

# PLANNING COMMITTEE

## 13 JANUARY 2016

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>

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**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.

SSSIs: 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 SSSIs 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 (ie 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 complement 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/inclement 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.

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## **02**

**15/00942/CS3**

**WARD: EASTNEY & CRANESWATER**

**BEACH 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 relevant policies within the Portsmouth Plan would include: PCS9 (The seafront), PCS13 (A Greener Portsmouth), PCS17 (Transport), PCS23 (Design and Conservation).

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 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.

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**03**

15/01838/TPO

WARD: MILTON

**ST JAMES HOSPITAL LOCKSWAY ROAD SOUTHSEA PO4 8LD**

**WITHIN TREE PRESERVATION ORDER 177 - FELL HORSE CHESTNUT (T876), NORWAY MAPLE (T338), HOLM OAK (T419), AND YEW (T940); REDUCTION OF OVERHANGING BRANCHES BACK TO BOUNDARY OF TWO COMMON LIMES (T789, T761) AND TWO SILVER BIRCHES (T788, T786); REDUCE MAJOR LIMB ON ROAD SIDE BY 5METRES AND CROWN LIFT UP TO 5METRES OF HOLM OAK (T370); CROWN LIFT UP TO 5.2METRES OF LIME (T403); CROWN REDUCTION OVER CRICKET PITCH BY 4-5METRES OF HOLM OAK (T450); CROWN THIN BY 20% AND CROWN LIFT UP TO 5METRES OF SILVER MAPLE (T990)**

**Application Submitted By:**

Bailey Bros (Southern) Ltd  
FAO Miss Helen Baldwin

**On behalf of:**

Property Services NHS

**RDD:** 5th November 2015

**LDD:** 31st December 2015

**SUMMARY OF MAIN ISSUES**

The main issues are;-

- i) The impact of the proposed works on amenity;
- ii) The impact of those works on the setting of the Listed Building; and
- iii) Whether or not there are sufficient grounds for the works as proposed.

**The site**

This application relates to the grounds of St James Hospital which covers an extensive area of land between Locksway Road to the south, Mayles Road to the west, the University playing fields to the east and an area of more recent housing development served by Edenbridge Road to the north. The site includes the original hospital building situated in the north-west quarter, a number of satellite buildings within the north-east quarter, open space in the south-west quarter and residential development and the Harbour school site in the south-east quarter. The main hospital building is a Grade 2 Listed Building of high architectural merit, with a Grade 2 Listed Chapel building to the east. Distributed throughout the site are many trees, the majority of which are protected under Tree Preservation Order 177 and contribute to a parkland setting.

**Proposal**

The applicant seeks consent for the removal of four trees; a Horse Chestnut situated to the east of the main buildings, a Norway Maple situated within a group of trees at the northern end of the main access road into the site, a Holm Oak situated within a line of trees to the south of the cricket pitch, and a Yew situated to the south west of the main buildings. Of the remaining trees, which are to be the subject of tree surgery, two are located adjacent to or close to the Locksway Road frontage, four are located adjacent to the northern boundary in the vicinity of the former Light and Gleave Villas, and two are located to the west side of the hospital grounds.

## Relevant planning history

Whilst there is an extensive history of works to protected trees within the site the most recent proposal related to a notification to remove ten trees. Those trees were found to be dead or dangerous and no objection was raised to their removal under the provisions of the Trees Regulations and a requirement was imposed for their replacement.

## POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS13 (A Greener Portsmouth).

## CONSULTATIONS

### Leisure/Arb Officer

Observation of the trees throughout the St James Hospital site suggests neglect with tree management being undertaken reactively as required. There is no discernible pattern of ongoing routine survey and management. This application is additional to the notification to fell a further 10 trees already dead and removal of extensive deadwood from 12 other trees on site, neither of which require consent.

NHS Property Services are now discharging the duty of care imposed upon them by the Occupiers Liability Acts 1957 and 1984 with respect to the trees on the St James Hospital site.

My comments in relation to the specific proposals are as follows;-

T876 - a large mature specimen of Horse Chestnut appears to be in decline; extensive damage and decay is visible throughout the crown and die back is visible, this may be attributable to *Pseudomonas syringae* Chestnut Canker which causes death of the cambium and reduces flow of water, nutrients and photosynthates throughout the crown. It is not easy to measure the rate of decline, trees are living organisms and can alter in condition and vitality very quickly. It is in close proximity to an access road and carpark, management options such as heavy reduction were considered but this would result in further decline of the tree and enhance the risk of failure. Ultimately it is concluded that felling would be the option most appropriate in this circumstance.

T338 - a semi-mature example of Norway Maple exhibits significant die back throughout the crown, additionally the fruiting bodies of a *Ganoderma* species of fungi are present at the base of the tree. *Ganoderma* is a wood decay fungi which attacks heartwood in the butt and stem of a tree digesting Lignin resulting in failure of the stem. Proximity to the main access route into the hospital site precludes any option other than felling to mitigate risk.

T449 - a semi-mature Holm Oak. Suppressed by the neighbouring trees resulting in phototropism, T449 has a severely inclined habit and extends across another main route through the hospital site. Lost amongst the neighbouring trees it is of little amenity value and due to the inclined habit removal could be accepted as a management option, thus allowing space for higher value trees to develop.

T940 - a semi mature multi-stemmed Yew in decline, in excess of 50% of the canopy features extensive die back; this probably through root damage and soil compaction following the construction of the adjacent car park which covers approx. 50% of the root plate. Pruning and remedial tree surgery are unlikely to prevent further die back or further decline. Felling is the appropriate management option.

T786, T788 (Silver Birch) and T761, T789 (Common Lime) are mature examples of their species. Reduction of limbs extending across boundaries by the adjacent property owners is a

principle established in common law following *Lemmon V Webb* 1894. Application can be made to undertake such works to protected trees by those so affected.

There is no legal obligation on the tree owner to undertake such pruning and in this case it appears the NHS Property Trust is being a "good neighbour"

T370 - a mature example of Holm Oak. Bifurcated close to ground level a large limb extends toward the main access route. This limb is attached by a compression fork and weak union which appears to be spreading. Reduction by approx. 5m to a side limb will reduce the weight upon the weak union and mitigate risk of failure, the proposed crown of the remaining growth balance the crown form.

T403 - a mature example of Common Lime. The proposed crown lift is required in order to discharge the statutory requirement that highways and footpaths are to remain unobstructed, Section 154 Highways Act 1980 refers.

T450 - a mature example of Holm Oak. Extending across the boundary of the sports field it has a history of shedding limbs in the past. Reduction approx. 4 - 5m to a side limb will reduce the weight upon the over-extended limbs and reduce risk of failure.

T990 - a fine example of a mature Silver Maple. The proposed crown lift is required in order to discharge the statutory requirement that highways and footpaths are to remain unobstructed, Section 154 Highways Act 1980 refers. Additionally the inner crown features dense growth which may be a response to previous pruning. Thinning will improve airflow and light throughout the crown.

### **Recommendations**

As a return to proactive tree management the application be granted.

### **Conditions**

Replacement plantings on a like for like basis are to be made for those trees felled.

Planting of alternative species is to be agreed in writing by the LPA.

Replacement plantings are to be of the Nursery specification:

Girth (cm)	Height (metres)	
Standard (S)	8-10cm	2.0-3.0m
or		
Select Standard (SS)	10-12cm	2.5-3.5m

### **REPRESENTATIONS**

At the time of preparing this report sixty-four representations have been received objecting to the felling of any trees on the grounds that the trees (a) improve air quality, (b) provide a habitat for birds and wildlife, (c) their loss increases the risk of flooding, (d) they provide for the general wellbeing of residents who enjoy the peace and tranquility of the hospital grounds, and (e) the loss of trees does not fit in with the wishes of Milton Residents to preserve the area.

### **COMMENT**

The main issues are the effects of the proposed felling and other tree surgery on the visual amenity of the area and setting of the Listed Building, and whether there are sufficient grounds for the works as proposed.

The grounds of the hospital cover an extensive area of level topography, surrounded by residential development, within which the public have been permitted access. Viewed from the public realm and the rear of houses that abut the site, the tree cover within the grounds give the hospital its characteristic appearance of a parkland setting and makes a valuable contribution to the amenity of the area. The comments of the arboricultural officer are noted in that historically the owner of the site has not pro-actively maintained the trees.

Of the several hundreds of trees within the grounds the loss of a small number would not be considered to have a significant impact overall, and their replacement with new trees would in the long term maintain the parkland setting characteristic of the site. The four trees to be removed are dispersed throughout the western half of the grounds, and whilst the loss of T876 [horse chestnut] would represent the most significant loss of visual amenity it is considered that its general condition and reasons for removal would, together with a requirement for replacement, outweigh the loss of amenity. Of the remaining three trees, two are situated within a line of other trees where their removal would have less of an impact on amenity, while the third [T940] exhibits serious decline. In each case removal is considered to be justified subject to replacement planting.

The scope of the proposed tree surgery to the other eight trees is considered to be proportionate with sufficient justification to warrant support. Those works would be in the arboricultural interests of the trees and would not be considered to significantly affect visual amenity.

In relation to the main hospital buildings three of the trees to be removed are in close proximity [T876, T338 and T940]. However, having regard to the condition of those trees together with a requirement for replanting to maintain tree cover, it is considered that their removal would not have an adverse impact on the setting of the Listed Building.

It is therefore considered that the proposed felling and other tree surgery would be in the proper arboricultural interests of the trees and visual amenity of the site and would not otherwise adversely affect the heritage asset.

## **RECOMMENDATION                      Conditional Consent**

### **Conditions**

- 1) The works hereby approved shall be carried out within 2 years of the date of this consent.
- 2) The Horse Chestnut (T876) shall be felled to ground level and the stump removed.
- 3) The Norway Maple (T338) shall be felled to ground level and the stump removed.
- 4) The Holm Oak (T449) shall be felled to ground level and the stump removed.
- 5) The Yew (T940) shall be felled to ground level and the stump removed.
- 6) Notwithstanding the particulars of your application no works whatsoever shall be carried out to trees T789 and T761 [Common Limes] and trees T788 and T786] other than to reduce overhanging branches back to the boundary.
- 7) Notwithstanding the particulars of your application no works whatsoever shall be carried out to tree T370 [Holm Oak] other than to reduce major limb on road side by 5m and crown lift up to 5m.
- 8) Notwithstanding the particulars of your application no works whatsoever shall be carried out to tree T403 [Lime] other than to crown lift up to 5.2m

- 9) Notwithstanding the particulars of your application no works whatsoever shall be carried out to tree T450 [Holm Oak] other than a crown reduction over cricket pitch by 4-5m.
- 10) Notwithstanding the particulars of your application no works whatsoever shall be carried out to tree T990 [Silver Maple] other than to crown thin by 20% and crown lift up to 5m.
- 11) Replacement trees (the size to be Select Standard as specified in British Standard 3936-1:1992 Nursery Stock Part 1: Specification for trees and shrubs), shall be planted within the site within the first planting season (November-March) following the removal of the trees hereby permitted to be felled. The species and exact siting of the replacement tree shall first be agreed in writing by the Local Planning Authority.
- 12) All work shall be carried out in accordance with BS 3998: 2010. (Tree work recommendations).

**The reasons for the conditions are:**

- 1) To comply with Regulation 17 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012.
- 2) To ensure the amenity afforded by the tree is continued into the future in accordance with policy PCS13 of the Portsmouth Plan.
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- 11) To ensure the amenity afforded by the tree is continued into the future in accordance with policy PCS13 of the Portsmouth Plan.
- 12) To ensure the amenity afforded by the tree is continued into the future in accordance with policy PCS13 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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# 04

14/01664/FUL

WARD: MILTON

**LAND AT ST JAMES HOSPITAL (FORMERLY LIGHT VILLA AND GLEAVE VILLA)  
LOCKSWAY ROAD SOUTHSEA PO4 8LD**

**CONSTRUCTION OF TWO-AND THREE-STOREY DWELLINGS COMPRISING 14NO 4-BED HOUSES, 12NO 3-BED HOUSES, 2NO 2-BED HOUSES AND 2NO 1-BED FLATS WITH ASSOCIATED ACCESS ROADS, PARKING, CYCLES STORES, OPEN SPACE AND LANDSCAPING WORKS**

**Application Submitted By:**

Matplan Limited  
FAO Mr Matthew Utting

**On behalf of:**

Crayfern Homes Limited

**RDD:** 22nd December 2014

**LDD:** 24th March 2015

## SUMMARY OF MAIN ISSUES

The main issues are whether;-

- i) The development is acceptable in principle
- ii) The design and appearance of the development would relate appropriately to its surroundings having regard to tree cover,
- iii) The proposals would harm the setting of the nearby listed buildings
- iv) The development would provide a satisfactory standard of living environment for future residents including the provision of a landscaped setting and amenity areas,
- v) The development makes adequate provision for the transport needs of future occupiers,
- vi) The development is viable and can provide and deliver adequate community benefits including affordable housing,
- vii) The development would make adequate provision for mitigation in relation to impacts on the nearby Special Protection Area and potential threatened species.

### The site

This application relates to the north-east part of the grounds of St James Hospital. The Hospital covers an extensive area of land between Locksway Road to the south, Mayles Road to the west, the University playing fields to the east and an area of more recent housing development served by Edenbridge Road to the north. The site includes the original hospital building situated in the north-west quarter, a number of satellite buildings within the north-east quarter, open space in the south-west quarter and residential development and the Harbour school site in the



south-east quarter. The main hospital building is a Grade 2 Listed Building of high architectural merit, with a Grade 2 Listed Chapel building to the east. Distributed throughout the site are circa 1000 trees, the majority of which are protected under Tree Preservation Order 177 and contribute to the parkland setting characteristic of the hospital.

The application site comprises the area of land bounded by comparatively modern housing to the north, an extended Villa [now known as Baytrees] and associated grounds to the west, the University playing fields to the east and the retained Mental Health Campus to the south. The site contains a number of trees mainly within the eastern part and adjacent to the site boundaries.

## **Proposal**

The applicant seeks full permission for the construction of thirty dwellings comprising two- and three-storey buildings, served by an extension of Lapwing Road, with associated car parking and landscaping works. The layout of the site provides for a group of six two- and three-storey houses on the eastern part of the site, a detached and pair of semi-detached houses at the entry to the site from Lapwing Road, a curved terrace of three and four two-storey houses (with a car parking court to the rear) leading onto a row of six semi-detached houses with an aspect across the new estate road to an area of incidental open space with a row of six two- and three-storey houses and two flats facing the western end of the estate road turning head. The design theme to the proposed houses would closely reflect the styles and appearance of a nearby development recently completed by the applicant at Riverhead Close. The applicant has adopted a traditional approach with a palette of materials that reflects the appearance of the remainder of the estate albeit giving the proposed development its own identity. The proposed houses incorporate a level of articulation in terms of features, with houses having gabled elements, projecting eaves, stone lintols and cills, Juliette style balconies and some variation in external finishes including face-brickwork and coloured render. The layout of the development has been informed by an assessment of the existing trees within the site.

## **Planning History**

In September 2013 the owner of the site submitted an application for a screening opinion in relation to the redevelopment of the site to provide 30 dwellings. Of the classes of development within Schedule 2 this particular proposal would most appropriately fall within Class 10(b) in that it would amount to an urban development project. The applicable threshold for that nature of development is 0.5ha on the basis that the site for the proposed development is not within or very close to a sensitive area. A sensitive area is defined as including a SSSI, land subject to nature conservation orders under s29 of the W&CA 1981, a National Park, The Broads, a property on the World Heritage List, a Scheduled Ancient Monument, an AONB, or a site given protection under the Conservation (Natural Habitats etc) Regulations 1994.

In this case the site is located approximately 0.4km from the Langstone Harbour SSSI, Solent Maritime CSAC and the Chichester/Langstone Harbours SPA/Ramsar sites. The thresholds would not therefore apply. It does not, however, follow that a project that would be located in or would affect a sensitive area would automatically require EIA. It is necessary to consider whether the project would be likely to give rise to significant effects on the sensitive area. Notwithstanding the location of the site in relation to a sensitive area, Annex A to the Circular also provides indicative thresholds and criteria for the identification of Schedule 2 development requiring Environmental Assessment. Para A19 states that development proposed for sites which have not been previously developed are more likely to require Environmental Assessment if the site area of the scheme is more than 5ha and the development would have significant urbanising effects in a previously non-urbanised area [eg more than 1000 dwellings]. In addition to physical scale consideration was also be given to the potential increase in traffic, emissions and noise.

It was considered that, in terms of its physical impact on the locality at both construction and operative stages from traffic and noise there was unlikely to be any significant impact in relation to human receptors. There may, however, be an impact on the interest features for which the nearby SPA is designated and potentially the SPA itself from recreational disturbance. Any such impacts would, nonetheless, be considered as part of a project level Habitats Regulations Assessment. As such it was concluded that the proposed development would not require formal Environmental Assessment.

## **POLICY CONTEXT**

In addition to the National Planning Policy Framework the relevant policies within Portsmouth Plan would include: PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS21 (Housing Density), PCS21 (Housing Density), and PCS23 (Design and Conservation). Saved policies DC21 (Contaminated Land) and MT3 (Land at St James' Hospital) of the Portsmouth City Local Plan 2001-2011 would also be relevant.

The following Supplementary Planning Documents are material considerations;-  
Achieving Employment and Skills Plans  
Housing Standards  
Parking Standards and Transport Assessments  
Reducing Crime Through Design  
Solent Special Protection Areas  
Sustainable Design and Construction

Introduced in March 2015 and effective from 1 October 2015 the 'Technical housing standards - nationally described space standards' seek to ensure that new housing provides a satisfactory living environment for future occupiers at a defined level of occupancy.

Although situated in the north-east part of the hospital grounds the site nonetheless falls within the curtilage of the principal hospital buildings and chapel which are Grade 2 Listed Buildings. Accordingly there is a special duty imposed under s66 of the Listed Building and Conservation Areas Act, 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, would also be relevant to this proposal.

## **CONSULTATIONS**

### **Southern Gas Networks**

No comments received.

### **Southern Electric**

No comments received.

### **Portsmouth Water**

No comments received.

### **Southern Water**

Further to previous correspondence with the developer, sufficient evidence has been provided of existing flows currently discharging to the public sewerage system. The developer is proposing to limit the flows from the development to no greater than currently is connected to the public sewerage system. Therefore, Southern Water would have no objection to the proposed development connecting to the existing network. The evidence of existing flows connected to the sewerage system and flows calculations shall be submitted along with the application to obtain approval for the connection.

### **Environment Agency**

Having assessed the planning application with regard to the development type and location of the proposal, we can confirm that we have no bespoke comments to make.

### **Arboricultural Officer**

The St James Hospital site appears in terms of arboricultural management to have been severely neglected for a significant period of time. Across the site as a whole are several trees whose removal or management has been commented on before as a matter of safety to users of the site.

The Arboricultural Impact Appraisal and Method Statement submitted by Barrell Tree Consultancy has been updated to include management recommendations for all trees proposed for retention in order to return them to good arboricultural management and ensure that subsequent owners take possession of trees in the best possible condition for their age and circumstance.

There appears still to be a presumption removal of several higher quality trees will be permitted in order to facilitate development:

T23 Cat B - TPO 177 T609 Salix alba

T28 Cat B- TPO 177 T50 Tilia europea

T43 Cat A- Alnus sp believed cordata is not protected by TPO 177.

The application is now supported by recommendations and proposals for replacement planting of those trees to be removed and a detailed landscaping proposal and specification has now been submitted which includes a 5 year establishment management scheme following completion of the development. Replacement tree planting balances proposed removals. Recommendations - Following submission of the revised Arboricultural Impact Statement and detailed landscaping proposals incorporating previous recommendations the application be granted.

### **Contaminated Land Team**

I have reviewed the above application and various submissions . The proposed remedial strategy involves a shallow site strip followed by further testing of the deeper soils and then the addition of a 300mm layer of imported soil. This approach is acceptable to this office and so this office requests the following conditions, or similar, to verify the works are complete before occupation.

(i) 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 that any remediation scheme as detailed in Phase III Remediation Strategy Report at Light Villa, Site B, St James' Hospital, Portsmouth, Hampshire, PO4 8UQ, Soils Limited, Report Ref: 14533/RS has been implemented fully (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) third party verification of gas membrane installation
- d) 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 approved scheme.

Reason (common to all): To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### **Environmental Health**

I am able to confirm, with reference to the PCC Planning SPD AQ and Air Pollution 2006, particularly sections 1.2, 1.4 and appendix B, that I do not believe the introduction of 30 new dwellings will have a material impact upon Air Quality either in the immediate area of the development or the wider Milton setting.

### **Highways Engineer**

Existing Highway Network

Lapwing Road on the site's northern boundary (where access is proposed to be taken from) is a cul-de-sac with a turning head at its southern end. Access to the wider highway network is available via Siskin Road (itself a cul-de-sac to the east), through to Edenbridge Road.

All surrounding roads have direct residential frontage and access, and the roads in the immediate vicinity of the site are subject to a 20mph speed limit. Footways are generally

provided on both sides of the roads. The three-way junction (with no priority markings) at the junction of Siskin Road / Lapwing Road takes the form of a raised table.

#### Site Access

The site access will be via an extension of the existing Lapwing Road. The southern end of Lapwing Road ends at the fence (the site and highway boundaries are contiguous). Lapwing Road was constructed with the view that it would form a future connection to the land to the south. It has a width of 5m, and includes of 2m footways on both sides of the carriageway. There is an existing parking lay-by on the west side of Lapwing Road. Lapwing Road currently serves eight dwellings. It is capable of serving 38 dwellings with the current proposal.

#### Internal Roads and Swept Path

The proposed layout shows the site's access roads and car parking locations. The first section of the road provides footways to both sides with a service margin running on the opposite side, and the remainder of the road acting as a shared surface.

The swept path diagrams submitted demonstrates the internal roads are capable of handling 11.2m length refuse vehicle.

#### Parking Provision

##### Car Parking:

In accordance with the Portsmouth Parking Standards Supplementary Planning Document (SPD) (August 2014), the development would require 51 spaces for residents and an additional 10% (five) dedicated for visitors; a total of 56 spaces.

The proposal provides 51 spaces with parking provided in garages, car ports and external parking spaces, plus 11 unallocated visitor spaces – five on street in lay-bys and six in car ports. However following amendments to the layout should be considered to make it acceptable:

- 1) No parking marked for units 10 and 11.
- 2) 4 Visitor parking spaces marked in courtyard parking for 8-14 can be allocated to 10 and 11.
- 3) Visitor parking to be provided as per layby parking on access road.
- 4) Bin collection point adjacent to no.11 needs to be moved closer to the road so refuse vehicle does not have to reverse along the access road to the parking courtyard.
- 5) Extend main turning head adj. to plot 27/28 to allow for parking to take place beyond the area needed to be used by the refuse vehicle to turn. At present a parked vehicle would block the turning of the refuse vehicle (and by allowing parking to place beyond this reduces the risk of the turning head being obstructed by parked vehicles).

##### Cycle parking

Each dwelling is to be provided with secure cycle parking, within garages (minimum 7m x 3m internal dimension) or within cycle sheds for dwellings without garages. The sheds shall be provided with lockable doors and concrete floors which secure locking lugs which comply with silver or gold 'secure by design' specifications. Separate parking for visitors is also shown along the main estate road serving the site's redevelopment. Accordingly, the cycle provision complies with PCC's 2014 Parking Standards and Transport Assessments SPD.

#### Traffic Generation

Traffic generation is based on 30 private houses although nine of the homes are proposed to be affordable and two one bed flats which may generate low level of vehicle generation.

The traffic generation has been estimated using traffic survey data from the TRICS trip generation database - using traffic surveys of housing developments in comparable locations. The analysis has shown the proposal for 30 dwellings has the potential to generate an average of 16 two-way vehicle trips in the peak hours.

The total traffic generation of the scheme will be modest (one vehicle movement on average every four minutes) and the impact on local junctions will be less than one vehicle every six minutes on average.

The results demonstrate that the proposal will have a minor impact on the following junctions:

- a) Warren Avenue/Milton Road - one vehicle movement every 15 minutes;
- b) Euston Road/Velder Avenue - one to two vehicle movements per hour; and
- c) Moorings Road/Velder Avenue/Eastern Road - less than one vehicle every six minutes.

Considering the above figures, the development is unlikely have a significant impact on the above junctions. That considered, problems occur with queues on Moorings Way that extend back past Osprey Court while vehicle wait for a green traffic signal. This can lead to a queue back to Eastern Road as it often takes a significant period of time for Moorings Way to clear. In

order to improve this pinch-point area should be covered by double yellow lines. This would allow additional queuing space (both over 6m section and entrance to Osprey Court) thereby reducing the occurrences of traffic blocking.

Given the local sensitivity to new developments in this area, this minor on street amendment would offer significant traffic benefits.

Local residents and ward councillors have in the past raised concerns about the difficulty to cross the mouth of Edenbridge Road at the junction of Warren Avenue due to the width of the bell mouth. A narrowing of this egress would minimise pedestrian safety concerns which will be exacerbated by the additional traffic generated by this development.

This will assist with providing a more desirable active travel route

Heads of Terms obligations for 106

a) TRO for double yellow lines on Moorings Way to avoid pinch point. £5,500

b) Improve pedestrian crossing facility at the end of Edenbridge Road. £15,000

Recommendation:

Raise no objection subject to Planning obligations above and following planning conditions:-

1) Prior to first occupation the proposed car parking shown on the approved plan shall be provided and maintained.

2) Prior to first occupation secure/weatherproof bicycle storage facilities shall be provided and maintained to include advice detailed above.

3) prior to first occupation facilities for the storage of refuse and recyclable materials shall be provided and maintained and a refuse management plan is required for dwellings where bins need to be moved to a collection point.

4) No development shall take place on the site until the following details have been submitted to and approved in writing by the Local Planning Authority:-

i) a specification of the type of construction for the roads and footpaths up to adoptable standards, including all relevant horizontal cross-sections and longitudinal sections showing the existing and proposed levels, together with details of street lighting and the method of disposing surface water; and,

ii) a programme for making up of the roads and footpaths up to adoptable standards.

iii) should the developer be minded to not enter into a S38 agreement, then evidence of a future maintenance and management plan for the development must be provided, and the development supported by a commuted sum to ensure this happens.

5) Construction management plan to include the following:

- Times of deliveries
- Wheel wash facilities
- Site office facilities
- Contractor parking areas
- Loading/off loading areas

### **Landscape Group**

I have reviewed the Villas scheme for St James Hospital, and have the following comments:

It's nice to see a housing development that has been drawn up to respect the trees on site to such an extent, that doesn't always happen. The tree report is thorough and well-considered to support the development. Furthermore by creating a large open space for a wildflower meadow, I think this will be a pleasant environment for the new residents.

The landscape palette sheet is also well-considered and should provide a good setting for the new housing. However as there is no supporting landscape masterplan I can only guess how it will all go together at this stage. I assume this will then be conditioned so that we can see a full landscape masterplan later on?

A small comment: most of the houses seem to have cycle stores; others don't seem to have one, not sure why if this is Code 5 for Sustainable Homes? The stores in Plot 27/28 look a bit randomly located, can't tell how far the garden extends for this plot though.

Other than that, I would say a good scheme.

### **Natural England**

Internationally and nationally designated sites

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 and Solent Maritime Special Protection Area (SPA) and Special Area of Conservation (SAC) respectively which are European sites. The sites are also listed as Chichester and Langstone Harbours Ramsar site<sup>1</sup> and also notified at a national level as Langstone Harbour Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

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.

SPA: No objection

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 the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. This conclusion has been drawn having regard for the measures built into the proposal that seek to avoid all potential impacts. On the basis of information provided, Natural England concurs with this view.

The applicant is proposing to make an appropriate commuted sum payment towards the Solent Recreation Mitigation Partnership, and the Milton Common Local Nature Reserve Restoration and Mitigation Framework which has recently been adopted by the City Council, therefore Natural England has no objection to this development.

#### **RSPB**

We object to the above proposal [*as originally submitted without site specific mitigation*]. Without effective mitigation measures, the development (both alone and in combination with other proposed housing the Milton area) is likely to have a detrimental effect on these sensitive areas, contrary to the Conservation of Habitats and Species Regulations 2010 ('the Habitats Regulations'). based on the information contained with the Mitigation Statement accompanying the application, it appears that, of these identified mitigation measures, only screening has been offered by the applicant.

No consideration appears to have been given to the building design, with regards to potential impacts on the nearby brent goose feeding site. Whereas, undertaking construction outside of the wintering period has been considered, but dismissed on the basis that 'commencing development during the summer would conflict with nesting birds.' Yet, the assessment of potential impacts on nesting birds strongly indicates that construction works are nonetheless anticipated to occur during this period, apparently contradicting the argument for needing to undertake works during the sensitive winter period.

Critically, no assessment has been made of the potential for access of the new residents to the surrounding brent goose feeding sites. In the case of the University Playing Fields, current and future potential access should be considered, as accessibility has the potential to change in the future, in line with the redevelopment of the University Campus. It is also important that the assessment considers the in-combination effects with the additional houses planned for the immediate area, including the 370 new houses proposed for the St James Hospital Site as a whole, and with the proposed Eastney coastal path improvements also proposed within the draft Site Allocations Plan.

During our recent discussions with the Council concerning the HRA of the draft Site Allocations Plan, the RSPB, Natural England and the Wildlife Trust advised that it is likely to be extremely difficult to mitigate the combined recreational pressures arising from the current levels of new housing proposed in the Milton area. We have recommended that the Council consider facilitating a localised strategic approach, by exploring options for improving management of Milton Common in order to enhance feeding opportunities for brent geese, while also providing carefully zoned recreational access. There is, however, a considerable amount of work involved in this (including visitor surveys and other ecological surveys), and, as the Council will be aware, mitigation must be agreed and secured prior to construction of any developments that rely on it, and the measures must be fully operational before occupancy of the new dwellings.

The above matters should be fully considered by the Council as part of an appropriate assessment under the requirements of the Habitats Regulations. However, we would advise that, based on the current information provided by the applicant, it would not be possible to conclude no adverse effect on either the Chichester and Langstone Harbours SPA/Ramsar site or the Portsmouth harbour SPA/Ramsar site due to a lack of information regarding the potential impacts on and measures to protect brent goose feeding sites in the surrounding area. Notwithstanding the above matters, we trust that, in addition to the site-specific mitigation to protect SPA supporting sites (ie the brent goose feeding areas), the applicant will also be required to contribute towards the Solent Recreation Mitigation Partnership, in order to mitigate recreational pressures within the Solent SPAs, in line with the Council's Solent SPAs Supplementary Planning Document.

### **Ecology**

The application is supported by a range of ecological information, including a Bat Scoping Survey of the trees present and a Reptile Survey (The Ecology Co-op, September 2014) and a Mitigation Strategy (The Ecology Co-op, December 2014).

#### **International Sites**

The proposed development is located approximately 3.6km from Portsmouth Harbour SPA (at the closest point of the Portsmouth coast within the SPA to the development) and approximately 400m from Chichester and Langstone Harbours SPA. Advice from Natural England, expanded on in section 2 of the Solent Special Protection Areas SPD confirms that increases in population within 5.6km of the Solent SPAs through development would lead to a significant effect on those SPAs.

These two SPAs are both designated for the presence of Dark Bellied Brent Geese and a number of wading species. These species – and consequently the conservation status of the SPAs – can be affected in a variety of ways. In particular, residential development can increase the population at the coast, thus increasing the level of disturbance, which can lead to a resultant significant effect on the SPA's conservation objectives.

The Regulations require planning proposals such as this to be considered in combination with all other plans or projects. Plans and projects considered to be included in this in combination assessment would include permitted but uncompleted developments, on-going permitted activities, and plans or projects which are being considered, are out for consultation but are yet undetermined.

This development proposal – on its own – might ordinarily be considered not to have a likely significant effect, due to the relatively small number of dwellings. Thus, the only impacts would be through cumulative effects with other residential development. In such a situation, the agreed contribution – which is recognised and included in the application supporting documents – towards the Solent Recreation Mitigation Programme (SRMP) would appear to be sufficient to ensure there would be no likely significant effect from this development through increases in recreational use of the SPA.

However, this application is part of a wider site allocation at St. James's Hospital for approximately 370 new dwellings.

Residential development of this scale, this close to the SPA and its associated more coastal wader roosts and recreational opportunities – particularly around the Eastney section of coastline (existing and proposed) – would be considered to have a likely significant effect on its own.

Furthermore, given the proximity of the Langstone Campus allocation, which would add a further up to 110 dwellings in the immediate area, the overall cumulative effect of these two allocations would be likely to be significant.

The proposed allocation here has been assessed under the Habitats Regulations. It was assessed that in the absence of any measures included in the development proposals to address recreational impacts, the development would have a likely significant effect.

During the application process, Portsmouth City Council has been working to develop a scheme to enhance the adjacent Milton Common for both biodiversity and recreational visitor use. This plan has been developed to specifically provide sufficient additional recreational open space to counteract the impacts of new development at this allocation on the SPA.

In order to deliver the scheme, a financial scale has been established, and I understand that the applicant for the current application has agreed to provide this. Therefore, if the necessary

money can be secured from the applicant to help fund the recreational improvements at Milton Common, the planning authority can conclude that this development would not have a likely significant effect on the SPA.

#### On-site ecology

No evidence of bats was found at the site. One of the trees does have a feature that could be used, although it was not supporting a roost at the time of the survey. It is also understood that this tree is to be retained. I therefore have no concerns over direct impacts to bats.

The mitigation strategy also sets out measures to avoid lighting impacts to bat foraging behaviour, and this is welcomed.

No reptiles were found to be present at the site.

Removal of any scrub / trees could affect nesting birds, if this takes place during the nesting season. I would suggest the following informative note:

- Birds nests, when occupied or being built, receive legal protection under the Wildlife and Countryside Act 1981 (as amended). It is highly advisable to undertake clearance of potential bird nesting habitat (such as hedges, scrub, trees, suitable outbuildings etc.) outside the bird nesting season, which is generally seen as extending from March to the end of August, although may extend longer depending on local conditions. If there is absolutely no alternative to doing the work in during this period then a thorough, careful and quiet examination of the affected area must be carried out before clearance starts. If occupied nests are present then work must stop in that area, a suitable (approximately 5m) stand-off maintained, and clearance can only recommence once the nest becomes unoccupied of its own accord.

#### Coastal And Drainage

PCC Drainage Team is fully supportive of the drainage proposals and use of permeable materials and soakaways. Soakaways could have access provided for maintenance purposes. Respective properties will need to be aware that the soakaway systems and surface water related to their properties are for their maintenance and ownership.

Run-off from the site will be significantly reduced by these proposals. This reduces existing load on sewers, increases their capacity and reduces flood risk on this network.

More developers should investigate infiltration rates as part of the planning application, this is a good example.

## REPRESENTATIONS

At the time of preparing this report a total of seventy-four representations had been received, of which one offered a general comment that the site would be appropriate for sheltered/retirement accommodation. The remainder, mainly from local residents object to the proposed development on the grounds that:-

- (a) Portsea island is already congested with its infrastructure and public services under strain. Adding yet more homes to the most densely populated area of the UK outside London does not seem appropriate,
- (b) this relatively unspoilt green space is home to much wildlife which will be destroyed,
- (c) the highway network, already affected by the Tesco development, will not sustain any increase in traffic flow; Locksway Road cannot sustain an increase in traffic, and any further growth in traffic flow along this road will put local residents at risk. alterations to the existing local roads will not alleviate traffic problems, as vehicles will inevitably be channelled onto the already congested Eastern Road and Milton Road
- (d) sewerage systems in this part of the city are already incapable of servicing the existing population,
- (e) insufficient school places for new population;
- (f) the development increases air pollution, and stresses the Special Protection Areas of Milton Common and Langstone Harbour;
- (g) the development destroys the parkland setting;
- (h) there is no need for new homes;
- (i) the site should be used for community facilities;
- (j) the area is already overdeveloped with new homes at St Marys and more traffic from the new Tesco;



- (k) insufficient capacity in doctor's surgeries;
- (l) more development in Milton will totally annihilate the unique atmosphere and quality of life that is experienced in this area;
- (m) taken together with other recent and proposed development in the area it will have an impact on air quality;
- (n) the designs and plans are moribund, uninspiring and dire; they add nothing to the amenity of the area; and
- (o) insufficient capacity in the drainage network.

## **COMMENT**

The principal issues in this case are whether; (a) the development is acceptable in principle, (b) the design and appearance of the development would relate appropriately to its surroundings having regard to tree cover, (c) the proposal would result in harm to the setting of nearby listed buildings, (d) the development would provide a satisfactory standard of living environment for future residents including the provision of a landscaped setting and amenity areas, (e) the development makes adequate provision for the transport needs of future residents and, as may prove necessary, provides adequate mitigation in relation to off-site impacts, (f) the development is viable and can provide and deliver adequate community benefits including affordable housing, and (g) the development would make adequate provision for mitigation in relation to impacts on the nearby Special Protection Area and potential threatened species. Other matters would include sustainable design and construction.

### **Principle of development**

This site comprises the north-east section of the hospital grounds and was formerly occupied by two 'villas', comparatively large two-storey Edwardian style buildings similar to 'Baytrees' and the 'Nelson Clinic' located to the west, set within a verdant landscape. Although forming part of a long established mental health campus there have also been long-term proposals to re-organise services provided on the site, and provide new facilities across the eastern part of the site with the eventual closure of the principal buildings for health purposes. Those proposals have resulted in the provision of The Limes, Hamble House and The Orchards, all comparatively new satellite buildings delivering mental health services.

In the preparation of the Portsmouth City Local Plan 2001-2011 the Primary Care Trust had indicated that part of the grounds of the hospital would become surplus to requirements as part of the provision of new mental health services within the hospital grounds. To reflect this situation policy MT3 of the Portsmouth City Local Plan 2001-2011 allocated the grounds of the Hospital for a mix of new mental health care development and housing. This remains a 'Saved Policy'.

The northern section of the grounds extending from the Nelson Clinic, adjacent to the Edenbridge Road access, through to the site of the former Gleave Villa in the east was the subject of a now lapsed outline permission for new housing with access from the more recent housing development to the north. The supporting text to policy MT3 also stated that the open space for the housing element of the allocation will be provided for on the allocation in policy MT2 which also remains a 'saved' policy of the Portsmouth City Local Plan 2010-2011. That policy related to the area of open space to the south of the principal buildings with the exception of the cricket pitch. The application site was incorporated into the projected housing supply figures for 2006-2027 under policy PC10 of the Core Strategy.

The National Planning Policy Framework advises that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed site forms part of the MT3 mixed use allocation and therefore is in principle available for the proposed use providing the scheme achieves sustainable development in accordance with the National Planning Policy Framework.

### **Design, appearance and setting**

The proposed development would for the most part be arranged in the form of houses fronting a curved access road leading into the site from Lapwing Road and terminating in a turning head at the western end of the site. The access road adopts design principles promoted by Manual for Streets and, with the exception of a short length, is shared surface. A group of six houses would be situated on the eastern part of the site facing a shared drive accessed from the estate road. At the western end of the access road the turning head would be fronted by a pair of three-storey townhouses flanked by two-storey houses with a further two-storey detached house in the south-west corner of the site. The north side of the access road would comprise an area of open space in which retained protected trees will form an established landscape feature.

The design of the layout reflects the objective to retain and incorporate as many of the protected trees of high amenity value as part of the proposed development. The proposal would, however, result in the loss of one category A, two category B trees, seven groups, part of one group and nine individual category C trees. The arboricultural report submitted with the proposals identifies a maintenance regime for the remaining protected trees. The Council's Arboriculture Officer supports the recommendations of this report. The level of provision of new tree planting would adequately compensate for the loss of trees and would complement the thirty-four protected trees that would be retained. Implementation of an arboricultural method statement would enable the retained trees to survive without any adverse impact and allow them to continue to make a contribution to local amenity and character. This could be secured by way of a planning condition.

So as to ensure the thirty-four protected trees are managed and retained it is recommended that the permitted development rights that would ordinarily be provided for development within the curtilage of a dwellinghouse be removed requiring planning permission be sought for alteration or enlargement of a dwellinghouse, including a garage or extension, or outbuildings and curtilage structures, or hard surfaces. The imposition of this condition is considered to satisfy the 6 tests as provided by paragraph 206 of the NPPF, being necessary to make the development acceptable, relevant to planning, and relevant to the development, enforceable, precise and reasonable.

It is considered that the layout of the site would achieve an acceptable outcome, balancing the need for new housing with the objective to retain trees and maintain a parkland setting.

The proposal incorporates a number of house-types and offers some variation in terms of street frontages with a curved terrace of seven houses forming a focal point within the development. Furthermore, the palette of facing materials would include red and buff face bricks, render for the walls with slate roofs. The proposed houses would incorporate articulation in the form of a mix of feature string coursework, stone cills and lintols, lean-to and flat-roofed porches and bay windows creating variation throughout the development. The overall effect is to create a development that is a blend of traditional character and quality design. It is therefore considered that the proposed development would establish a sense of place, optimise the potential of the site to accommodate development including the incorporation of green space.

### **Impacts on the Setting of a Listed Building**

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 feature of special architectural or historic interest.

The NPPF advises that an applicant should have to describe the significance of an assets affected, including any contribution made by their setting (para 128) and when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation (para 132).

Although within the grounds of the Listed Buildings the western boundary of the site is located some 155m from the nearest part of the hospital building and 160m from the Chapel.

The principal buildings were built between 1876-79 by the local architect George Rake. The building was designed in a Gothic Byzantine style in a block plan with projecting wings. The building was constructed of Fareham red brick in English bond, with Plymouth stone dressing and a Welsh slate roof. The main entrance features a flight of stairs and a grand doorway flanked by lamp posts, while above are a clock tower and a pinnacled roof. The centrepiece of the building is the ball room, which features arched wings. The building was Grade II listed in 1998. The Chapel was part of the original construction of St James Hospital, having also been built by George Rake in 1879. The building features knapped flint with stone dressings and a Welsh slated roofs. The chapel was Grade II listed in 1998

The eastern half of the hospital grounds has seen incremental development over a long period of time with buildings varying in scale and size. The proposed development, which is at a comparatively lower density than the housing area to the north, would be considered to represent a suitable transition between the established pattern of the housing development to the north and the existing buildings within the hospital grounds, thereby preserving the setting of the listed buildings.

Having regard to the provisions of Section 66 of the Listed Buildings and Conservation Areas Act 1990 it is therefore considered that the proposed development would not harm the setting of the Listed Buildings or would otherwise harm any feature of special architectural or historic interest that they hold.

### **Standard of living environment**

Amongst other things policy PCS23 seeks to ensure that new development provides a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development.

With a tree lined avenue to the south, retained hospital building to the west and playing fields to the east, the most affected neighbouring occupiers would be limited to the residential properties immediately to the north of the application site.

The proposed development will be accessed from Lapwing Road. The proposal has been designed as an extension to the existing development, with the most immediate dwellings adopting the building line and form of the existing homes. Where the proposal shares a boundary with an existing dwelling, 1800mm closed boarded boundary fences are proposed. Furthermore, garages are sited so as to provide a sense of separation so as to not diminish the privacy of the existing or proposed dwellings. The window openings of proposed semi-detached dwellings on plots 29 and 30, and detached dwelling on plot 1 are orientated so as to avoid any overlooking issues, thereby preserving existing privacy and residential amenities.

The proposed development incorporates an area of open space with the established trees giving the existing properties located off Skylark Court substantial separation distances and privacy from the proposed dwellings. This arrangement would serve to ensure that the proposed development would relate appropriately to its surroundings and have no significant impact on the standard of living environment for existing residents. The recommendation includes the requirement for a construction method statement that will ensure activity is managed so as to avoid adverse impacts during construction.

Whilst there is some variation in plot sizes, largely informed by the incorporation of protected trees, they all offer areas of useable garden amongst retained trees. The proposed dwellings would offer a satisfactory outlook and, in terms of internal layout, would meet the recently adopted nationally described space standards. In these circumstances the proposed

development would accord with the objectives of the National Planning Policy Framework and policy PCS23 of the Core Strategy.

### **Transport needs and traffic impacts**

The proposed development would incorporate a total of 56 in-curtilage car parking spaces and cycle stores with an additional five spaces for casual visitors. The minimum car parking requirement within the adopted car parking standards SPD would be 51 spaces with 5 visitor spaces. It is therefore considered that the proposed development would provide for the transport needs of future occupiers. The arrangement of car parking has been amended to incorporate the comments of the Highway Authority

With the access road forming an extension of Lapwing Road, traffic generated by the proposed development would join Edenbridge Road with a split in traffic movements on Warren Avenue leading to Moorings Way/Velder Avenue and Milton Road. The Highway Authority considered the submitted transport statement and concluded that is sound. The development has the potential to generate an average of 16 two-way vehicle trips in the peak hours. It is considered that the total traffic generation of the scheme will be modest (one vehicle movement on average every four minutes) and the impact on local junctions will be less than one vehicle every six minutes on average. These additional movements would be considered to have minor impacts on the Warren Avenue/Milton Road, Euston Road/Velder Avenue, and Moorings Way/Velder Avenue/Eastern Road junctions.

Nevertheless, problems occur with queues on Moorings Way that extend back past Osprey Court while vehicles wait for a green traffic signal. This can lead to a situation where it can take a significant period of time for Moorings Way to clear. Although considered to generate a minor impact on this junction it could be ameliorated by improving this pinch-point area. This could be achieved by the introduction of a short stretch of double yellow lines that would allow additional queuing space thereby reducing the occurrences of traffic blocking. Furthermore, additional traffic movements although not significant has the potential to increase risk in terms of pedestrians crossing Edenbridge Road. Improvements to this crossing point would address this impact. It is considered that the proposed off-site highway works would be proportionate and reasonable, and could be secured through a legal agreement to which the applicant has agreed. These improvements will go some way towards alleviating the concerns that have been raised

Among the conditions requested by the Highway Authority, those that relate to highway adoption and, in the absence of a S38 agreement, evidence of a future maintenance and management plan supported by a commuted sum would fail the NPPG tests as these matters cannot be dealt with by way of planning conditions. The test as to whether the proposal delivers sustainable development would include the local planning authority being satisfied that the proposed access arrangements within the site are designed and constructed to a satisfactory standard and are maintained to the standard going forward. As such, whilst details of the construction of the estate road could be reasonably dealt with by way of a planning condition the future management would need to be dealt with through the a Section 106 Agreement. required, a management plan and commuted sum would be inappropriate.

### **Viability and Affordable Housing Provision.**

Whilst the applicant was intending to provide a development that was policy compliant in terms of the provision of affordable housing, the scheme has a number of site abnormal costs which when combined with Section 106 reduce the deliverability of the scheme. The applicant has an option agreement for the site, subject to planning, and this was negotiated without the full knowledge of the Council's requirements in terms of site specific mitigation in relation to impacts arising from the development on the nearby Langstone Harbour Special Protection Area.

The Council has a 'Milton Common Local Nature Reserve - Restoration and Management Framework'. The Framework sets out the approach for imposing a tariff on development and collecting financial contributions The level of that contribution, whilst necessary, was found to have a significant impact on the viability of the development to provide affordable

accommodation. When combined with the shift upwards in standard BCIS construction costs due to demand in the sub-contract market, the impact from abnormals on the total scheme viability has led to the applicant reducing the affordable housing offer.

The applicant submitted a viability assessment in support of a reduced offer of three intermediate affordable dwellings. The viability assessment has been examined by the District Valuer who concluded that, having regard to the negotiated figure for the acquisition of the site together with other financial obligations, the provision of four intermediate [i.e., shared ownership] dwellings in the form of 2no. 1-bed flats [plots 27 & 28] and 2no. 2-bed houses [plots 22, 23] would represent the maximum level of affordable housing that could reasonably be achieved. Whilst this would not reflect the ratio of house types across the development, the provision of larger house types as affordable accommodation would have had the effect of reducing the number of affordable homes that could be provided. Having regard to the conclusions of the District Valuer it is considered that the proposal provides a balanced offer meeting affordable housing need and addressing the matters of highways improvements and other contributions so as to ensure the development is capable of support.

### **Nature conservation and Threatened Species**

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 Langstone and Portsmouth Harbours are designated as Special Protection Areas, or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

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 development proposed is not necessary for the management of the SPA. The proposal would result in the creation of thirty additional residential units, thus resulting in a significant effect and necessitating a mitigation package to be provided. Whilst 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, exceptions would occur where a development has its own specific impacts. This is such an exception.

As outlined above, the 'Milton Common Local Nature Reserve - Restoration and Management Framework' was approved specifically to address those impacts arising from new residential development within the Milton area. The payment of a financial contribution in accordance with the Framework, which will cover the short-term costs and capital cost of grassland management and scrub clearance and other works to promote its use over the Langstone Harbour foreshore. Together with the standard SPA payment, this would be considered sufficient to confirm that the development of the Light and Gleave Villas site would not be likely to have a significant effect on the SPA's subject to adequate measures being put into place to control impact on Brent Geese using the adjoining playing fields during the construction phase of the development. To address the latter the applicant's mitigation proposals, in relation to screening on the eastern boundary and timing of construction, would be considered acceptable.

Based on the methodology in the SPD and the Milton Common Restoration and Management Framework, an appropriate scale of mitigation for off-site impacts would be calculated as  $30 \times £174 = £5,220$  added to  $30 \times £8,747 = £262,410$ . The applicant has agreed to provide this mitigation, and this will be secured through the legal agreement. It is, therefore, considered that with such a provision the proposal would not be likely to have significant effect on the SPAs. Those financial payments would be secured through the legal agreement.

An ecology report submitted with the application has assessed the impacts of the development and identified that bats and nesting birds may be affected by the proposal. With regard to the Council's legal obligations under the Habitats Directive, Natural England has confirmed that the proposed development has been satisfactorily screened to check for the likelihood of significant effects and that it is not likely to impact on the features of the SPA, therefore an "Appropriate Assessment" under the Directive is not necessary.

In relation to the sites potential value to bats and nesting birds, in accordance with Article 12 of the EU Habitats Directive, when adopting a precautionary approach, if there is likelihood that 'disturbance' may occur which in this case there is, the derogation tests must be undertaken.

There are a number of benefits that the proposal would generate for local communities and the surrounding area. These include the physical and economic regeneration of a site that has had an economic previous use; the provision of employment and training opportunities throughout the construction phase; and improvement of housing offer including affordable homes for local residents. When considering 'imperative reasons of overriding public interest, including those of a social and economic nature' it is acknowledged that the proposed development is required to meet or provide a contribution to meeting a specific need arising from complying with planning policies and guidance at a national, regional and local level.

This site, along with other identified housing sites under the Portsmouth City Local Plan 2001-2011, serves to meet projected housing need and as such there would not be any sequentially preferable sites.

In terms of maintaining a favourable conservation status the Council must be satisfied that a sufficiently detailed mitigation strategy is in place. The applicant's environmental consultants 'Ecology Co-op' have proposed a mitigation strategy which Council's Ecologist has had regard to and finds acceptable as a proposed mitigation strategy. The recommendation includes a condition seeking to further strengthen ecological provisions through the implementation of the mitigation strategy within the development.

In these circumstances it is considered that the impact upon ecology is low and this application would satisfy the statutory derogation tests.

### **Sustainable design and construction**

The Ministerial Statement of 25<sup>th</sup> March 2015 set out that Local Planning Authorities should no longer require compliance with specific levels of the Code for Sustainable Homes (the Code) or to require a certain proportion of the Dwelling Emission Rate (DER) to be offset through Low or Zero Carbon (LZC) Energy. Policy PCS15 has required both of these in all new dwellings since its adoption in 2012. However, the Statement does set out that a standard of energy and water efficiency above building regulations can still be required from new development in a way that is consistent with the Government's proposed approach to zero carbon homes. As such, the standards of energy and water efficiency that will be required from new residential development are as follows:

- Energy efficiency - a 19% improvement in the DER over the Target Emission Rate as defined in Part L1A of the 2013 Building Regulations
- Water efficiency - 110 litres per person per day (this includes a 5 litre allowance for external water use).

These standards will remain in place until the zero carbon homes policy is brought into force in 2016, after which the same standard of energy efficiency will continue to be required, though this will purely be through the Building Regulations rather than through compliance with planning conditions.

The developer has provided design stage SAP worksheets indicating that the required standards can be met. In these circumstances it would be appropriate to impose a pre-occupation condition in the following form;-

The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that the development has:

- a) Achieved a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in The Building Regulations for England Approved Document L1a: Conservation of Fuel and Power in New Dwellings (2013 edition). Such evidence shall be in the form of an As Built Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and
- b) Achieved a maximum water use of 110 litres per person per day as defined in paragraph 36 (2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

## **Conclusion**

This application has raised a number of issues ranging from the principle of development through to the mitigation of ecological impacts. For the reasons outlined above it is considered that the applicant's proposals for this site would deliver a form of development that relates appropriately to the site, and represents an acceptable balance between the need to maintain tree cover and provide new housing.

The proposed development would give rise to minor impacts in highway terms, and these can be satisfactorily ameliorated by a Traffic Regulation Order and improvements to the Edenbridge Road junction to improve pedestrian crossing. With these issues addressed the traffic generation associated with the proposed development could be accommodated without significant impacts on the local highway network.

With the formulation of a package of measures to address the impacts of the proposed development on nature conservation, and the willingness of the applicant to pay the financial contribution towards dealing with recreational disturbance, it is considered that the proposed development would comply with the requirements of the Habitats Regulations.

Whilst local residents raised issues in relation to drainage, Southern Water have confirmed that the applicant's drainage strategy would ensure that the proposed development would not have an adverse impact on the local drainage network.

As part of the s106 legal agreement the applicant has expressed a willingness to engage in the adoption of a Skills and Employment Training Plan. The provisions to be included within the s106 legal agreement are considered to relate directly to the proposed development and are fairly and reasonably related in scale to the development. The provisions to be set out in the s106 legal agreement are as follows:-

1. The payment of contributions of £5,500 for a Traffic Regulation Order for double yellow lines on Moorings Way,
2. The payment of contributions of £15,000 for pedestrian crossing facilities at the end of Edenbridge Road,
3. The payment of contributions of £5,220 towards wider SPA mitigation
4. The payment of contributions of £262,410 for site specific mitigation in relation to the Langstone Harbour SPA,
5. The provision of four dwellings as intermediate affordable housing by no later than the disposal of 14 open market dwellings,
6. The review of the viability assessment 18 months from the date of the permission in the event that twenty of the dwellings have not been substantially completed. Any uplift in value to be a financial contribution to the provision of affordable accommodation elsewhere in the city
7. The applicant submits for approval and adopts an Employment and Skills Plan, and
8. The payment of a project management fee of £620,
9. The submission of a management plan that addresses the arrangements to be made for the future maintenance of roads, footpaths, soakaways and landscaping.

## **RECOMMENDATION**

**Delegated authority be granted to the Assistant Director of Culture & City Development to grant Conditional Permission on the completion of a s106 legal agreement as outlined in the report**

### **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: 1640-1001; 1640-3001; 1640-3002; SK 03n; SK 06b; SK 07c; SK 08c; SK 09C; SK10b; SK 11C; SK 12c; SK 13b; SK 14c; SL 15c; SK 16b; SK 17b; SK 18c; 14307-BT2; Phase III Remediation Strategy Report Ref: 14533/RS; Arboricultural Impact Appraisal & method statement 14307-AIA2-AS.
- 3) 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 that any remediation scheme as detailed in Phase III Remediation Strategy Report at Light Villa, Site B, St James' Hospital, Portsmouth, Hampshire, PO4 8UQ, Soils Limited, Report Ref: 14533/RS has been implemented fully (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) third party verification of gas membrane installation
  - d) 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 approved scheme.
- 4) No development shall commence on site until a schedule of materials and finishes to be used for the external walls and roofs of the proposed buildings and other hard-surfaced finishes has been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.
- 5) No development shall commence on site until all trees, shrubs and other natural features not scheduled for removal during the course of the site works and building are protected in accordance with approved Arboricultural Impact Assessment and Method Statement, and British Standard:5837 (2005). Such protection 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 protection areas.
- 6) The facilities shown on the approved drawings for the parking of vehicles shall, unless otherwise agreed in writing by the local planning authority, be completed and made ready for use prior to first occupation of the development. Those facilities shall thereafter be retained.
- 7) Secure/weatherproof bicycle storage facilities shall be provided in accordance with details to be submitted to and approved by the local planning authority in writing, and those facilities shall be provided before occupation of the development and thereafter retained.



8) Prior to first occupation of the development facilities for the storage of refuse and recyclable materials shall be provided and maintained in accordance with a refuse management plan to be submitted to and approved by the local planning authority in writing.

9) No development shall take place on the site until the following details have been submitted to and approved in writing by the Local Planning Authority:-

- i) a specification of the type of construction for the roads and footpaths up to adoptable standards, including all relevant horizontal cross-sections and longitudinal sections showing the existing and proposed levels, together with details of street lighting and the method of disposing surface water; and,
- ii) a programme for making up of the roads and footpaths.

10) No development shall commence until a Construction Method Statement, including a construction phasing plan, has been submitted to and approved by the local planning authority in writing. The CMS shall provide for:-

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- The erection and maintenance of security fencing including decorative displays and facilities for public viewing, where appropriate
- Wheel washing facilities
- Site compound details
- Details of construction vehicle movements
- Expected number of construction vehicles per day
- Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice
- A scheme to encourage the use of Public Transport amongst contractors.

The development shall be constructed in accordance with the Construction Method Statement.

11) No development, including site preparation works or engineering operations, shall commence on site, including ground preparation works, until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority and the approved development shall be carried out in accordance with the approved CEMP. Matters covered within the CEMP will include the following:

- Risk assessments and method statements relating to the control of pollution during the construction
- A Site Waste Management Plan (SWMP)

12) The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that the development has:

- c) Achieved a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in The Building Regulations for England Approved Document L1a: Conservation of Fuel and Power in New Dwellings (2013 edition). Such evidence shall be in the form of an As Built Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and
- d) Achieved a maximum water use of 110 litres per person per day as defined in paragraph 36 (2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

13) Unless otherwise agreed in writing by the local planning authority the redevelopment of the site shall be undertaken in accordance with the recommendations of the submitted Mitigation Strategy (The Ecology Co-op, December 2014).

14) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a

period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending, revoking or re-enacting that Order, no alteration or building or structure shall be erected or carried out within Schedule 2, Part 1, Classes A, E or F as listed below without the prior written permission of the Local Planning Authority obtained through the submission of a planning application:

Class A (alteration or enlargement of a dwellinghouse, including a garage or extension), or  
Class E (outbuildings and curtilage structures), or  
Class F (hard surfaces).

**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 the interests of the visual amenities of the area in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability throughout the construction period in the interests of amenity in accordance with policy PCS13 of the Portsmouth Plan.
- 6) To ensure the transport needs of future occupiers are met in accordance with policy PCS17 of the Portsmouth Plan.
- 7) To ensure that adequate provision is made for cyclists in accordance with policies PCS23 of the Portsmouth Plan.
- 8) To ensure that adequate provision is made for refuse storage in accordance with policy PCS23 of the Portsmouth Plan.
- 9) In the interests of providing a good standard of living environment for future occupiers of the development in accordance with policy PCS23 of the Portsmouth Plan.
- 10) To protect the amenity of the adjoining and nearby local residents in accordance with policy PCS23 of the Portsmouth Plan.
- 11) To protect the amenity of the adjoining and nearby local residents in accordance with policy PCS23 of the Portsmouth Plan.
- 12) In order to secure a satisfactory development in accordance with policy PCS15 of the Portsmouth Plan
- 13) In the interests of maintaining the conservation status of the site in accordance with policy PCS13 of the Portsmouth Plan.
- 14) In the interests of the amenities and character of the area in accordance with policy PCS23 of the Portsmouth Plan.

15) To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability throughout the post-construction period in the interests of amenity in accordance with policy PCS13 of the Portsmouth Plan.

## **PRO-ACTIVITY STATEMENT**

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

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# **5**

**15/01846/FUL**

**WARD: FRATTON**

**3 OLINDA STREET PORTSMOUTH PO1 5HP**

**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:**

T&S Rooms Ltd  
FAO Mr Shalim Ahmed

**On behalf of:**

Mrs Farhana Karim

**RDD:** 6th November 2015

**LDD:** 15th January 2016

## **SUMMARY OF MAIN ISSUES**

### **Summary of main issues**

This application has been referred to committee due to a deputation request from Cllr Ashmore, being an application for a Change of Use to establish a house of multiple occupancy (HMO).

The determining issue for this application is whether the principle of the development is acceptable given the existing number of HMOs in the area. The material consideration is whether the living conditions of nearby and adjoining residents would be adversely affected by the proposal, and whether any potential harm can be controlled by way of conditions.

### **Site and Surroundings**

The application site is a three bedroom terraced property located on the eastern side of Olinda Road, south of the junction with St Marys Road. The surrounding area is characterised by similar terraced properties.

### **Proposal**

The lawful use of the property falls within Class C3 (dwelling house) of the Use Classes Order. This application seeks to change the use of this property from Class C3 (dwelling house) to

purposes falling within Class C3 (dwelling house) or Class C4 (House in Multiple Occupation). Normally, a change of use between Class C3 and Class C4 would be classed as permitted development within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). On the 1st November 2011 however, Portsmouth City Council implemented an Article 4 Direction relating to HMOs. As a result, planning permission is now required for a change of use between Class C3 (dwellinghouse) and Class C4 (House in Multiple Occupation) where between three and six unrelated people share at least a kitchen and/or bathroom.

The proposal would result in the ground floor comprising of a kitchen, bathroom, dining room and one bedroom, with a further three bedrooms on the first floor.

### **Planning History**

There is no relevant planning history for this application.

### **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**

None received.

### **COMMENT**

The determining issue for this application is whether the principle of the development is acceptable given the existing number of HMOs in the area. The material consideration is whether the living conditions of nearby and adjoining residents would be adversely affected by the proposal, and whether any potential harm can be controlled by way of conditions.

This application seeks permission to change the use of this property falling within Class C3 (dwelling house) to purposes falling within Class C3 (dwelling house) or Class C4 (House in Multiple Occupation). This would give the applicant greater flexibility to change between these two use classes.

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

Of the 91 properties located within a 50m radius of this property, two of the properties are currently classed in C4 HMO use, representing 2.19%. The proposal would increase the proportion of HMOs to three, being 3.29%. The HMO SPD states that an application would be imbalanced where more than 10% of residential properties within the area surrounding the application are already a HMO. It is considered that the community is not imbalanced by the

concentration of HMO uses and that the proposed development would not result in an imbalance of such uses.

With regards to the impact of the proposed use upon the living conditions of adjoining occupiers, 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 dwelling house occupied by either a single family or other groups living as a single household. The Houses in Multiple Occupation SPD is supported by an assessment of the supply, demand and community impacts of shared housing in Portsmouth. Paragraphs 9.1-9.10 discuss the negative impacts upon local communities resulting from concentrations of Class C4 HMO uses. However, given that there are only two other HMOs 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 seeing that there would only be three HMOs in the 50 metre radius.

The application site does not benefit from any off-street parking and there is no parking proposed as part of this application. However, given that the level of occupation associated with a HMO it is not considered to be significantly greater than the occupation of the property as a Class C3 dwelling house, it is considered that an objection on parking grounds could not be sustained. There is no indication of the provision of cycle storage facilities on the submitted drawings. However, it is considered that there is sufficient space within the rear garden for such facilities to be provided. These can be secured by way of a suitably worded planning condition. The storage for refuse and recyclable materials would remain unchanged.

## **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) Prior to the first occupation of the property as a House in Multiple Occupation within Class C4, secure and weatherproof bicycle storage facilities shall be provided in accordance with a detailed scheme (to include materials, size, appearance and security) to be submitted to and approved in writing by the Local Planning Authority, The facilities thereafter shall 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 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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