

Planning and Rights of Way Panel 21st September 2021
Planning Application Report of the Head of Planning & Economic Development

Application address: Quay 2000, Horseshoe Bridge, Southampton			
Proposed development: Closure of waterside walkway for public use - Application to vary the planning obligation set out at The Second Schedule (Waterfront Access) of the Section 106 Agreement dated the 16th November 1998, allowing the Waterfront Access (the walkway) gates to remain locked outside of the following hours: 1st April - 31st October (Summer Period) 08:00 - 20:00, 1st November - 31st March (Winter Period) 08:00 - 16:00 (Revised submission to application 19/00719/FUL)			
Application number:	20/00138/FUL	Application type:	FUL
Case officer:	Simon Mackie	Public speaking time:	15 minutes
Last date for determination:	N/A	Ward:	Portswood
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr Gordon Cooper Cllr Lisa Mitchell Cllr John Savage
Referred to Panel by:	N/A	Reason:	N/A
Applicant: Quay 2000 RTM Company Ltd		Agent: Ian Johnson - Luken Beck	

Recommendation Summary	<ol style="list-style-type: none"> 1. Refuse submitted request 2. Alternative offer to vary the Planning Obligation and secure that the Waterfront Access (the Walkway) provides public access over the walkway in line with previous decision of the Planning & Rights of Way Panel in July 2019 under planning application 19/00719/FUL.
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Community Infrastructure Levy Liable	Not applicable
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Appendix attached			
1	Development Plan Policies	2	Original Section 106 Agreement
3	19/00719/FUL Decision Notice	4	19/00719/FUL Panel Minutes

Recommendation in Full

1. Reject the request to vary the previous decision (19/00719/FUL) of the Planning & Rights of Way Panel (July 2019) under S106A of the Town & Country Planning Act that the planning obligation shall continue to have effect without modification, as contrary to CLT10 – Public Waterfront and Hards and CS 12 – Accessible & Attractive Waterfront.

2. Authorise the Head of Planning & Economic Development to enter into a s.106 Deed of Variation, at the applicant's expense, in accordance with the following heads of terms:
 - a. Amend the original planning obligation to provide a waterfront walkway/cycleway for recreational purposes at all times subject to the Management Plan.
 - b. Submit a Management Plan for approval in writing by the Council within 1 month from the completion of the Deed of Variation. The Management Plan to ensure that the gate is unlocked in the morning and locked in the evening every day, in line with the hours approved, with an ongoing commitment to retaining waterfront access for wider public use and compliance with the approved Management Plan for the lifetime of the Development;
 - c. The gates to remain open / closed as agreed in line with the hours set out below:

2 nd April – 29 th September	07.00 – 21.00
30 th September – 1 st April	07.00 – 18.00

 with no further means of enclosure erected on the land without prior written approval.
3. Authorise the Head of Planning & Economic Development – Infrastructure, Planning & Development to take enforcement action in respect of any breach of the extant planning obligation if the Deed of Variation is not completed within 3 months from the date of this Panel meeting and/or the Management Plan hasn't been agreed as required; and,
4. Authorise the Head of Planning & Economic Development – Infrastructure, Planning & Development to take enforcement action in respect of any breach of the revised hours, in line with the agreed amendment within 1 month from the written approval by the Council of the Management Plan.

Background

Any closure of the Walkway is in breach of the Section 106 Agreement, dated the 16th November 1998 and contrary to the Council's Planning Policy CLT 10 and CS 12 – Accessible & Attractive Waterfront, which has to be balanced with the safety and residential amenity of the residents of Quay 2000.

In response to the previous Planning & Rights of Way Panel decision of July 2019, in relation to the planning application referenced 19/00719/FUL, which refused the request to close the Walkway on a permanent basis, but allowed for a compromise position, whereby public access to the Walkway was to be retained during specific hours of daylight, the principle of opening the Walkway for a set period has been accepted as a reasonable compromise.

Although the formalisation of hours set out by the July 2019 Planning & Rights of Way Panel has never been complied with, the applicant, representing the residents of Quay 2000, have submitted the current application, on the basis that "*they are not opposed to providing access to the public within set hours*" requesting that the hours of the compromise position set out in the 19/00719/FUL planning application decision are revised in accordance with the latest opening/closing hours set out in the current planning application.

Originally the applicant proposed the following hours:

<i>1st April - 31st October:</i>	<i>09.00 - 18.00.</i>
<i>1st November - 31st March:</i>	<i>09.00 - 16.00.</i>

but these have now been amended by the applicant to the current proposed hours as set out below and which represent the hours proposed for the Walkway to be open:

1st April – 31st October	08.00 – 20.00
1st November – 31st March	08.00 – 16.00

Unfortunately, due to both issues of health and safety, which required both repairs to be carried out to the Walkway, and the Covid 19 Pandemic this matter has been deferred for a significant timeframe.

Since the submission of the current planning application, it is understood that a security company has been employed to perform the function of opening and closing the Walkway gates, which has been performed to the hours now proposed in the current planning application (in bold above). Officers have visited the site on three occasions (the latest being the 22nd June 2020 at 12.29pm) and found the gates to be open and the Walkway fully accessible.

This application has undergone two consultation exercises, one for the original proposed hours, in February 2020, and again in July 2021, for the current proposed hours.

Overall, the decision for Planning is very much in the balance, with the key issue being to secure a position, which both protects the safety and amenity of the residents, whilst allowing a reasonable level of access to the city's waterfront, of which the route around Quay 2000 is a part. Although the revised position and proposal from the applicant is welcomed and does certainly have merit, there has been no demonstrable evidence provided to dissuade officers that the difference from the applicant's proposed hours to those previous hours set from the July 2019 Planning Panel, would not secure the same balanced position sought by the Council and that which has been achieved thus far in closing the Walkway during the hours of darkness.

Therefore, the recommendation of the officer is, on balance, to refuse the hours proposed in this current planning application and look to secure the hours set out from the previous July 2019 Planning & Rights of Way Panel decision, as detailed below:

2 nd April – 29 th September	07.00 – 21.00
30 th September – 1 st April	07.00 – 18.00

As before, the requirement is to formalise the above position, by which the Council would require the submission, by the Freehold Landowner / Right To Manage Company, of a Waterfront Access Management and Maintenance Plan, detailing within the methodology of how the continued closure of the Walkway would be managed and maintained in perpetuity, which would be secured by way of a variation to the Section 106 Agreement.

For the avoidance of doubt the Waterfront Access Management and Maintenance Plan, would be subject to Council approval and any costs incurred by the Council in varying the original Section 106 Agreement will be covered by the applicant. In the event that these details are not forthcoming the Council would then need to take enforcement action through the courts.

1. The site and its context

1.1 The planning consent for the construction of the flats, subject to the Section 106 Agreement, was granted on 16th November 1998, under reference

97/0581/2084/W and was registered as a land charge on the 20th November 1998, with the following planning obligation included at:

- Schedule 2 of the section 106 agreement which provides for a footpath to be publicly accessible in perpetuity and maintained;

“To provide and thereafter maintain in accordance with a programme agreed with the council a waterfront walkway / cycleway within the 4m wide area of land shown coloured blue on plan 2 (“the walkway”)

“The Owner hereby grants to the council its successors in title all those authorised by it and the general public at large in perpetuity the right to use the land shown coloured blue on plans 2 and the walkway for recreational purposes at all times.”

- 1.2 The initial closure of the Walkway was initiated by the Quay 2000 RTM Company Ltd in August 2018 and remained closed until February 2020.
- 1.3 An application was made requesting permission to permanently close the Walkway gates (19/00719/FUL), which was refused by the Planning Pnel, but allowed for a compromise position, whereby public access to the Walkway was to be retained during specific hours of daylight in line with the following hours:

2 nd April – 29 th September	07.00 – 21.00
30 th September – 1 st April	07.00 – 18.00

2. Proposal

- 2.1 A revised planning application has been submitted to vary the hours, set out in Para 1.2 above, for the opening / closure of the on-site waterside walkway for public use. The applicant proposes to manage the gates and keep them open between the following hours:

1 st April – 31 st October	08.00 – 20.00
1 st November – 31 st March	08.00 – 16.00

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton hasn't changed since the previous application, and 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 within policies CLT10 and CS 12 - Accessible & Attractive Waterfront of the Core Strategy.
- 3.2 All waterfront development sites should, where appropriate, achieve greater integration between the city and its waterfront through *“improving the physical connections to and from the waterfront including provision of well designed, attractive and safe public access to the waterfront”*
- 3.3 Paragraph 91 b) of the National Planning Policy Framework states:

Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas;

3.4 and is also supported by paragraph 127 f) which states that:

Planning policies and decisions should ensure that developments:

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

4. Relevant Planning History

4.1 The original Section 106 Agreement was completed in the 16th November 1998.

4.2 The initial closure of the Walkway was initiated by the Quay 2000 RTM Company Ltd in August 2018 and remained closed until February 2020.

4.3 A planning application was made requesting permission to permanently close the Walkway gates (19/00719/FUL), which was refused but allowed for a compromise position, whereby public access to the Walkway was to be retained during specific hours of daylight in line with the following hours:

2 nd April – 29 th September	07.00 – 21.00
30 th September – 1 st April	07.00 – 18.00

5. Consultation Responses and Notification Representations

5.1 Following receipt of the application a publicity exercise in line with department procedures was undertaken, in February 2020, which included notifying adjoining and nearby landowners. Placing a press advertisement on the 14th February 2020 and erecting site notices on the 18th February 2020 and the 7th July 2021. A further consultation was undertaken when a further revision to the proposed hours was made from the 7th July 2021. Following the first consultation we received thirty representations in support and 31 against.

5.2 The following is a summary of the points raised:

5.3 Those in support of the proposal, generally residents of Quay 2000, were concerned that the anti-social behaviour experienced previously would return due to the later opening hours set by the original Planning Decision.

5.4 However, the contrary view is that the revised hours are too restrictive, especially the original hours proposed by the applicant and do not provide a reasonable level of waterfront access for all.

5.5 Both consultations provided a response which was distinctly split between those in support of the revised opening hours of the Walkway, which in the majority are residents of Quay 2000, and those opposed to the revised opening hours of the Walkway, who suggested that the original set hours from the previous Planning

Panel decision should be enforced, or at least a further compromise on hours should be sought.

- 5.6 The applicant sets out that the original hours, based on another city waterfront scheme within Ocean Village (Andes Close & Calshot Court) is not comparable, as the setting of each development is different and the anti-social behaviour occurred during the hours of twilight / darkness and the above hours would mean the Walkway would still be required to be open during such hours, hence the current revised hours submission.

5.7 **Officer Response**

Overall the issues previously raised do not appear to have returned now the Walkway is closed during night time hours and there has been no demonstrable evidence provided to suggest that the anti-social behaviour would return, as a result of imposing the hours set previously by the Planning Panel against those revised hours set out within the current proposal.

Consultation Responses

- 5.8 **Hampshire Constabulary** – No response has been received

As such we would refer to the previous consultation response, which set out the following position that overall, the data held by Hampshire Constabulary “*does not show that the boardwalk has a disproportionate effect on the levels of crime and anti-social behaviour in the area, when compared with any other local transit route.*”

- 5.9 **SCAAPS (Southampton Commons & Parks Protection Society)** - have objected to the original more restrictive hours of closure only, making the following comment that “*SCAAPS hopes the applicant will amend the application to limit closure to hours of darkness only. If the applicant is unwilling to make that concession, then the application should be refused & the City Council commence enforcement action to secure compliance with the legal agreement.*”

6.0 Planning Consideration Key Issues

- 6.1 The key issues for consideration in the determination of this planning request are:
- Accessible & Attractive Waterfront;
 - Impact on waterfront access;
 - Residential amenity; and,
 - Panel Options;

6.2 **CS 12 - Accessible & Attractive Waterfront of the Core Strategy**

- 6.2.1 The Council has a duty to enforce its own planning policies and ensure that these are not undermined disproportionately by individual decisions for individual sites. The retention of waterside access is a policy requirement and was a material consideration when the original Quay 2000 planning application was determined and remains a core planning policy requirement for all new waterfront development. The decision of the Planning Panel to the first request is a significant material consideration in the determination of this second request, and has informed this recommendation.

6.3 Impact on waterfront access

6.3.1 The Panel need to determine the impacts that the specific proposal have on the availability of waterfrontage within the city and to the general public. In this specific scenario the Walkway wraps only around the site and currently does not directly link up with any other waterfront walkway, save for the slipway to the north and Horseshoe Bridge to the south.

6.4 Residential amenity

6.4.1 Anti-Social Behaviour is a material consideration (policy SDP 10 Safety & Security) but, should not be a sole reason to depart from Council policy and it is the duty of all relevant parties / bodies to mitigate the impact of these issues.

6.5 Panel Options

6.5.1 The Planning & Rights of Way Panel has at least three options available to it;

1. Refuse the proposed hours herein and enforce previous decision from July 2019, by way of formally enforcing the hours set out below:

<i>2nd April – 29th September</i>	<i>07.00 – 21.00</i>
<i>30th September – 1st April</i>	<i>07.00 – 18.00</i>

2. Allow the revised hours submitted by the applicant and formally enforce the hours set out below:

<i>1st April – 31st October</i>	<i>08.00 – 20.00</i>
<i>1st November – 31st March</i>	<i>08.00 – 16.00</i>

3. Negotiate a further revision to the opening / closing hours.

6.5.2 Option 1 is recommended as this is aligned to the previous Planning Panel decision.

7. Summary

7.1 Having reviewed the consultations and given weight to all, it is judged on balance, that the principle of closing the Walkway during the hours of darkness does seem to have removed the previous anti-social behaviour blighting the Walkway, as officers have received no further reports of any such anti-social behavioural issue, associated with the Walkway, from the public.

7.2 Therefore, as no further demonstrable evidence has been provided by the applicant there does not appear to be any reason to not expect the original decision made by the Planning & Rights of Way Panel to be enforced. The difference in hours would not be expected to create an environment which would lead to the return of the anti-social behaviour issues, just based on the difference between the previous Planning Panel determined hours and those being proposed by this application.

7.3 Whichever option regarding the hours above is taken, a formalisation of the Walkway access arrangements is required, whereby a management plan is to be submitted to the Council for approval and implementation.

7.4 The Management Plan should detail how the gates would be managed and maintained, in perpetuity, secured by way of a Deed of Variation to the original Section 106 Agreement. It is understood that the applicant's have employed a company to manage the gates on their behalf.

7.5 All costs relating to the variation and provision of night-time closure should be borne by the applicant, and further failure to comply may result in enforcement action being taken through the courts

8. Conclusion

8.1 It is therefore recommended that the proposed hours for access to the Walkway is refused , and revert to the original decision made by the Planning & Rights of Way Panel in July 2019.

Local Government (Access to Information) Act 1985

LDF Core Strategy - (as amended 2015)

CS25 The Delivery of Infrastructure and Developer Contributions

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

CLT10 Public Waterfront and Hards

CLT11 Waterside Development

CLT12 Waterside Open Space

SDP10 Safety & Security

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Other Relevant Guidance

The National Planning Policy Framework (2021)

[01/95] REV

THIS DEED dated 16th November 1998

is made between

- (1) 'the Council' SOUTHAMPTON CITY COUNCIL of Civic Centre, Southampton
- (2) 'the Owner' ROXAN CONSTRUCTION LIMITED of 34 Padwell Road, Southampton SO14 6RA
- (3) 'the Mortgagee' BARCLAYS BANK PLC of PO Box 612, Ocean Way, Ocean Village, Southampton SO14 2SB

PARTICULARS

- Part 1 the Site ALL THAT land known as Belsize Boatyard, Priory Road, St. Deny's, Southampton more particularly delineated and edged red on the plan 1 attached hereto
- Part 2 Planning Application Planning Application Reference Number 970581/2084/W for the erection of 50 no. flats (42 x2 bed, 8x1 bed) and associated car parking
- Part 3 the Development The development of the Site in the manner and for the uses specified in the Planning Application
- Part 4 Planning Permission Draft Planning Permission being Annex 1 attached hereto in respect of the Planning Application (which shall be subject to such conditions as may from time to time be in force)
- Part 5 The Act The Town and Country Planning Act 1990
- Part 6 "Housing Site A" 366-368A Portswood Road, Southampton more particularly delineated and edged red on Plan A attached hereto
- Part 7 "Housing Site B" 5 Lawn Road, Southampton more particularly delineated and edged red on Plan B attached hereto
- Part 8 "Housing Site C" Land adjacent to 20 Eastfield Road, Southampton more particularly delineated and edged red on Plan C attached hereto (collectively called "the Housing Sites")

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Application No. 970581/2084/W

DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning General Development Order 1988

**DYER AND SEY LIMITED
UNIT A WARWICK COURT 32 LEIGH ROAD
EASTLEIGH
HANTS SO50 9DT**

In pursuance of its powers under the above Acts and Order, the Southampton City Council, as the District Planning Authority, hereby gives notice that the application described below is:

CONDITIONALLY APPROVED

Proposal	ERECTION OF 50 NO.FLATS (42 X 2 BED, 8 X 1 BED) AND ASSOCIATED CAR PARKING
Site Address	BELSIZE BOATYARD PRIORITY ROAD ST DENYS SOUTHAMPTON
Application No	970581/2084/W

In accordance with the details submitted with the FULL Application No 970581/2084/W subject to the following conditions:-

01

The development hereby permitted shall be begun not later than five years from the date on which this planning permission was granted.

REASON

To comply with s.91 of the Town and Country Planning Act 1990.

02

The development hereby approved shall be implemented solely in accordance with the following plans or documents received by the Local Planning Authority.

Drawing nos.....

REASON

To define the consent and for the avoidance of doubt.

03

Full details of the manufacturers, types and colours of the external materials to be used, including samples if required, shall be submitted to and approved by the Local Planning Authority before development commences.

REASON

In order to control the appearance of the development in the interests of visual amenity.

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04

Full details of the public art works which shall be incorporated within the redevelopment proposals shall be submitted to and agreed by the Local Planning Authority prior to the development commencing. Such works shall be fully implemented prior to the occupation of the penultimate dwelling hereby permitted. The art works shall thereafter be maintained at all times to the reasonable satisfaction of the Local Planning Authority and retained for the benefit of the public.

REASON

To ensure the provision of public art works in the interests of the visual amenities of the area.

05

No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.

REASON

To ensure that the archaeology of the site is properly investigated.

06

No development shall be commenced until details of all means of enclosure on the site have been submitted to and approved by the Local Planning Authority. Such detailed scheme shall be implemented before the development is brought into use. The means of enclosure shall subsequently be retained to the satisfaction of the Local Planning Authority.

REASON

In the interests of the visual amenities of the area and to protect the amenities and privacy of occupiers of neighbouring properties.

07

Details of satisfactory facilities to be provided for the storage and removal of refuse from the flats shall be submitted to the Local Planning Authority prior to the commencement of any of the development hereby permitted. The agreed facilities shall be completed and made available prior to the occupation of any of the flats and shall thereafter remain available for that purpose at all times to the satisfaction of the Local Planning Authority.

REASON

In the interests of visual amenity, the amenities of future occupiers of the development and the amenities of occupiers of nearby properties.

08

Before any dwelling unit hereby approved is occupied, both the on-site car parking and a proper vehicular access relating to it shall be provided to the satisfaction of the Local Planning Authority. The car parking shall thereafter be retained and not used for any trade, business or industrial use.

REASON

To ensure provision of vehicular access and car parking, to avoid congestion in the adjoining area and to protect the amenities of the area.

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09

The garages and/or parking spaces shown on the approved plans shall only be used in connection with the dwelling units hereby approved and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

REASON

To ensure adequate on-site car parking provision for the approved dwelling units remains available for that purpose and to prevent parking on the adjoining highway.

10

During the period of the preparation of the site, excavation for foundations or services and the construction of the development, wheel cleaning facilities shall be available on the site and no lorry shall leave the site until its wheels have been cleaned sufficiently to prevent mud being carried onto the highway.

REASON

In the interests of highway safety.

11

Details of the provision of facilities for the parking and storage of bicycles and motorbikes in accordance with the City Council's adopted standards shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the development hereby permitted. The approved facilities shall thereafter be provided in a phased manner to first be agreed with the Local Planning Authority and shall thereafter be retained at all times for those purposes.

REASON

To secure a properly planned development.

12

No habitable accommodation shall have a floor level less than 3.486m above Ordnance Datum Newlyn and no car parking will be at a level below that of the carriageway of Priory Road at its junction with Dukes Road.

REASON

To protect the occupiers of the proposed accommodation from the likelihood of flooding.

13

Other than for the filling of the existing slipway no reclamation shall take place beyond the existing reclaimed area of the site which shall for the avoidance of doubt be as identified on RJS drawing no. 97/12/04/403 (Rev.B).

REASON

To prevent the encroachment of the site onto the adjacent mudland to the detriment of the open character of the river, the amenities of recreational users of it and its nature conservation value and contrary to the provisions of the City of Southampton Local Plan.

14

Details of the proposed drainage of the site shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the works hereby permitted.

REASON

To secure properly planned development and to prevent the pollution of the adjacent river environment.

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15

Details of the design and construction of the quay wall where it terminates adjacent to both the Priory Hard and the existing river bank at its downstream end shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the works hereby permitted. The quay wall shall thereafter be constructed wholly in accordance with that agreed scheme.

REASON

To secure properly planned development.

16

All fill material shall be confined to inert, non-toxic, non-putrescible material.

REASON

To prevent pollution of the water environment and to ensure a safe environment for the occupiers and other users of the site.

17

Details of the design and materials of the proposed hand rail, lighting, surfaces and of all street furniture to the waterfront walkway/cycleway and a programme for its construction shall be submitted to and agreed by the Local Planning Authority prior to the commencement of any of the works hereby permitted. The walkway/cycleway shall be constructed and made available for use wholly in accordance with the agreed scheme and shall thereafter be maintained at all times to the satisfaction of the Local Planning Authority.

REASON

In the interests of visual amenity and of public safety.

18

Details of all external lighting and a programme for its provision shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development hereby permitted. No light fitting shall in any case be so designed or sited as to allow light to fall directly onto the adjacent river.

REASON

To ensure that the application site is adequately lit in the interests of the amenity and safety of its occupants and other users and in such a manner that is not prejudicial to the character of the river, its recreational use and the safety of navigation.

19

Details of lifesaving equipment to be provided in association with the proposed waterfront walkway/cycleway, a programme for its provision and arrangements for its subsequent maintenance shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the development hereby permitted.

REASON

In the interests of public safety.

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20

Full longitudinal cross-sections of the proposed waterfront walkway/cycleway which shall include details of the means of addressing all changes in levels along its length and between it and any adjacent land shall be submitted to and agreed by the Local Planning Authority prior to the commencement of any of the development hereby permitted.

REASON

To secure properly planned development and in the interests of public safety and access.

21

Details of the proposed method of piling to be undertaken shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the development hereby permitted. Piling shall not in any case be undertaken on the site other than between the hours of 8.00 am to 6.00 pm Monday to Saturday and not at all on Sunday, unless otherwise first agreed in writing with the Local Planning Authority.

REASON

To protect the amenities of nearby residents.

22

The approved landscaping scheme shall be implemented wholly in accordance with the agreed timetable. Any trees, shrubs, seeded or turfed areas which within a period of 10 years from the date of planting die, fail to establish, are removed or become damaged or diseased shall be replaced by the Developer in the next planting season with others of 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 planing. The approved scheme shall be carried out before the penultimate flat is occupied or the developer leaves the site, whichever is the sooner.

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 to reflect the anticipated establishment difficulties associated with the contaminated ground conditions and exposed location of the site.

23

A detailed scheme to deal with the contamination of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any of the development hereby permitted. That scheme shall also include such other additional investigation and monitoring as might be required by the Local Planning Authority, management arrangements for any underfloor mechanical ventilation equipment and measures for the protection of services and utilities within the site. The agreed scheme shall be fully implemented and completed before any of the dwellings hereby permitted is first occupied.

REASON

To ensure a safe environment for the occupiers and other users of the site.

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24

Prior to the commencement of any of the development hereby permitted, the size, design, location and contents of a sign to be erected at the northern end of the proposed public walkway/cycleway shall be agreed with the Local Planning Authority. The sign shall advise of the restrictions to access represented by the steps at the southern end of the walkway/cycleway and shall be erected prior to the walkway/cycleway first being available for use.

REASON

For the convenience of users of the walkway/cycleway.

25

No development hereby permitted shall be commenced until the Local Planning Authority have approved:

(i) a specification of the type of construction proposed for the roads, footpaths and the riverside footpath/cycleway including all relevant horizontal cross-sections and longitudinal sections showing existing and proposed levels together with details of street lighting and the method of disposing of surface water.

(ii) a programme for the making up of the roads and footpaths and the riverside footpath/cycleway.

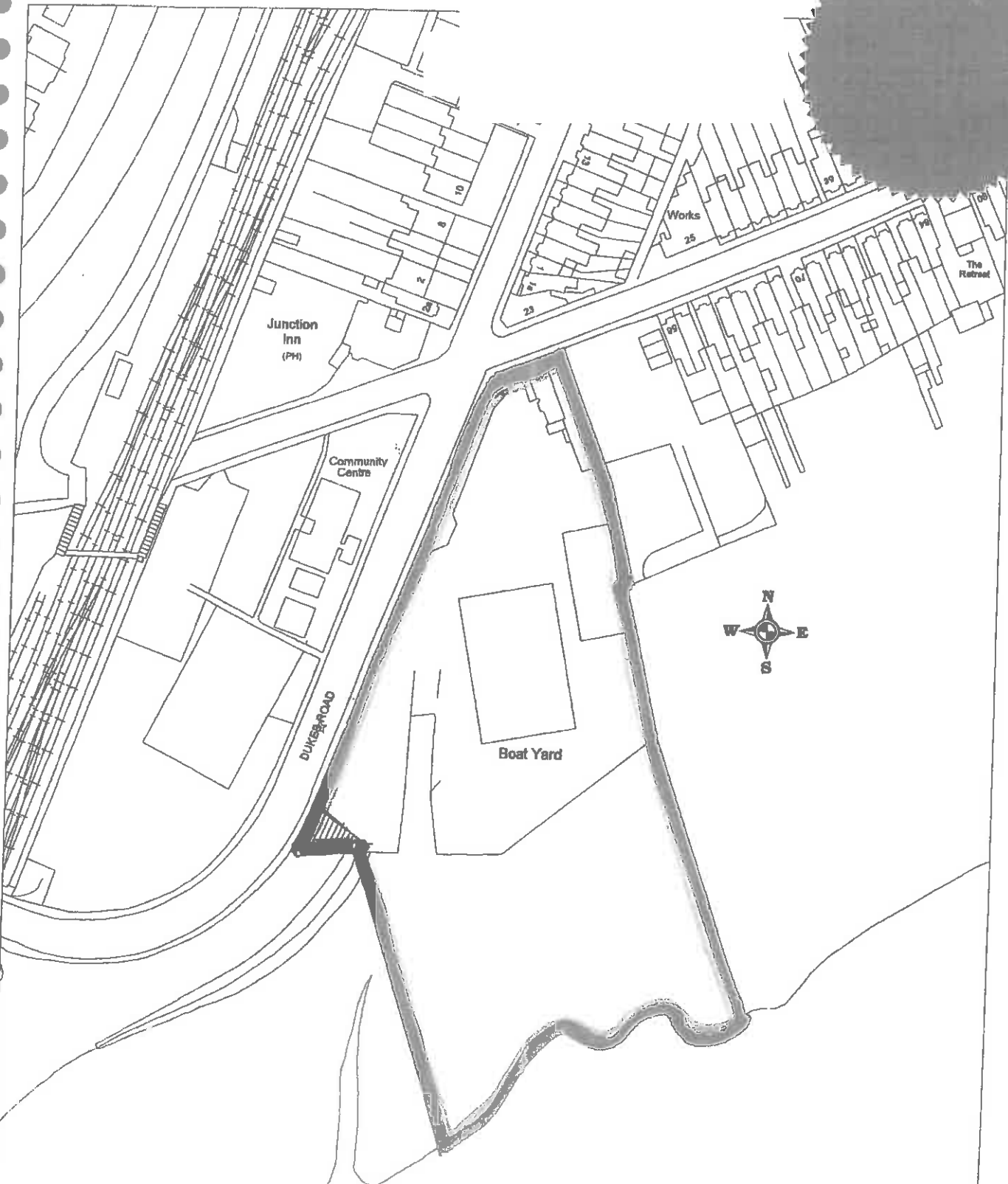
REASON

To ensure that the roads are constructed to an adoptable highway standard.

Mark Luken
Head of Planning and Development Management

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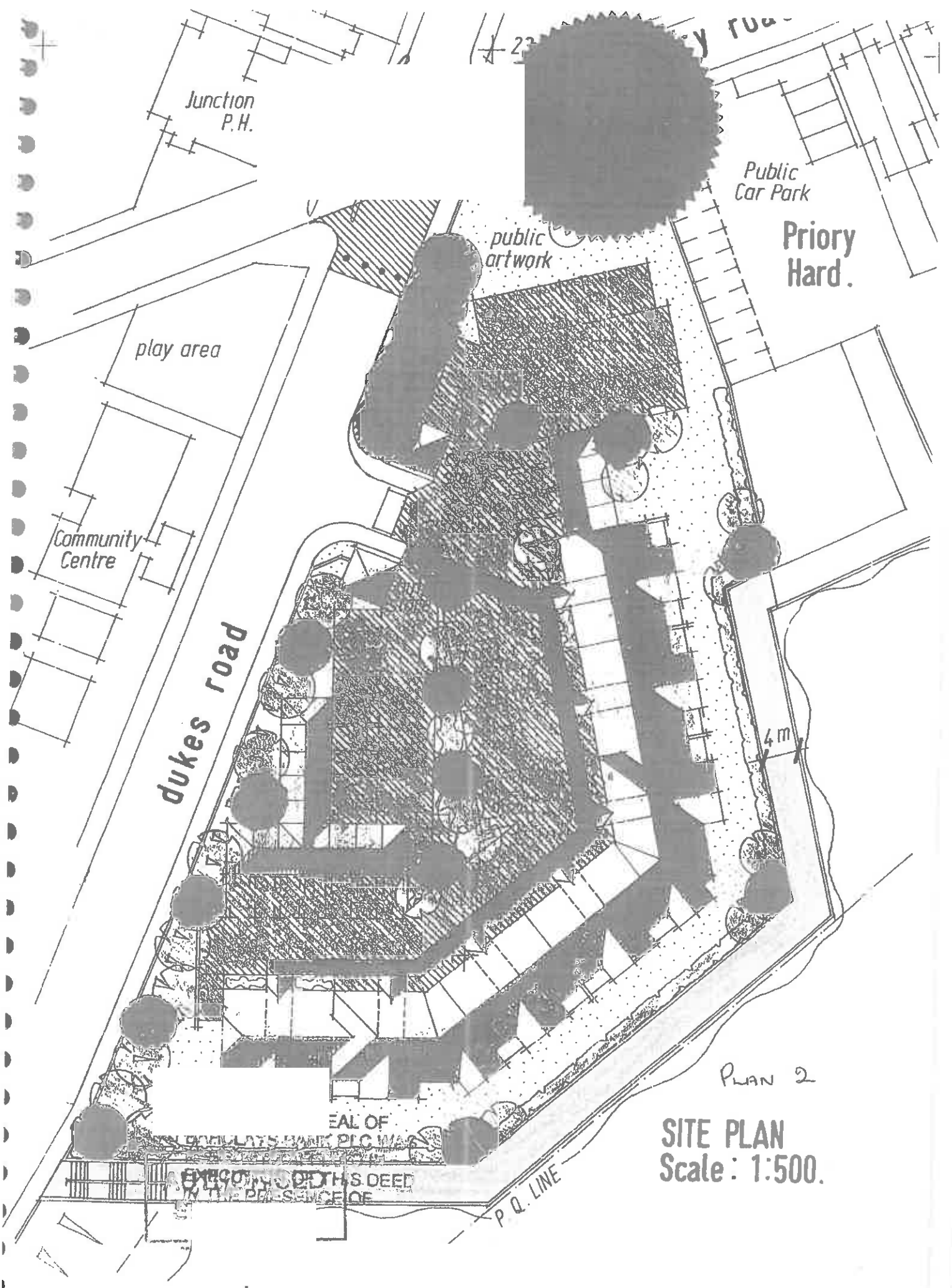


**AUTHORISED
SIGNATORY**

THE COMMON SEAL OF
BARCLAYS BANK PLC WAS
HEREUNTO AFFIXED IN
EXECUTION OF THIS DEED
IN THE PRESENCE OF

Plan 1

.....
Witnessing Officer



dukes road

Priority Road

Junction P.H.

Public Car Park

Priority Hard.

public artwork

play area

Community Centre

4m

PLAN 2

SITE PLAN
Scale: 1:500.

DEED OF

EXECUTION OF THIS DEED
IN THE PRESENCE OF

P.Q. LINE

366-368A PORTSWOOD ROAD.



THE COMMON SEAL OF
BARCLAYS BANK PLC WAS
HEREUNTO AFFIXED IN
EXECUTION OF THIS DEED
IN THE PRESENCE OF

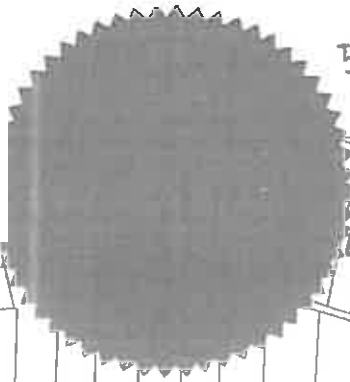
Authorised Sealing Officer

A SIGNATORY

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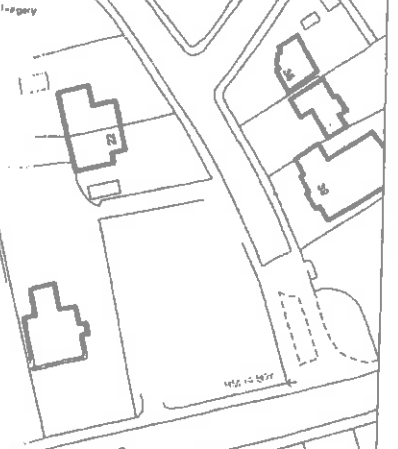
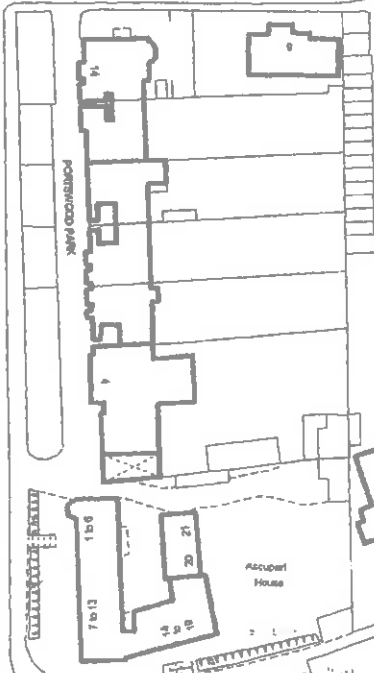
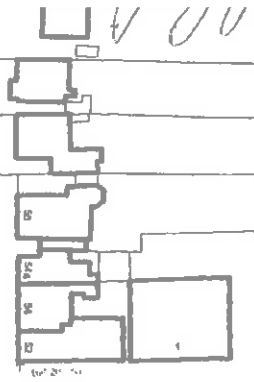


5 LAWN ROAD.



PORTSWOOD PARK

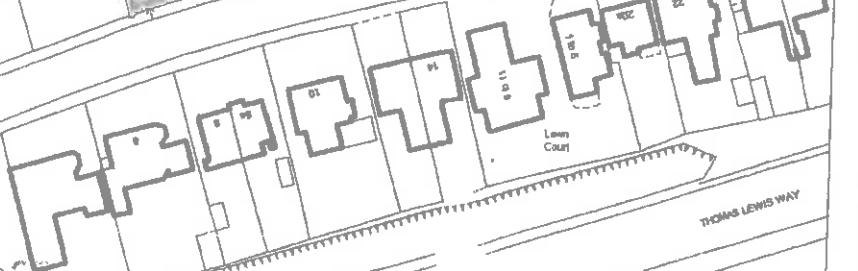
PORTSWOOD ROAD



PORTSWOOD PARK

Accident House

LAWN ROAD



Lawn Court

THOMAS LEWIS WAY

THE COMMON SEAL OF
B. POLYCLAYS BANK PLC WAS
HEREUNTO AFFIXED IN
EXECUTION OF THIS DEED
IN THE PRESENCE OF

Sealing Office

HILL SQUARE

Beyvois Mansions

BEYOIS HILL

SIGNATURE

DUKES ROAD

DUKES ROAD



PLAN B

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- Part 9 "the Dwellings" 4x3 bed houses to be provided at Housing Site A;
9x1 bed flats to be provided at Housing Site B
2x2 bed, 2x3 bed houses to be provided at Site C
- Part 10 "the Housing Association" Western Challenge Housing Association Limited whose registered office is at Hengistbury House, 35 Purewell, Christchurch, Dorset, BH23 1EH

WHEREAS

- (1) The Council is the local planning authority for the purposes of the Act for the area within which the Site is situated and by whom the obligations contained in this Deed are enforceable
- (2) The Owner is the owner in fee simple of the Site save for the area hatched black on Plan 1 subject to restrictive covenants and subject to a Mortgage in favour of the Mortgagee dated 4th March 1997
- (3) By a Statutory Declaration dated the 3rd day of November 1998 the Owner claims possessory title to the area hatched black on Plan 1
- (4) The Owner is the owner in fee simple of Housing Site A, Housing site B and Housing Site C subject to restrictive covenants and subject to Mortgages in favour of the Mortgagee dated 14th July 1998, 12th December 1997 and 1st October 1998 respectively
- (5) The Planning Application was made to the Council for the Development by the Owner
- (6) The Council has resolved that the Planning Permission be granted in accordance with the Planning Application subject to the making of this Agreement without which planning permission for the Development would not have been granted

Schedules to this Deed shall only apply to the Owner for the time being of the Site and not the Housing Sites

- 6 THE MORTGAGEE hereby consents to the completion of this Deed and acknowledges that subject as herein provided the Site shall be bound by the restrictions and obligations contained in this Deed but no liability to perform the obligations shall accrue to the Mortgagee by virtue of it entering into this Deed
- 7 No liability to perform the obligations under this Deed shall fall on any individual leasehold owners of the flats erected on the Site pursuant to the Planning Permission but only in so far as they do not constitute the freehold owner of the Site or any part of it

EXECUTED AS A DEED

THE FIRST SCHEDULE

1. On the implementation of the Planning Permission the Owner shall transfer Housing Site A for the consideration of £52,000, Housing Site B for the consideration of £108,000 and Housing Site C for the consideration of £57,000 to the Housing Association on the following terms:-
 - (a) the transfers to the Housing Association shall contain the following provisions:-
 - (i) the grant by the Transferor to Transferee of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Dwellings
 - (ii) a covenant not to use the Housing Sites otherwise than for the purposes of housing and the Dwellings constructed on the Housing Sites shall be used for the purposes of providing housing to persons in need who are unable to afford to buy or rent at market values and market rents provided that if any current or future mortgagee in possession of the Housing Sites (or any of them) deems it necessary to dispose thereof or any part thereof it may do so after which the provisions of this paragraph 1 (a) (ii) shall cease to have effect in relation to the land disposed of which may at all times thereafter be used free from those provisions but this paragraph 1(a) (ii) shall continue in full force and effect in relation to any of the Housing Sites or any part thereof which have not been so disposed of

THE SECOND SCHEDULE
(Waterfront Access)

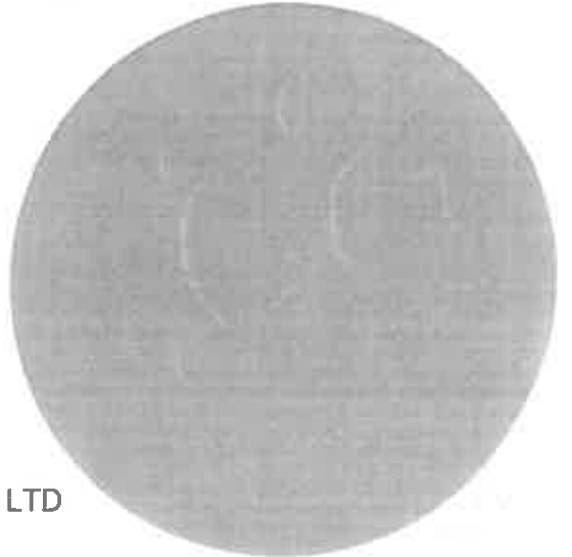
- 2.1 To provide and thereafter maintain in accordance with a programme agreed with the Council a waterfront walkway/cycleway within the 4 metres wide area of land shown coloured blue on Plan 2 ("the Walkway")
- 2.2 The Owner hereby grants to the Council its successors in title all those authorised by it and the general public at large in perpetuity the right to use the land shown coloured blue on Plans 2 and the Walkway for recreational purposes at all times

THE THIRD SCHEDULE
(Play Area)

The Owner will pay the sum of £30,000.00 to the Council on or before the occupation of the 25th flat in the Development or one year from the commencement of the Development whichever is the sooner as a contribution in respect of the off-site provision of an equipped play area

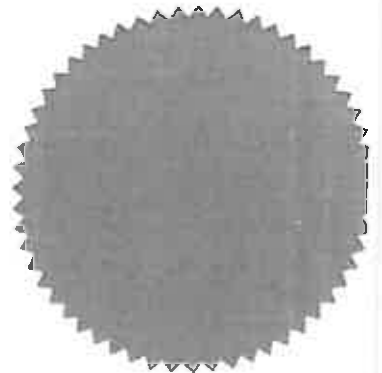
IN WITNESS whereof the parties have executed this agreement as a Deed the date and year first before written

THE COMMON SEAL OF SOUTHAMPTON CITY COUNCIL was hereunto affixed in the presence of:-



Authorised Signatory

THE COMMON SEAL of ROXAN CONSTRUCTION LTD was hereunto affixed in the presence of:-



Director

Secretary

THE COMMON SEAL of BARCLAYS BANK PLC was hereunto affixed in the presence of:-

THE COMMON SEAL OF BARCLAYS BANK PLC WAS HEREUNTO AFFIXED IN EXECUTION OF THIS DEED IN THE PRESENCE OF

Director

Secretary



DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992

Robert Tutton Town Planning Consultants Ltd
23 Romsey Avenue
Fareham
PO16 9TR

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 to discharge the relevant planning obligation in the s.106 agreement described below has been determined. The decision is:

REFUSAL

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

Site Address: Quay 2000, Horseshoe Bridge, Southampton

Application No: 19/00719/FUL

For the following reason(s):

1. REFUSAL REASON – Loss of Public Waterside Access

The permanent closure of the public waterside access has been rejected by the City Council as this walkway, and public access across it, continues to serve a useful purpose in line with the Council's wider aspirations of providing public waterside access wherever development proposals arise, in line with the site specific S.106 Legal Agreement (16th November 1998) and saved Local Plan Review (adopted 2015) Policy CLT 10 and saved Local Development Framework Core Strategy (adopted 2015) Policy CS12. It is considered that the continued permanent closure of the walkway is not an acceptable solution in planning terms, and the issues of anti-social behaviour should be mitigated in partnership with all responsible bodies and authorities and, furthermore, the permanent closure as requested will set a difficult precedent for other waterside developments looking to limit public access.

Note to Applicant

At the Planning & Rights of Way Panel on 16th July 2019 the Panel agreed to a compromise delegation to officers to agree a s.106 Deed of Variation as set out in the Panel Minutes and set out, in part, below for information:

- a. *Amend the obligation to provide a waterfront walkway/cycleway for recreational purposes at all times subject to the Management Plan, which should include the agreed review timeframe and mechanism;*
- b. *Submit a Management Plan detailing the retaining waterfront access for wider public use ensuring compliance with the approved Management Plan for the lifetime of the Development; for approval in writing by the Council within 1 month from the completion of the*

DoV; ensuring that the gates are unlocked in line with the 16/01971/FUL planning consent at Land adjacent to 2 Andes Close and 1 Calshot Court, with requirements set out below;

- i. That the gates hereby approved shall not be closed between the following hours:*
- 0700 hours and 2100 hours on any day between 02 April - 29 September;*
 - 0700 hours and 1800 hours on any day between 30 September - 01 April*

The gates to remain unlocked as per hours set out above and no further means of enclosure erected on the land without prior written approval;

As the gates remain locked further delegation was given to take planning enforcement action in the event that the compromise offer is not pursued.



Samuel Fox
Planning & Development Manager

6 August 2019

For any further enquiries please contact:
Simon Mackie

NOTES

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, they may appeal to the Secretary of State.

1. Appeals **must be registered within six months of the date of this notice** and be made using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or do it online at <https://acp.planninginspectorate.gov.uk/>
2. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
3. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
4. If permission to develop land is refused, whether by the Local Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Local Planning Authority a purchase notice requiring that the Authority purchase their interest in the land in accordance with Part IV of the Town and Country Planning Act 1990.
5. The applicant is recommended to retain this form with the title deeds of the property.
6. 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 186-187 of the National Planning Policy Framework (2012).

Please address any correspondence in connection with this form quoting the application number to: **Development Management, Southampton City Council, Lower Ground Floor, Civic Centre, SOUTHAMPTON, SO14 7LS.**

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

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

Apologies: Councillors Mitchell and Vaughan

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

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

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

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

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

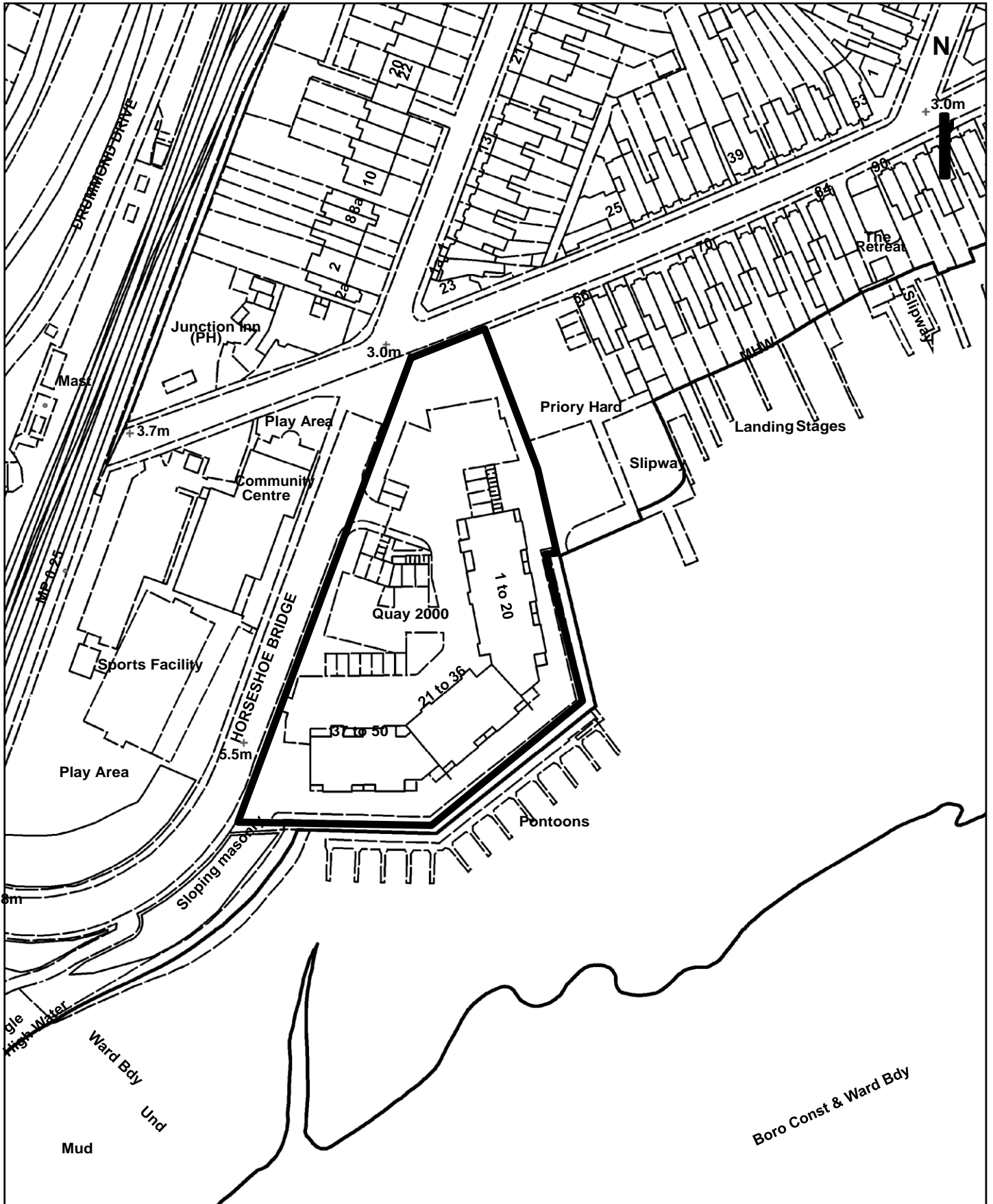
The Panel then considered the amended recommendation to vary the section 106 arrangement permission. Upon being put to the vote the amended recommendation was carried unanimously.

RESOLVED that the Panel

- (i) rejected the request to vary the planning obligation as contrary to CLT10 – Public Waterfront and Hards and CS 12 – Accessible & Attractive Waterfront;

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

20/00138/FUL



Scale: 1:1,250



SOUTHAMPTON
CITY COUNCIL

