

Planning and Rights of Way Panel

Tuesday, 6th October, 2020
at 6.00 pm

PLEASE NOTE TIME OF MEETING

This will be a 'virtual meeting', a link to which will be available on Southampton City Council's website at least 24hrs before the meeting

Virtual meeting

This meeting is open to the public

Members

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

Contacts

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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.

Southampton: Corporate Plan 2020-2025 sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time

Dates of Meetings: Municipal Year 2020/2021

2020	
2 June	15 September
23 June	6 October
14 July	3 November
4 August	24 November
25 August	15 December

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.

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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.

2021	
12 January	16 March
2 February	20 April
23 February	

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 - 4)

To approve and sign as a correct record the Minutes of the meetings held on 25 August 2020 and to deal with any matters arising.

CONSIDERATION OF PLANNING APPLICATIONS

5 PLANNING APPLICATION - 18/01227/FUL - PORTSMOUTH ROAD TENNIS COURTS (Pages 9 - 56)

Report of the Interim Head of Planning and Economic Development recommending that the Panel delegate approval in respect of an application for a proposed development at the above address.

6 PLANNING APPLICATION - 20/00367/FUL - 35-41 LONDON RD (BASEMENT) (Pages 57 - 88)

Report of the Interim Head of Planning and Economic Development recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

7 PLANNING APPLICATION - 20/00954/FUL - ITCHEN BUSINESS PARK, KENT RD (Pages 89 - 106)

Report of the Interim Head of Planning and Economic Development recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

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PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 25 AUGUST 2020

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

Apologies: Councillor Prior

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

It was noted that following receipt of the temporary resignation of Councillor Prior from the Panel. The Service Director, Legal and Governance acting under delegated powers, appointed Councillor G Galton to replace them for the purposes of this meeting.

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

RESOLVED: that the minutes for the Panel meeting on 4 August 2020 be approved and signed as a correct record.

20. **PLANNING APPLICATION - 20/00173/FUL - CAR PARK COLLEGE STREET SOUTHAMPTON**

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

Installation of storage containers for retail and food and drink use, shared office workspace and studio space for artists, with associated events space for a temporary period of 5 years

The Panel noted that statement of objection had been received by Cheryl Butter, Damon Naile and Bill Winter summaries of these objections were presented to the Panel. Matt Sanger (applicant), was present and with the consent of the Chair, addressed the meeting.

The presenting officer reported 2 additional conditions, one to mitigate the potential of litter and the other at the request of Southern Water, set out below. In response to questioning by the Panel in relation to cycle storage and site security it was agreed that conditions 13 and 18 would be amended, as set out below.

The Panel then considered the recommendation to delegate authority to the Service Lead: Infrastructure, Planning 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 Head of Planning and Economic Development 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. Either the developer enters into an agreement with the Council under s.278 of the Highways Act to either undertake a scheme of works or provide a financial contribution 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 Developer Contributions SPD (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.
 - c. Submission, approval and implementation of a CCTV network that can be linked into and/or accessed by the Council and its partners, with contributions towards community safety facilities.
- (ii) That the Head of Planning & Economic 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, the Head of Planning & Economic Development be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

Amended Conditions

13. Cycle storage facilities (Pre-Occupation Condition)

Before the development hereby approved first comes into occupation, details of visitor and staff cycle storage 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.

Note to Applicant: The development shall look to target 18 cycle parking spaces for visitors and 1 staff cycle parking space per business unit.

18. Security (Pre-Commencement)

Prior to the commencement of development details of the following site security measures shall be agreed in writing with the Local Planning Authority:

- Details of site security arrangements to ensure the site is secure when closed for business;
- Details of security fittings to the container units; and
- Details of operational management controls for the food and drink units with regards to customer safety and security.

The development shall be carried out on accordance with these agreed details and thereafter retained as agreed.

REASON: In the interests of safety and security.

Additional conditions

Litter Management (Pre-Occupation Condition)

Before the development hereby approved first comes into occupation, a litter management plan, including details of litter bin provision within the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and retained as agreed.

REASON: To prevent littering in the surrounding area.

Southern Water

In the event that, following the grant of planning permission, Southern Water confirm that they require access to the 6m easement to the water main crossing the site, the layout hereby approved shall be adjusted by shortening two of the container units as agreed in the email from Allan Gordon dated. The revised layout shall be submitted to and agreed in writing with the LPA prior to the revised layout being implemented on site

REASON: To protect existing water infrastructure. As Southern Water have commented that full access to their infrastructure is compromised by the current layout, but given the temporary nature of the scheme and the buildings involved it is, in agreement with the applicant, possible to amend the scheme should the need arise.

21. **QUARTERLY DEVELOPMENT MANAGEMENT FIGURES**

The Panel considered and noted the report of the Head of Planning of Economic Development detailing the Planning Department's performance against key planning metrics.

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INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 6th October 2020 - 6pm

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
5	AL	DEL	5	18/01227/FUL Portsmouth Rd tennis courts
6	SB	CAP	5	20/00367/FUL 35-41 London Rd (basement)
9	MP	CAP	5	20/00954/FUL Itchen Business Park, Kent Rd

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:

AL – Anna Lee
JF – John Fanning
SB – Stuart Brooks

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 6th October 2020
Planning Application Report of the Head of Planning & Economic Development

Application address: Tennis Courts Oasis Mayfield Portsmouth Road Southampton			
Proposed development: Erection of 2 x 3 bed semi-detached houses and 1 x 3 bed detached bungalow with associated parking and cycle/refuse storage (Departure from Local Plan).			
Application number:	18/01227/FUL	Application type:	FULL
Case officer:	Anna Lee	Public speaking time:	5 minutes
Last date for determination:	14.10.2020 (Extension of Time Agreed)	Ward:	Woolston
Reason for Panel Referral:	More than three letters of objection have been received to this 'Departure'	Ward Councillors:	Cllr Blatchford Cllr Hammond Cllr Payne
Applicant: Mr J Kemmish		Agent: Concept Design & Planning	

Recommendation Summary	Delegate to the Head of Planning & Economic Development to grant planning permission subject to criteria listed in report
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Community Infrastructure Levy Liable	Yes
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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 such as the departure from the Local plan due to the loss of open space, impact on the character of the area, impact on neighbouring residential properties and highway safety 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. Policies - SDP1, SDP4, SDP5, SDP6, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, SDP14, SDP15, SDP16, SDP17, SDP22, CLT3, H1, H2, H6 and H7 of the City of Southampton Local Plan Review (Amended 2015) and CS4, CS6, CS13, CS16, CS18, CS19, CS20, CS21 and CS22 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendix attached

1	Habitats Regulation Assessment	2	Development Plan Policies
3	Planning History	4	Highway Officer comments
5	Appeal decisions 12/01129/OUT & 15/00147/OUT – 114-116 Portsmouth Road		

Recommendation in Full

1. That the Panel confirm the Habitats Regulation Assessment in **Appendix 1** of this report.
2. Delegate to the Head of Planning & Economic Development 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:
 - i. Public open space obligation to secure the submission of a management plan and retention of the open space proposed in line with Policy CS21 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
 - ii. Either a scheme of measures or a financial contribution 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.
3. That the Head of Planning & Economic 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, the Head of Planning & Economic Development be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

Background

This site has a long and complicated planning history following its sale by the Council. The site is considered as open space for the purposes of planning policy with a 'no net loss' adopted. Two previous applications sought to redevelop the land with 4 dwellings, and both schemes were dismissed at appeal following refusals by the Council due to the loss of open space and highway safety. Whilst the previous Inspectors supported the open space objection the highway concerns were not. This current application reduces the number of proposed dwellings to 3 and provides 500sq.m of public open space. The following report sets out why these changes have addressed the previous refusals.

1. The site and its context

- 1.1 The application site is a 'backland site' of some 0.25 hectares in area situated to the rear of bungalows on the south side of Portsmouth Road (A3205), near the junction with St Anne's Road. The site is vacant, very overgrown and was last used as four hard-surfaced tennis courts, as such, the site falls within the definition of 'open space' as set out within the adopted Development Plan. The land was once in Council ownership. Access to the site is from Portsmouth Road, at the side of 114 Portsmouth Road. There is a change of levels affecting the site, with the land rising from the access point with

Portsmouth Road and sloping up significantly to the west, supported by retaining walls on the western site boundary.

- 1.2 There are a group of trees along the western boundary of the site which are covered by a Tree Preservation Order (Group 1 of Land to Rear of 114-116 Portsmouth Road) TPO 2012. Beyond this is a 3 and 4-storey residential care home accessed from St Anne's Road with a private club to the rear. Adjoining the site to the east are two-storey properties in Temple Gardens. To the south is a bowling green and clubhouse accessed from Temple Road.

2. Proposal

- 2.1 Full planning permission is sought to redevelop the site to provide three dwellings, each with three bedrooms, to be accessed from the existing site access. The dwellings comprises a detached bungalow and a pair of two-storey, semi-detached dwellings.
- 2.2 The houses are located to the rear of the site to enable the front part of the site to be provided as publicly accessible open space. The application results in the loss of 1822 sq.m of open space and re-provides an area of approximately 500 sq.m. The open space element would be privately owned and maintained with the section 106 agreement securing this in perpetuity. The application does not provide details of how the space will be used and so the detailed design of the open space will be secured by a planning condition.
- 2.3 The dwellings have a fairly traditional design appearance and the materials chosen for construction are brick with lintel and porch detailing. The bungalow is proposed adjacent with the boundary with Temple Gardens and provides three bedrooms one with en-suite, a lounge, kitchen and bathroom. The semi-detached houses provide a lounge, kitchen and WC on the ground floor and three bedrooms (one with an en-suite) and a bathroom at first floor. Refuse and cycle storage is provided in the rear/side garden areas. The proposed garden depth for all the plots are 10 metres. All the units have the main entrance within the front elevation and separate entrance to the rear is also provided.
- 2.4 The access way is proposed to be altered to provide a passing point adjacent to Portsmouth Road as well as to the other end of the access way. Two parking spaces per dwelling are provided as well as two visitor spaces and four spaces to serve the public open space.

3. 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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 2**.
- 3.2 Policy CS21 of the Core Strategy requires the retention of the quantity and

the improvement of the quality of existing open spaces within the city. The policy confirms that this relates to open spaces both which are privately and publicly owned. Tennis courts fall within the definition of open space and, as such, the policy requires the retention of the area as open space and the improvement of the quality of the open space. The application would result in a loss of 1,322 sq.m of open space on the site and, as such, is a departure from policy CS21 of the Core Strategy.

- 3.3 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. Relevant Planning History

- 4.1 A schedule of the relevant planning history for the site is set out in **Appendix 3** of this report and relevant appeal decisions are contained within **Appendix 5**. These appeal decisions are for the same site and previously sought more development. They form a material consideration in this decision, and the applicants have reduced the quantum of development and sought to address the concerns arising from the loss of open space and highway safety.
- 4.2 The site was used for recreation purposes for many years in the form of tennis courts for the former Woolston Secondary School, which has now been redeveloped for residential purposes under planning permission 16/01605/FUL. Planning permission was granted in November 2004 for resurfacing of the tennis courts and replacement of the boundary fence (Council reference 04/01519/R3CFL) although this does not appear to have been implemented.
- 4.3 In January 2013, outline planning permission was refused for erection of 4 x part 2-storey, part single-storey detached houses (application reference 12/01129/OUT). This scheme was refused planning permission for loss of open space and highway safety (full reasons are found in **Appendix 3**). This scheme was appealed (reference APP/D1780/A/13/2199299) and was dismissed in January 2014. A copy of the appeal decision can be found in **Appendix 5** of this report.
- 4.4 A further outline planning application (reference 15/00147/OUT) for the erection of 4 detached houses was subsequently appealed on the grounds of non-determination. The appeal was dismissed in March 2016 and a copy of the appeal decision can also be found in **Appendix 5** of this report.

5. 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, placing a press advertisement 21.08.2018 and erecting a site notice 07.12.2018. The application was also advertised as a departure to the Local Plan on 07.12.2018. Following receipt of amended plans, neighbours were re-notified of the application in July of this year. At the time of writing the report **7 representations** have been received from surrounding residents. The following is a summary of the points raised:

5.2 Concerned about the proximity of the site to the traffic lights in terms of highway safety, and the width of the access and lack of parking.

Response

The submitted plans include the widening of the access and provide passing areas at both ends and on-site turning space is provided for vehicles. As such, the Council's Highway Officer raises no objection to the proposal in safety terms. Two parking spaces are proposed (as well as two visitor spaces) per dwelling, which is the maximum permitted by the Council's adopted car parking standards. This is discussed in more detail in section 6 below.

5.3 The proposal results in a loss of trees/vegetation and no boundary treatment details are provided.

Response

It is noted that a number of trees and vegetation will be removed to provide this proposal but much of the vegetation has grown over time due to the lack of maintenance and, therefore, has low amenity value and could be removed without consent. The protected trees on site would be retained. The Council's Tree team have not objected and have requested the replacement of two for one for any trees lost (please refer to Tree comments in paragraph 5.13 below). Boundary treatment will be secured by condition.

5.4 Loss of open space

Response

The application does result in a net loss of open space and so is a departure from Core Strategy Policy CS21. This policy was afforded substantial weight by previous appeal Inspectors. This issue is discussed in section 6 below in detail. In summary, having regard to the long-term redundant nature of the existing tennis courts and their current unusable condition, it is considered that the application strikes an acceptable balance in providing some useable space that will be managed and maintained for public use in perpetuity.

5.5 Overlooking, over bearing and shadowing

Response

The development achieves 24 metres separation between the side elevation of the proposed bungalow and the rear elevations of Nos. 21 and 23 Temple Road. This exceeds the separation guideline of 12.5 metres set out in the Council's adopted Residential Design Guide Supplementary Planning Document (RDG). A separation distance of 14 metres is provided between the neighbouring flats at The Hawthorns and the side elevation of the proposed houses which exceeds the RDG standards. The distance between the properties on Portsmouth Road and the proposed dwellings is at least 54 metres (with 21 metres suggested by the RDG for this type of relationship).

The separation standards set out in the RDG are designed to protect outlook, privacy, daylight and prevent overshadowing to neighbouring properties. As the development meets and exceeds these standards, the proposal is considered acceptable in this respect. The scale and density of the development relates to surrounding development and, combined with the separation distances achieved, ensures that the development would not be unduly over-bearing.

5.6 No details have been provided to ensure the access can be provided without harming the existing retaining wall at 114 Portsmouth Road
Response

It is proposed that the access will be constructed using reinforced concrete as a sequential underpinning exercise. This method of construction will ensure stability to the existing retaining walls on both sides of the new road at all time during construction. Full details of the construction will be secured by condition. Furthermore, it is important to note that a Highway License will be required for the works adjacent to the public highway.

Consultation Responses

5.7 SCC Highways – No objection raised (Full comments can be found in Appendix 4 of this report)

The application can be supported by the Highways team subject to the following being secured via conditions or amended plan being received to address the comments below.

- Access. Plans to be submitted and agreed in writing to include the following:
 - Main access to be widened and constructed to the dimensions shown within the site plan.
 - Construction would need to ensure that the retaining wall's integrity will not be affected.
 - The access way will need to be designed to improve the pedestrian environment.
 - The gradient of the access way should be suitable for wheelchair users.
 - Drainage to be provided to avoid surface water runoff onto the highway.
 - Secure pedestrians sightlines.
- Parking Management Plan.
- Visitor cycle parking for Open Space users
- Refuse management plan.
- Construction management plan

5.8 SCC Planning Policy Team – No objection.

To clarify, the site is not allocated as existing or proposed open space under Southampton City Council's (SCC) Local Plan (amended 2015) or Green Space Strategy (2008). Though the site historically served as public tennis courts, it is acknowledged that this function ceased some time ago and, as a result, the site has become overgrown and unusable. Consequently, the quality of the open space in its current condition is considered to be poor and

of little value to the local community. However, the site is located close to Mayfield Park and Miller's Pond Nature Reserve, both of which provide a wealth of public open space for local communities.

Whilst the site is considered a public open space which, according to Policy CS21, should be protected, the marketing report submitted as part of the current application proves that the site has been actively marketed from November 2016 with a good amount of interest received, but little for keeping the site in its existing use. As such, it is thought to be appropriate for a change of use of the site to be considered. It is firstly acknowledged that proposal submitted is for the erection of three new dwellings with the retention of a 550sqm open space area to the front of the site (closest to Portsmouth Road). This proposal will provide new housing for city residents and is therefore judged to be in line with Local Plan policy H1 and Core Strategy policy CS4.

In terms of the loss of open space however, NPPF paragraph 97(b) states that public open space sites can be built on where *"the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location"*. Core Strategy paragraph 5.4.11 also states that *"The LDF will seek to protect and improve the quality of open spaces and ensure adequate provision in a way which delivers the best outcome for the community..."*.

Given the current state of the site; that there is little or no demand for the site in its current use; that the site is in close proximity to two other large open space areas; that additional housing will be provided city residents; and that the proposal will ensure a better quality, usable area of public open space which is of higher value to the community, the change of use of the site (in this case) is thought to be justified. By offering a better-quality open space, despite there being a physical reduction, the proposal meets the NPPF's stipulation for building on open space sites, and by delivering a higher quality open space for the local community the proposal is thought to protect and enhance an existing open space in line with Core Strategy policy CS4. In light of the above, it is considered that the proposal for 'Erection of 2 x 3 bed semi-detached houses and 1 x 3 bed detached bungalow with associated parking and cycle/refuse storage' will have a positive impact upon both housing and open space provision for the population of Southampton. The proposal is therefore supported, in principle, by the Planning Policy Team.

5.9 **SCC Open Spaces Team – No objection**, although the proposal at the Tennis courts on Portsmouth Road is a departure from policy, the Council are unlikely to get a better area of open space than the scheme proposed, which shows a good proportion of the site being given to useable public green open space. The open spaces team therefore support the planning application.

5.10 **SCC Sustainability Team – No objection raised**
Conditions are recommended in order to ensure compliance with Policy CS20 which relate to energy and water restrictions.

5.11 **SCC Community Infrastructure Levy (CIL) – No objection raised**

The development is CIL liable.

5.12 **SCC Environmental Health (Pollution & Safety) - No objection** subject to a construction environment management conditions to prevent any harmful disturbance to the neighbours during construction.

5.13 **SCC Tree Team – No objection raised**

The trees on the western boundary are protected by The Southampton (Land to rear of 114/116 Portsmouth Road) Tree Preservation Order 2012. The submitted site layout plan shows that the properties and hard surfaces all sit outside of the root protection of the retained trees, therefore this design will not have a negative impact to the trees shown to be retained.

The design shows that some trees are required to be removed and the Tree Officer is not opposed to the loss of these trees subject to replacement tree planting on a 2 for 1 basis. The tree replacements will be secured by the recommended landscape condition. Some further information is required in term of the number of trees within the groups to be removed to determine the precise number of replacements required.

An arboricultural method statement will also need to be secured by condition to ensure a tree in the neighbouring site (believed to be part of the St Anne's Road (The Southampton (Portsmouth Road) TPO 1975) will be protected during the development. An update to the Tree Report will be required prior to development commencing to inform the tree protection measures during the construction process.

5.14 **Southern Water – No objection.**

Suggests a condition to secure measures to protect the public sewer during development and to secure details of the means of foul and surface water disposal.

5.15 **City of Southampton Society – Objection**

ROAD SAFETY

Entrance/exit to lane is too close to traffic light cross roads

Dangerous right turn into/out of lane from main road

Dangerous to reverse out of lane onto main road

Lane too narrow to allow safe passing bays for large vehicles

Existing height of lane too high above ground level of new properties to allow safe descent/ascent

TOO NEAR/AFFECTING BOUNDARY

Height of lane above neighbouring property unsafe - especially for large construction vehicles

OVERLOOKING

Height of lane above neighbouring property allows sight into property windows and into rear garden

SHORTAGE/LOSS OF CAR PARKING

With only 8 public parking spaces, overflow parking will be on the busy main road - which is unsafe.

6. Planning Consideration Key Issues

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

- The principle of development;
- Design and character;
- Effect on residential amenity;
- Parking highways and transport and;
- Mitigation of direct local impacts.

6.2 Principle of Development

6.2.1 Since the site was last used as tennis courts, the land falls within the definition of open space provided by the Core Strategy. Policy CS21 of the Core Strategy requires the retention of the quantity and the improvement of the quality of all open spaces within the city. This is irrespective of whether the land in question is within public or private ownership. As such, since the application proposes a net loss of open space it is a departure from Policy CS21.

6.2.2 The site, however, has been vacant for at least 16 years and is now in a dilapidated condition, unable to be used for its intended purpose as tennis courts. As noted by the Planning Policy Officer above, the site has been actively marketed for open space but with no success securing an operator. Whereas earlier planning application proposals for this site included no genuine useable open space, this proposal provides an appreciable area of 500sq.m. This is a significant change in circumstance that addresses the previous Inspector's concerns. Furthermore, the recommended section 106 agreement will secure the public use of this land in perpetuity, with a condition to secure a positive and useable landscape design for the area and ongoing management. As such, whilst the scheme results in a net loss of open space, by permitting development on part of the site, publicly accessible and useable space would be delivered, and the site would be brought back into active use. It is considered that this key benefit of the proposal justifies the departure from Policy CS21 in this instance. As set out above, the Council's Planning Policy and Open Spaces teams are supportive of this approach.

6.2.3 Furthermore, the provision of housing would assist in addressing the city's housing need in accordance with Policy CS4 of the Core Strategy which confirms the need for an additional 16,300 homes within the city between 2006 and 2026. The delivery of 3 new genuine family housing is also welcome. The proposed density (of 12 dwelling per hectare - dph) is lower than the range of 50-100 dph for the site which Policy CS5 of the Core Strategy indicates is appropriate for this area. However, the policy confirms that density should be considered in the round along with other issues including the need to preserve open space. As such, given the benefit of securing publicly accessible open space, the density is considered to be appropriate for this location.

6.3 Design and Character

6.3.1 The proposed dwellings have a relatively traditional design appearance, with brick elevations, hipped roofs and porches that will complement the prevailing character of the area. The proposed layout will sit comfortably within its immediate context by providing semi-detached dwellings, similar to the adjacent neighbouring development. Each dwelling would be served by private gardens with two of the dwellings having in excess of the 70sq.m garden area, recommended by the RDG for dwellings of this nature. Parking and hard-surfacing is integrated to ensure the site has a more verdant character.

6.3.2 The proposal will not result in the loss of protected trees and, as noted, a landscaping scheme will secured 2 tree replacements for each low-value tree agreed to be felled on site. Whilst the proposal is back-land development, its low-density nature and the resultant verdant and well-spaced character, would ensure that it would successfully integrate into the area.

6.4 Effect on residential amenity

6.4.1 In terms of the quality of the accommodation proposed, overall the development provides good outlook and access to daylight and sunlight for proposed residents together with good access to external amenity space and sufficiently spacious dwellings. As such, a pleasant residential environment should be achieved.

6.4.2 As set out above, the separation distances between the proposed dwellings and existing neighbours meet and, in some cases, exceed the standards set out in the RDG. The scale of the development reduces to a single-storey dwelling adjacent to the boundary with Temple Gardens to ensure a harmonious relationship. There will potentially be indirect views into the rear gardens of the neighbouring properties but this relationship is usual in suburban areas and does not result in a harmful loss of privacy for existing residents. The development is, therefore, considered to be acceptable in this respect.

6.4.3 Overall, it is considered that the development is designed to provide a high-quality environment for future residents whilst ensuring a harmonious relationship with adjacent residential properties. Therefore, the proposal accords with Local Plan Review saved Policy SDP1 in this respect.

6.5 Parking, Access and Highway Safety

6.5.1 As set out above, as part of the proposal the existing access serving the site will be widened where it adjoins Portsmouth Road, to enable two cars to pass one another and to secure a paved pedestrian route into the site. Further widening will take place along the access to provide an additional passing point towards the end point. The existing public footway on Portsmouth Road is of a good width to provide sufficient vehicular visibility from the access. As such, the Council's Highway Officer raises no objection to the application. It is important to note that application 12/01129/OUT was refused planning

permission partly on highway safety grounds however, this was not supported at appeal. The 2012 application was similar to the current proposal in terms of access arrangements. With regard to the access to the site, the Planning Inspector set out in the decision notice (see para. 11) that the access width was sufficient to allow two cars to pass. Paragraph 12 leads on to say *'Whilst the A road is busy and the nearby junction is traffic controlled, on the evidence before me other than the loss of trees, there is nothing to suggest that any harm would result from a widened access. Satisfactory sightlines onto Portsmouth Road vehicles would be obtained and two vehicles could access and egress simultaneously at the entrance.'* In paragraph 15, the Inspector concludes the *'proposal would not result in undue harm to highway or pedestrian safety'*. As such, the scheme is again acceptable in highway terms and has the support of the Council's Highways Officer.

6.5.2 In terms of car parking provision, as set out above, the level of car parking proposed is the maximum number of spaces permitted by the Council's adopted Parking Standards Supplementary Planning Document. Furthermore, the application site is a 5-minute walk to bus stops either on Portsmouth Road or St Anne's Road. The 2011 Census suggested that for the Ward of Woolston, 29.5% of households do not have access to a private car, 45.2% had access to one car and 25.4% had access to two cars. As such, the provision of two spaces per unit should be sufficient to serve the development. There is no policy requirement to provide visitor car parking but two spaces are proposed as well as four spaces to serve the open space. This is considered reasonable for the size of the open space. Furthermore, a condition is suggested, in line with the Highway Officer's comments, to secure a robust parking management plan to ensure that the site is managed to prevent over-spill car parking on the site access.

6.5.3 The site cannot accommodate a standard refuse collection vehicle and the access is not suitable to incorporate a refuse collection area where containers could be collected by the Council's waste collection team. As such, the development would be served by a private waste collection and a management plan for this is to be secured by condition. The refuse management plan would restrict the size of vehicles serving the development. Finally, each dwelling has a secure store in the garden for 2 bikes in line with our standards.

6.6 Development Mitigation

6.6.1 As with all new development the application needs to address and mitigate the additional pressure on the environmental, social and economic infrastructure of the city, in accordance with Development Plan policies and the Council's adopted Planning Obligations SPD (2013). A Section 106 legal agreement is not normally triggered by schemes of less than 5 or more dwellings. However, one is required to secure the management and retention of the public open space and to address its impact on European designated sites for nature conservation. 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 1**. 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

- 7.1 Overall, it is considered that a suitable balance has been achieved between securing additional housing and re-providing some publicly accessible space on the site. The improvements to the access together with the controls secured by planning condition should ensure that the development functions well. These aspects to the scheme have fully addressed previous reasons for refusal. The delivery of genuine family housing is welcome and the design of the scheme would complement the surrounding pattern of development. Moreover, the benefits of securing useable space for the public and bringing a vacant site back into active use are considered to outweigh the net loss of open space and the departure from the Development Plan.

8. Conclusion

- 8.1 It is recommended that planning permission be granted subject to a Section 106 agreement and conditions set out below.

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) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

ARL for 06/10/2020 PROW Panel

PLANNING CONDITIONS

1. 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).

2. Details of building materials to be used (Pre-Commencement)

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.

3. 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), or
- Class E (curtilage structures), including a garage, shed, greenhouse, 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.

4. No other windows or doors other than approved (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 windows, doors or other openings, other than those expressly authorised by this permission, shall be inserted above ground floor level in the side elevations of development hereby permitted without the prior written consent of the Local Planning Authority.

Reason: To protect the amenities of the adjoining residential properties.

5. 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.

Reason: In the interest of visual and residential amenity.

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 at least 8 weeks prior to occupation of the development to discuss requirements.

6. Refuse management plan (Pre-Commencement)

Prior to commencement of the development hereby approved, a refuse management plan, which will include provision for a private refuse collection, including on-site tracking and details of the size of refuse collection vehicles, shall be submitted to and be agreed in writing by the Local Planning Authority. The approved refuse management plan shall be implemented and adhered to at all time whilst the development is in residential use.

Reason: In the interests of highway safety, having regard to the fact the access cannot safely accommodate a standard refuse collection vehicle or larger servicing vehicles.

7. Cycle parking (Performance)

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

8. Cycle parking for users of the open space (Pre-Occupation)

Before the development hereby approved first comes into occupation, details of the short term cycle parking for users of the approved open space shall be submitted to and be approved in writing by the Local Planning Authority. The cycle parking shall be provided and made available for use in accordance with the plans approved. The storage shall thereafter be retained as approved.

Reason: To encourage cycling as an alternative form of transport

9. Parking Management Plan (Pre-Commencement)

No more than 2 parking spaces shall be allocated to each dwelling. Prior to commencement of the development hereby approved, a parking management plan shall be submitted to and be agreed in writing by the Local Planning Authority that sets out details of how the affected spaces will be marked out and then how they will monitor, enforce and prevent informal parking (parking other than the designated bays) across the entire site including the site access and those spaces identified to serve the public open space. The approved parking management plan shall be implemented and adhered to at all times when the open space is in use.

Reason: In the interests of highway safety.

10. Vehicular Sightlines specification (Performance)

Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 no fences walls or other means of enclosure including hedges shrubs or other vertical structures shall be erected above a height of 600 mm above carriageway level within the sight line splays as shown on the plans hereby approved.

Reason: To provide safe access to the development and to prevent congestion on the highway.

11. Accessway and sightline details (Pre-Commencement)

Prior to the commencement of the development hereby approved a detailed specification which incorporates the following revisions shall be submitted to and approved:

- The design of the pedestrian environment to incorporate either the use of surfacing to create a high-quality shared space and/or the use of a dedicated pedestrian route;
- The provision of a gradient within the access that is suitable for wheelchair users;
- Secure sufficient pedestrians sightlines and;
- Details of drainage to avoid surface water runoff onto the highway.

The works shall be implemented in accordance with the agreed details before the development first comes into occupation or the open space is first used and the measures thereafter retained as approved.

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

12. Parking and access (Pre-Occupation)

The parking spaces and access hereby approved shall be provided prior to the development first coming into occupation or the open space first coming into use. The parking spaces shall be 2.4m wide by 5m deep. The access shall be constructed to the dimensions shown within the approved site plan and thereafter retained as approved, unless agreed in writing by the Local Planning Authority.

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

13. Structural calculations (Pre-Commencement)

Prior to commencement of the development hereby approved, a formal structural report detailing the following shall be submitted to and be agreed in writing by the Local Planning Authority;

- The method to maintain the retaining wall between the site and 114 Portsmouth Road during construction;
- The construction method proposed to construct the access road; and
- The retention of the retaining wall during the lifetime of the development.

The approved details set out in the structural report shall be implemented and adhered to at all time when the development is in residential use.

Reason: In the interest of land stability.

14. Energy & Water (Pre-Commencement Condition)

With the exception of site clearance, demolition and preparation works, no development works shall be carried out until 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 (Amended 2015).

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 Adopted Core Strategy (Amended 2015).

16. Site Levels (Pre-commencement)

No development shall take place (excluding demolition and site set up) until further details of finished levels have been submitted to and approved in writing by the Local Planning Authority. These details shall include Above Ordnance Datum (AOD) for the proposed finished ground levels across the site, building finished floor levels and building finished eaves and ridge height levels and shall be shown in relation to off-

site AOD. The development shall be completed in accordance with these agreed details.

Reason: To ensure that the heights and finished levels of the development are built as agreed in the interests of visual and neighbour amenity.

17. Landscaping & 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. hard surfacing materials;
- ii. planting plans, to include the retention of the existing boundary hedge where possible, 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 - to be agreed;
- iii. the detailed design of the open space area including planting, hard-surfacing materials, boundary treatment and ancillary objects such as benches or litter bins.
- iv. replacement of trees of a ratio of two for one;
- v. boundary treatment and;
- vi. a landscape management scheme.

The approved hard and soft landscaping scheme 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, with the exception of the boundary treatment and landscaping of the open space which shall be retained for the lifetime of the development.

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, screen the development, 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

18. Arboricultural Method Statement (Pre-Commencement Condition)

No operation in connection with the development hereby permitted shall commence on site until a site specific Arboricultural Method Statement in respect of the protection of the trees during all aspects of work on site is submitted and agreed in writing by the Local Planning Authority. The Method Statement shall relate to the revised Tree Survey provided pursuant to condition 18, below. It will be written with contractors in

mind and will be adhered to throughout the duration of the demolition and development works on site. The Method Statement will include the following:

1. A specification for the location and erection of protective fencing around all vegetation to be retained
2. Specification for the installation of any additional root protection measures
3. Specification for the removal of any built structures, including hard surfacing, within protective fencing areas.
4. Specification for the construction of hard surfaces where they impinge on tree roots
5. The location of site compounds, storage areas, car parking, site offices, site access, heavy/large vehicles (including cranes and piling rigs)
6. An arboricultural management strategy, to include details of any necessary tree surgery works, the timing and phasing of all arboricultural works and protection measures.
7. Specification for soft landscaping practices within tree protection zones or the canopy of the tree, whichever is greatest.

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

19. Tree survey plan (Pre-Commencement)

No operation in connection with the development hereby permitted shall commence on site until an accurate plan showing the position of all trees on site has been submitted and agreed in writing with the Local Planning Authority.

Reason: To ensure easy identification of all trees to be retained pursuant to any other condition of this decision notice.

20. Tree Retention and Safeguarding (Pre-Commencement Condition)

All trees to be retained pursuant to any other condition of this decision notice shall be fully safeguarded during the course of all site works including preparation, demolition, excavation, construction and building operations. No operation in connection with the development hereby permitted shall commence on site until the tree protection as agreed by the Local Planning Authority has been erected. Details of the specification and position of all protective fencing shall be indicated on a site plan and agreed with the Local Planning Authority in writing before any site works commence. The fencing shall be maintained in the agreed position until the building works are completed, or until such other time that may be agreed in writing by the Local Planning Authority following which it shall be removed from the site.

Reason: To ensure that trees to be retained will be adequately protected from damage throughout the construction period.

21. No storage under tree canopy (Performance)

No storage of goods including building materials, machinery and soil, shall take place within the root protection areas of the trees to be retained on the site. There will be no change in soil levels or routing of services through root protection zones. There will be no fires on site within any distance that may affect retained trees. There will be no discharge of chemical substances including petrol, diesel and cement mixings within or near the root protection areas.

Reason: To preserve the said trees in the interests of the visual amenities and character of the locality.

22. Protection of nesting birds (Performance)

No clearance of vegetation likely to support nesting birds shall take place between 1 March and 31 August unless a method statement has been agreed in writing by the Local Planning Authority and works implemented in accordance with the agreed details.

Reason: For the safeguarding of species protected by The Wildlife & Countryside Act 1981 (as amended) and the conservation of biodiversity

23. External Lighting Scheme (Pre-Commencement)

Prior to the development hereby approved first coming into occupation, external lighting shall be implemented in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be thereafter retained as approved.

Reason: In the interest of residential amenity/to minimise the impact on protected species.

24. Unsuspected Contamination (Performance Condition)

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.

25. 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.

26. Hours of work for Demolition / Clearance / Construction (performance condition)

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.

27. Construction Management Plan (Pre-Commencement Condition)

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.

28. Approved Plans (Performance)

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.

NOTES TO APPLICANT

1. Southern Water

A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

2. Community Infrastructure Liability (Approval)

You are advised that the development appears liable to pay the Community Infrastructure Levy (CIL). Please ensure that you assume CIL liability prior to the

commencement of the development (including any demolition works) otherwise a number of consequences could arise. For further information please refer to the CIL pages on the Council's website at: <http://www.southampton.gov.uk/planning/community-infrastructure-levy/default.aspx> or contact the Council's CIL Officer.

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Application 18/01227/FUL

APPENDIX 1

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:	14 th January 2019
Application reference:	18/01227/FUL
Application address:	Tennis Courts, 114 -116 Portsmouth Road, Southampton, SO19 9AP
Application description:	Erection of 2 x 3 bed semi-detached houses and 1 x 3 bed detached bungalow with associated parking and cycle/refuse storage (Departure from local Plan).
Lead Planning Officer:	Anna Lee
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	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.

yes, Applicant should have 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 (https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/) 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:

Size of unit (number of bedrooms)	Scale of mitigation per unit (£)
1	346.00
2	500.00
3	653.00

4	768.00
5	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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APPENDIX 2

POLICY CONTEXT

Core Strategy - (January 2010 – Amended 2015)

CS4- Housing Delivery
CS5- Housing Density
CS13- Fundamentals of Design
CS16- Housing Mix and Type
CS18-Transport: Reduce-Manage-Invest
CS19- Car & Cycle Parking
CS20- Tackling and Adapting to Climate Change
CS21- Protecting and Enhancing Open Space
CS22- Promoting Biodiversity and Protecting Habitats

City of Southampton Local Plan Review – (March 2006 - Amended 2015)

SDP1- Quality of Development
SDP4- Development Access
SDP5- Parking
SDP7- Urban Design Context
SDP9- Scale, Massing & Appearance
SDP10- Safety & Security
SDP11- Accessibility & Movement
SDP12- Landscape & Biodiversity
SDP13- Resource Conservation
SDP14- Renewable Energy
SDP15- Air Quality
SDP16- Noise
SDP17- Lighting
SDP22- Contaminated Land
CLT3- Protection of Open Spaces
H1- Housing Supply
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)

Application 18/01227/FUL

APPENDIX 3

PLANNING HISTORY

Case Ref	Proposal	Decision	Date
1193/53	Two new tennis courts, new drive, gates and Toilets	Conditionally Approved	14.02.1961
04/01519/R3CFL	Resurface tennis court and replace existing boundary fence to the tennis court	Conditionally approved	18.11.2004
12/01129/OUT	Erection of 4 x part 2-storey part single storey detached houses (comprising 3 x 4-bed and 1 x 3-bed) with associated parking and cycle/refuse storage (outline application seeking approval for principle of development and means of access)	Application refused (reasons for refusal set out below)	25.01.2013 Appeal dismissed 06.01.2014.
15/00147/OUT	Erection of 4 detached houses (comprising of 3 x four bed and 1 x three bed) with associated parking and cycle/refuse storage (outline application seeking approval for principle of development and means of access).		Appealed for non-determination, appeal dismissed 03.03.2016.

12/01129/OUT - Erection of 4 x part 2-storey part single storey detached houses (comprising 3 x 4-bed and 1 x 3-bed) with associated parking and cycle/refuse storage (outline application seeking approval for principle of development and means of access). Refused 25.01.2013. Appeal dismissed 06.01.2014.

01. REFUSAL REASON - Loss of open space

The proposed development would result in the loss of an open space/recreational facility for which there is a need in this area. The site could be used for a variety of open space or recreational facilities. The proposed development is therefore contrary to Policy CS 21 of the Council's Local Development Framework Core Strategy Document (January 2010), the Council's Green Space Strategy (2008) and Paragraphs 73 and 74 of the National Planning Policy Framework March 2012.

02. REFUSAL REASON - Highway Safety

The Council is not satisfied, on the basis of the information submitted with the application, that the development would operate satisfactorily in highway safety terms due to the width and position of the vehicular access, close to a busy traffic controlled junction. on a classified road and with limited visibility for drivers of other highway users. Consequently the proposal would be contrary to Policy TI 2 of the City of Southampton Local Plan (March 2006) as supported by Parts 5 and 9 of the Council's approved Residential Design Guide SPD (2006).

15/00147/OUT - Erection of 4 detached houses (comprising of 3 x four bed and 1 x three bed) with associated parking and cycle/refuse storage (Outline application seeking approval for principle of development and means of access).

Appealed for non-determination, appeal dismissed 03.03.2016.

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Application 18/01227/FUL

APPENDIX 4

HIGHWAY OFFICER COMMENTS

Principle

The proposed use is considered acceptable due to the relatively small scale of three houses. When compared with the existing use on-site, it is not considered to change the nature of the site in a significant harmful way – purely on use class.

Access

The latest site plan, the proposed access is now over 5m wide with additional paved section for a pedestrian route into the site. The width is now considered acceptable as it would allow for two vehicles to pass one another. A condition will need to be applied to ensure these dimensions are built out. The paved section would also allow for better pedestrian sightlines for vehicles exiting the site.

There is no available data to show how many trips the previous use generated in order to provide a comparison. But when compared to a leisure use, the proposed three residential units plus the small open space would unlikely generate much more – if at all. Furthermore, the improved access would be a benefit which would outweigh any potential increase in trips.

Drainage details should be provided in order to avoid surface water run off onto the highway due to the gradient levels.

Parking

The level of parking is acceptable with some spaces available for the Open Space – although there are concerns to whether this space will actually be used by the public. There is little scope for overspill parking as the areas around the Portsmouth Road/Station Road junction contains double yellow lines and the nature of Portsmouth Road discourages kerbside parking. Furthermore, there are numerous vehicular accesses which would make parking difficult to the East of the site.

Open space

It is difficult to predict the number trips the open space will generate due to its site and location. There are concerns to how this space will be managed and maintained as well as the internal roads. If the open space does become popular and attract a considerable amount of vehicular trips, four parking spaces may not be sufficient. Should this happen, this could encourage informal parking within the site's internal roads. This can start obstructing traffic flow, large vehicle turning space and passing points. This can have a significant impact on highway safety if large delivery have to start reversing back down the access and onto Portsmouth Road or vehicles unable to pass one another.

It is recommended therefore that a management plan would be required to ensure there is a robust plan to manage and enforce if necessary, any parking which is not dedicated as shown in the site plan.

In terms of non-vehicular modes, the current access to the Open space is quite poor. The access road is long and narrow and priority is with the vehicles. The gradient

should be suitable for all modes (wheelchair and DDA compliant) and should be surfaced to create a shared surface environment and if possible, mix in a dedicated pedestrian route.

Cycle Parking

Cycle parking should be provided for the visitors of the Open Space in order to encourage sustainable journeys to the site.

Bin and Recycling

It is agreed that the site would be serviced by a private management company due to access concerns. Large refuse vehicles would need to utilize both lanes on Portsmouth Road in order to track in and out of the site. This can cause major issues due to the high volume of traffic as well as situations if a vehicles arrives to the site the same time as the refuse vehicle is coming out. Worst-case scenario would be if a vehicle is wanting to turn right into the site. This car would be within the space needed for the large refuse vehicle to left. Therefore the private management arrangements should restrict the sizes of vehicles servicing the site to smaller light goods vans (or similar).

Bins should be provided for the Open Space use to avoid littering but as this is more of an open space matter, it will hold limited weight on this recommendation.

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Appeal Decision

Site visit made on 12 December 2013

by Megan Thomas BA Hons in Law, Barrister

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

Decision date: 6 January 2014

Appeal Ref: APP/D1780/A/13/2199299

Land at 114 Portsmouth Road, Southampton, Hampshire SO19 9AP

- 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 Portsmouth Road LLP against the decision of Southampton City Council.
 - The application Ref 12/01129/OUT/1811, dated 16 August 2012, was refused by notice dated 25 January 2013.
 - The development proposed is the construction of 4 dwellings with access to Portsmouth Road.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application is an outline application. Landscaping, layout, scale and external appearance are matters reserved for later approval. Means of access is to be determined at this stage.

Main Issues

3. There are two main issues, the effect of the proposal on open space & recreational facilities and the effect of the proposal on highway and pedestrian safety.

Reasons

Open space & recreational facilities

4. The appeal site is situated to the rear of bungalows on the south side of Portsmouth Road (A3025) near the junction with St Anne's Road. The site is vacant and was last used as four hard-surfaced tennis courts in connection with Woolston Secondary School.
 5. Access to the main part of the site is from Portsmouth Road via an accessway (about 36m in length) which runs to the side of no.114 Portsmouth Road. The access has a gradient sloping upwards away from Portsmouth Road. This leads to an embankment on the western side of the site on higher ground than no.114. There are overgrown steps descending onto the tennis courts from the
-

western embankment. There are trees protected by Tree Preservation Order 'TPO' to the west of the entrance to the site and a group on the site protected by TPO. To the east of the site there are two storey houses in Temple Gardens, to the south there is a bowling club and clubhouse. To the west on higher ground there is a large residential care home of 3 and 4 storeys. There is a retaining wall along much of the western boundary. The appeal site is privately owned with security gates and there is no public access to it.

6. Paragraph 74 of the National Planning Policy Framework 'the Framework' indicates that existing open space, sports and recreational land should not be built on unless the space is demonstrably surplus to requirements; or the lost open space would be replaced elsewhere; or the development is for alternative sports and recreational provision. Open space is defined as all open space of public value. In this case, whilst views of the site tend to be enjoyed from the bowling club and from private property, the openness of the site gives the land a collective public value. In my view, it functions as passive open space and, whilst the site has become somewhat overgrown, some of the vegetation on it contributes to visual amenity, particularly the group of TPO'd trees. Policy CS21 of the LDF Southampton Core Strategy (2008) 'CS' entitled Protecting and enhancing open space states, amongst other things, that the Council will retain the quantity of the city's diverse and multi-functional open spaces. The justification for the policy refers to Southampton's Green Space Strategy (2008) which defines green space as any area that provides "green" features such as grass or trees or shrubs. The CS also refers to the Open Space Audit 2005 which identified an existing shortfall in provision of all types of open space (except allotments) as compared with key national, Structure Plan and Local Plan Review standards. The Council acknowledge that the tennis courts have not been in use for several years but they point to the Audit as showing the southern sector of Southampton as having a comparatively low provision of outdoor sports facilities and point out that the Green Space Strategy indicates that the amount of outdoor sports facilities is under the minimum standard. Given these factors I am persuaded that, even though the land is private and not available for public use and is not classified as "key" open space in the CS or elsewhere, policy CS21 should nevertheless be given substantial weight.
7. Whilst I acknowledge that the site was sold by the Education Authority around 2011, I am not persuaded that the site has been shown by assessment to be surplus to requirements in terms of the Framework. The proposed scheme does not involve replacement of the facility/open space elsewhere or provision of alternative sports or recreational facilities. The appellant has indicated that the embankment and trees could be given over later in time as public open space and could add to the publically accessible stock and thereby help meet the aims of the Green Space Strategy. However, that would not adequately overcome the harm from the loss of the open space or loss of a potential sporting facility. I conclude that the development would conflict with the aim of paragraph 74 of the Framework to resist existing open space being built upon.
8. I have borne in mind that the City of Southampton Local Plan Review (2006) indicates that residential development will be permitted on windfall sites and that saved policy H2 generally requires maximum use to be made of vacant

and previously-developed land 'PDL'. The appellants consider the appeal site to be previously developed land in terms of the Framework. However, land in built-up areas such as recreation grounds is excluded from that definition. The land is in a built-up area and its former use was sporting and recreational and therefore I consider that it should not be treated as PDL. Even if it was PDL in terms of the Framework and even if saved policy H2 was given substantial weight, its location and vegetation allow it to function as a green lung of important local value to the environment. The site benefits from being in the urban area and has good sustainability credentials in terms of public transport connections and easy walking and cycling distances to day-to-day facilities. However, for it to be sustainable development in terms of the Framework it would have to meet all three dimensions and the environmental role of protecting the natural and built environment would not be met nor the social role derived from sporting facilities supporting health and social well-being.

9. Turning to housing land supply, the Council have published a review of its Strategic Housing Land Availability Assessment (March 2013). Against the CS housing requirement, (2006-2026) the Council estimate that they would be above the target by about 647 dwellings including the 5% buffer for the 5 year supply target (2012-2017). Some small windfall sites are projected as making up part of the supply but from 2015 onwards. On the basis of this evidence, I consider that the Council can show a 5 year supply of deliverable housing sites but I have borne in mind the contribution that the scheme would make to the housing stock and to the need for family dwellings.
10. On the first issue, I conclude that the proposal would result in undue harm from the loss of open space and potential sporting facilities and would be contrary to paragraph 74 of the Framework and policy CS21 of the CS.

Highway and pedestrian safety

11. Access to the site would be taken from Portsmouth Road. The levels of the accessway would be engineered across the site such that the access would not exceed a 1:15 gradient. There would be a need to ensure sufficient width for two vehicles to enter and egress the site simultaneously to avoid reversing manoeuvres into Portsmouth Road. Drawing 2012/1509/001 RevA dated August 2012 entitled *Proposed Access and Visibility* indicates that the access road would be widened to 5m at the entrance. At the site visit a measurement was taken of the width of the access from the inner flank of each of the two walls/gatepost lining the access at the entrance. This measurement was about 4.37m. The 5m width at the entrance would be facilitated by amendments to the retaining wall to the west of the access and the access width would be between 5m and 4.7m for a length of 6m into the site.
12. Whilst the A road is busy and the nearby junction is traffic controlled, on the evidence before me other than the loss of trees, there is nothing to suggest that any harm would result from a widened access. Satisfactory sightlines onto Portsmouth Road vehicles would be obtained and two vehicles could access and egress simultaneously at the entrance.
13. The Arboricultural Development Statement indicates that the widening of the access road would result in part of "group 1" trees and all of "group 2" being lost. Those groups of trees appear to fall within the Southampton (Portsmouth

Road) TPO 1975 and the Southampton (Land to rear of 114/116 Portsmouth road) Tree Preservation Order 2012. (The latter TPO being referred to expressly in the Officer Report.) In my view, the loss of those trees would be regrettable and would harm the character and appearance of the area but on the evidence available to me their loss would not on its own warrant refusal of the planning permission.

14. Turning to vehicle and pedestrian intervisibility, the wall to the south east of the access would be reduced in height to about 1m for a depth of about 3m back into the site to improve sightlines. No.114 has a brick pillar which is about 920mm in height so any reduction of the appeal site wall below 920mm would be negated by the existence of this gatepost. The Council are particularly concerned that small children would not be seen by emerging motorists and seek a further reduction in height. However, there is a telephone booth to the west of the access and it would have the effect of pushing pedestrians into a more central position on the footway. This would be the case for pedestrians walking in both directions on the footpath. Moreover, I consider that the absence of a wide visibility splay onto the footpath would automatically encourage drivers to emerge more cautiously. *Manual for Streets* acknowledges this. There are a number of vehicle crossovers on this stretch of Portsmouth Road and pedestrians would be likely to be aware of this. Moreover, given that the road is a busy A road and has a number of crossovers, very small ambulant children are unlikely to be unrestrained on this stretch of footpath. Additional bollards on the footpath are not necessary in my view.
15. For those reasons I conclude that the proposal would not result in undue harm to highway or pedestrian safety and would not conflict with saved policy T1 2 of the City of Southampton Local Plan Review (2006) or with parts 5 and 9 of Council's Residential Design Guide Supplementary Planning Document (2006).

Conclusion

16. Having taken into account all representations made and in balancing the benefits of the proposed scheme against the disbenefits I conclude that the disbenefits outweigh the benefits. Therefore, the appeal should be dismissed.

Megan Thomas

INSPECTOR

Appeal Decision

Site visit made on 5 January 2016

by David Cliff BA Hons MSc MRTPI

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

Decision date: 3 March 2014

Appeal Ref: APP/D1780/W/15/3131682

Land to the rear of 114-116 Portsmouth Road, Southampton SO19 9AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr J Kemmish against Southampton City Council.
 - The application Ref 15/00147/OUT, is dated 16 January 2015.
 - The development proposed is the erection of 4 dwellings to rear of 114-116 Portsmouth Road, utilising the existing access from Portsmouth Road.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with details of access to be considered as part of the application. Landscaping, layout, scale and external appearance are matters reserved for later approval. The submitted plans include layout drawings, elevations of a proposed cycle store and a proposed section through the site. Other than the details of the proposed access, I have treated these drawings as being only for illustrative or indicative purposes.
3. The site address I have used more accurately relates to the appeal site than that stated in the planning application form. The Council has confirmed that it does not object to the use of this address which is also used in the appellant's further comments.
4. In its appeal statement the Council has confirmed that, if it had been in a position to determine the application, it would have refused planning permission for reasons relating to the loss of an open space/recreational facility and the absence of a mechanism for securing financial contributions to mitigate the adverse impact upon protected species.

Main Issues

5. The main issues are the effects of the proposed development on open space and recreational facilities and on the integrity of the Solent Coastline Special Protection Areas (SPAs).

Reasons

Open space and recreational facilities

6. Paragraph 74 of the National Planning Policy Framework (the Framework) states that existing open space, sports and recreational land should not be built on unless the space is demonstrably surplus to requirements; or the lost open space would be replaced elsewhere; or the development is for alternative sports and recreational provision.
7. In determining the previous appeal¹ the Inspector concluded that the proposal for four dwellings would result in undue harm from the loss of open space and potential sporting facilities. The Inspector found that *the openness of the site gives the land a collective public value, its location and vegetation allow it to function as a green lung of important local value to the environment and stated that I am not persuaded that the site has been shown by assessment to be surplus to requirements in terms of the Framework.*
8. The Council draws attention to the Open Space Audit carried out as part of the preparation of the Core Strategy which identified the southern sector of Southampton as having a comparatively low provision of outdoor sports facilities. It also highlights the Green Spaces Strategy which found that the amount of outdoor sports facilities is under the minimum standard and notes that there is little opportunity to increase the provision of open space in the city.
9. In terms of the public value of the open space, I concur with the findings of the previous Inspector that whilst the main views of the site are from private property and the adjacent bowling club, the openness of the land provides a collective public value and it is of benefit to the environment. Though it is not identified as open space in the Council's Core Strategy and has not been available for public use, the site has value in terms of both its openness and the possibility of its future use by either private or public sports or recreational facilities. Whilst the site does not contain any changing or storage facilities, this does not necessarily preclude its future use for sport or recreation, nor does this prejudice its collective public value as open space.
10. The appellant has drawn attention to several tennis clubs in Southampton which are understood to have vacancies for membership. However, no specific details have been provided on the demand and supply for such facilities and, in any case, it is also necessary to consider its use by other outdoor sports or recreational facilities and not just the previous sporting activity for which the land was used. Whilst there are also other areas of open space in the area, this does not outweigh the previous findings of the Council on the overall low provision of outdoor facilities in the area. Although the site was sold by the Education Authority in 2011, this does not negate the need for subsequent development proposals to demonstrate compliance with the relevant planning policies. I am not aware of the full details and terms of the Council's sale of the site. In any case, from the information before me, I am not persuaded that the open space has been shown to be surplus to requirements taking account of both paragraph 74 Framework and policy CS21 of the Core Strategy.

¹ APP/D1780/A/13/2199299

11. The appellant has submitted a Unilateral Undertaking to provide for financial contributions of £10,000 each towards the provision and/or improvement of social and recreational facilities, and public open space in the locality of the site. In appropriate circumstances, financial contributions can be a way of mitigating the impact of a development. I note that the Council has not provided any comment on the acceptability or otherwise of the appellant's undertaking. Nevertheless, it falls for me to consider the acceptability of the obligation and whether it mitigates against the harm arising from the proposal.
12. In this case, no methodology has been provided showing how the contributions have been calculated or quantifiable evidence of how they would reasonably and proportionately mitigate for the loss of the open space arising from the proposal, nor are there any specific or quantifiable details of how the contributions would be spent. Therefore, whilst the contributions would no doubt provide opportunity for some benefits in terms of the quality and/or quantity of space provided elsewhere, it has not been satisfactorily demonstrated that they would fairly or reasonably relate to the loss of open space and recreational provision that would result in this case. I therefore cannot conclude that the planning obligation would pass the tests in Regulation 122 of the Community Infrastructure Level Regulations and paragraph 204 of the Framework. Therefore I cannot take it into account.
13. I have considered the supporting information provided by the applicant, including a Unilateral Undertaking, in seeking to address the reasons for the dismissal of the previous appeal. However, I conclude on this issue that the proposal would result in unacceptable harm from the loss of open space and potential recreational facilities, contrary to paragraph 74 of the Framework and policy CS21 of the Southampton Core Strategy which aims to protect and enhance open space in the city.

Special Protection Areas

14. Policy CS22 of the Core Strategy includes the aim of protecting the integrity of international designations and requires that necessary mitigation measures are provided. The Council has raised objection to there being no mechanism for a financial contribution of £174 per dwelling to be made towards the Solent Disturbance Mitigation Project (SDMP) to ensure that the development (located within 5.6km of the Solent coastline) and the additional recreational pressures arising from it, along with other developments, would not result in increasing disturbance to waders and wildfowl within the Solent Coastline SPAs. Such disturbance reduces the birds' opportunities to feed and impacts on their winter survival and completion of their migratory journey to their summer time habitats. On the basis of the evidence before me and acting in accordance with the precautionary principle, I am satisfied that the proposal in combination with other developments has the potential to result in significant adverse impacts upon the SPAs.
15. The appellant has indicated a willingness to make provision for a financial contribution to address this issue but there is no formal means of doing that, such a planning obligation, before me. As I have found harm in relation to the first main issue, and given that the resolution of the protected species issue would not outweigh that harm, I have not provided additional time for the appellant to submit a further planning obligation. To have done so would have

resulted in the likelihood of unnecessary additional cost being incurred by the appellant for no overall positive appeal outcome.

16. I am therefore unable to conclude that the proposal, in combination with other development, would not adversely affect the integrity of the Solent Coastline SPAs. In these circumstances, acting in accordance with the precautionary principle, I find the appeal scheme unacceptable in relation to this issue and contrary to Core Strategy policy CS22.

Other Matters

17. The development would provide four new family dwellings in a location which has good accessibility to day to day facilities and services. However this provision would be clearly outweighed by the harm I have identified in terms of the main issues. The proposal would not therefore amount to sustainable development as defined by the National Planning Policy Framework.
18. In terms of highway impacts, the Inspector in determining the previous appeal found there to be no harm in this regard and I see no reason to disagree.

Conclusion

19. For the above reasons, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR

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Planning and Rights of Way Panel 6th October 2020
Planning Application Report of the Head of Planning & Economic Development

Application address: 35 - 41 London Road, Southampton			
Proposed development: Change of use of basement nightclub (Sui generis use) and part of ground floor café/restaurant to gentleman's club (Sui generis use) including extended hours of operation to Monday - Saturday, 21:00 - 02:00 and Sunday 21:00 - 00.30 [Amended Description: closing hours reduced from 05:00 since validation of application]			
Application number:	20/00367/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	5 minutes
Last date for determination:	EOT 15.10.2020	Ward:	Bevois
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr Kataria Cllr Rayment Cllr Barnes-Andrews
Referred to Panel by:	None	Reason:	n/a
Applicant: Star Dust Entertainment Ltd		Agent: n/a	

Recommendation Summary	Conditionally approve
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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 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 – CS1, CS3, CS6, CS7, CS13, CS18, CS19, CS25 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP7, SDP10, SDP11, SDP16, REI7 of the City of Southampton Local Plan Review (Amended 2015). Policies AP5, AP8 of the City Centre Action Plan March 2015.

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History
3	SEV license	4	Hampshire Police comments

Recommendation in Full

Conditionally approve

1. The site and its context

- 1.1 The application site is located within London Road and comprises a vacant basement nightclub located below the commercial units of 35 - 41 London Road, and also the rear part of a ground floor café/restaurant use at 35 London Road which is also vacant. The entrance to the basement nightclub is shared with the existing ground floor café/restaurant use. A fire escape exits onto the Winchester Street side of the building adjacent to Mede House.
- 1.2 The surrounding area is characterised by a mix of ground floor commercial uses, with residential properties and offices above. Immediately to the west of the site in Winchester Street is the residential block of flats known as Mede House, and there are residential flats on the first and second floors above the premises. The area falls within the Bedford Place evening zone (as defined by saved policy AP8 of the City Centre Action Plan (CCAP)) with a number of commercial and late-night uses including public houses, restaurants, night clubs and other live music entertainment venues associated with the night time economy. These are situated nearby streets in London Road, Vernon Walk, Carlton Place, Lower Banister Street and Bedford Place. There are a number of residential neighbourhoods located on the edge of the evening zone mainly to the west of Bedford Place and east of London Road heading out of the city centre.
- 1.3 The Bedford Place / London Road lie within the Cumulative Impact Policy Area for Licensing Applications. This area was identified by the Council (as the Licensing Authority) as already suffering due to the concentration of licensed premises and activities. In these areas, applications for licences for new premises or substantial variations to existing licences (such as longer opening hours) are unlikely to be permitted unless the applicant can demonstrate that the changes will not have an adverse impact on the area. Licensing is a separate regime to Planning, although this report will provide details on both matters for completeness.

2. Background & Proposal

- 2.1 The existing lawful use of the basement is a nightclub – a Sui Generis use in Planning terms - and this was confirmed with the granting of a lawful development certificate (LDC) . The licensed opening hours of this basement nightclub since 2005 have been 11:00 to 02:00 every day, except Sundays 12:00 to 00:30.
- 2.2 This application seeks to change the use of the basement nightclub venue and the rear part of the ground floor restaurant/cafe to a Sexual Entertainment Venue (SEV)/gentleman's club; with operating hours of Monday- Saturday 21:00 - 02:00 and Sunday 21:00 – 00.30 hours. The applicant recently successfully applied to the Council's licensing team to convert the use of the nightclub to a SEV (**see Appendix 3**). As the application for a SEV license comprise 'a substantial variation to the existing license' the applicant was subject to a significant level of scrutiny by the Council's Licensing Officers and Members of the Licensing (Licensing & Gambling) Sub Committee on the 27th June 2019.
- 2.3 The applicant's original Planning submission proposed to align the planning application hours with those under the licensed hours – closing at 05:00 hours, however, following negotiations with officers the applicant has now agreed to

amend the proposed hours. The licensing and planning regime are governed by different legislation so the outcome of the operating hours allowed under the license does not pre-determine the hours permitted by planning permission as the Planning system can look at different material considerations to Licensing and is governed by different legislation. The planning regime considers the proposed use and operating hours in relation to development plan policies and impacts of the amenities of nearby residents.

- 2.4 The internal layout of the venue shows 12 private booths for performance dancers. The conditions of the SEV license issued by the Council's Licensing team sets out strict safety and conduct restrictions on the performer and customer which must always be adhered to by the operator (**see Appendix 3**). In addition, there is a performance stage, bar, DJ booth, and other ancillary facilities for the operator including changing rooms for the performers. The basement location of the main part of the venue, and the rear VIP area on the ground floor, will ensure that the activities associated with the SEV are kept private and restricted from public viewing. This complies with the requirement of the operator's license to ensure that "the interior of the premises where sexual entertainment is offered shall not be capable of being seen from the outside of the premises".

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (LPR) (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (CCAP) (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 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.
- 3.3 Given the primarily basement location of the SEV use, the premises does not have its own a shopfront so the requirements of CCAP policy AP 5 (Retail Uses) as a secondary retail frontage to maintain an active frontage would not be applicable. That said, the existing restaurant will continue to have an active shopfront. Saved policy RE17 (Food and Drink) of the Local Plan Review supports A3/A4 uses within the city centre subject to appropriate controls to mitigate noise disturbance and other associated nuisances to the amenities of neighbouring residential properties. The policy acknowledges that these uses have their places and can add to the vitality of shopping centres. However the potential for noise from within the premises, and from customers entering and leaving the premises amongst other issues will require careful consideration and. these impacts are further assessed in the 'planning considerations' of the report.

- 3.4 City Centre Action Plan and Core Strategy (policy CS1) acknowledges the city centre is the primary focus for major leisure, cultural and tourism facilities in Southampton and beyond.
- 3.5 The Council will use its planning and licensing functions to promote a night time economy with a range of activities that contribute to a vibrant city centre whilst minimising potential disturbance to nearby residential areas. Policy AP8 sets out guidance to manage the impact of the night time economy to minimise its potential disturbance to nearby residential areas. The approach in the Plan is to promote clusters of facilities in identified areas where extended opening hours are supported. Outside of these hubs, tighter restrictions will be placed on what opening hours are acceptable. New uses with extended opening hours (beyond 23.00 hours) will therefore be directed to designated evening zones and late-night hubs as shown on the Policies Map. Elsewhere in the city centre proposals for extended opening hours outside the designated late-night hubs and evening zones will only be permitted where they would not cause late night noise and disturbance to residents.

4. Relevant Planning History

- 4.1 A schedule of the relevant planning history for the site is set out in **Appendix 2** of this report.

5. 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 erecting a site notice on **15.05.2020**. At the time of writing the report **5 representations** have been received from surrounding residents. The following is a summary of the points raised:

- 5.2 ***Impact of late-night noise and disturbance on nearby residents from live music venue and increased litter. Especially from noise from staff disposing of waste at closing time at the back of the premises, and patrons gathering outside the premises on the street to smoke and talk.***

Response

The Council's Environmental Health Team have raised no objection to the impact from noise disturbance and smoking areas, subject to appropriate controls over number of smokers and other measures to manage the ancillary operations of the use through planning conditions. The proposal will have a negligible impact when considered against the existing lawful nightclub use and established hours of operation.

- 5.3 ***Application seeks to align hours with recently consented license. The use is entirely different to the existing, patrons will be allowed to take home opened bottles of spirits and only the staff will be doing any dancing, that is not at all the same as a night club. The applicant stated at the licensing meeting that there could be up to 300 patrons rather than the 80 stated in the application.***

Response

Since the submission of the application, the applicant has agreed to reduce the operating hours to align with the historic licensed hours of the former night clubs. This should be given significant material weight as a fall back position when assessing the harm of the proposed hours. It is acknowledged that the activities and the entertainment enjoyed by patrons associated with the SEV is different to the lawful night club use in land use terms, however, this would not cause adverse harm by itself to the character and amenity of the local area. Notwithstanding the capacity of patrons mentioned by the applicant at the licensing meeting, the scale and intensity of use would have a similar impact to the lawful nightclub use and, therefore, would not cause further material harm to the character and amenity of the local area.

- 5.4 ***Operating longer opening hours without the LPA knowledge should not justify non-compliance with policy AP 8 permitted hours. Contrary to midnight terminal hour set by policy AP8. Will set precedent for other local businesses to operate later. Other applications to extend hours after midnight have been recently refused at nearby premises.***

Response

The existing lawful use as a nightclub with long established licensed closing hours of 2am Mon-Sat and 0030 Sundays is a legitimate fallback position and is given significant weight when considered against the policy requirements of policy AP8. The unique circumstances of the site history will therefore not set a precedent for other nearby premises to extend their operating hours beyond midnight.

- 5.5 ***Result in crime and safety issues. Workers and patrons smoking at the dark rear of the premises would be vulnerable from persons ejected from the club and drunk persons attending other clubs in Salisbury Street and Vernon Walk. No evidence that the SEV would not cause less crime and safety issues. Increase health risk due to COVID 19 being prevalent.***

Response

Patrons will not be smoking at the rear of the premises as this is a staff smoking area only. The activities associated with the SEV use are not considered to cause adverse harm to public safety and increase the risk of crime in the local area. This is given the strict licensing conditions that the operation of the SEV must adhere to in order to control safety and conduct (**see Appendix 3**), and the supporting comments by the Designing Out Crime Officer at Hampshire Constabulary (**see Appendix 4**). The health risk due to COVID should be given limited material weight as the performers and patrons would be protected under other employment rights and health & safety legislation (social distancing rules set by NHS England), whilst the assessment of the planning application is mainly based on the land use issues.

- 5.6 ***The proposed pizzeria A5 use needs planning permission and should have closing hours no later than midnight.***

Response

The pizzeria is a restaurant which would continue operating under its existing use and hours; only the rear part of the existing ground floor café/restaurant is subject to the proposed SEV change of use.

- 5.7 ***The noise report based on activity in Grosvenor Square is an inaccurate comparison. The study was unable evaluate the actual impact given the***

COVID restrictions. The noise disturbance to nearby residential streets from patrons leaving at 5am will be greater given the lower background noise levels.

Response

Notwithstanding, the applicant has agreed to reduce the operating hours to align with the historic licensed hours of the former night clubs. This should be given significant material weight as a fall back position when considering similar harm caused by the lawful night club use as the result of the dispersal of patrons through nearby residential streets as they leave the venue. The Environmental Health team have raised no objection to the impact from noise disturbance.

Consultation Responses

5.8 SCC Environmental Health (Pollution & Safety) – No objection

It is deemed that the number of persons at the premises, travelling to and from and the level of music within will be reduced compared to previous uses. There has been significant works completed previously to minimise sound transmission to the residential accommodation above and if this has not been removed or altered the same protection should remain. The lower floor doors are to remain closed during opening hours to minimise noise break out and the smoking area should be defined and the numbers using the area at any one time should be controlled.

5.9 Hampshire Constabulary – Objection removed to use opening until 5am (see Appendix 4)

6.0 Planning Consideration Key Issues

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

- The principle of development;
- Character and amenity;
- Parking highways and transport
- Mitigation of direct local impacts

6.2 Principle of Development

6.2.1 With regards to the proposed SEV use, the principle of encouraging the expansion of the night time economy is supported in the city centre subject to the acceptability of other material considerations (as discussed below). In this instance, the location of the premises is within the designated Bedford Place evening zone (see Map 6 under CCAP policy AP 8) and, therefore, the business would normally be expected to operate no later than midnight (see table 5 of the policy). Although the late night hours for the venue would be contrary to the Council's planning policies to manage the negative impacts of the night time economy in the city centre, other relevant material considerations, such as the historic operating hours of the nightclub uses, have to be weighed up 'on balance' when assessing whether the proposed opening hours would cause 'adverse' harm. This harm should also be weighed up against the social and economic benefits to the night time economy by re-using the vacant premises (former nightclub).

6.2.2 The proposed SEV use is likely to have a more gradual dispersal of patrons than a nightclub and therefore is less likely to lead to the late night disturbance impacts that can be associated with a nightclub. That said, it is considered reasonable to require the proposed hours of use to align with the historic operating hours of the lawful nightclub. Hours of operation beyond 2am would create an end of night venue, open later than many other premises within this area, and as a consequence would create increased noise disturbance and anti-social behaviour later into the evening, extending the dispersal, which would be harmful to residents living within this area.

6.3 Character and amenity

6.3.1 It is not proposed to significantly intensify the scale of the late-night use (former nightclub), whilst the venue would likewise continue to offer live music entertainment and serve alcohol to patrons. As a late-night nightclub use is already lawfully allowed at this premises, to operate till 02:00 hours, it is considered that the patron borne activities associated with the scale and intensity of the proposed use would not cause any further adverse harm to the character and amenity of the area. This includes the impact from the disturbance of patrons to the nearby residential properties surrounding the local area and the wider impact to neighbourhoods on the edge of the city centre from patron dispersal through those residential streets after midnight.

6.3.2 The Environmental Health team are satisfied that the proposed use of the premises would not cause significant adverse noise disturbance to adjacent residents compared to previous users. They have requested a planning condition to control number of smokers at any one time and define the smoking area. Furthermore, the lower floor doors are to remain closed during opening hours to minimise noise break out.

6.3.3 The activities primarily associated with the SEV such as performance dancing is markedly different to the type of entertainment enjoyed by patrons of nightclub, however, the nature of those activities would not cause any further disturbance by its own would be classed as adversely harmful to the amenity or be out of keeping with the mixed residential and commercial uses of the of the surrounding area. Furthermore, the activities associated with the SEV use are not considered to cause adverse harm to public safety and increase the risk of crime in the local area. This is given the strict licensing conditions controlling the safety and conduct that the operation of the SEV must adhere to (**see Appendix 3**), and the supporting comments by the Design & Crime Prevention Officer (**see Appendix 4**).

6.3.4 Notwithstanding that the SEV licensed granted allowed the venue opening hours till 05:00, the nature of the amenity impacts assessed by the planning process are different to those under the licensing regime, In particular, the planning assessment should take into account the wider amenity impact in the early morning hours (when residents occupiers are accepted peace and quiet to sleep) from the dispersal of patrons into surrounding residential neighbourhoods rather than simply 'nuisance'. This is given that there is no control over the behaviour and movements of patrons once they leave the premises.

6.4 Parking highways and transport

- 6.4.1 The number of trips associated with the proposed use is unlikely to significantly change compared to the existing, whilst the high accessibility of the city centre location would ensure that the traffic associated with the proposed use would not significantly affect the local road network. Further details of the suitable management and storage of refuse can be secured by condition.

6.5 Mitigation of direct local impacts

- 6.5.1 The Council would normally seek contributions towards late night community safety measures to mitigate the impact of new late night uses within the city centre with opening hours beyond 22:00. However, as the proposed SEV would operate with the same hours as the lawful nightclub use would have a neutral impact on community safety. Therefore, no contributions are required for direct mitigation.

7. Summary

- 7.1 In summary, the reduced hours now sought (from 5am to 2am) that move away from the current license but align with the licensed hours of the existing lawful use as a nightclub use, coupled with the similar scale and intensity of the late-night entertainment use, ensures that the proposed change of use to a SEV would not cause any further adverse harm to the character and amenity of the local area.

- 7.2 The SCC licensing safeguards will ensure that are adequate controls over the operation of the SEV to protect the safety and amenity of the staff, patrons and nearby occupiers. Furthermore, the Hampshire Constabulary (Designing Out Crime Officer) does not object on these grounds. Whilst the operating hours beyond midnight does not strictly comply with CCAP policy AP 8 for the London Road area, a valid exception to the policy criteria can be justified given the individual and unique circumstances of the site history and, therefore, approval would not set a precedent for other late-night businesses to extend their hours beyond midnight. By bringing back a vacant unit into use, the social and economic benefits would diversify and positively contribute the night time economy in the city centre as supported by policy AP 8. The reduced hours agreed with the applicant is a fair compromise in balancing 'support of the night time economy' and 'safeguarding living conditions' and the amenity of the local community.

8. Conclusion

- 8.1 It is recommended that planning permission be granted subject to conditions set out below.

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) (e) 4. (g) (vv) 6. (a) (b)

SB for 06/10/20 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. Dual use (Performance)

The permitted use of the premises shall benefit from a dual nightclub or Sexual Entertainment use 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 amended). 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.

03. Hours of Use (Performance)

The use hereby approved shall not operate outside the following hours:

Monday to Saturday - 21:00 to 02:00;

Sunday and recognised public holidays - 21:00 to 00:30;

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

04. Premises Management Plan (Pre-Occupation)

The sexual entertainment venue use hereby approved shall not commence until the following details of operational management are submitted to and approved in writing by the Local Planning Authority:

- (a) refuse management including the siting of ,storage and disposal of refuse and glass. Any external bin storage facilities should not be used and no collections shall take place between the hours of 23:00 – 07:00 everyday.
- (b) method of delineating the smoking area from public spaces and maximum numbers of patrons permitted to use the smoking area at any one time;
- (c) ground and lower floor doors (including the restaurant door/windows) to remain closed during the permitted business opening hours to minimise noise break out;
- (d) a Closed Circuit Television (CCTV) system to be fitted within the premises with cameras deployed to provide images of the adjacent public realm with the installation of 360° mega pixel cameras, together with a system that supports the use of these cameras;
- (e) deliveries and servicing to be permitted only between the hours of 07:00 - 23:00;

The approved Premises Management Plan shall be adhered to throughout the duration of the use hereby approved unless agreed otherwise in writing by the local planning authority.

Reason: In the interest of protecting residential amenity, crime and safety, the character of the area and highways safety.

05. Extract Ventilation (Pre-Occupation)

If the pizzeria restaurant requires a new extract ventilation system, details of the extraction scheme shall be implemented prior to hot food cooking processes commencing in association with the existing restaurant kitchen in accordance with a written scheme for the appearance and siting, control of noise, fumes and odours from extractor fans and other equipment to be first submitted to and agreed in writing by the Local Planning Authority and shall thereafter be retained for the duration of the restaurant use.

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

06. 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.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS1	City Centre Approach
CS3	Promoting Successful Places
CS6	Economic Growth
CS7	Safeguarding Employment Sites
CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
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
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP16	Noise
REI7	Food and Drink Uses (Classes A3, A4 and A5)

City Centre Action Plan - March 2015

AP 5	Supporting existing retail areas
AP 8	The Night time economy

Supplementary Planning Guidance

Planning Obligations (Adopted - September 2013)
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2019)

Relevant Planning History

Case Ref:	Proposal:	Decision:	Date:
19/00902/ELDC	Lawful development certificate for the existing use of the basement as a nightclub (sui generis)	Granted	14.10.2019
05/00916/VC	Variation of Condition 01 of consent 02/00667/VC (allowed under appeal ref: APP/D1780/A/03/1111452) to extend opening to 02:00 on Monday to Thursdays. NB. The Council refused this application given the material weight of the emerging changes to Local Plan Review policies for night time uses at the time to start designating night time zones under policy CLT14.	Refused	12.09.2005
05/00500/EN_UUC	Enforcement enquiry into use of A3 unit as a nightclub in breach of condition 04 of 961373/3820/E – Case closed as no breach (the primary use was still considered to be A4 'Drinking Establishment, which was introduced under revised Use Classes Order).	Closed – No breach	17.01.2006
03/00004/VC	Variation of Condition 02 of consent 961373/3820/E to extend opening hours to 1:00 Monday to Thursday, 2:00 Friday & Saturday and 12:30 on Sunday	Allowed	07.07.2003
02/00667/VC	Variation of Condition 02 of consent 961373/3820/E to extend opening hours to 1:00 Monday to Thursday, 2:00 Friday & Saturday and 12:30 on Sunday	REF	09.09.2002
00/00625/VC	Variation of condition 02 of consent 99/00986/VC to alter the individual to whom the varied hours relate.	CAP	14.10.2002
99/00986/VC	Extension of opening hours (relief of Condition 02 of permission 961373/3820/E	CAP	26.11.1999
980923/EX	Variation of Condition 2 of planning permission 961373/3820/E to extend opening time 12.30am.	Consent	19.11.1998
961373/E	Change of use of part ground floor and basement of 35-41 to German Cellar Bar.	CAP	26.03.1997



Licence Number	2019/03785/19SEXE
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SEX ESTABLISHMENT LICENCE

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SECTION 2

SOUTHAMPTON CITY COUNCIL by virtue of the powers contained in section 2 and schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, hereby grants to:

Southampton Clubs Limited

of the following address:

36 Alie Street,
London.
E1 8DA

A licence to use the premises known as

Black Diamond

and situate at

**Basement
35 London Road
Southampton
SO15 2AD**

in the City of Southampton as a

SEXUAL ENTERTAINMENT VENUE

This licence has effect from 28th day of August 2019 until

27th day of August 2020

The permitted hours of this licence:

Monday	21:00 - 05:00
Tuesday	21:00 - 05:00
Wednesday	21:00 - 05:00
Thursday	21:00 - 05:00
Friday	21:00 - 05:00
Saturday	21:00 - 05:00
Sunday	21:00 - 05:00

SUBJECT TO THE FOLLOWING CONDITIONS:

1 Annex A

Standard Conditions applicable to Sex Establishments consisting of Sex Shops, Sex Cinemas or Sexual Entertainment Venues

Southampton City Council, in exercise of the powers conferred by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 hereby make the following Regulations prescribing standard conditions applicable to licences for sex establishments.

Interpretation

In these Regulations the following expressions that is to say "Sex Establishment", "Sex Shop", "Sex Cinema", "Sexual Entertainment Venue", "Sex Article", and "Vessel" shall have the meanings respectively assigned by Schedule 3 of the Act (and where amended by Section 27 of the Policing and Crime Act 2009).

In these Regulations the following expressions shall have the meanings hereby respectively assigned to them namely:

"the Act" means the Local Government (Miscellaneous Provisions) Act 1982, as amended.

"the council" means Southampton City Council and/or any authorised officer acting on behalf of the Council.

"the premises" means any premises, vehicle, vessel or stall licensed under the Act.

"licence holder" means a person who is the holder of a sex establishment licence.

"permitted hours" means the hours during which the licensed premises are permitted to be open to the public.

"licence" means a licence granted pursuant to Schedule 3 of the Act.

Part One - General Conditions

1. Management of Premises

1.1. The Licence holder, or some responsible person nominated by him and approved in writing by the council for the purpose of managing the sex establishment ("the manager"), shall have personal responsibility for and be present on the premises at all times when the premises are open to the public.

1.2. In accordance with section 14 of the 1982 Act, the Licence holder shall display, on the licensed premises in a conspicuous position, a copy of the licence and/or any special conditions attached.

1.3. The name of the person responsible for the management of the sex establishment, whether the licence holder or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.

1.4. The licence holder shall retain control over all parts of the licensed premises as set out on the approved premises plan and shall not let or part with possession of any part.

1.5. No person under the age of 18 shall be admitted to the premises and rigorous identity checks SHALL be made on any person who appears to be under the age of 18.

1.6. To ensure compliance of 1.5 above, the licence holder shall exhibit appropriate warning notices as

to the minimum age requirements on both the exterior (frontage) door and also conspicuously on the appropriate inner lobby door.

1.7. No person under the age of 18 shall be employed to work at the premises in any capacity or shall be allowed to work at the premises on a self-employed basis.

1.8. Neither the Licence holder nor any employee or agent shall tout or solicit custom for the sex establishment immediately outside or in the vicinity of the licensed premises.

1.9. Where the Licence holder is a body corporate or an unincorporated body, any change of director, or other person responsible for the management of the body is to be notified in writing to the council within 14 days of any such change. In addition, the Licence holder shall provide any details as the council may require in respect of any new director, officer or manager upon request in writing from the council.

2. Conduct of the Premises

2.1. No change from one type of sex establishment to another shall be made without the written consent of the council.

2.2. No part of the premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.

3. Premises Interior and Layout

3.1. The premises layout shall comply with deposited plans unless otherwise approved in writing by the council.

3.2. No alterations, additions or modifications to either the internal or external parts of the licensed premises shall be made without the prior written consent of the council.

3.3. External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

3.4. The premises shall be fitted with an inner entrance lobby door or partition screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises.

3.5. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.

3.6. No part of the interior of the licensed premises shall be visible whatsoever to persons outside the premises.

3.7. No external advertising, words, signs, displays or illuminations shall be permitted unless previously approved by the council.

3.8. The external fabric, appearance and look of the licensed premises shall consist of materials and colours approved by the council in order to:

3.8.1 Ensure that the frontage is of a discreet nature

3.8.2 Ensure that it is appropriate to the character of the locality.

4. CCTV

4.1. A recording CCTV system shall be installed and fully operational whilst the venue is open to the public.

4.2. The recording equipment will be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and to maintain the integrity of the system.

4.3. A record will be kept of any access made to information held on the system.

4.4. The system will be serviced at twelve monthly intervals and maintained to a standard that is acceptable to the police licensing department responsible for the area. A record of service and maintenance completed shall be held for a minimum of three years at the premises.

4.5. The system clock will be checked regularly for accuracy taking account of GMT and BST.

4.6. An additional recording CCTV camera shall be installed and fully operational whilst the venue is open to the public to cover the area outside the front of the premises.

4.7. The CCTV system will have sufficient storage capacity for 31 days of good evidential quality images.

5. CCTV Access

- 5.1. Police and authorised officers of the council shall have access to data from the systems quickly and easily and therefore provision will be made for the licensee or a member of staff to have access to the secure area and also be able to operate the equipment and to supply footage in a format which can be easily viewed by police or council officers.
- 5.2. All operators will receive training from the installer when equipment is installed and this training will be cascaded down to new members of staff.
- 5.3. An operator's manual will be available to assist in replaying and exporting data.
- 5.4. The premises shall not be operated pursuant to the grant of a licence until such time as the CCTV System has been approved by the Police. The CCTV must be maintained in a satisfactory working condition and subject to police approval in order to remain operating under the licence.

6. General

- 6.1. The Licence holder shall take all reasonable precautions to ensure public safety on the premises and shall comply with any reasonable request made by the council.
- 6.2. The council may substitute, delete, vary or amend these conditions at any time.

Part Two - Additional Conditions for Premises Operating as Sexual Entertainment Venues

7. External Appearance of the Premises and Public Displays of Information

- 7.1 The grant of a licence for a Sexual Entertainment Venue shall not be deemed to convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Schedule 3 of the Act.
- 7.2 The Premises shall be maintained in good repair and condition.
- 7.3 The Licensee shall ensure that the interior of the premises where sexual entertainment is offered shall not be capable of being seen from the outside of the premises.
- 7.4 At no time shall performances be capable of being seen from outside of the premises
- 7.5 Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
- 7.6 The copy of the licence and of any Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Act shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed aforesaid shall be suitably protected and the copy of any Regulations shall be retained in a clean and legible condition.

8. Control of Entry to the Premises

- 8.1 Any individual employed on the premises to conduct a security activity (within the meaning of section paragraph 2(1) (a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority (for so long as that Authority is operative).
- 8.2 The Licensee must ensure that a sufficient number of authorised door supervisors are employed in the premises to check entrants; enforce the venue Drugs Policy, House Rules and Dancer Code of Conduct; complete the incident book as necessary and supervise customers and performers whilst sexual entertainment is provided.
- 8.3 No person under the age of 18 shall be admitted to the premises at any time that it is offering sexual entertainment and a notice to this effect shall be clearly displayed at the entrance(s) to the premises.
- 8.4 The Licensee will operate a Challenge 25 Policy whereby prospective customers who appears to be aged 25 or under will be refused admission unless they can prove that they are aged 18 or over by producing suitable photographic identification. Prominent notices must be clearly displayed to this effect at the entrance(s) to the premises.
- 8.5 Information shall be clearly displayed within the internal exit areas of the premises, reminding departing customers to behave in a responsible and appropriate way towards all persons, particularly women.
- 8.6 Prospective customers shall be informed of the House Rules.

9. Advertising

9.1 The Licensee shall not permit the display on the exterior of the premises of photographs or other images, excluding trade marks or logos, which are unacceptable to the Council, and which may offend public decency.

9.2 The Licensee shall have regard to the Advertising Standards Authority CAP Code.

9.3 Where the Council has given notice in writing to the Licensee objecting to any public advertisement on the grounds that, if displayed, it would offend public decency or be likely to encourage or incite crime and disorder that advertisement shall be removed or not be displayed.

10. CCTV

10.1 The Licensee shall ensure that CCTV is installed and maintained to the reasonable satisfaction of the Police. The equipment will be password protected and have a constant and accurate time and date generation.

10.2 CCTV shall be installed in any private performance areas. Such areas will also be specifically monitored.

10.3 The recording system will be able to capture a minimum of 4 frames per second and CCTV images shall be retained for a period of at least 28 days and made available to a police officer or authorised Council officer (subject to the Data Protection Act 1998). The said images shall be down loaded on request and a copy provided to such an officer at the earliest practicable opportunity together with any software required to enable playback.

10.4 Records must be made on a weekly basis and retained for at least one year to demonstrate that the CCTV system is functioning correctly and that data is being securely retained. These will be made available to a police officer or authorised Council officer on request.

10.5 In the event of a technical failure of the CCTV equipment the Licensee must report the failure to the Southampton Police Licensing unit.

11. Performers

11.1 Performers shall be aged not less than 18 years. The Licensee must maintain records of the names, addresses and dates of birth of performers including identity checks.

11.2 Performers must remain fully dressed in public areas and in all other areas except while performing.

11.3 No personal performances shall be given to customers seated at the bar or to standing customers.

11.4 Performers must re-dress when the performance has ended.

11.5 Performers must not perform a nude table dance unless in a supervised area and within sight of a floor supervisor.

11.6 Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card, which must be surrendered to the Licensee or their representative before leaving the premises.

11.7 There shall be no intentional full body contact between customers and performers during a performance except for the placing of money or tokens into the hand or garter of the performer at the beginning or conclusion of the performance.

11.8 Performers will stop immediately and move away from any customer who is offensive or attempts to touch them during a performance and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management.

11.9 No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.

11.10 Performers must not engage with the customer in any act of, or communication likely to lead to an act of, prostitution or solicitation.

11.11 The Licensee is to implement a policy for the safety of the performers when they leave the premises.

12. Customers

12.1 Customers must remain seated during the entire performance of a private dance.

12.2 Customers must remain fully dressed at all times.

12.3 The Challenge 25 proof of age scheme shall be operated at the premises whereby any person

suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport;

12.4 All persons entering the premises must supply verifiable identification details that are passed through a digital scanning and recording system such as Club Scan, Idvista or similar computerised system.

12.5 The premises shall maintain a Refusals log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the council. The refusals log to be maintained for 12 months.

12.6 Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.

12.7 A policy of random searches of persons entering the premises shall be operated.

12.8 Any person found to be in possession of illegal drugs upon entry shall be prevented entry and, where possible, restrained until the Police can take such person into custody. Any persons found using illegal drugs on the premises shall be removed from the premises or, where possible, restrained until the Police can take such person into custody.

12.9 The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises shall not be visible to persons outside the building.

12.10 The premises shall subscribe to an approved radio system and radios shall be operational at all times the premises is open to the public.

13 External Appearance of the Premises and Public Displays of Information

13.1 The exterior of the premises shall not contain any displays or depictions of the human form, or any imagery that suggests or indicates relevant entertainment takes place at the premises, or other language stating the nature of such activities, including use of the word "nude". The condition does not prevent the use of the words "Licensed Sexual Entertainment Venue" on a single plate in characters no higher than 10 cm at the entrance to the premises.

13.2 Any external displays or advertising may only be displayed with the prior approval of the Council.

13.3 The prices for entrance and any compulsory purchases within the venue shall be clearly displayed on the exterior of the premises.

13.4 All charges for products and services shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.

13.5 Rules for customers shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.

13.6 No charge shall be applied unless the customer has been made aware of the tariff of charge by the performer in advance of the performance.

13.7 Performers may not stand in any lobby, reception or foyer areas or outside the premises entrance for the purposes of greeting customers or encouraging customers to enter the venue.

13.8 The use of cruising cars by the premises to solicit for custom and/or transport people to or from the premises is prohibited.

13.9 The use of flyers and similar promotional material for the premises is prohibited.

14 Conduct of Performers and Rules relating to performances of sexual entertainment

14.1 There shall be a written code of conduct for performers that has been agreed in writing by the Licence holder, the council and the Police.

14.2 All performers shall be required to certify their agreement to comply with the code and a record shall be kept on the premises and be made available upon request by the Police or an authorised officer of the council. The code shall include the basic criteria as set out in the Code of Conduct for Dancers included within this policy.

14.3 No changes shall be made to the Dancer's Code of Conduct without the prior written consent of the council and the Police.

14.4 The Dancer's Code of Conduct must include a statement that any dancer who does not comply with the Code of Conduct will face disciplinary proceedings.

14.5 All management and staff (including security staff) must be aware of and familiar with the content of the Dancer's Code of Conduct and shall ensure it is complied with at all times.

14.6 A copy of the Dancer's Code of Conduct shall be prominently displayed in each area of the premises where the public have access, which shall include toilet areas as well as in any area used as a

changing/dressing room for dancers.

15 Code of Conduct for Customers

15.1 There shall be a written Code of Conduct for Customers that has been agreed in writing by the Licence holder, the council and the Police.

15.2 The code shall include the basic criteria as set out in the Code of Conduct for Customers included within this policy.

15.3 The Code of Conduct for Customers shall be displayed in prominent positions throughout the licensed premises so that it is visible to all patrons.

15.4 No changes shall be made to the Code of Conduct for Customers without the prior written consent of the council and the Police.

15.5 The Code of Conduct shall include a statement that any customers who fail to comply with the Code of Conduct will be required to leave the premises.

15.6 All management and staff (including security staff) must be aware of and familiar with the content of the Code of Conduct for Customers and shall ensure it is complied with at all times.

15.7 On any occasion whereby a customer breaches the Code of Conduct, such details shall be recorded in the incident log.

15.8 Any customer breaching the rules of the Code of Conduct shall be asked to leave the premises. Any customer who has previously been asked to leave the premises and again breaches the Code of Conduct shall be banned from the premises.

16 Disciplinary Procedure for Performers

16.1 The Licence holder shall ensure that a written disciplinary procedure is in force so as to take appropriate action against performers who breach the Code of Conduct and that a copy of the procedure is provided to each performer who works at the premises.

16.2 All performers shall sign an acknowledgement that they have received a written copy of the disciplinary procedure and have read and understood its contents.

16.3 Any disciplinary procedure shall NOT make any provision for financial penalties against performers who breach the disciplinary procedure. Any sanctions shall be limited to verbal or written warnings, suspension or revocation of the performer's right to dance at the premises.

17 The Protection of Performers and the Prevention of Crime on the Premises

17.1 Performers shall be provided with secure and private changing facilities.

17.2 All entrances to private areas to which members of the public are not permitted access shall have clear signage stating that access is restricted.

17.3 Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.

17.4 The Licence holder shall implement a written policy to ensure the safety of performers when leaving the premises following any period of work.

17.5 Private booths must not be fully enclosed, however use of flame retardant see-through curtain is permitted. There must be a clear sight-line from outside the booth so that any performance of sexual entertainment can be directly monitored.

17.6 There must be a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place.

17.7 Any private booths shall be fitted with a panic button or security alarm.

18 Record Keeping and Management

18.1 All performers shall be required to provide valid identification prior to first employment at the premises. Acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or national ID card.

18.2 All performers and staff shall be eligible to work in the UK and proof of eligibility records shall be kept on the premises. Management shall ensure that such records are regularly checked to ensure compliance.

18.3 Employment records for performers and staff shall be kept for a minimum of 6 months following the cessation of their employment.

18.4 Accurate payment and remuneration records shall be maintained and shall be made available upon request to the Police or an authorised officer of the Council. All fees and charges for performers shall be stated in writing and prominently displayed within the changing area.

18.5 No films may be shown at the premises unless they have been passed by the British Board of Film Classification. No films classified as R18 shall be shown on the premises.

19 Dress Code

19.1 The premises shall operate a dress code for customers to the satisfaction of the Police.

Annex B

Sexual Entertainment Venues - Code of Conduct for Dancers

The Dancer's Code of Conduct shall include the following conditions as a minimum standard:

There shall be no intentional physical contact between performers and customers at any time, before, during or after the performance, with the exception of leading a customer by the hand to, or from, an area permitted for performances of sexual entertainment in advance of, or following, a performance.

The performer may not simulate any sexual act during a performance.

Performers must not use any inappropriate, lewd, suggestive or sexually graphic language in any public or performance areas of the premises.

Performers must not touch the breasts or genitalia of another performer, at any time as part of a performance.

There shall be no use of sex articles (as defined by paragraph 4(3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982) at any time.

There shall be no nudity by performers in public areas of the premises, unless the Council has agreed in writing that area may be used for performances of sexual entertainment.

Performers must fully dress (i.e. no nudity) at the end of each performance.

Performances of sexual entertainment may only take place in designated areas of the premises as agreed in writing by the Council.

There shall be no photography permitted by customers on the premises.

Customers must remain seated for the duration of a performance.

Performers shall not arrange to meet, or have further contact with, customers outside of the premises.

Dancers shall not perform if under the influence of alcohol or drugs.

All dancers shall comply with this Code of Conduct. Any failure to adhere to the rules set out in Code shall result in the dancer becoming subject to the consideration of disciplinary action as set out in the Disciplinary Procedure.

Annex C

Sexual Entertainment Venues - Code of Conduct for Customers

The Customer's Code of Conduct shall include the following conditions as a minimum standard:

Customers may not touch dancers during a performance.

Customers may not make lewd or offensive comments to performers.

Customers must not harass or intimidate performers.

Customers must not ask dancers to perform any sexual favour.

Customers may not perform acts of masturbation or indulge in other sexual behaviour.

Any customer failing to comply with this Code of Conduct will be asked to leave the premises and may face a time-limited or permanent ban from attending the premises.

Dated this 6th day of September 2019

Police Comments



Gosport NPT Neighbourhood Police Office
Town Hall
High Street
Gosport
Hampshire
PO12 1EB

Mr. S. Brooks
Planning Services
Southampton City Council
Lower Ground Floor
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Southampton
SO14 7LY

Telephone
101

Direct Dial
023 8047 8566

Fax
01952 874201

Text Relay
18001 101

Email Address
stuart.york.17529@hampshire.pnn.police.uk

Our ref: app/20
Your ref: 20/00367/FUL

14th July 2020

Dear Mr Brooks.

BASEMENT, 35 – 41 LONDON ROAD, SOUTHAMPTON, SO15 2AD

Further to a request from Miss Lines, I visited the premises on the 3rd July 2020. Present at the meeting were myself, Miss Lines, Mr. Mihalache (DPS Black Diamond, Reading) and Mr. Paul (Miss Lines' business partner).

During the meeting Miss Lines and her associates presented compelling evidence (both written and verbal) that the operation of this premises as a Sexual Entertainment Venue (SEV), will not bring about an increase in incidents of crime and anti-social behaviour.

The evidence consisted of:

- An explanation of the business model – including: an income analysis and notes supplied by Miss Lines
- The Human Trafficking and Modern-Day Slavery Policy
- The Implementation of both the Premises Licence dated 28th August 2019 and the SEV Licence dated 28th August 2019

Given the above I withdraw my object to the opening of the premises until 5am (05:00) as an SEV.

I note that a Closed Circuit Television (CCTV) system is to be fitted within the premises with cameras deployed to provide images of the public areas. Given this situation I would recommend the installation of 360° mega pixel cameras, together with a system that supports the use of these cameras.



www.hampshire.police.uk
Deaf? Non-emergency text 07781 480999
For crime and community information www.hampshirealert.co.uk



If I can be of any further assistance please do not hesitate to contact me.

Yours sincerely,

S York
Designing Out Crime Officer

DISCLAIMER

This survey is based on information supplied by yourself and the current crime trends. I can only give a view on what measures might reduce the risk of crime and there can be no guarantee that the measures will prevent crime. The advice is given free with no intention of creating a contract. Neither the Home Office or Hampshire Constabulary take any other legal responsibility for the advice given.



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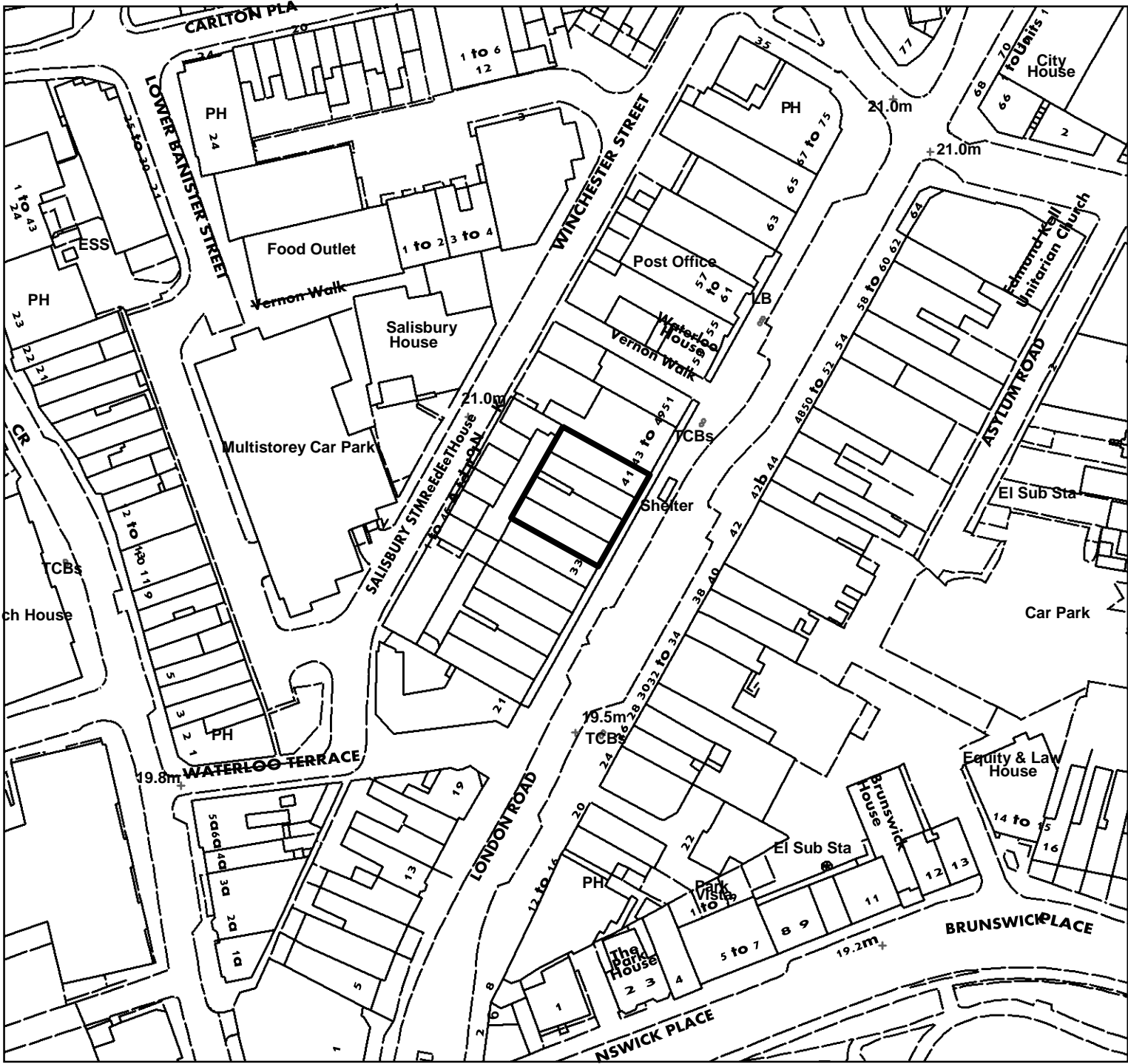
Deaf? Non-emergency text **07781 480999**

For crime and community information www.hampshirealert.co.uk



Page 2 of 2

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Planning and Rights of Way Panel 6th October 2020
Planning Application Report of the Head of Planning & Economic Development

Application address: Itchen Business Park, Kent Road, Southampton			
Proposed development: Use of land for the storage of pallets; fencing, siting of cabins and storage container. (Retrospective).			
Application number:	20/00954/FUL	Application type:	FUL
Case officer:	Mathew Pidgeon	Public speaking time:	5 minutes
Last date for determination:	23.10.2019	Ward:	Portswood
Reason for Panel Referral:	Request by Ward Member & five or more letters of objection have been received	Ward Councillors:	Cllr Mitchell Cllr Savage Cllr Cooper
Referred to Panel by:	Cllr Savage	Reason:	Impact of HGV's on highways network and residential amenity.
Applicant: Palletmove Ltd.		Agent: Goadsby Planning & Environment	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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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 including impact on the highway network and residential amenity 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, SDP7, SPD9, SDP16, NE1, NE2, NE4 and NE5 of the City of Southampton Local Plan Review (Amended 2015) and policies CS7, CS13, CS18, CS19, CS22 and CS23 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendix attached	
1	Development Plan Policies.
2	A simplified guide to lorry types and weights

Recommendation in Full

Conditionally Approve

1. **Background**

- 1.1 This retrospective application has been submitted following a planning enforcement enquiry from June 2020. The enquiry was initiated as a result of alleged harm caused by large/heavy commercial vehicles, associated with the proposed storage use, using Kent Road to access and egress the site and site access is the principal issue for consideration of this planning application.
- 1.2 *It should be noted that lorries are permitted to use any classification of road for access and deliveries.* HGVs currently use Kent Road to service the Wastewater treatment works, business premises within Itchen Business Park and to serve housing within the street (deliveries/removals/refuse collection). There are no parking restrictions within Kent Road and vehicles can park on either side of the street, however any vehicle owner parking in a manner that obstructs the flow of traffic (including any vehicles permitted to use the road), is at risk of a penalty fine under Section 137 of the Highways Act 1980. It is understood that TRO parking restrictions could be introduced to remove some kerbside parking from Kent Road to ensure parked vehicles do not obstruct all permitted vehicles using Kent Road, however such a measure would require public consultation with local residents and does not form part of this recommendation.
- 1.3 This report refers to a number of different standard vehicle sizes (on the basis of the number of axels) and for clarity a simplified guide to lorry types and weights from the Drivers and Vehicle Standards Agency is provided at **Appendix 2**.
- 1.4 The business 'palletmove', which operates out of the application site, has used vehicles with 2 axels (which do not need a heavy goods vehicle driver's licence) for the vast majority of its transportation of pallets to and from the site. Whilst there have been occasions when vehicles with more than two axels have serviced the business the operators are confident that their business can operate with a restrictive planning condition preventing the servicing of vehicles with more than two axels. Palletmove have operated from the site for approximately 4 years (since November 2016).
- 1.5 The planning application seeks a change of use from car parking for cruise liner and airport customers (granted by permission 03/01020/FUL) to storage and distribution (use class B8).
- 1.6 Adjacent to the site is another plot within the business park which is also the subject of a retrospective planning application for a warehouse and distribution use, which is currently pending (application ref 19/01469/FUL). This second business is operated by Bryonswell which collects donated clothes and textiles for resale. This business uses articulated vehicles (3 axels or more) to transport sorted goods to continental Europe and a decision on this scheme is expected shortly.
- 1.7 To the north of the site is Portswood Waste Water Treatment Works. The works benefit from a historic planning permission whereby there are no restrictions on the type/size or number of vehicles used to service the site.

2. **The site and its context**

- 2.1 The site is formed of part of the former Portswood Waste Water Treatment Works that has since become the Itchen Business Park, which alongside the Portswood Waste Water Treatment Works is accessed from Kent Road. The site was formally used for the parking of vehicles for cruise liner and airport customers. The site has a hard

surface and is bounded by 2m high palisade fencing and measures approximately 0.12 hectares.

- 2.2 The site topography is flat and fronts an access road that connects with Kent Road and Saltmead, to the west. It also faces Leornian House, which is comprised of commercial businesses and a community use. The four other operators within the Business Park are:
1. Ash creative wireless electronics,
 2. Wessex drivability, a charity who specialise in helping disabled or those with a disability to drive independently,
 3. Covenant Church; and
 4. Bryonswell – subject of the pending application 19/01469/FUL
- 2.3 The site is situated within the northern part of Portswood, immediately to the west of the River Itchen. To the north are filtration tanks and an open area used by Southern Water. The Southampton to London railway line is to the west. There are houses to the south, accessed from Saltmead. This also provides access into the site. Kent Road is a narrow resident's street which links to the arterial St Denys Road (A3035) to the south and to Portswood Road to the north via a railway and road bridge. There is a height restriction for vehicles passing under the railway and road bridges to the north of 8ft 9in (2.6m).
- 2.4 To the south is an area of mature landscaping, beyond which is the residential estate of Saltmead located 25m to the south.
- 2.5 Narrow residential streets surrounding the site result in a high percentage of parked vehicles straddling the pavement. Kent Road is the main vehicle route used by large commercial vehicles associated with Southern Water's waste water treatment works and other commercial vehicles, including large vehicles (three or more axels) visiting the business park.

3. Proposal

- 3.1 Retrospective planning permission is being sought for the change of use of the land from surface parking for cruise liner and airport customers (*sui generis use*), to a storage and distribution use (class B8) which supports 6 full time jobs. Palletmove was established in 2015 and specialises in the supply of pallets across Southern England. Currently the company are the main source of pallets to the NHS and NHS related businesses.
- 3.2 The site principally accommodates pallets, stacked in groups behind a security fence and gates. There are also three cabins, in use as offices, and a shipping container. One of the cabins is stacked on top of the other. As well as the change of use permission is also being sort for the cabins, container, security fence and gates.
- 3.3 The application site is used by the applicants for storing specialised pallets; these are either an unusual size or are used for medical/pharmaceutical supplies. Pallets are constructed of either timber or plastic. Ordinarily the pallets are distributed from one user location directly to another, without ever reaching the Southampton site. Some of the pallets that are stored on site are of unusual sizes for specialised industries. Palletmove's work is with charities, government owned facilities, and the pharmaceutical industry. They often help with local sports events, as well as supplying and clearing festivals.
- 3.4 The business operates from 9am to 4pm and, typically, no staff are on site outside of

these hours. No members of the public/customers visit the site. Generally most vehicle movements are between 10:00 AM and 03:00 PM to avoid peak traffic hours and thus improve efficiency. The site is open on weekdays only 09:00 AM – 04:00 PM and there is no weekend working.

- 3.5 The pallets are generally stored to a height of 4.5m. This equates to approximately 30 pallets at its maximum. The number of stacks varies, and they are generally located around the main gate. This is also the area for loading / unloading; and vehicle storage at night if necessary.
- 3.6 The number of vehicles that enter the yard is an average of two per day; i.e. four vehicle movements – although on some days there are none. Palletmove has different vehicles for different purposes. They currently own four x 3.5 tone (2 axels) light goods vehicles. Three are of flatbed design and one is a ‘Luton’. A Luton van is a covered van which is required to keep pallets dry.
- 3.7 Larger vehicles than 3.5 tonnes are used to service the business, however the maximum size required would still be limited to 2 axels. Palletmove do however have an operator’s licence to permit heavy goods vehicles to use the site, but have chosen not to take advantage of this as it is regarded not necessary for the running of the business.

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) and the City Centre Action Plan (adopted 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 National Planning Policy Framework (NPPF) states in section 6. ‘Building a strong, competitive economy’ paragraph 80: *‘Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.’*
- 4.4 Paragraphs 109 and 110 of the NPPF sets out clear circumstances when planning applications should be prevented or refused on highway grounds indicating:

‘109. 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.

110. Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for*

bus or other public transport services, and appropriate facilities that encourage public transport use;

- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.'*

4.5 The site is not safeguarded for any use within the Development Plan. The adopted proposals map does however define the site as 'open riverside character' (Local Plan Policy NE5 ii relates). NE5 ii states that development is not permitted if it would cause damage to the open character of the riverside and landscape.

5. Relevant Planning History

5.1 The earliest planning history for the site, detailing the use as a waste water treatment works, held by the City Council, is 1959 whereby an extension to the existing works was approved.

5.2 In 1973 permission was granted for a training centre associated with the waste water treatment works (1458/C10). The training centre took the form of the buildings at the southern end of the site. Those buildings are now occupied by a place of worship approved in 2008 (07/01989/FUL), 'Ash' a wireless electronics company, Wessex drivability, a charity who specialise in helping disabled or those with a disability to drive independently and the site/unit which is the subject of this retrospective application.

5.3 Planning permission 960043/7072/W was granted on 12th March 1996 for the change of use of part of the wastewater treatment works site to an area proposed for the storage of materials and plant and operated by 'Pipeworks Ltd. The permission was granted having consideration to the applicant's personal circumstances and accordingly a restrictive condition was added so that the operation of the site for vehicle parking and material/plant storage could occur only for the benefit of 'Pipeworks' (condition 3 refers). Other conditions were also applied, including hours of use.

5.4 In 2013 retrospective planning permission was granted for part of the former waste water treatment works to be used as an area for car parking for cruise ship and airport passengers (13/01020/FUL). The application covered the site area associated with the Pipeworks consent as well as an additional area to the south east. Condition 3 specified that the use allowed the parking of a maximum of 125 cars and for the car parking layout to be in accordance with the submitted and approved plans.

5.5 Once the car parking for cruise ship and airport passengers use of the site had ceased part of the open storage area previously used for vehicle storage became occupied by McNicholas Construction Services Ltd. McNicholas used the site for the storage of construction related equipment and vehicles needed to service their development projects within the local area/region. This use didn't secure the correct planning consents.

5.6 A planning enforcement notice (EN), dated 1st December 2017, was served on McNicholas as the Council considered that a breach of planning control had occurred in the past 10 years. The breach of permission being the use of the land for the storage

of plant, equipment and vehicles (B8 use) rather than the permitted storage of cars associated with cruise ship and airport customers (*sui generis* use).

- 5.7 The enforcement notice was appealed by McNicolas, however the appeal was dismissed by the inspector who agreed with the council that there had been a breach of planning control on the site on the basis that car parking for cruise ship and airport passengers is a *sui generis* use. The Inspector did not consider the merits or otherwise of the site's vehicular access.
- 5.8 Part of the waste water treatment works site was also proposed to be re-developed into 41 dwellings in 2007 however the application was not supported.
- 5.9 Within the waste water treatment works itself there have recently been two planning applications that have been approved by the Planning and Rights of Way Panel. The first, in June 2018, was granted for the construction of a 20 Mega Watt gas standby facility and in January 2020 planning permission was granted for the construction and operation of a motor control centre kiosk, poly dosing kiosk and polymer powder handling kiosk (3 detached buildings) These developments facilitated the operation of two centrifuges which removes water from sewage thus reducing its volume prior to further processing and disposal. Within the application approved in January 2020 it was confirmed that there would be a total of 24 HGV trips associated with the improved dewatering process on site (12 in and 12 out) per week. The use of the infrastructure was set to start in April 2020 given that that date would see the end of the operational lifespan of the existing barge used to transport liquid waste (sewage sludge).
- 5.10 Retrospective planning permission has also been applied for the neighbouring site to the east, which is being used in association with the business 'Bryonswell' (19/01469/FUL). At the time of writing the report a decision had not been made.

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 (144 neighbour letters were sent given that site access affects more than just the immediate neighbours), and erecting a site notice 14.08.2020. At the time of writing the report **8 representations** have been received from surrounding residents within Kent Road as well as an objection and Panel referral by Ward Councillor Savage. The following is a summary of the points raised:

- 6.2 ***Kent road and Priory road cannot support the weight and size of large/heavy commercial vehicles (in particular articulated vehicles) resulting in damage to roads, private vehicles and houses. The company has frequently used articulated vehicles and says it will not use articulated vehicles in the future however there is nothing to stop them doing so. Vehicle speeds also generate noise and vibration.***

Response

- Damage to houses and cars locally cannot be categorically attributed to traffic associated with the business. Residents would need to settle any disputes with businesses as a civil matter.
- The Highways Development Management Team do not object to the application on the basis of road damage. There are no weight restrictions or limits on local roads preventing access by large/heavy commercial vehicles
- The anticipated number of large/heavy commercial vehicles visiting the site is not considered to be significant when judged against, and in tandem with, the

number and size of southern water related tankers visiting the site.

- A planning condition limiting the size of vehicles to 2 axels can be applied and has been agreed by the applicant.
- Driver behaviour, and highway laws, rather than planning permission, will control traffic speeds.
- Separate legislation is used to enforce traffic speed.

6.3 ***The need for large vehicles to access the site results in private vehicles being parked on the pavement causing an obstruction. Pram and wheelchair users must use the road resulting in reduced highway safety. The council and police do not enforce against this behaviour.***

Response

- Larger vehicles are permitted to use Kent Road for access, refuse collection, and deliveries. There are no parking restrictions within Kent Road and vehicles can park on either side of the street – see Background section above.

6.4 ***Impact of potential Active Travel Zones - increasing the number of vehicles using Kent Road.***

Response

- The Council is exploring the implementation of an Active Travel Zone in the area. The main changes that are relevant to the application will prevent vehicles from passing under the railway bridge and using Kent Road/Priory Road as a short cut. The purpose of the Active Travel Zone is to stop the route from being used as a vehicular ‘rat run’ avoiding the St Denys Road/Thomas Lewis Way traffic light junction. The active travel zone, whilst resulting in commercial vehicles needing to use Kent Road, will also prevent rat running within this residential area and so the proposals are not anticipated to result in a significant increase of traffic on Kent Road.

6.5 ***The site, its access and the location was not designed for large/heavy commercial vehicles.***

Response

- As explained in the Planning History section above this estate, like many others across the City, has evolved and expanded over decades and will have different demands placed upon it to when it was first developed. The application is to be determined on the unique set of characteristics and merits that prevail today.
- The business has agreed to a condition preventing the use of vehicles with three or more axels from servicing the site and this is a material consideration in the officer’s considered recommendation to the Panel.
- The majority of the business operations associated with pallet movement to and from the site is associated with 3.5 tonne vehicles.
- As above, large vehicles including HGVs are permitted to use any classification of road for access and deliveries and Kent Road is no exception to this.

6.6 ***The road is frequently gridlocked.***

Response

- The commercial vehicles operated by Palletmove are a small proportion of overall number of vehicles using Kent Road and they business avoids servicing movements during peak traffic times of the day.

6.7 ***Impact of traffic generated noise and air pollution.***

Response

- Provided that vehicles are limited to two axels it is considered that significant harm in terms of noise, will not be caused.

- Separate legislation is used to manage air pollution from vehicles.

6.8 **Number of Pallets stored on site and fire safety (especially out of business hours). Number of pallets stored on site should be limited and measures to prevent fire undertaken.**

Response

- Separate legislation covers fire risk.

Consultation Responses

6.9

Consultee	Comments
Highways Development Management	<p>No objection on highways safety grounds or congestion.</p> <p>It should also be noted that SCC Highways are exploring the installation of an Active Travel Zone (ATZ) in the St Denys area. ATZs are community led proposals to improve areas through urban realm, better walking and cycling connections and repurposing road space to make a more liveable community. The aim is to implement the agreed ATZ in October 2020. Reducing rat running/short cuts will improve the highway environment on Kent Road by reducing vehicle numbers.</p>
SCC Sustainability (Flooding)	<p>The site is located within Environment Agency flood zone 3 for high flood risk, this means that the site is at risk of present day flooding from a 1 in 200 year (0.5%) or greater flood event. No objection subject to a condition to anchor the container to the ground. Also advisable to sign up to the Environment Agency's flood warning service at https://www.gov.uk/sign-up-for-flood-warnings. It is also advisable to produce a Site Flood Plan, advising staff and those using the site on what to do in the event of a flood and include flood resilience measures.</p>
Health and Safety Executive (HSE)	<p>The proposal falls outside of HSEs remit and is not a statutory consultee unless hazardous substances are involved.</p>
SCC Refuse Team	<p>Standard sized 26 tonne refuse collection vehicle is used to service the properties on Kent Road. Residents do tend to park straddling the pavement on collection days. The refuse management team do have a narrower vehicle used to service roads which are difficult to access with the standard sized vehicle although this is not deemed necessary for Kent Road (north) at present.</p>

7 Planning Consideration Key Issues

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

- i. Principle of development.
- ii. Character and appearance; and neighbouring amenity.
- iii. Parking, highways and transport.
- iv. Economic growth.
- v. Flooding.
- vi. Ecology.

Principle of Development

7.2 The site is not safeguarded for any use within the Development Plan. The adopted proposals map does however define the site as 'open riverside character' (Local Plan Policy NE5 ii relates). NE5ii states that development is not permitted if it would cause damage to the open character of the riverside and landscape. The proposal is not deemed to be at odds with policy NE5 ii in principle. The scale of the proposal and whether or not it can be seen from the public realm surrounding the River Itchen will determine if the scheme is contrary to that policy. Officers consider the proposals (storage of pallets; refuse bins, fencing, siting of cabins and storage container) to be limited in their scale and will not be harmful to the visual quality of the public realm surrounding the River Itchen (as discussed in more detail below).

7.3 With no underlying policy protection for use of the site as a non-residential training centre this suggests that in policy terms the principle of changing away from this use is acceptable. The creation of 6 jobs is also relevant to this conclusion.

Character and appearance; and neighbouring amenity

7.4 The land is within the Itchen Business Park which is accessible to the public; the site cannot however be seen clearly from outside of the Business Park.

7.5 The nearest residential dwellings are 25m to the south at Saltmead. There are mature trees situated along the southern boundary of the business park. These act as a visual screen. The scale of the storage stacked pallets, refuse bins, containers & cabins will also not harm visual amenity achieved from nearby residential properties and no objections have been received on this basis.

7.6 By the nature of the storage use, the noise generated on site comes in the form of vehicle and pallet movements including delivery vehicles and fork lift trucks. Owing to these noise sources and the distance from residential properties there is little noise generated that would adversely impact residential amenity. Again no objections have been received on the basis of noise generated whilst vehicles are being loaded and unloaded and/or when pallets are being moved around on site.

7.7 The business model used by Palletmove does not rely on bulk transportation of goods therefore large commercial vehicles with three or more axels are not required to service the site. The applicant is happy to accept a planning condition to this effect. The majority of trips made in association with the business is by the four 3.5 tonne vehicles

owned by Palletmove. Three are flatbed trucks and they also operate an enclosed Luton Van for specialist pallets which need to remain covered from the elements.

- 7.8 Larger vehicles than 3.5 tonnes are used to service the business however the maximum size required would still be limited to 2 axels. Palletmove do also have an operator's licence to permit heavy goods vehicles to use the site, but have chosen not to take advantage of this.
- 7.9 In the recent past (8th September) a large commercial vehicle with three or more axels has visited the site. The error was caused as one of the site managers was on sick leave and the usual operating procedure was not followed by the temporary replacement. Since the error the staff have been reminded that articulated vehicles are not to be used to service the site.
- 7.10 The business operates on average 2 deliveries per day so this results in a total of 4 journeys on Kent Road (2 in and 2 out). The business operates outside of peak traffic hours and have a working day during which deliveries are made of between 10:00 AM and 03:00 PM to improve transport efficiency and prevent drivers from being stuck in traffic. The site is open on weekdays only 09:00 AM – 04:00 PM and there is no weekend working. Restricting the hours of operation to those times would limit the impact of traffic generated by Palletmove on the residents of Kent Road, many of which use their vehicles between 10:00AM and 3:00PM leaving the road less heavily parked. As such the operation of the Palletmove vehicles potentially has less impact than vehicles using the road at any time of the day or night.
- 7.11 On the basis of this information the operation would seem reasonable in terms of impact on residents on Kent Road. This is also assuming that drivers behave responsibly and do not exceed traffic speed limits. The Local Planning Authority must also plan for reasonable and lawful behaviour including driver conduct. Furthermore consideration is given to the other vehicles that currently use Kent Road to access the Business Park and the waste water treatment works which include articulated vehicles with three or more axels.
- 7.12 It would not be practical to restrict the operation to a specific number of vehicle trips per day/week as it would be difficult to monitor and enforce. It is judged that the size of vehicles used is sufficient to prevent significant harm. The effect of the potential active travel zone would also be to reduce overall traffic numbers in Kent Road by preventing rat running/short cuts though the area.
- 7.13 The potential for an active travel zone will reduce the likelihood of the area to be used as a rat run/short cut. The benefit will be preventing commercial vehicles other than those associated with businesses and Southern Water, based in the business park, from regularly needing to access Kent Road.

Parking highways and transport

- 7.15 There are no weight restrictions on Kent Road for vehicles and there is no method to prevent vehicles with three or more axels from using the road. Pavement and road obstruction is managed by highways act with prosecution as necessary. No objections have not been received from the Highways Team on the basis of congestion, highway safety, road damage or highway obstruction. It is also the Highways Authority who are responsible for maintaining the quality of the road surface.
- 7.16 There are other larger commercial vehicles that use Kent Rood, most notably those used by Southern Water to remove sewage sludge after the processing of raw sewage

as well as refuse collection vehicles. These will also cause vehicle owners living on Kent Road to park straddling the pavement. On this basis it is difficult, as a result of the application proposal, to attribute significant harm in highways terms and in particular highways safety and congestion.

Economic Growth

- 7.17 It must be recognised that the business provides local employment which helps to achieve economic growth. The business also makes good use of the available land. The negative impact of this development must be weighed against this in the planning balance. Owing to the position of the site and the size of vehicles used to service the business being limited to no more than two axels the application is not judged to cause sufficient harm to other neighbouring businesses to justify refusal. Furthermore none of the other businesses in the business park have objected to the application.

Flooding

- 7.18 No objection has been raised on the basis of flooding from the City Council's Flooding Risk team or the Environment Agency.

Ecology

- 7.19 No objection has been raised, written comments are expected to be updated at planning panel as provided by the Councils Ecologist.

8 Summary

- 8.1 The retrospective application for a change of use to storage and distribution hinges on the suitability of Kent Road to service the demands of the use. Residents in Kent Road, supported by ward Cllr Savage, have provided deputations that the use is not appropriate. Officers consider that certain controls can be used to limit the impacts and, due to the limited scale of the business, the impacts proposed are within tolerable limits. For instance, it is deemed acceptable to limit the benefits of the planning permission to the current operator (personal consent) the purpose being to ensure that strict control over the operation is achieved as more harmful storage and distribution uses could otherwise potentially move in without further assessment by the Local Planning Department and cause a greater harm to that considered acceptable. Operational hours can also be conditioned to help reduce impact on residential amenity at peak traffic times of the day. The number of vehicle trips per day is not however enforceable as the site cannot be monitored sufficiently frequently to check this, however a condition restricting the larger vehicles is considered to meet the necessary tests for imposing a planning condition.

- 8.2 In coming to this decision officers have balanced the limited identified harm caused by traffic associated with the business on Kent Road residents against the economic growth, employment and the efficient use of the site. This recommendation has also been made having regard to the size of vehicle considered necessary by the business operators and reasonable and enforceable planning conditions that can be used to limit impact. Consideration has also been made to the other business operations in the Business Park and Southern Water's operation of the waste water treatment works and their associated vehicle movements and the Panel will note that the Council's Highways Team have not objected to the application, the proposed access, or the use of Kent Road for larger servicing vehicles.

9 Conclusion

9.1 It is recommended that planning permission be granted subject to relevant planning conditions listed below.

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) (f) 6. (a) (b)

MP for 06/10/2020 PROW Panel

PLANNING CONDITIONS

1. Approved Plans [Performance Condition]

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.

2. Restricted Use [Performance Condition] – personal consent

Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking, amending, or re-enacting that Order, the development hereby approved shall be used only for the purposes indicated in the submitted details (storage associated with the business Palletmove Ltd and ancillary office accommodation) and not for any other purpose, including any other use within Use Class B8 use class without further permission from the Local Planning Authority.

Reason: In the interests of the amenities of the neighbouring residential occupiers and Kent Road residents; and to enable a further assessment should further/alternative employment uses/businesses seek to operate from this site.

3. Hours of Use [Performance Condition]

The use hereby approved shall not operate outside the following hours:

08.00 - 16.00 Mon - Fri.

And at no time on Saturdays and Sundays

Reason: In the interests of the amenities of the neighbouring residential occupiers and Kent Road residents.

4. Business operations location restriction [Performance Condition]

In accordance with the approved plans the business operation on site (Palletmove Ltd) to which this permission relates shall at no time operate (including loading/unloading, storage and parking) outside of the fenced enclosure of the site and in particular (for avoidance of doubt) shall not spill out onto the shared access road within the Business Park and which leads to the adjacent Portswood Waste Water Treatment Works.

Reason: To avoid congestion and obstruction of the adjoining access road which might otherwise occur because of overspill caused by the business operation.

5. Restricted use of vehicles with three or more axels from servicing the site [performance condition]

No vehicles with three or more axels shall be used on the site or used to service/deliver to or from the site (including the transportation of pallets) in associated with the business operation hereby approved.

Reason: In the interests of the amenities of the neighbouring residential occupiers and Kent Road residents.

6. Refuse & Recycling (Performance Condition)

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 (outside of the fenced and gated site boundary).

Reason: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby business properties and access into the Portswood waste water treatment works; and in the interests of highway safety.

7. Flood Resilience measures (within 1 month)

Within 2 months of the date of this permission the applicant shall provide details of flood resilience measures covering the listed points below. Once approved in writing by the Local Planning Authority the agreed measures shall be provided on site within 6 months of the date of this permission and shall thereafter be retained as approved.

- o Details of measures that will ensure that the cabins and storage container will remain anchored to the ground in the event of a flood.
- o Details of appropriate flood resilience measures including all electrical equipment and wiring raised 300mm above the 1 in 200 year flood event level of 4.1mAOD.

Reason: To avoid the risk of the cabins and storage container floating in the event of a flood and to ensure the building remains safe should potential flooding occur.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS6	Economic Growth
CS7	Safeguarding Employment Sites
CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats
CS23	Flood Risk
CS24	Access to Jobs

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP16	Noise
SDP17	Lighting
NE1	International Sites
NE2	National Sites
NE4	Protected Species
NE5	Intertidal Mudflat Habitats
REI10	Industry and Warehousing
REI11	Light Industry

Supplementary Planning Guidance

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)

A SIMPLIFIED GUIDE TO LORRY TYPES AND WEIGHTS

Appendix 1

Recommended Description		Identifier	UK Maximum Gross Weight (tonnes)	Shape	
LIGHT GOODS VEHICLES		2 axles	3.5	no rear side windows 	
LORRIES	HEAVY GOODS VEHICLES	SMALLER 2-AXLE LORRIES	2 axles	Over 3.5 7.5	
		BIGGER 2-AXLE LORRIES	2 axles	Over 7.5 18	
	MULTI-AXLE LORRIES <small>(Vehicles over 7.5 tonnes gross require a Heavy Goods Vehicle Driver's Licence)</small>	3 axles rigid	3 axles	25 26*	
		3 axles artic.	3 axles	26	
		4 axles rigid	4 axles	30 32*	
		4 axles artic.	4 axles	36 38*	
		Vehicle and draw-bar trailer 4 axles	4 axles	30 36**	
		5 axles or more artic. <small>See note (a)</small>	5 axles	40	
		Vehicle and draw-bar trailer 5 axles <small>See note (a)</small>	5 axles	40**	
		6 axles artic. <small>See note (b)</small>	6 axles	41*	
		6 axles draw-bar <small>See note (b)</small>	6 axles	41* and **	
		5 or 6 axles artic. <small>See notes (b) and (c)</small>	5 or 6 axles	44* and ***	
		6 axles draw-bar	6 axles	44*, ** and ***	
		6 axles artic. <small>See note (b) and (d)</small>	6 axles	44*	
6 axles draw-bar <small>See note (b) and (d)</small>	6 axles	44* and **			

* If the driving axle, if it is not a steering axle, has twin tyres and road friendly suspension, or each driving axle is fitted with twin tyres and the maximum weight for each axle does not exceed 8.55 tonnes.

** Distance between the rear axle of the motor vehicle and the front axle of the trailer is not less than 3 metres.

*** If the vehicle is being used for combined transport.

(a) 5 axles or more artic and the 5 axles or more drawbar could alternatively have a 3 axle motor vehicle and a 2 axle trailer.

(b) Conditions:
 - each vehicle must have at least 3 axles.
 - drive axle has twin tyre and road friendly suspension and maximum of 10.5 tonnes, or each driving axle is fitted with twin tyres and has a maximum of 8.55 tonnes
 - trailer has road friendly suspension

(c) Conditions for operation on 5 axles:
 - must have 3 axles on tractor unit
 - single container 40ft in length conforming to standards laid down by the International Standards Organisation being carried only
 - vehicle being used for international journey.

(d) Powered by a low pollution engine.

OVERLOADING OF GOODS VEHICLES

Why does overloading matter so much?

1. **ROAD SAFETY.** Lorries which are loaded beyond their design weight are less able to stop quickly in an emergency and the steering of the vehicle can be affected.
2. **ROAD WEAR AND TEAR.** It is estimated that the overloading of good vehicles costs the community over £50M a year through additional wear and tear to roads and bridges. Heavy axles cause proportionately far more wear and tear, and overloading drive axles (legal limit 11.5 tonnes) are the biggest single cause of excessive wear and tear on roads.
3. **COMPETITION.** Gross overloading is unfair to the majority of law-abiding operators who accept the constraints of the plated weight limits set by the law. An operator who persistently overloads a lorry can earn additional profits amounting to thousands of pounds per annum.

SOME TECHNICAL TERMS EXPLAINED

AXLE WEIGHT	: The total weight transmitted to the road by all the wheels on one axle.
GROSS VEHICLE WEIGHT	: The weight of a vehicle and its load.
TRAIN WEIGHT	: The weight of a vehicle, a trailer and its load.
PLATED WEIGHT	: Either the design weight limit given on a manufacturer's plate or the legal weight limit given on the Department's plate.
TRAILER	: Any vehicle drawn by a motor vehicle.
DRAW-BAR TRAILER	: A trailer pulled by a rigid vehicle.
SEMI-TRAILER	: A trailer forming part of an articulated vehicle.
ARTICULATED VEHICLE	: A tractor unit with a semi-trailer attached where part of the load is borne by the drawing vehicle.

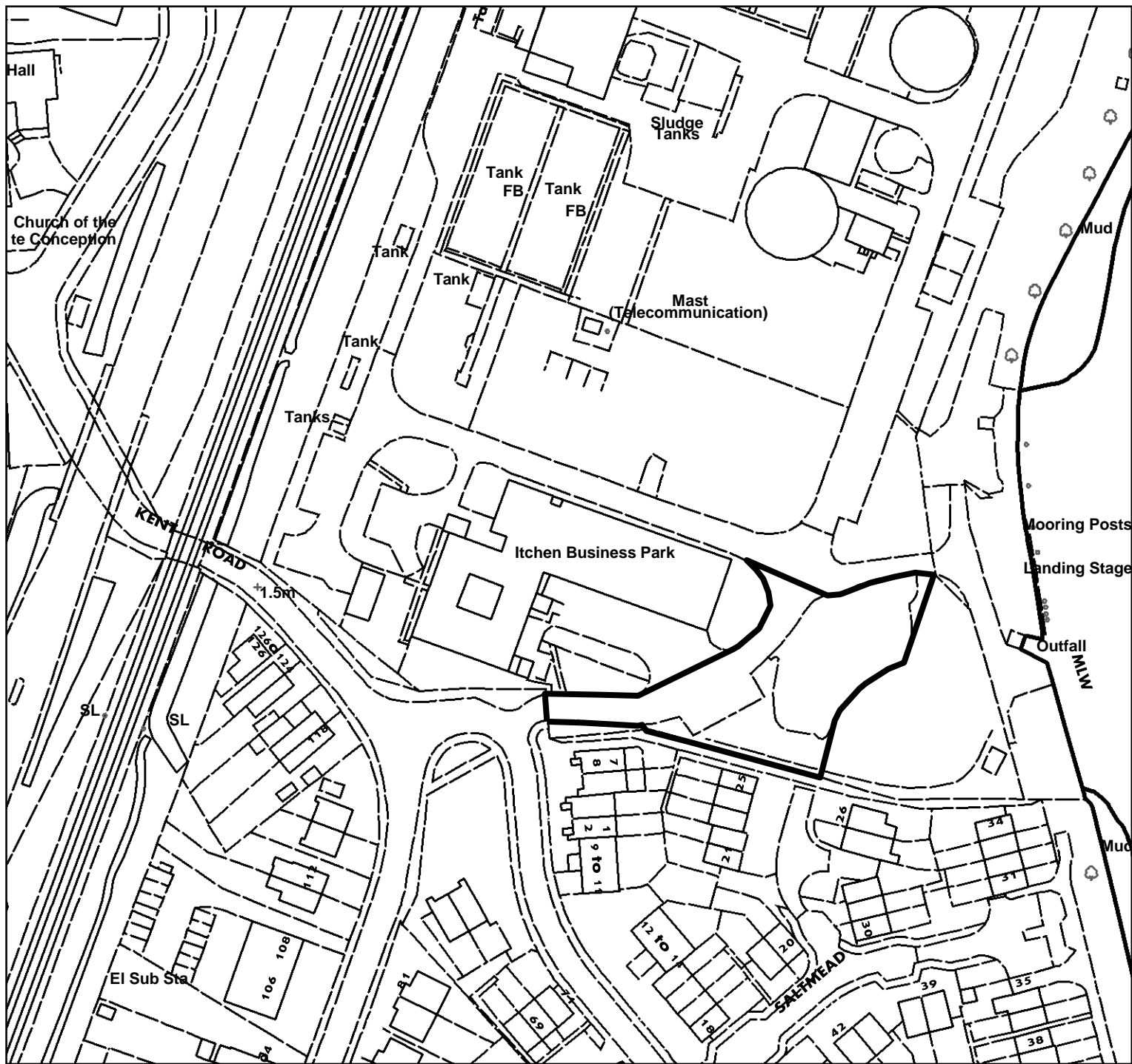
OVERLOADING

Goods vehicles are subject to U.K. weight limits. The weight limits are given on the manufacturer's plate or the Department's plate on each vehicle. They are determined by the technical specification of the vehicle and the need to protect U.K. roads and bridges from excessive wear and tear. Vehicles over 41 tonnes operate under special arrangements. 44 tonnes is allowed for combined (road to rail) transport.

A vehicle is overloaded if it exceeds the plated weight limits. A vehicle could be overloaded on all its axles, on its gross weight and on its train weight. Each of these would be separate offences, e.g. a 3 axle articulated which exceeded the plated weights on the 1st axle, 2nd axle and gross weight would make both the vehicle operator and driver liable to three separate offences.

A vehicle or vehicle combination from 1 January 1999 can operate under either The Authorised Weight Regulations 1998 or The Road Vehicles (Construction and Use) Regulations (as amended).

This leaflet has been produced by the Department for Transport, at the request of the Magistrate's Association to give guidance to Magistrates in dealing with cases on overloading. It is not intended to be a full authoritative statement of the law.



Scale: 1:1,250



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