

# Planning and Rights of Way Panel

Tuesday, 9th July, 2024  
at 4.00 pm

## PLEASE NOTE TIME OF MEETING

Conference Room 3 and 4 - Civic  
Centre

This meeting is open to the public

### Members

Councillor Windle (Chair)  
Councillor Greenhalgh (Vice-Chair)  
Councillor Beaurain  
Councillor Cox  
Councillor Mrs Blatchford  
Councillor Lambert  
Councillor Wood

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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 2022-2030**

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.

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

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

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

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

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

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

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

## Dates of Meetings: Municipal Year 2022/2023

2025	
4 June	25 June
9 July	6 August
27 August	17 September
8 October	12 November
10 December	

2025	
21 January	11 February
4 March	1 April
22 April	

## 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 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 - 30)

To approve and sign as a correct record the Minutes of the meetings held on 20 February 2024 and 12 March 2024 to deal with any matters arising.

## **CONSIDERATION OF PLANNING APPLICATIONS**

### **5 PLANNING APPLICATION - 24/00233/FUL - 34-35 HIGH STREET (DOLPHIN HOTEL)** (Pages 35 - 70)

Report of the Head of Transport and planning recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

### **6 PLANNING APPLICATION - 24/00040/FUL - 20-22 QUEENS TERRACE (HAVELOCK)** (Pages 71 - 114)

Report of the Head of Transport and planning recommending that the Panel delegate approval in respect of an application for a proposed development at the above address.

### **7 PLANNING APPLICATION - 22/00122/FUL - 37 LONDON ROAD** (Pages 115 - 128)

Report of the Head of Transport and planning recommending that the Panel delegate approval in respect of an application for a proposed development at the above address.

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# Agenda Item 4

To consider and approve Minutes from panel meetings on:

- 20 February 2024;
- 12 March 2024;
- 16 April 2024; and
- 4 June 2024

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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 20 FEBRUARY 2024

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Present: Councillors Savage (Chair), J Baillie, Beaurain, Cox, A Frampton, Greenhalgh and Mrs Blatchford

Apologies: Councillor Windle

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

The Committee noted the apologies of Councillor Windle and the appointment of Councillor Mrs Blatchford as representative for the purposes of the meeting.

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

**RESOLVED:** that the minutes for the Panel meetings held on 23 January 2024 be approved and signed as a correct record.

50. **OBJECTION TO THE CONFIRMING OF THE SOUTHAMPTON (DVSA GREEN LANE) TREE PRESERVATION ORDER 2023.**

The Panel considered the report of the Executive Director of Place seeking confirmation of the Southampton (DVSA Green Lane) Tree Preservation Order 2023.

No members of public or ward councillor were in attendance and there were no updates presented to the Panel.

Upon being put to the vote the officer recommendation to confirm the tree preservation order was carried unanimously.

**RESOLVED** that the Panel confirm the Southampton (DVSA Green Lane) Tree Preservation Order 2023.

51. **MARLHILL COPSE TREE WORK APPLICATION 23/00060/TPO**

The Panel considered the report of the Executive Director of Place detailing a tree work application to reduce the height of trees at Marlhill Copse.

Steve Thurston, Head of Planning & Development, AGS Airports Ltd (agent) in support of the application on behalf of Southampton International Airport was present and with the consent of the Chair, addressed the meeting. Cllr T Bunday (Ward Councillor) had submitted a statement, which was circulated and read before the meeting.

No updates were reported. The Panel considered the officer recommendation to refuse consent for all work within the application. Upon being put to the vote the officer recommendation was carried unanimously.

**RESOLVED** that the Panel refused the application.

52. **TREE WORK APPLICATION 23/00281/TPO**

The Panel considered the report of the Head of City Services.

Frank Spooner, Operations Director SJA Trees (agent) was present and with the consent of the Chair, addressed the meeting. Comments were received from the Historic Environment Officer and circulated to the Panel before the meeting.

No updates were reported. The Panel considered the officer recommendation and upon being put to the vote the officer recommendation was carried unanimously.

**RESOLVED** that the Panel:

- (i) Refuse the felling of the Monterey pine numbered 97 on the plan and listed in recommendation (i); and
- (ii) Approve the felling of the trees listed in recommendation (ii) to (xv)

53. **PLANNING APPLICATION - 23/01352/FUL - 89 KINGSLEY ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be conditionally approved subject to the criteria listed in the report.

Change of use from a dwelling house (class C3) to a house in multiple occupation (HMO, class C4).

Mr John Asiamah (applicant/supporter) and Councillor Shields (ward councillor/objecting) were present and with the consent of the Chair, addressed the meeting. In addition, the Panel noted that statements had been received, circulated, read, and posted online from local residents Lorraine Barter and Stewart Morris.

The presenting officer reported no updates to the recommendation.

The Panel then considered recommendation that the application be conditionally approved subject to criteria listed in the report. Upon being put to the vote the recommendation was carried.

RECORDED VOTE

FOR:	Councillor/s J Baillie, Beaurain, Cox, Blatchford, Greenhalgh, Savage.
ABSTAINED:	Councillor Frampton

**RESOLVED** that planning permission be approved subject to the conditions set out within the report.

54. **PLANNING APPLICATION - 23/00649/FUL - OLLECO, ROYAL CRESCENT ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address

recommending that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Redevelopment of the site. Demolition of existing buildings and construction of new buildings of up to 17 storeys to provide co-living accommodation comprising up to 397 private studio rooms with associated access, internal and external amenity spaces, landscaping, and public realm improvements; and including publicly accessible community cafe, co-working space, and gym at ground floor level (Sui Generis)

Colin Beaven (Local resident) and Simon Renier (City of Southampton Society (objecting), Amanda Ollie (agent), Darren Border (applicant), were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported the following updates to the report:

Para 3.5 of the report corrected to read that “vacuum cleaners would be available for hire at no extra charge”.

Para 8.3.7 updated to confirm that the applicant wish it to be known that they have not given an indication that they would likely appeal a CIL liability notice.

During discussion on the item, members raised the issue and officers agreed to amend the recommendation by the amendment of condition 4 on Flood Resistance and Resilience Measures and the addition of a condition regarding Provision/Retention of Kitchen Facilities (Performance) as set out in full below. Upon being put to the vote, the amendments to the recommendation were carried.

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

The Panel then considered recommendation (2) that authority be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report (as amended) and recommendation (3). Upon being put to the vote the recommendations as amended were carried.

#### RECORDED VOTE

FOR:	Councillors J Baillie, Beaurain, Cox, A Frampton, Greenhalgh, Savage.
ABSTAINED:	Councillor Mrs Blatchford

#### **RESOLVED**

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to the conditions in the report and the additional and amended conditions set out below and the completion of a S.106 Legal Agreement to secure all conditions and the amended and additional conditions.
3. Changes to recommendation/conditions

**Amended Condition 04 Flood Resistance and Resilience Measures**  
(performance)

The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref: Royal Crescent Road, Southampton, FLOOD RISK ASSESSMENT Version 5.0, dated 24 January 2024), and the following mitigation measures it details:

- Section 5.6 of the FRA - Finished floor levels (FFLs) shall be set no lower than 4.6 metres above Ordnance Datum (AOD) with no habitable rooms at ground floor level.
- To account for a minimum freeboard of 300mm flood resilience/resistance measures will be provided to a height of 4.98mAOD.
- The flood resistance measures shall conform to BS PAS 1188-1 and include the following up to a height of 4.98mAOD: watertight windows and flood doors; waterproof construction for foundations floor slab and walls; airbrick covers or auto-closing airbricks; non-return valves on foul drainpipes and foul inspection chambers.
- The flood resilience measures should include the following up to a height of 4.98mAOD: flood resistant material within walls and floors; flood-proof flooring; pipe insulation replaced with closed cell.
- Likewise, the following should be excluded below the height of 4.98mAOD: ground floor main ring; consumer unit; electricity/gas meters; boilers and associated pumps and controls.
- These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements.
- The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

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

The condition is in line with the Planning Practice Guidance (PPG) to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change.

**Additional Condition 39 Provision/Retention of Kitchen Facilities (Performance)**

The kitchen facilities within the studio rooms on the plans hereby approved shall be provided before the respective studio rooms come into occupation and shall thereafter be retained as approved.

Reason: To secure an acceptable residential environment.

55. **PLANNING APPLICATION - 23/01548/FUL - 6 HULSE ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Redevelopment of the site. Erection of purpose-built student accommodation with a 5-storey building containing 198-bed spaces with associated amenity space, cycle and refuse storage, following demolition of existing building.

Simon Renier (City of Southampton Society) and John Henton (Local resident) (objecting), Grant Leggett, Boyer, and James Potter, WGP Architects) (agents), were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported an update to conditions 18 & 19 to provide flexibility so that a minimum of BREEAM Excellent is achieved but that BREEAM Outstanding is targeted.

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

The Panel then considered recommendation (2) that the application be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report (as amended) and recommendation (3) and (4). Upon being put to the vote the recommendations were carried.

#### RECORDED VOTE

FOR:	Councillors J Baillie, Mrs Blatchford, A Frampton, Greenhalgh, Savage.
ABSTAINED:	Councillors Beaurain, Cox

**RESOLVED** that planning permission be delegated to the Head of Transport for approval subject to the conditions set out within the report and any additional or amended conditions set out below:

#### Changes to conditions

Amend conditions 18 & 19 to provide flexibility so that a minimum of BREEAM Excellent is achieved but that BREEAM Outstanding is targeted.

Amended conditions in full:

#### **18. BREEAM Standards (Performance)**

With the exception of site clearance, demolition and preparation works, no development works above ground shall be carried out until written documentary evidence demonstrating that the development will achieve Excellent against the BREEAM Standard, but which nevertheless seeks to achieve Outstanding against the BREEAM Standard, in the form of a design stage report, is submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA.

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

#### **19. BREEAM Standards (Performance)**

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved the BREEAM score agreed via condition 18 in the form of post construction assessment and certificate as

issued by a legitimate BREEAM certification body shall be submitted to the Local Planning Authority for its approval.

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

56. **PLANNING APPLICATION - 23/01500/FUL - NORTH QUAY, WHARF ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be conditionally approved subject to the criteria listed in the report.

Short and long-term secure car park for cruise passengers for a period of 5 years, including security fencing, and ancillary staff and customer facilities in ISO containers.

Amy Siney (local resident/objecting), Simon Brookwell (applicant), were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported amendments to the report to advise that the site is located within Peartree and not Woolston Ward, and that Peartree Ward Councillors had been correctly consulted.

During discussion on the item, members raised the issue and officers agreed to amend their recommendation to delegate to the Head of Transport & Planning to grant planning permission subject to the planning conditions recommended at the end of the report and in consultation with applicants as set out in full below.

The Panel considered amended recommendation that authority be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report and as set out in full below. Upon being put to the vote the amended recommendation was unanimously carried.

**RESOLVED**

4. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to the conditions in the report and any additional or amended conditions or planning obligations set out below.

**Changes to recommendation/conditions**

1. Delegate to the Head of Transport & Planning to grant planning permission subject to the planning conditions recommended at the end of this report and in consultation with applicants and EHO regarding suitable wording, scope, trigger points and timescales for additional conditions, in order to secure:
  - Tarmacadam hard surfacing within access and turning areas to reduce dust;
  - Appropriate measures to prevent odour nuisance from the on-site WC; and
  - Introduction of a notice at the site entrance to provide manned out of hours contact details for neighbouring residents.

2. In the event that the above additional conditions cannot be agreed within a reasonable timeframe after the Planning and Rights of Way Panel, the Head of Transport and Planning will be authorised to refuse permission on the ground of failure to adequately mitigate against the impacts of noise, odour and dust nuisance and to commence enforcement action to require cessation of the unauthorised cruise car parking use and for the land to be restored to its former condition with the removal of security fencing and ISO containers.

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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 12 MARCH 2024

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Present: Councillors Savage (Chair), Windle (Vice-Chair), Beaurain and Cox

Apologies: Councillor J Baillie, A Frampton and Greenhalgh

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

The Panel noted the apologies of Councillors J Baillie, A Frampton and Greenhalgh.

58. **THE SOUTHAMPTON (GRENVILLE COURT) TREE PRESERVATION ORDER 2023**

The Panel considered the report of the Head of City Services detailing an objection received to the making of a tree preservation order that protects 4 trees at Grenville Court, Old Farm Drive.

No members of public or ward councillor were in attendance and there were no updates presented to the Panel.

Upon being put to the vote the officer recommendation to confirm the tree preservation order was carried unanimously.

**RESOLVED** that that the Panel confirm the Southampton (Greville Court) Tree Preservation Order 2023.

59. **22/01341/FUL ST MARY'S COLLEGE, MIDANBURY LANE**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Re-development of the site to create 84 dwellings (8 x one bed apartments, 24 x 2 two apartments, 27 x two bed houses, 22 x three bed houses, 3 x four bed houses) with associated car and cycle parking, landscaped areas, play space and associated works.

Sally Wraight, (Cllr) Mrs Katherine Barbour (local residents/objecting), Graham Linecar (SCAPPS/objecting), Mrs Valeries Bourne, Mr David Fuller, Mrs Vivien Leckey, and Mr Peter Rykowski (St Mary's Opposition Resident's Committee/objecting), David Ramsey and Jenny Grote (agents), were present and with the consent of the Chair, addressed the meeting.

In addition, the Panel noted that statements had been received, circulated, read, and posted online from: Ward Cllr A Bunday, Residents; Mr Simon Bemister, Mr Sebastian Whitham, and St Mary's Opposition Resident's Committee.

The presenting officer reported the following amendments to the recommendation at paragraph 2:

- i. Paragraph 2(a) amended to “referral of the application to the Secretary of State, via the Planning Casework Unit, following an objection by Sport England in accordance with The Town and Country Planning (Consultation) (England) Direction 2024, for a period of 21 days”.
- ii. A new head of term in paragraph 2(b) “xii. any replacement trees (on a 2:1 basis) that cannot be planted on site would be secured via an off-site contribution through the s.106 process.

During discussion on the item, at the request of Cllr Savage, officers agreed to consider, through an additional delegation, how any off-site open space mitigation package might include improved stepped access into the River Itchen from Riverside Park.

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

The Panel then considered the recommendation that the application be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report (as amended). Upon being put to the vote the recommendation (as amended) was lost.

**RECORDED VOTE**

FOR: Councillor Cox  
 AGAINST: Councillors Beaurain, Savage, Windle.  
 ABSTAINED:

The Panel then considered the motion that the application be delegated to the Head of Transport and Planning to refuse planning permission on the grounds set out below. Upon being put to the vote the motion was carried.

**RECORDED VOTE**

FOR: Councillors Beaurain, Savage, Windle.  
 AGAINST:  
 ABSTAINED: Councillor Cox

**RESOLVED**

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. To delegate to the Head of Transport and Planning to REFUSE the application on the following grounds:

1) Loss of Open Space and playing fields

The proposed development would result in the direct loss of a designated open space and sports playing pitches of important local value, whilst increasing local demand for such spaces, in a part of the city where there are current deficiencies and would fail to deliver sufficient new open space and playing pitches of the

same quantity and quality on site and/or off site by way of mitigation. Whilst the site 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 for recreational facilities. The proposals would be directly contrary to saved Policy CS21 of the adopted Local Development Framework Core Strategy Development Plan Document Partial Review (March 2015) and would not meet any of the exception tests outlined within Sport England's Playing Fields Policy and Guidance Document or meet the criteria of paragraph 103 of the National Planning Policy Framework 2023.

2) Design

The proposed development, by way of its 'pedestrian' design and layout is not context-driven and would not be commensurate with the building-plot ratios and architectural aesthetic of surrounding development, nor respond positively to the green character of the site and its surroundings. As such the proposed development would be contrary to saved policies SDP1(i), SDP7, SDP9 of the City of Southampton Local Plan Review (2015) and saved Policy CS13 of the Local Development Framework Core Strategy Development Plan Document Partial Review (March 2015), Sections 2 and 3 of the Council's approved Residential Design Guide (2006), and the guidance contained within Chapter 12 of the National Planning Policy Framework 2023 in respect of achieving well-designed and beautiful places that respect existing context and local character, as set out in paragraphs 135-139.

3) Residential Amenity

The proposed development would be served by a singular point of vehicle access and would generate additional traffic movements along Monastery Road, which would significantly harm and change the established character of this quiet cul-de-sac in terms of adverse noise, vehicle movements and disturbance impacts on neighbouring properties caused by travel associated with the proposed development. As such the proposed development would be contrary to saved policies SDP1(i) and SDP7 of the City of Southampton Local Plan Review (2015).

4) S.106 Mitigation

In the absence of a completed Section 106 Legal Agreement, the proposals fail to mitigate against their direct impacts in relation to: Site Specific Transport Works; Affordable Housing; provision and maintenance of on-site open space and play equipment; Highway Condition Survey; Employment and Skills; Carbon Management; Special Protection Areas of the Solent Coastline; Waste Management, Controlled Parking Zones, Replacement Trees, and Permitted Highway Route. Therefore, the application does not, satisfy the provisions of saved Policies SDP1, SDP4, CLT6 of the City of Southampton Local Plan Review (2015) and saved Policies CS15, CS16, CS18, CS20, CS22, CS24 and CS25 of the Local Development Framework Core Strategy Development Plan Document Partial Review (2015) as supported by the Council's Developer Contributions Supplementary Planning Document (2013).

60. **23/01424/FUL 18 BRIDGE ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address

recommending that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Change of use from a dwelling house (Class C3) to a 7- person house in multiple occupation (HMO, class Sui-generis).

Lorraine Barter (Local resident, objecting and Councillor Keough (ward councillors/objecting) were present and with the consent of the Chair, addressed the meeting. In addition the Panel noted that a statement had been received from Mr Morris (Local resident objecting), which was read out at the meeting and had been circulated, read and posted online.

The presenting officer reported that there were no updates to the report.

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

The Panel then considered recommendation (2) that [the application be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report and recommendation (3). Upon being put to the vote the recommendations were carried unanimously.

### **RESOLVED**

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to the conditions in the report.

#### 61. **23/01585/FUL 1 BRIGHTON ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Change of use from a House in Multiple Occupation for up to 6 people (Use Class C4) to an 8-bed House in Multiple Occupation (Sui-Generis).

Lorraine Barter and Nick Pingelli (local residents/ objecting), and Nick Ellis (applicant), were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported no changes to the application.

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

The Panel then considered recommendation (2) that authority be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report and recommendation (3). Upon being put to the vote the recommendations were carried unanimously.

**RESOLVED**

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to the conditions in the report.

62. **24/00090/FUL 35 GURNEY ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be conditionally approved subject to the criteria listed in the report.

Erection of a single storey outbuilding at rear of garden.

Roland Fugh (Applicant) was present and with the consent of the Chair, addressed the meeting.

The Officer reported no changes to the report. The application was brought before Panel as the Applicant was an SCC employee known to the Planning Department.

The Panel then considered recommendation the application be conditionally approved, and planning permission granted subject to criteria listed in the report. Upon being put to the vote the recommendation was carried unanimously.

**RESOLVED** that planning permission be approved subject to the conditions set out within the report.

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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 16 APRIL 2024

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Present: Councillors Savage (Chair), Windle (Vice-Chair), J Baillie, Beaurain, Cox, A Frampton and Greenhalgh

63. **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

Councillor Savage declared that he would be withdrawing from the meeting in regard to the Bevois Mansions Application as he had been previously involved as a Ward Councillor in regard to the site.

**COUNCILLOR WINDLE IN THE CHAIR**

64. **PLANNING APPLICATION - 23/01588/FUL - BEVOIS MANSIONS**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Erection of a 3-storey building to create 2 x 1 bedroom flats with associated works including parking, amenity and stores. (Submitted in conjunction with 23/01589/LBC) (amended after validation to remove 'adjoining Bevois Mansions').

Simon Reynier and Lorraine Barter (local residents/ objecting), and Councillors Finn and Savage (ward councillors) were present and with the consent of the Chair, addressed the meeting. In addition the Panel noted that a statement from Stephen Burrow had been received, circulated, read and posted online from

The presenting officer reported that some amendments would be required to conditions 4 and 5, as set out below. Following a Panel discussion Officers agreed to amend the recommendation to add an additional delegation to officers in regard to the provision of trees on site, as set out below.

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

The Panel then considered recommendations 2 and 3, as amended, that the approval be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report. Upon being put to the vote the recommendations were carried.

RECORDED VOTE to delegate authority to the Head of Planning and Transport

FOR: Councillors Windle, J Baillie. Beaurain, Cox  
Greenhaigh  
AGAINST: Councillor A Frampton

**RESOLVED**

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to the conditions in the report and any additional or amended conditions or planning obligations set out below and:
  - a. the completion the of a S.106 or S.111 Legal Agreement to secure 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; and
  - b. advice from Trees Officers regarding the number and location of additional replacement trees to be requested via Condition 05. Landscaping.
3. That the Head of Transport and Planning be given delegated powers to add, vary and /or delete conditions as necessary, and to refuse the application in the event that item 2 above is not completed within a reasonable timescale.

#### Changes to recommendation/conditions

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

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

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

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

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

- (i) proposed means of enclosure; car parking layouts; other vehicle pedestrian access and circulations areas, external lighting, gates, structures and ancillary objects (refuse bins etc.);
- (ii) hard surfacing materials including permeable surfacing where appropriate. Details of the suitability of the cobbled surface for wheelchair access and bin collection, or alternative surface materials if access is unsuitable.
- (iii) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); A schedule of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate.
- (iv) tree planting plan showing **XX** no. trees to be planted within the red line of the application site, with a written schedule detailing tree species, size and maturity.
- (v) details of any proposed boundary treatment, including details of a brick boundary wall enclosing the new communal garden amenity space and;
- (vi) a landscape management scheme.



NOTE: Until the sustainability credentials of artificial grass have been proven it is unlikely that the Local Planning Authority will be able to support its use as part of the sign off of this planning condition.

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

Any approved 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.

Any approved trees which die, fail to establish, are removed or become damaged or diseased following their planting shall be replaced by the Developer (or their successor) in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

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

N.B Cllr Savage withdrew from the Panel for this item to address the meeting as a Ward Councillor

### **COUNCILLOR SAVAGE IN THE CHAIR**

#### **65. PLANNING APPLICATION - 23/01602/FUL - 29 FOUNDRY LANE**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be conditionally approved subject to the criteria listed in the report.

Change of use from a dwelling house (class C3) to a house in multiple occupation (HMO, Class C4).

Francesca Lambert, Mrs Barter (local residents objecting), Jayanarand Kumaraguru (agent), Raith Nair (applicant) and Councillor Shields (ward councillor) were present and with the consent of the Chair, addressed the meeting

The Panel then considered recommendation that the application be conditionally approved subject to criteria listed in the report. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to conditionally approve

FOR: Councillors Baillie, Beaurain, Cox, Savage and  
Windle

AGAINST: Councillors A Frampton , Greenhaigh

**RESOLVED** that planning permission be approved subject to the conditions set out  
within the report

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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 4 JUNE 2024

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Present: Councillors Windle (Chair), Beaurain, Greenhalgh, Lambert, Wood, Evemy and A Frampton

Apologies: Councillors Mrs Blatchford and Cox

1. **ELECTION OF VICE-CHAIR**

**RESOLVED** that Councillor Greenhaigh be elected as Vice-Chair for the Municipal Year 2024-2025.

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

It was noted that following receipt of the temporary resignation of Councillors Mrs Blatchford and Cox from the Director of Legal and Governance acting under delegated powers, appointed Councillors Evemy and A Frampton to replace them for the purposes of this meeting.

**COUNCILLOR GREENHAIGH IN THE CHAIR**

3. **PLANNING APPLICATION - 22/00695/FUL - FORMER GASWORKS BRITANNIA ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Redevelopment of the site. Construction of 4 buildings (Blocks A, B, C, D) ranging between 2 and 17 storeys comprising 384 residential units including ancillary residential facilities, with Block C comprising commercial floorspace (Class E), the link building comprising class E and class F2(b) uses, together with associated access from Britannia Road, internal roads and footways, car and cycle parking (including drop off facilities), servicing, hard and soft landscaping, amenity space, sustainable drainage systems, engineering and infrastructure works (amended description).

Simon Reyneir (City of Southampton Society), Bryrony Stala (agent), were present and with the consent of the Chair, addressed the meeting.

The presenting officer detailed some amendment required within the S106 (as set out below). In addition It was noted that condition 48 needed to be amended as set out below.

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

The Panel then considered the remaining recommendations that the application be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report (as amended) and recommendations 3 and 4 as listed

below. Upon being put to the vote the recommendations (as amended) were carried unanimously.

## **RESOLVED**

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to:
  - the conditions in the report and any additional or amended conditions or planning obligations set out below;
  - the receipt of a revised/updated viability assessment to reflect the current amended scheme, and the necessary fee to enable an independent review on behalf of the Council, within 3 months from this Panel meeting; and,
  - the completion of a S.106 Legal Agreement within 3 months of the receipt of the independent review of b) above to secure the following:
    - a. Either the developer enters into an agreement with the Council under s.278 of the Highways Act to undertake a scheme of works or provides 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. Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013) taking into account the submitted build programme and the findings of any independently assessed viability appraisal – as updated by 2B) above - with a commitment to regular and on-going review mechanisms throughout the build process.
    - c. Submission of a highway condition survey (both prior to and following completion of the development) to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
    - d. Financial Contribution towards Northam Road/Britannia Road junction incorporating an upgrade to the traffic signals, provide new pedestrian/cycle crossings and street lighting.
    - e. Footway surfacing, serving bays and traffic regulation orders on Britannia Road.
    - f. Land reservation, Northwest corner to of the site for Northam Rail Bridge improvement scheme.
    - g. Retain land for public access (amenity space) and Public Permitted Route
    - h. Travel Plan and Future Mobility Hub including Car Club Management Plan.
    - i. Limit occupation to Build to prevent units from being sold separately. Provision of community use room(s) to be managed through a community use agreement detailing hours of use, how the facility will be advertised and charging schedule.

- j. Submission of a Training & Employment Management Plan (with financial contribution where applicable) committing to adopting local labour and employment initiatives with financial contributions towards supporting these initiatives during both the construction and operational phases (as applicable), in accordance with Policies CS24 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013).
- k. The submission, approval and implementation of a Carbon Management Plan (with financial contribution where applicable) setting out how the carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013).
- l. Provision of on-site CCTV coverage plan (financial contribution where applicable) and monitoring in line with Policy SDP10 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS13 and CS25
- m. The submission, approval and implementation of a waste management plan.
- n. The submission, approval and implementation of a servicing management plan.
- o. The submission, approval and implementation of a Flood Management Plan for both the commercial and residential uses (where applicable) to promote safe evacuation in flood events – with ongoing review - in accordance with Policy CS23 of the adopted LDF Core Strategy and Policy AP15 of the City Centre Action Plan.
- p. The submission, approval and implementation of a construction traffic management plan

- 3 In the event that either the updated viability appraisal isn't received and/or the s.106 legal agreement is not completed within the time periods listed above (or another timeframe first agreed in writing with the Council) following the Panel meeting the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.
- 4 The Head of Transport and Planning be delegated authority to add, vary and/or delete relevant parts of the Section 106 agreement and/or conditions as necessary; and
- 5 In the event that either the updated viability appraisal isn't received and/or the s.106 legal agreement is not completed within the time periods listed above (or another timeframe first agreed in writing with the Council) following the Panel meeting the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

Changes to recommendation/conditions

**48. Commercial Euro Bin Storage (Performance)**

Before the commercial units hereby approved first come into occupation, the commercial bin stores shall be provided in accordance with plans that are first

submitted to and approved in writing by the Local Planning Authority and shall include the following:

- Ventilation;
- Outwardly opening doors, or roller shutter doors which do not encroach onto the public highway, with no less than 1.4 metre wide opening and capable of being secured in place whilst bins are moved;
- Level threshold access;
- A lock system to be operated by a coded key pad;
- Internal lighting;
- Facilities for cleaning and draining the store and;
- Dropped kerb access to the adjacent highway.

The stores shall thereafter be retained and made available for use at all times for the lifetime of the development and other than on collection day, at no time shall any refuse be stored outside of the buildings.

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

Note Councillor Windle withdrew from the meeting for consideration of this item.

#### **COUNCILLOR WINDLE IN THE CHAIR**

#### **4. PLANNING APPLICATION - 23/01508/FUL - LEISURE WORLD, WEST QUAY ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Use of the land for a period of up to five years for vehicle parking and storage associated with the operations of the Port of Southampton, with associated works including surfacing, lighting, fencing, drainage, service and security infrastructure, following demolition of public house and entertainment complex (Departure from Development Plan).

Ros Cassy (local resident), and Councillor Bogle (ward councillor) were present and with the consent of the Chair, addressed the meeting. Mark Ring (agent) was present virtually and experienced technical difficulties so was unable to address the Panel.

The presenting officer clarified that paragraph 1.4 of the report should have name Associated British Ports as the leaseholder. The presenting officer requested that Condition 3 be amended as set out below.

In addition it was noted that the offer of landscaping improvements listed in paragraph 2.6 had changed but any to amendments could be resolved by the proposed condition 6, as set out below. The Panel noted that the officer was recommending an amendment to Condition 11 in relation to the hours of construction hours as set out below.

During discussion on the item Councillors discussed the proposed time period within condition 1 for the temporary permission. A motion to amend the recommended condition 1 by reducing the period from 5 to 2 years was proposed by Councillor A Frampton and seconded by Councillor G Lambert was put forward. Upon being put to the vote, the amendment to the recommendation was carried.

RECORDED VOTE: on the proposed amendment

FOR: Councillors Windle, Beaurain, Evemy, Frampton  
and Lambert  
AGAINST: Councillors Greenhaigh and Wood

The Panel then considered recommendations that authority be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report as amended. Upon being put to the vote the recommendations were carried.

RECORDED VOTE

FOR: Councillors Windle, Beaurain, Evemy, Frampton,  
Lambert and Wood  
AGAINST: Councillor Greenhaigh

### **RESOLVED**

1. That authority be delegated to the Head of Transport and Planning 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 in accordance saved policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013), to secure site-specific transport contributions for highway improvements to Dock Gate 10 and West Quay Road including:
  - ii. The alteration of the phasing of traffic lights along West Quay Road to manage the traffic flows and green light time to reflect peak times and days for cruise traffic;
  - iii. Works to remove traffic signs to direct traffic to turn left out of Dock Gate 10 during peak times and days for cruise times.
2. That the Head of Transport and Planning 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 **3 months of the Panel meeting**, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

### **Changes to recommendation/conditions**

1. **Temporary Permission (Performance) AMENDED BY PANEL**  
The development hereby approved shall be discontinued either on or before the

period ending 2 years from the date of this consent. After this time the land, all storage and parking shall cease and the access link road between the site and Solent Road be removed.

REASON: The site is identified in the Development Plan for mixed use regeneration site and a lengthier use for storage and parking would hinder the realisation of this, adversely affecting the vitality of the city centre and the need for housing. Furthermore, the use of the site for storage and parking in the longer term would have a deleterious impact on the visual amenity of the area and impact on the ability to achieve a future flood defence for the city and the delivery of the West Quay Relief Road. As such, a period longer than 2 years for the use would not be acceptable.

### **3. West Quay Road Access Restriction (Performance Condition)**

**With the exception of access and egress by emergency service vehicles attending an emergency,** the car park hereby approved shall not take access or egress directly onto or off-of West Quay Road at any time. Prior to the first use of the development hereby approved, secure boundary treatment must be erected between the car park and the vehicular access with West Quay Road, in accordance with details agreed pursuant with condition 5, below. The boundary treatment shall be retained for the lifetime of the development.

REASON: To prevent congestion on the highway and to help screen the visual impact of the development.

### **6. Landscaping, lighting & means of enclosure detailed plan (Pre-Use)**

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

- a. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules plants, noting species, plant sizes and proposed numbers/planting densities where appropriate and;
- b. a landscape management scheme.

The approved hard and soft landscaping scheme for the whole site shall be carried out prior to the development first coming into use or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for the lifetime of the development.

Any approved trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, during the lifetime of the use 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 the duration of the use of the site hereby approved.



Any approved trees which die, fail to establish, are removed or become damaged or diseased following their planting shall be replaced by the Developer (or their successor) in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

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

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

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

Monday to Friday 07:30 to 18:00 hours

Saturdays 07:30 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.

**5. PLANNING APPLICATION - 23/01645/FUL - LAND ADJ. 47 BRYANSTON ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Redevelopment of the site. Erection of 3 x 2-storey buildings comprising of 8 dwellings (4 x2-bedroom, 4 x3-bed

Meghan Rossiter (agent), and Councillor Keogh (ward councillor) were present and with the consent of the Chair, addressed the meeting. In addition the Panel noted that statements had been received, circulated, read and posted online from Mr & Mrs Gizzi, Silma Gallagher, Jessica Charge and Sharon Bedford.

The presenting officer reported that changes to the recommendation and Condition 6 would be required, as set out below.

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

The Panel then considered recommendations that authority be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report (as amended). Upon being put to the vote the recommendations as amended were carried.

RECORDED VOTE:

FOR: Councillors Windle, Greenhaigh, Every,  
A Frampton G Lambert and Wood  
ABSTAINED: Councillor Beaurain

**RESOLVED**

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. Delegate to the Head of Transport and Planning to
  - review and agree the slope stability analysis and foundation design;
  - to consult with Network Rail and agree any appropriate mitigation; and
  - the receipt, review and agreement of the SUDS drainage design in consultation with SCC Flood Officer and the drainage scheme and suitable connections with Southern Waterand to then 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 an equivalent financial contribution or the developer enters into an agreement with the Council under s.278 of the Highways Act to provide a new vehicular access to be built to adoptable standard and Parking restrictions in the form of double yellow lines to protect the new access from kerbside parking which may hinder emergency vehicle access into the new access (Section 278 and/or Traffic Regulation Orders will likely be required to enable the works and shall need to be entered into and funded by the developer). To also secure a row of parking spaces as shown on the approved site plan drawings of the planning application to be built and maintained to adoptable standards and retained for public use to offset the loss of kerbside parking. 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 (both prior to and following completion of the development) to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
  - c) Either a scheme of measures or a financial contribution 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 Transport and Planning be given delegated powers to add, vary and/or delete relevant parts of the Section 106 agreement and/or conditions as necessary.
4. In the event that Network Rail object, the legal agreement is not completed and/or the slope stability and foundation design is not agreed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure a

safe scheme and/or the provisions of the Section 106 Legal Agreement.

Changes to conditions

**6 Slope Stability Analysis, Foundation and retaining wall design (Pre-Commencement)**

Prior to the commencement of development hereby approved, a slope stability analysis and foundation and retaining wall design and method statement, to include measures to preserve the natural drainage characteristics of the soils and not to interfere with the existing groundwater regime, shall be submitted to and approved in writing by the Local Planning Authority. The foundation design shall be informed by the recommendations by the Main Investigation Report by Soils Ltd (Ref 21029/MIR Rev 1.0 October 23) with piled foundations to the housing. The development shall be carried out and retained in accordance with the agreed details.

**REASON:** In the interest of residential amenity and slope stability.

**6. PLANNING APPLICATION - 24/00170/FUL - LAND ADJ. SYNAGOGUE MORDAUNT ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be conditionally approved subject to the criteria listed in the report.

Erection of a two-storey building comprising of 4 x 1-bedroom flats with solar panels on roof, associated amenities and retention of temporary boundary fence (resubmission of: 23/01534/FUL)

Bargir Bazarov (agent), was present and with the consent of the Chair, addressed the meeting. Additionally the Panel noted that statements had been received, circulated, read and posted online from Jamie Hankins, Joseph Kavanagh and a further statement had been received by a person wishing to remain anonymous

The presenting officer noted that the report incorrectly suggested that the application would be delegated for approval and affirmed that the report was for conditional approval.

During discussion on the item, members raised issues in regard to lack of parking permit allocation and officers agreed to add an informative to the planning permission that clearly stated that no permits could be allocated for the new properties.

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

The Panel then considered recommendation that the application be conditionally approved. Upon being put to the vote the recommendation was carried unanimously.

**RESOLVED**

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.

2. that planning permission be approved subject to the conditions set out within the report with the addition of an informative to the developer on parking permits

## INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 9<sup>th</sup> July 2024

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
<b>Approximate start time 4:00 pm</b>				
6	AL	CAP	5	24/00233/FUL 34-35 High St (Dolphin Hotel)
<b>Approximate start time 4:45 pm</b>				
7	AL	DEL	5	24/00040/FUL 20-22 Queens Terrace (Havelock)
<b>Approximate start time 5:15 pm</b>				
8	SB	DEL	5	22/00122/FUL 37 London 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  
 SB – Stuart Brooks  
 MT – Mark Taylor

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

### **Report of Head of Transport & Planning**

#### **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) Connected Southampton 2040 Transport Strategy (LTP4) adopted 2019.
  - (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 (2013)
- (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
- (j) Bus Service Improvement Plan (BSIP) 2021.

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 9<sup>th</sup> July 2024**  
**Planning Application Report of the Head of Transport and Planning**

<b>Application address:</b> Dolphin Hotel, 34-35 High Street, Southampton			
<b>Proposed development:</b> Change of use from an hotel (Class C1) to fully catered student accommodation (Sui Generis) with up to 99 bedrooms and associated spaces (no external/internal alterations)			
<b>Application number:</b>	24/00233/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Anna Lee	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	16.07.2024	<b>Ward:</b>	Bargate
<b>Reason for Panel Referral:</b>	More than five letters of objection have been received	<b>Ward Councillors:</b>	Cllr Bogle Cllr Lambert Cllr Noon
<b>Referred to Panel by:</b>		<b>Reason:</b>	
<b>Applicant:</b> Dolphin Hotel Property Limited		<b>Agent:</b> Savills	

<b>Recommendation Summary</b>	<b>Delegate to the Head of Transport and Planning to grant planning permission subject to criteria listed in report</b>
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<b>Community Infrastructure Levy Liable</b>	<b>No</b>
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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. Policies – CS1, CS3, CS4, CS6, CS15, CS16, CS19, CS20 and CS22 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP5, SDP10, SDP12, SDP13, SDP14, H1, H2, H7, H13, HE1 and HE3 of the City of Southampton Local Plan Review (Amended 2015). Policies AP8, AP9, AP12, AP16 and AP18 of the City Centre Action Plan March 2015.

<b>Appendix attached</b>			
1	Habitats Regulation Assessment	2	Development Plan Policies
3	Relevant Planning History	4	Selected Consultation Comments in Full

### **Recommendation in Full**

1. That the Panel confirm the Habitats Regulation Assessment in **Appendix 1** of this report.
2. Delegate to the Head of Transport and Planning to grant planning permission subject to the planning conditions recommended at the end of this report and:
  - i. The completion of a S.106 Legal agreement to secure either the developer enters into an agreement with the Council under s.278 of the Highways Act to undertake a scheme of works or provides a financial contribution towards site specific transport contributions for highway improvements in the vicinity of the site, namely an enhanced bus shelter to the front of the site to accommodate an increase in usage by students, 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);
  - ii. The submission of plans for the cycle and refuse storage prior to planning permission being granted.
3. That the Head of Transport and Planning be given delegated powers to add, vary and/or delete relevant parts of the Section 106 agreement and/or conditions as necessary.
4. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

### **1. The site and its context**

- 1.1 The application site is located in the Old Town North Conservation Area and is a Grade II\* Listed Building. The property has most recently been used as a hotel (albeit for short term lettings during the covid 19 pandemic) and is currently vacant. To the rear of the existing hotel is an associated car parking area, although this is excluded from the application site. The former Dolphin Hotel building is an 18<sup>th</sup> Century, 4-storey building which is one of the last coaching inns in the city. The English Heritage Listing Description sets out that there are elements of 16<sup>th</sup> Century buildings at the back of the site. The property also has a range of 2, 3 and 4 storey 19<sup>th</sup> Century extensions to the rear. There is an information plaque on the High Street frontage of the building which explains that the Author, Jane Austen, was believed to have visited the Dolphin Hotel on three occasions, when staying with family in St Mary's Street.
- 1.2 When viewed from the High Street, the building is split, by a carriage arch, into two parts with a three-storey, pitched roof section and a four-storey section with mansard roof and distinctive double-height bay windows at first and second floors. Both parts of the building are rendered at ground floor and brick on the other floors, bar the rendered bays. A historic lane, known as Dolphin Lane, crosses the site from the High Street to the Back of Walls to the rear, although this is not a public Right of Way.

1.3 The site adjoins the locally listed 'Old Bank', currently being extended and converted into student accommodation with café, and the Grade II Listed Building at 36-37 High Street. The site lies within the defined city centre and adjoins an area safeguarded for secondary shopping frontages. The site is also located in a nighttime area as defined within policy AP8 of the City Centre Action plan.

## 2. Proposal

2.1 Although the property is a Grade II\* listed building no listed building application is required since no physical alterations to the fabric of the building are proposed. The proposal is solely for the change of use from an established hotel to student accommodation providing up to 99 bedrooms. Unlike other recent purpose built student accommodation in the city these bedrooms do not have their own cooking facilities.

2.2 No on-site car parking is proposed to serve the development. Within the existing courtyard, adjacent to 31-33 High Street, cycle storage is proposed providing 100 secure spaces.

2.3 At ground floor, a dining room, lounge and reception area will be provided for the students. The dining area will also be accessible to the public. The existing kitchen will be used for on-site food preparation to cater for the students, since no in-room cooking facilities are provided. There is a lower-ground floor/basement that could be used for ancillary storage if required.

2.4 The ground floor also accommodates twenty-five bedrooms within the main building and 5 rooms within the two-storey element adjacent to 36 and 37 High Street. At first floor, a further twenty-seven (inc. one 2-bed) rooms are provided with large communal rooms at the front (retaining the existing meeting/events space) and a further four rooms within first floor of the two-storey element. It is proposed that the frontage communal rooms would be available to the general public to view/use via a booking system.

2.5 At second floor, twenty rooms are proposed (inc. one 2-bed) and third floor seventeen rooms. Bedrooms are typically 15-16sq.m in size.

## 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 The National Planning Policy Framework (NPPF) was revised in 2023. Paragraph 225 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.
- 4.2 The most relevant recent permission was for the redevelopment over the rear car park (planning permission 20/00521/FUL) for a development of four to seven storey blocks comprising 72 flats (50 x 1-bed and 22 x 2-bed) with the retention of the car parking for the sole use of the hotel. This permission expired earlier this year.

#### **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 **05.04.2024** and erecting a site notice **29.03.2024**. At the time of writing the report, **23 (21 objections, 2 neutral)** representations have been received from surrounding residents. The following is a summary of the points raised:

- 5.2 ***There have been recent applications for hotel development in the city suggesting that there is a need for hotels. In addition, no figures have been provided to prove the use is not viable.***

##### **Response**

It is accepted that there is a need for hotels to meet the tourism demand in the City, although there are neither local nor national policies in place which require the retention of hotel bedspaces. This is typically left to the market to determine. Furthermore, the Council's Planning Team doesn't hold a record of all existing provision, or occupancy levels, and has not adopted a cap on the number of rooms provided or a policy that prevents further conversion and loss.

The applicant has set out in the submission that the hotel is no longer a viable enterprise, and as a consequent it closed for business following brief use for as short-term lettings. The Council have no reason or counter evidence to dispute this. Whilst there have been several planning permissions for hotels in recent years in the city, many of these have yet to be implemented (including Leisure World, 171-172 High Street, 12 High Street, Nelson Gate and Cedar Press). As such, whilst not a material consideration due to the absence of a policy, the Planning team consider that there remains a good supply of hotel rooms in the city and it would be difficult to oppose the principle of this building moving to an alternative use.

- 5.3 ***This is an important heritage site that attracts visitors to the city and should be at least partially accessible to the public.***

##### **Response**

There is no planning requirement for the building to be accessible to the public. Many hotels prevent full public access and others offer only some public use. An alternative hotel operator for the Dolphin could prevent any access to their building by non-paying guests and that would be out of scope for the Planning system.

The proposal would, however, bring this vacant heritage asset back into active use with minimal changes to the historic fabric of the building, which is a key planning consideration when assessing changes to Listed Buildings (paragraph 208 of the National Planning Policy Framework and the National Planning Practice Guidance Para 019 Ref ID:18a-018-20190723 refers). Failure to support the ongoing use of the building could see it deteriorate; and it is always good practice for listed buildings to find an active and (preferably) a viable use.

The applicant proposes to enable members of the public to have access to some parts of the building of interest, via appointment. This access will be secured by a Public Access Management Plan condition to ensure that public access does not harm the amenities of the future occupants of the building. This compromise position is deemed to be acceptable.

5.4 ***Student accommodation is already catered for elsewhere in the city and there is too much student accommodation in this area.***

**Response**

There is a current need for student accommodation and the location within the city centre is ideal for this use. Research carried out as part of other proposals show that the two universities together have an overall capacity of some 32,000 full-time students. Although there is a significant amount of development in the pipeline, the research indicates that there remains an unmet demand for student bedspaces in the city. Until the Council has its own up to date student needs survey the Planning Team agree with the applicant that this proposal will contribute to meeting existing need whilst reducing pressure on existing housing stock to be lost to shared housing.

5.5 ***The Dolphin Hotel is ideally located, quite near the cruise ports, making it perfect for passengers to stay either before their cruises, or to stay afterwards to enjoy the city before moving on in their journey home. The hotel guests can enjoy the history of this hotel.***

**Response**

The Planning Team agree that this building makes for a good hotel in a great location and serves an existing tourist demand. That in itself is not sufficient for the Planning Team to refuse a planning application for an alternative use. The applicant has set out that it is not feasible, from a cost perspective, to bring the building back up to the necessary standard for it to be used as a hotel.

Given the city centre location of the site there are other hotel offerings in the vicinity of the site. As set out above, there are no planning policies in place that specifically require the retention of hotel accommodation within the city, and no evidence has been provided to show that the City's existing hotel stock is fully booked.

5.6 ***A condition of approval should be included to keep the historic walkway through the site open to the public.***

**Response**

Agreed and a condition is suggested to ensure this as it has been with earlier proposed redevelopment proposals for the car park area.

5.7 ***If approved, the City is sending a message that student accommodation is more important than retaining historic buildings in terms of their value and history.***

**Response**

It's not that binary. The application seeks to retain and convert the existing building with no impact on the actual historic fabric of the building proposed. The National Planning Practice Guidance sets out that:

*"The vast majority of heritage assets are in private hands. Thus, sustaining heritage assets in the long term often requires an incentive for their active conservation. Putting heritage assets to a viable use is likely to lead to the investment in their maintenance necessary for their long-term conservation. (Paragraph: 015 Reference ID: 18a-015-20190723)"*

Keeping historic buildings in active use is the best way to ensure their upkeep and maintenance. Leaving a listed building in the Conservation Area vacant is deleterious to the character of the Conservation Area and leaves the building at risk of further deterioration. Refusing this planning application does not mean that the building will reopen as a hotel.

5.8 ***The development is out of character with the rest of the High Street and its vibrancy and well as the conservation area.***

**Response**

The key tests for development within a conservation area is whether or not the special character has been preserved or enhanced as a consequence of the proposal. No objection has been raised to the principle of the use by the Council's Historic Environment officer. The Conservation Area already contains a variety of uses as you'd expect on most high streets, which includes student and other residential buildings, and the proposal would accord with this. The proposal will retain an active ground floor frontage to the High Street and the fabric of the building (including the High Street elevation) will appear unaltered as viewed from public vantage points in the Conservation Area. On this basis the development would preserve the character of the Conservation Area. Furthermore, a vacant Listed Building does, and would continue to, have a significant adverse impact on the vibrancy and vitality of the Conservation Area.

5.9 ***The proposed change of use application cannot be evaluated accurately without understanding what changes are being considered as no listed building application is proposed.***

**Response**

The application, as proposed, does not require the submission of an application for Listed Building Consent because there are no physical alterations proposed.

5.10 ***Student accommodation is different from a hotel, and a management plan is required as well as a management plan regarding the mechanism within which the arrival and departures are controlled at the beginning and end of academic years.***

**Response**

Agreed and a student management plan is suggested to address this aspect.

5.11 ***The development should create accommodation for sale or rent to the general public as its historic character will attract visitors.***

**Response**

The UK Planning system doesn't allow for this. The provision of potential (preferable) alternative uses is not a material planning consideration and the Panel must assess this application on its own merits against the adopted Development Plan. It is noted, however, that the fabric of the building would need significant alteration to convert it to individual flats and this could, therefore, be more damaging than the current proposals to the historic fabric.

5.12 ***Further information regarding public access to parts of the hotel should be provided upfront and not conditioned.***

**Response**

The applicant has proposed that public access would be provided to the ground floor dining room and first floor communal lounge and events space, via an appointment system for 5 hours during the week. Whilst there is no planning reason to secure public access to the building, sufficient information has been provided to assess the acceptability of public access to the building.

5.13 ***Concern with the impact of the proposal on local drainage.***

**Response**

There is no intensification of the site so the impact on the local drainage is not altering.

**Consultation Responses**

5.14	<b>Consultee</b>	<b>Comments</b>
	Cllr Bogle	<p><b>Objection</b></p> <ul style="list-style-type: none"> <li>• The Principle of this application               <ul style="list-style-type: none"> <li>- This is an historic and public-facing building with a rich heritage.</li> <li>- Need to have regard to the Destination Management Plan.</li> <li>- I understand hotels are a viable commercial concern, this needs to be explored further with a new operator rather than allow this change of use.</li> <li>- It is a building that works well as a hotel and allows public and visitors to use its facilities.</li> <li>- The loss of access to private student residence is not in keeping with such a prominent site on the High Street and will close off more of our heritage assets to the public.</li> </ul> </li> <li>• Out of character               <ul style="list-style-type: none"> <li>- The proposal does not fit with a thriving High Street with commercial and publicly accessible frontages.</li> <li>- There are a number of conversions to student residential properties in this area.</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>- A decision needs to be put into context of what a balanced level of types of use in a High Street should look like.</li> <li>• Interested to hear the views from Historic England on this change of use for such an important listed asset.</li> </ul>
	Cllr Noon	<p><b>Objection</b></p> <ul style="list-style-type: none"> <li>• The loss of the use as an hotel will have detrimental effect on the cultural offering of the city for residents and visitors.</li> <li>• The proposal does not fit well with a thriving city centre offer and could lead to a decline in the city centre economy.</li> <li>• Concerns about the saturation of new students blocks on the High Street.</li> </ul>
	Cllr Paffey (previous ward Cllr at the time of submission)	<p><b>Objection</b></p> <p>I request that it is brought to the Planning &amp; Rights of Way panel so the public can have their say.</p> <ul style="list-style-type: none"> <li>• Although the economic climate is difficult we cannot allow short-term, unimaginative responses to this, to lead to the loss of important sites of historical value, in prime, high-street locations</li> <li>• Many other cities have found ways of ensuring that heritage sites are not lost to this kind of unnecessary development - it would be remiss of SCC to allow this without ensuring that all other possibilities have been exhausted.</li> <li>• The proposed student accommodation is out of character with the area and does not need to be on a prime high-street location.</li> <li>• There seems to be utter confusion over the state of the various markets (hotels, student accommodation). There have been new hotels developed or newly built in recent years, yet we hear the claim that the hotel market is failing (and yet more hotels) - what is the real situation here?</li> <li>• Similarly, just a few years ago it was accepted that the student accommodation market had reached saturation point, and yet now it's claimed there is significant demand.</li> <li>• Clear evidence should be provided for the current status of these markets before any</li> </ul>



		<p>decision is made on this.</p> <ul style="list-style-type: none"> <li>• This site needs long-term thinking, and that is not what this application currently represents.</li> </ul> <p><b>Officer comment:</b> These questions are answered in the report.</p>
	Cllr Everyy	<p><b>Objection</b></p> <p>As the City Councils Heritage Champion, I ask that this application be considered at the Planning &amp; Rights of Way panel so the public can have their say.</p> <ul style="list-style-type: none"> <li>• From a heritage building point of view there is very little to argue, there are the bare minimum of alterations to the existing building and the use is not at much variance to that of a hotel.</li> <li>• Historic England have made no objection to it.</li> <li>• Until recently it has been a public building that people have had free access to and is an important part of Southampton's heritage.</li> <li>• From an economic point to view I can see the importance of having hotels on the High Street.</li> <li>• However one look at reviews can see that the Dolphin has been run down for years.</li> <li>• Given the few changes to the building as is could we ask that to revert to a hotel in the summer months, outside term time to meet the tourist/cruise trade? Could a temporary permission be given for use as a student hostel being reviewed in 5- 7 years to see what the hotel market is doing and if there are opportunities to bring it back into hotel use?</li> <li>• If approved no significant alteration to the building either now or in the future should be allowed. As I would not like to see an application in the future for alterations to form self-catering student flats or other schemes that would prevent a future reversion to the intended use of this building as a hotel.</li> </ul> <p><b>Officer comment:</b> A temporary consent would not be reasonable or practicable in this instance.</p>
	CIL Officer	<p><b>No objection</b></p> <p>The proposal does not appear to be CIL liable as the layout is similar to a conventional halls of residence, which is not chargeable, rather than self-contained student units/cluster flats which we do charge for as they are similar to C3 use. Provided that the units</p>

	<p>remain reliant on a communal kitchen, dining and communal facilities the proposal will not be CIL liable.</p>
Historic England	<p><b>No comment</b> In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.</p>
Historic Environment Team	<p><b>No objection</b> (<i>full comments in Appendix 2 of the report</i>) The proposals would have no direct impact on the character or appearance of this part of the conservation area, whereas the physical impact of the proposals on the significance of the listed building itself would be considered low. As such, the proposals would be considered to fall on the low end of the spectrum of `less than substantial harm`.</p> <p>It would be difficult to sustain a refusal of the proposals from a purely heritage perspective at this time. That said, should the proposals be considered acceptable, then attaching condition/s to secure continued public access, and ensuring an area is set aside at ground floor level for interpretive measures would be requested.</p>
SCC Highways Development Management	<p><b>No objection subject to conditions/s106</b> In principle, this is development is considered acceptable given the same number of occupants/bedspaces and nature of use. However, given the student use, the level of bus usage would be higher and more concentrated. As such the use of bus stop located to the front of the site would be increased and it does not currently have capacity to deal with this. Furthermore, our policies require new student developments to be supported by sustainable modes of transport. Therefore, the provision of an enlarged shelter to accommodate these users should be secured via a legal agreement.</p>
SCC Sustainability Team	<p><b>No objection</b> As no internal or external changes are proposed, there are no sustainability requirements, however the applicant is advised to consider sustainability where possible, e.g. if any water and energy efficiency upgrades are required.</p>

Environmental Health	<p><b>No objection subject to conditions.</b></p> <p>Conditions restricting the construction hours, no bonfires and that the applicant should specify the windows to be provided in the bedrooms overlooking the High Street to ensure future inhabitants have living conditions that aren't affected by external noise.</p> <p><b>Officer comment:</b> The proposal is for a change of use with no external alterations. Any works to windows will form part of a listed building application. In addition, the site already provides sleeping accommodation so it is not a new use.</p>
Natural England	<p><b>Further information required to determine impacts on designated sites</b></p> <p>As submitted, the application could have potential significant effects on the below designated sites;</p> <ul style="list-style-type: none"> <li>• Solent and Southampton Water Special Protection Area (SPA) / Ramsar</li> <li>• Solent Maritime Special Area of Conservation (SAC),</li> <li>• Solent and Isle of Wight Lagoons SAC</li> <li>• New Forest SPA, SAC and Ramsar,</li> <li>• New Forest Site of Special Scientific Interest (SSSI).</li> </ul> <p>Your Authority will need to undertake a Habitats Regulations Assessment (HRA) to determine whether the proposal is likely to have a significant effect on the sites named above, proceeding to the appropriate assessment stage where significant effects cannot be ruled out.</p> <p>Without this information, Natural England may need to object to the proposal.</p> <p><b>Officer comment:</b> An HRA has been carried out and it concluded that as there was no intensification of the site use there would be no significant adverse impacts on the designated area set out above.</p>
SCC Head of Culture and Tourism	<p><b>Objection: Summary (full comments in Appendix 2 of the report)</b></p> <p>As it currently stands, not supportive of the application for change of use.</p> <ul style="list-style-type: none"> <li>- Concerned with the impact on the Visitor Economy of the city</li> <li>- Not in accordance with the Council's Destination Management Plan which indicates a demand for hotel accommodation</li> <li>- Concerned at the oversupply of student</li> </ul>

		<p>accommodation on the High Street and its potential impact in effect other potential uses.</p> <ul style="list-style-type: none"> <li>- Query the impact on public access on occupants</li> </ul> <p><b>Officer Response:</b> This is discussed in the Planning Considerations section below. The current Development Plan policies do not prevent the loss of existing hotel use.</p>
	<p>Southampton Forward Tourism Manager</p>	<p><b>Objection</b></p> <ul style="list-style-type: none"> <li>• Work is underway to implement the Southampton Destination Management Plan (DMP).</li> <li>• Latest information from Carnival indicates that that the cruise sector is set to overtake pre pandemic figures and continue to grow.</li> <li>• The city cannot afford to lose any hotel rooms, if we also want our visitors to explore more of what the city has to offer and spend money.</li> <li>• Noted the hotel requires investment but this should not be a reason to just convert it to student accommodation when there is already a considerable amount of student accommodation in the area already.</li> <li>• It could set a precedent for other similar hotels.</li> <li>• A property such as the Dolphin Hotel not only has distinctive features on its frontage/buildings generally but has historical connections in particular Jane Austen (plans being developed to mark 250 years since the birth of the famed author this year).</li> </ul> <p>Officer Response: This is addressed in the Considerations Section, below.</p>
	<p>Tourism South East</p>	<p><b>Objection:</b></p> <ul style="list-style-type: none"> <li>• The historic status and the story behind the hotel is particularly suited to positioning in the visitor economy.</li> <li>• The Destination Management Plan highlights that accommodation is critical to the city to support the growth of the cruise market and ensure that the revenue is retained within the city.</li> <li>• There is significant projected expansion of cruise in the city.</li> <li>• The Dolphin Hotel has a unique heritage which has particular appeal for international</li> </ul>

		<p>visitors.</p> <ul style="list-style-type: none"> <li>• The proposed change of use to the current Dolphin Hotel would have widespread negative economic impacts to the local Southampton economy.</li> <li>• It is considered that the proposed student accommodation would impact the area's visitor offering, reduce the economic multiplier effect and will not support Southampton's long-term economic ambitions.</li> </ul>
	<p>Southampton Tourist Guides Association</p>	<p><b>Objection</b></p> <ul style="list-style-type: none"> <li>• The Dolphin Hotel is an historic building with close connections to local and national figures.</li> <li>• Access to the building for tourists with their guides is essential and must be preserved for the future as it has been in the past.</li> <li>• There has been inadequate time given to consultation on this matter and we feel it has been poorly advertised as being considered.</li> <li>• Finding the application on Southampton City Council website has been very difficult, this may have restricted potential commenters.</li> <li>• During covid and the subsequent short-term letting it has been impossible to request access to the building for purposes of tourist guiding, with particular reference to tours with a Jane Austen theme.</li> <li>• Inadequate time has passed to assess the continued impact of post-Covid and economic factors on the need for hotel accommodation.</li> <li>• Seeking to change the use of the building to student accommodation is short-sighted and denies the contribution of this building and the site to the overall preservation and conservation of Southampton and its historic connections.</li> <li>• This application must be disallowed. Should the planning department decide otherwise, it must be considered whether the processes have been adequate by which this application has been advertised and consultation been conducted - our Association argues that the process has been flawed.</li> </ul> <p><b>Officer comment:</b> The Planning related points are addressed later in this report. Officers can confirm that, in response to the final point, that the application has been advertised in line with</p>

		Government procedures.
	<p>Hampshire Branch of the Jane Austen Society.</p>	<p>Part of its long history is its link with Jane Austen. It is the only surviving site in Southampton that we know she visited. She attended at least two Balls at the Dolphin.</p> <p>It is to be hoped, and expected, as a listed building, the significant historic features such as the facade and internal features, such as the Ballroom, will be preserved and maintained.</p> <p>Whilst we are not enthusiastic about this proposed change of use, it does mean that the building will have a future which it currently does not. This is preferable to the building allowed to become derelict.</p> <p>There will be many celebrations during 2025 for the 250th anniversary of Jane Austen's birth (JA250). Southampton will be involved with these celebrations and will benefit from the increased interest in Jane Austen.</p> <p>It is hoped that ongoing limited public access, at least annually, will be permitted to the Dolphin Hotel, especially to visit the Ballroom. During 2025, it would be ideal if more frequent access was available as part of the JA250 celebrations.</p> <p>In the present economic climate we are realistic in our recognition of there being no available funds to develop this building into a heritage asset. However, we would hope this important historic site will not be completely lost to those of us who love Jane Austen and her novels.</p>
	<p>City of Southampton Society</p>	<p><b>Objection:</b></p> <ul style="list-style-type: none"> <li>• Concern with the maintenance backlog as the building needs a great deal of work.</li> <li>• Need to maintain the building's contribution to the High Street townscape.</li> <li>• Contrary to Southampton's Destination Management Plan recognises the economic and social value of tourism and highlighting the important of hotel development in this.</li> <li>• Details of student accommodation demand needed.</li> <li>• Details of student management.</li> <li>• Clarification of catering needed and what</li> </ul>

		<p>services will be covered by the rent.</p> <ul style="list-style-type: none"> <li>• Need to provide good public access to the heritage parts of the building including the first floor assembly room.</li> <li>• The owner has generously offered limited public access based in a room at the front with High Street access. This room unfortunately has no connection with the historic Georgian heritage rooms. No approval should be granted without conditions governing catering, public access, and ensuring the assembly room is not divided. The management of the students, change overs, social events, and welfare support is key.</li> <li>• It is a concern that developer has not undertaken student accommodation before and it addition it is not understood why the hotel is not viable.</li> <li>• It Is unclear what changes to the building's fabric will occur. It is clear that some changes will be necessary. It is difficult to judge the current application without seeing the planned changes.</li> <li>• The ground floor must provide at least a café with interpretation boards explaining the buildings heritage and historic guests Both the city and the Dolphin itself can then properly market the building's historic connections.</li> </ul>
	<p>Old Town Residents Association</p>	<p><b>Objection:</b></p> <ul style="list-style-type: none"> <li>• Further details required with respect to the catering on offer in terms of whether the students have facilities in their room. This is a change from the fully catered within the application details.</li> <li>• The Old Town cannot assess how it will affect the area in terms of on local businesses or residents and visitors to the area.</li> <li>• There is a clear need for hotels so don't understand why it is not viable.</li> <li>• As no listed building application has been provide there are many gaps in understanding exactly what the applicant proposes to do to the building.</li> <li>• There needs to be clear evidence of student need as the figures are unclear. This can then be considered alongside the emerging visitor strategy to assess the comparative value of students and tourists to the city as a whole.</li> </ul>

	<ul style="list-style-type: none"> <li>• More information required with required to the access to elements of the building and how the heritage centre would work in terms of management.</li> <li>• There are too many student developments within the area.</li> <li>• More discussions with stakeholder are required and the application should be refused whilst other options (uses) are explored.</li> <li>• The building is completely different from modern hotels and should attract a wide variety of clientele.</li> </ul>
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## **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;
  - Design and Effect on Character and Heritage Assets;
  - Residential Amenity;
  - Parking, Highways and Transport;
  - Mitigation of Direct Local Impacts; and
  - Likely Effect on Designated Habitats.

### **6.2 Principle of Development**

6.2.1 CS16 of the Core Strategy confirms that *'in response to concern about the concentration of student accommodation within parts of the city, the Council will work in partnership with universities and developers to assist in the provision of suitable, affordable accommodation for students to relieve the pressure on housing markets'*. This policy confirms the Council's dual approach of delivering student accommodation whilst simultaneously managing the conversion of existing family housing to HMOs, to relieve the pressure on local markets. In addition to this, 'saved' Local Plan Policy H13 supports the delivery of student accommodation in locations accessible to the Universities and where there is an identified need. Details have been provided to support the application and these demonstrate there is an unmet need for student bedspaces within the city, which the development will help to address. The site is located within the city centre and within walking distance of the Solent University and has excellent transport links to the University of Southampton. Therefore, the location is appropriate for student accommodation.

6.2.2 The application will result in the loss of hotel accommodation from the city centre and, whilst core Strategy Policy CS 1 promotes further hotel development in the city centre, neither local or national planning policies safeguard existing hotel provision. Policy CS7 of the Core Strategy safeguards all existing employment sites. The accommodation proposed follows a more traditional halls of residence model with individual bedrooms and on-site catering. As such, there is an element of employment generated by the development. The application sets out that there would be an equivalent number of jobs on-site following the development to as currently exists (10 full-time equivalent). As such, the application is considered to



meet the intentions of Policy CS7.

6.2.3 The proposal seeks to retain and re-use the existing building to provide further residential accommodation, which is supported by Policy AP9 of the City Centre Action Plan. Furthermore, the proposal would help to bring a vacant building back into active use, which will assist with the vitality of the area. Furthermore, in order to safeguard the maintenance and upkeep of Listed Buildings, the National Planning Policy Framework states, in paragraph 208, that *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'*. This is assessed further in section 6.3, below. The principle of development is, therefore, considered acceptable.

### 6.3 Design and Effect on Character and Heritage Assets

6.3.1 The submitted information sets out that, prior to its closure, the hotel was operating at a loss and this resulted in the maintenance and upkeep of the building diminishing. A key rationale of the development is that the proposed use would require minimal intervention to the fabric of the building. The Council's Historic Environment Officer advises that the existing building has been heavily modernised although, where features of historic or architectural interest exists, they will be retained following the change of use. It is accepted that, other than repairs, the proposed use could be accommodated without any large-scale alterations to the building. In particular, existing fire safety measures; access and egress points; services and noise insulation measures can be made use of. Furthermore, the proposal would retain the large open plan reception and ballroom areas and the attractive façade of the building. There is no change to the floor plan of the building, other than the manner in which it will be used.

6.3.2 The statutory tests for the proposal, as set out in sections 16 (Listed Buildings), 66 (Listed Buildings) and 72 (Conservation Areas) of the Planning (Listed Building and Conservation Areas) Act 1990, are: whether the proposal would preserve the building, its setting or, any features of special architectural or historic interest (Listed Buildings) and; whether the proposal would preserve or enhance the character or appearance of the Conservation Area. The NPPF requires the proposal to be assessed in terms of the impact on the significance of the building having regard to:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and;
- The desirability of new development making a positive contribution to local character and distinctiveness.

6.3.3 In accordance with para 201 of the NPPF, it is assessed that the proposal would sustain the significance of this important Grade II\* Listed heritage asset and, in accordance with paragraph 203 of the NPPF, the proposal would secure a viable use consistent with the conservation of the building.

6.3.4 Further guidance is set out in paragraph 201 which advises LPAs should seek to avoid or minimise any conflict between the heritage asset's conservation and any

aspect of the proposal. It leads on to say, in paragraph 206, that any harm needs to be clearly and convincingly justified. If a development results in 'less than substantial harm' to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal as set out in paragraph 208 whilst securing '*its optimum viable use*'. Historic England are content to leave this matter to our Heritage Officer and they raise no objection to the application.

6.3.5 The number of bedspaces proposed is the same as which currently exists and the ground floor dining facility is similar to the previous restaurant offer, meaning there would not be a significant change in the intensity of use of the building. This also assists in preserving the character of the area.

6.3.6 On this basis, in accordance with sections 16, 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990, it is considered that the proposal would preserve the special historic and architectural character of the Listed Building and the character of the Conservation Area. As such, it is considered to accord with both local and national design policy and guidance.

#### 6.4 Residential Amenity

6.4.1 Given the absence of physical alterations, the proposal would have a limited impact on the amenities of nearby residential occupiers. The use of rooms is similar to the existing situation-i.e. windows serving bedrooms currently would continue to serve bedrooms following the change of use. As such, the proposal does not introduce any harmful overlooking. As noted above, the intensity of the use is similar to that which currently exists, also ensuring that the impact on existing residents in the area would be acceptable. A Management Plan would be secured by condition to ensure the facility contains an on-site management presence, and measures to limit the potential for noise and disturbance to nearby uses.

6.4.2 The Council has not adopted standards relating to the size or level of amenity provision for student schemes such as this and the quality of accommodation, therefore, falls to be judged on its own merits. In term of the quality of the accommodation proposed, all rooms have a decent outlook and adequate natural light for a city centre scheme of this nature. All units have access to some communal areas and students are also catered for, which promotes better interaction than the current self contained purpose built student model. A condition is suggested to secure a landscaping scheme to provide defensible planting adjacent to ground floor windows adjacent to Dolphin Lane, together with the provision of railings adjacent to the ground floor frontage to secure an acceptable level of privacy for residents.

6.4.3 It is accepted that public access would cause some disruption to residents however, it is anticipated that public use would be low-key in nature and would be limited to daytime hours within the week only. Furthermore, it is proposed that residents would be notified in advance of any visitors to the building. It is noted that during peak tourism season, i.e. summer months, students are often away from their term-time accommodation. The short-term nature of student accommodation and the relatively transient nature of the residents, also helps to ensure that the impact on privacy is not deleterious to the occupants' amenities. Overall, it is considered that a Public Access Management Plan, secured by condition would help in controlling the public

access proposed.

## 6.5 Parking, Highways and Transport

6.5.1 Saved policy SDP5 of the Local Plan confirms that the provision of car parking is a key determinant in the mode of travel. The adopted Development Plan seeks to reduce the reliance on private car for travel and instead promotes more sustainable modes of travel such as public transport, walking and cycling. The development provides no on-site car parking to serve the development. The surrounding streets are subject to parking restrictions. The accessible nature of the site coupled with the limited car parking will meet the aim for sustainable patterns of development, as required by the Council's adopted policies. The submitted Transport Statement states within paragraph 5.5 that the *'proposed development is expected to create a reduction of 12 trips in the AM, 18 trips in the PM and 309 trips over a 12 period. Therefore, it is not expected that the proposed development will have an adverse effect on the local highway network.'* This is agreed by the Council's Highway Development Management team.

6.5.2 A designated drop off area for the start and end of term is shown on the proposed site plan within the red line. Furthermore, there are many car parks within the vicinity such as the Eastgate Street multistorey car park, which could also be used by students on intake days. Further details are to be secured by a suggested condition via a student intake management plan.

6.5.3 Conditions are suggested to secure refuse management and servicing/delivery management plans and secure the details of the proposed cycle storage. In addition, given the lack of parking and increased reliance on public transport from the proposed use a s.106 legal agreement is sought to secure a financial contribution to enlarge the bus shelter directly in front of the site.

## 6.6 Mitigation of direct local impacts

6.6.1 The development proposal needs to address and mitigate the additional pressure on the social and economic infrastructure of the city, in accordance with Development Plan policies and the Council's adopted Planning Obligations SPD (2013). Given the highway impacts associated with this development, a package of contributions and obligations would be required as part of the application if the application were approved. Contributions would be secured via a Section 106 legal agreement with the applicant. In terms of highway works these would include improvements aimed at pedestrian facilities given level of bus usage could be higher and more concentrated due to the city centre location. The contribution required would enable the provision of a larger bus shelter to the bus stop located in front of the site to accommodate more users.

## 6.7 Likely effect on designated habitats

6.7.1 The proposed development, as a residential scheme, has been screened (where mitigation measures must now be disregarded). 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 concluded that no significant adverse impacts on the Solent and Southampton Water and New Forest Special Protection Areas and the New

Forest Special Area of Conservation will result from this development.

- 6.7.2 This assessment concluded that as overall the number of overnight residents of the property are likely to be lower than the permitted use as hotel accommodation and therefore the levels of water discharge affecting the water quality of the Solent and Southampton Water Special Protection Area would be lower too. For the same reasons as above (and that it is a car free scheme), it is likely that fewer leisure trips would be taken, to both the new Forest and Coastal Areas included within the Solent and Southampton Water Special Protection Area and New Forest Special Protection Area and Special Area of Conservation.
- 6.7.3 Given this conclusion, the proposed development does not need to mitigate against its impacts both in terms of the requirement for new residential development to comply with the Solent Recreation Mitigation Strategy (SRMP) contribution nor does it need to mitigate against its nitrogen load.

## **7. Summary**

- 7.1 The principle of new student residential development is considered acceptable. The principle of conversion to student accommodation is supported given an established need in the City, although the proposal will result in a loss of a hotel use, the scheme will result in the reuse of a currently vacant building. The proposal would not alter the fabric of the listed building as no internal or external changes are proposed. The change of use does not lead to an intensification of the site so impact on adjacent properties is deemed acceptable.
- 7.2 The concerns raised by third parties about the loss of this important and attractive hotel with a strong tourist draw is well articulated. However, the Planning system, and our adopted Development Plan, doesn't protect the Dolphin hotel from closure and the Council cannot insist that an unviable business remains open. The Council cannot insist that an existing hotel provides public access to certain parts of its demise. The Dolphin hotel is currently closed and in need of investment. The Planning Panel are asked to consider an alternative use to provide a long-term use for this attractive Grade II\* building – the principle of which is strongly encouraged by the NPPF. There is a need for the proposed use and no physical works are needed to the fabric of the listed building to accommodate this. Additional student housing – albeit in the old town – is supported in the city centre where there is good support systems and transport links; including the Solent University itself. It potentially reduces demand for additional student accommodation in less suitable areas of the City and assist in reducing demand for HMOs thereby potentially freeing up family housing.
- 7.3 The proposed layout would provide sufficient outlook and light to the rooms for future occupiers. The scheme also provides communal internal space and details are suggested to secure external landscaped areas. Furthermore, the proposal retains an active frontage and secures controlled public access to areas within the building. The proposal would not detrimentally harm the either the listed nature of the building nor the conservation area within it sits. Furthermore, the proposal will not have any adverse highway impacts. As such, planning permission is recommended.

7.4 It is acknowledged that the proposal would meet a demand for further student bedspaces in the city. There would also be social and economic benefits resulting from the proposed change of use to student accommodation, and the subsequent occupation, as set out in this report. Having regard to s.38(6) of the Planning and Compulsory Purchase Act 2004, and the considerations set out in this report, the application is recommended for approval.

## **8. Conclusions**

8.1 It is recommended that a conditional planning permission is granted following the completion of the suggested s.106 using the delegations sought.

### **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)

**Case Officer Anna Lee - PROW Panel 09.07.2024**

### **PLANNING CONDITIONS**

#### **1. Full Permission Timing (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. Restricted Use – Ground Floor Dining Area (Performance)**

Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking, amending, or re-enacting that Order, the ground floor ancillary space (shown on approved plans as dining hall ref Dwg No: 9004-A-DR-X-1010) shall be only used as a dining area with heritage centre for the occupiers of the building and the general public that visit the building and not for any other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the amenities of neighbouring occupiers and the vitality of the city centre.

#### **3. Student occupation restriction (Performance)**

Within term times, the development hereby approved shall only be occupied by persons on a course of higher education on a full-time basis at a University, Institute or other comparable educational establishment.

Reason: In the interests of Affordable Housing, since a development of 99 general purpose flats would trigger the require the provision of Affordable Housing and in the interests of residential amenity, having regard to the small-scale nature of the rooms which makes them unsuitable as general purpose residential accommodation and since a mix of student and non-student occupants could give rise to other residential

amenity issues.

**4. Retention of access along Dolphin Lane (Performance)**

The access route from the High Street to the Back of Walls (known as Dolphin Lane) shall remain clear and unobstructed to enable unfettered access.

Reason: To protect the historic character of the area and the continuation of a defined route.

**5. Number of bedrooms and occupancy (Performance)**

The development hereby approved shall comprise up to 99 bedrooms and all one-bedroom rooms be single occupancy.

Reason: To ensure the use of the building does not have a harmful environmental effect in the interests of amenity.

**6. Internal communal areas (Performance)**

The internal communal areas shown on the approved plans and access to them, shall be made available as intended for use by residents of the development hereby approved prior to the first occupation of the development and shall be retained thereafter with access to it at all times for the use of all occupiers of the development.

Reason: To ensure the provision of adequate communal space in association with the approved units.

**7. Public Access Management Plan (Pre-Occupation)**

Before the development hereby approved first comes into occupation a management plan setting out the areas that will be accessible to the public, including details of the means by which the public will be able to access these spaces (which comprise the ground floor dining area, reception and lounge and the first floor communal lounge/events space) shall be submitted to and approved in writing by the Local Planning Authority. The agreed Plan shall be in place before the relevant site is first occupied and shall thereafter be implemented as approved.

Reason: To enable the retention of an active frontage at ground floor and control over the use of the shared communal areas.

**8. Hours of Use by General Public (Performance)**

Arranged visits to the building by the general public, agreed pursuant to condition 7 above, shall not take place outside of the following hours:

Monday to Friday 10:30 to 16:30

And at no times on public holidays.

Reason: In the interests of residential amenity.

**9. Student Management Plan (Pre-Occupation)**

Before the development hereby approved first comes into occupation details of how the students will be managed (including an onsite management presence) on a

day-to-day basis shall be submitted to and approved in writing by the Local Planning Authority. The agreed Plan shall be in place before the relevant site is first occupied and shall thereafter be implemented as approved.

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

**10. Student Intake management plan (Pre-Occupation)**

Before the development hereby approved first comes into occupation details setting out the arrangements for the intake of students at the start of and the end of term shall be submitted to and approved in writing by the Local Planning Authority. This plan shall include;

- designated drop off zones;
- arrangements for communication the students and their parents; and
- supervision arrangements

The agreed Plan shall be in place before the relevant site is first occupied and shall thereafter be implemented as approved.

Reason: In the interests of highway safety.

**11. Refuse management plan (Pre-Occupation)**

Before the development hereby approved first comes into occupation a refuse management plan shall be submitted to and be agreed in writing by the Local Planning Authority which sets out refuse strategy for the movement of the euro refuse bins from the units to a collection point and back to the internal storage areas. The collection point should be within 10m of either the public highway or the route of the refuse vehicle. The approved refuse management plan shall be implemented and retain unless agreed otherwise by the Local Planning Authority.

Reason: In the interests of highway safety.

**12. Refuse and 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.

**13. Cycle storage facilities (Pre-Occupation Condition)**

Before the development hereby approved first comes into occupation, secure and covered storage for bicycles shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The storage shall be thereafter retained as approved.

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

**14. Delivery and Servicing Management Plan (Pre-occupation)**

Prior to first occupation of the development hereby approved a Delivery and Servicing Management Plan shall be submitted and agreed in writing with the Local Planning Authority. The plan shall set out delivery and servicing arrangements for the whole development retail to prevent harmful obstruction to the footway and carriageway. The development shall be retained in accordance with the agreed Delivery and Servicing Management Plan.

Reason: In the interests of highway safety and the visual amenities of the area.

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

Notwithstanding the submitted details, a detailed landscaping scheme and implementation timetable shall be submitted to and approved by the Local Planning Authority in writing, to include:

- i. planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate to be submitted;
- ii. prior to their implementation details of any proposed boundary treatment, including low level boundary restrictions along the soft landscaped areas to prevent parking shall be submitted, railings adjacent to front facing bedroom windows and defensible planting adjacent to ground floor bedroom windows facing Dolphin Lane and;
- iii. prior to the implementation of the landscaped areas, a landscape management scheme of all the landscaped areas within the site shall be submitted.

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

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

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

**16. Construction Management Plan (Pre-commencement)**

Before any development works are commenced, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority which shall include details of:

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



- b) loading and unloading of plant and materials;
- c) details of cranes and other tall construction equipment (including the details of obstacle lighting)
- d) details of temporary lighting
- e) storage of plant and materials, including cement mixing and washings, used in constructing the development;
- f) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;
- g) measures to be used for the suppression of dust and dirt throughout the course of construction;
- h) details of construction vehicles wheel cleaning; and,
- i) 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, and the character of the area and highway safety.

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

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

Monday to Friday 08:00 to 18:00 hours

Saturdays 09:00 to 13:00 hours

And at no time on Sundays and recognised public holidays.

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

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

#### **18. 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.

#### **Note to Applicant - No works without listed building consent**

Please note that no physical works shall take place to the building without the submission of a listed building application.

Habitats Regulations Assessment (HRA)	
<b>Application reference:</b>	24/00233/FUL
<b>Application address:</b>	Dolphin Hotel 34-35 High Street Southampton
<b>Application description:</b>	Change of use from an hotel (Class C1) to fully catered student accommodation (Sui Generis) with up to 99 bedrooms and associated spaces and the retention of existing car parking (no external/internal alterations)
<b>HRA completion date:</b>	17 April 2024

<b>HRA completed by:</b>	
<b>Lindsay McCulloch</b> <b>Planning Ecologist</b> <b>Southampton City Council</b> <b>lindsay.mcculloch@southampton.gov.uk</b>	

Summary
<p>The project being assessed is as described above.</p> <p>The site is located close to the Solent and Dorset Coast Special Protection Area (SPA), the Solent and Southampton Water SPA/Ramsar site and the New Forest Special Area of Conservation (SAC)/SPA/Ramsar site.</p> <p>The site is located close to protected sites and as such there is potential for construction stage impacts. It is also recognised that the proposed development, in-combination with other developments across south Hampshire, could result in recreational disturbance to the features of interest of the New Forest SPA/Ramsar site and the Solent and Southampton Water SPA/Ramsar site.</p> <p>In addition, wastewater generated by the development could result in the release of nitrogen and phosphate into the Solent leading to adverse impacts on features of the Solent Maritime SAC and the Solent and Southampton Water SPA/Ramsar site.</p> <p>The findings of the initial assessment concluded that the proposal would not result in an additional overnight population based on the proposed occupancy of the building as student accommodation and likely population</p> <p>Following consideration of a number of avoidance and mitigation measures designed to remove any risk of a significant effect on the identified European sites, it has been concluded that <b>the significant effects, which are likely in association with the proposed development, can be adequately mitigated and that there will be no adverse effect on the integrity of protected sites.</b></p>

Section 1 - details of the plan or project	
<b>European sites potentially impacted by plan or project:</b>	<ul style="list-style-type: none"> <li>▪ Solent and Dorset Coast Special Protection Area (SPA)</li> <li>▪ Solent and Southampton Water SPA</li> </ul>

<p><b>European Site descriptions are available in Appendix I of the City Centre Action Plan's Habitats Regulations Assessment Baseline Evidence Review Report, which is on the city council's website</b></p>	<ul style="list-style-type: none"> <li>▪ Solent and Southampton Water Ramsar Site</li> <li>▪ Solent Maritime Special Area of Conservation (SAC)</li> <li>▪ River Itchen SAC</li> <li>▪ New Forest SAC</li> <li>▪ New Forest SPA</li> <li>▪ New Forest Ramsar site</li> </ul>
<p><b>Is the project or plan directly connected with or necessary to the management of the site (provide details)?</b></p>	<p>No – the development is not connected to, nor necessary for, the management of any European site.</p>
<p><b>Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?</b></p>	<ul style="list-style-type: none"> <li>▪ Southampton Core Strategy (amended 2015) (<a href="http://www.southampton.gov.uk/policies/Amended-Core-Strategy-inc-CSPR-%20Final-13-03-2015.pdf">http://www.southampton.gov.uk/policies/Amended-Core-Strategy-inc-CSPR-%20Final-13-03-2015.pdf</a>)</li> <li>▪ City Centre Action Plan (<a href="http://www.southampton.gov.uk/planning/planning-policy/adopted-plans/city-centre-action-plan.aspx">http://www.southampton.gov.uk/planning/planning-policy/adopted-plans/city-centre-action-plan.aspx</a>)</li> <li>▪ South Hampshire Strategy (<a href="http://www.push.gov.uk/work/housing-and-planning/south_hampshire_strategy.htm">http://www.push.gov.uk/work/housing-and-planning/south_hampshire_strategy.htm</a>)</li> </ul> <p>The PUSH Spatial Position Statement plans for 104,350 net additional homes, 509,000 sq. m of office floorspace and 462,000 sq. m of mixed B class floorspace across South Hampshire and the Isle of Wight between 2011 and 2034.</p> <p>Southampton aims to provide a total of 15,610 net additional dwellings across the city between 2016 and 2035 as set out in the Amended Core Strategy.</p> <p>Whilst the dates of the two plans do not align, it is clear that the proposed development of this site is part of a far wider reaching development strategy for the South Hampshire sub-region which will result in a sizeable increase in population and economic activity.</p>

Regulations 62 and 70 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) are clear that the assessment provisions, i.e. Regulations 63 and 64 of the same regulations, apply in relation to granting planning permission on an application under Part 3 of the TCPA 1990. The assessment below constitutes the city council's assessment of the implications of the development described above on the identified European sites, as required under Regulation 63 of the Habitats Regulations.

## Section 2 - Assessment of implications for European sites

### **Test 1: the likelihood of a significant effect**

- **This test is to determine whether or not any possible effect could constitute a significant effect on a European site as set out in Regulation 63(1) (a) of the Habitats Regulations.**

**The proposed development is** located close to the Solent and Dorset Coast SPA, Solent and Southampton Water SPA and Ramsar site and the Solent Maritime SAC. As well as the River Itchen SAC, New Forest SAC, SPA and Ramsar site.

A full list of the qualifying features for each site is provided at the end of this report. The development could have implications for these sites which could be both temporary, arising from demolition and construction activity, or permanent arising from the on-going impact of the development when built.

As the proposal is for a change of use only and does not require any external works the identifiable impacts are in relation to

- Increased leisure activities and recreational pressure; and,
- Deterioration in water quality caused by nitrates from wastewater

### **Conclusions regarding the likelihood of a significant effect**

**This is to summarise whether or not there is a likelihood of a significant effect on a European site as set out in Regulation 63(1)(a) of the Habitats Regulations.**

The project being assessed is as described above. The site is located close to the Solent and Dorset Coast Special Protection Area (SPA), the Solent and Southampton Water SPA/Ramsar site and the New Forest Special Area of Conservation (SAC)/SPA/Ramsar site.

Concern has been raised that the proposed development, in-combination with other residential developments across south Hampshire, could result in recreational disturbance to the features of interest of the New Forest SPA/Ramsar site and the Solent and Southampton Water SPA/Ramsar site. In addition, wastewater generated by the development could result in the release of nitrogen into the Solent leading to adverse impacts on features of the Solent Maritime SAC and the Solent and Southampton Water SPA/Ramsar site.

The lawful use of the site at this time is as a hotel which has 99 rooms, capable of double occupancy use. This use as The Dolphin Hotel formed part of the Southampton Hotel Development Assessment conducted in 2019<sup>1</sup> and represents the most recent data available on occupancy. Out of 4 star hotels within Southampton, of which the Dolphin was included, occupancy rates averaged around 80%. Whilst this is a higher void rate than is likely in student accommodation there is a likelihood that significant numbers of rooms within the existing use as a hotel would be occupied by two persons.

The proposed use is conditioned to require single occupancy and therefore a maximum permitted number of 99 students could occupy the building. Even using a conservative estimate of 50% of rooms being in single occupancy on the basis of a

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<sup>1</sup> Southampton Hotel Development Assessment, Southampton City Council, August 2019

total 80% rooms occupancy rate the average nominal occupancy of the hotel would be 119 persons which is in excess of the permitted occupancy of the proposed student accommodation.

Overall the number of overnight residents of the property are likely to be lower than the permitted use as hotel accommodation and therefore the levels of water discharge affecting the water quality of the Solent and Southampton Water Special Protection Area. For the same reasons as above it is likely that fewer leisure trips would be taken to both the new Forest and Coastal Areas included within the Solent and Southampton Water Special Protection Area and New Forest Special Protection Area and Special Area of Conservation.

It is therefore considered that there would be no significant adverse impacts on the Solent and Southampton Water and New Forest Special Protection Areas and the New Forest Special Area of Conservation. An Appropriate Assessment is therefore not required.

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS1	City Centre Approach
CS3	Town, district and local centres, community hubs and community facilities
CS4	Housing Delivery
CS6	Housing Density
CS15	Affordable Housing
CS16	Housing Mix and Type
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats

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

SDP1	Quality of Development
SDP5	Parking
SDP10	Safety & Security
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
H13	New Student Accommodation
HE1	New Development in conservation Areas
HE3	Listed Buildings

City Centre Action Plan - March 2015

AP9	Housing supply
AP8	Night Time Area
AP12	Green infrastructure and open space
AP16	Design
AP18	Transport and movement

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 (revised 2023)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

**Relevant Planning History**

<b>Case Ref</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
03/00967/FUL	Retrospective application for external alterations and change of use to enable conversion of hotel accommodation to 4 no. retail units (Class A1) on the ground floor in the lane. (amended description on 5th October 2004).	Conditionally Approved	18.10.2004
03/00968/FUL	Retrospective application for external alterations and change of use to enable conversion of hotel accommodation to 4 no. retail units (Class A1) on the ground floor and 1 no. office unit (Class A2) on the first floor in the lane, external landscaping to the Lane and erection of close boarded fencing (amended description on 5th October 2004).	Conditionally Approved	18.10.2004
03/01065/FUL	Construction of one two storey block and one three storey block to the rear comprising of 39 residential flats, 7 retail units and associated car parking and landscaping	Withdrawn	25.09.2003
03/01066/LBC	Construction of one two storey block and one three storey block to the rear comprising of 39 residential flats, 7 retail units and associated car parking and landscaping.	Withdrawn	15.08.2003
04/00754/LBC	Internal and external alterations for the conversion of the 'Dolphin Lodge' to 3 no. dwelling units.	Conditionally Approved	26.11.2004
04/00755/FUL	Conversion of the 'Dolphin Lodge' into 3 no. dwelling units.	Conditionally Approved	12.10.2004
07/01388/FUL	Redevelopment of the site. Erection of buildings ranging in height from 4 storeys to 6 storeys to provide 86 flats with associated parking and access arrangements.	Application Refused	23.11.2007
09/01218/FUL	Change of use from Retail Class A1 to Class C1 to form additional hotel accommodation on ground floor and first floor (Submitted in conjunction with application 09/01219/LBC)	Conditionally Approved	14.01.2010

09/01219/LBC	Application for listed building consent for internal and external alterations to facilitate conversion of existing restaurant and retail units into bedrooms on ground and first floor. The relocation of the hotel kitchen and installation of an externally mounted flue system.	Conditionally Approved	12.01.2010
09/01306/LBC	Application for listed building consent for internal alterations to facilitate conversion of ground floor WC to hotel kitchen including removal of three internal windows, creation of new internal doorway and provision of new internal ducting for extract equipment.	Conditionally Approved	02.02.2010
13/00180/FUL	Change of use of Dolphin Lodge from 3 dwelling houses (class C3, occupation tied to existing hotel), to hotel (class C1). (Affects the setting of a Listed Building).	Conditionally Approved	18.03.2013
16/01180/FUL	Erection of a 3-storey rear extension to the hotel to provide 36 additional bedrooms with associated external works including the removal of the existing external fire escape staircase.	Withdrawn	09.07.2018
16/01396/LBC	Listed Building Consent sought for erection of a three-storey rear extension to the hotel to provide 36 additional bedrooms with associated external works including the removal of the existing external fire escape staircase (submitted in conjunction with 16/01180/FUL).	Withdrawn	09.07.2018
20/00521/FUL	Redevelopment of the site. Erection of four to seven storey blocks comprising 72 flats (50 x 1-bed and 22 x 2-bed), openings in boundary wall, replacement hotel parking and new access (Resubmission) (Submitted in conjunction with 20/00522/LBC)	Conditionally Approved	14.01.2021
20/00522/LBC	Listed Building Consent sought for removal of part of existing boundary wall (submitted in conjunction with 20/00521/FUL)	Conditionally Approved	20.01.2021
24/00620/FUL	Installation of temporary generator to Dolphin Hotel Car Park in connection with planning permission 23/00645/MMA at 31-33 High Street, Southampton.	Pending	



**Consultation comments in full**

**Council's Historic Environment Officer's comments in full**

Background

- The Dolphin Hotel is a C18 brick-and-tiled property of 4-storeys located in a long linear plot that links the High Street with the Back of Walls.
- The principal building presents an asymmetrical and rendered frontage with a central carriage entrance.
- A linear range of C19 extensions of 2, 3 & 4 storeys project out at the rear (east) which face a large open parking area bounded by brick walls on all three sides.
- The property is one of the last coaching inns within the city and some fabric could contain earlier phases of construction and is therefore a grade II\* listed building.
- The property is also within the Old Town Conservation Area.
- Various schemes to provide new hotel and residential rooms in the rear car park area were approved in 2008 and 2016 but were never built.
- An outline application (ref: 19/00256/OUT) to develop the eastern section of the car park area to create an L-shape residential scheme over 4-7 floors was approved under 20/00521/FUL in 2020.
- Current proposals seek to change the use of the property from a hotel to student accommodation for 99 bedrooms.

Assessment and advice

This is a change of use application only and other than repairs, no material changes to the historic fabric or appearance of the listed building are being proposed. Consequently, the Listed Building Consent process would not be directly engaged at this time although it should be noted that should the principle of the development be considered acceptable on planning grounds, this would not necessarily mean that the works to facilitate the new use would gain the approval of Listed Building Consent, especially in instances where any physical change would be considered harmful to its special architectural or historic interest. Notwithstanding this, and with regards to the submitted heritage statement and additional supporting information subsequently received, a view as to whether the building could accommodate the proposed new use can be formed.

On inspection, the recent accommodation uses appear to have taken their toll on the building and its physical fabric. The distinctive bow windows and parapet/crest detail are all looking tired. The interior of the building has been much modified to accommodate changing hotel needs over time, particularly with regards to access, fire safety, and heat/noise insulation mechanisms. For instance, all the existing corridors and habitable rooms present a standardised décor and the rooms themselves have all been previously subdivided to provide modern en-suite facilities. The kitchens and restaurant areas have been upgraded and modern fire doors, protected corridors, and fire escape routes have all been established. Similarly, all the extant features of historic interest that do survive in-situ such as the windows, the historic fireplace/s at ground floor level, the prominent stairwell, and the panelling

and ceilings within the former ballroom at first floor level would all be retained.

The additional information received states that the hotel has tried to continue to adapt and operate in its current guise, although like other period hotels of a comparable size, it is facing similar challenges in attracting the high level of patronage needed to sustain income and expenditure. It also states that the hotel facility is operating at a loss and the building is suffering from neglect due to lack of funds available for repair. When exploring options for establishing a viable reuse, the owners consider that student occupation would be the best fit given the large size and existing layout of the building, and that this type of use would have the least impact on its special interest, especially when compared to the alternative of subdividing the building into private flats. The information also goes on to say that the proposed reuse of this building would help facilitate the restoration of the building, and to address public access concerns, a managed access approach would be proposed. This would allow access to the interior and would include the provision of a dedicated area to facilitate the establishment of an interpretation and/or museum facility to showcase the building's connection with influential figures of the past, such as Jane Austen.

With regards to the above, and from a purely conservation perspective, it is acknowledged that the proposals would sever the building from its original coaching inn use, a use which has prevailed for over 300 years. In doing so, the historic and proud social connection this building has provided the city over time would be diminished. However, it is also acknowledged that other than repairs, the conversion would unlikely require any large-scale alterations to facilitate this new use. For instance, although students would occupy the rooms for a longer period when compared to hotel guests, the fire safety needs or means of egress already exist and no additional heat and noise insulation mechanisms would likely be necessary to make the rooms habitable. Electrical plant and plumbing routes to the rooms also exist whereas the stairwell and the differing floor levels would be maintained. The open plan character of the large reception areas and the ballroom would remain unaltered and set aside for amenity use. Its distinctive façade would also remain legible in the street whereas public access could be managed by way of attaching conditions/legal agreements.

On this basis, the proposals would have no direct impact on the character or appearance of this part of the conservation area, whereas the physical impact of the proposals on the significance of the listed building itself would be considered low. As such, the proposals would be considered to fall on the low end of the spectrum of 'less than substantial harm'. Whether there is a need for student accommodation in this location and whether the planning merits of the proposals or otherwise provide sufficient benefits to overcome the level of harm noted above is a matter for the planning officer, it would be difficult to sustain a refusal of the proposals from a purely heritage perspective at this time. That said, should the proposals be considered acceptable, then attaching condition/s to secure continued public access, and ensuring an area is set aside at ground floor level for interpretive measures would be requested.

**SCC Head of Culture and Tourism**

Please find below a review of the above planning application for a change of use from the Dolphin Hotel to student accommodation. As it currently stands, not supportive of the application for change of use.

#### Economic impact

- o Developing the Visitor Economy and its infrastructure (including hotels) is a key part of Southampton's Economic Strategy and Green Growth Strategy 2020-2030, the Destination Management Plan 2021-2031, Cultural Strategy 2020-2020, Festivals and Events Strategy 2020-2030
- o The Destination Management Plan identified demand opportunities from cruise, group tours and mid-week breaks alongside Visting Friends and Family including the families of University students requiring hotel accommodation
- o In 2023, cruise passengers rose to 2.73m, up from 2m in 2018, with forecasts set to close to double in the next decade - this means there is a need for more hotels not less hotels
- o This sits alongside the demise of the Leisure World scheme and 2 new 150 room hotels and 80 serviced apartments which had been planned
- o Concerned at the oversupply of student accommodation on the High Street which is likely to have repercussions for creating a sustainable, vibrant and economically viable and diverse high street that is attractive to businesses, residents and visitors. The applicant referred to the former bank next door converting to student accommodation, and permission now given to 250-room student accommodation scheme at Castle Way/ High Street Student flats to replace buildings where cannabis factories found - BBC News, alongside previous student developments on the High Street
- o Consideration does not appear to have been given to the potential factors influencing/ impacting on students
- o Student expectations for modern, quality facilities are similar to that of tourists but who are likely to less willing to compromise because of the heritage/ uniqueness of the accommodation and because they are living there not staying for a few nights on holiday. The same considerations therefore about its heritage designation will apply.
- o University fees/ cost of living rises is impacting on the number of domestic students taking up study outside their home locations and their secondary spend is significantly less due to the cost of living - this means they will have less positive impact on the local economy than tourists
- o Potential impact of visa requirements on international students and their ability/ desire to come to the city
- o Growth of universities campuses in countries of origin impacting on forecast levels of International students
- o Impact of geo-politics/ war on international students

#### Distinctive Destination

- o The Dolphin's unique heritage and international appeal is undersold from a tourism perspective but overplayed in the context of students.
- o The Dolphin Hotel has previously had planning permission to extend its accommodation offer to visitors but this does not appear to have been taken forward - this would have helped with the business sustainability so be helpful to understand why not.

- o The subsequent proposal to set up a Jane Austen Interpretation Centre to support access in the proposed student accommodation raises a number of questions.
- o From where are they going to get artefacts/ objects to display? Unlikely that museums will loan collections (1) because they need them for their own displays (2) museums tend only to loan to other Accredited museums (national standard) which have in place appropriate environmental conditions for artefacts, security and experience (3) they will be competing.
- o How is this facility going to be sustained and look professional - the city needs more quality not token offers?
- o How will students feel like about people entering their 'home', how will visitors be managed and who will be vetting them?
- o Unclear how heritage repairs and conservation are enabled by student accommodation when these could also be covered by hotel accommodation, if they were able to attract the bed nights - be useful to have a cost/sqm calculation to show difference?
- o Appreciate that it is probably difficult to recover business given it has been either been closed due to the pandemic and functioning as asylum seeker accommodation, but there are the bones of a good business opportunity and with the 250th anniversary of Jane Austen an opportunity to fundraise and inspire a new audience for the future. The city will support the owners to do this and against the backdrop of growing tourism market.

Recommendations:

- o Applicant to provide evidence that there is an oversupply of hotel accommodation to meet the needs of the growing tourism market. Commission an up to date hotel needs assessment to evidence there is under/over supply of hotel accommodation.
- o Applicant to provide evidence that the increased supply of student accommodation will not have a detrimental impact on the diversity and vibrancy of the High Street both in terms of the visitor economy and wider economy.
- o Applicant to provide evidence of the economic impact of 99 student rooms to the High Street compared to the economic impact of 99 tourist bed nights.

## Planning and Rights of Way Panel 9<sup>th</sup> July 2024 Planning Application Report of the Head of Transport and Planning

<b>Application address:</b> Havelock Chambers, 20 - 22 Queens Terrace, Southampton			
<b>Proposed development:</b> Erection of a 6th floor extension for 2 penthouses (2 x 2-bedroom)			
<b>Application number:</b>	24/00040/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Anna Lee	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	16.07.2024 (ETA agreed)	<b>Ward:</b>	Bargate
<b>Reason for Panel Referral:</b>	Request by Ward Member and more than 5 letters of objection have been received	<b>Ward Councillors:</b>	Cllr Bogle Cllr Lambert Cllr Noon
<b>Referred to Panel by:</b>	Cllr Bogle	<b>Reason:</b>	Over-development and lack of amenities for refuse collection.
<b>Applicant:</b> Havelock Properties		<b>Agent:</b> Bob Hull Planning	

<b>Recommendation Summary</b>	<b>Delegate to the Head of Transport and Planning to grant planning permission subject to criteria listed in report</b>
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<b>Community Infrastructure Levy Liable</b>	<b>Yes</b>
<b>Biodiversity Net Gain Applicable</b>	<b>Not applicable</b>

### 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 (revised 2023). Policies – CS4, CS5, CS13, CS14, CS16, CS18, CS19, CS20, CS22, CS23 and CS25 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11,

SDP12, SDP13, SDP14, H1, H2, H7 and HE1 of the City of Southampton Local Plan Review (Amended 2015). Policies AP9, AP12, AP15, AP16 of the City Centre Action Plan March 2015 and Oxford Street Conservation Area Appraisal (February 2012).

<b>Appendix attached</b>			
1	Habitats Regulation Assessment	2	Development Plan Policies
3	Relevant Planning History	4	Appeal Decision - 11/01144/TIME

### **Recommendation in Full**

1. That the Panel confirm the Habitats Regulation Assessment in **Appendix 1** of this report.
2. Delegate to the Head of Transport and Planning to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 or S.111 Legal Agreement to secure 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 Transport and Planning be given delegated powers to add, vary and/or delete relevant parts of the Section 111/106 agreement and/or conditions as necessary.
4. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

### **1. Background**

- 1.1 This application follows a similar permission that has since lapsed. The application site currently comprises 30 flats (approved by planning permission reference 04/01622/FUL). The approved plans for this scheme included the provision of cycle and refuse storage within the ground floor of the building. However, a subsequent planning permission for the change of use of the ground floor to food and drink use utilised part of the storage area for the residents as commercial floor space (05/00065/FUL). This resulted in issues with refuse and cycle storage for existing residents. Following the receipt of complaints from residents, the Council opened a planning Enforcement Case in 2012 and this prompted the applicant to submit details for the layout of the cycle and refuse storage. The original planning conditions were not formally discharged (since the details had not been submitted prior to the occupation of the development, as required), although officers agreed at the time that the details were acceptable and the Enforcement Case was closed. Subsequent site visits revealed that the storage had been implemented as agreed.
- 1.2 Upon submission of this planning application, whilst it was proposed to make use of the existing refuse and cycle storage areas to support the additional flats, it became clear that there were (again) existing storage issues. In particular, bins were blocking the corridor to the cycle storage making both the bins and cycles difficult to access.

It is understood that the previously agreed Eurobin storage resulted in a health and safety issue for the Council's refuse collection team, due to a difference in levels between the bin store and the public highway, where bins would be emptied. As such, the Eurobins were replaced by individual wheelie bins, which were difficult to accommodate within the space available.

- 1.3 As part of this application process, officers have worked to resolve this issue with the applicant. It has now been agreed to provide level thresholds between the bin store and the public highway. This will enable reversion to Eurobin storage which makes better use of the space available and enables the corridor to the cycle storage to be kept clear. These improvements will be secured through this planning application, but in the event that the Panel cannot support this recommendation the matter will be referred back to Planning Enforcement to resolve.

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

- 2.1 The application site is located on the north side of Queens Terrace, on the corner with Latimer Street. The site lies within the Oxford Street Conservation Area and within the defined city centre. The site currently comprises a six-storey building containing a commercial unit at ground floor and 30 x 1 and 2-bedroom flats above. The neighbouring buildings, to the east in Queens Terrace, are three storey and, whilst the adjoining 15–17 Queens Terrace is slightly lower than Havelock Chambers, the buildings step up in height at the nearby Seafarers Court, where additional floors have been constructed.
- 2.2 Queens Park, the public open space situated opposite the site, is a Hampshire Registered Park. There are Grade II Listed Buildings close to the site at 23-25 Queens Terrace and 44, 45-49 Oxford Street. There is a late-night hub directly to the north in Oxford Street with extended drinking hours.

## **3. Proposal**

- 3.1 The proposal seeks to add an additional floor to the building to provide two flats (123 square metres (sq.m) and 113 sq.m) in addition to the existing 30 units resulting in a seven-storey building. The extension is designed to be set back from the existing roof parapets, enabling the provision of roof terraces to serve the new flats. The addition has a shallow, pitched roof and is designed with mainly brick elevations and includes details such as window lintels and a central curved bay element. A lift overrun will be visible on the roof.
- 3.2 Each flat would comprise 2-bedrooms with cycle storage located on the external terrace to be accessed via a lift. Refuse and recycling would be stored within the existing area to the ground floor of the building.

## **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 2.***

4.2 The National Planning Policy Framework (NPPF) was revised in 2023. Paragraph 225 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.

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

5.1 A schedule of the relevant planning history for the site is set out in ***Appendix 3*** of this report.

5.2 As set out above, the existing flats were originally granted planning permission in 2005 (reference 04/01622/FUL) and the ground floor was subsequently changed to a food and drink use, altering the storage arrangements for the flats (reference 05/00065/FUL). In 2007, planning permission was granted for a roof extension to provide 2 flats (reference 07/00910/FUL), although this was not implemented and has now lapsed. An application to extend the time within which the roof extension could be implemented was refused and the subsequent appeal was dismissed (reference 11/01144/TIME). The reasons for refusal and Appeal Inspector's decision can be found in ***Appendix 4*** of this report.

5.3 Subsequent applications 15/02402/FUL and 22/01039/FUL, seeking similar proposals to the current application, were both withdrawn.

### **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. This included notifying adjoining and nearby landowners, placing a press advertisement 26.01.2024 and erecting a site notice 26.01.2024. At the time of writing the report **26 representations** have been received from surrounding residents. The following is a summary of the points raised:

6.2 ***Existing residents of the building cannot access the bicycle store due to insufficient and poor refuse storage arrangements.***

**Response** - It is agreed that there have been issues with the existing refuse storage on site. During the course of the application, officers have worked with the applicant to resolve the existing issues and it is considered that a satisfactory arrangement has now been secured. Essentially, level thresholds will be provided between the bin store and the street, meaning Eurobins can be used instead of the wheelie bins, which are less space efficient. A condition is suggested to secure this together with a refuse management plan to provide further control over the refuse collection arrangements going forward. As such, this application will secure improvements to the existing situation.

6.3 ***Six Eurobins would be insufficient to serve 32 flats and the access to the***



***refuse store is not acceptable, due to the change in levels between the store and the access.***

**Response** – The Council’s Waste Team have reviewed the proposal and have advised that six Eurobins, including recycling, would be sufficient to serve all 32 flats. This is having regard to the relatively small-scale nature of the dwellings on site (1 and 2-bedroom flats). As set out, this application will ensure level access between the store and the public highway, where the bins will be emptied. This needs to be provided before construction of the new dwellings commences.

6.4 ***There are also refuse storage issues for the commercial premises.***

**Response** – The applicant has detailed an internal refuse storage within the commercial unit and a condition is imposed to secure this. This is in accordance with details previously agreed.

6.5 ***The existing lift is already under considerable capacity strain with the current number of residents and is unsuited to supporting additional traffic.***

**Response** – This element will form part of the Building Regulations application and there are no Planning reasons for suggesting that the existing lift cannot accommodate additional residents.

6.6 ***Overdevelopment of site and poor design***

**Response** – This is discussed in detail, in section 7 of this report, below. Overall, it is considered that the extension creates a good quality residential environment for future occupiers and the design approach is accepted by both the Council’s Design and Heritage officers. The proposal makes good use of previously developed land and the Council needs additional housing.

6.7 ***Soundproofing between existing flats is insufficient. It is not clear whether noise disturbance from the proposed flats can be mitigated.***

**Response** – Soundproofing between units is controlled by Building Regulations. Environmental Health have not objected to this application and it is important to note that any significant noise or disturbance from the new flats could be addressed through the Environmental Health Team’s existing powers.

6.8 ***The sewerage system cannot cope***

**Response** – Southern Water have not raised an objection to the proposal.

6.9 ***The maintenance of the current building is poor***

**Response** – This is a civil matter and should be taken up with the landlord.

6.10 ***Further pressure on school places / medical / dental appointments***

**Response** – The development will contribute to the Community Infrastructure Levy (CIL), which can be used to improve local schools and any local healthcare gaps if required.

#### **Consultation Responses**

6.11	Consultee	Comments
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Cllr Bogle	<p><b>Objection.</b></p> <ul style="list-style-type: none"> <li>- Over-development and lack of amenities for refuse collection.</li> <li>- There are already existing issues linked to the flats proximity to a restaurant with refuse collection, noise from the restaurant and difficulties of access which need addressing.</li> <li>- Adding another 2 flats and another floor to this building will exacerbate those issues.</li> </ul>
SCC Historic Environment officer	<p><b>No objection.</b></p> <ul style="list-style-type: none"> <li>- The new addition would be relatively obscured from street level from the south, east and west by the built form and massing of Queens Terrace itself.</li> <li>- It would also be obscured by the plane trees in the views north from the docks.</li> <li>- The rear aspect of the extension would be visible and disagree that the blocky rear aspect of the addition seen in these views would really enhance the conservation area as claimed in the submission.</li> <li>- That said, the development would sit within views made up of various rooflines and materials, and where these views themselves are organic rather than intentional or designed, and which have, and will, continue to change.</li> <li>- For these reasons, the addition, given its set back and relatively obscured position, would not adversely disrupt the architecture of the host building, and would have a neutral impact (and cause no harm to) the character or appearance of the conservation area, and as such, it would be difficult to sustain a refusal of the scheme from a conservation perspective at this time.</li> </ul>
SCC City Design officer	<p><b>No objection.</b></p> <p>The penthouse appears to be same as what was proposed in 2022 and no objection was raised then so I once again don't object.</p>
SCC Waste Operations Team	<p><b>No objection subject to conditions.</b></p> <p>The bin store will be acceptable as is providing:</p> <ul style="list-style-type: none"> <li>• The raised thresholds on the internal double doors are levelled.</li> <li>• The large stone step at the front entrance is provided with a ramp.</li> <li>• Protection is applied to internal walls up to</li> </ul>

	<p>euro bin height to prevent damage to the finish.</p> <ul style="list-style-type: none"> <li>The applicant has agreed to the above and bring the euro bins from the internal store to the pavement on collection day</li> </ul> <p>This will need to be agreed via a waste management plan.</p>
<p>SCC Highways Development Management</p>	<p><b>No objection subject to conditions.</b></p> <ul style="list-style-type: none"> <li>The principle of development is considered acceptable.</li> <li>The waste arrangements have been agreed and considered acceptable.</li> <li>The cycle parking is still not ideal and not the best in terms of design. It is understood that due to site constraints, storing cycles in the apartment can be considered an option (as per Manual for Streets Guidance) but the lift size needs to be a suitable size.</li> <li>It would be good to get clarification and perhaps evidence to demonstrate that a cyclist can enter the lift and operate the lift in a reasonably comfortable manner.</li> </ul> <p><b>Officer response:</b> <i>The access width of the lift door is 800mm and the average length of a bicycles handlebars is 750mm so the lift is just big enough. However, a condition securing the provision of two foldable bicycles per unit is suggested to prevent any access issues.</i></p>
<p>SCC Flooding Team</p>	<p><b>No objection.</b></p> <ul style="list-style-type: none"> <li>The site lies within flood zone 1, although the Southampton Strategic Flood Risk Assessment identifies that within the lifetime of the development, the site will be at risk of flooding.</li> <li>A Flood Risk Assessment is required and will need to demonstrate that the site is safe over the lifetime including climate change allowance.</li> <li>The Flood Risk Assessment will need to specify what the applicant is going to do to ensure safety of future occupants and to ensure the building is resilient.</li> </ul>
<p>SCC CIL Officer</p>	<p><b>No objection.</b></p> <p>The development is CIL liable as there is a net gain of residential units. With an index of inflation applied the residential CIL rate is currently £119.06 per sq. m to be measured on the Gross Internal Area</p>

	<p>floorspace of the building.</p> <ul style="list-style-type: none"> <li>- Should the application be approved a Liability Notice will be issued detailing the CIL amount and the process from that point.</li> <li>- If the floor area of any existing building on site is to be used as deductible floorspace the applicant will need to demonstrate that lawful use of the building has occurred for a continuous period of at least 6 months within the period of 3 years ending on the day that planning permission first permits the chargeable development.</li> </ul>
SCC Environmental Health	<p><b>No objection subject to conditions.</b> The applicant should consider installing higher specification acoustic glazing to ensure future inhabitants are not affected by noise from local main roads and noise from the docks.</p>
SCC Air Quality team	<p><b>No objection or conditions suggested.</b> Officers have no air quality concerns regarding this small development.</p>
SCC Sustainability officer	<p><b>Request further information.</b></p> <ul style="list-style-type: none"> <li>- The Green Space Factor tool shows a proportion of green roof, however this is not shown on the plans.</li> <li>- The applicant should optimise the roof orientations and area in order to facilitate photovoltaics and/or solar thermal panels in the future, even if they are not planning to include them in the design. It is expected that any planning application will show that this has been addressed.</li> <li>- If air source heat pumps are to be provided, they must be integrated into the design, for example the position of the units considered and compatible heating appliances such as underfloor heating, or larger radiators specified. It is recommended that these points are addressed before any approval.</li> </ul> <p>If the case officer is minded to approve, the application, the following conditions are recommended in order to ensure compliance with core strategy policy CS20:</p> <ul style="list-style-type: none"> <li>• Water &amp; Energy (Pre-Construction)</li> <li>• Water &amp; Energy (Performance)</li> <li>• Green Roof Specification (Pre-Construction)</li> </ul>

	<b>Officer Response:</b> <i>Although a green roof is no longer proposed a different condition (to that set out above) is suggested to ensure that the feasibility of a green roof can be sufficiently assessed. In addition, the proposal needs to comply with the Green Space Factor Tool due to the City Centre location to comply CS22. Therefore, the condition needs to remain together with the other conditions to ensure the above is met.</i>
Southern Water	<b>No objection or conditions suggested.</b> The development requires a connection to formal application for any new connection to the public sewer to be made by the applicant or developer.

## **7. Planning Consideration Key Issues**

7.1 The application needs to be assessed having regard to the planning history of the site, which includes a refusal and dismissed appeal for a similar scheme to that proposed, and the following key issues:

- The Principle of Development
- Design and Effect on Character and Heritage Assets
- Parking, Refuse and Servicing
- Effect on Residential Amenity
- Flood Risk
- Likely effect on designated habitats.

### **7.2 Principle of Development**

7.2.1 Whilst the site is not identified for development purposes, the Council's policies promote the efficient use of previously developed land to provide housing. Policy AP9 of the City Centre Action Plan supports residential development in the city centre through the conversion or redevelopment of other sites as appropriate. Similarly, CS1 of the Core Strategy supports significant residential growth in the city centre to assist in addressing the city's housing need. In terms of the level of development proposed, policy CS5 of the Core Strategy confirms that in city centre, high accessibility locations such as this, density levels should generally be over 100d.p.h, although caveats the need to test the density in terms of the character of the area and the quality and quantity of open space provided. The proposal would achieve a residential density of 640 d.p.h (overall including the addition 30 flats), which accords with the range set out.

7.2.2 Furthermore, it is important to note that whilst the National Planning Policy Framework (NPPF) requires Councils to identify a five-year supply of specific deliverable sites to meet housing needs, the Council currently has less than five years of housing land supply. This means that the Panel will need to have regard to paragraph 11(d) of the NPPF, which states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, it should grant permission unless:

- the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development

proposed; or

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. [the so-called “tilted balance”]

7.3.3 There are no policies in the Framework protecting areas or assets of particular importance in this case, such that there is no clear reason to refuse the development proposed under paragraph 11(d)(i). It is acknowledged that the proposal would make a contribution to the Council’s five-year housing land supply. There would also be social and economic benefits resulting from the construction of the new units, and their subsequent occupation, and these are set out in further detail below to enable the Panel to determine ‘the Planning Balance’ in this case.

7.3.4 The principle of development, is therefore, acceptable and it is noted that it was previously accepted when considering earlier applications on this site.

#### 7.4 Design and Effect on Character and Heritage Assets

7.4.1 The surrounding area contains building with a variety of heights ranging from 3 to 12 storeys. Queens Terrace itself contains several 6-storey buildings. The location of the site, on a corner and opposite a public open space enables the additional scale proposed to be assimilated into the character of the area. Furthermore, the nature of the extension with a low-pitched roof and set-back from the existing roof parapets, means that the scale and massing of the addition would not appear excessive. It is also important to note that the adopted Oxford Street Conservation Area Appraisal confirms that:

*‘It is important to retain the vertical emphasis and consistent sense of scale across the area. Queen’s Park is a well-defined space and development, where appropriate, should continue at a scale commensurate with the positive enclosure of the park.’*

7.4.2 The proposal would assist in providing a strong built edge to Queen’s Park as encouraged by the Conservation Area Appraisal. The design utilises common features to be found in area, including the fenestration design, parapet detailing and use of lintels. No objections have been raised by either the Council’s Historic Environment or Design officers on design grounds either to this application or previous applications on this site. Whilst some planning policies have changed since the scheme was last considered on this site, there are no new policies that would resist the design approach proposed.

7.4.3 The statutory tests for the proposal, as set out in sections 16 (Listed Buildings), 66 (Listed Buildings) and 72 (Conservation Areas) of the Planning (Listed Building and Conservation Areas) Act 1990, are: whether the proposal would preserve the building, its setting or, any features of special architectural or historic interest (Listed Buildings) and; whether the proposal would preserve or enhance the character or appearance of the Conservation Area. The NPPF requires the proposal to be assessed in terms of the impact on the significance of the building having regard to:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and;
- The desirability of new development making a positive contribution to local character and distinctiveness.

As set out, the design, scale and massing of the building is considered acceptable when viewed in the context of affected heritage assets. On this basis, in accordance with sections 16, 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990, it is considered that the proposal would preserve the character of nearby Listed Buildings and the setting of the Conservation Area.

## 7.5 Parking, Refuse and Servicing

7.5.1 The adopted City Centre Action Plan requires no more than 1 car parking space to be provided per dwelling. The provision of no on-site car parking to serve the development would meet this requirement. The city centre nature of the site benefits from excellent public transport links and is within walking distance to various shops and services. Furthermore, the surrounding streets are subject to parking controls which limits the potential for over-spill car parking. New developments are not eligible for parking permits and this informative will be included on any subsequent planning approval. The proposal is working with the existing building and site constraints which has limited external space relating to it. On this basis, the absence of on-site car parking is considered acceptable.

7.5.2 As set out, arrangements for refuse storage and collection are a key consideration for Havelock Chambers, particularly since there have been well-documented issues with the existing arrangements. These issues resulted from the more space-efficient Eurobins being replaced with wheelie bins, following a health and safety issue for the waste team in trying to move Eurobins up and down a stepped access. The application proposes to remedy the current poor situation by facilitating level access between the bin store and the public highway for collection purposes. This would enable Eurobins to be safely used and would address the current storage issues that the wheelie bins generate. This solution has been arrived at following discussions with the Council's Waste Team and Highways Team and it is considered that the application result in a betterment in this respect. In addition to this, protection measures would be provided on the internal walls to prevent them from damage when bins are being moved to and from the collection point. The measures are to be secured via a waste management plan condition which will also manage the frequency of collections to avoid the overflow of waste. That said, as noted, the Council's Waste Team have advised that there is sufficient capacity in the Eurobin arrangement for the two additional flats proposed. As such, the previous reason for refusal relating to refuse storage and management is considered to have been overcome.

7.5.3 The existing cycle store is constrained and does not meet current standards for cycle storage, adopted subsequent to the original 30 flats being approved. At the time of the Inspector's Decision for the earlier roof extension scheme on this site, (**Appendix 4**) the Council was investigating the breach in planning control relating to the cycle storage. The case was subsequently closed when officers were satisfied

with the arrangements eventually provided. It is important to note, that when the Planning Inspector was considering the scheme for two additional flats, the Council were initiating enforcement proceedings which provided the opportunity for the more comprehensive solution referred to by the Inspector.

7.5.4 However, due to the passage of time and the change in standards, the existing areas for storage does not have capacity for the two additional cycles needed to serve the proposed development. As such, bicycle storage is provided within the external terraced areas of each unit. Although the lift is sufficient in terms of size to enable a bike to be taken in it a condition securing folding bikes for each unit is proposed but it is accepted that this solution is not ideal. However, taking into account the constraints of the site and the fact scheme will secure improvements to the refuse storage and collection arrangements, on balance it is considered to be acceptable.

## 7.6 Effect on Residential Amenity

7.6.1 The extension would result in Havelock Chambers being taller than the neighbouring development, however, given the set back from the roof parapets and the orientation of the building, the proposal would not give rise to detrimental harm in terms of outlook, light and privacy to adjacent occupiers.

7.6.2 With regards to the existing occupiers of Havelock Chambers, there will be an intensification of the site, but the proposal will result in improved refuse storage arrangements which will be to the betterment of existing occupiers. Furthermore, the outlook, light and privacy of the existing flats would not be altered.

7.6.3 In terms of the quality of the accommodation proposed, overall, the development provides good outlook and access to daylight and sunlight for prospective residents, together with good access to external amenity space and sufficiently spacious units. As such, a pleasant residential environment will be achieved without compromising local context or proposed residential amenity. The flats are well in excess of the Nationally Described Space Standards and the external amenity space also exceeds the Council's standards.

## 7.7 Flooding

7.7.1 This site is located within Environment Agency Flood Zone 1, meaning it has a low present day flood risk. It is important to note that when the earlier scheme for 2 additional flats were considered on this site, the data at that time placed the site in Flood Zones 2 and 3, at medium to high risk of flooding. Both the NPPF and Southampton Core Strategy policy CS23 (Flood Risk) require the development to be safe for its lifetime (assumed to be 100 years), including allowance for climate change. The Council's Strategic Flood Risk Assessment does indicate that, within the lifetime of the development, the site will become at risk from flooding in the future. As such, a Flood Risk Assessment has been provided and this confirms that given the height of the flats the habitable accommodation will be well out of the precited flood levels for the lifetime of the development. A flood warning and evacuation plan is suggested and a condition is suggested to secure this. Overall, the approach is considered acceptable and the previous reasons for refusal have



been addressed.

## 7.8 Likely effect on designated habitats

7.8.1 The proposed development, as a residential scheme, has been screened (where mitigation measures must now be disregarded) as likely to have a significant effect upon European designated sites due to an increase in recreational disturbance along the coast and in the New Forest. Accordingly, a Habitat Regulations Assessment (HRA) has been undertaken, in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, see **Appendix 1**. Furthermore, all overnight accommodation has been found to have an impact on the water quality being discharged into our local watercourses that are of protected status. The 'harm' caused can be mitigated by ensuring that the development complies with the principles of 'nitrate neutrality', and a planning condition is recommended to deal with this as explained further in the attached Habitats Regulations Assessment. The HRA concludes that, provided the specified mitigation of a Solent Recreation Mitigation Strategy (SRMP) contribution and a minimum of 5% of any CIL taken directed specifically towards Suitably Accessible Green Space (SANGS), the development will not adversely affect the integrity of the European designated sites.

## 8. Summary

8.1 The principle of new residential development is accepted, and introduction of a further floor is agreed in design and character terms. The proposal has successfully addressed the Council's/Planning Inspector's previous reasons for refusal. Whilst the provision of cycle storage is not comprehensive alongside the other units when considered in the round with the other benefits of the proposal, this is considered on balance to be acceptable. It is acknowledged that the proposal would make a contribution to the Council's five-year housing land supply. There would also be social and economic benefits resulting from the construction of the new dwellings, and their subsequent occupation, as set out in this report. Taking into account the benefits of the proposed development it is considered that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, consideration of the tilted balance would point to approval. In this instance it is considered that the above assessment, alongside the stated benefits of the proposal, suggest that the proposals are acceptable. Having regard to s.38(6) of the Planning and Compulsory Purchase Act 2004, and the considerations set out in this report, the application is recommended for approval.

## 9. Conclusion

9.1 It is recommended that planning permission be granted subject to the completion of a S.106 or S.111 Legal 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)

**Case Officer Anna Lee - PROW Panel 09.07.2024**

**PLANNING CONDITIONS to include:**

**1. Full Permission Timing (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. No Other Windows or Doors (Performance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended 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.

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

**4. Glazing - soundproofing from external traffic noise (Pre-Commencement Condition)**

Prior to the commencement of development a scheme for protecting the proposed flats from traffic noise from Queen Terrace and Latimer Road has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall specify either:-

Outer pane of glass - 10mm

Air gap between panes - 12mm

Inner pane of glass - 6 mm

or, with secondary glazing with a -

Outer pane of glass - 6mm

Air gap between panes - 100mm

Inner pane of glass - 6.4 mm

Any trickle vents must be acoustically rated. The above specified glazing shall be

installed before any of the flats are first occupied and thereafter retained at all times.

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

#### **5. Amenity Space Access (Pre-Occupation)**

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

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

#### **6. Landscaping, lighting & means of enclosure detailed plan (Pre-Commencement)**

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

- (i) planting plans; schedules plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- (ii) The Green Space Factor Tool; and
- (iii) a landscape management scheme.

Note: Until the sustainability credentials of artificial grass have been proven it is unlikely that the Local Planning Authority will be able to support its use as part of the sign off of this planning condition.

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 boundary treatment, approved tree planting and external lighting which shall be retained as approved for the lifetime of the development.

Any approved 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.

Any approved trees which die, fail to establish, are removed or become damaged or diseased following their planting shall be replaced by the Developer (or their successor) in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development

makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990.

### **7. Refuse & Recycling (Performance)**

Before the development hereby approved first comes into occupation, the storage for refuse and recycling for both the residential use and the revised commercial refuse storage 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: In accordance with para 9.2.3 of the Residential Design Guide (September 2006): if this development involves new dwellings, the applicant is liable for the supply of refuse bins, and should contact SCC refuse team at [Waste.management@southampton.gov.uk](mailto:Waste.management@southampton.gov.uk) at least 8 weeks prior to occupation of the development to discuss requirements

### **8. Refuse Management Plan (Pre-commencement)**

Prior to the commencement of development hereby approved, a Refuse Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Refuse Management Plan shall provide details of the frequency of refuse collection to prevent the overflow of waste, the collection point for refuse and recycling and the movement of containers to and from the collection point on collection days for both the residential and revised commercial refuse storage. With the exception of collection days, the refuse and recycling containers shall be kept only within the approved storage areas. The management plan shall include and secure the following;

- The raised thresholds on the internal double doors are levelled.
- The large stone step at the front entrance is provided with a ramp.
- Protection is applied to internal walls up to euro bin height to prevent damage to the finish.
- The applicant to confirm the above and to move the euro bins from the internal store to the pavement on collection day

The Refuse Management Plan shall be implemented as agreed prior to the flats hereby approved first coming into occupation and thereafter adhered to for the lifetime of the development.

Reason: To ensure the development functions well, in the interests of visual and residential amenity and in the interests of safety.

### **9. Cycle provision and parking (Pre-Occupation)**

Before the two units hereby approved first come into occupation the applicant will provide each unit with a folding bicycle together with the installation of the bicycle storage shown on the approved plans.

The storage shall be thereafter retained as approved for the lifetime of the development.

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

#### **10. Nitrogen Neutrality Mitigation Scheme (Pre- Commencement)**

The development hereby permitted shall not be occupied unless a Nitrate Mitigation Vesting Certificate confirming the purchase of sufficient nitrates credits from Eastleigh Borough Council (tbc with applicant) Nutrient Offset Scheme for the development has been submitted to the council.

Reason: To demonstrate that suitable mitigation has been secured in relation to the effect that nitrates from the development has on the Protected Sites around The Solent.

#### **11. Flood resilience measures (Performance condition)**

The development hereby approved shall implement the following measures set out in the approved Flood Risk Assessment.

- Submission of a Flood Warning and Evacuation Plan;
- Undertake regular maintenance of any drains and culverts surrounding/on the Site should be undertaken to reduce the flood risk;
- Occupants of the Site should be signed up to receive EA Flood Alerts and Flood Warnings.

The measures shall be implemented as agreed before the development first comes into use and thereafter retained for the lifetime of the development.

Reason: To improve the resistance of the development to a flood event.

#### **12. Flood Warning/Evacuation Plan (Pre-commencement)**

Prior to the commencement of the development hereby approved, an updated Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include the requirement for the operators of the building to sign up to the flood warnings through Floodline. The Plan shall be implemented before the development first comes into use and thereafter adhered to for the lifetime of the development.

Reason: In the interests of the safety of the users of the building in a flood event.

#### **13. Water & Energy (Pre-Commencement)**

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 a maximum 100 Litres/Person/Day internal water use. 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. It should be demonstrated that SCC Energy Guidance for New Developments has been considered in the design.

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).

#### **14. Water & Energy (Performance)**

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved 100

Litres/Person/Day internal water use in the form of a final 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. It should be demonstrated that SCC Energy Guidance for New Developments has been considered in the construction.

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).

#### **15. Green roof feasibility study (Pre-Commencement)**

Prior to the commencement of the development hereby approved, a detailed feasibility study for the installation of a green roof shall be submitted to and approved in writing by the Local Planning Authority. If the approved feasibility study demonstrates that a green roof can be accommodated within the development, before the development first comes into occupation, a green roof shall be completed in accordance with a specification and management plan to be first submitted to and approved in writing by the Local Planning Authority.

The green roof must be installed to the approved specification before the building hereby approved first comes into use or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme shall be maintained for a minimum period of 5 years following its complete provision. If the green roof dies, fails to establish or becomes 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 reduce flood risk and manage surface water runoff in accordance with core strategy policy CS20 (Tackling and Adapting to Climate Change) and CS23 (Flood risk), combat the effects of climate change through mitigating the heat island effect in accordance with policy CS20, enhance energy efficiency through improved insulation in accordance with core strategy policy CS20, promote biodiversity in accordance with core strategy policy CS22 (Promoting Biodiversity and Protecting Habitats), contribute to a high quality environment and 'greening the city' in accordance with core strategy policy CS13 (Design Fundamentals), and improve air quality in accordance with saved Local Plan policy SDP13.

#### **16. Construction Management Plan (Pre-Commencement)**

Before any development works are commenced, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority which shall include details of:

- a) parking of vehicles of site personnel, operatives and visitors;
- b) loading and unloading of plant and materials;
- c) details of cranes and other tall construction equipment (including the details of obstacle lighting)
- d) details of temporary lighting
- e) storage of plant and materials, including cement mixing and washings, used in constructing the development;

- f) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;
- g) measures to be used for the suppression of dust and dirt throughout the course of construction;
- h) (h details of construction vehicles wheel cleaning; and,
- i) 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, and the character of the area and highway safety.

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

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

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

And at no time on Sundays and recognised public holidays.

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

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

**18. Approved Plans (Performance)**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.

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

Note to applicant:

**Community Infrastructure Liability**

Please note that the development is liable to pay the Community Infrastructure Levy (CIL) under The Community Infrastructure Levy Regulations (2010) (as amended), a Liability Notice will be sent to you separately providing further information. Please ensure that you assume CIL liability and submit a Commencement Notice to the Council 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: <https://www.southampton.gov.uk/planning/community-infrastructure-levy/community-infrastructure-levy-process> or contact the CIL Officer: [cil@southampton.gov.uk](mailto:cil@southampton.gov.uk)

**Southern Water - Sewerage Connection**

A formal application for connection to the public sewerage system is required in order to service this development. Please read our Southern Water's New



Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link  
<https://beta.southernwater.co.uk/infrastructure-charges>

## Appendix 1

### Habitats Regulations Assessment (HRA)

<b>Application reference:</b>	24/00040/FUL
<b>Application address:</b>	Havelock Chambers 20 - 22 Queens Terrace Southampton
<b>Application description:</b>	Erection of a 6th floor extension for 2 penthouses (2 x 2-bedroom)
<b>HRA completion date:</b>	19 January 2024

#### HRA completed by:

**Lindsay McCulloch**  
**Planning Ecologist**  
**Southampton City Council**  
**Lindsay.mcculloch@southampton.gov.uk**

#### Summary

The project being assessed is as described above.

The site is located close to the Solent and Dorset Coast Special Protection Area (SPA), the Solent and Southampton Water SPA/Ramsar site and the New Forest Special Area of Conservation (SAC)/SPA/Ramsar site.

The site is located close to protected sites and as such there is potential for construction stage impacts. It is also recognised that the proposed development, in-combination with other developments across south Hampshire, could result in recreational disturbance to the features of interest of the New Forest SPA/Ramsar site and the Solent and Southampton Water SPA/Ramsar site.

In addition, wastewater generated by the development could result in the release of nitrogen and phosphate into the Solent leading to adverse impacts on features of the Solent Maritime SAC and the Solent and Southampton Water SPA/Ramsar site.

The findings of the initial assessment concluded that significant effects were possible. A detailed appropriate assessment was therefore conducted on the proposed development.

Following consideration of a number of avoidance and mitigation measures designed to remove any risk of a significant effect on the identified European sites, it has been concluded that the significant effects, which are likely in association with the proposed development, can be adequately mitigated and that there will be no adverse effect on the integrity of protected sites.

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

<b>European sites potentially impacted by plan or project:</b>	<ul style="list-style-type: none"><li>▪ Solent and Dorset Coast Special Protection Area (SPA)</li><li>▪ Solent and Southampton Water SPA</li></ul>
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**European Site descriptions are available in Appendix I of the City Centre Action Plan's Habitats Regulations Assessment Baseline Evidence Review Report, which is on the city council's website**

- Solent and Southampton Water Ramsar Site
- Solent Maritime Special Area of Conservation (SAC)
- River Itchen SAC
- New Forest SAC
- New Forest SPA
- New Forest Ramsar site

**Is the project or plan directly connected with or necessary to the management of the site (provide details)?**

No – the development is not connected to, nor necessary for, the management of any European site.

**Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?**

- Southampton Core Strategy (amended 2015) (<http://www.southampton.gov.uk/policies/Amended-Core-Strategy-inc-CSPR-%20Final-13-03-2015.pdf>)
- City Centre Action Plan (<http://www.southampton.gov.uk/planning/planning-policy/adopted-plans/city-centre-action-plan.aspx>)
- South Hampshire Strategy ([http://www.push.gov.uk/work/housing-and-planning/south\\_hampshire\\_strategy.htm](http://www.push.gov.uk/work/housing-and-planning/south_hampshire_strategy.htm))

The PUSH Spatial Position Statement plans for 104,350 net additional homes, 509,000 sq. m of office floorspace and 462,000 sq. m of mixed B class floorspace across South Hampshire and the Isle of Wight between 2011 and 2034.

Southampton aims to provide a total of 15,610 net additional dwellings across the city between 2016 and 2035 as set out in the Amended Core Strategy.

Whilst the dates of the two plans do not align, it is clear that the proposed development of this site is part of a far wider reaching development strategy for the South Hampshire sub-region which will result in a sizeable increase in population and economic activity.

Regulations 62 and 70 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) are clear that the assessment provisions, ie. Regulations 63 and 64 of the same regulations, apply in relation to granting planning permission on an application under Part 3 of the TCPA 1990. The assessment below constitutes the city council's assessment of the implications of the development described above on the identified European sites, as required under Regulation 63 of the Habitats Regulations.

## Section 2 - Assessment of implications for European sites

### **Test 1: the likelihood of a significant effect**

- **This test is to determine whether or not any possible effect could constitute a significant effect on a European site as set out in Regulation 63(1) (a) of the Habitats Regulations.**

The proposed development is located close to the Solent and Dorset Coast SPA, Solent and Southampton Water SPA and Ramsar site and the Solent Maritime SAC. As well as the River Itchen SAC, New Forest SAC, SPA and Ramsar site.

A full list of the qualifying features for each site is provided at the end of this report. The development could have implications for these sites which could be both temporary, arising from demolition and construction activity, or permanent arising from the on-going impact of the development when built.

The following effects are possible:

- Contamination and deterioration in surface water quality from mobilisation of contaminants;
- Disturbance (noise and vibration);
- Increased leisure activities and recreational pressure; and,
- Deterioration in water quality caused by nitrates from wastewater

### **Conclusions regarding the likelihood of a significant effect**

**This is to summarise whether or not there is a likelihood of a significant effect on a European site as set out in Regulation 63(1)(a) of the Habitats Regulations.**

The project being assessed is as described above. The site is located close to the Solent and Dorset Coast Special Protection Area (SPA), the Solent and Southampton Water SPA/Ramsar site and the New Forest Special Area of Conservation (SAC)/ SPA/Ramsar site.

The site is located close to European sites and as such there is potential for construction stage impacts. Concern has also been raised that the proposed development, in-combination with other residential developments across south Hampshire, could result in recreational disturbance to the features of interest of the New Forest SPA/Ramsar site and the Solent and Southampton Water SPA/Ramsar site. In addition, wastewater generated by the development could result in the release of nitrogen into the Solent leading to adverse impacts on features of the Solent Maritime SAC and the Solent and Southampton Water SPA/Ramsar site.

Overall, there is the potential for permanent impacts which could be at a sufficient level to be considered significant. As such, a full appropriate assessment of the implications for the identified European sites is required before the scheme can be authorised.

**Test 2: an appropriate assessment of the implications of the development for the identified European sites in view of those sites' conservation objectives**  
**The analysis below constitutes the city council's assessment under Regulation 63(1) of the Habitats Regulations**

The identified potential effects are examined below to determine the implications for the identified European sites in line with their conservation objectives and to assess

whether the proposed avoidance and mitigation measures are sufficient to remove any potential impact.

In order to make a full and complete assessment it is necessary to consider the relevant conservation objectives. These are available on Natural England's web pages at <http://publications.naturalengland.org.uk/category/6528471664689152>.

The conservation objective for Special Areas of Conservation is to, *“Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.”*

The conservation objective for Special Protection Areas is to, *“Avoid the deterioration of the habitats of the qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive.”*

Ramsar sites do not have a specific conservation objective however, under the National Planning Policy Framework (NPPF), they are considered to have the same status as European sites.

## **TEMPORARY, CONSTRUCTION PHASE EFFECTS**

### *Mobilisation of contaminants*

Sites considered: Solent and Southampton Water SPA/Ramsar site, Solent and Dorset Coast SPA, Solent Maritime SAC, River Itchen SAC (mobile features of interest including Atlantic salmon and otter).

The development site lies within Southampton, which is subject to a long history of port and associated operations. As such, there is the potential for contamination in the site to be mobilised during construction. In 2016 the ecological status of the Southampton Waters was classified as ‘moderate’ while its chemical status classified as ‘fail’. In addition, demolition and construction works would result in the emission of coarse and fine dust and exhaust emissions – these could impact surface water quality in the Solent and Southampton SPA/Ramsar Site and Solent and Dorset Coast SPA with consequent impacts on features of the River Itchen SAC. There could also be deposition of dust particles on habitats within the Solent Maritime SAC.

A range of construction measures can be employed to minimise the risk of mobilising contaminants, for example spraying water on surfaces to reduce dust, and appropriate standard operating procedures can be outlined within a Construction Environmental Management Plan (CEMP) where appropriate to do so.

In the absence of such mitigation there is a risk of contamination or changes to surface water quality during construction and therefore a significant effect is likely from schemes proposing redevelopment.

### *Disturbance*

During demolition and construction noise and vibration have the potential to cause adverse impacts to bird species present within the SPA/Ramsar Site. Activities most likely to generate these impacts include piling and where applicable further details will be secured ahead of the determination of this planning application.

Sites considered: Solent and Southampton Water SPA

The distance between the development and the designated site is substantial and it is considered that sound levels at the designated site will be negligible. In addition, background noise will mask general construction noise. The only likely source of noise impact is piling and only if this is needed. The sudden, sharp noise of percussive piling will stand out from the background noise and has the potential to cause birds on the inter-tidal area to cease feeding or even fly away. This in turn leads to a reduction in the birds' energy intake and/or expenditure of energy which can affect their survival.

#### *Collision risk*

Sites considered: Solent and Southampton Water SPA, Solent and Dorset Coast SPA

Mapping undertaken for the Southampton Bird Flight Path Study 2009 demonstrated that the majority of flights by waterfowl occurred over the water and as a result collision risk with construction cranes, if required, or other infrastructure is not predicted to pose a significant threat to the species from the designated sites.

### **PERMANENT, OPERATIONAL EFFECTS**

#### **Recreational disturbance**

Human disturbance of birds, which is any human activity which affects a bird's behaviour or survival, has been a key area of conservation concern for a number of years. Examples of such disturbance, identified by research studies, include birds taking flight, changing their feeding behaviour or avoiding otherwise suitable habitat. The effects of such disturbance range from a minor reduction in foraging time to mortality of individuals and lower levels of breeding success.

#### **New Forest SPA/Ramsar site/ New Forest SAC**

Although relevant research, detailed in Sharp et al 2008, into the effects of human disturbance on interest features of the New Forest SPA/Ramsar site, namely nightjar, *Caprimulgus europaeus*, woodlark, *Lullula arborea*, and Dartford warbler *Sylvia undata*, was not specifically undertaken in the New Forest, the findings of work on the Dorset and Thames Basin Heaths established clear effects of disturbance on these species.

#### **Nightjar**

Higher levels of recreational activity, particularly dog walking, has been shown to lower nightjar breeding success rates. On the Dorset Heaths nests close to footpaths were found to be more likely to fail as a consequence of predation, probably due to adults being flushed from the nest by dogs allowing predators access to the eggs.

### **Woodlark**

Density of woodlarks has been shown to be limited by disturbance with higher levels of disturbance leading to lower densities of woodlarks. Although breeding success rates were higher for the nest that were established, probably due to lower levels of competition for food, the overall effect was approximately a third fewer chicks than would have been the case in the absence of disturbance.

### **Dartford warbler**

Adverse impacts on Dartford warbler were only found to be significant in heather dominated territories where high levels of disturbance increased the likelihood of nests near the edge of the territory failing completely. High disturbance levels were also shown to stop pairs raising multiple broods.

In addition to direct impacts on species for which the New Forest SPA/Ramsar site is designated, high levels of recreation activity can also affect habitats for which the New Forest SAC is designated. Such impacts include trampling of vegetation and compaction of soils which can lead to changes in plant and soil invertebrate communities, changes in soil hydrology and chemistry and erosion of soils.

### **Visitor levels in the New Forest**

The New Forest National Park attracts a high number of visitors, calculated to be 15.2 million annually in 2017 and estimated to rise to 17.6 million visitor days by 2037 (RJS Associates Ltd., 2018). It 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, Liley et al (2019), indicated that 83% of visitors to the New Forest were making short visits directly from home whilst 14% were staying tourists and a further 2% were staying with friends or family. These proportions varied seasonally with more holiday makers (22%) and fewer day visitors (76%), in the summer than compared to the spring (12% and 85% respectively) and the winter (11% and 86%). The vast majority of visitors travelled by car or other motor vehicle and the main activities undertaken were dog walking (55%) and walking (26%).

Post code data collected as part of the New Forest Visitor Survey 2018/19 (Liley et al, 2019) revealed that 50% of visitors making short visits/day trips from home lived within 6.1km of the survey point, whilst 75% lived within 13.8km; 6% of these visitors were found to have originated from Southampton.

The application site is located within the 13.8km zone for short visits/day trips and residents of the new development could therefore be expected to make short visits to the New Forest.

Whilst car ownership is a key limitation when it comes to be able to access the New Forest, there are still alternative travel means including the train, bus, ferry and bicycle. As a consequence, there is a risk that recreational disturbance could occur as a result of the development. Mitigation measures will therefore be required.

### **Mitigation**



A number of potential mitigation measures are available to help reduce recreational impacts on the New Forest designated sites, these include:

- Access management within the designated sites;
- Alternative recreational greenspace sites and routes outside the designated sites;
- Education, awareness and promotion

Officers consider a combination of measures will be required to both manage visitors once they arrive in the New Forest, including influencing choice of destination and behaviour, and by deflecting visitors to destinations outside the New Forest.

The New Forest Visitor Study (2019) asked visitors questions about their use of other recreation sites and also their preferences for alternative options such as a new country park or improved footpaths and bridleways. In total 531 alternative sites were mentioned including Southampton Common which was in the top ten of alternative sites. When asked whether they would use a new country park or improved footpaths/ bridleways 40% and 42% of day visitors respectively said they would whilst 21% and 16% respectively said they were unsure. This would suggest that alternative recreation sites can act as suitable mitigation measures, particularly as the research indicates that the number of visits made to the New Forest drops the further away people live.

The top features that attracted people to such sites (mentioned by more than 10% of interviewees) included: Refreshments (18%); Extensive/good walking routes (17%); Natural, 'wild', with wildlife (16%); Play facilities (15%); Good views/scenery (14%); Woodland (14%); Toilets (12%); Off-lead area for dogs (12%); and Open water (12%). Many of these features are currently available in Southampton's Greenways and semi-natural greenspaces and, with additional investment in infrastructure, these sites would be able to accommodate more visitors.

The is within easy reach of a number of semi-natural sites including Southampton Common and the four largest greenways: Lordswood, Lordsdale, Shoreburs and Weston. Officers consider that improvements to the nearest Park will positively encourage greater use of the park by residents of the development in favour of the New Forest. In addition, these greenway sites, which can be accessed via cycle routes and public transport, provide extended opportunities for walking and connections into the wider countryside. In addition, a number of other semi-natural sites including Peartree Green Local Nature Reserve (LNR), Frogs Copse and Riverside Park are also available.

The City Council has committed to ring fencing 4% of CIL receipts to cover the cost of upgrading the footpath network within the city's greenways. This division of the ring-fenced CIL allocation is considered to be appropriate based on the relatively low proportion of visitors, around 6%, recorded originating from Southampton. At present, schemes to upgrade the footpaths on Peartree Green Local Nature Reserve (LNR) and the northern section of the Shoreburs Greenway are due to be implemented within the next twelve months, ahead of occupation of this development. Officers consider that these improvement works will serve to deflect



residents from visiting the New Forest.

Discussions have also been undertaken with the New Forest National Park Authority (NFNPA) since the earlier draft of this Assessment to address impacts arising from visitors to the New Forest. The NFNPA have identified a number of areas where visitors from Southampton will typically visit including locations in the eastern half of the New Forest, focused on the Ashurst, Deerleap and Longdown areas of the eastern New Forest, and around Brook and Fritham in the northeast and all with good road links from Southampton. They also noted that visitors from South Hampshire (including Southampton) make up a reasonable proportion of visitors to central areas such as Lyndhurst, Rhinefield, Hatchet Pond and Balmer Lawn (Brockenhurst). The intention, therefore, is to make available the remaining 1% of the ring-fenced CIL monies to the NFNPA to be used to fund appropriate actions from the NFNPA's Revised Habitat Mitigation Scheme SPD (July 2020) in these areas. An initial payment of £73k from extant development will be paid under the agreed MoU towards targeted infrastructure improvements in line with their extant Scheme and the findings of the recent visitor reports. This will be supplemented by a further CIL payment from the development with these monies payable after the approval of the application but ahead of the occupation of the development to enable impacts to be properly mitigated.

The NFNPA have also provided assurance that measures within the Mitigation Scheme are scalable, indicating that additional financial resources can be used to effectively mitigate the impacts of an increase in recreational visits originating from Southampton in addition to extra visits originating from developments within the New Forest itself both now and for the lifetime of the development

#### Funding mechanism

A commitment to allocate CIL funding has been made by Southampton City Council. The initial proposal was to ring fence 5% of CIL receipts for measures to mitigate recreational impacts within Southampton and then, subsequently, it was proposed to use 4% for Southampton based measures and 1% to be forwarded to the NFNPA to deliver actions within the Revised Habitat Mitigation Scheme SPD (July 2020). To this end, a Memorandum of Understanding between SCC and the NFNPA, which commits both parties to,

*“work towards an agreed SLA whereby monies collected through CIL in the administrative boundary of SCC will be released to NFNPA to finance infrastructure works associated with its Revised Habitat Mitigation Scheme SPD (July 2020), thereby mitigating the direct impacts from development in Southampton upon the New Forest's international nature conservation designations in perpetuity.”*

has been agreed.

The Revised Mitigation Scheme set out in the NFNPA SPD is based on the framework for mitigation originally established in the NFNPA Mitigation Scheme (2012). The key elements of the Revised Scheme to which CIL monies will be released are:

- Access management within the designated sites;

- Alternative recreational greenspace sites and routes outside the designated sites;
- Education, awareness and promotion;
- Monitoring and research; and
- In perpetuity mitigation and funding.

At present there is an accrued total, dating back to 2019 of £73,239.81 to be made available as soon as the SLA is agreed. This will be ahead of the occupation of the development. Further funding arising from the development will be provided.

Provided the approach set out above is implemented, an adverse impact on the integrity of the protected sites will not occur.

### **Solent and Southampton Water SPA/Ramsar site**

The Council has adopted the Solent Recreation Mitigation Partnership's Mitigation Strategy (December 2017), in collaboration with other Councils around the Solent, in order to mitigate the effects of new residential development on the Solent and Southampton Water SPA and Ramsar site. This strategy enables financial contributions to be made by developers to fund appropriate mitigation measures. The level of mitigation payment required is linked to the number of bedrooms within the properties.

The residential element of the development could result in a net increase in the city's population and there is therefore the risk that the development, in-combination with other residential developments across south Hampshire, could lead to recreational impacts upon the Solent and Southampton Water SPA. A contribution to the Solent Recreation Mitigation Partnership's mitigation scheme will enable the recreational impacts to be addressed. The developer has committed to make a payment prior to the commencement of development in line with current Bird Aware requirements and these will be secured ahead of occupation – and most likely ahead of planning permission being implemented.

### *Water quality*

### **Solent Maritime SAC and the Solent and Southampton Water SPA/Ramsar site**

Natural England highlighted concerns regarding, *“high levels of nitrogen and phosphorus input to the water environment in the Solent with evidence that these nutrients are causing eutrophication at internationally designated sites.”*

Eutrophication is the process by which excess nutrients are added to a water body leading to rapid plant growth. In the case of the Solent Maritime SAC and the Solent and Southampton Water SPA/Ramsar site the problem is predominately excess nitrogen arising from farming activity, wastewater treatment works discharges and urban run-off.

Features of Solent Maritime SAC and Solent and Southampton Water SPA/Ramsar site that are vulnerable to increases in nitrogen levels are coastal grazing marsh, inter-tidal mud and seagrass.

Evidence of eutrophication impacting the Solent Maritime SAC and Solent and Southampton Water SPA/Ramsar site has come from the Environment Agency data covering estimates of river flow, river quality and also data on WwTW effluent flow and quality.

An Integrated Water Management Study for South Hampshire, commissioned by the Partnership for Urban South Hampshire (PUSH) Authorities, examined the delivery of development growth in relation to legislative and government policy requirements for designated sites and wider biodiversity. This work has identified that there is uncertainty in some locations as to whether there will be enough capacity to accommodate new housing growth. There is uncertainty about the efficacy of catchment measures to deliver the required reductions in nitrogen levels, and/or whether the upgrades to wastewater treatment works will be enough to accommodate the quantity of new housing proposed. Considering this, Natural England have advised that a nitrogen budget is calculated for larger developments.

A methodology provided by Natural England has been used to calculate a nutrient budget and the calculations conclude that there is a predicted Total Nitrogen surplus arising from the development as set out in the applicant's submitted Calculator, included within the submitted Sustainability Checklist, that uses the most up to date calculators (provided by Natural England) and the Council's own bespoke occupancy predictions and can be found using Public Access:

<https://www.southampton.gov.uk/planning/planning-applications/>

This submitted calculation has been checked by the LPA and is a good indication of the scale of nitrogen that will be generated by the development. Further nitrogen budgets will be required as part of any future HRAs. These nitrogen budgets cover the specific mix and number of proposed overnight accommodation and will then inform the exact quantum of mitigation required.

SCC is satisfied that, at this point in the application process, the quantum of nitrogen likely to be generated can be satisfactorily mitigated. This judgement is based on the following measures:

- SCC has adopted a Position Statement, 'Southampton Nitrogen Mitigation Position Statement' which is designed to ensure that new residential and hotel accommodation achieves 'nitrogen neutrality' with mitigation offered within the catchment where the development will be located;
- The approach set out within the Position Statement is based on calculating a nitrogen budget for the development and then mitigating the effects of this to achieve nitrogen neutrality. It is based on the latest advice and calculator issued by Natural England (March 2022);
- The key aspects of Southampton's specific approach, as set out in the Position Statement, have been discussed and agreed with Natural England ahead of approval by the Council's Cabinet in June 2022;
- The Position Statement sets out a number of potential mitigation approaches. The principle underpinning these measures is that they must be counted solely for a specific development, are implemented prior to occupation, are maintained for the duration of the impact of the development (generally taken to be 80 – 125 years) and are enforceable;

- SCC has signed a Section 33 Legal Agreement with Eastleigh Borough Council to enable the use of mitigation land outside Southampton's administrative boundary, thereby ensuring the required ongoing cross-boundary monitoring and enforcement of the mitigation;
- The applicant has indicated that it will purchase the required number of credits from the Eastleigh BC mitigation scheme to offset the nutrient loading detailed within the nitrogen budget calculator (Appendix 2);
- The initial approach was to ensure an appropriate mitigation strategy was secured through a s.106 legal agreement but following further engagement with Natural England a Grampian condition, requiring implementation of specified mitigation measures prior to first occupation, will be attached to the planning permission. The proposed text of the Grampian condition is as follows:

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***The development hereby permitted shall not be occupied unless a Nitrate Mitigation Vesting Certificate confirming the purchase of sufficient nitrates credits from the Eastleigh Borough Council – tbc with applicant Nutrient Offset Scheme for the development has been submitted to the council.***

***Reason:***

***To demonstrate that suitable mitigation has been secured in relation to the effect that nitrates from the development has on the Protected Sites around The Solent.***

With these measures in place nitrate neutrality will be secured from this development and as a consequence there will be no adverse effect on the integrity of the protected sites.

### **Conclusions regarding the implications of the development for the identified European sites in view of those sites' conservation objectives**

#### **Conclusions**

The following conclusions can be drawn from the evidence provided:

- There is potential for a number of impacts, including noise disturbance and mobilisation of contaminants, to occur at the demolition and construction stage.
- Water quality within the Solent and Southampton Water SPA/Ramsar site could be affected by release of nitrates contained within wastewater.
- Increased levels of recreation activity could affect the Solent and Southampton Water SPA/Ramsar site and the New Forest/SAC/SPA/Ramsar site.
- There is a low risk of birds colliding with the proposed development.

The following mitigation measures have been proposed as part of the development:

#### **Demolition and Construction phase**

- Provision of a Construction Environmental Management Plan, where appropriate.
- Use of quiet construction methods where feasible;
- Further site investigations and a remediation strategy for any soil and groundwater contamination present on the site.

### Operational

- Contribution towards the Solent Recreation Mitigation Partnership scheme. The precise contribution level will be determined based on the known mix of development;
- 4% of the CIL contribution will be ring fenced for footpath improvements in Southampton's Greenways network. The precise contribution level will be determined based on the known mix of development;
- Provision of a welcome pack to new residents highlighting local greenspaces and including walking and cycling maps illustrating local routes and public transport information.
- 1% of the CIL contribution will be allocated to the New Forest National Park Authority (NFNPA) Habitat Mitigation Scheme. A Memorandum of Understanding (MoU), setting out proposals to develop a Service Level Agreement (SLA) between SCC and the NFNPA, has been agreed. The precise contribution level will be determined based on the known mix of development with payments made to ensure targeted mitigation can be delivered by NFNPA ahead of occupation of this development.
- A Grampian condition, requiring evidence of purchase of credits from the Eastleigh B C mitigation scheme prior to first occupation, will be attached to the planning permission. The mitigation measures will be consistent with the requirements of the Southampton Nitrogen Mitigation Position Statement to ensure nitrate neutrality.
- All mitigation will be in place ahead of the first occupation of the development thereby ensuring that the direct impacts from this development will be properly addressed.

As a result of the mitigation measures detailed above, when secured through planning obligations and conditions, officers are able to conclude that there will be no adverse impacts upon the integrity of European and other protected sites in the Solent and New Forest arising from this development.

### References

Fearnley, H., Clarke, R. T. & Liley, D. (2011). The Solent Disturbance & Mitigation Project. Phase II – results of the Solent household survey. ©Solent Forum/Footprint Ecology.

Liley, D., Stillman, R. & Fearnley, H. (2010). The Solent Disturbance and Mitigation Project Phase 2: Results of Bird Disturbance Fieldwork 2009/10. Footprint Ecology/Solent Forum.

Liley, D., Panter, C., Caals, Z., & Saunders, P. (2019) Recreation use of the New Forest SAC/SPA/Ramsar: New Forest Visitor Survey 2018/19. Unpublished report by Footprint Ecology.

Liley, D. & Panter, C. (2020). Recreation use of the New Forest SAC/SPA/Ramsar: Results of a telephone survey with people living within 25km. Unpublished report by Footprint Ecology.

## Protected Site Qualifying Features

### The New Forest SAC

The New Forest SAC qualifies under Article 3 of the Habitats Directive by supporting the following Annex I habitats:

- Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) (primary reason for selection)
- Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or of the *Isoëto-Nanojuncetea* (primary reason for selection)
- Northern Atlantic wet heaths with *Erica tetralix* (primary reason for selection)
- European dry heaths (primary reason for selection)
- *Molinia* meadows on calcareous, peaty or clayey-silt laden soils (*Molinion caeruleae*) (primary reason for selection)
- Depressions on peat substrates of the *Rhynchosporion* (primary reason for selection)
- Atlantic acidophilous beech forests with *Ilex* and sometimes also *Taxus* in the shrub layer
- (*Quercion robori-petraeae* or *Ilici-Fagenion*) (primary reason for selection)
- *Asperulo-Fagetum* beech forests (primary reason for selection)
- Old acidophilous oak woods with *Quercus robur* on sandy plains (primary reason for selection)
- Bog woodland (primary reason for selection)
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*,
- *Salicion albae*) (primary reason for selection)
- Transition mires and quaking bogs
- Alkaline fens

The New Forest SAC qualifies under Article 3 of the Habitats Directive by supporting the following Annex II species:

- Southern Damselfly *Coenagrion mercurial* (primary reason for selection)
- Stag Beetle *Lucanus cervus* (primary reason for selection)
- Great Crested Newt *Triturus cristatus*

### The New Forest SPA

The New Forest SPA qualifies under Article 4.1 of the Birds Directive by supporting breeding populations of European importance of the following Annex I species:

- Dartford Warbler *Sylvia undata*
- Honey Buzzard *Pernis apivorus*
- Nightjar *Caprimulgus europaeus*
- Woodlark *Lullula arborea*

The SPA qualifies under Article 4.2 of the Birds Directive by supporting overwintering populations of European importance of the following migratory species:

- Hen Harrier *Circus cyaneus*

### New Forest Ramsar Site



The New Forest Ramsar site qualifies under the following Ramsar criteria:

- Ramsar criterion 1: Valley mires and wet heaths are found throughout the site and are of outstanding scientific interest. The mires and heaths are within catchments whose uncultivated and undeveloped state buffer the mires against adverse ecological change. This is the largest concentration of intact valley mires of their type in Britain.
- Ramsar criterion 2: The site supports a diverse assemblage of wetland plants and animals including several nationally rare species. Seven species of nationally rare plant are found on the site, as are at least 65 British Red Data Book species of invertebrate.
- Ramsar criterion 3: The mire habitats are of high ecological quality and diversity and have undisturbed transition zones. The invertebrate fauna of the site is important due to the concentration of rare and scarce wetland species. The whole site complex, with its examples of semi-natural habitats is essential to the genetic and ecological diversity of southern England.

### **Solent Maritime SAC**

The Solent Maritime SAC qualifies under Article 3 of the Habitats Directive by supporting the following Annex I habitats:

- Estuaries (primary reason for selection)
- Spartina swards (*Spartinion maritimae*) (primary reason for selection)
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) (primary reason for selection)
- Sandbanks which are slightly covered by sea water all the time
- Mudflats and sandflats not covered by seawater at low tide
- Coastal lagoons
- Annual vegetation of drift lines
- Perennial vegetation of stony banks
- Salicornia and other annuals colonising mud and sand
- Shifting dunes along the shoreline with *Ammophila arenaria* ("white dunes")

Solent Maritime SAC qualifies under Article 3 of the Habitats Directive by supporting the following Annex II species:

- Desmoulin's whorl snail *Vertigo moulinsiana*

### **Solent and Southampton Water SPA**

Solent and Southampton Water SPA qualifies under Article 4.1 of the Birds Directive by supporting breeding populations of European importance of the following Annex I species:

- Common Tern *Sterna hirundo*
- Little Tern *Sterna albifrons*
- Mediterranean Gull *Larus melanocephalus*
- Roseate Tern *Sterna dougallii*
- Sandwich Tern *Sterna sandvicensis*

The SPA qualifies under Article 4.2 of the Birds Directive by supporting overwintering populations of European importance of the following migratory species:

- Black-tailed Godwit *Limosa limosa islandica*
- Dark-bellied Brent Goose *Branta bernicla bernicla*

- Ringed Plover *Charadrius hiaticula*
- Teal *Anas crecca*

The SPA also qualifies under Article 4.2 of the Birds Directive by regularly supporting at least 20,000 waterfowl, including the following species:

- Gadwall *Anas strepera*
- Teal *Anas crecca*
- Ringed Plover *Charadrius hiaticula*
- Black-tailed Godwit *Limosa limosa islandica*
- Little Grebe *Tachybaptus ruficollis*
- Great Crested Grebe *Podiceps cristatus*
- Cormorant *Phalacrocorax carbo*
- Dark-bellied Brent Goose *Branta bernicla bernicla*
- Wigeon *Anas Penelope*
- Redshank *Tringa tetanus*
- Pintail *Anas acuta*
- Shoveler *Anas clypeata*
- Red-breasted Merganser *Mergus serrator*
- Grey Plover *Pluvialis squatarola*
- Lapwing *Vanellus vanellus*
- Dunlin *Calidris alpina alpina*
- Curlew *Numenius arquata*
- Shelduck *Tadorna tadorna*

#### **Solent and Southampton Water Ramsar Site**

The Solent and Southampton Water Ramsar site qualifies under the following Ramsar criteria:

- Ramsar criterion 1: The site is one of the few major sheltered channels between a substantial island and mainland in European waters, exhibiting an unusual strong double tidal flow and has long periods of slack water at high and low tide. It includes many wetland habitats characteristic of the biogeographic region: saline lagoons, saltmarshes, estuaries, intertidal flats, shallow coastal waters, grazing marshes, reedbeds, coastal woodland and rocky boulder reefs.
- Ramsar criterion 2: The site supports an important assemblage of rare plants and invertebrates. At least 33 British Red Data Book invertebrates and at least eight British Red Data Book plants are represented on site.
- Ramsar criterion 5: A mean peak count of waterfowl for the 5-year period of 1998/99 – 2002/2003 of 51,343
- Ramsar criterion 6: The site regularly supports more than 1% of the individuals in a population for the following species: Ringed Plover *Charadrius hiaticula*, Dark-bellied Brent Goose *Branta bernicla bernicla*, Eurasian Teal *Anas crecca* and Black-tailed Godwit *Limosa limosa islandica*.



**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS14	Historic Environment
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats
CS23	Flood Risk
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
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
HE1	New Development in Conservation Areas

City Centre Action Plan - March 2015

AP 9	Housing supply
AP 12	Green infrastructure and open space
AP 15	Flood resilience
AP 16	Design

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Planning Obligations (Adopted - September 2013)  
Parking Standards SPD (September 2011)  
Oxford Street Conservation Area Appraisal (February 2012)

Other Relevant Guidance

The National Planning Policy Framework (revised 2023)  
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

**Relevant Planning History**

<b>Case Ref</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
04/01622/FUL	Conversion of first, second, third, fourth and fifth floors from offices to residential comprising 30 flats (20 no. one-bed flats and 10 no. two-bed flats).	Conditionally Approved	18.02.2005
05/00065/FUL	Change of use of ground floor from Offices (B1 Use) to Food and Drink (A3 Use).	Conditionally Approved	06.02.2006
05/00448/FUL	Construction of an additional floor to form 3 flats.	Application Refused	17.05.2005
05/01687/ADV	Retrospective application for the retention of 2 non-illuminated vertical banners to the front and side elevations.	Application Refused	17.01.2006
06/01106/FUL	Erection of roof extension to form 3 x 2 bedroom flats with roof terraces.	Application Refused	06.09.2006
07/00910/FUL	Erection of sixth floor roof extension to form 2 two-bedroom flats with roof terraces (resubmission)	Conditionally Approved	04.08.2008
11/01144/TIME	Extension of time to implement previous planning permission reference 07/00910/FUL for erection of sixth floor roof extension to form 2x 2-bed flat with roof terraces - APP/D1780/A/12/2175321/NWF	Application Refused	15.12.2011
12/00980/DIS	Application for approval of details reserved by Condition 2 (Bin Storage), 3 (Bike Storage), 4 (Soundproofing), 5 (Extract Ventilation) and 6 (Compressors/Air Conditioning Units) of planning permission reference 05/00065/FUL for a change of use from Office (B1) to Food and Drink (A3).		
15/02402/FUL	Erection of an additional sixth floor to provide 2 x 2-bed flats	Withdrawn	08.02.2016
21/00512/FUL	Removal of condition 10 under planning permission ref 05/00065/FUL to relax the restriction on permitted development right to allow flexible occupancy of the premises under class E	Withdrawn	25.01.2022
22/01039/FUL	Erection of an additional sixth floor to provide 2x2 bed flats with associated roof terraces.	Withdrawn	21.09.2022



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# Appeal Decision

Site Visit made on 2 November 2012

**by E C Grace DipTP FRTPI FBEng PPIAAS**

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

**Decision date: 14 November 2012**

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**Appeal Ref: APP/D1780/A/12/2175321**

**Havelock Chambers, 20-22 Queens Terrace, Southampton SO14 3BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission on an application for the extension to the time limit for implementing a planning permission.
  - The appeal is made by Caxton Properties Ltd against the decision of Southampton City Council.
  - The application Ref 11/01144/TIME, dated 27/6/11, was refused by notice dated 15/12/11.
  - The development proposed is erection of sixth floor roof extension to form two 2-bedroom flats with roof terraces as approved under ref. 07/00910/FUL dated 4/8/08.
- 

## Decision

1. The appeal is dismissed.

## Background

2. Permission was granted on 18 February 2005 (ref: 04/01622/FUL) for conversion of the first to fifth floors of Havelock Chambers from office use to residential, comprising 30 flats.
3. On 20 January 2006 permission was granted (05/00065/FUL) to change much of the ground floor office use to A3 restaurant use.
4. Permission (ref. 07/00910/FUL) for a sixth floor extension to form 2 flats was granted on 4 August 2008 subject to a standard time limit condition (no.1) requiring development to commence within 3 years of the date of approval. A further condition (no.7) required the cycle and bin storage facilities provided for the existing flats as shown on drawing no.B974-310-D3 (submitted in connection with planning permission ref: 04/01622/FUL) to be made available for occupants of the two additional flats at all times. At the time of the conditions discharge, an amended plan no.B974-310-D7 was submitted and approved in a letter from the LPA dated 12 July 2006, which stresses the cycle and refuse stores are to be fully completed in accordance therewith.
5. A note attached to the permission indicated that the Environment Agency had objected to the proposal on flood risk grounds. However, the Local Planning Authority granted permission for the two additional flats as the flood risk was not regarded to be sufficient to warrant refusal if intended occupants and their successors in title were advised of the relative flood risk and the measures/recommendations set out in the 2007 Flood Risk Assessment by Opus, as amplified by the Paris Smith Randall letter dated 2 April 2008 and e-mail dated 12 June 2008.

## Main Issues

6. The main issues in this appeal are whether:
  - a) the development is capable of being implemented as approved in respect of refuse and cycle storage facilities if permission to extend the time limit is granted and
  - b) an updated Flood Risk Assessment is required to be submitted in response to alterations made to the Environment Agency's Flood Risk Map.

## Reasons

7. It is apparent that the conversion of the former offices on the first to fifth floors of the building to 30 flats has been carried out but it has not been implemented in accordance with the approved details, with respect to the bin and cycle storage provision. I saw during my visit that only 8 cycle spaces have been provided of the 33 required and these were obstructed by rubbish. The space where the remaining cycle racks should have been installed is used to store bins from the restaurant. The restaurant use has also been implemented, but the Council assert that none of the conditions requiring submission of revised details of refuse storage, separate from the residential bin storage area, provision of cycle storage, soundproofing, extract ventilation and air conditioning units have been complied with.
8. Indeed, I saw that the area shown for the restaurant's bin and cycle storage area on the approved plans has actually been incorporated within the dining area of the restaurant. The part of the building intended for storing the residential refuse and recycling bins was strewn with discarded rubbish such as broken furniture, household appliances and dismantled cycles, while the bins were positioned on the footpath outside the building, where I understand they are permanently stationed.
9. The lifts in the building were inoperative at the time of my visit, which from my reading of the numerous representations made by residents of the building is the norm since there has been no effective management company running the building for over three years. There is also disquiet expressed about noise and smells emanating from the restaurant and concern about fire detection and smoke extraction systems not being in full working order. They also indicate there is an on-going legal dispute between the residents and the appellant company and that they are seeking a *Right to Manage* in order to put a proper management regime in place and to address past lack of maintenance and upkeep of the building.
10. The appellant indicates that the application was made under the simplified arrangements for renewal of permissions set out in the Government's Notes on Greater Flexibility for Planning Permissions, which encourages Local Planning Authorities (LPAs) to take a positive attitude towards renewals, particularly having regard to the proposal having been, by definition, judged to be acceptable in the first place. It also indicates LPAs should focus their attention on development plan policies and other material considerations (including national policies) which may have changed in the intervening period.
11. The Council's refusal is not based on the principle of the proposal, or indeed policy changes *per se* but rather by failure of the appellant to implement previous approvals in accordance with the conditions, which represent a material change in circumstances that have a direct bearing on this proposal.

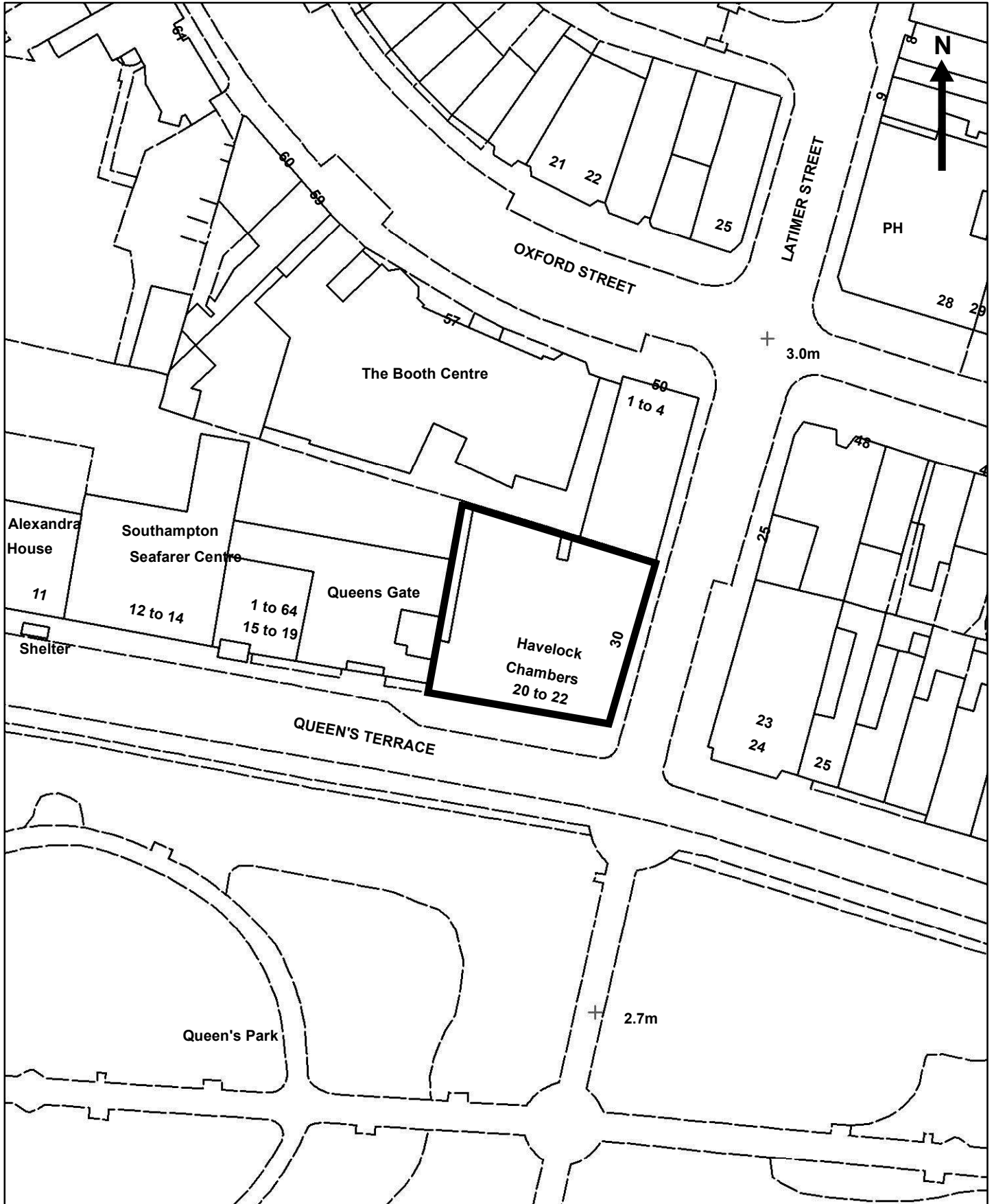
12. In particular, the incorporation within the restaurant's seating area of the space approved for its bin and cycle store has resulted in it utilising the approved cycle storage area for the flats for this purpose. No alternative cycle storage has been provided or is proposed for the majority of the flats in the building. A further plan (no.B974-310-D8) has been submitted to show how a discrete bin and cycle store for the two proposed sixth floor flats could be provided within part of the remaining ground floor office. However, this piecemeal approach does not resolve the failure to provide a satisfactory bin/cycle store for the restaurant, or the requisite cycle parking for the existing flats, and represents an unsatisfactory solution for the two proposed flats necessitating a journey down the lift (or stairs) out of the building and along the street each time they use their dedicated bin/cycle store. I consider a comprehensive approach to the provision of the bin and cycle store for all the flats and the restaurant is the only sensible and practical solution.
13. The Council also state that as Caxton Properties Ltd sold the building under a 150 year lease to Lance Homes they are not persuaded that they are able to ensure the past conditions can be complied with. Flat owners have pointed to a nexus between the two companies, and the appellant confirmed they have control of the ground floor of the building and consider a condition could be imposed to provide the separate bin/cycle store for the two flats as shown in the latest drawing. However, the matter of ownership and control is further complicated by the introduction of the restaurant use and the manner it has been implemented, which renders technical compliance with condition 7 of the previous approval impossible. I therefore agree with the Council that the extension of the time limit for implementing the planning permission should be refused in the absence of clear proposals for dealing with the comprehensive provision of bin and cycle storage for the building. Failure to provide these contravenes adopted Core Strategy Policy CS19 as supported by the Parking Standards SPD, the Residential Design Guide and Local Plan Policy SDP5.
14. Turning to the second issue, the Environment Agency were consulted and commented that provided the proposal has not changed, a revised Flood Risk Assessment (FRA) does not need to be submitted. However, they did state that their Flood Map had been revised since the 2007 FRA was submitted, which shows there would be a small reduction in the predicted flood levels. Whilst they did not wish to object to the proposal they highlighted that tidal flooding could be for a duration up to 5 hours 30 minutes at a depth of 1.25m whereby residents would have to be evacuated or remain in their own homes for this time. It continues by indicating that LPAs have the responsibility to consult their Emergency Planning Officers to appraise the emergency planning and rescue implications of new development.
15. Whilst it is clear that the LPA took the view last time that the flood risk impact upon the proposed two penthouse flats would not be such as to warrant refusal they were clearly informed in their decision by the FRA and subsequent correspondence that was submitted. The Environment Agency consultation suggests the risk is no worse, and if anything marginally better than previously forecast. Nevertheless, though the conclusion previously was that the risk can be satisfactorily managed by warning, standby and evacuation if necessary, no updated risk approach has been submitted. Whilst such a document is unlikely to be onerous to produce, I consider it essential in the circumstances of this case, where there has been a protracted absence of satisfactory management of the building and apparent disregard for occupants' health and safety.

16. Therefore, I conclude that the failure to provide documentation relating to the management of the accepted flood risk contravenes Core Strategy Policy CS23.

17. For the reasons given above I conclude that the appeal should be dismissed.

*Edward Grace*

Inspector



Scale: 1:625

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## Planning and Rights of Way Panel 9<sup>th</sup> July 2024 Planning Application Report of the Head of Transport and Planning

<b>Application address:</b> 37 London Road, Southampton			
<b>Proposed development:</b> Continued implementation of planning permission 13/01284/FUL not in accordance with condition 3. Variation to condition 3 (hours of use) to vary the opening hours to 11:00 to midnight (11:00 to 00:00 hours) Monday to Sunday - <i>Description amended to reduce extended hours from 03:00 am close to 00:00 midnight close</i>			
<b>Application number:</b>	22/00122/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Stuart Brooks	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	23.03.2022	<b>Ward:</b>	Bevois
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received	<b>Ward Councillors:</b>	Cllr Rayment Cllr Kataria Cllr Denness
<b>Referred to Panel by:</b>	n/a	<b>Reason:</b>	n/a
<b>Applicant:</b> MR A SRIVASTAVA		<b>Agent:</b> Mr T AY	

<b>Recommendation Summary</b>	<b>Delegate to the Head of Transport and Planning to grant planning permission subject to criteria listed in report</b>
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<b>Community Infrastructure Levy Liable</b>	<b>No</b>
<b>Biodiversity Net Gain Applicable</b>	<b>No</b>

### **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 (revised 2023). 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, AP9 of the City Centre Action Plan March 2015.

**Appendix attached**

1	Development Plan Policies	2	Relevant Planning History
3	Planning permission 13/01284/FUL		

**Recommendation in Full**

1. Delegate to the Head of Transport and Planning 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 the provision of a financial contribution towards late night Community Safety Initiatives within the City Centre, having regard to the late night uses within the application proposal and in accordance with policy AP8 of the City Centre Action Plan as supported by the Planning Obligations SPD.
2. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

**1. The site and its context**

- 1.1 This application site is located in London Road and comprises a mixed use restaurant and takeaway on the ground floor with servicing for bins to the rear accessible from Salsbury Street.
- 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.
- 1.3 The area falls within the Bedford Place evening zone (as defined by saved policy AP8 (nighttime economy) of the City Centre Action Plan) with a number of commercial and late-night uses including public houses, restaurants, night clubs and other live music entertainment venues associated with the nighttime 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.
- 1.4 The premises is authorised to operate the food and drink use under planning permission ref no. 13/01284/FUL from 11:00 to 23:00 hours Monday to Sunday (**see Appendix 3** for plans and decision notice).
- 1.5 The business advertises online that it currently deliveries to customers until 02:00 hours after the premises closes to customers at 23:00. Although customers are not allowed on the premises during these hours, the nature of the delivery use outside the authorised hours would require planning permission itself and, as such, the Planning Enforcement team has advised the applicant to cease this planning breach. If the panel are minded to

approve the application, the Planning Enforcement team will seek to take appropriate enforcement action if the delivery business continues to operate outside the approved hours. This element of the operation is not for consideration by this Panel.

## **2. Proposal**

- 2.1 Since the application was submitted the applicant has agreed to reduce the extended hours of use from 03:00 (as originally submitted) to a midnight close instead. As such, closing time of the premises will be extended by 1 hour (Monday to Sundays). The applicant agreed that the proposal does not include any delivery use once closed beyond midnight and this can be dealt with separately.

## **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 1**.
- 3.2 The National Planning Policy Framework (NPPF) was revised in 2023. Paragraph 225 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 Saved policy REI7 (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 place 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 (particularly late at night) amongst other issues will require careful consideration and these impacts are further assessed in the ‘Planning Considerations’ of the report.
- 3.4 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. In this case, the Bedford Place evening zone (which covers this site) permits night time uses to operate until midnight (see Map 6 and table 5 of the policy).

**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 11.02.2022. At the time of writing the report **19 letters of objection** have been received from surrounding residents. The following is a summary of the points raised:

5.2 ***Contrary to licensing requirements in the Cumulative Impact Area (CIA). The business does not have a license.***

**Response**

The issuing of a premises license would be decided separately to the planning process. Although there is some overlap, the planning and licensing systems have different assessment criteria and are different regimes. Planning can consider wider range of factors including residential amenity impacts. The Environmental Health/SCC licensing team is aware that the premises does not have a late night refreshment licence and have separate powers to take further steps to remedy outside the planning process. The decision notice would include an advisory note to make this clear to the applicant.

5.3 ***The late night hours will cause noise disturbance to the detriment of the amenity of nearby residents. Contrary to the midnight closing hours required by policy AP8 for this area. Needs to be consistent with other decisions made by the Council for applications to extend hours of premises in the area.***

**Response**

The applicant has agreed to reduce the hours to a midnight closure to comply with the policy AP8. As such, the noise and disturbance associated with the proposed use, and dispersal of patrons, will not adversely affect adjoining and nearby residents. The Environmental Health team have no objection to the revised hours. So whereas the scheme as submitted was contrary to adopted Policy the current hours align and should be supported.

## Consultation Responses

5.4

<b>Consultee</b>	<b>Comments</b>
Environmental Health	<p><u>Initial Objection - Superseded</u>  <i>Environmental Health consider that opening until 03.00 hours is excessive due to the close proximity of residential properties above and to the rear of this property. Robust noise management plan required based on a noise assessment to include activities inside the premises, the extraction system and customers. Emptying of bins, particularly glass, to be restricted to 09.00 to 21.00.</i></p> <p><u>No objection received following reduction in hours</u>            I have checked the history for 37 London Road and can find no complaints relating to this premises. I am happy to support this application for an additional hour. I believe the emptying of bins condition would be sensible unless the applicant feels this is unfair. Can we provide an advice note to the applicant that states they will now need a late night refreshment licence. We can deal with potential management matters under condition on the licence, however I envisage this will only be able to deal with ensuring dispersal and ensuring delivery drivers do not create a nuisance.</p>
Licensing	<p><u>No objection raised</u>            There is no premises licence in place at this address. If the applicant wishes to conduct licensable activities at this property an application for a premises licence will need to be made.</p>
Crime Prevention Design Advisor	<p><u>Objection</u>            This premises falls within a Cumulative Impact Area, policing within this area is challenging. We are concerned that the extension of hours will have the following effects:</p> <ul style="list-style-type: none"> <li>• Cause people leaving other nearby venues to come to this location</li> <li>• Delay dispersal from the area</li> <li>• Place an additional burden on resources at a later dispersal time</li> <li>• Those visiting this venue may cause issues for local residents</li> </ul> <p><u>Officer Response</u>            Due the reduction in closing hours to comply with policy AP8, the concerns regarding the policing resources</p>

	burden and dispersal delays raised by the objection no longer holds significant material weight in deciding the application. This will be further mitigated by the requirement to secure a financial contribution towards community safety measures.
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## **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;
- Effect on character and amenity;
- Parking highways and transport and;
- Mitigation of direct local impacts.

### **6.2 Principle of Development**

6.2.1 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, proposed closing hours of the premises will comply with the designated Bedford Place evening zone (see Map 6 under policy AP 8) no later than midnight (see table 5 of the policy). The principle of development is fully supported.

### **6.3 Effect character and amenity**

6.3.1 Having reduced the extended hours of the business from 03:00 to midnight, the proposal now complies with the latest closing hours allowed under policy AP8. Whilst the occupants of the flats above and to the rear, and nearby residents will notice additional comings and goings to the premises by customers and staff during the extended hour, the resulting noise and disturbance from the food and drink use would not cause a significantly adverse impact given the existing level of background noise and activity associated with the activities of the nighttime local economy in the London Road and Bedford Place area.

6.3.2 Following the comments of the Environmental Health team, it is recommended to minimise late night disturbance by restricting the emptying of bins and glass to 09:00 to 21:00 hours. Conditions 2 and 4 under the original planning permission will be reimposed to require the retention of the approved cooking extraction system installed and provision of adequate bin storage. Environmental Health have confirmed no complaints have been received relating to the use of the premises. Furthermore, the applicant will be expected to apply for a late night refreshment license which deals with aspects of the business such as ensuring dispersal and delivery drivers do not create a nuisance.

### **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. Provision of refuse storage will be reimposed by condition from the original planning permission.

#### 6.5 Mitigation of direct local impacts

6.5.1 The applicant will be liable to complete a S106 agreement to secure a £5,000 contribution towards Late Night Community Safety Facilities as the late night hours proposed will increase the burden on managing security and safety within the Bedford Place/London Road area due to the additional patrons being in the area during the extended hour Monday to Sundays.

### 7. Summary

7.1 In summary, extending opening times of the food and drink use by 1 hour (till midnight) complies with the Council's nighttime economy policy to manage the safety and amenity of the local area, whilst this would have the economic benefit of supporting growth of the night time economy. In relation to the impact from noise and disturbance and the wider impacts of customer dispersal during and after the proposed closing time, the scale and nature of the food and drink use would not adversely affect the amenity of adjoining and nearby residents.

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

**SB for 09/07/24 PROW Panel**

#### PLANNING CONDITIONS to include

##### **1. Full Permission Timing (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. Extract ventilation (Performance)**

Unless otherwise agreed in writing by the Local Planning Authority, for the lifetime of the approved use the cooking extraction equipment shall be maintained and retained as approved under planning permission ref no. 13/01284/FUL. The equipment shall be operated in accordance with the manufacturers' instructions to effectively control odours from any cooking process and noise and/or vibration generated by the extractor fan.

Reason: To protect the amenities of adjoining residential properties.

### **3. Hours of Use (Performance) – Amended by this Permission**

Unless otherwise agreed in writing by the Local Planning Authority, the food and drink use hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

Monday to Sunday 11.00 hours to 00.00 hours (11.00am to 12.00am)

A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.

No emptying of refuse or glass bins associated with the approved use shall take place outside the hours of 09:00 to 21:00 hours.

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

### **4. Refuse storage**

The provision of adequate storage to dispose of all refuse, crates, pallets and packing materials to the rear of the site will continue for the lifetime of the use hereby approved.

Reason: To prevent littering in the surrounding area.

### **5. 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.

### **Note to Applicant**

*Please note that the premises require a License, in addition to this Planning Permission, for this use. Furthermore, planning permission is needed for any delivery service that operates outside of the approved hours of use. This matter has been passed to the Council's Planning Enforcement team to investigate further.*



**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 (2023)

**Relevant Planning History**

<b>Case Ref</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
02/00667/VC	Variation of condition 02 of planning permission 961373/3820/E to extend opening hours to 1:00 Monday to Thursday, 2:00 Friday & Saturday and 12:30 on Sunday	Refused	09.09.2002
13/01284/FUL	Change of use of ground floor from mixed A1/A3 to mixed restaurant/hot food takeaway (classes A3/A5)	Conditionally Approved	23.09.2013
13/01726/FUL	Installation of a new shopfront (submitted in conjunction with 13/01727/ADV)	Conditionally Approved	06.12.2013
14/01212/FUL	Application for variation of condition 3 of planning permission ref 13/01284/FUL to vary the opening hours from 11:00 - 23:00 to 07:00 - 23:00 Monday - Sunday (amended description)	Conditionally Approved	04.09.2014



13/01284/FUL/3820

**DETERMINATION OF APPLICATION**

**TOWN AND COUNTRY PLANNING ACT 1990**

**Town and Country Planning  
(Development Management Procedure) (England) Order 2010**

Mr David Silence  
Simpson Hilder Associates  
67A High Street  
Lyndhurst  
SO43 7BE

In pursuance of its powers under the above Act and Regulations, Southampton City Council, as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

**FULL APPLICATION - CONDITIONAL APPROVAL**

**Proposal:** Change of use of ground floor from mixed A1/A3 to mixed restaurant/hot food takeaway (classes A3/A5)

**Site Address:** 37 London Road Southampton SO15 2AD

**Application No:** 13/01284/FUL

Subject to the following conditions.

**01.APPROVAL CONDITION - Full Permission Timing Condition - Change of use**

The use hereby permitted shall begin not 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.APPROVAL CONDITION - Extract ventilation - control of noise, fumes and odour**

The use hereby approved shall not be first commenced until the agreed scheme for the control of noise, vibration, fumes and odours from extractor fans and other equipment have been installed in full working order. The equipment shall be maintained in accordance with the manufacturers' instructions to effectively control odours from any cooking process and noise and/or vibration generated by the extractor fan. The approved scheme of works shall be retained at all times thereafter in good working order.

**Reason:**

To protect the amenities of adjoining residential properties.

**03.APPROVAL CONDITION - Hours of Use - food/drink establishments**

The food and drink uses / drinking establishments hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

Monday to Sunday 11.00 hours to 23.00 hours (11.00am to 11.00pm)

Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.

**Reason:**

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

**04.APPROVAL CONDITION - Refuse - on site storage [Performance Condition]**

Provision shall be made within the site for the adequate storage prior to disposal of all refuse, crates, pallets and packing materials.

**Reason:**

To prevent littering in the surrounding area.

**05.APPROVAL CONDITION - 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.



**Chris Lyons**  
**Planning & Development Manager**

23 September 2013

If you have any further enquiries please contact:

**David Nip**

**IMPORTANT NOTE TO APPLICANT**

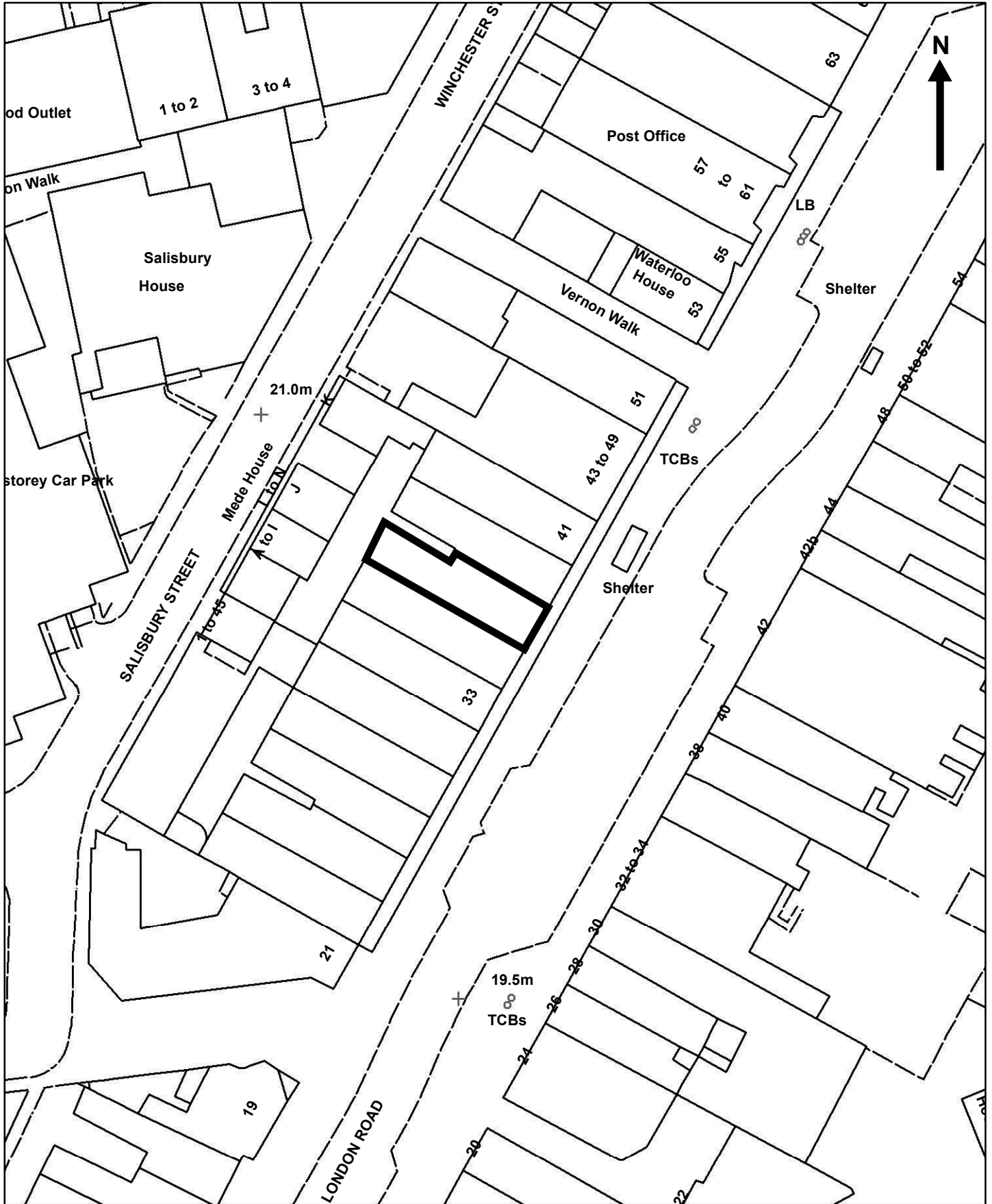
This decision has been made in accordance with the submitted application details and supporting documents and the development should be implemented in respect of the following plans and drawings.

<b>Drawing No:</b>	<b>Version:</b>	<b>Description:</b>	<b>Date Received:</b>	<b>Status:</b>
6879 - D&A		Design and Access Statement	29.07.2013	Approved
6879-001		Existing Plans	29.07.2013	Approved
6879-002	B	Proposed Plans	29.07.2013	Approved
6879-003		Block Plan	29.07.2013	Approved
AIRFILTER 1		Technical Spec	14.08.2013	Approved
AIRFILTER 2		Technical Spec	14.08.2013	Approved
FAN		Technical Spec	20.08.2013	Approved
KITCHEN VENT SUPPORT		Planning Statement	20.08.2013	Approved
EQUIPMENT SCHEDULE		Floor Plan	20.08.2013	Approved
PROPOSED KITCHEN VENT	A	Technical Spec	29.07.2013	Approved



FLOOR PLAN SCALE 1:50





Scale: 1:625

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