

**Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 13 March 2012  
 Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> Land adjacent to 97 Botany Bay Road			
<b>Proposed development:</b> Erection of a two storey, detached, two bedroom dwelling house plus basement level with associated car parking/cycle store.			
<b>Application number</b>	12/00128/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Bryony Stala	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	02.03.2012	<b>Ward</b>	Sholing
<b>Reason for Panel Referral:</b>	Referred by the Planning & Development Manager due to wider interest	<b>Ward Councillors</b>	Councillor Blatchford Councillor Fitzgerald Councillor Kolker

<b>Applicant:</b> Mr Charles Cooper	<b>Agent:</b> N/A
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<b>Recommendation Summary</b>	<b>Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report</b>
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**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance as set out on the attached sheet. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on the 13.03.12 do not have sufficient weight to justify a refusal of the application. The proposal would be in keeping with the site and surrounding properties and would not have a harmful impact on the amenities of the neighbouring properties. Where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted taking account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS5, CS13, CS16, CS19, and CS20 and the Council’s current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development) and PPS3 (Housing 2011) are also relevant to the determination of this planning application.

<b>Appendix attached</b>			
1	Development Plan Policies	2	Relevant Planning History

**Recommendation in Full**

Conditionally Approve

**1.0 The site and its context**

1.1 The application site is located on the south eastern side of Botany Bay Road.

97 Botany Bay Road is the last in the row of dwellings on the south eastern side. On the opposite side of the road dwellings continue towards its junction with Portsmouth Road. A brook runs along land beyond the rear plot boundary.

- 1.2 Botany Bay Road varies in terms of character, scale, appearance of buildings and property type, however, the dominant form of property is family dwelling housing.
- 1.3 Property type is mixed in terms of age, character and scale within the immediate area. A number of properties abutting the Greenway have taken advantage of the site slope to extend downwards.
- 1.4 The south-eastern and south-western boundaries of the site are abutted by the Shorburs Greenway, which is allocated on the Proposals Map of the Local Plan Review as protected open space and a site of importance for nature conservation (SINC). That part immediately abutting the site has a more open grassed character, merging into trees on the street frontage and by the brook. The south-eastern side of the street, with its outlook over the wooded Greenway and the highway leading to the site from Portsmouth Road has a rural character.
- 1.5 The application site is abutted by the other semi-detached house to the north-east. Detached and semi-detached housing is located on the north-west side of the street opposite the site, set back from the carriageway (no pavement exists in this part/side of the street) occupying a more elevated position.
- 1.6 A prominent Oak tree exists just outside the site in the SINC in the Council's care.

## **2.0 Proposal**

- 2.1 The application seeks full planning consent for a two/three storey two bedrooed detached dwelling house. At street level the property would appear as a two storey dwelling, of similar height and proportion to neighbouring 97 Botany Bay Road. To the rear, the height of the building steps down with the change in land levels to utilise the basement level for a third storey of living accommodation.
- 2.2 One car parking space would be provided to the front of the dwelling and one car parking space retained to the front of 97 Botany Bay Road. An integral store is provided for cycles, whilst refuse bins would be located to the side of the proposed dwelling.
- 2.3 The application is a resubmission of application 11/01699/FUL which sought permission for a detached two bedroom property. The proposal seeks to address the previous reasons for refusal under application 11/01699/FUL. The key differences between the schemes are listed as follows:
  - The building has been reduced in depth by 3m at the upper level.
  - The height of the rear build line steps down with the change in land levels.
  - Balconies have been removed from the rear.
  - A 'lay-by' parking bay has been provided to the front of 97 Botany Bay Road, as well as a parking space provided to the front of the proposed dwelling.
  - An integral cycle store has been provided.
  - The rear lean-to conservatory has been removed at 97 Botany Bay Road and a window put in the rear wall serving the dinning room to improve light and outlook to this room.

## **3.0 Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these

proposals are set out at **Appendix 1**.

- 3.2 The majority of the site is not allocated for a specific use within the Development Plan. A thin margin of the site is shown to be located with the adjoining SINC. The applicant has through an 'adverse possession' claim to the Land Registry, included that margin within the site's cartilage. A report by the Local Government Ombudsman has absolved the council from any maladministration in this regard. The Council's usual requirements for achieving context-sensitive residential design as required by Core Strategy policy CS13 and policies SDP1, SDP7 and SDP9 of the Local Plan are applicable. Applications for new residential dwellings are expected to meet high sustainable construction standards in accordance with adopted Core Strategy Policy CS20 and Local Plan "saved" Policy SDP13.
- 3.3 On June 9th 2010 private residential gardens were excluded from the definition of Previously Developed Land (PDL) in the Government's Planning Policy Statement on Housing (PPS3). Also, the requirement to achieve a minimum density of at least 30 dwellings per hectare was removed.
- 3.4 That said, the revised PPS3 maintains that the planning system should provide "*a flexible, responsive supply of land that is managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate*" (Paragraph 10 refers). The national annual target that "*at least 60 per cent of new housing should be provided on previously developed land*" remains, suggesting that residential development can still take place on other land subject to the local circumstances of each site involved.
- 3.5 It is the view of the Council's Planning Policy Team that the recent changes to PPS3, along with the removal of the national indicative minimum density standards, are not intended to stop all development on private residential gardens. Instead it allows Councils greater powers to resist such development where there is a demonstrable harm to the character and appearance of an area.
- 3.6 The revised PPS3 maintains that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted (Paragraph 13 refers).
- 3.7 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

#### **4.0 Relevant Planning History**

- 4.1 A schedule of the relevant planning history for the site is included in **Appendix 2**. The Council has previously refused two proposals for flatted development on the site as well as a proposal for a single dwelling house.

#### **5.0 Consultation Responses and Notification Representations**

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was also undertaken which included notifying adjoining and nearby landowners and erecting a site notice (02.02.12). At the time of writing the report 9 representations have been received from surrounding residents. The following is a summary of the points raised:

- Botany Bay Road is currently at saturation point with parking, particularly at school pick up and drop off time. Any increase in parking will result in highway safety issues.
- Due to the limited width of the road, cars parked on the road outside 97 Botany Bay Road restrict access for other road users.
- Loss of amenity to 97 Botany Bay Road by reason of loss of light, outlook and privacy to ground floor side windows.
- The removal of access to the rear of 97 Botany Bay Road obstructs access to the rear for bins, cycles and lawn mowers. Access to the rear of 97 Botany Bay Road is restricted and the narrow stepped access to the new dwelling negates the access to the proposed cycle storage shed.
- The proposed development will overlook properties 95 and 97 Botany Bay Road and compromise the ability of the residents to enjoy the rearward facing aspect of their garden.
- Boundary treatments should be in-keeping with the existing street and ensure not to obscure sight lines for the egress of vehicles from the site.
- The cycle store and refuse store are visually intrusive.
- The development proposes internal accommodation that is cramped and does not provide sufficient room for a reasonable standard of living.
- The proposal will impact on the privacy and residential amenity of neighbours.
- The proposed 3 level dwelling is oversized for the site.
- There is concern that if approved the development will be converted into flats or student accommodation. Should the development be approved it is requested that the dwelling is restricted from being converted into multiple units.
- The proposal will have an adverse impact on the adjacent Oak tree.
- The proposal will have adverse environmental impacts on the adjacent woodland and SINC.
- Concern regarding impact on the drains.
- The proposed 3 level dwelling is oversized for the site.
- Concern regarding the development works, how the dwelling would be built and the impact this would have on the adjacent greenway.
- Concern regarding impact on the stability of the existing dwellings at 95 and 97 Botany Bay Road.

The concerns and issues raised are addressed in section 6 of this report.

## 5.2 **Consultee Responses**

5.3 **SCC Highways** - No objection.

5.4 **SCC Ecology** – No objection.

5.5 **SCC Trees** – No objection

5.6 **SCC Sustainability** – No objection.

5.7 **Environment Agency** - No objection.

5.8 **Southern Water** – No objection.

## **6.0 Planning Consideration Key Issues**

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

- Principle of development
- Character and Design
- Residential Amenity
- Ecology & Trees
- Parking & Highways
- Sustainability

The application needs to be assessed in light of the above key issues and the planning history of the site.

### **6.2 Principle of Development**

6.2.1 On the 9<sup>th</sup> March 2010 a lawful development certificate (LDC) was granted for the use of the land subject of this planning application for residential purposes (private garden) in association with the dwelling at 97 Botany Bay Road.

The site is allocated under policy CLT3 of the adopted local plan as designated open space. However, the issuing of the LDC in 2010 supersedes this designation. Therefore the proposed development does not constitute a departure from the local plan. The LDC clearly identifies the use as garden land.

6.2.2 The proposal would involve the development of garden land which has been recently removed from the definition of previously developed land by the recent update to PPS3: Housing. PPS3 indicates that the priority for development is previously developed land. However, that is not to say that development on garden land is harmful per se, but rather it needs to be balanced against the impact of the development on the character of the area and other planning policies which require the efficient use of land to provide housing.

6.2.3 Plot size and width within Botany Bay Road varies whilst the build lines remain, for the majority, uniform to the front and rear of the site with garden being provided to the rear of dwellings and generally parking or a small front garden to the frontage.

6.2.4 The addition of a dwelling house which continues the established pattern of development to end the existing row of houses on the south east side of Botany Bay Road and reflect the existing scale and build lines of neighbouring dwellings is not judged to be harmful to the context and character of Botany Bay Road.

6.2.5 The application site marks the end of development adjacent to the protected Greenway. Yet, providing it is designed correctly, it is judged that an additional dwelling would integrate within the existing street scene without adversely affecting the adjacent land.

6.2.6 It is understood that Millers Pond area has just been made a Local Nature Reserve and the intention is to extend this to encompass all of the Sholing Valleys which will include the land next to the application site. Whilst careful consideration must be given to the impact the proposed development may have on the adjacent SINC, this designation does not apply directly to the land sought for development.

### **6.3 Character and Design**

6.3.1 The previous reason for refusal focused on the impact of the proposed development from the rear of the site and when viewed from the south east of

Botany Bay Road. At the time of assessing the impact of the previous application it was considered that its design, scale and proportions to the frontage were in keeping with that of neighbouring dwellings and would not adversely harm the character of Botany Bay Road. There has been no change to the design of the front elevation.

- 6.3.2 In order to address the previous reason for refusal the rear section of the dwelling house has been reduced in depth at the upper level (third floor level). The rear building line now steps down with the change in land levels to the rear of the site creating a staggered height that better reflects the existing proportions of 95 and 97 Botany Bay Road.
- 6.3.3 The introduction of a staggered rear build line significantly reduces the bulk of the building and the overall mass of the development. This limits the impact of the build when viewed from the south east of Botany Bay Road.
- 6.3.4 The impact when viewed from the adjacent greenway is significantly reduced by the reduction in the scale and mass of the building. The appearance of its bulk will be further reduced by the introduction of boundary treatments and landscaping.
- 6.3.5 It is considered that the revised depth, height and design of the proposed dwelling Successfully addresses issues raised in the previous reason for refusal (11/01699/FUL) creating a building of an appropriate size, and one that is more akin to the scale and proportion of neighbouring dwellings.
- 6.3.6 In order to control additional works being carried out on the site, a condition is suggested to remove the permitted development rights from the property, to ensure that no extensions could be carried out to the property without first requiring planning permission.

#### 6.4 Residential Amenity

- 6.4.1 It is judged that the revised proposal overcomes issues of overlooking to neighbouring gardens. The reduced depth of build at the upper (third floor) level coupled with the removal of balconies prevents direct overlooking to neighbouring gardens, thus retaining an appropriate level of amenity for 95 and 97 Botany Bay Road.
- 6.4.2 Residential standards are met to at least a minimum for the proposed dwelling and retained for 97 Botany Bay Road.
- 6.4.3 At present the windows serving the dining room for 97 Botany Bay are on the south east elevation of the property which directly faces the application site. The proposed dwelling will result in the loss of light and outlook to this window. In order to address this issue, the existing lean-to conservatory at the rear of 97 Botany Bay Road will be removed and a window will be located within the ground floor rear wall. This will result in the dining room being served by two windows and will be afforded appropriate light and outlook to maintain an appropriate residential standard for occupiers of that property.
- 6.4.4 With regard to the ability of the proposed development to connect to the existing drainage system, Southern Water has raised no objection to the proposed development. Such matters will be dealt with in greater detail under the Building Regulations. The Building Regulations will take into account the potential impact of the development on the stability of neighbouring dwellings.
- 6.4.5 The applicant has advised that a 'over-hand' build is intended for the proposed dwelling. This means that all construction works will take place solely on the site and there will be no need for access from the greenway or construction vehicles on the greenway to enable the build. A condition requiring a construction method and management plan to be submitted and agreed with the local planning authority prior to the commencement of development is recommended ensuring

the protection of the greenway.

## 6.5 Ecology and Trees

- 6.5.1 The application site consists of a hard surface and has no biodiversity value. The adjacent land forms part of the Shoreburs Greenway Site of Importance for Nature Conservation (SINC) and is therefore of high biodiversity value. The application site is separated from this land by a fence which will prevent direct physical impacts.
- 6.5.2 The potential impacts of the proposal on Ecology and the adjoining SINC have been agreed by Southampton City Council Ecologist. In order to deliver the development it is the applicant's intention to build 'over-hand'. This will negate the need for construction vehicles to access the site via the SINC.
- 6.5.3 The landscaping scheme submitted in support of the planning application contains a range of plants that will be of benefit to local biodiversity. The wetland planting adjacent to the stream is no longer achievable however, implementation of the rest of this scheme will be secured by way of a planning condition.
- 6.5.4 However, one area of potential concern is the potential for light spill from the building to impact on bat foraging within the greenway. This risk can be managed through careful design and the use of hoods to minimise light spill. A planning condition requiring the submission of a lighting plan is recommended to ensure appropriate lighting is provided within the development.
- 6.5.5 There is a large Oak tree on Southampton City Council land adjacent to this site, which affords the protection of a TPO'd tree due to it being on council owned land. The proposal has been designed to minimise the habitable rooms that will be shaded by the tree and as such it is judged that the proposal should not have significant detrimental affect on the Oak Tree.

## 6.6 Parking and Highways

- 6.6.1 The Adopted Parking Standard SPD advocates a maximum of 2 spaces for 2 bed dwellings in a low accessibility area. During the application stage amended plans were sought to accommodate a parking bay to the front of the existing dwelling 97 Botany Bay Road. As the depth of the frontage was not sufficient to accommodate a space, this has been achieved through the introduction of a 'lay by' parking bay to the front of the property. The layout of the bay meets with highway safety standards and ensures the provision of 1 parking space per dwelling on site in accordance with adopted maximum parking standards.
- 6.6.2 Local residents have raised significant concern regarding on street parking, access to private driveways and highway safety issues in and around Botany Bay Road. There are no parking restrictions in place for Botany Bay Road, and as such it is not possible to prevent future occupiers or visitors to the property from parking on the highway. In planning terms, the proposal meets parking and highway safety standards. The need for any additional highway safety measures is a matter for SCC Highways department.
- 6.6.3 The site can accommodate sufficient cycle and refuse storage for a single dwelling house in accordance with section 9 of the Residential Design Guide.
- 6.6.4 Concern has been raised with regards to the resultant appearance of a cycle and refuse store to be located on the front of the site. Amended plans received during the application process have re-worked the internal layout of the property to provide an integral cycle store accessed via the front of the property. This provides a level access to the cycle store. In addition, the width of the building has been reduced to provide more room within the side access for the storage of

refuse bins. This removes the need for purpose built stores on the property's frontage.

## 6.7 Sustainability

6.7.1 The developer is committed to achieving code for sustainable homes level 3 for the proposed dwellings and a minimum 20% reduction in CO<sub>2</sub> emissions over building regulations 2010 over the life of the dwelling.

6.7.2 Given the size of the dwelling proposed and by reason of the application being a resubmission from a 2011 application it was considered reasonable for code level 3 rather than code level 4 to be achieved on site. The 20% reduction in CO<sub>2</sub> emissions on top of meeting code level 3 further improves the sustainability credentials of the dwelling to a level that is similar to it meeting code level 4.

## 7.0 Summary

7.1 The proposed development successfully addresses the previous reasons for refusal, bringing forward a development that would make a positive contribution to the city's housing stock by introducing a dwelling that is responsive to the scale of neighbouring dwellings and respects the character of the immediate area.

7.2 Residential amenity standards (for both the existing neighbouring and proposed dwellings) are met to at least the minimum requirement.

7.3 Subject to the imposition of the suggested conditions attached to this report, the proposal would be acceptable. The application is therefore recommended for approval.

## 8.0 Conclusion

Subject to the imposition of the suggested conditions attached to this report, the proposal would be acceptable. The application is therefore recommended for approval.

### **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), 4 (f), 6 (a), (c), (f), (i), 7 (a), (b), (e), (k), (m), (t)

### **BS for 13/03/12 PROW Panel**

### **PLANNING CONDITIONS**

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

The development works hereby permitted shall begin not 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. APPROVAL CONDITION - Details of building materials to be used [Pre-Commencement Condition]**

Notwithstanding the information shown on the approved drawings and application form no development works shall be carried out unless and until a written schedule of external materials and finishes has been submitted to and approved in writing by the Local Planning Authority. Development shall be implemented only in accordance with the agreed details. These shall include full details of the manufacturers, types and colours of the external materials to be used for external walls, windows, doors and the roof of the proposed buildings. It is the Local Planning Authority's practice to review all such materials on site. 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.

Reason:

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

## **03. APPROVAL CONDITION - Code for Sustainable Homes Residential Development [Pre-Occupation Condition]**

Written documentary evidence demonstrating that the development will achieve at minimum Level 3, including at least 20% in category Ene1 of the Code for Sustainable Homes, shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted, unless an otherwise agreed timeframe is agreed in writing by the LPA. The evidence shall take the form of a post construction assessment and certificate as issued by a legitimate Code For Sustainable Homes certification body.

REASON:

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

## **04. APPROVAL CONDITION - Construction method statement (Pre-commencement Condition)**

The development hereby approved shall not commence until a method statement, management plans and appropriate drawings of the means of construction of the development has been submitted to and approved in writing by the Local Planning Authority. The method statement shall in particular specify the intended method of build (detailing the 'hand over' construction method required to achieve the build on site) positioning of any scaffolding, the areas to be used for contractors vehicle parking and plant storage of building materials and any excavated material, temporary buildings and all working areas required for the construction of the development hereby permitted. The building works shall proceed in accordance with the approved method statement unless otherwise agreed in writing by the Local Planning Authority.

REASON

To protect the amenities of neighbours and the wider environment and to ensure adequate access and servicing (including a refuse cart) can be maintained to the existing housing in Botany Bay Road and Bay Road.

**05. APPROVAL CONDITION - Tree Retention and Safeguarding [Pre-Commencement Condition]**

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

Reason:

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

**06. APPROVAL CONDITION – Lighting plan (Pre-commencement Condition)**

Prior to the commencement of development a lighting plan, providing details of all internal and external light for the completed project, particular to the side and rear of the site, shall be submitted to the local planning authority and agreed in writing. The scheme shall specify that lighting is of flat glass, full cut-off design with horizontal mountings and shall be so designed and sited as to not cause undue glare and light spillage above the horizontal onto neighbouring land/the night sky. Once approved, those details relating to the finished development shall be fully implemented before any of the dwellings are first occupied in accordance with the approved details and maintained in good working order at all times thereafter.

Reason

To minimise the light intrusion to the adjoining Shorburs Greenway, where bats forage.

**07. APPROVAL CONDITION - no storage under tree canopy [Performance Condition]**

No storage of goods including building materials, machinery and soil, shall take place underneath the crown spread of the trees to be retained on the site. There will be no change in soil levels or routing of services through tree protection zones or within canopy spreads, whichever is greater. There will be no fires on site. There will be no discharge of chemical substances including petrol, diesel and cement mixings within the tree protection zones or within canopy spreads, whichever is greater.

Reason:

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

**08. APPROVAL CONDITION - Overhanging tree loss [Performance Condition]**

For the duration of works on the site no trees on or overhanging the site shall be pruned/cut, felled or uprooted otherwise than shall be agreed in writing by the Local Planning Authority. Any tree removed or significantly damaged, other than shall be agreed, shall be replaced before a specified date by the site owners /site developers with two trees of a size, species, type, and at a location to be determined by the Local Planning Authority.

Reason:

To secure a satisfactory setting for the proposed development and to ensure the retention,

or if necessary replacement, of trees which make an important contribution to the character of the area.

**09. APPROVAL CONDITION - Use of uncontaminated soils and fill [Performance Condition]**

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

Reason:

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

**10. APPROVAL CONDITION- Unsuspected Contamination (Performance Condition)**

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. Any changes to the agreed remediation actions will require the express written consent of 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.

**11. APPROVAL CONDITION - Landscaping detailed plan (Pre-occupation condition)**

The detailed landscaping scheme shown on drawing EDGD1 dated January 6th 2012 prepared by Elizabeth Dean shall be carried out prior to occupation of the dwelling or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

REASON:

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990.

**12. APPROVAL CONDITION - Construction access (Performance Condition)**

Unless otherwise specifically agreed through further written Licence by the City Council's Property Services, no construction access to the site shall be taken over the adjoining Shorburs Greenway.

Reason:

To protect a Site of Importance for Nature Conservation under Policy NE3 of the City of Southampton Local Plan Review (March 2006).

### **13. APPROVAL CONDITION – Parking provision (Performance Condition)**

The car parking spaces as shown on approved drawing \*\*\* (to be updated at Panel meeting) shall be laid out and made available prior to the first occupation of the dwelling hereby approved and thereafter retained for that purpose at all times.

Reason

To ensure an appropriate level of off road parking is available for 97 and 97a Botany Bay Road in accordance with saved policy SDP5 of the local plan review and the adopted Parking Standards SPD.

### **14. APPROVAL CONDITION – Refuse, cycle and amenity provision (Performance Condition)**

The refuse storage arrangement, cycle storage and amenity area as approved must be made available prior to the first occupation of the dwelling hereby approved and thereafter retained at all times.

Reason

In the interests of residential amenity

### **15. APPROVAL CONDITION – Boundary Treatment (Performance Condition)**

At no time shall a boundary treatment (i.e. wall or fence) be erected to the front of 97 Botany Bay Road or 97a (the dwelling approved under this consent) unless otherwise agreed in writing by the local planning authority.

Reason

To ensure appropriate sight lines are retained in the interest of pedestrian and vehicular safety.

### **16. APPROVAL CONDITION - Residential - Permitted Development Restriction [Performance Condition]**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), or any Order amending, revoking or re-enacting that Order, no building or structures within Schedule 2, Part 1, Classes as listed below shall be erected or carried out to any dwelling house hereby permitted without the prior written consent of the Local Planning Authority:

Class A (enlargement of a dwelling house), including a garage or extensions,

Class B (roof alteration),

Class D (porch),

Class E (curtilage structures), including a garage, shed, greenhouse, etc.,

Reason:

In order that the Local Planning Authority may exercise further control in this locality given the small private garden and amenity areas provided as part of this development in the interests of the comprehensive development and visual amenities of the area.

### **17. APPROVAL CONDITION - No other windows or doors other than approved [Performance Condition]**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order amending, revoking or re-enacting that Order), no windows, doors or other openings including roof windows or dormer windows other than those expressly authorised by this permission shall be inserted in the development hereby permitted without the prior written consent of the Local Planning Authority.

Reason:

To protect the amenities of the adjoining residential properties.

**18. APPROVAL CONDITION - Bonfires [Performance Condition]**

No bonfires are to be allowed on site during the period of demolition, clearance and construction.

Reason:

To protect the amenities of the occupiers of existing nearby properties.

**19. APPROVAL CONDITION - Hours of work for Demolition / Clearance / Construction [Performance Condition]**

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 hours to 18:00 hours (8.00am to 6.00pm)

Saturdays 09:00 hours to 13:00 hours (9.00am to 1.00pm)

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 occupiers of nearby dwellings during the construction period and in the interests of highway safety in the vicinity.

**20. APPROVAL CONDITION - Wheel Cleaning (Performance Condition)**

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

Reason

In the interests of highway safety.

Notes to Applicant

1. Pre-Commencement Conditions: Your attention is drawn to the pre-commencement conditions above which require the full terms of the condition to be satisfied before development commences. In order to discharge these conditions you are advised that a formal application for condition discharge is required. You should allow approximately 8 weeks, following validation, for a decision to be made on such an application. If the Decision Notice includes a contaminated land condition you should contact the Council's Environmental Health Department, and allow sufficient time in the process to resolve any issues prior to the commencement of development. It is important that you note that if development commences without the conditions having been formally discharged by the Council in writing, any development taking place will be unauthorised in planning terms and this may invalidate the Planning Permission issued. Furthermore this may result in the Council taking enforcement action against the unauthorised development. If you are in any doubt please contact the Council's Development Management Service.

2. Southern Water:

(i) Detailed design for the proposed basement should take into account the possibility of surcharging within the public sewerage system in order to protect the development from flooding.

(ii) A formal application for connection to the public sewerage system is required in order to service this development, please contact Atkins Ltd, Anglo St. James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688) or [www.southernwater.co.uk](http://www.southernwater.co.uk)

**POLICY CONTEXT**

Core Strategy - (January 2010)

CS5	Housing Density
CS13	Fundamentals of Design
CS16	Housing Mix and Type
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
NE4	Protected Species
H2	Previously Developed Land
H7	The Residential Environment

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Parking Standards (September 2011)

Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)  
PPS3 Housing (June 2011)  
PPS9 Biodiversity and Geological Conservation (August 2005)  
PPS22 Renewable Energy (August 2004)

**Relevant Planning History**

**11/01966/FUL** - Part 2-storey, part 3-storey side and rear extensions and conversion to create 4 flats (3x 1-bed and 1x 3-bed) with associated remodelling of site levels and cycle/refuse storage (resubmission of planning application reference 09/01391/FUL). Refuse. 02.02.2012

Refusal Reason – Disproportionate development

Notwithstanding the amendments to application 09/01391/FUL, the proposed development by reason of its scale, bulk, massing and full three storey height to the rear elevation represents a disproportionately large development which would:

- (i) appear overbearing and over dominant when viewed from neighbouring dwellings and their curtilage.
- (ii) create a visually dominant hard edge at the end of the developed section of Botany Bay Road when viewed from the south.
- (iii) be visually dominant from the public route to the south east of Botany Bay Road during the winter period.
- (iv) have an adverse impact on pedestrian safety on the adjacent highway due to a likely increase in cars parked on the road as a result of the increase in residential occupation of the site and a decrease in available off road parking spaces.

Taken together, these factors are considered to be symptomatic of an unduly dominant development, which is out of character with the existing scale and pattern of development along Botany Bay Road. As such, the development would prove contrary to the provisions of policy CS13 (1) (2) (11) of the adopted Local Development Framework Core Strategy (January 2010) as supported by “saved” policies SDP1, SDP7 and SDP9 (i) of the adopted City of Southampton Local Plan Review (March 2006) and the guidance as set out in the Council’s approved Residential Design Guide SPD (September 2006) (namely, sections 2.1, 3.1, 3.2, 3.7, 3.8 and 3.9).

**11/01699/FUL** - Erection of a two-storey, detached, two-bedroom dwelling house plus basement level with associated car parking/cycle store. Refuse. 13. 12. 2011.

Refusal Reason – disproportionate development

The excessive depth of the proposed dwelling, its resultant footprint and its full three storey height to the rear elevation represents a disproportionately large development which would:

- (i) appear overbearing and over dominant when viewed from neighbouring dwellings and their curtilages.
- (ii) create a visually dominant hard edge at the end of the developed section of Botany Bay Road when viewed from the south.
- (iii) be visually dominant from the public route to the south east of Botany Bay Road during the winter period.



Furthermore, the depth of protection increases the opportunity for overlooking of neighbouring gardens (which rely on the rear section of garden to form the most usable area of amenity) resulting in a loss of existing residential amenity to properties 95 and 97 Botany Bay Road.

Taken together, these factors are considered to be symptomatic of an unduly dominant development, which is out of character with the existing scale and pattern of development along Botany Bay Road. As such, the development would prove contrary to the provisions of policy CS13 (1) (2) of the adopted Local Development Framework Core Strategy (January 2010) as supported by "saved" policies SDP1, SDP7 and SDP9 (i) of the adopted City of Southampton Local Plan Review (March 2006) and the guidance as set out in the Council's approved Residential Design Guide SPD (September 2006) (namely, sections 2.1, 3.1, 3.2, 3.7, 3.8 and 3.9).

**10/00316/ELDC** - Lawful development certificate for residential purposes (private garden) in association with the dwelling at 97 Botany Bay Road. GRANT. 04.10.2010.

**09/01391/FUL** - Part two storey/part three storey side/rear additions (including accommodation in enlarged roof) and conversion to create five flats (1 x 3 bed maisonette, 2 x 2 bedroom and 2 x 1 bedroom flats) with associated remodelling of site levels to rear to create car/cycle parking with amenity space areas. Refused 16.02.2010. Appeal Dismissed 09.12.2010.

#### 1. Harmful to the character of the area

The proposed development exhibits the following poor features, which would be harmful to the character of this semi-rural area:-

(i) Encroachment onto and harsh abutment to the Shoreburs Greenway Site of Importance for Nature Conservation (as shown on the Proposals Map of the City of Southampton Local Plan Review [March 2006]), where no Certificate of Lawfulness exists to use the south-western margin of the site as private garden land/curtilage of a dwelling house and no information has been submitted in relation to external lighting which could impact on bats foraging in the area.

(ii) Whereas the roof ridge line and front building line appear sub-ordinate to the original property at 97 Botany Bay Road, the proposals represent an excessive and overbearing enlargement and overdevelopment of that property, both in respect to the host dwelling and the semi-detached pair of 95 and 97 Botany Bay Road taken together. This would include views either from the street, from the garden on 95 Botany Bay Road and the adjoining public open space, by reason of the proposed extension's scale, bulk and massing and the 75% site coverage from built form footprint and parking apron.

These harmful environmental impacts justify that Policy H8 of the City of Southampton Local Plan Review (March 2006), nor Policy CS5 of the Core Strategy (January 2010) are not dogmatically adhered to. The proposed development is therefore considered to be contrary to the following Policies of the Development Plan for the City of Southampton and relevant paragraphs of its supporting supplementary planning guidance:-

The South East Plan: Regional Spatial Strategy for the South East of England (May 2009)

SP3 (iii), CC1 (ii), CC6, CC8, NRM5 (iv) and BE1 (v).

City of Southampton Local Plan Review (March 2006)

SDP1 (i)/(ii), SDP7 (i)/(ii)/(iv)/(v), SDP9 (i)/(v), NE3, CLT3, H2 (i)/(ii)/(iii)/(vii) and H7 (i)/(iii).

City of Southampton Core Strategy (January 2010)

CS5, CS13 (Points 1, 7 and 13), CS21 and CS22.

Residential Design Guide (September 2006)

Paragraphs 2.2.18, 2.3.1-2.3.2, 3.3.2, 3.2.4-3.2.5, 3.9.1-3.9.2, 3.9.5, 4.1.1-4.1.2 and 5.2.16.

Nature Conservation Strategy (1992)

Policies 4 and 8.

Paragraphs 2.2.18, 2.3.1-2.3.2, 3.3.2, 3.2.4-3.2.5, 3.9.1-3.9.2, 3.9.5, 4.1.1-4.1.2 and 5.2.16.

Nature Conservation Strategy (1992)

Policies 4 and 8.

## 2. Poor living conditions

Whereas the applicant has attempted to meet the Council's Family Housing Supplementary Planning Document, by re-providing a three bedroom unit on the site as part of the proposals, this has resulted in the third bedroom to that unit not having direct access to natural light and ventilation. This is considered to represent poor living conditions, not compatible with modern day requirements and good design. Mechanical ventilation to this room would also add to the development's carbon footprint. As such the proposed development is considered to be contrary to the following Policies of the Development Plan for the City of Southampton and relevant paragraphs of its supporting supplementary planning guidance:-

City of Southampton Local Plan Review (March 2006)

SDP1 (i) and H7 (i)/(iii).

City of Southampton Core Strategy (January 2010)

CS13 (Points 2 and 11).

Residential Design Guide (September 2006)

Paragraph 2.2.1.

## 3. Poorly located cycle store

Notwithstanding the design constraints of the site caused by its topography, the proposed cycle store is considered to be too remote from the dwellings to enable convenient use,

which would make it less likely that this form of travel would be used over the private motor vehicle. As such the proposed development is considered to be contrary to the following Policies of the Development Plan for the City of Southampton and relevant paragraphs of its supporting supplementary planning guidance:-

The South East Plan: Regional Spatial Strategy for the South East of England (May 2009)

T1 (ii).

City of Southampton Local Plan Review (March 2006)

SDP1 (i), SDP4 and SDP10 (ii) .

Residential Design Guide (September 2006)

Paragraphs 5.3.3-5.3.4.

#### 4. Potential harm to highway safety

Notwithstanding achieving a level of car parking exceeding the council's standards, it is considered that a scheme proposing a total of 9 bedrooms could generate a demand for car parking that - along with visitors to those residing at the property - could be likely to cause overspill car parking in the street. Notwithstanding the application site being located in a zone of medium accessibility, regard has also been had to the poor level of street lighting to reach buses in the public transport corridor of Portsmouth Road, in terms of the realistic prospect of residents still depending upon the private car to meet their travel demands. Any resulting additional on-street parking would be at a narrow point of the carriageway, which could add to congestion, especially when a nearby school in Bay Road is in operation. This would be likely to increase congestion on the local highway network and inconvenience to other highway users and be likely to add to highway hazards to pedestrians, given only one side of the street has a footway. As such the proposed development is considered to be contrary to the following Policies of the Development Plan for the City of Southampton:-

City of Southampton Local Plan Review (March 2006)

SDP1 (i) and SDP3.

#### 5. Failure to secure S.106 agreement

In the absence of a completed S.106 Legal Agreement the proposals fail to mitigate against their direct impact and do not, therefore, satisfy the provisions of the following Policies of the Development Plan for the City of Southampton:- Policy CC7 of The South East Plan: Regional Spatial Strategy for the South East of England (May 2009) and Policy CS25 of the City of Southampton Core Strategy (January 2010) as supported by the principles set out in DCLG Circular 05/2005 and the Council's Supplementary Planning Guidance on Planning Obligations (August 2005, as amended and undergoing review) in the following ways:-

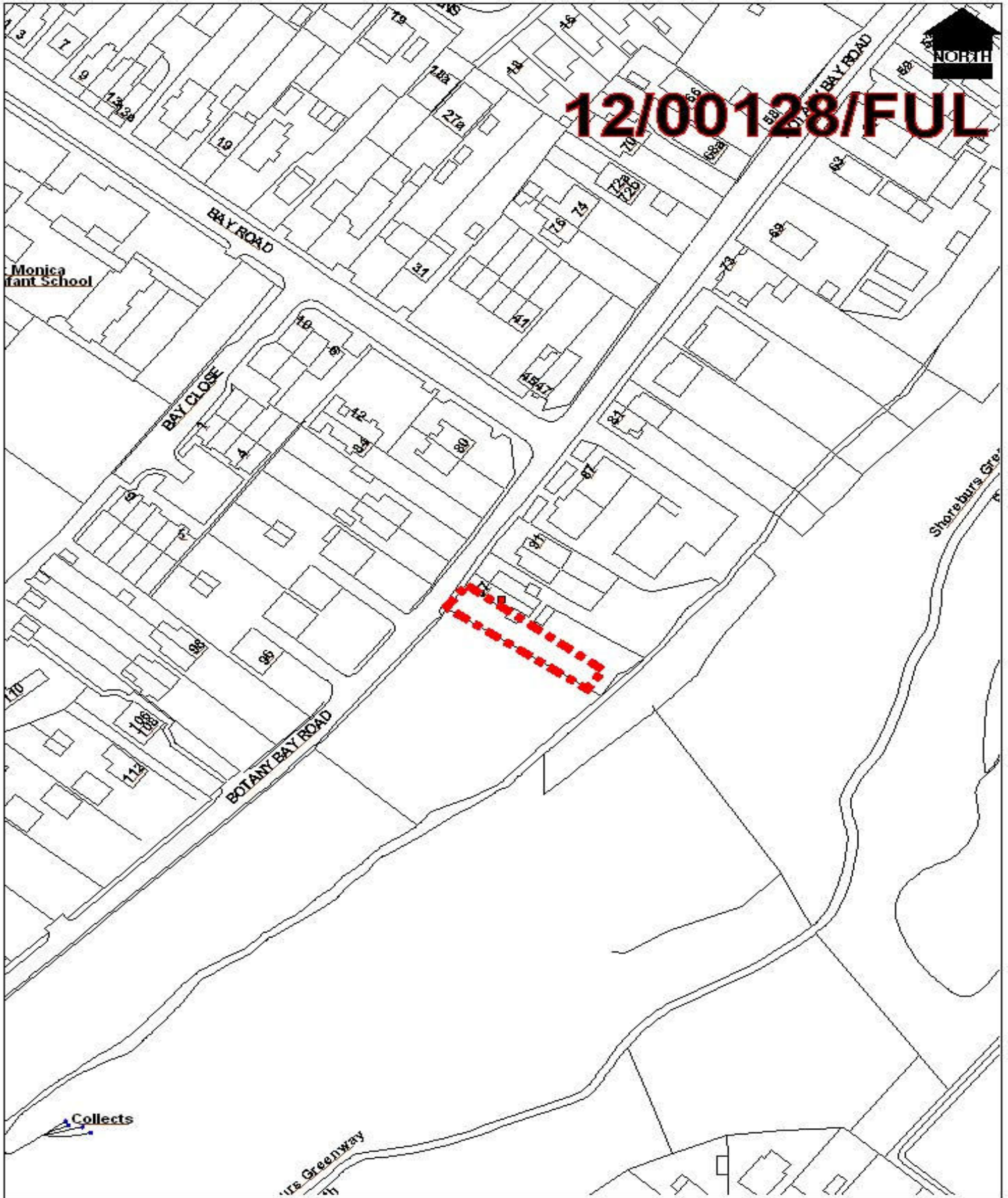
(A) A waste management plan, to ensure that refuse containers are brought to the property's front forecourt on collection day and removed back to their enclosure within the site once emptied;

(B) A financial contribution towards the reinstatement and enhancement of the biodiversity immediately adjoining the application site's south-western boundary, in accordance with Policies CS22, CS23 & CS25 of the City of Southampton Core Strategy (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) ; and,

(C) In the absence of a Highway Condition survey the application fails to demonstrate how the development will mitigate against its impacts during the construction phase.

**09/01017/PREAPP** - Extensions and alterations to existing dwelling to provide 9 flats.





Scale : 1:1250

Date :28 February 2012

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