

Planning and Rights of Way Panel 15th February 2022
Planning Application Report of the Head of Planning & Economic Development

Application address: 11 Brookvale Road, Southampton			
Proposed development: Alterations and extensions to form 3-storey building comprising 4 flats (2 x1-bed and 2 x 2-bed) with rear balcony (<i>amended description</i>)			
Application number:	21/01370/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	5 minutes
Last date for determination:	ETA 22.02.2022	Ward:	Bevois
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr Kataria Cllr Rayment Cllr Denness
Referred to Panel by:	n/a	Reason:	n/a
Applicant: Thistle Ledge Ltd		Agent: Paris Smith LLP	

Recommendation Summary	Delegate to the Head of Planning & Economic Development to grant planning permission subject to criteria listed in report
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Community Infrastructure Levy Liable	Yes
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations 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 (2021). Policies – CS4, CS5, CS7, CS13, CS16, CS18, CS19, CS20, CS22, CS25 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP7, SDP9, SDP10, SDP12, SDP13, SDP16, H1, H2, H7 of the City of Southampton Local Plan Review (Amended 2015).

Appendix attached			
1	Habitats Regulation Assessment	2	Development Plan Policies

Recommendation in Full

1. That the Panel confirm the Habitats Regulation Assessment in **Appendix 1** of this report.
2. Delegate to the Head of Planning & Economic Development to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 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 Planning & Economic Development 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

1. The site and its context

- 1.1 This site is located on Brookvale Road and has an area of 339sqm. It comprises a 2 storey detached residential property divided into 2 maisonettes (2 beds each) with access to 95sqm of amenity space. The flatted property is built as part of a group of 3 consented maisonettes in 1964. The property is set back 7m from the southern side of Brookvale Road. The surrounding context is characterised by a mixed style of residential properties within a suburban area, with taller high-density flatted developments to the south-west on Westwood Road, and large spacious plots with detached dwellings within the Portwood Residents Garden Conservation Area (CA) to the north-east. The application site is not within the CA but forms the 'setting'. There are a number of Traffic Regulation Orders parking controls, including permit only restrictions, on surrounding streets and Brookvale Road.

2. Proposal

- 2.1 The proposal, as originally submitted, sought permission to extend the property frontwards, rearwards and upwards to form a 3 storey building and create 3 additional flats, overall mix of 4 x 1-bed and 1 x 2-bed (5 flats in total). In addition, the kerb will be lowered to facilitate the provision of hardstanding for two off-road parking spaces in the front garden with tree planting, and enclosures will be provided for bin and cycle storage.
- 2.2 Following discussions with the applicant in response to the harmful loss of outlook and light serving the side facing windows affected at 9 Brookvale Road, the applicant has amended the proposal by reducing the height of the rear extension from three to single storey only (depth of 2.65m from the existing rear wall) and the number of flats has been reduced to 4 flats (mix of 2 x 2-bed and 2 x 1-bed). The neighbours were further notified about the amended plans before officers made their final recommendation for panel.

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 2021. Paragraph 219 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 There is no relevant planning history for the site.

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 01.10.2021. Following the receipt of amended plans a further 14 day notification was undertaken which expired on 10.05.2022. At the time of writing the report **16 representations** (8 support and 8 objection) have been received from surrounding residents. Please note the 8 representations in support were received following consultation on the amended scheme reducing the height of the rear extension to single-storey. The following is a summary of the points raised:

Comments in OBJECTION

5.2 ***Out of keeping with density of properties in the local vicinity – increase of density too high, over-development and over-intensification and of the site. The demolition of the existing building combined with the height, scale and massing and going beyond the rear building line of the maisonette group will be visually out of keeping with character of the grouped buildings and the street scene in terms of the existing uniform design and window openings of nos. 13 and 15 Brookvale Road. Removal of the current wall and large bin enclosure at the front of the property and introduction of the parking spaces would have a further negative effect on the street scene. The proposal will significantly harm the attractive vistas from the adjacent Portswood Residents' Gardens Conservation Area. It will also be out of character with the neighbouring maisonettes; result in over-development of the site and cause hazardous traffic conditions. This would be contrary to the Portswood Residents' Gardens Conservation Area Appraisal and Management Plan (CAAMP, adopted 2011).***

Response

Planning policy supports the delivery of a mix of housing types in order to create mixed and balanced communities. Densification with flatted development assists in meeting the City’s identified housing need. The surrounding area has a mix of housing and flatted development and the proposed revised scheme resulting in 4 flats (net increase

of 2 flats) is not considered out of keeping with the diverse range of housing locally, whilst the built coverage of the site is well below the Council's 50% guidance so it does not physically over-develop the land available. The height and appearance of the extended building exclusively of the other existing maisonette properties will sit comfortably in the varied street scene, whilst the frontage will maintain a good balance between hardstanding and soft landscaping supplemented by tree planting. The size of the bin enclosure has been reduced so it is no longer over-dominant of the street frontage. The site falls outside the conservation area and the Council's Heritage officer raises no objection in terms of impact on the setting of the Conservation Area having regard to our saved heritage planning policies.

- 5.3 ***Proposed parking spaces on front garden will have environmental impact, and their access to the road would cause traffic hazard problems at the proposed location. The parking spaces are unnecessary as the applicant already has access to 2 garage spaces within the garage block fronting Westwood Road and there are wide opportunities for on-street parking available and good access to public transport nearby. The applicant has not included the existing garage parking spaces fronting Westwood Road in the application site whereby the new driveway parking is unnecessary. Conversely, other objectors have stated that the additional parking demand of 5 flats would put further pressure on street parking availability in the local area.***

Response

The Highways Officer has raised no objection to the impact on highways safety, whilst the highly accessible location and street parking controls will minimise the overspill impact from the off-road parking shortfall. Although the garage parking is in the applicant's ownership it is not necessary to link them to this application and the impact of safety/design of the new driveway parking should be assessed by itself. The proposed parking is visually acceptable and in keeping with the streetscene.

- 5.4 ***The applicant has not signed the correct ownership certificate and served the requisite notice on the other landowners as part of the group of maisonettes at 13 and 15 Brookvale Road. The proposed works will not comply with covenants. Historically this area was owned by Addis Estates, which included adjacent neighbours at 9 Brookvale Road. The intention of the lease covenants was to ensure considerate behaviour by the maisonette owners towards other maisonette owners and neighbouring properties, at the time also owned by Addis Estates.***

Response

The legality of the application has been checked by SCC Legal Services and it has been confirmed that the correct ownership certificate has been completed by the applicant. Covenant compliance is not a matter for the planning system and is a civil matter between the land owners to legally resolve.

- 5.5 ***Increased noise, disturbance and loss of privacy to no. 9 and 13 Brookvale Road. If access is to be allowed via the North West, the applicant should be required to erect a good-quality timber fence of 1.8m height between the northwest border of No 11 Brookvale Road and the communal path as shown on the land registry plans.***

Response

The main primary access into the building is from the front. Side access between no.

13 is an existing established arrangement for the maisonettes. Whilst the proposal seeks to increase the number of flats on site from 2 to 4 flats, the additional movements and activity by the new flats associated with the use of the side access adjacent to no. 13 is not considered to cause significant disturbance to the neighbouring residents or loss of privacy and, therefore, a boundary fence to divide the footpath is not considered a necessary measure to safeguard the neighbour's amenity. The disturbance from the additional comings and goings and ancillary related activities associated with the increase in density and occupation are not considered to cause a significant impact. The Council has separate legislative powers to resolve statutory noise nuisance. That said, the Council have to consider that the property will be used in a reasonable manner by future occupiers.

- 5.6 ***Loss of privacy, outlook and light currently enjoyed by no. 9 Brookvale Road. The neighbour enjoys 'right to light' so no light can be obstructed. The privacy of the rooflights of proposed flat 4 will be overlooked by the upper floor windows of no. 9. The plotting of the building and extended footprint shown in the amended plans is inaccurately moved backwards, and there appears to be a 4m rear extension at ground floor and 1.5m at first and second floor level. The application doesn't give adequate disclosure of the dimensions of this extension, and should not be approved without this being adequately described and neighbours being given the opportunity to object. Nuisance odours from bin store and water running off the roof into property of no. 9.***

Response

The applicant has confirmed that the plans are accurately plotted and the rear extension extends only from the existing rear building line at a depth of 2.65m. The plans are drawn to scale so an electronic measuring tool is available to scale off the dimensions of the plans.

The 'right to light' for the windows affected is a civil legal matter which falls outside the scope of the planning assessment and, therefore, is given limited material weight in the decision making as clearly impacts caused on existing day and sunlight is to be considered in the determination of this case.

The scheme has been amended to reduce the scale, bulk and massing of the rear extension from three-storey to single-storey to overcome harmful loss of light and outlook impacts to the side facing habitable windows of the neighbouring property at no. 9 Brookvale Road. The first floor to second floor facing side windows at no. 9 are offset to the rear of the proposed upward extension and steepening of the roof pitch. Given the 3.5m separation distance, the mass and bulk of the ground floor rear extension, upward extension and steepening of the roof pitch will maintain sufficient relief to the side facing windows affected at no. 9 and therefore ensure that there will be no undue loss of light and outlook enjoyed by the occupiers. It should be noted that the Residential Design Guide does not afford any protection to the hallway and staircase as its not classed as a 'habitable' room.

The privacy screen serving the rear balcony is positioned 4.8m from south-east flank wall so not to cause undue sense of enclosure or loss of light to no. 9, and at the same time prevent direct overlooking of the neighbouring property. A condition is recommended (Condition 16) to prohibit use of the rest of the single storey rear flat roof as a balcony. The proposed side windows shown on the amended plans will

obscure glazed and fixed shut up to 1.7m above the internal floor level and therefore would avoid direct overlooking of the neighbour's privacy. The higher up rear facing windows and first floor balcony (including the side privacy screens) proposed will have oblique views across the neighbouring gardens and side facing windows of no. 9 and therefore will not adversely affect the neighbour's privacy.

There will be oblique views from overlooking of the flat 4 rooflights by the existing upper floor windows of no. 9.

The applicant will be required to provide wash down tap facilities and gulley in the bin store to maintain its cleanness and minimise odours. Furthermore, details of rainwater goods to collect water running off the roof can be agreed by planning condition.

5.7 *Disruption and disturbance to neighbouring residents caused by construction works.*

Response

A standard hours of work condition can be applied to limit construction works hours and details of construction management will be secured prior to the start of development.

5.8 *While the plan has been revised from 5 flats to 4, the number of bedrooms has remained the same, still constituting 4 x 1 bed, and 1 x 2-bed in the previous plans, to 2 x1-bed and 2 x 2-bed. This is a doubling on the site of the number of flats, and a 50% increase in the number of bedrooms.*

Response

The real term gain in housing over the existing maisonettes is 2 x 1 bed flats. The density of development (60 dwellings per hectare to 117 dph proposed) is not considered to out of keeping with the size and location of the site. The character of the local area is mixed in terms of the range of housing and household types.

Comments in SUPPORT

5.9 *The reduction in number of flats and size of extension addresses previous concerns. Good design and not out of character. Will improve the appearance and value of the area.*

5.10 *Will provide good quality and variety of housing. Benefit of providing off-road parking.*

Consultation Responses

5.11	Consultee	Comments
	Environmental Health	No objection subject to conditions for construction management
	Sustainability	No objection subject to energy and water use improvement conditions
	Trees & Open Spaces	No objection
	Archaeology	No conditions required
	Highways	No objection

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;
- Residential amenity;
- Parking highways and transport and;
- Likely effect on designated habitats.

6.2 Principle of Development

6.2.1 The principle of additional housing is supported. The site is not allocated for additional housing, but the proposed dwelling(s) would represent windfall housing development. The LDF Core Strategy identifies the Council's current housing need, and this scheme would assist the Council in meeting its targets. As detailed in Policy CS4, an additional 16,300 homes need to be provided within the City between 2006 and 2026. The NPPF, and our saved policies, seeks to maximise previously developed land potential in accessible locations.

6.2.2 The NPPF requires LPAs to identify a five-year supply of specific deliverable sites to meet housing needs. Set against the latest Government housing need target for Southampton (using the standard method with the recent 35% uplift), the Council has less than 5 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:

- (i) *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*
- (ii) *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"]

6.2.3 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 dwelling(s), 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.

6.2.4 In terms of the level of development proposed, policy CS5 of the Core Strategy indicates that development will only be permitted which is of an appropriate density for its context and in medium accessibility locations such as this, density levels should generally accord with the range of 50-100 dph (dwellings per hectare). The proposal increases the density on site from 60 d.ph to 117 dph.

6.2.5 Whilst the proposed density exceeds 100dph the development would remain in keeping with its context, in terms of building scale and site layout, and still needs to be tested in terms of the merits of the scheme as a whole. This is discussed in more detail below.

6.3 Design and effect on character

6.3.1 The proposed extensions will increase the building footprint by 30%. The building footprint will extend to the rear by 2.65m and to the front by 1m. The building will be extended 1.6m upwards by raising the roof ridge/steepening slope pitch and eaves level to accommodate the 2 bedroom flat in a new second floor (third storey), albeit the rooms will appear as being in the skilling's/eaves level of the taller building. The extended building continues to respect the prevailing front building line and maintain the healthy set back from the street edge. The change in the scale and massing of the building does alter its existing form in comparison to existing set of maisonettes, however, this variety and different is not considered out of character with the street scene. Compared to the height of no. 9 Brookvale Road, the existing building on the site is currently a storey shorter.

6.3.2 The existing building does not have any significant architectural merit so the deviation from its original style will not be a major loss to the character of the area. That said, the resulting appearance of the extended building is well designed in its own right, whilst its individual design and style does not negatively change the overall visual appearance and character of the street scene. The balanced proportions and openings of the extended 3 storey building and its height transition upwards is harmonious with the taller proportions of the Victoria era property at no. 9 Brookvale Road. Furthermore, its individual appearance would not be at odds with the diverse range of building styles and heights in the wider Brookvale Road street scene.

6.3.3 The proposed resultant 33% ratio of footprint to plot coverage is well within the 50% guide set out in the Residential Design Guide (see paragraph 3.9.2) and, therefore, does not physically over-develop the site. Whilst the proposed density exceeds the upper 100 d.p.h guideline for this location, this will not be contrary to objectives of policy CS5. This is due to the surrounding context having a variety and mix of character and, therefore, a higher density flatted building would not be at odds locally with the range of housing, especially on the southern side of Brookvale Road.

6.3.4 The additional hardstanding to create 2 off road parking spaces is not considered to be out of keeping with the existing street scene. The visual balance is well maintained between soft and hard landscaping, supplemented by tree planting. Furthermore, a short front wall can be retained either side of the driveway entrance. The applicant has agreed to significantly reduce the size of the bin store in half (from 4 to 2 x 660 litres) so it no longer appears over-dominant. These changes are not out of character with other properties in Brookvale Road which have already converted their frontages into hardstanding for parking.

6.3.5 Furthermore, the site itself falls outside the boundary of the conservation area with a clear visual connection with the existing buildings on the opposite side of Brookvale

Road and the backs/sides of the taller 3 to 4 storey flats of Westwood Road to the south-west of the site. That said, the Conservation Officer has no objection from a conservation impact perspective and the setting of this heritage asset is at least preserved. As such, the proposal will not adversely affect the character and appearance of the local area.

6.4 Residential amenity

- 6.4.1 As submitted originally the scheme proposed a three storey extension with harmful impacts upon its neighbours. Officers have negotiated with the applicant and the rear bulk has been reduced. The proposed single storey extension will project 2.65m beyond the side facing windows of no. 9 Brookvale Road (ground floor – living room; first floor – dining room/kitchen; second floor – bedroom). These windows currently just sit behind the rear wall of no. 11 Brookvale Road, so their outlook towards the sky is reasonably uninterrupted above the boundary wall across the west and south-west of the site. The proposed rear extension flank wall has a 3.5m gap from the side wall of no. 9 (2.19m from the boundary wall in between).
- 6.4.2 The amended proposal with the omission of the first and second floor rear extension is more respectful to the amenity of the neighbouring occupiers, especially the side facing windows affected at no. 9. The reduction in height of the rear extension to single storey is considered to no longer adversely affect the outlook and light serving the side facing habitable windows at no. 9. The upper-floor side facing windows at no. 9 are offset to the rear of the proposed upward extension. Given the 3.5m separation distance, the mass and bulk of the ground floor rear extension, upward extension and steepening of the roof pitch will maintain sufficient relief to the side facing windows affected at no. 9 and, therefore ensures that there will be no undue loss of light and outlook enjoyed by the occupiers. It should be noted that the Residential Design Guide does not afford any protection to the hallway and staircase as its not classed as a habitable room.
- 6.4.3 The extended building introduces windows on the side elevations to serve bathrooms' living areas, kitchens, and addition of roof lights on the top floor (cill level 1.7m above internal floor level) serving the living room. These windows will be conditioned to be obscure glazed and fixed shut up to high level (1.7m above internal floor level) and, therefore, will prevent direct overlooking of the neighbouring properties. The new rear facing windows and rear balcony (with privacy screens to the side) will have oblique views of the neighbouring gardens and side windows of no. 9. Additionally, this will maintain an acceptable separation distance between David Lockhart Court. Furthermore, it is proposed to install a suitable privacy screen on the side of the new balcony to prevent direct overlooking of no. 13 Brookvale Road. As such, the privacy of the neighbouring occupiers will not be adversely harmed.
- 6.4.4 The starting point to assess the quality of the residential environment for future occupants is the minimum floorspace set out in Nationally Described Space Standards (NDSS) (1 bed = 39 or (37sqm with shower) & 2 bed = 61sqm) and the minimum garden sizes of 20sqm per flat set out in the Council's Residential Design Guide (para 2.3.14 and section 4.4).

Flat/Floor	Floor Size sqm	National Standard	Compliance
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1 - GF (1 bed)	43	39	Y
2 - GF (1 bed)	40	39	Y
3 - FF (2 bed)	61 (11sqm balcony)	61	Y
4 - SF (2 bed)	62	61	Y

6.4.5 The internal arrangement of the flats will provide good access to light, outlook and privacy with all flats being dual aspect. The 95sqm communal amenity space available plus the 11sqm private space meets the minimum standards with a good quality and usability of the south facing garden which is fit for purpose. As such, the residential layout would create acceptable living conditions for future occupiers.

6.5 Parking highways and transport

6.5.1 The Highways Officer has no objection to the impact of the scheme on highways safety, with the development site close to amenities in Portswood district centre and in a highly accessible area, with good public transport links. The arrangement of the access to the proposed parking spaces to the front of the property is satisfactory, with sight lines showing there to be no obstructions over 600mm of the splay. This will ensure good pedestrian sightlines of vehicles exiting the spaces. The extent of the dropped kerb required to facilitate the parking arrangement is also shown. This takes place where existing double yellow line restrictions are in place. Therefore, there will be no loss of on-street parking through the proposed dropped kerb access.

6.5.2 There are a maximum 4 parking spaces (1 space per 1 bed and 2 bed flats) required for the flats in this area of high accessibility to public transport as set out in the SCC Parking Standards SPD. There is a 2 parking space increase in demand compared to the current 2 bed maisonettes. The applicant has not linked the use of the existing garage parking to this application site. The street and other nearby streets are controlled by a daytime parking permit scheme (08.00 to 18.00 hours Monday to Friday), and the site is within close, level, walking distance of Portswood shopping area which is a frequent bus corridor into the city centre.

6.5.3 The provision of less off-street parking than the maximum standards is permissible. No parking survey has been submitted, however, the street parking controls would minimise the overspill of the increased parking demand as the new house is not entitled to a parking permit and, therefore, would not harm the amenity of local residents from competition with local street parking. An informative can be added to the permission so new residents are aware of the restriction on fresh permits.

6.5.4 The secure and covered cycle store enclosure (6 spaces) accessible in the rear garden will be provided. Conveniently accessible bin store enclosure is provided in the frontage.

6.6 Likely effect on designated habitats

6.6.1 The proposed development, as a residential scheme, has been screened (where mitigation measures must now be disregarded) as likely to have a significant effect upon European designated sites due to an increase in recreational disturbance along the coast and in the New Forest. Accordingly, a Habitat Regulations Assessment (HRA) has been undertaken, in accordance with requirements under Regulation 63 of

the Conservation of Habitats and Species Regulations 2017, see **Appendix 1**. The HRA concludes that, provided the specified mitigation of a Solent Recreation Mitigation Strategy (SRMP) contribution and a minimum of 5% of any CIL taken directed specifically towards Suitably Accessible Green Space (SANGS), the development will not adversely affect the integrity of the European designated sites. The requisite SDMP contributions will be secured prior to granting planning permission through officer delegation.

7. Summary

- 7.1 In summary, the proposed development makes efficient use of the existing residential site and will increase the housing choice available within this neighbourhood. The resultant increased density on site is not out of keeping with the context of the established character of the local area characterised by a diverse range of housing from family housing, HMOs, care homes, and flatted apartments. Following the receipt of amended plans the impact of the proposed extension will not adversely harm the amenity of the neighbouring residents, whilst the new appearance and height of the extended building will sit comfortably in the street scene, and parking and traffic impacts will not adversely harm road safety and amenity.

The principle of new residential development is considered 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 dwelling(s), and their subsequent occupation, as set out in this report. Taking into account the benefits of the proposed development, and the limited harm arising from the conflict with the policies in the development plan as set out above, 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.

8. Conclusion

- 8.1 It is recommended that planning permission be granted subject to securing Solent Bird Aware contributions and the 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) (f) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

Stuart Brooks for 15.02.22 PROW Panel

PLANNING CONDITIONS to include:

01. Full Permission Timing Condition (Performance)

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

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

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

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

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

03. Construction Management Plan (Pre-Commencement)

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

- a) parking of vehicles of site personnel, operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials, including cement mixing and washings, used in constructing the development;
- d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;
- e) measures to be used for the suppression of dust and dirt throughout the course of construction;
- f) details of construction vehicles wheel cleaning; and,
- g) details of how noise emanating from the site during construction will be mitigated.

The approved Construction Management Plan shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

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

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

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

Monday to Friday 08:00 to 18:00 hours

Saturdays 09:00 to 13:00 hours

And at no time on Sundays and recognised public holidays.

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

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

05. Unsuspected Contamination (Performance)

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

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

06. Use of uncontaminated soils and fill (Performance)

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

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

07. Energy Efficiency - Conversion (Pre-Commencement)

Prior to the commencement of the development hereby granted, written evidence shall be provided to demonstrate the development will achieve a reduction in CO2 emissions of at least 15% shall be submitted and approved in writing by the Local Planning Authority. A minimum Energy Efficiency Rating of 70 post refurbishment (an EPC rating C) should be sought. The approved measures shall be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter for the lifetime of the development.

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).

08. Water Efficiency (Pre-Construction)

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 of 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of 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. The appliances/fittings to be installed as specified.

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) and to minimise the impact on Solent SPAs by reducing nitrate emissions.

09. Cycle storage facilities (Pre-Occupation)

Notwithstanding the approved plans, 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. This shall include details of the provision of internal horizontal stands to secure each cycle, entrance locking system for residents, and specification of internal and external lighting to be fitted. 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. Refuse & Recycling (Performance)

Notwithstanding the approved plans, before the development hereby approved first comes into occupation, covered storage for refuse and recycling, including glass storage, facilities for tap wash down and drainage gulley, and rainwater goods to collect run-off from the roof, shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Before the development hereby approved first comes into occupation, the approved storage for refuse and recycling shall be provided in accordance with the plans hereby approved and thereafter retained as approved for the lifetime of the development. With the exception of collection days, the refuse bins shall be kept in the approved storage area.

Reason: In the interest of visual and residential amenity.

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

11. Access & Parking (Pre-occupation)

Prior to the occupation of the dwelling hereby approved, the development shall be implemented in accordance with the approved access and parking and shall thereafter be retained for the duration of the lifetime of the development. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 no fences walls or other means of enclosure shall be erected above a height of 0.6m above ground level adjacent to the site entrance where otherwise shown on the approved plans.

Reason: In the interests of securing safe access in the interests of highways safety.

12. Amenity Space Access (Pre-Occupation)

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

Reason: To ensure the provision of adequate amenity space in association with the approved and existing flats.

13. Landscaping (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 finished ground levels or contours; means of enclosure; hard surfacing materials to include a non-permeable surfacing to prevent surface water run off onto the adjoining highway;
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants and trees, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. details of any proposed boundary treatment and;
- iv. a landscape management scheme.

The approved hard and soft landscaping scheme for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. This is with exception to the other works approved to be carried out prior to occupation of the dwelling. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision and the other works shall be retained as approved for the lifetime of the development.

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

Reason: To improve the appearance of the site 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

14. Obscure Glazing (Performance)

The side facing windows and rooflights of the hereby approved development, shall be obscurely glazed and fixed shut up to 1.7m above the internal floor level before the development is first occupied. The windows shall be thereafter retained in this manner for the lifetime of the development.

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

15. Privacy Screen (Pre-occupation)

The development hereby approved shall not be first occupied until a privacy screen on the western elevation is installed in accordance with details to be submitted and approved in writing by the Local Planning Authority and shall thereafter retained as approved for the lifetime of the development.

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

16. Flat roof (Performance)

With exception to the approved balcony areas as shown on the approved plans, no access shall be formed or permitted at any time so as to enable the use of the flat roof area formed by the ground floor rear extension hereby approved, and this roofspace shall not be used as a balcony or roof terrace space for the occupiers and/or their visitors of the existing/extended flats – particularly in respect of the rear bedroom to Flat 3.

Reason: In the interests of residential amenity.

17. 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 of development hereby permitted without the prior written consent of the Local Planning Authority.

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

18. Parking spaces (Performance)

Prior to the first occupation and use of the extended dropped kerb hereby approved, spaces shall be laid out within the front garden area of the property for the parking of 2 vehicles only, which shall be properly consolidated, surfaced and drained and that area shall not thereafter be used for any other purpose than the parking of vehicles.

Reason - To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

19. 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

01. The residents of the approved development are not eligible for parking permits.

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Appendix 1

Habitat Regulation Assessment (HRA)

Screening Matrix and Appropriate Assessment Statement

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

HRA completion date:	See Main Report
Application reference:	See Main Report
Application address:	See Main Report
Application description:	See Main Report
Lead Planning Officer:	See Main Report

Please note that all references in this assessment to the 'Habitats Regulations' refer to The Conservation of Habitats and Species Regulations 2017.

Stage 1 - details of the plan or project

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

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

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

Solent SPAs

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

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

The New Forest

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

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

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

Stage 3 - Appropriate Assessment

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

Solent SPAs

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

Within Southampton the Council will promote biodiversity through:

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

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

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

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

Size of Unit	Scale of Mitigation per Unit
1 Bedroom	£361.00
2 Bedroom	£522.00
3 Bedroom	£681.00
4 Bedroom	£801.00
5 Bedroom	£940.00

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

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

New Forest

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

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

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

At present, there is no scheme of mitigation addressing impacts on the New Forest designated sites, although, work is underway to develop one. In the absence of an agreed scheme of mitigation, the City Council has undertaken to ring fence 5% of CIL contributions to fund footpath improvement works within suitable semi-natural

sites within Southampton. These improved facilities will provide alternative dog walking areas for new residents.

The proposed development will generate a CIL contribution, and the City Council will ring fence 10% of the overall sum, to fund improvements to footpaths within the greenways and other semi-natural greenspaces.

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

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

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

In the absence of an agreed mitigation scheme for impacts on the New Forest designated sites Southampton City Council has adopted a precautionary approach and ring fenced 10% of CIL contributions to provide alternative recreation routes within the city.

This represents the authority's Appropriate Assessment as Competent Authority in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework 2021.

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

Summary of Natural England's comments:

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

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APPENDIX 2

POLICY CONTEXT

Core Strategy (as amended 2015)

CS4	Housing Delivery
CS5	Housing Density
CS7	Employment
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
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
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
SDP16	Noise
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Parking Standards SPD (September 2011)

Other Relevant Guidance

BRE: Site Layout Planning for Daylight and Sunlight (2011)

The National Planning Policy Framework (2021)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)