

**LAND AT TIPNER EAST, EAST OF THE M275, WEST OF TWYFORD AVENUE
PORTSMOUTH**

DETAILED PLANNING APPLICATION FOR THE REDEVELOPMENT OF SITE TO PROVIDE 835 RESIDENTIAL UNITS OF 1, 2, 3 AND 4 BED UNITS ACROSS A NUMBER OF BUILDINGS OF BETWEEN 2 AND 11 STOREYS, TO INCLUDE SOME GROUND FLOOR COMMERCIAL (USE CLASS E) AND COMMUNITY USES (USE CLASS F1 AND F2), WITHIN BLOCKS, E, F, J AND K . WITH VEHICULAR ACCESS FROM TWYFORD AVENUE, AND PEDESTRIAN, CYCLE AND EMERGENCY ACCESS TO AND FROM THE PARK AND RIDE. TO INCLUDE LANDSCAPING, SEA WALL, IMPROVEMENTS TO THE ECOLOGICAL BARGE, NEW COASTAL PATH, CYCLE LANE, CAR PARKING AND SERVICING, AND OTHER ASSOCIATED WORKS. THIS APPLICATION CONSTITUTES EIA DEVELOPMENT

LINK TO ONLINE DOCUMENTS [HERE](#)

Application Submitted By:

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Mission Town Planning

On behalf of:

J Waterfield
Vivid Housing

RDD: 6th September 2022

LDD: 19th January 2023

SUMMARY OF MAIN ISSUES

- 1.1 This application is being presented to Planning Committee as it is a significant Major development involving Environmental Impact Assessment.
- 1.2 The main considerations are:
 - whether the proposals comprising the construction of new housing on this site would contribute to the achievement of sustainable development in accordance with national and local planning policy
 - Environmental Impact Assessment: summary of conclusions and mitigation;
 - the acceptability of the design (layout, scale and access);
 - Open space, recreation and living conditions;
 - traffic/transportation implications;
 - Appropriate Assessment and Biodiversity;
 - flood risk/drainage;
 - retail and commercial uses and sequential test
 - sustainable design and construction;
 - site contamination;
 - residential amenities and micro-climate; and
 - development phasing;

SITE DESCRIPTION

- 2.1 The Site covers an area of approximately 5.95 hectares (14.7 acres). It is located at the northwest part of Portsea Island, in Nelson Ward. The Site is bound by the Tipner Lake to the north, Park and Ride Portsmouth and the M275 to the west, recreational uses, and public space to the east of the Site, and south by residential uses and the Stamshaw Junior School.

- 2.2 The site is approximately 2 miles to the north of the City Centre and is a prominent feature on the main entrance to Portsmouth when viewed from the M275 southbound. The Site is directly adjacent to the M275 motorway to the west and south of Tipner Lake (an embayment of Portsmouth Harbour) and to the park and ride car park to the south west.
- 2.3 The Site itself is flat and low-lying, being generally between 2.9 m and 4.1 m above ordnance datum and includes areas of made ground. Apart from a small area of the intertidal, Tipner Lake, which adjoins the Site to the north, is included within national and international nature conservation designations (Site of Special Scientific Interest (SSSI), Special Protection Areas (SPA) and Ramsar Site).

PLANNING CONSTRAINTS

- 3.4 The site is subject to the following key constraints
- Contaminated land
 - Flood Zone 2/3 (part of the site only)
 - Adjacent to Portsmouth Harbour RAMSAR, Portsmouth Harbour SSSI, Portsmouth Harbour SPA, Dorset and Solent Coast SPA and containing areas of ecological interest

POLICY CONTEXT

- 4.1 The planning policy framework for Portsmouth is currently provided by:
- 4.2 The Portsmouth Plan (The Portsmouth Core Strategy) adopted in January 2012 and two Area Action Plans for Somerstown and North Southsea (2012) and Southsea Town Centre (2007).
- 4.3 This framework is supplemented by a number of saved policies from the Portsmouth City Local Plan (2006).
- 4.4 Having regard to the location of this site within the Tipner area of the city, the relevant policies within the Portsmouth Plan would include:
- PCS1 - Tipner
 - PCS10 - Housing Delivery
 - PCS12 - Flood Risk
 - PCS13 - A Greener Portsmouth
 - PCS14 - A Healthy City
 - PCS15 - Sustainable Design and Construction
 - PCS16 - Infrastructure and Community Benefit
 - PCS17 - Transport
 - PCS19 - Housing Mix, Size and the Provision of Affordable Homes
 - PCS21 - Housing Density
 - PCS23 - Design and Conservation
- 4.5 This framework is supplemented the following saved policies from the Portsmouth City Local Plan (2006).
- Policy DC21 - Contaminated Land
- 4.6 Regard should also be had, albeit affording it very limited weight at this time, to the Draft Portsmouth Local Plan (September 2021).
- 4.7 Regard also has to be had to the following SPDs:
- Air quality and pollution

- Developing Contaminated Land
- Housing Standards
- Nitrate mitigation strategy
- Planning Obligations
- Parking Standards and Transport Assessments
- Reducing Crime Through Design
- Solent Special Protection Area
- Sustainable Design and Construction

STATUTORY DUTIES

- 5.1 The Local Planning Authority has statutory duties relating to the determination of the application which are set out in the following legislation:
- Section 70 of The Town and Country Planning Act 1990
 - Section 38(6) of The Planning and Compulsory Purchase Act 2004
 - The Equality Act 2010

RELEVANT PLANNING HISTORY

- 6.1 Of direct relevance to the determination of this application are the following:
- i. 22/00003/EIASCO - Environmental Impact Assessment Scoping Opinion for residential development comprising 850 dwellings with associated access, parking and landscaping
 - ii. 10/00849/OUT - Detailed application for land remediation and raising including thermal desorption. Outline application for up to 518 dwellings, CHP plant, sea wall, coastal path. Main access from Twyford Ave. (Access, layout & scale to be considered)

It should be noted that the detailed element of this application has been implemented and has remained on going for the last 10 years. This has been noted as implemented by the discharge of conditions and numerous site visits undertaken by the Council's Environmental Health Officers.

Remediation works are currently being carried out on the site under this permission: Soilfix took possession of the site on Monday 31st October 2022 with works expected to continue for a duration of 56 weeks, i.e. until the end of November 2023.

- 6.2 In addition , consideration will also need to be given to the site to the south (Ref. 21/01357/FUL) where planning permission is being sought by Bellway/Homes England for the "Construction of 221 dwellings, new accesses onto Tipner Lane and Twyford Avenue, internal access roads & cycleways, open space, parking and associated infrastructure, including potential linkages to the proposed residential development to the north, existing residential development to the south and to the existing and proposed enhanced Park & Ride facilities to the west. The proposal constitutes EIA Development. (Revised scheme)." at Tipner East Land Off Twyford Avenue And Tipner Lane Portsmouth. As set out within the site description above the site is directly to the south of the site and shares an unusual ill-defined boundary. The applicants have worked together collaboratively to seek to address any issues.
- 6.2 Further to this, there is an extant outline planning permission (Ref. 20/00457/OUT) on adjacent land for the construction of a multi-storey Transport Interchange (up to 34.8 m AOD) incorporating a park and ride facility for up to 2,650 cars and 50 bicycles; taxi rank; car and bicycle rental facility; public conveniences; landscaping; ancillary offices and units within use classes A1, A2, A3, D1 and D2, with access from Junction 1 on the M275 (principles of access to be considered). The proposal constitutes EIA

development” at Tipner Interchange M275 Junction 1 Off Slip from Junction 12 M27 Portsmouth PO2 8AN.

PROPOSAL

7.1 As set out in the Planning Statement, the proposed development would comprise 835 new residential homes set out across 16 blocks (comprising apartments, maisonettes and townhouses) along with a number of commercial and community areas which are proposed to be provided within the ground flood of Blocks E, F, J and K. The final use is yet to be determined however, it is likely to be within Use Classes E, F1 and F2 (E - Commercial, Business and Service; F1 - Learning and Non-residential institutions; F2 - Local community uses). It is envisaged that; block F at the entrance to the site and on the ground floor would be a convenience store, block E would provide some form of restaurant/café; block J would offer some form of community space; block K would be a link between the park and ride/transport hub, and would be flexible in their use but with a focus on more commercial space.



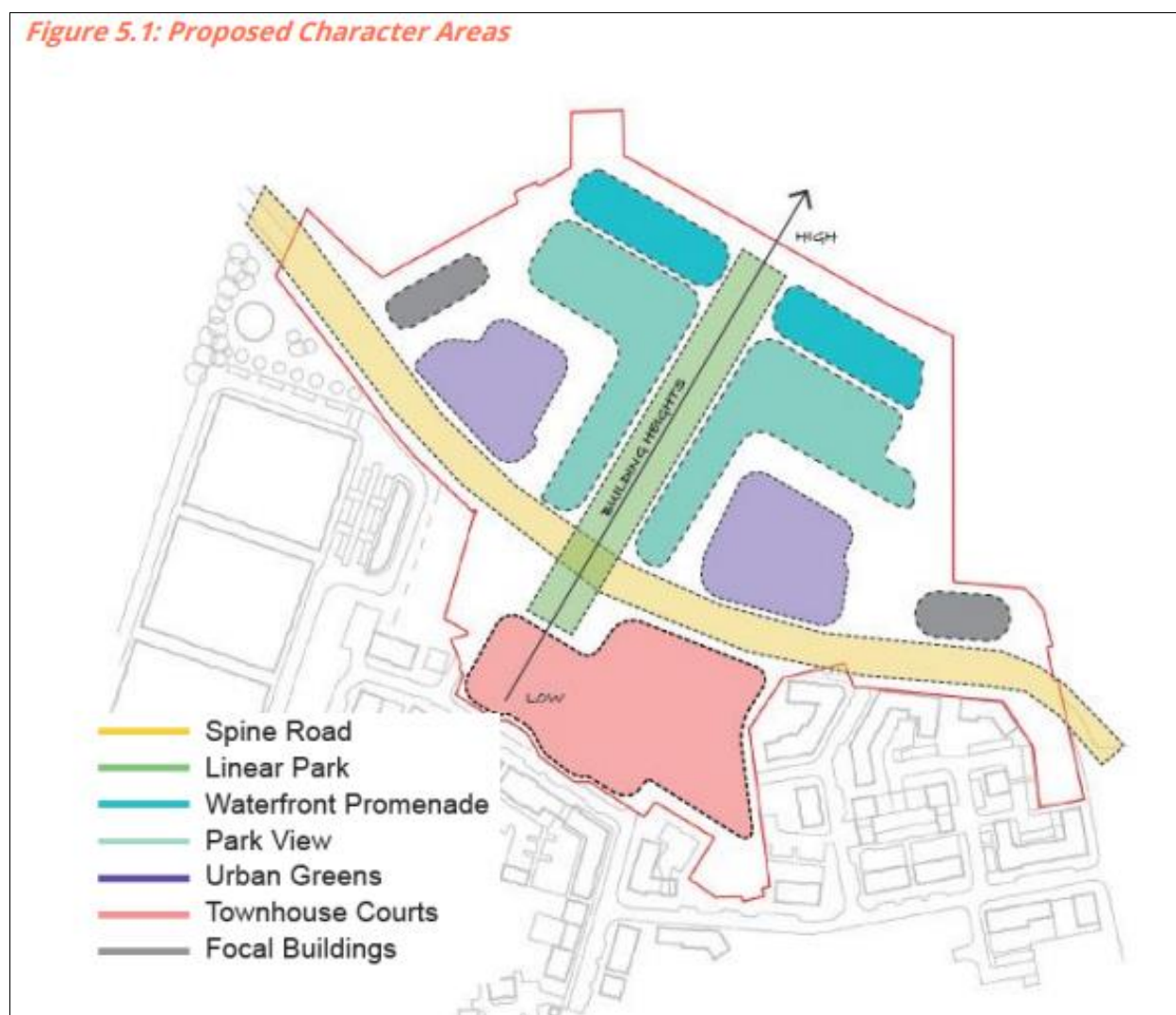
7.2 835 new residential homes across 16 blocks (comprising apartments, maisonettes and townhouses) as follows:

Market	Number of Units	Beds	Type of Unit
	146	1	
	365	2	
	39	3	Flats
	33	3	Houses
	2	4	Houses
Total	585 (70%)		
Shared Ownership			
	18	1	Flats

	47	2	Flats
	5	3	Flats
	5	3	Houses
Total	75 (9%)		
Affordable Rent			
	44	1	
	109	2	
	11	3	Flat
	10	3	House
	1	4	House
Total	175 (21%)		
Overall TOTAL Units	835 (100%)		

- 7.3 The scale of the development ranges from 2 to 11 storeys (7.5 to 41 metres in height).
- 7.4 The Proposed Development would consist of 835 residential dwellings. The Proposed Development would involve the construction of 11 apartment blocks (Blocks A, B, C, D, E, F, G, H, J, K and L), four blocks of Maisonettes (Block M1 – M4) and 55 town houses and flats above garages (FOGs). Commercial and community area will be provided in Blocks E, F, J and K.
- 7.5 The site has been zoned by the applicant into seven different character areas which are to have their own unique landscaping and building typologies as shown below:

Figure 5.1: Proposed Character Areas



- 7.6 Vehicular access to the site would be via Twyford Avenue but also wishes to facilitate with pedestrian and cycle connections into the adjacent Transport Hub (Park and Ride) and pedestrian, cycle and vehicular connection with the adjacent Bellway / Homes England scheme to the south (Ref. [21/01357/FUL](#)). As these sites are outside of the applicant's control, and maybe dependent on a future grants of planning permission, these additional accesses represent a future opportunity rather than part of the current proposal.
- 7.7 Car parking provision would be split between the site and the potential for off-site additional parking, most notably within the multi-storey car park proposed as part of the PCC Transport Hub which has outline planning permission. It has been agreed in principle with the Transport Hub developer (PCC) that 0.5 spaces per dwelling will be located within the Transport Hub (396 spaces). In addition, short stay visitors spaces are to be provided on-site (40 spaces), with those located on the spine road (20) to have EV charging. In addition, 1 disabled parking bay will be provided within 50 m of each M4 (3) adaptable dwelling each with EV charging (24 spaces) and 1 on road disabled bay per block will also be provided within 50 m of the entrance (15 spaces). This area also includes additional (29) managed short stay spaces which could potentially include a car club scheme, substation service bays and commercial bay (including 24 EV charging). Each townhouse has two parking spaces. The first with EV charging in a garage within its curtilage and a second which is either an additional garage space or an allocated additional parking bay nearby (86).
- 7.8 The Scheme must therefore be considered a significantly reduced car scheme. If the full provision of off-site parking is secured in the adjacent Transport Hub site this will provide a total of 590 spaces, a parking ratio of 0.70 spaces per dwelling. The guaranteed on-site parking provision of 194 spaces makes up 0.123 spaces per dwelling of this provision. To support this low car approach secure cycle stores are provided (totalling 1,612 cycle spaces), and the applicant intends to deliver other measures such as delivery drop off bays and parcel drops off points in every building. Overall the design strategy for the site is one that has focussed on being pedestrian and cycle friendly and creating and reinforcing strong links to public transport, to take advantage and support the PCC intention to create a Transport Hub on an adjoining site.
- 7.9 In terms of construction, the draft programme indicates a phased construction programme comprising 7 phases over 8 years:
- Phase 1: Enabling works and sea defence wall: December 2023 -March 2024
Phase 2: Blocks E and D and Maisonettes 3 and 4 (210 units): February 2024 - July 2027
Phase 3: Blocks C and G (174 units): October 2024 - June 2028
Phase 4: Blocks B and H (174 units): August 2025 - April 2029
Phase 5: Blocks A and J and Maisonettes 1 and 2 (187 units): July 2026 - September 2030
Phase 6: 46 houses: November 2028 - November 2030
Phase 7: Blocks F and K (44 units): July 2029 - June 2031

Figure 5.2 Indicative Construction Phases of the Proposed Development



7.10 Construction traffic routing is to be via the Pounds Waste site to J1 of the M275:

Figure 5.3: Construction Traffic Routing to the Site



CONSULTATIONS

Landscape Architect	Following receipt of further information from the applicant in response to concerns raised regarding the waterfront promenade and eastern path section, Ecological area on NW side, Community Hides, Park and Ride boundary, Pumping Station area and the Shared public realm between townhouses, NO OBJECTION is raised subject to conditions requiring the applicant to submit further details for approval prior to the commencement of each phase of the development.
Highways Development Control	The Highway Authority has objected to the scheme based on currently available information. An updated Highways Response Note was received from the applicant in January 2023 but concerns remain from the Local Highway Authority. In particular further details of the site access arrangements at Twyford Avenue need to be developed further and technical drawings provided demonstrating its relation to the access to Mountbatten Leisure centre and the existing and proposed cycle and pedestrian routes in this area. Update are also required to the Car Park Management Plan (including measures to manage overspill car parking especially if the Transport Hub is not brought forward) and Travel Plan. Appropriate contributions to off site works are also sought. The LHA notes that the scheme provides significantly fewer parking spaces than the SPD and express concern regarding unknown implications of alternative off site parking.
Archaeological Adviser	Concerns re mitigation but NO OBJECTION subject to appropriate mitigation being sought through a condition requiring a Written Scheme of Investigation.
Ecology Adviser Minerals and Waste	Additional comments will be reported at the Committee NO OBJECTION subject to the applicant liaising with an operator who utilises brick clay to ascertain any demand for the resource underlying the site
Tree Officer	NO OBJECTION, subject to conditions
Drainage Team	NO OBJECTION subject to a suitably worded condition
Designing Out Crime Officer	NO OBJECTION subject to a condition requiring details of a lighting scheme
Highways (COLAS)	NO OBJECTION, subject to the developer contacting COLAS
National Highways	NO OBJECTION, subject to a condition requiring a Construction Traffic Management Plan
Fire and Rescue Service	Highlights the relevant building regulations approvals that will be required.
Natural England	No objection, subject to appropriate mitigation being secured
Southern Water	No objection, subject to a condition requiring details of the means of foul sewerage and surface water disposal have been submitted to and approved by the LPA in consultation with Southern Water
Housing Enabling Officer	No objection
Health and Safety Executive	No objection
Environment Agency	Views awaited (to be reported verbally via SMAT)

REPRESENTATIONS

- 8.1 Objections have been received from 10 addresses in the vicinity of the site. These are concerned with:
- Development should have a dedicated access from J1 of the M275 or the Park and Ride site or via the Pounds site to the west of the motorway
 - Object to proposed 11-storey buildings - overlooking and loss of privacy of neighbouring properties, also out of character with the area.
 - Should make provision for improved infrastructure - schools / health centre etc
 - Increase in traffic / congestion
 - Impact on ecology
 - Development on contaminated land should not be allowed
 - Development will exacerbate flooding in the area
 - Object to use of Twyford Avenue as proposed access road unless widened as promised by PCC
 - Existing cycle network needs to be upgraded to LTN1/20 standards and that S106 monies should be used for that purpose

POSITIVE AND PROACTIVE ENGAGEMENT

- 9.1 The National Planning Policy Framework requires local planning authorities to work with the applicant in a positive and proactive manner to resolve problems before the application is submitted and to foster the delivery of sustainable development. This requirement is met in Portsmouth through the availability of pre-application advice.
- 9.2 As set out in the Design and Access Statement submitted with the application, the applicant carried out extensive pre-application consultation and engagement both with the council and with local residents and businesses. In addition, the scheme was reviewed by a Design Review Panel set up by Design South East. The application is also subject to a Planning Performance Agreement.
- 9.3 The Design Panel Report has been submitted with the application. The key recommendations were as follows:
1. Establish an overarching vision for this site, and make sure that design proposals are tested against this.
 2. Carry out the detailed testing of the movement strategy as suggested in the first design review, paying particular attention to walking and cycling and how these modes interact across the site boundaries.
 3. Be bolder with the parking strategy. The aims presented are supported, but the solutions need to be stronger.
 4. Rethink the approach to the boulevard, especially in terms of its placemaking function and the buildings at its edges.
 5. Ensure that perimeter blocks are created and avoid leftover or ambiguous spaces.
 6. Use building typologies to support the structure of the site and rethink the use of mews houses.

PLANNING CONSIDERATIONS / COMMENT

Principle of the development

- 10.1 As set out in the NPPF (paragraph 2), 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless

material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

- 10.2 Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken. Whilst third party representations are regarded as material planning considerations (as long as they raise town planning matters) the primary consideration, irrespective of the number of third-party representations received, remains the extent to which planning proposals comply with the Development Plan.
- 10.3 In accordance with the Portsmouth Plan, when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development set out in the NPPF.
- 10.4 Paragraph 11 of the NPPF requires that decision should apply a presumption in favour of sustainable development. For planning decisions this means:
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 10.5 Footnote 8 states that 'This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.
- 1.6 Footnote 7 states - 'The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.
- 10.7 With regard to the principle of the development, the site is on land that is part of a wider area identified in the Portsmouth Plan (PP) as a strategic site allocation under PCS1 - Tipner. More specifically, the site falls within the northern portion of the part of the site allocation known as 'Tipner East'.
- 10.8 Policy PCS1 stipulates that Tipner East is allocated in the Portsmouth Plan for at least 480 dwellings. Draft Policy S2 (Tipner) of the draft Portsmouth Local Plan 2038 (PLP regulation 18) allocates, 700 dwellings at Tipner East. Therefore, the uses proposed are in line with the existing and emerging planning policy position for the site
- 10.9 With regard to the principle of this development, the National Planning Policy Framework makes it clear that in order to support the Government's objective of significantly

boosting the supply of homes, a sufficient amount and variety of land can come forward where needed (NPPF July 2021, paragraph 60).

- 10.10 A further consideration in favour of permitting this scheme is in terms of housing delivery. Based on figures in the recently published Annual Monitoring Report the council can only demonstrate 2.9 years supply (Table 4.5, page 28. As the development plan in Portsmouth is more than 5 years old, paragraph 74 of the National Planning Policy Framework (NPPF) states that housing delivery should be measured against local housing need as defined by the standard method set out in national planning guidance.
- 10.11 Consequently, there is a presumption in favour for developing this site as long as the project does not have a significant effect on a habitat site (either alone or in combination with other projects, unless an appropriate assessment has concluded that the project will not adversely affect the integrity of that site (NPPF, paragraph 182).
- 10.12 Acknowledging that the development would have an increased burden on local infrastructure, *the development would be liable for CIL (Community Infrastructure Levy). This is a charge which PCC levy on new development in the area. The revenue collected will be to help deliver the infrastructure needed to support development in the area.*

Environmental Impact Assessment: Summary of Assessment Conclusions and Mitigation

- 10.13 The application is considered to be 'EIA Development' pursuant to Schedule 2 Part 10(b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) and an Environmental Statement (ES) is accordingly submitted. A Scoping Opinion for the ES was sought by the applicants in April 2022 and issued in July 2022. The findings of the ES are very briefly summarised here but are further addressed as required later in this report as key topics are considered in more detail. As required by the Regulations, a Non-Technical Summary of the EIA has also been submitted <https://publicaccess.portsmouth.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RHQS4RMOLV400>
- 10.14 The EIA is based upon the scheme as submitted including the proposed site phasing strategy (7 phases), on the basis of enabling works commencing in late 2023 and completion of the development by June 2031.

Topic Chapter	Identified Effects	Mitigation Measures (where required)	Residual Impacts (where applicable)
Socio Economics	<p>Significant beneficial - commercial floorspace and 38 net operational jobs and public open space;</p> <p>Minor beneficial - increased construction and operational employment, community/leisure facilities, expenditure by workers and residents.</p> <p>Negligible effects - childcare, primary education, healthcare</p> <p>Minor adverse - play space and secondary education</p>	<p>CIL and s106 to address education and play space provision</p>	<p>Negligible</p>

<p>Traffic and Transport</p>	<p>Moderate to Major Adverse - (construction/HGVs) effect of increased vehicles on pedestrian amenity and delay, fear and intimidation on Twyford Avenue and Tipner Lane;</p> <p>Negligible/minor - (operational vehicle flows) - road safety and accidents on Tipner Lane and Twyford Avenue</p>	<p>Construction vehicle routing and banksman</p> <p>None</p>	<p>Negligible</p> <p>Negligible/minor adverse</p>
<p>Air Quality</p>	<p>High risk - dust soiling during construction</p> <p>Low risk - dust risk to human health</p> <p>Negligible - existing ecological receptors</p> <p>Negligible - road traffic emissions</p>	<p>CEMP</p>	<p>Negligible</p>
<p>Ground Conditions and Contamination</p>	<p>Negligible - due to historic and recent site remedial works</p> <p>Minor Adverse - Re-use of site won material and working below capping layers</p>	<p>CEMP and Materials Management Plan</p> <p>Vapour Protection Measures</p> <p>Measures to prevent Japanese Knotweed</p>	<p>Negligible</p>
<p>Hydrology, Geomorphology, Water Quality and Flood Risk</p>	<p>Minor adverse - temporary surface and groundwater flows during construction</p>	<p>Construction best practice</p>	<p>Negligible</p>
<p>Noise and Vibration</p>	<p>Negligible - construction phase noise and vibration relative to closest existing noise sensitive receptor</p> <p>Moderate short term adverse effect - occupiers of phases 2, 3 and 4 during construction</p> <p>Minor adverse - occupiers of phases 5 and 6 during construction</p> <p>Negligible - operational road traffic</p>	<p>Best practice measures in accordance with BS5228 and BS4142</p> <p>Double glazing and sound insulation measures, including where necessary vents/louvres or alternative mechanical ventilation</p>	<p>Negligible</p>
<p>Ecology</p>	<p>Minor Adverse - foraging and commuting bats from habitat loss and light pollution; Reptile from habitat loss; nesting and</p>	<p>CEMP Embedded scheme mitigation including Bird Conservation Area</p>	<p>Minor Adverse (local level)</p>

	breeding birds from habitat loss; invertebrates from habitat loss.	Wintering bird mitigation strategy; Reptile mitigation strategy Lighting strategy Nutrient mitigation Bird Aware	
Climate Change Mitigation and Adaptation	Minor Adverse (construction) - global climate Negligible (operation) - development resilience (overheating, sea wall, FRA, drought, landscape strategy)	Embedded mitigation inc. energy strategy	Minor Adverse against Carbon Budget Negligible
Townscape and Visual Impact Assessment	Temporary Adverse Effects - demolition and construction phase impact on key townscape receptors, including Tipner and Portchester Lakes, Tipner Interchange, Alexandra Park, Hilsea Shore Path, M275 (east) and Portchester Castle	None	Beneficial Effect (Operational Phase) - Tipner and Portchester Lakes, Tipner Interchange, Alexandra Park, Hilsea Shore Path, M275 (east), Neutral effect - Portchester Castle

10.15 No alternative sites have been considered as the application site is allocated for mixed use development in the adopted Portsmouth Plan 2012 (policy PCS1). However, consideration of alternatives has been applied to site layout options and to a 'do nothing' scenario. The 'do nothing' scenario notes that the regeneration of the Tipner peninsula as sought by the development plan, including the draft Local Plan, would be compromised should the development not proceed. Details of design evolution have been set out in the Design and Access Statement and in Vol.2, Chapter 4 of the ES. A number of design and layout options have been considered by way of iterative pre-application engagement with Officers.

Housing: Numbers, Mix, density, affordable housing provision

10.16 As housing delivery within the City has fallen below 75% of the housing requirement over the previous three years the Council must apply the presumption in favour of sustainable development when making decisions on planning applications. This means that, in accordance with para. 11 d) of the NPPF, decisions on applications involving the provision of housing should be granted permission, unless NPPF protected areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF taken as a whole.

10.17 However, as Portsmouth has also been unable to demonstrate a five-year housing land supply in recent years, this presumption currently applies already.

10.18 The Government's Standard Method has identified a need for the city of 16,161 homes for the plan period to 2038. However, the assessed need for the draft Portsmouth Local Plan (PLP) going forward will need to take into account, amongst other factors, the actual deliverable level of housing in Portsmouth given the city's number of constraints, including the availability of land, impacts on the protected coastal habitat, local capacity of local infrastructure, and the financial deliverability of development. Nevertheless, the

draft PLP has identified the necessity to have an uplift to housing delivery numbers compared to the adopted PP strategy, recognising the increased need for more housing in the city. The proposal is for 835 dwellings within a site area of approximately 5.95 ha (equivalent to 140 dph) The proposals is therefore in line with the policy requirements under Portsmouth Plan Policy PCS21 for a minimum of 100 dph for Tipner. For information, the draft PLP stipulates that development at Tipner should be at least 120 dph.

- 10.19 With regard to mix, current Policy PCS19 requires that 'developments should achieve a target of 40% family housing where appropriate'. The proposed total number of 3-bed units (private and affordable flats and houses) account for 103 units (17.6%). This is below the aspiration of policy PCS19. Officers have consideration whether the applicant has done all that is possible to provide for family housing in line with the policy aspirations for the site given the known geographical constraints, and the need to balance overall supply of both market and affordable housing. It is considered that the failure to meet the aspiration of policy PCS19 in this case is a product of the applicant's intention, with the encouragement of Portsmouth City Council, to increase the density of development on the site and overall it is a reasonable response to the development constraints and opportunities of the site.
- 10.20 It is noted that the proposed affordable housing provision would meet the adopted policy requirement of 30%, which is supported.
- 10.21 The small-scale community and food offering capable of being provided within the commercial floorspace of the site and to be secured by appropriate obligations in the s106 agreement is also welcome and is in line with the position set out in Policy PCS1 which looks to for schemes to include 'community facilities'.

Design Considerations

- 10.22 The National Planning Policy Framework (NPPF), Chapter 12, 'Achieving Well Designed Places', states that 'the creation of high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve'. The NPPF is also supplemented by the National Design Guide (NDG) and the NMDC.
- 10.23 Policy PCS23 (Design & Conservation) echoes the principles of good design set out within the NPPF requiring, all new development to be well designed, seeking excellent architectural quality; public and private spaces that are clearly defined, as well as being safe, vibrant and attractive; relate to the geography and history of Portsmouth; is of an appropriate scale, density, layout, appearance and materials in relation to the particular context; create new views and juxtapositions that adds to the variety and texture of setting; and protection of amenity and provision of good standard of living environment for neighbouring and local occupiers as well as future residents/users of the development. The proposed development benefits from its focus on the adjoining harbourside and makes good use of the space to increase height and density along the harbourside, the layout also has two main axis one running from the harbour into the site and linking into the adjoining Bellway Homes site and a second running in an arc through the site from west to east linking to the Tipner West site and Mountbatten centre. These two axes create the central focal routes through the site and allow for the creation of a wider street pattern based broadly on a grid. This has allowed for the creation of a perimeter block pattern of development for much of the site which has had the added benefit of allowing for clear differentiation between public and private space. The axis that runs from the harbourside into the site is proposed to be free of vehicular traffic and landscaped.
- 10.24 Overall, the proposed development makes a positive contribution in terms of design in the area.

Open Space, Recreation and Living Conditions for Future Occupiers

- 10.25 Policy PCS13 states that the city council will work collaboratively to protect, enhance and develop the green infrastructure network, inter alia, requiring improved accessibility to green space by foot, cycle and public transport corridors, play value for the whole community including pocket parks of 1.5ha per 1000 population (sites above 50 dwellings). There is no bespoke open space standard set out in existing Local Plan policy or SPD; however, the NPPF makes it clear that resident access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Furthermore, guidance is contained in the Fields in Trust benchmark guidelines "*Guidance for Outdoor Sport and Play; Beyond the Six Acre Standard (2015)*"¹ and in the Council's *Parks and Open Spaces Strategy (2012 to 2022)*.
- 10.26 Policy PCS23 of the Portsmouth Plan requires that new development should ensure the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development. Policy PCS19 of the Portsmouth Plan, the supporting Housing Standards SPD, emerging Policy H6 of the PLP, and the 'Technical housing standards - nationally described space standard' (NDSS) requires that all new dwellings should be of a reasonable size appropriate to the number of people the dwelling is designed to accommodate.

Open Space and Recreation

- 10.27 The application open space strategy comprises a range of site-wide, neighbourhood open spaces, stepping down in scale and form to apartment block courtyard spaces, verge landscaping/planting and private gardens for maisonettes/FOGs/houses. The strategy is framed around a central north-south linear park, bisecting the central east-west spine road, itself an open space in its own right. The submitted Design and Access Statement refers to a landscape that "... will seek to form a series of cohesive character spaces creating a backbone for the whole development. A tree lined central Spine Road comprised of cycleways, footpaths and potential service route for buses, deliveries and refuse, is one of the elements which links a large linear park with lawned open spaces for recreation and leisure." These areas of open space are integral to the seven character areas set out for the site, as detailed in the development description section above.
- 10.28 From data provided by the scheme architects, the amount of public open space amounts to 12,436 sq.m. (1.24 Ha) and includes the sea wall path and adjacent open space. The spine road and associated car free movement spaces and sitting areas totals some 21,711 sq.m. (2.17 Ha) And private courtyards and incidental open spaces add a further 5,007 sq.m(0.5 Ha). Formal play space amounts to 278 sq.m which just satisfies the Fields in Trust recommendations of 0.25ha per 1000 population.
- 10.29 Fields In Trust recommended guidelines for a development of this size are as follows:
- Outdoor sports (including playing pitches) - 1.2ha per 1000 population within 1200 m (15 minutes walk)
 - Equipped play areas - 0.25ha per 1000 population
 - Other (MUGAs, Skateboard parks etc) - 0.3ha within 700m (9 minutes' walk)
- 10.30 The EIA notes that there are two open spaces / local parks within 800 m and one district park within 1.2 km from the Proposed Development. These include Stamshaw Park (large park with children play area (600 m / 7 minutes' walk)); Alexandra Park and

¹ <https://www.fieldsintrust.org/guidance>

Mountbatten Centre (Major park (700 m / 9 minutes' walk)); and Midway Road Park/Open space (Neighbourhood play area and ball court (1 km / 12 minutes' walk)). It also notes from the Council's Open Spaces assessment (2022)² that overall there is an undersupply of children's play space and public parks, compared against the Fields in Trust guidance. Overall, the [EIA concludes a medium adverse] impact recognising that there is generous public open space in close proximity to the development, notwithstanding city-wide deficiencies. The proposed on-site provision is therefore, in this context, considered to be acceptable, providing occupiers with opportunity for informal recreation, walking, community engagement as well as private amenity space.

10.31 The HIA submitted with the application assessed the proposed development against the following criteria:

Assessment criteria	Potential health impact
Housing Design and Affordability	Moderate beneficial
Access to Health and Social Care Services and Other Social Infrastructure	Moderate beneficial
Access to Open Space and Nature	Moderate beneficial
Air Quality, Noise and Neighbourhood Amenity	Minor negative
Accessibility and Active Travel	Moderate beneficial
Crime Reduction and Community Safety	Minor beneficial
Access to Healthy Food	Neutral
Access to Work and Training	Minor beneficial
Social Cohesion and Inclusive Design	Minor beneficial
Minimising the Use of Resources	Minor beneficial
Climate Change	Moderate beneficial

10.32 And made the following recommendations:

- Complying with the Lifetime Homes Standard to ensure homes function for residents at every stage of life;
 - Following relevant design guidelines including the Lifetime Homes standard, National Design Guide, Building for a Healthy Life 2020 and the Secured by Design and Safer Places frameworks;
 - Continuing to work with PCC to provide infrastructure payments to relevant healthcare, educational and community bodies;
 - Continuing to consult with the local community to ensure changing needs and priorities are met;
 - Providing an Employment Strategy to optimise potential training and employment Opportunities
 - Establishing local procurement strategies prior to commencing construction;
 - Providing a Landscape Management Plan to maintain natural facilities and promote biodiversity; and
 - Providing a Waste Management Plan to ensure sustainable practices are promoted at the construction and operational phases.
- These matters, where relevant to planning, will be secured through planning conditions and obligations

10.33 The applicant has also indicated a willingness to make a financial contribution towards the maintenance of the community open spaces and to install a piece of public art. These will be secured in the S106 agreement.

Living Conditions

² <https://www.portsmouth.gov.uk/wp-content/uploads/2020/05/development-and-planning-open-spaces-assessment.pdf>

- 10.34 As described in the 'Accommodation Schedule' submitted with the application, the proposed units meet the minimum gross internal floor areas as set out in Table 1 of the Technical Housing Standards - Nationally Described Space Standard³
- 10.35 In terms of the physical layout of the site, there is adequate separation between blocks albeit in some instances these distances fall to 13-14 metres; this is only applicable in a few locations and in rear to flank elevation scenarios. However, in order to achieve the density proposed and the benefits in terms of housing delivery and wider planning objectives this is considered to be acceptable.



Micro Climate - Wind

- 10.36 The Microclimate analysis carried out by SRE for the applicant found that if the site were developed on its own without any mitigation, wind conditions are ranging from strolling to business walking use with areas of uncomfortable and unsafe wind conditions expected for a coastal area. However, if the site was developed, without mitigation, and the adjacent sites (Transport Hub and the Bellway / HE site to the south) then the level and area of uncomfortable and unsafe wind conditions has significantly reduced with only a number of local areas have been identified with remaining uncomfortable and unsafe wind conditions.
- 10.37 With mitigation, in the form of trees, vegetation, balustrades and railings, a few localised areas have been identified with uncomfortable wind conditions and a couple of 'spots' with unsafe conditions. As a result, additional timber screens and shrubs will be included in the overall design resulting in negligible effects (not significant) in the context of this being a coastal location. All areas inside the site boundaries, with all the proposed mitigation measures and in the context of being a coastal location, are expected to have safe wind conditions throughout the year.

Micro climate - Day / sunlight

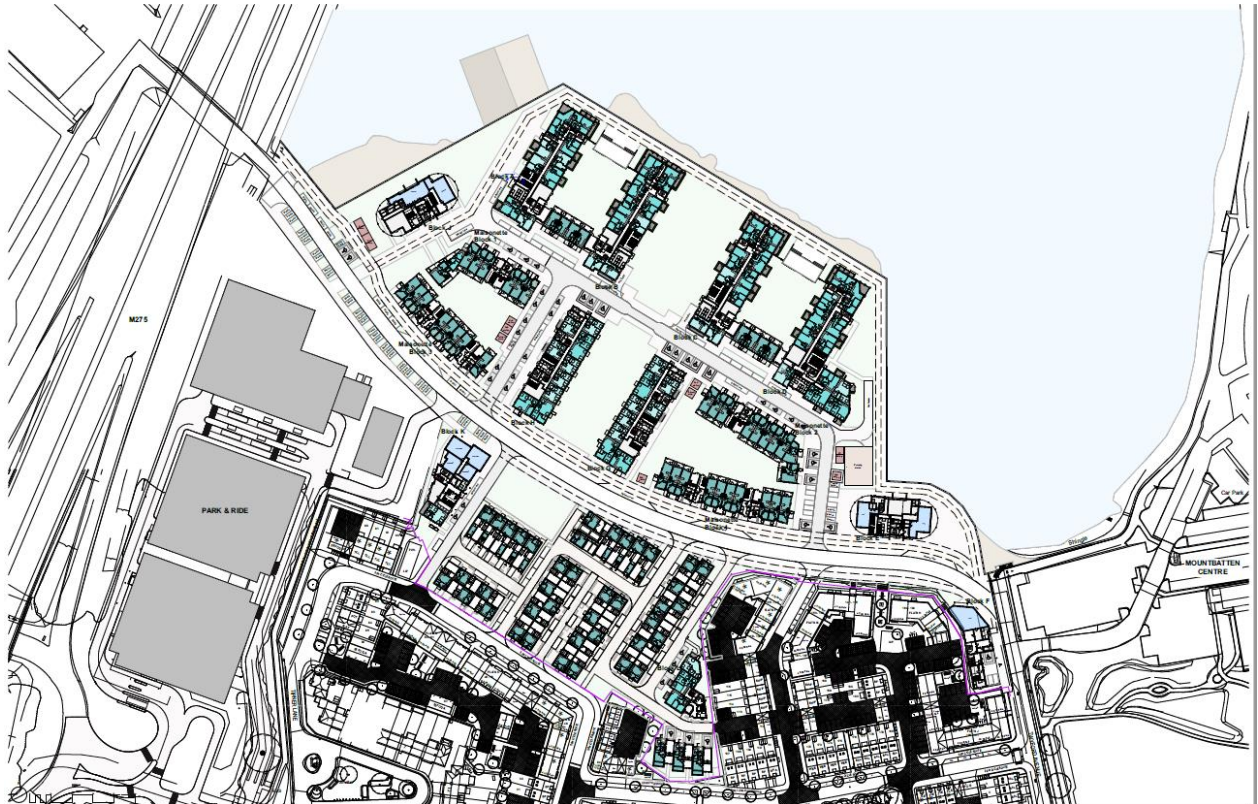
- 10.38 An 'Internal Daylight Report' was submitted with the application. This examined predicted internal daylight levels and comprised assessing 47 habitable rooms across 19

³ [Technical housing standards – nationally described space standard \(publishing.service.gov.uk\)](https://www.gov.uk/technical-housing-standards)

flats and maisonettes on the ground and first floors to represent 'worst case scenarios'. The study found that all the assessed rooms exceed the BRE guidelines and as such found that habitable rooms within the development would receive adequate internal daylight levels.

Impact on amenities of adjoining properties

10.39 With regard to the impact of the proposed development on the land to the south, currently the subject of a planning application submitted by Bellway / Homes England (Ref. 21.01357/FUL), the extract below shows the interrelationship of the two sites:



10.40 VIVID Housing Limited and Bellway have had extensive discussions and the result is proposed site layouts that interact with each other and represent comprehensive redevelopment of both sites.

10.41 Concerns were raised by officers regarding the change in levels across the sites and how this would affect the juxtaposition of the Bellway Scheme 'Flats Block H and the proposed VIVID Block F at the eastern end of the site adjacent to Twyford Avenue. However following receipt of cross sections and an amended internal layout to the Bellway block, officers are satisfied that the interrelationship of these two buildings is acceptable.

10.42 A further concern, given the intricate land ownership boundary, was the relationship between the south west facing elevations of the townhouses in Phase 6, in the southwestern part of the application site. A situation could hypothetically arise whereby this development is granted planning permission and the adjacent development being proposed by Bellway and Homes England could either be refused planning permission or not proceed in which case access to these units would have been compromised and also estate roads and landscaping left in an unfinished state resulting in a poor quality development. However, it is understood that, without prejudice to the outcome of either or both applications, a 'collaboration agreement' is being worked on which would, as shown on the plan extract above, result in a clean boundary between the sites allowing

for the houses proposed in this scheme to be built out. Notwithstanding this, if permission is granted it is recommended, in the interests of good planning, that suitably worded conditions be attached to ensure that these houses are not constructed unless and until the development proposed by Bellway is under construction or has been completed.

Highways and Parking

- 10.43 Section 9 of the NPPF sets out that transport issues for development should be considered from the earliest stages, so that: opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised - for example in relation to the scale, location or density of development that can be accommodated; opportunities to promote walking, cycling and public transport use are identified and pursued; and patterns of movement streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places. Para 110 states it should be ensured that: appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location; and the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the NDG and the National Model Design Code. The NDG states that 'compact forms of development bring people together to support local public transport, facilities and local services. They make destinations easily accessible by walking or cycling wherever this is practical. This helps to reduce dependency upon the private car', and that 'a well-designed movement network defines a clear pattern of streets that... limits the impacts of car use by prioritising and encouraging walking, cycling and public transport, mitigating impacts and identifying opportunities to improve air quality'.
- 10.44 Furthermore, para 112 states that applications for development should: give priority to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; and create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.
- 10.45 The layout of the scheme with strong pedestrian and cycle connections including a strong east to west route, including a 3m wide footway and cycle way on either side of the main throughfare, harbourside route and good connections to the proposed Bellway scheme to the south as well as to the surrounding built up area and proposed development at Tipner West is welcomed. The proposed prevention of vehicular through traffic will also have a positive impact reducing movements and improving safety for pedestrians and cycles. In accordance with the NPPF the scheme is considered to have been designed from the outset to take account of the opportunity provided by the proposed transport infrastructure of the park and ride site (see below). The scheme is considered to be well served by secure cycle parking (meeting the Councils standards), further facilitating the encouragement of active travel. Overall, the site makes a positive sustainable transport impact.
- 10.46 The on-site parking provision for cars is lower than the standards described in Portsmouth's 2014 SPD, but this has been a deliberate design choice to encourage and prioritise more sustainable transport options compared to the private car. It should also be noted that the Councils parking standards and strategy are likely to be considered out of date, and from review of recently published data from the 2021 Census the output areas covering and adjacent to the site suggests that between 20% and 34% of current households own no cars. While less than 200 parking spaces, primarily focussed on disabled parking and those homes with higher accessibility standards, are provided Officers have given considerable weight to the significant opportunity of utilising the proposed Transport Hub to meet movement, and parking, needs of future residents. Significant weight is also given to the opportunity to provide new homes and an

increased on-site parking would result in fewer homes being provided, as it would take up greater space. An increased on-site parking provision would also result in more movements on the surrounding network as more vehicles would habitually access and leave the site. While noting the benefits of a reduced car scheme, Officers have worked to ensure a balance can be made for those that choose to own a car, best facilitated by the utilisation of the park and ride/Transport Hub site. To this end a car parking management scheme will be secured by condition.

- 10.47 Officers have identified an opportunity to enhance bus services in this area, through increased east/west routing, accessing retail and employment sites on the eastern side of Portsea Island, to compliment the north/south routing greater permeability into the park and ride/Transport Hub site could provide. A route through to the park and ride/Transport Hub site has therefore been included in the application scheme. A condition can be imposed to ensure the details of this connection are approved, at an appropriate phase of development, to facilitate buses, cycles/pedestrians and emergency access as is appropriate. To support the delivery of enhanced bus provision a route suitable for buses linking to the park and ride/Transport Hub site has also been provided and can be safeguarded and an appropriate contribution to bus services is being sought through the s106 agreement.
- 10.48 While only a small number of adverse comments have been received regarding this strategic scale scheme those comments do raise concerns regarding congestion, the use of Twyford Road for access and suggest that direct access to the Motorway should be provided.
- 10.49 Direct access to the motorway has been considered by the applicant and discussed with Officers. It can be noted that the previous, extant permission, was granted with access from the local road network rather than the Motorway Junction, and Officers would be concerned about opening up the junction to a connection with the local network as it would increase the risk of 'rat-running' and more people diverting to come through local roads to access the Motorway, an option current prevented by a bus gate at Tipner Lane. A residential development with vehicular access limited to only the Strategic Road Network would be inappropriate as it would prohibit some road users and prevent integration of the new homes with the existing community.
- 10.50 Concerns about additional congestion and traffic, even from the reduced number of car users within the scheme, have been noted and the capacity of the nearby junction of the A3 has been identified as requiring enhancement. A preliminary scheme has been designed for this junction in light of the draft Local Plan allocation and a financial contribution for the proportionate impact of the proposal towards that scheme would be secured under the s106 legal agreement.
- 10.51 Representations have made comments about the use of Twyford Avenue for access. Officers have carefully reviewed the submissions made about the use of this road the proposed junction on to it. That junction has the potential to conflict with non-motorised traffic using the existing cycle route and other vehicles accessing the Mountbatten Centre. It is considered appropriate therefore to request additional details of the proposal in this area, with relevant Road Safety Audit work through a condition. A further opportunity to enhance and connect the proposed cycle route has also be identified in the applicants' Highway Response Note (6th January 2023), and a condition can be imposed to secure this.
- 10.52 Officers have considered whether the risk of future residents owning additional cars and parking them on existing unrestricted residential streets would result in a material adverse effect on local amenity. While such a risk can of course not be dismissed it is considered to be outweighed by the opportunity to promote modal shift to more sustainable modes of transport, linked to the unique opportunity of proximity to the proposed Transport Hub, and mitigated by the work of the applicant to encourage and

facilitate active travel and promote a Travel Plan, secured through the s106 legal agreement.

- 10.53 Overall Officers are satisfied that, subject to conditions and the proposed obligations within the s106 agreement, the scheme appropriately promotes active and sustainable transport and does not result in a significant harm to the operation of the highway network or highway safety risk. While parking provision is low, the unique opportunity associated with access to and proximity to the proposed Transport Hub, and existing Park and Ride outweighs any adverse implications of this. The Council's Highway team have confirmed that they are working with the developer to support improvements through connection with the sustainable and active transport opportunities at the Transport Hub and opportunities for parking provision. The development is considered therefore to be in accordance with national and local policies regarding transport and movement.

Appropriate Assessment and Biodiversity

Appropriate Assessment

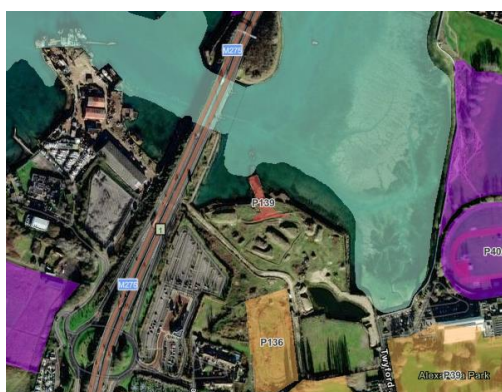
- 10.54 Pursuant to the [Conservation of Habitats and Species Regulations 2017 \(as amended\)](#) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended), all plans and projects (including planning applications) which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site.
- 10.55 Where the potential for likely significant effects cannot be excluded, a [competent authority](#) must make an appropriate assessment of the implications of the plan or project for that site, in view of the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitat site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured.
- 10.56 The LPA is the competent authority in this case and the applicants have submitted a Shadow Habitat Regulations Assessment ('Shadow HRA') to assist the LPA in assessing the project.
- 10.57 The relevant protected sites for the purposes of AA, forming part of the National Site Network (formerly 'European sites') are those within a 10km Zone of Influence, taking a precautionary approach. These are:
- Portsmouth Harbour Special Protection Area (SPA) and Ramsar Site - directly north, east and west of the site. Qualifying features: non-breeding Annex 1 waterbirds and intertidal mudflats and saltmarshes;
 - Solent and Dorset Coast SPA - directly north and west of the site. Qualifying features: breeding populations of sandwich tern, common tern and little tern.
 - Chichester and Langstone Harbours SPA and Ramsar - 3.2km east of the site. Qualifying features: breeding and nonbreeding annex 1 species, including dark-bellied Brent gees and waterbird assemblage;
 - Solent and Isle of Wight Lagoons Special Area of Conservation (SAC) - 3.2km east of the site. Qualifying Features: Coastal Lagoons

- Solent and Southampton Water SPA and Ramsar - 9.6km south. Qualifying features breeding and non breeding waterbirds and wetland habitat;
- Solent Maritime SAC - 7.8km due east of the site. Coastal features: major estuary hosting *Spartina* swards and salt meadows.

10.58 However, preliminary screening excluded the Solent and Southampton Water and Solent Maritime sites being 7.8km to 9.6km from the site on the basis that no conceivable impact pathways could be identified from the proposed project and the LPA agrees with this decision. The submitted Shadow HRA report originally failed to identify and consider possible effects upon the Solent and Dorset Coast SPA. However, a separate shadow HRA report has been subsequently submitted and has been considered in the LPA's AA as now summarised.

10.59 The submitted shadow HRA confirms that the development project would give rise to likely significant effects and has identified several impact pathways deriving from the development which would be impacts upon supporting habitats (on-site), associated disturbance of qualifying features, atmospheric pollution, changes in soil chemistry, pollution of ground and surface water and in-combination impacts from human disturbance. This of course includes nutrient impacts by reason of nitrate and phosphate pollution to the harbour. An AA is therefore required by the LPA as competent authority and a consideration of mitigation measures proposed by the applicants and whether these would result in no significant effects upon the integrity of these sites, whether alone or in combination with other plans and/or projects in the area.

10.60 The development would give rise to the direct loss of, or negative impacts to, areas of supporting SPA habitat or 'functionally linked land' used by the qualifying species as alternative areas for roosting and foraging. These are the Solent Wader and Brent Goose sites P139 and P136 (secondary support sites - see image below). The shadow HRA however notes that recent data (Hampshire Biodiversity Information Centre, HBIC) identified a maximum count of 11 Brent Geese and maximum of 200 Redshank within P139 (in the survey periods 2020-21 and 2021-22), with no Brent Geese on P136 in either period. No waders were identified in the area of P139 to be lost due to temporary hoardings. Survey findings for the period 2022-23 are awaited imminently and if possible will be reported in time for the Committee meeting. The total amount of P139 to be lost as part of the development would be 0.14ha, with P136 losing 0.78ha.



Credit: The Solent Waders and Brent Goose Network

10.61 It is noted that Natural England, having regard to the submitted shadow HRA and mitigation measures outlined therein, have raised no objection to the project, subject to these measures being secured. The key mitigation measures being proposed for the project are principally in relation to the main impacts being upon wading birds, forming qualifying features for both the SPA and Ramsar designations. These are as follows:

- (i) Enhancement and extension of the retained barge in P139 to double its size, to boost already established high tide loafing use. This would measure 0.093ha, of which 0.54ha would be new habitat.
- (ii) Creation of new coastal pasture (0.17ha) within the intertidal area between the sea wall and the mudflats, supporting Brent Geese foraging.

These areas are shown in the figures below:



10.62 These areas are provided to deliver clear site and flight lines, minimal if any human or dog disturbance, short grassland for grazing, roosting and feeding and raised platforms for loafing. Together these areas are described as a Bird Conservation Area associated with the project and overall this mitigation is concluded to provide a net increase in suitable SPA habitat during the operational phase, having regard to many years of derelict and unmanaged status, and result in improved functioning to the SPA/Ramsar supporting habitat. A management company would be appointed to manage the habitat in accordance with details set out in submitted Ecological Impact Assessment and chapter 12 of the ES.

- (iii) Window design at 8-storey (23m) and above to have bird collision markers (dots) - a measure successfully trialled in New York;
- (iv) Construction and Environment Management Plan (CEMP) - this will be secured by planning condition (and considered in consultation with Natural England), to control construction activities, for example through minimisation of percussive noise in bird wintering periods.
- (v) Bird Aware financial contribution in line with the Solent Recreation Mitigation Strategy; and
- (vi) Nutrient neutrality to be provided by way of the purchase of off-site credits from the Hampshire and Isle of Wight Wildlife Trust scheme.

10.63 It is noted that the County ecologists have objected to the submitted shadow HRA on a number of points. The applicants have responded directly to these concerns, clarifying some technical points and confirming the following:

- that survey data for the winter of 2020/21 and 2021/22 are already in Appendix H3 of the ES;
- that additional surveys for the winter of 2022/23 have been undertaken but results are awaited;
- that wintering bird surveys 2020-2022 indicate Brent Geese flights typically heading due south-west, away from the proposed Park and Ride development and M275 flyover, and at a height of approximately 40m;

- Publicly available information suggests that where Brent Geese do fly over the M275, this is typically at least 10m above the bridge level. This data informed the recent decision of PCC to grant permission for the park and ride re-development;
- The applicants are committed to working further with HCC and on-going with Natural England, Solent Steering Group, Hampshire Countryside Service and HiWWT in confirming the details of the BCA for the site (to be secured by planning condition/s106);
- With regard to concerns raised about potential overshadowing and functional links for birds moving around the SPAs, it is noted that the ES has undertaken an overshadowing analysis and concludes that impacts during the overwintering periods would be minimal and that the initial designs for the BCA have been prepared in consultation with the consultees above, including Natural England. It is noted that black fencing around the site has already served to block viewlines for SPA birds but this has not precluded continued use of the barge. Evidence suggests that relevant bird species continue to adapt to changing site conditions and that this would continue to apply. The LPA agrees with this assessment.

10.64 Both Natural England and the LPA as competent authority flagged the failure of the submitted Shadow HRA to address the possible impacts of the development upon the Solent and Dorset Coast SPA and to map this accordingly. A supplementary assessment to the Shadow HRA was subsequently submitted. This has identified likely significant adverse effects in terms of habitats utilised by wintering Terns, deterioration of the structure and function of habitat. It also noted significant adverse in-combination effects specifically with regard to potential Tipner West development. These effects are cited in the supplementary assessment as 'screening' conclusions only and it is for the AA to consider these against the mitigation and compensatory measures being proposed. The assessment set out above in this regard is considered to continue to apply to the effects identified to the Solent and Dorset Coast SPA. It is also noted that Tern surveys were carried out Jan 2021 - Aug 2022, as set out in the ES Ecology chapter. No terns were identified in or adjacent to the site or anywhere in Tipner Lake, gull species dominating. The suggested in-combination effects with Tipner West development are noted but in view of the very early stages in scheme development and the draft Local Plan, plus the incorrect reference to circa 4,000 homes coming forward at that site, it is considered that in-combination weight attached to Tipner West development is inappropriate at this stage.

10.65 Subject to the necessary mitigation and compensatory measures being secured by conditions and/or s106 planning obligations as recommended below, the LPA is able to conclude that the development would not harm the integrity of the National Site Network and can proceed, subject to other planning matters being satisfactorily addressed. It would not become necessary for the Appropriate Assessment to consider alternatives to the project as currently proposed.

Biodiversity

- 10.66 The NPPF (paragraph 180) states that when determining planning applications LPAs should apply the following principles:
- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
 - b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁶³ and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

10.67 The application site adjoins Portsmouth Harbour SPA and Ramsar site (discussed in the Appropriate Assessment above), but in addition Portsmouth Site of Special Scientific Interest (SSSI - mudflats, brackish lagoons supporting waders). There are two Sites of Importance for Nature Conservation (SINCs) at Tipner Ranges and Horsea Island to the west/north-west.

10.68 The application has been accompanied by an Environmental Statement, including a dedicated Ecology Chapter incorporating an Ecological Impact Assessment (EclA). A summary of all the EIA topic chapter conclusions is set out above. Extensive site surveys were undertaken 2020-2022 in accordance with methodologies agreed through EIA Scoping (see section 12.11.2 of Vol.2 of the ES). The zone of influence for the EIA included all land within the site boundary plus a 100m buffer. The assessment process has identified the following (noting that SPA/overwintering bird habitat is addressed in the AA section above) prevalent habitats and species:

Ecology feature	Impact Magnitude	Mitigation Measures	Residual Effects (construction and operation phases)
Low usage of the site by foraging and commuting bats	Minor Adverse - due to habitat loss and light pollution	CEMP	Minor negative at local level (habitat loss and lighting)
Suitable habitat for breeding and nesting birds	Minor adverse - due to habitat loss (scrub)	CEMP Bird Conservation Area (protected by sea wall)	Minor negative (habitat loss)
Confirmed low populations of Slow Worms and Common Lizards	Minor adverse - due to habitat loss	CEMP Reptile Mitigation Strategy including capture and translocation to Farlington Triangle Nature Reserve	Minor negative at local level (habitat loss)
Invertebrates (several rare species including <i>hygrotus nigrolineatus</i> , ground beetle and local rove beetle, picture winged fly and Cixid hopper	Minor adverse	CEMP	Minor negative at national level
Confirmed presence of 2 UK priority habitats and one immediately adjacent	Minor adverse	CEMP Embedded mitigation including: 0.015ha	Neutral

UK priority habitat (reedbeds 0.014ha loss; open mosaic habitat (OMH) (3.041ha loss; intertidal mudflat 0.102ha loss)		reedbed rear of Block J; Circa 3.73 converted arable land to OMH on loW (s.106). Mudflat being lost by reason of barge extension SPA/Ramsar mitigation. The latter is considered to take priority.	
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- 10.69 The proposed CEMP will provide mitigation during the construction phase, to include measures such as:
- Heavy machinery use of >70dB and percussive noise to be used only between April-September, to protect overwintering birds
 - Means of escape left in excavations for mammals at night
 - No works between dusk and dawn with lighting also limited in daylight hours where necessary.
- 10.70 The full details of the CEMP will be secured by planning condition for approval prior to commencement of development on the site (notwithstanding a proposed CEMP included within the ES). Similarly, additional mitigation strategies cited above will need to be secured by way of planning condition and/or section 106 Agreement. In view of the identified residual impact upon invertebrates being 'minor negative at national level' it is considered necessary to ensure that a "Reptile and Invertebrates Mitigation Strategy" is secured by condition/s106 Agreement to allow for consultation with stakeholders.
- 10.71 It is noted that HCC Ecology has raised concern that the EIA does not reference the approved development of the Park and Ride or the proposed Bellway Homes development immediately south of the site. However, this is expressly set out in section 12.10 of Vol.2 of the ES. It notes that the ES for the Park and Ride development concluded negligible effects following mitigation measures, including a CEMP and bespoke Landscape Strategy and recognition of reduced air pollution through reduction in car movement within the city centre. There are not considered to be cumulative effects pertinent to the current project EIA. The Bellway Homes scheme to the immediate south does not yet benefit from planning permission although its application is currently under determination and includes an ES. Similar proposals by way of CEMP, reptile translocation, lighting controls and commitments in principle to fund Bird Aware mitigation are set out.
- 10.72 Overall, it is concluded in the Vivid Homes project ES, that, should the Bellway Homes development also receive planning permission, the cumulative effects of each of the schemes together would be limited where the mitigation measures (embedded and supplementary) are taken into account. It is considered that this conclusion is reasonable.
- 10.73 On-site ecology measures include extensive planting on a native:non-native ratio of 70:30 in line with CIEEM guidance (2012). The proposed landscaping scheme include Hawthorn, Alder Buckthorn, Wild Cherry, Crab apple, Elder plus Dogwood, Privat and Dog Rose shrubs. A mix of flowering plants (including wildflower), trees (including fruit trees) and shrubs will support biodiversity. In addition, at least 90 bat boxes would be incorporated into new buildings and 40 Swift nest features in flatted blocks, including 1:1 in each dwellinghouse.

Biodiversity Net Gain (BNG)

- 10.74 It is noted that the proposed development is calculated to result in a net loss of 23.35 biodiversity units (57.96% site loss). Pursuant to the Environment Act 2020, a statutory requirement for new development to deliver 10% BNG is established but this is not yet been brought into force by secondary legislation (expected winter 2023). However, the LPA expects developments of such scale and longevity of construction to make such provision. The applicants have utilised the DEFRA Metric 3.1 (April 2022) which is agreed. The applicants have stated that they would aim to purchase off-site compensation credit from the Hampshire and Isle of Wight Wildlife Trust to the equivalent of 23.35 habitat units.
- 10.75 It is noted that HCC Ecology have expressed concern at the absence of detail supporting these calculations. However, additional detail is set out in the EclA in Appendix H1 of Vol.4 of the ES. The detailed BNG calculations have now been received and have been forwarded to HCC Ecology and any comment received prior to the Committee will be reported in SMAT papers. Having considered the report, the metric calculations are considered to be acceptable. However, the quantum of off-site compensation proposed is considered to potentially fall short, by appearing to replicate what is lost without securing a 10% gain. Whilst a net gain of 3.84% is indicated, this needs to be clarified in consultation with HCC Ecology as some of the figures provided in the EclA and BNG report do not tally. Furthermore the compensation credit must be secured and consequently a condition is recommended to ensure that an updated BNG report is provided for subsequent approval and an acceptable quantum of compensatory mitigation is secured.
- 10.76 In summary, it is recognised that the development would give rise to some permanent loss of habitat. A robust EIA informed by appropriate surveys, agreed pursuant to EIA scoping submission, has been provided. Impacts are considered to have been fully adequately assessed and a suite of mitigation measures identified, notably by way of the BCA but in through on-site landscaping and bespoke habitat measures, addition off-setting contributions towards off-site compensation and translocation where required. These measures can be secured through planning condition and/or legal agreement as outlined in the recommendation. The mitigation measures would result in either minor negative or neutral impacts and this is considered to be acceptable having regard to the wider planning balance.

Flooding

- 10.77 When determining planning applications, LPAs should ensure that flood risk is not increased elsewhere. In this case a significant part of the site is within Flood Zone 2 and 3. As such the applicant has submitted a flood risk assessment with the application that identifies that the dominant risk of flooding to the site is from the residual tidal flood risk and surface water flooding. The remaining sources of flood risk (fluvial, groundwater, sewers, and artificial sources) pose a low risk to the site.
- 10.78 The recommendations suggested by the applicant, namely that:
- All residents and Site users register for the Flood Warning service, provided by the Environment Agency. (<https://www.gov.uk/sign-up-for-flood-warnings>).
 - the coastal walkway should be closed during periods when high tides and strong winds combine
 - A Flood Risk Emergency Plan should be produced to identify clear milestones and actions to be implemented upon receipt of a warning to limit the risk to users of the coastal walkway
- can be secured by suitably worded planning conditions
- 10.79 Both the Environment Agency and Coastal Partners originally objected to the application on the grounds that the submitted Flood Risk Assessment did not take account of the

impacts of climate change nor provide detailed information for the proposed sea wall or consider the requirement for flood emergency planning including flood warning and evacuation of people. An updated response from both consultees is awaited and will be reported verbally at the planning committee meeting and via SMAT.

Commercial uses and sequential test

- 10.80 As well as the proposed 835 residential units, the application proposes 715.7 sq.m of floorspace falling within Use Classes E, F1 and F2. Following the change to the Use Classes Order in 2020, these comprise commercial business and service uses (Use Class E), learning and non-residential institutions (Use Class F1) and local community uses (Use Class F2).
- 10.81 As set out in the Planning Statement submitted with the application, there will also be a number of commercial and community areas which are proposed to be provided within the ground flood of Blocks E, F, J and K. The final uses are yet to be determined however, the applicant has proposed uses within the E, F1 and F2 use classes. It is envisaged that; block F at the entrance to the site and on the ground floor would be a convenience store, block E would provide some form of restaurant/café; block J would offer some form of community space; block K would be a link between the park and ride/transport hub, and would be flexible in their use but with a focus on more commercial space.
- 10.82 Whilst no sequential test has been undertaken in this case, national guidance makes it clear that the application of such a test would need to be proportionate and appropriate. In this case as the quantum of non residential floorspace amounts to just over 1% of the total and given that the development is effectively creating a new/extended neighbourhood within Portsmouth, it is considered that the element of non residential floorspace is to be encouraged and will add to the character and vitality of the area.

Archaeology

- 10.83 The Council's archaeological adviser has expressed concerns regarding the remediation works currently taking place on the site. However these are lawful operations being lawfully carried out under an extant planning permission.
- 10.84 The council's adviser is also recommending that an appropriately worded planning condition requiring a written scheme of investigation is necessary to secure any remaining archaeological mitigation. Such a condition can be imposed on the grant of permission.

Ground Conditions and Pollution (Contaminated Land)

- 10.85 The NPPF, paragraph 188 states that the focus of planning decisions should be on whether the proposed development is an acceptable use of land. In this respect as set out in Paragraph 183, provided that there are adequate proposals for mitigation including land remediation that should not be a barrier to development. As set out in Paragraph 184, the responsibility for securing a safe development rests with the developer and or landowner.
- 10.86 The site has a long history of polluting land uses dating back to the 1860s. Under the terms of the previous planning application on the site (Ref. 10/00849/OUT) remediation works have commenced. The key recommendations for the detailed remedial strategy are set out in the Environmental Statement (Paragraphs 9.5.9 and 9.5.10).
- 10.87 Significant parts of the necessary remediation will be secured under the commenced previous application (10/00849/OUT) and appropriate conditions can be imposed to

secure the completion of that work and any ongoing and further monitoring or remediation activity.

CIL and S106

- 10.87 Part 11 of the Planning Act 2008 provides for the introduction of the Community Infrastructure Levy (CIL). The detail of how CIL works is set out in the Community Infrastructure Regulations CIL is intended to be used for general infrastructure contributions whilst S106 obligations are for site specific mitigation. The regulations have three important repercussions for S106 obligations:
- Making the test for the use of S106 obligations statutory (S122)
 - Ensuring that there is no overlap in the use of CIL and S106 (S123)
 - Limiting the use of 'pooled' S106 obligations post April 2014 (S123)

CIL

- 10.89 Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012 with a basic CIL rate of £105/sqm. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2022 basic rate is £156.32/sqm. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy. However, exclusions, exemptions and reliefs from the levy may be available.
- 10.90 Based on figures provided by the applicant, the indicative CIL liability is £9,595,676.15 (gross) less £2,845,138.76 social housing relief (assumed 30% of the gross residential floorspace figure) resulting in an indicative CIL liability of £6,750,537.39.
- 10.91 This could be pooled and put towards funding improvements in primary care provision, policing, and education.

S106 - Heads of Terms

- 10.92 The applicant has indicated its willingness to enter into a legal agreement under S106. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 10.93 These tests are set out as statutory tests in regulation 122 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. These tests apply whether or not there is a levy charging schedule for the area.
- 10.94 As such the applicant has indicated a willingness to make contributions and those that are considered to meet the statutory tests are.

Contribution	Requested by	Trigger
SANG/SAMM Solent Protection Area contribution, inc. 'Bird Aware' (TBC)	PCC	Prior to 1st occupation
Highways contribution to off-site works (TBC)	PCC	Prior to 1st occupation
Sea Wall / Cycle path (TBC) Flood defence work	PCC	Delivery phasing TBC
Affordable housing	PCC	Delivery phasing TBC

Ecology Management and enhancement (TBC)	PCC	Delivery phasing TBC
Bus Routing (TBC)	PCC	Prior to 1st occupation
Linkage to P+R (TBC)	PCC	Prior to 1st occupation
Use of P+R (TBC)	PCC	Prior to 1st occupation
Linkage to Bellway (TBC)	PCC	Prior to 1st occupation
Travel Plan (TBC)	PCC	Prior to 1st occupation
Community Space / Culture / Community Art (TBC)	PCC	Prior to 1st occupation
On site harbour side Cycle Path delivery (TBC)	PCC	Prior to 1st occupation
Linkage to Tipner W and Portsea Island Cycle Route (TBC)	PCC	Prior to 1st occupation/ Commencement
Nutrient Mitigation Delivery (TBC)	PCC	Prior to 1st occupation

Human Rights and the Public Sector Equality Duty (PSED)

10.95 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.

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

CONCLUSION AND PLANNING BALANCE

11.1 As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004, the decision on a planning application should be made in accordance with the development plan unless material consideration(s) indicate otherwise. In considering Section 38(6) the proposal does not materially conflict with the development plan and the material considerations do not indicate otherwise.

11.2 This is a complex application that if implemented would take a significant period of time to complete. However, there are significant planning benefit in redeveloping this vacant site. These are:

1. the creation of a gateway development at the entrance to Portsmouth
2. the delivery of much needed housing at a high density that makes efficient and effective use of land (a limited resource in Portsmouth) and at a time when PCC cannot deliver a five year land supply
3. the provision of at least 30% affordable housing
4. inclusion of an element of commercial and community use floorspace to help create a neighbourhood
5. provision of car parking below standard to encourage a shift away from reliance on the private car

6. environmental improvements and enhancements compared with the existing site situation
7. job creation
8. improved infrastructure benefits such as the improved sea defence and the cycle way.

11.3 The officer recommendation is therefore to grant planning permission

RECOMMENDATIONS

Grant planning permission subject to conditions and a s106 Agreement.

Delegate authority to the Assistant Director for Planning and Economic Growth to finalise the wording of the conditions (listed below) and finalise the s106 agreement in line with the Heads of Terms listed above.

Conditions

1. Time Limit
2. Approved Plans
3. Phasing
The development shall only be carried out in accordance with a plan submitted to show phasing or such other alternative phasing programme as may be submitted to and agreed in writing with the Local Planning Authority.
4. Construction Environmental Management Plan
5. Hours of work (construction)
6. Hours of use (commercial premises)
7. Use of uncontaminated soils and fill
8. Unsuspected Contamination
9. Archaeology and Archaeological work programme
10. Piling methodology
11. External materials
12. Building heights
13. External ventilation and extraction details (for non resi units)
14. Glazing - soundproofing
15. Car parking - provision and retention
16. Cycle parking - provision and retention
17. Car Parking Management Scheme
18. Refuse and Recycling - provision and retention
19. Landscaping - details
20. Landscaping - implementation

21. Open Space - provision, community access, and retention
22. Lighting scheme
23. Removal of PD rights (no outbuildings, no conversion of garages, no erection of boundary treatments, no change of use of commercial premises)
24. Ecological mitigation, including Bird Conservation Area, Reedbeds, Reptiles, Japanese knotweed, wintering bird mitigation strategy and Biodiversity Net Gain
25. BREEAM standards & certification
26. Energy strategy
27. Water efficiency requirement
28. Zero or Low Carbon Energy Sources - Provision
29. SUDS
30. Foul and Surface Water drainage
31. Limitation to delivery of town houses in southwestern part of the site without collaboration with adjacent development
32. Approval of a flood warning/emergency plan
33. Employment & Skills Plan
34. Pre-commencement condition for approval of design of junction with Twyford Avenue including details of cycle routing both at Tipner Lake and along Twyford Avenue