

**35 PEMBROKE ROAD PORTSMOUTH PO1 2NS**

**CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO GOVERNMENTAL OFFICES (CLASS E(G)(I)) EXTERNAL ALTERATIONS TO INCLUDE REPLACEMENT WINDOWS AND PORCH; INSTALLATION OF ACCESS RAMP, LANDSCAPING AND NEW CAR PARK FACILITIES**

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**Application Submitted By:**

Mr. Richard Chillcott  
VIVO Defence Ltd, Part First Floor, Neon, Q10 Quorum Busi...

**On behalf of:**

Mrs Tracey Pickford  
Defence Infrastructure Organisation DIO

**RDD:** 22nd February 2023

**LDD:** 9th May 2023

**1.0 SUMMARY OF MAIN ISSUES**

1.1 The application has been brought to the Planning Committee for determination at the request of Councillor Holder and due to the number of objections (10) received. Councillor Holder has requested that the application be presented at Committee due to concerns about the number of bike spaces, parking spaces and additional traffic near to St Judes Primary School.

1.2 The main issues for consideration are:

- The principle of the development;
- Design and impact on the adjacent 'Old Portsmouth' Conservation Area;
- Impact on residential amenity;
- Highway Impacts;
- Trees;
- Human Rights;
- Equality Act;
- Community Infrastructure Levy (CIL); and
- Other Issues.

**2.0 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY****2.1 Site and Surroundings**

2.2 The application site relates to a two-storey, detached dwelling located on the northern side of Pembroke Road at its corner junction with Pembroke Close. There are residential neighbours surrounding the site to the northern side of Pembroke Road. The site is set back behind substantial boundary treatment of black iron fencing along its frontage with planting behind and a solid brick boundary wall to its west. Its entrance is marked by two impressive stone pillars with an iron gate, which provides access for both pedestrians and cars. The property is set back from its frontage. There are several trees within the site, one of which is subject to a Tree Preservation Order (TPO) a mature beech located to the rear corner (north-west) of the site. The property is a 1970s brick building which is owned and part of the Ministry of Defence (MOD) housing. The site is

not located within a Conservation Area however is adjacent to the Old Portsmouth Conservation Area and the Grade II\* Listed railings around Governor's Green (opposite to the south side of Pembroke Road).

### 2.3 Proposal

2.4 Planning permission is sought for the change of use from a residential dwelling to an Office (for Defence Estates). As part of the change of use, minor external alterations are also proposed, these include:

- a) The replacement of windows;
- b) Construction of a new porch;
- c) Removal of the front facing balcony;
- d) Installation of a Juliet balcony to the south and west elevations;
- e) Construction of an access ramp;
- f) Demolition of existing garage; and
- g) Extension to the car parking area.

2.5 It is considered that points (a) and (c) do not amount to development requiring planning permission. Points (b), (d) and (f) are all capable of being carried out under Permitted Development and therefore are not given consideration within the assessment below.

2.6 The extension to the car parking area requires the removal of 5 trees along the eastern and southern boundaries. One of these trees is a Laurel with the other 4 being Maple. The trees are between 6-8m in height, with 4 in Category C2 and one in category U (due to extensive crown die back because of shading from a neighbouring tree and brutal crown raising leaving multiple large wounds with rot holes).

2.7 The primary use of the offices would be to assist with the wider management and upkeep of the surrounding properties that are occupied by Military personnel.

2.8 The application identifies that the office would be staffed by 5 employees.

2.9 The operating hours have been identified as 08:00-16:30 Monday to Friday.

### 2.10 Planning History

2.11 C\*26613/F: Erection of 74 dwellings with garage accommodation. Conditional Permission (31.07.1972).

## 3.0 **POLICY CONTEXT**

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

- PCS10 - Housing Delivery
- PCS13 - Greener Portsmouth
- PCS15 - Sustainable Design & Construction
- PCS17 - Transport
- PCS19 - Housing Mix
- PCS21 - Housing Density
- PCS23 - Design & Conservation

3.2 In addition to the above development plan policies the Solent Recreation Mitigation Strategy (2017) and the Updated Interim Nutrient Neutral Mitigation Strategy (June 2022), Housing Standards SPD (January 2013), the Parking Standards & Transportation SPD (July 2014) are also material to the determination of the application.

## **4.0 CONSULTATIONS**

- 4.1 Tree Officer - No objections subject to a condition requiring the works to be completed in accordance with the submitted tree survey and replacement planting to be completed within first planting season/12 months.
- 4.2 Contaminated Land Team - No objections, no conditions necessary.
- 4.3 Highways Engineer - No traffic assessment has been provided however given the small scale of the development, not considered that it would have a material impact upon the function of local highway network. With regards to parking, the site plan indicates that 13 spaces have been proposed, whilst there is no set standard for non-residential parking, the onus is on the applicant to demonstrate that the development will not result in an unacceptable impact to the highway network. However, whilst no information has been provided, it is considered that any potential parking overspill could be accommodated on street parking within the local vicinity and therefore no objection would be raised. Suggested a condition for electric charging points, but these would be covered by Building Regulations.

## **5.0 REPRESENTATIONS**

- 5.1 10 representations have been received from residents, raising the following concerns:
- a) Increase in vehicular movement and traffic/parking implications;
  - b) Impact/loss of trees;
  - c) Overlooking;
  - d) Security concerns;
  - e) Disturbance from commercial use;
  - f) Loss of service accommodation; and
  - g) Insufficient level of cycle parking.

## **6.0 COMMENT**

- 6.1 The main issues for consideration are:
- The principle of the development;
  - Design and impact on the adjacent 'Old Portsmouth' Conservation Area;
  - Impact on residential amenity;
  - Highway Impacts;
  - Trees;
  - Human Rights;
  - Equality Act;
  - Community Infrastructure Levy (CIL); and
  - Other Issues.
- 6.2 The principle of the development
- 6.3 Planning permission was granted for Duchess of Kent barracks in the 1970s, including the existing dwelling. The site has continued to be used as MoD housing since construction.
- 6.4 Policy PCS10 of the Local Plan states that the City Council will plan for an additional 7,117 - 8,387 homes between 2010 - 2027 that will be provided in designated areas and through conversions and redevelopment of previously developed land.
- 6.5 While the loss of a dwelling to office provision has a notional impact on the housing provision within the City, the dwelling is in the control and limitation of the MoD(DIO) and therefore does not make a current contribution to general/market housing need. Its loss to operational (office) space for the MoD may, technically, displace demand for service

personnel accommodation into the general market, but it is more likely to displace it elsewhere within the operational accommodation estate of the Navy Base in Portsmouth. Any small risk, or adverse impact on residential provision is considered to be outweighed by the operational needs of the crown/MoD as described in the application, including the fact that this space would be primarily involved in the wider management of the surrounding MoD accommodation including ensuring void property levels are kept to a minimum.

- 6.6 As such the principle of the development is considered to be acceptable subject to the below considerations.
- 6.7 Design and impact on the adjacent 'Old Portsmouth' Conservation Area:
- 6.8 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework and requires all new development be well designed and respect the character of the city. The following will be sought in new development, appropriate scale, density, layout, appearance, and materials in relation to the particular context.
- 6.6 In addition, when determining planning applications, the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. While the site is not located within a Conservation Area it is adjacent to the Old Portsmouth Conservation Area and therefore this impact will need to be considered.
- 6.7 The alterations to the site, most notably providing parking on the southern part of the site, would change the appearance of the site but subject to replacement planting and protection of retained trees, the proposals are not considered to have any undue impact on the nearby heritage assets or the wider character of the area, especially given the site's substantial boundary treatment. The access ramp would have no material impact on the character or appearance of the conservation area.
- 6.8 The Friends of Old Portsmouth have queries whether the boundary of the site is within the Conservation Area. This is unclear (a 'thickness of line' question) but as the existing iron railings, gate pillars and wall that form this boundary are to be retained and the overall impact on character is considered to be acceptable, even with the specific weight given to the preservation and enhancement of defined heritage assets, the overall impacts are considered to be acceptable.
- 6.9 Impact on residential amenity:
- 6.10 Policy PCS23 of the Portsmouth Plan requires new development to protect the amenity of neighbouring residents.
- 6.11 No adverse implications for adjacent properties are considered to result from the development if used as described in the application, as an office. To ensure this, a condition limiting the use to that within E(g)(i) should however be applied as an unrestricted Class E use could result in impacts on amenity or highways for example that may require control. The proposal is therefore considered to accord with Policy PCS23 of the Portsmouth Plan (2012). Given the low-key office use proposed, it is not considered necessary to control days/hours of operation with respect to neighbours' amenities.
- 6.12 Neighbour objections have raised the possibility of overlooking caused by the demolition of the garage on the east as a concern. A condition will be imposed requiring details of a new boundary to the neighbours to the east to be submitted to and approved by the LPA prior to demolition of the garage in order to ensure a sufficient boundary is achieved to prevent overlooking or security concerns.

6.12 Highway Impacts;

6.13 Policy PCS17 ensures, inter alia, that the City Council and partners will reduce the need to travel and provide sustainable modes and promote walking and cycling.

6.14 Concerns from local residents regarding increased vehicular movements, in proximity to schools, have been raised. The LHA have raised no objection noting that parking provision, with overspill being capable of accommodation on street, is adequate. While a traffic assessment is not required for a scheme of this scale it is considered that the total number of additional movements is likely to be low and therefore the adverse impact on highway safety will be consequently minor and not a reason to withhold planning permission. The LHA have recommended a condition on respect of EV charging, but as this matter is covered in detail in the relevant Building Regulation approvals such a condition is not considered to meet the test of necessity.

6.15 Details have been provided within the Design and Access Statement setting out the drainage at the site for the additional car parking spaces, which shows a permeable block paving. This is acceptable in regard to the drainage for the site.

6.16 A space has been demarcated for bike storage, though full details have not been provided of the storage facilities, a condition is therefore attached to ensure sufficient quality of bike storage for the use.

6.16 Trees

6.17 The proposal, to allow replacement of parking provision requires the removal of 5 trees (all category C and U) and protection during construction installed on two other retained trees at the front of the property. Replacement tree planting is proposed, with three new trees to be planted to the front of the site and two to the rear. The recommendations of this tree report shall be conditioned, and replacement planting shall be required within the next planting season or 12 months whichever is sooner.

6.19 Human Rights

6.19 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.

6.20 Equality Act

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

6.22 Community Infrastructure Levy (CIL)

6.23 Due to the nature of the change of use, the development is not considered to be CIL liable.

6.24 Conclusion

6.25 The proposals constitute sustainable development and should be granted planning permission.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

#### Time Limit

1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

#### Approved Plans

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

Drawing numbers:

Proposed Office Plans & Elevations DIO/35Pe, 002A  
Site Plan - Proposed Car Parking Layout - DIO/35Pe, 003A

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

#### Use Class restriction

3) Notwithstanding the Town and Country Planning (Use Classes) Order 1987 As Amended 2020 the site shall only fall within Use Class E(g)(i), unless given prior written consent of The Local Planning Authority.

Reason: In order to protect the amenity of the neighbouring residential occupiers, and to control other potential impacts, eg on highways, in accordance with Policy PCS23 of the Portsmouth Plan 2012.

#### Tree details

4) All work shall be carried out in accordance with Arboricultural Assessment Ref 230217 rev00 dated 15 February 2023 and the replacement planting shall be carried out within the next planting season or within 12 months whichever is sooner.

Reason: To ensure the protection of trees during construction and to ensure that sufficient replacement planting is carried out in accordance with Policy PCS13 of the Portsmouth Plan 2012.

#### Boundary treatments

5) Prior to the demolition of the garage, details shall be submitted to and approved by the Local Planning Authority in writing of the replacement boundary with the neighbours to the east. The boundary treatment shall thereafter be provided in accordance with the submitted details.

Reason: In order to protect the amenity and security of the adjoining neighbours in accordance with Policy PCS23 of the Portsmouth Plan 20212.

Bike storage

6) Prior to the first occupation of the development, bicycle storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing, and those facilities shall thereafter be retained for that storage at all times.

Reason: To ensure sufficient consideration is given to sustainable transport modes in accordance with Policy PCS13 of the Portsmouth Plan.