

ST JAMES HOSPITAL LOCKSWAY ROAD SOUTHSEA PO4 8LD

REDEVELOPMENT OF FORMER ST JAMES' HOSPITAL COMPRISING THE CONVERSION OF LISTED BUILDINGS AND LISTED CHAPEL TO PROVIDE 151 DWELLINGS AND ASSOCIATED WORKS INCLUDING DEMOLITION OF EXTENSIONS AND ANCILLARY BUILDINGS, CONSTRUCTION OF NEW 2 AND 3 STOREY HOUSING TO PROVIDE 58 DWELLINGS, RETENTION OF CRICKET PITCH, CLUB HOUSE AND CHANGING ROOMS, PROVISION OF CAR PARKING, ASSOCIATED LANDSCAPING AND OTHER WORKS (PHASED DEVELOPMENT)

<https://publicaccess.portsmouth.gov.uk/onlineapplications/applicationDetails.do?activeTab=summary&keyVal=Q5N8TLMO0N200>

Application Submitted By:

Barton Wilmore

On behalf of:

Mr. Richard Wilshaw - PJ Livesey Holdings Ltd

RDD: 26th February 2020

LDD: 27th May 2020

1. SUMMARY OF MAIN ISSUES

1.1 This application has also now been taken to appeal on grounds of non-determination and the Secretary of State is now the determining authority in this case. The Appellant asked the Planning Inspectorate to request that PCC undertake a further public consultation in light of the number of amended plans submitted with the appeal and the responses to that further consultation are material considerations for the determining authority.

1.2 The key issues for consideration in the determination of the application/appeal are considered to be as follows:

- Principle of development;
- Design and layout;
- Housing supply, mix and standard of accommodation;
- Affordable housing;
- Heritage impacts;
- Residential amenity;
- Highways and transportation impacts;
- Open space, trees and landscape;
- Biodiversity and Appropriate Assessment;
- Flood risk, drainage and utilities;

- Sustainable design and construction;
 - Contaminated land; and
 - Any other matters raised in the representations.
- 1.3 The application was previously reported to the Council's Planning Committee meeting on the 12th of January 2022 with a recommendation for approval subject to conditions and the completion of a Section 106 legal agreement (and by an Update Note to Committee, the resolution of the Appropriate Assessment). The above key issues were considered in the January 2022 Committee report appended as **Appendix 1**.
- 1.4 The Committee resolved to defer the application for four reasons, as set out in the Minutes of the Committee Meeting:
1. Revisit the affordable housing provision;
 2. Design of the new build housing elements;
 3. Retention and replacement of protected mature trees; and
 4. The highway implications of the scheme.
- 1.5 The accompanying Listed Building application 20/00205/LBC was also deferred in order so that it could be determined at the same time as the application.
- 1.6 Two appeals for non-determination were subsequently submitted on the 12th of July 2022. Both the Listed Building and Planning applications are due to be heard by way of a Public Inquiry, which is currently scheduled for April 2022.
- 1.7 This report provides an updated position on the Planning application/Appeal Scheme taking into consideration both the amended plans and documentation submitted post Committee and as part of the Appeal submission and the further representations received as part of the Council's reconsultation on the proposal undertaken at the request of the Planning Inspectorate in October 2022 as set out in detail below.

2. THE PROPOSAL

- 2.1 The Appeal Scheme seeks planning permission for the redevelopment of the site to provide 209 dwellings with 151 flats being provided through the conversion of the main listed hospital buildings and chapel and the construction of 58 new build houses and flats. As part of the proposal, existing extensions to the hospital and ancillary buildings would be demolished; the cricket pitch, club house and changing rooms would be retained; and associated landscaping, parking areas and pedestrian footways would be provided.
- 2.2 As per the existing access arrangements for the application site, primary access would continue to be provided from Locksway Road and Longfield Road for the proposed new build dwellings and conversion dwellings, together with the retention of the existing connections from the site through to Woodlands Walk and Nelson Drive. The proposal also seeks permission for alterations to Solent Drive to provide dedicated parking for the cricket club.

- 2.3 To address the above second and third reasons for deferral of the application, amended plans were submitted by the applicant providing for more traditional new build dwelling types together with an updated layout and landscape strategy, making minor revisions to the scheme, which were subsequently re-consulted upon by the Council following the Committee in February 2022. The updated layout sought to relocate supporting facilities such as bin stores or footpaths which, whilst less convenient for future occupiers, to enable the retention of additional trees on the application site.
- 2.4 The updated layout and landscaping plans referred to above have been submitted with the appeal combining the updated layout that retains additional trees, as consulted upon in February 2022, with the Appellant reverting back to the contemporary dwelling types previously considered by Committee rather than the more traditional new build dwelling types that were subsequently submitted and included in the February 2022 reconsultation. At the request of the Planning Inspectorate, the Council has also undertaken a further reconsultation on the appeal plans and accompanying documents in October 2022.
- 2.5 The proposed accommodation schedule/dwelling mix for the appeal scheme of 209 units is set out below:

	1 bed	2 bed	3 bed	4 bed	5 bed	Total
Conversion	21	96	29	5	0	151
New Build Homes	0	6	36	13	3	58
Total	21	102	65	18	3	209
Total Provision %	10%	49%	31%	9%	1%	

Table 1 - Proposed housing mix

3. POLICY CONTEXT

- 3.1 The January 2022 Committee report set out the policy context for the application. This remains substantially the same with the exception of the Milton Neighbourhood Plan, which has since been adopted on 11th October 2022.
- 3.2 The Neighbourhood Plan includes the Appeal Site as an allocation under Policy STJ1 for a range of uses, including residential houses and apartments or flats. The relevant Neighbourhood Plan policies in the consideration of the appeals include the following:
- HSG1 – Housing Mix
 - HSG2 – Housing Standards
 - EER4 – Connectivity
 - PLD1 – Sustainable Design
 - ENV1 – Local Green Space
 - ENV2 – Green Environment and Biodiversity

- MH1 – Heritage Assets
- TSP1 – Highway Capacity and Impacts
- TSP2 – Balanced Transport Provision
- TSP3 – Footpaths and Cycling Routes
- STJ1 – St James’ Hospital Site

3.3 The above policies have been fully considered as part of this report.

4. CONSULTATIONS

4.1 The following organisations / departments have been consulted on the proposals and their new comments from the October 2022 consultation are summarised below. The full consultation responses are available on public access.

- Natural England - See below
- Historic England (HE) - No additional comments from previous report
- PCC Conservation Officer - No additional comments from previous report
- Hampshire Ecology - No additional comments from previous report
- Highways Engineer (Local Highway Authority - LHA) - No additional comments from previous report
- SUSTRANS - No additional comments from previous report
- Environmental Health (EHO) - No additional comments from previous report
- Contaminated Land Team - No additional comments from previous report
- Tree Officer - No additional comments from previous report
- Landscape Architect - No additional comments from previous report
- Education - No additional comments from previous report
- Public Health - Response received confirming no objection
- Waste Management Service - No additional comments from previous report
- RSPB - No additional comments from previous report
- Hants & IOW Wildlife Trust - No additional comments from previous report
- Eastern Solent Coastal Partnership - No additional comments from previous report
- Environment Agency - No additional comments from previous report
- Hampshire County Archaeologist - No additional comments from previous report
- Hampshire Constabulary (Crime Prevention Design Advisor - CPDA) - No additional comments from previous report
- Head of Community Housing - No additional comments from previous report
- Sport England - Further response received with no additional comments from previous report raised
- Southern Gas Network - No additional comments from previous report
- Southern Electric - No additional comments from previous report
- Southern Water - Further response received with no additional comments from previous report raised
- Portsmouth Water - No additional comments from previous report
- PCC Drainage Team - No additional comments from previous report
- Hampshire Fire & Rescue Service - No additional comments from previous report

- Design South East - Design Review Panel - No additional comments from previous report

Natural England (NE)

4.2 As submitted, the application could have potential significant effects on the:

- Solent and Dorset Coast SPA
- Portsmouth Harbour SPA and Ramsar Site
- Chichester and Langstone Harbours SPA
- Solent Maritime SAC
- Solent and Southampton Water SPA

Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

- An update to the Habitats Regulations Assessment with regard to alone and in-combination impacts from increased recreational pressure, and proposed mitigation
- An updated nutrient budget

Without this information, Natural England object to the proposal.

5. REPRESENTATIONS

- 5.1 Public consultation on this application has been undertaken on several occasions on 25th February 2020, 18th December 2020, 8th December 2021, 24th February 2022 and 6th October 2022 (on the appeal proposal) seeking comments on the proposal and updated and amended plans and submissions.
- 5.2 Site Notices were also displayed on 2nd March 2020 and 18th December 2020 and the application was also advertised in the Press, 'The News', on 6th March 2020, 1st January 2021, 4th March 2022 and 7th October 2022. The public consultation period on the appeal scheme formally ended on 28th October 2022.
- 5.3 The January 2022 Committee report stated that a total of 229 objections had been received from the local community prior to the final round of consultation in December 2021 on the amended scheme, including objections from local Councillors. This included 88 objections received on the original submitted scheme and 141 objection received on the amended scheme which was consulted upon on the 18th December 2020.
- 5.4 In the 6th October 2022 re-consultation on the appeal scheme, 20 objections were received. The responses reviewed the amended and updated plans but raise no new concerns and repeat the objections already received. Individual representations from the Cricket Club, the Milton Neighbourhood Forum, the Milton Neighbourhood Planning Forum and 'Keep Milton Green Group' are reproduced below for completeness.

5.5 Within the original objections received were concerns from Councillors Gerald Vernon-Jackson, Darren Sanders, and Janette Smith and then Councillor Ben Dowling. In the October consultation Cllr Steve Pitt confirmed that the Milton Councillors, Cllr Vernon-Jackson, Barrett and Pitt share the concerns of the Milton Neighbourhood Planning Forum. These comments all covering the points summarised below.

5.6 Reasons for objection raised in the original consultations are retained in the October 2022 consultation and have not been overcome in the opinion of objectors by the amended submission. Those relating to material planning considerations, are summarised below:

- No affordable housing provision
- Increased traffic/parking congestion and rat-running
- Impact on highway safety/danger to school children
- Over-provision of car parking/excessive provision
- No provision for cycle storage and cycle lanes inadequate
- Loss of public access/right of way
- Air pollution and impact on air quality
- Harm to listed building and setting
- Ballroom in listed hospital 'sliced up' for flats
- Loss of heritage/history
- Loss of plant building to the rear (Lancashire House) and industrial history
- Loss of chapel for community use
- Loss of open and green space/communal spaces
- Loss of healthy and mature trees
- No renewable energy or electric charging points
- Poor design of new houses not in keeping with the character of the area
- Intensification/over development of the site/over-crowding
- Impact on the amenity of neighbouring residents - overlooking/loss of light and loss of privacy
- Presence of Japanese Knotweed and damage to buildings
- Impact on SPA from Nitrates and recreational impact on Brent Geese habitat
- No mitigation on SPA impact contrary to habitat regulations
- Impact on wildlife and habitat
- Increase in sewerage and damage to wider environment
- Impact on public health/wellbeing from loss of green space
- Health impacts from air pollution/poor access to health care facilities/poor active travel.
- Impact on crime reduction and community safety
- Impact on health and community infrastructure - insufficient local capacity for doctors /dentists /school places and particularly access public transport.
- Recycling demolition waste
- Loss of hospital and future proofing against pandemics
- Impact on emergency health planning
- Impact on future planning of the area with reference to Langstone Campus

- Contrary to Policy MT4
- Contrary to NPPF with regard to renewable energy
- Contrary to PCC's declared climate emergency
- Not a zero-carbon sustainable development
- Loss of community asset - green spaces.
- Failure to meet Portsmouth Plan objectives 2 (accessible city with sustainable and integrated transport), 6 (healthy city with access to health care and support) and 8 (supporting infrastructure - school places).
- Contribute to high levels of deprivation
- Biodiversity enhancements needed, particularly for Swifts.

Portsmouth and Southsea Cricket Club

5.7 The following comments were made:

- As a community based Cricket Club, the club neither support nor object to the proposals.
- The Cricket Ground has been listed as an Asset of Community Value and should remain so.
- The provision of a long term lease (to include the Country Cottage Pavilion) would provide a security of tenure for the Club to enable it to continue to care for and improve the facility for the good of its members and the wider community.
- Appropriate parking will need to be available to ensure the ground can be used as has historically been the case.
- All existing buildings and fixtures on the ground should remain in situ and be available to the club to ensure the facilities can be used and maintained to the best standard possible.
- The ground should remain a ring fenced facility.
- As stipulated by Sport England in their comments, appropriate protective netting should be provided by the developer to protect persons and property from potential ball strike.

The Milton Neighbourhood Forum

5.8 Objection to the proposal. The key concerns raised are:

- The application for the Hospital Conversion with the cubist house blocks needs to be assessed (together) with 18/00288/OUT proposing 107 new Apartments Houses to the south and south east of the Chapel to appraise the adverse impacts on the landscape and visual amenity of the Hospital within the St James' site.
- Adverse impacts will arise from increased traffic generation and air pollution; stresses on local amenities such as schools doctors and dentists; and increased recreational stresses on the open spaces and Langstone Harbour habitats.
- The junctions at Milton/Locksway Rd and Moorings Way/Velder Avenue are already highly congested.
- The development feeds into AQMA 9 which for years has shown rising trends and the solution is to reduce the car-space numbers and increase secure cycle-storage.

- The scheme should deliver wider public benefits to outweigh the substantial harm to the setting of the Hospital from without and from within the landscape.
- The claim that there is a need for cross subsidising the costs of the Hospital conversion with the proposed development of 58 new houses in the Phase 2 is not justified.
- The proposed demolition of the later buildings at the southern frontage of the Hospital will improve the setting and allow more of the architectural features of the hospital to be exposed.
- The setting of the Hospital between Chapel Way and Overton Wing is destroyed by the intrusion with nine discordant blocks and 38 separate car-spaces.
- The opportunity to de-clutter this area should have been the objective so that the Edwardian Villa known as Falcon House can retain its prominence in the landscape.
- The scheme interferes visually both in terms of the architectural harmony of the listed building but also with the clarity of the landscape.
- This "Eastern Airing Court" curtilage preserves the setting of the Hospital and Chapel within the landscape in the same way the landscape sets the Hospital and the Chapel within it.
- The proposed new build houses appear so discordant with the style of the Hospital they visually clash compounding the "harm" to the Hospital's setting.
- By building new houses with flat roofs the installation Solar PV generation is not possible.
- Building three-storey blocks so close will spoil views from within the Overton Wing
- The introduction of car parking spaces between Fernhust and Lowry Wings and Overton and Langstone Wings respectively, will cause unnecessary nuisance and 25 disturbance to the new residents and further disrupt the setting.
- The applicant's Viability Assessment assumes the landowner is entitled to a "competitive return" to bring his land into economic re-use but that does not apply if the landowners intentions preceded the designation of Policy MT4.
- Para 195 and 196 of the NPPF requires the justification of harm can only be outweighed by the wider Public Benefits of the scheme. If the cubist blocks will not accommodate Solar PV and the City has a "Zero carbon Emissions Target" for 2030 and there are no Affordable Housing then the scheme cannot be considered to be in the wider public benefit.
- The application does not accord with the NPPF paras 65; 98; 111; 130; 131; 132; 134; 200; and 201; in relation to affordable housing; green space loss; unacceptable impact on the road network; visual amenity and loss of trees; and conservation of heritage assets within their setting.
- The Roundabout and Airing Court greenspaces are essential to the setting of the Hospital and must be disregarded in any calculations towards green space enhancement. There can be no justification for the loss of "Matrons Garden" (protected by Policy PCS13) on the grounds the loss is being compensated for elsewhere. Notwithstanding the loss of "Langstone" and "Turner" Blocks, there is a minimum of 4,091m² loss of Open/Green Space using PJ Livesey's drawings which we have concerns with, and a maximum of over 7,000m² using a simplistic, but more obvious method of deducting space gained with demolitions from gross losses in open space occupied by new buildings.

- There needs to be robust evidence Milton Rd; Velder Avenue; and Eastern Roads will accommodate the redevelopment of St James' Hospital taking account of the redevelopment of Kingston Prison.
- The revised application reduces the total number of trees to be felled against the original proposal. However, because the application still proposes building on green spaces inappropriately, too many are lost without justification.
- There are no "demonstrable wider" public benefits of losing Open Space in a City with deficits of 60%, using the Nationally accepted "Fields-In-Trust" Standard, if to do so compromises the effectiveness of other Policies with different aims and objectives.
- The Milton Neighbourhood Plan was made on 11th October 2022 and this proposal conflicts with the Milton Neighbourhood Development Plan Policies MH1; PLD1; ENV1 and 2; STJ1; and TSP1 and 2.
- This proposal is offering development inconsistent with the objectives of local and national planning policy and should be refused.

Keep Milton Green

5.9 Objection to the proposal with the following comments being made:

- The proposed 3 storey block at the north of the site will impact on the amenity of these residents of Brasted Court which will it overlook their gardens/into their properties, and there is also a concern that sunlight could be blocked.
- There will be a net loss of 57 trees which help with surface water drainage and air quality, and if permission is granted the developer should plant mature replacement trees.
- The development will result in the loss of the green open spaces including the green open space to the north of St James Green and the multi-faith chapel garden.
- The bandstands have been removed which should be retained and maintained as part of the history of the site.
- Large areas of the accessible green space will be privatised and turned into private gardens.
- No affordable housing will be delivered.
- The proposed housing mix does not meet NDSS standards.
- The scheme will have a detrimental impact on the operation of the local highway network.
- The local road network cannot accommodate the additional traffic generation.
- The scheme does not include any renewable energy and will not help the City meet the ambition to be carbon neutral by 2030.
- Additional traffic movements and the loss of established trees will exacerbate air quality problems.
- There will be no EV charging points provided.
- The new residents to the area will put additional stress on places like Milton Common Nature Reserve and Langstone Harbour, which requires a payment to mitigate this problem.
- The latest house type designs have been poorly thought through and their new positions on the site are not ideal.

- The chapel was always a popular place for patients, visitors, staff and residents and it is disappointing that a community use could not be found for the building.
- The application site (Phase 2) and the Homes England site (Phase 1) should be considered holistically particularly as they are linked historically.
- No information has been provided on waste removal.
- There is no mention of disabled housing on the site.

A Petition has also been submitted to the Council, hosted on an external website, which has 1,545 signatures at the time of drafting this report. The Petition contains a variety of comments, focused on concerns regarding the proposed use of the site for housing, the number, design and siting of the houses proposed, the impact on trees, green space, local habitat and carbon, and the impact on local infrastructure including the local network and services such as schools and GP surgeries.

Portsmouth Society

- 5.10 The Society is concerned that the hospital site is being broken up and developed piecemeal without an overall master plan which integrates the various developments, allows for the necessary infrastructure upgrade and conserves the parkland feel across much of the site. The problem, as with Ukraine and the Crimea, is that this started long ago with the Fair Oak and Edenbridge developments without protest, and now the approach appears to be accepted as normal.

Our major concerns with the current proposal are that:

- It is proposed to fell too many trees. An opportunity to considerably develop the site and to enhance it has been lost – instead, opting for maximum habitation in aesthetically bland housing.
- Lancashire House was built before WWII (in our view) and as such, should be regarded as listed along with the main building and protected accordingly. This proposal demolishes it when, in our view, the NPPF proposal to re-use it as a community energy hub makes a great deal more sense.
- Had a holistic plan been developed, affordable housing could have been cross subsidised across the developments. This piecemeal approach likely means that no affordable housing will be included on the site, rather than using the same justification to fund the works to the hospital with a greater density of surrounding buildings.
- The clearance of the later additions surrounding, or adjoining, the Listed Hospital building does improve the Hospital's setting. These were generally unsympathetic functional buildings erected without formal planning consent under Crown development rules. The opening up of the southern frontage is especially welcome.
- The intrusion of the "Harrison" three-storey blocks so close to the Hospital's eastern elevations is particularly harmful to the setting, but they also damage the visual amenity from the west. The setting of the Hospital was always going to be impaired by the erection of new buildings so close to the Hospital's elevations, but the adoption of "Harrison" house types exposes how little regard has been taken of the Hospital's grandeur in its open setting surrounded on the east and west with the Airing Courts. These units are unimaginative and plain three-storey

examples of an "off-the-peg" standardised house-type with no regard to their suitability to the site.

- The Design Review advised on adopting "design cues" from the Grade II Hospital: - we can't see any of these either. It cannot be difficult to introduce quoins on corners and around window and door reveals. It should not be impossible either to select different coloured brick courses on the houses or offer some with flint or stone finishes to break up their monotonous and bland appearances.
- The reversion to pitched roofs is less brutal than the scheme's stark boxy shapes but inevitably there would need to be a reduction in storey height in order that the visibility of the Hospital retains its prominence within the landscape. It would also allow those occupiers within the Hospital itself, a better appreciation of the landscape they reside in by affording them a less obstructed view looking outwards.
- A key "Design Cue" from the George Rake Asylum and its early additions is symmetry. This proposal is limited in so far as too little is made of the southward orientation of buildings on the western flanks. The Hospital's redevelopment would be better served by avoiding the unimaginative north/south linear development on the boundary with Mayles Road (which could otherwise also introduce added benefits from preserving a continuous "green corridor" for wildlife by enlarging "Matron's Walk" and better utilising solar radiation for renewable energy), by replacing it with thoughtfully designed pairs of s/detached two-storey houses in rows with south facing roof-pitches accessed from the existing perimeter road known as "Langstone Way".

6. COMMENT

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

- Principle of development;
- Design and layout;
- Housing mix and standard of accommodation;
- Affordable housing;
- Heritage impacts;
- Residential amenity;
- Highways and transportation impacts;
- Open space, trees and landscape;
- Biodiversity and Appropriate Assessment;
- Flood risk, drainage and utilities;
- Sustainable design and construction;
- Contaminated land; and
- Other matters.

Principle of development

6.2 The principle of the development was considered in the January 2022 Committee report and the conclusions drawn then remain unchanged. The proposal accords with Saved Policy MT4 of the Portsmouth City Local Plan 2001-2011 and Policy STJ1 of

the newly adopted Milton Neighbourhood Plan and the principle of the residential conversion of the hospital and housing development within the grounds of the hospital is acceptable.

Design and layout

- 6.3 The design and layout of the proposal were considered in the January 2022 Committee report and the conclusions drawn then remain unchanged. The minor amendments made to the layout post Committee do not change the overall assessment undertaken.
- 6.4 The Appeal Scheme, which locates new development in visually and historically less sensitive areas to the north of the site, enhances the views along the principal axial approach from the south and reinstates the historic landscape setting of the Hospital building in accordance with the aims of Policy PCS23 of the Portsmouth Plan (2012) and the NPPF.
- 6.5 The overall heights are subordinate to the main dominant hospital building and considered to respect the heritage landscape setting. The proposed new buildings within the scheme will be of excellent architectural quality and satisfies the aims of Policy PCS23 of the Portsmouth Plan and the guidance set out in the NPPF.
- 6.6 Overall, the layout and arrangement of the proposed development, the design of the new houses and proposed layout of internal service roads, footpaths and cycle routes as illustrated in the appeal plans satisfy the aims of Policy PCS23 and guidance contained in the NPPF subject to further details relating to materials, landscaping (hard and soft), and lighting to ensure high architectural quality finish and well defined public and private spaces.

Housing supply, mix and standard of accommodation

- 6.7 Housing supply, dwelling mix, accessibility and the standard of accommodation proposed were considered in the January 2022 Committee report and the conclusions drawn then remain unchanged.
- 6.8 Policy PCS19 seeks the provision of accommodation to meet the needs of families and larger households, requiring a target of 40% family housing to be achieved where appropriate. The proposed dwelling mix of the 209 dwellings, with 123 flats (1 and 2-bedroom) and 86 houses and flats (3, 4 and 5-bedroom) would exceed the 40% target at 41% (see Table 1 under paragraph 2.5 above).
- 6.9 The applicant's submission includes a breakdown of internal floor areas by unit type which all achieve the minimum floorspace requirements of the Portsmouth City Housing Standards SPD and the Nationally Described Space Standards 2015 (NDSS), including the Shaw's Trust Mortuary building (2 bedroom flat) and the converted dwellings within the Chapel.

- 6.10 The mix of housing units and standard of accommodation would also comply with Policies HSG1 and HSG2 of the newly adopted Milton Neighbourhood Plan which seek a balanced mix of house types (1, 2 and 3-bedroom homes) within residential development to meet documented local need and appropriate refuse, amenity space and car and cycle parking provision for future occupiers of the development.
- 6.11 The principle of housing development on this site, the proposed housing mix, and standard of accommodation accord with the aims of policies PCS10 and PCS19, policies HSG1 and HSG2 of the newly adopted Milton Neighbourhood Plan as well as saved policy MT3 of the Portsmouth City Plan (2012) and Portsmouth City Housing Standards SPD and the Nationally Described Space Standards 2015 (NDSS). The scheme will also deliver a considerable proportion of housing which can easily be adapted to satisfy the Building Regulations M4(2) standard.

Affordable housing

- 6.12 New residential development of this nature is required to make provision for 30% affordable housing under Policy PCS19 of the Portsmouth Plan to contribute to meeting the identified need in the city.
- 6.13 Based on the maximum level of development of 209 dwellings, this would equate to the provision of 63 affordable dwellings. However, the NPPF states that:
- "to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount".*
- 6.14 Effectively this would eliminate affordable housing provision within the main hospital building and outlying buildings because there is an overall net reduction in total floorspace resulting from the demolition and the Vacant Building Credit (VBC) applies in line with NPPF paragraph 64. The affordable housing requirement rests solely on the new build element which equates to 30% of 58 new build houses or 17 dwellings.
- 6.15 Policy PCS19 states:
- "there are occasionally specific circumstances associated with a development which would render it unviable if the required amount and type of affordable housing is provided. In such situations the Council will negotiate with the developer so that the maximum amount and best mix of affordable housing can be provided whilst maintaining the scheme's viability, based on current land values. In such situations, developers will have to present robust evidence that it would not be feasible or viable, so that it can be closely scrutinised and validated. In such situations, developers will be expected to provide as much affordable housing as would be possible without rendering the scheme unviable."*
- 6.16 Members deferred the application at the January Planning Committee on the basis that the Viability Appraisal did not represent an up-to-date position by virtue of passage of time since its submission in February 2021.

- 6.17 As part of the application process, the Council carried out a Viability Review of the appellant's Viability Appraisal, which was submitted with the application. The Council's Viability Review concluded that the development could not provide affordable housing. However, this was carried out prior to Natural England issuing its holding objection to the application as summarised above. The applicant/appellant therefore needs to submit a revised Viability Appraisal.
- 6.18 In order for the Viability Assessment to be updated, the cost of any required mitigation under the Habitat Regs will need to feed into the viability appraisal, as well as the appellant's Habitat Regulation Assessment. The appellant is not yet in a position to submit the revised viability assessment and the Council are not in a position to therefore review the viability of the development. Consequently, the Council is therefore not able to set out its position on viability and the provision of affordable housing.
- 6.19 As such, it is considered that insufficient viability justification has been provided, noting the uncertainty arising from the cost of mitigation under the Habitat Regulations, to demonstrate that the scheme is unable to provide affordable housing contrary to Policy PCS19 of the Portsmouth Plan 2012.

Heritage impacts

- 6.20 The heritage impacts of the proposal were fully considered in the January 2022 Committee report and the conclusions drawn then remain unchanged.
- 6.21 The proposed development is considered to be in conformity with the NPPF, policy PCS23 of the Portsmouth Plan and policies STJ1 and MH1 of the newly adopted Milton Neighbourhood Plan which seek to preserve or enhance designated and non-designates heritage assets and their settings on the application site.

Residential amenity

- 6.22 The impact of the proposal upon the residential amenity of neighbouring residential properties was fully considered in the January 2022 Committee report and the conclusions drawn then remain unchanged.
- 6.23 The proposal would provide good quality contemporary housing with a high standard of amenity for future occupants and would show a respectful relationship to existing neighbouring properties that is appropriate and acceptable in accordance with policy PCS23 of the Portsmouth Plan.

Highways and transportation impacts

- 6.24 The highway and transport impacts of the proposal were fully considered in the January 2022 Committee report and the conclusions drawn then remain unchanged.

6.25 Overall, the proposal supports national and local adopted planning policy and is considered to comply with policy PCS17 of the Portsmouth Plan, the NPPF and policies TSP1, TSP2 and TSP3 of the newly adopted Milton Neighbourhood Plan which look to reduce the over-reliance of motor vehicles and promote sustainable modes of transport and the enhancement of footpaths and cycling routes within new developments.

Open space, trees and landscape

6.26 Landscape and open space provision were considered in the January 2022 Committee report.

6.27 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF and requires that public and private spaces that are clearly defined, as well as being safe, vibrant and protects and enhances the city's important views and settings of key buildings such as the hospital building, create new views and juxtapositions that add to the variety and texture of a setting. Policy PCS13 is also relevant to the consideration of the application and requires that planning permission be refused for "*proposals which would result in the net loss of existing areas of open space*".

Open space

6.28 It should be noted that an area of open space within the application site covering 3,666 sq. metres is located to the north of the existing children's play area identified in Policy PCS13 - Map 21 of the Portsmouth Plan as protected open space, and also in Policy S5 of the Emerging Portsmouth Plan and Policy STJ1 of the newly adopted Milton Neighbourhood Plan. Three detached dwellings will be built in this open area. It should be noted that the site, including this open space, is currently NHS land which is not publicly accessible.

6.29 This area of open space is heavily landscaped around its edges with a small clearing in the middle of this space. This secluded open area is not visually or physically well connected to the existing public open area immediately to the south.

6.30 Policies STJ1 and ENV1 of the newly adopted Milton Neighbourhood Plan designate the land between Broom Square and Longshore Way, the western section of St James' Hospital Grounds East, Land North of St James' Green, known as Matron's Garden and Land at Kingsley Road are designated as Open Space. There are also two areas, LGS1 - St James' Green and LGS2 - Portsmouth and Southsea Cricket Club Ground, designated as Local Green Space as shown in **Figure 1** below (these areas are currently designated as Open Space under Policy PCS13). Policy ENV1 advises that development on these Local Green Spaces will only be allowed in very special circumstances.

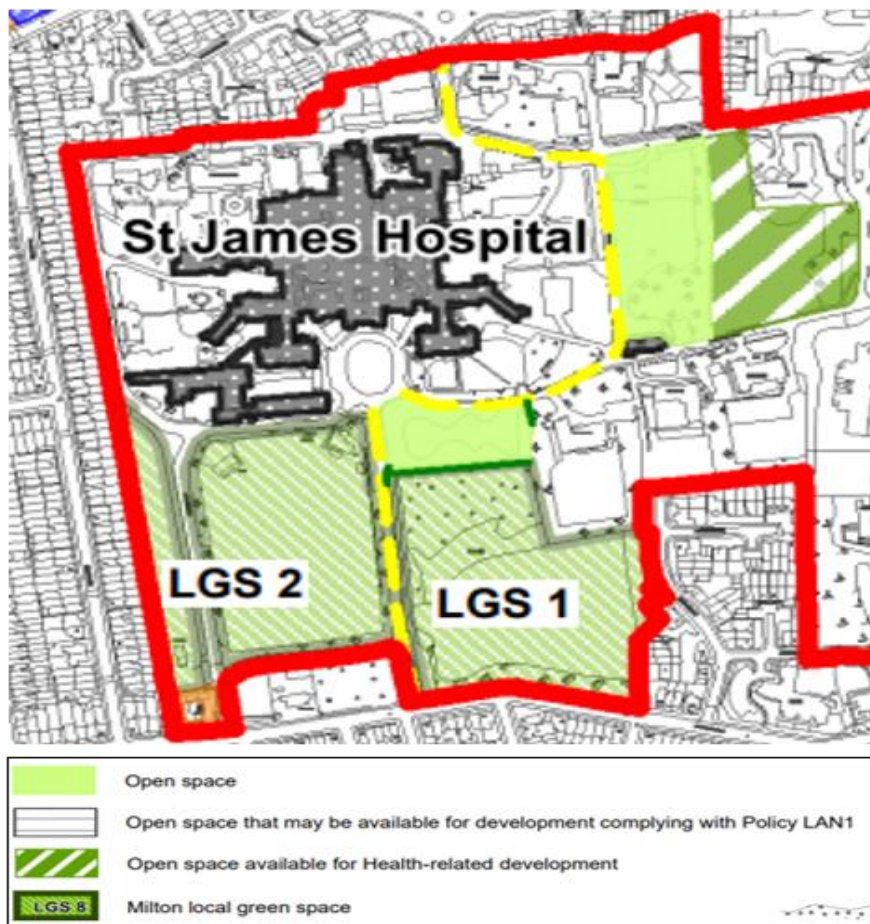


Figure 1 - Designated Open and Local Green spaces within Milton Neighbourhood Plan

6.31 The Design Review Panel recommended that the scheme "retains the shared nature of the existing landscape", and specifically that it should retain and restore the south-eastern and south-western airing courts. The proposed demolition of more recent built additions to the hospital building will not only open up and enhance views of the original historic hospital building but also reinstate the formal landscape setting of the hospital, including the airing courts. The applicant has confirmed that these open areas will be publicly accessible open spaces and has submitted an Open Space Visual Amenities Site Plan (Ref. 127-00-1122-B), as shown in **Figure 2** below, which delineates the publicly accessible open spaces which will be delivered by the development and has agreed that this plan will be included in a S106 legal agreement which will require that these open areas remain accessible to the public in perpetuity.



Figure 2 - Open Space Visual Amenities Site Plan (Ref. 127-00-1122-B)

6.32 Discounting the areas of green landscaping that serve only as small visual amenity spaces alongside internal roads and footpaths (these are considered to be areas less than 50sqm), the total amount of publicly accessible open space which will be delivered across the site will be 25,388 sq. metres. Including the existing Cricket pitch and associated amenity areas of 15,066 sq. metres, this would equate to 41,352 sq. metres in total of open space provision as follows:

- Small spaces greater than 50sqm = 9,178 sq. metres;
- Large spaces = 16,210 sq. metres
 - North-East airing court - 794 sq. metres
 - North-west airing court - 917 sq. metres
 - South-west airing court - 3,563 sq. metres
 - Southern Lawn - 2,001 sq. metres
 - South east airing court - 3,563 sq. metres visual plan
 - Solent Drive - 5,372 sq. metres
- Cricket pitch and associated amenity areas = 15,066 sq. metres

Total = 41,352 sq. metres

6.33 Unlike the existing piece of open space, the proposed new open space would legally be publicly accessible green space for the community to use and enjoy in perpetuity. There is therefore a clear quantifiable public benefit from the above uplift in

accessible open space for both future and existing residents which will help support and improve mental and physical wellbeing of the wider community.

- 6.34 Whilst dwellings are proposed in the designated 'Open Space,' the mature, dense and higher quality trees on the southern and western boundaries which characterise this existing open space will be retained. The proposed loss of the existing open space would only include the less established central clearing. Therefore, whilst glimpses through to the new dwellings may be seen, the qualitative benefit of this parcel of land, in terms of character and visual amenity from the south and west, would be retained.
- 6.35 The proposed new public open spaces will be located within the historic landscape setting of the hospital building and will enhance the setting and views available of the historic hospital building. The quality of the open space to be offered on the site will be significantly improved from the existing offer through high quality landscaping and planting, including the retention of existing mature trees. This will be a public benefit as the presence of such high quality greenspace will encourage existing and future residents to walk and cycle, thereby improving opportunities for mental and physical wellbeing. In addition, this will deliver climate resilient greenspace that provides shading for users and mitigates against the urban heat island effect.
- 6.36 In terms of quality of open space, the wooded nature of this space would still be appreciated from the south, given the retained tree belt on the boundary, and the proposed public open space would be of a higher quality for use and enjoyment thereby better able to support mental and physical wellbeing of the community.
- 6.37 Overall, whilst there would be a loss of existing designated Open Space on the site, this would not be contrary to Development Plan policy as there are demonstrable wider public benefits which outweigh the harm and, the loss would be replaced by equivalent or improved provision both in terms of quantity and quality. The appeal scheme as proposed will deliver a net increase in well designed and usable public open space and as such satisfies the aim of policy PCS13 of the Portsmouth Plan (2012), policies STJ1 and ENV1 of the Milton Neighbourhood Plan, as well as meeting the aspirations of policy S5 of the Emerging Portsmouth Plan.

Tress and landscaping

- 6.38 As well as seeking no net loss of open space, Policy PCS13 requires that development enhances the City's green infrastructure, while the emerging plan in Policy D1 requires that new development should "*be a positive, beautiful, respectful, and sympathetic design response in relation to the site, surrounding area, and the significance of designated heritage assets, by taking into consideration the .. existing and/or new hard and soft landscaping including walls, fences and railings and other boundary treatments or means of enclosure*".
- 6.39 The existing trees across the site are covered by a group Tree Preservation Order (TPO) and form part a rich landscape character of the area. The applicant's supporting tree survey identifies 145 different trees, classified as follows:

- 23 Category A (high quality with estimated life expectancy of 40+ years):
- 64 Category B (medium quality with estimated life expectancy of 20+ years), 56 Category C (lower quality with estimated life expectancy of 10+ years); and
- 2 as Category U (life expectancy not longer than 10 years).

6.40 Since the deferral of the application at the January 2022 Committee, an updated layout and Arboricultural Impact Assessment has been submitted. The updated layout results in a reduction in the number of trees that would be felled as a result of the proposals, from 57 to 47 trees (7 removed only in part). Of these trees, 1 tree is Category A and the remainder are Category B and C trees of lower quality or dangerous.

6.41 The proposed updated landscaping layout shows the removal of these trees to facilitate the new build houses and new access routes/roadway primarily concentrated to the northwest and northeast of the site, together with an area to the south, opposite the Beaton Wing, for 3 new houses in a woodland setting. One Category A tree (G28) is affected to the west of the Chapel.

6.42 The replacement planting strategy set out in the revised Landscape Plans submitted to support the Planning Application in February 2022 now includes the retention of 98 trees and the planting of 150 new trees of a range of species and sizes, which are mainly street trees to the front of the new build houses and within the 'airing courts' and where buildings are removed to the southwest.

6.43 While community concerns are noted, the Council's Tree Officer has considered the proposal and comments are set out in the consultation section above. The salient points are that the felling of trees are in the main confined within the hospital site and therefore have little or no impact on visual amenity from outside the redline boundary and replacement planting in mitigation is included within the proposal. The Tree Officer concludes that there are no arboricultural objections to the proposal and that the submitted Tree Report and tree protection plan provides sufficient detail to be conditioned. No further details are required.

6.44 The proposed development is considered to be informed and influenced by the presence of trees on site and the landscape masterplan demonstrates replacement tree planting to augment the verdant site context to enhance the hospital grounds. It is therefore considered to accord with Policy PCS13.

Biodiversity landscape enhancements

6.45 Policy PCS13 of the Portsmouth Plan requires that new development should *"retain and protect the biodiversity value of the development site and produce a net gain in biodiversity wherever possible"*.

6.46 The applicant has outlined its enhancement strategy which identifies a series of opportunities to improve the sites biodiversity, and provision of native wildlife habitat. The proposals look to create a series of green corridors which bridge the gap

between the existing tree canopies and will be achieved by proposing additional native hedgerows as well as areas of wildflower grassland.

6.47 The Country Ecologist has reviewed the proposed strategy and is of the view that the development will help deliver habitat enhancements required by Policy PCS13 of the Portsmouth Plan and the NPPF, and that the details of these measures, including location plans of all proposed enhancements, could be secured by condition.

Management strategy

6.48 The St James Hospital complex and its associated landscape is to be restored, enhanced and sensitively developed. A long term monitoring and management regime will need to be in place to ensure the landscape fulfils its potential providing a high quality and ecologically rich landscape. If approved the approval should be subject to the submission of a Landscape Management Strategy, to be secured by planning condition. It is proposed that the scope of such report would include the following:

- Description and evaluation of the features to be managed.
- Aims and objectives of management.
- Appropriate management options for achieving aims and objectives.
- Prescription for management actions.
- Preparation of work schedule (including an annual work plan).
- Details of body or organisation responsible for the implementation of the plan.
- Ongoing monitoring and remedial measures.

6.49 To fund the works all future residents will be expected to pay an estate charge part of which will pay for the maintenance of the landscape and the unadopted roads, among lots of other things. With an appropriate management regime in place there will be confidence that the landscaped grounds and buildings will be restored and repaired to the highest quality and then professionally managed in perpetuity.

6.50 The proposed scheme will deliver both public and private spaces that are clearly defined, safe and vibrant and will help protect and enhance the views and settings of the historic St James Hospital as required by Policy PCS23 of the Portsmouth Plan. The scheme as proposed will also deliver a net increase in well designed and usable public open space and as such satisfies policies PCS13 of the Portsmouth Plan.

Biodiversity and Appropriate Assessment (Habitat Regulations - impact upon the Solent Special Protection Area)

6.51 Biodiversity and Appropriate Assessment were considered in the January 2022 Committee report.

6.52 The Conservation of Habitats and Species Regulations and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that developments do not have a significant likely effect on the interest features of the Solent Special Protection Areas, or otherwise affect protected habitats or species.

6.53 Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (Habitat Regs) states:

1. *"a competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—*

- a. is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
- b. is not directly connected with or necessary to the management of that site,*

must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives."

6.54 The application site is located within proximity to the Solent Special Protection Area (SPA), Special Areas of Conservation (SAC) and Ramsar Sites, which includes the Portsmouth Harbour SPA and Chichester and Langstone Harbour SPA.

6.55 The Milton Common Local Nature Reserve Restoration and Management Framework (MCF) was adopted by the Council in July 2015 to provide additional site-specific mitigation for the St James Hospital and Langstone Campus allocation sites, due to their proximity and accessibility to the SPA.

6.56 While Natural England have amended their guidance regarding the 'nitrates' issues, resulting in greater mitigation payments being required, there are in place mitigation strategies to fully manage the adverse indirect impacts by recreational disturbance and eutrophication. Since the January Committee meeting, Natural England has raised a holding objection to this planning application having identified that the bird survey information relating to Solent Waders and Brent Geese that supports the MCF is out of date being undertaken prior to 2015. Officers were not aware of this position when the application was reported to the January Planning Committee.

6.57 The Chartered Institute of Ecology and Environment Management's (CIEEM) Advice Note 'On the Lifespan of Ecological Reports and Surveys' dated April 2019 - <https://cieem.net/wp-content/uploads/2019/04/Advice-Note.pdf> - advises that:

"it is important that planning decisions are based on up-to-date ecological reports and survey data' and reports and survey data more than 3 years old are "unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated (subject to an assessment by a professional ecologist...)"

6.58 The Competent Authority (LPA/SoS) must adopt the precautionary principle and consider the best available scientific evidence when considering if there will be any adverse impacts on the SPA under the Habitat Regs.

6.59 In light of the concerns expressed by Natural England regarding the bird survey data, which supports the need for mitigation under MCF for the likely significant effect of the development, it is not possible to properly scope that effect on the SPA and whether

the proposed mitigation has resolved it, as the indicated mitigation strategy is based on evidence over 7 years old and is therefore out of date.

- 6.60 As such, Natural England's holding objection to the proposal has been raised on the basis that there is insufficient evidence available at present to determine whether the proposed development will have an adverse effect on the supporting habitats at Milton Common. Natural England have therefore requested that no decision be taken on the application until up to date surveys of current bird use is undertaken and appropriate mitigation for the proposal suggested and assessed. They have advised that this could either be in the form of an updated MCF or as a separate Shadow Habitat Regulations Assessment (HRA) submitted by the appellant in support of the appeal proposal.
- 6.61 In the absence of the best available scientific evidence over bird survey information less than 3 years old, the Council cannot currently update the MCF, and the appellant cannot provide a Shadow Habitat Regulation Assessment meaning that neither the Council nor the appellant are in a position to carry out a habitat regulation assessment for the application.
- 6.62 The timetable for the appeal is dictated by the above need to update the MCF and relevant survey work, leading to a new strategy that the Council will need to consider adoption of, is being carried out between October 2022 and February 2023. The site has been scoped in as causing indirect harm to the Solent SPA, through recreational disturbance and eutrophication of water by excess nitrates and causing direct harm Solent Wader and Brent Geese strategy (SWBGS) sites at Milton Common.
- 6.63 Since Natural England's holding objection, the Council has been working on updating the evidence base supporting the MCF and has collated the required raw data for the period 2015 to 2021. With the birds in question nesting in the winter, the additional new mapping and winter survey work for 2022 required to update the MCF and to fully consider the impact on birds nesting in the SPA would need to be carried out between October 2022 and March 2023.
- 6.64 The new mapping and winter survey work at Milton Common to gather the necessary winter visitor survey to enable an updated MCF document to be produced has been commissioned and is currently underway. The updated MCF is hoped to be completed by February 2023, whereat it will need to be considered for adoption by PCC Cabinet.
- 6.65 In the absence of sufficient information being provided for the Habitats Regulations Assessment, as requested by Natural England, there is currently no certainty around the mitigation strategy which is required to address the likely significant effects in respect of recreational disturbance, as is identified in paragraph 4.1.8 of the Draft Habitats Regulations Assessment (ref. 200127 0991 HRA V1B) dated 18th December 2020 submitted. While a mitigation strategy, and appropriate contribution from the Appellant may overcome this concerns in early 2023, as such however at this time, the proposal should be refused due to the uncertainty regarding unmitigated adverse impact on protected habitats in accordance with the Habitats Regulations.

Flood risk, drainage and utilities

- 6.66 Flood risk, drainage and utilities were considered in the January 2022 Committee report and the conclusions drawn then remain unchanged. The submitted Flood Risk Assessment and Sustainable Drainage Statement demonstrate that the proposal, with the appropriate mitigation as suggested, would not result in any undue flood risk or drainage concerns. As such, the proposed development satisfies the requirements of Policy PCS12 of the Portsmouth Plan.

Sustainable design and construction

- 6.67 Sustainable design and construction were considered in the January 2022 Committee report and the conclusions drawn then remain unchanged.
- 6.68 The proposed development exceeds the sustainable design and construction standards set out within Policy PCS15 of the Portsmouth Plan (2012) and the Council's 'Sustainable Design and Construction' SPD (as amended by the Portsmouth Housing Standards Review) and would be in accordance with policy PLD1 of the newly adopted Milton Neighbourhood Plan, which requires new development to be well designed and sustainable.

Contaminated land

- 6.69 Contamination was considered in the January 2022 Committee report and the conclusions drawn then remain unchanged.
- 6.70 The Geo-environmental and Geotechnical Assessment report submitted satisfactorily addresses the effects of the proposed development in relation to contaminated land and the proposal is in accordance with saved policy DC21 of the Portsmouth Plan.

Other matters

- 6.71 There are no other matters raised in the most recent representations received to the October reconsultation that have not already been addressed in the January 2022 Committee report.

Planning Obligations

- 6.72 As set out in the January 2022 Committee report, the following planning obligations are considered necessary to render the development acceptable in planning terms, being directly related to the development and fairly and reasonably related in scale and kind to the development:
- Publicly Accessible Open Space - A plan that delineates the publicly accessible open spaces which will be delivered by the development. These open spaces will remain accessible to the public in perpetuity (see Site Plan (Ref. 127-00-1119-B)).

- Offsite highway mitigation: Junction improvements at Locksway Road / Milton Road and Milton Road / Goldsmith Avenue as shown on drawing numbers 107890-dwg-07-01 and 107890-dwg-05-02. The applicant will be required to submit for approval a detailed scheme supported with a road safety audit prior to commencement of the development and implemented prior to first occupation. The off-site highway mitigation works will need to be delivered directly by the developer through a S278 agreement with the highway authority.
- Mitigating the impact of new development on Special Protection Areas (SPAs), by securing financial contributions for mitigating recreational impacts and nitrates both alone and in combination including:
 - a) to the Solent Recreation Mitigation Strategy / Bird Aware Solent Strategy (estimated to be £131,965);
 - b) for improvements to Milton Common in proportion to the number of units included within the Project as detailed within the Milton Common Local Nature Reserve Management Plan (TBC); and
 - c) to meet the Council's Interim Nutrient-Neutral Mitigation Strategy (2022) payable upon implementation of the planning permission (TBC).
- Travel Plan with monitoring at a cost of £7,260, where the monitoring fee is payable within 12 months of implementation of the planning permission.
- Affordable housing provision - pending further viability appraisal.
- Chapel use for community - the marketing of the listed chapel for a community based use for a minimum of a 12 month period, before reverting back to residential use.

Conclusion and recommendations

6.73 In the absence of sufficient information being provided for the Habitats Regulations Assessment, as requested by Natural England, there is no certainty around the mitigation strategy which is required to address the likely significant effects in respect of recreational disturbance identified. Furthermore, insufficient viability justification has been provided, noting the uncertainty arising from the cost of mitigation under the Habitat Regulations, to demonstrate that the scheme is unable to provide affordable housing contrary to Policy PCS19 of the Portsmouth Plan 2012.

RECOMMENDATION

That the Secretary of State be advised that had Portsmouth City Council Planning Committee been able to determine the application, it would have resolved to REFUSE planning permission for the following reasons:

- 1) In the absence of sufficient information being provided for the Habitats Regulations Assessment, as requested by Natural England, there is no certainty around the mitigation strategy which is required to address the likely significant effects in respect of

recreational disturbance, as is identified in paragraph 4.1.8 of the Draft Habitats Regulations Assessment (ref. 200127 0991 HRA V1B) dated 18th December 2020 submitted. As such, the proposal should be refused due to the uncertainty regarding unmitigated adverse impact on protected habitats in accordance with the Habitats Regulations.

- 2) Insufficient viability justification has been provided, noting the uncertainty arising from the cost of mitigation under the Habitat Regulations, to demonstrate that the scheme is unable to provide affordable housing contrary to Policy PCS19 of the Portsmouth Plan 2012.

7. Other Post Decision Matters

- 7.1 The Committee should be aware that the LPA will continue to work with the Planning Inspectorate to ensure the appeal can be determined in 2023. This will include the production of 'without prejudice' conditions in addition to the proposed planning obligations described above and the conclusion of information for Habitats Regulation Assessment informed by the outcome of the updated MCF work over the current winter period.
- 7.2 Should the Planning Committee be minded to suggest to the Planning Inspectorate that additional or alternative reasons for refusal should be applied Members should be aware that there will be a need for a nominated Councillor/s from the Committee to provide appropriate proof of evidence and defend that decision at the upcoming Public Inquiry. In that circumstance the Committee may wish to give consideration of that nomination as part of the resolution of this item to ensure Officers can support those Councillors to undertake that work.