

PLANNING COMMITTEE

12 AUGUST 2015

**5 PM EXECUTIVE MEETING ROOM,
3RD FLOOR, GUILDHALL**

REPORT BY THE CITY DEVELOPMENT MANAGER ON PLANNING APPLICATIONS

ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

All applications have been included in the Weekly List of Applications, which is sent to City Councillors, Local Libraries, Citizen Advice Bureaux, Residents Associations, etc., and is available on request. All applications are subject to the City Councils neighbour notification and Deputation Schemes.

Applications, which need to be advertised under various statutory provisions, have also been advertised in the Public Notices Section of The News and site notices have been displayed. Each application has been considered against the provision of the Development Plan and due regard has been paid to their implications of crime and disorder. The individual report/schedule item highlights those matters that are considered relevant to the determination of the application

REPORTING OF CONSULTATIONS

The observations of Consultees (including Amenity Bodies) will be included in the City Development Manager's report if they have been received when the report is prepared. However, unless there are special circumstances their comments will only be reported VERBALLY if objections are raised to the proposals under consideration

APPLICATION DATES

The two dates shown at the top of each report schedule item are the applications registration date- 'RD' and the last date for determination (8 week date - 'LDD')

HUMAN RIGHTS ACT

The Human Rights Act 1998 requires that the Local Planning Authority to act consistently within the European Convention on Human Rights. Of particular relevant to the planning decisions are *Article 1 of the First Protocol- The right of the Enjoyment of Property, and Article 8- The Right for Respect for Home, Privacy and Family Life*. Whilst these rights are not unlimited, any interference with them must be sanctioned by law and go no further than necessary. In taking planning decisions, private interests must be weighed against the wider public interest and against any competing private interests Planning Officers have taken these considerations into account when making their recommendations and Members must equally have regard to Human Rights issues in determining planning applications and deciding whether to take enforcement action.

Web: <http://www.portsmouth.gov.uk>

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MYFANWY HOUSE 14-16 MAGDALA ROAD PORTSMOUTH PO6 2QG

DEMOLITION OF EXISTING 3 STOREY BUILDING AND CONSTRUCTION OF A PART 2- /PART 3-STOREY BUILDING TO FORM A HOME FOR THE ELDERLY [WITHIN USE CLASS C2] FOR 14 PERSONS WITH STAFF SLEEPOVER UNIT, OFFICE, COMMUNAL FACILITIES AND ASSOCIATED REFUSE/BUGGY STORAGE, LANDSCAPING AND PARKING

Application Submitted By:

Kenn Scaddan Associates Ltd
FAO Mr Daniel Knight

On behalf of:

Abbeyfield Solent Society Limited
FAO Mr Trevor Biddle

RDD: 17th February 2015

LDD: 21st April 2015

SUMMARY OF MAIN ISSUES

The main issues in this case relate to the principle of redevelopment [including any impact on protected species], whether the proposed replacement building would represent an acceptable design solution, whether the proposed development would have an adverse impact on the living conditions of the occupiers of the adjoining properties, whether satisfactory facilities would be provided for the transport needs of future occupiers, and whether the development would have any impact on the Special Protection Areas.

The Site

Myfanwy House comprises a pair of extended part three-/part two-storey semi-detached houses situated on the south side of Magdala Road adjacent to its junction with Dorking Crescent and is occupied as a home for the elderly. Although this pair houses were built between 1870 and 1898, some years after Cosham Park House and the former Dorking House [since demolished], they date from a period when this part of Cosham became more widely developed. The building is not however included within either the Statutory or Local List of historic buildings. There are two trees adjacent to the Magdala Road frontage, of which one [a sycamore] is protected under Tree Preservation Order No.81, and one multi-stemmed tree is situated adjacent to the southern boundary.

The adjoining property to the south comprises a comparatively modern end-of-terrace two-storey house with a modest rear garden backing onto a garage court. To the east lies a two-storey detached house with an aspect to the side, across the application site, and south to the rear garden. The opposite side of Magdala Road comprises a terrace of two-storey houses, while the opposite side of Dorking Crescent comprises the flank wall and yard of a two-storey house and rear service areas to two- and three-storey commercial premises that front the High Street.

The Proposal

Following discussion with the applicant the scheme has been amended with those amendments relating to the proposed external finishes, height of the building, its proximity to the southern boundary, and the installation of obscure glazing to the east and southern sides.

The applicant seeks full permission for the redevelopment of the site to provide a new home for the elderly providing modern facilities for its residents. The proposed replacement building would have part three-/part two-storey elevations with pitched roofs running down from areas of flat roof. The two-storey elements would be situated to the south and east sides of the building. Whereas the footprint of the existing building is at an angle to the Dorking Crescent/Magdala Road frontages, the proposed building would be aligned so that the east and south elevations are closely parallel to the common boundaries with the adjoining properties. The east side of the proposed building would be set 12m away from the side wall of No.18 Magdala Road and the south wall 2.6m away from the flank wall of No.1 Dorking Crescent.

External finishes would comprise red facebrick with projecting elements to the north and west sides in a contrasting buff facebrick. Corners to the north and west sides of the building would have reconstituted stone quoins while each elevation would have a reconstituted stone string course between ground and first floor levels and a plinth at ground floor level. Fenestration and doors would comprise grey upvc. A single-storey buggy store would be provided at the south-eastern corner of the site adjacent to lock-up garages, and the existing dropped kerbs on Magdala Road and Dorking Crescent would be extended to provide a total of four on-site car parking spaces, one of which would be reserved for a disabled person. Both trees on the Magdala Road frontage would be retained, whilst some new planting would mitigate the loss of the existing tree adjacent to the southern boundary.

Planning history

The relevant planning history for this site is summarised below;-

- 1967 - A proposal for the construction of a 3-storey house between Nos.16 and 18 Magdala Road was refused on the grounds of overdevelopment and potential loss of parking;
- 1968 - Permission was granted for the use of No.16 as an Abbeyfield Home for the elderly;
- 1979 - Permission was granted for alterations/extension to No.16;
- 1982 - Permission was granted for the use of No.14 as an Abbeyfield Home for the elderly in conjunction with No.16;
- 1983 - Permission was granted for the insertion of new window and doors to No.16; and
- 1995 - Permission was granted for the construction of a single-storey side extension [facing Dorking Crescent].

POLICY CONTEXT

In addition to the National Planning Policy Framework the relevant policies within the Portsmouth Plan would include: PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS23 (Design and Conservation). Saved policy DC21 (Contaminated Land) of the Portsmouth City Local Plan 2001-2011 would also be relevant.

The Supplementary Planning Documents in relation to Car Parking, Sustainable Design and Construction, and the Solent Protection Areas would be material considerations.

CONSULTATIONS

Ecology

The ecological report submitted with the application identified that the main building presents low to moderate potential to support bats. The presence of a protected species is a material consideration. When a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat, it is essential that the presence or otherwise of the protected species, and the extent that they may be affected by the proposed development is established before planning permission is granted.

Whilst the applicant's report includes a mitigation strategy, the Council's ecologist advises that notwithstanding the principles within it appear to be sound; he cannot support them in the absence of additional survey work. It was, nevertheless, noted that the report makes sensible

recommendations regarding the presence of Japanese knotweed at the site and other ecological features such as invertebrates.

The submission of a further report on behalf of the applicants (FOA Ecology, July 2015) covering the emergence surveys represents the current conditions at the application site. No bats were seen to emerge from or enter the property during the survey work, which was carried out to appropriate professional standards.

Having considered the further information that has been provided and survey findings, the Council's ecologist considers that the development is unlikely to result in a breach of the law protecting bats and therefore now raises no concerns but comments that -

"The survey report recommends that demolition is carried out in a sensitive manner as a precaution in the unlikely event that bats are present. As there is no likely impact at this stage, it may not be appropriate to secure this recommendation through a planning condition. However I would advise that the following informative note be added to any planning permission:

'Bats and their roosts receive strict legal protection under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended). All work must stop immediately if bats, or evidence of bat presence (e.g. droppings, bat carcasses or insect remains), are encountered at any point during this development. Should this occur, further advice should be sought from Natural England and/or a professional ecologist. The ecology report recommends that precautionary demolition measures are employed (e.g. soft-strip, contractor awareness) and it is advised that this is followed.'

Tree Officer

The Council's arboriculturalist visited the site on 5 March 2015, the weather conditions were dry and warm with occasional sunny spells, and made the following observations:-

This area falls within the boundary of TPO 81, the Sycamore identified in the Arboricultural Report dated November 2014 as T2 is TPO81 T2.

The other two trees identified are not currently protected by TPO81.

I agree with the comments of the (applicant's) arboricultural consultant; T1 and T2 are worthy of retention and can be adequately protected during the development.

T3 although beginning to flower is diseased and should be removed.

Recommendations

If the recommendations of the Arboricultural Report are followed and adequate protection measures undertaken the application may be granted consent.

Landscape Group

The Council's Landscape Architect has reviewed the landscape proposals for the Myfanwy House scheme in Magdala Road and comments that they look very thorough and well-presented. It is a full "garden" scheme, with a lot of attention to shrub planting, so providing it is properly maintained it should be very attractive for the residents. The landscape specification and maintenance schedule is very clear and worthy of support.

Contaminated Land Team

The Council's Contaminated Land officer has reviewed the application and supporting desk study and given the limited evidence of pollution but relatively sensitive nature of the proposed development, only an exploratory site investigation as detailed in British Standard 10175:2011+A1:2013 is required. The following conditions, or similar are therefore requested:

(i) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority:

a) A exploratory site investigation report documenting the ground conditions of the site and incorporating chemical and consideration of ground gas in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA,

b) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

(ii) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition (i)b that any remediation scheme

required and approved under the provisions of conditions (i)b has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). Unless otherwise agreed in writing by the LPA such verification shall comprise (but not be limited to):

- a) as built drawings of the implemented scheme
- b) photographs of the remediation works in progress
- c) certificates demonstrating that imported and/or material left in situ is free of contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under conditions (i)b.

Environmental Health

The Council's Environmental Health Officer considers that given the location of the proposed development road traffic noise should not be an issue and standard thermal glazing systems should ensure internal noise levels are within recommended guidelines.

Despite the proximity of commercial premises it is not envisaged that any conflict of use would arise given that the existing building is a residential use and there has been no history of any complaints.

Consequently no objections or recommendations are raised in terms of noise or air quality.

Highways Engineer

The following comments have been received from the Council's highway engineer:-

The site is located within a High Accessibility Zone and lies within 800m of Cosham train station and 400m of bus stops on Cosham High Street.

Car Parking:

The proposal provides 4 on site car parking spaces. Currently the site benefits from a dropped crossing onto Dorking Crescent. This dropped crossing is extended to provide 3 car spaces off Dorking Crescent and the 4th space off Magdala Road. Both Magdala Road and Dorking Crescent are unclassified residential roads.

The proposed level of car parking would adequately meet the needs of the staff at the site.

Cycle parking: The proposal would require 3 cycle storage facilities for the staff which can be accommodated within Buggy shelter provided to the south east of the site layout.

The submitted drawings do not indicate the provision of cycle storage facilities and should be secured through the imposition of a suitably worded planning condition.

Refuse: The amendments to access the refuse store is satisfactory.

Informatives:

Drop Kerb Informative: Please inform the applicant that a separate application must be submitted to Colas at Walton Road (Fred Willett - 023 92 310951) for vehicle crossing should the planning permission be granted.

Waste Informative: The bin store doors shall open outwards and have a minimum opening width of 1.4m, level access, and a path with shallow gradient of no more than 1:12, to access the rear of the refuse vehicle via a dropped kerb access. The store shall have illumination when doors are open, be provided with adequate ventilation, and a tap and wash down gulley provided. Walls, stanchions, conduits and pipework shall be suitably protected against damage by moving bins. The refuse collectors will access the store by coded keypad entry system, to be agreed.

Recommendation: Raise no objection subject to:

- The development shall not be brought into use until the car parking spaces shown on the approved drawings have been provided. The spaces thereafter retained and not to be used for any purpose other than the parking of vehicles unless otherwise agreed by the Local Planning Authority.
- The development shall not be brought into use until secure and weatherproof bicycle storage facilities have been provided in accordance with a detailed scheme (to include location, size appearance and security) to be submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be retained.
- The facilities to be provided for the storage of refuse and recyclable materials shall be constructed and completed before any of the rooms first occupied, and shall thereafter be retained for the continued use by the occupants of the flats for that storage at all times.

REPRESENTATIONS

At the time of preparing this report four representations had been received from or on behalf of the occupiers of No.18 Magdala Road, two representations had been received from the occupiers of No.1 Dorking Crescent, and a further four other representations had been received from residents of Magdala Road. Councillor Gray had also requested that the application be referred to the Planning Committee for determination.

Although one representation, from occupiers opposite the site, raised concerns over the implications arising from the demolition of the existing building, the remainder object to the proposal on the following grounds;

- (a) the proximity of the building to adjoining properties and loss of outlook and light,
- (b) overlooking and loss of privacy
- (c) noise from use of adjoining garden by children would be detrimental to future occupiers,
- (d) loss of the building is detrimental to the history of Cosham,
- (e) demolition and construction will adversely affect the structure of adjoining buildings,
- (f) future use is uncertain and may be occupied as social housing,
- (g) loss of property value, and
- (h) covenants prevent development,

Residents also seek restrictions on hours of work, dust control, contractor's parking, prevention of mud and debris on road, and comment on Knotweed and need to ensure the building/site is secure when vacated.

In response to the submission of further information the occupier of the adjoining property wishes to contest the applicant's bat survey and request that the council conduct a totally independent survey.

COMMENT

The main issues in this case relate to the principle of redevelopment [including any impact on protected species], whether the proposed replacement building would represent an acceptable design solution, whether the proposed development would have an adverse impact on the living conditions of the occupiers of the adjoining properties and whether satisfactory facilities would be provided for the transport needs of future occupiers. Other issues relate to sustainable design and construction, and potential impact on the nearby Special Protection Areas.

Principle of redevelopment

Originally comprising a pair of three-storey houses which were combined in the mid 1980's to form an Abbeyfield Home, the property was later extended on the west side of the building. The facilities provide accommodation for up to eleven elderly persons. Occupying a large corner plot the premises are situated within a residential area to the east of Cosham High Street. Although it is a building that dates from the early period of development of Cosham it is neither statutorily listed nor included within the local list. The building has had replacement roofing and windows which, together with the side and rear extensions, reduces its value in architectural and historic terms.

Comprising a building of some age, the applicant's initial ecological appraisal identified a potential for the presence of bats and recommended further survey work. The results of that further survey work revealed that no roosting bats were identified (observed or detected) to emerge from the building during the dusk detector survey on the 21 May or the dawn re-entry survey on the 3rd July. The detector survey work, alongside the already completed building inspection, confirms that roosting bats are unlikely to inhabit the building. Incidental pipistrelle bat (foraging and commuting) activity was, however, encountered during the detector surveys and the applicant's ecologist has recommended a precautionary approach to the demolition of the building, an approach supported by the Council's ecologist.

The redevelopment of the site to create a building which maintains a mainly three storey scale, albeit with a larger footprint, that would also provide residential accommodation would be consistent with the character of Magdala Road. In these circumstances the demolition of the building to facilitate the proposed redevelopment of the site would be considered acceptable in principle. Any concerns in relation to the impact of the demolition works on residential amenity would be addressed through environmental legislation.

Design and appearance

Prior to the submission of this application the redevelopment of this site to create a new Abbeyfield Home was considered by the Design Review Panel. The Panel considered that the [original] design did not satisfactorily relate to its domestic setting being more bulky and having an 'office' like appearance. The applicant, in response, altered the appearance of the building and reduced its height. The elevational treatment takes its cue from the existing building with predominantly red face-brick and feature buff brick to projecting elements, stone quoins and reconstituted Portland stone banding and cills below a reconstituted slate roof.

Whilst the main part of the building adjacent to the Magdala Road/Dorking Crescent junction has a three-storey building mass, its scale is reduced to two-storeys for the projecting elements to the east and south sides. Although the southern projecting element would have an eaves level higher than the adjoining terrace of houses in Dorking Crescent, it would nonetheless be considered to provide a satisfactory transition between the three-storey mass of the main building and the existing terrace of houses. Although a comparatively modest part of the whole building the two-storey projection to the east side would afford some relief to the east elevation and provide an acceptable transition between the slightly higher two-storey eaves level to the adjoining house and three-storey height of the main part of the building. It is therefore considered that, in terms of massing and appearance, the proposed building would amount to an acceptable design solution for this corner site.

Residential amenity

Given the spatial separation between the proposed building and the houses on the opposite side of Magdala Road, together with the extent to which the retained trees will screen the building, it is considered that the proposed development would not harm the living conditions of the occupiers of those properties in terms of loss of outlook or overlooking. Whilst the properties on the opposite side of Dorking Crescent comprise for the most part commercial uses, the corner property comprises a house with a pair of windows facing east. The proposed building would be situated 11m from that elevation. This relationship would not be considered to significantly affect mutual overlooking, and would be sufficient to ensure that outlook would not be adversely affected.

The end-of-terrace house to the south of the site has a blank gable wall, set just off the common boundary, with a 6m rear garden of which approximately 2.9m has been taken up with a single-storey rear extension. The garden is adjoined by a pair of garages. The nearest part of the three-storey building to the adjoining property would be 10m to the north and would align with the rear wall of the house. The two-storey element, with an eaves level of 5.7m, would be situated 4m away from the gable wall of the house and project 1.6m beyond the rear wall. That part of the proposed building would contain one secondary window to a bedroom and would be fixed and obscure glazed. Part of the two-storey element would step out towards the gable of the house leaving a gap of approximately 2.6m and also contain a secondary window that would be obscure glazed and fixed shut. With such an arrangement, and safeguarding conditions in relation to the windows, it is considered that the living conditions of the occupiers of No.1 Dorking Crescent would not be affected by overlooking. Furthermore, the mass of the proposed building and its relationship to the adjoining property to the south would be such that it would not give rise to a loss of outlook.

To the east of the site lies a detached 2-storey house with an aspect across the application site. That house currently faces a three-storey wall across a distance of between 11m and 12.5m

which has an external steel staircase serving fire doors. In comparison the proposed building would have a two-storey wall parallel to the adjoining house set 12m away while the three-storey element would be set approximately 15.4m away. Although there would be a single window at ground and first floor levels these are secondary and serve living rooms. Both would be fixed and obscure glazed. A rooflight high up the catslide roof to the two-storey element would serve staff accommodation. First floor windows to the rear of the three-storey elevation serve a stairwell and landing, and although not annotated as being obscure glazed this can be secured by way of a planning condition.

In these circumstances it is considered that the proposed building would not significantly affect outlook from the adjoining property to the east, loss of light or significantly affect overlooking.

Transport issues

The existing Abbeyfield Home has a paved yard to the rear that is capable of accommodating three or four cars in a tandem arrangement with a dropped kerb onto Dorking Crescent. The applicant proposes three car parking spaces served by a widened dropped kerb onto Dorking Crescent, and a further space at the north-east corner of the site with access/egress to Magdala Road from widening the dropped kerb that serves No.18 Magdala Road. A buggy/cycle store 7.8m long by 2m deep would be provided adjacent to the southern boundary facing a residents' patio area. The buggy/cycle store would be accessible from Dorking Crescent, while visitor hoops would be provided adjacent to the main entrance to the proposed building.

Located within an area of high accessibility to public transport and services it is considered that the provision of four on-site car parking spaces would be sufficient to meet the transport needs of future occupiers, staff and visitors. The provision and retention of those facilities would be secured by planning conditions.

Refuse storage containers would be provided within an enclosure adjacent to the south wall of the proposed building, and rolled to the Dorking Crescent frontage via a 1.5m wide access path for collection. This is considered to be an acceptable arrangement.

Sustainable Design and Construction

Under policy PCS15, it is necessary to meet certain standards of sustainable design and construction. Housing specifically for the elderly and care homes can sometimes be assessed as residential. However in situations where there is a reasonable level of communal facilities, it is more appropriate to use the Building Research Establishment's Environmental Assessment Method (BREEAM). It is considered that it is entirely appropriate for the proposal here to be assessed under BREEAM.

The pre-assessment sets out that the development can achieve the excellent standard. The scheme is targeting a score of 73.92% and has achieved all of the mandatory requirements. It is considered that the strategy which is being used to achieve the target score is sensible and appropriate for this kind of development in this location. The applicant has shown a clear appreciation for sustainable design and has put together a development which embraces energy efficiency and sustainability. It is therefore proposed to ensure compliance with the objectives of Policy PCS15 by way of suitably worded conditions.

Recreational Disturbance

This proposal seeks to re-provide an Abbeyfield Home for the Elderly on this site, albeit increasing the level of occupation from eleven to fourteen persons. Occupation of the building would be limited to older people living relatively independently in a communal environment in need of very sheltered accommodation, this use falling within Class C2 [Residential institutions]. Should client needs dictate more specialised accommodation, as in a nursing or care home, assistance in relocation would be provided. No pets would be allowed unless with the express consent of the applicant, housekeeper and other residents.

Due to the precautionary approach required by the Conservation of Habitats and Species Regulations 2010 it is necessary to demonstrate that the development will not adversely affect the Special Protection Areas before it can lawfully be authorised. The Regulations require an initial 'screening stage' to determine whether the proposal is likely to have a significant effect on a European site. This assessment needs to identify the interest features of the European sites and whether the plan or project would cause harm to them. If necessary, avoidance or mitigation measures could be included in development proposals to prevent or remove the harm which otherwise would have occurred.

The application site is approximately 2km away from habitats which form part of the Langstone Harbour SSSI, which is part of the Chichester and Langstone Harbours SPA and is a Wetland of International Importance under the Ramsar Convention (Ramsar Site). The site is 2.5km from the Portsmouth Harbour Site of Special Scientific Interest (SSSI). This SSSI is part of the Portsmouth Harbour Special Protection Area (SPA) and Ramsar site.

This proposal would effectively result in three additional elderly people being accommodated on the site. Those occupiers, by virtue of their circumstances, are unlikely to have access to a private car and are more likely to remain in the vicinity of the site. The proposed sleepover unit would be controlled by a planning condition to ensure it would remain as ancillary accommodation and not occupied as a flat. It does not represent a net increase in residential dwellings. It is therefore considered that the proposed development would not have a likely significant effect on the interests for which Portsmouth and Langstone Harbours are designated.

Conclusion

For the reasons outlined above the proposed redevelopment of the site would be considered acceptable in terms of its design, setting and relationship to the adjoining properties, and would amount to a sustainable form of development in the context of the National Planning Policy Framework.

RECOMMENDATION Conditional Permission

Conditions

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

- 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: 1024-PD-101D; 085-5300; 085-5400; 1024-PD-102C; 1024-PD-103D; 1024-PD-104D; 1024-PD-105D; 1024-PD-106 1024-PD-107; 1024-PD-112.

- 3) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority:
 - a) An exploratory site investigation report documenting the ground conditions of the site and incorporating chemical and consideration of ground gas in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA.
 - b) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

- 4) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition (i)b that any remediation scheme required and approved under the provisions of conditions (i)b has been implemented fully in

accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). Unless otherwise agreed in writing by the LPA such verification shall comprise (but not be limited to):

- a) as built drawings of the implemented scheme
- b) photographs of the remediation works in progress
- c) certificates demonstrating that imported and/or material left in situ is free of contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition (3)b.

5) No construction shall commence until written documentary evidence has been submitted to the local planning authority proving that the development will achieve a minimum of 'Excellent' of the Building Research Establishment's Environmental Assessment Method (BREEAM), including one credit in issue ENE 04, demonstrating a 10% improvement in the Building Emission Rate over the Target Emission Rate through the use of low or zero carbon energy technologies, and one credit from issue TRA 03, which evidence shall be in the form of a BREEAM Design Stage Assessment, prepared by a licensed assessor and submitted to and approved in writing by the local planning authority, unless otherwise agreed in writing with the local planning authority.

6) Before any part of the development is occupied, written documentary evidence shall be submitted to, and approved in writing by, the local planning authority proving that the development has achieved a minimum of level 'Excellent' of the Building Research Establishment's Environmental Assessment Method (BREEAM), including one credit in issue ENE 04, demonstrating a 10% improvement in the Building Emission Rate over the Target Emission Rate through the use of low or zero carbon energy technologies, and one credit from issue TRA 03, which will be in the form of a post-construction assessment which has been prepared by a licensed BREEAM assessor and the certificate which has been issued by BRE Global, unless otherwise agreed in writing by the local planning authority.

Reason for both conditions: to ensure the development has minimised its overall demand for resources.

7) The car parking facilities and associated dropped kerbs, as shown on the drawings hereby approved, shall be completed and made ready for use prior to the first occupation of any part of the building, and shall thereafter be retained.

8) The facilities for the storage of buggies and cycles, as shown on the drawings hereby approved, shall be completed and made ready for use prior to the first occupation of any part of the building, and shall thereafter be retained.

9) The facilities for the storage of refuse, as shown on the drawings hereby approved, shall be completed and made ready for use prior to the first occupation of any part of the building, and shall thereafter be retained.

10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

11) No development shall commence on site until a scheme for the safeguarding of all trees, shrubs and other natural features not scheduled for removal during the course of the site works and building operations in accordance with British Standard:5837 (2005) has been submitted to and approved in writing by the Local Planning Authority. All trees, shrubs or features to be protected shall be fenced along a line to be agreed with the Local Planning Authority with:

- a) 1.5 m high chestnut paling securely mounted on scaffold framing which is firmly secured in the ground and braced to resist impact; or

b) 2.4 m high heavy duty hoardings securely mounted on scaffold framing which is firmly secured in the ground and braced to resist impact.

Such fencing shall be maintained during the course of the works on site. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area.

12) Unless otherwise agreed in writing by the Local Planning Authority the following windows shall be obscure glazed and fixed shut prior to occupation of the building;

- (i) Ground floor apartment 2 east elevation;
- (ii) First floor apartment 9 east elevation;
- (iii) First and second floor stairwell east elevation
- (iv) First floor apartments 3 and 4 south elevation

Those windows shall thereafter be retained in that condition.

13) At no time shall the staff sleepover accommodation be used as a separate unit of living accommodation or occupied independent of the use of the building as home for the elderly.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 4) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 5) To ensure the development has minimised its overall demand for resources in accordance with policy PCS15 of the Portsmouth Plan.
- 6) To ensure the development has minimised its overall demand for resources in accordance with policy PCS15 of the Portsmouth Plan.
- 7) To ensure the adequate provision of car parking facilities in accordance with policy PCS17 of the Portsmouth Plan.
- 8) To ensure the adequate provision of buggy/cycle storage facilities in accordance with policy PCS23 of the Portsmouth Plan.
- 9) To ensure the adequate provision of refuse storage facilities in accordance with policy PCS23 of the Portsmouth Plan.
- 10) In the interests of the amenities and character of the area in accordance with policy PCS23 of the Portsmouth Plan.
- 11) To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability throughout the construction period in the interests of amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 12) In the interests of protecting the amenity of the occupiers of the adjoining properties in accordance with policy PCS23 of the Portsmouth Plan.
- 13) To ensure that the proposed development would not be likely to have a significant effect on the Langstone Harbour and Portsmouth Harbour Special Protection Areas in accordance with policy PCS13 of the Portsmouth Plan.

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.

02

15/00544/FUL

WARD: CHARLES DICKENS

1 PLYMOUTH STREET SOUTHSEA PO5 4HW

CONVERSION AND EXTENSION OF FORMER PUBLIC HOUSE (CLASS A4) TO SIXTEEN BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)

Application Submitted By:

Derek Treagus Associates
FAO Derek Treagus

On behalf of:

Mr P Ojla

RDD: 10th April 2015

LDD: 22nd July 2015

SUMMARY OF MAIN ISSUES

This application has been brought to Committee at the request of Ward Councillor Godier.

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and cycle parking.

The Site

The application site, located on the south-east corner of the junction of Plymouth Street with Hyde Park Road comprises the curtilage of the now vacant Cabman's Rest Public House. The site lies adjacent to Charter Academy, to Ladywood House (a 24 storey block of 135 Flats) and a communal garden associated with Ladywood House.

Proposal

This application seeks planning permission for the conversion and extension of the former public house (a Class A4 use) to sixteen bedroom House in Multiple Occupation (a sui generis use). The proposed extension would be part first floor, part two-storey and part single storey in scale and be added to the south of the existing building fronting Plymouth Street.

Planning History

None of the planning history of the site is considered relevant to the determination of this application.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:

PCS13 (A Greener Portsmouth), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation).

In addition to the above policies the National Planning Policy Framework and Houses in Multiple Occupation, Parking Standards and Solent Special Protection Areas SPDs are also relevant to the determination of this application.

CONSULTATIONS

Contaminated Land Team

I have reviewed the above application and as the site has been used by coal dealers, public house and also mineral water manufacturers; there is scope for fuel storage to have been present although our records do not confirm this. Given the sensitive end-use but limited garden use after conversion, a watching brief is requested to contact this office if any indications of pollution or industrial artefacts are present.

In the event that any signs of pollution such as poor plant growth, odour, oily, ashy, odorous or fibrous materials, staining or unusual colouration of the soil, asbestos fragments or fibres, inclusions of putrescible materials, plastics, any liquid other than clean soilwater, or actual remains from a past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if the findings have any impact upon the development. The development must be halted on that part of the site and if the LPA considers it necessary then an assessment of the site undertaken in accordance with BS1 0175: 2011. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

Highways Engineer

There is no unrestricted on-street parking near to the site. The first 30 metres of Plymouth Street is public highway fully restricted with double yellow lines (the remainder is land owned by Portsmouth City Council and restricted to permit holders only). Hyde Park Road has double yellow lines adjacent to No.1 Plymouth Street, residents' parking bays and 2-hour limited wait operational Monday-Friday 9am-5pm. A maximum of 2 permits for the Hyde Park zone is allowed for the residents at no.1 Plymouth street.

The site is located within a highly accessible area (being easy reach of bus and rail stations) close to local services and amenities and having regard to its location, and demand for parking associated with the use of the current building as a public house it is considered that a car free development would accord with the aims and objectives of the Residential Parking Standards SPD.

The submitted drawings indicate provision being made for the parking of cycles and the storage of refuse and recyclable materials however no details are provided. The site is capable of accommodating the provision of cycles which can be secured by the imposition of suitably worded planning conditions. Similar condition can be imposed to secure the provision of suitable facilities for refuse and recyclable materials.

Please note the applicant should provide 16 cycle spaces for the proposal. The Parking Standards SPD recommends 4 spaces per dwelling for a 4+ bed HMO, providing 1 cycle storage space for each individual. This HMO is much larger HMO at 16 bedrooms, some of which would be capable of accommodating two people. Effectively at 16 beds, this HMO is the equivalent of 4 x 4+ bed HMOs and so there is justification to require 16 cycle spaces, particularly given that the number of individuals living in the building could be far higher than 16. This would then be the equivalent of requiring 4 spaces for a smaller 4+ bed HMO as it is providing 1 cycle space per individual and would more accurately reflect the size of the accommodation proposed.

Informative:

Drop Kerb Informative: Please inform the applicant that a separate application must be submitted to Colas at Walton Road (Fred Willett - 023 92 310951) for vehicle crossing should the planning permission be granted.

Recommendation: Raise no objection subject to:

1) The development shall not be brought into use until secure and weatherproof and well surveilled bicycle storage facilities have been provided in accordance with a detailed scheme (to include location, size appearance and security) to be submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be retained.

2) The development shall not be brought into use until refuse and recyclable storage facilities have been provided in accordance with a detailed scheme is submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be retained.

3) The bin shed will need to be able to hold 2 x 1100 refuse and 1 x 1100 recycling.

The bin store doors shall open outwards and have a minimum opening width of 1.4m, level access, and a path with shallow gradient of no more than 1:12, to access the rear of the refuse vehicle via a dropped kerb access. The store shall have illumination when doors are open, be provided with adequate ventilation, and a tap and wash down gully provided. Walls, stanchions, conduits and pipework shall be suitably protected against damage by moving bins. The refuse collectors will access the store by coded keypad entry system, to be agreed.

4) No doors shall open over the highway

5) A dropped kerb will be provided adjacent to the access for the bin store.

Private Sector Housing

Informally advise property could be licensed for occupation by around 20 persons

Environmental Health

The proposal location is a mix of residential use with a school, Charter Academy, located to the north of Plymouth Street. The proposed use is, according to the Design Statement, an HMO for student use. It is unlikely that the proposed use will be more disruptive to the local area than the previous use (a public house). Should issues arise, these can be dealt with through the statutory nuisance provisions of the Environmental Protection Act 1990.

With regards to local air quality, the development is 'car-free' as only cycle storage (as opposed to car parking) has been proposed. It is unlikely that there will be a negative impact as a result of the proposed use and indeed may actually result in a marginal improvement as a result of reduced car journeys.

As mentioned above, the neighbouring uses are residential with a school to the north of Plymouth Street. Whilst it is unlikely that there will be zero impact from the school, we have no complaints from the other residential uses and it is unlikely that the impact will be above what would normally be expected as a result of living adjacent to a school.

REPRESENTATIONS

Objections have been received from 6 local residents on the following grounds:

- a) lack of parking
- b) impact on amenities of local residents using adjacent communal garden
- c) impact of building works
- d) uncertainty about who future occupiers would be
- e) inadequate public consultation

A petition has been submitted opposing the proposal signed by the occupiers of 31 flats within Ladywood House

COMMENT

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and cycle parking.

Principle of HMO Use

Policy PCS20 of the Portsmouth Plan states that applications for changes of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance. The Houses in Multiple Occupation SPD provides further detail on how this policy will be implemented and how the City Council will apply this policy to all planning applications for HMO use.

Following a review of residential properties within the 50 metres radius in accordance with the methodology set out in the HMO SPD, it has been established that there does not appear to be any existing HMOs. The Houses in Multiple Occupation SPD states that a proposed HMO use 'will create an imbalance where granting the application would 'tip' the ratio of HMOs to Class C3 residential uses within the area surrounding the application property over the 10% threshold'. As this proposal would not result in the threshold being exceeded ($1/158 = 0.3\%$) through the granting of permission, it is considered that the proposed use of the site as a HMO would not give rise to an imbalance of such uses.

Whilst there may be no existing HMOs in the locality of the site, this would not be a reason to withhold permission. Policy PCS20 and the SPD seek to create mixed and balanced communities that comprise differing types of residential uses (e.g. single dwellings, family houses and HMOs).

Design

The proposed extension would be part first floor, part two-storey and part single storey in scale and be added to the south of the existing building fronting Plymouth Street. Architecturally the extension would replicate the form and appearance of the existing building and be of an appropriate scale. The proposed extension is therefore considered acceptable in design terms.

Impact on Residential Amenity

Regard must be had to the lawful planning use of the site as a public house (a Class A4 use) which would inevitable result in a level of late night activity associated with patrons entering and leaving the building. Whilst the proposed use as a HMO would have a level of activity associated with it, it is considered that the proposed use would not result in a demonstrably greater level of activity, noise or disturbance that could be associated with the use of the site as a pub.

Concerns have also been raised in respect of who may occupy the property, whilst the application makes reference to occupation by students, this is not an application for a student halls of residence. The social or economic status of prospective occupiers cannot be given weight in the determination of this planning application.

The proposed extension would result in the creation of two habitable room windows at first floor level which would overlook the communal garden of Ladywood House. Having regard to the existing openness of the communal garden it is considered that any increased actual or perceived overlooking would not be so great as to justify the refusal of this application. Other windows in the extension would face the flats on the opposite side of Plymouth Street, however it is considered that they would not have any significant impact on the occupiers of neighbouring properties.

Car Parking and Cycle Storage

The site does not benefit from off-street parking. On street parking in the area is available, albeit that it is time limited or restricted to holders of a residents permit. The occupiers of the proposed HMO would be limited to a maximum of three residential parking permits. The Car Parking SPD sets out that a sui generis HMO (with more than 6 bedrooms) should be served by 2 off-street spaces. The lawful use of the site (including landlord's accommodation) would be likely to attract

a demand for parking which could not be accommodated on the site. Regard should also be had to the sites proximity to the City Centre, the services and amenities located therein and also its accessibility to public transport. Having regard to the foregoing it is considered that a refusal on parking grounds could not be sustained successfully in the event of an appeal.

The submission includes the provision of facilities for the storage of cycles, however little detail is provided. It is considered that the site is capable of accommodating appropriate facilities and that a planning condition can be imposed to secure the provision and retention of them. Similarly a condition can be imposed to secure the provision of suitable facilities for the storage of refuse and recyclable materials.

SPA Mitigation

The proposal would lead to a net increase in population, which would be likely to lead to a significant effect on the Solent Special Protection Areas (SPAs), as is described in more detail in sections 2.8-2.9 of the Solent Special Protection Areas Supplementary Planning Document. The development is not necessary for the management of the SPA. The applicant has agreed to provide mitigation based on the methodology in section 3 of the SPD with the scale of mitigation being calculated as £522. The level of mitigation which will be provided is considered sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur.

Other matters raised in representations

The publicity undertaken for this application was done in accordance with the statutory requirement and the Council's normal procedure. Each planning application must be considered on its own individual merits and the granting of permission for a particular proposal for a particular site would not mean that similar proposals would be considered acceptable.

RECOMMENDATION A: That delegated authority be granted to the City Development Manager to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £522 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

RECOMMENDATION B: That delegated authority be granted to the City Development Manager to refuse planning permission if the agreement referred to in Recommendation A have not been secured within two weeks of the date of the resolution pursuant to Recommendation A.

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 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:
**** **** **** **** **** **** **** **** ****
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those on the existing building.
- 4) The HMO use hereby permitted shall not commence (unless otherwise agreed in writing by the Local Planning Authority) until secure and weatherproof cycle storage facilities have been provided in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall therefore be retained.

5) The HMO use hereby permitted shall not commence (unless otherwise agreed in writing by the Local Planning Authority) until facilities for the storage of refuse and recyclable materials have been provided in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall therefore be retained.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 4) To ensure that provision is made for cyclists to promote the use of sustainable modes of transport in accordance with Policies PCS14 and PCS23 of the Portsmouth Plan.
- 5) To ensure that appropriate facilities are provided for the storage of refuse and recyclable materials in the interests of the amenities of the area in accordance with Policy PCS23 of the Portsmouth Plan and the Houses in Multiple Occupation SPD.

PRO-ACTIVITY STATEMENT

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

03

15/00895/FUL

WARD: NELSON

1 NORTH END AVENUE PORTSMOUTH HAMPSHIRE PO2 9EA

CHANGE OF USE FROM BUILDERS STORE TO MOT STATION AND REPAIR GARAGE AND INSTALLATION OF REPLACEMENT ROOF COVERING AND RE-CLADDING TO PART OF FRONT ELEVATION (AMENDED SCHEME)

Application Submitted By:

Robert Tutton Town Planning Consultants Ltd
FAO Mr Robert Tutton

On behalf of:

Mr D. Wiltshire

RDD: 4th June 2015

LDD: 11th August 2015

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle, whether it would have any significant impact on the amenities of the occupiers of neighbouring properties and whether the proposal would affect the safety or convenience of users of the adjacent highway.

The Site

The application site comprises a large single storey building located on the southern side of North End Avenue close to its junction with London Road. The site is located in a predominantly residential area with some of the properties to the east (fronting London Road) being in commercial use.

Proposal

This application seeks planning permission for a change of use from builders store to MOT station and repair garage and installation of replacement roof covering and re-cladding to part of front elevation.

Planning History

Relevant elements of the planning history of the site are permission A*17186/B (July 1964) for the reinstatement of and alterations to existing furniture and bedding warehouse and permission A*17186 (April 1951) for a change of use from auction rooms to furniture repository. The lawful use of the property would appear to be for purposes falling within Class B8.

A previous application (14/00776/FUL) for a change of use from builders store to MOT testing centre was withdrawn prior to determination. A further application (14/01468/FUL) for a change of use from builders store to MOT testing centre was refused in January 2015. The sole reason for refusal was:

The proposed use of the building would, by reason of the noise and disturbance associated with it, be likely to give rise to an unacceptable loss of residential amenity to the detriment of the occupiers of neighbouring properties. The proposal is therefore contrary to policy PCS23 of the Portsmouth Plan.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS23 (Design and Conservation), PCS17 (Transport).

CONSULTATIONS

Environmental Health

I have reviewed the above planning application for the change of use from a builders store to a MOT Testing Centre and repair garage and given consideration for the potential release of noise from this property.

The frequency and the duration of the noise will be dependent upon the number of vehicles tested each day, however the applicant has specified that their opening hours will be 08:00 to 17:30 Monday to Friday and 08:00 to 12:00hrs, therefore no sleep deprivation will be caused to the local residents in the area.

Airtight Noisecheck Ltd has used the BS4142:2014 - Methods for rating and assessing industrial and commercial sound to carry out the noise assessment. This method takes into consideration factors of the introduction of a noise source into an area in comparison to the existing background noise levels and the likelihood of the new noise source having an impact upon sensitive dwellings.

Due to the existing premise being used as a builders store, Airtight Noisecheck Ltd have carried out noise measurements at an operational MOT station to obtain an example of prospective noise levels of the process.

The report illustrates that background noise levels have been monitored at the proposed development location, at the entrance door of the unit and at the Eastern façade of the unit.

The acoustic consultant has summarised their predictions and calculations of the proposed noise levels, whilst taking into consideration the distance between the source of the noise and

the residential properties, the duration of the noisiest aspects of the MOT/repair work and they have also included a +9dB (A) (for removal of wheel nuts) and a +6dB (A) (for MOT repair work) additional acoustic correction (BS4142:2014 section 9.2) for the impulsivity of the noise source. The report concluded that the proposed general activity associated with the MOT/repairs will have little or no adverse impact on the residential dwellings in the area.

In addition to this the applicant has also specified that they will be carrying out works to the structure of the building to improve the acoustic installation in order to further mitigate the noise levels emanating from the building.

In summary the predicted and calculated noise levels are equal to or below the existing background noise levels on Northend Avenue and also fall below the World Health Organisation for external noise levels (55dB(A) for the impact upon gardens). The opening/closing hours will not cause any sleep deprivation, in addition to this the applicant is carrying out additional measures to the building to mitigate noise levels further. Subsequently to this it is unlikely that a loss of amenity will be caused to local residents from the MOT testing/ repairs of road vehicles. I therefore wish to raise no objections to this application being granted.

Contaminated Land Team

Recommends imposition of conditions

Tree Officer

TPO 67 T4 sits outside the curtilage of 1 North End Avenue on an adjacent property at 225 London Rd. Unless the proposal includes a requirement to construct an inspection pit or the installation of a 2 or 4 post vehicle lift no risk is posed to T4. Following a telephone discussion with the agent there currently exists no plan to include an inspection pit. If a lift is required and the floor substrate is of insufficient depth or strength then it is to be reinforced.

Highways Engineer

No response received.

REPRESENTATIONS

32 Objections have been received from neighbouring properties on the following grounds:

- increased noise, fumes and pollution;
- parking;
- impact on highway safety;
- no need for further business of this type in locality;
- loss of property value;
- there is a nearby protected tree;
- nearby offices to be converted to flats;
- impact on human rights; and
- increased risk of fire

One representation has been received in support of the application.

COMMENT

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle, whether it would have any significant impact on the amenities of the occupiers of neighbouring properties and whether the proposal would affect the safety or convenience of users of the adjacent highway.

Principle

This application seeks planning permission for an industrial use in what is a predominantly residential area. The building on the site has been used for commercial purposes falling within Class B8. Whilst the site and building are limited in size, the proposed use of the building is likely to have a different impact on the area and on the occupiers of neighbouring properties. The use of the site for B8 purposes could involve a comparable level of vehicle movements to the proposed use, but would be unlikely to generate noise from activities within the building. The

proposed use for MOT testing would involve engines running within the building and the sounding of horns. Whilst these noise generating activities may not be continuous their intensity could not be controlled through planning conditions. Furthermore this application seeks permission for a use which by its nature is potentially noisy. The site is restricted in size which would limit the level of activity or operations which could take place within it; however the building is located very close to a number of residential properties. The relationship of the site to neighbouring properties is such that any noisy activity is likely to result in an unacceptable level of noise and disturbance to the detriment of the living conditions of the occupiers of those neighbouring properties.

Impact on Amenity

This applicant is accompanied by a noise assessment undertaken in accordance with relevant guidelines and explores the impact of introducing a noise source into an area in comparison to the existing background noise levels and the likelihood of the new noise source having an impact upon sensitive dwellings. As the application site comprises a builder's store, noise measurements have been taken at an operational MOT station to obtain an example of prospective noise levels of the process.

The content and conclusions of the Noise Assessment that the proposal would not give rise to a loss of residential amenity are accepted by colleagues in Public Protection. Whilst a precautionary approach was taken when refusing the previous application, weight must be given to the submitted evidence relating to noise and the views of the Head of Public Protection. The proposed use of the site would inevitably result in the generation of some noise which would be audible to the occupiers of neighbouring properties. However the available evidence demonstrates that any such noise would not be likely to be of a duration or intensity that would have a significant impact upon the residential amenities of the occupiers of neighbouring properties. A planning condition could be imposed to restrict the hours of use of the proposed use to prevent noise and disturbance outside of usual working hours. A planning condition could also be imposed to secure the implementation and retention of a heavy plastic curtain referred to in the application and noise assessment.

It is considered that the proposal would not give rise to a significant increase in pollution associated with the running of engines.

Parking

The recently adopted Parking Standards SPD places the onus on an applicant to demonstrate that parking provision would be appropriate for any given non-residential development. The submitted supporting statement makes no reference to parking. The lawful existing use of the site for purposes falling within Class B8 is unlikely to give rise to any significant demand for long-term parking but may attract a level of servicing/delivery parking, however the restricted size of the site would however limit the level of the demand. The proposed use is potentially more likely to generate some demand for parking by employees, however the site is in an area considered to be highly accessible by public transport (being close to North End District Centre and adjacent to a high frequency bus corridor). On street parking is available on North End Avenue, however there is a demand for these spaces from occupiers of residential properties along the street. Notwithstanding this it is considered that the existing demand for parking is greatest in an evening and at weekends with daytime visits suggesting there is on-street parking available during the working day when demand would typically be greatest from the proposed use of the application site. Accordingly it is considered that the proposal would not be so prejudicial to the safety or convenience of users of the highway to justify a refusal on highway grounds.

Other Matters

The proposed external alterations to the building are considered acceptable in design terms and would improve its current appearance.

The loss of property value is not a material planning consideration and as such cannot be given any weight in the determination of this application. The presence of other similar premises in the area could not be a legitimate reason to withhold permission in the absence of specific policy restriction. The premises benefit from lawful use for commercial purposes, it is therefore considered that any increased risk of incidents affecting neighbouring properties would not justify refusing this application.

It is considered that the proposed works to which this planning application relates would not result in a breach of the rights of any particular individual that otherwise would be protected pursuant to the Human Rights Act 1998, which are the rights set out in the Articles of the European Convention on Human Rights (ECHR). The protection of the ECHR is afforded only where interference is quite severe, incapable of control by adequate conditions and real, and not merely fanciful, or concerned with risk of future interference. In addition, the Council is given responsibility for determining applications and giving balance to competing interests in accordance with the statutory provisions relevant to that development management function, and the rights protected by the ECHR may be subject to derogation where it is lawful in a democratic society, and necessary in the public interest. Even where an individual victim could make a valid assertion that a particular right had been interfered with to his or her specific detriment, it is possible for an authority to be justified if a decision has been taken having regard to such interference and balancing the public interest.

It is considered that the proposal is unlikely to have any effect on the protected tree located in the garden of a neighbouring property.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 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: 1 Issue A; and 7153:14.
- 3) The MOT station and repair garage hereby permitted shall not operate outside of the hours of 08:00 and 18:00 hours daily.
- 4) The use hereby permitted shall not commence until the acoustic insulation measures referred to in the submitted 'Acoustic Resting Report' (prepared by Airtight & Noisecheck Ltd dated 10/3/15) have been installed in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority.
The approved acoustic insulation measures shall thereafter be retained.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To protect the residential amenities of the occupiers of neighbouring properties in accordance with policy PCS23 of the Portsmouth Plan.

4) To protect the residential amenities of the occupiers of neighbouring properties in accordance with policy PCS23 of the Portsmouth Plan.

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 pre-application process to achieve an acceptable proposal without the need for further engagement.

Assistant Director of Culture & City Development
3rd August 2015