

35-37 FRATTON ROAD PORTSMOUTH PO1 5AB

PART CHANGE OF USE AND CONVERSION TO MIXED USE DEVELOPMENT COMPRISING COMMERCIAL, BUSINESS (CLASS E), STORAGE (CLASS B8) AND SUI GENERIS UNITS AT GROUND FLOOR; CONSTRUCTION OF A TWO-STOREY EXTENSION WITH MANSARD ROOF TO THE FRONT OF THE SITE AND A TWO-STOREY EXTENSION TO THE REAR OF THE SITE, IN ORDER TO FORM 8NO FLATS (CLASS C3); TO INCLUDE CHANGES TO THE FENESTRATION AND ASSOCIATED WORKS TO THE REAR TO PROVIDE REFUSE, CYCLE AND STORAGE FACILITIES ACCESSED FROM VIVASH ROAD.

LINK TO ONLINE DOCUMENTS:

[**23/00639/FUL | PART CHANGE OF USE AND CONVERSION TO MIXED USE DEVELOPMENT COMPRISING COMMERCIAL, BUSINESS \(CLASS E\), STORAGE \(CLASS B8\) AND SUI GENERIS UNITS AT GROUND FLOOR; CONSTRUCTION OF A TWO-STOREY EXTENSION WITH MANSARD ROOF TO THE FRONT OF THE SITE AND A TWO-STOREY EXTENSION TO THE REAR OF THE SITE, IN ORDER TO FORM 8NO FLATS \(CLASS C3\); TO INCLUDE CHANGES TO THE FENESTRATION AND ASSOCIATED WORKS TO THE REAR TO PROVIDE REFUSE, CYCLE AND STORAGE FACILITIES ACCESSED FROM VIVASH ROAD. | 35-37 FRATTON ROAD PORTSMOUTH PO1 5AB**](#)

Application Submitted By:

Mr M. Casey
HRP Architects LTD

On behalf of:

Mr Saleem Ahmed

RDD: 25th May 2023

LDD: 29th August 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee at the request of Councillor Cal Corkery.

1.2 The main issues for consideration in the determination of the application are as follows:

- The principle of the development;
- Design;
- Impact on residential amenity;
- Highway Impacts;
- Impact on nature conservation interests; and
- Other Issues

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

2.2 The application site covers an area of approximately 0.12ha, located between Fratton Road and Vivash Road, south of the Victory Business Centre, and north of a row of residential properties along Lucknow Street. The site is currently occupied by a large single-storey building, which was last in use as a social club. This building has a frontage to Fratton Road and covers a large part of the site, with a courtyard area to the rear. On the far western side of the site, there is a two-storey dwelling on the Vivash Road frontage, with undercroft vehicle access into the site.

- 2.3 The site is located within the Fratton District Centre and a high-density area as defined by Policies PCS8 and PCS21 of the Portsmouth Plan respectively.
- 2.4 The area surrounding the site is characterised by a mix of residential and commercial uses. Along Fratton Road to the north and south of the site, the majority of buildings have commercial use at ground floor level, some with residential use above. To the south of the site, the buildings along Lucknow Street are residential, comprising a mix of housing and flats. It is highlighted that to the immediate south of the site is a shared garden in use by the Southsea Self Help Housing Co-operative which occupies the units along Lucknow Street. On Vivash Road to the west of the site, the adjacent properties comprise some two-storey residential dwellings and a church. To the north of the site is the Victory Business Centre, which is a five-storey commercial building and is protected for employment use under Policy PCS11 of the Portsmouth Plan.
- 2.5 Proposal
- 2.6 Planning permission is sought for the part change of use to a mixed-use development comprising commercial, business (Class E), storage (Class B8) and Sui Generis units at ground floor. As well as the construction of a two-storey extension with a mansard roof to the front of the site along Fratton Road and a two-storey extension to the of the site, to form 8 flats (Class C3). This would include changes to the fenestration and works to the rear to provide refuse, cycle and storage facilities, all accessed from Vivash Road.



Figure 1 Proposed front elevation (Fratton Road)



Figure 2 Proposed rear section

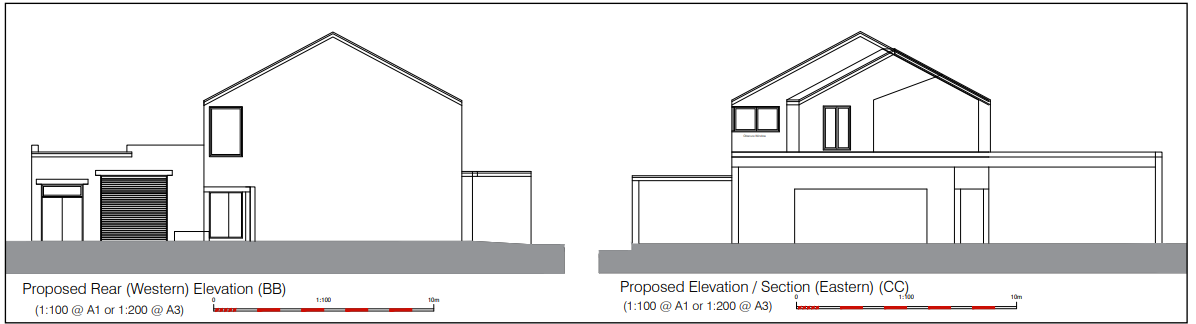


Figure 3 Proposed side elevations

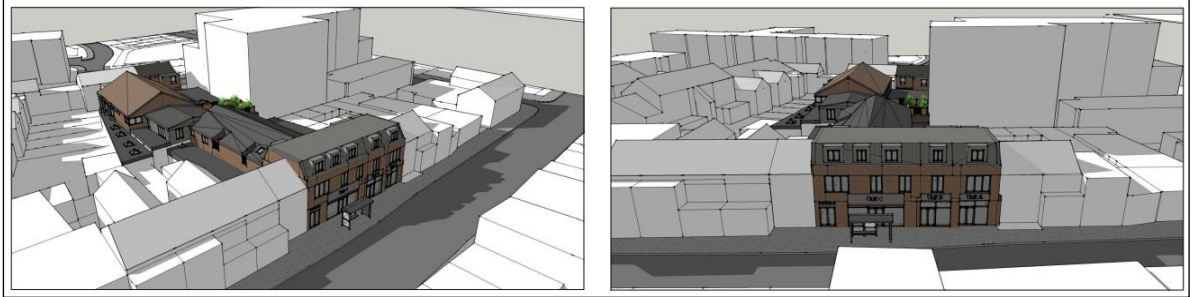


Figure 4 Proposed visual representations

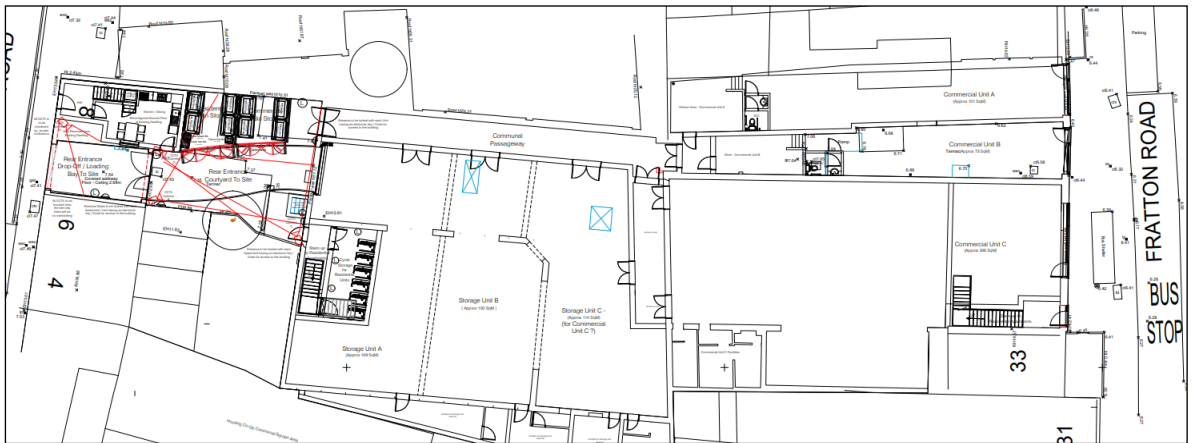


Figure 5 Proposed ground floor plan



Figure 6 Proposed first floor plan

- 2.7 The ground floor would be sub-divided into 3 commercial units (fronting Fratton Road) and 3 commercial storage units (within the centre of the site and access via the undercroft on Vivash Road).

- Commercial Unit A - 101m² (Sui Generis Use)
- Commercial Unit B - 73m² (Class E Use)
- Commercial Unit C - 306m² (Class E Use)

- Storage Unit A - 109m² (Class B8 Use)
- Storage Unit B - 100m² (Class B8 Use)
- Storage Unit C - 114m² (Class B8 Use)

2.8 The units proposed would comprise the following mix of dwellings:

- 5 x 1-bedroom flats;
- 1 x 2-bedroom flat; and
- 2 x 3-bedroom flats.

2.9 The existing dwelling on Vivash Road would be retained though would have alterations to its internal and external layout.

2.10 The proposal includes the building up of the frontage along Fratton Road to two-stories in height, with a mansard roof and dormers. The primarily materials would be red/brown brick with a zinc roof. The frontage along Fratton Road would retain a commercial frontage at ground floor with the large elements of glazing within aluminium frames.

2.11 An additional storey would be constructed above the existing pitched roof building towards the east of the site. A two-storey link building with a pitched roof would be constructed linking this element with the existing pitched roof building towards the rear of the site. This roof of this building would be raised at the ridge and eaves. The development would also provide a first-floor terrace for the flats located centrally to the north side of the site.

2.12 The main access to the flats would be from Fratton Road, they would be linked by a hallway which would run through the length of the first floor of the site. Rear access would be provided by the existing access along Vivash Road. Bin and bike storage would be located to the rear.

2.13 The undercroft along Vivash Road would be retained though only used for deliveries, with no parking on site. Lighting and CCTV cameras are proposed within the rear ground floor courtyard.

2.13 Planning History

2.14 23/00822/PLAREG - Change of use (37a) from Class E to form a restaurant and hot-food takeaway and infill the courtyard to form a retail unit (37b), with associated alterations to frontage and installation of two extract ducts to rear - Pending Decision.

2.15 22/01540/FUL - Change of use to hot food takeaway, with associated alterations to frontage and installation of extraction unit - Application Withdrawn

2.16 19/01220/OUT - Outline application for construction of mixed use development comprising 2, 3 and 5 -storey buildings to provide a social club (class D2), 4 x 3-bedroom flats (Class C3), 22 x student rooms (Class C1) with associated caretakers flat and café, cycle and refuse storage facilities and 2 x parking spaces accessed from Vivash Road (Principles of access, appearance, layout and scale to be considered) - Withdrawn 13 January 2023

2.17 18/01450/OUT - Outline application for a mixed-use development comprising Social Club and Student Halls of Residence (50 bedrooms) within a part 1/part 3-storey building fronting Fratton Road, 2-storey building fronting Vivash Road and part 4/part 5-storey building positioned centrally within the site with associated refuse/bicycle stores and parking facilities (principles of access, appearance, layout and scale) - Withdrawn 4 September 2019

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:

- PCS8 - District Centres
- PCS10 - Housing Delivery
- PCS13 - Greener Portsmouth
- PCS15 - Sustainable Design & Construction
- PCS17 - Transport
- PCS19 - Housing Mix, Size & Affordable Housing
- PCS21 - Housing Density
- PCS23 - Design & Conservation

3.2 In addition to the above development plan policies the Solent Recreation Mitigation Strategy (2017) and Updated 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 Natural England

4.2 No objection subject to securing sufficient mitigation against SPAs.

4.3 Highways Engineer

4.4 The site is not located within that part of the city found to be sufficiently accessible in the SPD to allow the consideration of a reduction in the parking expectation for the C3 elements. However, this does not mean that each site must provide off road parking sufficient to meet the parking expectation. The SPD explains that *"the council recognises that, given the nature of available development sites in the city, it will not always be physically possible to accommodate the expected standard on site. In some cases, it may not be possible or appropriate to provide any on-site parking at all"*.

4.5 Nevertheless, that does not mean that developments without adequate parking facilities will be acceptable rather that we need to be satisfied that there is a reasonable prospect of future residents/customers to the site being able to find a parking space within a reasonable walking distance of their home.

4.6 Taking into the local and the nearby key amenities and the applicants providing a parking survey to demonstrate that there is sufficient capacity to accommodate the likely parking demand in the surrounding vicinity, it is considered that no objection would be raised in terms of parking provision.

4.7 Concerns were initially raised regarding the rear access, which the original drawings indicated as a car parking space, the revised submission has amended this to demonstrate that the area is to be reserved for deliveries. It is considered the amendment would not cause any significant impact and therefore acceptable.

4.8 No objection is therefore raised subject to two conditions around details of cycle spaces and a Parking and Service Management Plan being submitted and approved prior to occupation.

4.9 Environmental Health

- 4.10 No objection to the application subject to conditions relating to traffic noise from Fratton Road to residential properties and four conditions relating to the proposed commercial uses at ground floor level.
- 4.11 Contaminated Land Team
- 4.12 No objection subject to a pre-commencement and pre-occupation condition.
- 4.13 Ecology
- 4.14 No objection to the proposal subject to a condition requiring that the development is carried out in accordance with the recommendations from Section 4 "Ecological Constraints and Opportunities" of the submitted Bat Scoping Report (The Ecology Co-operation Ltd., May 2023).
- 4.15 Crime Prevention Design Advisor
- 4.16 No objection has been received, detailed comments discussing matters of access and recommendation for lighting and CCTV installation. These comments were provided prior to the revised plans which show lighting and CCTV cameras within the rear courtyard as suggested. Noted that they recommend each unit has a car parking space, though unclear how this matter relates to Crime Prevention.

5.0 REPRESENTATIONS

- 5.1 3 letters have been received objecting to the development. This includes a letter from Southsea Self Help Housing, who represent 18 members who live to the south of the site. As well as Councillor Cal Corkery who has requested the application be determined at Planning Committee. The issues raised can be summarised as follows:
- a) Parking surveys completed at night and do not reflect the parking pressure of the area;
 - b) Impact of the greenspace to the south of the site;
 - c) Impact on nature and wildlife;
 - d) Impact on trees near the site;
 - e) Loss of privacy and overlooking upon the southerly neighbours;
 - f) Increase in traffic and parking demand;
 - g) Increase in light levels;
 - h) Increase noise;
 - i) Impact of dust and air quality;
 - j) Lack of certainty about which part of the building are to be retained; and
 - k) Impact on drainage.

6.0 COMMENT

- 6.1 The main issues for consideration are:
- The principle of the development;
 - Design;
 - Impact on residential amenity;
 - Highway Impacts;
 - Impact on nature conservation interests; and
 - Other Issues
- 6.2 The principle of the development
- 6.3 The site comprises brownfield land that has been vacant since the use as a social club ceased. The site is located within the primary section of the Fratton Road District Centre as designated under Policy PCS8 of the Portsmouth Plan (2012). PCS8 sets out that "*proposals for residential (C3) or offices (B1a) will be encouraged on upper floors, but not*

at ground floor level along the primary frontage". The proposal would retain a commercial use at ground floor level. The development introduces three new commercial shop fronts to Fratton Road at ground floor level, two of which would fall within Class E, the other as a Sui Generis take-away. Policy PCS8 of the Portsmouth Plan does not restrict the number of take aways within the Centre, it simply supports A1 Uses (now Class E). The rear of the site is identified as storage (Use Class B8), Policy PCS8 is silent of storage uses within the centre, it is considered that this use would be broadly acceptable given the nature of the area and newly provided commercial frontage. Given that the proposal results in three additional shopfronts, two within Class E, the commercial element of the scheme is supportable in principle. The overall proposal is therefore considered to accord with Policy PCS8. It is noted that the scheme increases the housing density within a District Centre and makes good use of brownfield land, in accordance with Policy PCS21.

- 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. Furthermore, paragraphs 5.31 and 5.34 of the Local Plan highlight the need to make the most effective use of land which is consistent with the objectives of Section 11 of the NPPF that highlights the importance of using land effectively to provide the homes and other identified needs that communities need. On this basis the proposal is acceptable, in principle
- 6.5 Another aspect for the determination of this application is the fact that Authority does not have a 5-year housing land supply, and the proposed development would contribute towards meeting market and affordable housing needs. The proposed development has been assessed on this basis and is deemed to be acceptable in principle given the policy objectives of PCS8 as well the very good access to jobs, shops, services, and public transport. However, the specific impacts of the proposal must be considered as to whether the development is appropriate in detail and whether visual harm and/or harm to neighbouring amenity would occur. The detailed assessment is set out below.
- 6.6 Design
- 6.7 Section 12 of the National Planning Policy Framework (NPPF) places an emphasis on achieving high quality sustainable development. Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places are fundamental to what the planning and development process should achieve. Paragraph 130 sets out that developments should ensure that they function well and add to the overall quality of an area; be visually attractive; be sympathetic to local character and history; establish or maintain a strong sense of place and should optimise the potential of a site to accommodate and sustain an appropriate mix of development.
- 6.8 In addition, Policy PCS23 of the Portsmouth Core Strategy (2012) states, inter alia, that new development must be well designed and, in particular, respect the character of the city. A range of guiding principles include the need for excellent architecture, public and private spaces, the need to relate well to the city's heritage and to be of an appropriate scale, density, layout, appearance and materials in relation to the particular context.
- 6.9 The existing building has mostly maxed out the available space on site. The previous frontage had some architectural quality with the larger curved windows and arched vehicular entrance. It was noted at the time of the officer site visit the archway on the Fratton Road frontage has been removed and replaced with a standard shopfront as shown on the exiting plans. While the larger hall within the site has some quality with its vaulted ceiling it is very much screened by the flat roofed elements on the site.
- 6.10 The building up along Fratton Road is acceptable in scale and form. While the frontage would be slightly taller than the adjacent properties, Fratton Road has a range of heights along its frontage and the subtle change in eaves and ridge height is not considered to raise any concerns. The building would primarily be completed in red/brown brick, with

traditional shopfront glazing at ground floor level. The zinc roof, while not typical for the area, would be acceptable given the commercial setting of the frontage.

- 6.11 The rest of the building would be screened by the surrounding properties. While it would appear as somewhat of a monolith, it is acknowledged that this is broadly similar to the existing built form on site. The actual additions with the main body of the site are relatively modest and while not of any great architectural quality, are on-balance considered to be acceptable. As part of the permission window and door details will be required prior to commencement as well as material samples of the frontage and roof terrace.
- 6.12 Policy PCS23 ensures new developments take account of their context and, and with the variety in the scale and architectural design of the in the surrounding area, it is considered that the proposed layout, design and quantum of development would ensure the scheme respects the scale, materials, design and overall character and appearance of the surrounding area.
- 6.13 Subject to the conditions set out below it is considered that the scheme represents a sustainable form of development that accords with the objectives of Policy PCS23 of the 2012 Local Plan and the NPPF.
- 6.14 Impact on residential amenity
- 6.15 Policy PCS23 also requires, inter alia, that new development protects the amenities of existing residents while requiring a good standard of amenity for future occupants.
- 6.16 Existing Residents
- 6.17 As part of the application the Council's Environmental Health team have been consulted and no objections have been received regarding the commercial uses on the adjoining or proposed residents. A number of conditions have been proposed in order to control noise from the commercial uses to the residential uses. The proposed ground floor units would be in variable use in Class E, Class B8 and Sui Generis Use. Operating hours conditions will be attached to the commercial uses to ensure they do not interfere with the above and nearby residential uses.
- 6.18 39-43 Fratton Road
- 6.19 The additional mass along the frontage of Fratton would not be considered result in any overshadowing or dominance along the neighbours to the north of the site. Reviewing the proposed window locations for the north side facing flats against those units to the north there would be a separation of 11m. The bedroom and living rooms window for Apartment 3 would be angled away from the side facing windows of No. 39-41 Fratton Road. The windows for Apartment 4 would face directly north, however given the window arrangement from the northern neighbour, views would be angled and discreet. While it is accepted that there may be a level of mutual overlooking, given the close-nit nature of the area, this is acceptable on balance.
- 6.20 44-48 Fratton Road
- 6.21 The increase in height and additionally windows along the Fratton Road frontage would face onto these neighbours to the east, given the separation of the road there is no concerns around residential amenity on these neighbours.
- 6.22 33-29 Fratton Road
- 6.23 No.33-29 Fratton Road feature 6 total upper floor rear facing windows which would look on to the site. The minor increase in height of the additionally storey above the eastern side of the site, would not result in any harm through overshadowing or enclosure. Apartments 6 and 8 would feature east facing windows, both secondary windows. While

they are at set a minimum of 16m away from the rear windows of the southern terrace, it is considered appropriate to attach a condition requiring them to be obscure glazed and non-opening. Apartment 5 also features a small roof terrace, which would be conditioned to include glazing to restrict overlooking.

6.24 57-79 Lucknow Street

6.25 The additional height of the westerly section of the building would follow the existing line of the pitched roof building within the site, with the majority being retained where possible. This would therefore be angled slightly away from the boundary. At its closest point it would be 13.8m away from the rear of the properties along Lucknow Street. The built form next to the boundary with the Lucknow Street communal garden would only increase by approximately 0.35m at eaves and max height. Given this minor change in massing it is not considered that the proposal would result in a harm level of overshadowing towards these neighbours.

6.26 Seven first floor windows are proposed along the southern boundary. These includes three windows serving the two bedrooms of Apartment 8, all of which would be angled away from the Lucknow Street and face towards the rear car park/undercroft. There would also be two windows serving the living room for this unit, one of which would be high level and provide limited opportunities for overlooking. The other would be a corner window and face on to the rear car parking area. The remaining two windows would serve a bedroom and living room for Apartment 6, both windows would be approximately 17.8m away from the properties to the south. On balance and subject to the conditions outlined above the proposal would be considered to have an acceptable impact on the neighbours along Lucknow Street.

6.27 4-6 Vivash Road and 7-9 Vivash road

6.28 Given the minor changes to the western edge of the site, it is not considered that there would be any impact on the amenity of these neighbours.

6.29 Roof terrace

6.30 Detailed plans have been shown of the proposed roof terrace, which would feature acoustic screening fence panels and be located away from the existing residential occupiers. While access is shown onto the adjoining flat roofs, this is solely for maintenance and a conditioned would be imposed to ensure the further roofs are not used for recreation.

6.31 On the basis of the foregoing, the proposed development would, by virtue of the layout, separation distances and window treatments, be unlikely to materially impact upon the occupants of existing residents that are adjacent to the application site, or to impact upon them in an acceptable manner given the site's context, and therefore the scheme is compliant with Policy PCS23 of the Local Plan in this regard.

6.32 Future Occupants

6.33 With regard to the amenities of future occupants, it is necessary to consider the proposed size of the units proposed and whether these would accord with the Government's Internal Space Standards, and whether the proposed layout would give rise to any materially harmful impacts such as overlooking within the development itself.

6.34 The Government's Nationally Described Space Standards were published in 2015 and the applicant has detailed on the submitted plans the size proposed for each of the 1-bedroom, 2-bedroom and 3-bedroom apartments proposed. Each of the apartments would exceed the Space Standards. In terms of the internal space provided each of the occupants would have a good standard of amenity that either meets or exceeds the minimum space standards. All the units also enjoy a suitable degree of light and outlook.

- 6.35 Regarding outdoor space, the scheme proposes a communal terrace that could be accessed by each of the Apartments. Details have been sought over the design and finish of the terrace to ensure its quality. Screening is proposed to prevent conflict with any adjoining apartments. Given the location of the site, as the rear of a commercial area, it is considered that any external amenity space is a positive. The scheme therefore provides for good levels of outdoor amenity thereby adhering to the objectives of Policy PCS23 of the Local Plan and paragraph 130(f) of the NPPF. Furthermore, the site is only 200m away from Landport Park.
- 6.36 Impact of the ground floor use(s)
- 6.37 The proposal has been reviewed by the Council's Environmental Health team who have reviewed the noise impacts of the proposed ground floor use, and a number of conditions are proposed around noise insulation and any required extract equipment. It is considered suitable to restrict the hours and days of operation of the ground floor elements to protect the amenity of the proposed and surrounding occupants. Considerations has been given to restricting the Class E units to only specific uses within the order, it is not considered that this would be justifiable. It is however considered that given the possible change of use of the ground floor storage units it is suitable to secure those larger units as B8 use, in order to ensure the careful consideration of any subsequent light industrial use. It is noted that extraction equipment for the Sui-Generis takeaway use has not been shown within the application, this element would require a separate future application. Reviewing the plans, it is considered that there is scope to site the equipment within the building, without impacting upon the amenity of the proposed or adjoining residents.
- 6.38 Highway Impacts
- 6.39 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.
- 6.40 The Highways Authority reviewed the submission including the Applicants Transport Statement and have confirmed that while the proposed ground floor uses would result in an increase in traffic generation it is not considered that it would have a material impact on the operation of the broader highway network. In addition, no objection is raised to the proposed accesses.
- 6.41 As stated the application does not provide any on-site parking for the residential flats. The site is located within a District Centre and nearby to a range of sustainable transport options including a bus stop at the front of the site on Fratton Road (Bus Routes 13 and 18) and is within 300 metres of Fratton Train Station. Taking into the local and the nearby key amenities and the applicants having provided a parking survey to demonstrate that there is sufficient capacity to accommodate the likely parking demand in the surrounding vicinity, it is considered that no objection would be raised in terms of parking provision.
- 6.42 Cycle parking has been identified within the plans and this has been reviewed by the Council's Highways Authority who are satisfied with its overall provision. Final details of the cycle storage will be secured via condition as will a Parking and Service Management Plan to set out how the coming and goings will function for the site. The scheme is considered to be compliant with the objectives of Policy PCS17. Furthermore, when the scheme is considered against paragraph 111 of the NPPF there are no highway related reasons to withhold planning permission.
- 6.43 Impact on nature conservation interests
- 6.44 The Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated as a Special Protection Area, or otherwise affect

protected habitats or species. The Portsmouth Plan's Greener Portsmouth Policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

- 6.45 There are two potential impacts resulting from the accommodation proposed as part of this development. The first being potential recreational disturbance around the shorelines of the harbours, and the second being from increased levels of nitrogen and phosphorus entering the Solent water environment.
- 6.46 Officers have submitted an Appropriate Assessment, dated 7th August 2023, to Natural England who have subsequently confirmed that they raise no objection to the proposal subject to the necessary mitigation being secured. The mitigation contribution for the recreation disturbance is £4,522.00, whilst mitigation would be needed to make the scheme nitrate neutral to the amount of 6.16kg TN/yr.
- 6.47 The recommendation is for the Committee to recommend the granting of permission subject to the completion of a legal Agreement to secure the mitigation payment for both the recreational bird disturbance and nitrate neutrality.
- 6.48 In terms of the biodiversity value of the site itself, the City Council's Ecology Officer has reviewed the Bat Scoping Report and has confirmed they raise no objection subject to a condition ensuring the mitigation measures set out in the report are implemented as set out in the report. They have also reviewed the revised lighting scheme and have raised no objections to the proposal.
- 6.49 In addition, and pursuant to Policy PCS13 it is considered appropriate to impose a further condition to ensure biodiversity enhancement measures and a detailed management plan are Provided.
- 6.50 Community Infrastructure Levy
- 6.51 The proposal would result in the creation of 8 new dwellings totalling 709 sq.m of GIA floorspace, 3 commercial Class E/sui generis units totalling 554sqm of GIA floorspace and 3 storage Class B8 units totalling 454 sq.m of GIA floorspace all within one building (1717 sq.m GIA total). Existing building discount is unlikely to be applied as the existing building is unlikely to have been in continuous lawful use for 6 months in the 36 months prior to planning permission first permitting development. The submitted CIL Form 1 confirms that this is the case. The likely CIL chargeable amount will be £211,113.57 based on 1263 sq.m at full rate and 454 sq.m at a £0 (zero) rate.
- 6.52 Human Rights and the Public Sector Equality Duty ("PSED")
- 6.53 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.
- 6.54 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.

6.55 Other Issues

- 6.56 In regard to the impact of the development on trees. There are no trees located within the curtilage of the site, it is noted that there are trees within the adjoining sites. The scheme has been discussed with the Council's Arboricultural Officer, given the location of the nearby trees to the south-east of the boundary of the site, which is currently and proposed to be used as a paved courtyard it is not considered that it would result in any harm towards the adjacent trees.
- 6.57 The proposal would result in an increase in light at night given the increased intensity of the use and number of additional windows, it is not however considered that this would result in any concern towards the surrounding neighbour's amenity.
- 6.56 The majority of the ground floor area would be used for storage which is not considered to pose any significant noise concerns, the other uses and residential elements have been considered by the Environmental Health team who besides some conditions around insulation between floors have not raised any concerns.
- 6.57 The impacts of dust and air pollution through the construction would be managed via the public protection regime and the actual external works in this case are rather limited. A Construction Environment Management Plan (CEMP) condition has been included to ensure the proper management of the construction phases of the development.
- 6.58 The Council's Drainage Engineer was consulted in response to a neighbour representation, in their view, given that the existing buildings footprint is 100% impermeable there will be no increase in run-off from the site. All foul water and roof water connections are subject to S106 Southern Water Agreement, which is not part of our planning process. Additionally, a Flood Risk Assessment is not required for the development due to its location. As such it is not considered suitable to request a Drainage Strategy and no objection is raised.

6.59 Conclusion

- 6.60 Having regard to all of the material planning matters which have been covered above, it is considered that the proposal would represent a positive addition to the area, would not unduly impact upon the amenities of neighbouring properties, would afford future occupants with a good standard of living, and would represent an efficient use of a brownfield site. Subject to the conditions set out below the development would secure the necessary ecological benefits. Furthermore, the development would yield new housing for the city, and it is located at a very sustainable location. Having considered that there would be no significant/unacceptable adverse impacts on residential amenity, character and design, the surrounding highway network and nature conservation interests, the development would contribute to the achievement of sustainable development as required by the NPPF. Consequently it is recommended that planning permission be granted.

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to grant Conditional Permission subject to completion of a Legal Agreement to secure the following:

- i. To mitigation of the development with respect to the recreational disturbance to the Special Protection Areas.
- ii. Nitrate neutrality mitigation for the Special protection Areas

RECOMMENDATION II - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary, and

RECOMMENDATION III - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement to secure the affordable housing, and the mitigation of the development with respect to the Special Protection Areas pursuant to Recommendation I has not been completed within three months of the date of

PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the application process, and with the submission of amendments an acceptable proposal has been achieved.

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:

Existing Block Plan - 9033 - 00- A;

Proposed Ground Floor Plans - 9033 - 04- Rev B;

Proposed First & Second Floor Plans - 9033 - 05- Rev C;

Proposed Elevations and Perspectives - 9033 - 06- Rev C;

Proposed Elevations - 9033 - 07- Rev B;

Existing & Proposed Revisions to Plans and Elevations at the Property - 9033 - 08- Rev B;

Proposed Block Plan - 9033 - 10- Rev B;

Proposed Materials/Front Elevation - 9033 - 12;

Proposed Roof Terrace - 9033 - 13;

Proposed Rear Access Plan - 9033 - 14 - Rev A; and

Proposed Window Location First Floor Plan - 9033 - 15 - Rev B.

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

Land Contamination

3) No works pursuant to the development hereby approved shall commence until there has been submitted to and approved in writing by the Local Planning Authority (or within such extended period as may be agreed with the Local Planning Authority) the following in sequential order:

a) A desk study (undertaken following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice) documenting all the previous and current land uses of the site and potential contaminants associated with those uses. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages (including consideration of asbestos), including sampling rationale for a site investigation scheme based on the conceptual model, explaining all proposed sample locations and depths (Phase 1 report).

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21

of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS8576:2013 'Guidance on investigations for ground gas – Permanent gases and volatile organic compounds (VOCs)'). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end use or can be made so by remediation. Remedial options shall be detailed with a remedial options appraisal. The report shall include a detailed assessment of the risk to all receptors that may be affected, including those off-site (Phase 2 report).

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.

c) A remediation method statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, detailing proposals for future maintenance, monitoring and arrangements for contingency action as necessary. If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in BS8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and have consideration of CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. The remedial options appraisal shall have due consideration of sustainability as detailed in ISO 18504:2017 Soil quality – Sustainable remediation. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion (Phase 3 report).

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.

4) The development shall not be occupied until a stand-alone verification report has been submitted by the competent person approved pursuant to condition (3) c) above. The report shall demonstrate that the remedial scheme has been implemented fully in accordance with the remediation method statement and demonstrate that site remediation criteria have been met. For the verification of gas protection schemes the applicant should follow the agreed validation plan. Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions (3) c).

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.

Road Noise

5) Prior to the commencement of construction works a scheme for insulating habitable rooms against road traffic noise shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first occupation of the building and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved in all habitable rooms:

Daytime: LAeq(16hr) (7:00 to 23:00) 35 dB, Night-time: LAeq(8hr) (23:00 to 07:00) 30 dB and LAmax 45dB.

Commercial use

6) Prior to the installation of any fixed plant or equipment an assessment of noise from the operation of the plant shall be undertaken using the procedures within British Standard BS4142:2014 and a report submitted to the local authority for approval. Upon approval all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant shall be implemented, retained and maintained thereafter.

Reason: In order to protect the amenity of the above and adjoining residential uses in accordance with Policy PCS23 of the Portsmouth Plan (2012).

7) A scheme of sound insulation measures designed to reduce the transmission of airborne sound across the separating floor between the ground floor commercial use and the first floor proposed residential dwellings shall be submitted to the planning authority. These measures shall ensure that the separating floor can achieve a minimum standard of Dntw+Ctr 55dB. Upon approval these measures shall be implemented and thereafter maintained.

Upon approval these measures shall be implemented in full prior to the first occupation of any residential unit and thereafter maintained.

Reason: In order to protect the amenity of the above residential uses in accordance with Policy PCS23 of the Portsmouth Plan (2012).

8) A noise assessment shall be carried out to ensure that any equipment will not cause a loss of amenity and that the following acoustic criteria will be achieved in all habitable rooms:

Daytime: LAeq(16hr) (7:00 to 23:00) 35 dB, Night-time: LAeq(8hr) (23:00 to 07:00) 30 dB and LAmax 45dB.

Reason: In order to protect the amenity of the above and adjoining residential uses in accordance with Policy PCS23 of the Portsmouth Plan (2012).

Bike Storage

9) Prior to the occupation of the site details of cycle storage for the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and thereafter retained as approved.

Reason: In order to provide sufficient cycle storage in accordance with Policy PCS17 of the Portsmouth Plan.

Service Management Plan

10) Prior to the occupation of the site a Parking and Service Management Plan shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall operate in accordance with the approved details.

Reason: In order to manage the operations of the site and avoid highway safety conflicts in accordance with Policy PCS17 of the Portsmouth Plan.

Ecological condition

11) The development hereby approved shall proceed in accordance with the measures details in Section 4 "Ecological Constraints and Opportunities" of the submitted Bat Scoping Report (The Ecology Co-operation Ltd., May 2023).

Reason: To ensure that the scheme complies with Policy PCS13 of the Portsmouth Plan and the NPPF

Air Quality condition

12) The first and second floor residential windows fronting Fratton Road shall be sealed, and details of a mechanical ventilation system shall be submitted to and approved prior to the occupation of the residential units and thereafter retained.

Reason: To ensure that the proposed units are not impacted negatively by air quality concerns in accordance with Policy PCS23 of the Portsmouth Plan and the NPPF

Materials

13) (a) Notwithstanding the submitted details, no development works other than those of ground works, and construction of the building's foundations shall take place until:

i) a full and detailed schedule of all materials and finishes (including a samples board) to be used in the construction of the external surfaces of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority; and

ii) a sample panel for each of the proposed masonry types to demonstrate: colour; texture; bedding and bonding pattern; mortar colour and finish has been installed at the application site and approved in writing by the Local Planning Authority; and

(b) The development shall be carried out in full accordance with the schedule of materials and finishes agreed pursuant to part (a)i) of this Condition; and the sample panels approved pursuant to part (a)ii) of this Condition retained on site for verification purposes until completion of the construction works.

Reason: To secure a high quality finish to the development in the interests of visual amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012), and the aims and objectives of the National Planning Policy Framework (2021).

Landscaping

14) (a) Notwithstanding the submitted details, the development hereby permitted shall not be occupied/brought into use until detailed hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; and

(b) Unless otherwise agreed in writing with the Local Planning Authority, the hard landscaping schemes approved pursuant to part (a) of this Condition shall be completed prior to first occupation of the building hereby permitted; and

(c) The soft landscaping schemes approved pursuant to part (a) of this Condition shall be carried out within the first planting/seeding season following the first occupation of the building. Any trees/shrubs which, are removed or become damaged or diseased within 5 years of the date of this permission shall be replaced in the next planting season with others of the same species, size and number as originally approved.

Reason: To secure a high-quality setting to the development and ensure adequate external amenity space for future users of the building in the interest of visual and resident amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the Tall Buildings SPD (2012).

Water use

15) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall not be occupied until written documentary evidence has been submitted

to, and approved by, the local planning authority, demonstrating that the development has achieved:

- a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

Reason: To ensure that the development as built will minimise its need for resources and be able to fully comply with the conclusions of the Appropriate Assessment in accordance with policy PCS13 and PCS15 of the Portsmouth Plan.

Refuse Storage

16) (a) Notwithstanding the submitted details, no part of the development hereby permitted shall be occupied/brought into use until facilities for the storage of refuse, recyclable materials and food waste have been provided in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority; and

(b) The facilities approved pursuant to parts (a) of this Condition shall thereafter be permanently retained for the storage of refuse and recyclable materials at all times.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan (2021).

CEMP

17) Prior to the commencement of any building operation associated with the building's conversion or enlargement, a Construction Environmental Management Plan (CEMP) shall be submitted be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not limited to details of: Construction vehicle routing; Site access management; Times of deliveries; Loading/offloading areas; Crane siting; Site office facilities; Contractor parking areas; Method Statement for control of noise, dust and emissions from construction work. The development shall be carried out in accordance with the CEMP approved pursuant to this condition and shall continue for as long as building operations are taking place at the site, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To minimise the potential for conflict with users of the surrounding highway network and to protect the amenity of neighbouring occupiers having regard to the close proximity of the site in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan.

Hours of operations Commercial Unit A

18) Commercial Unit A shall not open before 1100 hours or remain open after 2300; hours on Mondays to Saturday, and 1200 hours to 2200 hours Sunday or any recognised public holiday.

Reason: In order to protect the amenity of the neighbouring occupiers in accordance with Policy PCS23 of the Portsmouth Plan (2012).

Hours of operations Commercial Unit B

19) Commercial Unit B shall not open before 0830 hours or remain open after 1800 hours on Mondays to Saturday, and 1000 hours to 1300 hours Sunday or any recognised public holiday.

Reason: In order to protect the amenity of the neighbouring occupiers in accordance with Policy PCS23 of the Portsmouth Plan (2012).

Hours of operations Commercial Unit C and Storage Units A, B and C

20) Commercial Unit C and Storage Units A, B and C shall not open before 0900 hours or remain open after 1900 hours on Mondays to Thursday, 0900 hours to 2000 hours on Fridays and Saturdays, and 1000 hours to 1700 hours Sunday or any recognised public holiday.

Reason: In order to protect the amenity of the neighbouring occupiers in accordance with Policy PCS23 of the Portsmouth Plan (2012).

Remove permitted Development rights for storage units

21) Notwithstanding the tolerances of the General Permitted Development Order or any such subsequent orders, Storage Units A, B and C hereby permitted shall remain in B8 Use.

Reason: In the interests of the surrounding resident's amenity and to manage the comings and goings to the rear access along Vivash Road pursuant to Policy PCS23 of the Portsmouth Plan.

Windows obscure glazed

22) Prior to first occupation of the flats hereby approved, details of obscure glazing (to at least Pinkerton level 4) for the relevant windows as shown on Ref: 9033 - 05- Rev C shall be submitted for the written approval of the Local Planning Authority. The screens shall be installed prior to the first occupation and retained as such unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012).

Balcony screening

23) Prior to first occupation of Apartment 5, details of privacy screens for the southern elevation of the balconies shall be submitted for the written approval of the Local Planning Authority. The screens shall be installed prior to the first occupation and retained as such unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012).