

**1-40 LOMBARD COURT LOMBARD STREET PORTSMOUTH**

**APPLICATION TO VARY CONDITION 3 OF PLANNING PERMISSION 22/00502/FUL IN RELATION TO PAINT COLOUR OF ROOF TERRACE BALUSTRADE.**

**WEBLINK:**

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RK1V8BMOMNZ00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=rk1v8bmomnz00)

**Application Submitted By:**

Mr John Pike  
Pike Planning

**On behalf of:**

Ms Ellie Savidge  
Lombard Court Residents Association Limited

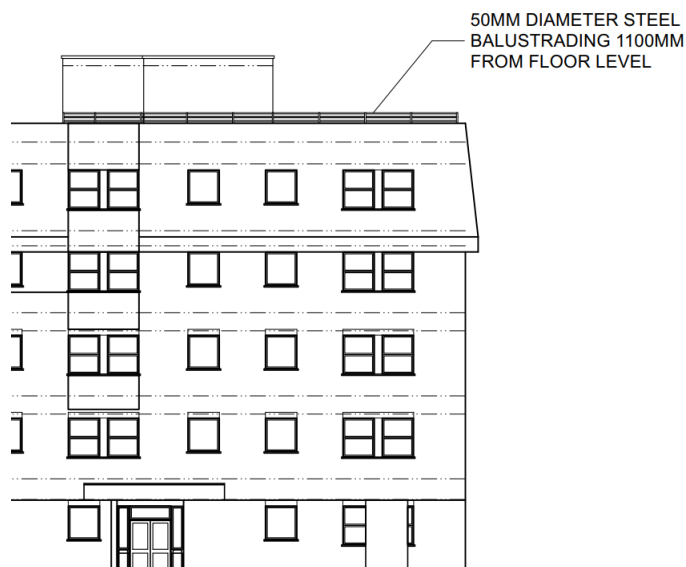
**RDD:** 21st October 2022

**LDD:** 28th December 2022

**1.0 SUMMARY OF MAIN ISSUES**

- 1.1 The application is presented to the Planning Committee on the basis that the condition the subject of this application was imposed by the Planning Committee at its meeting on 10 August 2022 when the planning application for the roof terraces (22/00502/FUL) was considered.
- 1.2 The main considerations within this application are:
  - Impact on the recipient building, and
  - Impact upon heritage assets and the Conservation Area.
- 1.3 Site and Surroundings
- 1.4 The application site comprises a 5 storey building with a flat roof accommodating 40 flats fronting Lombard Street to the west and St Thomas's Street to the south. Flats nos.41-56 lie to the north within a separate block outside of the application site. Surrounding properties are predominantly 2-3 storeys in height.
- 1.5 The property is located within the Old Portsmouth conservation area. It is surrounded by a significant number of listed buildings in both Lombard Street and St Thomas's Street, and the Grade I Cathedral Church of St Thomas is in the High Street to the south-west of the site.
- 1.6 Proposal
- 1.7 Planning permission 22/00205/FUL granted the formation of 2 terraces on the roof of 1-40 Lombard Court, incorporating 50mm diameter steel balustrading, to a height of 1.1m from the roof top floor level. The terraces would be located at the northern and southern ends of the building around two existing access points to the roof.
- 1.8 The current application seeks approval for the removal/variation of Condition 3 of planning permission 22/00205/FUL to allow for a galvanised steel finish to the permitted balustrading around the roof terraces rather than the painted black finish required by the condition as 'Using black paint will require future maintenance and the black colour will

draw more attention to the railings than a galvanised steel finish'. Galvanisation is a manufacturing process where a coating of zinc is applied to steel to offer protection and prevent rust and corrosion for longer. The shiny surface dulls over a number of months.



**Figure 1 - Part of Proposed South-West Elevation**

1.9 Relevant Planning History

1.10 22/00205/FUL - Formation of roof terraces on main roof, to include steel balustrades - conditional permission dated 31.08.2022.

1.11 Condition 3:

The proposed roof level terrace balustrading shall be painted black prior to first use of the terrace hereby approved and shall be retained and maintained as such thereafter.  
Reason: In the interests of visual amenity.

**2.0 POLICY CONTEXT**

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

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

**3.0 CONSULTATIONS**

3.1 None

**4.0 REPRESENTATIONS**

4.1 No representations have been received.

**5.0 COMMENT**

5.1 Design and Impact upon heritage assets and the Conservation Area

- 5.2 Policy PCS23 of the Portsmouth Plan states that all new development must be well designed and, in particular, respect the character of the city.
- 5.3 The proposed steel balustrading would be laid in a horizontal manner, with only approximately 400mm projecting above the existing roof upstand, but much less would be visible from surrounding properties and street level given the relative angles. For this reason it is considered that a galvanised finish to the balustrading would be an acceptable alternative to black paint and indeed may draw the eye less against the skyline.
- 5.4 In light of the open nature of the balustrading, the modest projection above the existing roof upstand and the limited area of accessible terrace created, it is considered that the galvanised balustrading (and roof terraces) would preserve the character and appearance of the Old Portsmouth Conservation Area and not represent harm to the setting of the nearby listed buildings, nor to the Conservation Area. As such, the development would accord with local policy and the provisions of the NPPF.
- 5.5 Since a variation of condition results in a new planning permission being granted (but not an extended time period for implementation) either the original or the new permission could be implemented as they are separate permissions. For this reason, the removal of condition 3 of 22/00205/FUL is recommended rather than an amendment so that either a black painted finish or a galvanised steel finish can be implemented.

#### 5.6 CIL

Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012 with a basic CIL rate of £105/sqm. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2022 basic rate is £156.32/sqm. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy. Since the proposals do not create internal area or a new dwelling, it would appear they would not attract a CIL payment.

#### 5.7 Human Rights

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

#### 5.8 Equality Act

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

#### 5.9 Conclusion

- 5.10 For the above reasons, the creation of the proposed roof terraces and their associated safety balustrading with a galvanised finish rather than a painted black finish is considered an acceptable alternative and is capable of support.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

#### **Time Limits**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of planning permission 22/00205/FUL (i.e. 31/8/22).  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

#### **Approved Plans**

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Location and Site Plans no.0001 B, Proposed Elevations no.0012 C and Proposed Roof Plan no.0010 D.  
Reason: To ensure the development is implemented in accordance with the permission granted.

### **PRO-ACTIVITY STATEMENT**

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