

# Planning and Rights of Way Panel

Tuesday, 6th August, 2019  
at 6.00 pm

## **PLEASE NOTE TIME OF MEETING**

Conference Rooms 3 & 4 - Civic  
Centre

This meeting is open to the public

### **Members**

Councillor Savage (Chair)  
Councillor Coombs (Vice-Chair)  
Councillor G Galton  
Councillor L Harris  
Councillor Mitchell  
Councillor Vaughan  
Councillor Windle

### **Contacts**

Democratic Support Officer  
Ed Grimshaw  
Tel: 023 8083 2390  
Email: [ed.grimshaw@southampton.gov.uk](mailto:ed.grimshaw@southampton.gov.uk)

Service Lead - Planning Infrastructure and  
Development  
Samuel Fox  
Tel: 023 8083 2044  
Email: [samuel.fox@southampton.gov.uk](mailto:samuel.fox@southampton.gov.uk)

## **PUBLIC INFORMATION**

### **ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL**

The Panel deals with various planning and rights of way functions. It determines planning applications and is consulted on proposals for the draft development plan.

### **PUBLIC REPRESENTATIONS**

Procedure / Public Representations

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

**SMOKING POLICY** – The Council operates a no-smoking policy in all civic buildings

**MOBILE TELEPHONES:-** Please switch your mobile telephones to silent whilst in the meeting

**USE OF SOCIAL MEDIA:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

**FIRE PROCEDURE** – In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**ACCESS** – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

### **Dates of Meetings: Municipal Year 2019/2020**

<b>2019</b>	
4 June	17 September
25 June	15 October
16 July	12 November
6 August	10 December
31 August	

<b>2020</b>	
14 January	31 March
11 February	23 April
10 March	

## CONDUCT OF MEETING

### TERMS OF REFERENCE

The terms of reference of the Planning and Rights of Way Panel are contained in Part 3 (Schedule 2) of the Council's Constitution

### BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

### RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:  
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
  - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
  - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **OTHER INTERESTS**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **PRINCIPLES OF DECISION MAKING**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## **AGENDA**

### **1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

### **2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### **3 STATEMENT FROM THE CHAIR**

### **4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 8)

To approve and sign as a correct record the Minutes of the meetings held on 16 July 2019 and to deal with any matters arising.

## **CONSIDERATION OF PLANNING APPLICATIONS**

### **5 PLANNING APPLICATION - 19/00346/FUL - 128-130 WEST END ROAD** (Pages 13 - 62)

Report of the Service Lead, Infrastructure, Planning and Development recommending that the Panel delegate approval in respect of an application for a proposed development at the above address.

### **6 PLANNING APPLICATION - 19/00950/OUT - HORSESHOE BRIDGE** (Pages 63 - 96)

Report of the Service Lead, Infrastructure, Planning and Development recommending that the Panel delegate approval in respect of an application for a proposed development at the above address.

### **7 PLANNING APPLICATION - 19/00990/FUL - 8 DEVONSHIRE ROAD** (Pages 97 - 108)

Report of the Service Lead, Infrastructure, Planning and Development recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

**8 QUARTERLY DEVELOPMENT MANAGEMENT FIGURES**

(Pages 109 - 110)

Report of the Service Lead - Infrastructure, Planning and Development detailing key planning metrics for information and consideration.

Monday, 29 July 2019

Director of Legal and Governance

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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 16 JULY 2019

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Present: Councillors Savage (Chair), Coombs (Vice-Chair), G Galton, L Harris, Windle, Fitzhenry and Shields

Apologies: Councillors Mitchell and Vaughan

9. **APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

It was noted that following receipt of the temporary resignation of Councillors Mitchell and Vaughan from the Panel, the Service Director Legal and Governance acting under delegated powers, had appointed Councillors Fitzhenry and Shields to replace them for the purposes of this meeting.

10. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

**RESOLVED:** that the minutes for the Panel meetings on 4<sup>th</sup> and 25<sup>th</sup> June 2019 be approved and signed as a correct record.

11. **PLANNING APPLICATION- 19/00719/FUL - QUAY 2000, HORSESHOE BRIDGE**

The Panel considered the report of the Service Lead, Infrastructure, Planning and Development in regard to a request to vary the planning obligation set out at The Second Schedule (Waterfront Access) of the Section 106 Agreement dated the 16th November 1998 in respect of an application for a proposed development at the above address.

Proposed development: Closure of waterside walkway for public use:- Request to vary the planning obligation set out at The Second Schedule (Waterfront Access) of the Section 106 Agreement dated the 16th November 1998, allowing the Waterfront Access (the Walkway) gates to remain locked thus removing the ability for the general public to access the walkway for recreational purposes at all times.

Jason Bluemel (local residents/ objecting), R Tutton (agent) A Mitchell, C Coles and Z Orton (supporter) and Councillor Savage (Ward Councillor objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that further correspondence from the Police and that the recommendations should refer to gates. Panel Members suggested that that the timings used within the recommendation be updated to timings in line with restrictions that had been granted at Ocean Village. The Panel, following a vote, amended the officer recommendation to set the timings of the opening of the gates to the same as Ocean Village. The Panel also requested that the recommendation be amended to take into consideration, the Panel's request, to ensure that there was a mechanism to monitor and review the effects of the closure of the gates.

The Panel then considered the amended recommendation to vary the section 106 arrangement permission. Upon being put to the vote the amended recommendation was carried unanimously.

**RESOLVED** that the Panel

- (i) rejected the request to vary the planning obligation as contrary to CLT10 – Public Waterfront and Hards and CS 12 – Accessible & Attractive Waterfront;
- (ii) delegated authority to the Service Lead – Infrastructure, Planning and Development to enter into a s.106 Deed of Variation (DoV), at the applicant’s expense, in accordance with the following heads of terms:
  - a. Amend the obligation to provide a waterfront walkway/cycleway for recreational purposes at all times subject to the Management Plan, which should include the agreed review timeframe and mechanism;
  - b. Submit a Management Plan detailing the retaining waterfront access for wider public use ensuring compliance with the approved Management Plan for the lifetime of the Development; for approval in writing by the Council within 1 month from the completion of the DoV; ensuring that the gates are unlocked in line with the 16/01971/FUL planning consent at Land adjacent to 2 Andes Close and 1 Calshot Court, with requirements set out below;
    - i. That the gates hereby approved shall not be closed between the following hours:
      - 0700 hours and 2100 hours on any day between 02 April - 29 September;
      - 0700 hours and 1800 hours on any day between 30 September - 01 April
    - ii. That in order to ensure public access to the waterfront during day time hours in accordance with policy CS12 of the City of Southampton Core Strategy and policy AP35 of the City Centre Action Plan;
    - iii. The gates to remain unlocked as per hours set out in (ii) b. above and no further means of enclosure erected on the land without prior written approval;
- (iii) delegated authority to the Service Lead – Infrastructure, Planning and Development to take enforcement action in respect of any breach of the extant planning obligation if the DoV is not completed within 3 months from the date of this Panel meeting (18<sup>th</sup> October 2019) and/or the Management Plan hasn’t been agreed as required; and
- (iv) delegated authority to the Service Lead – Infrastructure, Planning and Development to take enforcement action in respect of any breach of the proposed planning obligation if the gates is not unlocked in line with the agreed amendment within 1 month from the written approval by the Council of the Management Plan (22<sup>nd</sup> November 2019.)

12. **PLANNING APPLICATION - 19/00137/FUL- 224 PORTSWOOD RD**

The Panel considered the report of the Service Lead Infrastructure, Planning, and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Change of use of first floor from D1 use to a 24 hour gym (class D2) with erection of link corridor at roof level and use of the car park by the D2 use between 05:00 - 23:00 Monday-Saturday and 08:00 - 20:00 Sunday.



Susan E Swallow and Jane Jameson (local residents objecting), and Gary Morris (agent), were present and with the consent of the Chair, addressed the meeting.

The presenting officer updated the Panel in regard to a minor error in the summary of the recommendation and noted that it should state that the recommendation was for approval and not to refuse.

The Panel explored the difference between the community room currently provided by the retailer and the space allocated community use. The Panel were informed that the allocated community space had previously been dedicated for use by the local Primary Care Trust and then for potentially for a Library but that both uses had subsequently been withdrawn leaving with no allocated use for the space.

It was noted that the space had been marketing on the space but, that no community use had come forward. Panel Members were concerned that it had been reported to them that there were currently problems with the booking the community room and requested that the matter be delegated to the Service Lead to resolve the matter prior to permission being granted.

The Panel then considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was carried unanimously.

**RESOLVED** that the Panel:

- (i) Delegated authority to the Service Lead – Infrastructure, Planning and Development to grant conditional planning permission subject to:
  - a. no fresh issues regarding the extended car parking hours being received by 16.07.19 when the notification period expires; and
  - b. further negotiation with the applicant regarding the opening hours to the retained community room (as currently set out under planning condition 11).
- (ii) Delegated authority to the Service Lead – Infrastructure, Planning and Development to add, vary and /or delete conditions as necessary.

13. **PLANNING APPLICATION - 19/00735/FUL - 267-271 PORTSWOOD RD**

The Panel considered the report of the Service Lead, Infrastructure, Planning and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Erection of an additional floor to create 4x 1-bed flats with associated cycle/refuse storage following partial demolition of existing building to create new entrance and extension of existing restaurant flue.

Elizabeth McDonald, Margret Sissons, Richard Buckle (local residents/ objecting), and Councillor Cooper (ward councillor/objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer updated the Panel in regard to a minor error in the summary of the recommendation and noted that it should state that the recommendation was for approval and not to refuse.

In addition since the publication of the report it was noted that the amended floorplans showing the removal of the partition walls had been received to satisfy the proposed delegation. It was also noted that the condition on obscured glass need to be adjusted.

Upon being put to the vote the Panel confirmed the Habitats Regulation Assessment.

The Panel then considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was lost.

A further motion to refuse to delegate approval to the Service Lead: Infrastructure, Planning and Development for the reasons set out below was then proposed by Councillor Coombs and seconded by Councillor Windle.

RECORDED VOTE to refuse planning permission  
FOR: Councillors Savage, Coombs, Galton, L Harris and Windle:  
AGAINST: Councillors Fitzhenry and Shields

**RESOLVED** to refuse planning permission for the reasons set out below:

#### Reasons for Refusal

**1. Reason for Refusal: Design & Subsequent Living Environment**

The chosen contemporary roof extension design, and associated changes, to this locally listed building fail to respect the proportions of the existing building and is considered to represent an incongruous addition that fails to respect either the existing building or the wider streetscene to which it relates. Furthermore, the chosen fenestration arrangement, with narrow openings, will contribute to a poor living environment for prospective residents. As such, the proposed development has been assessed as being harmful to the existing building and out of character with its wider context and is contrary to saved policies SDP1(i) and HE4 of the adopted Local Plan Review (2015), and saved policy CS13 of the adopted LDF Core Strategy (2015) as supported by the relevant sections of the Council's approved Residential Design Guide Supplementary Planning Document (2006) that seek to encourage context-driven design solutions.

**2. Cycle Storage**

The proposed cycle storage is poorly located to the residential entrances and will discourage the use of cycling by residents, given its rear yard location and tortuous access arrangements. As such it is not considered to be safe, secure or convenient and is, therefore, contrary to saved policy SDP10(ii) of the adopted Local Plan Review (2015), as supported by the Council's approved Parking Standards Supplementary Planning Document (2011), as the wider scheme fails to properly promote alternative modes of travel in the interests of wider sustainable development.

**3. Reason for Refusal - Lack of Section 106 to secure planning obligations.**

In the absence of either a scheme of works or a completed Section 106 legal agreement or unilateral undertaking to support the development the application fails to mitigate against its wider direct impact with regards to the additional pressure that further residential development will place upon the Special Protection Areas of the Solent Coastline. Failure to secure mitigation towards the 'Solent Disturbance Mitigation Project' in order to mitigate the adverse impact of new residential development (within 5.6km of the Solent coastline) on internationally protected birds and habitat is contrary to Policy CS22 of the Council's adopted LDF Core Strategy as supported by the Habitats Regulations

14. **PLANNING APPLICATION - 19/00026/FUL - NORTHBROOK ESTATE, VINCENT AVE**

The Panel considered the report of the Service Lead, Infrastructure, Planning and Development recommending that conditional planning permission be granted in respect of an application for a proposed development at the above address.

Change of use from industrial (class B2) to education and training facility (retrospective) (Departure from Local Plan - policy RE111) – TEMPORARY

Anne Towner and Paul Butler (local residents/ objecting), and Councillor B Harris (ward councillor/objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that the recommendation required to be amended to delegate approval to the Service Lead, Infrastructure, Planning and Development subject to the receipt of an amended site plan showing the parking associated with this unit with confirmation of a legal right to park. The Panel requested also that officers liaise with and inform colleagues in the social services department to detail the concerns in respect of the existing noise and disturbance problems experienced by residents.

The Panel then considered the amended officer recommendation to delegate authority to the Service Lead-Planning Infrastructure and Development planning permission to grant planning permission subject to amended conditions set out below. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to grant planning permission

FOR: Councillors Savage, Coombs and Windle

AGAINST: Councillors Galton L Harris ad Fitzhenry

The recommendation was passed using the Chairs second and casting vote

**RESOLVED** that the Panel

- (i) delegated to the Service Lead-Planning, Infrastructure and Development to grant Planning Permission subject to:
  - (a) the receipt of an amended site plan showing the parking associated with this unit (blue land) with the confirmation of a legal right to park.
  - (b) the receipt of information requested to support the planning conditions, particularly condition 6 (Parking). Authority was then delegated to the

- Service Lead – Infrastructure, Planning and Development to amend the conditions following the receipt of the information set out in (a);
- (ii) that the Panel delegated authority to the Service Lead to refuse planning permission in the event that this information is not provided within 1 month from the date of Planning Panel; and
  - (iii) the conditions set out within the report and any additional or amended conditions set out below:

Amended Condition

**8. Management**

Within 1 month from the date of this planning permission the applicants shall submit in writing to the Local Planning Authority a 'Site Management Plan' detailing how the approved use will operate on a day to day basis. The Management Plan shall detail a range of measures for limiting the impact of the use on its neighbours including, for instance: a commitment to 1 staff per student ratio with an on-site management presence during operational hours, arrangements for receiving students at the start of the day and ensuring their safe departure at the end of the day, details of supervision when students leave the building, a procedure for existing neighbours to report any concerns with a commitment by the applicant for responding to such enquiries within an agreed timescale, a scheme of measures for limiting noise emanating from the building, and a review process to ensure that the Site Management Plan is working effectively. The Management Plan shall be implemented for the lifetime of the temporary use following its written approval by the LPA.

REASON: Given the retrospective nature of the use, and the existing problems experienced by neighbours, additional management is needed in the interests of existing residential amenity as required by Local Plan Review Policy SDP1(i)

**NOTE:** Councillor Shields declared an interest and withdrew from the meeting.

**15. PLANNING APPLICATION - 19/00711/FUL - 25 OXFORD STREET**

The Panel considered the report of the Service Lead, Infrastructure, Planning and Development recommending that conditional planning permission be refused in respect of an application for a proposed development at the above address.

Proposed change of use from restaurant/cafe (Class A3) to mixed use restaurant/cafe/bar (Class A3/A4).

Serkan Ceylan (applicant), was present and with the consent of the Chair, addressed the meeting.

The Panel considered the recommendation to grant conditional planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to refuse planning permission

FOR: Councillors Savage, Coombs, L Harris and Windle

AGAINST: Councillors Fitzhenry and Shields

**RESOLVED** that planning permission be refused for the reasons set out below:

**1. Reason for Refusal - Noise and disturbance**

Whilst the principle of the change of use is supported, the proposed extension to opening hours would result in an extended late night use. It is considered that the intensification of use into the early hours of the morning would cause further detriment to the amenities of neighbouring properties by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would be contrary to the particular provisions of AP8 which outlines acceptable limits on opening hours within the city centre and would set a difficult precedent for further trading that could lead to additional premises trading after midnight in an area with evidenced problems of late night disturbance. The proposal would thereby prove contrary to and conflict with 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) and Policy AP8 of the City Centre Area Action Plan (adopted 2015).

**2. Reason for Refusal - Lack of Section 106 or unilateral undertaking to secure planning obligations.**

In the absence of a completed Section 106 legal agreement to support the development the application fails to mitigate against its wider direct impacts in the following areas:

- (i) Late Night Community Safety Contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013).
- (ii) CCTV contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013).

**16. PLANNING APPLICATION - 19/00392/FUL - 21 LOWER BANISTER STREET**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that the Panel refuse planning permission in respect of an application for a proposed development at the above address.

Application for variation of condition 2 of planning permission ref: 09/00336/FUL and condition 1 of planning permission ref: 13/01840/FUL to allow opening hours from 08:30am - 12 midnight to 08:30am - 01:00am 7 days a week.

Mark Sennitt (agent), Piers Kannangara (applicant), Lorraine Barter and (supporter) were present and with the consent of the Chair, addressed the meeting.

The Panel then considered the recommendation to refuse planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to refuse planning permission

FOR: Councillors Savage, Coombs, Galton, L Harris Shields and Windle

AGAINST: Councillor Fitzhenry

**RESOLVED** to refuse planning permission for the reasons set out below:

Reason for Refusal

**1. Noise and disturbance**

The proposed extension to opening hours would result in an extended late night use. It is considered that the intensification of use into the early hours of the morning would cause further detriment to the amenities of neighbouring properties by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would be contrary to the particular provisions of AP8 which outlines acceptable limits on opening hours within the city centre. Whilst the trade with existing hours on another premises is noted this approach is likely to create further harm to nearby residents of the application site and sets a difficult precedent for further trading that could lead to additional premises trading after midnight in an area with evidenced problems of late night disturbance. The proposal would thereby, having regard to similar appeal decisions in the locality for extended hours of use and the objection from the Police, prove contrary to and conflict with 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) and Policy AP8 of the City Centre Area Action Plan (adopted 2015).

# Agenda Annex

## INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 6<sup>th</sup> August 2019 - 6pm Conference Rooms 3 and 4, 1st Floor, Civic Centre

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
5	AG	DEL	15	19/00346/FUL 128-130 West End Road
6	AG	DEL	15	19/00950/OUT Horseshoe Bridge
7	MT	CAP	5	19/00990/FUL 8 Devonshire Road

PSA – Public Speaking Allowance (mins); CAP - Approve with Conditions: DEL - Delegate to Officers: PER - Approve without Conditions: REF – Refusal: TCON – Temporary Consent: NOBJ – No objection

Case Officers:

AG – Andy Gregory

MT – Mark Taylor

## **Southampton City Council - Planning and Rights of Way Panel**

### **Report of Service Lead – Planning, Infrastructure & Development**

#### **Local Government (Access to Information) Act 1985**

#### **Index of Documents referred to in the preparation of reports on Planning Applications:**

##### **Background Papers**

1. **Documents specifically related to the application**
  - (a) Application forms, plans, supporting documents, reports and covering letters
  - (b) Relevant planning history
  - (c) Response to consultation requests
  - (d) Representations made by interested parties
  
2. **Statutory Plans**
  - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Plan (Adopted 2013)
  - (b) Amended City of Southampton Local Plan Review (Adopted March 2015)
  - (c) Local Transport Plan 3 2011-2031
  - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
  - (e) Adopted City Centre Action Plan (2015)
  - (f) Community Infrastructure Levy Charging Schedule (2013)
  - (g) Bassett Neighbourhood Plan (Adopted 2016)
  
3. **Statutory Plans in Preparation**
  
4. **Policies and Briefs published and adopted by Southampton City Council**
  - (a) Old Town Development Strategy (2004)
  - (b) Public Art Strategy
  - (c) North South Spine Strategy (2004)
  - (d) Southampton City Centre Development Design Guide (2004)
  - (e) Streetscape Manual (2005)
  - (f) Residential Design Guide (2006)
  - (g) Developer Contributions SPD (September 2013)
  - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
  - (i) Women in the Planned Environment (1994)
  - (j) Advertisement Control Brief and Strategy (1991)
  - (k) Biodiversity Action Plan (2009)
  - (l) Economic Development Strategy (1996)
  - (m) Test Lane (1984)
  - (n) Itchen Valley Strategy (1993)



- (o) Portswood Residents' Gardens Conservation Area Character Appraisal (1999)
- (p) Land between Aldermoor Road and Worston Road Development Brief Character Appraisal(1997)
- (q) The Bevois Corridor Urban Design Framework (1998)
- (r) Southampton City Centre Urban Design Strategy (2000)
- (s) St Mary's Place Development Brief (2001)
- (t) Ascupart Street Development Brief (2001)
- (u) Woolston Riverside Development Brief (2004)
- (v) West Quay Phase 3 Development Brief (2001)
- (w) Northern Above Bar Development Brief (2002)
- (x) Design Guidance for the Uplands Estate (Highfield) Conservation Area (1993)
- (y) Design Guidance for the Ethelburt Avenue (Bassett Green Estate) Conservation Area (1993)
- (z) Canute Road Conservation Area Character Appraisal (1996)
- (aa) The Avenue Conservation Area Character Appraisal (1997)
- (bb) St James Road Conservation Area Character Appraisal (1996)
- (cc) Banister Park Character Appraisal (1991)\*
- (dd) Bassett Avenue Character Appraisal (1982)\*
- (ee) Howard Road Character Appraisal (1991) \*
- (ff) Lower Freemantle Character Appraisal (1981) \*
- (gg) Mid Freemantle Character Appraisal (1982)\*
- (hh) Westridge Road Character Appraisal (1989) \*
- (ii) Westwood Park Character Appraisal (1981) \*
- (jj) Cranbury Place Character Appraisal (1988) \*
- (kk) Carlton Crescent Character Appraisal (1988) \*
- (ll) Old Town Conservation Area Character Appraisal (1974) \*
- (mm) Oxford Street Conservation Area Character Appraisal (1982) \*
- (nn) Bassett Green Village Character Appraisal (1987)
- (oo) Old Woolston and St Annes Road Character Appraisal (1988)
- (pp) Northam Road Area Improvement Strategy (1987)\*
- (qq) Houses in Multiple Occupation (revised 2016)
- (rr) Vyse Lane/ 58 French Street (1990)\*
- (ss) Tauntons College Highfield Road Development Guidelines (1993)\*
- (tt) Old Woolston Development Control Brief (1974)\*
- (uu) City Centre Characterisation Appraisal (2009)
- (vv) Parking standards (2011)

\* NB – Policies in these documents superseded by the Residential Design Guide (September 2006, page 10), albeit character appraisal sections still to be had regard to.

## 5. Documents relating to Highways and Traffic

- (a) Hampshire C.C. - Movement and Access in Residential Areas
- (b) Hampshire C.C. - Safety Audit Handbook
- (c) Cycling Strategy – Cycling Southampton 2017-2027
- (d) Southampton C.C. - Access for All (March 1995)

- (e) Institute of Highways and Transportation - Transport in the Urban Environment
- (f) I.H.T. - Traffic Impact Assessment Guidelines
- (g) Freight Transport Association - Design for deliveries
- (h) Department for Transport (DfT) and Highways England various technical notes
- (i) CIHT's Manual for Streets and Manual for Streets 2

6. Government Policy Planning Advice

- (a) National Planning Policy Framework (February 2019)
- (b) National Planning Policy Guidance Suite

7. Other Published Documents

- (a) Planning for Daylight and Sunlight - DOE
- (b) Coast and Countryside Conservation Policy - HCC
- (c) The influence of trees on house foundations in clay soils - BREDK
- (d) Survey and Analysis - Landscape and Development HCC
- (e) Root Damage to Trees - siting of dwellings and special precautions – Practice Note 3 NHDC
- (f) Shopping Policies in South Hampshire - HCC
- (g) Buildings at Risk Register SCC (1998)
- (h) Southampton City Safety Audit (1998)
- (i) Urban Capacity Study 2005 – 2011 (March 2006)
- (j) Strategic Housing Land Availability Assessment (March 2013)

**Planning and Rights of Way Panel 06 August 2019  
Planning Application Report of the Service Lead – Infrastructure, Planning and  
Development.**

<b>Application address:</b> 128-130 West End Road, Southampton			
<b>Proposed development:</b> Redevelopment of the site. Erection of 10 x 3-bed, 2-storey dwellings with accommodation in roof space, in a terrace block of 5, a terrace block of 3 and 2 x semi-detached, with associated car port, parking and cycle/refuse storage, following demolition of existing public house (resubmission 17/00750/FUL)			
<b>Application number</b>	19/00346/FUL	<b>Application type</b>	Full
<b>Case officer</b>	Andrew Gregory	<b>Public speaking time</b>	15 minutes
<b>Last date for determination:</b>	29.05.19	<b>Ward</b>	Harefield
<b>Reason for Panel Referral:</b>	Five or more objections have been received.	<b>Ward Councillors</b>	Cllr Daniel Fitzhenry Cllr Valerie Laurent Cllr Peter Baillie

<b>Applicant:</b> MHH Poole Ltd	<b>Agent:</b> Aspire Architects Ltd
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<b>Recommendation Summary</b>	Delegate conditional approval to the Service Lead – Infrastructure, Planning and Development.
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<b>Community Infrastructure Levy Liable</b>	<b>Yes</b>
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**Reason for granting Planning Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The pub was marketed for freehold sale for 6 months without any interest from existing pub operators and no bid was made by the community interest group during the asset of community value moratorium period. Furthermore there are alternative pubs and community buildings within the surrounding area to meet the day to day needs of the community. The development has addressed the previous appeal dismissal by reconfiguring the car parking area in order to provide larger and usable private rear gardens for plots 1-3. Other material considerations including housing need, impact on neighbouring amenity, tree impact and on street car parking pressure have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and

proactive manner as required by paragraphs 39 - 42 and 46 of the National Planning Policy Framework (2019).

Policies - SDP1, SDP4, SDP5, SDP7, SDP8, SDP9, SDP10, SDP12, SDP13, SDP14, NE4, H2 and H7 of the City of Southampton Local Plan Review (Amended 2015) and CS3, CS4, CS5, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22 and CS25 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Habitats Regulations Assessment
3	Appeal Decision 17/00750/FUL	4	Map to show location of nearby pubs
5	DVS Viability dated 02 May 2019	6	Minutes of previous panel

### **Recommendation in Full**

1. That the Panel confirm the Habitats Regulation Assessment in Appendix 2 of this report.
2. Delegate to the Service Lead to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 Legal Agreement to secure:
  - a. Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
  - b. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
  - c. Either a scheme of measures or a financial contribution towards Solent Disturbance Mitigation Project to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
  - d. Employment and Skills Plan to secure training and employment initiatives.
  - e. The provision of one on-site affordable housing unit based on the DVS Viability Assessment dated 02 May 2019 in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013).
3. In the event that the legal agreement is not completed or progressing within a reasonable timeframe after the Planning and Rights of Way Panel, the Service Lead – Infrastructure, Planning and Development will be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement, unless an extension of time agreement has been entered into.
4. That the Service Lead – Infrastructure, Planning and Development be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

## **1 Background**

**1.1** Savills were instructed to dispose of the Big Cheese Public House on behalf of Green King PLC in July 2016. Green King took the decision to dispose of the asset because of declining return and because a re-branding exercise (Hungry Horse) had failed to improve turnover and profitability. The premises was marketed between July 2016 and December 2016 for freehold sale and as having potential for retail conversion and residential redevelopment opportunity. During this period, three acceptable offers were received, all from residential developers. The pub was closed in February 2017 and sold for £651,000 to a residential developer, £51,000 over the guide price.

### **1.2** *Asset of Community Value*

The Localism Act was introduced in November 2011 and gave communities a chance to save assets that are important to them. The Department of Communities and Local Government indicate that ‘assets of community value’ can include pubs. The Community Right to Bid came into effect on 21 September 2012. Local Authorities are required to keep a list of all these ‘assets of community value’ (ACV). If an owner of a listed asset wants to sell it they have to notify the local authority. The local authority then has to notify any interested parties. If community groups are interested in buying an asset they can use the Community Right to Bid to ‘pause’ the sale, giving them 6 months to prepare a bid to buy it before the asset can be sold.

**1.3** The Council received an ACV nomination from a community interest group on 14 February 2017 (supported by a petition with circa 150 signatories) and decided to list the Big Cheese Public House as an ACV on 27 April 2017 for the following reasons:

*“From the evidence submitted in recent times ie prior to its closure earlier this year, the premises were of significant and wide-ranging benefit to the community and community groups over and above simply being a well-used pub.”*

**1.4** On 18 May 2017, the owner notified the Council of their intention to sell the property and the community interest group responsible for the listing were given until 29 June 2017 to make a request to be treated as a bidder and until 18 November 2017 to complete a bid.

It should be noted that the provisions of the community right to bid do not restrict in any way who the owner of a listed asset can sell their property to, or at what price. As such the owner is under no obligation to dispose of the property to the community interest group and after the 18 November 2017 is free to sell on the open market. The community group made a request to be treated as a bidder however no bid was made by 18 November 2017 and therefore the owner is now free to sell on the open market.

**1.5** A planning application for redevelopment of the site with 10 houses following demolition of the existing public house was refused planning permission on 05.11.2018 (Application Ref 17/00750/FUL). The planning application was refused for overdevelopment reasons and no principle objection was raised to the loss of the public house. The refused scheme was subject to an appeal which was dismissed on the grounds of insufficient garden sizes to plots 1-3 however the Planning Inspector also raised no principle objection to the loss of the public house. As such the Panel should not raise the loss of the pub as a planning concern as part of this planning application.

## **2 The site and its context**

- 2.1 The application site has an area of 0.2 hectares and comprises a vacant public house. A large car parking area is located to the side and garden area to the rear. Access is taken from West End Road, in close proximity to the West End Road / Mousehole Lane / Dean Road / Townhill Park roundabout. The pub building is now boarded up and temporary herring fencing has been installed to secure the site. Mature trees, protected by the Southampton (Bitterne Village) Tree Preservation Order 1974, enclose the side and rear boundaries to Dean Road and Tenby Close.
- 2.2 The area surrounding the site is predominantly residential, comprising a mix of two storey housing and 3-4 storey flatted blocks. A convenience retail unit occupies the adjoining site to the north-east. The nearest alternative pubs are the Fox and Hound, Humble Plum and the Red Lion, all less than 1 mile from The Big Cheese Public House. Alternative community meeting places within the vicinity include Gordon Hall, Moorlands Community Centre and Harefield Community Centre, all within 1 mile of the Big Cheese Public House. Bitterne District Centre is 0.6 miles from the site.

### 3 **Proposal**

- 3.1 The proposal seeks permission for redevelopment of the site with 10 x 3-bed houses following demolition of the existing public house. The proposal is a re-submission of the previously refused scheme and seeks to address the previous overdevelopment reason by re-configuring the car parking area and providing larger rear gardens for plots 1-3. The layout retains the existing trees along the boundaries with Dean Road and Tenby Close with the residential plots again framing a parking court. A terrace of 3 houses has been orientated to face towards the parking court. A semi-detached pair and terrace of 5 houses have been orientated to face West End Road.
- 3.2 The proposed houses are two-storey in scale with additional accommodation in the roof. The houses are traditional in design with pitched roof form incorporating front and rear dormers. The dwellings have a materials palette of render and face brickwork. The proposed front boundary would comprise dwarf wall and railings.
- 3.3 The parking court provides 14 resident car parking spaces and 3 visitor car parking spaces (17 in total to serve 10 dwellings) with access taken from West End Road. An open sided car port with pitched is proposed to provide coverage to the spaces along the south-eastern boundary. Bin and cycle storage is provided to the rear of each plot. A gated pedestrian access is provided to a bin collection point adjacent to Dean Road

### 4 **Relevant Planning Policy**

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 4.2 The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated. A key thread to the NPPF is the promotion of healthy communities (section 8 refers). Paragraph 91

indicates that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Paragraph 92 goes on to indicate the need to plan positively for the provision for community facilities and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

**4.3** Policy CS3 of the Core Strategy (January 2010) is the Council's most up to date planning policy relating to community facilities and indicates that:

*“proposals that result in the loss of a community facility throughout the city will not be supported if it is viable for the commercial, public or community sector to operate it and if there are no similar or replacement facility in the same neighbourhood. Community facilities include: community buildings; drop-in centres / day centres; Meeting Rooms / Day Centres; Places of Worship; Sports Club and recreation; Youth Clubs / Scout huts / Guide huts / Clubs for Senior Citizens.”*

**4.4** Public houses and cafes are not included within the list of community facilities as set out within policy CS3. However it should be noted that the Council did seek to have public houses included within the defined list of community facilities within the draft Local Development Framework. During the examination into the Core Strategy the Inspector decided not to include pubs and cafes for the following reasons:

*“Whilst desirable in principle, experience elsewhere suggests that such a policy can be difficult and complex to operate reasonably and realistically in practice, especially in relation to commercially run facilities and privately owned businesses, such as public houses and cafes, as distinct from public sector organisations.....*

*Moreover, in a densely built up area such as Southampton, unlike a small rural settlement, equivalent or similar businesses are usually available nearby and within a reasonable walking distance. In such circumstances it is not necessary or realistic for the Council to seek to control the operations of the free market in this way in relation to public houses and cafes, which can be distinguished from the other types of community facilities listed by virtue of their normally operating in the fully commercial sector.”*

**4.5** The National Planning Policy Framework post-dates this analysis and specifically references pubs as community use and as such becomes directly relevant. That said, in this case the Panel will note that the loss of the pub was not previously cited as a Reason for Refusal and it would be unreasonable to suggest it is now an issue.

## **5 Relevant Planning History**

**5.1** A planning application for residential redevelopment comprising 10 x 3-bed houses following demolition of the public house (LPA Ref 17/00750/FUL) was refused on 12.01.2018 for the following reasons:

### *01. Site Overdevelopment*

*The proposed redevelopment represents an overdevelopment of the site by reason of a residential layout and design that fails to respond to the established pattern of development within the locality, is reliant upon a significant amount of building and hardstanding (in excess of 50% of the site), fails to meet the Council's standards in respect of useable amenity space; particularly in respect of Units 1-3, but also in terms of usability for*

*Units 8-10 given the boundary planting and subsequent shade, and which proposes car parking in close proximity to the main living space of Units 8-10 to the detriment of these residents' amenity in terms of noise, disturbance and headlight glare. As such, the application is considered to fail the requirements of Local Plan Review (Amended 2015) policies SDP1 (i) and SDP7 as supported by Policy CS13 of the adopted Local Development Framework Core Strategy (2015) and the relevant paragraphs from the Council's approved Residential Design Guide SPD (2006); with particular reference to sections 3.9 and 4.4 and paragraph 2.3.14.*

02. *Lack of Section 106 agreement to secure planning obligations.*

*In the absence of a Section 106 agreement the development fails to mitigate its impact in the following areas:*

- (a) Contributions towards site specific transport improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015) Policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Developer Contributions (April 2013);*
- (b) Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer; and*
- (c) Contributions or otherwise towards a scheme of measures that mitigate against the impacts of the development on the Solent Special Protection Area as required by LDF Core Strategy (Amended 2015) policies CS22 and CS25; and*
- (d) An Employment Training and Skills Plan to secure local employment initiatives during the construction phase as required by LDF Core Strategy Policy CS24.*

5.2 A copy of the Panel minutes are attached as **Appendix 6**

5.3 A subsequent planning appeal was dismissed with the Inspector concluding that the proposal would provide unsatisfactory living conditions for occupants of the houses on Plots 1-3 arising from inadequate private amenity space. A copy of the appeal decision is attached as **Appendix 3**.

5.4 Planning permission was granted on 26.04.2018 for change of use of the pub from a drinking establishment (Class A4) to flexible use within A1, A2, A3 or A4 (Retail, financial, professional services, restaurants, cafe and drinking establishments) (LPA Ref 18/00347/FUL)

## **6 Consultation Responses and Notification Representations**

6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (15.03.2019) and erecting a site notice (12.03.2019). At the time of writing the report **21 representations** have been received from surrounding residents. The following is a summary of the points raised:

### **6.1.1 Loss of the public house as a community meeting place**

*Officer Response – The pub has been closed since February 2017. The site was marketed as a freehold pub for sales for 6 months and during that period no acceptable offers were received from pub operators. Furthermore no bid was made by the community group during the ACV moratorium period. There are alternative public house and community buildings with the area to meet the day*



to day needs of the community. The Council does not have a public house protection policy (see planning policy section). Planning permission was not previously refused for loss of pub reasons nor was it dismissed by the appeal Inspector for this reason. Planning permission has also been granted for conversion of the pub into alternative A class uses

**6.1.2 Increased traffic congestion / Highway Safety**

Officer Response – No objection has been raised by SCC Highways Development Management. The proposed residential use is likely to result in a net reduction in vehicular trips in comparison to the historic pub use. The proposal uses an existing access point and would generate a reduction in right turn movements into the site when compared to the first application

**6.1.3 Overdevelopment**

Officer Response – The proposed scheme comprises 10 x 3-bed houses and has a density of 50 dwellings per hectare which is considered in keeping with the character of the area and compliant with policy CS5. The introduction of private residential gardens for each plot will result in a net reduction of hard surfacing across the site.

**6.1.4 The proposed development is over-bearing, out-of-scale and out of character in terms of its appearance compared with existing development in the vicinity.**

Officer Response - The provision of two-storey housing with rooms in the roof is not considered out of keeping with the character of the area which comprises detached, semi-detached and terraced two-storey housing and larger flatted block which are 3 to 4-storey. Furthermore the proposed housing will not have an overbearing impact on existing properties within Dean Road and West End Road having regard to the building separation, layout and retained tree screen along the side and rear boundaries.

**6.1.5 Request that the existing trees are safeguarded in the interests of the visual amenities of the area and privacy of neighbouring occupiers.**

Officer Response - None of the existing trees are proposed to be removed. Additional tree planting can be secured as part of the approval of landscaping details.

**6.1.6 Insufficient on-site car parking provision will lead to increased on-street parking pressures within surrounding streets.**

Officer Response – The provision of 14 resident car parking plus 3 visitor spaces accords with the Council's maximum car parking standards and no objection has been raised by Highways Development Management. The maximum number of spaces permissible is 20 resident parking spaces (2 spaces per 3-bed dwelling).

**6.1.7 Loss of light and privacy to neighbouring occupiers in Dean Road**

Officer Response – The layout and orientation of the proposed dwellings in relation to neighbouring dwellings will not lead to harmful loss of light or privacy. There is circa 40m separation between the rear elevation of units 1-7 and the

southern boundary with Tenby Close. There are no windows in the side elevation of unit10.

#### **6.1.8 Refuse collection from Dean Road**

Officer Response – Collection from Dean Road is the preferred option to prevent obstruction to flow on West End Road. The frequency of collections and length of time needed to collect the bins will not lead to harmful obstruction of traffic flow on Dean Road.

#### **6.1.9 Potentially Contaminated Site**

Officer Response – See comments from SCC contamination team below

#### **6.1.10 Insufficient existing foul drainage capacity**

Officer Response – Southern Water have raised no concerns regarding existing network capacity

#### **6.1.11 No cycle storage provided**

Officer Response – The site plans shows that cycle storage provision has been made within each rear garden with storage for a minimum of 1 bicycle per unit which accords with the Council's Parking Standards SPD

#### **6.1.12 Noise and other disturbance during construction**

Officer Response – Conditions are recommended to control the construction environment, such as hours of work controls, measures to limit noise and dust and also to secure details of construction vehicle parking arrangements.

#### **6.1.13 Concerns regarding the impact of surface water drainage**

Officer Response – It is recommended that a SUDS scheme be secured by condition. The introduction of rear gardens will reduce the existing run-off rates.

### **7 Consultation Responses**

#### **7.1 SCC Highways** – No objection subject to conditions.

In terms of impact on the highway, the existing use as a public house would have a greater impact due to the higher level of trips and servicing requirements. Therefore in principle, the proposed development is considered acceptable in highway terms. The proposed access, parking layout, bin storage/collection arrangements are considered acceptable.

#### **7.2 SCC Trees** – No objection subject to agreement of tree works to accommodate the car port.

#### **7.3 SCC Ecology** – No objection

The application site consists of a building, hard-standing, amenity grassland and a number of trees.

#### **7.3.1** The ecological value of the site is limited to the trees, which have potential to support nesting birds, the other habitats have negligible intrinsic biodiversity value. In addition, the building is in good condition with no obvious access points for bats. The proposed development will lead to an increase in amenity grassland which will be an improvement on the current situation. I would like the landscaping scheme to include native species, or ornamental species with recognised value for wildlife.

#### **7.4 SCC Land Contamination** - No objection. Suggest a condition to secure a full land contamination assessment and any necessary remediation measures

#### **7.5 SCC Archaeology** – **No objection.** The proposed development involves demolition of the existing public house and the construction of 10 new houses,

with associated parking etc. The site has some archaeological potential, and development here threatens to damage archaeological deposits. To mitigate this, an archaeological watching brief on all groundworks will be required.

**7.5.1** The current public house is much altered, with replacement UPVC windows, although it is still of some local interest and its demolition is to be regretted. To mitigate its loss, an archaeological building record (to Historic England Level II) will need to be made of the building before demolition

**7.6 SCC Sustainability Team - No objection**

Subject to the imposition of conditions securing energy and water restriction.

**7.7 SCC Drainage** – No objection subject to condition to secure sustainable drainage.

**7.8 Southern Water** – No objection

Request a condition to secure details of means of surface and foul water disposal.

**7.9 Environmental Health** – No objection subject to a condition to secure a construction environment management plan

**7.10 SCC Housing** - As the scheme comprises of 10 dwellings in total the affordable housing requirement from the proposed development is 20% (CS15- sites of 5-14 units = 20%). The affordable housing requirement is therefore 2 dwellings.

**7.10.1** Policy CS 15 of the adopted Core Strategy sets a hierarchy for the provision of affordable housing as:

- (i) On-site as part of the development and dispersed amongst the private element of the scheme;
- (ii) On an alternative site, where provision would result in more enhanced affordable units, through effective use of available resources, or meeting a more identified housing need such as better social mix and wider choice;
- (iii) Commuted financial payment to be utilised in providing affordable housing on an alternative site

**7.10.2** In this case on site provision would be sought, subject to the independent findings on the financial viability of the scheme.

**7.10.3** Planning conditions and or obligations will be used to ensure that the affordable housing will remain at an affordable price for future eligible households, or for the subsidy to be recycled to alternative housing provision.

*Officer Response – The application has been subject to viability review and the DVS Viability Assessment dated 02 May 2019 has found that the scheme can viably deliver one on-site affordable housing*

**7.11.1 City of Southampton Society** - No objection in principle.

A bit of a squeeze, but good design. Units facing West End Road a bit closer to the road than might have been wished. Important to keep something of a belt of trees along the Tenby Close boundary. Traffic coming and going through the one point in West End Road will be rather awkward, especially traffic turning right into and out of the site. An access/egress point in Tenby Close would have been safer in traffic terms, although Dean Road is one way at this point.

**7.11.2** *Officer Response – The previous appeal decision found that the proposal for 10 houses would represent a reduction in the amount of hard standing on the site and raised no concerns in relation to the building line facing West End Road*  
*The proposal has addressed the concerns regarding the amount of amenity space for plots 1-3 by reconfiguring the car parking area to extend the garden*

areas of plots 1-3. Therefore the current proposal is not considered an overdevelopment of the site.

SCC highways have raised no objection to the proposed access arrangements - vehicular access onto West End road is an existing situation and the proposal would generate less vehicular trips than the former pub.

## **8. Planning Consideration Key Issues**

The key issues for consideration during the determination of this planning application are:

- the principle of the development;
- the impact of the design of the building on the character of the area;
- the quality of the residential environment;
- the impact on the amenities of neighbouring and surrounding residents;
- Highway safety, car parking, access and mitigation; and
- Habitat Regulations.

### **8.1 Principle of Development**

**8.1.1** The Big Cheese Public House has been closed since February 2017. Green King took the decision to dispose of the asset because of declining return and because a re-branding exercise (Hungry Horse) had failed to improve turnover and profitability. A marketing exercise for freehold sale was carried out by Savills between July 2016 and December 2016 however no acceptable offers were received from pub operators or other groups or individuals seeking retained public house use. All offers were from residential developers.

**8.1.2** DCLG (non-statutory) guidance in the 'Community Right to Bid: Non-statutory advice note for local authorities (October 2012) indicates that:

*"...the fact that the site is (a) listed (Aocv) may affect planning decisions - it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case."*

**8.1.3** In this case, it is considered the Asset of Community Value can now only be given limited weight because the community group did not make a bid for the premises during the 6 month moratorium period. The ACV listing process is designed to give community groups the opportunity to purchase and operate valued community buildings. The ACV process does not protect community buildings from redevelopment if no community bid is made. The current owner is now free to sell the site on the open market for a protected period of 12 months following the close of the moratorium period on 18 November 2017.

**8.1.4** Public houses are not protected within the development plan and they not defined as community facilities under the requirements of policy CS3 of the Core Strategy. Paragraph 70 of the National Planning Policy Framework, which post-dates policy CS3, does indicate that public houses can be considered as community facilities and that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Whilst the loss of the Big Cheese Public House will clearly reduce the number and availability of public houses within this area, it is not considered to reduce the community's ability to meet its day to day needs having regard to the availability of alternative pubs and community facilities within the vicinity of the site, namely:

### ***Alternative A4 pub uses***

- The Fox and Hounds Public House (0.3 miles / 5 minute walk from the site)
- Humble Plumb (0.4 miles / 7 minute walk from the site)
- The Red Lion (0.6 miles / 13 minute walk from the site)

***Alternative community facilities***

- The Gordon Hall (0.1 miles / 2 minute walk from the site)
- Moorlands Community Centre (0.4 miles / 7 minute walk from the site)
- Harefield Community Centre (0.6 miles / 11 minute walk from the site)

A plan showing the location of alternative public houses within this area is attached as ***Appendix 4***.

- 8.1.5** The site is not allocated for housing and the scheme would represent windfall housing delivery on previously developed land, thereby assisting the Council in meeting its housing requirements of 16,300 homes to 2026. The proposal incorporates 10 x 3 bedroom family homes and thus will help to increase the number of family houses within the local community as required by policy CS16. The provision of family housing is welcomed and policy CS16 requires a minimum of 30% family homes on sites of 10 or more dwellings. Furthermore the scheme has satisfied policy CS15 with the delivery of one on-site affordable housing unit following a viability review.
- 8.1.6** Policy H2 of the Local Plan encourages the maximum use of derelict, vacant and underused land for residential development. Furthermore Policy CS5 of the Council's Core Strategy (2015) indicates that development will only be permitted which is of an appropriate density for its context. The site is located within an area of lower accessibility where net density levels of 35-50 dwellings per hectare will be sought, providing the character and appearance of the area is not compromised. The development achieves 50 dwellings per hectare which accords with policy CS5
- 8.1.7** The previously refused planning application for 10 houses (Ref 17/00750/FUL) was refused for overdevelopment and living environment reasons and not for loss of the public house. The subsequent appeal decision agreed that there was no principle issue in terms of loss of the public house. The Inspector was satisfied that in light of the circumstances, the loss of this public house would not adversely affect the community's ability to meet its day to day needs. Therefore the principle of residential redevelopment is supported.
- 8.2** The impact of the design of the building on the character of the area
- 8.2.1** The surrounding area is not homogenous in design terms and includes a variety of house types, and building scale. The provision of two-storey housing (albeit with rooms in the roof) with pitched roof form and traditional appearance is considered in keeping with the character and appearance of the area. The proposed materials palette of face brick and render is considered acceptable and will not be harmful to the visual amenities of the area
- 8.2.2** The site layout has been informed by the need to retain the existing protected tree group along the side and rear boundaries. This has meant that units 8-10 have been orientated to face towards the parking court with the trees to Dean Road forming the rear garden boundaries. Therefore the proposal will have no adverse impact on the Dean road street scene.
- 8.2.3** This re-submission has an amended layout which addresses previous concerns regarding garden sizes to units 1-3. These units now have gardens sizes of circa 14m/70sqm which satisfy design standards for terraced housing with the

minimum requirements of 10m length / 50sqm area exceeded. The improvements in amenity space provision are a result of a reconfiguration to the car parking area which has not resulted in the loss of parking nor has it compromised access arrangements or on-site turning. Brick rear boundary walls will be sought to enclose the parking court and appropriate hard and soft landscaping will be required to ensure the parking court is appropriately treated

**8.3** The quality of the residential environment produced for prospective residents.

**8.3.1** The proposed living environment is considered acceptable with all habitable rooms receiving genuine outlook and day lighting. The orientation and separation of plots will ensure that no harmful overlooking will occur. It is recommended that the first-floor bathroom window in the side elevation of unit 8 be obscured with top light opening to prevent overlooking of adjacent gardens. A 12m separation distance is provided between the rear windows of unit 6 and the side gable of unit 8 which is broadly compliant with Residential Design Guide standards.

**8.3.2** All plots now accord with Residential Design Guidance in relation to rear garden sizes and are also acceptable in terms of quality and usability. The proposal satisfies the requirements of policy CS16 which requires a minimum of 30% of total dwellings to be provided as family homes (defined as 3 bedrooms or more with private amenity space which is fit for purpose and minimum garden areas of 50sqm for terraced homes and 70sqm for semi-detached properties).

**8.4** The impact on the amenities of neighbouring and surrounding residents:

**8.4.1** The proposed development will have no adverse impact on the residential amenities of neighbouring occupiers. The proposed layout, building orientation, separation distances and retention of existing trees will ensure that no harmful shadowing, loss of light, sense of enclosure or loss of light will occur. The previous refusal and subsequent appeal decision raised no concerns in relation to neighbouring amenities.

**8.5** Highways safety, car parking, access and mitigation.

**8.5.1** The provision of 14 resident car parking spaces plus 3 visitor spaces accords with the Council's maximum car parking standards and no objection has been raised by Highways Development Management. The maximum number of spaces permissible is 20 resident parking spaces (2 spaces per 3-bed dwelling). The level of parking proposed and nature of the use, would result in a net reduction in vehicular trips when compared with the historic pub use and therefore the proposal will not lead to increased congestion. The site is located in close proximity to shops and amenities within Bitterne District Centre and frequent bus services run from nearby bus stops on West End Road.

**8.5.2** Bin and bike storage facilities are provided within the rear of each plot. A refuse collection point is provided for collection from Dean Road

**8.5.3** A legal agreement will be used to secure off site works and measures needed to mitigate the impact of the development, in particular site specific transport contributions for highway improvements, to include:

- Conversion of the existing Pelican crossing, adjacent to the site on West End Road, to a Toucan crossing, to facilitate pedestrian and cycle use;
- Dedication of land to the highway frontage of the site along West End Road into Dean Road to a point just beyond the tactile paving at the narrowing of Dean Road to provide a minimum width of 3.5m for a shared cycleway/footpath route; and

- To provide a cycle dropped crossing adjacent to the pedestrian facility in Dean Road, to enhance the link between the cycle only plug at the end of Dean Road towards the crossing facility on West End Road.

**8.5.4** Additionally a highway condition survey will be required to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer and financial contribution towards SDMP to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.

## **8.6** Habitat Regulations

**8.6.1** The proposed development, as a residential scheme, has been screened (where mitigation measures must now be disregarded) as likely to have a significant effect upon European designated sites due to an increase in recreational disturbance along the coast and in the New Forest. Accordingly, a Habitat Regulations Assessment (HRA) has been undertaken, in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, see **Appendix 2**. The HRA concludes that, provided the specified mitigation of a Solent Recreation Mitigation Strategy (SRMP) contribution and a minimum of 5% of any CIL taken directed specifically towards Suitably Accessible Green Space (SANGS), the development will not adversely affect the integrity of the European designated sites

## **8.7** Affordable Housing and Viability

**8.7.1** Policy CS15 sets out that “the proportion of affordable housing to be provided by a particular site will take into account the costs relating to the development; in particular the financial viability of developing the site (using an approved viability model).” The application is accompanied by a viability assessment which sets out that the development would not be viable and able to commence should the usual package of financial contributions and affordable housing be sought. In particular, the assessment sets out that the development would not be able to meet the requirement to provide 2 Affordable Housing units on the site (policy requirement for 20% provision). However the viability appraisal has been assessed and verified by an independent adviser to the Council; in this case the District Valuation Service (DVS) which has found that the scheme can viably deliver 1 on-site affordable housing unit. A copy of their report is appended to this report at **Appendix 5**.

**8.7.2** DVS conclude that:

*“On the basis of a scheme providing 1 x affordable unit, CIL at £40,551 and S106 contributions totalling £27,470, the Residual Land Value (RLV) is £593,596, which is significantly above the Benchmark Land Value which DVS have adopted. DVS therefore consider that on this basis a scheme is financially viable and should be deliverable on this site.”*

**8.7.3** The benefits of redeveloping the site in this manner and the need to comply with the policy constraints outweigh the requirement for 20% affordable housing in this case. The Panel may attach greater weight to the need for affordable housing in this part of the City but in doing so – and thereby rejecting this application – the Council would then need to defend an appeal where an independent Inspector is likely to attach significant weight to the DVS report (also independent).

**9**      **Summary**

The pub freehold was marketed for 6 months without any interest from existing pub operators and no bid was made by the community interest group during the asset of community value moratorium period. Furthermore there are alternative pubs and community buildings within the surrounding area to meet the day to day needs of the community. As such the principle of redevelopment for housing is supported by the development plan. The proposed replacement scheme is acceptable. The proposal has addressed the previous reason for refusal and appeal decision by providing acceptable garden sizes for units 1-3. Other material considerations, are not considered to outweigh the merits of family housing delivery on this site.

**8**      **Conclusion**

The positive aspects of the scheme are not judged to be outweighed by the negative and as such the scheme is recommended for conditional approval.

**Local Government (Access to Information) Act 1985**

**Documents used in the preparation of this report Background Papers**

1 (a) (b) (c) (d), 2 (b) (c) (d), 4 (f) (g), 6 (a) (c), 7 (a), 9 (a) (b)

**AG for 06/08/2019 PROW Panel**



## PLANNING CONDITIONS

### 01. Full Permission Timing Condition (Performance)

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

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

### 02. Details of building materials to be used (Pre-Commencement Condition)

Notwithstanding the information shown on the approved drawings and application form, with the exception of site clearance, demolition and preparation works, no development works shall be carried out until a written schedule of external materials and finishes, including samples and sample panels where necessary, has been submitted to and approved in writing by the Local Planning Authority. These shall include full details of the manufacturer's composition, types and colours of the external materials to be used for external walls, windows, doors, rainwater goods, and the roof of the proposed buildings. It is the Local Planning Authority's practice to review all such materials on site. The developer should have regard to the context of the site in terms of surrounding building materials and should be able to demonstrate why such materials have been chosen and why alternatives were discounted. If necessary this should include presenting alternatives on site. Development shall be implemented only in accordance with the agreed details.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality.

### 03. Residential - Permitted Development Restriction (Performance Condition)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order amending, revoking or re-enacting that Order, no building or structures within Schedule 2, Part 1, Classes as listed below shall be erected or carried out to any dwelling house hereby permitted without the prior written consent of the Local Planning Authority:

Class A (enlargement of a dwelling house), including a garage or extensions,

Class B (roof alteration),

Class C (other alteration to the roof),

Class D (porch),

Class E (curtilage structures), including a garage, shed, greenhouse, etc.,

Class F (hard surface area)

Class G (chimneys, flues etc)

Reason: In order that the Local Planning Authority may exercise further control in this locality given the specific circumstances of the application site and in the interests of the comprehensive development and visual amenities of the area.

### 04. Obscure Glazing (Performance Condition)

The first floor bathroom window in the side elevation of Unit 8 of the hereby approved development, shall be obscurely glazed and fixed shut up to a height of 1.7 metres from the internal floor level before the development is first occupied. The window shall be thereafter retained in this manner.

Reason: To protect the amenity and privacy of the adjoining property.

05. Landscaping, lighting & means of enclosure detailed plan (Pre-Commencement)

Notwithstanding the submitted details, before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted to and approved by the Local Planning Authority in writing, which includes:

- i. means of enclosure; car parking layouts; other vehicle pedestrian access and circulations areas, hard surfacing materials, structures and ancillary objects (refuse bins, lighting columns etc.);
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. an accurate plot of all trees to be retained and to be lost. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise and agreed in advance);
- iv. details of any proposed boundary treatment, including retaining walls and;
- v. a landscape management scheme.

Private rear garden boundaries adjacent to the site access and car parking area shall comprise brick walls with a minimum height of 1.8m that shall be retained for the lifetime of the scheme.

The approved hard and soft landscaping scheme (including parking) for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

Reason: To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990

06. Hours of work for Demolition / Clearance / Construction (Performance)

All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of:

Monday to Friday 08:00 to 18:00 hours  
Saturdays 09:00 to 13:00 hours

And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the occupiers of existing nearby residential properties.

07. Construction Management Plan (Pre-Commencement)

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Plan for the development. The Construction Management Plan shall include details of:

- (a) parking of vehicles of site personnel, operatives and visitors;
- (b) loading and unloading of plant and materials;
- (c) storage of plant and materials, including cement mixing and washings, used in constructing the development;
- (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;
- (e) measures to be used for the suppression of dust and dirt throughout the course of construction;
- (f) details of construction vehicles wheel cleaning; and,
- (g) details of how noise emanating from the site during construction will be mitigated. The approved Construction Management Plan shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

Reason: In the interest of health and safety, protecting the amenity of local land uses, neighbouring residents, the character of the area and highway safety.

08. Glazing- Soundproofing from external noise (Performance Condition)

Unless otherwise agreed in writing by the Local Planning Authority, the glazing for the residential accommodation shall be either:

- Outer pane of glass - 10mm
- Air gap between panes - 12mm
- Inner pane of glass - 6 mm
- or, with secondary glazing with a -
- Outer pane of glass - 6mm
- Air gap between panes - 100mm
- Inner pane of glass - 6.4 mm

Any trickle vents must be acoustically rated. The above specified glazing shall be installed before any of the flats are first occupied and thereafter retained at all times.

Reason: In order to protect occupiers of the flats from traffic noise.

09. Demolition Statement (Pre-Commencement)

Precise details of the method and programming of the demolition of the existing property shall be submitted to and approved in writing by the Local Planning Authority prior to the implementation of the scheme. The agreed scheme shall be carried out to the details as specified in the demolition programme unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of adjacent residential properties.

10. Demolition - Dust Suppression (Pre-Commencement)

Measures to provide satisfactory suppression of dust during the demolition works to be carried out on the site shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The agreed suppression methodology shall then be implemented during the demolition period.

Reason: To protect the amenities of users of the surrounding area.

11. Land Contamination investigation and remediation (Pre-Commencement & Occupation)

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A desk top study including;
  - historical and current sources of land contamination
  - results of a walk-over survey identifying any evidence of land contamination
  - identification of the potential contaminants associated with the above
  - an initial conceptual site model of the site indicating sources, pathways and receptors
  - a qualitative assessment of the likely risks
  - any requirements for exploratory investigations.
2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed.
3. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

On completion of the works set out in (3) a verification report shall be submitted to the Local Planning Authority confirming the remediation actions that have been undertaken in accordance with the approved scene of remediation and setting out any measures for maintenance, further monitoring, reporting and arrangements for contingency action. The verification report shall be approved by the Local Planning Authority prior to the occupation or operational use of any stage of the development. Any changes to these agreed elements require the express consent of the local planning authority.

Reason: To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment and where required remediation of the site is to an appropriate standard.

12. Use of uncontaminated soils and fill (Performance)

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by documentation to validate their quality and be submitted to the Local Planning Authority for approval prior to the occupancy of the site.

Reason: To ensure imported materials are suitable and do not introduce any land contamination risks onto the development.

13. Unsuspected Contamination (Performance)

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified, no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority. Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority. The development shall proceed in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure any land contamination not previously identified is assessed and remediated so as not to present any significant risks to human health or, the wider environment.

14. Energy & Water (Pre-Commencement)

Before the development commences, written documentary evidence demonstrating that the development will achieve at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of a design stage SAP calculations and a water efficiency calculator shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA.

Reason: To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

15. Energy & Water (performance condition)

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of final SAP calculations and water efficiency calculator and detailed documentary evidence confirming that the water appliances/fittings have been installed as specified shall be submitted to the Local Planning Authority for its approval.

Reason: To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

16. APPROVAL CONDITION - Sustainable Drainage (Pre-Commencement Condition).

No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the non-statutory technical standards for SuDS published by Defra (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason

To seek suitable information on Sustainable urban Drainage Systems as required by government policy and Policy CS20 of the Southampton Core Strategy (Amended 2015).

17. APPROVAL CONDITION Archaeological watching brief investigation [Pre-Commencement Condition]  
No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.  
  
Reason: To ensure that the archaeological investigation is initiated at an appropriate point in development procedure.
18. APPROVAL CONDITION Archaeological watching brief work programme [Performance Condition]  
The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.  
Reason: To ensure that the archaeological investigation is completed.
19. APPROVAL CONDITION Archaeological structure-recording [Pre-Commencement Condition]  
No development shall take place within the site until the implementation of a programme of recording has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.  
Reason: To ensure that the recording of a significant structure is initiated at an appropriate point in development procedure.
20. APPROVAL CONDITION Archaeological work programme [Performance Condition]  
The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.  
Reason: To ensure that the archaeological investigation is completed.
21. Surface / foul water drainage (Pre-commencement)  
  
No development approved by this permission shall commence until a scheme for the disposal of foul water and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the agreed details and be retained as approved.  
  
Reason: To ensure satisfactory drainage provision for the area.
22. Sightlines specification (Pre-Commencement)  
  
Sight lines of 2m by 2m measured at the back of footway shall be provided before the use of any building hereby approved commences, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 no fences walls or other means of enclosure shall be erected above a height of 0.6m above ground level within the sight line splays.  
  
Reason: To provide safe access to the development and to prevent congestion on the highway.
23. Parking (Pre-Occupation)  
  
The parking and access shall be provided in accordance with the plans hereby approved before the development first comes into occupation and thereafter retained as approved.

The car parking shall be allocated to each residential unit on at least a 1:1 basis. The 2 no. visitor spaces shall be made available at all times as visitor parking only.

Reason: To prevent obstruction to traffic in neighbouring roads and in the interests of highway safety.

24. Cycle parking (Performance Condition)

Before the development hereby approved first comes into occupation, the storage for bicycles shall be provided and made available for use in accordance with the plans hereby approved. The storage shall thereafter be retained as approved.

Reason: To encourage cycling as an alternative form of transport.

25. Refuse & Recycling (Performance)

Before the development hereby approved first comes into occupation, the storage for refuse and recycling shall be provided in accordance with the plans hereby approved and thereafter retained as approved. The bins shall be stored in the location as shown on the plans hereby approved and collected from within the site. At no time shall bins shall be stored on the public highway or to the front of plots 1-7.

Reason: In the interest of visual and residential amenity and highway safety.

26. Arboricultural Impact Assessment (Pre-commencement Condition)

Prior to commencement of the car port details of any crown lift works shall be submitted and agreed in writing by the Local Planning Authority. In all other respects the development hereby approved shall be carried out in accordance with the Arboricultural Impact Assessment and Protection Scheme by Hearne Arboricultural Ref JH/AIA/TPP/17/011/Rev1.

Reason: To ensure that provision for trees to be retained and adequately protected throughout the construction period has been made.

27. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

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APPENDIX 1

## POLICY CONTEXT

### Core Strategy - (as amended 2015)

CS3	Promoting Successful Places
CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS14	Historic Environment
CS15	Affordable Housing
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats
CS25	The Delivery of Infrastructure and Developer Contributions

### City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
NE9	Protection / Improvement of Character
H2	Previously Developed Land
H7	The Residential Environment

### Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Parking Standards SPD (September 2011)

### Other Relevant Guidance

The National Planning Policy Framework (2019)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

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### Appendix 2 Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement

**PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.**

HRA completion date:	See Main Report
Application reference:	See Main Report
Application address:	See Main Report
Application description:	See Main Report
Lead Planning Officer:	See Main Report
Please note that all references in this assessment to the 'Habitats Regulations' refer to The Conservation of Habitats and Species Regulations 2017.	

Stage 1 - details of the plan or project	
European site potentially impacted by planning application, plan or project:	Solent and Southampton Special Protection Area (SPA) and Ramsar site. Solent Maritime Special Area of Conservation (SAC). Collectively known as the Solent SPAs. New Forest SAC, SPA and Ramsar site.
Is the planning application directly connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.

<p>Are there any other projects or plans that together with the planning application being assessed could affect the site (Applicant to provide details to allow an 'in combination' effect to be assessed)?</p>	<p>Yes. All new housing development within 5.6km of the Solent SPAs is considered to contribute towards an impact on site integrity as a result of increased recreational disturbance in combination with other development in the Solent area.</p> <p>Concerns have been raised by Natural England that residential development within Southampton, in combination with other development in the Solent area, could lead to an increase in recreational disturbance within the New Forest. This has the potential to adversely impact site integrity of the New Forest SPA, SAC and Ramsar site.</p> <p>The PUSH Spatial Position Statement (<a href="https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/">https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/</a>) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire up to 2034.</p>
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## Stage 2 - HRA screening assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.

### Solent SPAs

The proposed development is within 5.6km of the collectively known European designated areas Solent SPAs/Ramsar sites. In accordance with advice from Natural England and as detailed in the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those sites through a consequent increase in recreational disturbance.

Development within the 5.6km zone will increase the human population at the coast and thus increase the level of recreation and disturbance of bird species. The impacts of recreational disturbance (both at the site-scale and in combination with other development in the Solent area) are analogous to impacts from direct habitat loss as recreation can cause important habitat to be unavailable for use (the habitat is functionally lost, either permanently or for a defined period). Birds can be displaced by human recreational activities (terrestrial and water-based) and use valuable resources in finding suitable areas in which to rest and feed undisturbed. Ultimately, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.

### The New Forest

The New Forest National Park attracts a high number of visitors (13.3 million annually), and is notable in terms of its catchment, attracting a far higher proportion of tourists and non-local visitors than similar areas such as the Thames Basin and Dorset Heaths. Research undertaken by Footprint Ecology, Sharp, J., Lowen, J. and Liley, D. (2008) Changing patterns of visitor numbers within the New Forest National Park, with particular reference to the New Forest SPA. (Footprint Ecology.), indicates that 40% of visitors to the area are staying tourists, whilst 25% of visitors come from more than 5 miles (8km) away. The remaining 35% of visitors are local day visitors originating from within 5 miles (8km) of the boundary.

The report states that the estimated number of current annual visits to the New Forest is predicted to increase by 1.05 million annual visits by 2026 based on projections of housing development within 50km of the Forest, with around three quarters (764,000) of this total increase originating from within 10km of the boundary (which includes Southampton).

Residential development has the potential to indirectly alter the structure and function of the habitats of the New Forest SAC, SPA and Ramsar site breeding populations of nightjar, woodlark and Dartford warbler through disturbance from increased human and/or dog activity. The precise scale of the potential impact is currently uncertain however, the impacts of recreational disturbance can be such that they affect the breeding success of the designated bird species and therefore act against the stated conservation objectives of the European sites.

### Stage 3 - Appropriate Assessment

Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long term management, maintenance and funding of any solution.

#### Solent SPAs

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs and in accordance with the findings of the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development, is likely. This is contrary to policy CS 22 - Promoting Biodiversity and Protecting Habitats, of the Southampton Core Strategy Partial Review, which states that,

*Within Southampton the Council will promote biodiversity through:*

*1. Ensuring development does not adversely affect the integrity of international designations, and the necessary mitigation measures are provided; or the development otherwise meets the Habitats Directive;*

In line with Policy CS22, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

Southampton City Council formally adopted the Solent Recreation Mitigation Strategy (SRMP) in March 2018. The SRMP provides a strategic solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development. This strategy represents a partnership approach to the issue which has been endorsed by Natural England.

As set out in the Solent Recreation Mitigation Strategy, an appropriate scale of mitigation for this scheme would be:

Size of Unit	Scale of Mitigation per Unit
1 Bedroom	£346.00
2 Bedroom	£500.00
3 Bedroom	£653.00
4 Bedroom	£768.00
5 Bedroom	£902.00

Therefore, in order to deliver the an adequate level of mitigation the proposed development will need to provide a financial contribution, in accordance with the table above, to mitigate the likely impacts.

A legal agreement, agreed prior to the granting of planning permission, will be necessary to secure the mitigation package. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. Providing such a legal agreement is secured through the planning process, the proposed development will not affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.

## **New Forest**

The project being assessed would result in a net increase in dwellings within easy travelling distance of the New Forest and a permanent significant effect on the New Forest SAC, SPA and Ramsar, due to an increase in recreational disturbance as a result of the new development, is likely. This is contrary to policy CS 22 - Promoting Biodiversity and Protecting Habitats, of the Southampton Core Strategy Partial Review, which states that,

*Within Southampton the Council will promote biodiversity through:*

*1. Ensuring development does not adversely affect the integrity of international designations, and the necessary mitigation measures are provided; or the development otherwise meets the Habitats Directive;*

In line with Policy CS22, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

At present, there is no scheme of mitigation addressing impacts on the New Forest designated sites, although, work is underway to develop one. In the absence of an agreed scheme of mitigation, the City Council has undertaken to ring fence 5% of CIL contributions to fund footpath improvement works within suitable semi-natural sites within Southampton. These improved facilities will provide alternative dog walking areas for new residents.

The proposed development will generate a CIL contribution and the City Council will ring fence 5% of the overall sum, to fund improvements to footpaths within the greenways and other semi-natural greenspaces.

## **Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England**

In conclusion, the application will have a likely significant effect in the absence of avoidance and mitigation measures on the above European and Internationally protected sites. The authority has concluded that the adverse effects arising from the proposal are wholly consistent with, and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy.

The authority's assessment is that the application coupled with the contribution towards the SRMS secured by way of legal agreement complies with this strategy and that it can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above.

In the absence of an agreed mitigation scheme for impacts on the New Forest designated sites Southampton City Council has adopted a precautionary approach and ring fenced 5% of CIL contributions to provide alternative recreation routes within the city.

This represents the authority's Appropriate Assessment as Competent Authority in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework 2012.

Natural England Officer: Becky Aziz (email 20/08/2018)

Summary of Natural England's comments:

Where the necessary avoidance and mitigation measures are limited to collecting a funding contribution that is in line with an agreed strategic approach for the mitigation of impacts on European Sites then, provided no other adverse impacts are identified by your authority's appropriate assessment, your authority may be assured that Natural England agrees that the Appropriate Assessment can conclude that there will be no adverse effect on the integrity of the European Sites. In such cases Natural England will not require a Regulation 63 appropriate assessment consultation.



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## Appeal Decision

Site visit made on 15 October 2018

**by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> November 2018**

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**Appeal Ref: APP/D1780/W/18/3195952**

**128-130 West End Road, Southampton SO18 6PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Burke of MHH Poole Ltd against the decision of Southampton City Council.
  - The application Ref 17/00750/FUL, dated 8 May 2017, was refused by notice dated 12 January 2018.
  - The development proposed is to demolish existing vacant public house and construct a terrace of 5, a terrace of 3 and a pair of semi-detached dwellings. All dwellings to include 3 bedrooms and are 2 and ½ storeys high. All with associated parking and private gardens with sufficient space for cycle and bin storage.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Burke of MHH Poole Ltd against Southampton City Council. This application is the subject of a separate decision.

### Procedural Matters

3. The Government has published its revised National Planning Policy Framework (the revised Framework). The parties were given an opportunity to comment on the revisions and I have taken these into account in reaching my decision.
4. The Council refused the application in the absence of a planning obligation to address the effects of the proposal on local infrastructure and facilities. However, the appellant submitted a completed Unilateral Undertaking (UU) with the appeal. This addressed the need to repair of any damage to the adjacent highway network caused by the construction of the proposed development and would provide contributions towards site specific transport improvements, a local employment training and skills initiative, and mitigation measures against the impacts of the development on the Solent Special Protection Areas (SPAs). The Council has confirmed that this UU met its requirements.
5. I am satisfied that the UU meets the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and Paragraph 56 of the revised Framework in respect of highway repairs, transport improvements and local employment. However, the judgment of the Court of Justice of the European Union (CJEU) in *People over Wind, Peter Sweetman v Coilite Teoranta* has

implications for the assessment of the effect of the proposal on the SPAs. I will return to this matter the later in my decision.

### **Main Issue**

6. The main issue is whether or not the proposed development would provide satisfactory living conditions for future occupants in relation to private amenity space, noise, disturbance and light pollution.

### **Reasons**

#### *Living conditions*

7. The appeal site is an area of 0.2 hectares currently occupied by a vacant public house and its associated car park and garden. It is immediately adjacent to a large, busy five-arm roundabout serving West End Road, Mousehole Lane, Townhill Way and Dean Road. The existing access is from the eastern arm of West End Road. Mature trees and vegetation enclose the site's side and rear boundaries along Dean Road and Tenby Close. Some of the trees are protected by a Tree Preservation Order (TPO).
8. In order to retain the protected trees the layout of the proposed development has seven dwellings (one pair of semis and a terrace of five) fronting West End Road and a terrace of three facing a parking court situated towards the rear of the site. All the dwellings would be two-storey with additional accommodation in the roof space to enable them to be family homes with three bedrooms.
9. Seven of the ten dwellings would be provided with rear gardens that would be 10m deep. However, the gardens associated with plots 1-3 would be considerably smaller, each providing an area of between 36.81-37.69sqm. These gardens were shortened in order to provide the site as a whole with sufficient parking. The plan shows that some space within them would be required for bin storage and provision of a shed, which would include somewhere secure in which to keep a bike. This would significantly limit the amount of useable space available, reducing the suitability of these gardens as an area in which children could play. Since the proposal seeks to provide family homes, all with three bedrooms, I consider the provision of adequate garden space to be particularly important.
10. Although not cited in the Council's reasons for refusal Policy CS 16 of the Southampton City Council Core Strategy (Core Strategy) has been brought to my attention. This policy defines a family home as a dwelling of three or more bedrooms with direct access to private amenity space. Both Policy CS 16 and the Council's Supplementary Planning Document: Residential Design Guide (SPD) advise that the minimum garden size for a terraced dwelling should be 50sqm. The SPD also states that careful consideration should be given to the quality and amount of land allocated for access roads and car parking so that land for gardens and play space can be maximised.
11. Although the appeal site is small and not required to provide at least 30% of dwellings as family homes to meet the requirements of Policy CS 16, it is promoted as a scheme to provide such accommodation. In this situation dwellings with three bedrooms but with a shortfall of garden space would be likely to compromise the living conditions of future occupants. I therefore consider that the proposal has failed to find an appropriate balance between



- the number of homes, the requirement for an adequate number of parking spaces and the need to provide a high quality environment for future residents.
12. In coming to this view I am mindful that the possibility of moving the houses closer to the street frontage was discussed with Council officers. However, this was considered to have an unacceptable effect on the street scene, as all other existing development in the vicinity is sited further back from West End Road. I also note that the Council suggested a condition requiring double glazing to mitigate the effects of traffic noise, in the event that the appeal had been allowed. It therefore seems likely to me that reducing the size of the front gardens could also increase the disturbance caused by traffic noise for future residents.
  13. The proposal would have five parking spaces located in front of the houses on Plots 8-10. However, they would be separated from them by a footway and some limited landscaping. As these spaces would be at the rear of the site, the number of movements from them that would generate noise, disturbance and light pollution would be small. These dwellings would also be further from the adjoining busy streets and the roundabout than the remainder of the development. Furthermore, the rooms which face the rear gardens of these dwellings would be unaffected by comings and goings at the front. I am therefore not persuaded that the proposal would give rise to unacceptable noise, disturbance or light pollution for future occupiers of the dwellings on Plots 8-10.
  14. Concerns were raised about the proportion of the site that would be used for buildings and hardstanding. However, it would appear that although the amount of built development would increase there would be a significant reduction in the amount of hard surfacing. In addition, there would be a modest increase in the amount of green space with the creation of gardens and associated landscaping. However, the determining factor in this case is not the proportion of the site given over to particular uses, or the density of the development, but whether or not the proposed layout and design would provide acceptable living conditions for future occupants.
  15. For the reasons given above, I conclude that the proposal would provide unsatisfactory living conditions for occupants of the houses on Plots 1-3 arising from inadequate private amenity space. The proposal would be contrary to saved Policy SDP1 of the City of Southampton Local Plan Review (2015) and Policy CS 13 of the Core Strategy which, amongst other things, seek to protect the health, safety and amenity of the city and its citizens. It would also conflict with the SPD's requirements for amenity space associated with terraced dwellings.

## **Other Matters**

### *Asset of Community Value*

16. The Council listed the public house as an Asset of Community Value (ACV) in April 2017 in response to local people's concerns about its loss. The community were given the opportunity to purchase the building by 18 November 2017 and consideration of the planning application was suspended until after that date. However, when no bid was received the Council proceeded to determine the application, as the owner was then free to sell the site on the open market.

17. The revised Framework (Paragraph 92) advises that planning decisions should guard against the unnecessary loss of valued facilities and services. Having given the community time to acquire the site, the Council was reasonable in giving only limited weight to the site's status as an ACV in its assessment of the application. It also took into account that there are a number of other public houses and community facilities within the same area of the city, so its loss would not adversely affect the community's ability to meet its day-to-day needs. In these circumstances the aspiration of local people to retain the public house is not a determining factor in my assessment of the appeal proposal.

#### *Solent SPAs*

18. There is agreement between the parties that additional residential development will impact on the three Solent SPAs, which would increase disturbance to waders and waterfowl. Mitigation measures are, therefore, required to prevent adverse effects to the SPAs. I note that the Core Strategy and associated Developer Contributions SPD set out a tariff based approach to securing mitigation measures. The need for contributions, which would fund visitor management rather than infrastructure, has been supported by Inspectors in a number of decisions<sup>1</sup> to which I have been referred. However, these pre-date the CJEU judgment referred to earlier.

19. The implication of the CJEU judgment is that I cannot take account of mitigation measures which may have been identified at the screening stage. Therefore, if I had been minded to allow the appeal, it may have been necessary for me to go back to the parties to seek further information in order to complete an Appropriate Assessment for this particular scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

#### **Conclusions**

20. The proposal would provide the area with much needed family housing. This factor weighs in the scheme's favour. However, I have found that the proposed layout would result in unsatisfactory living conditions for future occupants, due to a lack of private amenity space.

21. The scheme would therefore conflict with the requirements of the development plan and the aim of the revised Framework's to ensure that the quantity of new homes does not result in them being of an unacceptable quality. For this reason, I therefore conclude that the appeal should be dismissed.

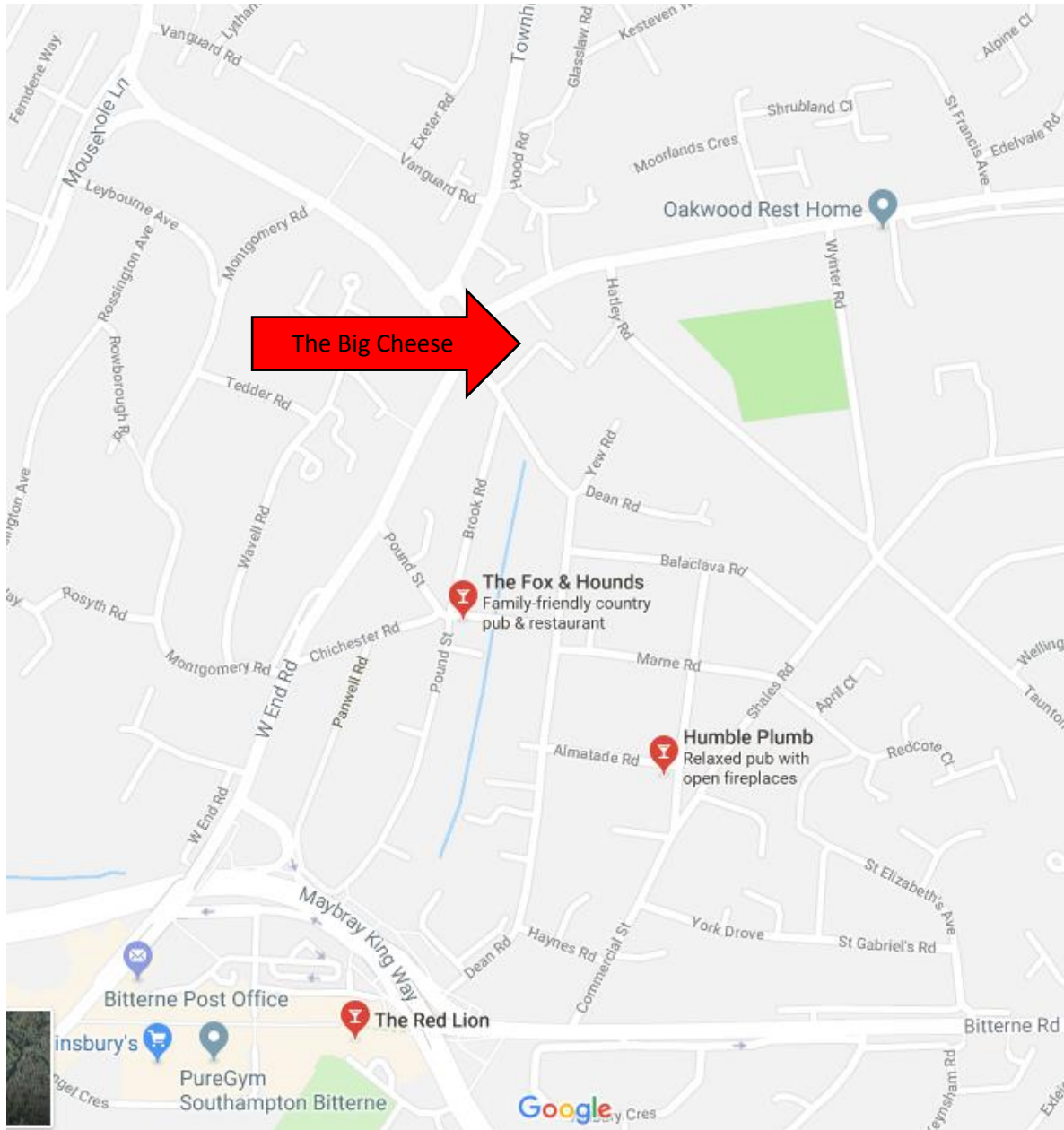
*Sheila Holden*

INSPECTOR

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<sup>1</sup> APP/D1780/A/14/2228796, APP/J1725/A/14/2214722 and APP/A1720/A/14/2223314

Map to show location of nearby public houses



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**Private and Confidential**

**Simon Mackie**  
Planning Agreements Officer  
Infrastructure Planning and Development Service  
Southampton City Council

***Sent via e-mail only***



Our Reference: [REDACTED]  
Your Reference: 19/00346/FUL

Please ask for: [REDACTED]  
Tel: [REDACTED]  
E-mail: [REDACTED]

Date : 02 May 2019

Dear Simon

**REVIEW OF DEVELOPMENT VIABILITY ASSESSMENT  
ADDRESS: 128-130 WEST END ROAD, SOUTHAMPTON, SO18 6PH**

I refer to your formal instructions to carry out a viability assessment in respect of the above proposed development. I have been provided with the initial assessment undertaken by Goadsby in April 2019 on behalf of the applicant. I have now completed my own research and assessment and report as follows:

This report is not a formal valuation.

The date of assessment is 02 May 2019.

I have reviewed the assessment provided by Goadsby.

The assessment has been made by comparing the residual value of the proposed scheme with an appropriate benchmark figure having regard to the National Planning Policy Framework (NPPF) and the published RICS Guidance Note into Financial Viability in Planning.

The principal objective of my Brief and the subject of this report are to establish whether there is financial justification for the provision of any on-site affordable housing and other s106 contributions.

**General Information**

It is confirmed that the viability assessment has been carried out by [REDACTED], an RICS Registered Valuer, acting in the capacity of an external valuer, who has the appropriate knowledge and skills and understanding necessary to undertake the valuation competently, and is in a position to provide an objective and unbiased valuation.

Checks have been undertaken in accordance with the requirements of the RICS standards and no conflict of interest has been revealed.

Our valuation is provided for your benefit alone and solely for the purposes of the instruction to which it relates. Our valuation may not, without our specific written consent, be used or relied upon by any third party, even if that third party pays all or part of our fees, directly or indirectly, or is permitted to see a copy of our valuation report. If we do provide written consent to a third party relying on our valuation, any such third party is deemed to have accepted the terms of our engagement.

None of our employees individually has a contract with you or owes you a duty of care or personal responsibility. You agree that you will not bring any claim against any such individuals personally in connection with our services.

You may wish to consider whether this report contains Exempt Information within the terms of paragraph 9 of Schedule 12A to the Local Government Act 1972 (section 1 and Part 1 of Schedule 1 to the Local Government (Access to Information Act 1985) as amended by the Local Government (access to Information) (Variation) Order 2006.

This report remains valid for 3 (three) months from its date unless market circumstances change or further or better information comes to light, which would cause me to revise my opinion.

Following the referendum held on 23 June 2016 concerning the UK's membership of the EU, the impact to date on the many factors that historically have acted as drivers of the property investment and letting markets has generally been muted in most sectors and localities. The outlook nevertheless remains cautious for market activity over the coming months as work proceeds on negotiating detailed arrangements for EU exit and sudden fluctuations in value remain possible. We would therefore recommend that any valuation is kept under regular review.

### **Background & The scheme:**

This viability assessment is in relation to a proposed full planning application involving the erection of 10 x 3-bed, 2-storey dwellings with accommodation in roof space, in a terrace block of 5 units, a terrace block of 3 units and 2 x semi-detached units, with associated car port, parking and cycle/refuse storage, following demolition of existing public house (ref: 19/00346/FUL).

This latest planning application follows refusal of a previous application that proposed a similar development scheme (planning ref: 17/00750/FUL). Planning consent was granted in March 2018 for the Change of use from a drinking establishment (Class A4) to flexible use within A1, A2, A3 or A4 (Retail, financial, professional services, restaurants, cafe and drinking establishments).

The site is approximately 0.21 hectares (0.52 acres) and is currently occupied by the former Big Cheese public house, which is understood to have closed in Feb 2017. Since closure the property has been subject to vandalism and has been allowed to fall into a state of disrepair. The site is located on the corner of Dean Street and West End Road and fronts onto a busy roundabout.

Goadsby have provided an assessment of the financial viability of the proposed scheme on this site, including two appraisals; one for a scheme providing 100% open market units and another providing 1 x Shared Ownership affordable unit.

Goadsby conclude in their report it is not financially viable to provide any on-site affordable housing.

I understand that the planning policy requirement for the proposed development scheme on this particular site is a 20% on-site affordable housing provision. However, as the site is a brownfield site with a vacant building on it, account must be taken of the Vacant Buildings Credit (VBC). The overall floor area increase proposed is approx. 50% and by applying the recommended approach in determining VBC the 2 x affordable units that would be required by the planning policy is reduced to 1 x affordable unit, as agreed with the local planning authority.

On this basis, I have assessed the scheme on the basis of providing 1 x affordable unit (10% on-site provision), and have assumed this will be shared ownership tenure.

My review has regard to current values and costs in accordance with the latest NPPF and the RICS "Financial Viability in Planning" Guidance note.

### **Viability Assessment:**

This report deals with each major input into the viability assessment of the scheme and has been undertaken following my own research into both current sales values and current costs. I have used figures put forward by Goadsby if I believe them to be reasonable.

Goadsby have used the a viability software package known as Circle to assess the scheme whereas I have used the Argus developer appraisal software.

I summarise my assessment of the Scheme as follows:

#### **1) Development Value –**

##### **a) Private Residential:**

A breakdown of the GDV adopted by Goadsby for the 10 proposed 3 bed houses is shown in the table below:

<b>Unit</b>	<b>Type</b>	<b>Beds</b>	<b>GIA</b>	<b>Submitted OMV</b>
1	End terrace	3	97	£295,000
2	Mid terrace	3	97	£290,000
3	Mid terrace	3	97	£290,000
4	Mid terrace	3	97	£290,000
5	End terrace	3	97	£295,000
6	Semi-detached	3	97	£300,000
7	Semi-detached	3	97	£300,000
8	End terrace	3	97	£295,000
9	Mid terrace	3	97	£290,000
10	End terrace	3	97	£295,000
<b>Totals</b>			<b>970</b>	<b>£2,940,000</b>

I have carried out my own research into the current market values of the proposed units using our internal database of actual market transactions for comparable new build sales evidence. I have also reviewed marketing details for other comparable properties.

Following my research, I am of the view that the unit values submitted by Goadsby are lower than they would likely sell for in the current market. Based on the sales evidence available to me I am of the view that more reasonable unit values are as follows:

Unit	Type	Beds	GIA	DVS OMV
1	End terrace	3	97	£310,000
2	Mid terrace	3	97	£305,000
3	Mid terrace	3	97	£305,000
4	Mid terrace	3	97	£305,000
5	End terrace	3	97	£310,000
6	Semi-detached	3	97	£315,000
7	Semi-detached	3	97	£315,000
8	End terrace	3	97	£310,000
9	Mid terrace	3	97	£305,000
10	End terrace	3	97	£310,000
<b>Totals</b>			<b>970</b>	<b>£3,090,000</b>

I acknowledge that the houses included in my sales evidence (Appendix A) are in a more desirable location than the subject site, however I am of the view that the submitted unit values at approx. 10% lower do not reflect the fact that the site is located towards the outskirts of Bitterne Village and towards the West End parish.

Considering all the evidence available, I am of the opinion the proposed, new build 3 bed houses in this locality would achieve sales values in the region of 5% higher than those submitted by Goadsby. I have adopted a difference in value between various house types that is similar to Goadsby.

My GDV figure is therefore approx. 5% (£150,000) higher at **£3,090,000**, for a scheme providing 100% open market housing.

For a policy compliant scheme providing 1 x affordable unit, the GDV for the 9 x private residential units is **£2,785,000**.

**b) Affordable Values**

In their scheme providing 1 x affordable unit, Goadsby have reduced the Open Market Value of the selected house by 35% to reflect the price likely to be achieved for an intermediate affordable unit (e.g. Shared Ownership).

Based on my most recent experience and agreements on other similar schemes in the locality, I have adopted the same approach in establishing the value of the affordable unit.

In my appraisal, I have selected a mid-terrace unit at £305,000 and applied the 35% reduction to give a GDV for the single affordable unit of **£198,250**.



**c) Gross Development Value (GDV)**

Based on a policy complaint scheme my total GDV is therefore **£2,983,250**, which compares to the GDV submitted by Goadsby as follows:

Type	DVS	Goadsby
9 x Private Units	£ 2,785,000	£ 2,645,000
1 x Affordable unit	£ 198,250	£ 191,750
<b>Total GDV</b>	<b>£ 2,983,250</b>	<b>£ 2,836,750</b>

My total GDV is approximately £146,500 higher than the comparable GDV that was submitted by Goadsby. This difference is attributable to the higher open market unit values I have adopted.

**2) Development Costs -**

**a) Build Costs & Abnormals:**

I have scrutinised the cost information submitted by Goadsby and have reached the following conclusions on costs.

Goadsby have adopted a base build cost of **£1,269,730**, which is has been established by applying £1,315/m<sup>2</sup> to the floor area of the terrace properties and £1,285/m<sup>2</sup> to the floor area of the semi-detached units. With reference to the latest BCIS data, I note that the most up to date build cost data for the proposed property types in Southampton is in line with what Goadsby have submitted. I have therefore adopted the same in my appraisal.

An addition 15% of plot build costs has been adopted by Goadsby to reflect the external works required. Having regard to the proposed site layout and having briefly discussed with a QS colleague, I am of the view that 15% is reasonable for this scheme and I have adopted this in my appraisal.

Goadsby have also included £30,000 for the demolition of the existing building on site. Following informal advice from a QS colleague, and with reference to demolition costs of other agreed scheme in the locality, I am of the view that this figure is not unreasonable, and have adopted the same in my appraisal.

On a like-for like basis my adopted build cost total is **£1,490,190**, excluding fees and contingencies. This is the same as the equivalent cost submitted by Goadsby.

**b) Contingency:**

Goadsby have included a developers contingency of 5% on costs.

The contingency fee is designed to cover unknown and unforeseen costs that may arise during the development period. A full planning application stage I would expect that most costs would have been allowed for and on this basis I am of the view that a contingency of 3% is reasonable and I have therefore adopted this in my appraisal.

**c) Professional Fees:**

Goadsby have adopted 6.5% of build costs for professional fees, which I have accepted as reasonable.

**d) CIL and Section 106:**

In their appraisal for a scheme providing 1 x affordable unit Goadsby have included for CIL at £42,365 and a s106 contribution for Solent Disturbance Mitigation at £6,530.

Your authority has provided the following CIL and s106 figures, which I have included in my appraisal:

• CIL	-	£ 40,551
• Highways	-	£ 10,000
• Solent Disturbance Mitigation Project	-	£ 6,530
• Employment & Skills Plan	-	£ 8,030
• Carbon Management Plan	-	£ 2,910
• <b>TOTAL</b>	-	<b>£ 68,021</b>

I understand the CIL figure provided by your authority is on the basis of a fully open market scheme so could be lower for a policy compliant scheme. Depending on the outcome of my assessment, an update may therefore be needed to take account of an amended CIL figure.

**e) Sale and Marketing Fees:**

Goadsby have included 1.25% of open market GDV for sales agent fees and 0.5% for legal fees.

In line with other similar schemes I have adopted 2.5% of open market GDV for sales and marketing and £750 per unit for legal fees. For the affordable unit I have allowed £1,000 to cover the legal transfer.

**f) Development Programme:**

Based on my experience of other similar schemes in the region, I have adopted a development programme that differs from that submitted by Goadsby, as detailed below:

	<b>Goadsby</b>	<b>DVS</b>
<b>Purchase</b>	1 month	1 month
<b>Pre-construction</b>	9 months	6 months
<b>Construction</b>	12 months	12 months
<b>Sales period</b>	6 months	6 months

I have assumed that sales start in month 15 of the 20 month scheme.

**g) Finance costs:**

Goadsby have adopted a finance debit rate of 6.5% for the scheme and have not included a credit interest rate.

In line with other similar schemes I have recently assessed, I have adopted a debit rate of 6.5% and a credit rate of 2%, as is good practice.

**h) Developers Profit:**

In the current market a range of 15% to 20% of GDV for private residential and 6% of GDV for affordable is considered reasonable.

Goadsby have acknowledged the above range in their report but have not explicitly stated the developers profit they judge to be reasonable in this case. In their appraisal they have adopted an approach where the profit is the residual element. For a scheme providing 1 x affordable unit, this is at 9.40% of GDV.

I consider a profit at 17.5% of GDV for the open market units to be sufficient for this relatively smaller scale development, and have adopted this in my appraisal. For the affordable unit I have adopted a profit of 6% to reflect the reduced risk associated with this tenure type. My resulting blended profit is at **16.76%**.

This level of profit is in line with other recent agreements for similar types of scheme within Southampton.

**i) Land Value:**

Following various appeal cases it is well established that viability assessments are carried out in order to calculate the residual land value that the scheme can afford which is then compared to the Benchmark Land Value (BLV) of the site taking account of the National Planning Policy Framework (NPPF) and The RICS Guidance note, Financial Viability in Planning, 1<sup>st</sup> edition.

The most up to date Viability Guidance published by Ministry of Housing, Communities & Local Government (MHCLG) in July 2018 provides guidance stating that:

*"A Benchmark Land Value (BLV) should be established on the basis of the existing use value (EUUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land."*

Goadsby have adopted a BLV of £651,000, which is understood to be the purchase price for the site achieved in Feb 2017.

The property was clearly bought with a view to redevelop, as evidenced by the planning application for resi development submitted in May 2017 (refused). The price paid therefore reflects an element of hope value and does not, in my opinion, represent an EUUV. It is explicit in the MHCLG guidance that *"Existing use value is not the price paid and should disregard hope value."*

Furthermore, since the property was purchased it has been allowed to fall into disrepair, so the value will inevitably be lower, in my opinion.

A further planning application was submitted and approved in March 2018 to change the planning use to be more flexible and incorporate A1, A2 and A3 uses). I understand that no demand has been forthcoming for any of these alternative uses.

The pub has fallen into a poor state of repair over a 2 year period and to be brought back into use significant refurbishment works would be required. With reference to the most up-to-date BCIS data, I have adopted a Pub "rehabilitation" Lower Quartile rate of £818/m<sup>2</sup> and calculate that a cost in the region of £300,000 would be required to bring the pub back into a state of repair that would be suitable for a pub use to continue.

Planning consent exists for an A1, A2 or A3 use and I note that similar costs would be required to enable occupation for any of these uses too (e.g. shop, restaurant, cafe, offices).

I have researched the sale of pubs with vacant possession across Hampshire and Dorset and note that a range of sale prices between £220,000 - £700,000, with a number the properties sold at the higher end of this range having planning consent for residential (or D1) development.

On the basis of the required c. £300k of refurbishment costs required, I am of the opinion that the EUV would be low in comparison to the sale price. My view is that if the works were not required, an EUV between £400,000-£500,000 would be reasonable. Deducting the refurbishment costs results in a value of say £200,000, which I believe to be reasonable as a BLV.

Taking account of the physical state of repair of the building, I do not believe that a premium above the EUV would be required to incentivise a reasonable landowner to sell. I have therefore adopted a BLV of **£200,000** and had regard to this when considering the financial viability of the proposed scheme.

In my appraisal I have also allowed for both stamp duty at the appropriate rate, and agent/legal fees at 1.80%.

### **Overall assessment and Recommendations:**

In their report Goadsby conclude that a scheme providing 1 affordable unit (10% on-site provision) including CIL at £42,365 and S106 at £6,530 is only financially viable if a profit of 9.40% of GDV is accepted.

I have prepared a viability appraisal for the proposed scheme on the basis of a scheme providing 1 x affordable unit, CIL at £40,551 and S106 contributions totalling £27,470. My resulting Residual Land Value (RLV) for a scheme on this basis is **£593,596**, which is significantly above my adopted BLV. I am therefore of the opinion that a scheme on this basis is financially viable and should be deliverable on this site.

I have identified the main areas of dispute as being the GDV, where DVS and Goadsby are £150,000 apart, and the BLV where a difference of opinion of some £451,000 exists. I would welcome further discussions on these elements, should they be necessary.

I trust this report deals with the issues as required but please do not hesitate to contact me if you have any queries or require any further assistance.

Yours sincerely

Prepared by [REDACTED] MRICS  
Senior Surveyor  
RICS Registered Valuer  
DVS

Reviewed by [REDACTED] BSc MRICS  
Head of Viability (Technical)  
Registered Valuer  
DVS

### **Appendices**

- Appendix A      Residential Sales Evidence
- Appendix B      DVS Appraisal - 10% On-site Affordable Housing

## Appendix A

### Residential Sales Evidence (new build)

Sale date	Address	Sale price	Floor area from EPC (m <sup>2</sup> )	Type	Beds	£/m <sup>2</sup>
20-Feb-19	9, HAZEL CLOSE, WEST END	£340,000	99	Semi	3	£3,434
21-Mar-19	17, HAZEL CLOSE, WEST END	£320,000	91	Semi	3	£3,516
28-Mar-19	19, HAZEL CLOSE, WEST END	£320,000	91	Semi	3	£3,516
29-Mar-18	36, BAMBER CLOSE, WEST END	£359,000	95	Semi	3	£3,779
31-Jan-19	18, NOYCE COURT, WEST END	£290,000	95	Semi	3	£3,053
07-Jan-19	25, NOYCE COURT, WEST END	£315,000	95	Semi	3	£3,316
28-Sep-18	27, NOYCE COURT, WEST END	£329,950	95	Semi	3	£3,473
31-Jan-19	31, NOYCE COURT, WEST END	£290,000	95	Semi	3	£3,053
20-Dec-18	33, NOYCE COURT, WEST END	£325,000	95	Semi	3	£3,421
24-Dec-18	35, NOYCE COURT, WEST END	£335,000	95	Semi	3	£3,526
31-Jan-19	37, NOYCE COURT, WEST END	£290,000	95	Semi	3	£3,053
25-May-18	4, NOYCE COURT, WEST END	£349,000	95	Semi	3	£3,674
08-Aug-18	53, NOYCE COURT, WEST END	£335,000	95	Semi	3	£3,526
04-May-18	55, NOYCE COURT, WEST END	£335,000	95	Semi	3	£3,526
25-Jan-19	6, NOYCE COURT, WEST END	£335,000	95	Semi	3	£3,526
<b>Average sale price</b>		<b>£324,530</b>	<b>Average £/m<sup>2</sup></b>			<b>£3,426</b>

**Appendix B**

**DVS Appraisal - 10% On-site Affordable Housing**

**SEE SEPARATE SHEET**

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**19/00346/FUL**

**APPENDIX 6**

Meeting of Planning and Rights of Way Panel, Tuesday, 9th January, 2018 6.00 pm  
(Item 47.)

Planning Application - 17/00750/FUL - 128-130 West End Road

Report of the Service Lead, Planning, Infrastructure and Development recommending that the Panel delegate approval in respect of an application for a proposed development at the above address.

### **Minutes:**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Redevelopment of the site. Erection of 10 x 3-bed, 2-storey dwellings with accommodation in roof space, in a terrace block of 5, a terrace block of 3 and 2 x semi-detached, with associated car port, parking and cycle/refuse storage, following demolition of existing public house (amended description).

Allan Lloyd, Michelle Baker, Andrea Fox (local residents/ objecting), David Bevan (agent), and Councillor Letts (objecting) were present and with the consent of the Chair, addressed the meeting.

The Panel considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was lost.

A further motion to refuse to delegate planning permission for the reasons set out below was then proposed by Councillor Denness and seconded by Councillor Hecks was carried unanimously.

**RESOLVED** to refuse planning permission for the reasons set out below:

Reasons for Refusal

### **1. Site Overdevelopment**

The proposed redevelopment represents an overdevelopment of the site by reason of a residential layout and design that fails to respond to the established pattern of development within the locality, is reliant upon a significant amount of building and hardstanding (in excess of 50% of the site), fails to meet the Council's standards in respect of useable amenity space; particularly in respect of Units 1-3, but also in terms of usability for Units 8-10 given the boundary planting and subsequent shade, and which proposes car parking in close proximity to the main living space of Units 8-10 to the detriment of these residents' amenity in terms of noise, disturbance and headlight glare. As such, the application is considered to fail the requirements of Local Plan Review (Amended 2015) policies SDP1(i) and SDP7 as supported by Policy CS13 of the adopted Local Development Framework Core Strategy (2015)

and the relevant paragraphs from the Council's approved Residential Design Guide SPD (2006); with particular reference to sections 3.9 and 4.4 and paragraph 2.3.14.

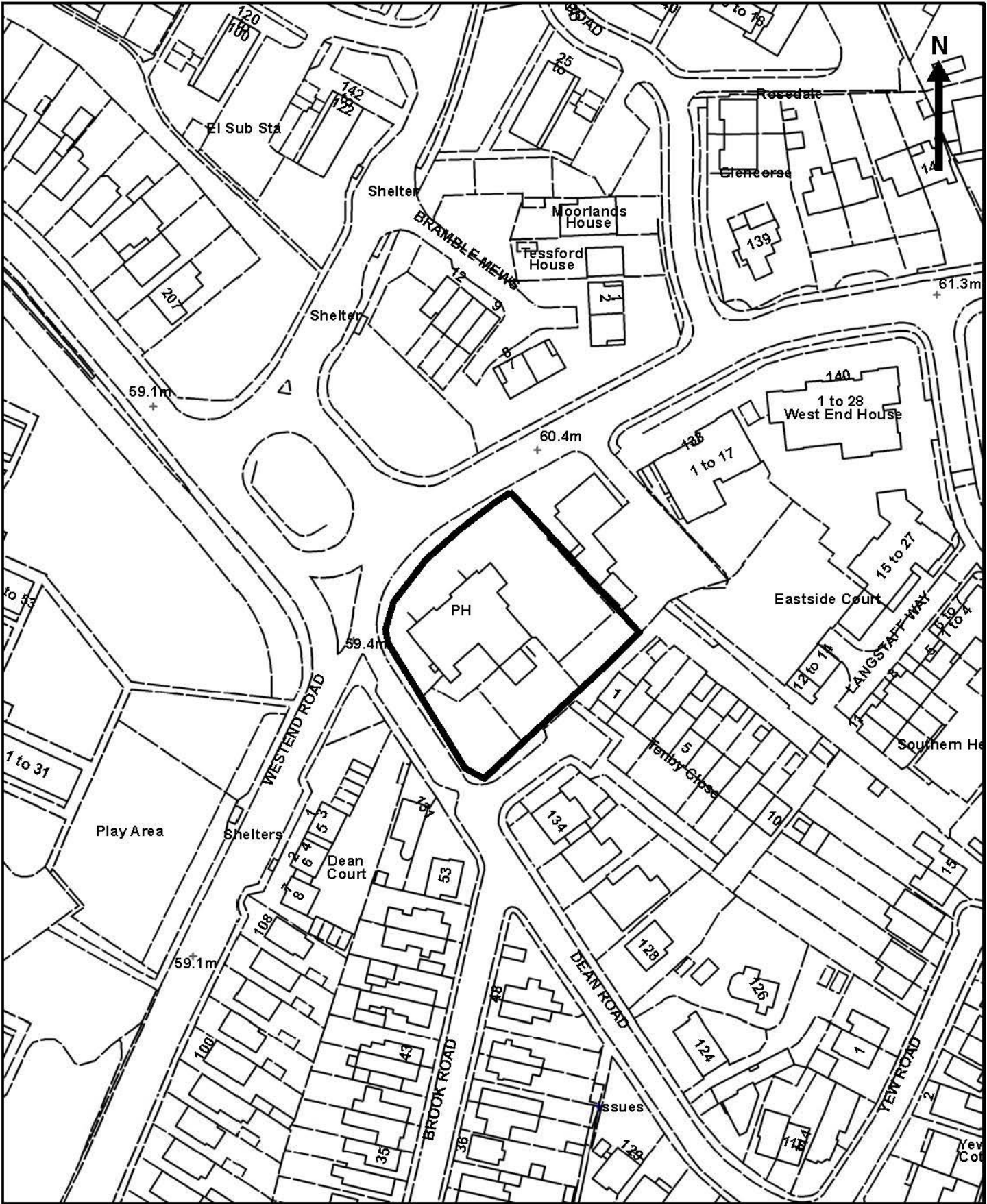
**2. Lack of Section 106 agreement to secure planning obligations.**

In the absence of a Section 106 agreement the development fails to mitigate its impact in the following areas:

- i Contributions towards site specific transport improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015) Policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Developer Contributions (April 2013); and
- ii. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer; and
- iii. Contributions or otherwise towards a scheme of measures that mitigate against the impacts of the development on the Solent Special Protection Area as required by LDF Core Strategy (Amended 2015) policies CS22 and CS25; and
- iv. An Employment Training and Skills Plan to secure local employment initiatives during the construction phase as required by LDF Core Strategy Policy CS24.

# Agenda Item 5 19/00346/FUL

Appendix 7



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**Planning and Rights of Way Panel 06 August 2019**  
**Planning Application Report of the Service Lead – Infrastructure, Planning and Development.**

<b>Application address:</b> Horseshoe Park, Horseshoe Bridge, Southampton			
<b>Proposed development:</b> Erection of 2 x six storey buildings comprising 16 flats (12 x 1bed and 4 x 2 bed) with associated car parking, bin and cycle storage (Outline application all matters for consideration except landscaping)			
<b>Application number</b>	19/00950/OUT	<b>Application type</b>	Major Dwellings
<b>Case officer</b>	Andrew Gregory	<b>Public speaking time</b>	15 minutes
<b>Last date for determination:</b>	27.08.19	<b>Ward</b>	Portswood
<b>Reason for Panel Referral:</b>	Departure from the development plan and 3 objections have been received	<b>Ward Councillors</b>	Cllr Lisa Mitchell Cllr Gordon Cooper Cllr John Savage

<b>Applicant:</b> Mr Saeed Poswall	<b>Agent:</b> ACHIEVE - Town Planning and Urban Design Ltd
<b>Recommendation Summary</b>	Delegate conditional approval to the Service Lead – Infrastructure, Planning and Development.
<b>Community Infrastructure Levy Liable</b>	<b>Yes</b>

**Reason for granting Planning Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. It has been demonstrated with clear evidence that this site is not likely to become viable for employment use and previous planning permissions for office and industrial development have not come forward. Furthermore the scheme is now able to provide a safe pedestrian environment and appropriate noise mitigation has been provided to ensure the residential environment is acceptable. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39 - 42 and 46 of the National Planning Policy Framework (2019).

Policies - SDP1, SDP4, SDP5, SDP7, SDP8, SDP9, SDP10, SDP12, SDP13, SDP14, SDP17, NE4, H2, H7 and RE111 of the City of Southampton Local Plan Review (Amended 2015) and CS3, CS4, CS5, CS7, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22 and CS25 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendices attached			
1	Development Plan Policies	2	Habitats Regulations Assessment
3	Appeal decision		

## Recommendation in Full

1. That the Panel confirm the Habitats Regulation Assessment in Appendix 2 of this report.
2. Delegate to the Service Lead to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 Legal Agreement to secure:
  - a. Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
  - b. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
  - c. Either a scheme of measures or a financial contribution towards Solent Disturbance Mitigation Project to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
  - d. Employment and Skills Plan to secure training and employment initiatives.
  - e. The provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document -Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013).
  - f. The submission, approval and implementation of a Carbon Management Plan setting out how the carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013);
3. In the event that the legal agreement is not completed or progressing within a reasonable timeframe after the Planning and Rights of Way Panel, the Service Lead – Infrastructure, Planning and Development will be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement, unless an extension of time agreement has been entered into.
4. that the Service Lead – Infrastructure, Planning & Development be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting,
5. that the Service Lead-Infrastructure, Planning & Development be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement. In the event that the scheme’s viability is tested prior to planning permission being issued and, following an independent assessment of the figures, it is no longer viable to provide the full package of measures set out above then a report will be brought back to the Planning and Rights of Way Panel for further consideration of the planning application.

## **1 Background**

- 1.1 This is an undeveloped site which is allocated for employment use (light industrial and research and development uses), located adjacent to Empress Road Industrial Estate.
- 1.2 Planning permissions were granted on this site for the erection of 3 industrial buildings in 2002 and a five-storey office building in 2008. However none of these consents have been implemented and have now lapsed. Various residential schemes have been submitted and were refused in 2006, 2012 and 2014 primarily for being contrary to the site specific employment allocation, and because the locality would fail to provide an acceptable living environment with unsafe pedestrian access. The residential schemes refused in 2006 and 2014 were both subsequently dismissed on appeal
- 1.3 The most recent appeal decision dated 10.3.15 upheld the Council's position regarding loss of employment land, poor living environment because of existing background noise levels and unsafe environment for pedestrians and cyclists. A copy of that appeal decision is attached as **Appendix 3**

## **2 The site and its context**

- 2.1 The application site has an area of 0.2 hectares and comprises undeveloped land which is safeguarded for employment use. The site is situated between Thomas Lewis Way the Network rail mainline to London. The triangular shaped plot consists of unmade bare ground which is bound by steeply sloping banks to Horseshoe Bridge Road and Drummond Road which run adjacent to the site.
- 2.2 Land immediately to the west is occupied by a railway transformer compound which is enclosed by steel palisade fencing. Vehicular and pedestrian access to the site is gained via Drummond Drive. Mature planting aligns the embankment and shields the site from Thomas Lewis Way. There is a level change of approximately 4m across the site.
- 2.3 The immediate area is predominately commercial in nature. A four-storey office building (Thomas Lewis House) is located at the corner of Horseshoe Bridge and Thomas Lewis Way. The Empress Road Industrial Estate is located immediately to the south-west and is safeguarded for light industrial and general industrial uses. St Denys Railway Station is located approximately 250m to the north of the application site

## **3 Proposal**

- 3.1 The proposal seeks outline permission (with all matters for consideration except landscaping) for the erection of 2 x six-storey buildings comprising a total of 16 flats (12 x1-bed and 4 x 2-bed). Vehicular access is taken from Drummond Drive with the ground floor containing 20 car parking spaces (including 1 disabled space) and bin and bike storage. Pedestrian access into the building is available from the ground floor with the residential units located at first floor and above. Pedestrian access into the building is also provided from Horseshoe Bridge entering the building at first floor level.
- 3.2 All flats are provided with private balconies design to provide appropriate acoustic mitigation from external noise sources. An enclosed roof top terrace is also provided
- 3.3 The buildings have a contemporary flat roofed design with recessed top floor and projecting box bay balconies to provide articulation. The external walls are proposed to be finished in blue engineering brick at ground and first floor levels with the upper floors finished in non-combustible façade cladding panels, with grey aluminium

windows, door sets and eaves detail. The proposed balconies have glass panel balustrading.

- 3.4 New soft landscaping is proposed within the embankment adjacent to Drummond Road and along the southern site boundary edge

#### 4 **Relevant Planning Policy**

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 4.2 The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated
- 4.3 The site is allocated and safeguarded for employment uses under saved policy RE111 (xvi) of the Adopted Local Plan Review (March 2006) and policy CS7 of the Local Development Framework Core Strategy. A residential scheme is therefore a departure to the policy and has been advertised as such
- 4.4 Paragraph 22 of the National Planning Policy Framework indicates that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities

#### 5. **Relevant Planning History**

- 02/01347/FUL - Erection of 3 industrial buildings with ancillary office accommodation and associated parking - CAP 13.10.2003;
- 06/00547/FUL - Erection of a six-storey building to provide 21 x two-bedroom flats with associated parking - REF 11.07.2006 (APPEAL DISMISSED);
- 07/01195/FUL - Erection of a five-storey office building with associated parking and vehicular access from Drummond Drive – Withdrawn 01.11.2007;
- 08/00083/FUL - Erection of a five-storey office building with associated parking (17 spaces) and vehicular access from Drummond Drive. Conditionally Approved 22.04.2008;
- 10/00946/TIME - Erection of a five-storey office building with associated parking and vehicular access from Drummond Drive (Extension of Time) – Conditionally Approved 25.11.10
- 12/00697/FUL - Erection of a single storey industrial unit (Class B1) with ancillary office space and parking – Conditionally Approved 30.7.12.
- 12/01368/OUT - Erection of a part 6-storey and part 7-storey building to provide 12 x six bedroom 'cluster flats' for students with associated facilities including parking and storage - REFUSED 30.11.2012;
- 13/01145/TIME - Extension of time application to implement planning permission reference 10/00946/TIME (Erection of a five storey office building with associated parking and vehicular access from Drummond Drive) - Conditionally Approved 02.12.2013



- 14/00481/OUT - Erection of a 5-storey building to provide 40 student bed-sitting rooms with associated parking and refuse storage (Outline application seeking approval for Access, Layout and Scale) – REFUSED 29.10.2014 (APPEAL DISMISSED) for the following reasons:

*01.REFUSAL REASON - Unsuitable access and poor living environment*

*The site is not suitable for student residential accommodation because it is not served by safe and convenient public access routes and is isolated from other residential uses and amenities, located adjacent to Empress Road industrial estate and the heavily trafficked Thomas Lewis Way. Future occupiers would experience safety and security concerns due to the isolated nature of the site in an area of high crime. The development proposal is thereby contrary to Policies SDP1, SDP4, SDP7, SDP10, SDP11, H13 and RE11 of the City of Southampton Local Plan Review (March 2006) and Policy CS13 of the Local Development Framework Core Strategy (January 2010) and the relevant sections of the Residential Design Guide SPG0*

*02.REFUSAL REASON -Incompatible use*

*The proposal would be contrary to the provisions of the Development Plan, as the site is allocated for light industrial and research and development uses within classes B1(b) and B1(c). It would result in the loss of an important employment site contributing to the employment needs of the City over the Development Plan period and beyond. Moreover student residential development would be incompatible with the existing nearby commercial and industrial activities and would prejudice the future operation of those nearby businesses. The development proposal is thereby contrary to policies RE11 of the City of Southampton Local Plan Review (March 2006) and policy CS7 of the Local Development Framework Core Strategy (January 2010) and the relevant sections of the Residential Design Guide SPG*

*03.REFUSAL REASON - Impact on public sewer*

*The development would have a harmful impact on the public sewer crossing the site as Southern Water indicates that the sewer should not be built over and there is limited opportunity to divert the existing drainage apparatus.*

*04.REFUSAL REASON - Noise*

*The proposed residential development situated near commercial and industrial uses, a busy A class road, a mainline railway line and a railway transformer compound, has failed to demonstrate that the residential environment provided for the occupants will not be compromised by low frequency noise and external noise to the external amenity areas. The development proposal is thereby contrary to policies SDP1 (i) and SDP16 (ii) of the City of Southampton Local Plan Review (March 2006).*

*05. Reason for Refusal, Lack of Section 106 agreement to secure planning obligations.*

## **6 Consultation Responses and Notification Representations**

**6.1** This proposal for residential development represents a departure from the site allocation for light industrial and research and development used under policy RE11 (xvi) and therefore this application has been advertised as a departure from the development plan.

**6.2** Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (07.06.2019) and erecting a site notice (04.06.2019). At the time of writing the report **4 representations** have been received from surrounding residents (3 objections and 1 in support). The following is a summary of the points raised:

### **In support**

**6.3** Three Rivers Community Rail Partnership would like to support this application. It will improve general security and lighting for the public and passengers who access to St. Denys station via Drummond Drive. It will bring into use a brown field site and it has good links to local amenities such as shops and employment on the Industrial Estate nearby. The local area suffers from fly tipping and anti-social activities at present and this would reduce once the area is developed and better lit

### **Objections**

**6.4** **Object to the repurposing of this land for residential use, and further to the density of the development. This land was not originally zoned for residential use. Further residential development, without creating employment opportunities, means more residents having to commute for employment, directly contradicting the city's supposed green charter.**

**6.4.1** *Officer Response – Notwithstanding the site allocation and planning consents since 2002 for industrial units and office accommodation no development has come forward. This application is supported by a viability report which demonstrates that industrial and office development is currently unviable. Furthermore the site has been marketed for many years without any offer for policy compliant development. The site topography and physical layout could be, in part, the reason for the lack of interest. Evidence has also been provided to suggest there is currently a surplus of employment land in Southern Hampshire and specifically Southampton. Furthermore the loss of this small site will not adversely impact the supply of employment land going forward.*

**6.4.2** *Subject to the securing of pedestrian connection improvements across Thomas Lewis Way, via the s106 agreement, the proposal would represent a sustainable development with good connections to the City Centre and Portswood District Centre. The site is also located in close proximity to St Denys Train Station.*

**6.4.3** *No objection has been raised by the Council's Air Quality Team and the proposal is likely to have a negligible impact on air quality in the city. That said, an air quality report is recommended by condition to determine what if any air quality improvements can be secured from the development i.e. increased landscaping or electric car charging points.*

**6.5** **The site which is of 0.44 acres (0.18 hectares) in area is too small to reasonably accommodate such a high number of flats. It is noted that application 18/02103/FUL, recently declined in the St Denys area, proposed a similar number of flats (19) with a similar land area (0.21 hectares). It's just profit before people.**

**6.5.1** *Officer Response* – Application ref 18/02013/FUL is a materially different scheme and each site should be determined on its own merits.

*This proposal is similar in scale to the previously consented office development on this site. The proposed layout provides adequate amenity space for 1 and 2-bed flats with private balconies and a roof terrace. Furthermore the level of car parking provision accords with the Council's maximum parking standards. It is difficult to provide a significantly greater amount of external amenity space having regard to the site topography and noise constraints. The scheme has a density of 95 dwellings per hectare which accords with the density range for this area of 50-100dph as set out within policy CS5 of the Core strategy.*

**6.6** This area has been marked for development of businesses, creating more employment opportunities in the city. Instead this application is for residential accommodation. This goes directly against the council's plans for the area. Creating yet more flats without encouraging business development in the area will mean residents have to commute - whilst the development is close to St Denys Station many residents are likely to use vehicles, contributing to congestion and pollution. This also goes directly against the council's green city charter and aims of reducing pollution. St Denys already has considerable problems with poor air quality and traffic congestion and this development will contribute further to the problems

**6.6.1** *Officer Response* – See officer response above regarding the loss of employment land and air quality

**6.7** Allowing 6 storey buildings in this area sets a dangerous precedent for the type of community we want St Denys to be and the types of building we want in the area. We're a close knit community, with a clear identity and currently working hard to address local issues including traffic, pollution, speeding, problems with the sewage works, issues at Quay 2000 (just round the corner from the new development) and finding ways to encourage more community involvement for residents. Flats on the outskirts are likely to create an "us and them" mentality, as we've seen with the flats at Quay 2000 - conflict between the needs of the residents of the flats and the the needs of the rest of the community has generated a huge amount of animosity, and I'd hate to see this made worse by building more such developments in the area. Furthermore, these buildings are huge in an area consisting primarily of Victorian houses, and won't be in keeping with the area. They're bigger even than local businesses and will be an eyesore on the horizon. Both visually and psychologically, long standing residents are likely to feel "squeezed out" of their home community by a development of this type and size.

**6.7.1** *Officer Response* – The proposal sits in isolation and would not be out of character having regard to the site topography and overall height of nearby 4-storey flatted and office buildings with pitched roofs

**6.8** The area itself isn't suited to residential accommodation. Proximity to Thomas Lewis Way and the railway is going to mean the flats are extremely noisy inside. They're right on the edge of an industrial estate, with poor road links - traffic on Horseshoe Bridge and down into Empress Road is already terrible at certain times of day, it's exceptionally hard to turn out of there, and the flats can only compound this. Furthermore there's nowhere to walk to without either crossing a major road or going through the industrial estate, the latter of which

**is known for problems with prostitution and drugs. I certainly wouldn't allow my kids to walk to school from there on their own!**

**6.8.1** *Officer Response* – The application is supported by an acoustic report which has made recommendation in relation to building fabric, orientation and balcony design to prevent adverse noise impact from external noise sources. No objection has been raised by the Council's Environmental Health Officer.

*The introduction of additional residential accommodation will improve the natural surveillance within this area and may assist in reducing anti-social behaviour. No objection has been raised by Hampshire Constabulary.*

**6.9** **The land has been earmarked for businesses because that's what it's best suited to - it would feel perfectly reasonable to build a few industrial units here, with an associated small increase in traffic, and the noise is less likely to be an issue for the occupants. Building flats instead will compound traffic problems, increase congestion with an associated decline in air quality, be out of keeping with the area, damage the sense of local community, and provide noisy, undesirable residences in a problem area where people are unlikely to feel safe or to integrate with the rest of the community.**

**6.9.1** *Officer Response* – The proposed 20 car parking spaces serving residential development will have a negligible impact on congestion.

*Paragraph 109 of the NPPF indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The other comments in relation to character, loss of employment use and air quality are answered above.*

**6.10** **Objection to further development in this area, there is accidents regularly on these cross roads at the traffic lights, and more residential development certainly means more cars & traffic. There are enough problems in the area that are NOT getting sorted out let alone putting more people in the vicinity to create more crime and problems and late night disturbances! Also ALL the spaces on horseshoe bridge are used as a public park daily and the congestion would be even worse. This would form another hidden den of iniquity for people to cause even more anti-social behaviour in the area. I do not support this application.**

**6.10.1** *Officer Response* – The maximum number of car parking spaces permissible for 16 flats (12 x 1-bed and 4 x 2-bed flats) in this location is 20 car parking spaces. The proposed scheme provides 20 spaces and therefore provides the maximum permissible.

## **7 Consultation Responses**

**7.1 Planning Policy** - there would remain a strong policy objection to this proposal unless the site visit or section 106 confirms there is or will be a clear pavement from the site along Dukes Road to Lawn Road, a pedestrian phased crossing of Thomas Lewis Way at this point, and the physical ability for direct pedestrian access via Drummond Drive northwards to St Denys station.

Subject to this, there are three key policy issues to balance on this site:

1. The effective use of urban previously developed land
2. Overall the relative inappropriateness of the site for residential development
  - a. the site is potentially close to the rail station via an appropriate pedestrian route, provided there is direct pedestrian access north along

Drummond Way. However the majority of trips are not by train – so this is a benefit but not a defining benefit.

- b. Overall the site is cut off from surrounding residential communities by the railway line and Thomas Lewis Way.
  - c. The site is physically constrained and next to a railway substation – subject to your views on this and the specific proposal, it may not create a good site amenity?
3. The designation of the site for employment use.

The applicant has now submitted evidence which not only illustrates that the site has been marketed for a long period without success; but sets out a viability appraisal. This illustrates that given the physical constraints of the site and so the inability to provide significant employment development, even if a land value of £1 is used, the development of the site would generate a distinct loss. On that basis I am satisfied on point 3.

This does not in itself remove the objection. Effective use of urban land and the presumption of sustainable development does not mean poor development is acceptable. However if point A is met and your satisfied on point 2c, then no policy objection.

**7.1.1** *Officer Response – The applicants have agreed to contribute towards a pedestrian phase at the Thomas Lewis Way/Drummond Drive traffic lights to provide improved pedestrian connection with Dukes Road, to be secured through the S106 legal agreement. Therefore the site is now considered acceptable for residential development given the scheme satisfies residential design standards and no objection has been received from the police or environmental health.*

**7.2** **City Design Officer** – No objection

**7.2.1** To a large extent the form of the development is dictated by the key site constraints of topography and sewer easement, which delivers the two built forms. My concern is that landscaping is a reserved matter, where within the immediate landscape dominant context of this site how the boundaries will be landscaped is critical as this building would ideally appear to emerge from a strong and consistent landscaped boundary. The current street boundary seems somewhat disjointed. On the plans and elevations they indicate dense tree planting and they need to assure us that they can deliver such a feature. Landscaping over the sewer easement I suspect is not deliverable. Finally although a landscape issue given the degree of hardstanding and apparently no scope to create an effective landscape barrier between the railway line and the buildings we should expect to see a high quality paving design and material used for the parking court, not tarmac to provide greater visual appeal

**7.3** **Design Advisory Panel** - The Panel felt that the scheme was better than the previous scheme, but felt overall that it seemed to be missing an opportunity to exploit potentially interesting views of the river and mitigate poor foreground views of the railway. Perhaps one building, slightly taller would afford the opportunity to deliver a better quality of residential environment than two separate lower buildings

**7.4** **Environmental Health** - No objection in principle, subject to conditions regarding hours of work, control of bonfires construction management and acoustic glazing.

**7.5** **SCC Housing** - As the scheme comprises of 16 dwellings in total the affordable housing requirement from the proposed development is 35% (CS15- sites of 15+ units = 35%). The affordable housing requirement is therefore 6 dwellings (5.6 rounded up).

**7.6** **Sustainability** - No objection subject to the imposition of conditions securing energy and water restriction

- 7.7 Air Quality** – No objection subject to a condition to secure an air quality report to inform any necessary mitigation. Regardless of the significance of the pollution impact, should they demonstrate additional trips and therefore increases in pollutant emissions, they should be implementing the mitigation measures recommended in our consultation response (i.e. more EV charging points, promotion of sustainable and active travel on site).
- 7.8 Ecology** – No objection subject to conditions to secure ecological mitigation and piling design
- 7.9 SCC Highways** – No objection
- 7.9.1** The proposed development is considered to be acceptable in principle but with a couple of concerns which will need to be addressed. The main concern with a residential unit here is the sustainable link to the local district centre (Portswood). There are a few options but the likely route would be for the residents of the proposed development to simply cross Thomas Lewis Way. The other routes such as Empress Road, Drummond Drive and Adelaide road – Empress Road and Drummond had been previously considered to be unsuitable due to the lack of natural surveillance at night time. Adelaide Road is long detour and the footbridge at the station is unsuitable for some users such as wheelchairs and pushchairs – and possibly some cycle users
- 7.9.2** There is one dropped crossing on the Thomas Lewis way/Horseshoe Bridge junction but this is an uncontrolled facility with no dedicated pedestrian phase on a very busy 4-arm junction. People crossing this would need to rely on navigating the traffic signals and would have to be mindful of vehicular movements including ones within their blind spot (over the shoulder). In order to provide a safer environment and to really offer residents a genuine choice of sustainable travel, improvement on this junction/crossing will be required as part of the Section 106.
- 7.9.3** The other main concern is the refuse collection on Horseshoe Bridge. The road bends here and if a Waste Collection Vehicle was to stop and service here, it may result in vehicles travelling towards Adelaide Road direction, they would likely encroach onto the other lane to overtake. This is a concern due to the bend whereby forward visibility would be low especially if a waste vehicle was stationary to further restrict views. The solution would be to have all refuse being serviced from Drummond Drive. It is not clear if this breaches the 30m carry distance as recommended in the Residential Design Guide but if so, a waste management plan could be conditioned for on site management to move the bins to the Drummond Drive collection point – unless a balanced planning decision is made on this.
- 7.9.4** Overall, the proposed development is considered acceptable subject to the following by condition:
- Waste Management Plan
  - Construction Management Plan
  - Euro bin Standard Condition
- 7.10 Network Rail** – No objection but provide advisories regarding asset protection
- 7.11 Police** – No objection. The developers have incorporated the appropriate security features into the design to provide a level of security commensurate with a residential development.
- 7.12 BAA Safeguarding** – No objection subject to conditions relating Bird Hazard Management and External Lighting

**7.13 Southern Water** – No objection subject to condition to secure details of the proposed means of foul and surface water sewerage disposal

**7.14 City of Southampton Society** - No objection in principle

- a. Offices would be preferable.
- b. The site has a very challenging topography.
- c. The road would need proper support. Would retaining walls be sufficient?
- d. The transformer and the railway will produce noise.
- e. The parking on site will be barely sufficient.
- f. Public transport is not so readily accessible from the site.
- g. Prospect from any side of the site will not be very attractive. Especially for the lower flats.
- h. The design is intelligent and quite pleasing. A little grey perhaps for a lower site.
- i. The use of solar panels to be commended.
- j. Amenity distinctly lacking. Riverside access reasonably close.

## **6 Planning Consideration Key Issues**

The key issues for consideration during the determination of this planning application are:

- the principle of the development;
- the impact of the design of the building on the character of the area;
- the quality of the residential environment;
- the impact on the amenities of neighbouring and surrounding residents;
- Highway safety, car parking, access and mitigation; and
- Habitat Regulations.

### **6.1 The Principle of development**

**6.1** *The site is allocated for employment use under policy RE111 (xvi) of the Local Plan Review. Policy CS7 of the Core Strategy indicates that all existing employment sites will be safeguarded for employment use, unless:*

1. *There is clear evidence that a site is not, and is not likely to become, viable for employment use; or*
2. *There is a strong justification to release a site from employment safeguarding, on the following grounds:*
  - a. *The redevelopment of the site, given its specific location, could deliver strong and distinctive planning / regeneration benefits, or*
  - b. *The site is no longer suitable for employment use taking into account, its accessibility and its effect on residential amenity and the environment including the Habitats Regulations;**and these grounds outweigh the strong need to safeguard employment sites taking into account the following specific issues:*
  - a. *Any location-specific employment needs met by a site (e.g. for waterfront marine use); and*
  - b. *The benefit of retaining an employment site close to the priority neighbourhoods.*

**6.1.1** The application is supported by acceptable viability and marketing evidence to demonstrate that the site is unlikely to come forward for employment use (see policy officer comment above). Furthermore previous planning permissions for the erection of 3 industrial buildings in 2002 and a five-storey office building in 2008 have not been delivered. As such it is recommended that a departure from the employment allocation be supported because exception test 1 of policy CS7 has been satisfied

with clear evidence to show the site is not likely to become viable for employment use.

- 6.1.2** The scheme also addresses previous concerns in relation to pedestrian safety and residential living environment. The developer is prepared to contribute, through the S106 Agreement, towards improved pedestrian crossing facilities across Thomas Lewis Way to link into Lawn Road, this would reduce the likelihood of pedestrians using Drummond Drive and Empress Road which are poorly lit and/or poorly surveyed, particularly during hours of darkness. Improved pedestrian connectivity, with a pedestrian crossing phase at the Thomas Lewis Way, would allow pedestrians to access Portswood, Bevois Valley or Lodge Road via residential streets. The Police are satisfied with the proposal from a secure by design perspective
- 6.1.3** Furthermore the application is supported by an acoustic report which has informed the building layout and design to ensure that residents will not be subject to adverse noise disturbance from external noise sources (traffic, commercial activity and rail noise). The Council's Environmental Health Officer is satisfied with the submitted noise report and proposed mitigation and has raised no objection.
- 6.1.4** On the basis that acceptable evidence has been submitted to demonstrate that the site is unlikely to become viable for employment use and that a safe pedestrian environment and acceptable living environment can be provided, the previous decisions to refuse residential development (including the Inspector appeal decisions) have now been addressed.
- 6.1.4** The proposal would represent windfall housing delivery on previously developed land, thereby assisting the Council in meeting its housing requirements of 16,300 homes to 2026.
- 6.1.5** Policy CS5 of the Council's Core Strategy (2015) indicates that development will only be permitted which is of an appropriate density for its context. The site is located within an area of medium accessibility where net density levels of between 50-100 dwellings per hectare can be supported. The proposal has a density of 95 dwellings per hectare which accords with the general density range and is in keeping with the character of nearby flatted schemes such as Quay 2000. The proposed housing mix of 4 x 2-bedroom and 12 x 1-bedroom flats is appropriate given the context and constraints of the site. The site topography and noise constraints do not make this site suitable for family housing and therefore the proposed housing mix is considered to satisfy policy CS16 of the Core Strategy
- 6.1.6** As the scheme comprises of 16 dwellings in total the affordable housing requirement from the proposed development is 35% as required under policy CS15 of the Core Strategy. The affordable housing requirement is therefore 6 dwellings (5.6 rounded up). The application has not been subject to a viability exercise and weight has therefore been afforded to the dwellings of Affordable Housing in this recommendation. In Southampton our greatest need is units for rent (social rent or Affordable Rent) and the council has over 8,000 applicants on its housing register seeking affordable rented accommodation.
- 6.2** The impact of the design of the building on the character of the area
- 6.2.1** No objections have been raised by the City Design Manager or the Design Advisory Panel in relation to scale, form or external appearance of the proposed buildings. The scale of these 6-storey flat roofed block has a similar scale to the previously consented 5-storey office building with pitched roof form. The surrounding area is not homogenous in design terms and the proposed buildings will sit comfortably within the street scene.



### **6.3** The quality of the residential environment.

- 6.3.1** The site is constrained by road and rail infrastructure making its redevelopment difficult. The proposed living environment is considered acceptable with all habitable rooms receiving genuine outlook and day lighting. The proposed flats range in size between 58.38sqm and 69.8sqm and are compliant with the nationally prescribed space standards. The orientation and separation of the blocks will ensure that no harmful inter-looking will occur.
- 6.3.2** The building design and layout has been informed by an acoustic report to ensure the residential environment is not subject to adverse noise nuisance from road traffic, commercial activity and noise from the railway. The balconies have been placed on the western elevation because the eastern elevation is subject to greater noise nuisance from the railway line.
- 6.3.3** All flats are provided with private balconies, ranging from 6-9sqm in area. A communal roof terrace is also provided with an area of 93sqm. The amount of private and communal amenity space is considered acceptable having regard to the size of the units (1 and 2-bedroom flats) and constraints of the site in relation to site topography and external noise sources. The Residential Design Guide SPD would expect 320sqm to serve this development. The roof terrace is an attractive usable space and significant weight has been afforded to it in this recommendation

### **6.4** The impact on the amenities of neighbouring and surrounding residents;

- 6.4.1** The nearest residents are located some distance away circa 70m to the north-west (Osborne Road North) or circa 110m to the east (Quay 2000). The proposed development will have no adverse impact on the residential amenities of neighbouring occupiers. The proposed layout, building orientation, separation distances will ensure that no harmful shadowing, loss of light, sense of enclosure or loss of light will occur.

### **6.5** Highways safety, car parking, access and mitigation.

- 6.5.1** The provision of 20 spaces accords with the Council's maximum car parking standards and no objection has been raised by Highways Development Management. The maximum number of spaces permissible is 20 parking spaces (1 space per 1-bed unit and 2 spaces per 2 bed unit). The site is also located in close proximity to St Denys Train Station and bus services operating between Portswood and the City Centre.
- 6.5.2** Acceptable integral Bin and bike storage facilities are provided at ground floor level and can be secured by condition.
- 6.5.3** A legal agreement will be used to secure off site works and measures needed to mitigate the impact of the development, in particular site specific transport contributions for highway improvements, to include improved pedestrian and cycle access across Thomas Lewis Way with better connection into Lawn Road
- 6.5.4** Additionally a highway condition survey will be required to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer and financial contribution towards SDMP to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.

### **6.6** Habitat Regulations

- 6.6.1** The proposed development, as a residential scheme, has been screened (where mitigation measures must now be disregarded) as likely to have a significant effect

upon European designated sites due to an increase in recreational disturbance along the coast and in the New Forest. Accordingly, a Habitat Regulations Assessment (HRA) has been undertaken, in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, see **Appendix 2**. The HRA concludes that, provided the specified mitigation of a Solent Recreation Mitigation Strategy (SRMP) contribution and a minimum of 5% of any CIL taken directed specifically towards Suitably Accessible Green Space (SANGS), the development will not adversely affect the integrity of the European designated sites.

**7 Summary**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. It has been demonstrated with clear evidence that this site is not likely to become viable for employment use and previous planning permissions for office and industrial development have not come forward. Furthermore the scheme is now able to provide a safe pedestrian environment and appropriate noise mitigation has been provided to ensure the residential environment is acceptable. Therefore previous refusal decisions (including appeal decisions) for residential development have now been addressed. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters

**8 Conclusion**

The positive aspects of the scheme are not judged to be outweighed by the negative and as such the scheme is recommended for conditional approval.

**Local Government (Access to Information) Act 1985**  
**Documents used in the preparation of this report Background Papers**

1 (a) (b) (c) (d), 2 (b) (c) (d), 4 (f) (g), 6 (a) (c), 7 (a), 9 (a) (b)

**AG for 06/08/2019 PROW Panel**

## PLANNING CONDITIONS

### 01. Outline Permission Timing Condition (Performance)

Outline Planning Permission for the principle of the development proposed and the following matters sought for consideration, namely the layout of buildings and other external ancillary areas, the means of access (vehicular and pedestrian) into the site and the buildings, the appearance and design of the structure, the scale, massing and bulk of the structure, is approved subject to the following:

- (i) Written approval of the details of the following awaited reserved matters shall be obtained from the Local Planning Authority prior to any works taking place on the site:
  - the landscaping of the site specifying both the hard, soft treatments and means of enclosures and maintenance.
- (ii) An application for the approval of the outstanding reserved matters shall be made in writing to the Local Planning Authority before the expiration of three years from the date of this Outline Permission
- (iii) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last application of the reserved matters to be approved.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 91 and Section 92 of the Town and Country Planning Act 1990 (as amended).

### 02. Details of building materials to be used (Pre-Commencement Condition)

Notwithstanding the information shown on the approved drawings and application form, with the exception of site clearance, demolition and preparation works, no development works shall be carried out until a written schedule of external materials and finishes, including samples and sample panels where necessary, has been submitted to and approved in writing by the Local Planning Authority. These shall include full details of the manufacturer's composition, types and colours of the external materials to be used for external walls, windows, doors, rainwater goods, and the roof of the proposed buildings. It is the Local Planning Authority's practice to review all such materials on site. The developer should have regard to the context of the site in terms of surrounding building materials and should be able to demonstrate why such materials have been chosen and why alternatives were discounted. If necessary this should include presenting alternatives on site. Development shall be implemented only in accordance with the agreed details.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality.

### 03. Amenity Space Access (Pre-Occupation)

Before the development hereby approved first comes into occupation, the rooftop terrace and pedestrian access to it, shall be made available for use in accordance with the plans hereby approved. The amenity space and access to it shall be thereafter retained for the use of the dwellings.

Reason: To ensure the provision of adequate amenity space in association with the approved dwellings.

### 04. Hours of work for Demolition / Clearance / Construction (Performance)

All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of:

Monday to Friday 08:00 to 18:00 hours

Saturdays 09:00 to 13:00 hours

And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the occupiers of existing nearby residential properties.

05. Glazing- Soundproofing from external noise (Performance Condition)

Unless otherwise agreed in writing by the Local Planning Authority, the glazing for the residential accommodation shall be either:

Outer pane of glass - 10mm

Air gap between panes - 12mm

Inner pane of glass - 6 mm

or, with secondary glazing with a -

Outer pane of glass - 6mm

Air gap between panes - 100mm

Inner pane of glass - 6.4 mm

Any trickle vents must be acoustically rated. The above specified glazing shall be installed before any of the flats are first occupied and thereafter retained at all times.

Reason: In order to protect occupiers of the flats from external noise.

07. APPROVAL CONDITION - Location of plant

Unless otherwise agreed in writing with the Local Planning Authority, any habitable rooms facing towards the railway shall be served by mechanical ventilation. The ventilation and air conditioning/air handling plant shall be located on the noisier aspect, i.e. facing the railway line, in accordance with the recommendation of the supporting Ambient Noise and Vibration Impact Assessment Report (Ref 170-3/Rep 1/Rev 0/April 2019). The mechanical ventilation and air conditioning/air handling plant shall be installed prior to first occupation of the flats hereby approved and thereafter retained as agreed.

Reason: To ensure residents are not affected by significant noise nuisance.

08. Construction Management Plan (Pre-Commencement)

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Plan for the development. The Construction Management Plan shall include details of:

(a) parking of vehicles of site personnel, operatives and visitors;

(b) loading and unloading of plant and materials;

(c) storage of plant and materials, including cement mixing and washings, used in constructing the development;

(d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;

(e) measures to be used for the suppression of dust and dirt throughout the course of construction;

(f) details of construction vehicles wheel cleaning; and,

(g) details of how noise emanating from the site during construction will be mitigated. The approved Construction Management Plan shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

Reason: In the interest of health and safety, protecting the amenity of local land uses, neighbouring residents, the character of the area and highway safety.

09. Energy & Water (Pre-Commencement)

Before the development commences, written documentary evidence demonstrating that the development will achieve at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of a design stage SAP calculations and a water efficiency calculator shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA.

Reason: To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

10. Energy & Water (performance condition)

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of final SAP calculations and water efficiency calculator and detailed documentary evidence confirming that the water appliances/fittings have been installed as specified shall be submitted to the Local Planning Authority for its approval.

Reason: To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

11. Sustainable Drainage Systems (Pre-Commencement)

Prior to the commencement of development a specification for the proposed sustainable drainage system shall be submitted to the Local Planning Authority. A sustainable drainage system to the approved specification must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter. In the development hereby granted consent, peak run-off rates and annual volumes of run-off shall be no greater than the previous conditions for the site.

Reason: To conserve valuable water resources, in compliance with and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) and to prevent an increase in surface run-off and reduce flood risk.

12. APPROVAL CONDITION - Air Quality

Prior to the commencement of development a DMRB screening air quality assessment shall be submitted to the Local Planning Authority and agreed in writing. If the DMRB identify a significant impact/exceedance of the air quality objectives then a full air quality assessment will be required prior to the commencement of development. Any required mitigation measures shall be installed prior to first occupation and thereafter retained.

Reason: In the interests of air quality.

13. Piling (Pre-Commencement)

Prior to the commencement of development hereby approved, a piling/foundation design and method statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: In the interest of residential amenity.

14. Ecological Mitigation Statement (Pre-Commencement)

Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, which unless otherwise agreed in writing by the Local Planning Authority shall be implemented in accordance with the programme before any demolition work or site clearance takes place.

Reason: To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity.

15. Submission of a Bird Hazard Management Plan

Development shall not commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Planning Authority. The submitted plan shall include details of:

- Management of the roof area which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with Advice Note 3 'Wildlife Hazards around Aerodromes':

<https://www.aoa.org.uk/wp-content/uploads/2016/09/Advice-Note-3-Wildlife-Hazards-2016.pdf>

The Bird Hazard Management Plan shall be implemented as approved on completion of the development and shall remain in force for the life of the building. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Planning Authority.

Reason: To avoid endangering the safe movement of aircraft and the operation of Southampton Airport through the attraction of birds and an increase in the bird hazard risk of the application site.

16. Control of Lighting on the Proposed Development

The development is close to aircraft taking off from or landing at the aerodrome. Lighting schemes required during construction and for the completed development shall be of a flat glass, full cut off design, mounted horizontally, and shall ensure that there is no light spill above the horizontal.

Reason: To avoid endangering the safe operation of aircraft with glare.

17. Surface / foul water drainage (Pre-commencement)

No development approved by this permission shall commence until a scheme for the disposal of foul water and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the agreed details and be retained as approved.

Reason: To ensure satisfactory drainage provision for the area.

18. Parking (Pre-Occupation)

The parking and access, with at least 1 space per flat for use by residents and visitors only, shall be provided in accordance with the plans hereby approved before the development first comes into occupation and thereafter retained as approved.

Reason: To prevent obstruction to traffic in neighbouring roads and in the interests of highway safety.

19. Cycle parking (Performance Condition)

Before the development hereby approved first comes into occupation, the storage for bicycles shall be provided and made available for use in accordance with the plans hereby approved. The storage shall thereafter be retained as approved.

Reason: To encourage cycling as an alternative form of transport.

20. Euro Bin Storage (Performance)

The bin store shall be constructed of masonry under a suitable weatherproof roof, with adequate ventilation. The collection doors are to be of sturdy construction and hinged to open outwards with a minimum opening of 1.4m wide, to have level access avoiding thresholds, and a lock system to comply with SCC standard lock requirements operated by a coded key pad. It must be possible to secure the doors open whilst moving the bins.

Internal lighting to operate when doors are open, and a tap and wash down gulley to be provided, with suitable falls to the floor. Internal doors/walls/pipework/tap/conduits to be suitably protected to avoid damage caused by bin movements.

The access path to the bin store shall be constructed to footpath standards and to be a minimum width of 1.5m. Any gates on the pathway are not to be lockable, unless they comply with SCC standard coded keypad detail.

The gradient of the access path to the bin store shall not exceed 1:12 unless suitable anti-slip surfacing is used, and still shall not exceed 1:10.

A single dropped kerb to the adjacent highway will be required to access the refuse vehicle with the Euro bin.

The site management must contact SCC refuse team 8 weeks prior to occupation of the development to inspect the new stores and discuss bin requirements, which are supplied at the developer's expense. E mail [waste.management@southampton.gov.uk](mailto:waste.management@southampton.gov.uk)

Reason: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties and in the interests of highway safety.

Note to applicant: In accordance with para 9.2.3 of the Residential Design Guide (September 2006): if this development involves new dwellings, the applicant is liable for the supply of refuse bins, and should contact SCC refuse team at [Waste.management@southampton.gov.uk](mailto:Waste.management@southampton.gov.uk) at least 8 weeks prior to occupation of the development to discuss requirements.

21. Waste Management Plan

Prior to first occupation of the development hereby approved a waste management plan shall be submitted and agreed in writing with the Local Planning Authority to ensure that all bins are collected from the access road off Drummond Drive

Reason: In the interests of highway safety

22. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.



19/00950/FUL

## POLICY CONTEXT

### Core Strategy - (as amended 2015)

CS3	Promoting Successful Places
CS4	Housing Delivery
CS5	Housing Density
CS7	Safeguarding Employment sites
CS13	Fundamentals of Design
CS14	Historic Environment
CS15	Affordable Housing
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats
CS25	The Delivery of Infrastructure and Developer Contributions

### City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
NE9	Protection / Improvement of Character
H2	Previously Developed Land
H7	The Residential Environment
RE11	Light Industrial Use

### Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Planning Obligations (Adopted - September 2013)  
Parking Standards SPD (September 2011)

### Other Relevant Guidance

The National Planning Policy Framework (2019)  
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

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### Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement

**PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.**

HRA completion date:	See Main Report
Application reference:	See Main Report
Application address:	See Main Report
Application description:	See Main Report
Lead Planning Officer:	See Main Report
Please note that all references in this assessment to the 'Habitats Regulations' refer to The Conservation of Habitats and Species Regulations 2017.	

#### Stage 1 - details of the plan or project

European site potentially impacted by planning application, plan or project:	Solent and Southampton Special Protection Area (SPA) and Ramsar site. Solent Maritime Special Area of Conservation (SAC). Collectively known as the Solent SPAs. New Forest SAC, SPA and Ramsar site.
Is the planning application directly connected with or necessary to the management of the site (if yes, Applicant should have	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.

provided details)?	
Are there any other projects or plans that together with the planning application being assessed could affect the site (Applicant to provide details to allow an 'in combination' effect to be assessed)?	<p>Yes. All new housing development within 5.6km of the Solent SPAs is considered to contribute towards an impact on site integrity as a result of increased recreational disturbance in combination with other development in the Solent area.</p> <p>Concerns have been raised by Natural England that residential development within Southampton, in combination with other development in the Solent area, could lead to an increase in recreational disturbance within the New Forest. This has the potential to adversely impact site integrity of the New Forest SPA, SAC and Ramsar site.</p> <p>The PUSH Spatial Position Statement (<a href="https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/">https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/</a>) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire up to 2034.</p>

## Stage 2 - HRA screening assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.

### Solent SPAs

The proposed development is within 5.6km of the collectively known European designated areas Solent SPAs/Ramsar sites. In accordance with advice from Natural England and as detailed in the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those sites through a consequent increase in recreational disturbance.

Development within the 5.6km zone will increase the human population at the coast and thus increase the level of recreation and disturbance of bird species. The impacts of recreational disturbance (both at the site-scale and in combination with other development in the Solent area) are analogous to impacts from direct habitat loss as recreation can cause important habitat to be unavailable for use (the habitat is functionally lost, either permanently or for a defined period). Birds can be displaced by human recreational activities (terrestrial and water-based) and use valuable resources in finding suitable areas in which to rest and feed undisturbed. Ultimately, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.

### The New Forest

The New Forest National Park attracts a high number of visitors (13.3 million annually), and is notable in terms of its catchment, attracting a far higher proportion of tourists and non-local visitors than similar areas such as the Thames Basin and Dorset Heaths. Research undertaken by Footprint Ecology, Sharp, J., Lowen, J. and Liley, D. (2008) Changing patterns of visitor numbers within the New Forest National Park, with particular reference to the New Forest SPA. (Footprint Ecology.), indicates that 40% of visitors to the area are staying tourists, whilst 25% of visitors come from more than 5 miles (8km) away. The

remaining 35% of visitors are local day visitors originating from within 5 miles (8km) of the boundary.

The report states that the estimated number of current annual visits to the New Forest is predicted to increase by 1.05 million annual visits by 2026 based on projections of housing development within 50km of the Forest, with around three quarters (764,000) of this total increase originating from within 10km of the boundary (which includes Southampton).

Residential development has the potential to indirectly alter the structure and function of the habitats of the New Forest SAC, SPA and Ramsar site breeding populations of nightjar, woodlark and Dartford warbler through disturbance from increased human and/or dog activity. The precise scale of the potential impact is currently uncertain however, the impacts of recreational disturbance can be such that they affect the breeding success of the designated bird species and therefore act against the stated conservation objectives of the European sites.

### Stage 3 - Appropriate Assessment

Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long term management, maintenance and funding of any solution.

#### **Solent SPAs**

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs and in accordance with the findings of the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development, is likely. This is contrary to policy CS 22 - Promoting Biodiversity and Protecting Habitats, of the Southampton Core Strategy Partial Review, which states that,

*Within Southampton the Council will promote biodiversity through:*

*1. Ensuring development does not adversely affect the integrity of international designations, and the necessary mitigation measures are provided; or the development otherwise meets the Habitats Directive;*

In line with Policy CS22, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

Southampton City Council formally adopted the Solent Recreation Mitigation Strategy (SRMP) in March 2018. The SRMP provides a strategic solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development. This strategy represents a partnership approach to the issue which has been endorsed by Natural England.

As set out in the Solent Recreation Mitigation Strategy, an appropriate scale of mitigation for this scheme would be:

Therefore, in order to deliver the an adequate level of mitigation the proposed development will need to provide a financial contribution, in accordance with the table above, to mitigate the likely impacts.

A legal agreement, agreed prior to the granting of planning permission, will be necessary to secure the mitigation package. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. Providing such a legal agreement is secured through the planning process, the proposed development will not affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.

**New Forest**

The project being assessed would result in a net increase in dwellings within easy travelling distance of the New Forest and a permanent significant effect on the New Forest SAC, SPA and Ramsar, due to an increase in recreational disturbance as a result of the new development, is likely. This is contrary to policy CS 22 - Promoting Biodiversity and Protecting Habitats, of the Southampton Core Strategy Partial Review, which states that,

*Within Southampton the Council will promote biodiversity through:*  
 1. *Ensuring development does not adversely affect the integrity of international designations, and the necessary mitigation measures are provided; or the development otherwise meets the Habitats Directive;*

Size of Unit	Scale of Mitigation per Unit
1 Bedroom	£346.00
2 Bedroom	£500.00
3 Bedroom	£653.00
4 Bedroom	£768.00
5 Bedroom	£902.00

In line with Policy CS22, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

At present, there is no scheme of mitigation addressing impacts on the New Forest designated sites, although, work is underway to develop one. In

the absence of an agreed scheme of mitigation, the City Council has undertaken to ring fence 5% of CIL contributions to fund footpath improvement works within suitable semi-natural sites within Southampton. These improved facilities will provide alternative dog walking areas for new residents.

The proposed development will generate a CIL contribution and the City Council will ring fence 5% of the overall sum, to fund improvements to footpaths within the greenways and other semi-natural greenspaces.

**Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England**

In conclusion, the application will have a likely significant effect in the absence of avoidance and mitigation measures on the above European and Internationally protected sites. The authority has concluded that the adverse effects arising from the proposal are wholly consistent with, and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy.

The authority’s assessment is that the application coupled with the contribution towards the SRMS secured by way of legal agreement complies with this strategy and that it can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above.

In the absence of an agreed mitigation scheme for impacts on the New Forest designated sites Southampton City Council has adopted a precautionary approach and ring fenced 5% of CIL contributions to provide alternative recreation routes within the city.

This represents the authority's Appropriate Assessment as Competent Authority in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework 2012.

Natural England Officer: Becky Aziz (email 20/08/2018)

Summary of Natural England's comments:

Where the necessary avoidance and mitigation measures are limited to collecting a funding contribution that is in line with an agreed strategic approach for the mitigation of impacts on European Sites then, provided no other adverse impacts are identified by your authority's appropriate assessment, your authority may be assured that Natural England agrees that the Appropriate Assessment can conclude that there will be no adverse effect on the integrity of the European Sites. In such cases Natural England will not require a Regulation 63 appropriate assessment consultation.

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## Appeal Decision

Site visit made on 10 March 2015

**by Mark Dakeyne BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 March 2015**

**Appeal Ref: APP/D1780/A/14/2228895**

**Horseshoe Bridge, Portswood, Southampton SO17 2NP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr S Poswall against the decision of Southampton City Council.
- The application Ref 14/00481/OUT, dated 21 March 2014, was refused by notice dated 29 October 2014.
- The development proposed is the construction of a five storey building to form 40 bed student accommodation.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline, with access, layout and scale to be determined at this stage. I have dealt with the appeal on that basis. For clarity I have used the description of development from the appeal form which refers to student accommodation.

### Main Issues

3. The main issues are:
  - (1) the effect of the development on the supply of employment land;
  - (2) whether the proposal would result in an acceptable living environment for future occupants, with particular reference to noise and safety; and,
  - (3) whether the proposal makes adequate provision for any necessary infrastructure and facilities arising from the development and would offset any adverse impacts.

### Reasons

#### *Employment Land*

4. The site is safeguarded specifically for light industry and research use by Policy REI 11 of the City of Southampton Local Plan Review (LP). Policy CS 7 of the Southampton City Council Core Strategy (CS) is more general in safeguarding existing employment sites for employment use. Policy CS 7 states that, if a site is released from safeguarding, the requirement will be for a mix of uses to include suitable B1, B2 and/or B8 employment. The explanation to the policy recognises that a site may need to be redeveloped for both employment and other higher value uses to remain commercially viable. Given that the National Planning Policy Framework promotes flexible policies to accommodate

employment needs not anticipated in the Plan, I consider that Policy REI 11 of the LP is somewhat out of date in restricting development to narrowly defined employment uses only.

5. The small triangular shaped appeal site with an area of about 0.2 ha would not be large enough for a mix of uses. So the key test in respect of the first main issue, notwithstanding the terms of the policies, is whether there is a reasonable prospect of the site being used for employment purposes as set out in paragraph 22 of the Framework.
6. There have been a number of planning permissions for employment uses on the site over the years. However, despite marketing the site for office use none of the permissions have been taken up. That said, although I observed boards on Horseshoe Bridge for a 'new landmark office building', presumably for the appeal site, I am not aware of any other marketing information to demonstrate the efforts that have been made to sell or lease the site to an employment user or the nature of any interest. Moreover, the more recent permissions have existed during a period of recession when development has been more difficult to get off the ground. During the ongoing period of recovery, more interest in the site for employment would be anticipated. This is in the context of low vacancy rates in the city referred to by the Council; the site's good connections to the strategic road network; and the proximity to other employment uses, including those on Empress Road to the south-west.
7. Accordingly the proposal would have an unacceptable impact on the supply of employment land and would conflict with Policy CS 7 of the CS as it would lead to the loss of a safeguarded employment site. It has not been demonstrated that there is no reasonable prospect of the site being used for employment purposes. Loss of the site would make it more difficult for the business and industrial units that the area needs to be delivered. For the reasons given above, although there is conflict, Policy REI 11 of the LP should be given less weight.
8. The student development would be unlikely to prejudice the ability of nearby businesses to operate as there are no such uses immediately next to the site, Empress Road being separated by Horseshoe Bridge. Moreover, the nearest building on Empress Road is in B1 office use which would be compatible with the residential use.

### *Living Environment*

9. The site is sandwiched between the main railway route into Southampton and Thomas Lewis Way, the A335, which heads out of the city to junction 5 of the M27 motorway. When I visited the site mid-morning there was a steady flow of traffic on the A335 and passenger trains passed regularly. In addition there was additional traffic using Horseshoe Bridge above the site and the hum of a transformer on railway land about 4m from the site boundary. It would be likely that vehicle movements in particular would increase during peak periods.
10. There is no noise assessment before me, including potential mitigation measures such as attenuation of the building fabric. But based on what I saw and heard at the site visit I consider that the noise environment would not be acceptable for the proposed student accommodation, including any external sitting out areas. There is a distinction between the ability of residents and

office workers to tolerate noise, particularly as the former would expect a quieter environment during the hours of rest and sleep.

11. I note that the Inspector who considered the previous appeal<sup>1</sup> had the benefit of an acoustic report and found that it would be possible to insulate the interior of the building. But he was not convinced that the external space would provide an acceptable noise environment. I also note that the Council's Environmental Health Officer considers that occupants would need to keep their windows shut which is an indicator that the noise environment is poor.
12. Those walking or cycling to or from the site would use the short road providing access to the railway land. This route has a pavement on its northern side but there is no street lighting. Moreover, the access lacks natural surveillance as it is not a through-route and the vegetation on the embankments and change in levels largely shield those using it from nearby roads. There is an unlit lane which runs from the hammerhead of the access road towards St Denys Railway Station to the north. The lane is screened from Thomas Lewis Way above. It would appear to be a private road but access can be gained to the station platforms via the lane. This would be the shortest route to the station for those living in the flats. There is no other residential development along these routes or in other locations that look over the accesses or the site such as on Horseshoe Bridge.
13. The routes would not provide a safe route into and out of the flats, particularly in hours of darkness, due to their characteristics, particularly the lack of surveillance. Students, including females, returning to the accommodation late at night would be particularly vulnerable. I note that the area around Horseshoe Bridge is one which has been subject to crime and anti-social behaviour. There are reports of, amongst other things, assaults, prostitution and theft. The new development itself would provide some surveillance from windows looking over the access road. Security measures could be included within the design of the building to prevent unauthorised access. However, I do not consider that these measures would make for a suitably safe environment. Office workers would not normally need to access the site during the evening and would be less likely to walk or cycle. Therefore, the considerations in relation to a safe environment are not comparable.
14. The City Gateway student accommodation, which I saw on my site visit, is close to main roads but has much better natural surveillance and direct access onto the well-used Stoneham Way so would provide a safer living environment than the appeal proposal.
15. There are routes through residential areas to the north of Thomas Lewis Way which would provide a safer environment, including the main access to the railway station. Bus routes operate in this area. Provision could be made for improved pedestrian crossing facilities at the junction of Horseshoe Bridge and Thomas Lewis Way. There is housing over Horseshoe Bridge to the north-east. Therefore, the environment beyond the immediate surroundings of the appeal site would be acceptable. There would be no need to use Empress Road as an access route as there are more attractive alternatives once Thomas Lewis Way has been reached.

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<sup>1</sup> Appeal Decision ref: APP/D1780/A/06/2029628 dated 24 May 2007

16. However, I conclude that the proposal would result in an unacceptable living environment for future occupants, with particular reference to noise and safety. There would be conflict with Policy CS 13 of the CS as the development would not design out the risk of crime. In terms of the LP, Policies H 13, SDP 1, SDP 10 and SDP 16 would be breached as the development would not be suitably located, would unacceptably affect the safety of residents, would not provide safe and secure public routes and would be adversely affected by significant noise from existing noise-generating uses. These LP policies have a reasonable degree of consistency with the Framework and, therefore, should be given due weight.
17. The Framework's core planning principle of securing a good standard of amenity for all future occupiers of buildings would not be met. The development would not create a safe environment so the quality of life of the occupants would be undermined.

### *Infrastructure*

18. The Council's fifth reason for refusal refers to the lack of a planning obligation to offset the impacts of the development on transport, parking, carbon emissions, nature conservation and site and waste management. The appellant refers to the securing of planning obligations through the appeal process but no legal document under Section 106 of the Planning Act is before me.
19. I agree with the appellant that it is likely that some of these issues, such as limiting the use to student accommodation, travel planning and site and waste management, could be dealt with by conditions. Damage to the public highway is not normally within the scope of planning legislation. In respect of other requirements, I would comment as follows:

*Transport Contribution* – the provision of a pedestrian controlled crossing at the junction of Horseshoe Bridge and Thomas Lewis Way would be necessary (paragraph 16 refers). The appellant does not appear to dispute this requirement.

*Restrictions on parking permits* – the proposal includes provision for some 18 on-site parking spaces. The Council refer to the need to control on-street parking in the area. However, there is insufficient information before me about the parking that would be likely to be generated by a 40 student bedroom development or the impacts of the development in relation to on-street parking in the area. Therefore, the excluding occupants from applying for permits has not been shown to be necessary, even if such a course of action was possible through planning controls.

*Nature Conservation* – the requirement for a contribution to the Solent Disturbance Mitigation project appears to be justified by the need to reduce the impact of recreational activity from additional population on nearby designated sites. Again the appellant does not appear to dispute this requirement.

*Carbon Offset Fund* – the requirement to offset CO<sub>2</sub> emissions is set within Policy CS20. I have not been made aware of any reason why the requirement should not be met. Again the appellant does not appear to dispute this requirement.

20. The contributions to offsite highway works, nature conservation and carbon offsetting are necessary to make the proposed development acceptable in planning terms, directly related to the proposed development and fairly and reasonably related in scale to the development. In the absence of the said contributions the proposal does not make adequate provision for any necessary infrastructure and facilities arising from the development and would not offset any adverse impacts. There would be conflict with Policies CS 18, CS 20 and CS 25 of the CS as the development, without a safe crossing, would not promote active travel and access to public transport; would not make a contribution to the Carbon Offset Fund; and the necessary infrastructure, facilities and amenities would not be provided.

*Other Matters*

21. There are likely to be technical solutions with regard to dealing with the public sewer that crosses the site but these should be addressed through the Building Regulations and consultation with Southern Water rather than through the planning process. Surface water could be attenuated on the site so that it does not increase flows off site. In these respects I note that previous permissions have been granted on the site, notwithstanding the existence of the sewer and surface water issues. Based on the information before me the effects on the public sewer and surface water would not be reasons to dismiss the appeal.

*Conclusions*

22. The development would contribute to the supply of student housing in the city. The area is well served by public transport, including the nearby railway station. There is a cycleway along the River Itchen with its entrance close to the site. The development would make use of neglected previously-developed land. Permission exists for a five storey office building on the site so the scale of development would be acceptable. There is reference to the lack of a five year supply of deliverable sites under Policy CS 4 of the CS, although the Council consider there is a five year supply. However, even if there is no five year supply, the adverse impacts of the development would significantly and demonstrably outweigh the benefits, including those arising from the provision of student housing, when assessed against the policies of the Framework taken as a whole. The proposal would not represent sustainable development.
23. For the above reasons and having regard to all other matters raised the appeal should be dismissed.

*Mark Dakeyne*

INSPECTOR

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# Agenda Item 7

## Planning and Rights of Way Panel 6th August 2019 Planning Application Report of the Service Lead – Infrastructure, Planning & Development

<b>Application address:</b> 8 Devonshire Road, Southampton			
<b>Proposed development:</b> Change of use from a dwelling house (class C3) to flexible dwelling house (class C3) or a house in multiple occupation (HMO, class C4) for up to 5 persons.			
<b>Application number</b>	19/00990/FUL	<b>Application type</b>	FULL
<b>Case officer</b>	Mark Taylor	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	26 July 2019 (Extension of Time agreed until 14 August 2019)	<b>Ward</b>	Bargate
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received	<b>Ward Councillors</b>	Cllr Bogle Cllr Noon Cllr Paffey
<b>Referred to Panel by:</b>	N/A	<b>Reason:</b>	N/A

<b>Applicant:</b> Mr C Baena Blanco	<b>Agent:</b> Kingston Studio
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<b>Recommendation Summary</b>	Conditionally Approve
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<b>Community Infrastructure Levy Liable</b>	N/A
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### Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with the development plan as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39 – 42 and 46 of the National Planning Policy Framework (2019).

Policies - SDP1, SDP7, SDP9 and H4 of the City of Southampton Local Plan Review (as amended 2015) and CS13 and CS16 of the Local Development Framework Core Strategy Development Plan Document (as amended 2015) as supported by the revised HMO SPD (revised 2016).

<b>Appendix attached</b>			
1	Development Plan Policies	2	40m Assessment Summary

**Recommendation in Full: - Conditionally approve**

## **1.0 The site and its context**

- 1.1 The application site is located on the western side of Devonshire Road and contains a two-storey, semi-detached dwelling. There is a small front garden, enclosed with a low wall, and a side access path leading to a modest rear garden.
- 1.2 The property is located within a residential area characterised by a mix of semi-detached and terraced housing. There is a high concentration of HMOs in the locality, which is west of the Bedford Place/London Road commercial area. Devonshire Road and the surrounding streets are covered by a residents' parking permit scheme (Zone number 1, 8am-6pm Monday to Friday) and, in some stretches of road, 2 hours maximum parking.

## **2.0 Proposal**

- 2.1 Planning permission is sought for a Class C4 House of Multiple Occupation (HMO) for up to 5 people. As per the HMO Supplementary Planning Document (HMO SPD), revised in 2016, a condition can be applied to allow swapping between a C3 single family dwelling and a C4 HMO use for a period of 10 years without the need for planning permission, with the use at the end of the 10 year period becoming the lawful use from that point onwards. This 'flexible' type of permission enables the owner to rent to both families and sharers without the need for further permission.
- 2.2 There are no external or internal structural changes to the layout of the property proposed, merely the conversion of the ground floor middle dining room into a bedroom.

## **3.0 Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012, and then was recently revised in February 2019, and replaces the previous set of national planning policy guidance notes and statements. The Council reviewed the Core Strategy when the NPPF first came in to force, to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 Core Strategy CS16 and Saved Local Plan policy H4 are relevant to the determination of planning applications relating to HMOs. Policy CS16 of the Core Strategy states that the contribution that the HMO makes to meeting housing need should be balanced against the impact on character and amenity of the area. Saved policy H4 of the Local Plan requires new HMOs to respect the amenities of neighbouring properties and the character of the area and to provide adequate private and useable amenity space.
- 3.4 The Houses in Multiple Occupation SPD (HMO SPD) was adopted in March 2012, and more recently revised in 2016, and provides supplementary planning guidance for policies H4 and CS16 in terms of assessing the impact of HMOs on the character and amenity and mix and balance of households of the local area. The revised SPD (2016) sets a city-wide maximum threshold of 10% for the total number of HMOs within a 40m radius from the front door of the application site, or the 10 nearest residential properties (section 6.5 of the HMO SPD refers). The



SPD also details the approach to be taken in exceptional circumstances (section 4.5 of the HMO SPD refers), where a significant level of HMO saturation has already occurred in a street, which in turn negatively impacts the market demand for C3 family housing in that location. The threshold set for assessing when exceptional circumstances can be considered is 80% (i.e. at least 80% of dwellings within the 40m radius are already in operation as HMO properties). The Panel will recall that before this change the Council's policy was that only the last 1 or 2 properties in an area defined exclusively as HMOs would be allowed to convert to an HMO. This was considered to be an unreasonable position for those owners of C3 dwellings living within areas dominated by HMOs who were unable to sell.

#### **4.0 Relevant Planning History**

4.1 There have been no previous applications on this site.

#### **5.0 Consultation Responses and Notification Representations**

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, and placing a site notice on 21/06/2019. At the time of writing the report **5 representations** from 2 households have been received from surrounding residents. A further representation has been received from Ward Cllr Noon. The following is a summary of the points raised:

5.2 **There are already too many HMOs in the area, the 10% threshold has been exceeded, to allow more would further unbalance the community.**

*Response: It is acknowledged that there are a significant number of HMOs within this area of the city, and that the 10% threshold assessment detailed within the HMO SPD has already been exceeded in the 40m radius from the site. It is important to note, however, that the threshold for exceptional circumstances has now been reached (at least an 80% concentration of HMOs within the 40m radius area) and therefore exceptional circumstances can be considered for this site.*

#### **5.5 Consultation Responses**

5.6 No Consultation responses have been received

#### **6.0 Planning Consideration Key Issues**

6.1 The key issues for consideration in the determination of this planning application are:

- a) whether the proposed change of use from a C3 family dwelling to a C4 HMO is acceptable in principle;
- b) whether the proposed development would have a harmful impact on the character of the property and local area, the residential amenities of surrounding neighbours, or parking in the local area;
- c) whether the proposal would have a harmful impact upon the amenities of the occupants of the host dwelling.

#### **6.2 Principle of Development**

6.2.1 The existing property could easily be returned to use as a family dwelling at any time by way of a change of tenants, as the building structure and internal layout would remain unchanged from the previous use as a C3 family dwelling. The change from a C4 HMO use to a C3 dwelling would not require planning permission. The proposal does not, therefore, result in the net loss of a family home and the proposal would be in accordance with policy CS16 of the Core

Strategy. The proposed development is also in accordance with saved policies H1 and H2 of the Local Plan which support the conversion of existing dwellings for further housing and require the efficient use of previously developed land. As confirmed by Core Strategy Policy CS16, the proposed HMO use meets a recognised housing need for single households or for those with lower incomes and is therefore, acceptable in principle.

- 6.2.2 Although the threshold assessment shows that the initial 10% HMO concentration has been breached within a 40m radius of the front door of the application site, this concentration has now met the 80% threshold at which claims for exceptional circumstances can be made, if it can be demonstrated that the property has been marketed as a C3 family dwelling (Section 4.5 of the HMO SPD (amended 2016) refers). This exercise took place between the 7<sup>th</sup> September 2018 and 28th March 2019 with no market interest as confirmed by Cryers Lettings of Bedford Place. Exceptional circumstances is effective for situations where the HMO concentration is very high and the retention of remaining C3 dwellings “will have little effect on the balance and mix of households in a community which is already over dominated by the proportion of existing HMO households. Therefore, the conversion of the remaining buildings to a HMO would not further harm the character of the area” (para 4.5.2 HMO SPD 2016).
- 6.2.3 The existing concentration of HMOs within a 40m radius of the application site is 83% (30 out of 36 eligible dwellings as set out at **Appendix 2**). As a result of this proposal, this concentration will rise to 86% (31 of 36 eligible dwellings). The exceptional circumstances threshold has, therefore been met and sufficient marketing evidence has been submitted.
- 6.2.4 The evidence from the lettings agent demonstrates that the property was marketed as a C3 dwelling at a reasonable market rent (£950pcm) compared to similar nearby properties, and that there was negligible interest from tenants who would meet the definition of a C3 single household.
- 6.3.2 In terms of parking, although there is no off street parking provided, the surrounding streets are restricted to either residents’ permit parking only, or 2 hours maximum without a permit. Paragraph 5.2 of the HMO SPD states that where a property is within a residents’ parking permit zone, occupants are entitled to apply for permits, however the number of permits available will be restricted in accordance with the local parking policy, which would control the number of cars associated with the dwelling. Furthermore the site is very close to local amenities within Bedford Place and London Road, and to the City Centre itself. As such, it is not considered that there would be a harmful impact on the levels of parking available in the local area.
- 6.4 Quality of the Residential Environment
- 6.4.1 Saved policy H4 of the City of Southampton Local Plan Review 2010 states that: ‘Planning permission will only be granted for conversions to houses in multiple occupation where: (i) it would not be detrimental to the amenities of the residents of adjacent or nearby properties; and (iii) adequate amenity space is provided which (a) provides safe and convenient access from all units; (b) is not overshadowed or overlooked especially from public areas; and (c) enables sitting out, waste storage and clothes drying’.
- 6.4.2 The proposal would retain a communal living space on the ground floor with separate lounge and kitchen area with direct access to the rear amenity area. A condition is recommended to secure retention of the communal living space. All

habitable rooms would have suitable outlook from existing windows and would be typical of the HMO's in the vicinity. Occupants of the property have access to a private garden that, whilst small, is characteristic of the properties in the area. The proposed bedrooms would be of suitable size, therefore, the amenity of the occupants of the host dwelling shall not be harmed. In addition, conditions are recommended to secure details of the proposed provision of refuse and cycle storage facilities.

## **7.0 Summary**

7.1 The proposal for the conversion of the property to a C4 HMO is considered to be acceptable in principle, as exceptional circumstances have been demonstrated in relation to the threshold test, and the proposal shall not cause unacceptable harm to neighbouring amenity or highway safety. In addition, the amenity of the occupants of the host dwelling would not be harmed.

## **8.0 Conclusion**

Subject to the imposition of the suggested conditions attached to this report, the proposal would be acceptable. The application is therefore recommended for approval.

### **Local Government (Access to Information) Act 1985** **Documents used in the preparation of this report Background Papers**

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(f), 4(qq), 4(vv) 6(a) 6(b)

**MT for 06/08/19 PROW Panel**

## **PLANNING CONDITIONS**

### **01. Full Permission Timing Condition (Performance Condition)**

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

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

### **02. Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

### **03. Refuse & Recycling (Pre-Commencement)**

Prior to the first use of the building as an authorised C4 HMO for 5 people, details of storage for refuse and recycling, together with the access to it, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the development hereby approved.

Reason: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties and in the interests of highway safety.

### **04. Cycle storage facilities (Pre-Commencement Condition)**

Prior to the first use of the building as an authorised C4 HMO for 5 people, secure and covered storage for bicycles shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The storage shall be thereafter retained as approved.

Reason: To encourage cycling as an alternative form of transport.

### **05. C3/C4 dual use (Performance Condition)**

The dual C3 (dwellinghouse) and/or C4 (House in multiple occupation) use hereby permitted shall be for a limited period of 10 years only from the date of this Decision Notice (under Class V, Part 3, Schedule 2 of the Town and County Planning (General Permitted Development) Order 2015). The use that is in operation on the tenth anniversary of this Decision Notice shall thereafter remain as the permitted use of the property.

Reason: In order to provide greater flexibility to the development and to clarify the lawful use hereby permitted and the specific criteria relating to this use

Note to applicant: Whilst this planning permission allows occupation of the building as both a single dwelling and by a shared group, you are advised that an HMO that is licensed needs to have that license revoked before the building can lawfully be occupied again as a single dwelling.

### **06. Retention of communal spaces & number of occupiers (Performance Condition)**

The rooms labelled kitchen/lounge on the proposed ground floor plan, together with the external amenity areas, shall be made available for use by all of the occupants prior to first

occupation of the property as a C4 HMO use, as hereby approved, and thereafter shall be retained and available for communal purposes when in use as a HMO. The number of occupiers within the property, when in HMO use, shall not exceed 5 persons unless otherwise agreed upon in writing by the Local Planning Authority.

Reason: To ensure that suitable communal facilities are provided for the residents, and in the interests of protecting the amenities of local residents.

*The pre commencement conditions above were provided to the agent for the application on the 11<sup>th</sup> July 2019. These condition have been agreed in writing by the agent.*

Note to Applicant

A HMO License is required in order to operate the property as a Class C4 HMO. The applicant is advised to contact the HMO licensing team for more information or to see the following link: [www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/](http://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/)

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS13	Fundamentals of Design
CS16	Housing Mix and Type
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
H4	Houses in Multiple Occupation

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Parking Standards SPD (September 2011)  
Houses in Multiple Occupation (amended 2016)

Other Relevant Guidance

The National Planning Policy Framework (revised 2019)

**40m HMO Assessment Summary**



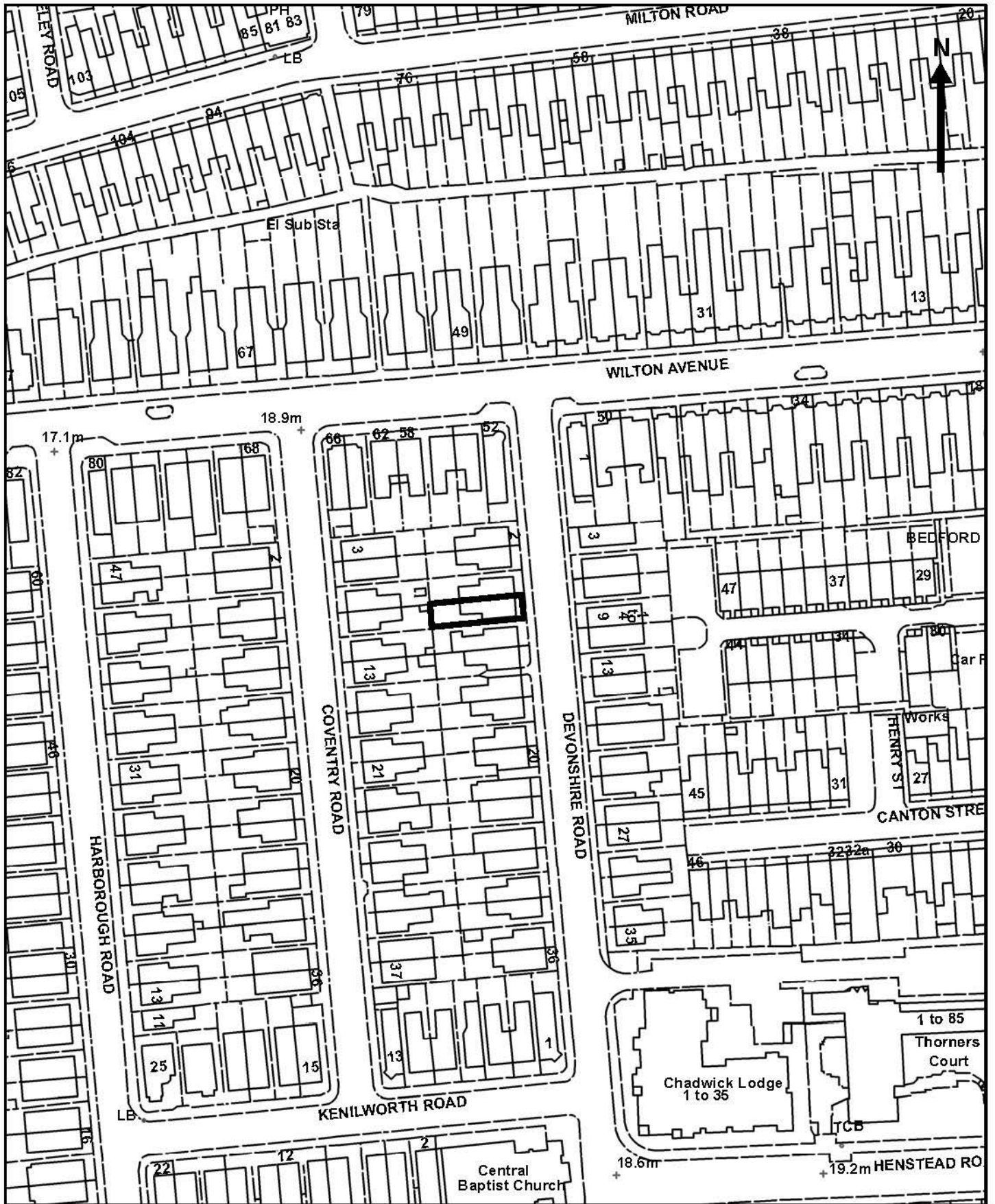
House	Road	Use	Count	HMO
1	Devonshire Road	C3	1	
2	Devonshire Road	C3	2	
3	Devonshire Road	C4	3	1
4	Devonshire Road	C4	4	2
5	Devonshire Road	C4	5	3
6	Devonshire Road	C4	6	4
7	Devonshire Road	C4	7	5
8	Devonshire Road	C4	8	6
9 Flat 1	Devonshire Road	C3		
9 Flat 2	Devonshire Road	C3		
9 Flat 3	Devonshire Road	C3		
9 Flat 4	Devonshire Road	C3		
10	Devonshire Road	C4	9	7
11	Devonshire Road	C4	10	8
12	Devonshire Road	C4	11	9
13	Devonshire Road	C4	12	10
14	Devonshire Road	C3	13	
15	Devonshire Road	C4	14	11
16	Devonshire Road	C4	15	12

17	Devonshire Road	C4	16	13
18	Devonshire Road	C4	17	14
19	Devonshire Road	C3	18	
20	Devonshire Road	C4	19	15
3	Coventry Road	C4	20	16
5	Coventry Road	C4	21	17
7	Coventry Road	C4	22	18
9	Coventry Road	C4	23	19
11	Coventry Road	C4	24	20
13	Coventry Road	C4	25	21
15	Coventry Road	C4	26	22
17	Coventry Road	C4	27	23
19	Coventry Road	C3	28	23
46	Wilton Avenue	C4	29	24
48	Wilton Avenue	C4	30	25
50	Wilton Avenue	C4	31	26
52 Flat 1	Wilton Avenue	C3		
52 Flat 2	Wilton Avenue	C3		
54	Wilton Avenue	C4	32	27
56	Wilton Avenue	C4	33	28
58	Wilton Avenue	C4	34	29
62	Wilton Avenue	C4	35	30
64	Wilton Avenue	C4	36	31

**36 dwellings, 31 HMO = 86%**



# Agenda Item 7 19/00990/FUL



Scale: 1:1,250

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<b>DECISION-MAKER:</b>	PLANNING AND RIGHTS OF WAY PANEL		
<b>SUBJECT:</b>	QUARTERLY DEVELOPMENT MANAGEMENT FIGURES		
<b>DATE OF DECISION:</b>	6 AUGUST 2019		
<b>REPORT OF:</b>	SERVICE MANAGER - DEVELOPMENT		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	Stephen Harrison	<b>Tel:</b> 023 8083 4330
	<b>E-mail:</b>	<a href="mailto:Stephen.harrison@southampton.gov.uk">Stephen.harrison@southampton.gov.uk</a>	
<b>Service Lead</b>	<b>Name:</b>	Samuel Fox	<b>Tel:</b> 023 8083 2044
	<b>E-mail:</b>	<a href="mailto:Samuel.fox@southampton.gov.uk">Samuel.fox@southampton.gov.uk</a>	

<b>STATEMENT OF CONFIDENTIALITY</b>	
None	
<b>BRIEF SUMMARY</b>	
The Council's Overview and Scrutiny Committee requested that key planning metrics are provided to the Planning Panel on a regular basis. The following information is therefore provided to the Panel in response to this request.	
<b>RECOMMENDATIONS:</b>	
(i)	That the Panel considers and notes the Development Management key metrics as set out in the paper and provides feedback (if necessary).
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1.	To ensure that the Panel has a greater understanding of the performance of Development Management. The nationally set target for performance is as follows: <ul style="list-style-type: none"> <li>• 60% of Majors determined within 13/16 weeks</li> <li>• 70% of Non-Majors determined within 8 weeks</li> </ul>
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
2.	None.
<b>DETAIL (Including consultation carried out)</b>	
3.	The following table sets out the performance against the key planning metrics.

MINORS AND OTHERS	Apr-19	May-19	Jun-19	QTR 1
Total Minors/Others Decisions	79	101	78	258
<b>TOTAL RESULT</b>	<b>92.41%</b>	<b>95.05%</b>	<b>97.44%</b>	<b>94.96%</b>
Out of time	6	5	2	13
MAJORS	Apr-19	May-19	Jun-19	QTR 1
Total Majors Decisions	1	1	1	3
<b>TOTAL RESULT</b>	100%	100%	100%	100%
Out of time	0	0	0	0

<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
4.	None.
<b><u>Property/Other</u></b>	
5.	None.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
6.	Not applicable.
<b><u>Other Legal Implications:</u></b>	
7.	Not applicable.
<b>RISK MANAGEMENT IMPLICATIONS</b>	
8.	Not applicable.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
9.	Not applicable.

<b>KEY DECISION?</b>	<b>No</b>
<b>WARDS/COMMUNITIES AFFECTED:</b>	<b>None</b>
<b><u>SUPPORTING DOCUMENTATION</u></b>	
<b>Appendices</b>	
1.	<b>None</b>

**Documents In Members' Rooms**

1.	<b>None.</b>
<b>Equality Impact Assessment</b>	
<b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b>	<b>No</b>
<b>Data Protection Impact Assessment</b>	
<b>Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.</b>	<b>No</b>
<b>Other Background Documents</b>	
<b>Other Background documents available for inspection at:</b>	
<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>
1.	<b>None</b>