed works in accordance with British Standard:5837 (2005) has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.
- 6) The materials to be used in the construction of the external surfaces of the extensions and refuse store hereby permitted shall match, in type, colour and texture those on the existing building.
- 7) The boundary fence (including supporting structure) hereby permitted shall be colour treated in green or such other colour as may be agreed in writing with the Local Planning Authority and shall be permanently retained in that condition.
- 8) The day nursery hereby permitted shall, unless otherwise agreed in writing by the Local Planning Authority, incorporate the flood resilience measures set out within the submitted Flood Risk Assessment.
- 9) The day nursery hereby permitted shall remain closed outside of the hours of 7am-6.30pm Monday to Friday.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and or re-enacting that Order with or without modification) no building, structure or other alteration permitted by Class A or Class B of Part 32 of Schedule 2 or Class A of Part 2 of Schedule 2 of the Order shall be erected on the application site without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

11) Permission is hereby granted for use of the site as a day nursery within Use Class D1 of the Town and Country Planning (Use Classes) Order 1987 and shall not be used for any other purpose within Class D1 without the prior written permission of the Local Planning Authority obtained through the submission of a formal 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) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 4) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 5) In order to protect the existing landscape features of amenity value from damage to health and stability (including root systems) and the character and appearance of the surrounding area, in the interests of amenity in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
- 6) In the interests of visual amenity having regard to the sites location within 'The Seafront' Conservation Area in accordance with policy PCS23 of the Portsmouth Plan.
- 7) In the interests of visual amenity having regard to the sites location within a conservation area in accordance with policy PCS23 of the Portsmouth Plan.
- 8) To minimise the risk from flooding in accordance with policy PCS12 of the Portsmouth Plan.
- 9) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 10) In order to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
- 11) In order that the Local Planning Authority may exercise further control of potential impacts from the wide range of alternative uses within Class D1 by different patterns of activity, hours of operation, parking/servicing or noise and general disturbance, having regard to the character of the locality and in the interests of the amenities of occupiers of nearby properties, to accord with policies PCS17 and PCS23 and the aims and objectives of the Seafront Masterplan SPD.

PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the pre-application process to achieve an acceptable proposal without the need for further engagement.

SOUTHERN PAVILION AND BOWLING GREENS ADJACENT TO EASTERN PARADE SOUTHSEA

CHANGE OF USE OF BOWLING PAVILION TO CAFE AND EXTERNAL ALTERATIONS TO INCLUDE CONSTRUCTION OF 2 SINGLE STOREY SIDE EXTENSIONS AND REPLACEMENT CLADDING, FORMATION OF 4 ARTIFICIAL GRASS TENNIS COURTS TO SOUTHERN BOWLING GREEN, INSTALLATION OF TEMPORARY DROPPED KERB AND ACCESS FROM EASTERN PARADE; INSTALLATION OF 2.75M HIGH CHAIN LINK BOUNDARY FENCE; REGRADING OF NORTHERN BOWLING GREEN AND ASSOCIATED LANDSCAPING

Application Submitted By:

PLC Architects

On behalf of:

Canoe Lake Leisure Ltd

RDD: 2nd April 2014**LDD:** 8th July 2014**SUMMARY OF MAIN ISSUES**

The key issues in this application are whether the principle of the development is acceptable in the location proposed having regard to its designation as protected open space and previous leisure use, whether the development would be acceptable in design terms, whether it would preserve or enhance the character and appearance of the 'Seafront' and 'Craneswater & Eastern Parade' Conservation Areas, whether it would preserve the setting of Cumberland House which is listed for its special architectural or historic interest (Grade II), whether it would have a significant adverse impact on the residential amenity of adjoining occupiers, whether it would be acceptable in highways terms and whether the proposal would result in an increased risk of flooding at the site.

The Site and surroundings

This application relates to a former bowling club located to the south of Eastern Parade within part of the seafront commonly referred to as Canoe Lake. The site itself incorporates the two bowling greens, two areas of land providing landscaping and open lawn, and the smaller of two pavilions (former ladies bowls pavilion). The site is bounded by Eastern Parade to the north, allotment gardens, an electricity sub-station and Cumberland House (Grade II Listed) to the west, a tree lined footpath to the east, and further recreational uses to the south. The site is located within the 'Seafront' Conservation Area (No.10), within the boundary of Southsea Common which is included on the Register of Historic Parks and Gardens and abuts the 'Craneswater & Eastern Parade' Conservation Area to the north. The site is also located within the indicative flood plain (Flood Zones 2 & 3).

The wider Canoe Lake area comprises a range of leisure uses and attractions including a boating lake, child play areas, a museum, model village, grass and hard surface tennis courts, basketball court, cricket club, 9-hole golf course, formal gardens and large open grassed areas popular for sporting and recreational activities. There are also a number of small tearooms and cafés. A mix of residential properties along Eastern Parade forms the backdrop to the seafront and marks the boundary between the open character of the coastline and denser residential development to the north. Generally the Canoe Lake area has a pleasant verdant character with an air of spaciousness provided by large areas of open space. This is however, reduced to the

south and east of the application site where a mixture of hedges and fences divide the various recreational uses, and views towards the sea are obscured by the partially dismantled Lumps Fort (locally listed).

The proposal

Planning permission is sought for the change of use of the bowling pavilion to form a café and external alterations to include the construction of two single-storey side extensions and replacement cladding, the formation of four artificial grass tennis courts to southern bowling green, the installation of a temporary dropped kerb and access from Eastern Parade, the installation of a 2.75m high chain link boundary fence, the re-grading of northern bowling green and associated landscaping.

A separate planning application (14/00414/FUL) for the change of use of the northern section of the bowling club to form a day nursery with external alterations is also pending consideration.

Relevant planning history

Permission was granted in 1964 (ref.A*25528) for the construction of a bowls pavilion.

Permission was granted in 1987 (ref.A*25528/A) to replace fences around the bowling greens, footpath works and associated tree and shrub planting.

POLICY CONTEXT

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS9 (The Seafront), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS17 (Transport) and PCS23 (Design and Conservation). Saved policy DC21 of the Portsmouth City Local Plan 2001-2011, The Seafront Masterplan Supplementary Planning document (SPD) and Conservation Area appraisals for the 'Seafront' and 'Craneswater & Eastern Parade' Conservation Areas would also be material to the determination of this application.

CONSULTATIONS

Garden History Society

No comments received.

Highways Engineer

The site occupies a plot east of south Parade Pier, directly adjacent to Portsmouth Natural History Museum, and in the vicinity of Canoe Lake and Lumps Fort. The existing building consists of small timber pavilion-style building with one main room and adjoining WCs and kitchen area.

The site adjoins open spaces and public recreation grounds and sees many sports related uses, such as golf and tennis. The site has good pedestrian accessibility, with both the seafront esplanade to the south and Eastern Parade bordering the site to the north.

The site fronts onto Eastern Parade, which has no parking restrictions. The housing is located on the north side of Eastern Parade only, and has off-street parking provision. Eastern Parade is well-used by visitors in Summer months for access to the seafront, Canoe Lake and various leisure facilities, who take advantage of the free parking availability.

The proposal is unlikely to have a significant impact on the adjoining highway.

Contaminated Land Team

Historic maps show the bowling green as MoD land until c.1923, then croquet lawn/bowling green etc. until the present day.

In addition to the above, a site investigation report is held for the Canoe Lake area which identified some elevated concentrations of contaminants. Although the report concluded there was no human health risk based on the current end use of public open space, it would be prudent to sample and assess the shallow soils across the site to determine any potential risks to site workers and the wider environment during the works. In addition the appropriateness of the proposed regarding and re-use of soils on the proposed nursery site to the north will need to be assessed and agreed with the Contaminated Land Team.

Therefore, conditions relating to land contamination are requested.

Environmental Health

When considering the likelihood of loss of amenity caused through noise and cooking odours, it is unlikely that any impact will be caused from the change of use at this location, as the nearest property is located approximately 109 metres away.

I therefore have no objections to this application and do not propose any conditions.

Hampshire Garden Trust

No comments received.

Leisure/Arb Officer

No comments received.

Sport England

The site is not considered to form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184), therefore Sport England has considered this a non-statutory consultation and has not applied its planning policy - A Sporting Future for the Playing Fields of England.

Sport England consulted England Bowls (EB) as the National Governing Body for Bowls to seek comments on this proposed development. This green and the other one to the north were previously home of three Bowling Clubs. EB advised that Portsmouth City Council wrote to the Canoe Lake Bowling Association (CLBA) in 2012 advising them that the existing lease on the clubhouse would terminate and if the Association wished to continue using the facility they would need to maintain the greens and associated building. The Association were not in a financial position to do so which resulted in them leaving the facilities and finding alternative arrangements.

Sport England also consulted the Lawn Tennis Association (LTA) who advised Portsmouth is well served with a number of tennis courts. They advised that all the existing courts in the Southsea area are hard courts so the variation in surface would be welcomed by the LTA. The LTA advised that the design and layout of the four courts should be in compliant with the LTA standards.

In this instance the applicant seeks to replace existing sports facilities with new sports facilities along with extending a building to create a cafe. Sport England does not have any objection to the change of use of the building or extension because the area proposed for the extension is not capable of being used for sport. Whilst Sport England is disappointed that the green is being lost, the Lawn Tennis Association has confirmed that there is a demand for tennis courts in the area whereas the bowling green is not currently in use and is not like to come back into use as a bowling green.

This being the case, Sport England does not wish to raise an objection to this application, subject to a condition relating to the specification of the proposed tennis courts.

REPRESENTATIONS

At the time of writing one letter of representation had been received from a local resident. Whilst the objection appears to relate to proposals elsewhere within the Canoe Lake which are not connected to the submitted application, reference is made to more suitable uses for the former bowling greens (a dog park). Reference is also made to a petition in objection to this and the adjoining proposal (14/00414/FUL). However, despite requesting a copy of this petition, it has not been formally submitted in objection to the application and the grounds of objection are not known.

COMMENT

The determining issues in this application are:

1. Principle of the proposed development;
2. Design, including impact on the setting of a building listed for its special architectural or historic interest and the character or appearance of 'The Seafront' and 'Craneswater & Eastern Parade' Conservation Areas;
3. Impact on residential amenity
4. Highways/Parking Implications;
5. Flood risk

The proposal effectively comprises two separate elements. The first is for the change of use of the former ladies bowling pavilion to form a café following external alterations to extend and re-clad the building. The second element comprises the construction of four all-weather artificial grass tennis courts with associated fencing to replace the southern bowling green. Permission is also sought for a temporary access onto Eastern Parade for construction traffic and the regrading of the northern bowling green with material excavated during the construction of the four tennis courts.

Principle of the proposed development

As part of Portsmouth City Council's budget savings in February 2011, it was agreed that the maintenance costs of bowling greens and pavilions across the city would be transferred to the Bowls Clubs/Associations when their leases expired in March 2013. The clubs based at Canoe Lake opted not to take on these responsibilities and this site ceased its use as a bowling green on 1 April 2013. The bowling club has remained vacant since 1 April 2013 and has been subjected to various forms of vandalism as a result of inactivity and the quiet, dark and relatively secluded character of the area at night.

Following its closure, suitable alternative uses were considered having regard to the City Council's Seafront Strategy and The Seafront Masterplan Supplementary Planning Document (SPD). A market engagement exercise took place between 22 July and 23 August 2013 to identify potential uses for this and adjoining sites. No proposal was received to continue the use of the site as a bowling club at no cost to Portsmouth City Council. A report approved by the Cabinet Member for Culture, Leisure and Sport on October 11 2013 recommended the use of the former ladies bowls pavilion and the southern bowling green as a café/restaurant. An open tender process took place between November 2013 and January 2014.

Following a successful tender process, the applicant has now applied for the change of use of the former ladies pavilion, with two small extensions, and the construction of four all-weather tennis courts replacing the southern bowling green and part of the adjoining lawn. With the exception of the existing pavilion, the site is allocated as protected open space by policy PCS13 of the Portsmouth Plan. This policy states that: 'The City Council will work collaboratively to protect, enhance and develop the green infrastructure network in the following ways: Refusing planning permission for proposals which would result in the net loss of existing areas of open space and those which would compromise the overall integrity of the green infrastructure

network in the city, unless there are wider public benefits from the development which outweigh the harm'. The supporting text to this policy states: 'There is a great deal of pressure on Portsmouth's green infrastructure network from increasing population numbers to climate change and the need for new development sites. The city lacks suitable spaces to provide additional green infrastructure assets to absorb this pressure. Therefore the council's priority will be to focus resources on protecting, enhancing and linking together the existing network. There will be a presumption against any development involving the net loss of open space unless there are wider public benefits that outweigh the harm of this loss'.

Whilst the site is allocated as protected open space, it should be noted that the policy does not, at any point, refer to public open space. There are a number of areas of protected open space across the city that are not readily open to the general public (free of charge) or are occupied by private business and the MOD (eg. 'Tenth Hole' 9-Hole Golf Course, 'Goals' football pitches, HMS Temeraire, HMS Excellent, Portsmouth Grammar School Playing Fields). Whilst these areas generally provide sports and recreation facilities, they are also protected due to the contribution they make to natural habitats, green corridors and the visual relief they provide to the dense urban environment in which they are located.

Section 8 the National Planning Policy Framework (NPPF) highlights the role the planning system can play in facilitating social interaction and creating healthy, inclusive communities. Paragraphs 73 & 74 state: Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up to date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required....Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss'. Sport England have confirmed that that the site does not form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure)(England) Order 2010.

It is unfortunate that a long term occupier cannot be identified to continue the use of the bowling club at no cost to Portsmouth City Council. However, it is encouraging that the applicant seeks to replace the bowling green with alternative sports facilities which are welcomed by the Lawn Tennis Association and would complement and enhance the role of the adjoining tennis club. As a result of the provision of enhanced sporting/recreational facilities, it is considered that this element of the proposal would be acceptable in principle and would retain the open character of the site.

To support the improved sport/recreational facilities at the site, the applicant also proposes the change of use of the former ladies pavilion to a café. This would involve the construction of two small extensions and the formation of a small refuse storage area. This would result in the loss of approximately 34sq.m. of protected open space. In line with the requirements of the NPPF, the applicant has provided a brief justification for the loss of these areas.

The applicant highlights that the proposed extensions are necessary to bring a long term vacant building that has fallen into a poor state of repair back into long term use. Visual enhancement to the original building (explored below), long term maintenance and security, improved landscaping, the creation of a new entrance into Canoe Lake, improved public access to areas previously reserved for users of the bowling club and the contribution the proposal would make towards the objectives of the Seafront Master Plan are also cited as wider benefits. These are all considered to be valid points. Sport England have also highlighted that the small areas that

would be lost to each end of the building are not capable of being used for sport due to their position between the building and boundary treatments.

As highlighted by the applicant, the Seafront Master Plan identifies a number of objectives that should underpin all development proposals for the Seafront including the re-use of existing buildings and improvements to public spaces. These include but are not limited to: Introducing a vibrant mix of leisure and tourism uses to the area, including small scale cafes and restaurants that will attract people to the Seafront all year round; and protecting the open nature of Southsea Common and other public spaces, and the valuable habitat at Eastney Beach.

Having regard policy requirements of PCS13 of the Portsmouth Plan and the provisions of the NPPF, it is considered that the wider public benefits of the proposal, as highlighted above, would outweigh the loss of the two small areas of open space that are considered to be of limited value due to their proximity to the pavilion and relationship with the adjoining boundary treatments. The proposal would also contribute towards the wider objectives of the Seafront Masterplan in providing a vibrant mix of leisure and tourism uses. Therefore, the principle of the proposed uses would be acceptable.

Design, including impact on the setting of a building listed for its special architectural or historic interest and the character or appearance of 'The Seafront' and 'Craneswater & Eastern Parade' Conservation Areas

The former ladies pavilion is of a fairly typical design with an open veranda to the northern elevation looking onto the bowling greens. Unfortunately the more prominent elevation, fronting the busier section of Canoe Lake to the south, is less detailed and does not possess the distinctive charm of the northern elevation. Due to its limited scale and in order to make the use of the building economically viable, the applicant proposes the construction of two small extensions to the east and west facing elevations to provide a kitchen and internal seating areas. New Cedar board cladding, timber windows/doors and shutters, and a new artificial slate roof are also proposed. A small compound to the north of the building would provide storage for refuse and recyclable materials.

To the east, the existing bowling green would be replaced with four all-weather artificial grass tennis. A new 2.75 metre high chain link fence, set in from the existing boundary treatments, would enclose the tennis courts and form the boundary with the proposed nursery (ref.14/00375/FUL) to the north.

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; relate well to the geography and history of Portsmouth and protect and enhance the city's historic townscape and its cultural and national heritage.

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

The proposed extensions are considered to be of relatively modest scale representing subservient features in relation to the original building and maintaining a degree of symmetry. The application of new Cedar board cladding would help enhance the traditional style of the pavilion and the integration of the two extensions. With the installation of an artificial slate roof, to replace the existing felt roof, and the introduction of new windows and timber shutters, it is considered that the proposed alterations and additions would significantly enhance the

appearance of the pavilion whilst retaining its original charm and character. The creation of the new entrance with associated landscaping and seating areas would generate activity and enhance the visual appearance of the southern elevation of the building which currently turns its back to one of the busiest sections of Canoe Lake.

Whilst the loss of the lawn bowling green is unfortunate, its replacement with artificial grass tennis courts would preserve the verdant and open character of the site and the contribution it makes to the wider area. The proposed fencing would be consistent with the boundary treatments that enclose the existing grass tennis courts to the east and that proposed as part of the adjoining application (14/00414/FUL). The fencing would be obscured along part of its length by a high hedge and would continue to provide views across the application site retaining the sense of openness that is apparent within the area. The permanent use of the site would also ensure its long term maintenance and deter vandalism that has recently detracted from the quality of the area. The re-grading of the northern bowling green, raising it by approximately 0.2 metres, would not significantly alter its appearance.

Having regard to the relatively limited scale of the works, and the degree of separation from Cumberland House (Grade II listed), with intervening boundary features, it is considered that the proposal would preserve the open nature of the site and the contribution it makes to the character and appearance of the Conservation Area. In addition the proposal is considered to preserve the setting of the Cumberland House and this particular section of Southsea Common.

As the proposal is seen to preserve the setting and character of the designated and non-designated heritage assets within the area, the requirements of paragraphs 132-134 of the NPPF, which seeks to address the significance of any harm caused by development, would not be applicable in this instance.

Impact on residential amenity

The proposed tennis courts and outdoor seating areas would be located towards the southern part of the site, approximately 65 metres from the nearest residential properties on Eastern Parade. The degree of separation between the former ladies pavilion and the nearest residential property increases over 100 metres.

The application has been considered by the City Council's Environmental Health Team who advise that as a result of the degree of separation, any loss of residential amenity caused through noise and cooking odours is unlikely. Regard is also given to the lawful use of the site for sports and recreational facilities which could include more audible activities.

Whilst no details in respect of extraction equipment have been provided, having regard to the degree of separation to residential properties and the views of the Environmental Health Team, it is considered that the proposal would not have a significant adverse impact on the amenity of the adjoining occupiers. However, in the absence of any details relating to extraction equipment associated with cooking operations at the café, it is considered necessary and reasonable to impose a condition requiring that details of such equipment be submitted to and approved by the Local Planning Authority. The installation of such equipment may also require planning permission sought through the submission of a separate formal planning application.

The applicant has indicated that the hours of operation would be 10am-4pm during summer months and 11am-3pm during winter months. One of the objectives of the Seafront Masterplan is to encourage activity across the seafront throughout the day all year round. Therefore, whilst it may not be the intention of the applicant to open into the early evening at this stage, the principle of doing so would be acceptable given the character of the area and the degree of separation to adjoining residential properties. Therefore, a condition restricting the hours of operation from 7am (in line with the adjoining nursery) and 8pm is considered to be appropriate and would allow the extended use of the café if needed without the submission of a further application.

Highways/Parking Implications

Many residential properties to the north of the site benefit from off road parking facilities with additional unrestricted on-road parking provided along Eastern Parade and the adjoining side roads. In the absence of any parking restrictions or requirement for payment, these roads can be busy with visitors to the Canoe Lake area and the wider seafront, particularly at weekends and week days during summer months. However, it is considered that the area does not suffer from any significant parking issues that are common elsewhere within the city. In addition, light traffic flows on the surrounding highway network encourage walking and cycling throughout the area.

Having regard to the current lawful use of the site as a bowling club, which would generate its own demand for parking throughout the day, it is considered that the proposal would not place significant additional pressure on the surrounding highway network or demand for parking within the area. This view is shared by the City Council's Highways Engineer.

As a result of significant pedestrian activity within Canoe Lake and the limited width and height of the footpath to the east of the site (due to the presence of mature trees), the applicant seeks permission for a temporary access onto Eastern Parade for construction traffic. Whilst this would lead to some limited short term disruption on the adjoining highway, this would be significantly less disruptive and safer than directing construction traffic through Canoe Lake itself. With the inclusion of a suitably worded planning condition requiring that the temporary access be removed and the site returned to its former condition, this element of the proposal is considered to be acceptable in highway safety terms.

Flood risk

The application site is shown to be located within, but on the very edge, of the indicative flood plain (Flood Zones 2 & 3 of the Environment Agency's Flood Maps). However, the site is also located within the Southsea flood cell as identified in the Portsea Island Coastal Defence Strategy. This area is covered by the Interim Position between Portsmouth City Council and the Environment Agency for the provision of flood defences. This agreement assumes that the flood risk management infrastructure will be provided to at least the 1:200 year standard of protection by the time that it is required.

The proposal has been considered in line with paragraphs 100-108 of the NPPF which seeks to ensure that inappropriate development in areas at risk of flooding is avoided where possible by directing development away from areas at highest risk. Having regard to Policy PCS12 (Flood Risk) of the Portsmouth Plan, there is no requirement in this instance for the applicant to apply the sequential test, which would identify more suitable sites within areas of the city at lower risk of flooding. However, there is a requirement for the exception test to be met.

In this respect, the wider sustainable community benefits of the proposal have been demonstrated, and given that there would be no change in vulnerability between the existing and proposed uses, it is considered that the proposal would not result in an increased risk of flooding at this or the adjoining sites.

The application is also supported by a Flood Risk Assessment that seeks to demonstrate that the development and its occupiers would be safe from flooding and could possibly reduce the risk of flooding at the site. The conclusions of this assessment are considered to be reasonable and residual flood risk measures that can be taken appropriate. The residual measures which include, sealed service ducts, location of electrical equipment above predicted flood levels and use of appropriate materials can be required through the inclusion of a suitably worded planning condition.

Other matters raised within representations

One objector suggests that the site should be used as a 'dog park'. As land owner, the City Council has marketed the site for alternative uses through a formal tender process. The successful bidder has submitted the current planning application which should be determined on its own merits.

Conclusion

In conclusion, it is considered that the proposal would preserve the long term use of the site for sports and recreational activities and would significantly enhance the appearance of the pavilion whilst retaining its original character and charm. The wider public benefits of this would also outweigh the presumption against the loss of protected open space. The modest physical alterations and additions would be acceptable in design terms preserving the open character of the site and the contribution it makes to the conservation area, the wider seafront area and the setting of the adjoining heritage assets including Cumberland House.

Having regard to the current lawful use of the site for sports and recreational activities, it is considered that the proposal would not place significant additional pressure on the surrounding highway network or have a significant adverse impact on the amenity of the occupiers of adjoining and nearby properties. Based on the points above it is considered that the proposal would be in accordance with policies PCS9, PCS12, PCS13, PCS17 and PCS23 of the Portsmouth Plan and the aims and objectives of the NPPF and The Seafront Masterplan SPD.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 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: 14.1992.102 Rev-F, 14.1992.106 Rev-A, 14.1992.104 and 14.1992.107 Rev-A.
- 3) Development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority, or within such extended period as may be agreed with the Local Planning Authority:
 - a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the history of the site and in accordance with BS1 0175:2011 +A1 :2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA.
 - b) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.
- 4) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition (3)b that any remediation scheme required and approved under the provisions of condition (3)b has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). Unless otherwise agreed in writing by the LPA such verification shall comprise (but not be limited to):

- a) as built drawings of the implemented scheme
- b) photographs of the remediation works in progress
- c) certificates demonstrating that imported and/or material left in situ is free of contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under conditions (3)b.

5) No development shall commence on site until a scheme for the safeguarding of all trees, shrubs and hedges on and immediately adjoining the application site from damage as a result of proposed works in accordance with British Standard:5837 (2005) has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

6) Prior to first use of the café (Class C3) hereby permitted, equipment shall be installed to suppress and disperse any odours and fumes emitted from cooking operations arising from this use in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The equipment shall then be installed in accordance with the approved details and shall be permanently retained in that condition.

7) The boundary fence (including supporting structure) hereby permitted shall be colour treated in green or such other colour as may be agreed in writing with the Local Planning Authority and shall be permanently retained in that condition.

8) Prior to first use of the café hereby permitted, the refuse store and associated enclosure shall be provided in accordance with the approved drawings and shall thereafter be retained.

9) The cafe hereby permitted shall, unless otherwise agreed in writing by the Local Planning Authority, incorporate the flood resilience measures set out within the submitted Flood Risk Assessment.

10) The temporary access hereby permitted and shown on approved drawing 14.1992.102 Rev-F, shall be removed and the footway and boundary treatment reinstated and its route landscaped (as shown on approved drawings) within six calendar months of commencement of development or such other period as may otherwise be agreed in writing with the Local Planning Authority.

11) The café premises hereby permitted shall remain closed and vacated by members of the public outside of the hours of 7am-8pm.

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and or re-enacting that Order with or without modification) the former pavilion shall not be used for any purpose other than as a café/restaurant within Class A3 without the prior written permission of the Local Planning Authority obtained through the submission of a formal 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) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 4) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.

- 5) In order to protect the existing landscape features of amenity value from damage to health and stability (including root systems) and the character and appearance of the surrounding area, in the interests of amenity in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
- 6) In order to protect users of the surrounding area from nuisance caused by excessive cooking odours, fumes and noise, in accordance with policy PCS23 of the Portsmouth Plan.
- 7) In the interests of visual amenity having regard to the sites location within a conservation area in accordance with policy PCS23 of the Portsmouth Plan.
- 8) To ensure that adequate visually acceptable provision is made for the storage of refuse and recyclable materials having regard to the sites location within a conservation area in accordance with policies PCS15 and PCS23 of the Portsmouth Plan.
- 9) To minimise the risk from flooding in accordance with policy PCS12 of the Portsmouth Plan.
- 10) In the interests of highway safety having regard to Eastern Parade's designation as a 'Primary and Distributor Road' and to ensure a satisfactory landscaped setting for the development in accordance with saved policy DC26 of the Portsmouth City Local Plan 2001-2011 and Policy PCS23 of the Portsmouth Plan.
- 11) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 12) In order that the Local Planning Authority may exercise further control of potential uses having regard to the specific judgement that has made in respect of the wider public benefits of the proposal which outweigh the presumption against the loss of protected open space; and to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the Seafront Masterplan SPD.

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

14/00384/HOU

WARD:COSHAM

22 ST JOHNS ROAD PORTSMOUTH

CONSTRUCTION OF CONSERVATORY TO REAR ELEVATION (RESUBMISSION OF 13/01230/HOU)

Application Submitted By:

C H Planning & Sales

On behalf of:

Mr Colgate

RDD: 2nd April 2014

LDD: 29th May 2014

SUMMARY OF MAIN ISSUES

The main determining issues are whether the design of the proposed conservatory is appropriate in the context of the character and appearance of the recipient dwelling and whether the conservatory would relate appropriately to neighbouring properties in terms of residential amenity.

The site and surroundings

The application site comprises a detached dwellinghouse on the southern side of St Johns Road. Ground levels throughout the site fall away significantly southwards; access from the existing rear veranda to the rear garden area is via a series of steps. The rear garden depth measures approximately 35m. Detached houses are located to the east and west.

The application seeks planning permission for the construction of a conservatory to the rear elevation.

The relevant planning history includes:

13/01230/HOU - Construction of a conservatory to the rear - withdrawn 16/12/13 following officer concern regarding its relationship with adjacent properties.

POLICY CONTEXT

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

In addition to the above policy, the aims and objectives of the National Planning Policy Framework are relevant.

CONSULTATIONS

None.

REPRESENTATIONS

One letter of objection and two letters of comment have been submitted by occupiers of the two adjacent properties to the east and west.

The letter from No.24 to the east objects on the grounds of (i) the proposed development being overbearing and oppressive because of its size and height and would result in loss of outlook; (ii) loss of privacy to kitchen/dining area and sun lounge; (iii) loss of light from evening sun; (iv) the plans do not show the height of finished floor level above ground level; and (v) plans do not address existing overhang of roof.

The comments from No.20 to the west seek to ensure that the west elevation of the conservatory will be obscure glazed to protect privacy.

COMMENT

The main determining issues are whether the design of the proposed conservatory is appropriate in the context of the character and appearance of the recipient dwelling and whether the conservatory would relate appropriately to neighbouring properties in terms of residential amenity.

Design

The proposed conservatory would measure 5.25m wide and 3.1m deep. Due to the applicants' preference to have a level floor throughout the ground floor of the house, the finished floor level of the conservatory would be built approximately 1m above ground on a brick plinth with centrally located steps leading down to the garden area. Its overall height (excluding decorative finials) above the existing patio would be 3.7m.

The position, scale, appearance and materials of the conservatory in relation to the main house, window openings and the existing veranda are considered acceptable.

Amenity

Given the height of the proposed conservatory above ground level, the fully glazed nature of the east elevation and its relationship with the neighbouring property, known as No.24, it is considered that there would be significant opportunity to overlook the kitchen/dining room and separate sun lounge of this adjacent property. This loss of privacy, actual and perceived, would be likely to result in a significant loss of residential amenity for the occupiers of No.24.

Existing boundary treatment in the form of a fence and hedge would not overcome the potential for overlooking and therefore it is considered necessary, reasonable and enforceable to require the windows within the east elevation of the proposed conservatory to be obscure glazed and non-opening up to a height of 1.7m above finished floor level. This would protect the amenities of occupiers of the adjacent property whilst still allowing reasonable light and outlook to the proposed conservatory (the top lights on the side elevation and the full height glazing to the south would remain clear glazed and capable of being opened).

The proposed development, as amended, shows the conservatory set in 1.5m from the south-west corner of the house. The depth of the proposed conservatory would extend beyond the blank east facing elevation of the neighbouring property by approximately 1m. The raised height of the proposed conservatory combined with its projection beyond the extension to No.20 would result in an opportunity to overlook the neighbouring property to the west. This loss of privacy, actual and perceived, would be likely to result in a significant loss of residential amenity for the occupiers of No.20.

As in the case of the eastern boundary, the existing fence and hedge would not overcome the potential for overlooking and therefore it is also considered necessary, reasonable and enforceable to require the windows within the west elevation of the proposed conservatory to be obscure glazed and non-opening up to a height of 1.7m above finished floor level to protect the amenities of the occupiers of this adjacent property.

The applicant is willing to accept obscure glazing on the east and west elevations.

Given the size, location and design of the proposed conservatory and the relationship with the neighbouring properties, it is not considered that the proposed development would be an overly dominant feature as seen from neighbouring properties nor one that would result in any significant loss of outlook or light.

Comments on representations

Those dimensions not shown annotated can be scaled off the submitted plans. The amended plans show an infill section to enclose the overhang of the veranda roof - the total depth of the conservatory would be 3.1m.

Conclusion

The proposal, subject to the recommended conditions including one that would secure non-opening obscured glazing to the east and west elevations of the conservatory up to a height of 1.7m above finished floor level, is considered in accordance with policy PCS23 and capable of support.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 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: Block Plan (Amended 2), Proposed Elevations (Amended 2), Floor Plan (Amended 2), Conservatory Elevations (Amended 2).
- 3) All windows (excluding those 1.7m above finished floor level) within the east and west elevations of the conservatory hereby permitted shall be non-opening and glazed with obscured glass (to a minimum of Pilkington Level 3, or equivalent) and shall be permanently maintained in that condition.

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 protect the privacy of the adjacent residential properties and to prevent overlooking 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.

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City Development Manager
30th June 2014