

# PLANNING COMMITTEE

## 9 DECEMBER 2015

5 PM EXECUTIVE MEETING ROOM,  
3<sup>RD</sup> 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>



## **INDEX**

<b>Item No</b>	<b>Application No</b>	<b>Address</b>	<b>Page</b>
01	15/01387/HOU	40 Hilltop Crescent Portsmouth PO6 1BD	PAGE 4
02	15/01417/FUL	10-14 Grove Road South Southsea PO5 3QT	PAGE 7
03	15/01492/FUL	Lakeside Business Park Western Road Portsmouth PO6 3EN	PAGE 15
04	15/01501/FUL	18 Highland Road Southsea PO4 9AH	PAGE 37
05	15/01624/FUL	51 Frogmore Road Southsea PO4 8RB	PAGE 42
06	15/01679/FUL	Tennis Courts Canoe Lake Southsea Esplanade Southsea	PAGE 46
07	15/01746/MMA	19 Lennox Road South Portsmouth PO5 2HS	PAGE 57
08	15/00942/CS3	Land Opposite Junction Of St Georges Road And Southsea Esplanade Southsea	PAGE 62
09	13/00791/FUL	Eastney Beach Eastney Esplanade Southsea	PAGE 71

**40 HILLTOP CRESCENT PORTSMOUTH PO6 1BD****CONSTRUCTION OF FIRST FLOOR SIDE EXTENSION (TO INCLUDE ALTERATIONS TO ROOF) AND SINGLE STOREY REAR EXTENSION; INSTALLATION OF FRONT PORCH AND RAISED DECKING TO REAR****Application Submitted By:**

Derek Treagus Associates Architectural Services  
FAO Derek Treagus

**On behalf of:**

Mr A Luxton

**RDD:** 24th August 2015

**LDD:** 17th November 2015

This application has been brought to the Planning Committee at the request of Drayton and Farlington Ward Member Councillor Simon Boshier.

**SUMMARY OF MAIN ISSUES**

The key issues in this application are whether the proposed alterations would relate appropriately with the recipient building, the adjacent properties and the wider street scene, and whether the proposal would have a significant impact on the amenity of the occupiers of neighbouring properties.

**The site and surroundings**

This application relates to a large two-storey detached house located on the north side of Hilltop Crescent. The property is set back from the highway and benefits from a relatively large front and rear gardens. In comparison to the surrounding area the property is at odds in design terms with a long cat slide roof, tile hanging at first floor with bricked elevations on the ground floor.

**The proposal**

Permission is sought for the construction of a first floor side extension (to include alterations to roof) and single storey rear extension; installation of front porch and raised decking to rear.

**POLICY CONTEXT**

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include PCS23 of the Portsmouth Plan.

**CONSULTATIONS****Havant Borough Council**

No comments regarding this application.

## **REPRESENTATIONS**

Two representations have been received on behalf of the adjacent property to the east. Their objections can be summarised as follows:

- a) Loss of light and overshadowing;
- b) Increased sense of enclosure due to the increased building bulk close to the common boundary;
- c) Loss of outlook; and,
- d) Loss of privacy and potential overlooking.

In addition, one letter of representation has been received in support of this application from the applicant.

## **COMMENT**

The determining issues are the appropriateness of the design and any impact on residential amenity by enlargement of the house in a series of elements to include a front porch, first floor side extension (to include alterations to roof), single-storey rear extension and raised decking (to rear).

### **Design**

The proposal would include the construction of a first floor side extension which would project from the east elevation of the property. The footprint of the property would remain unchanged and the additional storey would accommodate an additional bedroom to the rear and en-suite. The increase in bulk would lie flush with the front and rear elevations of the existing property and replace the cat slide roof which is at odds with the character of the surrounding area. As the eaves would align with the existing it is considered that it would represent a balanced addition. To reduce the bulk of the building it would have a dual-pitched roof and a box gutter and as such the ridge height of the extension would be slightly lower than the existing property. On the rear elevation a Juliette balcony would be installed. Having regard to the level of alterations, it is considered that the scale, bulk and means of fenestration would appear as balanced additions that unify the appearance of this property.

The proposal would also include the construction of a single storey rear extension and due to existing natural ground level it would be approximately 4.5 metres in height. Given that 1.1 metres would be located below flush floor level, it is considered that a flat-roofed extension would relate to the existing property and would be of a proportionate size. It would be finished in materials to match the existing property in type and colour. A raised decking area would also be constructed which would be 1.1 metre above natural ground level and it would project 4.1 metres overall from the rear elevation of the property. Given the substantial nature of the properties and their spacious plots, it is considered that the construction of a single storey rear extension and raised decking area would be appropriate additions of a proportional scale.

The proposed porch would be of similar appearance to the existing with a pitched roof and whilst being relatively large, it is considered to be of an acceptable scale and size in relation to the existing property. In reaching this decision, regard has been given to the 'fall-back position' which would allow the applicant to construct a 3sqm porch extension under the provisions of permitted development without the written permission of the council as Local Planning Authority.

### **Impact on residential amenity**

Due to the increase in bulk close to the common boundary, it is considered that when viewed from No.38's kitchen there is potential for increased sense of enclosure, loss of outlook and light. As the kitchen window of No.36 is in the middle of the elevation of the property, the only significant outlook is when looking towards the rear of the property. Given that there is at least a

3 metre spatial separation between the properties and the footprint of No.40 would remain unchanged, it is considered that there is unlikely to be a loss of outlook or an increased sense of enclosure that is significantly greater than at present. The first floor extension is therefore considered to be appropriate.

It is considered that the single storey rear extension and raised decking area is unlikely to have an impact on residential amenity with regard to loss of light, outlook or perceived or actual sense of overlooking; given the significant spatial separation with the neighbouring properties and No.42's relatively blank side elevation. It is recognised that there is some dense shrubbery on the common boundary between the properties, however little weight can be afforded to its screening that can change over time and season or potentially be removed by the occupiers.

On balance, it is considered that the scale of the proposed enlargements of the house are appropriate and in accordance with policy PCS23 of the Portsmouth Plan.

## **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: Site Location Plan, Floor and Elevations Drawing (15/452/01 01) and Revised West Elevation Drawing (including side window).
- 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.

### **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.

### **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.

**10-14 GROVE ROAD SOUTH SOUTHSEA PO5 3QT****CHANGE OF USE FROM SHOP (A1 CLASS) TO RESTAURANT (A3 CLASS) AND CONSTRUCTION OF CHIMNEY STACK ADJACENT TO SIDE WALL OF NO8 GROVE ROAD SOUTH****Application Submitted By:**

Martin Critchley Architect  
FAO Mr Martin Critchley

**On behalf of:**

L.C. Isted Trust  
FAO Mr R Isted

**RDD:** 1st September 2015

**LDD:** 29th October 2015

**SUMMARY OF MAIN ISSUES**

The application was brought to the Planning Committee at the request of Councillor Symes. It was deferred at the meeting held on 14 October 2015, to enable the applicant to provide further details in support of the proposal. Details of a new chimney stack (to vent a kitchen extraction system) have been received and included in the amended description of development.

The key issues in this application are whether the principle of the change of use to a Class A3 use is acceptable in this location; whether the proposal would be likely to result in any significant loss of residential amenity; and, whether the change of use would be likely to preserve or enhance the character and appearance of 'Owen's Southsea' Conservation Area or affect any other heritage asset.

**The Site and Surroundings**

The application site is located on the corner of Merton Road and Grove Road South. A single-storey flat-roofed building (circa 1920's, 200sqm) occupies the site, designed with a predominantly glazed frontage onto Grove Road South. The property is within 'Owen's Southsea' Conservation Area and is close to a number of statutorily listed and locally important buildings.

The existing building is currently occupied by 'Southsea Motor Factors' as a Class A1 shop use (selling vehicle parts). Also within the applicants ownership is a large two-storey house to the rear (east), which is currently occupied by 8 unrelated individuals as a House in Multiple Occupancy and 8 Grove Road South, an abutting unit currently in hot food takeaway use (Class A5) with residential above. The site lies within the Indicative Floodplain, identified at risk of flooding (in Flood Zone 2).

**Proposal**

Change of use is sought to restaurant within Class A3, from the present shop (Class A1) use. The applicant does not currently have a particular end-user in mind. Supporting information shows 88 covers and describes an existing net tradeable area of the premises at 200sqm. Additional details have been provided and include the proposed construction of an external

chimney designed to vent potential cooking fumes and odour at eaves level. The chimney stack would be some 5m in height above the roof height of the single-storey building at the site, to be surmounted by a GRP replica chimney pot. The application does not include specific details with respect to cooking extraction/ventilation details, layout or opening hours. There is no on-site parking provision associated with this application.

### **Planning history**

B\*22457/H - Change of use from shop to showroom for the sale of new and used motor vehicles - conditional permission 9/4/70

B\*22457/G - Change of use of the shop from retail shop to office for specialised computerised data preparation work - conditional permission 25/9/69

B\*22457/F - Use of the shop premises as a licensed social club - refused 27/2/69

B\*22457/C - Use of ground floor accommodation as a registered licensed club - refused 3/5/62

### **POLICY CONTEXT**

In addition to policy PCS23 of the Portsmouth Plan, the aims and objectives of the National Planning Policy Framework and the Owens Southsea Conservation Area Guidelines are relevant.

### **CONSULTATIONS**

#### **Environmental Health**

(Comments, as originally submitted)

This consultation is with regard to the potential impact on the amenity of the neighbouring residential use from the proposed change of use.

The area in question is mixed residential/commercial although this address marks the northernmost limit of the local commercial district. Directly to the south at 8 Grove Road South there is an A5 takeaway, and premises south until Marmion Road is reached include estate agents and a beauty / nail salon.

Very little detail concerning the proposal is included in the application. No detail is provided for the location and size of the kitchen, the number of covers, any proposed kitchen extraction equipment or other equipment, or hours of opening. A design, access and heritage statement is included in the application. This details the applicant's 'intentions' with regard to pollution. The applicant intends to "reduce the likelihood of noise from the new development affecting nearby noise sensitive buildings" but there is no mention of how this is to be achieved. No mention is made of potential issues with kitchen odours. Section 12.5 refers to access to apartments but I am unaware of any apartments other than perhaps the residential use at 10 Grove Road South which I was under the impression was a different property and not connected to the application site.

The property itself is single-storey with a flat roof. The options for the location of kitchen extraction ducting and other equipment appear to be limited only to the flat roof, with access to the roof by the ducting going through the roof. The property to the east of the application site (10 Grove Road South) is residential and is two-storey. Several windows have a view to the west over the flat roof. The introduction of plant and a kitchen extraction system onto the roof is likely to impact on the amenity of the residents at 10 Grove Road South, through both noise and odour. A technical solution is possible to control the noise and odour impacts from the kitchen operations although that solution may not be acceptable on other grounds, such as visual



impact. Any technical solution will need to be carefully designed, with the location of the plant / equipment being crucial.

Should you be minded to grant planning permission I recommend that the following conditions be applied:

Prior to the commencement of the A3 use, equipment shall be installed to suppress and disperse odour and fumes emitted from cooking operations arising from this use. Prior to installation, details of the proposed equipment shall be submitted to the local planning authority for approval. Approved equipment shall then be installed and maintained in accordance with the manufacturer's recommendations.

Prior to the installation of the proposed kitchen extraction system 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.

Other than noise from the plant and equipment, there is also the potential for noise arising from the operation of the proposed restaurant to impact on the amenity of neighbouring uses. Potential impacts include noise from customers arriving and departing, noise from entertainment provided within the restaurant and noise from customers outside the premises, smoking for example.

No specific opening hours have been applied for. The two closest A3 premises are Churchills at 25 Marmion Road and at 6 Palmerston Road, both to the south of the proposed business location. The premises at 6 Palmerston Road are conditioned to close at 23:00 hours and the premises at 25 Marmion Road are conditioned to close at 19:00 Sunday to Thursday and 22:00 on Friday and Saturday.

As mentioned above, the application site represents the northern-most edge of the local commercial district and, as such, is bound to the north, east and west by residential use. A decision concerning the opening hours should reflect this relationship.

(Following assessment of additional submitted details)

Unfortunately, the information is inadequate to enable judgement of whether it is sufficient to protect the amenity of neighbouring premises.

The documentation concerning fans details a number of different fan models against a number of different fan loads (i.e. Air volume in m<sup>3</sup> per hour) but the applicant has not indicated which fan is proposed. The documentation concerning the odour filtration contains a number of different options but the proposed option has not been indicated. An odour risk assessment has not been conducted - this will indicate the kind and level of odour control required. In addition, carbon filters on their own will not be adequate. Some form of pre-filter is required as a minimum to ensure that the carbon does not lose efficiency through being clogged with grease particles. Further information can be obtained from Defra's Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems.

A survey of the existing noise conditions has not been included. As such, it is not known whether the noise from the kitchen extract system is likely to require mitigation in the form of a silencer, for example.

In addition, please also bear in mind other plant and equipment (condensers for freezers or A/C units, etc.) which may also need to be covered by condition. The initial consultation response expressed the view that there is likely to be a technical solution but needs to be carefully designed and located.

## Highways Engineer

The site is located just off of the main retail area of Southsea and fronts onto Grove Road. Merton Road runs alongside the north flank of the building making this a corner plot. This section of Merton Road is single carriageway in width, and has double yellow lines on both sides of the carriageway, although has no restriction of direction of flow. Grove Road South has double yellow lines in front of this site, but has unrestricted parking opposite for around 12 vehicles, when parked at 90 degrees to the carriageway.

There is no off carriageway area to allow servicing for this site, therefore any deliveries would need to be made from the kerbside in front of the site, on Grove Road South. This must have occurred for previous uses of the site and is the case for the other retail units to the south. It is permissible for deliveries to take place from double yellow lines, therefore the premises can be legally serviced, despite the parking restrictions of the double yellow lines. The site does not benefit from any off-street customer car parking, but due to its proximity to the local centre of Southsea there is car parking nearby. It is very likely that patronage of this site would involve linked trips to the main shopping area.

For the above reasons, no highways objection is raised to the proposed change of use. In addition to the need for the refuse storage condition, staff cycle parking should be provided and retained for a minimum of 2 cycles in a secure/covered location within the site.

## REPRESENTATIONS

21 representations (2 from one address) and one petition (with 61 signatures) have been received raising objection on the following grounds:

- \* there is no need for another eating place in Southsea (already have 50 in area) and Palmerston Road Precinct has vacant outlets that are more suited to a Class A3 use;
- \* will create parking problems that is already limited due to double yellow lines, indiscriminate parking could impede free flow of traffic and public transport, and restaurant patrons are likely to park for longer than shoppers;
- \* patrons of restaurant may use Holmbush Court parking area;
- \* increased late night noise (possibly including music) and disturbance;
- \* increase in litter in area;
- \* smokers/drinkers may congregate on narrow pavement outside premises;
- \* inappropriate use in an area more residential than commercial;
- \* proximity to residential properties including those at Holmbush Court (a retirement complex), Admiral Square and Grove Road South;
- \* cooking odours;
- \* proposal is not consistent and undermines the Southsea Town Centre Area Action Plan (AAP) (Policy STC4) as outside the area where new restaurants and cafes are encouraged i.e. Osborne Road and Palmerston Road South and as such would create a poor precedent, new restaurant away from AAP could create problems of monitoring and control for police force;
- \* the short commercial area at the southern end of Grove Road South has no licensed premises - concern that a new restaurant would be licensed and would turn into a drinking establishment that serves food which would be inappropriate in a residential area;
- \* whilst a genteel bistro or tearoom might suit the building and neighbourhood, there is almost no way to control the nature of the restaurant and its clientele once established - a loud and garish establishment would harm the heritage environment and be detrimental to character of 'Owen's Southsea' conservation area;
- \* would greatly affect existing Chinese takeaway business at 8 Grove Road South;
- \* 2 previous refusal for licenced social club were refused in 1962 and 1969 - still inappropriate;
- \* a change to a restaurant may not necessarily improve the decorative condition of the shop;
- \* insufficient publicity for the application; and,
- \* visual and noise impact of a restaurant would affect the image and status of St Jude's Church.

## **COMMENT**

The application was brought to the Planning Committee at the request of Councillor Symes. It was deferred at the meeting held on 14 October 2015, to enable the applicant to provide further details in support of the proposal. Details of a new chimney stack (to vent a kitchen extraction system) have been received and included in the description of development.

The key issues in this application are whether the principle of the change of use to a Class A3 use is acceptable in this location; whether the proposal would be likely to result in any significant loss of residential amenity; and, whether the change of use would be likely to preserve or enhance the character or appearance of the 'Owen's Southsea' Conservation Area or would preserve the setting of nearby listed buildings.

Whilst it is noted that the application site lies within an indicative flood risk area it is not considered that users of the building or its contents would be rendered any more vulnerable to the risk of flood inundation than at present.

### **Principle**

The main policy consideration is PCS23 of the Portsmouth Plan which seeks development that relates well to the city's conservation areas, is appropriate in scale, layout and appearance in relation to the particular context, that any car parking and cycle storage should be secure, well designed and convenient and the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as users of the development.

The application site lies outside of the Southsea Town Centre Area Action Plan which covers the whole town centre extending from Osborne Road to Marmion Road including Palmerston Road, Clarendon Road and Kent Road. As such, whilst Policy STC4 seeks to encourage new restaurants and cafes to locate in Osborne Road and Palmerston Road South this application must be considered on its own merits.

The loss of a shop outside of the defined boundaries of the Southsea Town Centre (Policy STC2) raises no site-specific policy objection. A restaurant use is potentially an acceptable use within a mixed retail (A1), takeaway (A5) and residential area such as this subject to appropriate safeguards to ensure the use does not result in any significant loss of residential amenity.

### **Impact of amenity**

The application site occupies the end units of a parade of shops and A5 uses, the southern part of which lies within the Southsea Town Centre boundary. Given that the application site has a shop use, daytime activity in and around the unit is already established and would not be dissimilar to that generated by a restaurant use. It is acknowledged that an evening operation of a restaurant use would introduce additional activity within this fringe area adjacent the town centre however opening hours could be imposed to reflect the proximity to residential properties. Closing times of 2200 hours daily would be reasonable in the context of this quieter location.

As originally submitted this speculative proposal did not include any extraction/ventilation or noise protection scheme put forward. Given the single-storey flat-roofed nature of the existing building, its close proximity to residential properties and location within a conservation area and setting of a number of listed buildings, it would be essential to ensure an effective and visually sensitive solution for an unfettered restaurant use.

Following deferral of the planning application the description of development has been amended to include the construction of a chimney (externally) above the existing flat-roof of the building, designed to vent potential cooking fumes and odours at eaves level. Other supporting information seeks to demonstrate how internal ducting within the single-storey building could

connect the kitchen and chimney. Details of possible fans and filters as part of any kitchen extract ventilation system have been provided. The details have been assessed by the Council's Environmental Health officers as currently inadequate (see update in the consultation section of this report) although it is worth reiterating that the initial consultation response expressed the view that there is likely to be a technical solution but needs to be carefully designed and located. The visual impact/design of the proposed chimney is addressed in the following section of this report.

The application site offers no on-site parking provision. It is considered unlikely that the proposal would encourage indiscriminate parking as patrons of a restaurant use would generally not be making quick visits of the type more associated with A5 (takeaway) uses. Planning permission would be required for a change of use to Class A5 however a condition to prevent an ancillary A5 use is necessary to address such concerns.

### **Impact on heritage assets/design**

The site is located within 'Owen's Southsea' Conservation Area (No2). Other heritage assets in the immediate locality include statutorily listed buildings (Grade II) of St Jude's Church (to the south-west), a group of properties at 4 St Judes Close/1 Grove Road South, 5 Grove Road South and 11/13 Grove Road South, all immediately to the west. There are also 3 Ormsby Road and 1a/1b Merton Road that are included in the 'local' list, to the east.

In relation to heritage assets, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local planning authorities to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest. Furthermore, Section 72 of the same Act requires local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. There is a strong presumption in favour of conservation. NPPF guidance at para 132 states: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation". Policy PCS23 requires, amongst other things, "Development that relates well to the geography and history of Portsmouth, particularly the city's ... listed buildings ...".

Relevant heritage assets are appropriately identified by the applicants, who also comment on the presence of an existing large vertical extract duct, up to roof level on the rear of the adjoining property at No8 Grove Road South, fabricated in galvanised steel. In describing the significance of any effect on the conservation area and any contribution to the setting of other heritage assets, the applicants take the view that "The proposal to add a new 'chimney' to the group does not introduce any different elements to the appearance of the group of buildings, and does not upset any existing symmetries or balances. It is an entirely appropriate vertical feature to conceal the extract ducting... [and] Chimneys are a part of the Owen 'vernacular'." The proposed location and appearance of the chimney in a painted render finish to match the adjacent building at No8, topped by a GRP replica chimney pot to conceal the duct terminal and corbel head to match the style of the chimney on No6, is considered a suitable design approach. The proposed chimney would preserve the character and appearance of 'Owen's Southsea' Conservation Area and the significance of its effect on the setting of statutorily and locally listed buildings considered to be neutral.

A restaurant use of this building, subject to the conditions recommended to ensure an acceptable level of evening activity and provision of a suitable extract flue with associated equipment to minimise nuisance from cooking fumes and odours, is considered to preserve the character of 'Owen's Southsea' Conservation Area. The building's frontage is currently in need of repair (e.g. some glazing requires replacement) and these improvements would enhance the buildings contribution to the appearance of this conservation area. Alterations to the shop front beyond like-for-like repair would require planning permission in their own right.

## Conclusion

The proposal is considered in accordance with policy PCS23 of the Portsmouth Plan and is capable of support subject to the recommended conditions.

**RECOMMENDATION: That delegated authority be granted to the Assistant Director of Culture & City Development to grant Conditional Permission after expiry of the publicity period provided no representations are received raising new material planning issues**

## 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: Location Plan/Block Plan - 0939-201; Ground Floor Plan - 0939-403; and, Elevations - 0939-501A.
- 3) The premises shall be closed and vacated by the public between 2200 hours and 0830 hours daily.
- 4) Before the restaurant/café (Class A3 use) hereby permitted is first brought into use, refuse and recyclable materials storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing; and the approved facilities shall thereafter be retained for refuse/recyclable materials storage at all times.
- 5) No hot food take-away service or home delivery service shall operate from the premises.
- 6) No cooking processes other than the preparation of hot beverages, toasting of bread or heating of food in a microwave oven, domestic oven or domestic cooking device shall be undertaken within Class A3 premises hereby permitted (unless a suitable kitchen extract ventilation system shall have been installed and operated to suppress cooking fumes and odours).
- 7) Prior to the commencement of any other cooking operation than those described in condition 6 (as limited to preparation of hot beverages, toasting of bread or heating of food in a microwave oven, domestic oven or domestic cooking device) the proposed chimney shall have been constructed as shown on drawing no0939-501A for connection to equipment installed to a kitchen extraction system to suppress and disperse odour and fumes emitted from cooking operations arising from this use. Prior to installation of the kitchen extraction system, details of the proposed equipment shall be submitted to and approved in writing by the local planning authority; and such approved equipment shall thereafter be operated for as long as the Class A3 continues.
- 8) Prior to the installation of any plant and/or equipment (including any kitchen extraction system), an assessment of noise from the operation of the plant and/or equipment 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 and/or equipment shall be implemented.

9) Before the restaurant/café (Class A3 use) hereby permitted is first brought into use, secure/weatherproof staff bicycle storage facilities (to accommodate 2 cycles) shall be provided within the site in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing; and those facilities shall thereafter be retained for the storage of bicycles at all times.

**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 amenities of the occupiers of the adjoining and nearby residential properties and to preserve the character of 'Owen's Southsea' Conservation Area, in accordance with policy PCS23 of the Portsmouth Plan.
- 4) To ensure that adequate provision is made for the storage of refuse and recyclable materials and to preserve the character and appearance of 'Owen's Southsea' Conservation Area, in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To protect the amenities of the occupiers of nearby properties, in the interests of highway safety and to preserve the character and appearance of 'Owen's Southsea' Conservation Area, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
- 6) To preserve the character and appearance of 'Owen's Conservation Area' and to protect the amenities of the occupiers of nearby properties, in accordance with policy PCS23 of the Portsmouth Plan, in the absence of a suitable extract ventilation to deal with the dispersal of cooking fumes and odours.
- 7) To protect the amenities of the occupiers of nearby properties and to preserve the character of 'Owen's Southsea' Conservation Area, in accordance with policy PCS23 of the Portsmouth Plan.
- 8) To protect the amenities of the occupiers of nearby properties and to preserve the character of 'Owen's Southsea' Conservation Area, in accordance with policy PCS23 of the Portsmouth Plan.
- 9) To ensure adequate provision is made for cyclists and to promote other means of travel than the private car in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

**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.

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**LAKESIDE BUSINESS PARK WESTERN ROAD PORTSMOUTH PO6 3EN****CONSTRUCTION OF A SIX-STOREY HOTEL (CLASS C1) UP TO 7,761SQM FLOORSPACE, CAR PARKING AND ASSOCIATED LANDSCAPING****Application Submitted By:**

Nathaniel Lichfield & Partners  
FAO Mr James Jaulim

**On behalf of:**

Village Urban Resorts

**RDD:** 10th September 2015

**LDD:** 15th December 2015

**SUMMARY OF MAIN ISSUES**

The principal issue is whether this alternative proposal for the hotel component of a wider phased development for primarily offices would still contribute to the achievement of sustainable development, in accordance with national and local planning policy. Key issues for consideration are the principle of an hotel on this protected employment site, design and impact on heritage assets, traffic/transportation implications, flood risk, impact on nature conservation, trees, flood risk/drainage and sustainable design and construction.

**The site**

The application site covers 1.27ha. It is located to the south of the main entrance into Lakeside Business Park in a gateway position fronting a major arterial route in the city. Western Road (A27) is a 1500m or so length of dual carriageway linking Portsbridge roundabout to the south with the M27 Junction 12 ('Marriots' traffic-light controlled junction of A3/A27/M27) to the north.

The application site is a parcel of land that forms part of a wider phased development covering 30ha. The existing office campus has an overall area of 52 ha, which was originally occupied solely by IBM as the company's UK Headquarters. The existing office buildings are located around an attractive lakeside setting, created by land reclamation in 1952-1975, with extensive tree cover predominantly but not exclusively around the boundaries. A large proportion of the site is vacant urban grassland and surface car parking. Between the access road into Lakeside Business Park and the application site there is an established woodland group of mainly deciduous trees, which are included within a Tree Preservation Order.

Almost the entire site is in the Indicative Floodplain, in Flood Zone 2 (since January 2011 amendment). It is separated from Ports Creek (designated as Portsmouth Harbour Ramsar Site, SPA and SSSI) by the elevated motorway embankment and from the Scheduled Ancient Monument known as 'Hilsea Lines' consisting of ramparts, of brick construction, covered with an earth and chalk bank; in 1994, the ramparts and 20m wide moat were also designated as 'Hilsea Lines' Conservation Area (No27). The nearby office building at 'Lynx House' No1 Northern Road (Former IBM Pilot Head Office) was statutorily 'listed' Grade II on 26 January 2015.

The proposal has been assessed as not constituting an EIA development. However, it is supported by documents comprising: planning statement; design and access statement; tall buildings statement; transport statement; heritage impact assessment; flood risk assessment

(addendum); ecological survey; BREEAM pre-assessment; landscape design statement; Arboricultural survey and impact assessment; and, geotechnical and geo-environmental interpretative report.

### **Relevant planning history**

Office development of the site dates back to 1970. There is a fairly extensive planning history for alteration/additions to buildings/structures and parking areas. There are 3 applications relating to the application site and access thereto listed below:

1. 08/02342/OUT - Outline permission 15/10/2010

"Outline application for 69,030sqm of gross external floorspace for Class B1(a) offices and 21,140sqm of other development (all gross external) to include: shops (Class A1) up to 1160sqm, restaurants/cafes (Class A3) up to 680sqm, 150-bedroom hotel and 40-suite aparthotel (Class C1) up to 6500sqm & 3000sqm respectively, private hospital (Class C2) up to 7000sqm and car dealership (mixed use for car display/sales showroom and servicing/repair workshop) up to 2800sqm, with access roads/footways, landscaping and associated plant (the principles of access and layout to be considered)"

Outline permission in January 2010 approved site layout and means of access only, for a total floorspace of 90,170sqm; whilst mainly for offices, other development (including a 150-bedroom hotel) was described by the applicants as 'enabling' uses "... essential in attracting tenants to a High Quality campus and ensuring its viability". The outline application proposed development in 5 phases over a period of 15 years:

Phase A - Some office, shops, hotel, car dealership and hospital including (second) access road to Western Road and new footpath/cycleway

Phase B - Office and aparthotel

Phase C - Office and restaurant

Phase D - Office and relocation of IBM parking and (third) access road to Western Road

Phase E - Office and partial relocation of existing IBM parking

A total of 2,854 car parking spaces would serve the new development that would bring the overall provision (including existing offices) to 6,083 across Lakeside Business Park as a whole.

A condition was imposed to specify maximum floorspace for all development across the site including up to 6500sqm for an hotel. The reason for the condition was to meet the specific requirements of the applicant for enabling uses (in an out-of-centre location) to make up a comparatively minor proportion of the overall development overwhelmingly for the B1(a) office space allocation of the site, the primary aim for job creation and for business uses to make a significant contribution to the city's employment needs and capability of the site to accommodate such a significant quantum of development that balances the potential traffic and other impacts with protecting the quality of the environment, to accord with local plan policy.

2. 11/00354/REM - Approved 25/8/2011

"Reserved matters application pursuant to Condition 3(1)(2)&(5) of permission ref 08/02342/OUT, for part of road access & landscaping adjacent to new access, within Phase A" The 140m length of road access serving the adjacent 'Porsche' dealership and the proposed hotel has been completed.

3. 12/00924/FUL - Conditional permission 9/11/2012

"Construction of a 5-storey hotel (Class C1) up to 8407sqm gross external floorspace, car parking and associated landscaping"

The 2012 hotel permission was not implemented and has since expired (9/11/2015). However, the scheme identified felling of 96 trees within the woodland group covered by Tree Preservation Order (with landscape improvements intended to replace those lost). As part of site enabling works, 89 trees (of the 96 identified for removal) were felled in February 2013.



## Proposal

The proposal has broadly similar characteristics to the hotel forming part of the 2010 outline approval under ref 08/02342/OUT and the now expired 2012 permission for development submitted by De Vere Village Hotels & Leisure Limited ref 12/00924/FUL. The changes to the site layout and overall floor area still necessitate a full application (rather than Reserved Matters submission). A substantial 6-storey building, on a smaller building footprint, including a part two-storey element associated with ancillary leisure club and conference centre/meeting area facilities as part of the scheme is now sought. The proposed gross external floorspace would be 7,761sqm.

The proposed internal floor areas totalling 7,358sqm would comprise:

- o 153 bedrooms (3,493sqm)
- o Leisure club including 20m swimming pool and fitness studios (1,474sqm)
- o Conference centre and meeting area (451sqm)
- o Restaurant, pub and café (310sqm)
- o Kitchen area (101sqm)
- o Circulation, reception, back of house, escape and plant (1,529sqm)

The proposal is expected to create employment for 170 (full-time equivalent) persons. Some raising of site levels to provide a finished slab level for the hotel of +2.95m AoD would address any potential risk of flooding.

The proposed building is described by the applicants, in design terms, as "... two-tiered, with a larger ground floor to second storey footprint. The third storey upwards is set back when viewed from the side and appears as a single block. The facades are contemporary with little detailing beyond the rhythm of the fenestration and panels. The curtain walls are black, polyester powder-coated (PPC) with blue tint double glazed windows."

Extraordinarily all windows to the upper 'bedroom floors' would be obscure glazed and serve shower rooms (linked internally by glazed panels to the hotel rooms beyond) rather than provide any outlook for hotel guests, despite its attractive parkland setting.

## POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS5 (Lakeside Business Park), PCS11 (Employment Land), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS23 (Design and Conservation), PCS24 (Tall buildings), and saved policy DC21 (Contaminated land) of the Portsmouth City Local Plan.

The site-specific policy at PCS5 states "Lakeside Business Park is allocated as an office campus providing 69,000sqm of B1a office floorspace" covering the application site. The sub-text explains that the site benefits from planning permission for 69,030sqm of gross floorspace and other ancillary facilities. A proposed hotel formed part of the enabling uses at the site. Policy PCS11 recognises "service uses that would support B1, B2, B8 development and its occupiers ... will also be acceptable, provided that they provide equal alternative employment opportunities".

Other relevant central government guidance is set out in the National Planning Policy Framework (NPPF) that describes the purpose of the planning system is to contribute to the achievement of sustainable development and the three dimensions to achieving it: economic, social and environmental. The hotel proposal should be assessed against development management policies in the NPPF and, in particular, chapters 1 (Building a strong, competitive economy), 4 (Promoting Sustainable Transport), 7 (Requiring Good Design), 11 (Conserving and enhancing the natural environment) and 12 (Conserving and enhancing the historic environment), including the presumption in favour of sustainable development set out in paragraph 14. Further examination of relevant NPPF guidance will be made in the comments section of this report.

The most significant change of circumstance in relation to local and national policy relevant to the now 6-storey hotel proposal is PCS24 (tall buildings, for development in excess of 5-storeys and 20m+ high) and to the NPPF for assessment on any impact on heritage assets.

Policy PCS24 of the Portsmouth Plan and the Tall Buildings SPD identify a number of areas of opportunity for tall buildings within the city. Southampton Road/Western Road is one of those areas identified as an 'area of opportunity for tall buildings'. A tall building is defined as any building above 5 storeys and / or 20m in height. In order to facilitate and encourage the design of tall buildings of the highest quality the SPD also identifies criteria which any tall building should address. These are addressed in the comments section of this report.

The following Supplementary Planning Documents also provide relevant policy guidance: Parking Standards and Transport Assessments Supplementary Planning Document (July 2014), Achieving Employment and Skills Plans Supplementary Planning Document (July 2013) and Tall Buildings Supplementary Planning Document (June 2012).

A report was commissioned into future hotel requirements in the city entitled Portsmouth Hotel Futures (2007) that has shown there is need for 12-15 new hotels in Portsmouth up until 2026 and followed by an additional report South Hampshire Hotel Futures (2010) covering the sub-region, identifying the M27/A27 corridor as a likely location for future hotel growth. An updated "Hotel Investment Prospectus" (2015) has no particular planning status but identifies hotel investment opportunities as including the site at Lakeside Business Park for which the outline permission in 2010 remains extant.

## **CONSULTATIONS**

### **Highways England**

No objection is offered but with the development being close to M27 (junction 12) a construction management plan is recommended to minimise impact on the Strategic Road Network, particularly during peak hours.

### **Environment Agency**

No objection raised, however, the proposed development will only meet the requirements of the NPPF if the mitigation measure detailed in the Flood Risk Assessment is implemented and secured by planning condition:

"The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Addendum, produced by Shepherd Gilmour Infrastructure Ltd (ref: C1129/DR/EAJ/Z0156) and dated September 2015 and the following mitigation measures detailed within the FRA:

o Finished floor levels are set no lower than 2.95m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority."

Reason: To reduce the risk of flooding to the proposed development and future occupants.

The Environment Agency's indicative flood zone map shows the proposed development to be located within tidal flood zone 2. However, previous modelling work undertaken and summarised within a Technical Note produced by AECOM (ref: 60190436), demonstrates that the site is free from inundation for the design flood level (0.5%, 1 in 200 year tide level for 2070 = 3.7mAOD). Therefore the risk of flooding from tidal sources can be considered to be low. It has previously been stated that groundwater levels in this area of the site are relatively high and a previous condition requiring finished floor levels to be set at 300mm above surrounding ground levels. In order to mitigate the risk of flooding from groundwater sources it is considered necessary to condition the finished floor levels of the development at 2.95mAOD or above.

## **Natural England**

Statutory nature conservation sites - no objection

The proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Portsmouth Harbour has been classified. NE therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives. In addition, NE is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Portsmouth Harbour SSSI has been notified. Should the details of this application change, NE requires re-consultation in accordance with S.28(l) of the Wildlife and Countryside Act 1981.

Protected species

The application has not been assessed for impacts on protected species. NE has published Standing Advice on protected species.

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR), the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

## **The Southwick Estate**

No response received.

## **Coastal Partnership**

ESCP raise no objection, subject to imposition of a condition requiring that mitigation identified within the FRA be fully implemented prior to first occupation of the premises.

## **Environmental Health**

This consultation considers the potential impact to the amenity of neighbouring sensitive uses from the proposed use and the potential impact on local air quality. The nearest sensitive use is over 200m away and so the operations of the hotel are unlikely to adversely impact on any sensitive premises. As for impact on local air quality, the proposed development is not considered as a relevant exposure, is located far from the nearest AQMA and some distance from the nearest relevant exposure, therefore, no air quality assessment is required.

## **Highways Engineer**

(As originally submitted)

Outline planning permission was granted for various uses across the whole site in October 2010 but includes provision for a hotel as part of the first phase of development (Phase A). The outline planning permission contains provision for a 150 bed hotel of 6,240sqm gross floorspace. Also, the site had full planning permission in 2012 for a 120-bed hotel with a total of 7,902sqm gross floorspace (ref 12/00924/FUL). The net changes, compared with the outline permission, were a reduction of 30 bedrooms and an increase in floor area of 1,402sqm.

The proposed development comprises the following elements and GFAs.

- o 153 Bedrooms (3,493sqm)
- o Dining, Bars and Meeting Rooms (761sqm)
- o Pool, Gym and Health Club (1,474sqm)
- o Staff, Servicing, Circulation (1,630sqm)
- o Total Gross Floor Area 7,358sqm

Thus the net change, compared with the expired 2012 permission, represents an increase of 33 bedrooms and a reduction in floor area of 544sqm.

Trip Generation:

The Transport Consultant has compared the previous figures derived from the TRICS data base for the current proposal taking into account of the proposed reduction in floor area by 544sqm.

The trip rates indicate that there will be a decrease of 5 vehicle trips during the AM peak and 4

during the PM peak. The review of trip generation rates across all land uses in the outline planning permission - Phase A showed that notwithstanding a slight increase in the floor area of the consented hotel, there is likely to be a net overall reduction in trip generation compared with that assessed and agreed in connection with the permitted Lakeside development. In view of this the current proposed hotel, which results in a reduction of floor area by 544sqm, can be satisfactorily accommodated in transport terms and without exceeding the trip generation thresholds previously established.

#### Access:

Access to the site will be taken from the newly constructed Lakeshore Drive, accessing onto Western Road. This access comprises a priority junction located adjacent to the eastern boundary of the site and will provide for all vehicular access to customer parking and for servicing and deliveries.

#### Car Parking Provision:

The proposal provides 270 parking spaces (including 17 blue badge holders). This is the same car parking provision as the expired 2012 permission including 5% 'disabled' bays. Comparison has been made with other village hotels located elsewhere in the UK. It is considered the proposed level of parking would be adequate for the hotel guests and its associated uses. However, the parking layout does not meet the minimum standards set out in the adopted Parking Standards and Transport Assessments SPD. Bays should be a minimum of 5m x 2.4m and 'disabled' bays 5m x 3.2m (with 0.9m margin for fully opening doors is recommended). The aisle width should be 6.0m minimum.

#### Cycle Parking Provision:

The applicant refers to the new Parking Standards (July 2014) and has increased the cycle parking from the original application to a total of 44 spaces. These are located at the front of the hotel and to the west. The applicant has not distinguished between long and short stay cycle parking as described and required in the Parking Standards. Short stay is for visitors and is usually positioned close to the entrance and undercover of a shelter; long stay is usually for staff, residents/hotel guests who need to leave their bikes for a longer period in a fully secure (with key pad or swipe card access), enclosed and weatherproof store. These can also be within the building in an internal, separate storage area. The applicant will need to submit revised plans to be approved showing how they intend to differentiate between the two types of storage referring to the Parking Standards SPD. Staff shower and locker facilities will also be required.

#### Travel Plan

A Travel Plan showing how staff and all visitors (including hotel, leisure and conference centre users) will be encouraged to travel more sustainably to the site will be required. This should be agreed at least 3 months in advance of first occupation of the hotel in order that appropriate measures and initiatives can be put in place before travel habits are formed by staff and visitors. It will include details of an initial survey at first occupation, annual surveys for a five year period thereafter, associated targets, action plan and details of the Travel Plan Coordinator. Travel Plan monitoring fees of £5500 to be collected.

#### Wayfinding board(s)

Though this is the second application in Phase A of the Lakeside expansion it is considered relevant that it provides Wayfinding boards information rather than the first. The first application, which was the Porsche garage, attracts a different kind of visitor who would mainly be travelling by car.

This application is part of a wider development of land at Lakeside and is in Phase A of a five Phase programme which will take a number of years to reach completion. When Outline Permission for the whole site was granted in 2008 the Wayfinding boards did not exist and were therefore not included as a site specific contribution. Since that time the Wayfinding boards

have been implemented across the City through the LSTF programme and, where appropriate, larger developments have been asked to provide boards in the vicinity of their site.

Furthermore this application is to be considered as a new application which is why it is appropriate to request the Wayfinding boards at this time. The 153 bed hotel, with associated conference and leisure facilities, will have a wide range of people travelling to it. These include staff (who will be mainly from the local area) and visitors (mainly from farther afield but also from the local area). The applicant refers to potential users of the conference and leisure facilities travelling from within the Lakeside area, local neighbourhood or from the wider Portsmouth area which will be in addition to the hotel residents. Hotel residents, whether they arrive by car or more sustainable means, may want to travel sustainably once they have arrived. Users of the other facilities on site may also wish to arrive more sustainably and Wayfinding boards will assist in directing them between this site and the nearest local centre, Cosham with railway station, bus interchange and other local amenities.

This will necessitate more than one board near to the site and it is envisaged that the following number of boards will be required:

- o 2 x large (at the junction close to the hotel and a 2nd at/near the Cosham railway station)
  - o 2 x totems between the 2 larger boards
- Cost of these to include manufacture and installation will be around £20k.

The applicant states that they will implement a previously agreed footway / cycleway along the north side of the road leading from the junction with Western Road.

In addition to above the applicant to consider shared footway/cycleways within the site to be made into PROW in order to link in with the surrounding cycling and pedestrian network.

No highways objection raised, subject to:

- o Providing car parking layout in accordance with the adopted Parking Standards and Transport Assessments SPD (July 2014).
- o 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 differentiate between the two types of storage) to be submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be retained including showers and lockers for staff.
- o Prior to the first use of the hotel, details of an Interim Travel Plan (as part to the Framework Travel Plan for the wider development site at Lakeside) shall have been submitted to and approved in writing by the Local Planning Authority together with a phased programme for its implementation and subsequent long term monitoring. A Final Travel Plan shall be submitted to and agreed in writing with the Local Planning Authority within 12 months of occupation of the building and the measures contained within the approved Travel Plan shall be implemented in accordance with the approved details and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority beforehand.

(Updated following a response from the applicants)

The requirements of the Travel Plan are to be secured by planning condition, consistent with the decision on the 2012 hotel permission. Absence of Wayfinding Boards is not considered to make the development unacceptable, in highways terms.

### **Contaminated Land Team**

CLT has reviewed the following reports:

- o Geo-environmental Desk Study report for Lakeside Business Park. Faber Maunsell (AECOM) July 2008. 60040248 Version 2
- o Geotechnical and Geo-Environmental Interpretative Report, Proposed Village Hotel, Portsmouth, Lakeside Business Park Phase A, AECOM Environment, August 2012, 60190436. Version 2
- o UXO survey. BAE. November 2008. A0896-00-R1-1

It is requested that conditions be imposed for a remedial scheme required to consider ground gases, asbestos in surface soils and the provision of soft landscaping. Verification of the gas protection and these ground works will be required prior to occupation. As the site overlies a Principal Aquifer the Environment Agency will be contacted with regard the remedial scheme.

### **Tree Officer**

Two site visits have been undertaken on 9 and 13 October 2015. On both occasions the weather conditions were dry and bright.

The site features woodland identified as W1 protected by Tree Preservation Order ref 08/00001/TPO at Lakeside Business Park. This woodland mainly comprises of a stand of semi mature mixed species to the north of the proposed development and young recently planted mixed species with Elm naturally regenerating along the border with the A27 Western Road. The recently planted trees as part mitigation of site clearance undertaken subsequent to the grant of a previous consent, 12/00924/FUL appears to have had little aftercare or young tree management.

A TPO is an order made to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the:

- o cutting down
- o topping
- o lopping
- o uprooting
- o wilful damage
- o wilful destruction

of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.

An Order can be used to protect individual trees, trees within an area, groups of trees or whole woodlands. Protected trees can be of any size or species. Orders covering a woodland protect the trees and saplings of whatever size within the identified area, including those planted or growing naturally after the Order was made. This is because the purpose of the Order is to safeguard the woodland as a whole, which depends on regeneration or new planting.

Despite referring to them in the opening paragraphs it is disappointing to note the Arboricultural Survey and Impact Assessment (ASIA) dated 18/08/2015 appears not to take into account the full provision of the guidelines referred to in BS5837 'Trees in relation to Design, Demolition and Construction Recommendations - 2012:

#### 4.4 Tree survey

##### 4.4.1 Timing

4.4.1.1 A tree survey should be undertaken by an arboriculturist to record information about the trees on or adjacent to a site. The results of the tree survey, including material constraints arising from existing trees that merit retention, should be used (along with any other relevant baseline data) to inform feasibility studies and design options. For this reason, the tree survey should be completed and made available to designers prior to and/or independently of any specific proposals for development.

The Design and Access Statement states (at para 4.22 Sustainability): In keeping with Village Urban Resorts aspirations, the development will respond to the site context and minimise environmental impact.

As the site is previously undeveloped it is difficult to reconcile the proposed location of the structure within the landscape given the impact upon the only remaining trees on the site and taking into account the BS5837 recommendations above and the protection of the trees on site by TPO ref 08/00001/TPO (Lakeside Business Park).

Of the trees proposed for removal it is agreed that:

Trees 6,7,8, 15 are of poor form being previously enclosed by surrounding woodland and light drawn, exposure reveals them to be tall and spindly specimens with high narrow crowns.

T4 has previously been suppressed and encroaches upon the crown of T3.

T9 is of poor form being previously enclosed by surrounding woodland and light drawn, additionally featuring a large area of dysfunction on the trunk.

T15 also of poor form featuring a compression fork and snapped limb.

However within an unmanaged woodland context all exhibit characteristics typical of their environment.

Trees 2, 3 and 5 all appear to be healthy vigorous examples of their species and add to the variety of the mixed woodland setting.

Trees 22 and 26 would both benefit from a proactive management regime as would most of the trees on this site.

The three points made at para 11.1 of the ASIA in support of the argument for the removal of tree 3 may all be mitigated by relocation of the building within the site.

Additionally it is noted that the independent Design Review Panel has consulted and commented on the siting of the proposed development: "...its location would not respond appropriately to the current and probable future context of the site, and that the existing trees would better screen a car park than a building. The road entrance to the site is weakened by the car park, whereas a building positioned in this location would create a strong marker/gateway."

The light loss as suggested at point 3 is therefore considered a weak argument. The points made at para 11.2 of the ASIA in support of the argument for the removal of tree 5 may also be mitigated by relocation of the building within the site. Additionally it is worthy of note T5 withstood the winter storms of 2014 / 2015 following removal of some of the surrounding trees. T36 is one recorded example of a significant amount of suckering Elm across the site, T37 (G2) also features Elm. Considered by the ASIA report author to be of little consequence the Elm is an important habitat species throughout the Lakeside site. The supplied Ecological Survey fails to identify the significance of the naturally regenerating Elm species - habitat for the White Letter Hairstreak Butterfly *Satyrrium w-album*, known to be present on the Lakeside site. Presence of the species was confirmed by Andrew Brookes of the Hampshire & Isle of Wight Branch of Butterfly Conservation.

*Satyrrium w-album* is included in the S41 List of Species of the Natural Environment and Rural Communities Act 2006 and a UK Biodiversity Action Plan Priority Species.

Joint Nature Conservation Committee UK priority Species Pages are attached which include actions required to preserve habitats and protect the species. (Extract from S41 Priority Species - Action Spreadsheet - Updated 14 May 2014 provided).

The proposed landscaping scheme relies heavily on *Prunus* and *Pyrus* both host species to *Euproctis chrysorrhoea* the Brown Tail Moth, a species the council has eradicated from its land. The caterpillars emerge in spring and begin to eat the buds and leaves of many species of tree and shrub, in severe cases causing total defoliation before they move to other plants to continue feeding. Generally, most plants will re-flush by July and not be totally lost. The caterpillars carry up to two million spiked and barbed hairs, which can penetrate skin, causing a rash together with irritation similar to a severe nettle rash. For asthmatics and hay fever sufferers, it is important that the hairs are not inhaled as these may cause severe breathing difficulties.

## Recommendations

1. The application in the current format be refused.
2. Consideration be given to the use of ornamental or native species less likely to host Brown Tail Moth.
3. The location of the structure and proposals for tree removal be reconsidered to take into account the requirement to protect and maintain habitats taking into account the following guidelines:

Section 40 of the Natural Environment and Rural Communities Act 2006, places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by Government in its Biodiversity 2020 strategy.

Guidance on statutory obligations concerning designated sites and protected species is published separately because its application is wider than planning and links are provided to external guidance. Local planning authorities should take a pragmatic approach - the aim should be to fulfil statutory obligations in a way that minimises delays and burdens.

The NPPF is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.\*

Local and neighbourhood plans and planning decisions have the potential to affect biodiversity or geodiversity outside as well as inside designated areas of importance for biodiversity or geodiversity. Local planning authorities and neighbourhood planning bodies should therefore seek opportunities to work collaboratively with other partners, including Local Nature Partnerships, to develop and deliver a strategic approach to protecting and improving the natural environment based on local priorities and evidence. Equally, they should consider the opportunities that individual development proposals may provide to enhance biodiversity and contribute to wildlife and habitat connectivity in the wider area.

In considering how development can affect biodiversity, and how biodiversity benefits could be delivered through the planning system, it is useful to consider:

- o the policies and commitments in Biodiversity 2020;
- o the contents of any existing biodiversity strategies covering the relevant local or neighbourhood plan area and any local biodiversity action plans;
- o the potential effects of a development on the habitats or species on the Natural Environment and Rural Communities Act 2006 section 41 list (in Biodiversity 2020)
- o whether an ecological survey is appropriate;
- o the factors listed in guidance on local ecological networks that supports NPPF para 117.

The statutory obligations in regard to international and national designated sites of importance for biodiversity must also be considered.\*

Information on biodiversity impacts and opportunities should inform all stages of development including, for instance, site selection and design including any pre-application consultation as well as the application itself. An ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. Pre-application discussion can help scope whether this is the case and, if so, the survey work required.

Where an Environmental Impact Assessment is not needed it might still be appropriate to undertake an ecological survey, for example, where protected species may be present. Separate guidance is to be published by Defra on statutory obligations in regard to protected species which will replace the advice set out in Circular 06/05: Biodiversity and Geological Conservation.

Local planning authorities should only require ecological surveys where clearly justified, for example if they consider there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of



development proposed and the likely impact on biodiversity. Further guidance on information requirements is set out in making an application.

Planning conditions, legal agreements or undertakings may be appropriate in order to provide for monitoring and/or biodiversity management plans where these are needed.

4. The guidelines in *Trees in Hard Landscapes: A Guide for Delivery* be adopted to ensure success of proposed planting schemes;
  - a. Tree planting is to be undertaken following subsoiling and soil decompaction in specifically constructed planting pits using soil engineered to promote healthy root growth. Tree planting pits are to be inter connected utilising perforated pipe in order to assist infiltration of excess surface water.
  - b. Tree planting pits in and adjacent to areas intended for parking and highway are to incorporate "Silva Cell" type modular reinforcement creating an underground frame that can bear traffic loads and in addition offers freely rootable space that allows urban trees to grow, catchment of excess (rain)water and a large absorption capacity by uncompacted soil within the cell.
  - c. Trees adjacent to road ways and parking areas are to be protected by the use of substantial tree guards to prevent vehicle damage until established.
  - d. Kerbs and hard surfaces be adapted to assist collection and infiltration of surface water runoff into tree pits.
  - e. Co-location of services where possible to minimise risk of encroachment by roots.
5. All planting is to be undertaken in accordance with the recommendations within BS 8545 *Trees: from nursery to independence in the landscape - Recommendations*.

Update - It is acknowledged that some of the issues previously raised (above) have now been addressed.

The application in the current format be refused, the proposed development is influencing the landscape not vice versa as recommended by BS5837.

The location of the structure and proposals for tree removal be reconsidered against the context of the existing protected woodland and Village Urban Resorts declared aspirations: the development will respond to the site context and minimise environmental impact.

## **Ecology**

This application is accompanied by an Extended Phase 1 Habitat Survey (Viewpoint Associates LLP, September 2015).

### **Designated Sites**

Comments provided by Natural England in relation to statutory nature conservation sites are noted, stating that the proposed development is not likely to have a significant effect on the interest features for which Portsmouth Harbour has been classified and will not damage or destroy the interest features for which the Portsmouth Harbour SSSI has been notified. Based on the information provided, this assessment is supported.

The site is adjacent to East of Lakeside Site of Importance for Nature Conservation (SINC), which comprises coastal saltmarsh and reedbed priority habitats. The submitted Extended Phase 1 Habitat Survey identifies that mitigation will be required in order to address potential impacts on this site. This does not include any assessment on the SINC community to the south of the site and the impacts of increased surface water runoff into the brackish water and associated swamp communities of the SINC as indicated by the increased size of the drainage system indicated in the FRA. Given the likely small scale of the change however, appropriate management of this part of the SINC may offset any negative impacts resulting from this change, which can be addressed through any details of enhancement.

### **Habitats**

The submitted Extended Phase 1 Habitat Survey states that habitats on site are low in species diversity, with the most significant ecological feature being the watercourse and its banks situated only a few metres from the western edge of the site. The report states that these

habitats will not be impacted provided mitigation is implemented to prevent surface run-off or pollution both during construction and post-construction. Provided the report recommendations are appropriately secured and implemented, based on the information provided this assessment is supported.

#### **Protected Species**

The submitted Extended Phase 1 Habitat Survey states that the site has negligible / low potential for protected species, however in respect of foraging bats, reptiles and amphibians the current management of the site as short-sward grassland is a significant factor in this assessment. The woodland / boundary features of the site are also identified to have high potential to support breeding birds. Based on the information provided the findings of the report are accepted and the recommendations considered appropriate.

If minded to grant permission, a condition should be imposed on any planning permission to secure the required mitigation measures detailed in the Extended Phase 1 Habitat Survey relating to designated sites, habitats and protected species. Possible condition wording might be:

o Development shall proceed in accordance with the measures set out in Section 7 of the Extended Phase 1 Habitat Survey (Viewpoint Associates LLP, September 2015) relating to buffer zones, lighting, vegetation clearance, pollution control and site management prior to construction. Thereafter, the existing and enhanced habitats shall be maintained and retained in accordance with the approved details. Reason: To maintain, protect and produce a net gain in biodiversity in accordance with Policy PCS13 of The Portsmouth Plan and the Natural Environment and Rural Communities Act 2006.

The submitted Extended Phase 1 Habitat Survey makes a number of recommendations for enhancements that would contribute to biodiversity at the site, which are not currently fully integrated into the application. The proposed approach to enhancement could however be secured through condition, based on the Extended Phase 1 Habitat Survey report which recommended the provision of a Wildlife Beneficial Landscaping Scheme. Possible condition wording might be:

o Prior to commencement, details of a Wildlife Beneficial Landscaping Scheme incorporating biodiversity enhancements as detailed in Section 8 of the Extended Phase 1 Habitat Survey (Viewpoint Associates LLP, September 2015) shall be submitted for approval to the Local Planning Authority. Development shall subsequently proceed and enhanced habitats shall be maintained and retained in accordance with any such approved details. Reason: Reason: To maintain, protect and produce a net gain in biodiversity in accordance with Policy PCS13 of The Portsmouth Plan and the Natural Environment and Rural Communities Act 2006.

The applicant's ecologist has identified that the clearance of the on-site vegetation is proposed and this has the potential to specifically impact breeding birds if undertaken during the breeding bird season. Therefore, a suitable Informative should be added to any decision notice advising the applicant of the legal protection afforded nesting birds.

#### **Southern Water**

##### **Design Review Panel**

The panel considered the scale, styling and form of the building to be acceptable, as with previously presented proposals for the site, they were however critical of aspects of the scheme. They repeated previously expressed concerns relating to the siting of the building, suggesting that its location would not respond appropriately to the current and probable future context of the site, and that the existing trees would better screen a car park than a building. The road entrance to the site is weakened by the car park, whereas a building positioned in this location would create a strong marker/gateway.

They were disappointed with the external location of the bathrooms which were considered a particularly poor aspect of the design. This was felt to adversely affect the internal environment, deprive occupants of views and fresh air, and create a poor void to solid fenestration ratio/design. The number and disposition of the windows within scheme is very far removed from the precedents which were provided. The proposal exhibits far less glazing and offers a poor alternative. It was suggested that a change in plan is necessary to achieve a better solution. The recommendation of the Panel is that the proposal is not supported in its current form.

### **Coastal And Drainage**

The FRA, supporting information, drawings and calculations are appropriate and the inclusion of groundwater flood risk information is welcomed. It is imperative the existing ditch system is cleared to a reasonable standard before the site becomes fully functional. Further to this, flooding on the site is unlikely to have any impact on residential properties or critical infrastructure as the site is within a secluded catchment. The Drainage Team, therefore, raises no objection to the proposal.

## **REPRESENTATIONS**

One letter of support has been received and considers the contemporary design and siting will complement the existing Lakeside development and the hotel will bring much needed amenity to it and the surrounding area. In particular the proposed hotel will: play a key role in attracting new occupiers to Lakeside Business Park; bring new jobs and economic activity to Portsmouth, specifically to a key objective to introduce a hotel at this site as a gateway form of development and to act as a catalyst to the future success of the park; provide essential business support that are important factors in decisions on the location and relocation of businesses; enhance the attractiveness of an area for existing businesses; be designed as a gateway development, using a contemporary design to create an impressive entrance to the site; and, Village Hotels has an established track record of targeting business users, particularly in midweek making it an appropriate hotel operator for this location.

## **COMMENT**

The principal issue is whether this alternative proposal for the hotel component of a wider phased development for primarily offices would still contribute to the achievement of sustainable development, in accordance with national and local planning policy. Key issues for consideration are the principle of an hotel on this protected employment site for office development, design and impact on heritage assets, traffic/transportation implications, flood risk, impact on nature conservation, trees, flood risk/drainage and sustainable design and construction.

### **Principle of an hotel**

Site-specific policy PCS5 allocates land at Lakeside as an office campus, which includes the application site. The sub-text explains that the Lakeside site benefits from planning permission for 69,030sqm of gross floorspace for B1a use and other ancillary facilities; a proposed hotel of 6240sqm formed part of the enabling uses at the site. The current alternative scheme proposes 7761sqm of gross (external) floorspace. Policy PCS11 recognises "service uses that would support B1, B2, B8 development and its occupiers ... will also be acceptable, provided that they provide equal alternative employment opportunities".

The applicants operate 28 hotels at a range of locations across the UK and target the business user during weekdays. Their Village Hotel concept includes leisure facilities available to and used by local residents. Corporate business users account for some 60% of overall patronage, 3% for conferences and 37% from leisure related users. Almost half of all corporate business comes from the top 30 accounts (key local employers) in each local market reflecting 28% of the

total rooms sold (where 80% of companies for corporate business are typically located within a 5 mile radius of the hotel including a significant proportion of trade from businesses on the business park and, for leisure-related trade); 40% comes from people visiting families/friends locally, 16% for events at the hotel and the remainder for visitors to the local area (traditional 'tourist' trade).

The proposed hotel of 7,761sqm of gross (external) floorspace remains acceptable, in principle, as a comparatively minor proportion of the overall development overwhelmingly for the B1(a) office space allocation of the site, the primary aim for job creation (170 full-time equivalent) and support business uses to make a significant contribution to the city's employment needs.

Other (original) justification for a hotel on part of the land allocated for B1 offices, established by the previous outline permission and now lapsed 2012 permission, relied generally on the broader case for non-B1 uses in the first Phase as providing revenue to open up the site for development for the main office phases and obviate the need for earlier major highway infrastructure works because of the trip generation patterns.

## **Heritage impact**

In relation to heritage assets, Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on local planning authorities to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest. Furthermore, at section 72 it is required that local planning authorities pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. There is a strong presumption in favour of conservation. The NPPF (para 128) "...should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting" and (para 132) "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation." Policy PCS23 of the Portsmouth Plan requires, amongst other things, "Development that relates well to the geography and history of Portsmouth, particularly the city's ... listed buildings...".

A Heritage Impact Assessment forms part of the submitted application. The proximity in combination with the scale of the scheme indicates the proposal could affect the setting (and therefore the significance) of:

- o Scheduled Ancient Monument - Hilsea Lines
- o Conservation Area - Hilsea Lines CA No27 designated 1994
- o Listed Building - Lynx House (Grade II listed, 2015)

In short, the heritage impact assessment concludes that the proposal would be neutral on the setting of the heritage assets identified. The assessment is concise yet appropriately structured and detailed. It is considered proportionate to the scale and impact of the proposed scheme.

- Impact of the proposal on the significance of Lynx House:

The hotel would be located approximately 200m west of the edge of the grade II listed Lynx House. Designed by Foster Associates and built in the early 1970s as a temporary office for IBM, Lynx House is a single-storey structure of very large footprint sheathed in dark smoked glass held by a thin neoprene gasket frame. It is partially screened to the west and south by a line of mature trees. In addition Western Road that separates the two sites is also lined on its northern edge by a row of mature trees with a strong vertical emphasis.

At 200m the distance between the two sites is considerable. (They could certainly not be described as adjacent to one another), and the planting between them acts as a screen (albeit not an impenetrable one). The height, scale and colour of the proposal is such that it would be visible from Lynx House as a middle ground feature through the screen of both sets of trees. The distance and the screening effect of the trees will diminish, diffuse and dissipate the impact of the proposal on the setting of Lynx House.

The spatial relationship between the two sites is such that the hotel would only form a feature within the setting of Lynx House when viewed further east from a limited section of Northern Road. From King George's Field in the North it would be possible to appreciate (the outline at least of) both buildings within the same view. Whilst both designs (scale and height excluded) share a degree of superficial similarity, the quality, innovation and sophistication present in the design of Lynx House is absent from the proposal. The solid panel cladding system and squat form/mass of the hotel would not give it the opacity, and ground hugging horizontality and simplicity of Lynx House.

Despite the very extensive footprint of Lynx House, the Hotel would be considered to have a more obvious 'presence' (even when viewed through the screen of trees that separate the field from both sites). In light of these factors the design of the Hotel is not held to be of the same calibre, or obviously complementary to Lynx House.

Despite these observations the impact of the proposal on the setting of the grade II listed Lynx House can, in line with the view offered in the HIA, reasonably be considered (by virtue of the distance and screening between the two sites) as 'neutral', and that the proposal would therefore not harm its setting.

- Impact of the proposal on the significance of The Hilsea Lines:

The formal boundary of the Lines as a Scheduled Ancient Monument and a Conservation Area (No27) are almost contiguous and the impact of the proposal will therefore be considered both together at the same time.

The application site is located approximately 400m north of the western demi bastion of the Hilsea Lines. The intervening topography incorporates the northern extremity of Portsmouth Harbour/ Portsea Creek, the M27 motorway and its embankments (with heavy planting), and the Porsche dealership site.

The form, scale and height of the proposal when viewed at the distance of the Lines (and bearing in mind the nature of the intervening topography) would harm neither the setting of the Lines, nor the ability to interpret their historic function.

## **Tall Building / Design**

In the 2010 outline permission for the Lakeside site as a whole the applicant's intentions were to introduce 'a development of high quality design which will provide the opportunity, especially along Lakeshore Drive, for a number of taller iconic buildings which, as a group will help to establish a new landmark in North Portsmouth' to accord with the [then] Local Plan policies DC1 and DC3. The Tall Buildings SPD adopted in June 2012 included Lakeside Business Park in an 'area of opportunity' and possible location for tall buildings on the basis of the existing character of area capable of accommodating them and its proximity to a series of main roads including the M27, provided careful consideration is given to potential impact of views towards and away from the forts on Portsdown Hill and on the 'Old Wymering' and 'Hilsea Lines' Conservation Areas.

The applicants Tall Building Statement in assessing the siting and alignment acknowledges that "The proposed building would not face the A27 Western Road and so would not create an active front with this major route". Whilst it suggests the building orientation is typical of the nearby Porsche car showroom it omits to recognise the siting of the car dealership showroom presents a strong gateway marker to the southern side of the site access of Lakeshore Drive and the building quite intentionally screens the presence of cars for parking and external display. The potential improvement to the streetscape by positioning the proposed hotel to form a stronger gateway marker on the opposite side of the entrance to Lakeshore Drive and the building screening ancillary hotel parking is considered to represent a lost opportunity to Lakeside Business Park.

The Tall Building Statement includes a series of accurate visual representations (AVRs) which illustrate the impact of the proposal within its immediate and wider context, from a number of viewpoints agreed with the local planning authority. The AVRs demonstrate the presence of extensive tree planting comprising of a woodland group in the business park immediately north of the application site, in the central reservation of the A27 (Western Road) and in a linear row along the western edge of King George V playing fields limits views and moderates the visual impact of the proposed development, with the exception of the upper 'bedroom floors' viewed from Western Road (northbound) and the junction of Lakeshore Drive/A27 south-east (AVR viewpoint 3).

Interestingly, a recent return visit to the site revealed a fairly dramatic seasonal difference to the camouflage of the application site now that the mainly deciduous trees have shed their leaves and as a consequence diminishes the significance of screening afforded by existing and proposed trees between spring/summer and autumn/winter.

The Design Review Panel's comments are set out in the consultation section of this report. On a positive note, the panel considered the scale, styling and form of the building to be acceptable. However, consistent with their concerns in relation to the previous scheme (now expired 2012 permission) the panel were critical of aspects of the siting and appearance. Its location is not considered to respond appropriately to the current and probable future context of the site, and that the existing trees would better screen a car park than a building. The road entrance to the site is weakened by the car park, whereas a building positioned in this location would create a strong marker/gateway. They were disappointed with the external location of the bathrooms as a particularly poor aspect of the design (commenting on the internal environment as depriving occupants of views and fresh air) creating a poor void to solid fenestration ratio/design very far removed from the precedents which were provided [by the design team] exhibits far less glazing and offers a poor alternative. The recommendation of the Panel is that the proposal is not supported in its current form.

The concerns of the Panel are shared. Siting of the proposed hotel and its two-storey element accommodating pool and conference facilities 'backs' onto the main access into the Lakeside site and 'fronts' onto a car park (270 spaces) and Lakeshore Drive beyond. It is missing the opportunity for a stronger marker and "gateway building" opposite the 'Porsche' showroom, setting the character and tone for subsequent proposals for office pavilions within the masterplan area and original intentions at Lakeside for 'a development of high quality design which will provide the opportunity, especially along Lakeshore Drive, for a number of taller iconic buildings which, as a group will help to establish a new landmark in North Portsmouth'. The Council's Tree Officer also raises concerns with the proposed siting resulting in a loss of trees and disappointment that the proposed development is influencing the landscape not vice versa.

The building's design is a large 6-storey block located onto the northern site boundary backing onto the Northharbour roundabout and entrance to the business park from Western Road. Architecturally the building can reasonably be described as austere. A black metal panel system would clad the entire structure with a skin punctured by a series of narrow shower room windows of 1.14sqm (0.83m x 1.38m) aligned vertically whose number and pattern differ significantly according to the elevation. The design inspiration behind the core element of the scheme and its overall effect, particularly the solid-to-void presented on the upper bedroom floors, would appear to be that of simple and severe 'black box'. Locating a new hotel within an attractive parkland setting but providing no outlook from the guest rooms seems to present a somewhat perverse design solution. On the other hand, the design approach to making the reception and ancillary dining/meeting and gym/studios to the leisure facilities in curtain glazing wrapping around the front (south) elevation forms an striking component of the scheme; it remains a pity that it cannot be enhanced and a stronger marker feature by siting as a "gateway building" onto Lakeshore Drive, where the building screens the presence of parked cars along with boundary trees (at least for much of the year).

The principle of an hotel remains appropriate at the site and within a preferred location for the scale proposed. The general form and contemporary styling would be suitable in the context of its business park location. At the heart of the acceptability of this proposal is whether the proposal is well designed and achieves the highest standards of architectural excellence expected by policies PCS23/PCS24 (with supporting SPD) and whether the impact of such a tall building contributes positively to the character and appearance of the area rather than dominate the skyline simply because of its bulk. There are concerns expressed by the Design Review Panel and shared by officers that design elements, for its siting and appearance falling short of achieving the highest architectural quality and perhaps it is not good enough, resulting in a preliminary view on the Members Information Service that the proposal should be refused.

In response, the applicants have provided additional information entitled 'Discussion note' and 'Siting Appraisal'. They have also sought to address shortcomings in the landscape/ecology design approach to the site. At the heart of the supporting information presented with the current planning application is the comparison to the previous (now expired) 2012 permission for a 5-storey hotel on a markedly larger footprint across the width of the northern site boundary. It was described at the time as follows: "The proposal falls short of representing an iconic gateway building, however, the simple contemporary design solution is considered an appropriate response to the site in the context of the nearby Porsche dealership."

In conclusion, the design of the proposed hotel building presents a simple form and styling and simplicity of materials that cannot be said to achieve all of the objectives of Policy PCS23 as it is not a development of elegance, delight or of excellent architectural quality. In addition, the proposal does not adhere to all of the aims and objectives within the Tall Buildings SPD, which seeks buildings of the highest architectural quality. There are positive aspects to the design and focussing on the similarities rather than the differences to the now expired 2012 scheme is, on balance, considered as having sufficient design merit to outweigh concerns over the siting and appearance, and thereby to sufficiently adhere to policies PCS23 and PCS24.

### **Traffic/transportation**

The original Transport Assessment (TA) submitted in relation to the 2010 outline permission for a 30 ha site identified the heavy reliance of the private car for workplace travel to the existing offices and 'low accessibility' to public transport. Existing provision of 3,229 parking spaces, representing a ratio of 1 space per 21.8sqm of gross floorspace, suggests a limited transport choice to encourage more sustainable travel patterns. A weekday shuttle bus service operates a round trip from Cosham Station/Bus Interchange to the site, in morning (06.55-09.55) and afternoon (15.45-19.05) periods, but represents a very small proportion of peak hour trips.

The aims and objectives of the NPPF and third Local Transport Plan for Portsmouth are to promote sustainable patterns of development that, amongst other things, seek to encourage more sustainable modes of travel and reduce dependence on the private car, to not generate levels of road traffic that would exceed capacity of the highway network, ensure maximum parking standards are not exceeded, to provide adequate and convenient cycle routes/parking/storage facilities, ensure direct/safe/convenient environment for pedestrians and not prejudice highway safety.

The hotel site is served by a left-in/left-out access onto Western Road (A27). The applicant's original TA assessed the impact of the development on key junctions and identified mitigation measures that will be necessary to offset additional traffic in order for the development to achieve a nil-detriment effect following its completion. Additional modelling, design revision and a first stage safety audit have demonstrated the acceptability of the capacity and safety impact. In relation to proposed mitigation measures, the TA included a recommendation that all the major off-site highways works be completed before first occupation of Phase B. Highways mitigation works before first occupation of Phase A, which includes the hotel, would be limited to construction of the eastern access, improvements to the footway/cycleway on Western Road (between the existing site access and Portsbridge roundabout) and implementation of a

Framework Travel Plan. Since the hotel is a full application details of how this part of the development would integrate with the Framework Travel Plan for the wider development site should be covered by planning condition.

The views of the Highways Agency (on the Strategic Road Network) and highways authority are set out in the consultations section. The Highways Authority raises no objection subject to: car parking layout amendments to accord with the adopted Parking Standards and Transport Assessments SPD (July 2014); details of long stay/short stay secure and weatherproof bicycle storage provision; and, details of an Interim Travel Plan (as part to the Framework Travel Plan for the wider development site at Lakeside). Contributions for monitoring of the wider Travel Plan for the site as a whole have previously been made and not considered reasonable or necessary to duplicate.

### **Flood risk/drainage**

The site is within the Indicative Floodplain (flood zone 2). No objection is raised on flood risk/drainage grounds, subject to the request of a safeguarding condition for finished floor levels set no lower than +2.95m AOD (Environment Agency and Coastal Partnership). Southern Water offered views on the previous 2012 hotel permission and again been sought on any necessary measures to protect sewer infrastructure.

### **Impact on nature conservation/trees**

Natural England considers the proposal unlikely to have significant effect on the interest features of the SPA/Ramsar site or to adversely affect the SSSI. The Council's Ecologist accepts the appropriateness of the supporting assessment set out in an Extended Phase 1 Habitat Survey (Viewpoint Associates LLP, September 2015) but imposition of conditions are requested as reasonable and necessary of the details/programme for implementation, based on recommendations for measures in Section 7 and biodiversity enhancements in Section 8.

The Tree Officer's views are set out in full in the consultations section of the report. In February 2013, 89 trees were felled. The current hotel scheme proposes felling of 10 trees, 7 of which were identified for removal as part of the 2012 scheme and 3 additional trees (that the applicants consider to be necessary due to poor and declining structural health). Following concerns raised by the Tree Officer, the landscape scheme has been amended and improved by native tree planting.

### **Sustainable design and construction**

Policy PCS15 requires new development (non-domestic) of more than 500sqm to contribute to addressing climate change in Portsmouth by achieving (a) at least BREEAM 'Excellent' and (b) to use Low or Zero Carbon (LZC) energy technologies to reduce the total carbon emissions by 10%, as part of the selection of measures to meet the overall BREEAM level. Supporting guidance in the adopted Sustainable Design and Construction SPD (January 2013) recognises, however, that on some sites the standards required by this policy may not be achievable (para 2.25) and where the applicant identifies a potential shortfall in the achievable standard, a sound and fully justified case will need to demonstrate why the policy requirements cannot be met (para 2.26) where the onus is on the developer to demonstrate why meeting the policy standard is not feasible or viable.

The applicants identify a shortfall in the achievable standard and do not consider BREEAM 'Excellent' as feasible. A pre-assessment targets a score of 63.70%, above the 'Very Good' figure of 55%. However, this supporting document - BREEAM Pragmatic Approach - rather disappointingly appears to show that they will not be achieving several of the credits included within the 63.70%. Concerns have been expressed that it presents a standardised response to a standardised design, appears generic but with the introduction aiming to acknowledge PCC requirements and selectively to dismiss them. It is not considered to adequately demonstrate



that it is not feasible to achieve the relevant policy requirements on this site. The report acknowledges that LZC element is required but there appears no attempt to incorporate any such technology nor adequately explain why. For a hotel with leisure facilities and, in particular, a swimming pool, a combined heat and power plant would seem an obvious choice for consideration. Similarly, the building will have a heavy daytime electricity load, helping the financial case for a PV array but it does not appear to have been considered.

In response, further information has been submitted and it shows that they will not be achieving several of the credits included within the 63.70% target. An update on whether the applicant can provide a sound justification why meeting the policy standard is not feasible will be reported at the meeting.

## **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: Site Plan & Location Plan - 10292-T-00-0001-Z00\_Rev05; South Elevation - 10292-T-01-0008-ZSO\_Rev04; West Elevation - 10292-T-01-0009-ZWE\_Rev03; North Elevation - 10292-T-01-0010-ZNO\_Rev03; East Elevation - 10292-T-01-0011-ZEA\_Rev04; Soft landscape - 1442-01\_RevB; Hard landscaping - 1442-02\_RevB; Layout Showing Existing Trees... Protection Fence Line - 1442-05\_RevB; Typical details evergreen hedge raised planters - 1442-11\_RevA; Section A-A - 10292-T-01-0012-ZAA\_Rev04; Setting Out Coordination - 10292-T-00-0021-ZXX\_Rev03; General Arrangement Plan Ground Floor - 10292-T-01-0002-Z00\_Rev04; General Arrangement Plan First Floor - 10292-T-01-0003-Z01\_Rev04; General Arrangement Plan Second Floor - 10292-T-01-0004-Z02\_Rev03; General Arrangement Plan Third Floor - 10292-T-01-0005-Z03\_Rev03; General Arrangement Plan Fifth Floor - 10292-T-01-0006-Z04\_Rev02; and, General Arrangement Plan Roof - 10292-T-01-0007-Z06\_Rev03.
  
- 3) No development 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) 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 3 that any remediation scheme required and approved under the provisions of condition 3 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.
  
- 5) No development shall take place at the site until a detailed schedule of materials and finishes to be used for the external walls and roof of the proposed building and screening to the

service yard area shall have been submitted to and approved by the Local Planning Authority in writing; and the development shall be carried out in accordance with the approved materials.

6) No development shall commence on site until the proposed measures for the safeguarding of all trees not scheduled for removal during the course of the site works and building operations has been carried out in accordance with the 'Arboricultural Survey & Arboricultural Impact Assessment for Village Hotels Lakeside' (by Viewpoints Associates, RevB, dated 20 October 2015) including Tree Protection Plan drawing no1442-05\_RevB (or such alternative details as may be submitted to and approved in writing by the Local Planning Authority beforehand). All trees or features to be protected shall be fenced along the alignment shown on drawing no1442-05\_RevB 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.

7) Prior to the first use of the hotel the proposed car parking shown on the approved site layout including provision of 'disabled' bays shall be surfaced (in part tarmac with feature paved areas around the building/site shown on drawing 1442-01\_RevB or such alternative materials as may be agreed in writing with the Local Planning Authority), marked out and made available for use; and those parking facilities shall thereafter be retained at all times for the parking of vehicles up to a maximum of 270 spaces to serve the proposed development.

8) Prior to the first use of the hotel details of an Interim Travel Plan (as part to the Framework Travel Plan for the wider development site at Lakeside) shall have been submitted to and approved in writing by the Local Planning Authority together with a phased programme for its implementation and subsequent long term monitoring. A Final Travel Plan shall be submitted to and agreed in writing with the Local Planning Authority within 12 months of occupation of the building and the measures contained within the approved Travel Plan shall be implemented in accordance with the approved details and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority beforehand.

9) Prior to the first use of the hotel secure/weatherproof cycle storage facilities shall be provided and made available for use in accordance with a detailed scheme for both long-stay and short-stay cycle storage provision that shall have been submitted to and approved in writing by the Local Planning Authority beforehand; and such approved secure/weatherproof cycle storage facilities shall thereafter be retained.

10) All planting, seeding or turfing comprised in the approved details of landscaping shown on drawing no.1442-02\_RevB (or such alternative landscape details as may be agreed in writing with the Local Planning Authority) shall be carried out in the first planting and seeding seasons following the occupation of the hotel building 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) Before any part of the hotel development is first brought into use, written documentary evidence shall be submitted to the local planning authority providing that the development has achieved at minimum level 'excellent' of the Building Research Establishment's Environmental Assessment Method (BREEAM), including 2 credits from issue ENE 04 and 2 credits from TRA 03. This will be in the form of a post-construction assessment which has been prepared by a licensed BREEAM assessor and the certificate from BRE Global. The assessment and certificate must be submitted to the local planning authority for its approval, unless otherwise agreed in writing by the local planning authority.

12) The development permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Addendum, produced by Shepherd Gilmour Infrastructure Ltd (ref: C1129/DR/EAJ/Z0156) and dated September 2015 and the following mitigation measures detailed within the FRA:

o Finished floor levels are set no lower than +2.95m above Ordnance Datum (AOD)  
The mitigation measures shall be fully implemented before the development is first brought into use (or within any other period as may be agreed, in writing, by the local planning authority).

13) No development shall commence until details of the measures to be undertaken to protect the public sewers (shown in the easement/underground services zone on drawing - Setting Out Coordination - 10292-T-00-0021-ZXX\_Rev03) shall have been submitted to and approved in writing with the Local Planning Authority; and any approved measures shall be implemented and retained during construction works, unless otherwise agreed in writing with the Local Planning Authority.

14) The development shall be carried out in accordance with the measures set out in Section 7 of the Extended Phase 1 Habitat Survey (Viewpoint Associates LLP, September 2015) relating to buffer zones, lighting, vegetation clearance, pollution control and site management prior to construction. Thereafter, the existing and enhanced habitats shall be maintained and retained in accordance with the approved details.

15) No development shall take place at the site until details of a Wildlife Beneficial Landscaping Scheme incorporating biodiversity enhancements recommended within Section 8 of the Extended Phase 1 Habitat Survey (Viewpoint Associates LLP, September 2015) and a programme for their implementation shall have been submitted to and approved in writing by the Local Planning Authority. The approved biodiversity enhancements shall be carried out in full as an integral part of the development in accordance with the approved programme of implementation and shall thereafter be retained in accordance with the approved details.

**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 achieve the highest architectural quality in the interests of the visual amenities of the area and the setting of the 'listed' Lynx House, having regard to the prominent position of the site on a main arterial route through the city (A27), in accordance with policies PCS23 and PCS24 of the Portsmouth Plan and the aims and objectives of the Tall Buildings SPD.
- 6) To ensure that trees 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 PCS13 of the Portsmouth Plan.
- 7) In the interests of highway safety and to ensure a balance of adequate on-site parking provision against encouraging travel by alternative modes of transport to the private car including the necessity for major off-site highways mitigation measures to offset additional traffic

in order for the development to achieve a nil detriment effect, in accordance with policies PCS5 and PCS17 of the Portsmouth Plan and aims and objectives of the NPPF.

8) To discourage the unnecessary use of cars and facilitate and promote other means of travel in accordance with Policy PCS17 of the Portsmouth Plan and aims and objectives of the NPPF.

9) To ensure that adequate provision is made for cyclists using the premises and facilitate and promote other means of travel in accordance with Policy PCS17 of the Portsmouth Plan and aims and objectives of the NPPF.

10) In the interests of the amenities and character of the area in accordance with policy PCS13 of the Portsmouth Plan.

11) To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy PCS15 of the Portsmouth Plan.

12) To reduce the risk of flooding to the proposed development and future occupants in accordance with policy PCS12 of the Portsmouth Plan.

13) To ensure existing infrastructure is protected during the course of construction works in accordance with policy PCS16 of the Portsmouth Plan.

14) To maintain, protect and produce a net gain in biodiversity in accordance with policy PCS13 of The Portsmouth Plan and the Natural Environment and Rural Communities Act 2006.

15) To maintain, protect and produce a net gain in biodiversity in accordance with policy PCS13 of The Portsmouth Plan and the Natural Environment and Rural Communities Act 2006.

## **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.

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**04**

15/01501/FUL

WARD: EASTNEY & CRANESWATER

18 HIGHLAND ROAD SOUTHSEA PO4 9AH

**ALTERATIONS TO EXISTING RETAIL UNIT TO FORM SMALLER LOCK-UP SHOP (CLASS A1) AND CHANGE OF USE OF EXISTING RESIDENTIAL DWELLING (CLASS C3) AND REAR PART OF ORIGINAL SHOP TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE)**

**Application Submitted By:**

Les Weymes Planning Consultancy Ltd  
FAO Mr Les Weymes

**On behalf of:**

Mr Othman Sirokh

**RDD:** 11th September 2015

**LDD:** 25th November 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 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 bicycle parking.

**The Site**

This application relates to a two-storey property located to the corner of Highland Road and Exeter Road. The property comprises a long-term vacant retail unit at ground floor level with ancillary living accommodation above and to the rear. A small rear yard and garage is accessed from Exeter Road. The site is located within the Secondary Area of the Albert Road and Elm Grove District Centre that comprises commercial uses at ground floor level with a mix of ancillary or residential accommodation above. The surrounding roads from Highland Road, including Exeter Road, are predominantly residential in character with a mix of semi-detached and terraced properties.

**The Proposal**

Permission is sought for the use of the property for purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house) with a separate smaller lock-up shop to Highland Road frontage.

**Planning History**

Conditional permission was granted in 1986 (ref.A\*31398/A) for the construction of an extension to form a store at ground floor.

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS8 (District Centres), PCS13 (A greener Portsmouth), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs) and PCS23 (Design and Conservation). The Houses in Multiple Occupation SPD, the Parking Standards SPD and the Solent Special Protection Areas SPD are also relevant to the proposed development.

## **CONSULTATIONS**

None.

## **REPRESENTATIONS**

At the time of writing ten letters of representation had been received from local residents. Their objections can be summarised as follows: (a) There are currently too many HMOs within the surrounding area; (b) reduction of housing stock for families; (c) increased noise & disturbance and anti-social behaviour (d) Parking and highway safety; (e) Overdevelopment; (f) Impact on local infrastructure; (g) Insufficient sanitary provision; (h) Inaccurate drawings; (i) Work has already commenced; (j) No fire escapes; and (k) Quality of Workmanship.

## **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**

Planning permission is sought to reduce the scale of the vacant retail unit to form a lock-up shop, retaining its entrance to the corner, and using the remaining parts of the building for purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house). The retained retail unit would have a floor area of approximately 32 sq.m. while the residential accommodation would comprise a kitchen, dining room, toilet and bedroom at ground floor level, four bedrooms and a bathroom at first floor level and a further bedroom within the roof space. As the application seeks permission for the use of the self-contained residential accommodation for purposes falling within Class C3 or Class C4, the acceptability of both forms of accommodation must be considered.

The site is located within the Secondary Area of the Albert Road and Elm Grove District Centre as defined by policy PCS8. This policy states that "In the secondary areas, there are opportunities for town centre uses although residential development will also be supported in principle". On that basis it is considered that the reduction of the scale of the retail unit and the creation of a self-contained dwellinghouse (Class C3) would be acceptable in principle and would not affect the vitality or viability of the centre as a whole. The proposed unit of residential accommodation would meet the requirements of the nationally described space standards and would provide an acceptable standard of living accommodation for future occupiers.

Policy PCS20 of the Portsmouth Plan states that applications for changes of use to HMOs 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 details on how this policy will be implemented and how the City Council will apply this policy to all planning applications for HMO uses.

In identifying the area surrounding the application property, 7 of the 70 properties within a 50 metre radius were initially identified as being in use as HMOs. This was based on records held within the City Council's HMO database which is made up of records of properties with planning permission for Class C4 use, sui generis HMO use and mixed C3/C4 use, records of Class C4 HMOs submitted to the council by property owners, HMOs that have been issued a licence by the council and council tax records. Whilst this is the best available data to the Local Planning Authority and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.

Following a review of the properties initially identified as HMOs within the 50 metre radius, it has been established that three of these properties (6B Highland Road, 12A Highland Road and 23A Highland Road) had been included on the database in error and were not in use as HMOs. However, one property not previously identified (First Floor 5 Exeter Road) would appear to be, on the balance of probabilities, in lawful use as a HMO. Subsequently, the 'count' data has been modified to reflect this new information and the number of HMOs as a percentage calculated as 7.14% (5/70), rising to 8.57% (6/70) if permission was granted. On the basis that the granting of planning permission would increase the proportion of HMOs to less than 10%, it is considered that the community is not already imbalanced by a concentration of HMO uses and this application would not result in an imbalance of such uses. The proposed Class C4 use, is therefore, considered to be acceptable in principle.

Representations have indicated other potential HMOs within the surrounding area that have been omitted from the 'count' data. However, following further investigation, it has been established that whilst one of these properties had been used as a HMO in the past, none are currently in lawful use as HMOs.

Whilst representations refer to a reduction of housing stock available for families, it should be noted that Policy PCS20 of the Portsmouth Plan highlights an identified need for further HMOs within areas of the city that are not already unbalanced by HMO uses.

### **Impact on Residential Amenity**

Having regard to the existing lawful use of the property as a shop with ancillary residential accommodation above and to the rear, it is considered that the use of part of the property as a self-contained dwellinghouse (Class C3) would not have a significant adverse impact on the amenity of adjoining occupiers.

Representations make reference to the potential increase in noise and disturbance resulting from the use of the property as a HMO. It is however, generally considered that the level of activity associated with the use of any individual property as a Class C4 HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. This issue has been considered in previous appeals where Inspectors have taken the view that properties used as HMOs within Class C4 would be occupied by similar numbers of occupiers to a C3 use. In dismissing an appeal at 82 Margate Road (APP/Z1775/A/12/2180908) the Inspector opined that "The level of activity generated by a large family would be comparable to that arising from the current proposal. Therefore, concerns over noise and disturbance would not justify rejection of the appeal. Other legislation is available to address concerns relating to anti-social behaviour". In light of the above, it is considered that the proposed Class C4 use would not be demonstrably different from the existing lawful use of the premises that contains a significant proportion of residential accommodation or other Class C3 uses that make up the prevailing residential character of the surrounding area.

The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not considered to be a significant concentration of existing HMO uses within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful at this particular point in time.

### **Car Parking and Cycle Storage**

The application site benefits from a garage onto Exeter Road although the submitted drawings do not indicate its use as an off-road parking space. The City Council's Parking Standards SPD requires that both 4+ bedroom dwellinghouses (C3) and HMOs (C4) should be served by two off-road spaces. However, the existing lawful use of the property as a shop with ancillary residential accommodation would have attracted its own demand for parking that would be comparable to that required by the SPD for the current proposal. Therefore, having regard to the current lawful use of the property and its proximity to local shops and services, it is considered that an objection on parking grounds could not be sustained.

The submitted drawings indicate the provision of bicycle storage facilities within the existing garage which is considered to be secure, weather proof and of an adequate scale to accommodate the number of bicycles likely to be associated with the proposed uses. These facilities can be required through the inclusion of a suitably worded planning condition.

Having regard to the existing lawful use of the premises, it is considered that the proposal would not affect the demand for refuse and recyclable storage facilities which are currently located within the rear yard. Given the scale of the proposed lock-up shop, that is unlikely to generate a significant amount of refuse, it is considered that facilities could be provided internally to store refuse until its collection.

### **SPA Mitigation**

The Conservation of Habitats and Species Regulations 2010 [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, or otherwise affect protected 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.

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. The SPD sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

However, on the basis that the existing lawful use of the premises has a significant element of ancillary accommodation that could be occupied by a family, it is considered that the proposal would not result in a significant effect on the Special Protection Areas and mitigation is not sought.

### **Other issues raised within representations**

Representations refer to increased fire hazards, quality of workmanship and future management of the proposed HMO. Whilst these concerns are noted, these matters are not material planning considerations. However, as the property is located within a PO4 postcode, there would be a requirement for a licence from the City Council's Private Sector Housing Team that would



consider such matters in addition to the adequacy of communal space and sanitary provisions for a HMO.

It has been suggested that work has commenced at the premises. However, whilst there is no indication that the proposed use has commenced, this would not affect how the current application is considered or determined, and any work would have been carried out entirely at the applicant's own risk.

## **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: 8486-01.
- 3) Prior to the first occupation of the property as a self-contained Dwellinghouse (Class C3) or a House in Multiple Occupation within Class C4 (whichever occurs first), secure and weatherproof bicycle storage facilities shall be provided as shown on the approved drawings and 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 ensure appropriate provision is made for cyclists to promote and encourage alternative and sustainable modes of transport to the private car, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

### **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.

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**05**

**15/01624/FUL**

**WARD:MILTON**

**51 FROGMORE ROAD SOUTHSEA PO4 8RB**

**CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE)**

**Application Submitted By:**

Ms Tina Mayhead

**On behalf of:**

Ms Tina Mayhead

**RDD:** 29th September 2015

**LDD:** 25th November 2015

**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are the appropriateness of such a use in the context of the balance of uses in the existing community 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 car and cycle parking, and the storage of refuse and recyclable materials.

**The site**

This application relates to a two-storey mid-terraced dwelling located to the western side of Frogmore Road, directly adjacent to the entrance of Fratton Park. The dwelling is set back from the highway by a small front forecourt and comprises two reception rooms, a kitchen/dining room and a bathroom at ground floor level with two bedrooms at first floor level. The surrounding area is characterised by similar terraced properties with the football stadium to the north and commercial uses to the west.

**The Proposal**

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or within Class C4 (House in Multiple Occupation). The interchange between Class C3 and Class C4 would normally be permitted development within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, on 1st November 2011 an Article 4 Direction relating to HMOs came into force. As such, planning permission is now required in order to interchange between the uses of a Class C3 dwellinghouse and a Class C4 HMO where between three and six unrelated people share at least a kitchen and/or a bathroom. The lawful use of the property is as a dwellinghouse within Class C3.

**Planning History**

An application for the construction of a dormer extension to the front roof slope was refused in August 2013 (ref.13/00678/HOU).

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), and PCS23 (Design and Conservation). The Houses in Multiple Occupation SPD and the Parking Standards SPD are also relevant to the proposed development.

## **CONSULTATIONS**

None.

## **REPRESENTATIONS**

At the time of writing, one letter of representation has been received on behalf of the occupier of an adjoining property. Their objections can be summarised as follows: (a) Increased noise and disturbance; (b) Impact on parking; (c) Increase in refuse/litter; (d) Overcrowding of the area particularly on match days; and (e) Increased fire risks.

## **COMMENT**

The main issues to be considered in the determination of this application are the appropriateness of such a use in the context of the balance of uses in the existing community 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 car and cycle parking, and the storage of refuse and recyclable materials.

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the flexibility to change freely between the two use classes. The property currently has a lawful use as a dwellinghouse (Class C3).

Policy PCS20 of the Portsmouth Plan states that applications for the change 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 adopted Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses.

In identifying the area surrounding the application property, 3 of the 34 properties within a 50 metre radius were initially identified as being in use as HMOs. This was based on records held within the City Council's HMO database which is made up of records of properties with planning permission for Class C4 use, sui generis HMO use and mixed C3/C4 use, records of Class C4 HMOs submitted to the council by property owners, HMOs that have been issued a licence by the council and council tax records. Whilst this is the best available data to the Local Planning Authority and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.

Following a review of the properties initially identified as HMOs within the 50 metre radius, it has been established that whilst one of these properties (29 Frogmore Road) was previously in use as a HMO it is no longer in use as a HMO and has subsequently been removed from the 'count data'. In light of these investigations, the 'count' data has been modified and the number of HMOs as a percentage calculated as 5.88% (2/34), rising to 8.82% (3/34) if permission was granted. On the basis that the granting of planning permission would increase the proportion of HMOs to less than 10%, it is considered that the community is not already imbalanced by a concentration of HMO uses and this application would not result in an imbalance of such uses. The proposal is therefore, considered to be acceptable in principle. No information has been provided to suggest that any other of the properties identified within the 50m radius are in lawful use as HMOs but have been omitted from the 'count data'.

The representation refers to the potential increase in noise and disturbance resulting from the use of the property as a HMO. It is however, generally considered that the level of activity associated with the use of any individual property as a Class C4 HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. This issue has been considered in previous appeals where Inspectors have taken the view that properties used as HMOs within Class C4 would be occupied by similar numbers of occupiers to a C3 use. In dismissing an appeal at 82 Margate Road (APP/Z1775/A/12/2180908) the Inspector opined that "The level of activity generated by a large family would be comparable to that arising from the current proposal. Therefore, concerns over noise and disturbance would not justify rejection of the appeal. Other legislation is available to address concerns relating to anti-social behaviour". It is therefore considered that the proposed use of this property within Class C4 would not be demonstrably different from uses within Class C3 that make up the prevailing residential character of the surrounding area.

The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there are only two other HMO within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful at this particular point in time.

The application site does not benefit from any off-street parking and none is proposed as part of this application (the constraints of the site are such that none can be provided). However, given that the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, and given that the site is within a short walk of local transport links and local shops and services, it is considered that an objection on car parking standards could not be sustained.

The submitted drawings indicate the provision of cycle storage within a shed in the rear garden. This is considered to be of an appropriate scale to accommodate the number of bicycles likely to be associated with the property when in Class C4 use. The retention of these facilities can be controlled by a suitably worded planning condition. The property also benefits from a rear garden which could provide additional informal bicycle storage space if required. The storage of refuse and recyclable materials would remain unchanged.

### **Other issues raised within representations**

The representation refers to an increased fire hazard associated with properties in use as HMOs. Whilst these concerns are noted, the risk of fires associated with a particular type of occupier is not a material planning consideration. However, as the property is located within a PO4 postcode, there would be a requirement for a licence from the City Council's Private Sector Housing Team, in addition to the need for planning permission, which will consider fire hazards.

## **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: Location Plan, Floor Plans and Cycle Storage Facilities.

3) The bicycle storage facilities shown on approved drawing: 'Cycle Storage Facilities' shall be provided prior to the first occupation of the property as a Class C4 House in Multiple Occupation, and shall thereafter be retained for the continued ancillary storage use by the occupants of the property.

### **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 ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

### **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.

**06**

15/01679/FUL

WARD: EASTNEY & CRANESWATER

**TENNIS COURTS CANOE LAKE SOUTHSEA ESPLANADE SOUTHSEA**

**CONSTRUCTION OF PART SINGLE-/PART TWO-STOREY BUILDING INCORPORATING ROOF TERRACE FOLLOWING DEMOLITION OF EXISTING TENNIS PAVILION.**

**Application Submitted By:**

PAD Studio Ltd  
FAO Ms Wendy Perring

**On behalf of:**

Canoe Lake Leisure  
FAO Mr John Cooke

**RDD:** 9th October 2015

**LDD:** 16th December 2015

**SUMMARY OF MAIN ISSUES**

The key issues in this application are whether the principle of the development is acceptable in the location proposed having regard to its designation as protected open space, whether the development would be acceptable in design terms, whether it would preserve or enhance the character and appearance of the 'Seafront' Conservation Area and the setting of the 'Craneswater & Eastern Parade' Conservation Area, whether it would preserve the setting of Southsea Common which is included on the Register of Historic Parks and Gardens, whether it would have a significant adverse impact on the residential amenity of adjoining occupiers, whether it would be acceptable in highways terms, whether it would have any significant impact on nearby nature conservation interests and whether the proposal would result in an increased risk of flooding at the site.

**The Site and Surroundings**

This application relates to a tennis pavilion located to the south of Eastern Parade within part of the seafront commonly referred to as Canoe Lake. The pavilion, which is of a traditional inter-war design with an open veranda along its eastern elevation, is situated to the south-west corner of the tennis club that incorporates 12 grass tennis courts. To the west, the site is bounded by a public footpath lined with a number of semi-mature Holm Oaks, to the north by Eastern Parade and to the south by a large hedge with landscaped gardens beyond.

The site is located within the 'Seafront' Conservation Area (No.10), within the boundary of Southsea Common which is included on the Register of Historic Parks and Gardens and abuts the 'Craneswater & Eastern Parade' Conservation Area to the north. The northern part of the application site is located within the indicative flood plain (Flood Zone 2).

The wider Canoe Lake area comprises a range of leisure uses and attractions including a boating lake, child play areas, a museum, model village, artificial and hard surface tennis courts,

basketball court, cricket club, 9-hole golf course, formal gardens and large open grassed areas popular for sporting and recreational activities. There are also a number of small tearooms, cafés and a day nursery. A mix of residential properties along Eastern Parade forms the backdrop to the seafront and marks the boundary between the open character of the coastline and denser residential development to the north. Generally the Canoe Lake area has a pleasant verdant character with an air of spaciousness provided by large areas of open space. This is however, reduced to the south of the application site where a mixture of hedges and fences divide the various recreational uses, and views towards the sea are obscured by the partially dismantled Lumps Fort.

## **The Proposal**

Planning permission is sought for the construction of part single part two-storey building incorporating a roof terrace to form a tennis pavilion with associated landscaping following the demolition of the existing tennis pavilion.

## **Planning History**

There is no relevant planning history for this particular site. However, the adjoining site has recently been developed to provide four artificial grass tennis courts with floodlights and supporting café (14/00375/FUL, 15/00036/FUL & 15/00576/PLAREG).

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS9 (The Seafront), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS17 (Transport) and PCS23 (Design and Conservation). Saved policy DC21 of the Portsmouth City Local Plan 2001-2011, The Seafront Materplan Supplementary Planning Document (SPD), Parking Standards SPD and Conservation Area appraisals for the 'Seafront' and 'Craneswater & Eastern Parade' Conservation Areas would also be material to the determination of this application.

## **CONSULTATIONS**

### **Environmental Health**

Comments not received at the time of writing.

### **Design Review Panel**

The panel were very positively disposed towards this scheme. They considered it to be delightful, indicating that it had great potential and could make a real contribution to the Common. Their enthusiasm was however, tempered by a number of concerns about aspects of the proposal. Despite the attractiveness of its form, the useability/functionality of the internal space at ground floor level was questioned.

It was considered that the limited provision of changing/showering facilities does not match with the club's aspiration to accommodate training at a national/international level. Access to the changing rooms as proposed was also considered to be poorly laid out.

The elegance of the roof structure was noted, and was considered achievable. It was recognised however that if the scheme is to live up to expectations, very careful detailing and execution of the design would be required.

Recommendation: Support in principle subject to the above comments

## **Natural England**

Natural England has no comments to make on this application.

### **Ecology**

Formal comments not received at the time of writing. However, it has been indicated that the proposal is unlikely to have a significant adverse impact on any nature conservation interests at this or the adjoining sites.

### **Seafront Manager**

Comments not received at the time of writing.

### **Hampshire Garden Trust**

Comments not received at the time of writing.

### **Garden History Society**

Comments not received at the time of writing.

### **Archaeology Advisor**

The site is located within Southsea Common, a Grade II Listed Park and Garden on the Historic England list (No: 1001624). The area was also once the 'killing ground' to the north of Lumps Fort which once formed part of the Post-Medieval coastal defences to the south of Portsmouth.

While this area is therefore one of general historic interest, the site itself is likely to have been extensively disturbed by the construction of the current pavilion and it is unlikely that ground works associated with the proposed development would expose any archaeological features or deposits. Therefore, no archaeological issues are raised in relation to this application in this instance.

### **Contaminated Land Team**

Comments not received at the time of writing. However, it has been indicated that conditions in respect of land contamination would be required.

### **Tree Officer**

A site visit was undertaken on 13th November 2015. The weather conditions were cold and bright with a strong south westerly wind. Also present was the application case officer.

Observations - The application contains no detailed proposals with regard to the trees on and adjacent to the development site.

The observations of Mr B Harverson arboricultural consultant with regard to the condition of the trees and constraints imposed upon any proposed development are accepted and agreed.

Mr Harverson additionally provides recommended development proposals.

Recommendations - The removal of Group 2 is supported. None of the trees within the group are of sufficient quality to favour retention over the development proposal.

The trees referred to as Group 3 are the property of PCC and form the southern extent of an avenue of Holm Oaks which connects Eastern Parade to the Rose Garden. Any development proposal will require negotiation over the future of these trees. It is accepted that B3 is in poor condition due to a previous lack of management and is identified for removal on the grounds of sound arboricultural management.

## **REPRESENTATIONS**

At the time of writing 5 letters of representation had been received from local residents. One in complete support of the proposal, three in support of the proposal in principle but raising



concerns in respect of design and use of the premises late into the evening and one in objection. The objection can be summarised as follows: (a) Design include scale and inclusion of a second storey; (b) Loss of protected open space; (c) Increased noise and disturbance and (d) loss of privacy.

## **COMMENT**

The determining issues in this application are:

1. Principle of the proposed development;
2. Design, including impact on heritage assets;
3. Impact on residential amenity
4. Highways/Parking implications;
5. Impact on nature conservation interests;
6. Flood risk.

Planning permission is sought for the construction of a part single, part two-storey building to form a new tennis pavilion following the demolition of the existing. This would provide new and improved facilities for the tennis club that operates the existing grass tennis courts at the application site, four artificial tennis courts at the adjoining site and two hard courts further to the east.

### **Principle of the proposed development**

The existing pavilion is of a fairly typical inter-war design that does possess some architectural quality and charm that contributes to the character and appearance of the site and the wider conservation area. However, the pavilion has fallen into a poor state of repair and has been subjected to various acts of vandalism in recent months. The applicant has indicated that the existing building is no longer fit for purpose, contains asbestos, is thermally inefficient and its repair would not be financially viable. Therefore, whilst the loss of any heritage asset is unfortunate, the principle of its replacement with a pavilion of equal or improved quality to meet the ambitions of the tennis club would be acceptable.

With the exception of the existing pavilion and a small strip of land around it, the entire application site and the adjoining tennis courts are allocated as protected open space by policy PCS13 of the Portsmouth Plan. This policy states that: 'The City Council will work collaboratively to protect, enhance and develop the green infrastructure network in the following ways: Refusing planning permission for proposals which would result in the net loss of existing areas of open space and those which would compromise the overall integrity of the green infrastructure network in the city, unless there are wider public benefits from the development which outweigh the harm'. The supporting text to this policy states: 'There is a great deal of pressure on Portsmouth's green infrastructure network from increasing population numbers to climate change and the need for new development sites. The city lacks suitable spaces to provide additional green infrastructure assets to absorb this pressure. Therefore the council's priority will be to focus resources on protecting, enhancing and linking together the existing network. There will be a presumption against any development involving the net loss of open space unless there are wider public benefits that outweigh the harm of this loss'.

Section 8 the National Planning Policy Framework (NPPF) highlights the role the planning system can play in facilitating social interaction and creating healthy, inclusive communities. Paragraphs 73 & 74 state: Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up to date assessments of the needs for open

space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required....Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss'.

The replacement pavilion would result in the net loss of approximately 75 sq.m. of protected open space. Much of this would be to the south of the existing pavilion which is currently laid to hard surface and provides the main pedestrian and vehicular access to the site. The applicant has suggested that this is a very small proportion of the wider site where significant improvements have already been made, and the areas of open space that would be lost are of low quality and value. It is also highlighted that the proposal represents a significant investment in the tennis club safeguarding its future for at least 25-years and significantly improving its facilities for the public and local schools whilst providing opportunities to expand to attract tournaments and pre-Wimbledon tennis camps. This is in addition to the significant investment that has already been made in the adjoining artificial tennis courts to the west and the hard courts to the east.

Having regard policy requirements of PCS13 of the Portsmouth Plan, the provisions of the NPPF, the specific quality and value of the protected open space to be lost and the benefits and opportunities highlighted by the applicant, it is considered that the public benefits associated with the proposed larger pavilion would outweigh the presumption against the loss of protected open space. The improved sports and recreational facilities would also contribute to the city's healthy living strategies and the aims and objectives of the Seafront Master Plan that seeks to introduce a vibrant mix of leisure and tourism uses to the area whilst protecting the open nature of Southsea Common and other public spaces.

### **Design, including impact on heritage assets**

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that all new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; relate well to the geography and history of Portsmouth and protect and enhance the city's historic townscape and its cultural and national heritage.

When determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The application site is situated within an area of the city that is covered by a number of statutory heritage designations including 'The Seafront' Conservation Area and Southsea Common which is included on the Register of Historic Parks and Gardens. It is also located adjacent to the 'Craneswater & Eastern Parade' Conservation Area which extends from the northern side of Eastern Parade.

Whilst maintaining the characteristics of a sports pavilion, the replacement structure is of a contemporary design that does not seek to replicate or appear apologetic to the existing pavilion or others found within the area. Through the course of pre-application discussions, the applicant

has sought to create a building of a sufficient scale to meet the aspirations of the tennis club without introducing a structure that appeared overly bulky or dominant within its setting. This has been achieved by increasing the building's footprint and limiting the second storey element to the southern part of the building further from Eastern Parade and against the backdrop of mature trees. At upper floor level a significant proportion of glazing has been incorporated below a slender 'butterfly' roof to give a more lightweight, transparent and delicate form.

At ground floor level the proposed building seeks to address the failings of the existing pavilion that turns its back on the public footpath forming a barrier between the grass and artificial tennis courts. Whilst extending further along the western boundary, the removal of the boundary treatments along the footpath, the set back of the proposed building from the footpath and the inclusion of large openings would create a welcoming entrance 'plaza' connecting the two sites and providing views through to the tennis courts. At first floor roof level, a large roof terrace offering views across the two sets of courts would be enclosed by a glass balustrade.

The applicant has indicated a palette of high quality materials that whilst not replicating those typically found within the area would not appear alien within a parkland setting. These would be visually attractive and hard wearing which is particularly important given the sites exposed marine environment. To combat the issue of anti-social behaviour within Canoe Lake during the evenings, the applicant has sought a holistic approach to securing the building and the large quantities of glazing when closed. At ground floor this would include the use of high quality solid, but fine mesh shutters that would offer protection to the windows whilst maintaining a largely translucent appearance. These would slide back into recessed brick panels when the building is open forming part of the buildings architecture rather than appearing to be afterthought. The large doors would incorporate fine mesh roller shutters that would retract into the building's façade. The specific design of these elements would help prevent an overly fortified appearance when the building is closed.

Overall, it is considered that the proposed pavilion is of a well-conceived, interesting and high quality bespoke design that respects the character of the surrounding area complementing the exiting features of Canoe Lake without replicating them. As highlighted by the design review panel, it is considered that the building has the potential to make a real contribution to the Common. Some concerns have been made in respect of the internal layout of the proposed building in terms of the provision of changing facilities and access to upper floors. These issues have been raised with the applicant who has confirmed that the facilities have been carefully considered and would be sufficient to meet their operational requirements. Notwithstanding comments within the design and access statement, the applicant has subsequently confirmed that a lift to provide access to the upper floor and roof terrace would be provided from the outset as part of the requirements of Part M of the Building Regulations.

In terms of impact on heritage assets, this particular section of the 'Seafront' Conservation Area and the Common has an open verdant quality provided by the large recreational spaces throughout Canoe Lake. Whilst the proposal would represent a significant change in form and a larger footprint, it is considered that the proposal would not detract from the open character of the area, and the quality of the proposed design would be seen as a positive addition, particularly along the public footpath. Therefore, it is considered that the proposal is of a sufficient quality to preserve or enhance the character and appearance of the 'Seafront' Conservation Area, the setting of Southsea Common and mitigate the loss of the original pavilion.

Having regard to the position of the pavilion to the south-east corner of the site and the modest increase in scale/bulk, it is considered that the building would not appear overly prominent within the street scene of Eastern Parade and would preserve the setting of the adjoining 'Craneswater & Eastern Parade' Conservation Area.

As the proposal is seen to preserve the setting and character of the designated and non-designated heritage assets within the area, the requirements of paragraphs 132-134 of the

NPPF, which seeks to address the significance of any harm caused by development, would not be applicable in this instance.

Whilst the delivery of the building as shown on the submitted drawings is considered to be achievable, it is recognised that if the scheme is to live up to expectations, very careful detailing and execution of the design would be required. Therefore, two planning conditions relating to the submission of further details/samples of all proposed materials, and further constructional drawings of all key architectural elements are considered necessary and reasonable to ensure the building is delivered as indicated.

### **Impact on residential amenity**

A number of residential properties are located immediately to the north of the application site beyond Eastern Parade. The majority of these properties are flats located within purpose built blocks which include balconies to the southern elevation. The proposed pavilion, which would include a relatively large roof terrace (approximately 70 sq.m.) would be located 70 metres from the nearest residential property.

It is accepted that a larger pavilion with improved facilities and roof terrace would inevitably result in an intensification of use at the site with the potential for increased comings and goings, and noise and disturbance. However, regard must be given to the existing facilities at the site and the likely level of activity that could reasonably be expected to take place should the applicant wish to provide permanent outdoor seating or temporary facilities for events/tournaments etc.

The applicant has suggested operating hours of 9am to 9pm on a daily basis. This is considered to be reasonable, broadly in line with the adjoining café (8pm), and could be controlled through a suitably worded planning condition. Therefore, having regard to the existing lawful use of the site, the likely level/type of activity that could reasonably be expected to take place on the roof terrace throughout the day and the degree of separation from the nearest residential properties, it is considered that the proposal would not result in significant harm to the amenity of the occupiers of the neighbouring properties in terms of increased noise and disturbance.

Similarly, as a result of the degree of separation, it is considered that the use of the roof terrace would not result in any significant overlooking or privacy issues.

### **Highways/Parking implications**

Many residential properties to the north of the application site benefit from off road parking facilities with additional unrestricted on-road parking provided along Eastern Parade and the adjoining side roads. In the absence of any parking restrictions or requirement for payment, these roads can be busy with visitors to the Canoe Lake area and the wider seafront, particularly at weekends and week days during summer months. However, it is considered that the area does not suffer from any significant parking issues that are common elsewhere within the city.

As highlighted above, a larger pavilion at the application site would inevitably result in an intensification of use. However, regard must again be made to the existing lawful use of the site as a tennis club and the likely demand for parking already associated with its use. Regard is also given to the generally light traffic flows on the surrounding highway network which encourages walking and cycling. It is also considered unlikely that all additional trips to the site, generated by the improved facilities, would be by car and could conceivably be linked with other activities at the seafront.

Therefore, whilst it is likely that the increased floorspace and improved facilities would result in more activity at the site, it is considered the proposal would not have a significant adverse impact on the surrounding highway network and would not significantly increase the demand for parking beyond that of the existing lawful use. In order to encourage more sustainable methods

of travel to the site, a condition in respect of the provision and retention of bicycle storage facilities is proposed.

### **Impact on nature conservation interests**

The application is supported by a Phase 1 Ecology Survey that suggests the site is of low ecological value and the existing building is not considered to hold any potential for roosting bats. In addition, it is suggested that the proposed green roof and landscaping would provide an ideal opportunity to introduce native species.

Whilst formal comments had not been received by the City Council's ecologist at the time of writing, it has been indicated that the conclusions of the submitted report are reasonable and the proposal is unlikely to have an impact on nearby nature conservation interests.

To facilitate the construction of a larger building, the applicant proposes the removal of a small group of trees (Group 2) to the south of the existing building. A supporting Arboricultural Assessment suggests that these trees are of a very poor quality, of limited amenity value and their loss could be mitigated by replacement plantings elsewhere on the application site. The findings and recommendations of the assessment have been considered by the City Council's Arboricultural Officer and found to be reasonable. Replacement trees could be sought as part of an approved landscaping scheme required by planning condition.

The submitted arboricultural report also highlights a need to carry out works to, and protect trees located outside of the site boundary within the pedestrian footpath. Whilst the protection of the retained trees during construction can be required through a suitably worded planning condition and removal/works to City Council owned trees within the footpath would be the subject of separate negotiations with the City Council (as land owner) following the determination of the planning application. The City Council's Arboricultural Officer has confirmed that one of the Holm Oaks (Tree 3B) within the footpath is in poor condition due to a previous lack of management and its removal on the grounds of sound arboricultural management is necessary irrespective of the outcome of this application.

### **Flood risk**

The application site is shown to be located within, but on the very edge, of the indicative flood plain (Flood Zones 2 of the Environment Agency's Flood Maps). With the exception of the very north-east corner, the proposed pavilion would be situated in Flood Zone 1.

The site is located within the Southsea flood cell as identified in the Portsea Island Coastal Defence Strategy. This area is covered by the Interim Position between Portsmouth City Council and the Environment Agency for the provision of flood defences. This agreement assumes that the flood risk management infrastructure will be provided to at least the 1:200 year standard of protection by the time that it is required.

The proposal has been considered in line with paragraphs 100-108 of the NPPF which seeks to ensure that inappropriate development in areas at risk of flooding is avoided where possible by directing development away from areas at highest risk. Having regard to Policy PCS12 (Flood Risk) of the Portsmouth Plan, there is no requirement in this instance for the applicant to apply the sequential test, and given the 'less vulnerable' (table 2 paragraph 066 of the NPPG) nature of the proposed use there would be no requirement to meet the exception test (table 3 - paragraph 067 of the NPPG). However, the wider sustainable benefits to the community have been identified above and it is considered that the proposal would not result in an increased risk of flooding elsewhere. Safe/dry escape routes would also be available towards the south and east should a sudden flood event occur, which is considered unlikely.

The application is also supported by a Flood Risk Assessment (and supporting email) that seeks to demonstrate that the development and its occupiers would be safe from flooding. This

assessment is considered to be reasonable and the residual flood risk measures proposed (sealed service ducts, location of electrical equipment above predicted flood levels and access to flood warning services) are considered to be appropriate. These can be required through a suitably worded planning condition.

## **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: 1421 PP-001, 1421 PP-002, 1421 PP-003, 1421 PP-004, 1421 PP-005, 1421 PP-006, 1421 PP-007, 1421 PP-008, 1421 PP-009 and 1421 PP-010.
- 3) Notwithstanding the submitted information, no development shall commence on site until a detailed schedule of materials and finishes (including samples where requested) to be used for all external surfaces of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development shall commence until the detailed constructional design of key architectural features such as the roof (including internal and external elements and Solar PV), metal panels/fins, recessed and folded mesh shutters and roller shutters at a 1:20 scale (or such other appropriate scale as may be agreed) have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) Notwithstanding the submitted details, no development shall commence on site until a scheme for the safeguarding of all trees on and immediately adjoining the application site from damage as a result of proposed works in accordance with British Standard:5837 (2012) has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.
- 6) The pavilion hereby permitted shall, unless otherwise agreed in writing by the Local Planning Authority, incorporate the flood resilience measures set out within the submitted Flood Report and supporting email (from W.Perring of PAD Studio dated 24.11.2015).
- 7) The development shall not be occupied until a detailed landscaping scheme for the external areas (including the roof terrace) which shall specify: species; planting sizes; spacing and density/numbers of replacement/additional trees/shrubs to be planted; the phasing and timing of planting; and provision for future maintenance, has been submitted to and approved by the Local Planning Authority in writing. The approved landscaping scheme shall then be carried out within the first planting and seeding seasons following the occupation of the pavilion building or completion of the development whichever is the sooner. Any trees or plants which, within a period of 5 years from the date of planting die, are removed or become damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.
- 8) Notwithstanding the submitted details, prior to first use of the pavilion hereby permitted, bicycle storage facilities shall be provided in accordance with a scheme submitted to and

approved in writing by the Local Planning Authority. Those facilities shall thereafter be retained for the storage of bicycles at all times.

9) Prior to first use of the pavilion hereby permitted, facilities for the storage of refuse/recyclable materials shall be provided in accordance with a scheme submitted to and approved in writing by the Local Planning Authority. Those facilities shall thereafter be retained for the storage of refuse/recyclable materials at all times.

10) The pavilion hereby permitted shall remain closed to and vacated by members of the public outside of the hours of 8:00am-9:00pm daily.

11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and or re-enacting that Order with or without modification) the pavilion hereby permitted shall not be used for any purpose other than for the provision of incidental and ancillary operations associated with the use of the wider site as a tennis club without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

**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 having regard to the specific design of the building and its location within a Registered Park and Garden and the 'Seafront' Conservation Area in accordance with policy PCS23 of the Portsmouth Plan.
- 4) In the interests of visual amenity having regard to the specific judgement that has made in respect of the submitted design solution and the significant contribution the identified architectural details make to the overall success of the design in accordance with policy PCS23 of the Portsmouth Plan.
- 5) In order to protect the existing landscape features of amenity value from damage to health and stability (including root systems) and the character and appearance of the surrounding area, in the interests of amenity in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
- 6) To minimise the risk from flooding in accordance with policy PCS12 of the Portsmouth Plan.
- 7) In the interests of visual amenity having regard to the specific design of the building, its location within a Registered Park and Garden and the 'Seafront' Conservation Area, and to provide mitigation for the existing landscaping features lost as part of the development in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
- 8) To ensure appropriate provision is made for cyclists to promote and encourage alternative and sustainable modes of transport to the private car, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
- 9) To ensure that adequate visually acceptable provision is made for the storage of refuse and recyclable materials having regard to the sites location within a conservation area in accordance with policies PCS15 and PCS23 of the Portsmouth Plan.

10) In the interests of residential amenity having regard to significant increase in floorspace, inclusion of external roof terrace and proximity to residential properties in accordance with policy PCS23 of the Portsmouth Plan.

11) In order that the Local Planning Authority may exercise further control of potential uses having regard to the specific judgement that has made in respect of the wider public benefits of the proposal which outweigh the presumption against the loss of protected open space; and to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the Seafront Masterplan SPD.

### **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.

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**07**

15/01746/MMA

WARD:ST JUDE

19 LENNOX ROAD SOUTH PORTSMOUTH PO5 2HS

**RETROSPECTIVE APPLICATION FOR MINOR MATERIAL AMENDMENT TO PLANNING PERMISSION 13/00228/FUL TO AMEND THE INTERNAL ARRANGEMENT OF THE THREE PERMITTED RESIDENTIAL UNITS TO ACCORD WITH DRAWING NO: 0262-D-001B**

**Application Submitted By:**

Pike Planning  
FAO Mr John Pike

**On behalf of:**

Darland Properties Limited

**RDD:** 20th October 2015

**LDD:** 23rd December 2015

**SUMMARY OF MAIN ISSUES**

The main issues are;-

- a) whether the revised internal layout of the proposed accommodation would provide an acceptable standard of living accommodation,
- b) whether the associated external alterations would be considered to relate appropriately to the recipient building and wider conservation area, and
- c) whether the proposal would have an impact on the Solent Special Protection Areas.

**The site and surroundings**

Situated on the west side of Lennox Road South, and backing onto Maple Road, this application relates to a part single-/part two-storey semi-detached property with rooms in the roof and formerly comprised a single dwellinghouse. The building has pebble-dash elevations above a brick plinth with a part tile-clad two-storey gabled bay and forms one of four similar properties fronting Lennox Road South dating from the 1930's. The rear garden includes a recently constructed garage with access from Maple Road.

The property falls within the Owen's Southsea Conservation Area. The area around The Circle was mostly laid out in the 1860's. The north side of Clarendon Road comprises semi-detached properties set in a straight line and the south side includes a number of Owen houses backing onto The Vale which is situated a short distance to the west of Maple Road. The Vale is one of the most distinctive examples of Owen's development with walls fronting curving roadways and houses set behind and glimpsed through trees and shrubs. To the south of Clarendon Road, Lennox Road South has some substantial Victorian houses, some stone faced, and includes the distinctive Clarendon and Eagle Towers which are included on the Local List.

## Relevant planning history

In March 2013 permission was sought for the conversion of the house to form three units of accommodation with associated external alterations. The front and rear part of the ground and first floors of the building would have comprised two 2-bedroom maisonettes, one accessed by the existing front door, and the other from a new door on the north side of the building, while the roofspace would have comprised a 1-bedroom flat with its own stairwell and entrance from ground floor. Externally, part of the existing rear garden would have been allocated as a private amenity area for the rear maisonette while part of the 5m deep front garden would have been allocated to the front maisonette. Cycle stores, refuse storage and a car parking space would have been provided within the communal area of the rear garden.

As part of the proposed conversion scheme it was proposed to install four rooflights to the north roof slope of the building, one roof light to the rear roof slope, remove and reconfigure windows/openings to the north elevation and replace the roof of a conservatory to the rear of the building with a tiled roof.

That application was considered by this Committee on 24 April 2013 and, notwithstanding a recommendation to approve, Members resolved to refuse permission on the grounds that:-

1. The proposed sub-division of this property to form three dwellings would result in a form of development that would neither preserve nor enhance the character of the Owen's Southsea Conservation Area.
2. The proposed conversion would not provide an appropriate mix of accommodation as there is no provision of family housing and as such the development does not meet the needs for family or larger households. The proposal would therefore be contrary to the objectives of Policy PCS19 of the Portsmouth Plan.
3. With the provision of one on-site car parking space the proposed conversion of the building to form three dwellings would give rise to an increase in demand for car parking that could not be satisfactorily accommodated on-site. The proposed conversion would therefore be contrary to policy PCS17 of the Portsmouth Plan and the Supplementary Planning Document: Residential Car Parking Standards.

The applicant lodged an appeal against that decision, and the Planning Inspector who determined the appeal considered that the proposal would not have detracted from the character or appearance of the conservation area or otherwise resulted in harm to the living conditions of the adjoining and nearby residents in terms of noise and car parking.

Although works associated with the conversion of the property were commenced it became clear through the submission of an application under the Building Regulations that the internal arrangement would differ from that approved on appeal. The applicant was invited to submit a further application for a minor material amendment to the appeal permission, and whilst an application was submitted in July 2015 the revised internal layout was found not to accord with the internal space standards set out in the Council's Supplementary Document. The applicant therefore withdrew the application to review the internal layout. Having further revised the internal layout the applicant has submitted this application.

## Proposal

The applicant seeks approval for a revised internal arrangement of the proposed maisonettes and flat within the roof space. The front maisonette would comprise 2-person/1-bedroom accommodation with a total floor area of 60.88sqm, while the rear maisonette would comprise 3-person/2-bedroom accommodation with a total floor area of 94.25sqm. The proposed flat in the roofspace would comprise 1-person/1-bedroom accommodation with a floor area of 40.8sqm. The revised internal arrangement would require less in the way of external alterations in

comparison to the appeal permission. Alterations to the north elevation of the building would comprise the insertion of a single door at ground floor to the rear and a pair of rooflights.

## **POLICY CONTEXT**

In addition to the National Planning Policy Framework the relevant policies within the Portsmouth Plan would include: PCS10 (Housing Delivery), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), and PCS23 (Design and Conservation).

The SPD's on residential car parking standards, sustainable design and construction, housing standards and the Solent Special Protection Areas would also be material considerations.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

## **CONSULTATIONS**

### **Highways Engineer**

Given the proposed alterations only relate to external appearance and internal layout, there are no further highway implications.

### **Environmental Health**

No requirements for measures to protect the dwellings from external noise, and internal noise transmission would be covered by the Building Regulations.

### **Contaminated Land Team**

No further comments as application relates to no new ground works and internal modifications.

### **Environment Agency**

No comments on the proposal.

## **REPRESENTATIONS**

At the time of preparing this report one general comment had been submitted in relation to the availability of information on-line, and two representations had been received from a local resident on the grounds that "none of this development is in keeping with the conservation area" and it "amounts to a complete re-make of the plans that were approved."

## **COMMENT**

The CLG document 'Greater flexibility for planning permissions' indicates that "A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved." In this case the appeal permission related to the formation of three units of living accommodation with associated external alterations. The applicant's proposals are not substantially different in that the proposed conversion scheme would provide three units of accommodation, largely in a form similar to that previously approved, with less in the way of external alterations. The guidance also states that local planning authorities should, in making their decisions, focus their attention on national or local policies which may have changed significantly since the original grant of permission. In this case, the proposal would need to be considered in the context of the SPD on the Solent Special Protection Areas.

The determining issues in this application are, therefore, whether revised internal layout of the proposed accommodation would provide an acceptable standard of living accommodation, whether the associated external alterations would be considered to relate appropriately to the recipient building and wider conservation area, and whether the proposal would have an impact on the Solent Special Protection Areas.

As part of policy PCS19, which seeks to secure the provision of a satisfactory standard of living accommodation, the Council adopted a Supplementary Planning Document which set out minimum floor areas for new dwellings. Those standards have been superseded by the Nationally Described Space Standards which are more prescriptive. The new standards set out minimum areas and dimensions for bedrooms and storage in addition to overall floor areas for specific levels of occupation.

The revised internal layouts are such that unit 1 [a 2-person/1-bedroom maisonette] would exceed the minimum standard by 1.3sqm, and unit 2 [a 3-person/2-bedroom maisonette] would exceed the minimum standard by 22.25sqm, albeit that figure includes the former conservatory and a lean-to wc/store [13.04sqm]. The proposed flat within the roof space would exceed the minimum standard for 1-person/1-bedroom accommodation by 0.8sqm. Each of the proposed units of accommodation would have a satisfactory outlook with the front and rear maisonettes each retaining an amenity area. In these circumstances it is considered that the revised internal layout would be capable of support.

Externally, the revisions to the previously approved scheme would have less impact visually. The north side of the building, facing Canada House, would have one additional door at ground floor level to the rear, while the existing windows at first floor level would be retained. The number of conservation-style roof lights would be reduced from four to two, with those located towards the front of the building. Those alterations would be considered to relate appropriately to the recipient building and would preserve the appearance of the conservation area.

The proposals would lead to a net increase in population, which would be likely to lead to a significant effect as described in section 61 of the Habitats Regulations on the Portsmouth Harbour and the Chichester and Langstone Special Protection Areas (SPAs) (as set out 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 proposed mitigation measures for this development by way of a commuted sum payment in accordance with the provisions of the SPD. As a result, the scheme would not be likely to lead to a significant effect on the SPAs and would therefore meet the provisions of the Habitats Regulations. As such, the proposals would accord with policy PCS13 and the Supplementary Planning Document in relation to the Special Protection Areas.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall begin no later than 17 January 2017.
- 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: 0262-D-001B; 902 Rev 1.
- 3) Prior to the first occupation of any of the dwellings hereby approved facilities shall be provided for the storage of refuse/recyclable materials and cycles in accordance with precise details to be submitted to and approved by the local planning authority in writing, and those

facilities shall thereafter be retained for the continued use by the occupants of the dwellings for that storage at all times.

4) Unless otherwise agreed in writing by the Local Planning Authority the roof lights hereby approved shall comprise 'conservation' style units with a black frame.

**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 ensure that adequate facilities are provided for the storage of cycles and refuse in accordance with policy PCS23 of the Portsmouth Plan.
- 4) In order to ensure the proposed roof lights relate appropriately to the recipient building and preserve the character and appearance of the conservation area in accordance with policy PCS23 of the Portsmouth Plan.

**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.

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**08**

**15/00942/CS3**

**WARD:EASTNEY & CRANESWATER**

**LAND OPPOSITE JUNCTION OF ST GEORGES ROAD AND SOUTHSEA ESPLANADE  
SOUTHSEA**

**INSTALLATION OF 25 BEACH HUTS AND TIMBER DECKING SITED ON SEAFRONT**

**Application Submitted By:**

Head Of City Development & Cultural Services

**On behalf of:**

Head Of City Development & Cultural Services  
Portsmouth City Council

**RDD:** 11th June 2015

**LDD:** 7th August 2015

**SUMMARY OF MAIN ISSUES**

The determining issues are whether the proposed beach huts represent an appropriate design response for this prominent site having regard to the open character of the locality, whether the proposal would preserve or enhance the character and appearance of 'the Seafront' Conservation Area and the setting of the 'Eastney Barracks' Conservation Area, whether it would have any impact on nature conservation interests and whether there would be any highways implications.

**The Site**

This City Council application relates to an area of beach located immediately to the south of Southsea/Eastney Esplanade opposite the junction of St Georges Road.

The site is located within the Seafront Conservation Area and within the Eastney Beach Local Wildlife Site. The site lies adjacent to a number of Grade II Listed lamp columns and to the western boundary of the Eastney Barracks Conservation Area. The site falls within the area covered by both the Seafront Masterplan and Eastney Beach Habitat Restoration & Management Plan Supplementary Planning Documents.

**The Proposal**

This City Council scheme seeks planning permission for the installation of 25 beach huts together with an area of timber decking providing access from the seafront.

## **Planning History**

There is no planning history relating to the application site, however, there is another current application (13/00791/FUL) for the installation of 25 beach huts and new timber boardwalk on Eastney Beach at the eastern end of Esplanade.

## **POLICY CONTEXT**

The National Planning Policy Framework and the Parking Standards, Seafront Masterplan & Eastney Beach Habitat Restoration and Management Plan SPDs are all relevant to the proposed development.

The Seafront Masterplan Supplementary Planning Document was adopted in April 2013. The Seafront is an important city asset that stretches for 3.7 miles between the entrances of Portsmouth Harbour (to the west) and Langstone Harbour (to the east). The SPD identifies five objectives of the masterplan including "introducing a vibrant mix of leisure and tourism uses to the area, including small scale cafes and restaurants, that will attract people to the Seafront all year round" and "protecting the open nature of Southsea Common and other public spaces, and the valuable wildlife habitat at Eastney Beach". Section 4.6 of the SPD recognises that Eastney Beach is quieter and less developed than the other five character areas that make up the Seafront, and provides an opportunity for visitors to 'escape'. New development and public realm improvements in this area must not detract from the 'informal' and tranquil atmosphere that visitors so highly value. Proposals must also preserve and enhance the local wildlife areas.

Policy PCS9 (the seafront) states that new development will contribute to the vitalisation of the seafront, tourism and wider regeneration strategy by, amongst other things, encouraging and supporting small scale restaurants/cafes without detracting from the open character of the seafront and protecting the nature conservation value of Eastney beach. Policy PCS13 (a greener Portsmouth) seeks to protect green infrastructure. Green infrastructure is identified in the Plan as a network of multifunctional green and open spaces that can improve quality of life, support biodiversity and stimulate the economy, and that it is essential to the city's continued development and will be protected by ensuring that the intrinsic habitat value of the site can be retained or enhanced through development proposals, and allowing development only if it clearly outweighs the substantive nature conservation value of the site, an impact on the site cannot be avoided or mitigated and compensatory measures are provided.

## **CONSULTATIONS**

### **Environmental Health**

No objections or recommendations

### **Natural England**

Advise the proposal is not necessary for the management of a European site and that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment under the Habitats Regulations. This application is in close proximity to Langstone Harbour and Portsmouth Harbour SSSIs. Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application it will not damage or destroy the interest features for which these sites have been notified.

The site lies within Eastney Beach Local Wildlife Site. The proposal will result in the loss of approximately 200m<sup>2</sup> of vegetated shingle which is a priority habitat. The National Planning

Policy Framework (Para 109), states that the planning system should minimise the impacts on biodiversity and provide net gain in biodiversity. The applicant has not provided any detailed information as to how they will avoid or mitigate the loss of vegetated shingle, so Natural England advises your Authority to request that information prior to determining this application. Raise no objection subject to details of impact on vegetated shingle.

### **Crime Prevention Design Advisor**

No response received at time of writing

### **Highways Engineer**

The location is on the seafront Esplanade near to the junction with St Georges Road. The Esplanade road is subject to a 30 mph speed limit. There is Pay by Phone parking in this area rather than metered parking which is in operation seasonally (March to October inclusive). This parking in this area is the last to fill up during the summer months. The position behind the sea wall makes it less attractive as it does not offer direct access to the promenade. A segregated seafront cycle route runs between the wall and the highway. A zebra crossing links the seafront to St Georges Road and nearby public toilets and cafe. There has been 1 accident in the last 5 years.

The proposed 2.5 m boardwalk and shallow ramp provides access for the less mobile including those in wheelchairs and with prams, so is to be welcomed.

In order to comply with the Parking Standards SPD we would expect the applicant to provide car and cycle parking or justify why they are not doing so. The applicant has not offered any justification for not providing parking but it is obvious from the location that it would not be possible to provide any additional car parking specifically for this site. However as with other beach huts and attractions, visitors will be aware of the existing parking arrangements when visiting the seafront. The nearest available car parking is behind the seawall, just north of the application site, with alternative car parking a little further to the east, adjacent to the café. These parking areas do present slight problems for the beach hut users, in that dependent on where they can find a space they might have to carry their things some distance eg to find a gap in the sea wall. There is a possibility that this might result in users trying to drop off as near as possible but the road markings, street furniture and road layout would tend to discourage this behaviour. On the whole this is unlikely to be of detriment to highways safety.

The applicant has stated in the Design & Access/ Heritage statement that if there is demand they will provide additional cycle parking on the promenade. I would envisage that there will be high demand, as on a recent site visit on a sunny Saturday to the existing Eastney beach huts I observed 3 large groups of beach hut users, with a total of 16 bikes between them. These bikes had been brought down onto the beach and were either leant and locked against the front of adjacent beach huts, or at the end of the row of beach huts. This clearly demonstrates that i) beach hut users do arrive by bicycle, ii) that there is no-where to secure them and iii) users of the huts want their bikes close to them. The nearest cycle parking in this area is a single stand on the promenade directly opposite the junction with St George's Way, with barriers that would provide informal storage. If the majority of the beach huts were in use this would present a problem as to where the bikes could be left both safely, securely and close to the destination.

The applicant must provide cycle parking, to enable visitors to bring their bikes and secure them safely while visiting the seafront. As this is effectively a sui generis planning class there is no set number of spaces that should be provided. It might be reasonable to expect that 25 beach huts, visited by 25 families of 4 by bike would result in a requirement for 50 stands. However being more realistic, as not every beach hut would be used at the same time and not all visitors would be cycling, the cycle parking provision could be reduced to 10 cycle stands, which would house 20 cycles. These are to be provided at beach level, for example at the end of the ramp so that they can be easily viewed from the beach huts / beach. It is important that cycle parking is conveniently located close to the destination to reduce the opportunity for cycle theft.

Provision of cycle parking on site would ensure that the application complies with national and local policy as well as meeting the Parking and Transport Assessments Standards SPD:-  
- the National Planning Policy Framework (NPPF), with its 'presumption in favour of sustainable development';



- The Portsmouth Plan, specifically policies PCS15, PCS17, PCS23 that support sustainable development, health and wellbeing, active travel and, Reducing Crime by Design SPD.
- the Seafront Masterplan which includes the following key aim, 'to increase the number of visitors to the Seafront without increasing pressure on the existing network. The city council is therefore keen to increase the number of people who travel to and around the Seafront by bicycle'.

RECOMMENDATION: No objection subject to:- Revised plans to be submitted and approved prior to installation of the beach huts, demonstrating how cycle parking for 20 bicycles will be provided at beach hut level. The cycle parking must be retained in perpetuity.

Reason - that the applicant must meet the requirements of the Parking Standards SPD for the development to provide cycle parking. It is also in order that the development complies with national and local policy including (The Portsmouth Plan, NPPF) and long term aspirations for the seafront in the Seafront Masterplan.

### **Ecology**

In summary, I am not convinced that there is at present a robust mitigation strategy for addressing the demonstrable impact on vegetated shingle habitat, a Habitat of Principal Importance under Section 41 of the NERC Act 2006. Given that Natural England have raised no objections in respect to impacts to Natura 2000 sites, my comments relate wholly to impacts to coastal shingle habitats and whether direct and/or indirect impacts have been adequately addressed and mitigated.

I have now been able to review the recently-submitted (but not yet publicly-available) Further Ecological Information document (Portsmouth City Council, 10th July 2015), which provides some useful detail on the various issues I had raised in my previous consultation responses. I have also reviewed the Eastney Beach Habitat Restoration and Management Plan SPD as well as other application documents. I am aware that there are recent botanical survey results from HBIC which have not been discussed in relation to this application - I would suggest that these are included and used to inform detailed mitigating measures.

In general terms there is a lack of direct supporting evidence, and the result is a confusing application. The reader is directed towards the SDP (not included within the application), and although this is a useful document in many respects it is not site specific and is premised on the fact that the proposed Eastney Seafront Masterplan will unavoidably result in impacts and therefore concentrates primarily on compensatory measures. There are options for compensatory measures but these are not explicitly related to this application.

The habitat within and adjacent to the application site is classified as SD1a Rumex crispus-Glaucium flavum shingle community and is thus of at least county importance (the LWS is, by definition, of county importance) and the loss of even a small percentage of this habitat locally is considered to be significant at District level, reducing the overall biodiversity heritage of Eastney beach and Portsmouth. Eastney Beach is the sole remaining example of an essentially unadulterated coastline in Portsmouth and therefore any loss of habitat reduces a small, finite resource for future generations. I consider that for such a lasting impact there should be fully-formed mitigating measures included within the application. At present, there are no firm actions proposed to compensate for the permanent loss. There are measures included to address the more temporary impacts such as vehicular tracking, although at present the extent or duration of these impacts is unknown.

The footprint of the proposed beach huts (plus boardwalk) is in the region of 300m<sup>2</sup> and therefore a net loss of this amount of shingle is certain. In addition, there will undoubtedly be disturbance (temporary in duration but perhaps longer lasting in terms of damage) to shingle habitat over a wider area due to vehicular movements and the total habitat to be impacted is estimated at c.1500 m<sup>2</sup>. This is at odds with the submitted Design & Access, Ecology and Heritage Statement p.2 which (referring to the SPD) states that the application would result in 'no permanent direct habitat loss' and 'no temporary habitat loss during construction'. This

application will not be 'no impact' but will result in a permanent and direct loss of vegetated shingle habitat and likely disturbance/damage to further areas. Vegetated shingle is not a habitat type which is readily transplanted and may take many years to establish on new sites so any mitigation/compensation would necessitate a period of loss whilst 'new' areas become established. There are also very few options for 'new' habitat - there is no room to the west and very little unconstrained beach to the east (Fort Cumberland contains some interesting habitat but the associated beach is within the Scheduled Ancient Monument and so mitigation here would require consent). The enhancement of areas of degraded SD1a habitat is a sensible option but without such degraded areas being identified it is not possible to ascertain whether this option is achievable.

The proposed beach huts are to be installed in time for the summer 2016 season, requiring works to be carried out during early spring 2016, and one would legitimately question whether the full implications of any damage and the success of any mitigating measures could be known prior to impacts occurring.

In summary, I consider that a detailed ecological mitigation strategy should be provided prior to determination, so that the full impacts and remedial measures are clearly presented and then able to be secured by condition.

### **Contaminated Land Team**

No requirement for conditions

## **REPRESENTATIONS**

Objections have been received from 30 residents of the city, the Portsmouth Society and the Hampshire Gardens Trust on the following grounds:

- a) inappropriate siting too far from amenities;
- b) proposal would encourage dogs being brought to an area from which they are banned;
- c) loss of unspoiled part of seafront;
- d) damage to ecosystem/vegetated shingle;
- e) loss of sea view;
- f) uninspiring design of beach huts;
- g) effect on Conservation Area;
- h) potential for increased anti-social behaviour;
- i) question actual need for and financial viability of additional beach huts;
- j) flooding
- k) huts may encourage vermin;
- l) would proposals be weatherproof and safe in extreme weather conditions;
- m) competition for parking with local residents and
- n) query accuracy of submitted information and ownership details.

Three representations in support of the application have also been received.

## **COMMENT**

The determining issues are whether the proposed beach huts represent an appropriate design response for this prominent site having regard to the open character of the locality, whether the proposal would preserve or enhance the character and appearance of 'the Seafront' Conservation Area and the setting of the 'Eastney Barracks' Conservation Area, whether it would have any impact on nature conservation interests and whether there would be any highways implications.

## **Principle**

Having regard to the aims and objectives of Policy PCS9 (the seafront) and the Seafront Masterplan, it is considered that the principle of installing beach huts on this part of the seafront is acceptable in principle.

## **Design**

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that all new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; relate well to the geography and history of Portsmouth and protect and enhance the city's historic townscape and its cultural and national heritage.

The proposed beach huts would be of traditional appearance with a pitched roof and a timber clad finish finished in a selection of pastel colours. It is considered that in design terms the proposed beach huts would be of an appropriate appearance for this prominent seafront location.

## **Heritage**

Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Furthermore Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

The open character of this part of the 'Seafront' Conservation Area would be altered by the installation of the beach huts, however the introduction of seaside facilities would not be inherently at odds with the location. The simple design of the proposed beach huts is considered to be an appropriate response for this site such that it would preserve the character and appearance of the Conservation Area. It is also considered that for the same reason the proposal would not adversely affect the wider setting of the 'Eastney Barracks' Conservation Area to the east. Furthermore it is considered that the proposal would not affect the setting of the nearby Listed lamp columns.

## **Nature Conservation**

The site is within Eastney Beach Local Wildlife Site (LWS). The LWS is designated for its vegetated shingle habitats, which are a nationally rare habitat type, and is listed in Annex 1 of the EU Habitats Directive as a habitat of international conservation concern. Vegetated shingle is a Habitat of Principal Importance under Section 41 of the Natural Environment and Rural Communities Act 2006 and also a BAP Priority Habitat - i.e. one of the habitats identified as being particularly important for biodiversity conservation and highlighted as priorities for conservation actions under the UK Biodiversity Action Plan. The importance of the site is recognised within Seafront Masterplan as well as the various interpretative media associated with the beach.

The proposal would be likely to result in both direct and indirect damage to the vegetated shingle. The beach huts and associated boardwalk proposed would be located on an area identified as supporting a *Rumex crispus*-*Glaucium flavum* shingle community (curly dock and yellow horned poppy). This habitat is typically associated with the more dynamic shingle areas of the beach, rather than the more stable coastal grasslands typically found further up the beach profile. However, on this section of beach, development of coastal grassland on more stable substrates has been prevented by the presence of the road and urban development.

The LWS is not designated as being of national or international importance, although it is designated at a local level. Nevertheless, it does support habitat types that are rare and not well represented either locally or nationally. Furthermore the site provides a supporting habitat for SPA bird species, which increases its value. Consequently it is judged that the LWS as a whole is of at least County value.

The proposed development would be likely to result in both direct and indirect damage to the habitats identified above resulting from the physical construction and retention of the beach huts and the boardwalk, and increased recreational pressure resulting from their use. The construction of the beach huts and boardwalk would result in a permanent loss of approximately 400 square metres of SD1 vegetation community. In the absence of any measures to mitigate or compensate for this permanent net loss in vegetated shingle habitat, the impact of the proposal could be seen as significant, moderately adverse and permanent.

The construction works would be likely to require some level of machinery accessing the beach. As noted above the shingle is reasonably stable and supports species characteristic of SD1 shingle communities which would be damaged by the use of tracked machinery. Given the extent and sensitivity of the areas affected, it is therefore judged that these impacts would be significant, slight adverse, but temporary.

The impact on the LWS would not be confined to the actual footprint of the new development. Botanical communities of vegetated shingle habitats are sensitive and vulnerable to wear and tear from pressure from users of such sites. Clearly most wear and tear to the vegetation will occur in the area immediately in front of the proposed new beach huts.

It appears clear that the use of existing beach huts does not result in the complete loss of vegetated shingle communities in the areas in front of the huts, but that these areas do not appear to support these communities at the same plant density as in other areas - i.e. there is a greater proportion of bare shingle, with more isolated patches of grassland / SD1 vegetation. It is considered reasonable to assume that the extent of the impact associated with the use of the beach huts would extend some 15 metres in front of the new beach huts (which equates to an area of approximately 1500 square metres). As this impact would not be a permanent loss of habitat, it is considered to represent a permanent, slight adverse, significant impact.

Para 118 of the NPPF states "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles ... if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".

Policy PCS13 (a greener Portsmouth) states that the City Council will protect green infrastructure (GI). GI is identified in the Plan as a network of multifunctional green and open spaces that can improve quality of life, support biodiversity and stimulate the economy, and that it is essential to the city's continued development. Eastney Beach is identified in the Plan as providing a more natural landscape with an excellent variety of coastal flora. The application plans show that the most of the beach area within the redline boundary would be covered by decking. Where decking or other structures are not present on the beach, these areas would be used as outside seating and a children's play area. The impacts of the development would therefore be permanent habitat loss through the construction of the decking area and ramp down towards the sea and the use of other areas within the site for the seating and play area. There are also likely to be impacts from the increased use of the wider area leading to further habitat degradation - thus, impacts are not confined to within the redline boundary. The Policy states that the Council will protect GI by ensuring that:

\* the intrinsic habitat value of the site can be retained or enhanced through development proposals, and

\* allowing development only if it clearly outweighs the substantive nature conservation value of the site, an impact on the site cannot be avoided or mitigated and compensatory measures are provided.

The proposal is therefore contrary to Policy PCS13. In order to be in accordance with the policy, it would need to be demonstrated how the ecological value of the application site would be retained or enhanced.

Policy PCS9 (The Seafront) is also relevant. While this proposal may appear to be in accordance with some aspects of this policy, for example that of 'encouraging and supporting proposals for small scale restaurants, cafés and other uses and activities that will diversify the leisure and cultural offer', (as also highlighted in the applicant's Design and Access Statement), it would appear to be contrary to the element of Policy PCS9 that requires 'Protecting the nature conservation value at Eastney Beach'.

It is impractical to attempt to address the nature conservation issue through imposition of conditions as ecological impacts must be considered as part of the planning assessment. Potential ecological mitigation/compensation measures should not be dealt with retrospectively through conditions, but need to be assessed as an integral part of the decision-making process.

The site is located in an area covered by the Eastney Beach Habitat Restoration and Management Plan SDP which is a useful document but is not site specific. The SPD was produced in recognition that development on and near Eastney Beach will result in adverse impacts on the LWS and habitats within it unless measures are employed to address these impacts. The SPD sets out options for compensatory measures which do not explicitly relate to this application.

It would not be possible within the application site boundary given that it would appear that the vegetated shingle within the redline boundary of the application would be lost to provide the beach huts and decking. The application should also demonstrate that the benefits of the development outweigh the nature conservation value of the site. Given that it would appear that it is not possible to avoid habitat loss, proposals need to be provided to show how the impacts would be compensated for. Again, given that the new decking extends to the red line boundary, there would appear to be no scope for compensation within the site, even other criteria could be met.

Vegetated shingle is not a habitat type which is readily transplanted and may take many years to establish on new sites so any mitigation/compensation would necessitate a period of loss whilst 'new' areas become established. There are also very few options for 'new' habitat - there is no room to the west and very little unconstrained beach to the east. The enhancement of areas of degraded SD1a habitat is a sensible option but without such degraded areas being identified it is not possible to ascertain whether this option is achievable

In summary, at present it is considered that the proposal does not accord with Policies PCS13 or PCS9. In order for the proposal to be considered positively a detailed Ecological Impact Assessment needs to be carried out to inform a detailed Ecological Mitigation strategy. Only then can the full impact of the proposal and potential success of remedial measures be properly assessed. In the absence of a comprehensive assessment and mitigation strategy the proposal is contrary to local and national policy as it is not possible to assess the harm.

### **Highways implications**

The site is located to the south of the Seafront Esplanade to the junction with St Georges Road. The Esplanade is subject to a 30 mph speed limit. There are double yellow lines on the northern side of the road, with seasonal (March to October) Pay by Phone parking (rather than metered) on the southern side adjacent to the proposed development. This parking in this area is the last to fill up during the summer months. The position behind the sea wall makes it less attractive as

it does not offer direct access to the promenade. A segregated two-way cycle route runs between the sea wall and the highway. A zebra crossing links the seafront to St Georges Road and nearby public toilets and cafe.

The application does not include any provision for car parking, however there is existing on-street parking located along the seafront. Prospective users of the proposed beach huts would be aware of the existing parking arrangements when visiting the seafront.

A site visit (on a sunny Saturday during the summer) to the existing Eastney beach huts revealed three large groups of beach hut users, with a total of 16 bikes between them. These bikes had been brought down onto the beach and were either leant and locked against the front of adjacent beach huts, or at the end of the row of beach huts. It is considered that this demonstrates that beach hut users are likely to travel by bicycle, that there is no-where to secure them and that users of the huts are likely to want to store their bikes close to them. There is no dedicated cycle parking on the seafront in the vicinity of the site and whilst bicycles could be secured to street furniture along the Esplanade this is likely to impact on the convenience of people travelling along the Esplanade. The application suggests that if demand for cycle parking became apparent cycle hoops could be installed. It is considered that an appropriate level of provision to serve 25 beach huts would be 10 cycle hoops that could accommodate up to 20 bicycles and that they should be located in a convenient location easily observable from the beach huts to reduce the opportunity for cycle theft. The provision of such facilities can be secured through the imposition of a suitably worded planning condition.

## **RECOMMENDATION            Refuse**

The reason for the Local Planning Authority's decision is:-

1) The proposal is located on a Local Wildlife Site identified for vegetated shingle that supports scarce species. In the absence of an ecological assessment the Local Planning Authority is unable to assess the potential impact on the Local Wildlife Site and given that it may not be possible to avoid habitat loss, how the impacts would be mitigated/compensated for. In the absence of this the Local Planning Authority is unable to properly assess if any potential benefits represent an overriding justification against the protection and enhancement of the biodiversity value of the site and the proposal is therefore contrary to policy PCS9 and PCS13 of the Portsmouth Plan and the aims and objectives of the National Planning Policy Framework.

## **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 it was not considered that the harm arising from the proposal could be overcome and the application has been refused for the reasons outlined above.

**09**

13/00791/FUL

WARD:EASTNEY & CRANESWATER

**EASTNEY BEACH EASTNEY ESPLANADE SOUTHSEA**

**INSTALLATION OF 25 BEACH HUTS AND NEW TIMBER BOARDWALK TO EASTERN END OF ESPLANADE (AMENDED DESCRIPTION) (RESUBMISSION OF 12/00968/FUL)**

**Application Submitted By:**

Head Of Cultural Services

**On behalf of:**

Head Of Cultural Services

Portsmouth City Council

**RDD:** 17th July 2013

**LDD:** 12th September 2013

**SUMMARY OF MAIN ISSUES**

The determining issues in this application are whether the proposed beach huts represent an appropriate design response for this prominent site having regard to the open character of the locality, whether they would preserve the setting of the adjoining heritage assets, whether they would have any impact on the nature conservation interests and whether there would be any highways implications.

**The Site**

This Portsmouth City Council application relates to an area of beach to the south of the Esplanade, directly opposite its junction with Esplanade Gardens. Eighteen existing beach huts are located just to the east beyond a concrete ramp that leads down from the promenade. With the exception of residential developments to the north of the main road, this particular section of beach possesses a quieter, less developed and more natural exposed quality compared to other sections of Portsmouth's Coastline, particularly to the west.

The site is located just outside of the 'Eastney Barracks' Conservation Areas but adjacent to a number of Grade II Listed Lamp columns that extend along the length of the promenade. One of the Eastney Barracks Forts (East) which is a Scheduled Ancient Monument is located just to the north-west beyond the Esplanade. The site is located within the Eastney Beach Local Wildlife Site and in close proximity to a number of nationally and internationally designated sites within Langstone and Portsmouth Harbours.

## **The Proposal**

Planning permission is sought for the installation of 25 beach huts (and retaining the 18 existing) with a timber boardwalk leading from an existing concrete ramp. The application has been amended from that submitted in 2013 that originally proposed the installation of 118 new beach huts following the removal of the existing.

## **Planning History**

There is no planning history relating to this particular section of beach. However a separate application for the installation of 25 beach huts and timber decking is currently under consideration at a site further to the opposite the junction with St Georges Road (15/00942/CS3).

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning policy Framework, the relevant policies within the Portsmouth Plan would include: PCS9 (The seafront), PCS13 (A Greener Portsmouth), PCS17 (Transport) and PCS23 (Design and Conservation). The Parking Standards SPD, The Seafront Masterplan & The Eastney Beach Habitat Restoration and Management Plan SPD will also be relevant to the proposed development.

The Seafront Masterplan Supplementary Planning Document was adopted in April 2013. The Seafront is an important city asset that stretches for 3.7 miles between the entrances of Portsmouth Harbour (to the west) and Langstone Harbour (to the east). The SPD identifies five objectives of the masterplan including "introducing a vibrant mix of leisure and tourism uses to the area, including small scale cafes and restaurants that will attract people to the Seafront all year round" and "protecting the open nature of Southsea Common and other public spaces, and the valuable wildlife habitat at Eastney Beach". Section 4.6 of the SPD recognises that Eastney Beach is quieter and less developed than the other five character areas that make up the Seafront, and provides an opportunity for visitors to 'escape'. New development and public realm improvements in this area must not detract from the 'informal' and tranquil atmosphere that visitors so highly value. Proposals must also preserve and enhance the local wildlife areas.

Policy PCS9 (the seafront) states that new development will contribute to the vitalisation of the seafront, tourism and wider regeneration strategy by, amongst other things, encouraging and supporting small scale restaurants/cafes without detracting from the open character of the seafront and protecting the nature conservation value of Eastney beach. Policy PCS13 (a greener Portsmouth) seeks to protect green infrastructure. Green infrastructure is identified in the Plan as a network of multifunctional green and open spaces that can improve quality of life, support biodiversity and stimulate the economy, and that it is essential to the city's continued development and will be protected by ensuring that the intrinsic habitat value of the site can be retained or enhanced through development proposals, and allowing development only if it clearly outweighs the substantive nature conservation value of the site, an impact on the site cannot be avoided or mitigated and compensatory measures are provided.

## **CONSULTATIONS**

### **Hants & IOW Wildlife Trust**

The Trust objected to a previous iteration of this planning application for 118 beach huts due to the loss of the priority habitat, coastal vegetated shingle, loss of SINC habitat and insufficient evidence to determine that there will not be a likely significant effect on the SPA.



We acknowledge that this particular application has been scaled down from 118 to 25 beach huts, but are aware that it forms one of three, two of which (15/00942/CS3 and 13/00791/CS3) will result in direct impacts on the priority habitat type, coastal vegetated shingle.

With regard to this latest application, the proposals involve the loss of approximately 330m<sup>2</sup> of land that is designated for its nature conservation value at county level. In addition, we consider that there is insufficient information to determine that there will not be a likely significant effect on the SPA and therefore we object to the proposals.

As you will be aware perennial vegetation of stony banks (otherwise known as 'coastal shingle vegetation outside of the reach of the waves') is a nationally rare habitat type which is included on Annex I of the Conservation Regulations 2010, as amended. In addition to the European designation, vegetated shingle is a priority habitat that is included on Annex II of the National and Hampshire Biodiversity Action Plans. Paragraph 109 of the National Planning Policy Framework (NPPF) also states that the "planning system should contribute to and enhance the natural and local environment by: - Minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity.

Coastal Vegetated Shingle is most at risk due to compaction and abrasion as a result of recreational pressure and coastal defence work.

The proposed development site is included within a SINC that is designated for the presence of this rare habitat type, and will result in the loss of approximately 330m<sup>2</sup> of it. The site is already under extreme pressure as a result of a high level of recreation, and we consider that an increase in recreational pressure in the vicinity of the proposed beach huts will have a further significant impact on this fragile habitat.

The supporting ecological statement makes reference to the Eastney beach Supplementary Planning Document, which includes key targets such as "no decrease in the extent of habitat post-development, restoration of amenity grassland and enhancement of existing habitats.

All of these targets are required irrespective of this application, and the site is designated for the presence of this rare habitat type. We can find no information detailing additional mitigation proposals, specific to this application that will be sufficient to avoid an overall loss of this rare habitat type and Portsmouth City Council should already be taking measures to ensure a no net loss of biodiversity.

Wintering Birds - In our previous objection response we made reference to the fact that Eastney Beach is a site that is known for supporting roosting waders, and also it has the potential to be suitable for Brent geese, which are qualifying features of the SPA. It is included as site P78 in the Solent Waders and Brent Goose Strategy. The Ecological Supporting Statement included with the application identifies that the proposals will likely cause some disturbance to birds using the section of beach adjacent to the proposed development site. However, we note that the application is not supported by any up-to-date winter bird survey work and therefore any assessments of impacts are not in our opinion robust.

Mitigation measures are proposed that include carrying out the work, outside of the main wintering period for wintering waders and Brent geese, a beach hut information pack and implementation of the Eastney Beach Restoration and Management Plan. We do not consider that the mitigation proposals will be sufficient to avoid an overall loss of this rare habitat type, and Portsmouth City Council should already be taking measures to ensure a no net loss of biodiversity, therefore additional mitigation measures linked to this development should be introduced.

Conclusion - In conclusion, the Wildlife Trust objects to the proposals due to the loss of the rare coastal vegetated shingle habitat, the loss of land that is designated a SINC and lack of information to determine that there will not be a likely significant effect on the SPA. We also

consider that there is a lack of any deliverable mitigation measures and therefore overall the proposals will result in a net loss of biodiversity.

## **Natural England**

Initial comments provided 08.07.2015

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Chichester and Langstone Harbours Special Protection Area (SPA) and Portsmouth Harbour SPA which are European sites. The sites are also listed as Chichester and Langstone Harbours Ramsar site and Portsmouth Harbour Ramsar site, and also notified at a national level as Langstone Harbour Site of Special Scientific Interest (SSSI) and Portsmouth Harbour SSSI.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

SPAs: Objection/Further information required - The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you obtain the following information to help undertake a Habitats Regulations Assessment:

This application as proposed will result in the partial direct loss of SPA supporting habitat, which is listed on the Solent Brent Goose and Waders Strategy as "P78". The Strategy has listed this site as "important" as a winter roost site for waders, which are qualifying features of the SPAs and Ramsar sites. The applicant has not provided any evidence to demonstrate that this loss of supporting habitat can, or will, be mitigated.

The applicant's visitor survey does not appear to be sufficiently robust to demonstrate that the beach huts will not be utilised in the wintering months, thereby avoiding disturbance to the qualifying features of the SPA on the supporting habitat, P78. The applicant should carry out a robust visitor survey to demonstrate that these new beach huts will not be utilised during the winter months, thereby avoiding a likely significant effect on the SPA. We would expect a survey to sample the whole of the winter period, not just one week in January, and cover good weather conditions, holiday and non-holiday periods and provide a detailed methodology. We would also advise that questionnaires of existing beach hut users are carried out in order to ascertain the habits of existing user groups nearby.

Sisals: No objection - This application is in close proximity to Langstone Harbours Site of Special Scientific Interest (SSSI) and Portsmouth Harbour SSSI. Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which these sites

have been notified. We therefore advise your authority that the Sisals do not represent a constraint in determining this application.

Eastney Beach Local Wildlife Site - The application will result in the loss of approximately 300 sq.m. of vegetated shingle which is a priority habitat. The National Planning Policy Framework (Para 109), states that the planning system should minimise the impacts on biodiversity and provide net gain in biodiversity. The applicant has not provided any detailed information as to how they will avoid or mitigate the loss of vegetated shingle, so Natural England advises your Authority to request that information prior to determining this application.

Further comments provided by Natural England in response to the Habitat Regulations Assessment - 10.07.2015

Internationally and nationally designated sites - Chichester and Langstone Harbours Special Protection Areas (SPA) and Portsmouth Harbour SPA: Objection/Further information required: Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects. Your assessment concludes that your authority can rule out the likelihood of significant effects arising from the proposal, both alone or in-combination.

On the basis of information provided, Natural England advises that there is currently not enough information to rule out the likelihood of significant effects. Natural England therefore advises that your authority should not grant planning permission at this stage.

Natural England advises that the information and evidence gaps could potentially be resolved with additional information formally submitted by the applicant in order to amend the proposal. This would then provide an opportunity for your authority to repeat your screening to check for the likelihood of significant effects of the project as submitted (i.e. with all new information provided as part of the proposal).

Natural England recommends that any information gaps should be met by the formal submission of information, so that the project as a whole, i.e. as submitted with all information and measures to protect the European site, can be screened to check whether the likelihood of significant effects can be ruled out.

Natural England advises that the following information should be requested from the applicant, in order to screen the project to check for the likelihood of significant effects:

Displacement of SPA qualifying features from supporting habitat - The HRA has confirmed that this proposal will not result in the direct loss of SPA supporting habitat, P78; however, the HRA has not assessed the potential impact of the SPA birds being displaced from this supporting habitat through the presence of new physical structures and the reduction of sight lines. We advise the applicant to demonstrate that the beach huts will not lead to displacement of SPA birds, this could involve surveying how the SPA birds are currently using this site. We advise that a minimum of three years of survey data (total) is likely to be required.

Increase in recreational disturbance to SPA supporting habitat - The HRA has confirmed that the beach huts will not be available for use from October to March (inclusive) in order to avoid increased recreational disturbance of the supporting SPA habitat from the beach hut users. However, the HRA has not assessed the impact of the proposed new ramp (entitled "ramp down to beach to assist with beach accessibility for all"), which could have the effect of directing other winter visitors to the beach, directly through the SPA supporting habitat thereby leading to increased recreational disturbance. We advise that the ramp is moved to a less sensitive location away from the SPA supporting habitat, or carry out bird surveys (minimum 3 years) to ascertain how the SPA birds are using the site.

## **Langstone Harbour Board**

The Board's Planning Sub Committee and Environment Officer have considered this amended application. The reduction in the number of Beach Huts is likely to reduce potential disturbance impacts on the vegetated shingle; particularly with the provision of the "interpretation pack" for new Beach Hut owners detailing the environmental sensitivities of the site proposed in the Revised Ecological Supporting Statement. Additionally the overall reduction in the footprint from the initial number of beach huts allows the possibility that the important wader roost on the site might be retained.

However some concerns remain about both the vegetated shingle and the wader roost area despite the proposed mitigation in the Revised Ecological Supporting Statement and would therefore request that the Planning Authority carefully consider the environmental sensitivities of the proposal.

Conditions that may further mitigate any risk of adverse environmental impact from the proposal are suggested.

### **Coastal Partnership**

The Eastern Solent Coastal Partnership has no objection to the proposal. However, it is highlighted that the proposed development falls within an area of vegetated shingle.

### **Crime Prevention Design Advisor**

No objection raised.

### **Highways Engineer**

The location is on the beach in front of the promenade and Esplanade with segregated two-way cycle route. There are double yellow lines on the north side of the road, with metered parking on the south side adjacent to the proposed development. The metered parking is in operation during the months of March to October. There is an existing ramped access down to the beach which links to the proposed new access and boardwalk. At the far eastern end of the Esplanade there are 2 disabled car parking spaces, 5 cycle parking stands and 1 cycle stand at the top of the existing ramp.

The proposed 2.5 m boardwalk provides access for the less mobile including those in wheelchairs and with prams so is to be welcomed.

In order to comply with the Parking Standards SPD we would expect the applicant to provide car and cycle parking or justify why they are not doing so. The applicant has not offered any justification for not providing parking but it is obvious from the location that it would not be possible to provide any car parking specifically for this site. However as with other beach huts and uses along the seafront visitors will be aware of the existing parking arrangements when visiting the seafront.

There are currently a high number of objections to this application, many of which relate to concerns about the increase in traffic and number of visitors to the area. Although the applicant is unable to provide car parking for the site, it is possible to assuage the concerns of some of the objectors with the provision of cycle parking, which is expected of any new development.

On a recent site visit on a sunny Saturday to the existing Eastney beach huts it was observed that 3 large groups of beach hut users had a total of 16 bikes between them. These bikes had been brought down onto the beach and were either leant and locked against the front of adjacent beach huts, or at the end of the row of beach huts. This clearly demonstrates that i) beach hut users do arrive by bicycle, ii) that there is nowhere to secure them and iii) users of the huts want their bikes close to them. The nearest cycle parking on the seafront is next to the Eastney toilets and at the time was fully used and therefore unable to offer cycle parking for beach hut users. If the majority of the beach huts were in use this would present a problem as to where the bikes could be left both safely and securely.

The applicant must provide cycle parking, to enable visitors to bring their bikes and secure them safely while visiting the seafront. As this is effectively a sui generis planning class there is no set number of spaces that should be provided. It might be reasonable to expect that 25 beach huts, visited by 25 families of 4 by bike would result in a requirement for 50 stands. However being more realistic, as not every beach hut would be used at the same time and not all visitors would be cycling, the cycle parking provision could be reduced to 10 cycle stands, which would house 20 cycles. These are to be provided at beach level, for example at the end of the ramp so that they can be easily viewed from the beach huts / beach. It is important that cycle parking is conveniently located close to the destination to reduce the opportunity for cycle theft.

Provision of cycle parking on site would ensure that the application complies with national and local policy as well as meeting the Parking and Transport Assessments Standards SPD:-

- The National Planning Policy Framework (NPPF), with its 'presumption in favour of sustainable development';
- The Portsmouth Plan, specifically policies PCS15, PCS17, PCS23 that support sustainable development, health and wellbeing, active travel and,
- Reducing Crime by Design SPD.
- The Seafront Masterplan which includes the following key aim, ' to increase the number of visitors to the Seafront without increasing pressure on the existing network. The city council is therefore keen to increase the number of people who travel to and around the Seafront by bicycle'.

Recommendation - Raise no objection subject to the provision of adequate bicycle storage facilities.

### **Environmental Health**

When considering the temporary and likely sporadic use of the huts, there is no reason to believe that any emission will be sufficiently significant to materially impact upon the amenity of nearby dwellings. Therefore, no objection is raised.

### **Contaminated Land Team**

A condition relating to land contamination is not required.

### **Ecology**

I have now been able to review the recently-submitted (but not yet publicly-available) Further Ecological Information document (Portsmouth City Council, 10th July 2015), which provides some useful detail on the various issues I had raised in my previous consultation responses and goes a long way to addressing those concerns. I have also reviewed the Eastney Beach Habitat Restoration and Management Plan SPD as well as other application documents. I am aware that there are recent botanical survey results from HBIC which have not been discussed in relation to this application - I would suggest that these are included (where relevant) and used to inform detailed mitigating measures. In summary, I consider that there remain issues which require further consideration and, at present, there is insufficient information to enable the potential ecological impacts to be understood and therefore mitigated adequately. However, I should add that this application on its own comprises a much-reduced number of beach huts and therefore, in principle, the magnitude of potential impacts is likely to be lower although the range of potential impacts remains identical: damage to vegetated shingle, loss of Local Wildlife Site (LWS) land and disturbance to bird species and habitat associated with the adjacent SPA. There is of course the in-combination effects of this and other future and concurrent applications to consider.

There are essentially two ecological issues to overcome: vegetated shingle and overwintering birds.

Vegetated Shingle - Eastney Beach is acknowledged as one of the few remaining areas of generally unspoilt vegetated shingle beach in Portsmouth (this is recognised within the July

2012 Seafront Masterplan as well as the various interpretative media associated with the beach) and one which supports a range of characteristic coastal plant species, some of which are of particular note. Accordingly, the site has been designated at a local level as a Local Wildlife Site (LWS). Vegetated shingle itself is listed as a Priority Habitat within the UK Biodiversity Action Plan (BAP) and as a Habitat of Principle Importance under Section 41 of the NERC Act 2006 on account of its intrinsic ecological value and its rarity and it is also a feature of the nearby internationally-designated Solent Maritime Special Area of Conservation (SAC).

There is clear policy guidance on the protection and enhancement of sensitive habitats within Policy PCS13 of the Portsmouth Plan - development will have regard to valuable ecological features by:

- ensuring that the intrinsic habitat value of the site can be retained or enhanced through development proposals; and
- allowing development only if it clearly outweighs the substantive nature conservation value of the site, an impact on the site cannot be avoided or mitigated and compensatory measures are provided.

In addition to the recent surveys for this application there is information dating from 2007 as a result of work undertaken by Hampshire Biodiversity Information Centre (HBIC) and I know that the site was again surveyed in detail by HBIC in 2014: the results of that survey would be useful for inclusion in this application. Given that the current distribution and composition of the vegetated shingle flora at Eastney Beach is relatively well-known, it should be straightforward to assess the specific impacts resulting from the proposals. These issues are: direct loss of habitat during construction and ongoing impacts resulting from recreational pressure.

Direct Habitat Loss - The beach huts will result in the loss of vegetated shingle, albeit comprising a ryegrass-dominated sward rather than pure shingle habitat. That said, the grassland contains herbaceous species associated with vegetated shingle, is still of considerable ecological value and is an intrinsic part of the LWS. There will be a loss of LWS land which is contrary to local policy PCS13. The submitted information states that the total area affected (permanently lost) by the beach hut footprint is 330m<sup>2</sup> but extending to c.1500m<sup>2</sup> when working area (and potential construction damage) is taken into account. The submitted ecological information states that vehicle tracking damage is likely to be more pronounced on the grassland than shingle but would be temporary in nature.

The direct loss of vegetation (even though predominantly grassland and not prime shingle habitat) within a LWS is contrary to local policy and therefore would only be acceptable were it demonstrated that the need for the proposal outweighs any environmental considerations and that any impacts could be sufficiently mitigated and compensated. I am not certain that the need has been demonstrated to the extent that it would outweigh the permanent loss of part of a LWS and damage to other areas, but I fully appreciate the many conflicting factors involved with this application.

There is an inherent contradiction between the proposals for mitigation here (which entail the removal and translocation of grassland turves to existing areas of SD1 shingle) and the SPD which promotes the permanent removal of sections of this grassland in order to encourage pure vegetated shingle habitat. To be consistent with the SPD there would be no need to translocate grassland from this application site but rather a requirement to reduce it to the betterment of the SD1 shingle. I appreciate that the ecological information justifies this by stating that the grassland is perhaps more suited to the substrate at the proposed receptor site but to my mind it would make more sense to accept the net loss of the grassland in favour of measures to further promote SD1 habitat, especially as this habitat is already under threat from other developments on the beach. There are some recommendations for enhancing SD1 habitat elsewhere within the LWS but nothing concrete.

There would perhaps be an opportunity to provide no net loss of shingle habitat simply by installing shingle roofs to the proposed huts: innovative design solutions are readily achievable and would, to my mind, create a much more aesthetically-pleasing feature which would compliment the location and its valuable ecological heritage: have alternative design solutions been explored?

Recreational Pressure - At present there are no restrictions on where visitors to the beach can walk and, on balance, this is likely to result in a reasonably even spread of pressure over a wide area, although perhaps with most being concentrated at particular desire-lines such as the storm ridge (for walking east-west along the beach) and at defined 'paths' between the sea wall and sea, providing access across the beach from steps on the promenade. The proposed beach huts will likely create a new focus whereby the main pressure will be in a direct north-south direction across the beach as new beach hut users seek to reach the shore or other areas of the beach. It is reasonable to assume a level of concentrated trampling in the immediate vicinity of the new huts, as well as other potential issues such as litter and dog fouling. This will be a new impact, created by attracting additional visitors to the beach and these will (unlike the more mobile walkers/dog walkers) be active within a concentrated area.

The submitted ecological information states that an area in the region of 1300m<sup>2</sup> would likely be impacted negatively by human trampling, perhaps resulting in the gradual wearing-down of existing vegetation as new desire lines form. We have a scenario whereby there will be potentially-significant impacts to around 1500-1800m<sup>2</sup> of LWS habitat from this application alone: there is the in-combination effects of this and other applications to consider.

The impacts of trampling on beach flora can be profound and result in a significant loss of botanical interest. Therefore, this issue requires very careful planning and management if there is not to be a reduction in vegetated shingle flora over time. The strategy proposed within the application is to undertake restoration of other areas of the beach to offset the accepted loss of existing flora - in short, there is an acceptance that the proposals will result in habitat loss but that compensatory measures can offset this.

The Eastney Beach Habitat Restoration and Management Plan SPD sets out a strategy for addressing issues relating to vegetated shingle impacts. It promotes a phased approach to addressing these issues and suggests small-scale trial of habitat restoration techniques prior to any development-related measures. The proposed beach huts are to be installed in time for the summer 2016 season, requiring works to be carried out during early spring 2016, and one would legitimately question whether the full implications of any damage and the success of any mitigating measures could be known prior to impacts occurring.

In summary, whilst recognising that the SPD and the submitted information go some way to addressing the issues, the application will result in a net loss of and as-yet-unquantified damage to other sections of the LWS. This is contrary to local planning policy and, without a fully-detailed mitigation and restoration strategy, I do not see how the LPA can consider that sufficient information has been provided at this stage. I do not consider the use of a planning condition requiring more detailed mitigation to be an acceptable option for the loss of part of a site of county importance.

Overwintering Birds - There has now been a new formal consultation response from Natural England (NE) within which they detail their concerns in respect to impacts to SPA features, specifically the bird species present and the continued functionality of the supporting habitat. Their concerns are threefold:

- Indirect habitat loss through disturbance;
- Indirect habitat loss through encroachment of built form and birds' perception of it; and
- Disturbance arising from new access ramp.

NE consider that the restriction on winter use of the huts could avoid the first issue, but that the second and third would require further surveys if alternative solutions cannot be found. Based on the level of current information NE consider that there is insufficient evidence to conclude no 'likely significant effect'. I am inclined to agree.

The application site lies immediately adjacent (within several metres) of SWBGS Site P78, which has records of significant numbers of waders (600+) and brent goose (300). My opinion is that this site, and the beach as a whole, is far more suitable as a high-tide/inclement weather wader roost than brent goose habitat. In many respects the fixation on the artificial boundaries of the P78 site is unhelpful as the entire beach is potential wader roost habitat: no impact on P78 does not mean no impact on SPA birds, and in any case it is the continued functionality of the roost resource (i.e. the beach as a whole, providing various locations for birds to rest) that is the ecological issue. This is why it is important to either a) avoid entirely any potential for recreational or other disturbance to overwintering birds or b) provide sufficient field survey evidence to demonstrate that the area to be impacted by the huts is not used, over a continuous period, by birds. At present, this would require three years' winter bird survey data, as recommended by NE in August 2013 and again in July 2015.

By restricting the use of the huts to the period April to September there would be no issue with disturbance from people and their pets for instance. However, as NE point out, the addition of new built forms onto the beach may also result in disturbance, as would creating new access onto hitherto quiet stretches of beach, the net result of which would be a further reduction in functionality. These two issues are not readily avoidable as they are permanent changes to the appearance of the beach in the form of novel intrusions: the likely impact on birds is unknown (but applying the precautionary principle likely to be negative) and so NE suggest surveys are required. The crux of the matter is that we have essentially no information whatsoever on the use of the beach by birds and so are not in a position to state whether impacts are likely or not. In summary, I cannot conclude that there is sufficient evidence to ascertain that a 'likely significant effect' can be disregarded.

### **Hampshire Gardens Trust**

Whilst objections are raised in respect of two of the Beach Hut applications (15/00940/CS3; 1500942 CS3), The Hampshire Gardens Trust comment that the site adjacent to The Esplanade at the east end of the seafront road is possibly appropriate for new Beach Huts (13/00791/FUL).

## **REPRESENTATIONS**

The application was originally submitted in 2013, and then put on hold until amended drawings were submitted in June 2015 when a second period of public consultation took place. Therefore, this section will be divided into two parts, the first highlighting representations received in respect of the application as originally submitted (118 beach huts) and the second highlighting representations received in respect of the second period of consultation in respect of the amended scheme (25 beach huts).

Representations received in respect of the original proposal (118 beach huts)

148 letters of representation were received in total, 107 in objection, 38 in support and 3 of general comment. It is apparent from reading each of the representations that many of the letters of objection were not totally against the principle of beach huts along the seafront, and many of the letters of support raised concerns in respect of the proposed design and height of the proposed beach huts.

Representations in objection to the proposal can be summarised as follows: (a) Inappropriate design including excessive height, bulk, appearance and use of materials; (b) The proposed beach huts would obstruct views of the beach, the Solent and the Isle of Wight from the promenade and adjoining highway; (c) Impact on nature conservation interests within the area;



(d) Impact on quiet, exposed and undeveloped character of this end of the seafront; (e) Impact on the surrounding highway network; (f) Impact on nearby heritage assets (g) Inadequate toilet facilities; (h) Increased rubbish/litter; (i) Restrictions on dog walkers (j) Increased opportunities for crime and anti-social behaviour; (k) Inappropriate spacing resulting in a fire hazard; (l) Impact on memorial benches on the promenade; (m) Loss of part of a public beach; (n) Loss of the existing huts; (o) Potential impact on health; (p) The need for additional beach huts including impact on the tax payer; (q) Other more appropriate locations along the seafront; and (r) Timing of the consultation.

Representations in support of the proposal can be summarised as follows: (a) Beach huts are sought after within the city; (b) The proposal would introduce interest and activity to the area; (c) The proposal would regenerate an underused section of the seafront; (d) The proposal would generate income for the council.

Representations received in respect of the revised proposal (25 beach huts)

27 letters of representation have been received, 20 in objection, 5 in support and 2 of general comment. It is noted that a number of representations by individuals updated their earlier comments. The objection comments are broadly in line with those previously received and can be summarised as follows:

(a) Inappropriate design including excessive height, bulk, appearance and use of materials; (b) The proposed beach huts would obstruct views of the beach, the Solent and the Isle of Wight from the promenade and adjoining highway; (c) Impact on nature conservation interests within the area; (d) Impact on quiet, exposed and undeveloped character of this end of the seafront; (e) Impact on the surrounding highway network; (f) The need for additional beach huts including impact on the tax payer; (g) Security risks to MOD housing in the area; and (h) The proposal would set a precedent for further development in the area.

Support comments reflect those reported above and highlight that the reduced numbers and greater separation between the huts would improve views from the promenade.

## **COMMENT**

The determining issues in this application are whether the proposed beach huts represent an appropriate design response for this prominent site having regard to the open character of the locality, whether they would preserve the setting of the adjoining heritage assets, whether they would have any impact on the nature conservation interests and whether there would be any highways implications.

### **Principle**

Having regard to the aims and objectives of Policy PCS9 (the seafront) and the Seafront Masterplan, it is considered that the principle of installing beach huts on this part of the seafront is acceptable.

### **Design including impact on heritage assets**

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that all new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; relate well to the geography and history of Portsmouth and protect and enhance the city's historic townscape and its cultural and national heritage.

When determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets.

Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

In addition to significantly reducing their number (118 to 25 and the retention of the existing 18), the design of the proposed beach huts has also been modified from that originally submitted in 2013 to reduce their overall height and increase the spacing between them. Due to the need for a robust and low maintenance design, as a result of the physical environment and potential impact of vandalism, the proposed beach huts would comprise secure steel containers at their core. These would be clad with timber panels in a selection of pastel colours with shallow pitched roofs to give a more traditional external appearance not dissimilar to the existing beach huts located just to the east. The proposed huts would be sited on timber 'sleepers' giving overall dimensions of approximately 2.3 metres wide by 3.7 metres deep and measuring 3.1 metres at the ridge. Each hut would be set 1 metre apart and would be accessed from a 2.5 metre wide timber boardwalk that would connect to an existing concrete ramp down from the promenade.

Having regard to their modified scale and form, it is considered that the proposed beach huts would be of an acceptable design and their typical beach hut appearance would not appear out of character given their context that includes beach huts of a similar design. It is accepted that this particular section of the seafront possesses a less developed and more natural exposed quality compared to other sections of Portsmouth's Coastline, particularly to the west. However, it is considered that the addition of 25 beach huts at the very rear of the beach, close to the established building line and the existing beach huts would not significantly change this open and exposed quality.

Whilst the drop from the promenade to the beach currently varies between 30 and 50 centimetres, the submitted drawings indicate that part of the beach would be excavated giving a consistent drop of approximately 1 metre. Whilst this would reduce the relative height of the beach huts to the promenade/highway the proposed beach huts would remain significantly taller than those already located to the east. It is considered the proposed beach huts would project 1.9 metres above the level of the promenade limiting unbroken views of the sea for all but the tallest individuals for a length of 82 metres. Whilst this is considered to be less than ideal, it is considered that as a result of the increased spacing allowing views would remain between the huts and the interruption would be for a small fraction of the length of the promenade. Opportunities would also remain for the public to access the beach between the huts and the sea for those who are able.

Whilst the site is not physically located within a conservation area, it is located just to the east of the 'Eastney Barracks' Conservation Area, with the potential to affect its setting. In addition, a row of Grade II listed lamp columns extend along the length of the promenade immediately to the north and an Eastney Barracks Fort (East) which is a Scheduled Ancient Monument is located just to the north-west beyond the Esplanade.

Having regard to the degree of separation to the Conservation Area and the Fort (100m), it is considered that the introduction of typical seaside facilities of a relatively modest scale would not be inherently at odds with the location or detract from the setting of the heritage assets. Whilst the proposed beach huts would be situated in closer proximity to the listed lamp columns, it is considered that they would not harm their setting or their special architectural or historic interest for which they were listed.

As the proposal is seen to preserve the setting and character of the designated and non-designated heritage assets within the area, the requirements of paragraphs 132-134 of the NPPF, which seeks to address the significance of any harm caused by development, would not be applicable in this instance.

## **Impact on residential Amenity**

Having regard to the reduced numbers and location on a public beach approximately 35 metres from the nearest residential property, it is considered that the presence or use of the proposed beach huts is unlikely to have a significant adverse impact on the amenity of the adjoining and nearby occupiers. The application, in its original and modified form, has been considered by the City Council's Environmental Health Team who suggest that, when considering the temporary and likely sporadic use of the huts, there is no reason to believe that any emissions would be sufficiently significant to materially impact upon the amenity of nearby dwellings.

Public Conveniences are located approximately 230 metres to the east which is not considered to be an unreasonable distance for users of the beach huts to walk to use the facilities.

## **Highways implications**

The site is located to the south of the Esplanade directly opposite its junction with Esplanade Gardens. The Esplanade is subject to a 30 mph speed limit and separated from the promenade by a two-way cycle route. There are double yellow lines on the north side of the road, with metered parking on the south side adjacent to the proposed development. The metered parking is in operation during the months of March to October. There is an existing ramped access down to the beach which links to the proposed new access and boardwalk.

The application does not include any provision for car parking, however there is existing on-street parking located along the seafront. Prospective users of the proposed beach huts would be aware of the existing parking arrangements when visiting the seafront and it is not considered that the provision of 25 additional beach huts would significantly increase the demand for parking in the area.

It is accepted that beach huts are well used by cyclists that is demonstrated by recent survey work undertaken by the Highways Team. Other than the occasional 'Sheffield Stand', there is no dedicated cycle parking facilities on the seafront in the vicinity. The nearest such facility is located at the Eastney toilet block and this is often well used during peak periods with little additional capacity available. It is therefore suggested that whilst no bicycle storage facilities are shown on the submitted drawings, additional provision could be sought through a suitably worded planning condition.

## **Nature Conservation**

In simple terms, there are essentially two ecological issues to consider in respect of this application, impact on vegetated shingle and impact on overwintering birds.

The application site is located within the Eastney Beach Local Wildlife Site (LWS). The LWS is designated for its vegetated shingle habitats, which are a nationally rare habitat type, and is listed in Annex 1 of the EU Habitats Directive as a habitat of international conservation concern. Vegetated shingle is a Habitat of Principal Importance under Section 41 of the Natural Environment and Rural Communities Act 2006 and also a BAP Priority Habitat - i.e. one of the habitats identified as being particularly important for biodiversity conservation and highlighted as priorities for conservation actions under the UK Biodiversity Action Plan. The importance of the site is recognised within Seafront Masterplan as well as the various interpretative media associated with the beach.

The application site is also located in close proximity to the Chichester and Langstone Harbours Special Protection Area (SPA) and Portsmouth Harbour SPA which are European sites. These sites are also listed as Chichester and Langstone Harbours Ramsar site and Portsmouth

Harbour Ramsar site, and also notified at a national level as Langstone Harbour Site of Special Scientific Interest (SSSI) and Portsmouth Harbour SSSI. The SAC is designated for a range of maritime habitat types and associated botanical plant communities.

The SPA / Ramsar sites are both designated for the presence of Dark Bellied Brent Geese, while the Chichester and Langstone Harbours SPA / Ramsar site is also designated for a wide range of other bird species. Each European site has its own intrinsic qualities, besides the habitats or species for which it was designated, that enable the site to support the ecosystems that it does. An important aspect of this is that the ecological integrity of each site can be vulnerable to impacts from natural and human induced activities in the surrounding environment.

Whilst not physically located within the SPAs, the application site forms part of Eastney Beach which is considered to provide supporting habitat for SPA bird species, which increases its value. The application site lies immediately adjacent (within several metres) to site P78 as identified within the Solent Brent Goose and Waders Strategy. This site has records of significant numbers of waders (600+) and brent goose (300) although it is considered to be more suitable as a high-tide/increment weather wader roost than brent goose habitat. Obviously SPA birds will not be restricted by a boundary shown on a plan and as such, the entire beach is potential wader roost/goose habitat.

The beach huts and associated boardwalk will be installed on an area of MG7 *Lolium perenne* leys/MC9 *Festuca rubra*-*Holcus lanatus* maritime grassland. Coastal grassland as a habitat is a key feature of vegetated shingle beaches. However this element of grassland is less typical due to its higher levels of ryegrass and other species that are likely to have been deliberately sown. Nevertheless, the structure of the coastal grassland (regardless of the grass species present) and the nature of the substrate (low fertility shingle and thin soils) has allowed this area to also support a range of species (particularly herb species) that are more associated with vegetated shingle, such as suffocated clover.

The proposed development would be likely to result in both direct and indirect damage to the habitats identified above resulting from the physical construction and retention of the beach huts and the boardwalk, and increased recreational pressure resulting from their use.

Notwithstanding the annotations on the submitted drawings, the physical siting of the beach huts and boardwalk would result in a permanent loss of approximately 750 square metres of SD1 vegetation community and the area affected during construction would extend to approximately 3000 square metres, although part of this impact would be temporary. No information has been provided to demonstrate how the application site could be excavated to reduce the relative heights of the proposed beach huts relative to the promenade as detailed above, or how it would be regarded without significant disruption to the beach surface and the vegetation community.

In respect of increased recreational pressure, it is noted that at present there are no restrictions on where visitors to the beach can walk. Therefore, it is not unreasonable to assume that activity is spread fairly evenly over a wide area, although there will be some concentrations around desire lines and unmade paths between the promenade and the sea particularly from the steps. The proposed beach huts, in combination with those already present, is likely to create a new focus of activity immediately to the south of them. As highlighted by the City Council's Ecologist, it is reasonable to assume that a level of concentrated trampling in the immediate vicinity of the new huts, as well as other potential issues such as litter and dog fouling will be created by attracting additional visitors to the beach within a more defined area. The impacts of trampling on beach flora can be profound and result in a significant loss of botanical interest.

Based on the best available data, both the physical loss of the beach to development and increased recreational disturbance is also likely to impact on the continued functionality of the beach as a roost resource in providing various locations for birds to rest. Therefore, it is important that any proposal either, a) avoids entirely any potential for recreational or other disturbance to overwintering birds; or b) provides sufficient field survey evidence to demonstrate

that the area to be impacted by the beach huts is not used, over a continuous period, by birds. The first issue could be addressed by restricting the use of the beach huts over winter periods. However, there is currently insufficient information to demonstrate that the area is not used, over a continuous period, by birds. As highlighted by Natural England even with a planning condition restricting the use of the huts over the winter, the addition of new structures onto the beach may also result in disturbance. This would occur from the physical presence of the structures and the new and improved access onto a quieter stretch of beach. These issues are not readily avoidable and the likely impact on birds is unknown (but by applying the precautionary principle, is likely to be negative). Ultimately, the Local Planning Authority has no detailed information (either provided by the applicant or held by Natural England and the Council's Ecologists) on the use of the beach by birds and therefore does not have sufficient information to determine that the proposal would not have a significant effect.

Para 118 of the NPPF states "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles ... if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".

Policy PCS13 (a greener Portsmouth) states that the City Council will protect green infrastructure (GI). GI is identified in the Plan as a network of multifunctional green and open spaces that can improve quality of life, support biodiversity and stimulate the economy, and that it is essential to the city's continued development. Eastney Beach is identified in the Plan as providing a more natural landscape with an excellent variety of coastal flora. The application plans show that a significant proportion of the beach area within the redline boundary would be covered by the beach huts themselves or decking. The impacts of the development would therefore be permanent habitat loss through the construction of the decking area. There are also likely to be impacts from the increased use of the wider area leading to further habitat degradation - thus, impacts are not confined to within the redline boundary. The Policy states that the Council will protect GI by ensuring that:

- \* the intrinsic habitat value of the site can be retained or enhanced through development proposals, and
- \* allowing development only if it clearly outweighs the substantive nature conservation value of the site, an impact on the site cannot be avoided or mitigated and compensatory measures are provided.

Policy PCS9 (The Seafront) is also relevant. While this proposal may appear to be in accordance with some aspects of this policy, for example that of 'encouraging and supporting proposals for small scale restaurants, cafés and other uses and activities that will diversify the leisure and cultural offer', (as also highlighted in the applicant's Design and Access Statement), it would appear to be contrary to the element of Policy PCS9 that requires 'Protecting the nature conservation value at Eastney Beach'.

The Eastney Beach Habitat Restoration and Management Plan Supplementary Planning Document (SPD) sets out a strategy for addressing issues relating to vegetated shingle impacts. It promotes a phased approach to addressing these issues and suggests small-scale trial of habitat restoration techniques prior to any development-related measures. However, whilst recognising that the SPD and the submitted information go some way to addressing the issues, the application will result in a net loss of and as-yet-unquantified damage to other sections of the LWS. This is contrary to the policies detailed above and without a fully-detailed mitigation and restoration strategy, informed by appropriate periods of survey work/trials, it is considered that insufficient information has been submitted to support the application.

It is impractical to attempt to address the nature conservation issues through imposition of conditions as the ecological impacts must be considered as part of the planning assessment. Potential ecological mitigation/compensation measures should not be dealt with retrospectively

through conditions, but the appropriateness of these measures need to be assessed as an integral part of the decision-making process.

Therefore, on the basis that the development is not directly connected with or necessary to the management of the beach habitats detailed above, insufficient information has been provided to ascertain that a 'likely significant effect' can be ruled out, and it has not been demonstrated that an ecological mitigation strategy could be created to address any identified harm, it is considered that the proposal does not accord with the aims and objectives of the National Planning Policy Framework or policies PCS13 or PCS9 of the Portsmouth Plan.

## **RECOMMENDATION            Refuse**

The reasons for the Local Planning Authority's decision are:-

1) The proposal is located within close proximity of Chichester and Langstone Harbour and Portsmouth Harbour SPAs, and within part of Eastney Beach that is considered to provide supporting habitat for SPA bird species. In the absence of a detailed ecological assessment to demonstrate the proposal would not lead to the displacement of SPA birds or recreational disturbance to SPA supporting habitat, the Local Planning Authority is unable to conclude that the proposal would result in no likely significant effect on the Portsmouth Harbour and Chichester and Langstone Harbours SPAs. Therefore the proposal is contrary to policy PCS9 and PCS13 of the Portsmouth Plan and the aims and objectives of the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2010 (as amended).

2) The proposal is located on a Local Wildlife Site identified for vegetated shingle that supports scarce species. In the absence of an ecological assessment the Local Planning Authority is unable to assess the potential impact on the Local Wildlife Site and given that it may not be possible to avoid habitat loss, how the impacts would be mitigated/compensated for. In the absence of this the Local Planning Authority is unable to properly assess if any potential benefits represent an overriding justification against the protection and enhancement of the biodiversity value of the site and the proposal is therefore contrary to policy PCS9 and PCS13 of the Portsmouth Plan and the aims and objectives of the National Planning Policy Framework.

## **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 it was not considered that the harm arising from the proposal could be overcome and the application has been refused for the reasons outlined above.