

Planning and Rights of Way Panel 9th July 2024
Planning Application Report of the Head of Transport and Planning

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

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

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (revised 2023). Policies – CS4, CS5, CS13, CS14, CS16, CS18, CS19, CS20, CS22, CS23 and CS25 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11,

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

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

Recommendation in Full

1. That the Panel confirm the Habitats Regulation Assessment in **Appendix 1** of this report.
2. Delegate to the Head of Transport and Planning to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 or S.111 Legal Agreement to secure either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
3. That the Head of Transport and Planning be given delegated powers to add, vary and/or delete relevant parts of the Section 111/106 agreement and/or conditions as necessary.
4. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

1. Background

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

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

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

2. The site and its context

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

3. Proposal

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

4. Relevant Planning Policy

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at

Appendix 2.

4.2 The National Planning Policy Framework (NPPF) was revised in 2023. Paragraph 225 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

5. Relevant Planning History

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

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

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

6. Consultation Responses and Notification Representations

6.1 Following the receipt of the planning application, a publicity exercise, in line with department procedures, was undertaken. This included notifying adjoining and nearby landowners, placing a press advertisement 26.01.2024 and erecting a site notice 26.01.2024. At the time of writing the report **26 representations** have been received from surrounding residents. The following is a summary of the points raised:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Consultation Responses

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

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

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

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

7. Planning Consideration Key Issues

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

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

7.2 Principle of Development

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

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

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

proposed; or

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

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

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

7.4 Design and Effect on Character and Heritage Assets

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

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

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

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

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

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

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

7.5 Parking, Refuse and Servicing

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

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

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

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

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

7.6 Effect on Residential Amenity

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

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

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

7.7 Flooding

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

been addressed.

7.8 Likely effect on designated habitats

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

8. Summary

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

9. Conclusion

9.1 It is recommended that planning permission be granted subject to the completion of a S.106 or S.111 Legal Agreement and conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

Case Officer Anna Lee - PROW Panel 09.07.2024

PLANNING CONDITIONS to include:

1. Full Permission Timing (Performance)

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

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

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

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

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

3. No Other Windows or Doors (Performance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended or any order amending, revoking or re-enacting that Order), no windows, doors or other openings, other than those expressly authorised by this permission, shall be inserted above ground floor level in the side elevations.

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

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

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

The scheme shall specify either:-

Outer pane of glass - 10mm

Air gap between panes - 12mm

Inner pane of glass - 6 mm

or, with secondary glazing with a -

Outer pane of glass - 6mm

Air gap between panes - 100mm

Inner pane of glass - 6.4 mm

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

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

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

5. Amenity Space Access (Pre-Occupation)

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

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

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

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

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

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

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

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

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

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

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

7. Refuse & Recycling (Performance)

Before the development hereby approved first comes into occupation, the storage for refuse and recycling for both the residential use and the revised commercial refuse storage shall be provided in accordance with the plans hereby approved and thereafter retained as approved.

Reason: In the interest of visual and residential amenity.

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

8. Refuse Management Plan (Pre-commencement)

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

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

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

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

9. Cycle provision and parking (Pre-Occupation)

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

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

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

10. Nitrogen Neutrality Mitigation Scheme (Pre- Commencement)

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

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

11. Flood resilience measures (Performance condition)

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

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

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

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

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

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

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

13. Water & Energy (Pre-Commencement)

With the exception of site clearance, demolition and preparation works, no development works shall be carried out until written documentary evidence demonstrating that the development will achieve a maximum 100 Litres/Person/Day internal water use. A water efficiency calculator shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA. It should be demonstrated that SCC Energy Guidance for New Developments has been considered in the design.

Reason: To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (Amended 2015).

14. Water & Energy (Performance)

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

Litres/Person/Day internal water use in the form of a final water efficiency calculator and detailed documentary evidence confirming that the water appliances/fittings have been installed as specified shall be submitted to the Local Planning Authority for its approval. It should be demonstrated that SCC Energy Guidance for New Developments has been considered in the construction.

Reason: To ensure the development has minimised its overall demand for resources and to demonstrate compliance with Policy CS20 of the Adopted Core Strategy (Amended 2015).

15. Green roof feasibility study (Pre-Commencement)

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

The green roof must be installed to the approved specification before the building hereby approved first comes into use or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme shall be maintained for a minimum period of 5 years following its complete provision. If the green roof dies, fails to establish or becomes damaged or diseased within a period of 5 years from the date of planting, shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

Reason: To reduce flood risk and manage surface water runoff in accordance with core strategy policy CS20 (Tackling and Adapting to Climate Change) and CS23 (Flood risk), combat the effects of climate change through mitigating the heat island effect in accordance with policy CS20, enhance energy efficiency through improved insulation in accordance with core strategy policy CS20, promote biodiversity in accordance with core strategy policy CS22 (Promoting Biodiversity and Protecting Habitats), contribute to a high quality environment and 'greening the city' in accordance with core strategy policy CS13 (Design Fundamentals), and improve air quality in accordance with saved Local Plan policy SDP13.

16. Construction Management Plan (Pre-Commencement)

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

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

- f) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;
- g) measures to be used for the suppression of dust and dirt throughout the course of construction;
- h) (h details of construction vehicles wheel cleaning; and,
- i) details of how noise emanating from the site during construction will be mitigated.

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

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

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

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

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

And at no time on Sundays and recognised public holidays.

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

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

18. Approved Plans (Performance)

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

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

Note to applicant:

Community Infrastructure Liability

Please note that the development is liable to pay the Community Infrastructure Levy (CIL) under The Community Infrastructure Levy Regulations (2010) (as amended), a Liability Notice will be sent to you separately providing further information. Please ensure that you assume CIL liability and submit a Commencement Notice to the Council prior to the commencement of the development (including any demolition works) otherwise a number of consequences could arise. For further information please refer to the CIL pages on the Council's website at: <https://www.southampton.gov.uk/planning/community-infrastructure-levy/community-infrastructure-levy-process> or contact the CIL Officer: cil@southampton.gov.uk

Southern Water - Sewerage Connection

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

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

Appendix 1

Habitats Regulations Assessment (HRA)

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

HRA completed by:

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

Summary

The project being assessed is as described above.

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

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

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

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

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

Section 1 - details of the plan or project

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

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

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

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

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

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

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

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

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

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

Section 2 - Assessment of implications for European sites

Test 1: the likelihood of a significant effect

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

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

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

The following effects are possible:

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

Conclusions regarding the likelihood of a significant effect

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

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

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

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

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

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

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

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

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

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

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

TEMPORARY, CONSTRUCTION PHASE EFFECTS

Mobilisation of contaminants

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

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

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

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

Disturbance

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

Sites considered: Solent and Southampton Water SPA

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

Collision risk

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

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

PERMANENT, OPERATIONAL EFFECTS

Recreational disturbance

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

New Forest SPA/Ramsar site/ New Forest SAC

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

Nightjar

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

Woodlark

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

Dartford warbler

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

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

Visitor levels in the New Forest

The New Forest National Park attracts a high number of visitors, calculated to be 15.2 million annually in 2017 and estimated to rise to 17.6 million visitor days by 2037 (RJS Associates Ltd., 2018). It is notable in terms of its catchment, attracting a far higher proportion of tourists and non-local visitors than similar areas such as the Thames Basin and Dorset Heaths.

Research undertaken by Footprint Ecology, Liley et al (2019), indicated that 83% of visitors to the New Forest were making short visits directly from home whilst 14% were staying tourists and a further 2% were staying with friends or family. These proportions varied seasonally with more holiday makers (22%) and fewer day visitors (76%), in the summer than compared to the spring (12% and 85% respectively) and the winter (11% and 86%). The vast majority of visitors travelled by car or other motor vehicle and the main activities undertaken were dog walking (55%) and walking (26%).

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

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

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

Mitigation

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

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

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

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

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

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

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

residents from visiting the New Forest.

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

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

Funding mechanism

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

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

has been agreed.

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

- Access management within the designated sites;

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

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

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

Solent and Southampton Water SPA/Ramsar site

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

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

Water quality

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason:

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

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

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

Conclusions

The following conclusions can be drawn from the evidence provided:

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

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

Demolition and Construction phase

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

Operational

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

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

References

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

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

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

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

Protected Site Qualifying Features

The New Forest SAC

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

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

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

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

The New Forest SPA

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

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

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

- Hen Harrier *Circus cyaneus*

New Forest Ramsar Site

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

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

Solent Maritime SAC

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

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

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

- Desmoulin's whorl snail *Vertigo moulinsiana*

Solent and Southampton Water SPA

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

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

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

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

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

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

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

Solent and Southampton Water Ramsar Site

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

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

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS14	Historic Environment
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats
CS23	Flood Risk
CS25	The Delivery of Infrastructure and Developer Contributions

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
HE1	New Development in Conservation Areas

City Centre Action Plan - March 2015

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

Supplementary Planning Guidance

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

Other Relevant Guidance

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

Relevant Planning History

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



Appeal Decision

Site Visit made on 2 November 2012

by E C Grace DipTP FRTPI FBEng PPIAAS

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

Decision date: 14 November 2012

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

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

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

Decision

1. The appeal is dismissed.

Background

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

Main Issues

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

Reasons

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

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

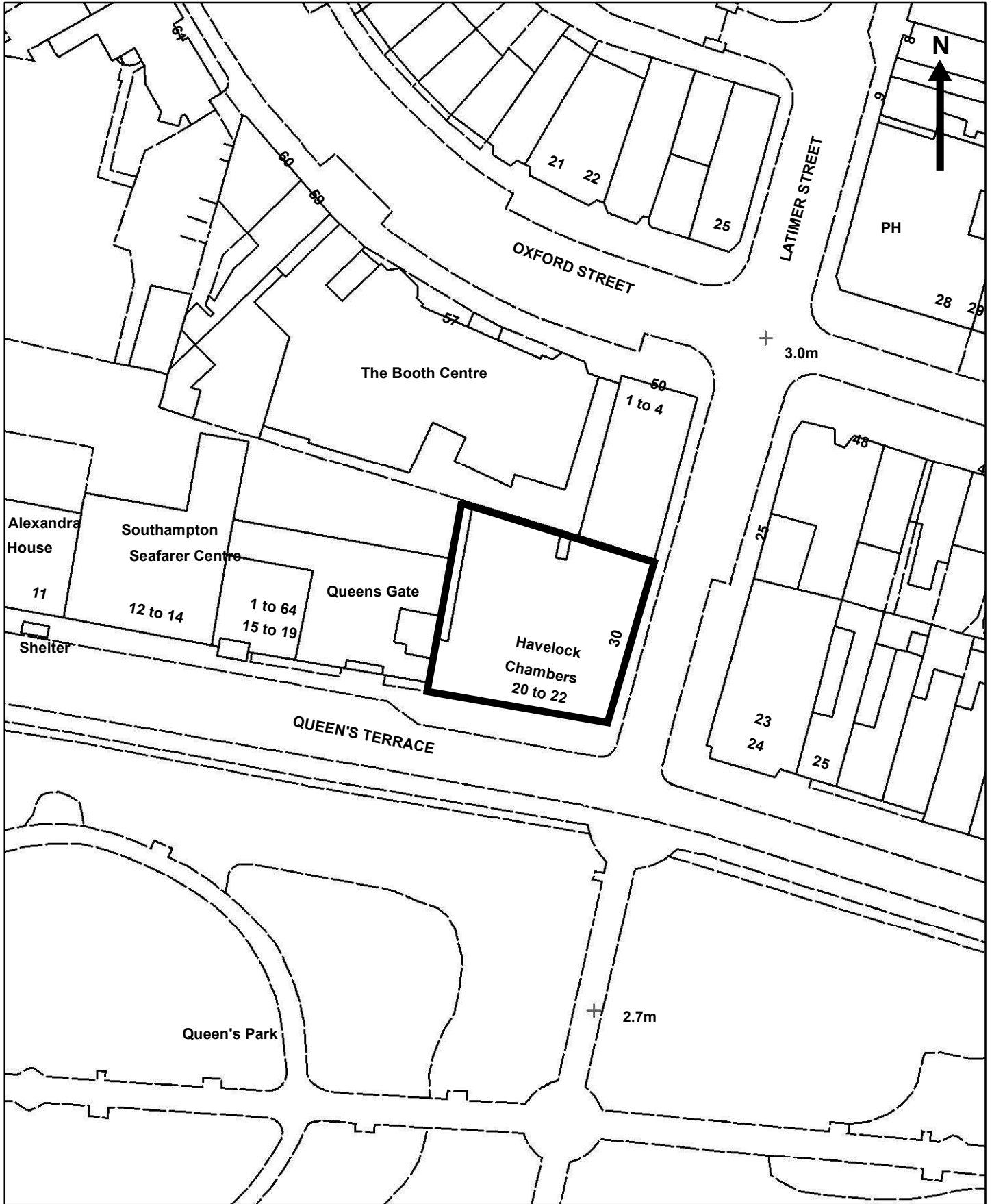
16. Therefore, I conclude that the failure to provide documentation relating to the management of the accepted flood risk contravenes Core Strategy Policy CS23.

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

Edward Grace

Inspector

24/00040/FUL



Scale: 1:625

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