

Planning and Rights of Way Panel

Tuesday, 10th December,
2024
at 4.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 and 4 - Civic
Centre

This meeting is open to the public

Members

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

Contacts

Democratic Support Officer
Ed Grimshaw
Tel: 023 8083 2390
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Head of Transport and Planning
Pete Boustred
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PUBLIC INFORMATION

ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL

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

PUBLIC REPRESENTATIONS

Procedure / Public Representations

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

Southampton: Corporate Plan 2022-2030

sets out the four key outcomes:

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

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

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

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

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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.

Dates of Meetings: Municipal Year 2022/2023

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

2025	
21 January	11 February
4 March	1 April
22 April	

CONDUCT OF MEETING

TERMS OF REFERENCE

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

BUSINESS TO BE DISCUSSED

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

RULES OF PROCEDURE

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

QUORUM

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

DISCLOSURE OF INTERESTS

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

DISCLOSABLE PECUNIARY INTERESTS

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

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of

- Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council, and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
 - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

OTHER INTERESTS

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

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

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

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

PRINCIPLES OF DECISION MAKING

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

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

In exercising discretion, the decision maker must:

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

AGENDA

1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)

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

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

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

3 STATEMENT FROM THE CHAIR

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

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

CONSIDERATION OF TREE PRESERVATION ORDERS

5 EXCLUSION OF THE PRESS AND PUBLIC - EXEMPT PAPERS INCLUDED IN THE FOLLOWING ITEM

To move that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of any consideration of the exempt appendix to the following Item

The appendix is considered to be exempt from general publication based on Category 1 of paragraph 10.4 of the Council's Access to Information Procedure Rules.

6 OBJECTION RECEIVED TO THE MAKING OF 'THE SOUTHAMPTON (27 HIGHFIELD CRESCENT) TREE PRESERVATION ORDER 2024' (Pages 5 - 82)

Report of the Head of City Services requesting Members to consider: the objections made to 'The Southampton (27 Highfield Crescent) Tree Preservation Order 2024'.

CONSIDERATION OF PLANNING APPLICATIONS

7 PLANNING APPLICATION - 24/00694/FUL - MAYFLOWER PARK

(Pages 87 - 90)

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

8 PLANNING APPLICATION - 23/00349/OUT - 49-51 BELMONT ROAD

(Pages 91 - 132)

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

9 PLANNING APPLICATION - 24/01152/FUL - 3 ENGLISH ROAD

(Pages 133 - 150)

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

Monday, 2 December 2024

Director – Legal and Governance

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

Present: Councillors Windle (Chair), Greenhalgh (Vice-Chair), Beaurain, Mrs Blatchford, G Lambert and Eveyry

Apologies: Councillor Wood

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

It was noted that following receipt of the temporary resignation of Councillor Cox from the Panel the Director of Legal and Governance acting under delegated powers, had appointed Councillor Eveyry to replace them for the purposes of this meeting. In addition the Panel noted the apologies of Councillor Wood.

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

RESOLVED: that the minutes for the Panel meeting on 8 October 2024 be approved and signed as a correct record.

26. **PLANNING APPLICATION - 24/00034/FUL - LAND ADJACENT 61 OAKTREE ROAD**

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

Redevelopment of the site. Erection of 2x 3-bedroom detached houses, with associated parking, cycle storage and gardens together with the relocation of the bus stop following demolition of existing garages (amended description).

Justin Bass and Denisa Trica (local residents) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that conditions relating to the Kassel kerbing and parking (Condition 2) would need to be amended as below and Condition 9 would need to be updated to reflect the correct number of parking spaces for each dwelling. Additionally Members sought to ensure that there was adequate provision for waste storage of refuse and recycling bins. Officers agreed to amend Condition 7 as set out below to address Panel Members concerns.

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

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

RESOLVED

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to the conditions in the report and any additional or amended conditions or planning obligations set out below and the completion a S.106 or S.111 Legal Agreement to secure either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
3. That authority be granted to the Head of Transport and Planning 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 Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement

Changes to conditions

Condition 2 Works to relocate Kassel kerbing (Pre-Occupation)

The development hereby permitted shall not be occupied until the works to relocate the bus stop and provide Kassel kerbing as set out in the approved plans have been completed.'

Reason: To ensure the retention of the bus stop and in the interests of highway safety.

Condition 7 Refuse & Recycling (Pre-Commencement)

Prior to the commencement of development, details of storage for refuse and recycling **(including location within rear garden and elevational details)**, 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. 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: 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.

Condition 9 Parking (Pre-Occupation Condition)

The parking spaces (at a ratio of two spaces for one dwelling and one space for the other dwelling) shall be provided prior to the development first coming into occupation. The parking spaces shall be 2.4m wide by 5m deep and thereafter retained as approved.

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

27. **PLANNING APPLICATION - 24/01051/MMA - LAND REAR OF 11 ARDNAVE CRESCENT**

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

Minor material amendment sought to planning permission ref 17/00677/FUL for alterations including changes to windows, raising floor level and increasing size of the first floor (Amended).

Councillor Blackman (ward councillor) was present and with the consent of the Chair, addressed the meeting.

It was noted that the Officer's report needed adjustment as a consequences of changes to the parking layout. It was reported that Condition 12 needed amendment as set out below.

The Panel considered the recommendation that the application be conditionally approved subject to criteria listed in the report (as amended). Upon being put to the vote the recommendation was carried unanimously.

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

Changes to condition

Condition 12 Tree Survey and Protection

The development shall be carried out in accordance with the Tree Survey and Protection Plan (ref 284-2016) by Mark Hinsley Arboricultural Consultants Ltd dated 26.5.17.

Prior to commencement of work on the surfacing treatment of the driveway and car parking spaces, an addendum to the tree protection plan shall be provided to provide tree protection measures for the area of the tandem car parking spaces within the root protection area of the protected beech tree on the boundary with 13 Ardnave Crescent. The driveway and car parking shall subsequently be installed and retained in accordance with the agreed tree protection measures.

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

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Agenda Item 6

DECISION-MAKER:	The Planning and Rights of Way Panel
SUBJECT:	Objection received to the making of The Southampton (27 Highfield Crescent) Tree Preservation Order 2024
DATE OF DECISION:	
REPORT OF:	HEAD OF CITY SERVICES- DAVID TYRIE

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director Resident Services	
	Name:	Debbie Ward	Tel: 023 8083 3005
	E-mail	Debbie.Ward@Southampton.gov.uk	
Author:	Title	Arboricultural Manager	
	Name:	Will Taylor	Tel: 023 8083 3005
	E-mail	Will.taylor@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY
There is a confidential appendix (Appendix 9) attached to this report, the confidentiality of which is based on Category 1 of paragraph 10.4 of the Council's Access to Information Procedure Rules. It is not in the public interest to disclose this.
BRIEF SUMMARY
<p>A public request was received to protect three trees within the garden of 27 Highfield Crescent. An assessment of the trees was undertaken and two of the three were found to be suitable for protection, their loss would have a negative impact on the local area amenity. At the same time as assessing the trees, an Officer spoke with the owner of the property and was informed that the house would likely be changing ownership soon. To protect the long-term amenity and benefits to the local area from these trees, a Tree Preservation Order was made.</p> <p>Two objections were received on behalf of the property owners, one from a Tree Consultant and the second from the owners Daughter. Following correspondence, it was agreed that the Council response would be directed through a single point of contact, that being the objector's Daughter.</p> <p>Officers have been unable to overcome objections made.</p> <p>Members are requested to consider the objection received and to decide whether it is expedient, in the interests of public amenity and having regard to the representations, to confirm 'The Southampton (27 Highfield Crescent) Tree Preservation Order 2024'.</p>
RECOMMENDATIONS:

	(i)	To confirm The Southampton (27 Highfield Crescent) Tree Preservation Order 2024
REASONS FOR REPORT RECOMMENDATIONS		
1.	The Council has assessed the suitability of the trees and the potential impact to amenity if they were not protected and consider it expedient, in the interests of amenity, to confirm 'The Southampton (27 Highfield Crescent) Tree Preservation Order 2024'.	
2.	The Council is satisfied that the placing of the Tree Preservation Order does not disproportionately interfere with the rights of the landowners, under the Human Rights Act 1998.	
3.	The Council considers that there are no other means of ensuring the trees and associated amenity value are protected. With no formal protection the owners, or future owners may fell the trees.	
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED		
1.	Not protecting the trees. With no formal protection of these trees, the landowner can fell the trees without any notification or formal permission. This would not only have a negative impact to the local street scene, it would also negatively impact the environmental and ecological benefits that the trees provide to the wider location.	
DETAIL (Including consultation carried out)		
1.	<p>31st May 2024 – The Council received a request from a member of the public, asking that three trees at 27 Highfield Crescent be protected by a Tree Preservation Order. The reason given for the request is</p> <p><i>'These trees form part of both a wildlife corridor for birds moving from the green valley between Highfield Crescent and Highfield Lane and are a natural break in an otherwise sparsely green street for pedestrians traversing from Portswood to the University via Highfield Crescent.</i></p> <p><i>The trees have all been exceptionally well maintained by the landowners over a period of more than 30 years and are a landmark feature of the road.'</i></p> <p>(Appendix 1)</p>	
2.	<p>2nd July 2024 – A visit was made to assess the trees suitability for inclusion to a Tree Preservation Order. Two trees on site met the criteria to be suitable, one tree is found to be unsuitable. The tree officer speaks with the property owner during this visit and is told that the house will likely be sold soon.</p> <p>Details of site visit, conversation with homeowner plus photos of the trees and TEMPO forms are included in the Objection response at (Appendix 6)</p>	
3.	<p>2nd July 2024 – Tree Evaluation Method for Preservation Orders (TEMPO) forms are completed for both trees and both indicate the trees are suitable for protection.</p> <p>(Appendix 6)</p>	
4.	<p>9th July 2024 - 'The Southampton (27 Highfield Crescent) Tree Preservation Order 2024' is made and served on the required properties. The Order includes two individual trees, T1 Oak and T2 Oak.</p>	

	(Appendix 2)
5.	<p>A new Tree Preservation Order has a provisional validity of 6 months from the date of being made and will expire at the 6-month point unless the order is confirmed by the council.</p> <p>Any objections that cannot be resolved and are not withdrawn require the matter to be referred to the Planning & Rights of Way panel, whereby members, after considering the objections received and the reason for making the Order, can decide whether to confirm the Tree Preservation Order.</p>
6.	<p>2nd August 2024 – A formal objection and tree report is received from ‘Technical Arboriculture’ on behalf of the property owners. The summary points of objection are:</p> <ol style="list-style-type: none"> 1. Amenity assessment – That the trees are either: not suitable for protection, do not have sufficient public amenity; or both. 2. Expediency – no immediate or foreseeable threat to the trees exists. <p>(Appendix 3)</p>
7.	<p>5th August 2024 – A formal objection is received from a member of the property owner’s family and on their behalf. The summary points of objection are:</p> <ol style="list-style-type: none"> 1. The trees are not suitable for a TPO under the Regulations and relevant government guidance and therefore the Council does not have lawful authority to confirm the TPO. 2. The Council could achieve its objective through less intrusive means. 3. Confirmation of the TPO, on grounds connected to the ‘age and health’ of the objectors, would be a disproportionate interference with human rights under Article 8 and Article 1 of Protocol 1 of the European Convention on Human Rights as incorporated into UK law by the Human Rights Act 1998. 4. That the presence of the TPO may negatively impact the value of the property and the likely timescales for a sale to be completed. <p>(Appendix 4)</p>
8.	<p>8th August 2024 – As both objections are made on behalf of the property owners, the council seek clarification of whether both objections should be dealt with via a single point of contact.</p>
9.	<p>27th August 2024 –The property owners Daughter confirms they are to act as the single point of contact, in which to address both objections.</p> <p>(Appendix 5)</p>
10.	<p>20th September 2024 – Initial response to objections is sent via email and a request made for the objector to indicate if they wish to uphold the objection.</p> <p>(Appendix 6)</p>
11.	<p>The Councils response is based on four key elements which are detailed separately below, the four elements are:</p>

	<ol style="list-style-type: none"> 1. Are the trees suitable for protection? 2. Is it expedient to protect them? 3. Can the Council achieve its aims through less intrusive means? 4. Does the placing of a TPO disproportionately impact the human rights of the landowners?
12.	<ol style="list-style-type: none"> 1. The suitability of the trees is based on professional Arboricultural opinion. The submitted tree report questions the amenity value of both trees, arguing that: T1 is of fair condition and has poor form. T2 is of fair condition, has limited public visibility and is located far from the road. <p>The tree officer found that despite some noted imperfections in form and structure, T1 is prominent when viewed from Highfield Crescent and contributes to streetscape through this. There were no identified defects that would limit its retention and any works required to keep the canopy clear of the highways should be considered 'usual maintenance' and in line with industry standards of pruning.</p> <p>T2's visibility is somewhat limited when seen directly from the front and this is in part due to the gradient of the land, the distance from the road and the overgrown nature of the other vegetation on site. It is expected that the hedge spanning the front will in due course be cut, which would increase this view. When approaching the property, along Highfield Crescent, however, T2 is more prominent and can be seen standing out against the skyline. The tree is apparently healthy and free from defects that would limit its retention.</p> <p>Note - Under the Planning Practice Guidance for TPOs, even partial visibility from significant vantage points (e.g., from Highfield Crescent) can justify TPO protection if the tree contributes to local amenity or environment.</p>
13.	<p>Tree Evaluation Method for Protection Orders (TEMPO) - Both the tree report and the tree officer have used TEMPO forms as an industry recognised method for evaluating the trees. The tree officer's assessment based on this is that:</p> <p>T1 - is visible from the road, has a fair condition, and contributes to the streetscape. Its form and need for management are not disqualifying but are factored into the retention span and condition scores. The retention span of 20-40 years aligns with moderate-term tree protection goals.</p> <p>T2 - is less visible but still provides ecological and environmental value, particularly in a residential area, and there is potential for future visual amenity if other vegetation within the property were to be pruned or removed or should the site be developed. While proximity to the dwelling may require future management, it does not invalidate the protection, especially given the 40-100 year lifespan.</p> <p>The TEMPO forms also consider the expediency of the Order, which are detailed at point 2.</p>

(Appendix 6)	
14.	<p>2. Expediency – When assessing the expediency of TPO we must look at the suitability of the tree and what, if any, threat it may be under for its removal or poor management; and the impact to the public from this.</p> <p>The objectors have maintained that there is no threat to these trees, that they have been responsibly cared for, for many years. The Council does not refute this and can see the garden has been loved, this is further highlighted in the original request to protect these trees and on-site conversation with the owner. However, a change in land ownership can present a legitimate reason for a perceived threat. A decision not to protect these trees may lead to future owners carrying out works that could remove the benefits they currently offer.</p> <p>The intention to sell the property has been confirmed within this objection and with it an increased perceived risk that future owners may not act as responsibly with the trees management.</p>
15.	<p>3. Can the Council achieve its aims through less intrusive means?</p> <p>To ensure the long-term retention of trees, a mechanism must be in place that recognises this. Planning applications may carry conditions that ensure trees are considered and may also take account of a Biodiversity Net Gain assessment, though this is not a requirement for single dwelling residential sites. These processes are only engaged when a planning application is submitted and do not serve to protect the trees if new owners simply lived at the property and decided to remove or prune the trees.</p> <p>The right way to ensure legal protection is via a Tree Preservation Order.</p>
16.	<p>1. Does the placing of a TPO disproportionately impact the human rights of the landowners?</p> <p>The Council have been asked to consider the impact to the Human Rights on grounds connected to the ‘age and health’ of the objectors, whether the TPO may affect the value and likely timescales for a sale to be completed and the impact of this on the objectors, specifically under:</p> <ul style="list-style-type: none"> a. Article 8: Right to Private and Family Life; and b. Article 1 of Protocol 1: Right to Property.
17.	<p>In relation to Article 8 the interference can be justified as it is ‘for the protection of the rights and freedoms of others’ to enjoy the benefits provided by these trees, both visually and environmentally.</p> <p>In relation to Article1 of Protocol 1, it is justified in the public interest that the trees amenity value is preserved.</p>

	<p>It is the officer's conclusion that the Council have demonstrated that the trees are suitable for protection, that it is expedient to do so and that there are no means of adequately doing so in a less intrusive way. Taking account of that and of the specific circumstances with this case, it is also the Officers conclusion that the placing of a TPO does not disproportionately impact on the human rights of the objectors.</p>
18.	<p>The matter of whether there is a disproportionate interference of human rights contains an element of confidentiality as this relates to information classified as 'Special category data'. Members are requested to consider the confidential Document (Appendix 9) in relation to this which can also be seen as redacted documents in (Appendix 4 and 6)</p>
19.	<p>11th October 2024 – No response had been received to the email sent 20th September 2024 and a further email is sent requesting confirmation of intentions to retract or uphold objection.</p>
20.	<p>28th October 2024 – Email received indicating the objection is to be upheld. (Appendix 7)</p>
21.	<p>29th October 2024 – A series of emails sent, confirming the matter will be taken to Planning Rights of Way meeting for consideration and responses to this (Appendix 8)</p>
<p>RESOURCE IMPLICATIONS</p>	
<p><u>Capital/Revenue</u></p>	
	<p>Cost will be those associated with the administration of confirming the Order and administration of any subsequent applications made under the Order.</p>
<p><u>Property/Other</u></p>	
	<p>If the order is confirmed, compensation may be sought in respect of loss or damage caused or incurred in consequence of the refusal of any consent. required under the TPO or of the grant of such consent which is subject to a condition. However, no compensation will be payable for any loss of development or other value of the land, neither will it be payable for any loss or damage which was not reasonably foreseeable.</p>
<p>LEGAL IMPLICATIONS</p>	
<p><u>Statutory power to undertake proposals in the report:</u></p>	
	<p>In accordance with the Constitution, the officer has delegated power to make, modify or vary, revoke, and not confirm Tree Preservation Orders under Section 198 and 201 of the Town and Country Planning Act 1990; and to</p>

	confirm such orders except where valid objections are received. If objections are received, then the Planning and Rights of Way Panel are the appropriate decision-making panel to decide whether to confirm the order or not.
Other Legal Implications:	
	The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy their possessions, but it can be justified under Article 1 of the First Protocol as being in the public interest (the amenity value of the trees, tree groups and woodlands) and subject to the conditions provided for by law (the Town and Country Planning Act 1990)
RISK MANAGEMENT IMPLICATIONS	
	None
POLICY FRAMEWORK IMPLICATIONS	
	None

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	Portswood
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	
2.	

Documents In Members' Rooms

1.	
2.	

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules /
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	Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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From: [Southampton City Council](#)
To: [Trees](#)
Subject: Request to plant or protect a tree - P4A9KX87
Date: 31 May 2024 10:18:19
Attachments: [Oak Trees on 27 Highfield Crescent - TPO Information.pdf](#)

Dear Team,

A submission has been received to plant or protect a tree.

Reference number: P4A9KX87

Customer details

- **Name:** [REDACTED]
- [REDACTED]
- **Contact number (if provided):** [REDACTED]

Tree enquiry details

- **Enquiry type:** Have a tree protected by a Tree Preservation Order
- **Location of/for tree:**
27 Highfield Crescent.
2x Oak Trees Located at the Front of the Plot Adjacent to the Pavement.
1x Oak Tree Located within the plot.
- **Reason for request:**
These trees form part of both a wildlife corridor for birds moving from the green valley between Highfield Crescent and Highfield Lane and are a natural break in an otherwise sparsely green street for pedestrians traversing from Portswood to the University via Highfield Crescent.
The trees have all been exceptionally well maintained by the landowners over a period of more than 30 years and are a landmark feature of the road.

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**Form of Tree Preservation Order
Town and Country Planning Act 1990
The Southampton (27 Highfield Crescent) Tree Preservation Order
2024**

Southampton City Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order -

Citation

1. This Order may be cited as The Southampton (27 Highfield Crescent) Tree Preservation Order 2024

Interpretation

2. (1) In this Order “the authority” means the Southampton City Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order take effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall -
 - i. cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - ii. cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 9th July 2024

Signed on behalf of Southampton City Council

A handwritten signature in black ink, appearing to be 'D. King', written in a cursive style.

Authorised by the Council to sign in that behalf

SCHEDULE 1
The Southampton (27 Highfield Crescent) Tree Preservation Order
2024

Individual Trees
(encircled black on the map)

No. on Map	Description	Situation
T1	Oak	Oak in North East corner of site, adjacent to Highfield Crescent
T2	Oak	Oak in rear garden of 27 Highfield Crescent

Groups of trees
(within a broken black line on the map)

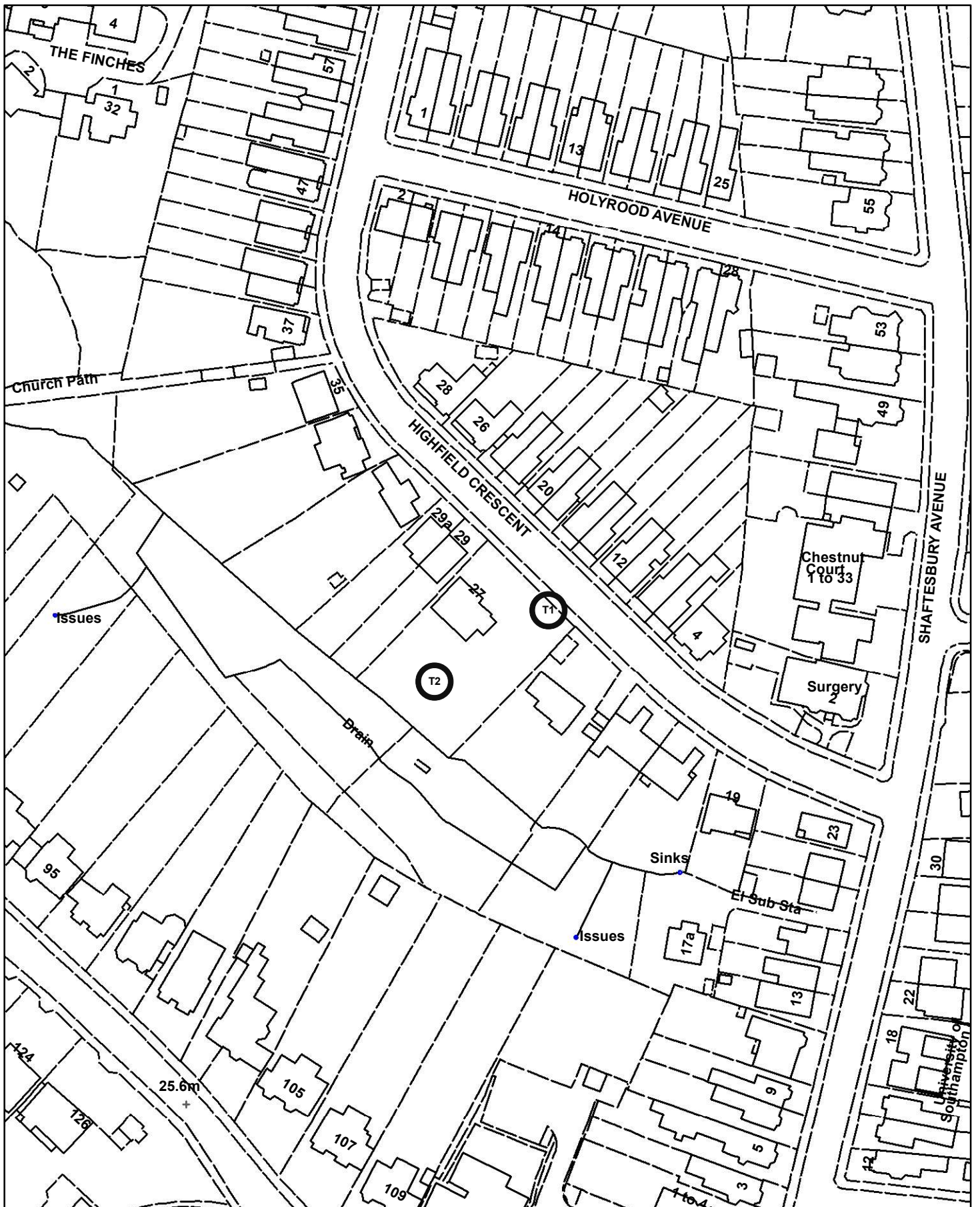
No. on Map	Description	Situation
None		

Woodlands
(within a continuous black line on the map)






No. on Map	Description	Situation
None		

Trees Specified by Reference to an Area
(within a dotted black line on the map)

No. on Map	Description	Situation
None		



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 This copy has been produced specifically for the map return scheme purposes only. No further copies may be made.

- Key
-  Individual Trees
 -  Group
 -  Woodland
 -  Area
 -  Not TPO'd

The Southampton (27 Highfield Crescent) Tree Preservation Order 2024

TPO Ref: T2-800

Department: Trees team

Drawn: WT Page 18

Scale: Not to Scale



David Tyrrie
 Head of City Services
 Transactions and Universal Services
 Southampton City Council
 Southampton SO14 7LY



Trees Team
Southampton City Council
Civic Centre
Southampton
Hampshire
SO14 7LY

Your Ref: T2-800
Our Ref: TPOobj-KC/27HIGHFIELD/001
Contact: [REDACTED]
Telephone: 01489 896655
Date: 2nd August 2024
Without prejudice

Dear [REDACTED]

**Formal Objection to the serving of statutory tree protection cited as -
The Southampton (27 Highfield Crescent) Tree Preservation Order 2024**

I have been instructed by my clients, [REDACTED], to visit their land and assess the trees included in the above Tree Preservation Order (TPO); comment on the status, condition and suitability of the trees contained therein and submit this letter as formal objection to the TPO.

I request that the Council does not confirm the TPO for the reasons stated within this correspondence.

Site visit

I attended the site on the afternoon of 30th July 2024 and made observations of a preliminary nature from ground level within the property and from the surrounding area. At the time of my visit the weather was clear and dry with good visibility.

Relevant documentation

In making this objection I have referred to and/or cite the following documents, guidance, standards and other relevant documentation:

- The TPO – *The Southampton (27 Highfield Crescent) Tree Preservation Order 2024* [hereafter referred to as “the TPO”];
- *Tree Preservation Orders: a guide to the law and good practice* (coupled with associated addendum May 2009) now cited as Planning Practice Guidance (document is now circulated online via the Planning Portal).
- *Tree Evaluation Method for Preservation Orders (TEMPO)* [hereafter referred to as TEMPO];
- *The Law of trees, forests and hedges* (Mynors, 2011);
- *British Standard 5837:2012 Trees in relation to design, demolition and construction*;
- *Trees in Hard Landscapes: A guide for delivery* (trees and design Action Group, 2014).

These documents provide guidance on statute or form nationally recognised industry protocols; thus I consider them relevant best practice in this instance.

Regulation 6

This letter sets out the reasons for the formal objection in accordance with Regulation 6 of the *Town and Country (Tree Preservation) (England) Regulations 2012*. The closing date stated by the local planning authority, by which time objections should be made, is the 6th August 2024.



Regulation 7

I draw the authority's attention to Regulation 7 paragraph 1 of the *Town and Country (Tree Preservation) (England) Regulations 2012* which states that:

"the authority shall not confirm an order which they have made unless they have first considered objections and representations duly made in respect of it and not withdrawn".

In addition, I note the comment in the attached information which states that;

"All valid objections or representations are carefully considered before a decision on whether to confirm the order is made". I would expect the matter to be heard at the appropriate committee with an opportunity for representations to be made by my client or appointed agent(s). I would be grateful for confirmation of the process at your earliest convenience.

Discussion with local planning authority

Planning Practice Guidance states that:

"Discussion between the LPA and any person who makes an objection is encouraged. Discussion can lead to a greater mutual understanding of each side's point of view. This in turn can help clarify the main issues which will have to be considered by the LPA before they decide whether to confirm the TPO. Alternatively, discussions can lead to the withdrawal of objections".

I have been engaged to make representations at short notice and have not had sufficient time, as yet, to liaise with the local planning authority arboricultural officer. My client would welcome an opportunity to discuss the TPO on site with the arboricultural officer at the earliest time and before the matter is put before the relevant committee.

Summary of reasons for objection

1. Amenity assessment – T1 is at best fair, T2 has limited public visibility.
2. Expediency – no immediate or foreseeable threat to the trees exists.

1. Amenity assessment

Government guidance states that:

"Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future"

adding that:

"Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- *size and form;*
- *future potential as an amenity;*
- *rarity, cultural or historic value;*
- *contribution to, and relationship with, the landscape; and*
- *contribution to the character or appearance of a conservation area".*

Furthermore Planning Practice Guidance states that:

"When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way".

Guidance on assessing trees is also provided in the document *Tree Evaluation Method for Preservation Orders* (TEMPO) which is widely used by local authorities to assess suitability for inclusion of trees within a tree preservation order.

The TEMPO system considers the relevant factors in the TPO decision making chain. Importantly trees must attain a minimum point score to warrant protection. The system, in line with government guidance, places emphasis, and points weighting, upon trees of better value and prominence.

The TPO is specified as two individual trees T1 and T2 as shown on TPO plan reference T2-800. Both are mature oak.

T1 Oak

During my site visit I noted that T1 is situated on the frontage of land at 27 Highfield Crescent, growing from a narrow steep bank that falls away from the pavement edge down to the existing access path that connects a single car parking bay to the house. I estimate the land between the two paths (public pavement and private access) to be circa 3m wide.

T1 has a misshapen stem, consistent with the historic loss of its main leader stem, resulting in a twisted and poorly formed specimen. The tree has been subject to frequent pruning to maintain it at a smaller size and resulting in a densely packed crown. Overall the crown of the tree is biased over the road currently with aspects failing to meet criteria for road and pavement clearance under the Highways Act, notably lower minor regrowth a potential obstruction to the pedestrian walkway and the primary lower crown obstructing the highway.

Condition assessment

In respect of condition TEMPO provides the following:

- "GOOD *Trees that are generally free of defects, showing good health and likely to reach normal longevity and size for species, or they may have already done so.*
- FAIR *Trees which have defects that are likely to adversely affect their prospects; their health is satisfactory, though intervention is likely to be required. It is not expected that such trees will reach their full age and size potential or, if they have already done so, their condition is likely to decline shortly, or may already have done so. However, they can be retained for the time being without disproportionate expenditure of resources or foreseeable risk of collapse.*
- POOR *Trees in obvious decline, or with significant structural defects requiring major intervention to allow their retention, though with the outcome of this uncertain. Health and/or structural integrity are significantly impaired, and are likely to deteriorate. Life expectancy is curtailed and retention is difficult".*

I do not consider T1 may reasonably be called GOOD. It is apparent that intervention to the crown has occurred for reasons unknown and equally apparent that intervention will be required to conform to the Highways Act. It is not unreasonable to consider that the tree may cause damage to either path, the steep bank it is retained in or a combination. The presence of mishappen limbs may also lead to loss of structural integrity. I therefore think it reasonable to describe the tree as FAIR/POOR but for this purpose I will use FAIR as a higher ranking is most reasonable.

Retention span

As a result of the above I think it also reasonable to reduce retention span. Note that, rather than lifespan, "TEMPO considers 'retention span', which is a more practical assessment based on the tree's current age, health and context as found on inspection".

I think it reasonable to suggest a retention span of 20-40 years under TEMPO. I suggest this is reasonable not least because of location as stated but also the likelihood of ongoing crown management to retain the tree without conflict to highway or pedestrian walkway.

Relative public visibility

In terms of relative public visibility, I consider the tree to be a large/medium tree visible to the public.

Other factors

At this point TEMPO looks at "*other factors*". This revisits the extract cited from government guidance (see page two above) that "*Public visibility alone will not be sufficient to warrant an Order...*"

TEMPO attributes additional points scoring to those trees that are either:

- *"Principle components of arboricultural features, or veteran trees;*
- *Members of groups of trees that are important for their cohesion;*
- *Trees with significant historical or commemorative importance or;*
- *Trees of particularly good form, especially if rare or unusual.*

I consider that none of the above may reasonably be attributed to T1. In fact TEMPO offers that "*trees with poor form or which are generally unsuitable for their location*" should have a point deducted from the assessment scoring and this seems to more reasonably fit T1.

T2 Oak

T2 lies further into the site, further downslope of Highfield Crescent approximately 32 metres from pavement edge. The tree lies approximately 9 metres from the rear elevation of the dwelling with the edge of the crown circa 2 metres from the dwelling.

Condition assessment

Whilst the tree has had some past crown pruning, it is reasonable to expect the tree to fall into the FAIR condition category, although I caveat that the slope and understorey vegetation made full assessment not possible.

Retention span

I would expect retention span to be longer than T1 but note proximity to the dwelling will result in the need for periodic pruning and decrease the likelihood of the tree attaining veteran or ancient status. It is not unreasonable to expect renovations, additions or replacement of dwelling at some point in time and this too has an impact albeit with any precautions laid down by *British Standard 5837: Trees in relation to design, demolition and construction*. I think therefore 40-100 years is reasonable.

Relative public visibility

As stated the tree is set back from the road, circa 32m down a reasonably steep slope and partly behind the dwelling. It is therefore reasonable to say that public visibility is limited.

As previously noted guidance states that "*Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future*".

With this in mind I have reviewed the public visibility of the tree at the primary cardinal points and included the results of this assessment at table 1 below. The cardinal point locations are indicated on the location plan provided at appendix one. Where the tree is visible (or views from immediate vicinity) views are included at appendix two as photos or extracts from Google street view.

Table one. Assessment of T2 visibility from public locations based on eight cardinal points.

Cardinal point	Location	Extent of tree visible	Comments
North	Highfield Crescent	<1/3	Tree obscured by dwellings (see photograph one at appendix two).
North East	Highfield Crescent	nil	Tree obscured by T1 (see extract one at appendix two).
East	Highfield Crescent	1/2	Lower half of tree obscured by built form (see extract two at appendix two).
South East	Shaftesbury Avenue	nil	Tree obscured by built form.
South	Highfield Lane	nil	Tree obscured by built form
South west	Highfield Lane	nil	Tree obscured by built form
West	Church Lane	nil	Tree obscured by built form and other trees
North West	Church Lane	nil	Tree obscured by built form and other trees

As can be seen above, there is limited relative public visibility restricted to views from the North and East. Because of the slope, there are no public views of the whole tree, at best the top half of the crown is visible. The tree is at its closest circa 32 metres from the public domain. All other public locations are increasingly remote (135-250 metres) from the tree and thus the tree is obscured.

Given the above there is a strong argument that removal of the tree would have limited impact rather than *"significant negative impact"* required by the guidance and that a *"reasonable degree of public benefit"* is not borne out of the test conducted above.

Other factors

The tree has no additional merits as per guidance previously explained for T1.

2. Expediency.

Planning Practice Guidance states that *"Although a tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO"*.

Furthermore, Planning Practice Guidance also states that *"it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management"*.

It is apparent that the trees have been allowed to grow and have been maintained in situ unharmed for the duration of their tenure which amounts to a period of over 40 years. During the same time period the grounds of the dwelling have seen other shrubs and plants also thrive.

During my site visit I could see no evidence of tree removal or adverse pruning that would warrant *"an immediate threat to the trees"* (term taken from TEMPO). No planning application or otherwise has been submitted in respect of the house or grounds thus a *"foreseeable threat to the tree(s)"*(TEMPO) is also absent.

Therefore the threat may be viewed as *"precautionary only"*.

TEMPO points scoring

Given my analysis above I conclude that the trees score as follows:

TEMPO section	T1 oak		T2 Oak	
1. amenity assessment				
a. Condition	Fair	3	Fair	3
b. Retention span	20-40 years	2	40-100 years	4
c. Relative public visibility	Clearly visible	4	Limited view	3
d. Other factors	Poor form	-1	None	1
2. Expediency assessment	Precautionary only	1		1
3. Points total		9		12
4. Decision guide	7-11 Does not merit TPO		12-15 Possibly merits TPO	

T1 fails to merit TPO when tested using TEMPO. T2 scores enough to possibly merit TPO. However TEMPO guidance states that the possibly merits score “*applies to trees that have qualified under all sections but have failed to do so convincingly*”.

As can be seen, the trees are unremarkable in that they have no rarity or historical value and are not part of any arboricultural features. T2 is set back with very limited public benefit accruing. Mynors (2023) in *The Law of Trees, Forests and Hedges – 3rd edition* adds that Government guidance “*emphasises, in particular, that orders should in general only be made to protect trees which are publicly visible and rarely those in rear gardens*”.

The serving of a TPO appears to stem from a perceived threat of the trees demise, presumably from local residents fearing redevelopment of the site. It is worth therefore stating that guidance is clear that a TPO should not be used as a mechanism to prevent development. It is not unreasonable, more likely foreseeable, that at some point the dwelling or grounds may be subject to change given, for example, that the current house is served by neither an access drive nor a garage at present – noting, for example, a more recent garage to the south east and more recent dwellings to the north west of number 27.

Trees in Hard Landscapes states that;

“One essential dimension of the context that is often overlooked when making choices involving trees is the local tree population. It is the population as a whole that delivers benefits, rather than individual trees considered in isolation. All new planting, tree retention or tree loss contribute to the local tree population and affect its long-term resilience. Effective tree design therefore requires a good understanding of the greater whole to which any scheme contributes”.

It adds that there should be “*a willingness to give and take, accepting that this may mean the loss, at times, of some trees - in which case adequate provision for replacements should be made in the local area affected by the loss, preferably using canopy cover or diameter at breast height as the point of reference*”.

Should any future development be proposed then these factors will need to be considered.

Conclusion

The Tree Preservation Order (TPO) seeks to protect two mature oak trees. Both trees have been subject of retention and management by the current owners for some time with regular pruning and maintenance. No adverse tree works have given rise to any immediate or foreseeable threat to the trees.

[Redacted text block]

Yours sincerely

[Redacted signature and contact information]



Appendix one

Cardinal point locations for amenity assessment of T2 (circled)





Appendix two

Views of T2 from cardinal point locations

Photograph one – view from N
on Highfield Crescent.



Extract one - view from NE on Highfield Crescent.



Extract two - view from E on Highfield Crescent.



No views of the tree are possible from any other cardinal points as all public viewpoints are remote (135 -250 metres distant) and views blocked by built form.

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Trees Team
Southampton City Council
Civic Centre
Southampton
SO14 7LY

27 Highfield Crescent
Southampton
SO17 1SG

5th August 2024

Without prejudice

Dear [REDACTED]

Formal objection to the serving of statutory tree protection cited as The Southampton (27 Highfield Crescent) Tree Preservation Order 2024

I have been asked by my parents [REDACTED] the freehold owners of 27 Highfield Crescent, to object to the TPO on their behalf. I am a practising solicitor but for this purpose I am acting in my capacity as their daughter. I also hold lasting power of attorney for them both.

Summary of objections

- The trees are not suitable for a TPO under the Regulations and relevant government guidance and therefore the Council does not have lawful authority to confirm the TPO; and
- Confirmation of the TPO in this particular case would be a disproportionate interference with [REDACTED] human rights under Article 8 and Article 1 of Protocol 1 of the European Convention on Human Rights as incorporated into UK law by the Human Rights Act 1998. The Council could achieve its objective through less intrusive means.

Background

[REDACTED] moved into the property in November 1979 and it has been a much-loved family home. [REDACTED] The garden has become too much for them to manage as [REDACTED] physical capacity no longer matches his love for gardening. It is very overgrown, as shown by the photographs attached.

As the house is some metres below street level, access is via a sloping path between trees to one side of the property or by stone steps to the other. This can be seen on the aerial view from Google Maps attached. Both entrances can become hazardous in autumn and winter when leaves fall and become wet. I take care myself when using them in these conditions and they present an obvious risk to elderly people's safety. This is despite the path having been replaced relatively recently as it was slippery.

All this, combined with the size and condition of the house, means that [REDACTED] are looking to move [REDACTED]

[REDACTED] This would lift the burden of trying to maintain the property [REDACTED]

[REDACTED] introduced them to Charters Estate Agents who provided initial advice on selling the property. The serving of the TPO shortly afterwards resulted in Charters revising their opinion on value, saleability and the time likely it would take to secure a buyer. I attach a letter from them confirming this advice.

The arrival of the TPO was a shock and has significantly increased my parents' existing anxiety as their future is now much more uncertain and less secure.

Legal basis

Under the TCPA s198, the Council has discretionary power to make a TPO 'if it appears... that it is expedient in the interests of amenity to make provision for the preservation of trees'. 'Amenity' is not defined in the legislation.

However, the relevant Government guidance says the following in relation to amenity (emphasis added):

*'Orders should be used to protect selected trees and woodlands if their removal would have **a significant negative impact** on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring **a reasonable degree of public benefit** in the present or future.'*¹

This shows that TPOs are to be made with due care and consideration as to the value of the particular trees in their context, and not as a default position for particular types of tree.

According to government guidance, objections and representations to TPOs can be made on any grounds². Under Reg 7 of the TPO Regulations 2012, the Council must consider these objections and representations before deciding whether to confirm the TPO. Under general public law, the balance of proof is on the Council to justify making the TPO and not for objectors to prove that it should not be made.

In reaching a decision, the Council must comply with the Human Rights Act 1998 where appropriate. I believe that [REDACTED] rights are engaged under the following articles:

Article 8

¹ [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274222/Tree_Preservation_Orders_and_trees_in_conservation_areas_-_GOV.UK_(www.gov.uk).pdf) Paragraph: 007
Reference ID: 36-007-20140306

² [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274222/Tree_Preservation_Orders_and_trees_in_conservation_areas_-_GOV.UK_(www.gov.uk).pdf)

Everyone has the right to respect for his private and family life, his home and his correspondence.

Article 1 of Protocol 1

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Both these rights are qualified, and if engaged, there must be a legitimate policy aim, and the Council must conduct a proportionality test to determine if the interference with the rights is justified based on the individual circumstances of the case.

The wording of the qualifications to each article is different, but in broad terms the test is similar – does the policy aim justify the interference with the right, and is there a way of achieving the aim with less interference?

For the purposes of this letter, it is accepted that;

- the TPO Regulations pursue a legitimate public interest aim – namely the preservation of trees which contribute to public amenity, and
- In most cases, any interference with a person’s rights is likely to be sufficiently mitigated by the scheme under the TPO Regulations for applying to do works to a protected tree, and the potential for compensation should harm be caused by refusal of such an application.

However, [REDACTED] circumstances are not mitigated by that scheme, as I will explain in more detail later.

Objection 1 - The suitability of the trees for a TPO

The Council has received separately an expert report by [REDACTED] of Technical Arboriculture Ltd, who has assessed the trees in context at the site. On this point, I defer to his professional judgment, qualifications and experience as a former council tree officer.

I will just pull out a few points from his report:

*‘T1 is a poor malformed specimen likely to conflict with the highway.
T2 is set back inside the property land holding by 32 metres but also down a significant slope.
As a result only a very small degree of public benefit can be proven.
My assessment, based on the use of TEMPO, concludes that the merits of the trees are unconvincing in terms of suitability for a TPO’*

I add the following comments for the Council’s information:

- Mr [REDACTED] refers to T1 being subjected to regular pruning to maintain it at a smaller size, resulting in a densely packed crown, and states that it would need work to comply with the Highways Act. T1 has been pruned in [REDACTED] ownership, largely due to concerns about it overhanging the pavement and the highway – an issue of concern to any householder. The need for this pruning for safety reasons over time would seem to have contributed to its poor form and unsuitability for a TPO.
- Mr [REDACTED] also refers to the limited visibility of T2, and government guidance states that there should be a ‘significant negative impact on the public or the local environment’ if the tree were to be removed. In addition to T2 not being visible save for partial views from specific points, it is also viewed against a background of other trees. This means that it is not reasonable to consider that any negative impact would be ‘significant’. The general verdancy of the area would not be impacted in a meaningful way.

In summary, my understanding based on the law and Mr [REDACTED] report is that:

1. T1 does not justify the confirmation of a TPO as the only criterion that it meets is that it is publicly visible. The government guidance is clear that ‘Public visibility alone will not be sufficient to warrant an Order’³ and the tree scores poorly on the other relevant characteristics cited in the guidance – size and form, future potential as an amenity, rarity cultural or historical value; contribution to, and relationship with the landscape⁴.
2. T2 does not justify the confirmation of a TPO, as it has little public visibility and, in its context, there would not be the required ‘significant negative impact’ were it to be removed. Given this, it is very questionable whether ‘a reasonable level’ of public benefit accrues to justify a TPO.
3. There is no evidence to support expediency in this case. [REDACTED] have been good stewards of not only these trees but many others, together with shrubs and other plants. There is no deal in place with any buyer or any indication that a buyer would harm the trees.
4. The Council can only confirm an order where it is satisfied that it is justified in doing so.

It seems therefore that the case for the TPO has not been adequately substantiated.

Objection 2 – Disproportionate interference with [REDACTED] human rights

If I am wrong on the above and the Council decides the trees are suitable, it must then apply the proportionality test in relation to the human rights issues. In doing so, it must consider the actual impact of its decision on [REDACTED]

³ [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas) Paragraph: 008
Reference ID: 36-008-20140306

⁴ *ibid*

This impact is unusually significant given their age, health and circumstances for the following reasons:

1. The normal mitigating factor of being able to apply to the Council to carry out works to the trees is not relevant. The harm is caused by the significantly increased timetable for a potential sale in the context of two elderly people trying to find a safe and manageable home [REDACTED] are [REDACTED] unable to cope with the property. This is not a situation that will improve.
2. The serving of the TPO has created high anxiety and uncertainty about their future, [REDACTED]
3. While new owners could of course apply to carry out works, it is the mere fact of the TPO that has a dampening effect on the market for the property (as evidenced by the significantly decreased valuation as well as the lengthened sale process). This is particularly relevant because [REDACTED] want to sell now, not at an unknown time in the future.
4. There is no merit in suggesting that prospective buyers should act differently to how they actually do, as it has no bearing on the reality of this situation.

I consider that [REDACTED] Article 8 rights to respect for their private life, family and home is engaged because:

1. The mere existence of the TPO is likely to prevent them from moving, as planned, from unsuitable and unmanageable accommodation into a more appropriate home in a timely manner [REDACTED]
2. The TPO has caused material mental stress and uncertainty to both [REDACTED] and therefore interfered with their psychological integrity;
3. Their ability to sell their home and make suitable choices for their own welfare has been limited, and this interferes with their personal autonomy; and
4. There is no provision for compensation of any kind for this interference. Monetary compensation would not in any event be sufficient in this case.

I consider that Article 1 of Protocol 1 is relevant for the same reasons. Their right to peaceful enjoyment of their property is being limited.

On the basis that their rights are engaged, proportionality must be considered. As it is accepted that a TPO in general has a legitimate aim, the key issues are whether less intrusive measures are available to the Council, and whether a TPO is proportionate in [REDACTED] case.

Less intrusive measures

As [REDACTED] states in his report, there is no evidence of an immediate threat to the trees. He considers that no adverse tree works or other circumstances suggest that

there is the 'expediency' required for a TPO. It would be precautionary at best and could be regarded as speculative.

██████████ garden has been one of their great pleasures in life, and they have neither the intention or desire to cause harm to the trees. Nor is there any reason to suggest that the trees would be harmed by any future owner.

If any development were to be proposed on the property (and I believe the scope is limited due to the sloping nature of the site), it would be subject to the planning process. This would include requirements for biodiversity net gain, a tree survey and appropriate treatment of the trees through conditions.

This would, in this case, seem to be both appropriate and remove the interference with ██████████ rights.

Proportionality

I consider that the key elements are:

- The level of suitability of the trees for a TPO. Even if the Council does not fully accept the argument that they do not qualify, they would appear to be borderline at best; and
- The impact on ██████████ in their particular circumstances is causing significant harm which it is not realistically possible to mitigate through the TPO process.

In relation to Article 8, the Council must be able to show that the interference with their rights is 'necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.' This is a high bar which I suggest is not met in this case.

In relation to Article 1 of Protocol 1, the Council must be able to show that the interference is 'necessary to control the use of property in accordance with the general interest'. Again, this does not seem to be met in the light of a less intrusive measure being available.

Discussions with the Council

As I live and work in west Dorset and have only just started a new full time job, I have not been able to contact the Tree Officer to discuss the TPO. He would have been unaware of the wider circumstances at the time of his site visit, and may not have had the time to conduct a survey to the extent that Mr ██████████ did.

I would be happy to discuss these objections further. I do however request that contact is initially made through me as my parents' attorney and not to them direct. This is their wish.

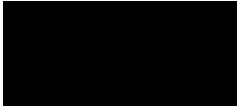
I can of course travel to Southampton for site visits.

Conclusion

I am sure the Council will understand that this has been a difficult letter to write but I am keen to ensure that my parents' situation is understood fully and that they are adequately represented.

I respectfully request that the Council decides not to confirm the TPO.

Yours sincerely



Note

We appreciate that transparency is important to the Council and to this process. Nevertheless, please note that the information on [REDACTED] is special category data and must be protected as such under the UKGDPR. It must not be disclosed.

Please also do not disclose the valuation figures in the letter from Charters Estate Agents, as this is also personal data. Making it public could hinder my parents' ability to negotiate any future sale price.

Google Maps aerial view of access



Pictures of garden



[REDACTED]
27 Highfield Crescent
Southampton
Hants
SO17 1SG

29th July 2024

Dear [REDACTED]

RE: Possible Tree Preservation orders at 27 Highfield Cres Southampton Hants

I first invited your home in June 2024 to provide you with an opinion of the value of your home.

We discussed many factors that affect the values of each home that we inspect. These factors included the current size and condition of your home, the size of the garden, parking arrangements, its location and the potential that each property has to be improved/extended.

Negative factors also need to be considered such as the topography of your plot, and the impact from surrounding properties and trees.

I am of the opinion that any protected trees at your property will affect both the saleability and the likely achievable market value due to the ongoing financial liability for future maintenance.

They can also affect the potential for extensions & alterations that have further implications as to how potential buyers will judge the property.

Our initial suggested Asking Price for your home was [REDACTED] and we would expect to secure a proceedable purchaser within close proximity to this figure and within a 12-week period. However, I would suggest that your property's value could be negatively affected by figures in the region of [REDACTED] due to the presence of these two large trees. I would also suggest that the impact of these potential TPO's will significantly increase the time that it will take to find a suitable purchaser.

I must stress that this is my opinion and this is backed by in excess of 30 years experience of working in the Southampton Housing Market.

[REDACTED]
Associate Valuation Director
Email: s.edser@chartersestateagents.co.uk

Charters Estate Agents Ltd
Registered Office:
13 Oakmount Road
Chandlers Ford
Hampshire
SO53 2LG.

Registered Number:
No. 06758915.
VAT Registration Number:
No. 150 9800 19.

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Agenda Item 6

Appendix 5

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Formal objection to TPO cited as "The Southampton (27 Highfield Crescent) Tree Preservation Order 2024"
Date: 27 August 2024 18:56:07
Attachments: [image001.png](#)

This Message Is From an Untrusted Sender

You have not previously corresponded with this sender.

[Report Suspicious](#)

Good evening, and thank you for your email.

I'm sorry it's taken so long to reply – I've had a lot to deal with recently and summer at work is very busy as several colleagues have been on holiday.

I very much appreciate your response and your understanding of the nature of the situation, as I've found it very difficult.

I confirm that it's best to use me as the point of contact, and I can involve [REDACTED] if necessary/appropriate.

I look forward to hearing from you when you've been able to review all the information. If it's easier to call, my mobile is [REDACTED] and I can usually take calls unless I'm in a meeting.

Kind regards

[REDACTED]

--

From: [REDACTED]
Date: Thursday, 8 August 2024 at 10:45
To: [REDACTED]
Subject: Re: Formal objection to TPO cited as "The Southampton (27 Highfield Crescent) Tree Preservation Order 2024"

Good Morning,

Thank you for your recent correspondence regarding 'The Southampton (27 Highfield Crescent) Tree Preservation Order 2024'.

The Council has up to six months from the date of the Order to consider whether to confirm or not. However, given the details of your objection and reasons stated, I am sympathetic to the potentially delicate nature of this case and will aim to deal with the matter as soon as I reasonably can.

The process for dealing with objections raised against new TPOs is for the Council to consider those points raised and if no agreement can be reached the matter will then be presented at a Planning Rights of Way meeting where a panel of elected members will consider all the points and vote as to whether to confirm or not. This is a public meeting in which you, and any representatives, would be invited to attend and can have a time slot to speak in support of your objection.

I can confirm that we are in receipt of the Arboricultural report from [REDACTED] and this will be included in the considerations.

I note that [REDACTED] has also lodged a formal objection on behalf of your parents, [REDACTED]. Both objections have been lodged against the TPO, but due to the fact that both are on behalf of [REDACTED] and you have stated that you hold power of attorney for them, I wanted to ask how you would like me to proceed. Would you like me to respond to [REDACTED] objection separately or deal with both aspects through yourself?

Typically we would respond to both but as the same tree report is referenced within both objections and both in representation of your parents, it may be beneficial to go through a single point of contact. Please note this will have no impact in the case going to panel if unresolved.

I will be in contact again in due course, once I have been able to review the information submitted and if you have any questions in the mean time, please do not hesitate to contact me.

Kind regards

[REDACTED]

[REDACTED]

City Services

Place Directorate

Southampton City Council

Hours of work: Mon,Tues, Wednesday ,Thursday and Friday

+44(0)23 8083 3005

email: [REDACTED] or [REDACTED]

From: [REDACTED] on behalf of Trees
<trees@southampton.gov.uk>
Sent: Tuesday, August 6, 2024 07:47
To: [REDACTED]
Subject: FW: Formal objection to TPO cited as "The Southampton (27 Highfield Crescent) Tree Preservation Order 2024"

F.Y.I – filed in TPO T2-800 folder

[REDACTED]

[REDACTED]

[REDACTED]

City Services

Place Directorate

Southampton City Council

Hours of work: Monday- Thursday

Tel: +44(0)23 8083 3005

Email: trees@southampton.gov.uk



Twitter: [@SouthamptonCC](https://twitter.com/SouthamptonCC) | Facebook: facebook.com/SotonCC

From: [REDACTED]

Sent: Monday, August 5, 2024 9:36 PM

To: Trees <trees@southampton.gov.uk>

Cc: Legal <legal@southampton.gov.uk>; Planning <planning@southampton.gov.uk>; [REDACTED]

Subject: Formal objection to TPO cited as "The Southampton (27 Highfield Crescent) Tree Preservation Order 2024"

You don't often get email from ros@bastonadvisory.co.uk. [Learn why this is important](#)

Dear [REDACTED]

I attach a formal objection to the serving of the above order. The objection relates to both the trees identified in that order.

The submission deadline is no later than 6 August 2024 and this objection is submitted on 5 August 2024

I would be grateful if you could kindly confirm receipt.

Kind regards

[REDACTED]

--

This email is confidential but may have to be disclosed under the Freedom of Information Act 2000, Environmental Information Regulations 2004 or data protection legislation. If you are not the person or organisation it was meant for, apologies, please ignore it, delete it, and notify us. SCC does not make legally binding agreements or accept formal notices/proceedings by email. E-mails may be monitored. This email (and its attachments) is intended only for the use of the person(s) to whom it is addressed, and may contain information that is privileged and/or confidential. If it has come to you in error, you must take no action based on it, nor must you copy or show it to anyone.

Our Privacy Policy (<http://www.southampton.gov.uk/privacy>) explains how we handle your personal data



TREES TEAM

Southampton City Council
City Services
Resident Services Directorate
Southampton City Council
SO14 7LY

Direct dial: 023 8083 3005

Our Ref: T2-800

Email: [REDACTED]

19th September 2024

Please ask for: [REDACTED]

Dear [REDACTED]

Town and Country Planning Act 1990
Town And Country Planning (Trees) Regulations 2012
The Southampton (27 Highfield Crescent) Tree Preservation Order 2024

Assessment of the trees and reasons for doing so

The tree suitability assessment was initiated by an enquiry received from a member of the public, with a request to formally protect three individual trees on the site, two Oaks at the front of the property and a single Oak in the rear garden. A request from a member of the public may be considered as a valid reason to assess trees and if suitable, to protect them in a precautionary manner. The request gave the following comments: *'These trees form part of both a wildlife corridor for birds moving from the green valley between Highfield Crescent and Highfield Lane and are a natural break in an otherwise sparsely green street for pedestrians traversing from Portswood to the University via Highfield Crescent. The trees have all been exceptionally well maintained by the landowners over a period of more than 30 years and are a landmark feature of the road.'*

An assessment of the trees was completed on 2nd July 2024 and the TEMPO form for this can be seen at Appendix 1 of this document. At the same time as assessing the trees for suitability, I knocked at the door and was able to have a conversation with [REDACTED] regarding a possible TPO being applied. We spoke about the trees and garden in general, and he told me that he thought he would not be residing at the address much longer and the house would likely be sold. We don't often consult with residents whilst making an initial assessment of sites and trees, as it unfortunately can allow a period, until the TPO becomes active where the trees are not protected and can lead to them being felled or pruned to an extent where they are no longer suitable. I must emphasise that I did not feel that this was a real possibility in this case as my initial thoughts were that the trees were under good management and felt comfortable giving some indication of my intentions. [REDACTED]

[REDACTED] Nonetheless the information that [REDACTED] shared with me, about selling the property, was integral in my final decision to place a TPO on two of the trees.

I appreciate that your parents had no intention to remove trees and that their stewardship of the trees has been as responsible owners. However, this is no guarantee to the long-term retention of trees should the house and land be sold.

Following my assessment, two of the trees were deemed suitable and the TPO was made and served, on 9th July 2024.

The letter you have provided from Charters suggests the opinion that the value could be negatively affected due to the presence of the two trees and that sale timescales may be affected by the TPO. This may suggest that if the trees were not there, it could improve the value, which in turn may be considered to increase the perceived threat to the trees. Though it can be accepted that some purchasers may look upon large, protected trees as a negative, there are also studies that show that areas with higher tree cover show an increase in property value and may be viewed as a positive feature.

Considering my assessment of the trees, my conversation with [REDACTED], and further supported by information that you have supplied, my scoring on the Expediency section of the TEMPO form is that the trees are under a 'perceived threat' rather than precautionary as suggested in the tree report. My full response to the report and other points raised in your objection are included below.

1. Response to tree report and the trees suitability for protection.

In response to the formal objection received to '*The Southampton (27 Highfield Crescent) Tree Preservation Order 2024*', I have examined the points raised in the associated tree report, referred to the relevant legislation, guidance and documents listed, and can offer the following assessment.

1. Amenity Assessment of T1 and T2

The report questions the amenity value of both trees, arguing that:

- T1 is of fair condition and has poor form.
- T2 is of fair condition, has limited public visibility and is located far from the road.

a) Public Visibility and Amenity Value

Government Guidance and Planning Practice Guidance (PPG) state that TPOs should be applied when the removal of trees would have a "significant negative impact on the local environment" and that trees must offer a "reasonable degree of public benefit." While visibility is an important component, it is not the sole determinant of whether a TPO is justified.

- Public visibility of T1: Despite the noted imperfections in T1's form and structure, it is still prominent from Highfield Crescent, and as such, provides public amenity value in terms of its contribution to the landscape, streetscape, and local character.
- Public visibility of T2: T2's visibility is somewhat limited from the front of the property, in part due to the dwelling and the overgrown nature of the garden. On Highfield Crescent, from the East and the West, this is greatly increased and T2 can be viewed as a prominent feature against the skyline. The front boundary of the property is made up from a hedgerow, which is somewhat overgrown and includes two other Oak trees that have been previously pruned to form pollards. These two other Oak were assessed as part of the TPO assessment but were subsequently not included. It would be reasonable to assume that the hedge row and the pollards will be pruned again in due course and in doing so this will increase the future visual amenity of T2. Additionally, under PPG, visibility does not need to be uniform from all angles. Even partial visibility from significant vantage points (e.g., from Highfield Crescent) can justify TPO protection if the tree contributes to local amenity or environment.

TEMPO Guidance (Tree Evaluation Method for Preservation Orders) also supports the assessment of visibility, but it emphasizes the tree's form, condition, and other factors. TEMPO points out that “trees of poor form or generally unsuitable for their location” should have deductions, but the assessment of T1’s form is subjective. While T1’s form is not ideal, it remains a substantial tree that benefits the street scene. The Officers own assessment using TEMPO shows the subjective nature of these assessments and offers a differing view. (See attached TEMPO forms and photos)

b) Condition and Retention Span of T1 and T2

The report acknowledges that T1 is categorized as "FAIR" under TEMPO and raises concerns about its pruning history and potential obstruction under the Highways Act. However, BS 5837:2012 (Trees in Relation to Design, Demolition, and Construction) emphasizes that a fair condition does not inherently negate the tree’s long-term contribution to the environment. Ongoing management, such as crown lifting or pruning for highway clearance, can mitigate these issues without the need for removal and may be considered as standard tree maintenance in an urban setting.

- T1 Retention Span: The assessment provides a retention span of 20-40 years, suggesting that the tree can continue to provide public benefit, albeit with management intervention. This aligns with TPO requirements, as even fair trees with moderate life expectancy may warrant protection if they contribute to the local environment.

For T2, the condition is also described as fair, and the suggested retention span of 40-100 years confirms that this tree can provide long-term benefits. Its proximity to the dwelling may necessitate some management, but this can be addressed under BS 5837, which governs tree management in proximity to development.

c) Other Factors – Cultural and Historic Importance

The report does not ascribe any cultural, historic, or commemorative importance to the trees, which TEMPO would otherwise consider as "other factors" that could elevate the score. However, the lack of these elements does not diminish the basic requirement for trees that positively contribute to the local landscape and environment, especially in a residential setting like Highfield Crescent.

2. Expediency of the TPO

The tree report argues that there is no immediate or foreseeable threat to the trees, citing a lack of planning applications or imminent changes to the land. However, expediency under TPO regulations is not solely based on immediate threats; it also considers the likelihood of future changes that could jeopardize the tree’s integrity. Given the pressures of urban development and confirmation that the property is being considered for sale, the local authority considers their concerns regarding future risks is valid.

Assessment of T1 and T2 Using TEMPO

The report uses the assessment method, specifically suggesting that both trees may fall short of the minimum score required to merit protection.

However, TEMPO is intended to be flexible, with a scoring system that integrates public visibility, condition, and other factors. Based on the provided assessment:

- T1 is visible from the road, has a fair condition, and contributes to the streetscape. Its form and need for management are not disqualifying but are factored into the retention span and condition scores. The retention span of 20-40 years aligns with moderate-term tree protection goals.
- T2 is less visible but still provides ecological and environmental value, particularly in a residential area and there is potential for future visual amenity if other vegetation within the property were to be pruned or removed or should the site be developed. While proximity to the dwelling may require future management, it does not invalidate the protection, especially given the 40-100 year lifespan.

Conclusion

In conclusion, the submitted tree report and associated assessment of T1 and T2 is not considered compelling grounds for dismissing the TPO. The key points in the objection—amenity value, public visibility, tree condition, and expediency—are addressed within the frameworks of Planning Practice Guidance, TEMPO, and BS 5837. Both trees, despite their imperfections, contribute positively to the local landscape and environment, warranting their protection under the TPO.

I am satisfied, based on the available evidence, that the trees are suitable for protection and that confirming the TPO is justified.

2. That the Council could achieve its objective through less intrusive measures.

A decision not to protect these trees would mean that future owners may choose to remove trees and there would be no mechanism in place to prevent their loss. I accept that tree protection may be conditioned if planning consent were to be sought but this would not stop trees being removed prior to an application being submitted. I accept that trees (even those removed) would form part of a future Biodiversity Net Gain assessment, but this would only secure a need to replace the biodiversity and may be carried out off site via contributions, or on site via other means. This would not secure the amenity value that these trees offer now. The only route available at this stage, to ensuring legal protection of trees, is via formal protection under a TPO.

I am satisfied that we have demonstrated this perceived threat to the future of the trees and that this, in turn, demonstrates expediency in making and confirming the TPO.

3. Disproportionate interference to Human rights act 1998

Article 8: Right to Private and Family Life

Article 8 of the *Human Rights Act 1998* guarantees an individual's right to respect for their private and family life, home, and correspondence. However, this right is qualified, meaning it can be lawfully interfered with if the interference is:

1. In accordance with the law—A TPO is a statutory measure backed by the *Town and Country Planning Act 1990* and related regulations.
2. Necessary in a democratic society—TPOs serve several legitimate aims, including the protection of the environment, community wellbeing, and public amenities. Trees often

contribute to air quality, reduce flood risks, and enhance mental well-being, all of which are critical public concerns.

3. Proportionate—The imposition of a TPO does not prevent all tree work but ensures that necessary tree management is undertaken responsibly and only with proper consent. This ensures that the public and private interests are balanced. Owners can still apply for permission to carry out works if it is justified, for instance, if a tree poses a safety risk or impacts their property rights excessively.

Therefore, while a TPO may affect the use of private property, it does so for the greater good, addressing legitimate concerns like environmental protection and urban health.

Article 1 of Protocol 1: Right to Property

Article 1 of Protocol 1 protects an individual's peaceful enjoyment of their possessions, which includes land and trees. However, like Article 8, this right is not absolute. Public authorities can interfere with property rights if it is:

1. In the public interest—TPOs are established in the public interest to preserve trees that offer significant ecological, aesthetic, and environmental benefits. Trees contribute to public health and well-being, particularly in urban areas, by improving air quality and biodiversity. Additionally, mature trees can increase property values and enhance the character of neighbourhoods.
2. Subject to law and conditions of control—A TPO is created under legal procedures that allow for due process, including the opportunity to object. The decision to make a TPO involves considering the condition, location, and value of trees, following the Tree Evaluation Method for Preservation Orders (TEMPO) and relevant planning practices. The affected party has the right to challenge the order, and an independent planning committee makes the final decision.
3. Proportionate to the aim pursued—While TPOs restrict certain actions (such as cutting down or pruning a tree without consent), they do not amount to a total loss of property rights. Property owners can still apply for consent to perform works that are necessary for health and safety or property maintenance. This ensures that the restriction is proportionate to the legitimate aim of protecting the environment and the public interest.

Conclusion

In consideration of a new TPO, the environmental benefits that trees provide to the community must be emphasized, as well as the qualifications on property rights and privacy under the *Human Rights Act*. TPOs are implemented to protect public interests, and any potential limitations on individual rights are both lawful and proportionate, aimed at preserving valuable environmental assets and ensuring sustainable development for current and future generations. As long as the TPO follows legal procedures and provides opportunities for affected parties to object or apply for necessary works, it does not infringe disproportionately on property rights under Article 1 or privacy rights under Article 8.

Specifically referencing this to the two Articles mentioned:

In relation to Article 8 the interference can be justified as it is 'for the protection of the rights and freedoms of others' to enjoy the benefits provided by these trees, both visually and environmentally.

In relation to Article 1 of Protocol 1, it is justified in the public interest that the trees amenity value is preserved.

I am satisfied, based on the available evidence, that the TPO does not disproportionately interfere with the rights of the landowners, under the Human Rights Act 1998.

Yours Sincerely

[REDACTED]

[REDACTED]

Southampton City Council

Appendix 1

Tree officer TEMPO assessments



**TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):
SURVEY DATA SHEET & DECISION GUIDE**

Date: 02.07.24	Surveyor: [REDACTED]
Tree details	
TPO Ref: T2- NA	Tree/Group No: Species: T1 - Oak
Owner (if known): Linkdown	Location: Front boundary of 27 Highfield Crescent, SO17 1SG
The Southampton (L) Tree Preservation Order 2023	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- | | |
|---------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead | Unsuitable |
| 0) Dying/dangerous* | Unsuitable |

Score & Notes = Bifurcates at 2m. Historic reduction works, typical regrowth pattern. No sig. defects observed. – potential remedial works to lift over highway (minimal) - 3

* Relates to existing condition and is intended to apply to severe (irremediable effects only).

b) Remaining longevity (in years) & suitability for TPO:

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes = 2 – Assuming 'good practice' management.

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality.

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use.

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees. | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Just suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes = 4 – Prominent to street

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of formal arboricultural features, or veteran trees |
| 4) Tree groups, or principal members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habit importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) |
| -1) Trees with poor form or which are generally unsuitable for their location |

Score & Notes = 1 – Past reduction work and position factored into retention score above.

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify:

- | |
|--|
| 5) Immediate threat to tree inc. s211 Notice |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only. |

Score & Notes = 2 – Land ownership

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:

12

**Decision:
TPO**



**TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):
SURVEY DATA SHEET & DECISION GUIDE**

Date: 02.07.24	Surveyor: [REDACTED]
Tree details	
TPO Ref: T2- NA	Tree/Group No: Species: T2 - Oak
Owner (if known): <u>Unknown</u>	Location: Front boundary of 27 Highfield Crescent, SO17 1SG
The Southampton Tree Preservation Order 2023	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- | | |
|---------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead | Unsuitable |
| 0) Dying/dangerous* | Unsuitable |

Score & Notes = 5 – Tree appears in good health with no indication of pest, disease or defects. Suitably located in garden with no apparent indication of negatively impacting property.

* Relates to existing condition and is intended to apply to severe (irremediable) effects only.

b) Remaining longevity (in years) & suitability for TPO:

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes = 4 – Remedial work possibly required to prevent encroachment to roof, standard maintenance.

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality.

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use.

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees. | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Just suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes = 3 – Future visibility may increase if overgrown veg were pruned or land developed.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of formal arboricultural features, or veteran trees |
| 4) Tree groups, or principal members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habit importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) |
| -1) Trees with poor form or which are generally unsuitable for their location |

Score & Notes = 1

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify.

- | |
|--|
| 5) Immediate threat to tree inc. s211 Notice |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only. |

Score & Notes = 2 – Land ownership

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:

15

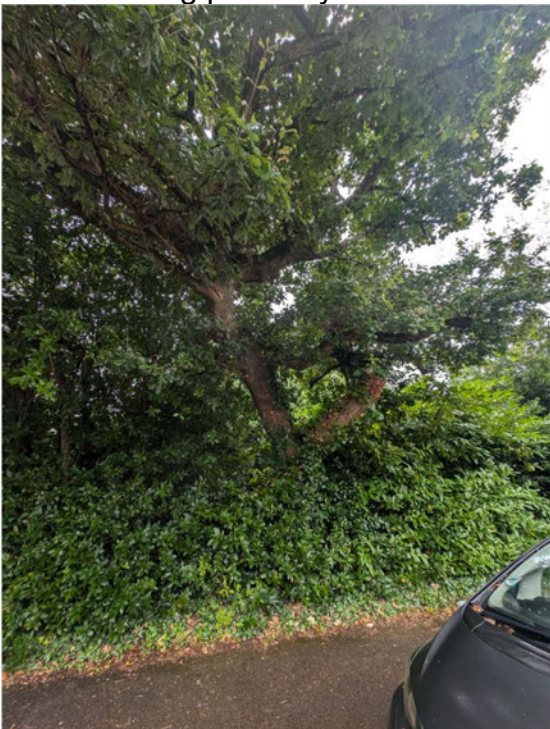
**Decision:
TPO**

Appendix 2 – Photos

T1 and T2 viewed from the East on Highfield Crescent



T1 – Showing proximity to road and form of the tree



T1 and T2, viewed from the West on Highfield Crescent



T1 and T2, viewed from the North on Highfield Crescent



From: [REDACTED]
To: [REDACTED]
Subject: Re: The Southampton (27 Highfield Crescent) Tree Preservation Order 2024 - Objection
Date: 28 October 2024 09:29:56

This Message Is From an Untrusted Sender

You have not previously corresponded with this sender.

[Report Suspicious](#)

Dear [REDACTED]

As I'm sure you expect, neither my parents nor I consider your response has adequately addressed the objections in relation to the trees themselves or other arguments.

In particular, the human rights assessment does not take it into account the specific facts and weigh the balance appropriately as it relies on generic assertions which are not in dispute.

I would be happy to engage further with the Council to secure proper management of the trees through less intrusive means prior to committee as this could address your concerns.

Kind regards

[REDACTED]

Sent from my iPhone

On 11 Oct 2024, at 08:26, [REDACTED]
wrote:

Dear [REDACTED]

Further to my email, dated September 20th 2024 and regarding my considerations of your objection to the TPO detailed above. I do not appear to have received a response advising whether you wish to uphold or withdraw your objection.

I hope that you have been able to consider my response and I would be most grateful if you could indicate your preference and return the attached form. I can then take the matter forward as appropriate.

Kind regards

[REDACTED]

[REDACTED]

City Services
Place Directorate
Southampton City Council
Hours of work: Mon, Tues, Wednesday, Thursday and Friday
+44(0)23 8083 3005
email: [REDACTED] or trees@southampton.gov.uk

From: [REDACTED] **On Behalf Of** Trees
Sent: Friday, September 20, 2024 10:24 AM
To: [REDACTED]
Subject: The Southampton (27 Highfield Crescent) Tree Preservation Order 2024 - Objection

Dear [REDACTED]

Town and Country Planning Act 1990
Town And Country Planning (Trees) Regulations 2012
The Southampton (27 Highfield Crescent) Tree Preservation Order 2024

Please find attached my initial response to your objection, received on 5th August 2024 and on behalf of your parents, to the above Tree Preservation Order (TPO). This includes my response to the tree report submitted by [REDACTED] on 2nd August 2024, on behalf of your parents.

I have considered both, alongside my own assessments, and have set out my responses in a systematic way which, I hope, deals with all the points raised, including a rationale of how I came to protect the trees in the first instance.

If you think a site meeting would be beneficial, I am happy to do so but understand if that is not practical and that it is perhaps not essential in this case.

You have informed us that information regarding [REDACTED] is special category data and must be protected under GDPR; also requesting that the valuation figures from the estate agents is not to be disclosed. We accept our GDPR obligations and agree not to disclose valuation figures should the matter be presented at a committee meeting. However, the sale of the property and potential delays to this forms part of your objection and I have therefore addressed the matter in this response. This potential change of ownership would also form part of my report should the matter be presented at a planning meeting.

Currently the tree preservation order is temporary and cannot be made

permanent (Confirmed) if there are objections to the making of the order, therefore if you are not satisfied with my response and wish to uphold your objection, then the matter must be presented to a panel of elected member at the Planning & Rights of Way panel.

This is a publicly held meeting in which your objection would be presented along with my report that details the reasoning behind the making of the TPO along with my responses to objections received. You will be invited to this meeting and will be given an allotted time to put your objection across to the members of the panel. Once all representation has been heard, the member will vote on whether the council should confirm the order.

I have enclosed a form that I would respectfully ask that you complete and return to this office to either declare that you have no further objection to the above order or wish to have the matter put forward at the next available planning and rights of way panel meeting.

Thank you for your patience whilst I have considered this matter and if you have any questions please do not hesitate to contact me.

Kind regards

[Redacted]

[Redacted]

City Services

Place Directorate

Southampton City Council

Hours of work: Mon, Tues, Wednesday, Thursday and Friday

+44(0)23 8083 3005

email: [Redacted] or trees@southampton.gov.uk

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the person or organisation it was meant for, apologies, please ignore it, delete it, and notify us. SCC does not make legally binding agreements or accept formal notices/proceedings by email. E-mails may be monitored. This email (and its attachments) is intended only for the use of the person(s) to whom it is addressed, and may contain information that is privileged and/or confidential. If it has come to you in error, you must take no action based on it, nor must you copy or show it to anyone.

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<Objection response form.docx>

From: [REDACTED]
To: [REDACTED]
Subject: RE: The Southampton (27 Highfield Crescent) Tree Preservation Order 2024 - Objection
Date: 29 October 2024 11:28:00

Dear [REDACTED]

Please accept my apologies for the improper use of title, I did not intend offence.

I do not feel that I am not unwilling to engage nor have I dismissed alternative means of securing interest, out of hand. I simply cannot see an alternative way of ensuring the proper management and protection of these trees without formal protection under the TPO. The facts are: that there is an intention to sell the property, two trees on the property have been assessed as suitable for protection and if the Order is not confirmed, these two trees will not be protected should new owners decide to remove them. Therefore it would be a dereliction of my duty as a Tree Officer, not to protect the trees in the interests of the public.

If you believe that there is a suitable alternative, that would adequately secure the trees management and be less intrusive, I would urge you to share this with me and I would be happy to consider it.

Kind regards

[REDACTED]

[REDACTED]

City Services
Place Directorate
Southampton City Council
Hours of work: Mon, Tues, Wednesday, Thursday and Friday
+44(0)23 8083 3005
email: [REDACTED] or trees@southampton.gov.uk

From: [REDACTED]
Sent: 29 October 2024 10:44
To: [REDACTED]
Subject: Re: The Southampton (27 Highfield Crescent) Tree Preservation Order 2024 - Objection

This Message Is From an Untrusted Sender

You have not previously corresponded with this sender.

[Report Suspicious](#)



Dear [REDACTED]

I am disappointed at the Council's unwillingness to engage in constructive discussion, given the discretionary nature of TPO orders.

You have dismissed out of hand looking at alternative means which could secure

both interests.

I am sorry that this has to go to committee with the resultant loss of privacy as to my parents' situation.

Please also note that I am not [REDACTED]. That is my mother. I am happy to be addressed as [REDACTED] or as [REDACTED] if formality is needed.

Kind regards

[REDACTED]

Sent from my iPhone

On 29 Oct 2024, at 10:33, [REDACTED]
wrote:

Dear [REDACTED]

When assessing the potential impact to the value of the property, the letter from your parents Estate Agent suggests that they consider the presence of the trees , not just the TPO, to be a negative factor and affect the potential value. Only those trees which were deemed suitable, offered the most amenity value to the local area and were not considered as restrictive to future development were protected, with others not meeting these criteria being omitted from the Order.

I believe this to be a balanced response to protect both the local amenity whilst also recognising your parents' specific concerns and in regards of their Human Rights.

As my previous assessment has shown, we consider the trees suitable for protection and do not consider there are less intrusive means of securing proper management of the trees. If the land were to be sold, the only way to secure proper management of trees, at the point of sale, is through the statutory protection of a TPO.

As it has not been possible for us to move past these points in agreement, I will now bring the matter to the next available Planning Rights of Way meeting. Details of this will be shared with you in due course and you will be invited to attend should you wish to.

A link to the relevant section of our website can found below which has details and procedures about the meeting.

[Browse meetings - Planning and Rights of Way Panel](#)

If you have any question regarding this please don't hesitate to contact me.

Kind regards

[REDACTED]

[REDACTED]

City Services

Place Directorate

Southampton City Council

Hours of work: Mon, Tues, Wednesday, Thursday and Friday

+44(0)23 8083 3005

email: [REDACTED] or trees@southampton.gov.uk

From: [REDACTED]

Sent: 28 October 2024 09:30

To: [REDACTED]

Subject: Re: The Southampton (27 Highfield Crescent) Tree Preservation Order 2024 - Objection

Dear [REDACTED]

As I'm sure you expect, neither my parents nor I consider your response has adequately addressed the objections in relation to the trees themselves or other arguments.

In particular, the human rights assessment does not take it into account the specific facts and weigh the balance appropriately as it relies on generic assertions which are not in dispute.

I would be happy to engage further with the Council to secure proper management of the trees through less intrusive means prior to committee as this could address your concerns.

Kind regards

[REDACTED]

Sent from my iPhone

On 11 Oct 2024, at 08:26, [REDACTED]
[REDACTED] wrote:

Dear [REDACTED],

Further to my email, dated September 20th 2024 and regarding my considerations of your objection to the TPO detailed above. I do not appear to have received a response advising whether you wish to uphold or withdraw your objection.

I hope that you have been able to consider my response and I would be most grateful if you could indicate your preference and return the attached form. I can then take the matter forward as appropriate.

Kind regards

[REDACTED]

[REDACTED]

City Services
Place Directorate
Southampton City Council
Hours of work: Mon,Tues, Wednesday ,Thursday and
Friday
+44(0)23 8083 3005
email: [REDACTED] or
trees@southampton.gov.uk

From: [REDACTED] **On Behalf Of**
Trees
Sent: Friday, September 20, 2024 10:24 AM
To: [REDACTED]
Subject: The Southampton (27 Highfield Crescent) Tree Preservation
Order 2024 - Objection

Dear [REDACTED]

Town and Country Planning Act 1990
Town And Country Planning (Trees) Regulations 2012
The Southampton (27 Highfield Crescent) Tree Preservation
Order 2024

Please find attached my initial response to your objection,

received on 5th August 2024 and on behalf of your parents, to the above Tree Preservation Order (TPO). This includes my response to the tree report submitted by [REDACTED], on 2nd August 2024, on behalf of your parents.

I have considered both, alongside my own assessments, and have set out my responses in a systematic way which, I hope, deals with all the points raised, including a rationale of how I came to protect the trees in the first instance.

If you think a site meeting would be beneficial, I am happy to do so but understand if that is not practical and that it is perhaps not essential in this case.

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I have enclosed a form that I would respectfully ask that you complete and return to this office to either declare that you have no further objection to the above order or wish to have the matter put forward at the next available planning and rights of way panel meeting.

Thank you for your patience whilst I have considered this matter and if you have any questions please do not hesitate to contact me.

Kind regards

[REDACTED]

[REDACTED]

City Services

Place Directorate

Southampton City Council

Hours of work: Mon, Tues, Wednesday, Thursday and Friday

+44(0)23 8083 3005

email: [REDACTED] or
trees@southampton.gov.uk

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INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 10th December 2024

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
Approximate Start Time – 4:45pm				
7	AG	CAP	5	24/00694/FUL Mayflower Park
Approximate Start Time – 5:15pm				
8	MP	DEL	5	23/00349/OUT 49-51 Belmont Road
Approximate Start Time – 5:45pm				
9	AC	CAP	5	24/01152/FUL 3 English Road

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

MP – Mat Pidgeon

AC – Anna Coombes

Southampton City Council - Planning and Rights of Way Panel

Report of Head of Transport & Planning

Local Government (Access to Information) Act 1985

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

Background Papers

1. **Documents specifically related to the application**
 - (a) Application forms, plans, supporting documents, reports and covering letters
 - (b) Relevant planning history
 - (c) Response to consultation requests
 - (d) Representations made by interested parties

2. **Statutory Plans**
 - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Plan (Adopted 2013)
 - (b) Amended City of Southampton Local Plan Review (Adopted March 2015)
 - (c) Connected Southampton 2040 Transport Strategy (LTP4) adopted 2019.
 - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
 - (e) Adopted City Centre Action Plan (2015)
 - (f) Community Infrastructure Levy Charging Schedule (2013)
 - (g) Bassett Neighbourhood Plan (Adopted 2016)

3. **Statutory Plans in Preparation**

4. **Policies and Briefs published and adopted by Southampton City Council**
 - (a) Old Town Development Strategy (2004)
 - (b) Public Art Strategy
 - (c) North South Spine Strategy (2004)
 - (d) Southampton City Centre Development Design Guide (2004)
 - (e) Streetscape Manual (2005)
 - (f) Residential Design Guide (2006)
 - (g) Developer Contributions SPD (September 2013)
 - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
 - (i) Women in the Planned Environment (1994)
 - (j) Advertisement Control Brief and Strategy (1991)
 - (k) Biodiversity Action Plan (2009)
 - (l) Economic Development Strategy (1996)
 - (m) Test Lane (1984)

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

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

5. Documents relating to Highways and Traffic

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

- (e) Institute of Highways and Transportation - Transport in the Urban Environment
- (f) I.H.T. - Traffic Impact Assessment Guidelines
- (g) Freight Transport Association - Design for deliveries
- (h) Department for Transport (DfT) and Highways England various technical notes
- (i) CIHT's Manual for Streets and Manual for Streets 2
- (j) Bus Service Improvement Plan (BSIP) 2021.

6. Government Policy Planning Advice

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

7. Other Published Documents

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

**Planning and Rights of Way Panel 10 December 2024
Planning Application Report of the Head of Transport and Planning**

Application address: Mayflower Park, Herbert Walker Avenue, Southampton			
Proposed development: Erection of Spitfire monument and memorial (resubmission of Planning Permission 19/01363/FUL) (amended location).			
Application number:	24/00694/FUL	Application type:	FUL
Case officer:	Andrew Gregory	Public speaking time:	5 minutes
Last date for determination:	09.08.2024	Ward:	Bargate
Reason for Panel Referral:	Request by Ward Member and five or more letters of objection have been received.	Ward Councillors:	Cllr Bogle Cllr Lambert Cllr Noon
Referred to Panel by:	Cllr Noon and Cllr Bogle	Reason:	Impacts on waterfront access and users of the park, including the Boat Show.
Applicant: National Spitfire Project		Agent: Vail Williams LLP	

Recommendation Summary	Conditionally Approve
-------------------------------	------------------------------

Community Infrastructure Levy Liable	Not applicable
Biodiversity Net Gain Applicable	Not applicable because the site is hard surfaced and therefore this is exempt development.

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 (2023). Saved Policies - SDP1, SDP12, SDP17, NE4, HE1, HE3, CLT11 of the City of Southampton Local Plan Review (Amended 2015) and CS6, CS12, CS13, CS14, CS21 and CS22 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015) and AP16, AP17 and AP23 of the City Centre Action Plan (2015).

Appendix attached			
1	Habitats Regulations Assessment	2	Development Plan Policies
3	Relevant Planning History		

Recommendation in Full

1. That the Planning Panel confirm that the attached Habitats Regulations Assessment – see **Appendix 1** - satisfactorily deals with the possible impacts of this development on Protected Sites; and,
2. Conditionally approve the planning application.

Background

The design for the proposed Spitfire monument resulted from a national design competition in 2010. Planning permission was first granted for the Monument in 2011 at a different location (at Trafalgar Dry Dock in the Eastern Docks - ref 11/01670/FUL). However, an alternative site had to be found because the Eastern Docks were required as a potential future relocation of the Red Funnel terminus.

In April 2015 Cabinet considered a report which outlined the terms for a 150-year lease of an area in Mayflower Park to the National Spitfire Project Charity (NSPC) to be used for the location of the monument. Full planning permission was granted in 2014 (ref 14/00636/FUL) and again later in 2019 (19/01363/FUL) for the monument in Mayflower Park, in the same location which is currently proposed. In June 2021 a decision was taken by Full Council to confirm the Council's strategic support for the Monument along with a further capital contribution towards the project.

Planning permission ref 19/01363/FUL expired at the end of October this year and further planning permission is now sought to enable additional time for fund raising and to secure the necessary agreements to enable development to commence. The Panel will note that the location of the proposed Monument has changed since the initial submission, and now sits largely in the same location as previously proposed. The Monument requires Council land and, whilst some joint working has taken place, those negotiations have been kept separate from the Planning Department's consideration of the Planning merits of this application.

1. The site and its context

- 1.1 The application site is located within the south-western corner of Mayflower Park on the River Test frontage. The site comprises revetment, promenade, car parking and access road with the park.
- 1.2 The surrounding area is mixed, although predominantly commercial in character with the Port of Southampton, Western Docks, directly adjoining to the west at Berth 101. The application site is not within a conservation area, the boundary of the Old Town West Conservation Area runs along the line of the Town Walls to the north-east of the site.

2. Proposal

- 2.1 The application, as first submitted, proposed to site the monument further back into the park for buildability reasons associated with proposed revetment repair works. However, that alternative location, 20m to the north, comprised grass park land and led to concerns regarding loss of grassed open spaces and impacts on the usability of the park as a public events space, including the International Boat Show which has taken place in the park since 1969. Therefore, this planning application was amended to revise the siting of the monument to return to the revetment/promenade location as previously approved.
- 2.2 The application proposes a 1.5 scale replica of a Spitfire aircraft mounted on a curved 'vapour trail' mast. To the highest point the structure would be 40 metres and would be finished in stainless steel.
- 2.3 The base of the structure would be approximately 32 metres in diameter and would partially project over the river to be supported by piles into the riverbed. The base of the structure would be a viewing platform incorporating a ramp for disabled access and a public seating edge. At the centre there would be a memorial pool, Tribute Roundels of the Allied Air Forces and a series of Tribute Plaques to the designers, constructors and test pilots of the aircraft.

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 2**.
- 3.2 Policy AP23 of the Centre Action Plan allocates the area of Mayflower Park, Royal Pier and Town Quay for a major mixed use development which could include cultural and leisure attractions, a range of commercial uses and improved public open space to create a high quality waterfront destination.
- 3.3 The National Planning Policy Framework (NPPF) was revised in 2023. Paragraph 225 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4. Relevant Planning History

- 4.1 A schedule of the relevant planning history for the site is set out in **Appendix 3** of this report, and the background section above provides a summary of the planning history.

5. **Consultation Responses and Notification Representations**

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, and erecting a site notice on 28.06.2024. At the time of writing the report **6 representations** have been received from Cllr Noon, The Old Town Residents Association, British Marine (the Boat Show Operators) and from surrounding residents. The following is a summary of the points raised:

5.2 ***Loss of Parkland***

Response – The planning application has been amended to site the monument in the promenade/revetment location as previously approved. The amended proposal will result in no loss of grassed public open space. The monument will be accessible at its base and will provide additional public space by cantilevering the concourse out over the revetment.

5.3 ***Loss of existing viewing on the promenade towards Berth 101 and ships arriving. The monument will obscure views of the Town Walls and Old Town when viewed from the water and Mayflower Park. Furthermore, the monument will impact on the setting of the nearby hotel, container port and docked cruise ships. Unclear why the monument needs to be 40m tall and 1.5 times the actual size of a Spitfire***

Response – Planning permissions have been granted in 2014 and 2019 for the same monument design in this location. There has been no material change in national or local planning policies relating to this development since the previous grant of planning permission. The cantilevered base of the monument will still afford views of Berth 101 and viewing space will still be available within the south-western corner of the park. The delivery of a landmark monument would enhance the setting of the park and will assist in creating a high-quality waterfront destination.

5.4 ***Waste of money and no plans to repair/replace Royal Pier.***

Response – The project costs and sources of funding are not a material planning consideration. Full Council has previously made a decision to provide a capital contribution towards the project. Royal Pier does not form part of this planning application.

5.5 ***Increase in red line size to circa 4000sqm shows that substantially more land space would be used-taking out the most valuable exhibitor sales space for the show and threatening the economic viability of the Boat Show.***

Response – The monument is of the same design, size and location as previously granted planning permission. The revised red line area is considered acceptable for the purposes of the planning application, having regard to site set-up, drainage etc. However, the planning application red line on the planning application does not have to match the red line area within the lease agreement and the Council, as landowner, have control over this.

Consultation Responses

Consultee	Comments
Historic Environment Officer	<p>No objection</p> <p>The introduction of a Spitfire Monument & Memorial to the western end of Mayflower Park as per the proposed size, design, and appearance was approved under 14/00636/FUL and 19/01363/FUL, respectively. From a conservation perspective, it was considered at this time that the monument was not considered detrimental to the outlook, and hence the character or appearance of the Old Town Conservation Area, or the setting of the various listed buildings within the Old Town, given the separation distances involved, and given that it was considered that a monument of this scale and design would make a positive addition to the city's skyline. The submitted revisions have confirmed that the monument would now revert to the position previously approved in Mayflower Park. On this basis, no objections would be raised from a conservation perspective and the request for a longer-term permission to provide sufficient time to help raise funds and to address other locational constraints would not be considered unreasonable.</p>
Urban Design Manager	No objection to the revised location.
Open Spaces Manager	<p>Objection to the previous location involving loss of grassed parkland and concerns regarding increased park maintenance costs associated with additional visitor number. No further comments received regarding the amended revetment/promenade location.</p> <p><u>Officer Response</u> <i>The amended proposal is the same as previously consented with no loss of grassed open space. Landscape maintenance budgets are not a planning matter and is a matter for SCC as landowner.</i></p>
Leisure Services	No objection
Environment Agency	No objection and request informative regarding a flood risk activity permit for works to an existing flood defence.

Natural England	<p>Natural England have previously raised no objection to this development subject to conditions to secure ecological mitigation relating to the construction environment, piling and lighting design.</p> <p><i>Note: The Habitats Regulation Assessment has been sent to Natural England and an update on their response will be provided at the Panel Meeting.</i></p>
Southampton Airport	No objection subject to an informative on the use of cranes
MOD	No objection subject to a condition to secure a structural appraisal to ensure the monument is not susceptible to collapsing and producing debris in the event of an explosive incident at Marchwood Military Port.
Ecology	The revised location moves the monument off the amenity grassland and therefore biodiversity net gain does not apply. However, the revised location encroaches into the Solent and Dorset Coast Special Protection Area which extends up to mean high water. One of the conservation objectives for this site is to maintain its extent and, consequently, the monument could result in significant effects under the Conservation of Habitats and Species Regulations 2017 (as amended).
Trees Team	There is no impact to trees from proposed location.
Cllr Bogle	<p>I note that this is the third time planning permission has been sought for this monument and to date no progress has been made on viable delivery. In terms of the planning law considerations, this has been approved previously and would seek assurance that any changes to the footprint of the monument will not have a detrimental impact on the other uses of the park, the revetements (which need significant investment) and the habitat.</p> <p>If this is recommended for approval, I request that this is referred to the Planning panel for consideration as there considerable public interest in this proposal.</p>
Cllr Noon	<p>Objection</p> <p>Mayflower Park in the city centre is the only public access to the waterfront and believe this application is over development and a plight on the park. It will also have a detrimental affect on other users of the park such as the Southampton International Boat Show.</p>

<p>Archaeology</p>	<p>Since my comments of 3/7/2024, the proposed location of the monument has been changed, and is now the same or similar to consented scheme 19/01363/FUL, with the monument laying partly within the existing level area of the park and partly on a concourse to be built out over the existing sloping dockside/parkside wall. The foundations for the monument will be piled, with two concrete piles to support the overhang. Other groundworks will be within 20th century land reclamation deposits, including a proposed attenuation tank. Early deposits may survive below the fill of the sloping dock wall and park reclamation deposits. If so, these early deposits will be disturbed by the piling. However on current evidence, and given the relatively small number of piles needed, it is unlikely that the disturbance will be significant. No archaeological conditions need to be attached to the planning consent if granted.</p>
<p>Southampton Commons and Parks Protection Society</p>	<p>Thank you for notifying SCAPPS of the applicant's submission of amended plans without explanation of what changes have been made, and why. We have read the document 'SCC Landowner'. We are aware the permission granted in 2019 has lapsed. There is too much uncertainty for the application to be approved at this time.</p> <p>1 Funding: the applicant should be required to demonstrate adequate funding is secured to complete the project and to provide, through binding agreements, arrangements for cleaning, regular inspection, maintenance and repair for the expected life of the structure.</p> <p>2 It would appear the amended plan may be seeking consent to site the monument as in the 2014 and 2019 permissions, but the applicant's own submitted Planning Statement sets out the difficulties that siting causes given the short-term need for repairs to the revetment and longer-term installation of higher flood defences.</p> <p>3 The SCC Landowner submission makes clear no lease will be considered until the applicant has negotiated with promoters of Boat Show and SeaWork proposals compatible with show layouts, and a programming of construction taking account of event dates, installation and dismantling. It also requires negotiation with local community about</p>

recreation use; SCAPPS points out the Park is a recreation resource valued and used by a much wider community. It is the only waterfront green area near the City Centre; it draws users from across the City and beyond. The applicant should be required to demonstrate the proposed development will not diminish or interfere with enjoyment of this waterfront green area — either in itself or in consequence of the increased numbers of visitors it draws to the Park.

4 Permission should only be granted within the context of an agreed and adopted plan for Park improvements providing a suitable setting for a national monument, capable of withstanding the considerable impact of the increased use and, in particular, providing a safe and attractive pedestrian route from Town Quay (road) at the Royal Pier entrance across the traffic flows to and from the Red Funnel ferry-terminal, into and through the Park.

SCAPPS encourages the applicant to withdraw the application, rather than it be refused, without prejudice to consideration of a subsequent submission when consideration has been given to these uncertainties.

Officer Response – SCC as landowner made a formal public objection to the application as first submitted, in relation to the location further back into the park, primarily because of impact on the loss of grassed open space and impact on the usability for public events such as the boat show. The objection also raised issues regarding funding and future maintenance costs which are not a material planning consideration.

The planning application has been amended to return to the revetment/promenade location as previously approved. As such there is no loss of grassed open space and suitable arrangements will need to be put in place through the lease agreement to minimise conflict with the International boat show set-up and layout. The relationship with the revetment repairs and future flood defence is covered in the considerations section below and are not considered to prevent the grant of planning permission. The proposed waterfront edge location of the monument will not prevent future

	<i>improvement works to Mayflower Park from coming forward.</i>
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6.0 Planning Consideration Key Issues

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

- The principle of this form of development;
- The height, design and appearance of the structure and any impact on key views;
- The impact on other activities within the park especially the annual Southampton Boat Show;
- Request for 10-year planning permission;
- Impact on revetment repairs and future flood defence works; and
- Likely Effects on Protected Habitats

6.2 Principle of Development

6.2.1 The principle of a large landmark structure to commemorate the Spitfire, and its importance to the City on this site within Mayflower Park, has been established since 2014 through two previous planning consents. Furthermore, an earlier planning permission in 2011 granted for an identical monument at a waterfront site at Trafalgar Dry Dock. There has been no subsequent change in national or local planning policy or grant of planning permissions for alternative development in Mayflower Park which prevent further grant of planning permission for the monument in Mayflower Park. Moreover, any City Centre master planning work for Mayflower Park has no weight for planning decision making purposes at this stage. The structure would be visible from many viewpoints around the city and would represent a tourist destination for one of the main publicly accessible parts of the city's waterfront. The principle of this development is therefore, again, acceptable.

6.3 The height, design and appearance of the structure and any impact on key views

6.3.1 The proposal is the same in design and scale to previous planning consents for the monument and would accord with planning policy objectives to provide an attractive waterfront. Policy AP17 of the City Centre Action Plan supports the principle of tall structures at the waterfront. The proposed structure would have an elegant profile and its positioning on one of the key public spaces in the city would make a positive addition to the city's skyline. The submitted Design and Access Statement demonstrates that a high-quality public realm would be created at the base of the monument. Given the 'open nature' of the surroundings the monument, being 40 metres in overall height, would be visible from views into and out of the Old Town Conservation Area. However, the profile and nature of the structure is such that it would result in a positive impact. The Town Walls are some 250 metres from the structure. Consequently, it is considered that this location for this monument would not be detrimental to the character or appearance of the

conservation area or the setting of the various listed buildings within the Old Town.

6.4 Impact on other activities within the park; especially the Southampton Boat Show

6.4.1 Mayflower Park is used extensively for a range of public events including circuses, firework displays etc in addition to the closure of the park for the annual Southampton International Boat Show. It is a key public open space in the city.

6.4.2 The proposed monument would add an important public attraction without reducing the area of open space; in fact the area of publicly accessible open space would effectively be enlarged due to the deck extending out over the water.

6.4.3 The importance of the boat show to the city is very significant. The operators of the boat show are understandably concerned about the future of the boat show but it does not necessarily follow that this proposal would reduce the area available for the boat show or make it more difficult to operate. The area of the park affected is relatively small: the base of the monument takes up approximately 400 square metres of existing parkland. The applicants have submitted an indicative drawing to show that the base of the monument could be used as a corporate entertainment area or similar during the boat show event.

6.4.4 ABP have previously requested a condition requiring structural details to ensure the monument does not undermine the integrity of the revetment and sea wall. This application is supported by River Wall construction details, including the use of a coffer dam to construct the monument in this river edge location. ABP have been consulted but to date have provided no comments. It is recommended that a pre-commencement condition is again imposed to enable further opportunity to engage with ABP on this matter prior to the commencement of development.

6.5 Request for 10-year planning permission

6.5.1 The applicants have requested a 10-year planning permission to provide further time for fund raising, to secure the necessary consents and technical approval. Previous planning permissions for the monument have been granted for 5-year periods. The request for additional time for fund raising reasons should assist with the delivery of the development, and can be supported in principle, having regard to national planning practice guidance. There are no planning policies or planning permissions for development within Mayflower Park to provide a strong reason for not supporting a 10-year planning permission. Therefore, the requested 10-year planning permission is recommended, but the Planning Panel may wish to debate this and consider a lesser time period.

6.5.2 A lesser time period of 5 years or the default period of 3 years could be argued, given that national planning policy advises that local development plan policies should be reviewed every 5 years. Furthermore, the Council has aspirations to see significant improvements in Mayflower Park over the next 10 year and any uncertainty of the Spitfire monument progressing for that period may negatively affect future bidding and development opportunities. The Council, as landowner, will have its own controls over timings.

6.6 Impact on revetment repairs and future flood defence works

- 6.6.1 The revetment repair project team do not object to the monument being built over the revetment, but it does introduce challenges around buildability and maintenance liabilities. The revetment repair design includes a concrete mattress system which will overlay the existing revetment. The revetment project is progressing on the basis that the revetment repair works will be completed in advance of the monument. Therefore, as and when, construction of the monument commences with piling through the revetment, the applicants will be responsible for making good of the concrete mattress.
- 6.6.2 The Council as landowner will have control over construction programmes to manage and avoid conflict and any lease agreement will need to be structured to avoid issues arising from the legalities of maintenance liabilities of both parties.
- 6.6.3 A scheme of flood defence works has not been developed for this area. However, the revetment repair project team advise that under their scheme of works there are no proposals to raise the height of the revetment. Any future flood defence works could be built around the monument and the Council's Flood Team have advised that any future defence may follow the northern boundary of the park rather than the river edge.

6.7 Likely Effect on Protected Habitats

- 6.7.1 The proposed development has been screened (where mitigation measures must now be disregarded) as likely to have a significant effect upon European designated sites arising from the construction phase and a small loss of habitat. 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 that mitigation is required to control construction works (proposed condition 3), piling (proposed condition 4) and lighting design (proposed condition 5), the development will not adversely affect the integrity of the European designated sites.

7. Summary

The principle of this form of development on the waterfront has been established by the previous permissions at Mayflower Park and Trafalgar Dry Dock. The development would not adversely affect the Old Town and its many heritage assets. Other concerns about structural impact and the effect on the operation of the boat show can be dealt with by conditions or through the Council's role as landowner. It is recommended that the Panel support this project once again given the significance of the Spitfire to the City and the mitigation of its impacts on offer.

8. Conclusion

- 8.1 It is recommended that permission be granted subject to conditions

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

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

Case Officer **Andrew Gregory** PROW Panel 10.12.2024

PLANNING CONDITIONS to include:

01.APPROVAL CONDITION - Full Permission Timing Condition - Physical works

The development works hereby permitted shall begin not later than Ten years from the date on which this planning permission was granted.

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

02.APPROVAL CONDITION - Building materials to be used [Performance Condition]

The development shall be carried out in accordance with the schedule of finishing materials as set out within the submitted Materials and Finishes Report dated July 2024.

Reason: In the interest of the visual amenities of the locality.

03.APPROVAL CONDITION - Construction Environmental Management Plan

The development shall be carried out in accordance with Construction Environment Management Plan Rev 1, July 2024 by Ecosupport.

Reason: To ensure that the natural conservation interests of the site and surrounds are adequately safeguarded.

04.APPROVAL CONDITION - Piling Method [pre-commencement condition]

Prior to the implementation of the development hereby approved, the applicant shall submit in writing to the Local Planning Authority the proposed method of piling to be used in the construction of development. No development shall commence until the submitted details have been agreed in writing by the Local Planning Authority. Development shall be implemented and proceed only in accordance with the agreed details.

Reason: To satisfy the requirements of Natural England and the Environment Agency, and to ensure that an appropriate form of piling is undertaken for each phase in the interests of protecting residential amenity and the habitat of the Lee on the Solent to Itchen Estuary Site of Special Scientific Interest (SSSI), the Solent and Southampton Water Ramsar Site, the Solent and Southampton Water Special Protection Area (SPA) and the River Itchen Special Area of Conservation (SAC), whilst ensuring that any piling methods used do not cause pollution, harm or nuisance.

05.APPROVAL CONDITON - Lighting Scheme [Performance condition]

The development shall be carried out and retained in accordance with Lighting Design Report by Nick Hancock dated June 2024

Reason: To ensure that the lighting does not adversely impact on local biodiversity

06.APPROVAL CONDITION - Details of river wall (Pre-Commencement Condition)

No development shall commence until details of the construction methodology, including the protection and maintenance of the revetment and sea wall, have been submitted to

and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details approved by the Local Planning Authority.
Reason: To ensure that the construction details are satisfactory to safeguard adjoining land and in the interests of maintaining flood defences.

07. Structural Appraisal (Pre-commencement Condition)

No development shall take place unless or until a Structural Appraisal prepared by a suitably qualified and experienced blast consultant who is listed on the current Register of Security Engineers & Specialists (RSES) has been submitted to and approved in writing by Southampton City Council, in consultation with the Ministry of Defence. The submitted report should include calculations, technical specifications, and structural drawings to demonstrate that the structure(s) which form the subject of this consent (including, but not limited to, the main structural frame, cladding, doors and any glazing) have been designed to withstand the dynamic loadings listed below:

- Peak incident overpressure, $P_s = 4.944$ kPa
- Normally Reflected Pressure, $P_r = 10.07$ kPa
- Time of arrival, $t_a = 1877$ ms
- Positive phase duration, $t_+ = 194$ ms
- Incident Impulse, $I_s = 423.8$ kPa-ms
- Reflected Impulse, $I_r = 757.5$ kPa-ms
- Shock Front Velocity, $U = 347.1$ m/s
- Peak dynamic pressure, $q = 0.08526$ kPa
- Peak Particle Velocity, $PPV = 11.6$ m/sec
- Shock Density, $\rho = 0.001268$ Mg/cubic
- metre
- Specific heat ratio = 1.4 Dimensionless
- Decay coefficient, $\alpha = 508.2$ Dimensionless

The development shall be carried out strictly in accordance with the details and specifications set out in any approved Structural Appraisal. Thereafter, the development shall be maintained strictly in accordance with any details set out in the approved Structural Appraisal.

Reason To maintain the operation of MOD explosives handling and loading of explosives at the Marchwood SMC , and to maintain the safety of the public

08.APPROVAL CONDITION - Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

For the avoidance of doubt and in the interests of proper planning.

Habitats Regulations Assessment (HRA)

Application reference:	24/00694/FUL
Application address:	Mayflower Park, Herbert Walker Avenue, Southampton
Application description:	Erection of Spitfire monument and memorial (resubmission of Planning Permission 19/01363/FUL) (amended location).
HRA completion date:	25/11/2025

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

Summary
<p>The project being assessed would lead to the erection of a Spitfire monument and memorial on the river frontage of Mayflower Park. This development lies adjacent to the Solent and Dorset Coast Special Protection Area (SPA) and approximately 715m from the Solent and Southampton Water Special Protection Area (SPA) and Ramsar site. The Solent Maritime Special Area of Conservation (SAC) is approximately 2.8km upstream. Atlantic salmon, <i>Salmo salar</i>, which are a designated feature of the River Itchen SAC may pass the site whilst on migration.</p> <p>The site is currently a public walkway within a park and is used by visitors to view the waterfront and ships berthed in the docks. After installation this activity will continue but at a higher level. There is a risk of construction stage impacts which could lead to adverse effects on features of interest of the European sites.</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 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.</p>

European sites potentially impacted by plan or project:	<ul style="list-style-type: none"> ▪ River Itchen Special Area of Conservation (SAC) ▪ Solent and Dorset Coast SPA (SPA). ▪ Solent Maritime SAC ▪ Solent and Southampton Water Ramsar
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 [redacted]	Site <ul style="list-style-type: none"> ▪ Solent and Southampton Water Special Protection Area (SPA)
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No – the installation of a Spitfire monument 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)?	

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.

<p>Test 1: the likelihood of a significant effect</p> <p>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.</p> <p>The project being assessed would lead to the erection of a 1.5 scale replica of a spitfire aircraft mounted on a curved 'vapour trail' mast on the river frontage of Mayflower Park. At its highest point the structure would be 40 metres tall and would be finished in stainless steel. The base of the structure would be approximately 32 metres in diameter and would partially project over the river to be supported by piles into the riverbed. This development lies adjacent to the Solent and Dorset Coast SPA and approximately 715m from the Solent and Southampton Water SPA and Ramsar site. The Solent Maritime SAC is approximately 2.8km upstream. Atlantic salmon, <i>Salmo salar</i>, which are a designated feature of the River Itchen SAC may pass the site whilst on migration.</p> <p>A full list of the qualifying features for each site is provided at the end of this report. The development could have implications for these sites which could be both temporary, arising from the construction phase of the development, and permanent arising from the operational phase.</p> <p>The following activities have been identified as having the potential to result in direct impacts which could lead to significant adverse effects;</p> <ul style="list-style-type: none"> • Disturbance (noise and vibration); • Contamination (mobilisation of contaminants, dust and spills of oil, fuel and chemicals); <p>These impacts have the potential to affect sandwich tern, <i>Sterna sandvicensis</i>; common tern, <i>Sterna hirundo</i>, Little tern, <i>Sternula albifrons</i>, Atlantic salmon, <i>Salmo salar</i> and birds which form part of the assemblage of the Solent and Southampton Water SPA/Ramsar site</p>
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Collision risk has also been identified as a potential risk to interest features of the Solent and Dorset Coast SPA and the Solent and Southampton Water SPA and Ramsar site. However, the Southampton Wetland Bird Flight Path Study 2009, which was undertaken to support the development of the Core Strategy, established that the majority of wetland bird flight activity around Southampton occurred over water. In addition, the area around the park contains a number of existing tall structures including cranes and large ships which are of comparable height to the proposed monument. The monument therefore poses a minimal risk to birds using the adjacent waterway and the risk of collision can be screened out.

A number of avoidance and mitigation measures will be employed, these are set out below:

- CFA piling will be used to install piles, and a draft piling methodology has been submitted.
- Construction Environmental Management Plan (CEMP)
- Lighting report.
- Details for river wall construction

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 proposed Spitfire monument lies adjacent to the Solent and Dorset Coast SPA and approximately 715m from the Solent and Southampton Water SPA and Ramsar site. The Solent Maritime SAC is approximately 2.8km upstream. Atlantic salmon, *Salmo salar*, which is a designated feature of the River Itchen SAC may pass the site whilst on migration.

The site is currently a public walkway within a park and is used by visitors to view the waterfront and ships berthed in the docks. After installation this activity will continue but at a higher level. There is a risk of construction stage impacts which could lead to adverse effects on features of interest of the European sites.

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 presence of temporary 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 in order to determine the implications for the identified European sites in line with their conservation objectives and 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 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." Whilst the conservation objective for the 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."

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 BASED EFFECTS

Disturbance

River Itchen SAC

The River Itchen SAC is located approximately 4.8km to the north-east of the site and, as such, is too distant to be directly affected by activities likely to cause disturbance. However, Atlantic salmon, a species for which the SAC is designated, are known to use the lower reaches of the Test prior to migrating up the River Itchen to breed and it is therefore considered to be functional habitat for the SAC. There is therefore some potential for disturbance to affect the SAC.

Atlantic salmon

Atlantic salmon show high fidelity to their breeding grounds and will return to the river in which they were born in order to breed. It is important therefore that the migration route from the sea to the freshwater section of the River Itchen is not obstructed in any way.

Atlantic salmon migrate twice in their lives. Firstly, between June and September, adult salmon make their way up the River Itchen on their way to breeding grounds in the upper reaches. Prior to making their way up the river they will spend time in the confluence of the Rivers Itchen and Test waiting for the right conditions. During October and November they will spawn in depressions made in clean gravel. Then, 1-6 years later, young salmon, known as smoults, travel down the river on their way to the ocean. Smoults are present in the lower reaches during late spring.

High levels of vibration resulting from noisy activities such as piling can cause impacts ranging from fish actively avoiding the area close to the source of the disturbance to

individual animals being injured by vibration. Critically, this can cause salmon to delay their migration or to give up entirely. It is important, therefore, that where practical noise levels are minimised by, for example, using quieter construction techniques or, if this is not possible, noisy activities such as piling are timed to avoid salmon migration periods.

Continuous flight auger (CFA) piling, which generates low levels of noise and vibration, will be used for the Spitfire monument project. As a consequence, no further mitigation measures are required in respect of noise.

Solent and Dorset Coast SPA

The site lies adjacent to the Solent and Dorset Coast SPA which is designated as a foraging area for three species of breeding terns, sandwich tern, common tern, and little tern.

Mayflower Park, in which the proposed monument is to be installed, is located between two sets of quays used by container ships and cruise liners and as a consequence there are already high levels of background noise. Any birds feeding in the area will already be habituated to these high noise levels however, to minimise risks further the Spitfire and other components e.g. beams and plinth, will be fabricated off site. The only additional noise will come from the movement of plant, piling and concrete laying. As mentioned above CFA piling, which not only generates low levels of vibration but also low noise levels will be used. In addition, plant and tools will be carefully selected based on noise levels and silencers will be fitted where possible. Risk Assessments and Method Statements will be produced for each construction activity.

With the above measures in place adverse impacts on foraging terns can be prevented.

Solent and Southampton Water SPA and Ramsar site

The Solent and Southampton Water SPA and Ramsar site are designated for five species of breeding terns, significant populations of black-tailed godwit, *Limosa limosa islandica*, dark-bellied Brent goose, *Branta bernicla bernicla*, ringed plover, *Charadrius hiaticula* and teal, *Anas crecca* and a significant assemblage of over-wintering waterfowl.

The nearest section of the SPA and Ramsar site is 715m to the south west of the monument whilst the Solent Waders and Brent Goose Strategy maps indicate that the nearest area of supporting habitat, a low use high water roost, is located 280m to the south east of the application site. As a result, of this distance disturbance caused by the physical presence of people and machinery will not occur. In addition, disturbance from the noise of piling will not occur as the applicants have opted for CFA piling which is a quiet form of piling.

Pollution

The proposed development could potentially result in pollution of the river channel as a result of the mobilisation of historic contaminants, 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.

River Itchen SAC,

The use of plant and machinery within the river poses a risk of accidental spillage of oil and fuel. This would pollute the water and be harmful to interest features including salmon.

The most effective means of minimising the risk of spills is to ensure that refuelling and topping up of oil and grease is undertaken away from the water's edge. A refuelling area, located away from the watercourse, will therefore be used. All fuels, oils and flammable liquids will also be stored in a lockable storage area in tanks and containers. In addition, as there is always the risk of leaks, spill kits will be kept close to the work site and operatives will be trained in their use.

The proposed development could potentially result in pollution of the river channel as a result of the mobilisation of historic contaminants, 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. To mitigate these risks only the minimum area necessary for construction will be disturbed, storm water inlets will be protected with silt fencing or rock-filled bags and silt fencing will be used to prevent leaching into the water course. Dust could also be generated by construction work. To remove the risk of harm materials being broken up will be damped down and work will be undertaken by hand rather than machinery where possible.

With the mitigation measures detailed above in place adverse impacts can be avoided. The mitigation measures will be delivered through a Construction Environmental Management Plan (CEMP)

Solent and Dorset Coast SPA

There is a risk of pollution incidents from the use of machinery close to the water's edge affecting the conservation objectives for the Solent and Dorset Coast SPA. However, the mitigation measures proposed in respect of the features of the River Itchen SAC will also be effective in respect of safeguarding the features of the Solent and Dorset Coast SPA.

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

The potential for pollution incidents, arising from the use of machinery adjacent to the River Itchen, adversely affecting qualifying features of the SPA/Ramsar, is considered to be negligible due to the distances involved.

PERMANENT, OPERATIONAL STAGE EFFECTS

Loss of habitat

Solent and Dorset Coast SPA

The boundary of the Solent and Dorset Coast SPA adjacent to Mayflower Park is the mean high water mark. The cantilevered section of the monument will extend out over a small section of the designated site (approximately 360m²) blocking access to the water for foraging terns. However, part of this area includes the existing revetment wall where

the water is too shallow for plunge diving. In addition, the monument structure does not impact the water directly and therefore the habitat will still be available to the tern's prey species. The impact of the habitat loss is therefore considered to be negligible.

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

The findings of the initial assessment concluded that a significant effect was likely through a number of impact pathways. As such, a detailed appropriate assessment has been conducted on the proposed development, incorporating a number of avoidance and mitigation measures which have been designed to remove any likelihood of a significant effect on the identified European sites.

This report has assessed the available evidence regarding the potential impact pathways on the identified European sites. It has also considered the effectiveness of the proposed avoidance and mitigation measures. It has been shown that, provided that the proposed mitigation measures are implemented, **the significant effects which are likely in association with the proposed development can be overcome.**

Mitigation measures which are summarised below, should be secured through a legal agreement or planning conditions:

- CFA piling will be used to install piles, and a draft piling methodology has been submitted.
- Construction Environmental Management Plan (CEMP).
- Lighting report.
- Details for river wall construction.

As a result, there should not be any implications as a result of this development in relation to either the conservation objective of the SPA and SPA to "avoid the deterioration habitats of the qualifying features, and the significant disturbance of the qualifying features, ensuring that the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive" or to the conservation objective of the SAC 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."

European Site Qualifying Features

River Itchen SAC

The River Itchen SAC qualifies under Article 3 of the Habitats Directive by supporting the following Annex I habitat:

- Water courses of plain to montane levels with the *Ranunculion fluitantis* and Callitriche-Batrachion vegetation

The River Itchen SAC also qualifies under Article 3 of the Habitats Directive by supporting the following Annex II species:

- Southern Damselfly *Coenagrion mercurial* (primary reason for selection)
- European Bullhead *Cottus gobio* (primary reason for selection)
- White-clawed Crayfish *Austropotamobius pallipes*
- European Brook Lamprey *Lampetra planeri*
- European River Lamprey *Lampetra fluviatilis*
- Atlantic Salmon *Salmo salar*
- European Otter *Lutra lutra*

Solent and Dorset Coast Special Protection Area

The Solent and Dorset Coast Special Protection Area is being proposed to protect the following species which are listed on Annex 1 of the Birds Directive:

- Sandwich tern, *Sterna sandvicensis*;
- Common tern, *Sterna hirundo*
- Little tern, *Sternula albifrons*

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*.

Application 24/00694/FUL - APPENDIX 2

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS6	Housing Density
CS12	Accessible and Attractive Waterfront
CS13	Fundamentals of Design
CS14	Historic Environment
CS21	Protecting and Enhancing Open Space
CS22	Promoting Biodiversity and Protecting Habitats

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

SDP1	Quality of Development
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP17	Lighting
NE4	Protected Species
HE1	New Development in Conservation Areas
HE3	Listed Buildings
CLT11	Waterside Development

City Centre Action Plan - March 2015

AP 16	Design
AP 17	Tall buildings
AP 23	Royal Pier Waterfront

Other Relevant Guidance

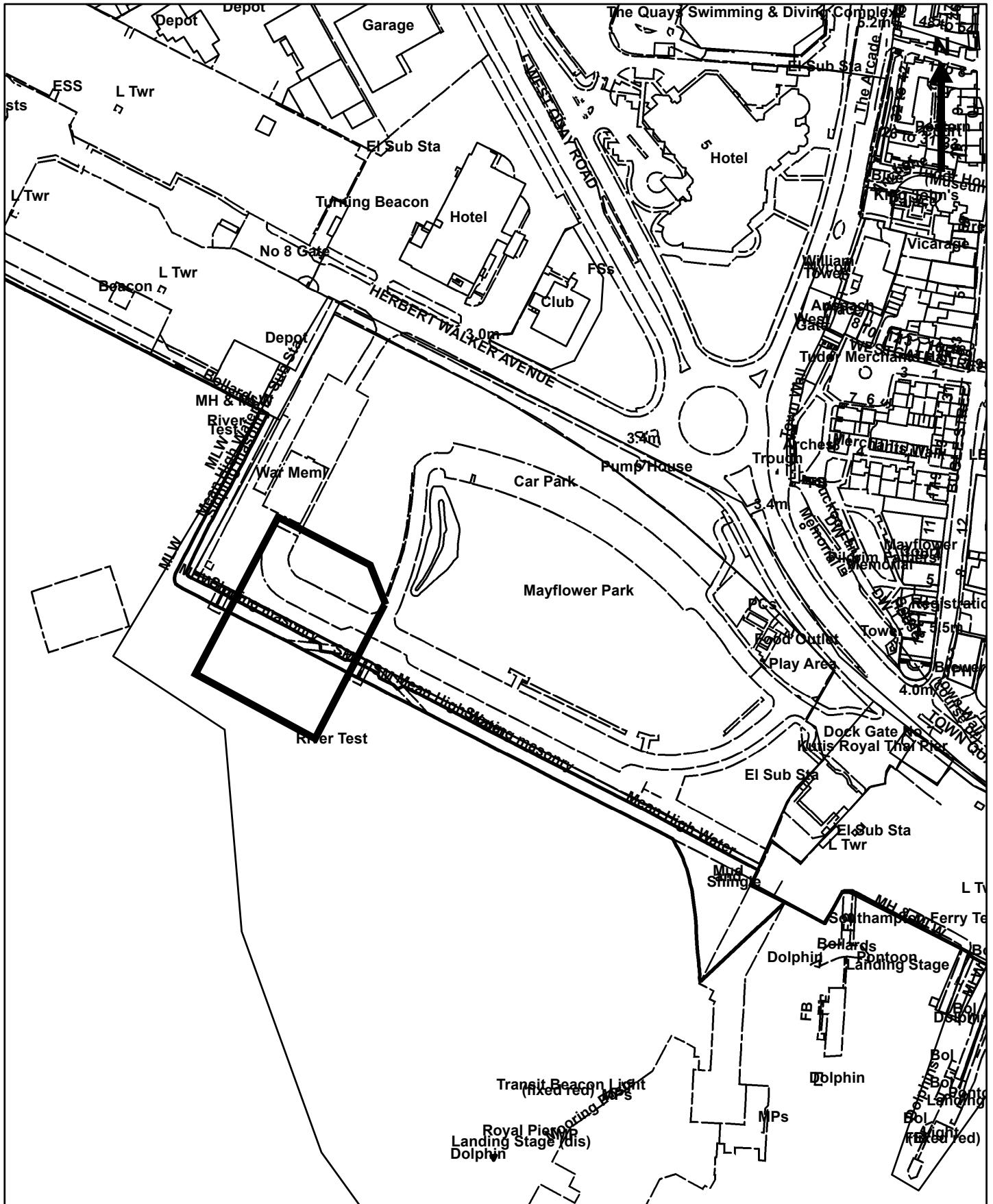
The National Planning Policy Framework (2023)

Application 24/00694/FUL - APPENDIX 3

Relevant Planning History

Case Ref	Proposal	Decision	Date
14/00636/FUL	Erection of a Spitfire monument and memorial on the river frontage of the park.	Conditionally Approved	26.06.2014
19/01363/FUL	Erection of a Spitfire monument and memorial on the river frontage of the park (Follows Planning Permission 14/00636/FUL)	Conditionally Approved	11.10.2019

Agenda Item 7 24/00694/UL



Scale: 1:2,500

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Planning and Rights of Way Panel 10th December 2024 Planning Application Report of the Head of Transport and Planning

Application address: 49 - 51 Belmont Road, Southampton			
Proposed development: Redevelopment of the site. Erection of a 3-storey building containing 9 flats (2x 3-bed flexible C4/C3 use, 2x 2-bed and 5x 1-bed) with associated parking and cycle/refuse storage, following demolition of existing 2 dwellings (Outline application seeking approval for Access, Layout and Scale) (amended description).			
Application number:	23/00349/OUT	Application type:	Outline
Case officer:	Mathew Pidgeon	Public speaking time:	5 minutes
Last date for determination:	22.09.2023	Ward:	Portswood
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr Barbour Cllr Finn Cllr Savage
Applicant: Dr E Fogg		Agent: Kingston Studio	

Recommendation Summary	Delegate to the Head of Transport and Planning to grant planning permission subject to criteria listed in report
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Community Infrastructure Levy Liable	Yes
Biodiversity Net Gain Applicable	No - the application was submitted prior to 02 April 2024.

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. Policies – CS4, CS5, CS13, CS16, CS18, CS19, CS20, CS22 and CS25 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, SDP14, H1, H2 and H7 of the City of Southampton Local Plan Review (Amended 2015).

Appendix attached			
1	Habitats Regulation Assessment	2	Development Plan Policies
3	Planning History		

Recommendation in Full

1. That the Panel confirm the Habitats Regulation Assessment in **Appendix 1** of this report.
2. Delegate to the Head of Transport and Planning to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 Legal Agreement to secure:
 - i. Either the developer enters into an agreement with the Council under s.278 of the Highways Act and/or undertakes a scheme of works or provides a financial contribution towards site specific transport contributions for highway improvements in the vicinity of the site comprising cycle improvements on the St. Denys Rd/Belmont Road junction including cycle lane works, crossing improvements and traffic calming measures in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted Developer Contributions SPD (April 2013);
 - ii. Submission of a highway condition survey (both prior to and following completion of the development) to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
 - iii. Either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
3. That the Head of Transport and Planning be given delegated powers to add, vary and/or delete relevant parts of the Section 106 agreement and/or conditions as necessary.
4. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

1. The site and its context

- 1.1 This site currently contains a semi-detached pair of dwellings, which are three storey in scale, formed by rooms in the roof space and rear dormer windows, with ground and first floor rear extensions. The buildings are currently occupied as housing in multiple occupation. The site is served by two existing vehicle access points from Belmont Road. A low boundary wall, hedgerow and protected copper beech tree are located on the frontage. Along the northern side of the plot runs a driveway leading to the rear that has been separated into 2 private gardens behind which is a separate area formed of gravel surfacing, overgrown landscaping, a large mature protected Scots pine tree and a detached garage/outbuilding in poor

state of repair.

- 1.2 The surrounding area is predominantly residential in character comprising 2 and 3-storey detached and semi-detached dwellings; and purpose-built flatted blocks of mixed appearance. The prevailing character comprises street-frontage buildings with rear gardens and short front gardens with low level boundary treatment. There are no on-street parking controls other than double yellow lines on junctions at each end of the street and typically dwellings are served by on-site car parking including frontage and rear parking areas. There is also a small change in levels down from south to north between plots.

2. **Proposal**

- 2.1 The scheme seeks outline permission to redevelop the site and construct a detached purpose-built flatted block containing 9 flats. The building would achieve a similar front building line to the existing whilst adding a further 8.5m at the rear. This outline application seeks approval of access, layout and scale matters only, with details of appearance and landscaping reserved for a follow up application.
- 2.2 Whilst appearance is a reserved matter, the indicative elevations present the proposed block with a simple appearance, constructed with brick elevations, cropped hipped roof, lintels and bay windows. The building layout proposes 2 x 3 bedroom units at ground floor with direct access to private gardens, and the remaining units will have access to a shared garden. The protected trees will be retained and refuse and cycle storage will be provided. To the rear there will also be parking for 9 vehicles. All units will be accessed, via a front landscaped garden, from a single main entrance on the front elevation.
- 2.3 The starting point to assess the quality of the residential environment for future occupants is the minimum floorspace set out in Nationally Described Space Standards (NDSS) (1 bed = 39 or (37sqm with shower), 2 bed = 61sqm & 3 bed = 74sq.m) and the minimum garden sizes of 20sqm per flat set out in the Council's Residential Design Guide (para 2.3.14 and section 4.4). NDSS - [Title \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

Floor/Flat	Floor Size sqm	Garden Size sqm	Compliance
1 (studio)	37	215 shared	Y & Y
2 (studio)	37	215 shared	Y & Y
3 (3 bed)	74	71	Y & Y
4 (3 bed)	76	122	Y & Y
5 (2 bed)	67	215 shared	Y & Y
6 (2 bed)	85	215 shared	Y & Y
7 (2 bed)	67	215 shared	Y & Y
8 (2 bed)	61	215 shared	Y & Y
9 (2 bed)	61	215 shared	Y & Y

2.4 All flats are sufficient in size and the gardens are also large enough to meet the space requirements set out in the Nationally described Space Standards. The quality of accommodation is considered in greater detail as part of the 'Planning Considerations' in section 6 below.

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 All developments are expected to meet high sustainable construction standards in accordance with Core Strategy Policy CS20 and Local Plan "saved" Policy SDP13.

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

4. Relevant Planning History

4.1 There is no recent or relevant planning history relating to the existing semi-detached pair of properties, which has been in-situ for a number of years. Planning permission has twice been refused for the addition of 2 houses within the rear garden.

5. Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement 21.07.2023 and erecting a site notice 07.07.2023. At the time of writing the report **6 representations (5 objections and 1 neutral comment)** have been received from surrounding residents and City of Southampton Society. The following is a summary of the points raised:

5.2 Insufficient parking & additional traffic generation.

Response

The Council has maximum parking standards and the scheme does not exceed the maximum standard of 11 spaces. The proposal seeks to provide 9 offroad parking spaces, which is a reasonable number for the proposed flats with a ratio of 1 space for each dwelling. A ratio of 1:1 parking is considered acceptable in this sustainable location, located near to Portswood District Centre and 0.3miles from St Denys Railway station. It should be noted that 2021 Census data shows

that only 70% of households in the Portswood ward owns 1 or more vehicles. Additionally, there is kerb side space in front of the property which can accommodate 2 vehicles. The overall proportional contribution to traffic within the local area caused by the development will also be low.

5.3 ***Highways safety compromised.***

Response

Highways safety will not be prejudiced by this development because there is an existing site access from Belmont Road which will be improved. Site specific highways contributions are also required to help fund pedestrian and cycle safety infrastructure on the Belmont Road/St Deny's Road junction. No objection received from the Council's Highways team.

5.4 ***Loss of outlook.***

Response

Neighbouring properties would still enjoy reasonable outlook from their homes as rear facing habitable room windows will not have their 45 degree outlook effected by the proposal.

5.5 ***Loss of light / overshadowing.***

Response

Separation distances between the proposed development and neighbouring buildings and gardens, along with the modest scale of the proposal (as amended), changes in levels and orientation, mean that the development is not considered to lead to a harmful loss of light to neighbouring properties.

5.6 ***Overlooking.***

Response

Amendments to the scheme have resulted in changes to the layout and orientation of habitable room windows leading to a significant reduction of windows overlooking neighbouring properties, with all main living spaces now looking either directly to the front or rear of the site. Only 1 upper floor bedroom window is in a side elevation that faces a neighbouring building (number 47), which includes a habitable room window (bedroom); and due to an oblique angle and distance of over 12m away, it is not considered to cause a harmful loss of privacy to neighbours. Additionally, boundary vegetation provides screening to mitigate against overlooking of the neighbouring garden. Furthermore, secondary windows to kitchen/lounge areas at first floor level can also be obscurely glazed/non-opening below 1.7m from floor level of the rooms to which they serve. To the rear the proposal exceeds the 28m separation distance required by the adopted Residential Design Guide (RDG) for 2 – 3 storey buildings; the mature trees positioned on the plot boundary will also not be affected by the proposal.

5.7 ***Overdevelopment.***

Response

The site is capable of accommodating parking, refuse and cycle storage. Residents of the flats would also not need to rely on the public highway to access parking and bin storage areas. A reasonable amount of soft landscaping will also be provided having regard to the site context. The development achieves an appropriate balance of building/hard surfacing to plot ratio with only slightly more

than 50% of the site being covered.

5.8 ***Loss of period house.***

Response

The existing building has no statutory protection because it is not listed and is not within a designated conservation area.

5.9 ***Loss of existing building which could be repurposed with less embedded carbon lost.***

Response

No objection received from Council's sustainability team. Conditions are recommended to deliver a replacement building which achieves higher energy and water efficiency standards.

5.10 ***Too tall.***

Response

The proposal is 0.3m taller than the existing building, and this height increase will have a negligible impact on the street scene. There are also other buildings of similar scale/height on the street, and which are close to the application site. Those buildings also include rooms in the roof.

5.11 ***Impact on views.***

Response

Whilst views across the site from neighbouring properties will change, the impact will not, in my opinion, be harmful to overall living conditions currently experienced and there are no rights to a particular view.

5.12 ***Red Hawthorn at front was protected but has been removed.***

Response

The proposal is in outline and does not include landscaping. That said the recommended landscaping condition seeks the replacement of a red hawthorn tree and tree replacement(s) will be secured also

5.13 ***Site plan doesn't show neighbouring ground floor annex (55A).***

Response

55A is not a direct neighbour. The impact caused by the proposal is not considered to be significantly harmful to occupiers of that property or it's annex.

5.14 ***Small flats.***

Response

The flats and bedrooms accord with the nationally described space standards.

5.15 **Noise including during construction effecting night shift workers.**

Response

The Council must plan for reasonable behaviour. Provided that residents behave reasonably significantly harmful noise will be avoided. Separate legislation can also be used to manage unreasonable behaviour. The disturbance caused during construction will be temporary. Where appropriate conditions can be used to control construction hours.

Consultation Responses

5.16

Consultee	Comments
City of Southampton Society (CoSS)	<p>Objection</p> <p>CoSS appreciates care taken in the application to propose height, massing, style and materials intended to fit with surrounding buildings. CoSS however objects to the proposed demolition. The neighbouring property (47) is flats but achieved by retention of the original house and extension at the rear. There are sound environmental arguments (carbon release) for resisting unnecessary demolition and new build. 49-51 have their own individual character which contributes to the overall character of the road. CoSS therefore objects to demolition in absence of any evidence of major structural defects.</p> <p>In any building work, whether replacement or conversion, strict conditions will be needed to protect canopy and root structure of the prominent beech tree (subject of a TPO) in the front garden. Belmont Road's special character derives in no small part from trees, shrubs and planting in front gardens, and is extremely vulnerable from loss of that planting, removal of boundary walls and paving-over of gardens.</p>
SCC Sustainability	<p>No objection subject to conditions.</p> <p>It is recommended that the following guidance is followed regarding energy: Southampton City Council Energy Guidance for New Developments 2021-2025 www.southampton.gov.uk/sustainability.</p> <p>There has been a space allocated for photovoltaic panels on the rear flat roof, however it is unclear what the overall energy strategy for the development is, this should avoid fossil fuel energy sources, and provide an efficient solution which does not result in high fuel bills for future occupiers.</p> <p>If air source heat pumps are to be provided, they should be integrated into the design, for example the position of the units considered and compatible heating appliances such as underfloor heating, or larger radiators specified. It is</p>

	recommended that these points are addressed before any approval. However, If the case officer is minded to approve the application conditions are recommended in order to ensure compliance with core strategy policy CS20.
SCC Highways	No objection subject to conditions and S106 obligations to secure: <ul style="list-style-type: none"> - Vehicular passing point within the site access. - Limited front boundary height. - Car Parking layout - Cycle storage details. - Contributions towards pedestrian and cycle improvements on the St. Denys Rd/Belmont Road junction including cycle lane works, crossing improvements and traffic calming measures – contribution valued at £16,000.
SCC Ecology	No objection subject to ecological mitigation and enhancement condition.
SCC Urban Design Manager	No objection.
SCC Environmental Health Contamination	No objection subject to conditions. Land contamination investigation and remediation is required along with a condition to ensure that any imported soils/fill do not introduce additional contaminants to the site.
SCC Environmental Health - Noise	No objection subject to conditions. During construction and demolition any noise, dust and vibration should be minimised and working hours should be restricted to minimise the likelihood of nuisance to neighbours.
SCC Sustainability (Flood Risk)	No objection. As the site has now reduced to 9 dwellings, the threshold for formal consultation and assessment has technically not been triggered, therefore surface water management will be reviewed, approved and signed off by Building Control.
SCC Housing Management	No objection. The scheme falls below the affordable housing threshold (net gain of 10 units).
SCC Officer CIL	No objection. As an outline application the development will become CIL liable at the reserved matters stage. With an index of inflation applied the residential CIL rate is £110.94 per sq. m (from

	01/01/2023), to be measured on the Gross Internal Area floorspace of the building.
SCC Employment and Skills	No objection. An employment and skill obligation is not required
Natural England	Objection. Natural England objects to this proposal and considers it will have an adverse effect on the integrity of the New Forest Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site through increasing visitor numbers. <u>Officer Response</u> <i>The Council has committed to an interim position which allocates CIL funding to mitigate against New Forest Recreational Disturbance. 4% of CIL receipts are ringfenced for Southampton based measures and 1% is to be forwarded to the NFNPA to deliver actions within the Revised Habitat Mitigation Scheme SPD (July 2020). To this end, a Memorandum of Understanding between SCC and the NFNPA, which commits both parties to, “work towards an agreed SLA whereby monies collected through CIL in the administrative boundary of SCC will be released to NFNPA to finance infrastructure works associated with its Revised Habitat Mitigation Scheme SPD (July 2020), thereby mitigating the direct impacts from development in Southampton upon the New Forest’s international nature conservation designations in perpetuity.”</i>
Southern Water	No objection subject to conditions to secure foul sewerage and surface water disposal details.

6.0 Planning Consideration Key Issues

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

- The principle of development;
- Design and effect on character;
- Residential amenity;
- Parking highways and transport; and
- Trees, ecology & likely effect on designated habitats.

6.2 Principle of Development

6.2.1 The principle of additional housing is supported. The site is not allocated for additional housing, but the proposed dwellings would represent windfall housing development. The LDF Core Strategy identifies the Council’s current housing need, and this scheme would assist the Council in meeting its targets. As

detailed in Policy CS4 an additional 16,300 homes need to be provided within the City between 2006 and 2026. The NPPF and our saved policies, seeks to maximise previously developed land potential in accessible locations.

6.2.2 The NPPF requires LPAs to identify a five-year supply of specific deliverable sites to meet housing needs. Set against the latest Government housing need target for Southampton (using the standard method with the recent 35% uplift), the Council has less than five years of housing land supply. This means that the Panel will need to have regard to paragraph 11(d) of the NPPF, which states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, it should grant permission unless:

- the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

[the so-called “tilted balance”]

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

6.2.4 Whilst the site is not identified for development purposes, the Council’s policies promote the efficient use of previously developed land to provide housing.

6.2.5 Policy CS16 of the Core Strategy requires no net loss of family homes on sites capable of accommodating a mix of residential units unless there are overriding policy considerations justifying this. The policy goes on to define a family home as that which contains 3 or more bedrooms with direct access to private and useable garden space that conforms to the Council’s standards. The proposal incorporates 2 units capable of accommodating families, currently occupied as Houses in Multiple Occupation (HMO), with acceptable private garden space and, as such, accords with this policy as this would replace the 2 existing units that could be occupied by families. Flexibility is sought that could result in the 2 x potential family units being occupied as either family units or HMOs. This would there not result in any additional HMOs and there is no requirement to reassess the 10% threshold.

6.2.6 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 66 d.p.h (site measured as 1350 square metres) which, whilst accords with the range set out above, needs to be tested in terms of the merits of the scheme as a whole. This is discussed in more detail below.

6.3 Design and effect on character

- 6.3.1 The NPPF states in paragraph 128 that planning policies and decisions should support development that makes efficient use of land whilst taking into account a number of considerations including '*d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and e) the importance of securing well-designed and beautiful, attractive and healthy places.*'
- 6.3.2 Furthermore, paragraph 135 seeks to ensure that developments function well and add to the overall quality of an area and ensure a high-standard of amenity for existing and future users. It leads onto say that development should be 'sympathetic to local character and history, including the surrounding built environment and landscape setting'. It is understood that the proposed dwelling would add to the Council's housing need but as stated above development must respect the character of the area.
- 6.3.3 Core Strategy Policy CS13 requires development to 'respond positively and integrate with its local surroundings' and 'impact positively on health, safety and amenity of the city and its citizens'. Saved Local Plan Policies SDP1 (i), SDP7 (iii) (iv) and SDP9 (ii) require new developments to respond to their context in terms of layout and density and contribute to local distinctiveness. Moreover, the RDG in paragraph 3.7.7 states that new development 'should complement the pattern of development in the rest of the street.'
- 6.3.4 Whilst the application is in outline only seeking approval of access, layout and scale, the submission also includes details which enable officers to also understand the intended appearance and landscaping potential of the scheme.
- 6.3.5 The proposed layout is not considered harmful to the character and appearance of the area. The re-provision of a parking to the rear is considered acceptable as it is clear, from visiting the site, that this arrangement had happened at some point in the past. Additionally rear parking areas are not uncharacteristic within Belmont Road and the building to plot ratio is not significantly more than 50%, again this proposed site coverage is reflective of other developments found locally.
- 6.3.6 The proposed building will be 3 storey in scale, including rooms in the roof space, and incorporates a cropped gable roof to broadly match the existing building. The proposed development will also have a ridge height, roof pitch and eaves height similar to adjoining properties. The submitted scheme will maintain the existing building line of Belmont Road and to the rear there would be a 2-storey element projecting 8.5m past the original rear building line. Overall, the footprint of the building would increase by 40%.
- 6.3.7 Whilst appearance is not a formal consideration, the submitted plans indicate that

the proposal will incorporate external facing materials that match those found locally. These materials can be secured via a planning condition.

6.3.8 The conversion to flats has also been sympathetically achieved by ensuring that a single shared entrance is provided within the front elevation and a single vehicle access from Belmont Road is provided to retain frontage landscaping and boundary wall. The proposal also includes traditional windows details in the form of bays, headers and sills.

6.3.9 The building design is considered acceptable with no objection from the Council's Urban Design Manager. Access, layout and scale are considered acceptable from a design and character perspective, as are the indicative appearance and landscaping details.

6.4 Residential amenity

6.4.1 Saved Policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. There are also standards set out in section 2.2 of the Residential Design Guide to protect the living conditions of the existing and future occupiers to safeguard privacy, natural light and outlook in relation to habitable areas. Section 4.4 of the Residential Design Guide requires all developments to provide an appropriate amount of the private amenity which should be fit for the purpose intended. The access to outlook, light and privacy are considerations under paragraph 2.2.1 of the Residential Design Guide.

6.4.2 The privacy experienced by residents will be acceptable and natural surveillance of the street is achieved from habitable room windows. All habitable rooms will also enjoy suitable outlook, daylight and ventilation. The ground floor entrance to the flats is also located so that it will be visible from the street.

6.4.3 The scheme has been designed to meet nationally described minimum floorspace standards, and residents of the 3 bedroom units will have access to private gardens whilst the occupants of the other units will be able to use a communal garden. The gardens provided are acceptable in terms of size and quality, being sufficient for uses such as leisure, play and practical functions such as the drying of clothes.

6.4.4 Sufficient space is provided for bin and cycle storage which can be accessed without leaving the site.

6.4.5 The proposal is not considered to have an adverse impact on the nearest residential properties. The proposal is not considered to lead to unreasonable overlooking based on the careful position of windows, position and size of boundary vegetation, and use of obscure glazing where relevant and as controlled by condition. The scale proposed is not considered to have an overbearing or dominant impact on the neighbours, nor result in significant harmful shadowing. The position of the access and layout of the flats will also not create a significantly unneighbourly impact.

6.4.6 The proposed dwellings will result in a suitable living environment for future

occupiers and neighbouring residents, and the scheme therefore accords with saved Local Plan Policy SDP1(i).

6.5 Parking highways and transport

6.5.1 The site is within a high accessibility area where 1 space for each 1 and 2 bed unit and 2 for each 3-bed unit is the maximum standard. The application seeks 9 spaces in total which is less than the maximum (11). This is considered reasonable given that the location is well served by public transport, including buses, trains, taxis, e-scooters and bikes. It is also not considered that the occupiers of the residential units will require cars to access employment as well as public goods and services necessary for day to day living.

6.5.2 The impact on highway network capacity arising from the development will also be proportionally low based on the number of units proposed and the location is also highly accessible by sustainable modes of transport, reducing the need for car ownership. Site specific highways contributions are also being sort to secure pedestrian and cycle infrastructure improvements at the nearby Belmont Road/St Denys Road junction.

6.5.3 Conditions can be used to secure the retention of sufficiently sized parking spaces and cycle storage. Bin storage can also be secured and improved by condition.

6.5.4 As such the proposal is not to the detriment of highway safety and complies with the requirements of policy SDP5 of the City of Southampton Local Plan Review (as amended 2015) and policy CS19 of the adopted Local Development Framework Core Strategy Development Plan Document (As amended 2015) and the guidance contained within the Residential Design Guide, and Parking Standards SPD (2011).

6.6 Trees, ecology & likely effect on designated habitats

6.6.1 The Council's Tree Officer has not objected to the proposal subject to conditions to ensure that the 2 protected trees are protected during construction, as set out in the Arboricultural Impact Assessment. Additionally, a further construction detail condition is recommended for the vehicle access in case the subbase needs to be altered. Additional tree planting will also re-provide a Red Hawthorn.

6.6.2 Although landscaping is a reserved matter the Council's Ecologist has not objected and considers that appropriate ecological enhancement and, other than nitrates, mitigation can be achieved on site through the use of a condition.

6.6.3 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.

- 6.6.4 To comply with the provisions of the Habitat Regulations to ensure that development does not adversely affects the integrity of a European designation, new development which leads to a net increase in residential must be subject to an appropriate assessment to demonstrate how mitigation measures will be implemented to achieve nitrogen neutrality.
- 6.6.5 For the Council to conduct an appropriate assessment, the applicant has submitted a nitrogen budget (25.25 KgTN/yr) and will secure migration through the purchase of sufficient nitrates credits from Eastleigh Borough Council Nutrient Offset Scheme. Condition 3 (below) applies.

7. Summary

- 7.1 The principle of new residential development is considered acceptable.
- 7.2 It is acknowledged that the proposal would make a contribution to the Council's five-year housing land supply. There would also be social and economic benefits resulting from the construction of the new dwelling(s), and their subsequent occupation, as set out in this report. Taking into account the benefits of the proposed development, and the limited harm arising from the conflict with the policies in the development plan as set out above, it is considered that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, consideration of the tilted balance would point to approval. In this instance it is considered that the above assessment, alongside the stated benefits of the proposal, suggest that the proposals are acceptable. Having regard to s.38(6) of the Planning and Compulsory Purchase Act 2004, and the considerations set out in this report, the application is recommended for approval.

8. Conclusion

- 8.1 It is recommended that planning permission be granted subject to a Section 106 agreement and conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

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

Case Officer Mathew Pidgeon PROW Panel – 10/12/24

PLANNING CONDITIONS to include:

01. Outline Permission Timing (Pre-Commencement)

Before any development is commenced, approval of the details of the appearance and landscaping of the development (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority in writing. An application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this Outline Permission. The development hereby permitted shall commence 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 92 of the Town and Country Planning Act 1990 (as amended).

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. Nitrates Emissions Offset (Pre-occupation)

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

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

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

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

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

5. Obscure Glazing (Performance)

The first-floor windows in the side elevations of the hereby approved development, serving flats 5 and 7, 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.

6. 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.

7. Refuse & Recycling (Pre-Occupation)

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

8. Use of parking spaces - domestic ancillary use [Performance Condition]

The parking spaces hereby approved shall be made available and used at all times for the parking of domestic vehicles related to the residential use of the dwelling units only with at least 1 space being allocated to the residents of each three-bed unit and no more than 2 spaces being allocated to any one single unit at any time.

Reason: To ensure that sufficient off-street car parking is available in the interests of highway safety and to protect residential amenity.

9. Ecological Mitigation Statement (Pre-Commencement)

Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures (including bird nesting boxes), 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. The agreed mitigation measures shall be thereafter retained as approved.

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

10. Updated Arboricultural Method Statement for Access Subbase Works (Pre-subbase works)

Prior to any work being carried out to the existing driveway subbase, within the root protection areas of trees 1 & 6 (Copper Beech and Scots Pine), an updated Arboricultural Method Statement will be submitted to and approved in writing by the

Local Planning Authority to detail the specification of a no dig construction for the driveway/subbase. Once approved the development shall be carried out in accordance with agreed details.

Reason: To ensure that protected trees are retained and protected.

11. Arboricultural Method Statement (Performance)

The development hereby approved shall be carried out in accordance with the submitted Arboricultural Method Statement (ref JFA0305), 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.

12. Amenity Space Access (Pre-Occupation)

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

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

13. Land Contamination investigation & remediation (Pre-Commencement & Occupation)

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 desk top study including;
 - historical and current sources of land contamination
 - results of a walk-over survey identifying any evidence of land contamination
 - identification of the potential contaminants associated with the above
 - an initial conceptual site model of the site indicating sources, pathways and receptors
 - a qualitative assessment of the likely risks
 - any requirements for exploratory investigations
2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed
3. 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 (3) 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.

14. 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 development hereby approved first coming into use or occupation.

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

15. 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.

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

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

Monday to Friday 08:00 to 18:00 hours

Saturdays 09:00 to 13:00 hours

And at no time on Sundays and recognised public holidays.

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

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

17. Water & Energy [Pre-Construction]

With the exception of site clearance, demolition and preparation works, no development works shall be carried out until written documentary evidence demonstrating that the development will achieve a maximum 100 Litres/Person/Day internal water use. A water efficiency calculator shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in

writing by the LPA. It should be demonstrated that SCC Energy Guidance for New Developments has been considered in the design.

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

18. Water & Energy [Performance]

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved 100 Litres/Person/Day internal water use in the form of a final water efficiency calculator and detailed documentary evidence confirming that the water appliances/fittings have been installed as specified shall be submitted to the Local Planning Authority for its approval. It should be demonstrated that SCC Energy Guidance for New Developments has been considered in the construction.

Reason:

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

19. Foul sewerage and surface water disposal (Pre-commencement)

Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by the Local Planning Authority in consultation with Southern Water. The development shall be carried out in accordance with agreed works.

Reason: To ensure satisfactory drainage provision and foul water management.

20. Driveway access (Performance)

In accordance with the approved plans the driveway access will include a manoeuvring space on the site frontage, measuring at least 4.5m wide for a length of at least 6m, when measured from the back edge of the footpath. Driveway/access will at no time be used for any other purposes, including parking.

Reason: To allow vehicles to pass on site and in the interests of highways safety.

21. Ground floor 3 bed flats with dual C3/C4 use for 10 years (Performance)

The dual Use Class C3 (dwelling house) and/or Use Class C4 (House in Multiple Occupation) use hereby permitted for the 3 bed ground floor units shall be for a limited period of 10 years only from the date of this Decision Notice. The use that is in operation on the tenth anniversary of this Decision Notice shall thereafter remain as the permitted use of each property.

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.

Note: Before the building can be occupied as a single dwelling any HMO license may need to be revoked.

22. Site Levels (Pre-Commencement)

No development shall take place (excluding demolition and site set up) until further details of finished levels have been submitted to and approved in writing by the Local Planning Authority. These details shall include Above Ordnance Datum (AOD) for the proposed finished ground levels across the site, building finished floor levels and

building finished eaves and ridge height levels and shall be shown in relation to off-site AOD. The development shall be completed in accordance with these agreed details.

Reason: To ensure that the heights and finished levels of the development are built as agreed in the interests of visual and neighbour amenity.

INFORMATIVES

Southern Water - Sewerage Connection

A formal application for connection to the public sewerage system is required in order to service this development. Please read our Southern Water's New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>

Southern Water – Water Supply

A formal application for connection to the water supply is required in order to service this development. For further advice, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119), www.southernwater.co.uk or by email at developerservices@southernwater.co.uk.

Southern Water – Public Sewer Protection

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

CIL

As an outline application the development will become CIL liable at the reserved matters stage. With an index of inflation applied the residential CIL rate is £110.94 per sq. m (from 01/01/2023), to be measured on the Gross Internal Area floorspace of the building. If the floor area of any existing building on site is to be used as deductible floorspace the applicant will need to demonstrate that lawful use of the building has occurred for a continuous period of at least 6 months within the period of 3 years ending on the day that planning permission first permits the chargeable development (the approval of the last reserved matter).

Reserved matters: Landscaping, lighting & means of enclosure detailed plan.

Notwithstanding the submitted details, the reserved landscaping will need to include the following:

- (i) means of enclosure. Note: Front boundary treatments should have a height restriction of 600mm within a sight line splay from the vehicular access;
- (ii) car parking layouts. Note: Notwithstanding the approved plans, all parking spaces must measure 2.4m x 5m with a 6m turning aisle width.
- (iii) vehicle, pedestrian access and circulations areas,
- (iv) hard surfacing materials,
- (v) a replacement red hawthorn tree,

- (vi) planting plans & written specifications (including cultivation and other operations associated with plant and grass establishment);
- (vii) schedules plants, noting species, plant sizes and proposed numbers/planting densities;
- (viii) 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) and;
- (ix) a landscape management scheme.
- (x) implementation timetable

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

The approved hard and soft landscaping scheme (including parking) for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision, with the exception of the approved boundary treatment and approved tree planting which shall be retained as approved for the lifetime of the development. Any approved trees which die, fail to establish, are removed or become damaged or diseased following their planting shall be replaced by the Developer (or their successor) in the next planting season with others of a similar size and species.

Any approved 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 (or their successor) in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer (or their successor) shall be responsible for any replacements for a period of 5 years from the date of planting.

As far as possible all frontage boundary treatment (walls and hedges) should be retained.

Appendix 1

Habitats Regulations Assessment (HRA)

Application reference:	23/00349/OUT
Application address:	49 - 51 Belmont Road Southampton SO17 2GD
Application description:	Redevelopment of the site. Erection of a 3-storey building containing 9 flats (2x 3-bed flexible C4/C3 use, 2x 2-bed and 5x 1-bed) with associated parking and cycle/refuse storage, following demolition of existing 2 dwellings (Outline application seeking approval for Access, Layout and Scale) (amended description).
HRA completion date:	30 June 2023

HRA completed by:

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

Summary

The project being assessed is as described above.

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

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

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

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

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

Section 1 - details of the plan or project

European sites potentially impacted by plan or project:
 European Site descriptions are available in Appendix I of the City Centre Action Plan's Habitats Regulations Assessment Baseline Evidence Review Report, which is on the city council's website

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

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

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

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

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

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

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

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

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

described above on the identified European sites, as required under Regulation 63 of the Habitats Regulations.

Section 2 - Assessment of implications for European sites

Test 1: the likelihood of a significant effect

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

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

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

The following effects are possible:

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

Conclusions regarding the likelihood of a significant effect

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

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

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

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

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

Regulation 63(1) of the Habitats Regulations

The identified potential effects are examined below to determine the implications for the identified European sites in line with their conservation objectives and to assess whether the proposed avoidance and mitigation measures are sufficient to remove any potential impact.

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

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

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

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

TEMPORARY, CONSTRUCTION PHASE EFFECTS

Mobilisation of contaminants

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

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

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

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

from schemes proposing redevelopment.

Disturbance

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

Sites considered: Solent and Southampton Water SPA

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

Collision risk

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

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

PERMANENT, OPERATIONAL EFFECTS

Recreational disturbance

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

New Forest SPA/Ramsar site/ New Forest SAC

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

Nightjar

Higher levels of recreational activity, particularly dog walking, has been shown to lower nightjar breeding success rates. On the Dorset Heaths nests close to

footpaths were found to be more likely to fail as a consequence of predation, probably due to adults being flushed from the nest by dogs allowing predators access to the eggs.

Woodlark

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

Dartford warbler

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

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

Visitor levels in the New Forest

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

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

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

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

Whilst car ownership is a key limitation when it comes to be able to access the New Forest, there are still alternative travel means including the train, bus, ferry and

bicycle. As a consequence, there is a risk that recreational disturbance could occur as a result of the development. Mitigation measures will therefore be required.

Mitigation

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

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

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

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

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

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

The City Council has committed to ring fencing 4% of CIL receipts to cover the cost of upgrading the footpath network within the city's greenways. This division of the ring-fenced CIL allocation is considered to be appropriate based on the relatively low proportion of visitors, around 6%, recorded originating from Southampton. At

present, schemes to upgrade the footpaths on Peartree Green Local Nature Reserve (LNR) and the northern section of the Shoreburs Greenway are due to be implemented within the next twelve months, ahead of occupation of this development. Officers consider that these improvement works will serve to deflect residents from visiting the New Forest.

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

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

Funding mechanism

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

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

has been agreed.

The Revised Mitigation Scheme set out in the NFNPA SPD is based on the

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

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

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

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

Solent and Southampton Water SPA/Ramsar site

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

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

Water quality

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

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

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

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

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

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

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

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

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

- SCC has adopted a Position Statement, 'Southampton Nitrogen Mitigation Position Statement' which is designed to ensure that new residential and hotel accommodation achieves 'nitrogen neutrality' with mitigation offered within the catchment where the development will be located;
- The approach set out within the Position Statement is based on calculating a nitrogen budget for the development and then mitigating the effects of this to achieve nitrogen neutrality. It is based on the latest advice and calculator issued by Natural England (March 2022);
- The key aspects of Southampton's specific approach, as set out in the Position Statement, have been discussed and agreed with Natural England ahead of approval by the Council's Cabinet in June 2022;

- The Position Statement sets out a number of potential mitigation approaches. The principle underpinning these measures is that they must be counted solely for a specific development, are implemented prior to occupation, are maintained for the duration of the impact of the development (generally taken to be 80 – 125 years) and are enforceable;
- SCC has signed a Section 33 Legal Agreement with Eastleigh Borough Council to enable the use of mitigation land outside Southampton's administrative boundary, thereby ensuring the required ongoing cross-boundary monitoring and enforcement of the mitigation;
- The applicant has indicated that it will purchase the required number of credits from the Eastleigh BC mitigation scheme to offset the nutrient loading detailed within the nitrogen budget calculator (Appendix 2);
- The initial approach was to ensure an appropriate mitigation strategy was secured through a s.106 legal agreement but following further engagement with Natural England a Grampian condition, requiring implementation of specified mitigation measures prior to first occupation, will be attached to the planning permission. The proposed text of the Grampian condition is as follows:

Outline PP where phased and/or unit quantum or mix unknown:

Not to commence the development of each phase unless the nitrogen budget for that phase has been submitted to and approved by the council. The development of each phase hereby permitted shall not be occupied unless a Nitrate Mitigation Vesting Certificate confirming the purchase of sufficient nitrates credits from the Eastleigh Borough Council Nutrient Offset Scheme for that phase has been submitted to the council.

Reason:

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

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

Reason:

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

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

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

Conclusions

The following conclusions can be drawn from the evidence provided:

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

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

Demolition and Construction phase

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

Operational

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

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

References

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

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

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

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

Protected Site Qualifying Features

The New Forest SAC

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

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

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

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

The New Forest SPA

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

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

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

- Hen Harrier *Circus cyaneus*

New Forest Ramsar Site

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

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

Solent Maritime SAC

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

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

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

- Desmoulin's whorl snail *Vertigo moulinsiana*

Solent and Southampton Water SPA

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

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

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

- Black-tailed Godwit *Limosa limosa islandica*
- Dark-bellied Brent Goose *Branta bernicla bernicla*
- Ringed Plover *Charadrius hiaticula*

- Teal *Anas crecca*

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

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

Solent and Southampton Water Ramsar Site

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

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

Application 23/00349/OUT

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
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (revised 2023)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Application 23/00349/OUT

APPENDIX 3

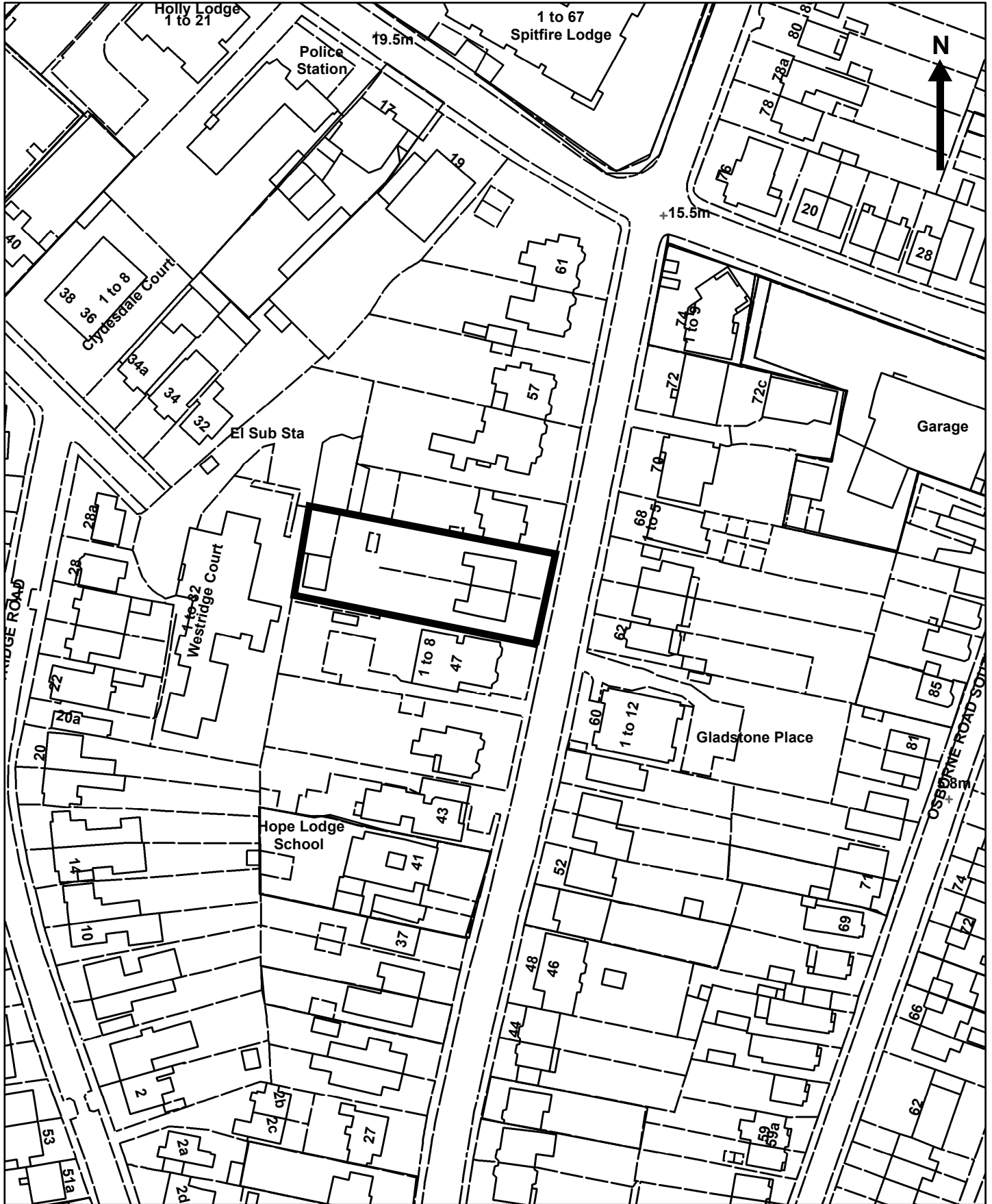
Relevant Planning History

Case Ref	Proposal	Decision	Date
1415/52	CONVERT INTO TWO S/C FLATS	Conditionally Approved	11.05.1971
1519/M16	ERECTION OF GARAGE AND PORCH	Conditionally Approved	01.02.1977
11/02006/ FUL	Erection of 2 x 4 bedroom houses for use as dwellings (Class C3) or Houses in Multiple Occupation (Class C4) with associated refuse, cycle stores and parking served from existing access points from Belmont Road following demolition of existing detached garages.	Application Refused	16.11.2012
13/01825/ FUL	Erection of 2 x 3-bedroom houses for use as dwellings (Class C3) or HMO's (Class C4) with associated refuse, cycle stores and parking served from existing access points from Belmont Road following demolition of existing detached garages [Resubmission of 11/02006/FUL]	Application Refused	15.01.2014

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Agenda Item 8

23/00349/OUT



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Planning and Rights of Way Panel 10th December 2024
Planning Application Report of the Head of Transport and Planning

Application address: 3 English Road, Southampton			
Proposed development: Change of Use from Dwellinghouse (Use Class C3) to a 5 bed House in Multiple Occupation (Use Class C4) with associated storage			
Application number:	24/01152/FUL	Application type:	FUL
Case officer:	Anna Coombes	Public speaking time:	5 minutes
Last date for determination:	Extension of time: 17.12.2024	Ward:	Freemantle
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr Christine Lambert Cllr Pam Kenny Cllr David Shields
Referred to Panel by:	N/A	Reason:	N/A
Applicant: Ancy Ltd		Agent: Planners & Architects	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
Biodiversity Net Gain Applicable	Not applicable

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (revised 2023). Policies – CS13, CS16 and CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP5, SDP7, SDP16, H4 and H7 of the City of Southampton Local Plan Review (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	40m Radius map
3	Parking Survey extract		

Recommendation in Full

Conditionally approve

1. The site and its context

- 1.1 The application site contains a 3-bedroom, 2-storey, semi-detached dwelling with rear garden. There is a small garage with 'up and over' door on the rear garden boundary, which is reached by a shared access along the western side boundary.
- 1.2 The property lies within a predominantly residential area with similar semi-detached and terraced properties. Directly opposite the site is Foundry Lane Primary School. The site is within the high accessibility radius of Shirley Road bus corridor, only approximately 250m from Shirley Town Centre, and within the medium accessibility radius of Millbrook Railway Station.

2. Proposal

- 2.1 This application proposes the change of use of the existing 3-bedroom single dwelling (Use Class C3) into a 5-bedroom/person house in multiple occupation (HMO) (Use Class C4).
- 2.2 The proposal does not include any external extensions or alterations to the existing building. Internal changes to the layout of accommodation are proposed, to increase the number of bedrooms from 3 to 5 and to provide en-suite bathrooms. The internal alterations will use existing windows. No new external doors or windows are proposed.
- 2.3 The proposal includes the provision of bin and cycle stores within the rear garden and a car parking space within the existing rear garage structure.

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) was revised in 2023. Paragraph 225 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 Policies H4 (Houses in Multiple Occupation) and CS16 (Housing Mix and Type) support the creation of mixed and balanced communities and require an assessment of how the introduction of HMOs affect the character and amenity of the local area. The Council's Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) sets a maximum HMO concentration threshold of 10% (surveyed over a 40m radius from the front door of the property), in order to avoid over-concentrations of HMOs leading to an imbalance in the mix of households within a local neighbourhood.
- 3.4 The Council's Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) indicates:

"1.1 Houses in Multiple Occupation (HMOs) provide much-needed housing accommodation. However, a large number of HMOs in one area can change the physical character of that residential area and this can lead to conflict with the existing

community.

1.2 *The planning system can assist in achieving a mix of households within the city's neighbourhoods, meeting different housing needs whilst protecting the interests of other residents, landlords and businesses. This can best be delivered by preventing the development of excessive concentrations of HMOs and thus encouraging a more even distribution across the city."*

- 3.5 Saved Policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. Policy SDP7 (Context) allows development which respects the context of the local area. Policy H7 (The Residential Environment) expects residential development to provide attractive living environments. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design. These policies are supplemented by design guidance and standards set out in the Residential Design Guide SPD. This sets the Council's vision for high quality housing and how it seeks to maintain the character and amenity of the local neighbourhood.
- 3.6 Saved policy SDP5 (Parking) of the Local Plan Review and policy CS19 (Car and Cycle Parking) of the Core Strategy both seek to discourage reliance on cars and encourage alternative, more sustainable modes of transport by setting maximum standards for car parking and minimum standards for secure cycle storage, which are detailed in the Parking Standards SPD.

4. Relevant Planning History

- 4.1 There is no planning history for this site. The property appears to have been a single dwelling since it first appeared on historic OS maps in 1909-1910.

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 **11.10.2024**. At the time of writing the report, **6 representations** have been received from surrounding residents. The following is a summary of the points raised:
- 5.2 *There are too many HMOs nearby, in addition to flats. This is a family area and with an older community that should be protected. The current balance is about right; the proposal would alter the demographic.*
Response
Impacts on the character of the area and mix and balance of the local community are discussed in the Planning Considerations section of this report below.
- 5.3 *The proposal will harm the amenity of neighbours and enjoyment of their gardens.*
Response
Impact on neighbour amenity is discussed in the Planning Considerations section of this report below.
- 5.4 *HMOs on are not well cared for. Problems with vermin, waste, noise and anti-social behaviour evident on Foundry Lane, Wilton Avenue, Howard Road etc.*
Response
Impact on the character of the area in the Planning Considerations section of this report below.

5.5 *The proposal would encourage more HMOs, increasing problems.*

Response

This application would not set a precedent. Each application for a new HMO use is assessed against the 10% threshold and according to the individual planning merits of the application.

5.6 *The Parking Survey uses a 3 minute walking distance. This is too far, particularly late at night.*

Response

The Council's Highways Development Management Officer has no objection to the survey methodology. Parking is discussed further in the Planning Considerations section of this report below.

5.7 *Impact on the safety of school children. The junction is closed at school run times for safety. This will exacerbate existing problems with on-street parking and obstruction near the junction. English Road is used as an overflow from other streets. Kingsley Road is nearly full from 5 o'clock. Access to the rear parking space is too narrow, so is only suitable for small cars.*

Response

The Council's Highways Development Management Officer has no objection to the proposal. Parking impacts are discussed further in the Planning Considerations section of this report below.

5.8 *Impact on the value of family homes nearby*

Response

Impact on the market value of property is not a material planning consideration.

5.9 *The property is too small for 5 tenants and their guests. The kitchen / lounge is not suitable for 5 plus people and all the white goods required.*

Response

The proposal meets the minimum size standards for bedrooms and communal space given in our adopted HMO Licensing standards. This is discussed further in the Planning Considerations section of this report below.

5.10 *Bins are left out on bin day, causing problems for disabled people. Who is responsible for managing the bins?*

Response

A planning condition has been recommended regarding bin storage, including a provision to ensure bins are only left out on collection days only.

Consultation Responses

5.11

Consultee	Summary of comments
SCC HMO Licensing	<p>No objection. The layout poses no atypical risks regards fire safety.</p> <ul style="list-style-type: none"> - Each bedroom meets the minimum size for a single occupant in our 'Guidance on Standards for Houses in Multiple Occupation') - Insufficient detail on fittings to comment on kitchen / en-suites. Each en-suite requires mechanical ventilation. - The HMO Licensing process requires specific fire safety equipment to be provided, based on the tenancy type. - Sufficient bin storage is required to comply with the Council's Waste Management Scheme & sufficient parking.
SCC Highways Development Management	<p>No objection – <i>initial comments as follows:</i></p> <p>The maximum parking standards for both existing and proposed are the same, therefore the parking demand is the same regardless of development. There is no change to access/car parking layout, so whether the rear parking is usable or not is irrelevant as the development has no impact in this regard.</p> <p>The parking survey's methodology does have some small errors such as the distances - although measuring 200m from the site does just about reach Waterhouse Lane. Lambeth methodology does suggest that instead of stopping the survey at 200m, we can extend it, so it doesn't end mid road. Here in this case, we could consider a small extension considering the relatively easy access to this area on foot. Even if we do not consider Waterhouse Lane, there appears to be ample parking to absorb 1-2 parking spaces. It would be good to get clarification on the dates and times for completeness.</p> <p>Recommend a condition to secure one long stay cycle parking space per resident.</p> <p><i>Updated comments following updated parking survey photos:</i></p> <p>The survey can still be material consideration as it's only a year old, plus the new photos show an updated view showing spaces that echo that to a degree. The maximum parking standards for existing and proposed developments remain the same and, therefore, it would be somewhat unreasonable to assess overspill parking of the proposed development too differently to the existing/previous use.</p>

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 The permitted development right to change the use of a property from a C3 single dwelling to a C4 small HMO for up to 6 persons was removed by Southampton City Council on 23rd March 2012; when the Council enacted a citywide Article 4 Direction to prevent high concentrations of HMOs in local communities. Any new HMO uses that

have begun since this date require planning permission.

6.2.2 Policy H4 acknowledges the need to maintain the supply of housing whilst balancing this against maintaining a sustainable mix of households within the community. A condition can be applied to allow a flexible use that can flip between a C3 single dwelling and a C4 HMO use, depending on market demands, without requiring planning permission for a period of 10 years. As such, the proposal will continue to provide family accommodation if the market demands this. The proposal would not be contrary to policy CS16 given that the property can be converted back into use as a family dwelling.

6.2.3 Given the above, the principle of development to convert the property into a C4 HMO can be supported, subject to an assessment of the planning merits in relation to the relevant policies and guidance.

6.3 Design and effect on character

6.3.1 The internal works to facilitate the change of use do not visually impact on the appearance of the street scene.

6.3.2 The threshold test set out in section 1.1 of the Council's HMO SPD states the maximum concentration of HMOs should not exceed 10% of the surrounding residential properties within a 40m radius. 17 eligible residential properties were identified for this assessment. Commercial properties and flats or houses were discounted where they have less than 3 bedrooms.

6.3.3 This proposed HMO use would be the only one within a 40m radius. The previous HMO use at 242 Foundry Lane is no longer in operation, having been converted into bedsit units. The HMO concentration as a result of this application would be, therefore, only **6%** (1 HMO out of 17 eligible residential properties) which is well within the 10% maximum limit for the 40m radius survey area.

6.3.4 This survey has reviewed the Planning Register, Licensing Register, and Council Tax records available. Although the Council does not have a complete database on the location of all HMOs in the city, these sources provide the Council's best-known evidence. A copy of the 40m radius map surveyed, and the properties included, is attached as **Appendix 2**.

6.3.5 The strategy of the Council is to support balanced communities by using the 10% maximum threshold to maintain a sustainable mix of residential properties. The character of the local area is predominantly family housing within this suburban street. This would be the first HMO within the 40m radius area, so it will retain a strong mix of 93% family homes of the residential properties in the local neighbourhood.

6.3.6 Given the above, and considering the generally busy character of the local area, being opposite the school and close to Shirley Town Centre, the proposal for a 5 bed C4 small HMO use is not considered to materially change the character of the area.

6.4 Residential amenity

6.4.1 There are no new side-facing windows proposed, nor any external alterations to the existing building, so the proposal does not raise concerns for creating overbearing, overshadowing or overlooking impacts for neighbouring residents.

6.4.2 Officers recognise that neighbours have concerns about the impact of HMO properties in terms of noise and disturbance, however the comings and goings generally associated with a 5 bedroom C4 small HMO use are not considered to be significantly

harmful to neighbouring amenity given the context of the generally busy local area opposite the school and close to Shirley Town Centre. The impact of the proposed HMO use can also be controlled further via planning conditions, such as restricting the number of occupiers.

6.4.3 Furthermore, there are additional safeguards via the HMO mandatory licensing regime for HMOs with 5 or more occupiers whereby the management and standards of the property would be monitored. The Council's Environmental Health team also have powers to serve a noise abatement notice where it considers that any noise nuisance caused by the residents is deemed as statutory noise nuisance.

6.4.4 In terms of the quality of residential living standards for the occupants, the HMO licensing minimum room size standards are complied with as follows:-

Room	Location	Size	Minimum Standard
Bedroom 1	Ground floor front	10.5 sqm	6.51 sqm
Bedroom 2	Ground floor rear	7.8 sqm	
Bedroom 3	First floor front	13.5 sqm	
Bedroom 4	First floor middle	9.9 sqm	
Bedroom 5	First floor rear	10.2 sqm	
Shared WC	Ground floor	---	1 bathroom for up to 5 persons
Individual en-suites	Both floors	---	
Kitchen / Lounge	Ground floor	12.8 sqm	11.5 sqm for up to 5 persons

6.4.5 Bedroom sizes shown above are measured excluding the ensuite bathrooms. The layout of the kitchen / lounge communal area is acknowledged to be somewhat restricted, however on balance, given it exceeds the minimum size standard above, and given the large size of most of the bedrooms, the living accommodation is considered to provide a reasonable standard of living environment for prospective occupiers.

6.5 Parking highways and transport

6.5.1 The proposed site plan indicates a car parking space measuring approximately 3m x 5m within the existing garage to the rear of the property, however this is not considered to provide a parking space for the purposes of this assessment, as it falls below our minimum size standard of 6m length for a garage parking space, and the access road width appears restricted with limited space for turning, so vehicles are unlikely to be able to enter and exit the site in a forward gear. That said, a 'car free' HMO can still be considered as acceptable, noting that tenants may wish to own a car and park it on the public highway.

6.5.2 Policies SDP5 and CS19 seek to encourage residents to use alternative, more sustainable modes of transport and discourage reliance on cars. The Council's maximum car parking standard in a high accessibility area is 2 parking spaces for both the proposed use as a 5 bed C4 HMO (as set out in the HMO SPD) and the existing use as a 3 bed dwelling (as set out in the Parking Standards SPD). The level of parking demand to be considered for the proposed development is therefore the same as for the existing use.

- 6.5.3 Parking may be provided by way of either on-street or off-street parking spaces. If the proposal is to rely on on-street parking, then a parking survey is required to demonstrate sufficient parking capacity in surrounding roads to absorb the potential parking overspill of the development. In this case the potential overspill is 2 parking spaces.
- 6.5.4 A parking survey has been provided by the applicant, which demonstrates that between 52 and 71 available parking spaces were available over 2 survey nights: Wednesday 8th November and Friday 10th November 2023 (equating to between 19% and 26% available spaces). An update was also provided in the form of a basic photo survey that was undertaken on Friday 8th November 2024 (a year later), showing available parking spaces on English Road, Heysham Road and Imperial Avenue. An extract of the original survey findings is included at **Appendix 3**.
- 6.5.5 Whilst the original survey was undertaken in 2023, the recent updated photo survey on 8th November 2024 shows multiple parking spaces available, generally supporting the original findings. The original survey therefore remains a material consideration. Similarly, whilst the survey distance of 250m used by the applicant differs from the 200m distance recommended in the standard Lambeth Model, it is noted that the Lambeth Model does also allow for extending the survey area to the end of a road, rather than ending it in the middle of the road at 200m. Given the relatively small additional distance involved, the Highways Development Management Officer has no objection to the survey area used in the applicant's parking survey, nor the age of the survey, given there has been an update to support the original findings.
- 6.5.6 Given the significant number of available spaces demonstrated by the applicant's original parking survey, and the number of spaces shown available on the updated photo survey, there is sufficient parking capacity in the local area to absorb the potential overspill of 2 parking spaces for this proposal. It is also worth reiterating that there is no difference between the existing and proposed parking demand. Furthermore, the Council's Highways Development Management Officer has no objection to the proposal in terms of parking and highway safety and the site is in a highly accessible location. As such, no objection is raised by officers on this basis.
- 6.5.7 There is space in the rear garden to accommodate a bin storage location and secure and covered cycle storage for 5 cycle spaces, 1 per bedroom, meeting the design guidance given in the Parking Standards SPD. Further details of the size, layout and appearance of these structures can be secured by condition.

7. Summary

- 7.1 The proposal is acceptable in principle and, on balance, is not considered to result in any significant adverse impacts on the character or amenity of the area, on parking amenity, or the function and safety of the highway. There remains a need for all forms of housing in the city; including shared HMOs. This would be the only HMO use within a 40m radius and so complies with our current policy and guidance. The comings and goings associated with an HMO use are not considered to be detrimental to the amenity and safety of local residents. A new C4 HMO use would not imbalance the mix of households locally, as 94% of properties within the 40m radius would remain as family homes. Furthermore, a C4 HMO use would contribute positively towards the availability of lower cost, flexible accommodation to benefit the local community.

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) (f) 4.(f) (qq) (vv) 6. (a) (b)

Case Officer **Anna Coombes** for 10/12/24 PROW Panel

PLANNING CONDITIONS to include:

01. 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).

02. 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

03. 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.

04. Refuse & Recycling (Pre-Occupation)

Prior to the commencement 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. 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.

05. Retention of communal spaces & numbers of occupiers (Performance Condition)

The room labelled kitchen/lounge on the approved floor plans, together with the external amenity areas, shall be retained and made available for communal purposes at all times. No more than 5 residents shall occupy the premises the subject of this permission at any time.

Reason: To ensure that suitable communal facilities are provided for the residents, and in the interests of protecting the amenities of local residents.

06. Dwelling House and House in Multiple Occupation Dual Use (Performance)

The dual Use Class C3 (dwelling house) and/or Use Class C4 (House in Multiple Occupation) use hereby permitted shall be for a limited period of 10 years only from the date of this Decision Notice. The use that is in operation on the tenth anniversary of this Decision Notice shall thereafter remain as the permitted use of the property.

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

Note to Applicant:

Before the building can be occupied as a single dwelling any HMO license may need to

be revoked/reissued.

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
SDP5	Parking
SDP7	Urban Design Context
SDP16	Noise
H4	Houses in Multiple Occupation
H7	The Residential Environment

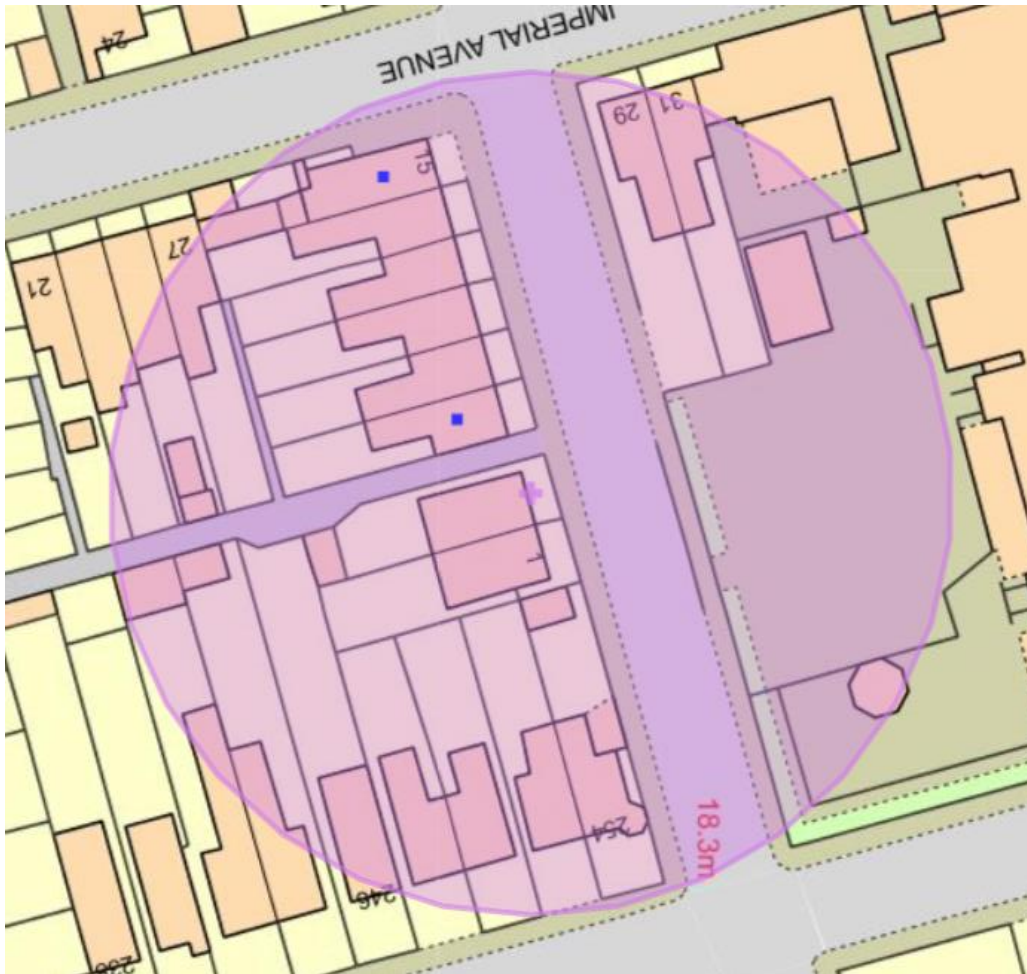
Supplementary Planning Guidance

Residential Design Guide (2006)
Houses in Multiple Occupation SPD (Revised 2016)
Parking Standards SPD (2011)

Other Relevant Guidance

The National Planning Policy Framework (Revised 2023)

40m Radius and checklist



3 English Road - HMO check			
	Property type	C3 / C4	Counted at Step 2?
	1 3 bed House	C3	Yes
	3 3 bed House	C3	Yes
	5 3 bed House	C3	Yes
	7 3 bed House	C3	Yes
	9 3 bed House	C3	Yes
	11 3 bed House	C3	Yes
	13 3 bed House	C3	Yes
	15 Commercial	---	No
	15A 1 bed Flat	C3	No
	21 3 bed House	C3	Yes
	23 3 bed House	C3	Yes
	25 3 bed House	C3	Yes
	27 2 bed House	C3	No
	29 1 bed Flat	C3	No
	29a Flat (< 3 beds)	C3	No
	31 3 bed House	C3	Yes
	242 Bedbits	C3	No
	244 4 bed House	C3	Yes
	246 3 bed House	C3	Yes
	248 3 bed House	C3	Yes
	250 House	C3	Yes
	252 3 bed House	C3	Yes
	254 House	C3	Yes
Existing HMOs		0	17
Proposed HMOs		1	17
		6%	

Parking Survey - extract of survey area and results

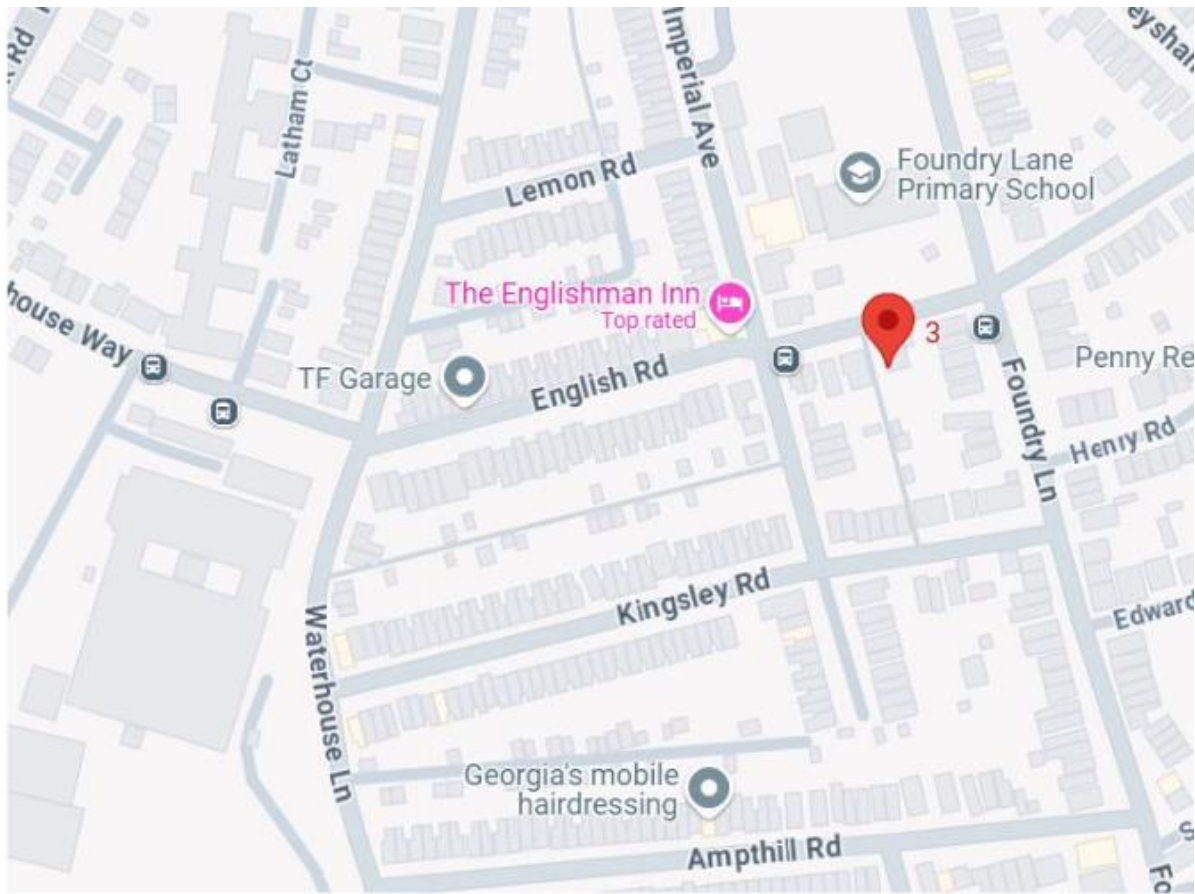


Figure 2 – Parking Survey Extent - Based on and adapted from Google Maps

Roads under consideration at 0.145miles away from subject postcode

1	Kingsley Road (whole length)
2	English Road (whole length)
3	Imperial Avenue (from interception with Lemon Road)
4	Foundry Lane (between interception with Kingsley Road English Road)
5	Waterhouse Lane (between interception with Kingsley Road and English Road)

Day 1 (Wednesday 8th November 2023)

Area Summary (5.5 metre parking length)							
Area Capacity	270						
Survey day	Average Occupancy (%)	23:00	00:00	01:00	02:00	03:00	04:00
		76.3	74.82	77.04	74.45	73.71	74.45
	Available Spaces (%)	23.70	25.18	22.96	25.55	26.29	25.55

Table 1 – Summary of Results

Day 2 (10th November 2023)

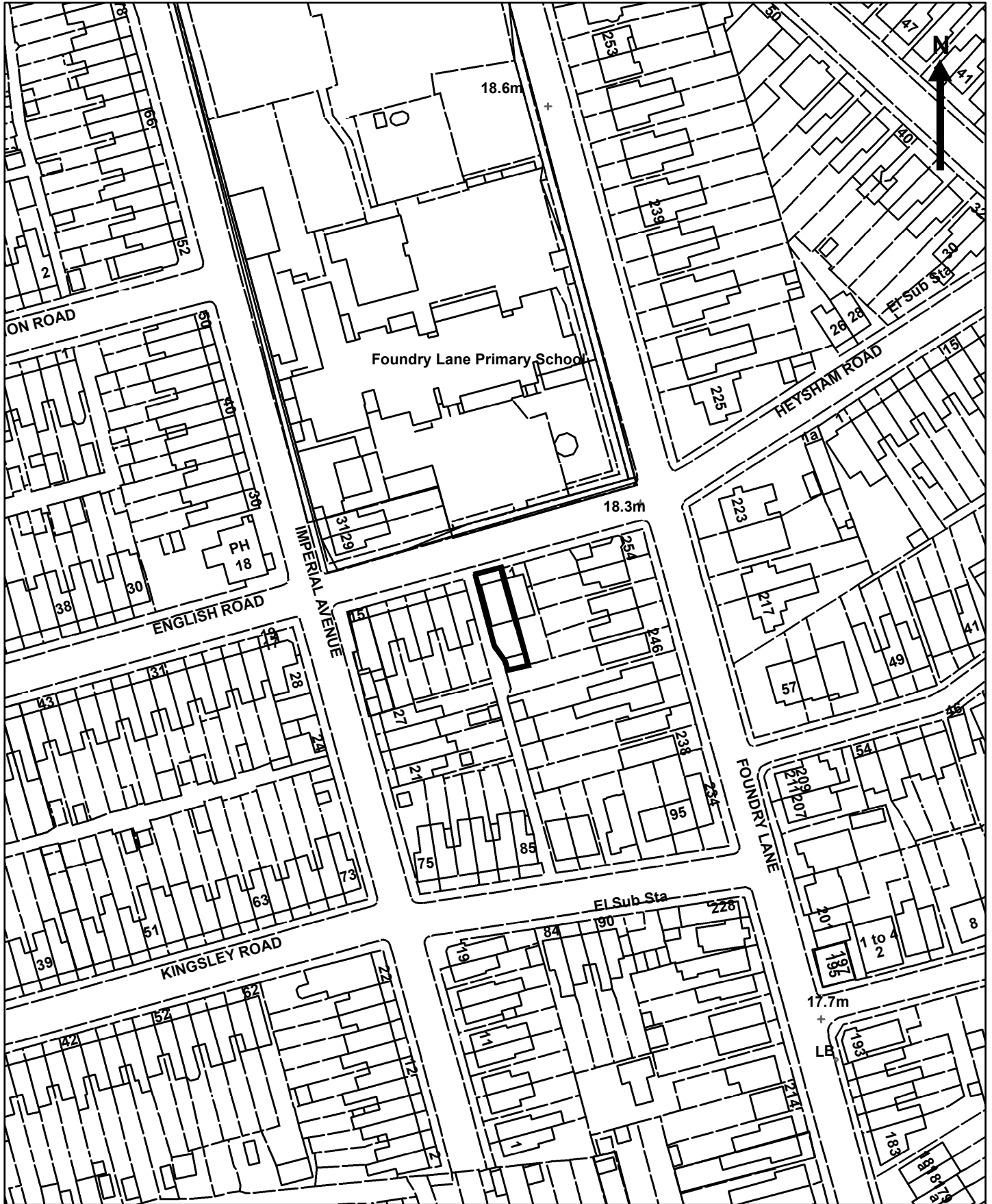
Area Summary (5.5 metre parking length)							
Area Capacity	270						
Survey day	Average Occupancy (%)	23:00	00:00	01:00	02:00	03:00	04:00
		81.90	82.21	81.90	80.98	80.37	80.37

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Agenda Item 9

24/01152/FUL

Appendix 1



Scale: 1:1,250

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