

# Planning and Rights of Way Panel

Tuesday, 29th March, 2022  
at 4.00 pm

**PLEASE NOTE TIME OF MEETING**

Conference Room 3 and 4 - Civic  
Centre

This meeting is open to the public

## **Members**

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

## **Contacts**

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Development  
Paul Barton  
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## **PUBLIC INFORMATION**

### **ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL**

The Panel deals with various planning and rights of way functions. It determines planning applications and is consulted on proposals for the draft development plan.

### **PUBLIC REPRESENTATIONS**

Procedure / Public Representations

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

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

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

### **Dates of Meetings: Municipal Year 2020/2021**

<b>2021</b>	
1 June	21 September
22 June	12 October
13 July	2 November
3 August	23 November
24 August	14 December

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

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

**USE OF SOCIAL MEDIA:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting. By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

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

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

**FIRE PROCEDURE** – In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

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

<b>2022</b>	
25 January	29 March
15 February	26 April
8 March	

## CONDUCT OF MEETING

### TERMS OF REFERENCE

The terms of reference of the Planning and Rights of Way Panel are contained in Part 3 (Schedule 2) of the Council's Constitution

### BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

### RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:  
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
  - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
  - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **OTHER INTERESTS**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **PRINCIPLES OF DECISION MAKING**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

### 1 **APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

#### **PLEASE NOTE**

This meeting is being held adhering the public health guidance necessary precautions to try and combat the spread of Covid.

Space is limited and whilst ever effort is being taken to ensure there is enough room it would be helpful if you could register you attendance in advance especially if you wish to address the meeting.

During the meeting you may be asked to wait in an alternative room while preceding matters are dealt with. You will be able to follow the meeting on screen and will be called to the meeting room when the item you have registered for is being considered.

Presentation to the Panel can be made in person or virtually. Those wishing to address the meeting should register in advance by emailing [democratic.services@southampton.gov.uk](mailto:democratic.services@southampton.gov.uk) detailing which item it is you wish to address the Panel on and whether you wish to object or support the application. Should you not be able to attend the meeting it is possible to submit a short statement to the above email address that will be circulated to the Panel and posted online.

The online agenda has a link so that you will be able to watch the meeting virtually.

Thank you for you corporation.

### 2 **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### 3 **STATEMENT FROM THE CHAIR**

### 4 **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 6)

To approve and sign as a correct record the Minutes of the meetings held on 8 March 2022 and to deal with any matters arising.

## **CONSIDERATION OF PLANNING APPLICATIONS**

### **5 PLANNING APPLICATION - 21/01837/FUL - FORMER TOYS R US**

(Pages 11 - 110)

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

### **6 PLANNING APPLICATION - 21/01632/FUL - 91 POUND STREET**

(Pages 111 - 126)

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

### **7 PLANNING APPLICATION - 21/01649/FUL - 39 THORNBURY AVENUE**

(Pages 127 - 160)

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

Monday, 21 March 2022

Service Director – Legal and Business Operations

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## PLANNING AND RIGHTS OF WAY PANEL

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Present: Councillors L Harris (Chair), Prior (Vice-Chair), Coombs, Magee, Savage, Vaughan and Windle

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

**RESOLVED:** that the minutes for the Panel meeting on 15 February 2022 be approved and signed as a correct record.

66. **PLANNING APPLICATION - 21/01894/FUL - BLAKENEY ROAD**

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

Change of use of open space and verge to 9 parking spaces facilitated by Grassblock paving (departure from local plan)

Alex Barham and Malcolm Cooper (agents) and Councillors Spicer and Guest (Ward Councillors) were present and with the consent of the Chair, addressed the meeting. In addition the Panel noted the statement from Mrs Luke that was circulated and posted online detailing her objections and the apologies of Councillor McEwing who confirm her support for the application.

The presenting officer updated the Panel and confirmed that the SCC Flood Officer had removed their holding objection following the submission of additional information and that Condition 9 would need amending to detail the approved plans, as set out below. In addition it was noted that minor changes to the wording of a number of conditions were required, as set out below.

The Panel then considered the recommendation to grant conditional planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to grant planning permission

FOR: Councillors L Harris, Prior, Coombs, Magee and Vaughan

AGAINST: Councillors Savage and Windle

**RESOLVED** that planning permission be approved subject to the conditions set out within the report and any additional or amended conditions set out below:

**Amended Conditions**

**2. 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.

### **3. Materials as specified and to match (Performance Condition)**

The materials and finishes to be used for the grassblock, hardstanding, landscape bund and drainage goods in the construction of the development hereby permitted, shall be as specified on the approved plans. Where there are no materials specified on the approved plans, the materials shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those in the existing street scene.

REASON: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

### **4. No lighting (Performance condition)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any Order amending, revoking or re-enacting that Order, at no time shall lighting of any type be added without separate planning permission or the relevant licenses ahead of undertaking a permitted development change. No lighting infrastructure shall be added as part of this scheme.

REASON: In order that the Local Planning Authority may exercise further control in this locality given the specific circumstances of the application site and in the interests of the comprehensive development with regard to the amenities of the surrounding area.

### **5. 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 general preparations.

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

### **9. Surface Water Drainage**

The surface drainage details, grasscrete and sub-base shown on approved drawing 21/AH/M/002/700/01 REV B, received 02/03/2022, shall be installed in accordance with the agreed details and thereafter maintained for the lifetime of the development.

REASON: To ensure satisfactory drainage provision for the area.

## **67. PLANNING APPLICATIONS - 21/01889/FUL AND 21/01890/LBC - 8A PEARTREE AVENUE**

The Panel considered the report of the Head of Planning and Economic Development recommending that conditional planning permission be granted in respect of applications for proposed development at the above address.

### **21/01889/FUL**

Erection of a 2-storey side extension

### **21/01890/LBC**

Listed building consent sought for erection of a 2-storey side extension

Julie Whale (local resident objecting) and Dean Marsh (agent) were present and with the consent of the Chair, addressed the meeting. Additionally the Panel noted the



statements from Emily Bull and Mr and Mrs Southwell that were circulated and posted online detailing their objections.

The presenting officer reported a number of additional conditions were required for the 2- storey side extension, as set out below. During the course of the debate officers agreed to add an informative to Condition 4 that would advise the applicant that the Panel requested additional tree planting be included within the landscaping scheme

The Panel then considered the recommendations to grant conditional planning permission and listed building consent. Upon being put to the vote the recommendations to conditionally approve the extension, and the listed building consent were carried unanimously.

## **RESOLVED**

### **21/01889/FUL**

That planning permission be approved subject to the conditions set out within the report and any additional or amended conditions set out below:

#### **Additional Conditions**

##### **SUSTAINABLE DRAINAGE SYSTEMS (PRE-COMMENCEMENT)**

Prior to the commencement of the development hereby approved, a scheme for surface water drainage shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be informed, and accompanied, by an assessment of the potential for disposing of surface water by means of a sustainable drainage system, in accordance with the principles set out in the non-statutory technical standards for SuDS published by Defra (or any subsequent version), and the results of the assessment provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall:

- (i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- (ii) include a timetable for its implementation; and
- (iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The agreed means for disposing of surface water shall be fully implemented in accordance with the agreed details before the development first comes into use and thereafter retained as agreed.

**REASON:** To seek suitable information on Sustainable urban Drainage Systems as required by government policy and Policy CS20 of the Southampton Core Strategy (Amended 2015).

**REMOVAL OF STORAGE BUILDINGS (PERFORMANCE CONDITION)**

The three existing storage buildings adjacent to the north-western boundary identified as to be removed, shall be removed entirely from the site prior to the first occupation of the development hereby approved and shall not be relocated within the site without the prior written consent of the Local Planning Authority.

REASON: To protect the amenities of occupiers of the development and adjoining residential properties, to protect adjacent protected trees and to preserve the setting of the host Listed Building.

**TOTAL NUMBER OF BEDROOMS (PERFORMANCE CONDITION)**

The overall total number of bedrooms in occupation on site shall not exceed 36 at any one time, without the prior written consent of the Local Planning Authority.

REASON: To protect the amenities of the adjoining residential properties and to enable the Local Planning Authority to assess the potential additional impacts of additional bedrooms.

**21/01890/LBC**

that Listed Building Consent be approved subject to the conditions set out within the report.

68. **PLANNING APPLICATION - 21/01711/FUL - 7 WILLIS ROAD**

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

Erection of a first-floor rear extension with internal alterations to provide additional living space for flat D and E.

Roger Shephard (local resident objecting) and Thomas Freany (supporter) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that condition 5 needed to be amended, as set out below. Additionally during the course of the debate officers agreed to add an additional condition relating to access to the flat roof of the new extension, as set out below.

The Panel then considered the recommendation to grant conditional planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to grant planning permission

FOR: Councillors L Harris, Prior, Coombs, Magee, Savage and Windle

AGAINST: Councillor Vaughan

**RESOLVED** that planning permission be approved subject to the conditions set out within the report and any additional or amended conditions set out below:

**Amended and Additional Conditions**

**5. Obscure Glazing (Performance) - AMENDED**

The first-floor bedroom window in the side west elevation and the toilet/ensuite windows in the side east elevation of the hereby approved development, shall be obscurely glazed and fixed shut up to a height of 1.7 metres from the internal floor level before the development is first occupied. The windows shall be thereafter retained in this manner.

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

**Condition 7. Flat roof (Performance) – ADDITIONAL**

No access shall be formed or permitted at any time so as to enable the use of the flat roof area formed by the first floor extension hereby approved, and this roofspace shall not be used as a balcony or roof terrace space for the occupiers and/or their visitors of the existing/extended flats.

REASON: In the interests of residential amenity.

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## INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 29 March 2022

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
<b>This application will be heard at 4:00pm</b>				
5	AG	DEL	15	21/01837/FUL Former Toys R Us
<b>This Application will be heard from approximately 5:00 pm</b>				
6	AC	CAP	5	21/01632/FUL 91 Pound St
<b>This Application will be heard from approximately 5:30 pm</b>				
7	SB	DEL	5	21/01649/FUL 39 Thornbury Avenue

PSA – Public Speaking Allowance (mins); CAP - Approve with Conditions: DEL - Delegate to Officers: PER - Approve without Conditions: REF – Refusal: TCON – Temporary Consent: NOBJ – No objection

Case Officers:

AG – Andy Gregory

SB – Stuart Brooks

AC – Anna Coombes

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

### **Report of Service Lead – Planning, Infrastructure & Development**

#### **Local Government (Access to Information) Act 1985**

#### **Index of Documents referred to in the preparation of reports on Planning Applications:**

##### **Background Papers**

1. **Documents specifically related to the application**
  - (a) Application forms, plans, supporting documents, reports and covering letters
  - (b) Relevant planning history
  - (c) Response to consultation requests
  - (d) Representations made by interested parties
  
2. **Statutory Plans**
  - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Plan (Adopted 2013)
  - (b) Amended City of Southampton Local Plan Review (Adopted March 2015)
  - (c) Connected Southampton 2040 Transport Strategy (LTP4) adopted 2019.
  - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
  - (e) Adopted City Centre Action Plan (2015)
  - (f) Community Infrastructure Levy Charging Schedule (2013)
  - (g) Bassett Neighbourhood Plan (Adopted 2016)
  
3. **Statutory Plans in Preparation**
  
4. **Policies and Briefs published and adopted by Southampton City Council**
  - (a) Old Town Development Strategy (2004)
  - (b) Public Art Strategy
  - (c) North South Spine Strategy (2004)
  - (d) Southampton City Centre Development Design Guide (2004)
  - (e) Streetscape Manual (2005)
  - (f) Residential Design Guide (2006)
  - (g) Developer Contributions SPD (September 2013)
  - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
  - (i) Women in the Planned Environment (1994)
  - (j) Advertisement Control Brief and Strategy (1991)
  - (k) Biodiversity Action Plan (2009)
  - (l) Economic Development Strategy (1996)
  - (m) Test Lane (1984)

- (n) Itchen Valley Strategy (1993)
- (o) Portswood Residents' Gardens Conservation Area Character Appraisal (1999)
- (p) Land between Aldermoor Road and Worston Road Development Brief Character Appraisal(1997)
- (q) The Bevois Corridor Urban Design Framework (1998)
- (r) Southampton City Centre Urban Design Strategy (2000)
- (s) St Mary's Place Development Brief (2001)
- (t) Ascupart Street Development Brief (2001)
- (u) Woolston Riverside Development Brief (2004)
- (v) West Quay Phase 3 Development Brief (2001)
- (w) Northern Above Bar Development Brief (2002)
- (x) Design Guidance for the Uplands Estate (Highfield) Conservation Area (1993)
- (y) Design Guidance for the Ethelburt Avenue (Bassett Green Estate) Conservation Area (1993)
- (z) Canute Road Conservation Area Character Appraisal (1996)
- (aa) The Avenue Conservation Area Character Appraisal (2013)
- (bb) St James Road Conservation Area Character Appraisal (1996)
- (cc) Banister Park Character Appraisal (1991)\*
- (dd) Bassett Avenue Character Appraisal (1982)\*
- (ee) Howard Road Character Appraisal (1991) \*
- (ff) Lower Freemantle Character Appraisal (1981) \*
- (gg) Mid Freemantle Character Appraisal (1982)\*
- (hh) Westridge Road Character Appraisal (1989) \*
- (ii) Westwood Park Character Appraisal (1981) \*
- (jj) Cranbury Place Character Appraisal (1988) \*
- (kk) Carlton Crescent Character Appraisal (1988) \*
- (ll) Old Town Conservation Area Character Appraisal (1974) \*
- (mm) Oxford Street Conservation Area Character Appraisal (1982) \*
- (nn) Bassett Green Village Character Appraisal (1987)
- (oo) Old Woolston and St Annes Road Character Appraisal (1988)
- (pp) Northam Road Area Improvement Strategy (1987)\*
- (qq) Houses in Multiple Occupation (revised 2016)
- (rr) Vyse Lane/ 58 French Street (1990)\*
- (ss) Tauntons College Highfield Road Development Guidelines (1993)\*
- (tt) Old Woolston Development Control Brief (1974)\*
- (uu) City Centre Characterisation Appraisal (2009)
- (vv) Parking standards (2011)

\* NB – Policies in these documents superseded by the Residential Design Guide (September 2006, page 10), albeit character appraisal sections still to be had regard to.

## 5. Documents relating to Highways and Traffic

- (a) Hampshire C.C. - Movement and Access in Residential Areas
- (b) Hampshire C.C. - Safety Audit Handbook
- (c) Cycling Strategy – Cycling Southampton 2017-2027
- (d) Southampton C.C. - Access for All (March 1995)

- (e) Institute of Highways and Transportation - Transport in the Urban Environment
- (f) I.H.T. - Traffic Impact Assessment Guidelines
- (g) Freight Transport Association - Design for deliveries
- (h) Department for Transport (DfT) and Highways England various technical notes
- (i) CIHT's Manual for Streets and Manual for Streets 2

6. Government Policy Planning Advice

- (a) National Planning Policy Framework (February 2019)
- (b) National Planning Policy Guidance Suite

7. Other Published Documents

- (a) Planning for Daylight and Sunlight - DOE
- (b) Coast and Countryside Conservation Policy - HCC
- (c) The influence of trees on house foundations in clay soils - BREDK
- (d) Survey and Analysis - Landscape and Development HCC
- (e) Root Damage to Trees - siting of dwellings and special precautions – Practice Note 3 NHDC
- (f) Shopping Policies in South Hampshire - HCC
- (g) Buildings at Risk Register SCC (1998)
- (h) Southampton City Safety Audit (1998)
- (i) Urban Capacity Study 2005 – 2011 (March 2006)
- (j) Strategic Housing Land Availability Assessment (March 2013)



# Agenda Item 5

## Planning and Rights of Way Panel 29th March 2022 Planning Application Report of the Head of Planning & Economic Development

<b>Application address:</b> Land At The Former Toys R Us, Western Esplanade, Southampton			
<b>Proposed development:</b> Demolition of all existing buildings and structures and site clearance and hybrid planning permission for the redevelopment of the site for major mixed-use development comprising:  A. Full planning permission for the demolition of the existing building and structures; construction of 4 buildings (Blocks A, B, C and D) of between 7 and 25 storeys with Block A comprising commercial floorspace (Class E) and Blocks B, C and D comprising 603 residential units (Class C3) and ground floor commercial floorspace (Class E); together with associated access, parking, servicing, landscaping (including Sustainable Drainage Systems), amenity space, public realm and substations.  B. Outline planning permission for the construction of 1 building (Block E) of up to 8 storeys for flexible commercial/residential/overnight accommodation (C1/C3/Class E Uses) and/or co-living (Sui-Generis) with associated access, parking, servicing, landscaping and amenity space (all matters reserved except for access) (Amended Description).			
<b>Application number</b>	21/01837/FUL	<b>Application type</b>	Major mixed use development
<b>Case officer</b>	Andrew Gregory	<b>Public speaking time</b>	15 minutes
<b>Last date for determination:</b>	22.03.2022 (ETA)	<b>Ward</b>	Bargate
<b>Reason for Panel Referral:</b>	Application which the Head of Planning & Economic Development considers to be of particular interest, strategic importance and wider public interest.	<b>Ward Councillors</b>	Cllr Sarah Bogle Cllr John Noon Cllr Darren Paffey

Packaged Living (Freof V Southampton) LLP	<b>Agent:</b> Savills
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<b>Recommendation Summary</b>	Delegate conditional approval to the Head of Planning & Economic Development
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<b>Community Infrastructure Levy Liable</b>	<b>Yes</b>
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<b>Appendix attached</b>			
1	Development Plan Policies	2	Habitats Regulations Assessment
3	DVS Viability Review dated 02.03.2022		

## Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2021).

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, CLT5, CLT6, HE2, HE6, H2 and H7 of the City of Southampton Local Plan Review (Amended 2015) Policies CS1, CS2, CS3, CS4, CS5, CS7, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS21, CS22 and CS25 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015) and AP1, AP6, AP7, AP8, AP9, AP12, AP13, AP15, AP16, AP17, AP18, AP19, AP20 and AP21 of the City Centre Action Plan (2015) and the National Planning Policy Framework (2021).

## Recommendation in Full

1. Delegate to the Head of Planning & Economic Development to approve the Habitats Regulations Assessment and grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 Legal Agreement to secure:
  - a. In accordance with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013), financial contributions and/or works through s.278 approvals towards site specific transport improvements in the vicinity of the site including:
    - Segregated cycle route and/or bus lane (subject to design) on Western Esplanade between Central Station and Western Esplanade/Civic Centre Road junction;
    - No loading restrictions (TRO & Implementation) around site boundaries to stop loading/unloading away from designated loading bays, and loading restrictions in any provided loading bay(s);
    - Contribution to segregated cycle route, pedestrian crossing points and works to connect from site to Manchester Street (route past side of Asda);
    - 2x Enhanced Variable Messages Signs on Western Esplanade – one replacing existing adjacent to site, second on southbound approach; and
    - Southampton Central Station Forecourt scheme and Legible Cities Wayfinding & base map update;
    - Provision of on-site hub to provide a range of shared e-mobility (e.g. scooters, cargo bikes, bikes, vans) for residents and businesses;
    - New junction layout to improve traffic flows with better pedestrian and cycle crossings across Western Esplanade (W & S), new controller and MOVA operation, to connect the site with the City; and
    - Provision of servicing laybys for the commercial and any other relevant uses within the development

- b. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- c. Either a scheme of measures or a financial contribution towards Solent Disturbance Mitigation Project 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.
- d. Submission of a Training & Employment Management Plan committing to adopting local labour and employment initiatives during both the construction and operational phases, in accordance with Policies CS24 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
- e. The submission, approval and implementation of a Carbon Management Plan setting out how the carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013);
- f. Affordable housing provision taking account of the current Development Plan and current viability with ongoing reviews;
- g. Notwithstanding the current submissions the submission, approval and implementation of on site Public Art in accordance with the Council's Public Art Strategy, and the adopted SPD relating to 'Developer Contributions' (September 2013),
- h. Submission, approval and implementation of a Travel Plan for both the commercial and residential uses in accordance with Policy SDP4 of the City of Southampton Local Plan Review and policies CS18 and CS25 of the adopted LDF Core Strategy;
- i. Provision of on-site CCTV coverage and monitoring in line with Policy SDP10 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS13 and CS25.
- j. The provision of a financial contribution towards late night Community Safety Initiatives within the City Centre, having regard to the late night uses within the application proposal and in accordance with policy AP8 of the City Centre Action Plan.
- k. Notwithstanding the current submissions the submission of a scheme of works and management plan for the International Maritime Promenade permitted route, public plaza and other public areas around the site for access by pedestrians and cyclists.
- l. Provision, retention and management of the public open space and on-site play space together with securing public access in perpetuity in accordance with policy AP13 of the City Centre Action Plan .
- m. A financial contribution to a flood defence scheme and flood evacuation plan in accordance with the NPPF and policy AP15 of the City Centre Action Plan.

2. In the event that the legal agreement is not completed or progressing within a reasonable timeframe after the Planning and Rights of Way Panel, the Head of Planning and Economic Development will be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement, unless an extension of time agreement has been entered into.

3. That the Head of Planning and Economic Development be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

## **Background**

The Council is the freeholder of the site and the applicants, Packaged Living, acquired leasehold interest in the site in May 2021. Terms were agreed by the Council in November 2021 to grant the existing leaseholder a new long leasehold interest in the site and development agreement to facilitate a major mixed-use redevelopment to include new homes, leisure, public realm and employment accommodation.

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

- 1.1 The application site has an area of 1.86 hectares (4.8 acres) and comprises a retail shed and associated car park, which has been vacant since early 2018 following the collapse of the Toys R Us retail chain.
- 1.2 The site is located to the south west of Southampton Central Railway Station on the opposite side of Western Esplanade. There is an existing pedestrian permitted route though the site which takes pedestrians from the Central Station through to Harbour Parade. The existing site arrangement has servicing access from Western Esplanade with access into the car park taken from the Harbour Parade roundabout. There are circa 35 existing trees across the site and those fronting Western Esplanade are protected by Tree Preservation Orders.
- 1.3 There is existing below ground infrastructure crossing the site relating to electricity sub stations to the east and west, and an enclosed geothermal well head located in the car park which serves the district heating network. There is also a culverted stream running north-south on the western edge of the site, which is owned and managed by ABP.
- 1.4 The surrounding area has a mixed commercial and residential character. The National Express Coach Station is located to the South-East and West Quay Retail Park is located to the south, beyond Harbour Parade. The nearest residential properties are Emily Davis student halls to the East and Wyndham Court (Grade II listed) and Empire View apartments located to the north on the other side of the railway line. It is also important to note that the Civic Centre (Grade II\*) stands to the East at the top of Civic Centre Hill.

### **2 Proposal**

- 2.1 This is a 'hybrid planning' application for mixed use development, meaning that part of the scheme is fully detailed with the remainder requiring further detail and the submission of 'Reserved Matters'. It comprises:
  - Full planning permission for:  
The demolition of the existing building and structures; construction of 4 buildings (Blocks A, B, C and D) of between 7 and 25 storeys with Block A comprising commercial floorspace (Class E) and Blocks B, C and D comprising 603 residential units (Class C3) and ground floor commercial floorspace (Class E); together with associated access,

parking, servicing, landscaping (including Sustainable Drainage Systems), amenity space, public realm and substations.

- Outline planning permission for:  
The construction of 1 building (Block E) of up to 8 storeys for flexible commercial/residential/overnight accommodation (C1/C3/Class E Uses) and/or co-living (Sui-Generis) with associated access, parking, servicing, landscaping and amenity space (all matters reserved except for access)

2.2 The key components of the scheme are as follows:

- 603 new homes;
- 65,000 sq ft / 6,031sqm of grade A office space;
- 8,858 sq ft / 823sqm of retail space (flexible Class E units);
- 69,000 sq ft / 6,430sqm of flexible space commercial space (outline part);
- 59 resident car parking spaces and 46 office car parking spaces to include 11 disabled bays and electric vehicle charging points (active and passive);
- Delivery of 8,000sqm of public realm including the International Maritime Promenade section from Central Station to Harbour Parade; and,
- 90 replacement trees following a loss of 18 existing trees.

2.3 The apartments are proposed to be managed 'build-to-rent' units served by a concierge desk with 24/7 support. Residents are provided with access to a number of shared internal and external amenity spaces, such as lounge areas, co-working space and games rooms. The proposal provides 841sqm gross of communal/private internal amenity and 2293 sqm of private external space (courtyards and roof terraces).

2.4 The proposed accommodation has the following housing mix:

	Studio	1 Bed	2 Bed	3 Bed	Total
No	11	322	242	28	603
Mix	1.8%	53.4%	40.1%	4.6%	100%

2.5 The new International Maritime Promenade (IMP) pedestrian route would be tree lined with a straightened alignment to join the Harbour Parade roundabout, and a pedestrian route is also provided to link with the existing pedestrian crossing across Harbour Parade into the West Quay Retail Park. The proposed route will align with planned highway works to Western Esplanade which seek to re-position the existing pedestrian crossing. The layout provides landscaped public open space within the middle of the site and works with the site constraints of the retained Geothermal well head equipment.

2.6 The office accommodation (Block A) has been designed as a feature gateway building holding the corner at the entrance to International Maritime Promenade adjacent to Western Esplanade and the Central Station. The building has a curved triangular shape with horizontal banding. The office building is served by a podium car park which also serves residential uses (Blocks B and C) within the northern part of the site. The podium car park is accessed from Western Esplanade and 2 no. servicing lay-bys are proposed to the northern edge of the site. The podium car park is enveloped by commercial units fronting IMP and residential entrances and ancillary spaces

along the other podium edge. The podium car park would accommodate 39 resident parking spaces and 46 office car parking spaces.

- 2.7 The residential tower within Block B has a height of 25-storeys with a 9-storey shoulder. Block C at the eastern end of the podium cluster and has a height of 12-7 storeys. The architectural approach for Blocks B and C uses fenestration design to provide verticality and incorporates brick banding façade detail.
- 2.8 Residential block D is detached from the podium element and is located within the south-eastern part of the site, and has its own small surface level car park with 20 parking spaces and is accessed from the Harbour Parade roundabout. This block has a scale of 24-storeys with an 8-storey shoulder. The architecture of this block has a maritime influence with horizontal emphasis and a light materials palette.
- 2.9 Block E is the outline part of this hybrid application and a flexible range of uses are sought for this building with only the principle of development and site access arrangements under consideration. This block is located within the southern part of the site and is served by its own surface car parking area with access taken via the Harbour Parade roundabout. Vehicles will be required to cross International Maritime Promenade to enter this part of the site. This block is supporting by a Design Code which sets building height and massing parameters to order to respect the sensitive view of the Civic Centre Campanile from West Quay Road (view CCC.2) and influence the Reserved Matters submissions that will follow for this part of the scheme.

### 3 **Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015), the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (March 2015). The most relevant policies to these proposals are set out at Appendix 1.
- 3.2 The Core Strategy under policy CS1 (City Centre Approach) identifies the city centre as the location for major development to enhance the City’s regional status and supports high quality development proposals for a wide range of uses including retail, office, leisure, cultural, hotel and residential. The current proposal comprises a mix of commercial office, flexible retail, and residential uses which is considered to adhere to this policy.
- 3.3 The City Centre Action Plan (CCAP) identifies the application site as being within the Station Quarter of the Major Development Zone (also known as the Mayflower Quarter). Policies CS2 and AP20 provide an over-arching policy for the Major Development Zone (MDZ) and promote this area for comprehensive high-density mixed-use development including commercial, leisure, residential and tourist uses. Development within the MDZ is expected to create a high standard of design which has a good relationship with, and adds to, the positive features of Southampton’s cityscape. The area is identified as being suitable for tall building clusters under policy AP17 of the CCAP. High quality, clearly defined pedestrian and cycle friendly strategic links are promoted within the MDZ which connect to the wider area and policy AP19 identifies the

route through the application site from Central Station to Harbour Parade as forming part of the International Maritime Promenade Strategic Route. Furthermore development within the MDZ is expected to provide new high quality civic squares and green spaces and should achieve an appropriate degree of safety in respect of flood risk

- 3.4 Policy AP21 indicates that development within the Station Quarter is required to create, or contribute towards creating, a high quality and distinctive gateway and point of arrival for the city centre, which this proposal will. It also notes that office, residential, hotel, leisure, appropriate food / drink, small-scale retail (under 750 sqm gross) and retail development (A1) which meets policies CS3, AP6 or AP7, will be promoted. It should be noted that the applicants have agreed to limit the amount of retail floor space within the commercial units to not more than 750sqm to comply with the retail impact policies in order to protect existing defined shopping areas.
- 3.5 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.6 The Council's Strategic Planning Policy Team have reviewed the application and are satisfied that it complies with the relevant policies, subject to the application of the aforementioned condition to limit occupation of the flexible retail floorspace by Class E(a) retail uses to a maximum of 750sqm gross floorspace at any one time.

#### **4. Relevant Planning History**

- 4.1 In 2018 a lawful development certificate for use of the site for open A1 retail including food retail was refused because the historic lawful use of the retail shed was restricted for retail warehousing only (ref 18/01055/PLDC).
- 4.2 In 1986 conditional planning permission (ref M47/1674) was granted for the erection of a retail warehouse with associated car parking and service yard for Toys r us. Records indicate that prior to that the site was used as temporary public car parking.
- 4.3 In 1846 the site consisted of intertidal mudflats some 20-25m from the shore. In 1903 land was reclaimed and the Southampton Corporation Electricity Station was built on part of the application site. By 1933 the application site had been entirely reclaimed and the power station enlarged.

#### **5 Consultation Responses and Notification Representations**

- 5.1 The planning application is supported by a Statement of Community Involvement which sets out the applicant's community engagement ahead of the planning submission. The Statement indicates that 1,088 local households and businesses were consulted with opportunity to engage through a virtual exhibition or through a community drop in session. A total of 67 feedback

forms were reported with an overview of the responses set out within the statement.

- 5.2 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken, which included notifying adjoining and nearby landowners, placing a press advertisement (14.01.2022) and erecting site notices (14.01.2022). At the time of writing the report **3 representations** have been received (1 in support and 2 against) raising the following issues:

### **Against**

- 5.2.1 Overlooking and loss of privacy to Empire View

**Officer Response-** *Empire View is located circa 90m to the north, on the opposite side of the railway line. The application site is located within a policy area identified for high density development including tall building clusters. The proposal is not considered to lead to unreasonable overlooking within this city centre context and having regard to the policy allocation for the Station Quarter and Major Development Zone.*

- 5.2.2 **Objection from City of Southampton Society**

1) Vehicular access to the car-park for Blocks A, B and C from Western Esplanade is limited to left-hand turns (for both entry and leaving) unless an additional traffic-controlled cross-roads is provided. This applies to all the traffic for the offices and the limited number of residential car users together with all emergency vehicles. Traffic must not be allowed to do a right-turn and bump across the central reservation whether arriving or departing. It may be necessary to erect a steel barrier along the length of the central reservation to prevent this.

**Officer Response-** *The Council's Highway Officers are satisfied with the access arrangements onto Western Esplanade. The Western Esplanade access will be a new priority junction adjacent to an existing access to a 25 space surface car park. This will be in a left in-left out arrangement and provide access to a podium space for parking and servicing.*

- 5.2.2.1 2) Vehicular access to the car-parks for Block D and eventually Block E is via Harbour Parade. It is not clear from the plans how this will cross the IMP and whether there will be a conflict with pedestrians. Possibly another vehicular access is required from Harbour Parade to the Block E car-park.

**Officer Response-** *Unfortunately the developer does not own the highway verge adjacent to Harbour Parade and cannot create a new access from Block E/Zone E onto Harbour Parade. As a consequence vehicular access into Block E/Zone E will need to cross International Maritime Promenade to exit/enter via the existing access point onto the Harbour Parade roundabout. The Council's Highways Team agree in principle to this subject to design control measures to avoid conflict between cars and pedestrians/cyclists and details are recommended to be secured by condition via a management plan for International Maritime Promenade.*



- 5.2.2.2 3) Delivery vehicles should have dedicated parking bays for each of the blocks. This applies to the Royal Mail, supermarket deliveries, the multitude of delivery vehicles used by internet companies as well as take-away food deliveries. Without such parking bays, expect these vehicles to be driven along the IMP to get as close as possible to their destination. Also no mention is made of where Removal vehicles will park. With heavy furniture to move expect them to park as close as possible to the flat entrance doors. With 600 BTR units there is likely to be a regular turnover of residents.

***Officer Response-*** *The servicing arrangements have been amended to provide 2 no. lay-bys to service Blocks A, B, C from Western Esplanade. Block D is serviced from Harbour Parade. Limited servicing will need to take place on International Maritime Promenade to serve the commercial units fronting IMP and also for servicing of Block E. As above the Council's Highways Team accept that due to the site constraints limited and controlled servicing will need to take place on IMP and control measures will be secured to prevent conflict between pedestrians/cyclists and servicing vehicles.*

- 5.2.2.4 4) The developer's suggestion to limit deliveries to certain times of the day would not be workable (unable to enforce on multiple delivery companies) or acceptable to residents (restricting their choice of delivery times).

***Officer Response-*** *Controlled servicing hours is possible through a management plan and servicing hours will need to be carefully controlled to avoid conflict peak commuter times when footfall is heavier along IMP.*

- 5.2.2.5 5) For the IMP to be a safe space for pedestrians, skateboards and cycles should be banned. This also applies to take-away food delivery.

***Officer Response-*** *This request is not enforceable through Planning and the above s.106 recommendation seeks to ensure that the new permitted routes remain open to pedestrians and cyclists. The proposed commercial units are for use within class E only and does not include hot food take-away use.*

- 5.2.2.6 6) There is likely to be an increased flow of pedestrians crossing Western Esplanade going to or from the station. These should use the existing pedestrian crossing - perhaps updated to allow for a greater volume of pedestrians than at present. Pedestrians must be resisted from crossing Western Esplanade at random other places - again by providing a steel barrier in the central reservation. Another alternative would be to provide an elevated walkway. This would have the advantage of not interrupting the traffic flow as the existing controlled crossing does.

***Officer Response-*** *The Council's Highways Team are seeking better pedestrian and cycle crossings across Western Esplanade as part of the S106 site specific highway works.*

- 5.2.2.7 7) We note from the plans that the two tall tower blocks (B and D) are only served by one staircase. The need for safe exit from the building in case of fire was highlighted in the Grenfell Fire tragedy. The position is exacerbated by there being no balconies on either building. However, from the Fire Officer's report, we note that it is intended that each block should have one full fire-fighting shaft (including stairs). We cannot however identify these on the

plans. Additionally Fire appliances will need to be able to park adjacent to all sides of all blocks of flats.

**Officer Response-** *The development will have to satisfy Building Regulations Approved Document B – Fire Safety and currently a single staircase is permissible. The Planning Department has consulted the Health & Safety Executive on this application following recent changes to the Planning system in respect of tall building proposals – their comments are summarised later in this report.*

- 5.2.2.8 8) Examination of the floor plans is difficult due to their scale. However it would appear that in many cases toilets are positioned directly off kitchen areas or the main living area. Again there may be Building Regulations that cover this point but it is not hygienic to have toilets adjacent to food preparation areas or pleasant to have them opening off a living space, especially if the rooms are not adequately soundproofed.

**Officer Response-** *Noted but there are not grounds to refuse planning permission because toilets are accessed from kitchen areas.*

- 5.2.2.9 9) External noise could be a problem especially for the residential flats in Blocks B & C facing north. The Western Esplanade is a busy main commuter road into and out of the city centre. Added to this traffic are the emergency vehicles, particularly the police whose main Southampton base is only 100m to the west. In addition the train line serving both London and the South West is busy with commuter services and operates 24/7 for freight trains servicing the docks. Sealed windows are not an option during the hot summer days, especially as there are no balconies.

**Officer Response –** *The application has been reviewed by the Council's Environmental Health Team and the recommendations of the submitted noise report, and a planning condition in respect of glazing specification, is recommended to secure appropriate noise control measures to mitigate against external noise, including tonal noise from the sub-station on the western side of the site.*

- 5.2.2.10 10) There are additional noise problems with Block A (offices) and Block E (outline application for flexible commercial, residential, overnight accommodation and possibly students) from the perpetual hum generated by the Electricity sub-station. Again sealed windows are not an option for residential or student use. Some form of acoustic noise barrier around (and over?) the sub-station is essential.

**Officer Response –** *The acoustic consultant has recommended a number of options for dealing with tonal noise from the sub-station which includes either installing an acoustic boundary treatment or dealing with it through building fabric. Further acoustic assessments are required to determine the correct type of mitigation and a condition is recommended to secure these details.*

- 5.2.2.11 11) Entry for residents to Block B is unclear. From Western Esplanade there is a doorway with lifts and a staircase serving all 25 floors. However when approaching from the south the entry is via a two-storey pavilion. Residents wishing to access the top floors of Block B from this entrance will have to take

the lift, or stairs, to the second floor, then walk along a long corridor and take another lift, or stairs, to their required floor.

***Officer Response*** – Residents seeking to access the lift and staircase to all 25 floors will need to access the northern part of the building from the car park or from the Western Esplanade door access. The observations appear to be correct regarding the routes to all 25 floors if accessed from the southern concierge. The applicants have advised that from a management and operational perspective the concierge and amenities cannot be dispersed as it dilutes the service that can be provided and is too problematic to manage and staff. There is a deliberate hierarchy between the entrances. The BtR operator wishes to encourage use of the Maritime Promenade entrance to reinforce the social interaction and community that underpin the benefits of a BtR development.

### **In Favour**

- 5.3 Buildings with character and a destination in its own right. Well done. fully support. Leaving the train station will make us proud finally.

### **Consultation Responses**

- 5.4 **SCC Highways** – No objection

5.4.1 Principle

The proposed mixed use development for 603 residential units, commercial floorspace and outline permission for a flexible use building. The site was formerly retail unit (Toys R Us) with 250 space surface car park. This provides a high density development in a highly sustainable location opposite Southampton Central Station and close to the City Centre. Southampton Central Station provides access to frequent rail services and high frequency bus services to key destinations such as University Hospital Southampton, City Centre, University and Airport. For the office element location opposite the station will enable a high number of trips to be made by rail. The development mix and location is acceptable in highways terms.

5.4.2 Access

The site will be served by two accesses – one for Blocks A, B & C from Western Esplanade, and D & E from the existing roundabout on Harbour Parade.

The Western Esplanade access will be a new priority junction adjacent to an existing access to a 25 space surface car park. This will be in a left in-left out arrangement and provide access to a podium space for parking and servicing. This arrangement is satisfactory, and a route exists for traffic wishing to go north or east from the site via Central Station Bridge-Commercial Road. Modelling of the Central Station Bridge/Western Esplanade junction indicates that this can accommodate the additional trips made.

- 5.4.3 Access for Blocks D & E will be from the existing Harbour Parade roundabout, which will also provide servicing only access to the International Maritime Promenade (IMP) route through the site. This provides an interaction with this proposed pedestrian-cycle route and detail will need to be agreed on how this

is managed. Those using the IMP may not expect to encounter vehicles servicing Block E.

- 5.4.4 The two (service only) access points for IMP should be made one way with ingress from the roundabout to the South and egress to the north onto Western Esplanade. This will reduce the space needed for vehicles as well as conflict points with pedestrian and cyclists.

Access for pedestrians and cycles is from Western Esplanade at the existing toucan crossing by Southampton Central Station (to be upgraded in 2023 by SCC as part of Transforming Cities work), Western Esplanade/Civic Centre Road junction, and the existing toucan crossing on Harbour Parade.

Interaction with the highway will require a Section 278 application and a Road Safety Audit.

- 5.4.5 Parking

The total parking provision for blocks A-D will be 105 (inc 13 disabled spaces), block E is not defined but is indicated that this would be a maximum of 20.

This is well below that of the City Centre Action Plan which could see up to 725 spaces provided. However, given the highly sustainable location and the aspiration to be as car free as possible the reduced number of spaces is acceptable. There is sufficient supply of parking in surrounding car parks such as Marlands or West Park Road that are adjacent to the site providing capacity for visitors. There is no opportunity for overspill parking and surrounding streets are controlled.

- 5.4.6 All parking spaces will be 'EV Ready' with passive provision for future electric vehicle charging facilities. 15% of the spaces will have actual EV provision, however it is not clear what type of charging provision this is to be. Given the mix of use a combination of fast/rapid short term charging for office, and slow/fast for the residential units should be confirmed – this would need to be secured by condition. There are proposed to be 512 residential cycle parking spaces with a further 78 spaces for the office development making a total of 600 spaces. This is an under provision against standards which would be 603 for residential and 122 for the office (in blocks A and E) making 725 in total. Changing facilities and lockers should be provided – 5 showers are provided within Block A for the office. The argument for under provision is that not all residents will need cycle parking space is erroneous. The mix of residential units would see a higher number of people without cars and potentially owning more cycles therefore the number should be higher. There is provision for visitor parking (102 spaces) at several locations across the site. These should be secure, covered (where possible) and overlooked.

- 5.4.7 Public Transport, Pedestrian and Cycle Routes

The site is adjacent to Southampton Central Station which is served by high frequency rail services and is an important bus hub for Southampton. For office workers the site will be highly accessible by rail and bus, and residents will have a range of services to choose from. The SCC scheme for Southampton Central station will improve the existing toucan crossing of Western Esplanade further enhancing the connectivity.

- 5.4.8 Located adjacent to the core City Centre the site is within walking and cycling distance. The currently layout of the Civic Centre Road/Western Esplanade junction does not provide a good level of service for people walking. The

proposals are to amend this junction with new direct pedestrian and cycle crossing facilities which will improve the level of service.

5.4.9 The International Maritime Promenade (IMP) route through the site from Southampton Central Station to West Quay is an important walking and cycling route forming part of SCN1 (and NCN236) cycle routes, and as such access for pedestrians and cycles should be unfettered. This would need to be secured through the S106 Agreement. The southern end of this is not optimal as it diverts from the future desire line but it is understood that land constraints require the route to angle across the future access for Block E. A 4m shared use footway-cycleway is proposed for the Western Esplanade frontage, which is a low footfall area so while not compliant with LTN1/20 provides a connection from Western Esplanade to the station.

5.4.10 Trip Generation

Discussions have taken place in order to agree the now proposed trip rates. Comparable sites were used from TRICS as well as considering the fact that the development has a very low parking provision in relation to the number of units and office floorspace. The TA uses parking accumulation and parking ratio in order to prorate the trip - whereby percentage of trips are generated based on the correlation between parking spaces and triprate). Furthermore, the site is situated within a city centre location and opposite Central Station and is close to bus links. This resulted in slightly less vehicular trip rates to reflect all these points. However, it was noted that there was potential for commuters regarding the office use can park in nearby car parks which would likely travel past the local highway network. As a result, a sensitivity test was carried to capture this scenario.

5.4.11 Modelling has been carried out in nearby junctions which shows notable impact on the nearby junctions. Worst being the Western Esplanade signalised junction to the East with an increase in AM peak and slightly lower with the PM peak and Daily trips. This is slightly worsen with the sensitivity test but overall conclusions remain similar. The level of impact is considered to be acceptable subject to the junction works requested as part of the S106 mitigation package.

5.4.12 In regard to the multi modal trips, the development will generate a significant increase which will have an impact on the nearby junctions as more people would be crossing the roads. Works are requested to the Western Esplanade signalised junction to provide a better environment for footway users and better crossing points. The works would also provide some benefits to traffic flow with the new layout and additional stacking space.

5.4.13 Servicing

The development is proposed to be served either from Western Esplanade or via the International Maritime Promenade/Harbour Parade. Western Esplanade will provide servicing access to Blocks A-C and is indicated as the primary servicing area. Smaller vehicles such as vans and cars will use the internal service area with larger vehicles including refuse and HGVs using two proposed laybys on Western Esplanade. The two laybys were originally proposed. One is to be to the east of the site entrance to serve Blocks B & C via an off-carriageway layby designed to be at footway level so it can be used as footway when not in use. This will require suitable demarcation (bollards,

tactile paving etc) to alert visually impaired people to its presence and potential for a vehicle to be there.

- 5.4.14 The second layby west of the site entrance would serve Block A and was originally planned to be located on-carriageway on Western Esplanade. This would be in lane 1 in advance of the toucan crossing between Southampton Central station and IMP. This would cause a safety concern for forward visibility to the lights, vehicles not being expected to stop on Western Esplanade which is a main distributor road exiting the City Centre. This was not supported by Highways. Following discussions with the applicants an alternative whereby the layby is located off-carriageway in the same position. This would be designed similar to the first layby at footway level. The layby would narrow the proposed shared foot-cycleway to approximately 2.5m wide for the length (approx. 15m) of the layby. Therefore being at footway level provides additional space when not in use. The tracking diagram shows that the vehicle although fits in this loading bay, it is very tight and therefore may need to be widened during detailed design stage as part of the Section 278 process. This is to give larger lorries more space to manoeuvre correctly as well as protecting the kerbing as well as avoiding lorries potentially sticking out slightly.
- 5.4.15 Therefore, the alternative layout for the layby can be supported subject to measures that stop loading/unloading on the carriageway of Western Esplanade (No Loading At Any Time restrictions) being secured via the S106 Agreement.
- 5.4.16 Servicing for Block D is from roundabout off Harbour Parade and smaller vehicles use the car park area. Refuse collection and larger vehicles is proposed to be from IMP.
- 5.4.17 At this stage the servicing for Block E requires crossing of IMP to access the car park and some vehicles may find the current design of the building difficult to manoeuvre around. Again refuse and larger vehicles will use IMP. It is understood that we are only assessing access regarding Block E but it is important to note that with the current layout suggestion, only limited sized vehicles can service this block as larger vehicles would not be able to turn on site and therefore risk reversing on or off IMP and/or public highway. Therefore although a variety of uses is proposed for now, certain uses such as food retail would need to consider either layout changes or conditions to restrict servicing vehicle sizes.
- 5.4.18 IMP is designed as a high quality piece of public realm shared use environment acting as a gateway to Southampton connecting the TCF work at the station with West Quay. The introduction of servicing creates a conflict between people walking & cycling and the vehicles. DfT guidance looks to remove this conflict in shared use areas where there is high pedestrian footfall to make it safer for disabled and partially sighted people. The traditional method to do this would be through kerbs delineating difference between footway and roadway. This would not be in line with the design for the IMP, therefore a level surface has been proposed.
- 5.4.19 The management of the interaction between vehicles and pedestrians is required for those vehicles servicing along IMP. Time for access should be

limited to outside of peak pedestrian footfall hours (i.e. 0800-1800) and access should be restricted by on-site staff. A Delivery & Service Plan, that sets this out the management of the IMP in detail including ways of reducing deliveries/making them zero-emission, is required as a condition.

#### 5.4.20 Conclusion

The proposal for the regeneration of the former Toys R Us site will provide a highly sustainable transport development located adjacent to Southampton Central Station. The development has Subject to a mitigation package through the Section 106 Agreement, there are no objections on highways and transport grounds from the Local Highway Authority.

#### 5.4.21 Recommended highway conditions:

- 1) IMP management plan. A plan to detail how International Maritime Promenade will be managed to limit servicing times to avoid peak hours; amount of servicing that takes place here especially if problems arise from 'overcrowding' of servicing vehicles; management of bollards or physical measures to prevent non-servicing vehicle access.
- 2) Servicing management plan. A servicing management plan should be submitted to detail the servicing arrangements for each block. Plan to be submitted and agreed in writing by the LPA.
- 3) EV Charging. Plans to show the level and type of electric vehicle charging points are to be submitted and agreed upon by the LPA. Active (ready to be used) provisions should be at 25% of total parking numbers and 100% to be passive (infrastructure provided for easy and practical future connections).
- 4) Construction Management Plan
- 5) Cycle Parking. Details of cycle parking to be submitted and quantum should be increased to meet policy requirements.

### 5.5 **Historic England** - Objection

5.5.1 Historic England have concerns regarding impact from the height and massing of the development in relation to 2 no. views of the Civic Centre Campanile from West Quay Road and Western Esplanade.

5.5.2 Civic Campanile view 2 - This view comprises an open vista from West Quay Road looking northeast along Harbour Parade upwards to the Civic Centre. The prominent Campanile is seen in clear sky from a number of points. The proposal would dramatically alter the character of this view. Currently the campanile stands alone, if the development was built as proposed it would be framed by much taller buildings.

5.5.3 Historic England note that a corner has been removed from block C to allow for more space to the left of the tower in this view and that the overall height has decreased by 2.1m. However, the base of the block still remains close to the campanile, visually hemming it in. This is also the case regarding the base of block D.

5.5.4 While this is a small improvement on the design seen at pre-application stage, we still consider that the proposals narrow the viewing corridor and therefore cause a moderate level of harm to the campanile through changes to its setting, when seen from this key viewpoint.

- 5.5.5 Civic Campanile view 3 - This view comprises a vista from a narrow pavement on an elevated section of the Western Esplanade northeast to the Campanile of the Civic Centre and City Centre.

The proposal would encroach on the highly sensitive and sensitive zones of the strategic view, breaching the established building line around the base of the campanile. The campanile would remain visible but appear as a relatively small structure, surrounded rather than framed by much larger buildings, and would lose its place as a landmark that rises above its surroundings. We think that a moderate degree of harm would be caused to this view.

- 5.5.6 The cumulative impact on views

The cumulative impact of the proposals would be to cause moderate harm to the significance of the Civic Centre and Campanile by diminishing its primacy in strategic views across the city. This would reduce the appreciation of the building as a key landmark in Southampton, affecting its architectural and historic interest and the quality of Southampton's cityscape. We do not agree with the heritage assessment's conclusion that the development would cause a low level of less than substantial harm to the civic centre.

- 5.5.7 Officer Response – *The application site is located within the Station Quarter of the Major Development Zone and is identified for comprehensive high-density mixed-use and tall building clusters. Achieving higher densities and introducing tall buildings on the Toys R Us site has also been challenging in respect of longer views towards the Campanile from West Quay Road and Western Esplanade. As part of the design evolution improvements have been made to the site arrangement and to the massing of blocks D and E to frame rather than to intrude into the highly sensitive zone of the Campanile from West Quay Road (view CCC2). The view heading into the city on Western Esplanade is a kinetic view which changes because of the road/footway alignment and topography.*

- 5.5.8 *As such, whilst views of the campanile are impacted from fixed point view CCC3 the view does change as you approach the city. Historic England have identified a moderate impact on the setting of the Civic Centre campanile and therefore the following tests at para 202 of the NPPF should be applied:*

- 5.5.9 *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

*In this instance the public benefits arising from the delivery of enhanced public realm, new housing and employment opportunities and the creation of a high quality and distinctive gateway and point of arrival for the city centre are considered to outweigh the less than substantial harm to the setting of the Civic Centre Grade II\* listed building.*

- 5.6 **SCC Heritage Officer** – Objection – unless it is satisfied that the proposals present sufficient clear and convincing economic and public benefits that would demonstrably outweigh the `moderate` level of harm to the civic centre – a grade II\* listed building in relation to views of the Civic Centre Campanile from West Quay Road and Western Esplanade (views CCC2 and CCC3).



- 5.7 **Independent Design Advisory Panel** (comments endorsed by the Council's Urban Design Manager)– No objection  
The Panel strongly supports the design evolution and is excited at the prospect for this development to generate a genuinely legible and distinct place within the city centre, creating a positive landmark and welcoming sense of arrival into the city from its principal transport hub. The panel have raised concerns that the submission provides insufficient public art detail to give the public realm for a distinct personal identity and also commented that the IMP route does not align with the existing pedestrian crossing from the station.  
*Officer Response- Highway works are planned to move the existing pedestrian crossing and this will align with the proposed IMP route. Public art will be secured as part of the S106 agreement.*
- 5.8 **SCC Environmental Health** – No objection  
No objection subject to conditions to secure noise mitigation, including appropriate glazing specification and further assessments to determine the appropriate mitigation option to deal with tonal noise from the sub-station. Control measures should also be secured to control amplified sound in the event the Class E commercial units are used as gym. Demolition and construction phases should be controlled through a construction environment management plan. Noise levels from plant and equipment will also need to be assessed.
- 5.9 **SCC Flood Officer**  
Flood Risk  
Climate change and sea level rise presents a significant issue for Southampton as a coastal city, particularly as there are currently no raised flood defences in this area. The revised Flood Risk Assessment (dated February 2022) continues to assess present day flood risk only, failing to consider the impact of climate change and sea level rise, therefore not presenting an accurate reflection of how flood risk at this site changes within the design life, therefore insufficient mitigation is offered. It is a requirement of the National Planning Policy Framework (para 159), Southampton Core Strategy Policy CS 23 (Flood Risk) and Southampton City Centre Action Plan Policy AP 15 for climate change to be included. Footnote 55 of the NPPF includes the requirement for the Flood Risk Assessment to include land identified in a strategic flood risk assessment as being at increased flood risk in future. The Southampton Level 2 Strategic Flood Risk Assessment (2017) identifies that this site will carry a flood risk prior to 2115, with a significant hazard rating.
- 5.9.1 Based upon the current projected future flood level of 4.3mAOD (0.5% AEP (the design flood level)) and using the site, and building threshold level, of 3.7mAOD provided by the site topographic survey, this represents a potential standing flood level of 0.6m. Access to the upper floors is via an internal stairwell through the entrance lobby which would be impacted by water ingress which reduces safe access and egress and could present a risk to life.
- 5.9.2 Whilst recognised that the current layout of the site is commercial use on the ground floor which carries a less vulnerable classification (except for drinking establishments, nightclubs and hotels, which by definition carry a more vulnerable classification), they form part of a block with residential above therefore it is reasonable to state that these units will exist longer than the 60-

year design life applied to commercial uses. Resilience should be incorporated into the makeup of the building, particularly to protect areas used for plant serving the building as interruption to services supplying the blocks will increase the need to evacuate occupants should a flood occur, as well as ensuring that users of the block are not impacted by the length of time to recover following a flood. The requirement for resilience is included in NPPF and City Centre Action Plan policy AP15

5.9.3 It is recognised that a strategic flood defence will be required to better protect large areas of the city centre from flooding, to which this site would be a direct beneficiary of. Reliance on future defences is not deemed acceptable mitigation within a site-specific flood risk assessment as implementation will be fully dependent on the Council achieving sufficient funding. Current Government Partnership Funding rules exclude properties constructed post 2012 as NPPF is used to ensure that development is safe from flooding over the lifetime. Should the finished floor levels of this development remain below the future flood level, a financial contribution towards the future flood defences could be considered (secured separately to CIL) as this would offset the impact on the public purse to provide flood risk reduction to this site. If such agreement cannot be secured, an objection will remain on the basis that the site does not meet the requirements of the NPPF and local planning policy on flood risk.

5.9.4 Surface Water Drainage

The Drainage Strategy supplied intends to restrict flows from this site to 10l/s for all rainfall events up to and including the 1 in 100 year rainfall event plus 40% allowance for climate change. This would represent a significant betterment on the existing discharge rates generated by the site, providing that the 1150m<sup>3</sup> attenuation can be achieved. Inclusion of bio-retention, rain gardens and swales is a welcome addition to the site.

5.9.5 There is some concern that some site investigations are yet to be carried out. The Flood Risk Assessment acknowledges that there is a high groundwater table on this site. Groundwater levels will increase as a result of climate change and sea level rise. There is no information included to identify whether the base of the proposed underground attenuation (geocellular crates) will remain at least 1m above the groundwater level, which is important to avoid seepage into, or floatation of the crates, particularly as plans indicate that the depth of the attenuation is already 2.5m in depth.

5.9.6 Additionally, as no surveys on the point of outfall have yet to have been carried out, the drainage strategy states that use of a pump to discharge water to the nearest sewer may be required. Use of pumps are less favourable as any errors or outages could lead to severe flooding to the site.

5.9.7 There is no information on how the drainage strategy will manage exceedance flows will be managed on site and also protect the buildings from water ingress if the design capacity is exceeded. This is particularly important as there is no information on finished floor levels

5.9.8 **Officer Response-** *It is not practical from a design perspective to raise the thresholds of the residential entrances or external routes within the site above the predicted future flood levels in 2115 (without a flood defence). This would*

*have an adverse effect on the public realm with the introduction of dead frontage from retaining structures and would likely introduce steps and ramps to the external areas. At the time of writing the applicants are undertaking additional work to understand the risk of future flooding to their development, and this will inform the financial contribution on offer through the S106. This approach is supported by the Council's Flood Officer but in the event that agreement cannot be reached on the level of mitigation it may be necessary to bring the application back to the Planning Panel for determination. A planning condition has been added to secure a revised drainage strategy following necessary groundwater and infiltration tests to inform the drainage design.*

#### 5.10 **Public Health Response**

We note that the sizes of the proposed apartments are

- Studios 32.37 sq.m - 37.32 sq.m
- 1 Beds 40.87 sq.m - 58.07 sq.m
- 2 Beds 54.89 sq.m - 73.72 sq.m
- 3 Beds 79.78 sq.m - 82.59 sq.m

Whilst we understand that Southampton has no locally adopted space standards, we consider it very concerning that many of the dwellings will be less than the Nationally Described Space Standards. People need adequate space in their home to prepare food, study and do activities. The small dwellings proposed have a risk of overcrowding which has been linked to numerous negative health outcomes including respiratory illness, infectious diseases, accidents and poor mental health.

*Recommendation: Ensure that all dwellings meet the Nationally Described Space Standards as a minimum.*

#### 5.10.1 Active Travel

We note and support the proposal to make this a predominately car-free development given the site's excellent accessibility to public transport. We are also supportive of the permeable walking and cycling routes that are incorporated within the scheme. All this promotes active travel and associated positive health outcomes. However, we note the proposed number of cycle parking areas is less than the number of dwellings (603 dwellings proposed and only 512 bike racks). Additionally, it is not clear from the proposal how much of this cycle storage will be secure.

*Recommendation: As a very minimum, at least one secure cycle storage area should be provided for each dwelling.*

#### 5.10.2 Green Spaces

We welcome the proposals around provision of green space as this is extremely important for people's physical and mental health. We would like to see the green space maximised in the development. Additionally, we are concerned that some of the 'intimate' areas described may be subject to misuse for crime and anti-social behaviour in this city centre location.

*Recommendation: Maximise green infrastructure with the inclusion of strategies to mitigate the risk of crime and anti-social behaviour.*

5.10.3 **Officer Response-** *The Build to Rent housing model is different to conventional market residential because the accommodation is highly managed and residents have access to communal internal and external amenity spaces. That said, the application doesn't meet the national standards for internal space and can be summarised as follows:*

- 5.10.3.1 *The applicants have carried out an assessment of the proposals in relation to the NDSS and advise that 58% of the apartments fall below the National Described Space Standards however the applicants advise that: 73% of the apartments meet the NDSS apartment size space standard when the 4sq.m of protected hallway is added; 81% of the apartments meet the NDSS apartment size space standard when the 2sq.m of shared internal amenity space per apartment is added; and of the 19% transgressions, the majority are by less than 1 sq.m and all of the 19% transgressions are 1B/2P apartments. In the worse case scenario a 1-bed unit is below the NDSS target of 50sqm by 9sqm however this is reduced to a deficit of 3.13sqm when factoring in the internal amenity space and protected hallway.*
- 5.10.3.2 *It is noted that the 1-bed units range in size from 40.9sqm-54sqm and the minimum NDSS for a 1-bed 1-person flat is 39sqm. National Planning Practise Guidance indicates that Build to Rent homes are normally designed, constructed and managed to a high quality standard. Advising that Individual schemes should meet any relevant local and national planning policy requirements however there is no national requirement for authorities to apply national space standards in their area. Space standards are optional. Where authorities choose to apply them the national policy does not preclude authorities from dis-applying them for particular parts of the local plan area, or for particular development types, such as build to rent schemes.*
- 5.10.3.3 *The Council does not currently have an adopted policy in order to secure the NDSS and the shortfall is only marginal. For information the national standards are as follows:*
- 1 bedroom – 1 person 37-39sq.m*
  - 1 bedroom – 2 person 50sq.m*
  - 2 bedroom – 3 person 61-70sq.m*
  - 2 bedroom - 4 person 70-79sq.m*
  - 3 bedroom – 4 person 74-84sq.m*
  - 3 bedroom – 5 person 86-93sq.m*
- 5.10.3.4 *It is agreed that 1:1 resident cycle parking facilities should be provided and this can be secured by condition.*
- 5.10.3.5 *The proposed public external areas benefit from passive surveillance and CCTV coverage is also recommended. No objection was raised by the Police in relation to the safety and security of the public spaces subject to a condition to secure appropriate lighting design.*

5.11 **SCC Tree Officer – No objection**

In general, agree with the assessment of the trees condition on site and therefore have no objections to the proposed tree loss, with the better-quality trees being retained in some key locations.

The proposed landscaping plans adequately mitigate the losses on a favourable basis and consist of a good mix of mature sizes and species. Further details of tree pit design would be requested, particularly of trees in hard landscaping; I would like to see adequate soil volumes to enable trees to thrive and to future proof the surrounding surfaces from damage.

Protective fencing should be erected as per the tree protection plan and retained in situ during the demolition and construction phases. If agreed, I would like to see the usual tree protection and landscaping conditions for a development of this scale applied.

5.12 **Archaeology** – No objection subject to conditions to secure archaeological investigation

5.13 **SCC Land Contamination** - No objection. Suggest a condition to secure

1. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in the GEA Desk Study Report, ref: J21301) to be assessed.
2. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

5.14 **Employment and Skills** - An Employment and Skills Plan Obligation will be sought via the Section 106 Agreement.

5.15 **Sustainability** - No objection subject to conditions to secure: 15% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use for the residential parts of the scheme;

For any Building where more than 500sqm of non-domestic floorspace of the same use type (e.g. retail, leisure, office) is being delivered, a BREEAM New Construction assessment achieving 'Excellent' as a minimum; and to ensure a high level of fabric efficiency is provided.

5.16 **SCC Housing** – As the scheme comprises of 603 dwellings in total the affordable housing requirement from the proposed development is 35% (CS15- sites of 15+ units = 35%). The affordable housing requirement is therefore 211 dwellings (211.05 rounded down).

*Officer Response – SCC Housing have acknowledged the findings of the DVS viability review, which found the scheme is not viable and cannot provide any contribution towards affordable housing at this time. This is discussed in more detail in the Planning Considerations section of this report.*

5.17 **Natural England** – Holding objection

As submitted, the application could have potential significant effects on designated sites in the Solent including the Solent and Southampton Water Special Protection Area (SPA) and Ramsar site, the Solent Maritime Special Area of Conservation and the Solent and Dorset Coast SPA, in addition to the New Forest SPA, SAC and Ramsar sites. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

- A calculated nitrogen budget for 'Block E' currently at outline planning permission stage
- Detail of mitigation measures to address identified impacts across all elements of this application, in terms of achieving nitrogen neutrality

- Appropriate contributions to mitigate for recreational impacts to the Solent SPA sites, in addition to the New Forest designated sites, for all elements of this application.
- Further assessment of air quality impacts arising from the development, specifically from ammonia (NH<sub>3</sub>) emissions

*Officer Response – A Habitats Regulations Assessment (HRA) has been produced to cover the impacts of the operational phase of the development on the designated sites. A copy of the HRA is appended to the report and has been sent to Natural England for further comments.*

5.18 **Southern Water:** No objection subject to a conditions to safeguard the public sewer and to secure phased occupation of the development to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development.

5.19 **Airport Safeguarding –** No objection subject to conditions to secure a Bird Hazard Management Plan and lighting and request an advisory relating to the use of cranes.

5.20 **Hampshire Fire & Rescue –** No objection and guidance provided in relation to fire safety

*Officer Response – Fire safety is a matter for Building Regulations (Approved Document B: Fire Safety) however the suggested advisories can be attached to the decision notice.*

5.21 **Health and Safety Executive –** No objection and fire safety guidance provided which can be added as an informative.

5.22 **SCC Air Quality –** No objection and accept the conclusions of the submitted air quality assessment which find the AQ impact to be Negligible in accordance with EPUK & IAQM guidance. Conditions are recommended to secure a construction environment management plan and mitigation such EV charging and active travel.

## 6. **Planning Consideration Key Issues**

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

- the principle of the development;
- design and heritage impact;
- residential environment & impact on neighbours;
- highways;
- habitats regulations; and
- development mitigation, affordable housing and viability.

## **Principle of Development**

- 6.1 The site is located within the MDZ – Station Quarter under policy AP21 of the City Centre Action Plan and is allocated for mixed use redevelopment. New development within this location is expected to create a high quality and distinctive gateway and point of arrival for passengers exiting the southern side of the Central Station. Higher densities and taller buildings are appropriate within this gateway location, subject to satisfying the requirements of design and tall building policies AP16 and AP17 of the City Centre Action Plan. Development within the Station Quarter is expected to improve pedestrian links to the wider MDZ and city centre and is linked to policy AP19 in terms of delivering the International Maritime Promenade Route.
- 6.2 The proposal comprises a mix of commercial office, flexible retail, and residential uses which adheres with the range of uses which are supported within the MDZ - Station Quarter as identified within policy AP21. It should be noted that not more than 750 sqm of retail floor space (gross) can be supported outside of the existing Primary Shopping Area and therefore a planning condition is recommended to control and limit this.
- 6.3 Policy AP1 (New Office Development (site - Station Quarter)) requires development schemes for allocated sites to include a significant proportion of office use. The proposed development is considered to do this with the “6,816 sqm (GIA) of commercial floorspace (Use Class E)”. It is therefore considered this policy’s requirements have been met.
- 6.4 In respect of residential uses the LDF Core Strategy Policy CS4 confirms the need for additional housing across the city, and explains that an additional 16,300 homes will be provided to the end of the current plan period to 2026. CCAP Policy AP9 suggests approximately 5,450 dwellings will be built in the city centre between 2008 and 2026. As recognised in the supporting Planning Statement, the Council’s housing requirement has sharply increased in recent years from 815 dwellings per annum (as stated in the adopted plan) to 1389 dwellings per annum at 2021, which includes the Government’s 35% urban centres uplift. Whilst work continues to assess potential housing sites to reach the target required for the emerging Local Plan period (2020-2040) there is still currently a shortfall. The scheme proposes major high-density residential, appropriate for a city centre location with a total of 603 residential units and will make a significant and positive contribution towards the housing delivery target for the city. The scheme is, therefore, considered to satisfy this policy and the principle and quantum of residential use is supported.
- 6.5 Policy CS5 of the Council’s Core Strategy (2015) indicates that development will only be permitted which is of an appropriate density for its context. The site is located within an area of high accessibility where net density levels of over 100 dwellings per hectare can be supported. The proposed development has a residential density of 324 dwellings per hectare. The proposed housing mix of 11 x studio, 322 x1-bed, 242 x 2-bed and 28 x 3-bed is appropriate for the city centre and expectations in relation to the Major Development Zone.

## 6.6 **Design & Heritage Impact**

The proposed design has evolved through pre-application negotiations and has been informed by consultation with the Council's Urban Design Manager, Historic England and has been subject to review by the Independent Design Review Panel.

- 6.7 The area is designated for comprehensive high-density mixed-use that creates a high quality and distinctive gateway and point of arrival into the city. Tall Building Policy AP17 of the City Centre Action Plan indicates that tall buildings of 5-storeys or more and landmark buildings should of high quality design and materials; respond well to their site and context and provide a mix of uses. Tall buildings can be supported as part of clusters of tall buildings at Station Quarter, providing a high quality and distinctive gateway and point of arrival for the city centre (as required under policy AP21 MDZ – Station Quarter). The proposed development is considered to meet these policy expectations and represent a positive addition to the city centre subject to appropriate conditions and planning obligations to secure appropriate materiality and high quality public realm.
- 6.8 Saved policy HE3 of the City of Southampton Local Plan and policy CS14 of the Core Strategy require development to guard against adverse harm to the setting of the heritage assets, in accordance with The Planning (Listed Buildings and Conservation Areas) Act 1990. The layout, building heights and massing has been carefully considered in relation to its impact on the city skyline and the setting of heritage impacts. The comments of Historic England are recognised in relation to the moderate impact on views of the Civic Centre campanile, however this impact is considered to be outweighed by the public benefits of the scheme in terms of delivering a high quality gateway development, enhanced public realm, including the IMP route, housing and delivery of grade A office accommodation. It should also be noted that the scheme has been reviewed through a Heritage and Visual Impact Assessment, which demonstrates the scheme has no impacts on the protected strategic views across the city as set out within policy AP16 of the CCAP.
- 6.9 The design of the outline part of this hybrid application for Block E is not under consideration at this stage and detailed consideration of the scale, appearance, layout, landscaping within this part of the scheme will take place at reserved matters stage. The application is supported by a Design Code which sets out design parameters and expectations to inform future reserved matters applications relating to reserved matters approval. Although details of scale for Block E are reserved it should be noted that the site constraints in terms of views from Civic Centre campanile from West Quay Road would restrict the scale and massing and would likely prevent a height increase to the 8-storey building (with upper floor set-back) as shown.
- 6.10 The application is supported by a microclimate assessment which indicates there are no wind safety exceedances at ground level anywhere in the site or surrounding area. Furthermore it confirms there are also no wind safety exceedances on the private external terraces.



## **Residential Environment & Impact on Neighbours**

- 6.11 The area has a mixed commercial and residential character and the site is within a wider policy allocation (MDZ – Station Quarter) which supports residential use at higher densities within this location. The proposed layout provides reasonable separation between the blocks to achieve acceptable levels of outlook, daylight, sunlight and privacy for a high density residential scheme of this nature. The application is supported by a BRE Daylight and Sunlight Assessment which demonstrate that the compliance rates are good and in excess of the compliance rates typically seen on large scale development.
- 6.12 In terms of the internal space standards, it should be noted that the space environment for the Build to Rent product differs from conventional market flats because the accommodation is highly managed and residents have access to communal internal and external amenity spaces. The applicants have carried out an assessment of the proposals in relation to the NDSS and advise that 58% of the units strictly fall below the net internal area requirements for compliance, however 73% of the apartments meet the NDSS apartment size space standard when the 4sq.m of protected hallway is added; 81% of the apartments meet the NDSS apartment size space standard when the 2sq.m of shared internal amenity space per apartment is added; and of the 19% transgressions, the majority are by less than 1 sq.m and all the 19% transgressions are 1B/2P apartments. It should also be noted that the 1-bed units range in size from 40.9sqm-54sqm and the minimum NDSS for a 1-bed 1-person flat is 39sqm. Whilst clearly a shortcoming of the scheme this arrangement is considered acceptable having regard to the wider Planning balance, the need for housing, the character and density of the neighbourhood, the specific managed nature of the BTR product and also given that the Council does not currently have an adopted policy in order to secure the NDSS. The National Planning Practise Guidance recognises that the NDSS are optional can be disapplied for highly managed build to rent schemes.
- 6.13 The proposal is not considered to have an adverse impact on the nearest residential properties on the adjacent side of the railway line or Emily Davis student halls to the East. There is a separation distance of approximately 90m with Wyndham Court and Empire View to the north and approximately 70m to Emily Davis Hall to the East. The application site is located within a policy area identified for high density development including tall building clusters. The proposal is not considered to lead to unreasonable overlooking within this city centre context and having regard to the policy allocation for the Station Quarter and Major Development Zone. The application is also supported by a Daylight & Sunlight Assessment which demonstrates no adverse impact on nearby residential properties.
- 6.14 **Highways**
- The Development Plan seeks to reduce the reliance on private car for travel and instead promotes more sustainable modes of travel such as public transport, walking and cycling. The proposed development would provide less than the maximum car parking standards for the quantum of development with 103 car parking spaces proposed (maximum permissible

for this development mix would be 725 car parking spaces). Having regard to the nature of the proposed uses and the city centre location of the site, this approach is considered to be appropriate. There are existing on-street car parking restrictions in the area and as such, the proposal would be unlikely to generate significant over-spill car parking on surrounding streets. The proposed development would also have less car parking than the existing retail use which has 250 car parking spaces and, therefore, the scheme will not have an adverse impact on highway safety nor will it lead to increased congestion on the highway network.

- 6.15 Servicing management, including management arrangement for International Maritime Promenade and adequate bin and bicycle storage will be secured by condition. Furthermore a legal agreement will be used to secure site specific highway works to mitigate against the impact of the development as listed in the recommendation section of this report. Additionally, a highway condition survey will be required to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.

### **Habitat Regulations**

- 6.16 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 2**. 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), including towards New Forest mitigation, the development will not adversely affect the integrity of the European designated sites.

### **Development Mitigation, Affordable Housing and Viability**

- 6.17 A development of this scale is expected to mitigate its direct impacts in accordance with LDF Policy CS25. A s.106 legal agreement is triggered and contributions secured. The site is currently located outside of a high risk flood zone, although current modelling suggests that this will change during the lifetime of the scheme if nothing is actioned and, as such, it is reasonable to seek an off-site contribution towards future flood defence from this development.
- 6.18 In addition, Policy CS15 sets out that ‘the proportion of affordable housing to be provided by a particular site will take into account the costs relating to the development; in particular the financial viability of developing the site (using an approved viability model).’ The application is accompanied by a viability assessment which sets out that the development would not be viable and able to commence should the usual package of financial contributions and affordable housing be sought. In particular, the assessment sets out that the development would not be able to meet the requirement to provide Affordable Housing on the site. The viability appraisal has been assessed and verified by an independent adviser to the Council; in this case the District Valuation

Service (DVS). A copy of their report dated 02.03.2022 is appended to this report at **Appendix 3**.

- 6.19 The DVS report concludes that a 100% private Build To Rent scheme incorporating a site value of £4,000,000 with CIL contributions totalling £4,568,943 and S106 contributions totalling £803,618 is not viable and cannot provide any contribution towards affordable housing. A Build to Rent scheme with 20% affordable housing shows a deficit of £6,473,999 against the BLV of £4,000,000 and is not viable. The situation would be worse for the Policy requirement of 35%. Both assessments account for the developer making a reasonable profit on their investment – in line with guidance.
- 6.20 The latest NPPF guidance suggests a profit level of 15-20% of Gross Development Value (GDV) is a suitable return for developers. The applicant's viability assessment adopted a developer profit of 15% of GDV. DVS have adopted a blended profit of 12.75% of GDV because the applicants have purchased the site in order to build a mixed use development including 603 BTR units.
- 6.21 Given the deficits involved it would be right to question why the scheme is coming forward at the current time. The viability is showing a -£3,200,000 deficit with no affordable housing. Clearly, this is a matter for the applicant, and as the scheme is a phased hybrid application it will be some time yet before the full development potential will be realised on the ground, by which time circumstances may change. The s.106 clauses will build in review mechanisms in line with our normal practices so that an assessment of the viability can be relooked at as the scheme progresses and if the situation improves satisfactorily then contributions can be sought. It is also important to note that DVS have indicated that the all private BTR scheme could be deliverable since it would only need a small increase in values of less than 2.5% to be fully viable and start contributing to affordable housing.

## **7 Summary**

- 7.1 The proposal represents a comprehensive high density mixed use development and will create a high quality and distinctive gateway and point of arrival for the city centre. New high quality public realm and green spaces will be created which integrate into the overall street pattern for the Major Development Zone. This will mark a significant change to this part of the City and improve the arrival experience as visitors leave the Station. The demolition of the existing retail shed is, clearly welcomed.
- 7.2 The proposed range of uses and are suitable for this location within the Station Quarter and accord with policy AP21. This is a site suitable for higher density development and policies AP17 and AP21 support new tall buildings as part of a tall building cluster south of the Central Station. It has been demonstrated that the proposed building heights will not impact upon protected strategic views. However it is recognised that Historic England have identified moderate impact on the setting of the Civic Centre Campanile from views from West Quay Road and Western Esplanade as set out within the Council's Tall Building Strategy. However it is considered that the public benefits of this scheme outweigh the less than substantial harm to the setting of this Grade II\* heritage asset.

- 7.3 The design proposals will provide a positive addition to the city centre and the regeneration of this prominent vacant site will hopefully act as a catalyst for further development within the Major Development Zone.
- 7.4 Tree replacements will be secured to mitigate against tree loss. Further mitigation in relation to highway works, flood defence and public art will be secured through the S106 agreement to make the scheme acceptable in planning terms.
- 7.5 Overall the scheme is acceptable and the level of development proposed will not result in an adverse impact on the amenities enjoyed by surrounding occupiers or to the character and appearance of the area.
- 7.6 On balance, the benefits of the scheme (as outlined through this report in terms of high quality design of both buildings and public spaces, the delivery of a significant number of new homes as part of a mixed use scheme including a new office, and the wider regeneration benefits on offer) are considered to outweigh the current weaknesses in terms of the marginal impacts upon views of the Civic Centre, the internal floorspace standards, and the lack of affordable housing that the scheme can support.

## **8 Conclusion**

- 8.1 The positive aspects of the scheme are not judged to be outweighed by the negative and as such the scheme is recommended for conditional approval following completion of the S106 legal agreement.

**Local Government (Access to Information) Act 1985**  
**Documents used in the preparation of this report Background Papers**

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

**AG for 29/03/2022 PROW Panel**

**Planning Conditions to include:**

**01. Outline part of this Hybrid Planning Permission - Timing Condition**

Outline Planning Permission for the principle of development for flexible commercial/residential/overnight accommodation (C1/C3/Class E Uses) and/or co-living (Sui-Generis) and means of access for Zone E/Block E is approved subject to the following:

- (i) Written approval of the details of the following for development within the boundary of the outline application, shown on plan ref TRU-GRID-00-ZZ-DR-A-PL600 Rev P01 awaited reserved matters shall be obtained from the Local Planning Authority prior to any works taking place on the site:
  - the layout of the buildings on site and detailed siting of associated areas in accordance with Block E Parameter Plan Drawing No. TRU-GRID-00-ZZ-DR-A-PL600 Rev P01;
  - the appearance and architectural design specifying the external materials to be used in accordance with the Design Code by Grid Architects Dated 10.12.2021;
  - the scale indicating massing and building bulk and the height of Block E shall accord with proposed view 6 (equivalent to View CCC.2) as shown within the Heritage Townscape Visual Impact Assessment dated 17.12.2021, unless otherwise agreed in writing by the Local Planning Authority (in consultation with Historic England); and
  - the landscaping of the site specifying both the hard, soft treatments and means of enclosures.
- (ii) An application for the approval of the outstanding reserved matters shall be made in writing to the Local Planning Authority before the expiration of three years from the date of this Outline Permission
- (iii) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last application of the reserved matters to be approved.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 91 and Section 92 of the Town and Country Planning Act 1990 (as amended). To protect views of the Civic Centre campanile from West Quay Road in accordance with the requirements of policies AP16 and AP17 of the City Centre Action Plan (2015) and paragraphs 190, 193, 194 and 196 of the National Planning Policy Framework (2019).

**02. Full part of the Hybrid Planning Application - Implementation**

The part of the Development where full details are by this planning application, approved, all land within site location plan TRU-GRID-00-ZZ-DR-A-PL001 Rev P01, except the area for Block E as shown on shown on plan ref TRU-GRID-00-ZZ-DR-A-PL600 Rev P0, shall begin no later than three years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

**03. Phasing (Pre-Commencement Condition)**

The development hereby approved, shall follow an implementation phasing programme, with details to be first agreed in writing with the Local Planning Authority prior to the

commencement of development. The phasing plan shall ensure that the International Maritime Promenade and landscape zone as shown within the indicative phasing plan as shown on page 69 of the Design & Access Statement by Grid Architects Dated 14.12.2021, shall be delivered as part of the first phase, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that development takes place in an ordered and agreed methodology. In the interests of retaining a permissive route through the site from Western Esplanade to Harbour Parade and to ensure the part of International Maritime Promenade relating to this site is delivered in a timely manner in accordance with policy AP19 of the City Centre Action Plan.

#### **04. Details of building materials to be used (Pre-Commencement Condition)**

No construction works on the superstructure of the buildings within any individual phase shall be carried out unless and until a written schedule and samples of external materials and finishes, to accord with section 07 of the Design & Access Statement by Grid Architects Dated 14.12.2021, has been submitted to and approved in writing by the Local Planning Authority for that relevant phase of development. Development shall be implemented only in accordance with the agreed details unless otherwise agreed in writing with the Local Planning Authority prior to the commencement of the relevant phase. These shall include full details of the manufacturers, types and colours of the external materials to be used for external walls, windows, doors and the roof of the proposed buildings. It is the Local Planning Authority's practice to review all such materials on site.

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.

#### **05. Details of external appearance (Pre-commencement Condition)**

No development shall take place (excluding site set up and demolition, archaeology, site investigations, services and diversions), within each phase identified by condition 03, until detailed drawings to a scale of 1:20 showing a typical section of Balustrade profile, horizontal brick banding, window surrounds and reveals, metal fins to form the roof crown to block B1 tower, parapet detailing and roof construction and roof drainage has been submitted to and approved in writing by the Local Planning Authority. The roof design shall incorporate mansafe fall protection and not guard railings. The development shall be implemented in accordance with these approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON

To ensure a high quality design of the buildings.

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

Prior to commencement of development within each phase, with the exception of site clearance, demolition and preparation works, a detailed landscaping scheme and implementation timetable, including both landscaping to external areas, public routes and roof terraces shall be submitted, which includes for that relevant phase:

- i. proposed finished ground levels or contours; including sections where necessary; means of enclosure; car parking layouts; other vehicle pedestrian access and circulations areas, hardsurfacing materials, structures and ancillary objects (refuse bins, wayfinding signage, lighting columns etc.);
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;

- iii. an accurate plot of all trees to be retained and to be lost. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise and agreed in advance);
- iv. details of any proposed boundary treatment, including retaining walls;
- v. details of sightlines from points of access onto the public highway and;
- vi. a landscape management scheme.

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

The approved hard and soft landscaping scheme (including parking) for the each phase shall be carried out prior to the first occupation of buildings within each relevant phase, 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.

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

#### **07. Flexible C1/C3/Class E uses and/or co-living (Sui-Generis) for Block/Zone E (Performance Condition)**

The flexible uses hereby permitted for the development shall, under Schedule 2 of the Town and County Planning (General Permitted Development) Order 2015 (as amended) shall be for a limited period of 10 years only from the date of the Decision Notice for the final Reserved Matters application. The units shall remain as the prevailing use at that time as hereby agreed in writing by the Local Planning Authority.

Reason: In order to provide greater flexibility to the development and to clarify the lawful use hereby permitted and the specific criteria relating to this use

#### **08. Commercial Units Hours of Use and Delivery Restriction and restriction of retail floor space (Performance Condition)**

The non-residential ground floor uses hereby permitted shall not operate outside the following hours:

06:00 to 00:00

No deliveries shall be taken or despatched from the non-residential ground floor uses outside of the hours of 07:00 to 23:00 daily.

Any bar and restaurant ancillary to a C1 hotel use within Block E shall be limited to hotel guests only after midnight.

The total amount of retail floor space (Class E(a)) across the development hereby approved shall not exceed 750sqm gross.

Reason: In order to control the use in the interests of the amenity of nearby existing and future residential occupiers within the MDZ. To protect the existing defined shopping areas within the City Centre in accordance with policies AP5 and AP21 of the City Centre Action Plan.

### **09. Signage Strategy & Active Frontages (Performance Condition)**

Prior to the first occupation of each phase of development a 'Signage Strategy' for any non residential uses within that phase shall be submitted to and approved in writing by the Local Planning Authority for use in the determination of any subsequent applications for Advertisement Consent. The Strategy shall include details of a universal fascia size, means of projection, the use of materials and the form of illumination. The development shall proceed only in accordance with the agreed details unless otherwise agreed in writing with the Local Planning Authority on submission of an application for Advertisement Consent.

Notwithstanding the provisions of Class 12 of Schedule 3 of the Class 12 of Schedule 3 of the Town and Country Planning (Control of Advertisements) Regulations 2007, or any Order amending, revoking or re-enacting these Regulations, the occupiers of the Class E commercial Units hereby approved shall retain some form of 'active window display' on the ground floor along the length of the shop frontages hereby approved (without the installation of window vinyl).

Reason: In the interests of good design and to retain a lively and attractive street scene whilst ensuring adequate natural surveillance is offered to the public realm.

### **10. Plant and Machinery and Soundproofing (Pre-occupation)**

Before each commercial unit comes into use, details of plant and machinery to be used within the relevant commercial unit, together with measures to minimise noise from them and soundproofing measures to mitigate any external and internal noise transfer to residential units within the development, shall be submitted to and agreed in writing by the Local Planning Authority. The measures shall be installed in accordance with the agreed details before the relevant unit is occupied and thereafter retained as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure residents of the development are not adversely affected by noise from the commercial uses.

### **11. APPROVAL CONDITION Archaeological investigation [Pre-Commencement Condition]**

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

Reason: To ensure that the archaeological investigation is initiated at an appropriate point in development procedure.

### **12. APPROVAL CONDITION Archaeological work programme [Performance Condition]**

The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the archaeological investigation is completed.

### **13. Ecological Mitigation Statement (Pre-Commencement)**

Notwithstanding the submitted Preliminary Ecological Appraisal Report dated 09.12.2021, prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures will be required, which unless otherwise agreed in writing by the Local Planning Authority shall be



implemented in accordance with the programme before any demolition work or site clearance takes place.

Reason: To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity.

#### **14. External Lighting Scheme (Pre-Commencement)**

Prior to the commencement of works on each phase (including the buildings and associated external spaces), with the exception of site clearance, demolition and preparation works details of the lighting scheme shall be submitted and approved in writing by the Local Planning Authority. The design of lighting scheme shall comply with BS 5489-1:2020 and discharge any liabilities attached to that standard. The development shall only be carried out in accordance with the approved details and maintained thereafter.

REASON: To ensure safe and secure development and contribute to reducing crime and disorder, in accordance with the adopted Local Plan (Core Strategy), Policy CS13 and the NPPF (As Amended).

#### **15. 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 17:00 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.

#### **16. Piling (Pre-Commencement)**

Prior to the commencement of development of each phase, a piling/foundation design and method statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: In the interest of residential amenity.

#### **17. Construction & Demolition Management Plan (Pre-Commencement)**

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

- a) Parking of vehicles of site personnel, operatives and visitors;
- b) Any site compound details and contractor's cabins/office;
- c) Loading and unloading of plant and materials;
- d) Storage of plant and materials, including cement mixing and washings, used in constructing the development;
- e) Treatment of all relevant pedestrian routes and highways within the site throughout the course of construction and their reinstatement where necessary;
- f) A scheme for the erection and maintenance of security hoardings including decorative displays and facilities for public viewing;
- g) A scheme for recycling waste resulting from the construction programme;
- h) Measures for the suppression of dust caused by the construction phase including cleaning of wheels and the under chassis of lorries leaving the site;
- i) A "hotline" telephone number and email address shall be provided for the use of residents in the case of problems being experienced from demolition and construction works on the site. The phone line will be provided, managed and problems dealt with

- by a person or persons to be nominated by the developer and shall operate throughout the entire development period;
- j) Confirmation that the hours of construction listed in the condition below will be adhered to;
  - k) measures to deal with the environmental impact issues raised by Natural England in their response to the application; and
  - l) The methods of supervision to ensure that workers have knowledge of the method statement.

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

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

### **18. Noise**

Notwithstanding the submitted Preliminary Acoustic Report dated 26 November 2021, Prior to the commencement of works on each phase with the exception of site clearance, demolition and preparation works, details of acoustic mitigation including appropriate glazing specification shall be submitted to the Local Planning Authority and agreed in writing. The scheme of measures shall include mitigation against steady continuous tonal noise from the substation to the west. The acoustic mitigation shall be installed as agreed prior to first occupation of each relevant phase and retained as agreed.

Reason: To secure an acceptable residential living environment.

### **19. Amplified Sound**

No sound amplification systems shall be operated within the Class E commercial units hereby approved unless a noise assessment has been submitted to and approved by the Local Planning Authority, and any noise mitigation measures required have been installed in accordance with the approved details.

Reason: To ensure the amenities of nearby residents and businesses are not harmed.

### **20. APPROVAL CONDITION - Land Contamination investigation and remediation [Pre-Commencement & Occupation Condition]**

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in the GEA Desk Study Report, ref: J21301) to be assessed.
2. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

On completion of the works set out in (2) a verification report shall be submitted to the Local Planning Authority confirming the remediation actions that have been undertaken in accordance with the approved scheme of remediation and setting out any measures for maintenance, further monitoring, reporting and arrangements for contingency action. The verification report shall be approved by the Local Planning Authority prior to the occupation or operational use of any stage of the development.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason: To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment and where required remediation of the site is to an appropriate standard.

### **21. Use of uncontaminated soils and fill (Performance)**

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

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

### **22. Unsuspected contamination (Performance)**

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

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

### **23. Energy (Pre-Commencement)**

Prior to the commencement a confirmed energy strategy shall be submitted to and approved in writing by the Local Planning Authority which include the enhanced passive measures, and zero or low carbon energy technologies that will:

- Aspire to net zero carbon, with a minimum reduction in CO<sub>2</sub> emissions of the greater of at least 19% over part L Building Regulations Target Emission Rates.
- Space heating demand should be less than 15 kWh/m<sup>2</sup>/yr at building level for all building types. This may be demonstrated through building regulations calculations (SAP / BRUKL), although for some buildings more detailed energy modelling may be considered.

The measures set out in the agreed strategy shall be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter.

REASON:

To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010), and the Southampton Green City Charter and Plan (2020)

### **24. Energy (performance condition)**

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has aspired to net zero carbon, with a minimum reduction in CO<sub>2</sub> emissions of at least 19% over part L Building Regulations Target Emission Rates.

Space heating demand should be less than 15 kWh/m<sup>2</sup>/yr at building level for all building types. This may be demonstrated through building regulations calculations (SAP / BRUKL), although for some buildings more detailed energy modelling may be considered.

**REASON:**

To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010), and the Southampton Green City Charter and Plan (2020)

**25. Water efficiency**

With the exception of site clearance, demolition and preparation works, no development works shall be carried out until written documentary evidence demonstrating that the development will achieve at minimum 100 Litres/Person/Day water use in the form of a water efficiency calculator shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA. The appliances/fittings to be installed as specified.

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

**26. APPROVAL CONDITION - BREEAM Standards**

For any Building where more than 500sqm of non-domestic floorspace of the same use type (e.g. retail, leisure, office) is being delivered, a BREEAM New Construction assessment achieving 'Excellent' as a minimum will be delivered for each use type as a minimum; multiple BREEAM assessments per use type may be delivered where this is deemed the most suitable route to compliance.

With the exception of site clearance, demolition and preparation works, before the development commences on non-residential uses, the developer demonstrates that the Design Stage BREEAM assessment(s) is (are) progressing with the ability and intention to achieve the targeted BREEAM 'Excellent' rating as advised by the qualified BREEAM assessor appointed for each assessment. The Design Stage Assessment(s) shall be concluded and a Design Stage Certificate(s) achieving an 'Excellent' rating as a minimum shall be provided to the Local Planning Authority within six months of commencement of construction on site (with the exception of site clearance, demolition and preparation works).

**REASON:**

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

**27. APPROVAL CONDITION - BREEAM Standards [performance condition]**

"Within 6 months of occupation of any Development Plot requiring BREEAM Assessment, written documentary evidence proving that the development has achieved a BREEAM New Construction rating of 'Excellent' as a minimum in the form of post construction assessment and certificate as issued by the BRE shall be submitted to the Local Planning Authority for its approval."

**REASON:**

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

**28. Sustainable Measures**

Prior to the commencement of each development plot phase of the development (excluding site setup/demolition/site investigation preparation works) the following information for that

development plot phase shall be submitted to and approved in writing by the Local Planning Authority:

- Embodied carbon review the high-level embodied carbon implications of the proposals and which demonstrates that embodied carbon has been considered when making decisions regarding structure, architecture, and materiality. Consider conducting a detailed embodied carbon assessment in line with the RICS methodology on key buildings to benchmark the design.
- Good Homes Alliance Early Stage Overheating Risk Tool Complete the GHA Early Stage Overheating Risk Tool for each residential building and submit. Consider conducting overheating risk analysis in line with CIBSE TM59 where the tool demonstrates this may provide a benefit.
- Post Occupancy Evaluation (POE) and energy performance Review the benefit of POE and energy performance in the context of each building. Outline any commitments to conduct POE at this stage.
- Water efficiency, rainwater harvesting, and greywater recycling review Review the viability and feasibility of rainwater harvesting and greywater recycling for each phase and provide detail/
- Energy storage appraisal To be considered at either site- or phase-/building-level, review the potential for energy storage. Detail any proposals.
- Pre-demolition audit Conduct a pre-demolition audit on all existing buildings and hardstanding, considering opportunities for reuse on site and maximising the proportion of waste taken offsite which is recycled. Audit to be completed at a site-level prior to any works or at a phase-level, details of which should be provided. Set out how exploration of embodied carbon has informed decision making on materials

The approved scheme shall then be provided in accordance with these details prior to the first occupation of the development hereby granted consent.

Reason: To ensure the development minimises overall demand for resources and is compliant with the City of Southampton Core Strategy Development Plan Document (January 2010) policy CS20, the City of Southampton Local Plan (March 2006) policies SDP13 and SDP6, Southampton's Green City Charter and Plan (2020)

## **29. Sustainable Drainage Systems (Pre-Commencement)**

Notwithstanding the submitted drainage strategy, prior to the commencement of the development hereby approved, with the exception of site clearance, demolition and preparation works, a scheme for surface water drainage shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be informed, and accompanied, by an assessment of the potential for disposing of surface water by means of a sustainable drainage system, in accordance with the principles set out in the non-statutory technical standards for SuDS published by Defra (or any subsequent version), and the results of the assessment provided to the local planning authority. If infiltration is found to be viable following infiltration tests, then any infiltration drainage design measures must be designed in a manner to safeguard the existing culvert crossing the site.

Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or

statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The agreed means for disposing of surface water shall be fully implemented in accordance with the agreed details before the development first comes into use and thereafter retained as agreed.

Reason: To seek suitable information on Sustainable urban Drainage Systems as required by government policy and Policy CS20 of the Southampton Core Strategy (Amended 2015).

### **30. Public Sewer and Culvert protection (Performance)**

Prior to the commencement of development, details of the measures to protect the public sewer and Culvert from damage during the demolition and construction shall be submitted to and approved by the Local Planning Authority in writing (in consultation with Southern Water and ABP). The measures shall be implemented as approved for the duration of demolition and construction works.

Reason: In order to safeguard the public sewer.

### **31. Southern Water - Phasing and waste water network capacity (Pre-occupation)**

Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development

Reason: To ensure there is adequate waste water capacity to serve the development.

### **32. Surface / foul water drainage (Pre-commencement)**

With the exception of site clearance, demolition and preparation works, no development approved by this permission shall commence until a scheme for the disposal of foul water and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the agreed details and be retained as approved.

Reason: To ensure satisfactory drainage provision for the area.

### **33. Submission of a Bird Hazard Management Plan**

With the with the exception of site clearance, demolition and preparation works, no development shall commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Bird Hazard Management Plan should comply with advice note 3: <https://www.aoa.org.uk/wp-content/uploads/2016/09/Advice-Note-3-Wildlife-Hazards-2016.pdf>

The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the development. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Local Planning Authority.

Reason: It is necessary to manage the development in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Southampton Airport.

### **34. Permanent Obstacle Lighting Scheme**

Obstacle lights shall be placed on the proposed tower block D. These obstacle lights must be steady state red lights with a minimum intensity of 200 candelas. Periods of illumination of obstacle lights, obstacle light locations and obstacle light photometric performance must all be in accordance with the requirements of <http://www.aoa.org.uk/wp-content/uploads/2016/09/Advice-Note-2-Lighting-2016.pdf>

Reason: Permanent illuminated obstacle lights are required on the highest location on the development to avoid endangering the safe movement of aircraft and the operation of Southampton Airport.

### **35. No Storage Under Tree Canopy (Performance)**

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

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

### **36. Tree Retention and Safeguarding (Pre-Commencement Condition)**

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

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

### **37. Arboricultural Method Statement (Performance)**

The development hereby approved shall be carried out in accordance with the submitted Arboricultural Method Statement, including the tree protection measures, throughout the duration of the site clearance, demolition and development works on site.

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

### **38. International Maritime Promenade Management Plan**

Prior to the commencement of development (excluding site set up and demolition, archaeology, site investigations, services and diversions), a management plan to detail how access to Block/Zone E and servicing will be managed along the International Maritime Promenade route to avoid conflict with pedestrians and cyclists and to ensure this strategic route is provided as high quality public realm. The management plan shall set out servicing times to avoid peak pedestrian commuter times and management of bollards or physical measures to prevent non-servicing vehicle access and parking. The Management Plan shall be adhered to for the lifetime of the development, unless subsequently amended plans are first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of pedestrian and cyclists safety and to ensure a high quality public realm and satisfactory form of development in accordance with policies AP19 and AP21.

### **39. Servicing Management Plan (Pre-Use Condition)**

Before each phase, a management plan for the servicing and delivery requirements for each building within that phase of that relevant unit shall be submitted to and approved in writing by the Local Planning Authority. The Management Plans shall be adhered to for the lifetime

of the development, unless subsequently amended plans are first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the safety and convenience of the users of the adjoining highway and residential amenity.

#### **40. Parking (Performance)**

The parking and access shall be provided in accordance with the plans hereby approved before each building to which the parking relates first comes into occupation/use and shall thereafter be retained as approved for the lifetime of the development. A total of 103 car parking spaces, including 13 disability spaces shall be provided with a maximum of 46 of these space provided for the office accommodation within Block A. Of the 59 car parking spaces provided for the residential accommodation, not more than 1 parking space shall be allocated to any individual apartment.

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

#### **41. Electric Vehicle Spaces (Pre-Use)**

Prior to any building hereby approved first coming into use 25% of its associated total parking numbers shall be provided as active (ready to be used) electric vehicle charging points with all other spaces to be passive (infrastructure provided for easy and practical future connections) shall be provided in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The spaces and charging infrastructure shall be thereafter retained as approved and used only for the parking and charging of electric vehicles.

Reason: In the interest of reducing emissions from private vehicles and improving the city's air quality.

#### **42. Cycle storage facilities (Pre-Occupation)**

Before the development hereby approved first comes into occupation/use, secure and covered storage for bicycles shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. A minimum of 603 cycle parking spaces shall be provided for the C3 residential accommodation hereby approved. The storage shall be thereafter retained as approved for the lifetime of the development.

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

#### **43. Refuse & Recycling (Pre-Commencement)**

Prior to the commencement of each building, details of storage for refuse and recycling, together with the access to it, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the development hereby approved.

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

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

#### **44. Residential Environment – Internal and external amenity space**



Prior to the first occupation of each phase a management plan relating to how the buildings and their associated spaces will be managed within that phase, including the resident's amenity areas and associated roof terraces, main pedestrian routes and, shall have been submitted to and approved in writing by the Local Planning Authority.

The management plan shall include details of outdoor seating, any rooftop amenity space furniture and associated facilities including litter bins and management, the management of special events and the policing of anti-social behaviour alongside the day to day operational requirements of the building.

All occupiers of the residential accommodation shall be given secure, unfettered, free access to the resident's amenity areas and associated roof terrace during the lifetime of the development. The use of the development shall be carried out in accordance with this agreed management plan unless otherwise agreed in writing by the Local Planning Authority.

A minimum of 841sqm gross of communal/private internal amenity space shall be provided for residents of the development in accordance with the submitted Accommodation schedule Rev G dated 13.12.2021.

Furthermore before each residential building within each phase comes into occupation, the internal and external amenity space for that particular phase as shown on the plans hereby approved and any subsequent phasing plan agreed under condition 03, shall be made available for use for that particular phase 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: The nature of managed PRS units includes internal and amenity space provision and provides a different offer to market C3 units when considered against the National Prescribed Space Standards. To secure a satisfactory city living environment.

#### **45. Telecommunications Equipment**

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any other Order revoking or re-enacting this Order) no external telecommunications equipment shall be installed on the roof of the building

Reason: In the interests of safeguarding the appearance of the buildings and in the interests of the setting of the Civic Centre (grade II\* listed).

#### **46. Roof Plant**

Notwithstanding the information submitted with the approved plans details of all roof plant, and the measures to be taken to soundproof such equipment and/or enclosure shall be submitted to and approved by the Local Planning Authority prior to either its installation or the occupation of each of the buildings to which the plant relates (whichever is sooner). The development shall be implemented in accordance with the approved details and findings before the development first comes into occupation. The development shall be implemented in accordance with the agreed details. The machinery and plant shall not be used until the approved soundproofing measures have been implemented in accordance with the agreed details

Reason: To ensure that the impact of the development is as demonstrated and in the interests of visual and neighbour amenity and to protect the setting of the Grade II listed Civic Centre

#### **47. External Ventilation & Extraction Details**

Details of suitable ventilation, extraction and filtration equipment for each of the non residential units, if required, shall be submitted to and approved in writing by the Local Planning Authority prior to their installation in, and occupation of, each unit. The details shall include a written scheme for the control of noise, fumes and odours from extractor fans and other equipment. The equipment shall be installed and maintained in accordance with the agreed information and made ready for use prior to the first use of the unit to which the details relate.

Reason: To ensure that adequate provision is made for the ventilation of the commercial use which does not impinge on the residential amenity of neighbouring residents or the external design of the building hereby approved.

#### **48. Means of Enclosure - Permitted Development Removed**

Notwithstanding the details of the proposed scheme and the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any other Order revoking or re-enacting this Order) no walls, fences or other permanent means of enclosure shall be erected within the application site unless otherwise agreed in writing by the Local Planning Authority either in response to this condition or through the submission of a planning application.

Reason: To safeguard the open character and appearance of this important area of open Space.

#### **49. Satellite and antennae - Permitted Development Removed**

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any other Order revoking or re-enacting this Order) no satellite dishes or other antennae shall be erected within the application site unless otherwise agreed in writing by the Local Planning Authority either in response to this condition or through the submission of a planning application.

Reason: In the interests of the appearance of the buildings

#### **50. Green/Brown roof scheme (Pre-Commencement only)**

Prior to the commencement of each phase of the development hereby approved (with the exception of site setup/demolition/site investigation works), a detailed feasibility study for the installation of green or brown roofs for that particular phase shall be submitted to and approved in writing by the Local Planning Authority. If the study demonstrates the buildings within that phase have the capacity for the green or brown roofs, a specification shall be agreed in writing with the Local Planning Authority. The green or brown roofs to the approved specification must be installed and rendered fully operational prior to the first occupation of that phase of the development hereby granted consent and retained and maintained thereafter.

Before the relevant phase first comes into use, 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/brown roof must be installed to the approved specification before the relevant plot 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.

#### **51. APPROVAL CONDITION - Public seating areas (Pre-Occupation Condition)**

The commercial units within use Class E hereby approved shall not be first occupied or open to the public until details of the external areas to be used for seats and tables that relates to the commercial units has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details and no other areas of the promenade or public areas shall be used for such outdoor seating without the prior written consent of the Local Planning Authority.

Reason:

To prevent obstruction to International Maritime Promenade and to secure an acceptable public realm.

#### **52. Block A - Restricted Office Use (Performance)**

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, and the Town and Country Planning (General Permitted Development) Order 2015 as amended, or in any other statutory instrument amending, revoking and re-enacting those Orders, the development hereby approved shall only be used for office use (E(g)(i)); and for no other purpose whatsoever (including any other purpose in Class E; only of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or in any provision equivalent to that Class in any other statutory instrument revoking and re-enacting that Order).

Reason: In accordance with site specific policy allocation AP21 of the City Centre Action Plan. Moreover the impacts of alternative uses within Class E have not been assessed as part of this planning application.

#### **53. 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.

#### Notes to Applicant

##### **Community Infrastructure Liability**

You are advised that the development appears liable to pay the Community Infrastructure Levy (CIL). Please ensure that you assume CIL liability prior to the commencement of the development (including any demolition works) otherwise a number of consequences could arise. For further information please refer to the CIL pages on the Council's website at: <http://www.southampton.gov.uk/planning/community-infrastructure-levy/default.aspx> or contact the Council's CIL Officer.

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21/01837/FUL

## POLICY CONTEXT

### Core Strategy - (Amended 2015)

CS1	City Centre Approach
CS2	Major Development Quarter
CS3	Town, district and local centres, community hubs and community facilities
CS4	Housing Delivery
CS5	Housing Density
CS6	Economic Growth
CS13	Fundamentals of Design
CS15	Affordable Housing
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS25	The Delivery of Infrastructure and Developer Contributions

### City of Southampton Local Plan Review – (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
HE3	Listed Buildings
HE6	Archaeological Remains
H2	Previously Developed Land
H7	The Residential Environment

### City Centre Action Plan March 2015

AP1	New Office Development
AP6	PSA extension
AP9	Housing Supply
AP16	Design
AP17	Tall Buildings
AP20	Major Development Zone
AP21	MDZ – Station Quarter

### Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Planning Obligations (Adopted - August 2005 and amended November 2006)  
Parking Standards 2011

### Other Relevant Guidance

The National Planning Policy Framework (2021)  
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)  
Southampton Tall Buildings Study (2017)

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### Habitats Regulations Assessment (HRA)

<b>Application reference:</b>	21/01837/FUL
<b>Application address:</b>	Land At the Former Toys R Us Western Esplanade Southampton SO15 1QJ
<b>Application description:</b>	Demolition of all existing buildings and structures and site clearance and hybrid planning permission for the redevelopment of the site for major mixed-use development comprising: A. Full planning permission for the demolition of the existing building and structures; construction of 4 buildings (Blocks A, B, C and D) of between 7 and 25 storeys with Block A comprising commercial floorspace (Class E) and Blocks B, C and D comprising 603 residential units (Class C3) and ground floor commercial floorspace (Class E); together with associated access, parking, servicing, landscaping (including Sustainable Drainage Systems), amenity space, public realm and substations. B. Outline planning permission for the construction of 1 building (Block E) of up to 8 storeys for flexible commercial/residential/overnight accommodation (C1/C3/Class E Uses) and/or co-living (Sui-Generis) with associated access, parking, servicing, landscaping and amenity space (all matters reserved except for access) (Amended Description).
<b>HRA completion date:</b>	15/03/2022

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

<b>Summary</b>
<p>The project being assessed is a mixed use development that will lead to the provision of 603 new homes, a 127 room hotel, commercial uses and bar/cafés. The development is located approximately 685m from the Solent and Dorset Coast Special Protection Area (SPA), 1.47km from the Solent and Southampton Water SPA/Ramsar site, and 2.75km from the Solent Maritime SAC. The New Forest Special Area of Conservation (SAC)/SPA/Ramsar site are approximately 4.8km to the south.</p> <p>The site currently contains a large retail unit, which closed in 2018, and a surface car park. It 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, and also the release of additional nitrogen, via wastewater, which could affect the features of the Solent Maritime SAC and the Solent and Southampton Water SPA/Ramsar site.</p> <p>The findings of the initial assessment concluded that a significant effect was 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</p>

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 overcome.**

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

**European sites potentially impacted by plan or project:**

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 at

- New Forest SAC
  - New Forest Special Protection Area (SPA)
  - New Forest Ramsar site
  - Solent Maritime Special Area of Conservation (SAC)
  - Solent and Dorset Coast SPA
  - Solent and Southampton Water SPA
  - Solent and Southampton Water Ramsar Site.
- The River Itchen SAC was screened out of this assessment.

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

No – the development consists of new residential, hotel, retail and office which is neither connected to, nor necessary for, the management of any European site.

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

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

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

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

Whilst the dates of the two plans do not align, it is clear that the proposed development of the Former Toys R Us 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.

Regulation 68 of the Conservation of Habitats and Species Regulations 2010 (as amended) (the Habitats Regulations) is clear that the assessment provisions, i.e. Regulation 61 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, which is set out in Regulation 61 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 61(1) (a) of the Habitats Regulations.

The proposed development is located approximately 685m from the Solent and Dorset Coast Special Protection Area (SPA), 1.47km to the west of a section of the Solent and Southampton Water SPA and Solent and Southampton Water Ramsar Site and 2.75km to the east of the Solent Maritime SAC whilst the New Forest SAC, SPA and Ramsar site are approximately 4.8km to the south.

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 permanent arising from the construction and operational phases of the development.

The following adverse effects arising from the proposed development have been identified:

- Contamination and deterioration in surface water quality from mobilisation of contaminants.
- An increase in air pollution as a result of construction activities and an increase in traffic which could have a negative effect on habitats within several European Sites.
- Potential collision risk from new tall buildings in close proximity to designated sites.
- An increase in recreational disturbance to the European Sites as a result of the residential and hotel development.
- An increase in nitrogen discharge via Wastewater Treatment Works (WwTW) into Solent European Site catchments.

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

#### Construction phase:

- Provision of a Construction Environmental Management Plan.
- Use of quiet construction methods e.g. replacement piling rather than displacement piling, where feasible;
- Further site investigations and a remediation strategy for any soil and groundwater contamination present on the site.

#### Operational phase:

- 4% of the CIL contribution, which will be a minimum of £165,454.24 will be ring fenced for footpath improvements in the Shoreburs and Lordsdale Greenways and Peartree Green Local Nature Reserve;
- 1% of the CIL contribution, which will be a minimum of £41,363.56, will be allocated to the New Forest National Park Authority Habitat Mitigation Scheme;
- A contribution of £175,314 towards the Solent Recreation Mitigation Partnership;
- Information on public transport plus pedestrian and cycle route maps will be provided.
- The development will incorporate 512 cycle parking spaces for the residential element of the scheme.

- Building design features including avoidance of large areas of glass and use of design measures such as non-reflective frosting of glass, interior artwork, non-reflective one way glass, balconies, vegetated facades and angled windows (40 degrees);
- Sustainable drainage features including green roofs, permeable surfacing and petrol interceptors on drains.

### 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 61(1)(a) of the Habitats Regulations.

The project being assessed would lead to the provision of 519 new homes, commercial uses and bar/cafés approximately 1.47km from the Solent and Southampton Water Special Protection Area (SPA)/Ramsar site, 2.75km from the Solent Maritime SAC and 4.8km from the New Forest Special Area of Conservation (SAC)/SPA/Ramsar site

The site is a former shopping centre and multi-storey car park. It is located a significant distance from the European sites and as such construction stage impacts will not occur. Concern has been raised however, 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, waste water 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 applicant has provided details of several avoidance and mitigation measures which are intended to reduce the identified impacts. However, without more detailed analysis, it is not possible to determine whether the proposed measures are sufficient to reduce the identified impacts to a level where they could be considered not to result in a significant effect on the identified European sites. 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 61(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.

The development site lies within an area of reclaimed ground and was previously used as an electricity station, 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'. The construction of the proposed development includes piling and excavations which have the potential to disturb buried contaminants which could find their way into groundwater. To address this risk site investigations will be undertaken and a remediation strategy for any soil and groundwater contamination present on the site will be developed.

In addition, the proposed development could potentially result in pollution of Southampton Water as a result of pollution events during construction work or the release of contaminated surface water runoff. Construction activities could also result in an increase in silt levels which could affect water quality.

A Construction Environmental Management Plan (CEMP) containing measures covering dust suppression, designated areas for refuelling, no discharges into surface water drainage and the use of spill kits will reduce the potential for release of pollutants to a negligible level.

### *Air quality*

Demolition and construction works have the potential to generate coarse and fine dust and exhaust emissions. Whilst the application site is located more than 50m from the nearest designated site, and no adverse impacts are likely, measures to control dust emissions will be used. Examples include, spraying water on surfaces to reduce dust, and appropriate standard operating procedures will be outlined within a CEMP

### *Disturbance*

During demolition and construction work 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.

Sites considered: Solent and Southampton Water SPA/Ramsar site

The application site is located approximately 1.47km from the Solent and Southampton Water SPA, within an existing retail area adjacent to a major road. 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, there is already a high level of background noise

from port activities which will mask general construction noise. The only likely source of noise impact is piling. 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.

Piling impact can be mitigated by the use of Continuous Flight Auger (CFA) method which has lower noise levels when compared to percussive methods. Where percussive piling can't be avoided, techniques such as soft start, which involves a steady build up to full energy, and use of wooden blocks can help to reduce sound levels.

Construction work will use the quietest piling methodology that is appropriate. Where percussive piling needs to be employed, additional methods to reduce sound levels will be applied.

#### *Collision risk*

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

Demolition and construction operations will involve the use of tower cranes however, these are likely to be similar in scale to those used by existing active port operations in close proximity to the site to which birds are likely to be habituated. In addition, 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 or other infrastructure is not predicted to pose a threat to the species from the designated sites.

### **PERMANENT, OPERATIONAL EFFECTS.**

#### ***Air quality***

The Air Quality Assessment undertaken by Hydrock stated that IAQM and Natural England guidance both provide an initial traffic screening threshold of 1,000 Annual Average Daily Traffic (AADT) to determine the need for further detailed assessment of air quality impacts at sensitive ecological receptor locations. In the first instance, the following ecological receptors have been identified as being sensitive to potential air quality impacts:

- Solent and Southampton RAMSAR;
- New Forest Special Area of Conservation, Special Protection Area and RAMSAR.

An initial screening assessment has been undertaken against Natural England's multi-step process, whereby:

- Step 1: The Proposed Development will increase AADT on roads within 200m of the identified ecological receptors (the 'affected road network');
- Steps 2 and 3: As a worst-case, it has been assumed that sensitive features are located within 200m of the affected road network.;
- Step 4a: IMA Transport Planning Ltd (the transport consultants) have provided the AADT distribution for the affected road network.
- The following is an extract from Table 23 in Appendix A of the Air Quality Assessment:

Road Name	AADT Impacts (Development Only)		AADT Impacts (Development Only - Alternative)	
	LDV	HDV	LDV	HDV
Solent and Southampton Ramsar				
Northam Bridge	20	-	52	-
New Forest SSSI (Proxy for New Forest SAC, SPA and Ramsar)				
A35 Lyndhurst Road	10	-	28	-
A336 Southampton Road	4	-	12	

- There are no expected increases above 1,000 AADT, either due to the Proposed Development alone or in combination with background and committed growth, at any of the identified sensitive ecological receptors.

On the basis of the above, no further assessment of ecological receptors is considered to be necessary. The Proposed Development, alone and in-combination, is unlikely to result in air quality impacts that are perceptible or significant.

### **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 (13.3 million annually), and is notable in terms of its catchment, attracting a far higher proportion of tourists and non-local visitors than similar areas such as the Thames Basin and Dorset Heaths. Research undertaken by Footprint Ecology, Sharp et al (2008), indicates that 40% of visitors to the area are staying tourists, whilst 25% of visitors come from more than 5 miles (8km) away from the National Park boundary. The remaining 35% of visitors are local day visitors originating from within 5 miles (8km) of the boundary.

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

The application site is located 4.8km from the nearest part of the New Forest SPA and Ramsar site and 2.6km from the National Park boundary in terms of linear distance and as such, residents of the proposed development would appear to fall into the category of local day visitors. However, the actual travel distance is considerably longer with the nearest road access point 10km away or by ferry it is a ten minute crossing, with a return fare of £7 or £10 with a bicycle, plus 4.6km along roads. Residents of the Toys R Us development are therefore unlikely to make this trip on a daily basis.

### **Characteristics of visitors to the New Forest**

In addition to visitor numbers, the report, "Changing patterns of visitor numbers within the New Forest National Park", 2008 also showed that:

- 85% of visitors to the New Forest arrive by car.
- 23% of the visitors travelling more than 5 miles come from the Southampton/Eastleigh area (see para 2.1.1).
- One of the main reasons for visiting the National Park given in the 2005 Visitor Survey was dog walking (24% of visitors - Source New Forest National Park Visitor survey 2005).
- Approximately 68% of visitors to UK National Parks are families.  
(Source:www.nationalparks.gov.uk).

The majority of the visitors to New Forest locations arriving from Southampton could therefore be characterised as day visitors, car-owners in family groups and many with dogs.

## RESIDENTIAL ACCOMMODATION

The residential element of the proposed development consists of predominately small flats (studio, 1 and 2 bed) and 24 family sized flats (3 bed), the development is therefore unlikely to accommodate many families which form the majority of visitors to National Parks. The development also includes just 59 parking spaces for the private apartments and can therefore be considered largely car free. Residents will therefore have to rely on walking, cycling or public transport to visit places beyond the development.

### Cycling and walking

The development is located close to the city centre and a number of cycle routes which make it easy to walk and cycle to the Central Parks or Southampton Common. To encourage new residents to cycle the development will incorporate 512 cycle parking spaces for the residential accommodation.

### Visiting the New Forest National Park using public transport

The linear distance to the New Forest SPA/Ramsar site is approximately 4.8km however, by road the distance is somewhat longer. The shortest route, using the Hythe Ferry, is 7.6km whilst the closest section when travelling purely by road is approximately 11.3km. It is unlikely, therefore, that visits made on foot or by bicycle will be a frequent occurrence.

Should visitors choose to visit the National Park using public transport they are unlikely to find it a straight forward proposition. Direct travel from the development site is not possible. The first stage of a visit requires a journey to Southampton Central Station or the bus interchange in the city centre.

Travelling onward from Southampton city centre, the destinations for train and bus services are the urban centres which, aside from Beaulieu Road, lie outside the New Forest SPA/Ramsar site. Once at these locations further travel is required to reach the designated site. Table 1 below provides details of the train services available from Southampton Central Railway Station.

**Table 1 Train services from Southampton Central to New Forest Locations**

Destination	Service frequency (outside of peak hours)	Journey time
Ashurst	1 service per hour	10 mins
Beaulieu Road	6 services between 0900- 1800	14 mins
Lyndhurst	No service	
Brockenhurst	4 services per hour	16 mins
Lymington	2 services per hour (change at Brockenhurst)	20 mins
Burley	No service	

The only direct bus service from Southampton to the locations in the New Forest identified above is the Bluestar 6 service which runs hourly from the city centre (during the day) to Lyndhurst, Brockenhurst and Lymington taking 30-40 minutes. Other services are available throughout the National Park from those locations.

Clearly, whilst it is possible to reach the designated site from the proposed development the process is complicated and likely to be costly.

### **Dog ownership**

It is not feasible to ban the keeping of dogs however, it would be expected that the number of dogs would be lower than for a development with gardens. In addition, these dogs are likely to be smaller breeds that can be exercised easily in parks.

### **Mitigation**

Although the likely frequency of recreational visits to the New Forest, arising from the proposed development, is low, there is still the risk of recreational impacts. Southampton City Council has therefore undertaken to use 5% of Community Infrastructure Levy (CIL) contributions

The majority of this money, 4%, will be used to upgrade footpaths and infrastructure in the City's greenways. The greenways are a series of wooded stream valleys within Southampton's urban area which provide opportunities for walks in a semi-natural environment. Two of the greenways, Shoreburs and Lordsdale, plus Peartree Green Local Nature Reserve (LNR), are within easy cycling distance of the site (less than 5km) and can be accessed via quiet roads and Southampton Cycle Routes.

However, even with good quality walking routes available within Southampton, the New Forest's draw as a special destination is likely to attract visitors from the Toys R Us development. It is therefore proposed that 1% of the CIL contribution will be used to fund the New Forest National Park Habitat Mitigation Scheme. This scheme involves the following elements:

- Access management within the designated sites.
- Alternative recreation sites and routes outside the designated sites.
- Education, awareness and promotion.
- Monitoring and research.

The development will generate a minimum CIL contribution of least £4,136,356 which will result in £206,817 funds to pay for improvements within the two greenways and towards the New Forest National Park Habitat Mitigation Scheme.

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

In 2008 the Council adopted the Solent Disturbance Mitigation Project's mitigation scheme, in collaboration with other Councils within the Partnership for Urban South Hampshire, in order to mitigate the effects of new residential development on the Solent and Southampton Water SPA and Ramsar site. This 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 Toys R Us development could result in a net increase in the city's population. 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. The likelihood of recreational impacts occurring is clearly linked to residents' ability to access the coast. Results from the Solent Disturbance & Mitigation



Project visitor survey, Fearnley, H., Clarke, R. T. & Liley, D. (2011), indicated that 52% of visitors arrived by car. Consequently, residents occupying flats without car parking will have a reduced likelihood of visiting the coast. It is therefore considered to be acceptable to reduce the contribution level to 50%. Calculations of the SRMP contribution for the development are shown below.

Size of Unit	Scale of Mitigation per Unit	Number of units	Total
1 Bedroom – car free	£390/2	333	£64,935
2 Bedroom	£563/2	31	£17,453
2 Bedroom – car free	£563/2	211	£59,397
3 Bedroom	£735	28	£20,580
Hotel	£390	20	£7,800
	<b>Total</b>	623	£170,165

It is considered that, subject to a level of mitigation, which has been calculated as a total of £170,165, being secured through a legal agreement, appropriate and effective mitigation measures will have been secured to ensure that effects associated with disturbance can be satisfactorily removed. The applicant has agreed to enter into a legal agreement to this effect.

The hotel is unlikely to fully occupied all the time and, even when it is, only 20 rooms will benefit from parking spaces it is proposed to apply the one bedroom flat rate to those rooms that would have access to a car parking space. Calculations of the SRMP contribution for the development are shown below.

#### *Water quality*

In their letter date 6th September 2018, 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, waste water 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 waste water 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 full workings are provided in Appendix 1. The calculations conclude that there is a predicted Total Nitrogen surplus arising from the development of 537kg/TN/yr. This is based on the additional population from the residential units using 110litres of waste water per person per day.

Due to the nature of the site, and the surrounding urban environment, there are no further mitigation options on site. No specific mitigation measures have been proposed. It is therefore proposed that a record of the outstanding amount of 537kg/TN/yr nitrogen is made so that it can be added to the levels of nitrogen to be addressed by a strategic mitigation scheme once one has been developed.

#### *Collision risk*

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

The proposed development will include buildings ranging from 22.4m to 80m in height. The lower buildings are broadly comparable with buildings nearby that have a similar relationship to the SPA/Ramsar. As mentioned in respect of construction stage impacts, 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 tall structures is not predicted to pose a significant threat to the species from the designated sites. However, the added risk with tall buildings is that lights can attract birds towards them whilst poorly designed glazing can encourage birds to attempt to fly through the building. These problems can be addressed through careful design of lighting, glazing and balconies.

### **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.
- Increased levels of recreation activity could affect the Solent and Southampton Water SPA/Ramsar site and the New Forest/SAC/SPA/Ramsar site.
- Water quality within the Solent and Southampton Water SPA/Ramsar site could be affected by release of nitrates contained within waste-water.
- There is a low risk of birds colliding with the proposed tall buildings.

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

#### Construction phase:

- Provision of a Construction Environmental Management Plan.
- Use of quiet construction methods e.g., replacement piling rather than displacement piling, where feasible.
- Further site investigations and a remediation strategy for any soil and groundwater contamination present on the site.

#### Operational phase:

- 4% of the CIL contribution, which will be a minimum of £165,454.24 will be ring fenced for footpath improvements in the Shoreburs and Lordsdale Greenways and Peartree Green Local Nature Reserve;
- 1% of the CIL contribution, which will be a minimum of £41,363.56, will be allocated to the New Forest National Park Authority Habitat Mitigation Scheme;
- A contribution of £170,165 towards the Solent Recreation Mitigation Partnership;
- Information on public transport plus pedestrian and cycle route maps will be provided.
- The development will incorporate 512 cycle parking spaces for the residential element of the scheme.
- Building design features including avoidance of large areas of glass and use of design measures such as non-reflective frosting of glass, interior artwork, non-reflective one way glass, balconies, vegetated facades and angled windows (40 degrees);
- Sustainable drainage features including green roofs, permeable surfacing and petrol interceptors on drains.
- It can therefore be concluded that, subject to the implementation of the identified mitigation measures, **significant effects arising from construction activities, air quality impacts, recreational disturbance, and collision risk will not occur.**
- **Likely significant effects** arising from an increase in nitrates released into the Solent cannot be ruled out.

## 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.

Sharp, J., Lowen, J. and Liley, D. (2008) Changing patterns of visitor numbers within the New Forest National Park

## European 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*.

## Appendix 1 Nutrient Budget

Calculation using water rate of 110 litres waste water per person per day

Step	Measurement	Value	Unit	Explanation
Development Proposal	Development types that would increase the population served by a wastewater system	519	Residential dwellings	519 flats – studio, 1, 2 and 3 bed.
Step 1	Additional Population	1245.6	Persons	Based on the residential mix
Step 2	Wastewater volume generated by development	137,016	Litres/ day	1110 persons x 110 litres
Step 3	Receiving WWTW environmental permit limit for TN	10	Mg/l TN	
Step 4	TN discharged after WWTW	959,112	Mg/TN/day	70% of the consent limit = 7mg/l TN. 137,016 x 7
	Convert mg/TN to kg/TN per day	0.9591	Kg/TN/day	Divide by 1,000,000
	Convert kg/TN per day to kg/TN per year	350.08		x 365 days
Wastewater total nitrogen load	350.08kg/TN/yr			
Net N from land use change	0kg			
Precautionary buffer	70.02kg/TN/yr			
<b>Total</b>	<b>420kg/TN/yr</b>			





Valuation Office  
Agency

**DVS** Property Specialists  
for the Public Sector

## Viability Review Report Former Toys R Us Western Esplanade Southampton

Report for:  
Simon Mackie  
Southampton City Council

Prepared by:  
[REDACTED] MRICS  
[REDACTED]  
RICS Registered Valuer  
DVS

Tel: [REDACTED]

[REDACTED]

Case Number: 1787382

Client Reference:  
21/01837/FUL

Date: 16 February 2022  
Updated: 2 March 2022

## Contents

1.0	Executive Summary .....	1
1.1	Proposed Development Details .....	1
1.2	Instruction.....	1
1.3	Viability Conclusion .....	2
1.4	Non- Technical Summary of Viability Assessment Inputs .....	3
2.0	Instruction and Terms .....	4
3.0	Guidance and Status of Valuer .....	5
3.1	Authoritative Requirements .....	5
3.2	Professional Guidance.....	5
3.3	RICS Financial Viability in Planning Conduct and Reporting.....	6
3.3	Most Effective and Efficient Development.....	7
3.4	Signatory .....	7
3.5	Bases of Value .....	7
4.0	Assumptions, and Limitations .....	8
4.1	Special Assumptions .....	8
4.2	General Assumptions .....	8
5.0	Proposed Development.....	9
5.1	Location / Situation .....	9
5.2	Description .....	9
5.3	Site Area .....	9
5.4	Schedule of Accommodation/ Scheme Floor Areas .....	9
5.5	Planning Policy Requirements for the Scheme .....	11
6.0	Summary of Applicant's Viability Assessment.....	12
6.1	Report Reference .....	12
6.2	Summary of Applicant's Appraisal .....	12
7.0	Development Period/ Programme.....	13
8.0	Gross Development Value (GDV) .....	13
8.1	Residential.....	14
8.2	Affordable Housing.....	15
8.3	Car Parking .....	16
8.4	Market Value of the Commercial.....	16
8.5	Total GDV.....	17
9.0	Total Development Costs.....	17
9.1	Construction Cost.....	17
9.2	Contingency .....	18
9.3	Professional Fees.....	19
9.4	CIL/Section 106 costs.....	19
9.5	Marketing and Agency Costs .....	19
9.6	Finance .....	20
9.8	Other Development Costs .....	20
9.9	Developers Profit.....	20
9.9	Residual Land Value .....	21
9.10	Summary of Unagreed Inputs .....	21
10.0	Benchmark Land Value (BLV).....	21
10.1	Applicant's BLV .....	21
10.2	Existing Use Value (EUV).....	21
10.3	Alternative Use Value (AUV) .....	22
10.4	Premium.....	22
10.5	Residual Land Value .....	22
10.6	Adjusted Land Transaction Evidence.....	22

- 10.7 Purchase Price .....23
- 10.8 Benchmark Land Value Conclusion .....23
- 11.0 DVS Viability Assessment.....23
  - 11.1 DVS Appraisal 1 – BTR Scheme with 20% affordable .....23
  - 11.1 DVS Appraisal 2 – All Private BTR Scheme .....24
- 12.0 Sensitivity Analysis.....24
- 13.0 Recommendations .....24
  - 13.1 Viability Conclusion .....24
  - 13.3 Market Commentary- Coronavirus (COVID-19) .....25
- 14.0 Engagement.....26
- 15.0 Disclosure / Publication.....26
- 16.0 Appendices .....27
  - 1 DVS Terms of Engagement.....28
  - 2 DVS Appraisal 1 - BTR Scheme with 20% affordable .....29
  - 3 DVS Appraisal 2 – All Private BTR Scheme .....30
  - 4 DVS Appraisal 3 – EUV Appraisal for the BLV.....31

## 1.0 Executive Summary

### 1.1 Proposed Development Details.

- **This report provides an independent review of a viability assessment in connection with:**

<b>Proposed Development</b>	Demolition of all existing buildings and structures and site clearance and hybrid planning permission for the redevelopment of the site for major mixed-use development comprising: A. Full planning permission for the demolition of the existing building and structures; construction of 4 buildings (Blocks A, B, C and D) of between 7 and 25 storeys with Block A comprising commercial floorspace (Class E) and Blocks B, C and D comprising 603 residential units (Class C3) and ground floor commercial floorspace (Class E); together with associated access, parking, servicing, landscaping (including Sustainable Drainage Systems), amenity space, public realm and substations. B. Outline planning permission for the construction of 1 building (Block E) of up to 8 storeys for flexible commercial/residential/overnight accommodation (C1/C3/Class E Uses) and/or co-living (Sui-Generis) with associated access, parking, servicing, landscaping and amenity space (all matters reserved except for access) (Amended Description).
<b>Subject of Assessment:</b>	Land At The Former Toys R Us, Western Esplanade, Southampton SO15 1QJ
<b>Planning Ref:</b>	21/01837/FUL
<b>Applicant / Developer:</b>	Packaged Living (Freof V Southampton) LLP
<b>Applicant's Viability Advisor:</b>	CBRE

### 1.2 Instruction

In connection with the above application Southampton City Council's Planning Department require an independent review of the viability conclusion provided by the applicant in terms of the extent to which the accompanying appraisal is fair and reasonable and whether the assumptions made can be relied upon to determine the viability of the scheme.

### 1.3 Viability Conclusion

The applicant' advisor CBRE outlines in their report the following:

- the proposed applicants scheme incorporating 5 blocks including 482 Build to Rent (BTR) private units, 121 (20%) BTR affordable units, Car Parking, Offices, Retail, and Hotel produces a residual land value of **a negative £8.29m;**
- the proposed All Private scheme incorporating 5 blocks including 603 Build to Rent (BTR) private units, Car Parking, Offices, Retail, and Hotel produces a residual land value of **a negative £4.51m;**
- the Benchmark Site Value, adopting an EUV/AUV approach is **£4,046,440;**

**A deficit of £12.33m below the Benchmark Site Value exists for the scheme with affordable but £8.56m for the all private scheme and both are not viable.**

It is my considered and independent opinion that:

- the proposed BTR scheme appraisal with 121 BTR affordable units (20%) shows a residual land value of **a negative £2,473,999;**
- the proposed All Private BTR scheme appraisal shows a residual land value of **a £707,953;**
- the Benchmark Site Value, adopting an EUV/AUV approach, is rounded to **£4,000,000;**
- a deficit of **£6,473,999** below the Benchmark Site Value exists for the BTR scheme with 20% affordable units and a deficit of **£3,292,047** exists for the All Private BTR scheme.

**I am of the opinion that there is a deficit for both schemes and therefore the scheme is not viable to provide either on site or a contribution towards affordable housing;**

1.4 Non- Technical Summary of Viability Assessment Inputs

Inputs for scheme with 20% affordable	CBRE	DVS Viability Review	Agreed (Y/N)
Assessment Date	December 2021	March 2022	
Scheme, Gross Internal Area, Site Area	482 Private BTR units - 287,680 sq ft net 121 Affordable BTR Units - 70,340 sq ft net 51 Residential Car Spaces 180 Bed Hotel – 50,893 sq ft net Offices - 70,913 sq ft Retail – 9,617 sq ft Gross Area – 712,341 sq ft	482 Private BTR units - 26,726 sq m net 121 (20%) Affordable BTR Units - 6,535 sq m net 51 Residential Car Spaces 180 Bed Hotel – 4,480 sq m net Offices – 6,588 sq m Retail – 894 sq m Gross Area – 64,683 sq m	Y <sup>1</sup>
Development Period	3 months pre-con 42 months construction Sales in months 29 and 47	3 months pre-con 42 months construction Sales in months 29 and 47	Y
Gross Development Value	£197,990,369	£199,602,025	N
Net Development Value	£194,071,449	£195,736,737	N
CIL/Planning Policy / S.106 Total	CIL – £4,136,356 S106 - £350,000	CIL – £4,568,943 S106 – £803,618	N
Construction Cost Total incl contingency	£147,620,488	£147,467,847	N
Contingency %	5.00%	5.00%	Y <sup>2</sup>
Abnormals	Incl above	Incl above	
Professional fees (% of construction costs)	8.00%	8.00%	Y <sup>2</sup>
Finance Interest and Sum	Finance Rate 5.00% Credit Rate 0.0% Total £6,513,432	Debit Rate 5.00% Credit Rate 2% Total £6,654,031	N
Sales / Agency Fees	1.00%/0.65% of GDV	1.00%/0.75% of GDV	N
Legal Fees	0.5% of GDV	0.25% of GDV	N
Letting Fees	20% of commercial income	20% of commercial income	Y
Land Acquiring Costs	SDLT +1.5%	SDLT +1.5%	Y
Profit Target %	15% of total GDV	12.5% of Private BTR GDV Affordable – 6% of GDV Commercial – 15% of GDV	N
Residual Land Value	- £8,286,692	- £2,473,999	N
EUV/AUV	£4,046,440	£4,000,000	Y <sup>3</sup>
Premium	NIL	NIL	Y
Benchmark Land Value	£4,046,440	£4,000,000	Y <sup>3</sup>

<b>Viability Conclusion</b>	Not Viable	Not Viable	<b>Y</b>
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Y<sup>1</sup> denotes that the scheme is agreed but minor differences in respect of gross area.  
Y<sup>2</sup> denotes that whilst the inputs are agreed, the total sum differs due to amendments made elsewhere in the appraisal.  
Y<sup>3</sup> denotes that the sum has been agreed but rounded.

A site specific viability assessment review has been undertaken, the inputs adopted herein are unique to this site and scheme and may not be applicable to other viability assessments undertaken or reviewed by DVS.

## **2.0 Instruction and Terms**

- 2.1 The Client is Southampton City Council.
- 2.2 The Subject of the Assessment is Land At The Former Toys R Us, Western Esplanade, Southampton SO15 1QJ
- 2.3 The date of the viability assessment is 16 February 2022, updated on 2 March 2022 in respect of the site specific transport requirements. Please note that values change over time and that a viability assessment provided on a particular date may not be valid at a later date.
- 2.4 Confirmation of instructions and PON were received on 11 January 2022. It is understood that Southampton City Council require an independent opinion on the viability information provided by CBRE in terms of the extent to which the accompanying appraisal is fair and reasonable and whether the assumptions made are acceptable and can be relied upon to determine the viability of the scheme.

Specifically, DVS have been appointed to:

- assess the Viability Assessment submitted on behalf of the planning applicant / developer, taking in to account the planning proposals as supplied by you or available from your authority's planning website.
- advise Southampton City Council in writing on those areas of the applicant's Viability Assessment which are agreed and those which are considered unsupported or incorrect, including stating the basis for this opinion, together with evidence. If DVS considers that the applicant's appraisal input and viability conclusion is incorrect, this report will advise on the cumulative viability impact of the changes and in particular whether any additional affordable housing and / or s106 contributions might be provided without adversely affecting the overall viability of the development.

- 2.5 Conflict of Interest Statement - In accordance with the requirements of RICS Professional Standards, DVS as part of the VOA has checked that no conflict of interest arises before accepting this instruction. It is confirmed that DVS are unaware of any previous conflicting material involvement and is satisfied that no conflict of interest exists.
- 2.6 Inspection - As agreed, the property/site has not been inspected, and this report is provide on a desk top basis but the site is well known to the DVS valuer.
- 2.7 DVS/ VOA Terms of Engagement were issued on 20 December 2021, a redacted version is attached at **Appendix 1**.

### **3.0 Guidance and Status of Valuer**

#### 3.1 Authoritative Requirements

The DVS viability assessment review will be prepared in accordance with the following statutory and other authoritative mandatory requirements:

- The '**National Planning Policy Framework**', which states that all viability assessments should reflect the recommended approach in **the 'National Planning Practice Guidance on Viability'**. This document is recognised as the 'authoritative requirement' by the Royal Institution of Chartered Surveyors (RICS).
- RICS Professional Statement '**Financial viability in planning: conduct and reporting**' (effective from 1 September 2019) which provides the mandatory requirements for the conduct and reporting of valuations in the viability assessment and has been written to reflect the requirements of the PPG.
- RICS Professional Standards PS1 and PS2 of the '**RICS Valuation – Global Standards**'.

#### 3.2 Professional Guidance

Regard will be made to applicable RICS Guidance Notes, principally the best practice guidance as set out in RICS GN '**Assessing viability in planning under the National Planning Policy Framework 2019 for England**' (effective 1 July 2021).

Other RICS guidance notes will be referenced in the report and include RICS GN '**Valuation of Development Property**' and RICS GN '**Comparable Evidence in Real Estate Valuation**'.



Valuation advice will be prepared in accordance with the professional standards of the of the '**RICS Valuation – Global Standards**' and the '**UK National Supplement**', which taken together are commonly known as the RICS Red Book. Compliance with the RICS Professional Standards and Valuation Practice Statements (VPS) gives assurance also of compliance with the International Valuations Standards (IVS).

Whilst professional opinions may be expressed in relation to the appraisal inputs adopted, this consultancy advice is to assist you with your decision making for planning purposes and is not formal valuation advice such as for acquisition or disposal purposes. It is, however, understood that our review assessment and conclusion may be used by you as part of a negotiation. The RICS Red Book professional standards are applicable to our undertaking of your case instruction, with PS1 and PS 2 mandatory. While compliance with the technical and performance standards at VPS1 to VPS 5 are not mandatory (as per PS 1 para 5.4) in the context of your instruction, they are considered best practice and have been applied to the extent not precluded by your specific requirement.

### 3.3 RICS Financial Viability in Planning Conduct and Reporting

In accordance with the above professional standard it is confirmed that:

- a) In carrying out this viability assessment review the valuer has acted with objectivity impartiality, without interference and with reference to all appropriate sources of information.
- b) The professional fee for this report is not performance related and contingent fees are not applicable.
- c) DVS are not currently engaged in advising this local planning authority in relation to area wide viability assessments in connection with the formulation of future policy.
- d) The appointed valuer, [REDACTED] is not currently engaged in advising this local planning authority in relation to area wide viability assessments in connection with the formulation of future policy.
- e) Neither the appointed valuer, nor DVS advised this local planning authority in connection with the area wide viability assessments which supports the existing planning policy.
- f) DVS are employed to independently review the applicant's financial viability assessment and can provide assurance that the review has been carried out with due diligence and in accordance with section 4 of the professional standard. It is also confirmed that all other contributors to this report, as referred to herein, have complied with the above RICS requirements.

### 3.3 Most Effective and Efficient Development

It is a mandatory requirement of the RICS Conduct and Reporting Professional Statement for the member or member firm to assess the viability of the most effective and most efficient development.

The applicant's advisor has assessed the viability based on the proposed application scheme. The DVS valuer has also assessed the viability based upon the application scheme in accordance with the plans and passes no comment on whether this is the most effective and most efficient development. The impact on viability of different schemes have not been appraised, however should this be pursued another viability assessment may be necessary.

### 3.4 Signatory

- a) It is confirmed that the viability assessment has been carried out by [REDACTED] BSc, MRICS, Registered Valuer, acting in the capacity of an external valuer, who has the appropriate knowledge, skills and understanding necessary to undertake the viability assessment competently and is in a position to provide an objective and unbiased review.

### 3.5 Bases of Value

The bases of value referred to herein are defined in the terms of engagement at **Appendix 1** and are sourced as follows:

- Benchmark Land Value is defined at Paragraph 014 of the NPPG.
- Existing Use Value is defined at Paragraph 015 of the NPPG.
- Alternative Use Value is defined at Paragraph 017 of the NPPG
- Market Value is defined at VPS 4 of RICS Valuation – Global Standards.
- Market Rent is defined at VPS 4 of 'RICS Valuation – Global Standards'
- Gross Development Value is defined in the Glossary of the RICS GN Valuation of Development Property (February 2020).

## 4.0 Assumptions, and Limitations

### 4.1 Special Assumptions

As stated in the terms the following special assumptions have been agreed and will be applied:

- That your council's planning policy, or emerging policy, for affordable housing is up to date
- There are no abnormal development costs in addition to those which the applicant has identified, and the applicant's abnormal costs, where supported, are to be relied upon to determine the viability of the scheme, unless otherwise stated in our report.
- That the development as proposed is complete on the date of assessment in the market conditions prevailing on the date.
- In respect of the proposed redevelopment it is assumed that a new 250 year lease is granted by Southampton City Council to Packaged Living Ltd in accordance with the Development Agreement negotiated between the parties subject to planning.

### 4.2 General Assumptions

The site has not been inspected. The below assumptions are subject to the statement regarding the limitations on the extent of our investigations, survey restrictions and assumptions, as expressed in the terms of engagement.

- a) Tenure - A report on title has not been provided. The review assessment assumes that the site is held freehold by Southampton City Council subject to a lease to Packaged Living.
- b) Easements / Title restrictions - A report on title has not been provided. The advice is provided on the basis the title is available on an unencumbered freehold or long leasehold basis with the benefit of vacant possession. It is assumed the title is unencumbered and will not occasion any extraordinary costs over and above those identified by the applicant and considered as part of abnormal costs.
- c) Access / highways - It is assumed the site is readily accessible by public highway and will not occasion any extraordinary costs over and above those identified by the applicant and considered as part of abnormal costs.
- d) Mains Services - It is assumed the site is or can be connected to all mains services will not occasion any extraordinary costs over and above those identified by the applicant and considered as part of abnormal costs.

- e) Mineral Stability - It is assumed that the property is not affected by any mining subsidence, and that the site is stable and would not occasion any extraordinary costs with regard to Mining Subsidence over and above those identified by the applicant and considered as part of abnormal costs.
- f) Environmental Factors Observed and/or Identified - it is assumed the site will not occasion any extraordinary costs relating to environmental factors over and above those identified by the applicant and considered as part of abnormal costs.
- g) Flood Risk – According to the Environment Agency Website the site is in flood zone 1, an area with a low probability of flooding.
- h) Asbestos - it is assumed any asbestos where identified present will not occasion any extraordinary costs over and above those identified by the applicant and considered as part of abnormal costs.

## **5.0 Proposed Development**

### **5.1 Location / Situation**

The site is located on the edge of the city centre of Southampton, fronting the Western Esplanade but with access to the south via a roundabout from Harbour Parade which is close to West Quay Retail Park and Mountbatten Retail Park. In addition there is a separate service access and pedestrian routes connecting to the railway station to the north and retail units to the south.

The site is served by a number of public transport links and is in close proximity to all normal city centre services.

### **5.2 Description**

The site currently comprises a large vacant retail unit , formerly occupied by Toys R Us, of approx. 41,430 sq ft (3,849 sq m) plus car parking at grade for 305 cars.

### **5.3 Site Area**

We understand that the site extends to approximately 1.86 hectares (4.6 acres)

### **5.4 Schedule of Accommodation/ Scheme Floor Areas**

DVS make no comment about the density, design, efficiency, merit or otherwise, of the proposed scheme and the accommodation details have been taken from CBRE's Viability Assessment and the cost plan and are summarised below:

Block	Type	No of Units	Average Size	Total Area
Block A	Offices			6,588 sq m 70,913 sq ft
	Retail			369 sq m 3,972 sq ft
Block B	Private Residential - BTR	254	56.3 sq m 606 sq ft	14,302 sq m 153,946 sq ft
Block C	Private Residential - BTR	120	55.5 sq m 597 sq ft	6,655 sq m 71,631 sq ft
Block D	Private Residential - BTR	108	53.4 sq m 575 sq ft	5,769 sq m 62,100 sq ft
	Affordable Residential - APR	121	54.0 sq m 581 sq ft	6,535 sq m 70,340 sq ft
Blocks B&C	Retail			408 sq m 4,389 sq ft
Block D	Retail			117 sq m 1,256 sq ft
Block E	Hotel	180 beds		4,480 sq m 48,227 sq ft
<b>Totals</b>	<b>Residential</b>	<b>603</b>	<b>55.16 sq m</b>	<b>33,261 sq m</b>
	<b>Offices</b>			<b>6,588 sq m</b>
	<b>Retail</b>			<b>893 sq m</b>
	<b>Hotel</b>			<b>4,480 sq m</b>
<b>Overall Total</b>				<b>45,223 sq m</b>
<b>Overall Gross</b>				<b>64,683 sq m</b>

I have taken the gross area from the cost plan provided which shows a total net to gross area of 70% which is within the range we normally expect for this type of development.

However CBRE have a net area of 45,470 sq m and a gross area of 66,178 sq m which shows a net to gross of 68.7%.

CBRE state that the scheme with 121 affordable units is policy compliant however this is only 20% affordable and less than the Councils policy requirements.

In addition I understand from the plans that there are 59 dedicated residential car spaces (The CBRE reports states 59 but includes 51 in their appraisal). In addition the plans show 46 office car parking spaces and it is assumed that these will be included within the leases granted to the occupiers.

As agreed in the terms, the residential property present has been reported upon using a measurement standard other than IPMS, and specifically Net Internal Area

/ Gross Internal Area has been used. Such a measurement is an agreed departure from 'RICS Property Measurement (2<sup>nd</sup> Edition)'.

This measurement standard is how the applicant has presented their data, is common and accepted practice in the construction/ residential industry, and it has been both necessary and expedient to analyse the comparable data on a like with like basis.

## 5.5 Planning Policy Requirements for the Scheme

The current application, the subject of this review, is reference 21/01837/FUL –

Demolition of all existing buildings and structures and site clearance and hybrid planning permission for the redevelopment of the site for major mixed-use development comprising:

**A.** Full planning permission for the demolition of the existing building and structures; construction of 4 buildings (Blocks A, B, C and D) of between 7 and 25 storeys with Block A comprising commercial floorspace (Class E) and Blocks B, C and D comprising 603 residential units (Class C3) and ground floor commercial floorspace (Class E); together with associated access, parking, servicing, landscaping (including Sustainable Drainage Systems), amenity space, public realm and substations.

**B.** Outline planning permission for the construction of 1 building (Block E) of up to 8 storeys for flexible commercial/residential/overnight accommodation (C1/C3/Class E Uses) and/or co-living (Sui-Generis) with associated access, parking, servicing, landscaping and amenity space (all matters reserved except for access) (Amended Description).

In addition to the NPPF and NPPG the statutory development plan for the site comprises:

- Core Strategy Partial Review (adopted 2015)
- Saved Policies in the Local Plan Review (amended 2015)
- Southampton City Centre, The Master Plan Report 2013
- City Centre Action Plan
- Residential Design Guide SPD 2006
- Parking Standards SPD 2011
- Development Design Guide SPD 2004
- Development Contributions SPD 2013
- Solent Disturbance Mitigation SPD 2014
- Solent Mitigation Strategy 2017
  
- Affordable Housing – Policy CS15 – 35% affordable

In addition I understand that the following planning obligations are required:

- Section 106

Highways/Transport – £380,000  
SDMP - £152,900 (Inc 105 car spaces)  
Carbon Management - £202,056  
Employment & Skills - £58,662  
CCTV - £10,000  
**Section 106 total - £803,618**

- **CIL – £4,568,943**

CBRE have included for section 106 contributions of £350,000 and CIL of £4,136,361 for the scheme with affordable and only CIL of £5,048,837 for the all private scheme.

I have included payment of any 106 contributions at start on site with CIL phased through the development.

## **6.0 Summary of Applicant's Viability Assessment**

### **6.1 Report Reference**

DVS refer to the Viability Assessment Update prepared by CBRE dated December 2021 for the proposed scheme and the appraisal therein.

### **6.2 Summary of Applicant's Appraisal**

The agent's appraisal has been produced using the Argus model and follows established residual methodology, and this is where the Gross Development Value less the Total Development Costs and Profit, equals the Residual Land Value. The Residual Land Value is then compared to the Benchmark Land Value as defined in the Planning Practice Guidance, to establish viability.

CBRE concludes in their report for the proposed BTR scheme the following:

- The BTR scheme with 20% affordable (In the form of 121 discount to open market rents), car parking, hotel and commercial, CIL and s106 contributions of £350,000 produces a residual land value of **a negative £8.29m**;
- The all private BTR scheme with car parking, hotel and commercial, CIL but no s106 produces a residual land value of **a negative £4.51m**
- the Benchmark Site Value, adopting an EUV approach, is **£4,046,440**;
- a deficit of **£12,333,132** below the Benchmark Site Value exists in respect of the scheme with affordable and a deficit of **£8,557,638** in respect of an all private scheme and both are not viable;

To review the reasonableness of this conclusion, the reasonableness of the applicant's appraisal inputs is considered in the next sections.

## 7.0 Development Period/ Programme

7.1 The development period adopted by the agent for the proposed BTR scheme comprises:

- Pre construction – 3 months;
- 24 months for construction for Blocks A-D and then 18 month construction for Block E, an overall total of 42 months;
- Sale of Block A-D – 1 month after practical completion i.e. month 29;
- Sale of Block E – 1 month from practical completion i.e. month 47;
- Overall development period – 47 months;

7.2 I have adopted the following for the proposed BTR scheme as reasonable:

- 3 month lead in;
- 24 month construction period for Blocks A-D. BCIS suggests a range of 103-136 weeks for this scale of contract;
- 18 month construction period for Block E (Hotel) – BCIS suggests up to 83 weeks for this scale of contract.
- Sale of Block A-D – 1 month after practical completion i.e. month 29;
- Sale of Block E – 1 month from practical completion i.e. month 47;
- Overall development period – 47 months;

## 8.0 Gross Development Value (GDV)

The Gross Development Value of the site has been arrived at by:

- Reviewing the GDV proposed with regards to RICS Guidance Notes '**Assessing viability in planning under the National Planning Policy Framework 2019 for England**' and '**Comparable Evidence in Real Estate**'
- Assessing the market values of both the flats and commercial by reference to available evidence.

The overall total GDV in the applicant's appraisal is **£197,990,369** based on the following:

- BTR Private Units - £114,842,241
- BTR Affordable Units - £22,569,600
- Car Parking - £1,440,000
- Hotel - £21,600,000
- Offices - £34,970,570
- Retail - £2,567,958
- **Gross Development Value - £197,990,369**



- Less Purchasers costs of £3,918,921
- **Net Development Value - £194,071,449**

## 8.1 Residential

CBRE have based the residential value on the basis of Build to Rent units and have reviewed the market taking account of new build and relet apartments in the locality of the site as follows:

**Gatehouse Apartments** – Purpose BTR apartments launched in March 2021 consisting of a 132 unit scheme with 46 one bed and 86 two bed incl a gym, co working space. Resident's lounge, private dining area and outdoor terrace with the following asking rents:

- 1 Bed - £950 pcm or £20.97 per sq ft
- 2 Bed - £1,100 pcm or £17.52 per sq ft

**Bow Square** – Purpose BTR apartments consisting of 279 one and two bed incl a resident's lounge and on-site parking(at an extra cost) and CBRE understand that the following rents have been achieved:

- 1 Bed - £930 pcm
- 2 Bed - £1,087 pcm

**Castle Place** – Re let rental accommodation with the following asking rents:

- 1 Bed - £775 pcm
- 2 Bed - £1,100 pcm

**Telephone House** – Re let rental accommodation with the following asking rents:

- 1 Bed - £900 pcm
- 2 Bed - £1,250 pcm

**Oceana Boulevard** – Re let accommodation with a communal gym with the following asking rents:

- 1 Bed - £713 pcm
- 2 Bed - £1,198 pcm

On the basis of this evidence CBRE have adopted the following open market ERV's for the proposed development optimistically for a residential development in a peripheral city centre location:

- Studios - £787 pcm to £836 pcm
- 1 Bed - £950 pcm to £956 pcm
- 2 Bed - £1,292 pcm to 1,320 pcm
- 3 Bed - £1,610 pcm to 1,656 pcm

- **Gross Rental PA - £6,507,727**

CBRE have then reduced the gross rental by 25% to reflect the projected minimum operational managements costs and voids with a **net rental of £4,880,795.**

CBRE have then considered sale evidence of a BTR scheme in Bournemouth and have adopted a forwarded funded net investment yield of 4.25% with a **Gross Development Value of £114,842,241.**

We have also undertaken research as to market rents in the area. I have verified the evidence provided by CBRE and taking account of current asking rents on Rightmove and Zoopla and other recent assessments in Southampton particularly the Leisure World Development I have adopted the following rentals as reasonable:

- Studio - £825 pcm
- 1 Bed - £975 pcm
- 2 Bed - £1,300 pcm
- 3 Bed - £1,600 pcm
- **Gross Rental Value - £6,550,200**

Taking into account recent evidence and other BTR schemes assessed in the area I'm of the opinion that a net deduction of 25% for management and operational costs (Voids, repairs, letting fees etc) is reasonable with a **net rental of £4,912,650.**

Taking account of the evidence available and the CBRE Published Investment Yield research I'm of the opinion that a forward funded net investment yield of 4.25% is reasonable with a **Gross Development Value of £115,591,765**

If a fully private scheme is assessed CBRE have adopted a **GDV of £143,054,224** whilst I have assessed at a **GDV of £144,513,529.**

## 8.2 Affordable Housing

CBRE have included for 121 affordable units in their policy compliant scheme. However this is only 20% affordable and not in accordance with the Councils policy of 35%.

Although they state that Southampton City Council do not have a policy for affordable BTR units CBRE have adopted a discount of 20% to market rents as follows:

Block D – 121 units

- Studio - £626 pcm
- 1 Bed - £749 pcm
- 2 Bed - £1,027 pcm

- 3 Bed - £1,288 pcm
- **Gross Rental Value - £1,278,944**

I have adopted the same basis as reasonable as follows:

Block D – 121 units

- 7 x Studio units - £660 pcm
- 60 x 1 Bed - £780 pcm
- 47 x 2 Bed - £1,040 pcm
- 7 x 3 bed - £1,280 pcm
- **Gross Rental Value - £1,311,120**

On the basis of a 25% reduction for management costs and a yield of 4.25% CBRE have adopted an **affordable GDV of £22,569,600** whilst on the same basis I have included for an **affordable GDV of £23,137,412**.

However please confirm if this is an acceptable method of assessing the affordable BTR units taking account of policy.

### 8.3 Car Parking

CBRE advise that there are 59 car parking units for Blocks B,C & D which they have valued on the basis of £1,200 per annum with a total value of £1,440,000 although they include only 51 spaces.

I have included a total of £1,475,000 for the 59 spaces based on a capital value of £25,000 per space as used elsewhere in Southampton.

### 8.4 Market Value of the Commercial

8.4.1 **Retail** – CBRE have taken account of evidence of £15 per sq ft but optimistically adopted £20 per sq ft rental capitalised at 7% with a 12 month rent free/incentive package.

I have also taken account of the available evidence and recent similar assessments and have also adopted a rental of £20 per sq ft, capitalised at 7% with a 12 month rent free/incentive package. This yield is in line with the CBRE Investment Yield research dated October 2021.

8.4.2 **Offices** – CBRE have optimistically adopted a range of £28 per sq ft and £32 per sq ft taking account of the evidence available and capitalised at a yield of 5.5% with rent free periods of between 18 months and 33 months.

Taking account of the evidence available I have adopted a average rental of £30 per sq ft and a yield of 5.5% following the CBRE October yield research of 4.75% to 7% for regional cities and good secondary. In addition I have included a rent free package of 20 months as reasonable.

8.4.3 **Hotel** – Assuming a midscale hotel CBRE have adopted a value of £120,000 per room.

Taking into account the available evidence and recent assessments I have also adopted £120,000 per room as reasonable for a midscale hotel in this location.

## 8.5 Total GDV

### 1) BTR Scheme with 20% affordable:

Use	DVS	CBRE
482 BTR Private Units	£115,591,765	£114,842,241
121 Affordable BTR Units	£23,137,412	£22,569,600
59 Car Spaces	£1,475,000	£1,440,000
Hotel – 180 bed	£21,600,000	£21,600,000
Offices	£35,242,475	£34,970,570
Retail	£2,555,374	£2,567,958
<b>GDV</b>	<b>£199,602,025</b>	<b>£197,990,369</b>
Less Purchasers Costs	£3,865,288	£3,918,921
<b>NDV</b>	<b>£195,736,737</b>	<b>£194,071,448</b>

### 2) Proposed All Private BTR Scheme:

Use	DVS	CBRE
603 BTR Private Units	£144,513,529	£143,054,224
59 Car Spaces	£1,475,000	£1,440,000
Hotel – 180 bed	£21,600,000	£21,600,000
Offices	£35,242,475	£34,970,570
Retail	£2,555,374	£2,567,958
<b>GDV</b>	<b>£205,386,378</b>	<b>£203,632,752</b>
Less Purchasers Costs	£3,865,288	£3,918,921
<b>NDV</b>	<b>£201,521,090</b>	<b>£199,713,831</b>

## 9.0 Total Development Costs

### 9.1 Construction Cost

CBRE have adopted the total cost of £126,466,500 for Blocks A-D and works to the public realm etc as advised by AECOM acting for the applicant plus the BCIS cost of £204.02 per sq ft for the hotel broken down as follows:

Block	Gross - Sq ft	Overall Rate per sq ft	Cost
Block A	121,124	£188.06	£22,778,800
Block B&C	343,015	£196.87	£67,528,800
Block D	178,971	£184.53	£33,025,600

Block E	69,231	£204.02	£14,124,441
Externals			Incl
Total	712,341 sq ft 66,178 sq m	£192,97 per sq ft £2,077 per sq m	£137,457,641
Car Park Ramp			£1,948,700
Public Realm Works			£1,184,600
<b>Overall Total</b>			<b>£140,590,941</b>

Following advice from our QS I have adopted the current (29/01/2022) default median BCIS rate rebased to Southampton plus externals etc broken down as follows:

Offices - £2,388 per sq m  
Retail - £1,402 per sq m  
Residential - £1,859 per sq m  
Hotel - £2,274 per sq m  
Externals – 7.5%

Block	Gross - Sq M	Overall Rate per sq M	Cost
Block A	10,246	£2,352	£24,103,405
Block B&C	31,644	£1,853	£58,639,852
Block D	16,362	£1,856	£30,363,362
Block E	6,432	£2,274	£14,625,724
Externals		7.5%	£9,579,926
Total	64,683 sq m 696,248 sq ft	£2,123 per sq m £197 per sq ft	£137,312,269
Car Park Ramp			£1,948,700
Public Realm Works			£1,184,600
<b>Overall Total</b>			<b>£140,445,569</b>

Our gross areas have been taken from the cost plan prepared by AECOM.

Overall the difference is only £145,372 or 0.1%. In addition you have advised that the Public Realm works cost, although not agreed, has been deemed to be reasonable to provide the Permitted Route through the site.

## 9.2 Contingency

CBRE have adopted a contingency of 5% which is within the range of 3% to 5% we adopt as reasonable and taking account of the issues caused by Covid 19 I have also used 5% as reasonable.

### 9.3 Professional Fees

CBRE have included an allowance of 8% for the proposed scheme in their appraisal which is within the range of 8% to 10% that we normally use for this type of bespoke scheme which I have also adopted as reasonable.

### 9.4 CIL/Section 106 costs

For the proposed schemes CBRE have adopted the following;

Scheme with 20% affordable:

S106 - £350,000

CIL - £4,136,356

All Private Scheme:

S106 – NIL

CIL - £5,048,832

You have confirmed that the following are required:

- Affordable Housing – 35%
- Highways/Transport – £380,000
- SDMP - £152,900
- Carbon Management - £202,056
- Employment & Skills - £58,662
- CCTV - £10,000
  
- CIL - £4,568,943

I have adopted these for both schemes at this stage and I have assumed that any section 106 cost would be payable at start on site whilst CIL is phased.

### 9.5 Marketing and Agency Costs

CBRE have included for the following fees:

- Agent Letting Fees (Block A) – 15% of income
- Legal Letting Fees (Block A) – 5% of income
- Agent Sale Fees (Block A) – 1%
- Agent Sale Fees (Blocks B-E) – 0.65%
- Legal Sale Fees – 0.5%
  
- Total - £2,792,033

I have adopted the following as reasonable and compare to similar schemes:

- Agent Letting Fees (Blocks A-D) – 15%
- Legal Letting Fees (Blocks A-D) – 5%

- Agent Sale Fees (Block A) – 1.0%
- Agent Sale Fees (Blocks D-E) – 0.75%
- Legals Sale Fees – 0.25%
- Total - £2,549,384

#### 9.6 Finance

CBRE have included an all-inclusive debit rate of 5% but no credit rate with a total of £6,513,432 for the scheme with affordable in accordance with their cash flow.

I have adopted an all-inclusive rate of 5.0% debt rate and 2.0% credit rate in this case as reasonable, agreed on similar schemes and assessed in accordance with the cash flow and programme at 7.2 with a total of £6,645,031 for the proposed scheme with affordable.

#### 9.8 Other Development Costs

The following cost inputs have been accepted as reasonable and adopted by DVS in the review assessment:

Cost	S106	Comments
Land acquisition fees	Current rate of SDLT plus fees of 1.5%	Agreed as reasonable

#### 9.9 Developers Profit

CBRE has adopted a profit of 15% on GDV with a total of £29,698,555.

The latest NPPF guidance suggests a profit level of 15-20%. However the applicants have purchased the site in order to build a mixed use development including 603 BTR units. Since this is effectively presold to the applicants I have adopted the following profit as reasonable:

Private BTR Units and parking – 12.5% of GDV on the assumption its pre-sold  
 Affordable BTR Units – 6% of GDV  
 Hotel – 15% of GDV  
 Commercial – 15% of GDV  
 Total - £24,931,268

This represents a blended profit of 12.75% of the total GDV or almost 15% of total development costs.

## 9.9 Residual Land Value

Based on the above inputs, my appraisal arrives at a residual land value of a **negative £2,473,999** for the proposed BTR Scheme with 20% affordable and **£743,470** for the all private BTR scheme. This compares with the agents of a **negative of £8,286,692** for the scheme with affordable and a **negative of £4,511,198** for the all private scheme excluding 106 contributions included as a sensitivity.

## 9.10 Summary of Unagreed Inputs

The following key inputs have not been accepted as reasonable:

- GDV
- CIL and Section 106;
- Sale and marketing fees;
- Profit

## 10.0 **Benchmark Land Value (BLV)**

### 10.1 Applicant's BLV

CBRE has adopted a Benchmark Land Value of £4,046,440 based on their assessment of the Existing Use Value which they state equates to approx. £924,000 per acre (although on the basis of a site of 4.6 acres this equates to £880,000 per acre).

### 10.2 Existing Use Value (EUV)

CBRE confirm that the existing site contains a retail unit of approx. 41,430 sq ft plus parking at grade for approx. 290 car spaces. Assuming a subdivision of the unit to 2 x 20,000 sq ft and that the car park is operated on a pay a display basis CBRE have undertaken an existing use viability appraisal to also include for the remedial works as prepared by AECOM in order to return the premises to a lettable standard.

The CBRE appraisal is based on a rental of £10 per sq ft capitalised at 10% but with a 24 month rent free period. The value of the car park is based on an offer received from YourParkingSpace of an annual income of £406,649 which CBRE have then capitalised at 15%. Their total GDV adopted after costs is £5,905,107.

CBRE have then adopted the refurb cost of £361,200 as costed by AECOM plus standard contingency, professional fees, letting an agency fees and finance plus a



profit of 15% of cost which produces a residual land value of £4,046,440 which they state is the EUV of the site and adopted as the Benchmark Land Value.

We have also considered the EUV as refurbished on the same basis and are of the opinion that the rates etc adopted are reasonable and if anything are at the low end of the range that we would expect but take account of the current retail market etc. In addition it is assumed that the existing ground lease is not renewed i.e. with 90 years of the 125 lease from the council remaining and that planning is not required for any subdivision.

I have prepared an appraisal (Appraisal 3) which is attached as appendix 4 which shows a Residual Land Value of £3,960,496 which has been rounded up to £4,000,000.

#### 10.3 Alternative Use Value (AUV)

Although not stated since the property is to be refurbished etc it is a redevelopment for existing use and technically the AUV in accordance with NPPF.

#### 10.4 Premium

CBRE have not included a premium.

On the basis that the EUV was being adopted to calculate the BLV I'm of the opinion that 15% would be sufficient incentive and agreed on many schemes in the region.

However in this case NPPF is quite clear that where it is assumed that an existing use will be refurbished or redeveloped this will be considered as an AUV when establishing the BLV and the AUV includes the premium to the landowner.

#### 10.5 Residual Land Value

I have considered what the residual land value of the site, assuming actual or emerging policy requirements, and this assessment of land value can be cross checked against the EUV.

#### 10.6 Adjusted Land Transaction Evidence

There are no recent relevant land transactions

## 10.7 Purchase Price

The NPPG on viability encourages the reporting of the purchase price to improve transparency and accountability, however it discourages the use of a purchase price as a barrier to viability, stating *the price paid for land is not a relevant justification for failing to accord with relevant policies in the plan. And under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan.*

The PPG does not, however, invalidate the use and application of a purchase price, or a price secured under agreement, where the price enables the development to meet the policies in the plan.

We understand that the site was purchased from the receiver by Packaged Living Limited for £3,750,000 in May 2021.

In addition we are advised that Packaged Living has negotiated a development agreement and a new 250 year lease of the site with Southampton City Council as the freeholders, subject to planning but the full details are unknown.

## 10.8 Benchmark Land Value Conclusion

The reasonableness of the applicant's Benchmark Land Value of £4,046,440 has been considered against:

- Existing Use Value;
- Alternative Use Value;
- The Residual Land Value of the proposed schemes;
- BLV's adopted and agreed in the region;
- Any Market evidence;
- Purchase Price;

However on the basis of the EUV as refurbished it is my balanced and professional opinion having considered all of the above approaches and giving greatest weight to the EUV/AUV approach, that an appropriate **Benchmark Land Value would be £4,000,000** based on a refurbished EUV but with no premium.

## 11.0 **DVS Viability Assessment**

### 11.1 DVS Appraisal 1 – BTR Scheme with 20% affordable

My viability review assessment has been produced using a bespoke excel toolkit and I have arrived at a residual land value of **a negative £2,473,999** which compares to **a negative £8,286,692** assessed by CBRE.

**It is my independent conclusion that the BTR scheme with 20% affordable shows a deficit of £6,473,999 against the BLV of £4,000,000 and is not viable.**

#### 11.1 DVS Appraisal 2 – All Private BTR Scheme

My viability review assessment has been produced using a bespoke excel toolkit and I have arrived at a residual land value of **£743,470** which compares to a **negative £4,511,198** assessed by CBRE.

**It is my independent conclusion that an all private scheme shows a deficit of £3,292,047 against the BLV of £4,000,000 and is not viable.**

### 12.0 Sensitivity Analysis

12.1 Further to mandatory requirements within the RICS Professional Statement '**Financial viability in planning: conduct and reporting**', sensitivity tests are included to support the robustness of the viability conclusion described above.

#### 12.2 Sensitivity Test 1 – Appraisal 1 – BTR Scheme with 20% affordable

For the proposed scheme with affordable to be viable the blended profit would need to reduce from 12.4% to approx. 8.75%.

On the basis of no increase in build costs values would need to increase by almost 5% for the scheme with affordable to be viable.

#### 12.3 Sensitivity Test 2 – Appraisal 2 – All Private BTR Scheme

For the proposed all private scheme to be viable the blended profit would need to reduce from 13.5% to approx. 11.5%.

On the basis of no increase in build costs values would need to increase by less than 2.5% for the all private scheme to be viable.

### 13.0 Recommendations

Summary of key issues and recommendations.

#### 13.1 Viability Conclusion

The applicant's consultant outlines in their report the following:

- the proposed scheme with 121 Affordable BTR provision produces a residual land value of a **negative £8,286,692**;
- the Benchmark Site Value is **£4,046,440**;

- a deficit of **£12,333,132** below the Benchmark Site Value exists.
- On the basis of this deficit CBRE summarise that a BTR scheme with 20% affordable is not financially viable;
- However as a sensitivity they have assessed an all private BTR scheme without any s106 contributions which shows a residual land value of a **negative £4,511,198** which is also not viable and shows a profit level of 10.20% on GDV or 11.6% on cost and they state it is a commercial decision whether the applicants proceed with the proposed development;

Following consideration of all the component parts of the agent's report, I conclude as follows:

- the proposed BTR scheme with 121 affordable BTR provision produces a residual land value of a **negative £2,473,999**;
- A proposed all private BTR scheme with full CIL and 106 contributions shows a residual value of **£707,953**;
- the Benchmark Site Value, adopting the EUV/AUV approach, is **£4,000,000**;
- a deficit of **£6,473,999** below the Benchmark Site Value exists for the scheme with affordable and a deficit of **£3,292,047** for the all private scheme;
- **On the basis of these deficits I conclude that the proposed schemes are not viable however the all private BTR scheme could be deliverable since it currently shows a blended profit of 11.5% (against an assessed blended profit of 13.5%) and would only need a small increase in values of less than 2.5% to be fully viable and start contributing to affordable housing;**

### 13.2 Viability Review

Further to my conclusion above and the advice that your Council's full planning policy requirements will not be met; a review clause might be appropriate as a condition of the permission, in line with paragraph 009 of the PPG Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project. DVS can advise further on this should you so require.

### 13.3 Market Commentary- Coronavirus (COVID-19)

The pandemic and the measures taken to tackle COVID-19 continue to affect economies and real estate markets globally. Nevertheless, as at the valuation date some property markets have started to function again, with transaction volumes and other relevant evidence returning to levels where an adequate quantum of market evidence exists upon which to base opinions of value.

Accordingly, and for the avoidance of doubt, our valuation is not reported as being subject to 'material valuation uncertainty' as defined by VPS 3 and VPGA 10 of the RICS Valuation – Global Standards.

For the avoidance of doubt, this explanatory note has been included to ensure transparency and to provide further insight as to the market context under which the valuation opinion was prepared. In recognition of the potential for market conditions to move rapidly in response to changes in the control or future spread of COVID-19 we highlight the importance of the valuation/ assessment date.

#### **14.0 Engagement**

- 14.1 The DVS valuer has not conducted any discussions or negotiations with the applicant or any of their other advisors.
- 14.2 Should the applicant disagree with the conclusions of our initial assessment; we would recommend that they provide further information and evidence to justify their position. Upon receipt of further information and with your further instruction, DVS would be willing to review the new information and reassess the scheme's viability.
- 14.3 If any of the assumptions stated herein this report and/or in the attached appraisal are factually incorrect the matter should be referred back to DVS as a re-appraisal may be necessary.
- 14.4 Following any new information and discussions a Stage Two report may then be produced, however if the conclusion is unchanged, a redacted version of this report including reference to the discussions will be provided.

#### **15.0 Disclosure / Publication**

- 15.1 **This initial review report is not for publication.**
- 15.2 The report has been produced for Southampton City Council only. DVS permit that this report may be shared with the applicant and their advisors CBRE, as named third parties only.
- 15.3 The report should only be used for the stated purpose and for the sole use of your organisation and your professional advisers and solely for the purposes of the instruction to which it relates. Our report may not, without our specific written consent, be used or relied upon by any third party, permitted or otherwise, even if that third party pays all or part of our fees, directly or indirectly, or is permitted to see a copy of our report. No responsibility whatsoever is accepted to any third party (named or otherwise) who may seek to rely on the content of the report.
- 15.4 Planning Practice Guidance for viability promotes increased transparency and accountability, and for the publication of viability reports. However, it has been agreed that your authority, the applicant and their advisors will neither publish nor reproduce the whole or any part of this initial assessment report, nor make

reference to it, in any way in any publication. It is intended that a final report will later be prepared, detailing the agreed viability position or alternatively where the initial review report is accepted, a redacted version will be produced, void of personal and confidential data, and made available for public consumption.

- 15.5 As stated in the terms, none of the VOA employees individually has a contract with you or owes you a duty of care or personal responsibility. It is agreed that you will not bring any claim against any such individuals personally in connection with our services.
- 15.6 This report is considered Exempt Information within the terms of paragraph 9 of Schedule 12A to the Local Government Act 1972 (section 1 and Part 1 of Schedule 1 to the Local Government (Access to Information Act 1985) as amended by the Local Government (access to Information) (Variation) Order 2006 and your council is expected to treat it accordingly.

The DVS valuer assumes that all parties will restrict this report's circulation as appropriate, given the confidential and personal data provided herein.

**If the parties do not wish to discuss or contest this report, a redacted version suitable for publication can be issued following your formal request.**

I trust that the above report is satisfactory for your purposes, however, should you require clarification of any point do not hesitate to contact me further.

Yours sincerely,

██████████ BSc MRICS

██████████  
RICS Registered Valuer  
DVS

## **16.0 Appendices**

- 1 DVS Terms of Engagement
- 2 DVS Appraisal 1 – BTR Scheme with 20% affordable
- 3 DVS Appraisal 2 – All Private BTR Scheme
- 4 DVS Appraisal 3 – EUV Appraisal for the BLV

1 DVS Terms of Engagement

2 DVS Appraisal 1 - BTR Scheme with 20% affordable

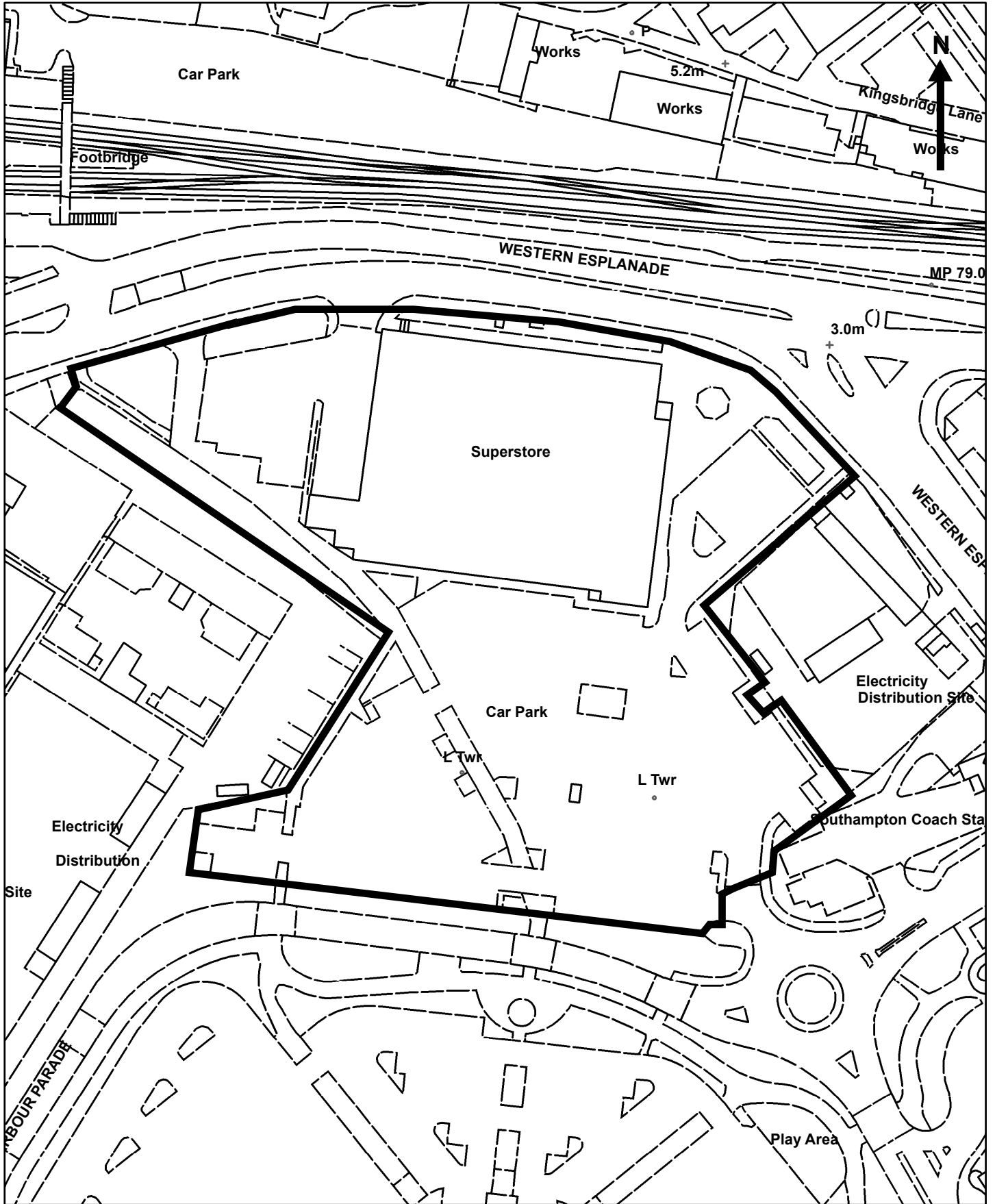


3 DVS Appraisal 2 – All Private BTR Scheme

4 DVS Appraisal 3 – EUV Appraisal for the BLV

# Agenda Item 5 21/01837/FUL

Appendix 4



Scale: 1:1,250

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# Agenda Item 6

## Planning and Rights of Way Panel 29th March 2022 Planning Application Report of the Head of Planning & Economic Development

<b>Application address:</b> 91 Pound Street Southampton			
<b>Proposed development:</b> Change of use from a dwelling house to a 4-bed children's home (C2 use)			
<b>Application number:</b>	21/01632/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Anna Coombes	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	05.04.2022 (ETA)	<b>Ward:</b>	Harefield
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received & referral by Ward Councillor	<b>Ward Councillors:</b>	Cllr Fitzhenry Cllr Laurent Cllr Baillie
<b>Cllr Objections:</b>	Cllr Baillie	<b>Reason:</b>	Noise and disturbance; Parking; Unsuitable for quiet family area
<b>Applicant:</b> Mr Paradzai Chitongo		<b>Agent:</b> None	

<b>Recommendation Summary</b>	Conditionally approve
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<b>Community Infrastructure Levy Liable</b>	No
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### Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by the National Planning Policy Framework (2021). Policies – CS13, CS16 and CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP5, SDP7, SDP10 and SDP16 of the City of Southampton Local Plan Review (Amended 2015).

Appendix 1	Development Plan Policies
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### Recommendation in Full

Conditionally approve

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

- 1.1 The site comprises a detached two storey dwelling with a small front garden and large rear garden. There is access to the rear garden via a path along the southern side boundary.
- 1.2 There is a small front driveway as a legacy from the original integral garage which was converted into internal accommodation around 2015. The driveway itself is too small to provide an on site parking space.
- 1.3 The application site lies in a predominantly residential area, rated as having high accessibility, close to local services and facilities in Bitterne District Centre 200m to the South of the property and close to local schools and colleges.

## **2. Proposal and Background**

- 2.1 This application seeks permission for the change of use of 91 Pound Street from a Class C3 dwelling into a 4 bedroom Children's Home providing 24 hour care for up to 4 children aged 8 to 17.
- 2.2 The applicant has confirmed that there will be 2 members of staff on site at all times, operating on a shift basis, with additional support from a manager via phone. The looked after children will be supervised at all times when leaving the property.
- 2.3 There are no external changes proposed to the dwelling itself. A bin store and cycle store are proposed within the rear garden. The original proposal included 2 on site parking spaces at an angle to the front of the dwelling. The site plan been amended at the request of our Highways Team to remove both proposed parking spaces and to re-establish the kerb outside the property to provide on street parking.
- 2.4 The original application lacked detail on the floor plans which, whilst sufficient for validation purposes, were insufficient for a determination. A supporting statement describing the proposed operation of the care home and the type of care provided was then submitted by the Applicant in January, along with accurate floor plans and site plans.
- 2.5 More recently the Applicant has updated their supporting statement to clarify that the resident children would be supervised at all times both on and off the property and have removed the two onsite parking spaces from the site plan at the request of the Highways Officer. A new public re-consultation exercise has been undertaken which ends on 28<sup>th</sup> March. Any comments received between writing this report and the date of the Planning and Rights of Way Panel will be reported to the panel as a verbal update on the evening.

## **3. Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at ***Appendix 1***.

3.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

#### 4. **Relevant Planning History**

4.1 There is a very limited planning history for this site with only 2 previous planning consents. In 1987, consent was granted for a “*Roof over walled yard to create single storey extension*” (application: 870001/E refers). In 1989, consent was granted for a “*Single storey rear extension*” (application: 890513/E refers).

#### 5. **Consultation Responses and Notification Representations**

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (03.12.2021). At the time of writing the report **37 representations** have been received from surrounding residents.

The following is a summary of the points raised:

##### 5.2 ***Parking –***

- ***The proposed parking spaces will not fit, as the front garden is too small and the dropped kerb is not wide enough to allow access;***
- ***The proposal will exacerbate existing parking and traffic problems with all the visitors listed on the supporting statement;***
- ***Increased parking demand at shift change times;***
- ***Additional possibility of school bus collection for residents;***
- ***Increased on-street parking will block emergency vehicles;***
- ***Pound Street is a no through-road, so increased risk to pedestrians.***

##### **Response**

The 2 proposed on site parking spaces have been removed from the plans at the request of our Highways Officer because they agreed that they weren't compliant with standards. The scheme is now 'car free' in the sense that no on-site parking is proposed, whilst recognising that staff will chose to drive to site and park on-street (particularly when undertaking a night shift). A condition is recommended to reinstate the dropped kerb in front of the dwelling to provide one additional on-street parking space. The proposal is in a high accessibility area, close to Bitterne District Centre. The Council's Highways Officer has no objection to the proposal. Parking and highways impacts are discussed in more detail in Section 6 below.

##### 5.3 ***Amenity and Safety –***

- ***Noise and disturbance generated by future residents;***
- ***Potential risk of violent, criminal or anti-social behaviour;***
- ***Impact on the safety of surrounding residents, particularly children and elderly residents;***
- ***Impact on the safety of users of the nearby subway;***

- ***Impact of criminal or anti-social behaviour on nearby businesses;***
- ***The business will attract gangs to the area to prey on the home's clients;***
- ***The Applicant refers to advice for neighbours regarding begging and noise complaints, so must expect these will also be issues for this property.***

**Response**

There have been many concerns from neighbouring residents for the impact on the character of the area in terms of noise and disturbance and for the safety of nearby residents, particularly in relation to potential disruptive behaviour from residents, and given the more complex behaviours and the older age ranges that are catered for by the Applicant's company on other sites.

In response, the Applicant has now confirmed that the home will care for children aged 8 to 17 only. Future residents of the children's home will be supervised on and off site, at all times, for both the safety of the looked after children themselves and that of neighbouring residents. Safeguarding of these vulnerable children will also be an essential requirement of the home's HMCI (Ofsted) registration to which the children's home will need to comply. This is discussed in more detail in section 6 below. The age range and overall number of children cared for can be controlled via a condition on any consent granted. A further condition can be imposed to ensure that there is adequate on-site management in place to manage the impacts of the proposed use and the behaviour of the children.

**5.4 *A window looks directly into the garden of No.93 Pound Street.***

**Response**

There are no existing or proposed side-facing windows to the northern side elevation of the host dwelling directly facing No.93. Whilst the existing rear-facing bedroom windows may offer some view of neighbouring gardens, this is an existing situation and is a common situation for neighbouring properties. There is an existing obscurely-glazed first floor bathroom window to the southern side elevation, but due to the obscure glazing, this does not result in loss of privacy for neighbouring property No.89 to the South.

**5.5 *There is no provision for storage of increased amount of waste, exacerbating existing problems of litter.***

**Response**

The amended plans clarify the proposed formal bin storage location within the rear garden. There is no increase in the number of bedrooms in the property, so the proposed use as a children's home would not necessarily generate a significantly higher amount of waste than the existing use as a 4 bedroom family home.

**5.6 *Lack of Information –***

- ***The application states Children's Home, but the company caters for 16 – 25 year olds who cannot be classed as 'children';***
- ***It is not clear if staff will be on site 24/7;***
- ***Application is deliberately misleading, it is not a Children's Home;***
- ***New details have been submitted deliberately late;***



- ***The change in details suggest the Applicant is trying to jump through loop holes to get permission;***
- ***Discrepancies in the submitted information and on the application form (parking spaces, employment, hours of opening & pre-application advice).***

**Response**

There was confusion caused initially due to the lack of information about the proposed use on the initial application form. The application form only stated children's home, it did not mention catering for young people aged 16-25. This information was found by members of the public researching the Applicant's company, due to the lack of supporting information provided with the original application.

The Applicant has since confirmed that the proposed use is correct and caters for children aged 8 to 17 and has provided additional details of the level of care and supervision provided and the regulatory requirements. Whilst there has been a delay in submitting this information, and there were some errors or omissions on the initial application form, this does not undermine the application, as sufficient information has subsequently been provided to fully understand the proposed operation. The application deadline has been extended with each additional submission to allow for the necessary public re-consultation on the new details provided, as is appropriate in this situation.

5.7 ***Age Range / Behaviours –***

- ***The site is not appropriate for young people with drug / alcohol addiction, due to proximity of local pub;***
- ***Not suitable for sex offenders given proximity of local schools;***
- ***There is nothing to prevent the Applicant increasing the age range once they gain permission***

**Response**

Whilst the Applicant's company does cater for young people up to the age of 25 with more complex behavioural issues such as drug and alcohol abuse and sexualised behaviours at other sites, that is only part of the broad range of care services provided by this company; this age / behavioural group are not identified as the proposed end users for this property. HMCI (Ofsted) will require an appropriate location and safeguarding in place for any care home that intends to provide care for vulnerable children. The Applicant has confirmed this children's home will provide 24 hour care and supervision for children aged 8 to 17 with varying social, emotional and behavioural needs. The age range and number of the proposed children in care can be controlled by way of condition on any planning consent granted.

5.8 ***There is a shortage of 4 bed family homes in the city, so loss of this home should be resisted.***

**Response**

The loss of a family dwelling will be considered in the assessment section below.

5.9 ***The fourth bedroom upstairs is too small.***

**Response**

This is an existing situation. That said, the smallest box bedroom upstairs is not intended as a bedroom for future residents. It acts as an office / on call rest room for staff and a condition is recommended to secure this as such. The fourth bedroom for resident children is located at ground floor.

- 5.10 ***There have already been tenants staying in the property temporarily and employees on site; The property was temporarily in use as an HMO for 5 nights.***

**Response**

Concerns over use of the property as an HMO were referred to the Council's Enforcement team for further enquiries. If the Applicant begins the proposed use without first gaining planning consent, they do so at their own risk. This does not necessarily undermine the current application under consideration or warrant planning enforcement action. If permission is granted, the Applicant will have to operate the consented use in accordance with the agreed details and in accordance with any further conditions that are deemed appropriate to control the use.

- 5.11
- ***The property has been acquired into a new Ltd Company, set up for this business venture;***
  - ***The Applicant lives in Kent, so not available to respond to problems on site;***
  - ***It is not clear if the Applicant is running a paid business;***
  - ***The Applicant mentions being commissioned by Southampton City Council, however there is no guarantee of this happening;***
  - ***This application will set a precedent for other applications.***

**Response**

The way in which the Applicant structures their business assets or company is not a material consideration for this planning application. This application considers the acceptability of the proposed land use, not the merits of the Applicant's business model. The Applicant has confirmed that at least 2 staff will be on site at all times to supervise the residents. This application would not set a precedent, as all applications are considered on their own merits and the particular circumstances of each site.

- 5.12
- ***No alterations are proposed to enable wheelchair access;***
  - ***No mention of the risks of the swimming pool to children and how this affects the level of supervision if one member of staff is busy supervising the pool;***
  - ***No mention of the use of safety glass;***
  - ***The applicant has not yet achieved Ofsted registration, they are only in the process of applying.***

**Response**

The Applicant is not required to provide wheelchair access, details of the existing swimming pool, details of safety glass, or evidence of their Ofsted registration as part of this application. The Applicant will need to comply with the accessibility, safety and security requirements of HMCI (Ofsted) separately to the planning application process in order to operate as a Children's Home.

- 5.13 ***Neighbour notification letters and site notice were dated 2<sup>nd</sup> December 2021, but the application was validated on 19<sup>th</sup> November 2021.***

**Response**

The delay between validation and the issuing of publicity notices and letters has not prejudiced members of the public, as a full public consultation period was undertaken followed by additional public consultations on later submissions. Further changes have been re-notified and it is clear from the response to this application that the application has been publicised.

- 5.14 ***The proposal would lead to a decrease in property values.***

**Response**

Whilst the potential impact on the amenity of local residents and the character of the local area are assessed in this report, property values themselves are not a material consideration for a planning application.

***Consultation Responses***

- 5.15 **SCC Highways** – No objection to the proposed change of use in principle, however the proposed on-site parking spaces are of insufficient size to allow a modern vehicle to park on site without overhanging the pavement and the existing dropped kerb is not wide enough for vehicles to manoeuvre easily into the proposed spaces. The size of the cars shown on the plans are not representative of average domestic size cars. They measure approximately 2.8m which is similar lengths to a smart car. The dimensions on the forecourt therefore are not considered to be able to accommodate 2 vehicles safely.

An application to widen the existing dropped kerb would not be supported, due to the loss of existing on-street parking. Recommend that both on-site parking spaces are removed from the submitted plans and the existing dropped kerb is reinstated to a full height kerb to provide 1 additional on-street parking space.

The proposal is located in a high accessibility area for access to public transport, in close proximity to local amenities in Bitterne District Centre including healthcare providers and schools. The Council's Parking Standards SPD does not specify a maximum parking standard for a children's home. Looking at similar uses, we note that the maximum standard for a nursing home in a high accessibility area is 1 parking space per 10 beds and the maximum standard for a dwelling with 4 bedrooms in a high accessibility area is 2 parking spaces.

It is noted that the supporting statement suggests that staff aside (which is 2 on site at a time), the residents would be vulnerable children within a certain age bracket which are unlikely to be car owners. Therefore when compared to a 5 bed dwelling, the car trips and journeys are not considered to differ significantly. If we can remove the H-bar and reinstate the dropped kerb, we can re-provide an additional parking space on the kerbside. Given the above, we have no objections to the scheme in terms of parking and highway safety.

***Officer Response***

*The Applicant has since provided amended plans to remove the two previously proposed parking spaces, as requested by the Highways Officer.*

5.16 **SCC Children’s Services - Comments Awaited.**

5.17 **Cllr Baillie, Ward Councillor (summary)** – Referral to Planning Panel due to concerns regarding:  
Noise & disturbance; Parking considerations; Unsuitable young people in a quiet residential street which has many young children: such as sex offenders, asylum seekers (as no background known), drug addicts.

5.18 **Cllr Laurent Ward Councillor (summary)** – Emails received from many anxious residents. I am absolutely in agreement; this is a totally unsuitable location for a home for older group of vulnerable and troubled young people potentially 16 -25 years old. This is a quiet residential area. Those with challenging behaviour would without doubt cause problems and distress in such a quiet neighbourhood. I fully support all the comments and points made by Cllr. White.

**Officer Response to both Cllr comments**

*Officers accept that the level of detail initially provided by the applicant to support their planning application was limited. This does not hold up validation and consultation, but has since been corrected by the applicant who has provided clarification on the intended residents of the Children’s Home as being children aged 8 to 17 with 24 hour care and supervision. Other concerns of noise, disturbance and parking are discussed further below in Section 6.*

**6.0 Planning Consideration Key Issues**

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

- The principle of development;
- Design and effect on character;
- Residential amenity;
- Parking highways and transport.
- 

6.2 Principle of Development

6.2.1 Policy CS16 (Housing Mix) of the Core Strategy supports the creation of a mixed and balanced community. It states that there should be “*no net loss of family homes on sites capable of accommodating a mix of residential units unless there are overriding policy considerations justifying this loss*”. However, the policy goes on to qualify that “*In certain instances, the loss of family homes will be acceptable if this delivers other planning objectives*” it also states that the requirement to preserve family homes does not apply to: “*specialist housing schemes entirely comprised of accommodation specifically for senior citizens, supported accommodation for people with disabilities and purpose built student accommodation*”. The applicant has explained within their submission that the property would be occupied by vulnerable children who need care and assistance. There is a general need for this type of accommodation within the City and the proposal would provide this accommodation without being in conflict with Policy CS16 of the Core Strategy. As this relates to use of an existing dwelling with no increase in permanent bedspaces, there is no additional impact on the Special Protection Areas of the New Forest or Solent Waters and no further off-site mitigation is, therefore, required.

- 6.2.2 The property can be readily converted back into use as a family dwelling with minimal changes. The proposed change of use is considered acceptable in principle. No external alterations / extensions are proposed.
- 6.2.3 Furthermore, the proposed use would provide an opportunity for vulnerable children to live and receive supervised care in order to grow as part of the local community which promotes a greater diversity of household types as part of the mix and balance of the community. As such, the proposal would be acceptable in principle and meet the exception requirements of Policy CS16. The relevant impacts of the proposal are further assessed below.

### 6.3 Impact on the character of the local area

- 6.3.1 There are no external alterations proposed to facilitate the change of use and the existing residential layout of the property is retained. The amended plans have removed the two proposed parking spaces to the front of the dwelling, so the small front garden can be retained. In outward appearances there would be minimal change from the existing appearance of the property. In addition the introduction of a small household of this type would not be typically out of character for a community in a suburban residential area. The level of comings and goings for a supervised and well managed children's home are not anticipated to be significantly more harmful than the existing occupation of the property as a 4 bed family home.

### 6.4 Residential amenity

- 6.4.1 Section 2.2 of the Residential Design Guide SPD (RDG) sets standards to protect the living conditions of the future occupiers to safeguard privacy, natural light and outlook in relation to habitable areas. The children would have access to a private rear garden of approximately 208sqm, which far exceeds the minimum size of 90sqm for a detached dwelling, as set out within Paragraph 2.3.14 of the RDG.
- 6.4.2 In terms of internal living environments, the ground floor provides a bedroom, kitchen, lounge and dining room and bathroom. At first floor there are three further bedrooms for residents, including one with an en-suite bathroom, a shared bathroom and a box bedroom to be used as an office / on call rest room for staff. On this basis the property would provide an adequate internal and external living environment for future occupiers.
- 6.4.3 There would be at least 2 members of staff to provide 24 hour care and supervision for the resident children. The associated shift changes and vehicular movements will not generate an unreasonable level of noise or other nuisance, particularly when compared with the comings and goings associated with a large family dwelling. However, a condition that restricts professional visitors (with the exception to a health emergency) to normal working hours can be imposed to help mitigate potential impacts on neighbouring residents.
- 6.4.4 The nature and scale of the proposed use would not be dissimilar to a large family group. Given the young age of the proposed residents, the staff would act as parent figures or head of the household by supervising and managing the behaviour of the children in their care. The strict safeguarding requirements of HMCI (Ofsted) as the regulatory authority would ensure that the resident children

are supervised at all times and the potential for noise and disruption can therefore be suitably managed.

- 6.4.5 A condition is also recommended to secure a management plan to give further details of the proposed internal and external supervision of the looked after children and for the management of potential sources of noise and disturbance for neighbouring residents. In particular the management plan will identify a point of contact for liaising with neighbours for noise complaints. Notwithstanding, the management plan, neighbour concerns regarding internal noise can be enforced under separate legislation to control statutory noise nuisance, but the Panel's decision should be made on the assumption that residents will behave reasonably.
- 6.4.6 The property has 4 existing large bedrooms, with the potential for a 5<sup>th</sup> small bedroom in the first floor box room, and therefore could be occupied by a large family e.g. 2 parents and at least 4 children. Whilst there will be movements to and from the property associated with other visitors related to the residents' care plans and their family/friends, these are not considered to be significantly different when compared to a typical large family house of this size. In this instance, the level of trips associated with the modest 4 bedroom children's home use proposed is not considered to cause significantly greater disturbance than the current use as a large C3 family home with at least 4 bedrooms.
- 6.4.8 For the reasons laid out above it is considered that the proposal would have an acceptable impact on the amenities of existing neighbouring residents and would provide a reasonable quality of living environment for the proposed residents.

## 6.5 Parking highways and transport

- 6.5.1 The site is situated in a sustainable location, close to local facilities in Bitterne District Centre, with a high accessibility rating in terms of access to public transport. The site is within walking distance of local schools, colleges and healthcare facilities.
- 6.5.2 The proposal originally included two angled parking spaces within the front garden of the property. These spaces have since been removed from the plans at the request of SCC Highways Officers, as the spaces were of insufficient size to allow a modern vehicle to park on site without overhanging the pavement and the existing dropped kerb is not wide enough for vehicles to manoeuvre easily into the proposed spaces. A condition is recommended to secure the reinstatement of the existing dropped kerb to a full height kerb to provide a net gain of 1 additional on-street parking space, in line with recommendations from Highway Officers.
- 6.5.3 The Council's Parking Standards SPD does not specify a maximum parking standard for a children's home. Looking at similar uses, the maximum standard for a nursing home in a high accessibility area is 1 parking space per 10 beds and the maximum standard for a dwelling with 4 bedrooms in a high accessibility area is 2 parking spaces. Given the above, and the location of the site in a high accessibility area, in close proximity to Bitterne District Centre, healthcare and schools, SCC Highways Officers have no objections to the scheme in terms of trip generation, parking and highway safety.

- 6.5.4 The supporting statement suggests that, staff aside, the residents would be vulnerable children within a certain age bracket which are unlikely to be car owners. Therefore when compared to a 4/5 bed dwelling, the car trips and journeys are not considered to differ significantly, and may even reduce. By reinstating the dropped kerb, the proposal results in a net gain of 1 additional on-street parking space. Therefore on balance, taking into account the potential parking demand from the existing use as a large family dwelling with at least 4 bedrooms, the proposed 4 bed children's home use would be unlikely to generate a significant increase in parking demand and the application is considered to be acceptable in this regard.
- 6.5.5 The application has proposed locations for refuse and cycle stores to meet the needs of the proposed children's home use. Further details of the precise appearance and specifics of these structures could be secured by a suitable condition.
- 6.5.6 Given the discussions above, the proposal is not considered to cause significant harm in terms of parking amenity or highway safety.

## **7. Summary**

- 7.1 The planning application as originally submitted provided limited information and officer's recognise the anxiety that this will have caused neighbours resulting in significant objection to the application. Amendments and additional information have been sought and re-notified. The proposed children's home use would provide much needed care for vulnerable looked after children, is not considered to have an unacceptable impact on the character and appearance of the area or result in adverse noise and disturbance for neighbouring residents. Furthermore the proposed use would not cause significant harm in terms of parking amenity or highway safety given the existing use.

## **8. Conclusion**

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

### **Local Government (Access to Information) Act 1985**

### **Documents used in the preparation of this report Background Papers**

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

### **AC for 29/03/2022 PROW Panel**

### **PLANNING CONDITIONS to include:**

#### **01. Full Permission Timing Condition (Performance)**

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

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

#### **02. Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in

writing with the Local Planning Authority.

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

**03. Management Plan (Pre-Occupation)**

Before the development hereby approved first comes into occupation, a management plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include details of the proposed levels of supervision of residents both on and off-site, and measures to manage the level of noise audible outside the premises. These measures shall include providing contact details of all carers operating on site, and a company representative, to provide liaison with neighbouring dwellings to address noise and disturbance complaints. The operator shall, thereafter, keep these contact details up to date.

Reason: In the interest of the amenities of neighbouring occupiers.

**04. Refuse & Recycling and Cycle storage facilities (Pre-Occupation)**

Before the development hereby approved first comes into occupation, details of storage for refuse and recycling, and secure and covered storage for bicycles, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the development hereby approved.

Reason: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties, in the interests of highway safety and to encourage cycling as an alternative form of transport.

**05. Restricted Use (Performance)**

Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking, amending, or re-enacting that Order, the development hereby approved shall be used only for the purposes indicated in the submitted details and not for any other purpose, including any other use within Use Class C2.

Reason: In the interest of the amenities of neighbouring occupiers and highways safety.

**06. Visiting Hours (Performance)**

With the exception of the 2 night shift care staff, or in the event of a health emergency, professional visitors in relation to the care and wellbeing of the residents shall not visit the property outside the hours of 08:00 to 18:00 each day.

Reason: In the interest of the amenities of neighbouring occupiers.

**07. Maximum Occupants, Age Range and Vehicle Ownership (Performance)**

Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking, amending, or re-enacting that Order, the development hereby approved shall be occupied by a maximum of 4 residents within the age range of 8 to 17 years old. The 4 residents shall not have access to a private car or van for their own personal use whilst living at the property.

Reason: In the interest of the amenities of neighbouring occupiers, the prevention of overspill parking and highways safety.

**08. Retention of communal spaces (Performance)**

The rooms labelled kitchen, lounge and dining room shown on the plans hereby approved shall be retained for use by all of the occupants of the children's home for



communal purposes only for the duration of the use.

Reason: To ensure that suitable communal facilities are provided for the residents.

**09. Staff Office (Performance)**

The smallest box bedroom at first floor in the north-western corner of the property shall only be used as an office / on call rest room for staff. It shall at no time be used as a bedroom for resident children for the duration of the children's home use hereby approved.

Reason: To ensure bedrooms are of sufficient quality for residents of the children's home.

**10. Retention of Front Boundary Wall (Performance)**

The existing brick front boundary wall shall be retained in situ for the life of the duration of the children's home use hereby approved.

Reason: In the interests of visual amenity and highway safety.

**11. Reinstatement of Dropped Kerb (Performance)**

Within 3 months of the first occupation of the children's home use hereby approved, the existing dropped kerb immediately to the front of No.91 Pound Street shall be reinstated to a full height kerb.

Reason: In the interests of local parking amenity and highway safety.

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS13	Fundamentals of Design
CS16	Housing Mix and Type
CS19	Car & Cycle Parking

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
H6	Housing Retention
H7	The Residential Environment

Supplementary Planning Guidance

Residential Design Guide SPD (2006)

Parking Standards SPD (2011)

Other Relevant Guidance

The National Planning Policy Framework (2021)

# Agenda Item 6 21/01632/FUL

Appendix 1



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**Planning and Rights of Way Panel 29<sup>th</sup> March 2022**  
**Planning Application Report of the Head of Planning & Economic Development**

<b>Application address:</b> 39 Thornbury Avenue Southampton SO15 5BQ			
<b>Proposed development:</b> Change of use from care home to family dwelling (class C3) and 1-bed annexe with parking, cycle and refuse store  <i>Description Amended following amended plans to change family home layout and use of flat as an annexe</i>			
<b>Application number:</b>	21/01649/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Stuart Brooks	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	14.01.2022	<b>Ward:</b>	Freemantle
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received	<b>Ward Councillors:</b>	Cllr Windle Cllr Shields Cllr Leggett
<b>Referred to Panel by:</b>	n/a	<b>Reason:</b>	n/a
<b>Applicant:</b> Mr Amirik Gill		<b>Agent:</b> Mr David Windsor	

<b>Recommendation Summary</b>	<b>Delegate to the Head of Planning &amp; Economic Development to grant planning permission subject to criteria listed in report</b>
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<b>Community Infrastructure Levy Liable</b>	<b>Yes</b>
---------------------------------------------	------------

**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2021). Policies – CS4, CS5, CS13, CS16, CS18, CS19, CS20, CS22, CS25 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP7, SDP9, SDP10, SDP12, SDP13, SDP16, H1, H2, H4, H7 of the City of Southampton Local Plan Review (Amended 2015).

**Appendix attached**

1	Habitats Regulation Assessment	2	Development Plan Policies
3	Relevant Planning History	4	Enforcement Notice
5	Previous Application 21/00473/FUL		

**Recommendation in Full**

1. That the Panel confirm the Habitats Regulation Assessment in **Appendix 1** of this report.
2. Delegate to the Head of Planning and Economic Development to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 Legal Agreement to secure:
  - Contribution towards the Solent Disturbance Mitigation Project to mitigate impact on European designated sites due to an increase in recreational disturbance.
3. That the Head of Planning and Economic Development be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Planning & Economic Development be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

**1. Background**

- 1.1 The authorised use of the property is a care home (permission ref no. 02/01178/FUL) for up to 6 disabled persons, albeit the care operation ceased last year. On 10<sup>th</sup> September 2021, an enforcement notice came into effect on this property to require the use of land to cease as a class C4 House in Multiple Occupation (HMO) (**Appendix 4**). This followed the refusal by officers for application ref no. 21/00473/FUL to regularise the property as a HMO (**Appendix 5**). Whilst the Enforcement team confirmed the HMO use had ceased when they inspected the site on 18<sup>th</sup> October 2021, the applicant had not removed the internal locks for each bedroom at the time. At the time of writing the report the Enforcement team had not yet carried out the follow up inspection which was due this month. A verbal update will be given at the meeting regarding this issue. That said, now the Enforcement Notice has come into effect, it would be an illegal and prosecutable offence for the property to be used as a HMO in the future. This notice runs with the ownership of the land. This planning application now seeks to establish a new use for the building as a residential dwelling with separate annexe.

**2. The site and its context**

- 2.1 This application site (500sqm) comprises a 2 storey semi detached residential property with rooms in the roof (previously a self-contained flat). Last year the property was unlawfully converted from a care home to a C4 House in Multiple Occupation (HMO). There is access from Darwin Road for off-road parking spaces (2 proposed with widening of access). The site is located on the corner of Darwin Road in a predominantly residential area with a mix of flats, family dwellings, guest

houses and HMOs. There is no permit parking scheme in the local area. There are double yellow line parking controls at the junction of Darwin Road.

### **3. Proposal**

- 3.1 This application seeks permission to convert the former care home into a family home with no external alterations proposed. The bedrooms on the ground floor will be used for living accommodation – the plans have been revised since submission to reflect this use as a genuine family home. It is noted that the applicant had not initially requested their architect to amend the plans from the previous refused HMO application, however, it is not intended to use the property as a HMO given the legal requirements of the Enforcement Notice in place.
- 3.2 Permission is also sought to use the former care home owner's flat in the loftspace (consented 1994 – ref no. 940233/W) as an annexe linked to the occupation of the family home. The application has been amended with this regard as it was not possible to give this additional floorspace an independent access to support its use as a separate flat. The property has 70sqm of amenity space, and an internal floor area of family home – 192sqm and 1 bed annexe – 36sqm.

### **4. Relevant Planning Policy**

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 4.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

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

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

### **6. Consultation Responses and Notification Representations**

- 6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, and erecting a site notice on 03.12.2021. At the time of writing the report **9 representations** have been received from surrounding residents. The following is a summary of the points raised:
- 6.2 **This application is very similar to one previously refused. Too many HMOs and bedsits have imbalanced the local community and made parking much**

**more difficult and a noticeable increase in crime.**

**Response**

The application is now proposing a family home which will have a positive impact on the balance and mix of households in the community. There is a housing need for a range of housing in the city that suits the different size households from small to large families.

- 6.3 **Inadequate parking on a busy/dangerous junction putting further kerbside pressure to on-street parking available for local residents.**

**Response**

The Highways Officer is satisfied that the proposal would not adversely harm highways safety. The street parking overspill impact on the local area arising from the shortfall parking demand of 1 off-road space is not considered to adversely harm residential amenity. The parking demand for the previous use could be greater than that now proposed.

- 6.4 **This application also doesn't address the previous concerns regarding the loss of special care home services which will only become a greater problem in years to come.**

**Response**

The Council's planning policy for mixed and balanced communities equally treats the importance of housing need for family homes and care home specialist housing and, therefore, the loss of the care home housing would not be contrary to policy CS16 of the Core Strategy in this instance.

- 6.5 **The number of bedrooms in this house is an overdevelopment and not likely to result in high quality residential accommodation, whereby more living space and less bedrooms should be provided. If this house were occupied by a family group, it is extremely likely that with 8 bedrooms in total, the occupancy of this house would result in an increase in noise and disturbance from the comings and goings and associated activities of the residents.**

**Response**

Agreed and amended plans have been sought and received. It is noted that the applicant had not requested their architect to amend the plans from the previous refused HMO application, however, we are advised that there is no intention to use the property as a HMO given the legal requirements of the Enforcement Notice in place. The ground floor layout plans have been amended to ensure that the proposal will provide a genuine family home. The lifestyle of a family household will tend to live and come and go together from the property as a single unit and is, therefore, unlike the dynamics of the HMO in terms of the individual lifestyle of the unrelated HMO residents without a head of household. The noise and disturbance of the large family household should be less harmful than the refused HMO use assuming reasonable behaviour.



## 6.6 Consultation Responses

Consultee	Comments
Cllr David Shields	<p><u>Comments updated 14.12.21 following Cllr Shields formal withdrawal of objection:-</u></p> <p>I have raised local residents concerns with the Council's planning officers and the case officer for this particular application has now confirmed that the property must only be occupied by a family group should the application be approved. It will not be allowed to be used as HMO (unrelated persons living together) even though the layout has not changed from the refused application. If the property is occupied as an HMO then it would be in breach of the enforcement notice served so they the owner could be liable for prosecution for the breach of planning control.</p> <p>Residents who - like me - were worried about this latest planning application might like to be reminded that enforcement notice was served on the property against the HMO use earlier this year. So, hopefully, this should add further protection as if the owner/future owner uses it as a HMO then they would be liable for prosecution for being in breach of the notice.</p> <p>On the basis of these reassurances I have withdrawn my formal objection to the resubmitted planning application. I would hope, though, that the eternal vigilance of local active residents involve in TADRA (BCC'd) can help make sure that this property is returned to much-needed family use.</p>
Environmental Health	No objection
Sustainability	No objection
Southern Water	No objection
Highways	No objection

## 7.0 Planning Consideration Key Issues

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

- The principle of development;
- Design and effect on character;
- Residential amenity;
- Parking highways and transport;
- Likely effect on designated habitats.

### 7.2 Principle of Development

7.2.1 The site is not allocated for additional housing and the proposed dwelling would represent windfall housing development. The LDF Core Strategy identifies the

Council's current housing need, and this scheme would assist the Council in meeting its targets. The city has a housing need. As detailed in Policy CS4 an additional 16,300 homes need to be provided within the City between 2006 and 2026. Whilst the loss of the established specialist care home accommodation has not been justified to specifically address the previous refusal (**see Appendix 5**), the creation of family homes is an equally important objective in achieving a mixed and balanced community under policy CS16 and, therefore, the loss of the care home accommodation would not adversely harm housing need nor unbalance the mix of households in the community.

7.2.2 The proposal, when having regard to the development plan taken as whole, would point to approval, the Council cannot currently demonstrate a deliverable five year supply of housing. Accordingly, regard must be had to paragraph 11(d) of the NPPF which states

*“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*(i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole”*

7.2.3 There are no policies in the Framework protecting areas or assets of particular importance in this case such that there is no clear reason to refuse the development proposed under paragraph 11(d)(i).

7.2.4 It is acknowledged that the proposal would make a contribution to the Council's five year housing land supply. There would also be social and economic benefits resulting from the construction of the new dwelling (s) and its subsequent occupation.

7.2.5 Taking into account the benefits of the proposed development and the limited conflict with the policies in the development plan, 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.

7.2.6 In terms of the level of development proposed, policy CS5 of the Core Strategy confirms that in medium accessibility locations such as this, density levels should generally accord with the range of 50-100 d.p.h, although caveats this in terms of 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 40 d.p.h which generally accords with the range set out above.

### 7.3 Design and effect on character

7.3.1 The former use of the property is authorised as a care home (6 persons) with separate staff accommodation. The most recent HMO use was unauthorised. It

should be noted that given the issuing of the Enforcement Notice the property can no longer legally be used as HMO without being a prosecutable offence and, therefore, the merits of the change of use from a care home should primarily focus on being a family home rather than a potential HMO. The applicant has updated the ground floor layout plans (used for previously refused application) to show it as a genuine family home by introducing further living space and reducing the number of bedrooms, and the flat in the roof space will be annexe accommodation linked to the occupation of the family home. The use of the property as a family home would not be out of character with the residential area. This would make a positive contribution to the mix and balance of the local community.

7.3.2 The historic use of the roof space as the former care home owners flat makes it difficult to integrate this space directly with the proposed family home use and, therefore, this would be an usual arrangement for the flat and house to share the same front door. As such, the applicant has agreed to change the flat to annexe accommodation linked to the occupation of the family home. The annexe could be used for extended family member or dependent, domestic helper, lodgers etc. and Condition 7 applies an occupancy restriction to the annexe use.

#### 7.4 Residential amenity

7.4.1 There are no external alterations that would directly affect the amenity of the neighbouring occupiers. The noise and disturbance from the level of coming and goings associated with a large family household would not necessarily be any more significantly harmful to the neighbouring occupiers than the former care home, given the comings and goings of the carers, visitors and occupants. It should be noted that the a family household would tend to live as a single unit

7.4.2 The semi-detached property has sufficient private and useable amenity space (70sqm) to serve the family house. The single occupant of the flat would be able to share this space. The quality of the living environment for the future occupiers is acceptable with regards to access to outlook, light and privacy for the family home and flat. It should be noted that it has already served as self-contained residential accommodation since 1990s. As explained above, the occupants of the annexe will have a linked relationship between the future occupants of the family home.

#### 7.5 Parking highways and transport

7.5.1 The Highways Officer has no safety concerns regarding the vehicle and pedestrian access to the site. The details of bin and cycle storage can be secured by condition. Furthermore, trip rate comparisons for small care home (C2 Class) and small residential developments (C3) shows an immaterial difference in overall arrivals and departures from a site.

7.5.2 The Highways Officer has no safety concerns with regards to overspill parking from the site as it will be managed by No Waiting at Any Time (Double Yellow Line) restrictions at the junctions of Thornbury Ave and Darwin Road. Whilst there may be existing pressures on on-street parking supply for residents, this is an amenity issue rather than a highways safety concern. The applicant will need to widen the access and partially demolish the boundary wall to create the 2 parking spaces shown. This

change is secured by condition 5.

7.5.3 The maximum parking standards for this non-high accessible area is a total of 4 spaces for 4+ bedroom house and 1 bed annexe (1 space). It should be noted that the existing parking demand with regards to re-use of the former care home owners flat would be unchanged. Whilst there will be an overspill impact from the 1 on-site space shortfall, the parking standards do allow less than the maximum standard. No parking survey has been submitted to show the kerbside capacity available in the local area, however, in this instance the displacement of street parking availability affecting local residents from the additional parking demand of the large family household (1 space) is not considered to significantly harm to residential amenity when assessed against the lawful use..

#### 7.6 Likely effect on designated habitats

7.6.1 The proposed development, as a residential scheme, has been screened (where mitigation measures must now be disregarded) as likely to have a significant effect upon European designated sites due to an increase in recreational disturbance along the coast and in the New Forest. Accordingly, a Habitat Regulations Assessment (HRA) has been undertaken, in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, see **Appendix 1**. The HRA concludes that, provided the specified mitigation of a Solent Recreation Mitigation Strategy (SRMP) contribution and a minimum of 5% of any CIL taken directed specifically towards Suitably Accessible Green Space (SANGS), the development will not adversely affect the integrity of the European designated sites. The requisite contribution would be secured subject to a legal agreement under delegated powers prior to issuing the decision.

### 8. Summary

8.1 In summary, the proposal would positively contribute to the mix and balance of the community by providing family housing suitable for larger households. The scale and nature of the proposed housing will not adversely impact on residential amenity, character, and highways safety of the local area.

### 9. Conclusion

9.1 It is recommended that planning permission be granted subject to a securing SDMP 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) (f) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

**Stuart Brooks for 29.03.22 PROW Panel**

**PLANNING CONDITIONS**

**1. Full Permission Timing (Performance)**

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

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

**2. 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.

**3. Refuse & Recycling (Pre-Occupation)**

Prior to the occupation of development, details of storage for refuse and recycling, together with the access to it, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored outside the approved storage area.

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

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

**4. Cycle storage facilities (Pre-Occupation)**

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

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

**5. Parking (Performance)**

The parking and access shall be provided in accordance with the plans hereby

approved before the development first comes into occupation/use and thereafter retained as approved for the lifetime of the development.

Reason: To prevent obstruction to traffic in neighbouring roads and in the interests of highway safety and in the interests of residential amenity to minimise loss of street parking for local residents.

#### **6. Residential Permitted Development Restriction (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 building or structures within Schedule 2, Part 1, Classes as listed below shall be erected or carried out to any dwelling house hereby permitted without the prior written consent of the Local Planning Authority:

Class A (enlargement of a dwelling house), including a garage or extensions,

Class B (roof alteration),

Class C (other alteration to the roof),

Class E (curtilage structures), including a garage, shed, greenhouse, etc.,

Class F (hard surface area)

Reason: To protect the living environment of the future occupiers given the limited amenity space available for the large household and in the interests of the residential and visual amenities of the surrounding area.

#### **7. Annexe - Ancillary Use Only (Performance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking, re-enacting or modifying that Order) the annexe in the roof space hereby permitted shall be restricted to use as ancillary accommodation to the main dwelling from which it shall not be let, sold separately, or severed thereafter.

Reason: A separate flat dwelling would not normally be permitted given the harmful amenity impact for the residents of the main dwelling sharing the same entrance.

#### **8. 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.

### Application 21/01649/FUL

#### Appendix 1

Habitat Regulation Assessment (HRA)

Screening Matrix and Appropriate Assessment Statement

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

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

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

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

European site potentially impacted by planning application, plan or project:	Solent and Southampton Special Protection Area (SPA) and Ramsar site. Solent Maritime Special Area of Conservation (SAC). Collectively known as the Solent SPAs. New Forest SAC, SPA and Ramsar site.
Is the planning application directly connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.
Are there any other projects or plans that together with the planning application being assessed could affect the site (Applicant to provide details to allow an 'in combination' effect to be assessed)?	Yes. All new housing development within 5.6km of the Solent SPAs is considered to contribute towards an impact on site integrity as a result of increased recreational disturbance in combination with other development in the Solent area.  Concerns have been raised by Natural England that residential development within Southampton, in combination with other development in the Solent area, could lead to an increase in recreational disturbance

within the New Forest. This has the potential to adversely impact site integrity of the New Forest SPA, SAC and Ramsar site.

The PUSH Spatial Position Statement (<https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/>) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire up to 2034.

## Stage 2 - HRA screening assessment

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

### **Solent SPAs**

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

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

### **The New Forest**

The New Forest National Park attracts a high number of visitors (13.3 million annually), and is notable in terms of its catchment, attracting a far higher proportion of tourists and non-local visitors than similar areas such as the Thames Basin and Dorset Heaths. Research undertaken by Footprint Ecology, Sharp, J., Lowen, J. and Liley, D. (2008) Changing patterns of visitor numbers within the New Forest National Park, with particular reference to the New Forest SPA. (Footprint Ecology.), indicates that 40% of visitors to the area are staying tourists, whilst 25% of visitors come from more than 5 miles (8km) away. The remaining 35% of visitors are local day visitors originating from within 5 miles (8km) of the boundary. The report states that the estimated number of current annual visits to the New Forest is predicted to increase by 1.05 million annual visits by 2026 based on projections of housing development within 50km of the Forest, with around three quarters (764,000) of this total increase



originating from within 10km of the boundary (which includes Southampton). Residential development has the potential to indirectly alter the structure and function of the habitats of the New Forest SAC, SPA and Ramsar site breeding populations of nightjar, woodlark and Dartford warbler through disturbance from increased human and/or dog activity. The precise scale of the potential impact is currently uncertain however, the impacts of recreational disturbance can be such that they affect the breeding success of the designated bird species and therefore act against the stated conservation objectives of the European sites.

### Stage 3 - Appropriate Assessment

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

#### Solent SPAs

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

*Within Southampton the Council will promote biodiversity through:*

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

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

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

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

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

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

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

### **New Forest**

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

*Within Southampton the Council will promote biodiversity through:*

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

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

At present, there is no scheme of mitigation addressing impacts on the New Forest designated sites, although, work is underway to develop one. In the absence of an agreed scheme of mitigation, the City Council has undertaken to ring fence 5% of CIL contributions to fund footpath improvement works within suitable semi-natural sites within Southampton. These improved facilities will provide alternative dog walking areas for new residents.

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

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

In conclusion, the application will have a likely significant effect in the absence of avoidance and mitigation measures on the above European and Internationally protected sites. The authority has concluded that the adverse effects arising from the proposal are wholly consistent with, and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy. The authority's assessment is that the application coupled with the contribution towards the SRMS secured by way of legal

agreement complies with this strategy and that it can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above.

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

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

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

Summary of Natural England's comments:

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

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### **Application 21/01649/FUL APPENDIX 2**

#### **POLICY CONTEXT**

##### Core Strategy - (as amended 2015)

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

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
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
H4	Houses in Multiple Occupation
H7	The Residential Environment

##### Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Planning Obligations (Adopted - September 2013)  
Parking Standards SPD (September 2011)

##### Other Relevant Guidance

The National Planning Policy Framework (2021)  
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

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**Application 21/01649/FUL  
APPENDIX 3**

**Relevant Planning History**

<b>Case Ref</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
02/01178/FUL	Alteration to planning permission SCC ref 960476/22145/W to allow for 6 people instead of 5 people to reside at the home.	Conditionally Approved	01.11.2002
920054/W	RELIEF FROM CONDITION 3 OF PLANNING CONSENT W03/1660/22145 (TO USE AS NURSING HOME AND REST HOME)	Conditionally Approved	19.02.1992
940233/W	INSTALLATION OF DORMER WINDOWS TO FORM SELF-CONTAINED FLAT FOR OWNERS USE AT 2 <sup>ND</sup> FLOOR LEVEL	Conditionally Approved	09.06.1994
960476/W	CHANGE OF USE TO HOME FOR 5 DISABLED PERSONS	Conditionally Approved	28.06.1996
11/02002/FUL	Erection of a detached two-storey building to provide 2 x residential care units, in association with the existing residential care home, following demolition of existing garage	Conditionally Approved	25.04.2012
21/00473/FUL	Change of use from care home to 7 bed HMO and 1 x 1 bed flat with parking, cycle and refuse store (Amended Description).	Application Refused	03.06.2021
891255/W	Dormer window to form self contained flat for owners use as 2nd floor of existing rest home	Conditionally Approved	21.09.1989
870034/W	erection of an external fire escape staircase to rear of existing rest home	Conditionally Approved	08.04.1987
W03/1660	Change use from residential to rest home & single storey rear extn	Conditionally Approved	14.05.1985
W09/1649	Single storey rear extension.	Conditionally Approved	31.07.1984

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### **IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY**

### **TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)**

#### **ENFORCEMENT NOTICE**

**ISSUED BY: SOUTHAMPTON CITY COUNCIL** ("the Council")

**1 THIS NOTICE** is issued by the Council, because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

#### **2 THE LAND TO WHICH THE NOTICE RELATES**

Land at 39 Thornbury Avenue, Southampton, SO15 5BQ, shown edged red on the attached plan ("the Land").

#### **3 THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission, the material change of use of the Land to a house in multiple occupation (Use Class C4) and a single self-contained flat (Use Class C3).

#### **4 REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has (i) in respect of the change of use to a house in multiple occupation, occurred within the last ten years, and (ii) in respect of the change of use to a single self-contained flat, occurred within the last four years.

The unauthorised development is contrary to saved policies SDP1(i) and H4 contained within the City of Southampton Local Plan Review 2nd revision (2015) (LP) and Policy CS16, CS19 and CS22 of the Local Development Framework Core Strategy Development Plan Document Partial Review (March 2015) as supported by the relevant sections of the Houses in Multiple Occupation Supplementary Planning Document (Approved May 2016), and Parking Standards Supplementary Planning Document (September 2011) as more particularly set out below:-

#### Impact on character and amenity

Policy H4 acknowledges that there is a need to maintain the supply of housing whilst balance this against maintaining a sustainable mix of households within the community.

The threshold test set out in section 4 of the Council's Houses in Multiple Occupation (HMO) SPD indicates that a maximum concentration HMOs should not exceed 10% of the surrounding residential properties within a 40m radius. From carrying out the 40m radius survey, the up to date records for the Planning Register, Licensing Register, and Council Tax show that the resulting concentration for the cumulative impact of the HMOs would be 20% (2 HMOs out of 10 residential properties).

Although the Council does not have a comprehensive database on the location of all HMOs in the city, these sources provide the Council's best known evidence. Notwithstanding the diverse mix of flatted households within this part of Thornbury Avenue, the assessment has found an overconcentration of HMOs above the 10% threshold and, therefore, would significantly go beyond the tipping point to maintain a sustainable balance and mix of households in the local community.

The change of use from the former authorised 6 person care home with owner accommodation to a C4 HMO and self-contained flat with access from the HMO property is considered to adversely affect the amenity of local residents given the comings and goings of 7 unrelated persons and their visitors with independent lifestyles, and the more intensive use of the property associated with the additional number of occupants living on-site. Whilst the owner may have still resided at the site, the supervision of the care home residents by carers or the owners would have been the major difference between the dynamics of the household and, therefore, the HMO occupants household group no longer has an overall head of household at the property to hold to account the behaviour of residents. The current landlord lives off-site and, therefore, cannot provide the same of management as with the care home.

The loss of the established specialist care home accommodation has not been adequately justified and therefore is contrary to the mixed and balanced communities objective of policy CS16 which seeks to improve and increase the provision of homes for senior citizens and disabled people of all ages by providing a range of housing to help support local services and facilities and to meet the needs of existing and future residents.

As such, the change of use of the former care home to a C4 HMO has cumulatively resulted in an excessive concentration of HMOs within the immediate area and results in an adverse impact on the overall character and amenity of the area surrounding the application site in terms of the mix and balance of households in the local community. Furthermore, due to the change in nature and intensification in occupation arising from the HMO use and self-contained flat, the noise and disturbance from the comings and goings and associated activities of the overall number of unrelated occupants will adversely impact on the amenity of the neighbouring occupiers. In balancing the acceptability of a proposal to convert a building to an HMO against the contribution that such a change of use will make to meeting housing demand, the adverse harm to the character and amenity of an area outweighs the benefit of housing supply.

#### Insufficient parking

The parking demand from this development coupled with the loss of existing off-road parking would adversely harm the amenity of nearby residential occupiers through increased competition of available on-street car parking in the local area.

#### Lack of Section 106 or unilateral undertaking to secure planning obligations

The unauthorised 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. The HRA concludes that, provided the specified mitigation of a Solent Recreation Mitigation Strategy (SRMP) contribution in line with current SDMP fees 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.

In the absence of either a scheme of works or a completed Section 106 legal agreement or unilateral undertaking to support the unauthorised development the application fails to mitigate against its wider direct impact with regards to the additional pressure that further residential development will place upon the Special Protection Areas of the Solent Coastline. Failure to secure mitigation towards the 'Solent Disturbance Mitigation Project' in order to mitigate the adverse impact of the new HMO and flatted accommodation (within 5.6km of the Solent coastline) on internationally protected birds and habitat is contrary to Policy CS22 of the Council's adopted LDF Core Strategy as supported by the Habitats Regulations.

The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

## 5 WHAT YOU ARE REQUIRED TO DO

- (i) Cease the use of that part of the Land as a house in multiple occupation (Use Class C4);
- (ii) Cease the use of that part of the Land as a self-contained flat (Use Class C3); and
- (iii) Remove all internal locks on bedroom doors that facilitate the use as a house in multiple occupation and a separate self-contained flat.

## 6 TIME FOR COMPLIANCE

6 months after this Notice takes effect.

## 7 WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 10 September 2021, unless an appeal is made against it beforehand.

Dated: 4 August 2021



Signed ....

.....

**SERVICE DIRECTOR: LEGAL & BUSINESS OPERATIONS**  
**RICHARD IVORY, Solicitor**  
Southampton & Fareham Legal Services Partnership  
Southampton City Council  
Civic Centre  
Southampton SO14 7LY

## **ANNEX**

### **YOUR RIGHT OF APPEAL**

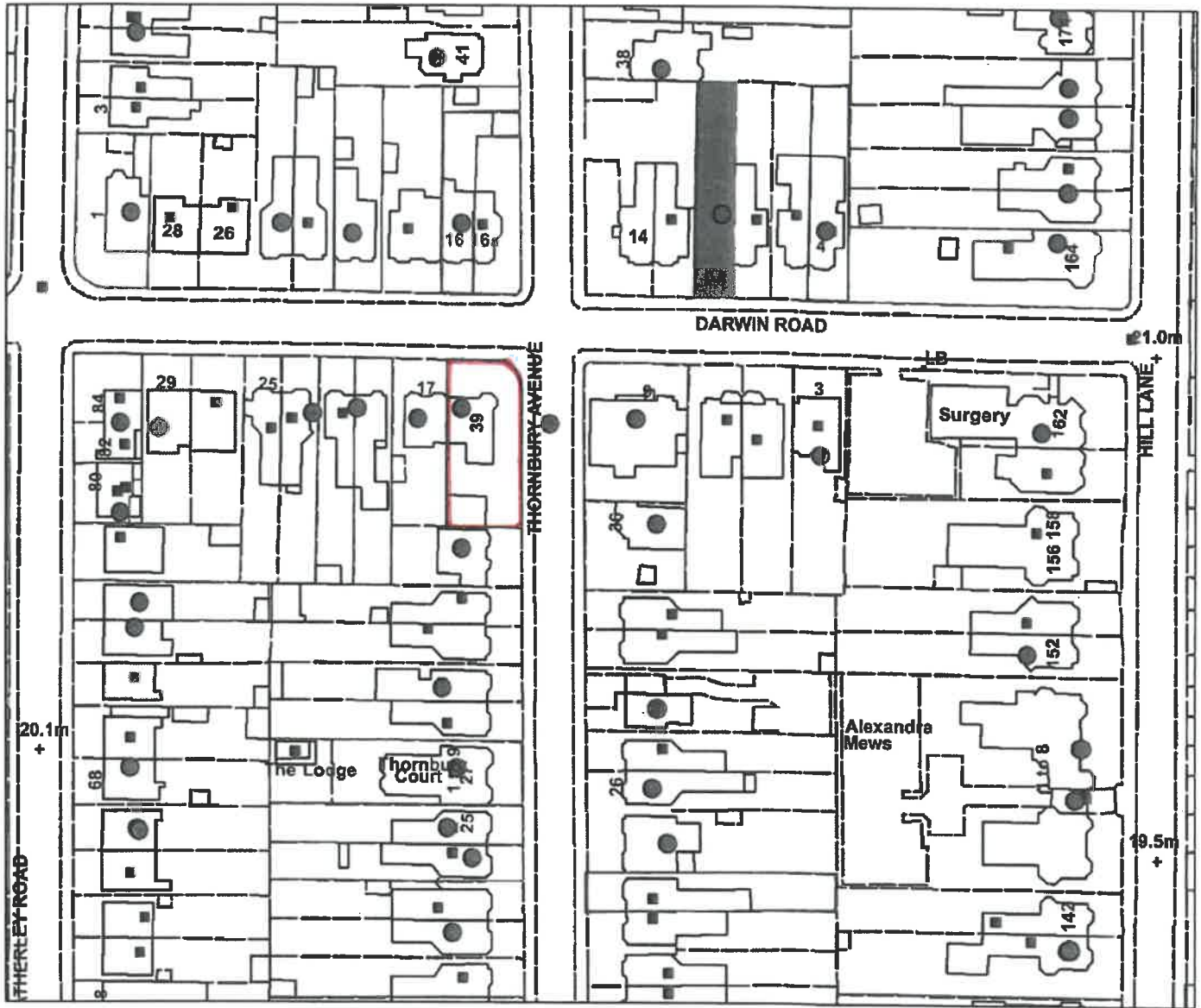
You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed information sheet from The Planning Inspectorate sets out how to do this. Read it carefully.

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an enforcement notice, which has taken effect, can result in prosecution and/or remedial action by the Council.

# 39 Thornbury Avenue, Southampton

## Enforcement Notice



Legend	

Organisation	
Department	
Comments	
Date	

**TOWN AND COUNTRY PLANNING ACT 1990  
(as amended by the Planning and  
Compensation Act 1991)**

**ENFORCEMENT NOTICE**

**LAND AT 39 THORNBURY AVENUE  
SOUTHAMPTON, SO15 5BQ**

Customer Support Team  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Direct Line 0303-444 5000  
Email [enquiries@planninginspectorate.gov.uk](mailto:enquiries@planninginspectorate.gov.uk)

## THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Appeals Casework Portal\_ (<https://acp.planninginspectorate.gov.uk/>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

**You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.**

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.

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## DETERMINATION OF APPLICATION

### TOWN AND COUNTRY PLANNING ACT 1990

#### Town and Country Planning (Development Management Procedure) (England) Order 2015

Mr David Windsor  
3 Gresley Gardens  
Hedge End  
Southampton  
SO30 2XG

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

#### FULL APPLICATION - REFUSAL

**Proposal:** Change of use from care home to 7 bed HMO and 1 x 1 bed flat with parking, cycle and refuse store (Amended Description).

**Site Address:** 39 Thornbury Avenue, Southampton, SO15 5BQ

**Application No:** 21/00473/FUL

For the following reason(s):

##### 01.Impact on character and amenity

The conversion of the former care home to a House in Multiple Occupation (HMO) has cumulatively resulted in an excessive concentration of HMOs within the immediate area and results in an adverse impact on the overall character and amenity of the area surrounding the application site in terms of the mix and balance of households in the local community. The loss of the established specialist care home accommodation has not been adequately justified. Furthermore, the change in nature and intensification in occupation arising from the HMO use and the noise and disturbance from the comings and goings and associated activities of the overall number of unrelated occupants will adversely impact on the amenity of the neighbouring occupiers. Therefore, the proposal cannot be supported as it will be contrary to saved Policies SDP1(i) and H4 of the Local Plan Review (Amended 2015), Policy CS16 of the Core Strategy (Amended 2015) as supported by the relevant sections of the Houses in Multiple Occupation Supplementary Planning Document (Approved May 2016).

##### 02.Insufficient parking

Based on the information submitted, it has not been adequately demonstrated that the parking demand from this development coupled with the loss of existing off-road parking would not harm the amenity of nearby residential occupiers through increased competition for on-street car parking. The development would, therefore, be contrary to the provisions of Policy SDP1(i) of the City of Southampton Local Plan Review (2015), Policy CS19 of the Southampton Core Strategy Development Plan Document (2015) and the adopted Parking Standards Supplementary Planning Document (2011).

##### 03.Lack of Section 106 or unilateral undertaking to secure planning obligations.

In the absence of either a scheme of works or a completed Section 106 legal agreement or unilateral undertaking to support the development the application fails to mitigate against its wider direct impact with regards to the additional pressure that further residential development will place upon the Special Protection Areas of the Solent Coastline. Failure to secure mitigation towards the 'Solent Disturbance Mitigation Project' in order to mitigate the adverse impact of the new HMO accommodation (within 5.6km of the Solent coastline) on internationally protected birds and habitat is contrary to Policy CS22 of the Council's adopted LDF Core Strategy as supported by the Habitats Regulations.

#### 04.Note to Applicant - Community Infrastructure Liability (Refusal)

You are advised that, had the development been acceptable, it could be liable to pay the Community Infrastructure Levy (CIL). Please ensure that, should you chose to reapply or appeal, you assume CIL liability prior to the commencement of the development (including any demolition works) otherwise a number of consequences could arise. For further information please refer to the CIL pages on the Council's website at: <http://www.southampton.gov.uk/planning/community-infrastructure-levy/default.aspx> or contact the Council's CIL Officer



**Paul Barton**  
**Interim Head of Planning & Economic Development**

3 June 2021

For any further enquiries please contact:

**Stuart Brooks**

#### **PLANS AND INFORMATION CONSIDERED**

This decision has been made in accordance with the submitted application details and supporting documents and in respect of the following plans and drawings:

<b>Drawing No:</b>	<b>Version:</b>	<b>Description:</b>	<b>Date Received:</b>	<b>Status:</b>
C11/028.01	Rev A	Location Plan	12.04.2021	Refused
TH002	Rev A	Site Plan	12.04.2021	Refused
TH003		Floor Plan	12.04.2021	Refused

#### **NOTES**

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, they may appeal to the Secretary of under Section 78 of the Town and Country Planning Act 1990.

1. Appeals **must be registered within six months of the date of this notice** and be made using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or do it online at <https://acp.planninginspectorate.gov.uk/>
2. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
3. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
4. If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

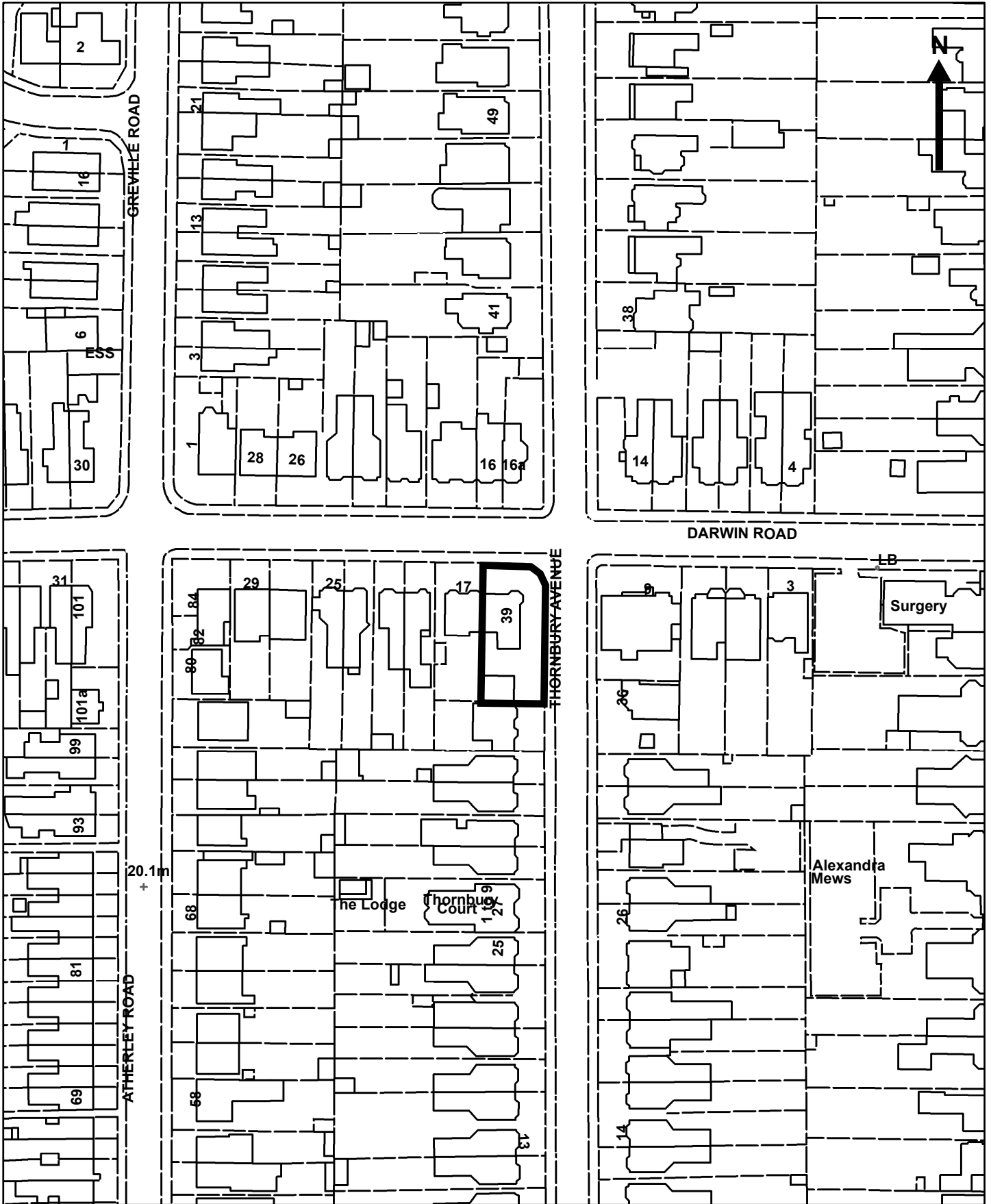
5. If permission to develop land is refused, whether by the Local Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Local Planning Authority a purchase notice requiring that the Authority purchase their interest in the land in accordance with Part IV of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
7. For those developments which are covered by the Disability Discrimination Act, the attention of developers is drawn to the relevant provisions of the Act and to the British Standard B300:2001 Design of buildings and their approaches to meet the needs of disabled people code of practice.
8. The applicant is recommended to retain this form with the title deeds of the property.

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

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# Agenda Item 7 21/01649/FUL

Appendix 6



Scale: 1:1,250

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