

# Planning and Rights of Way Panel

Tuesday, 18<sup>th</sup> January 2011  
at 9.30 am

## PLEASE NOTE TIME OF MEETING

Committee Rooms 1 and 2  
Civic Centre

This meeting is open to the public

### Members

Councillor Fitzhenry (Chair)  
Councillor Jones (Vice-Chair)  
Councillor Letts  
Councillor Mead  
Councillor Osmond  
Councillor Slade  
Councillor Thomas

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## **PUBLIC INFORMATION**

### **Terms of Reference**

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**

At the discretion of the Chair, members of the public may address the meeting about any report on the agenda for the meeting in which they have a relevant interest.

Members of the public in attendance at the meeting are advised of the process to be followed.

### **Southampton City Council's Six Priorities**

- Providing good value, high quality services
- Getting the City working
- Investing in education and training
- Keeping people safe
- Keeping the City clean and green
- Looking after people

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

**Mobile Telephones** – Please turn off your mobile telephone whilst in the meeting.

**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 2010/11**

<b>2010</b>	<b>2011</b>
<b>25 May 2010</b>	<b>18 January 2011</b>
<b>22 June</b>	<b>15 February</b>
<b>20 July</b>	<b>15 March</b>
<b>17 August</b>	<b>12 April</b>
<b>31 August</b>	
<b>28 September</b>	
<b>26 October</b>	
<b>23 November</b>	
<b>21 December</b>	

## 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 three.

### **Disclosure of Interests**

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

#### **Personal Interests**

A Member must regard himself or herself as having a personal interest in any matter:

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
  - any employment or business carried on by such person;
  - any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
  - any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

/Continued...

## **Prejudicial Interests**

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

## **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

Agendas and papers are available via the Council's Website

### 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 PREJUDICIAL INTERESTS

In accordance with the Local Government Act 2000, and the Council's Code of Conduct adopted on 16th May 2007, Members to disclose any personal or prejudicial interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Panel Administrator prior to the commencement of this meeting.

### 3 STATEMENT FROM THE CHAIR

#### ITEMS TO BE HEARD BETWEEN 9:30 AM TO 10:30 AM

### 4 CERTIFICATE OF APPROPRIATE ALTERNATIVE DEVELOPMENT FOR THE FORMER CIVIL SERVICE SPORTS GROUND (FREEMANTLE WARD)

Report of the Planning and Development Manager detailing an application for a Certificate of Appropriate Alternative Development for land at the former civil service sports ground at Malmesbury Road, attached.

#### ITEMS TO BE HEARD BETWEEN 10:30 AM TO 11:00 AM

### 5 ENFORCEMENT REPORT IN RESPECT OF 141 BURGESS ROAD, BASSETT, SOUTHAMPTON

Report of the Planning and Development Manager regarding an unauthorised change of use in respect of 141 Burgess Road, attached.

## **CONSIDERATION OF PLANNING APPLICATIONS**

### **ITEMS TO BE HEARD BETWEEN 11:00 AM TO 12:30 PM**

**6 PORTSWOOD BUS DEPOT, 224 PORTSWOOD ROAD, SO17 2AD - 10/01399/OUT**

Report of the Planning and Development Manager recommending delegated authority be granted in respect of the application for a proposed development at the above address, attached.

### **ITEMS TO BE HEARD BETWEEN 12:30 PM AND 1:15 PM**

**7 UNIVERSITY OF SOUTHAMPTON, BOLDREWOOD CAMPUS, BASSETT CRESCENT EAST - 10/01058/FUL**

Report of the Planning and Development Manager, recommending conditional approval in respect of the application for a proposed development at the above address, attached.

### **ITEMS TO BE HEARD BETWEEN 1:15 PM TO 1:35 PM**

**8 80 BELLEMOOR ROAD, SO15 7QU - 10/01654/FUL**

Report of the Planning and Development Manager, recommending conditional approval in respect of the application for a proposed development at the above address, attached.

Monday, 10 January 2011

SOLICITOR TO THE COUNCIL

# Agenda Annex

## INDEX OF AGENDA ITEMS FOR DECISION

DATE: 18 JANUARY 2011 - Committee Rooms 1 and 2

PLEASE NOTE:

THE PANEL, SHOULD IT BE REQUIRED, WILL BREAK FOR LUNCH

Agenda Item Number	Officer	Recommendation	Type	PSA	Application Number / Site Address
<b><u>BETWEEN 9.30 AM AND 10.30 AM</u></b>					
4	SH	DEL	Q26	15	10/01585/FUL Civil Service Club Malmesbury Road
<b><u>BETWEEN 10.30 AM AND 11.00 AM</u></b>					
5	JT	DEL – Serve Enforcement Notice	N/A	5	141 Burgess Road
<b><u>BETWEEN 11.00 AM AND 12.30 PM</u></b>					
6	AA	DEL/Referral to GOSE	Q04	5	10/01399/OUT Portswood Bus Depot 224 Portswood Road
<b><u>BETWEEN 12.30 PM AND 13.15 PM</u></b>					
7	AA	CAP	Q13	5	10/01058/FUL University of Southampton Boldrewood Campus Bassett Crescent East
<b><u>BETWEEN 13.15 PM AND 13.35 PM</u></b>					
8	SB	CAP	Q21	5	10/01654/FUL 80 Bellemoor Road SO15 7QU

### **Abbreviations:**

PSA – Public Speaking Allowance; CAP - Approve with Conditions: DEL - Delegate to Officers: PER - Approve without Conditions: REF – Refusal: TEMP – Temporary Consent  
AA – Andrew Amery, AG - Andrew Gregory, ARL – Anna Lee, BG- Bryony Giles,  
JT - Jenna Turner, MP- Mathew Pidgeon, SH- Stephen Harrison, SL - Steve Lawrence,  
SB – Stuart Brooks, RP – Richard Plume

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

### **Report of Executive Director of Environment**

#### **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 Core Strategy (Adopted 2007)
  - (b) City of Southampton Local Plan Review (Adopted March 2006) saved policies
  - (c) Local Transport Plan 2006 – 2011 (June 2006)
  - (d) City of Southampton Local Development Framework – Core Strategy (adopted January 2010)
  
3. **Statutory Plans in Preparation**
  - (a) City of Southampton Local Development Framework – City Centre Action Plan City Centre Action Plan Issues & Options Paper (2007)
  
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) Provision of Community Infrastructure & Affordable Housing - Planning Obligation (2006)
  - (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 Alder Moor 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 (1997)
- (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 (1990)\*
- (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)

\* 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) Southampton C.C. - Cycling Plan (June 2000)
- (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) DETR Traffic Advisory Leaflets (various)

#### 6. Planning related Government Circulars in most common use

- (a) Planning Obligations 05/05 (As adjusted by Community Infrastructure Levy Regulations 2010)
- (b) Planning controls for hazardous substances 04/00

- (c) The Use of conditions in planning permissions 11/95
- (d) Environmental Impact Assessment 2/99
- (e) Planning Controls over Demolition 10/95
- (f) Planning and Affordable Housing 6/98
- (g) Prevention of Dereliction through the Planning System 2/98
- (h) Air Quality and Land Use Planning 10/97
- (i) Town and Country Planning General Regulations 19/92

7. Government Policy Planning Advice

- (a) PPS1 Delivering Sustainable Development (February 2005)
- (b) Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1 (December 2007)
- (c) Planning Policy Statement: Eco-towns - Supplement to Planning Policy Statement 1 (July 2009)
- (d) PPG2 Green Belts (January 1995 - Amended March 2001)
- (e) PPS3 Housing (November 2006)
- (f) PPS4 Planning Policy Statement 4: Planning for Sustainable Economic Growth (December 2009)
- (g) PPS5 Planning Policy Statement 5: Planning for the Historic Environment (March 2010)
- (h) PPS6 Planning for Town Centres (March 2005)
- (i) PPS7 Planning Policy Statement 7: Sustainable Development in Rural Areas (August 2004)
- (j) PPG8 Telecommunications (August 2001)
- (k) PPS9 Biodiversity and Geological Conservation (August 2005)
- (l) PPS10 Planning for Sustainable Waste Management (July 2005)
- (m) PPS11 Regional Spatial Strategies (September 2004 – amended January 2009)
- (j) PPS12 Local Spatial Planning (June 2008)
- (k) PPG13 Transport (January 2011)
- (l) PPG14 Development on Unstable Land (April 1990)
- (m) PPG15 Planning and the Historic Environment (September 1994)
- (n) PPG16 Archaeology and Planning (November 1990)
- (o) PPG17 Planning for Open Space, Sport and Recreation (July 2002)
- (p) PPG18 Enforcing Planning Control (December 1991)
- (q) PPG19 Outdoor Advertising Control (March 1992)
- (r) PPG20 Coastal Planning (September 1992)
- (t) PPS22 Renewable Energy (August 2004)
- (u) PPS23 Planning and Pollution Control (November 2004)
- (v) PPG24 Planning and Noise (October 1994)
- (w) PPS 25 Development and Flood Risk (December 2006)

8. Government Policy Planning Advice in Preparation

- (a) PPS Development and Coastal Change – Consultation Paper (July 2009)
- (b) Initial review of the implementation of PPS 25 Development and Flood Risk (June 2009)

9. 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 2009)

Other Statu

- a) Crime and Disorder Act 1998
- b) Human Rights Act 1998

Partially Revised: 5/01/11

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# Agenda Item 4

<b>DECISION-MAKER:</b>	<b>PLANNING AND RIGHTS OF WAY PANEL</b>
<b>SUBJECT:</b>	CERTIFICATE OF APPROPRIATE ALTERNATIVE DEVELOPMENT FOR THE FORMER CIVIL SERVICE SPORTS GROUND (FREEMANTLE WARD)
<b>DATE OF DECISION:</b>	18 JANUARY 2011
<b>REPORT OF:</b>	PLANNING AND DEVELOPMENT MANAGER
<b>STATEMENT OF CONFIDENTIALITY</b>	
N/A	

## **BRIEF SUMMARY**

An application for a Certificate of Appropriate Alternative Development (CAAD) under S.17 of the Land and Compensation Act 1961 has been made by the Council's Children's Services and Learning Directorate (ref: 10/01585/FUL).

This report requires the Planning and Rights of Way Panel to determine an application for a CAAD for land at the former civil service sports ground at Malmesbury Road. As background to this application the City Council as Education authority is seeking to acquire the land from Stonechat Development Ltd and Bovis Homes Ltd, both of whom have an interest in the land.

## **RECOMMENDATION(S):**

- (i) That authority be given to the Planning and Development Manager to issue the S.17 Certificate (attached to this report at **Appendix 1**) confirming that if the land subject of the application for a Certificate of Appropriate Alternative Development were not proposed to be acquired by an authority possessing compulsory purchase powers, planning permission would have been granted for:
- (a) D1c (non residential institutional for the provision of outdoor sports associated with education); and/or
  - (b) D2e (assembly and leisure for outdoor sports)
- and not for any other use - including C3 (residential) in full or in part - for the reasons given in this report and set out at in the attached Certificate.

## **REASONS FOR REPORT RECOMMENDATIONS**

- 1 An application for a CAAD is not a planning application. The purpose of the CAAD procedure is to provide valuers, and the Lands Tribunal, with guidance on the fair market value of land being acquired by an authority with compulsory purchase powers.
- 2 The role of the Local Planning Authority (LPA) in this matter is to consider any land use for which planning permission would have been granted *"in respect of the land in question, if it were not proposed to be acquired by an authority possessing compulsory purchase powers"*.
- 3 In this case the applicant (the City Council) has stated that in its opinion only the land uses specified above would be appropriate on the land in the absence of any scheme.

- 4 In this instance, the site is directly affected by the recent permission for its change of use from private open space (class D2) to school playing fields (class D1) which was approved by the Planning and Rights of Way Panel on 16<sup>th</sup> March 2010, with planning permission issued on 24<sup>th</sup> March (LPA ref: 10/00105/R3CFL). This decision is material to the application for a CAAD.

## **DETAIL (Including consultation carried out)**

### **Site and Context**

- 5 The application site forms a 3.43 hectare open, undeveloped, former private sports-ground, purchased from the Civil Service in 2005 by Bovis Homes Ltd which, save for a small portion in the south-eastern part of the site, has remained largely unused since that time.
- 6 The site boundaries are partly marked by mature trees, some of which are protected by a Tree Preservation Order. A variety of boundary treatments exist. A narrow private road marks the south-western boundary (going between Stafford Road and Malmesbury Place), beyond which is St Mark's School.
- 7 Whilst a vehicle can enter this from the Stafford Road end, pedestrian access is only possible from the Malmesbury Place end. Both ends are gated and in the control of St Marks School. Vehicular and pedestrian access to the site is currently taken from Malmesbury Place, a cul-de-sac off Malmesbury Road. The former main vehicular access between numbers 43 and 53 Malmesbury Road still exists, but is currently unused and boarded up. The site is otherwise bounded by traditional housing that backs onto the application site.
- 8 The playing field is currently within private ownership and closed to the public with limited licensed use by the neighbouring Primary School (St Marks).

### **Relevant Planning Policy and Guidance**

- i) The Land Compensation Act (1961)
- 9 Applications for a CAAD are covered by Part III of the Land Compensation Act (1961) and the Land Compensation Development Order (1974). The relevant national guidance is contained in Circular 06/2004 (Appendix P refers).
- 10 An application for a CAAD is not a planning application, although the planning merits of a suggested land use are to be considered. The classes of development indicated in a certificate can briefly be described as those with which an owner might reasonably have expected to sell their land in the open market if it had not been publicly acquired.
- 11 The main differences between a CAAD and a planning application are that a LPA should consider any alternative land use that planning permission would have been granted *"in respect of the land in question, if it were not proposed to be acquired by an authority possessing compulsory purchase powers"*. S17(7) of the Land Compensation Act (1961) adds that a CAAD may not be refused for a particular class of development solely because it would be contrary to the relevant development plan. Instead, the LPA may take account of broader policies if these imply that the classes of alternative

development suggested by the applicant would not have been acceptable in the “no scheme world”

12 A Compulsory Purchase Order for the land was made on the 30<sup>th</sup> March 2010 and was subsequently confirmed on 16<sup>th</sup> August 2010. The Order became operative 6 weeks following this date.

13 **For the purposes of this report the 30<sup>th</sup> March 2010 is taken as the “effective date” to which the considerations apply.**

14 The LPA should now assess the likelihood of a planning permission being granted on the effective date. Regard should, therefore, be had to any extant planning permissions relating to the site and also to a hypothetical “no-scheme world” where the planning merits of other land uses should also be assessed. This exercise is not restricted to those land uses specified by the applicant in the above description of development.

ii) The Development Plan

15 At the effective date (identified above) the development plan for Southampton comprised the “saved” policies from the adopted City of Southampton Local Plan Review (March 2006) and the adopted Local Development Framework Core Strategy (January 2010) as supported by the South East Plan (also known as the Regional Spatial Strategy for the South East) (May 2009). This is still the case.

16 The determination of a CAAD application is not simply a question of considering the adopted development plan, as other material considerations apply. An assessment of other land uses (not included within the application) is also required to satisfy the requirements of the Land Compensation Act (1961), and any material considerations that might outweigh the development plan need to be identified and addressed. That said, the relevant planning policies to be considered in this case are scheduled in **Appendix 2** to this report. The Council’s normal considerations in terms of context, access and residential amenity also apply.

17 The application site is designated on the Proposals Map of the adopted (“saved”) City of Southampton Local Plan Review (March 2006) as Protected Open Space (notwithstanding its current private ownership). Policy CLT3 states that “*development will not be permitted which would result in the loss of the areas of public and private open space listed in Appendix 5 of the Local Plan Review*”. The former sports ground is one of the sites identified. This policy is, therefore, one for broader application with a function beyond the site itself, and is protective of both public and private Open Space within the City. This policy, as supported by the adopted Core Strategy, is pivotal to the above recommendation.

18 Policy CS21 from the adopted LDF Core Strategy (2010) strengthens that approach by stating that “the Council will retain the quantity and improve the quality and accessibility of the City’s diverse and multi – functional open spaces and help deliver new open space both within and beyond the City to meet the needs of all age groups through:-

- Protecting and enhancing key open spaces including Southampton Common, central, district and local parks;
- Replacing or reconfiguring other open spaces in order to achieve wider

community benefits such as improving the quality of open space, or providing a more even distribution across the City

- Safeguarding and, when opportunities arise, extending the green grid; Seeking developer contributions to provide high quality, accessible open spaces.”

19 The Core Strategy Inspector took the view that the Council needs to address the current shortfall in various types of open space by helping to deliver new open space, and safeguard against the net loss of public open space through redevelopment. The Inspector’s report gives very clear direction that, with respect to the provision of open space, the Council should be safeguarding existing provision and achieving more (paragraph 4.143 refers).

20 Policy CS4 (Housing Delivery) from the adopted Core Strategy indicates that 16,300 additional homes will be provided over the plan period (to 2026), with 5,750 homes to be provided on allocated and identified sites between April 2009 and March 2014. The figures demonstrate that the City has a housing supply from identified sites sufficient to meet requirements until and beyond 2018/19, without reliance on windfall and/or greenfield sites.

21 At the time of writing the current South-East Plan recognises the need to improve green infrastructure, education and skills to strengthen the region’s health and economy (in particular Policy CC8 refers).

iii) National Planning Guidance

PPS1 Delivering Sustainable Development (2005)

22 PPS1 (2005) sets out the overarching planning guidance on the delivery of sustainable development through the planning system. It advocates sustainable design and states that a proposal that is inappropriate in its context or that fails to take the opportunities available for improving the character and quality of an area should not be accepted (paragraph 34 refers). It also confirms that new development should be integrated into the existing urban form and the natural and built environments to which it will relate. Good planning results in the right development, in the right location at the right time.

PPS3 Housing (2006) as now superseded

23 In response to the landowners submission that the site could, in principle, be suitable for residential use the Government’s guidance in relation to housing becomes relevant. At the effective date of March 2010 the now superseded 2006 version of PPS3 (Housing) would have been relevant. It’s guidance in relation to previously developed land, and the character of the area, is a relevant consideration in this case.

24 Previously developed land is defined by PPS3 (2006) as land “which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. The definition includes defence buildings, but excludes:

- a) Land that is or has been occupied by agricultural or forestry buildings.
- b) Land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures.



- c) **Land in built-up areas such as parks, recreation grounds and allotments, which, although it may feature paths, pavilions and other buildings, has not been previously developed.**
- d) Land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings).

There is no presumption that land that is previously-developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed.”

25 On this basis of c) above the application site is not considered to be previously developed as defined by the 2006 guidance.

26 PPS3 states that the priority for development should be PDL (Paragraph 36 refers). It explains 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” is applicable, suggesting that residential development can still take place on other land subject to the local circumstances of each site involved. However, PPS3 (2006) also states 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). Further details of how to assess design quality are provided at paragraph 16 of PPS3.

PPG17 – Planning for Open Space, Sport & Recreation (2002)

27 PPG17 explains the role that easily accessible open space, sport and recreation have in delivering the Government’s broader objectives of supporting an urban renaissance, promoting social inclusion and community cohesion, health and well being and promoting more sustainable forms of development. It explains that underpinning the success of an open space strategy is a strong evidence base.

28 “Assessments and audits will allow local authorities to identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in their areas. They form the starting point for establishing an effective strategy for open space, sport and recreation at the local level (tied into the local authority's Community Strategy), and for effective planning through the development of appropriate policies in plans” (paragraph 4 refers).

29 PPG17 advises that “existing open space, sports and recreational buildings and land should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements” (paragraph 10 refers).

30 The annex to PPG17 refers to the definition of Open Space from the Town and Country Planning Act 1990 as “land laid out as a public garden, or used for the purposes of public recreation...”. That said, the paragraph continues by adding that “in applying the policies in this guidance, open space should

be taken to mean all open space of public value... which offer important opportunities for sport and recreation and can also act as a visual amenity". The annex confirms that all land in either public or private ownership is relevant (paragraph 2 of the annex refers), and that even without public access "people enjoy having open space near to them to provide an outlook, variety in the urban scene, or as a positive element in the landscape" (paragraph 3 of the annex refers).

Consultation paper on a new Planning Policy Statement: Planning for a Natural and Healthy Environment (9<sup>th</sup> March 2010)

- 31 This consultation draft would have been a material consideration at the effective compulsory purchase date. It states that open space "plays a vital role in promoting healthy living and in the social development of children through play, sporting activities and interaction with others".
- 32 Policy NE5 adds that, "LPAs should provide sufficient high quality, multifunctional open space, sports and recreational facilities, and space suitable for play to meet the needs of local communities. This should take account of the differing needs of those living, working in and visiting the area. This includes areas of open space that provide a community resource and can be used for informal or formal events such as religious and cultural festivals, agricultural shows and travelling fairs. Local planning authorities should also identify priorities for protection, investment, rationalisation and reallocation for different types of open space, and sport, recreation and play facilities".
- 33 The Policy also explains that, "where deficiencies in open space, or land and facilities for sport, recreation and play have been identified, LPAs should identify opportunities to enhance existing areas or facilities, or to create new ones".
- 34 Finally, "LPAs should identify opportunities for the co-location of facilities, so that different types of open space and land and facilities for sport and recreation, can be located next to each other and also in proximity to other community facilities for education and health".
- 35 Policy NE9 explains that planning permission should be refused for proposals which would result in the loss of existing areas of open space or land and buildings used for sport, recreation or play, unless the assessment of open space (NE1.3) has clearly shown that the land or buildings are surplus to requirements or there are wider public benefits from the development which outweigh the harm. For open space to be considered 'surplus to requirements', consideration should be given to all the functions that the open space can perform".
- iv) Other material considerations
- 36 The Land Registry title contains notice of restrictive covenants and rights reserved over two small sections of the playing field, dating back to 1901. The restrictive covenants do not affect the proposed use of the land as open space. In planning terms this covenant should be afforded little weight.
- 37 The LPA is also required to have regard to reasonably foreseeable policies when determining an application for a CAAD. At the effective date there

were no relevant emerging planning policies or guidance that would affect the determination of this application, and only after the election on 6<sup>th</sup> May 2010 did the Government's definition of previously developed land change. This later amendment does not affect the definition as applied to recreation grounds.

### **Relevant Planning History**

- 38 The site was previously used by the Civil Service as a private sports club with access taken from Malmesbury Road. Two ancillary buildings were erected and extended before their demolition between 1999 and 2004. An area of hardstanding, and its vehicular access exists, but are currently unused.
- 39 A planning application for housing development was refused in 1964 due to the site's designation within the development plan for open space and playing field uses.
- 40 Permission was granted on 24<sup>th</sup> March 2010 for a change of use from private open space (class D2) to school playing fields (class D1) (LPA ref: 10/00105/R3CFL refers).

### **Publicity and Consultation**

- 41 Following the receipt of the application a publicity exercise, in line with department procedures, was undertaken which included notifying adjoining and nearby landowners. The applicants have also notified the landowner in accordance with the relevant Regulations.
- 42 At the time of writing the report **11** representations have been received from affected landowners and surrounding residents, including a response from Alan Whitehead MP, Jeremy Moulton (Ward Cllr) and the Headteacher of St Mark's Church of England Primary School.
- Any additional comments will be reported verbally at the Panel meeting.

### **The Applicant's Case**

- 43 The Council's Children's Services and Learning Directorate is the applicant in this instance and, on behalf of the Council, has sought to acquire the land since 2007. Their application for a CAAD confirms that the Council seeks to acquire the application site for the uses listed above so as to support the outdoor recreational needs of children attending the neighbouring St Mark's CE Junior School (and other local schools including Banister School) and the wider community.
- 44 The Council has undertaken a review of Primary School places, in view of a change in the area's demographics, and has concluded that there is a significant shortage of playing fields at the local schools where pupil numbers are projected to continue to rise in future years (and, particularly in the Freemantle Ward). The acquisition of this site is reported to provide much-needed facilities for school sports, after school and school holiday activities for children and young people as well as providing managed community sports use. Low-key ancillary buildings are also proposed to support these uses.

### **The Landowner's Case**

- 45 The current landowners have suggested that the site could, in principle, be acceptable in planning terms for residential use (either in part – utilising the previous car park - or fully).
- 46 As the site is privately owned, with no public right of use, the land is currently unavailable for the intended use. A full copy of the response to this CAAD application from Stonechat Development Ltd and Bovis Homes Ltd (as parties with a legal interest in the land) is appended to this report at **Appendices 3/4.**

### **Other “Third Party” Representations Received Include:**

- 47
- The protection of the open space is supported as the area is deficient
  - Restrictive covenants prevent housing
  - The local area cannot take additional traffic and congestion
  - Only the “brownfield” part of the site should be considered for redevelopment
  - The site has a biodiversity value

### **Consultation Responses**

#### **48 SCC Planning Policy –**

The former Civil Service Sports Ground is listed as open space in appendix 5 of the Local Plan Review. This list was originally protected under Local Plan Review policy CLT3. Following the adoption of the Core Strategy, appendix 5 was saved and these open spaces are now protected under policy CS21. In accordance with CS21, the Council will retain the quantity of open space in the City and will protect and enhance key open spaces. The Council will also improve the quality and accessibility of open spaces and to help deliver new open space within and beyond the City.

Policy CS21 was informed by the Open Space Audit (2006) produced in accordance with national planning guidance in PPG 17. The audit identified an overall deficiency of most types of open space in Southampton including outdoor sports facilities. The Civil Service Sports Ground is in Freemantle, a built up area located within the central area. The central area has the smallest amount of outdoor sports facilities in the City. It is deficient in all categories of open space except Formal Parks and Gardens (as the Central Parks are located in this area). There is not the opportunity therefore to reconfigure and convert other open spaces to address this deficiency.

PPG 17 specifically includes privately owned outdoor sporting facilities in its typology of open space. Paragraph 10 states that ‘existing open space, sports and recreational buildings and land should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements’. In addition paragraph 24 states that local authorities should consider procuring ‘public use of privately owned areas of land or sports facilities’. There is also strong advice from government to resist the redevelopment of playing fields.

Southampton's overall approach to open space was tested at the Core Strategy examination in July 2009. During this examination, the Inspector recognised the importance of open space in the City. He strengthened the protection given to existing open spaces with the requirement that the Council 'will', as opposed to 'will seek to', retain the quantity of open space.

The site is not allocated for residential uses in the Local Plan Review. It was considered and rejected in the SHLAA (Strategic Housing Land Availability Assessment) which was completed in March 2009. The SHLAA identified sites potentially suitable for housing and was examined and accepted as part of the evidence base for the Core Strategy. Although it does not allocate housing sites, it demonstrated that the City has the potential to identify sufficient sites in future plans to deliver a 5, 10 and 15 year supply of homes as required by PPS 3.

The SHLAA is in the process of being reviewed. Although annual completions have fallen since the initial assessment was undertaken, draft figures show that the City continues to have a 5 year supply. This is partly due to high levels of completions in the past few years in Southampton. However, a number of large sites have planning permission and are expected to go ahead in the next 5 years when economic conditions improve. In addition, windfall sites are not included in estimates of the 5 and 10 year housing supply but continue to be the source of the majority of completions in the City.

In conclusion, the site is allocated as open space in an area with a low level of provision of outdoor sports facilities and a deficiency in all types of open space. Southampton's approach to protecting existing areas of open space has been recently considered and was strengthened at the Core Strategy examination (July 2009). In addition, the site is not needed for residential use as the Council has demonstrated through the SHLAA that there are sufficient potential housing sites to meet the City's targets.

- 49 **SCC Trees, Allotments and Parks Improvement Manager** - The Green Space Strategy (2008) sets out some standards for parks, one of which is a 200m – 400m walking distance from a local park (that being the distance that most people can walk in 5 minutes). When this is applied to Council owned publicly accessible space across the City it can be demonstrated that this area of Southampton is deficient in this type of green space. The Playing Pitch Assessment shows that this area has very limited sports pitch provision and is an area of high density population. It notes the Civil Service Sports Ground as a potential specific site for development for sport. It places Freemantle Ward in the Central Area and identifies only 2 community accessible football pitches and 2 community accessible cricket pitches for the whole area. This shows that there is also a deficiency of this type of open space in this area.
- 50 **SCC Senior Tree Officer** - The trees on this site are protected by the Southampton (Civil Service Sports Ground, Shirley) TPO 2000. This makes them a material consideration in the planning process. Any proposals should consider the retention of important amenity trees in accordance with BS 5837.

- 51 **SCC Ecologist** - Due to problems gaining access the application site has not undergone any ecological assessment. The 2008 aerial photographs show a range of trees, scrub and managed and unmanaged grassland areas which have the potential to support protected species. In particular, the visual difference in the grassland areas suggests that the unmanaged grassland areas may have the correct structure to support slow worm. This species receives protection under the Wildlife and Countryside Act 1981 (as amended). The site also supports a number of trees and scrub which provide potential foraging and nesting habitat for bats and common birds. Before any development takes place ecological surveys should be undertaken. The proposed continued use of the site for outdoor sports provides scope to retain biodiversity interest around the margins. This could be developed into a circular route to provide opportunities for informal recreation. The close proximity of the school would also enable this area to be used as a teaching resource. Alternative uses that result in built development covering the majority of the site would lead to a reduction in the biodiversity value. This would occur as a consequence of habitat loss and an increase in levels of light, noise and physical disturbance.
- 52 **SCC Highways** – No objections raised as there is an existing access
- 53 **SCC Rights of Way** - In his Decision Report (2009) into the alleged public right of way between Malmesbury Place and Stafford Road the Inspector did not confirm the Order. The status of the route, therefore, is that of a permitted footpath under the jurisdiction of the land owner and lessee. As there are no public rights over any part of the site, other than those afforded by the public highways previously mentioned, and that the footpath that links them is a permitted path, the rights of way section has no comment.
- 54 **SCC Archaeology** - No objection, in principle, to the development of the site due to its size and location. A Heritage Statement should be submitted that assesses the archaeological potential of the site in light of any development proposals. In addition, it is apparent from the Historic Map that the immediate area suffered significant bomb damage during WWII. There are at least 18 known bomb impact sites on the roads surrounding the site, and many more in the wider area. Consequently, it is also recommended that an Unexploded Ordnance Survey be carried on the site in advance of any development.
- 55 **Sport England** – The formal response from Sport England is appended to this report at **Appendix 5**.

### **Key Issues**

- 56 Circular 06/2004 (Appendix P) explains that there are three main issues to consider in reaching a decision for a CAAD application. These should be assessed at the effective date and are identified as:
- The physical considerations;
  - The current and foreseeable planning policies; and
  - Identifying and disregarding the planning consequences of the acquisition scheme and the underlying public purpose for it.
- These are addressed below in consideration of the planning merits.

## Planning Considerations

- 57 In terms of the key issues identified above, the success of the Certificate depends on the suitability of the proposed uses (by both the applicant and the landowner) in planning terms. In reaching its decision the LPA is also required to have regard to any reasonably foreseeable policies and the likely need.
- 58 In urban areas such as Southampton all sites (apart from those covered by specific designations) are considered, in principle, suitable for residential development. This means that unless the site is designated or protected for another use, i.e. open space, employment, operational port land then it is likely to be suitable for housing.
- 59 The former Civil Service Sports Ground is designated as open space, and has been certainly since 1964 when an application for residential development was refused (LPA ref: 6489/1275/P3). Furthermore, the land is not regarded to be previously developed land as defined by PPS3 (2006 or 2010).
- 60 The principles set out in PPG17, the adopted South East Plan (Policy CC8), and the recent Consultation Paper on new PPS "Planning for a Natural and Healthy Environment" take a specific approach to safeguarding open space. The current national and local planning policy framework, as set out above, suggest that development proposals should avoid any erosion of recreational function and maintain or enhance the character of open spaces.
- 61 The Council undertook an audit of its Open Spaces in 2007 as part of the requirements under PPG17, and this identified an overall under provision of open space in the City (with the exception of allotments). The Council's subsequent Green Spaces Strategy was adopted by Cabinet in October 2008, and forms part of the evidence base to the Core Strategy. There is a clear need for open space across the City, including the Freemantle Ward where a deficiency has also been identified.
- 62 Policy CS21 of the adopted Core Strategy (as revised and strengthened by the Inspector in relation to loss of open space) makes it clear that the Council is committed to retaining the quantity and improving the quality of open space on an overall basis (paragraph 4.143 refers).
- 63 The Inspector took the view that the Council needs to address the current shortfall in various types of open space by helping to deliver new open space, and safeguard against the net loss of public open space through redevelopment. This policy was adopted at the effective date of the Order and is considered to hold broader weight as the classes of alternative development suggested by the landowner, in particular, would not have been acceptable in the "no scheme world".
- 64 In terms of the application for a CAAD the site's continued use as open space (class D2) is clearly acceptable. Planning permission was also granted for school playing fields (class D2) prior to the effective date (LPA ref: 10/00105/R3CFL). In a "no scheme world" as the local and national policies remain unaltered it is again likely that D2 uses would have been appropriate for the site. As such, the applicant's case is valid. It is also noted that these uses are not contested by the landowners.

- 65 The Council's recent Strategic Housing Land Availability Assessment provided a clear steer away from development on protected open space. However, in terms of the landowners' challenge to the application the LPA should consider the merits of a residential land use for the site (either in full or in part).
- 66 The Government's PPS3 (2006) explains that the priority for residential development should be previously developed land (Paragraph 36 refers). The national annual target that "at least 60 per cent of new housing should be provided on previously developed land" suggests, however, that residential development can still take place on other land subject to the local circumstances of each site involved. Despite the landowner's statement to the contrary the application site is not regarded as previously developed for the purposes of planning control.
- 67 Furthermore, PPS3 (2006) gives LPAs greater powers to resist greenfield development where there is a demonstrable harm *inter alia* to the character and appearance of an area. The judgement as to whether such proposals are acceptable will need to consider, amongst other factors:
- the loss of open space;
  - the contribution the land currently makes to the character of the area;
  - the impact on the defined character of the area; and,
  - the contribution that the scheme makes to meeting housing need.
- 68 PPS3 (2006) explains 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). The criteria for assessing design quality are set out at paragraph 16 of the PPS. Whilst no formal design is provided at this stage it is considered that the release of this greenfield site (either in full or in part) in a backland location would harm the character of the area, and reduce the visual amenity and openness currently enjoyed by residents living in property that backs onto the site. Any such proposal may also reduce the future potential for good access to community and green and open amenity and recreational space, and would fail to create or enhance a distinctive character that is currently provided by the open field.
- 69 The assertion by the landowners that part of the site could be developed for housing also fails to satisfy these requirements, as any such development would also result in a backland development that is alien to the frontage pattern of development that defines the local context. Any such development will also impact on the residential amenities of its neighbours and reduce the perceived and actual feeling of openness that such residents currently enjoy (particularly from the upper floors of their homes). PPG17's Annex refers. Whilst a lesser residential scheme may also retain a significant proportion of useable open space, the principle of any housing remains contrary to the development plan and there are no material considerations that outweigh these provisions.
- 70 Furthermore, currently (and at the effective date), the LPA has a robust five year land supply without the need to release greenfield sites for residential development, and especially ones that are currently designated as open



space, and which could provide public access to improve current identified open space deficiencies within this part of the City. The comments of the Council's Planning Policy Officer (as set out above) refer.

- 71 For these reasons, a residential development on the former Civil Service Sports Ground at the present time and within the foreseeable future, would not be supported by local or national planning policy and the CAAD application should be approved (without modification to include a residential land use).

### **Summary and Conclusions**

- 72 On the basis of the characteristics of the site and its surroundings, and the relevant planning framework that was in force at the time that the Compulsory Purchase Order for the land was made; the CAAD application correctly identifies that the only appropriate land use for the former civil service sports ground at Malmesbury Road is for D1c (non residential institutional for the provision of outdoor sports associated with education) and/or D2e (assembly and leisure for outdoor sports) with limited associated development of a single storey.
- 73 It is recommended that a S.17 Certificate should be issued on this basis. There are no other material considerations to suggest otherwise.

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

- 74 The likely cost of purchase was reported to Cabinet on 27<sup>th</sup> July 2009 as confidential. The outcome of the application for a CAAD will affect the true market value of the land. The issue of the costs of the application is for the Council as applicant and not for the Council as LPA. Costs could be incurred in respect of any appeal against the terms of the certificate.

### **Property/Other**

- 75 The issue of the certificate will provide a valuation basis for the acquisition of the Land.

## **LEGAL IMPLICATIONS**

### **Statutory Power to undertake the proposals in the report:**

- 76 Section 17 of the Land and Compensation Act 1961 provides that where an interest in land is proposed to be acquired by an authority possessing compulsory purchase powers, either of the parties directly concerned may, subject to subsection 2 of this section, apply to the LPA for a certificate under this section. The determination of such an application falls within the remit of the Planning and Rights of Way Panel. There is a right of appeal under section 18 of the Act against a certificate to the Secretary of State and such appeals are determined by an inspector appointed by PINS.

### **Other Legal Implications:**

- 77 None

## **POLICY FRAMEWORK IMPLICATIONS**

- 78 As above

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	E-mail:	stephen.harrison@southampton.gov.uk		

## **SUPPORTING DOCUMENTATION**

### **Appendices**

1.	Certificate of Appropriate Alternative Development for the site
2.	Planning Policy
3.	Response from Landowners
4.	Further Response from Landowners
5.	Sport England comments

### **Documents In Members' Rooms**

1.	None
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### **Integrated Impact Assessment**

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	No
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### **Other Background Documents**

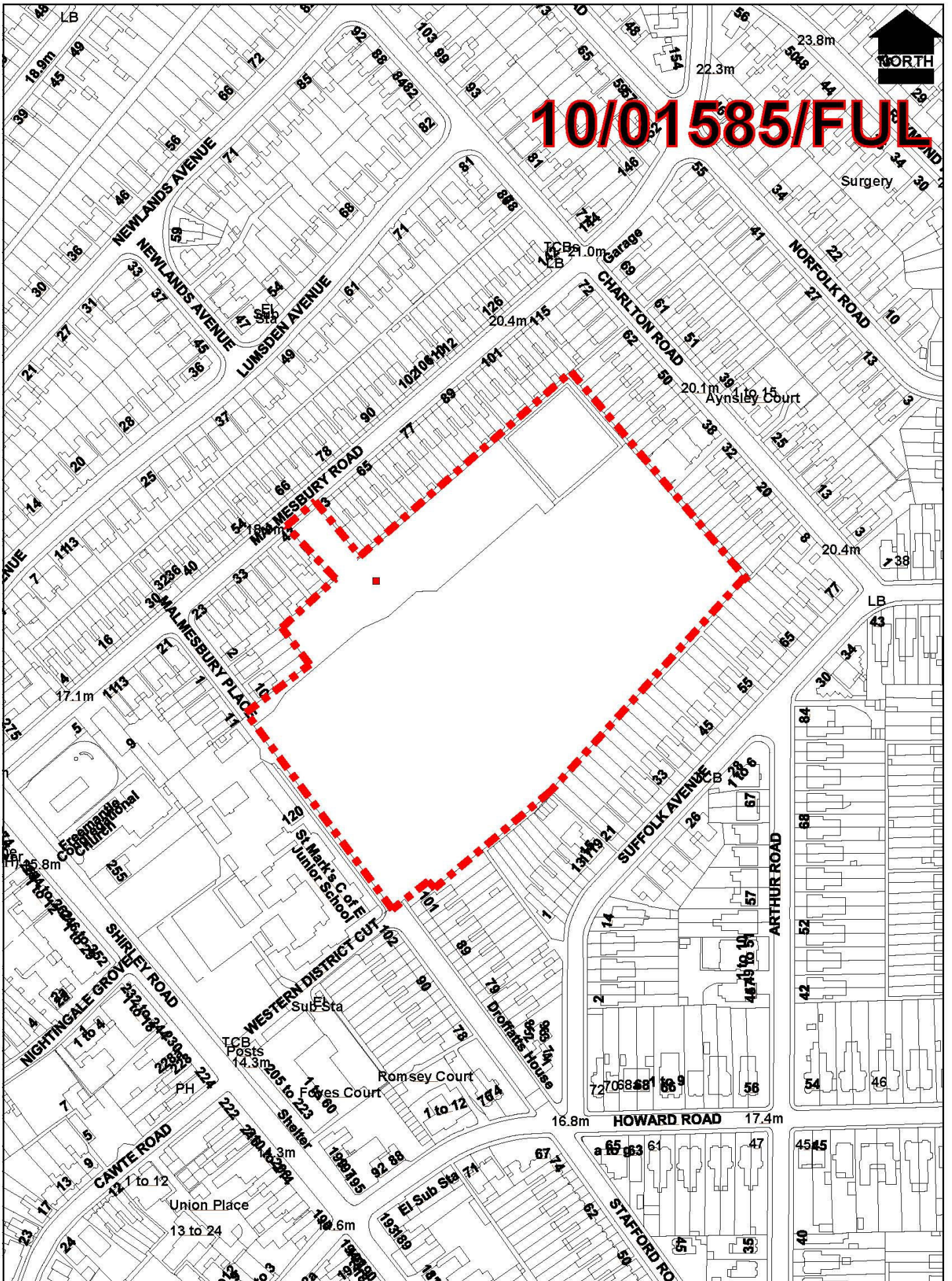
Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	S.17 of the Land and Compensation Act 1961	
2.	The Land Compensation Development Order (1974)	
3.	Circular 06/2004 (Appendix P refers)	

### **Integrated Impact Assessment and Other Background documents available for inspection at: N/A**

<b>WARDS/COMMUNITIES AFFECTED:</b>	Freemantle/Shirley/Millbrook/Bargate
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**10/01585/FUL**

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Date :06 January 2011

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**10/01585/FUL – Appendix 1**  
**Certificate of Appropriate**  
**Alternative Development**

**LAND COMPENSATION ACT 1961**  
**Section 17 (As Amended)**  
**Land Compensation Development Order 1974**

**Certificate of Appropriate Alternative Development**

To: Mrs A. Mew  
Capita Symonds  
3<sup>rd</sup> floor  
One Guildhall Square  
Above Bar Street  
Southampton  
SO14 7FP

On the day of 11<sup>th</sup> November 2010 you applied to the Southampton City Council (hereinafter called “the Local Planning Authority”) for a certificate under the above Section in relation to land known as the Former Civil Service Sports Ground, Malmesbury Place, Shirley, Southampton being shown edged red and coloured pink on the plan annexed to this certificate (the Land).

The Local Planning Authority in exercising its powers under the Land Compensation Act 1961 (as amended) hereby **CERTIFY** in relation to the Land that in the opinion of the Local Planning Authority if the Land were not proposed to be acquired by an Authority possessing compulsory purchase powers that planning permission would have been granted for the following classes of development:

Class D1c (Non Residential Institutional use for the Provision of Outdoor Sports associated with Education);

and/or

Class D2e (Assembly and Leisure for outdoor sports) with limited ancillary built development to support these uses; and for any development for which the land is to be acquired but not for any other development.

Subject to the following conditions:-

**Conditions**

**1. Use Restriction**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the land and any associated buildings shall only be used for D1c (non residential institutional for

the provision of outdoor sports associated with education) and/or D2e (assembly and leisure for outdoor sports), and for no other purpose within Class D1 or D2 of Town and Country Planning (Use Classes) Order 1987 (as amended).

**REASON:**

To define the consent having regard to the current deficiency of open space in the City and to allow the local planning authority to control the nature of development in terms of protecting the character and amenity of the surrounding area.

**2. Proposed Sports Pitch Quality**

Prior to commencement of the development/use:

- (i) A detailed assessment of ground conditions of the land proposed for the sports facility shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and,
- (ii) Based on the results of this assessment to be carried out pursuant to (i) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The approved scheme shall be complied with in full prior to commencement of any development.

**REASON:**

To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field.

**3. Access & Parking Details**

No development shall commence until the Local Planning Authority has approved in writing further details of the Malmesbury Road access, including:-

- A specification for the type of construction proposed for the roads, footpaths and car parking;
- A parking layout (including cycle stands)
- Details of lighting;
- The method of disposing of surface water;
- Details of speed restrictions and signage applicable;
- Means of securing the access including details of the proposed security gate, entry systems and on-site management; and,

- Visibility splays onto Malmesbury Road with details for ensuring that no signage, planting or means of enclosure above 600mm is sited within these agreed sight lines

The access and parking approved shall be implemented in accordance with these agreed additional details prior to the first occupation of the site for the approved use.

REASON:

To ensure the roads, footpaths and parking spaces are constructed to an agreed standard and to facilitate convenient pedestrian/cycle access and to maintain highway safety and prevent congestion on Malmesbury Road.

#### **4. Ancillary Buildings**

Any associated buildings shall be limited to those necessary to support the certified use(s) and shall be single storey and shall be built in accordance with a design that shall have received planning permission to its implementation.

REASON:

In the interest of visual amenity and to secure appropriate design in accordance with the adopted Core Strategy Policy CS13.

#### **5. Floodlighting System**

No external floodlights shall be installed on the site unless otherwise agreed in writing by the Local Planning Authority following the submission of a planning application.

REASON:

In the interest of protecting residential amenity, safeguarding highway safety and not causing undue distraction to aircraft approaching Southampton Airport.

#### **6. Operation Restriction**

The open space shall be operated on a “dual use” basis in accordance with further details that shall be agreed in writing with the Local Planning Authority. These details shall include the proposed hours of use, the on-site management of the community uses and a pricing policy (if applicable). The site shall be closed and vacated of all persons between the hours of 19:00 (7pm) and 08:00 (8am) on a daily basis.

REASON:

To safeguard the amenities of occupiers of adjoining residential properties and to accord with the terms of permission 10/00105/R3CFL.

#### **7. No Amplified System**



There shall be no installation or use of a personal address system or tannoy equipment or other sound amplification machinery for external broadcast at any time unless agreed in writing by the Local Planning Authority for temporary, seasonal, or permanent use.

REASON:

To protect the residential amenities of adjacent residents.

### **8. Ecological Mitigation Statement**

Prior to any development and/or the change of use commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, which unless otherwise agreed in writing by the Local Planning Authority shall be implemented in accordance with the agreed programme.

REASON:

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

### **9. Landscaping**

A detailed landscaping scheme and implementation timetable, which clearly indicates the numbers, planting densities, types, planting size and species of trees and shrubs to be planted, means of enclosure and treatment of hard surfaced areas, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development.

The landscaping scheme shall specify all trees to be retained and to be lost and shall provide an accurate tree survey with full justification for the retention of trees or their loss. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise) to ensure a suitable environment is provided on the site.

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

The approved scheme shall be carried out prior to the first occupation of the site or during the first planting season following the full completion of any 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 any 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

### **10. Tree Retention and Safeguarding**

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 any 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.

### **11. Storage**

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.

### **12. Boundary Fence**

Prior to the commencement of any development details of the design and specifications of the boundary treatment of the site - to include heights, design and means of fixing - shall be submitted to and approved in writing by the Local Planning Authority. The agreed boundary enclosure details shall be subsequently erected prior to the first use of the site for the approved uses and such boundary treatment shall thereafter be retained and maintained as agreed.

REASON:

In the interests of the visual amenities of the area and to protect the amenities and privacy of the occupiers of adjoining property

### **13. Hours of Work for Demolition/Construction**

All works relating to the demolition, clearance and construction of any development 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.

No deliveries of construction materials or equipment, or removal of demolition materials associated with development shall take place between the following times:

Mondays to Fridays                    08.30 to 09.15 hours and 14.30 to 15.30 hours

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 safeguard pupils of St Marks Junior School and to protect the amenities of neighbours and the wider environment.

### **14. Archaeological Investigation**

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

REASON:

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

### **15. Archaeological Work Programme**

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

REASON:

To ensure that the archaeological investigation is completed.

## **16. Unexploded Ordnance**

The owner shall submit in draft to the Council for its approval an unexploded ordnance plan and will not allow any ground works or the change of use to take place until the unexploded ordnance plan has been approved by the Council. The owner will thereafter implement and comply with the directives of the unexploded ordnance plan. In the event that the unexploded ordnance plan identifies a requirement for any on-site works to be undertaken in order to meet the directives then (unless otherwise agreed in writing with the Council) those works shall be carried out by the owner at its own cost in accordance with a timescale to be included within the unexploded ordnance plan.

REASON:

In the interests of public safety.

### **Reasons for the decision**

The reasons for the Local Planning Authority's decision, having had regard to the written representations duly received from the parties directly concerned, are as follows:

The use of the Land for a land use not connected with outdoor recreation, either fully or in part, fails to accord with the development plan and other planning policy guidance for the following reasons:

- Such development would result in the net loss of open space in a part of the City deficient in open space contrary to the requirements of "saved" policy CLT3 of the adopted City of Southampton Local Plan Review (2006) and Policy CS21 of the adopted LDF Core Strategy (2010) as supported by the guidance as set out in PPG17, the adopted South East Plan (Policy CC8), and the recent Consultation Paper on new PPS "Planning for a Natural and Healthy Environment" and the evidence base contained with the City's Open Space Audit (2007), the Playing Pitch Assessment and Green Spaces Strategy (2008).
- The land is not regarded to be previously developed land as defined by PPS3 (2006 or 2010) and contributes to the open character and visual amenity currently enjoyed by nearby residents. Its development with, for instance, housing (in part or in full) will erode this established pattern of development and would introduce a backland development that would erode this established character. Such development would be contrary to the requirements of policies SDP1, SDP6, SDP7 and H7 of the adopted City of Southampton Local Plan Review (2006) and policies CS13 of the adopted LDF Core Strategy (2010) as supported by the Council's approved Residential Design Guide SPD (2006) and the guidance as set out in PPS3 (2006 as superseded).

- Currently (and at the effective date of the Order), the City has a robust five year land supply without the need to release greenfield sites for residential development, and especially ones that are currently designated as open space, and which could provide public access to improve current identified open space deficiencies within this part of the City.

**DATED** this day of 2011

Signed :

.....

Chris Lyons

Planning and Development Manager

### **IMPORTANT NOTICE- RIGHT OF APPEAL**

Section 18 of the Land Compensation Act 1961 provides as follows:-

18. (1) Where the Local Planning Authority have issued a certificate under Section 17 of this Act in respect of an interest in land:-
  - (a) the person for the time being entitled to that interest, or
  - (b) any Authority possessing compulsory purchase powers by whom that interest is proposed to be acquired, may appeal to the Secretary of State for Communities and Local Government against that certificate.
- (2) On any appeal under this Section against a certificate the Secretary of State shall consider the matters to which the certificate relates as if the application for a certificate under Section 17 of this Act had been made to him in the first instance, and shall either confirm the certificate, or vary it, or cancel it and issue a different certificate in its place, as he may consider appropriate.
- (3) Before determining any such appeal the Secretary of State shall, if any such person or authority as is mentioned in paragraph (a) or paragraph (b) of sub-section (1) of this section so desires, afford to each such person or authority and to the Local Planning Authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) Where an application is made for a certificate under Section 17 of this Act and at the expiry of the time prescribed by a development

order for the issue thereof (or, if an extended period is at any time agreed upon in writing by the parties and the Local Planning Authority, at the end of that period) no certificate has been issued by the Local Planning Authority in accordance with that section, the preceding provisions of this section shall apply as if the Local Planning Authority had issued such a certificate containing such a statement as is mentioned in paragraph (b) of sub-section (4) of that section.

The procedure for appealing against the terms of such a certificate is prescribed in paragraph 4 of the Land Compensation Development Order 1963, which reads as follows:-

4. (1) The time for giving notice of an appeal under section 18 shall be within one month of the receipt of the certificate or of the expiry of the time or extended period mentioned in sub-section (4) of that section, as the case may be.
- (2) Notice of appeal shall be given in writing to the Secretary of State, and a copy of such notice shall be sent by the appellant (a) to the Local Planning Authority, and (b) to the other of the parties directly concerned.
- (3) The appellant shall within one month of giving notice of appeal, or such longer period as the Secretary of State may in any particular case allow, furnish to the Secretary of State one copy of the application to the Local Planning Authority, and of the certificate (if any) issued by the Local Planning Authority, together with a statement of the grounds of appeal.
- (4) If an appellant does not within the time limited under the last preceding paragraph furnish to the Secretary of State the copies of the documents thereby required, the appeal shall be treated as withdrawn.

Appeals should be made to:

The Planning Inspectorate  
Room 4/04 Kite Wing  
Temple Quay House  
2 The Square  
Temple Quay  
BRISTOL BS1 6PN

The appeal form is available on the PINS website

***This Certificate has been copied to those parties with an interest in the land, namely Bovis Homes and GVA Grimley (on behalf of Stonechat Developments Limited).***



#### **Relevant Planning Policy**

##### Adopted LDF Core Strategy (2010)

CS4	Housing delivery
CS5	Housing density
CS11	An educated city
CS13	Fundamentals of design
CS18	Transport: Reduce-manage-invest
CS19	Car and cycle parking
CS21	Protecting and enhancing open space
CS22	Promoting biodiversity and protecting habitats

##### “Saved” City of Southampton Local Plan Review Policies (March 2006)

SDP1	General Principles
SDP4	Development Access
SDP5	Parking
SDP7	Context
SDP8	Urban form and public space
SDP10	Safety and Security
SDP11	Accessibility and Movement
SDP12	Landscape and biodiversity
SDP16	Noise
SDP17	Lighting
SDP22	Contaminated land
H1	Housing supply
H2	Previously developed land
H7	The residential environment
CLT3	Protection of Open Spaces
NE4	Protected Species

##### Adopted Residential Design Guide SPD (2006)

##### City of Southampton Local Transport Plan 2006 – 2016

##### Southampton Biodiversity Action Plan

South East Plan (May 2009)

CC6	Sustainable communities and character of the environment
CC8	Green Infrastructure
NRM5	Conservation and improvement of biodiversity
S5	Cultural and sporting activity

Other Guidance

PPS1	Delivering sustainable development
PPS3	Housing (2006 as superseded)
PPS9	Biodiversity and geological conservation
PPG13	Transport
PPG17	Planning for Open Space, Sport and Recreation
PPG24	Planning and Noise

Consultation paper on a new Planning Policy Statement: Planning for a Natural and Healthy Environment (9<sup>th</sup> March 2010)





Bovis Homes Limited  
South East Region  
The Manor House  
North Ash Road  
New Ash Green  
Longfield, Kent DA3 8HQ  
Telephone: 01474 876200  
Facsimile: 01474 876201  
DX: 41950 New Ash Green 2

Appendix 3

Stephen Harrison  
Planning & Sustainability  
Southampton City Council  
Civic Centre Road  
Southampton  
SO14 7LS

PLANNING &  
SUSTAINABILITY  
26 NOV 2010

22<sup>nd</sup> November 2010

Our Ref: PC/CC

Dear Mr Harrison

Land known as 'Former Civil Service Sports Ground' Malmesbury Place, Southampton

I have received a letter dated 11<sup>th</sup> November from your colleague Ali Mew regarding a S.17 Land Compensation Act 1961 application on this site, the purpose of which is to ascertain a fair market value for the land in question. Having considered your submission the Company believes that the value of the land should relate to its potential to provide residential development for the following reasons.

1. It is understood that the City Council did attempt to acquire the site following its cessation as a sports ground. However, it was instead sold to Stonechat, who then sold the freehold to Bovis Homes Ltd. My Company's attempts to promote this site for residential development – which, given the fact that the land is largely surrounded by existing residential uses is entirely logical – has thus been deliberately frustrated by the City Council.
2. The land is privately owned, and the public have no right to use it for recreational purposes. It is thus unavailable for these purposes.

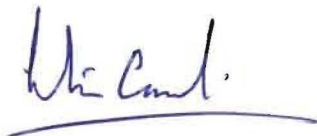
3. The coalition government has made clear its concerns about the lack of housing provision. It thus intends to increase the supply of new housing from the unacceptably low levels that are currently being achieved by local authorities. Indeed, it is widely acknowledged that current planned provision will not meet forecast needs.
4. It is the Company's intention to promote the use of this land for residential purposes. Indeed, it has attempted this via a submission to the Strategic Housing Land Availability Assessment. The Council, however, rejected this proposal on the grounds that the land was allocated as open space – despite the fact that it was not actually available for that purpose – and because they saw it as a potential school site. Nevertheless, the Company will maintain its contention that this land could – and should be developed for housing, given its location, together with the Councils' housing requirements.

### Conclusion

The site could reasonably be developed for residential purposes – in whole or in part. If it was to be partly allocated for housing, then the remainder of the site could be made available to the council for open space or educational purposes. At the moment, however, the site is unavailable to the public as open space, despite being allocated for that purpose. Such a situation is simply non-sensical. It also reflects badly on the City Council to reasonably assess its own housing and other requirements and to negotiate fairly with landowners. In these circumstances, the Council should accept a more responsible and responsive stance, by accepting that at least part of

the land could be developed for residential purposes. It should not, therefore, simply argue that the land should only be valued as open space / leisure / education when it could easily become all or in part residential.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Peter Court", with a horizontal line underneath it.

Peter Court

**Associate Director Strategic Land**

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International Property Advisers

Our Ref.:AKN/ DR06/StonechatS17  
1 December 2010

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W1J 8JR  
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Southampton  
SO14 7FP

Direct Line 020 7911 2231  
[Angela.nelson@gvagrimsley.co.uk](mailto:Angela.nelson@gvagrimsley.co.uk)

Dear Sirs

**LAND KNOWN AS “FORMER CIVIC SERVICE SPORTS GROUND”, MALMESBURY CLOSE, SOUTHAMPTON**

We write on behalf of our clients, Stonechat Developments Limited, to submit representations to an application for a Certificate of Appropriate Alternative Development under Section 17 (s.17) of the Land Compensation Act 1961 and Land Compensation Development Order 1974 for land known as ‘Former Civil Service Sports Ground’, Malmesbury Place, Shirley, Southampton.

A Compulsory Purchase Order for the above lands was made on the 30<sup>th</sup> March 2010 and this was subsequently confirmed on 16<sup>th</sup> August 2010. My clients sold their freehold interest in the property to Bovis Homes Ltd in 2005 but still have a charge over the site.

A s.17 application has been submitted by Capita Symonds on behalf of the Acquiring Authority, Southampton Education Authority (Children’s Services & Learning). The application is not clear as to what date they are assessing what the appropriate alternative development of the land would be if it were not proposed to be acquired by the Council under Compulsory Purchase Powers. The correct date in accordance with s.22 of the Land Compensation Act 1961 is the date of the notice of the making of the CPO, which we have taken to be within the 4 weeks prior to the making of the CPO.

Following a review of the s.17 application, my client contends the proposed planning policy matrix at the relevant date, as well as the case submitted for appropriate forms of development by the Acquiring Authority. I set out my client’s submissions on each of these points below.

London West End . London City . Belfast . Birmingham . Bristol . Cardiff. Edinburgh . Glasgow . Leeds . Liverpool . Manchester . Newcastle

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[www.gvaworldwide.com](http://www.gvaworldwide.com)

GVA Grimley Limited is registered in England and Wales number 6382509.  
Registered office, 3 Brindleyplace, Birmingham B1 2JB.



Regulated by RICS



### ***Planning Policy Matrix***

The planning assumptions that form the basis of the s.17 application are premised on an assessment of the national and local planning policy matrix at the relevant date, which is set out in Sections 3 and 4 of the application.

Whilst there is common ground between my client and the Acquiring Authority in regard to the planning policy matrix on the relevant date, my client contends the application of paragraph 4.6 regarding Planning Policy Statement 3 (PPS3). The application references a quotation from PPS3 Annex B regarding the definition of previously developed land, which could be a key material consideration in appraising the appropriateness of development on the land. However, the version of PPS 3 which includes the Government's latest definition was only published in June 2010, nearly three months post the making of the Compulsory Purchase Order. It is therefore my client's view that this paragraph and the subsequent paragraph 4.7 should be disregarded in its entirety.

### ***Planning Assumptions***

Based on its planning policy matrix, the Acquiring Authority considers the appropriate alternative uses for the land, which it considers to be:

- **Class D1(c)** – Non-residential Institutional use for provision of education, with restriction on lands to ensure that it remains as Educational / School Playing fields; and
- **Class D2(e)** – Assembly & Leisure, outdoor sports facility with ancillary pavilion and changing room, with restriction on change of use within the use class.

It is our client's view that appropriate alternative development on the land on the relevant date would not be confined to only Class D1(c) and D2(e) uses as considered by the Acquiring Authority, but could include Class C3 uses.

The key Development Plan policies considered in relation to the land are Policy CLT3 Protection of Open Spaces of the City of Southampton Local Plan Review (March 2006) and Policy CS21 (Protecting and Enhancing Open Space) in the adopted Core Strategy (January 2010). These two policies seek to both protect and enhance the provision of public and private open space within the Borough, through not permitting development that would lead to the loss of any open space.

It is my client's submission that it would be feasible to develop the existing developed area of the site, comprising some 3,200 sqm gross of land currently used for car parking, pavilion/club house and skittle alley, for Class C3 residential development.

The development of this area of the site would not prohibit the use, function or quality of the open space provision, whether in public or private use, and would therefore not conflict with these development plan policies. Indeed, application 10/00105/R3CFL, granted consent on 16 March 2010, demonstrates that continued use of the sports pitch and open space can be secured in a policy compliant manner without the need or use of this existing developed area.

It is my client's submission that as a minimum, the residual site area of c0.4 hectares excluding the open space is sufficient to deliver a small scale housing scheme in a policy compliant manner that respects and protects the amenity of the existing adjacent residential dwellings and meets all other amenity objectives in the Development Plan. Based on a standard indicative density that would be consistent with the surrounding residential neighbourhood, the site could accommodate up to 12 units when applying a density of 30 dwellings per hectare which was the minimum density which could be applied at that time.

### **Conclusions**

In conclusion, my client objects to the limited scope of appropriate alternative development submitted by the Acquiring Authority as being reasonable on the land at the relevant date and submits that Class C3 residential use could be delivered on the part of the site that it already developed, without prejudicing policy objectives for the retention and protection of existing open spaces.

We trust you will take these comments on board.

Yours faithfully

*GVA Grimley Ltd*

**GVA GRIMLEY LTD**

CC Ray Haskell, Stonechat Developments Ltd  
Michael Bennett, Charles Russell

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Creating sporting opportunities in every community

Stephen Harrison  
Southampton City Council  
Ground Floor  
Civic Centre  
SOUTHAMPTON  
SO14 7LS

08 December 2010

Our Ref: SE/SU/2010/22520/S

Dear Stephen Harrison

**Application Number: 10/01585/FUL**

**Site Address: Civil Service Club, Malmesbury Road, Southampton, SO15 5FP**

**Proposal: Application for a Certificate of Appropriate Alternative Development for the former Civil Service Sports Ground - alternative uses sought include D1 c non residential institutional for the provision of outdoor sports associated with education and or D2 e assembly and leisure for outdoor sports with associated development and for no other use**

Thank you for consulting Sport England on the above application.

It is understood that the proposed application for a 'Certificate of Appropriate Alternative Development' concerns land that forms part of, or constitutes a playing field, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2010 (SI 2010/2184) Schedule 5. Sport England responds to this application as a statutory consultee on the basis that the land has been used as a playing field at any time in the last five years and remains undeveloped; or has been allocated for use as a playing field in a development plan; or involves replacement of the grass surface of a playing pitch on a playing field with an artificial surface.

Sport England has therefore considered the application in the light of its playing fields policy. The aim of this policy is to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area. The policy seeks to protect all parts of the playing field from development and not just those which, for the time being, are laid out as pitches. The Policy states that;



**SPORT  
ENGLAND**

Creating sporting opportunities in every community

*“Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all or any part of a playing field, or land last used as a playing field or allocated for use as a playing field in an adopted or draft deposit local plan, unless, in the judgement of Sport England, one of the Specific circumstances applies.”*

*Reason; Development which would lead to the loss of all or part of a playing field, or which would prejudice its use, should not normally be permitted because it would permanently reduce the opportunities for participation in sporting activities. Government planning policy and the policies of Sport England have recognised the importance of such activities to the social and economic well-being of the country.”*

The Applicant seeks a ‘Certificate of Appropriate Alternative Development’ of the former Civil Service Sports Ground. The alternative uses sought are:

- D1 Non residential institutional for the provision of outdoor sports associated with education.
- D2 Assembly and leisure for outdoor sports with associated development.

The site was last used as a sports ground by the Civil Service. The site included a club house/pavilion and bowls lawn, a second smaller pavilion, tennis courts and playing fields. Therefore, Sport England would support the use of the site for D2 (leisure), provided that the playing field areas are protected and that any buildings on the site are ancillary to the site’s use as a playing field. This approach would also accord with Policy CS21 of the adopted Core Strategy.

It is understood that a local School continues to use the existing playing fields on the site. Sport England would not object to the introduction of a basic modular changing block for School use onto the area previously occupied by the former pavilion, as suggested in the Applicant’s statement (paragraph 5.5). This is provided that the building could also be used by community sports groups. No development should take place on playing field land. However, this proposed form of development could take place within Use Class D2, without the need for a change of use to Use Class D1.

Sport England would not wish for a ‘Certificate of Appropriate Alternative Development’ to secure the change of use of the whole site as Use Class D1 – non residential use for the provision of education, thereby potentially allowing the site to be redeveloped for a School or other education building.



**SPORT  
ENGLAND**

Creating sporting opportunities in every community

Therefore, Sport England **objects** to this application unless it can be demonstrated that the existing playing field land on this site will be protected from development.

Potentially, this could be achieved through a condition on the application such as this one:

*“The playing field shall be used for Outdoor Sport and for no other purpose (including without limitation any other purpose in Class D2 Use Classes Order 2005, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).”*

*Reason: To protect the playing field from loss and to accord with Core Strategy Policy CS21.”*

I would be grateful if you could give me a call to discuss this matter further.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

If you would like any further information or advice please contact the undersigned at the address below.

Yours sincerely

A handwritten signature in black ink that reads "Vicky Aston".

**Vicky Aston**  
**Planning Manager**

Direct Line: 020 7273 1904

Email: [vicky.aston@sportengland.org](mailto:vicky.aston@sportengland.org)

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<b>DECISION-MAKER:</b>	PLANNING AND RIGHTS OF WAY PANEL
<b>SUBJECT:</b>	ENFORCEMENT REPORT IN RESPECT OF 141 BURGESS ROAD, BASSETT, SOUTHAMPTON
<b>DATE OF DECISION:</b>	18 JANUARY 2011
<b>REPORT OF:</b>	PLANNING AND DEVELOPMENT MANAGER
<b>STATEMENT OF CONFIDENTIALITY</b>	
Not applicable	

## **BRIEF SUMMARY**

An unauthorised change of use of 141 Burgess Road has taken place from single, four-bedroom dwelling to use primarily as an office to an architectural practice / property development company/consultant.

## **RECOMMENDATIONS:**

- (i) Serve an Enforcement Notice, requiring the unauthorised use of 141 Burgess Road primarily as an office to cease and that should that unauthorised use not cease that authority be given to prosecute such a breach of control via the Magistrates Court.
- (ii) Offer assistance to the business(es) operating from the address to find alternative accommodation, authorised for office use.

## **REASONS FOR REPORT RECOMMENDATIONS**

- 1 The unauthorised use of 141 Burgess Road primarily as an office prevents the property being used as a single dwelling house. This is contrary to Policy H6 of the City of Southampton Local Plan Review (March 2006).

## **DETAIL**

### **Introduction**

- 2 This report updates the 23<sup>rd</sup> November 2010 report to the Planning and Rights of Way Panel (attached with the meeting minute at **Appendix 1**). At this meeting it was resolved to serve an Enforcement Notice requiring the unauthorised use of 141 Burgess Road as an office to cease. The serving of this notice was deferred to enable officers to discuss any possible alternative courses of action with the owner.

### **Update**

- 3 On the 30<sup>th</sup> November 2010 officers of the planning department met the owner of 141 Burgess Road. The owner suggested the submission of a further application for a live/work unit which could be time-limited for a period of two years to enable the completion of the dwelling to the rear of the site, thereby compensating for the loss of 141 as a dwelling (see letter attached at **Appendix 2**).
- 4 Whilst policy CS16 of the Core Strategy is relevant, the primary policy consideration in this instance is saved policy H6 of the City of Southampton Local Plan Review (March 2006 - LPR) which resists the net loss of dwellings. Allowing the breach of control to continue for a further two years would be contrary to the provisions of policy H6 and furthermore, there is no

mechanism in place to secure the delivery of the dwelling after the two year period has elapsed and thereby leading to a further delay in resolving this situation.

**Conclusion and preferred option recommended by Officers**

- 5 The evidence suggests that there is no residential use of the building but if there is any residential use, then it has taken the character of a purely ancillary function of the building, whose primary use is now firmly as an office contrary to policy H6 of the LPR. Continued unauthorised use for business purposes does not meet the objectives of this policy, which is to protect a net stock of family housing.
- 6 It is therefore considered expedient to serve an Enforcement Notice to require use of 141 Burgess Road primarily as an office to cease. This is because continued unauthorised use (since March 2006), has caused the loss of a four bedroomed, family dwelling house to the Council's stock of housing and is therefore contrary to Policy H6 of the Local Plan Review (March 2006) The compliance period recommended is 3 months. The owner of the property would have the ability to Appeal the decision within a 28 day period.

**RESOURCE IMPLICATIONS**

**Capital/Revenue**

- 7 There is the possibility that the owner could claim costs for unreasonable behaviour by the Local Planning Authority, if an Appeal against the Enforcement Notice were to succeed. The risk is however, considered to be small given the Council's statutory and up to date Development Plan and the evidence that exists in terms of housing need and relocation opportunities.

**Property/Other**

- 8 None.

**LEGAL IMPLICATIONS**

**Statutory Power to undertake the proposals in the report:**

- 9 None

**Other Legal Implications:**

- 10 None

**POLICY FRAMEWORK IMPLICATIONS**

- 11 None

<b>AUTHOR:</b>	Name:	Jenna Turner	Tel:	023 8083 2603
	E-mail:	jenna.turner@southampton.gov.uk		

## SUPPORTING DOCUMENTATION

### Appendices

1.	Previous report to Planning and Rights of Way Panel and committee minute
2.	Letter from owner of 141 Burgess Road

### Documents In Members' Rooms

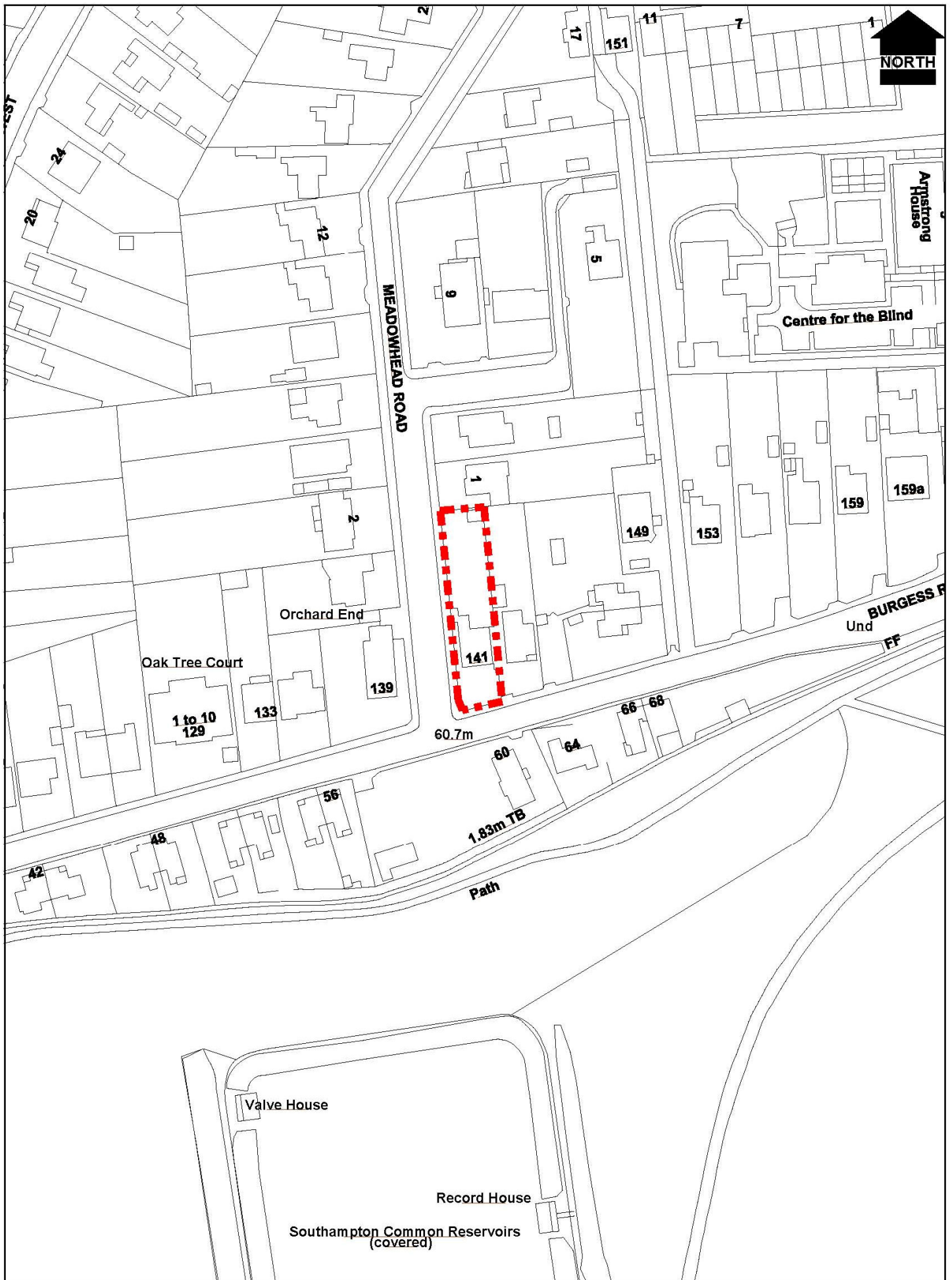
1.	None
----	------

### Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	No
--	----

### Other Background Documents

	Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	Redacted complainants' letters	
2.	6 letters from Quayside Architects	
3.	Letter of support form 139 Burgess Road	
<b>Integrated Impact Assessment and Other Background documents available for inspection at:</b>		<b>N/A</b>
<b>WARDS/COMMUNITIES AFFECTED:</b>		Bassett



Scale : 1:1250

Date :06 January 2011

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<b>DECISION-MAKER:</b>	PLANNING AND RIGHTS OF WAY PANEL
<b>SUBJECT:</b>	ENFORCEMENT REPORT IN RESPECT OF 141 BURGESS ROAD, BASSETT, SOUTHAMPTON
<b>DATE OF DECISION:</b>	23 NOVEMBER 2010
<b>REPORT OF:</b>	PLANNING AND DEVELOPMENT MANAGER
<b>STATEMENT OF CONFIDENTIALITY</b>	
Not applicable	

**BRIEF SUMMARY**

An unauthorised change of use of 141 Burgess Road has taken place from single, four bedroomed dwelling to use primarily as an office to an architectural practice / property development company / consultant.

This occurred in March 2006 and, following a report considered in May 2008, the Planning and Rights of Way Panel resolved to serve an Enforcement Notice requiring the unauthorised use to cease. Unfortunately, an error occurred in the minuting of that resolution and action was held in abeyance pending consideration of a planning application which sought use of the property as a live-work unit.

Whereas that application was favourably determined because of the unauthorised use, implementation of that consent was required in a three month time frame.

Implementation did not take place and that consent therefore lapsed. In the interim, unauthorised use as an office has continued.

An internal inspection revealed the property was still in use as an office and response to a further Planning Contravention Notice reveals that office use persists and that notwithstanding there being a bedroom on the first floor, the property does not form anyone's primary place of residence.

Since the original resolution to serve an Enforcement Notice, the Core Strategy has been adopted. This contains Policy CS16, which seeks to resist the loss of family homes, whether through redevelopment or conversion. Policy H6 of the Local Plan Review also resists such net loss on sites.

Whereas no amenity or highway safety issues appear to have resulted from the unauthorised use, it does stand contrary to the Policies identified above. With 14,000 people currently on the housing waiting list in the City and a high demand for 4 bedroomed properties and having regard to the general availability of purpose built office accommodation in the City to allow relocation and continuance of the business and the employment it provides, it is considered expedient to serve an Enforcement Notice to require the office use to cease, as continued unauthorised use undermines the Policies identified above.

**RECOMMENDATIONS:**

- (i) Serve an Enforcement Notice, requiring the unauthorised use of 141 Burgess Road primarily as an office to cease and that should that unauthorised use not cease that authority be given to prosecute such a breach of control via the Magistrates Court.

- (ii) Offer assistance to the business(es) operating from the address to find alternative accommodation, authorised for office use.

## **REASONS FOR REPORT RECOMMENDATIONS**

- 1 The unauthorised use of 141 Burgess Road primarily as an office prevents the property being used as a single dwelling house. This is contrary to Policy CS16 of the City of Southampton Local Development Framework Core Strategy (January 2010) and Policy H6 of the City of Southampton Local Plan Review (March 2006).

## **DETAIL (Including consultation carried out)**

### **Introduction**

- 2 This report is brought before the Panel, notwithstanding the Planning and Development Manager's powers of delegation, owing to the complex history of the site, the Panel's previous involvement, and to allow interested persons the opportunity to address the Panel, before a decision is reached.
- 3 This report sets out :-
- The land use character of the area;
  - Relevant site history;
  - Responses made to Planning Contravention Notices served at the address;
  - The complaints made about the unauthorised use of the site;
  - Representations from Quayside Architects, who are carrying out the unauthorised business;
  - Representations in support of Quayside Architects' occupation of the site; and,
  - The options available to the Local Planning Authority in terms of planning enforcement action that may be taken in the public interest, including the preferred option from Officers.

### **Land use character of the area**

- 4 Originally built as a detached 4 bedroomed house, 141 Burgess Road stands on the eastern corner of Burgess Road and Meadowhead Road. It enjoys three garaged parking spaces to the rear and a hard surfaced forecourt, both separately accessed from Meadowhead Road. Burgess Road is a busy local distributor road linking the A35 (Winchester Road) to the A33 (The Avenue). Meadowhead Road is a cul-de-sac. The immediate area is wholly residential in character.

### **Relevant planning history**

- 5 The first complaint about the alleged business use was made on 6 February 2006.
- 6 Quayside Architects have told the Local Planning Authority that their business use started at 141 Burgess Road on 1 March 2006.
- 7 A planning application was invited to regularise the situation and application 06/00325/FUL was made valid on 3 March 2006. This proposed use of the property as a live-work unit and the details of such a use given by Quayside Architects are set out as **Appendix 1**, along with the submitted plans. It is

important to note that the whole of the residential plot known as 141 Burgess Road, extending to the common boundary with 1 Meadowhead Road and including three garages, off-street parking spaces was shown within the application site. This, taken with 2 forecourt parking spaces made 5 spaces in total to support the live-work use.

8 06/00325/FUL was recommended by Officers for conditional permission to the 24 April 2006 meeting of the Planning and Rights of Way Panel. Deputations for and against that recommendation were heard by the Panel, which decided to overturn the recommendation and refuse planning permission. The decision notice is reproduced as **Appendix 2**. The Panel made no other resolution to take enforcement action to secure the cessation of business use at the property and no Appeal was subsequently lodged against the Local Planning Authority's decision.

9 A relevant consideration continues to be Policy H6 of the City of Southampton Local Plan Review (March 2006 - LPR), the most relevant wording or which is underlined below:-

#### **H 6 Housing Retention**

10 Planning permission which would result in the loss of dwellings will not be granted unless:

- (i) Surrounding uses make their retention for residential use unacceptable;
- (ii) The residential unit(s) forms a subsidiary part of a non-residential property and a separate access cannot continue to be practically provided;
- (iii) The form of redevelopment will make a positive contribution to urban regeneration initiatives;
- (iv) The use provides a necessary or desirable community facility designed to meet an identified need in the neighbourhood;
- (v) The overall development results in a net gain in residential units;
- (vi) A proposal provides 'home-working' facilities as part of the overall scheme;
- (vii) The property lies within the defined University Development Area (UDA);
- (viii) The property lies within the identified area for hospital development of the General (HC1) and Royal South Hants (HC2).

11 As a mixed use of 141 Burgess Road for business and dwelling had been proposed under 06/00325/FUL, the requirements of clauses (v) and (vi) to H6 would have been met, which is why Policy H6 is not referred to in the reason for refusal.

12 Following the meeting, Quayside Architects were written to on 15 May 2006 and advised to cease the unauthorised business use of the property.

13 A period of correspondence then ensued with Quayside Architects, where the Local Planning Authority sought to informally ascertain the nature and characteristics of the business use actually carried out and requested the submission of a revised planning application.

- 14 A site visit was undertaken on 5 February 2007, which basically found the layout and use of the property to accord with that which had been submitted under application 06/00325/FUL (refer to last page of **Appendix 1**). A Planning Contravention Notice (PCN), dated 19 February 2007, was served on at the address formally seeking information about the use being undertaken. That Notice is set out at **Appendix 3**.
- 15 Applications 04/01314/OUT & 06/00083/VC (as partially adjusted by Appeal decision dated 24.7.06), 06/01104/FUL, granted 12.9.06 and 06/01674/FUL, granted 8.1.07, 07/00112/VC (as partially adjusted by Appeal decision dated (14.3.08) and 07/01817/FUL (allowed at Appeal 23.06.2009) have been submitted and approved to subdivide the plot and place a dwelling on the rear part of the plot, which includes the demolition of the 3 garage parking spaces.
- 16 If a dwelling were to be constructed on the rear part of the plot, this would compensate for the loss of 141 Burgess Road as a dwelling, allowed for under LPR Policy H6. However, since that time the LDF Core Strategy has been adopted, where Policy CS16 resists the loss of family homes per se, whether through redevelopment or conversion.
- 17 Representations against another application 06/01269/FUL cross-referred to the continuing unauthorised business use at 141 Burgess Road and sought the Council's action to regularise the matter.
- 18 On the basis of answers given to the PCN dated 19 February 2007 (reproduced as **Appendix 4**) and the lack of significant harm being caused by the use, at that time the - (then titled) - Development Control Manager decided that it was not expedient to serve a planning enforcement notice to secure the cessation of the unauthorised business use.
- 19 On 14.12.07 a further complaint was received about the continuing unauthorised use. A further written invitation was put to Quayside Architects on 10.1.08 to submit a regularising application. After conferring with Legal Services a further site visit was undertaken on 4.4.08 by two officers, which revealed that shown in **Appendix 5**. The land use character of the building can now be summarised as business use pervading the character of most rooms save for one bedroom on the first floor.
- 20 A second PCN was served on 16.4.08. That and the response to it are reproduced as **Appendix 6**.
- 21 At its meeting on 27 May 2008 the Planning and Rights of Way Panel resolved to serve an Enforcement Notice for the reasoning set out in **Appendix 7**. Regrettably, owing to a drafting error, the minuted resolution said that the majority of Members were against such action, rather than for.
- 22 Subsequent to the May 2008 meeting Quayside Architects made a further planning application, not to regularise the use indicated in the second PCN response but for change of use to live/work use with extended boundary wall, new vehicular access from Meadowhead Road and associated parking, under reference 08/00971/FUL. In granting consent, and being mindful of the unauthorised use, condition 01 of the favourable decision stated:-
- 23 *"The development works hereby permitted shall begin not*

*later than three months of 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) To prevent the continuation of the property as an unauthorised commercial premises which results in the loss of a dwelling unit contrary to the provisions of policy H6 of the City of Southampton Local Plan Review”.*

- 24 That permission was not been implemented within that time frame and has now lapsed.
- 25 The unauthorised use has continued since that time and on 4 March 2010 Officers used powers of entry to survey the property again. Three rooms on the first floor were locked at that time, but the layout of other accommodation accorded with that set out in **Appendix 5**.
- 26 To be reasonably certain as to the use of the locked rooms, a further PCN was served. That and the response to it are reproduced as **Appendix 8**.
- 27 In order to resolve this unsatisfactory matter and in view of the minuting error from the 27.5.2008 Panel meeting, it has now been decided to bring this report back to Members, and to invite interested parties to address the Panel before a decision relating to whether or not planning enforcement action should now be taken by the Panel.

#### **Nature and number of complaints made**

- 28 Since 2006, eight written and one telephoned complaints/calls for action from occupiers of 4 separate addresses close to the site have been made against the unauthorised business use at 141 Burgess Road.
- 29 The harm identified relating to this use is overspill car parking in Meadowhead Road and loss of a family house.

#### **Representations by Quayside Architects**

- 30 Since the site inspection of 4.4.08, six letters have been received from Quayside Architects.
- 31 In summary, they conclude that the complaints made about them are vexatious and it is not expedient for the Local Planning Authority to take enforcement action as significant harm to amenity has not been established.

#### **Representations made in support of Quayside Architects**

- 32 A letter concerning the car parking implications of the continued business use of 141 Burgess Road from the occupiers of 139 Burgess Road was received. The occupiers of that property are not inconvenienced from the car parking associated with the business.

#### **Options for action by the Local Planning Authority**

- 33 Paragraph 4 of Planning Policy Guidance Note 18 states:-  
*“Public acceptance of the development control process is quickly undermined if unauthorised development, which is unacceptable on planning merits, is allowed to proceed without any apparent attempt by the LPA to*

*intervene before serious harm to amenity results from it”.*

34 Paragraph 2.2 of Circular 10/97 states that a key test of whether to take action should be whether it is expedient to do so having regard to the provisions of the development plan and to any other material considerations.

35 The complaint relating to the impact of on-street car parking arising from the unauthorised business use which affects the amenities of residents living close by has not really been substantiated. Indeed, one occupier opposite has confirmed they suffer no inconvenience.

36 However, the loss of a 4 bed roomed, family dwellinghouse to the City's housing stock, has occurred and has persisted for over 4 years. The LDF Core Strategy Policy CS16 has also been adopted since the last Panel resolution on this matter, which seeks to resist the loss of family housing.

37 The Housing development Officer has confirmed the following:-

- The Council has recently commissioned a Housing Needs and Market Survey update (completed October 2010).
- The consultants (DCA) identified that although the numbers waiting for 4 bed properties is relatively small (525 households at 31/3/10) their housing need is the most significant because of the stock level of such affordable housing and the low turnover of such stock. As can be seen from the table (**Appendix 9**), if no new households came on to the housing register, it would still take over 35 years to meet existing demand.
- Those in the highest need for a 4 bed property wait up to 7 years for such a property on average. This has a significant impact when most households waiting for such housing will be living in overcrowded conditions, generally with children.
- It is essential that new family homes are provided across the city and that existing family homes are protected to help meet the acute housing need for such homes.

38 Reviewing the 'Invest-in-Southampton' website on 9 November 2010, searching for available office space in the Southampton City area, between 1,000-2,500 ft.sq, 116 available properties were listed. Relocation of the unauthorised business use occupying 141 Burgess Road and the employment it provides is therefore possible.

39 A number of options exist as to how to proceed:-

- Conclude that no significant harm is occurring to amenity expressed in the provisions of the Development Plan and that no further action be taken. This would not stop the Local Planning Authority from taking action in the future, if circumstances change, and provided it was still within the statutory time limits to take such action (10 years in relation to an unauthorised business use);
- Conclude that significant harm is being caused which makes it expedient to serve an enforcement notice, because continued unauthorised use primarily as an office is contrary to Policy H6 of the Local Plan Review (March 2006) and Policy CS16 of the LDF Core Strategy (January 2010). A reasonable time for compliance to allow for the relocation of the business is 3 months.

### **Conclusion and preferred option recommended by Officers**

- 40 The evidence suggests that there is no residential use of the building but if there is any residential use, then it has taken the character of a purely ancillary function of the building, whose primary use is now firmly as an office.
- 41 This raises the issue of Policy H6 of the LPR above. Continued unauthorised use for business purposes does not meet the objectives of this policy, which is to protect a net stock of family housing. Planning Policy Statement 3 (Housing) also promotes family housing in this regard.
- 42 Whilst no tangible harm is perceived or evidenced from on-street parking associated with the business at this moment in time, other than to serve as an irritation and reminder to neighbours that an unauthorised use persists in breach of planning control, this may largely be due to the 5 off-street parking spaces available to serve the business. Should that quantum of parking decrease in the future though, and with the ever increasing rate of car ownership, it may be that issues of congestion and highway safety could manifest themselves later.
- 43 In particular, a reduction in off-street parking to serve the business use could result from the sub-division of the plot to build a house consented under the extant residential consents referred to above.
- 44 It is therefore only considered expedient to serve an Enforcement Notice to require use of 141 Burgess Road primarily as an office to cease. This is because continued unauthorised use (since March 2006), has caused the loss of a four bedroomed, family dwelling house to the City's stock of housing and is therefore contrary to Policy H6 of the Local Plan Review (March 2006) and CS16 of the LDF Core Strategy (January 2010). The compliance period recommended is 3 months. The owner of the property would have the ability to Appeal the decision within a 28 day period.

### **RESOURCE IMPLICATIONS**

#### **Capital/Revenue**

- 45 There is the possibility that the owner could claim costs for unreasonable behaviour by the Local Planning Authority, if an Appeal against the Enforcement Notice were to succeed. The risk is however, considered to be small given the council's statutory and up to date Development Plan and the evidence that exists in terms of housing need and relocation opportunities.

#### **Property/Other**

- 46 None.

### **LEGAL IMPLICATIONS**

#### **Statutory Power to undertake the proposals in the report:**

- 47 None

#### **Other Legal Implications:**

- 48 None

### **POLICY FRAMEWORK IMPLICATIONS**

49 None

<b>AUTHOR:</b>	Name:	Mr Steve Lawrence	Tel:	023 8083 2552
	E-mail:	steve.lawrence@southampton.gov.uk		

### SUPPORTING DOCUMENTATION

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

#### Appendices

1.	Use of 141 Burgess Road proposed under application 06/00325/FUL, including relevant plans
2.	Decision notice refusing 06/00325/FUL
3.	PCN 19.2.2007
4.	Responses to 19.2.2010 PCN
5.	Property survey plan 4.4. 2008
6.	16.4.2008 PCN and responses to it
7.	Extract of minutes from 27.5.2008 PRow Panel meeting
8.	Third PCN served 27.9.2010 and responses to it
9.	Southampton City Council Housing waiting list demand for 4 bedroom homes

#### Documents In Members' Rooms

1.	None.
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#### Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	No
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#### Other Background Documents

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	1 complainants' letters	
2.	6 letters from Quayside Architects	
3.	Letter of support form 139 Burgess Road	

**Integrated Impact Assessment and Other Background documents available for inspection at:**

<b>WARDS/COMMUNITIES AFFECTED:</b>	Bassett
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Southampton City Council  
Planning & Sustainability  
Civic Centre  
Southampton  
SO14 7LS

**For the attention of Jenna Turner, Senior Planning Officer**

Our ref: NH/PR/698  
Date: 30th November 2010

Dear Ms Turner

**UNAUTHORISED LIVE/WORK USE - 141 BURGESS ROAD**

Further to our meeting of even date regarding the above, we are writing to confirm the following proposal:

We are prepared to make a planning application for a live/work unit in No. 141 with the application site red-lined as shown on the attached plan 698-P6-03.

The consented 3 bedroom dwelling, 07/01817/FUL, ensures that the application complies with CS16, para 2.

*"No nett loss of family houses on sites capable of accommodating a mix of residential units."*

If the Council considers that the current unauthorised use results in the loss of a *"family house"* it can apply Conditions to rectify that loss within a specified time-frame. We would suggest the following:

1. Personal consent ref. list at C2 of 08/00971/FUL.
2. Time-limited consent 2 years, extended to 5 years if consent 07/01817/FUL is completed.
3. Parking space at rear of 141 to be completed prior to implementation of 08/00971 (CO8 requirement for 4.9m bays not necessary).

If Officers are prepared to recommend the above to Committee we will undertake to make a submission for approval of Prior to Commencement Conditions, C2 materials and C3 boundary treatment of 07/01817/FUL within 1 month of the grant of consent.

Having regard for the history of previous recommendations to Committee we request that Officers consult Committee on this proposal, including proposed Conditions, before we submit an application.

If Committee agree with the proposal, including the proposed Conditions, we would undertake to submit a planning application within a month of the Committee decision.

If the Council chooses to pursue enforcement action, rather than pursue this compromised offer, it will have to explain its assessment that it has not been expedient to enforce over the last four years, together with the Officer recommendations for Application 06/00325/FUL in 2006, 08/00971/FUL and subsequent correspondence together with the implications of 08/2010 on CS16.

A Planning Inspector may well conclude that:

1. The action is taken "*solely to remedy the absence of a valid planning permission.*"
2. There is no loss of a "*family home*" due to its previous and likely fall-back C4 occupancy.
3. The Council's CS16(2) Policy is undermined by 08/2010.
4. There is no minimum occupancy requirement for the residential floor space and the 08/00971 consent has been implemented.
5. The personal and time-limited consents are not necessary.
6. It is not necessary to specify a time limit for completing the 07/01817 dwelling having regard for the above and para 61 of 11/95.

Thus the option of enforcement action is not risk-free for the Council, and given the time-frame for an appeal, enforcement action is unlikely to be significantly quicker in resolving the matter. Having regard for these considerations we trust that our proposal is the basis for a mutually acceptable resolution.

We believe that a more objective Report to Committee which sets out:

- the implications of 08/2010 for CS16(2)
- the implications of the previous C4 use and fall-back C4 use
- the absence of any authority for minimum occupancy of the residential floor space
- SPG para 8.3.3 advice  
and
- the absence of any sustainable harm to adjacent residential amenity

is required to redress the harm caused by the 23 November 2010 Report to Committee.

If you require further information or clarification please do not hesitate to contact me.

Yours sincerely

Neil Holmes  
**Quayside Architects**

# Agenda Item 6

Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 18 January 2011  
 Planning Application Report of the Planning and Development Manager

<b>Application address:</b> City Bus Co Ltd 224 Portswood Road SO17 2AD			
<b>Proposed development:</b> Redevelopment of the site to provide a new supermarket (Class A1 retail 9,730 square metres gross floorspace with associated 344 space car park, new community use (Class D1 1,166 square metres gross floorspace) and public play area (no matters reserved for later approval) and 59 residential units (29 houses and 30 flats) with 49 associated car parking spaces (details of appearance reserved for later approval)			
Application number	10/01399/OUT	Application type	OUT
Case officer	Andy Amery	Public speaking time	15 minutes
Last date for determination:	23 January 2011	Ward	Portswood
Reason for Panel Referral	Major Development	Ward Councillors	Cllr Vinson Cllr Sollitt Cllr Capozzoli

<b>Applicant:</b> Sainsbury's Supermarkets Ltd	<b>Agent:</b> Wyg Planning And Design
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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 and referral to the Secretary of State</b>
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<b>Appendix attached</b>			
1	Development Plan Policies		

### 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 including traffic generation and highway safety, the size of the store, the impact on the local centre, the impact on the surrounding area including nearby conservations areas, the level of car-parking, the loss of trees the provision of open space and play space, protected species, the proposed mix of uses, the impact of the development on the character of the area and the nearby residential occupiers as well as the call - in inquiry (for application 05/01407/FUL) and the more recent approvals (08/00336/OUT and 09/00513/OUT) 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.

City of Southampton Local Plan Review (March 2006) 'saved' policies:-

SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13, SDP15, SDP16, SDP17, SDP19, SDP21, SDP22, HE6, CLT5, CLT6, H1, H2, H3, H7, REI7, REI8 and TI2.

City of Southampton Core Strategy (January 2010) policies:-

CS4, CS5, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22, CS23, CS24 and CS25.

### **Recommendation in Full**

Delegate the Development Control Manager to grant conditional planning approval subject to:-

1. The Secretary of State for the Environment not requiring the decision to be referred to him under the terms of the Town and Country Planning Shopping Direction.
2. The applicant entering into a Section 106 Legal Agreement to secure:
  - i. Either  
a financial contribution towards site specific transport contributions for highway and pedestrian facility improvements in the vicinity of the site  
or  
provision to implement an agreed series of works under S.278 of the Highways Act in line with policies SDP4 of the City of Southampton Local Plan Review (March 2006), CS18 and CS25 of the City of Southampton Core Strategy (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
  - ii. The provision of an on-site equipped children's play area prior to first occupation of the retail unit;
  - iii. The submission, approval and implementation of public art that is consistent with the Council's Public Art 'Art People Places' Strategy.
  - iv. The submission, approval and implementation of a Green Travel Plan (GTP) to address the impact of the parking provision so that it can be assessed along with the transport needs of the development;

- v. A commitment to local labour and employment initiatives both during the construction phase and post completion;
- vi. The submission of a highway condition survey.
- vii. The funding of any Traffic Regulation Orders required for the above measures and to enable the development to be implemented.
- viii. The provision of an unencumbered access for cyclists and pedestrians linking Belmont Road and Portswood Road prior to first occupation of the retail unit.
- ix. Improvements to the public realm in the vicinity of the site
- x. The provision of affordable housing in accordance with policy CS15 of the City of Southampton Core Strategy (January 2010).
- xi. Contributions towards the provision of or improvements to public open space.
- xii. Management of the car-park to ensure its' availability to serve the Portswood District Centre
- xiii. Lorry routing for construction and servicing vehicles
- xiv. Arrangements to limit noise generated by refrigerated delivery vehicles
- xv. CCTV provision.
- xvi. The provision and level of fit-out including timescales for delivery of the community use building

And that the DC Manager be authorised to refuse permission if the Section 106 Agreement has not been completed within a reasonable time period of the resolution to grant permission on the grounds of failure to secure the provisions of the Section 106 Agreement.

## **1.0 Background**

1.1 Planning permission was originally granted on the site for a 6 578 sq m (gross floorspace) retail store, health centre, 140 residential units and new children's play area on 11 December 2008 following consideration by the Planning Panel on 22nd July 2008. The subsequent confirmation from the Secretary of State had confirmed that the application was not to be 'called in' but could instead be determined at local level (08/00386/OUT).

1.2 A revised scheme (09/00513/OUT) was submitted on 16 May 2009. It included amendments to the design and size of the retail unit, increasing its height along the Portswood Road frontage and increasing the gross floorspace from 6 578sq m to 7 492sq m (although the net sales area remained unchanged at 3 716sq m. The revisions also included:-

- a re-designed vehicular access from Portswood Road including a mini-roundabout and two lanes for exiting the site,
- a cafe at mezzanine level above the store, and
- a re-orientation of the store entrance to face southward thus addressing the Portswood District Centre.

1.3 All other matters, including the provision of the health centre, the children's play area, the pedestrian link between Belmont Road and Portswood Road and 140 residential units (22 houses and 118 flats) remained unchanged.

1.4 The scheme was considered and approved by the Planning and Rights of Way Panel on 29 September 2009 and following the decision of the Secretary of State to again leave the decision making to the Local Authority.

1.5 Soon after the granting of planning permission for 09/00513/OUT it was identified by the Primary Care Trust that funding for the health centre would not be forthcoming and that the independent structure would not be constructed. The lack of delivery of the building and the loss of the community use element of the proposals was considered to be detrimental to the overall development of the site in terms of delivering a mixed use development across the whole site but also in urban design terms. The health centre building provided an important element of the active frontage along Portswood Road and also formed part of the 'pedestrian street' which integrated the housing area with the commercial development.

1.6 The current application has therefore been submitted to address this problem. The significant changes to the earlier approved scheme can be summarised as follows:

(i) The store has been extended into the ground floor area that would have originally formed the health centre building increasing the gross floor area from 7 492sq m to 9 730sq m and the net sales area from 3 716sq m to 4 645sq m.

(ii) A new community facility of 1 660 sq m is provided at upper floor level above the northern end of the store with street level entrance lobby accessed directly off Portswood Road and comprising lift and stair access.

(iii) The vehicular access serving the store has been moved northward in Portswood Road.

(iv) The pedestrian street linking Belmont Road and Portswood Road has been re-provided but is now wholly within the residential scheme.

(v) The children's play area (LEAP) has been relocated closer to the entrance of the store in St Deny's Road.

(vi) An additional area of open space/informal play has been included within the residential layout.

(vii) Additional tree planting has been provided in the form of a treed and landscaped belt between the retail and residential areas at the rear of the covered service area and also along the northern edge of the store access road.

(viii) The area of the residential development remains similar to that previously approved but the number of residential units has been reduced from 140 to 59 as a result of a significant reduction in the number of flatted units and an increase in the provision of family housing.

(ix) The external appearance of the store has been revised to provide greater activity along the Portswood Road and St Deny's Road frontages, including a full height glazing element at the junction of St Deny's Road. The height of the store on back edge of pavement has been slightly reduced.

(x) The amount of car-parking to serve the store has increased from 325 to 344 spaces.

## **2.0 The site and its context**

2.1 The 2.5ha site was until recently occupied by First Bus and is still known as Portswood Bus Depot. The site is currently being cleared of the bus depot buildings and associated hardstandings in accordance with the conditions imposed on planning permission 09/00513/OUT . It is currently surrounded by 2m high security fencing. The applicant can build out retail store and play area under the 09/00513/OUT consent without the requirement to construct the health centre building.

2.2 Located immediately to the north of the Portswood District Centre it is bounded by Portswood Road to the west, St Deny's Road to the south and Belmont Road to the east. The Belmont Road frontage comprises an almost continuous tree belt which was planted to screen the utilitarian bus depot buildings. It is a 'one-sided' street with wholly residential development, mainly comprising family houses on its eastern side. St Deny's Road to its junction with Belmont Road benefits from a mix of commercial and residential properties and also includes the local Police station which is located opposite the children's play area. The section of Portswood Road opposite the site and north of the traffic light junction comprises a short section of commercial units but is predominantly a mix of residential houses and flats.

2.3 The site has significant level changes sloping down to the north and east from a high point at the junction of Portswood Road and St Deny's Road at the point where the store entrance is located. The changes in levels help facilitate the provision of underground parking serving the store but means that the internal floor level of the store will gradually become raised above street level Portswood Road as you move north along the elevation (as was the case with previously permitted schemes) but also that the store will be at a higher level than the proposed residential development the north and east. The level changes are utilised in a creative way to form the children's play area, using gradients to inform the siting of play equipment.

2.4 The site benefits from mature tree planting, although much of this is in poor condition due to lack of maintenance over a number of years. The tree belt on raised land at the northern point of the site where Portswood Road and Belmont Road join will remain as will the tree belt in the central section of Belmont Road which will form an area of open space/informal play within the residential scheme. Additionally the tree belt along the southern section of Belmont Road will also be retained.

### **3.0 Proposal**

3.1 The application has been submitted in 'Outline' form but as previously the proposals comprise a 'hybrid' of two distinct phases.

3.2 Phase 1 is represented by the retail store and access to it, the community facility, the children's play area (LEAP) and the tree belt sited between the commercial and residential elements of the scheme. For this element of the scheme all matters are requested to be considered and as such it is effectively a 'full' application although some matters of landscape detail have been reserved by condition.

3.3 Phase 2 is represented by the 59 residential units which comprise 29 family houses and 30 flats (.previous scheme comprised 22 houses and 118 flats). Matters of appearance and landscaping are to be reserved but siting, access and scale are all to be considered

3.4 The retail store has increased in size from a net sales area of 3 716sq m to 4 645sq m, a 25% increase on the scheme currently permitted. Parking provision has increased from the currently approved 325 to 344 spaces. The vehicular access to the store has been relocated further north along Portswood Road than the currently approved location but remains designed as a mini-roundabout. Vehicular access into the store is by a single lane but there is a two lane exit to avoid backing-up when leaving the site. The external appearance of the store has been revised to ensure greater activity along both the Portswood and St Deny's Road frontages.



3.5 The increase in the size of the store is due to the loss of the stand-alone health facility which was intended to be operated by the Primary Care Trust. As a consequence a community facility of 1160 sq m is to be located at upper floor level but benefiting from street level access from Portswood Road and with secure lift and stair access from a ground floor lobby. The use will be restricted to uses falling within D1 of the Use Classes Order which includes libraries and early years facilities.

3.6 The children's play area (LEAP) has been relocated, in consultation and agreement with the Council's play space team, closer to the entrance of the store where it is considered to be better related to the district centre and is also overlooked by the re-designed cafe on the upper floor of the south elevation of the store. It remains opposite the Portswood Police Station.

3.7 As part of the store development, the applicant will provide a new tree belt which wraps around the eastern and northern perimeter of the sites in addition to additional tree and landscape planting already proposed along the St Deny's and Portswood Road frontages.

3.8 The Phase 2 residential development remains similar in terms of site area, but now proposes a much reduced scale and density of development with the number of units being reduced from 140 to 59 with the proportion of family houses to flats at almost 50% compared to 14% as previously approved. The units are predominantly 3 storey rather than 4 storey as currently approved.

3.9 Three storey family town-houses are provided along the Belmont Road frontage to respect and maintain the family house character of the road. The pedestrian street linking Belmont Road to Portswood Road is re-created wholly within the residential scheme with a terrace of two storey mews style houses on the southern side backing onto the tree planting belt which separates the site from the access road to the store. This route would be used by cars for the occupiers of houses within the scheme but would only be a through route for pedestrians.

3.10 Flats are largely restricted to the Portswood Road frontage and at four but mainly three storey height are similar in height and scale to a number of modern flatted blocks recently constructed along the section of Portswood Road between Portswood and Swaythling. Three storey flats are also proposed at the northern tip of the site where land levels, tree planting and the shape of the site constrain the ability to achieve houses.

3.11 The residential layout falls into two distinct sections as previously. However, unlike the previous scheme, which incorporated a vehicle access and servicing area for the health centre from Belmont Road between the two residential areas, this scheme knits the residential areas together utilising existing tree planting and the opportunity to create an informal open space/play zone.

#### **4.0 Relevant Planning Policy**

4.1 The Development Plan for Southampton currently comprises the South East Plan Regional Spatial Strategy (May 2009), 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 (subject to the comment in 4.2 below) to these proposals are set out at **Appendix 1**.

4.2 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.

4.3 Major developments are expected to meet high sustainable construction standards in accordance with the City Council’s adopted and emerging policies. In accordance with adopted Core Strategy Policy CS20 and Local Plan “saved” Policy SDP13.

#### **5.0 Relevant Planning History**

5.1 There have been a number of applications seeking to re-develop the site for mix use comprising primarily a retail store and residential development. Two planning consents have been issued, the most recent of which the site is currently being prepared to build out but without the approved stand-alone health centre. The original applications seeking to re-develop the site date back to 2005.

5.2 05/01407/FUL. Initially the applicant applied for a full permission for the redevelopment of the site to provide a supermarket of 6907 sq.m gross floor space (Class A1 retail) provision of 14 residential units, vehicular access from Portswood Road and St Denys Road with 398 car parking spaces following the demolition of existing buildings. This application covered only that area of the site currently subject of the store and community facility.

5.3 05/01409/OUT. At the same time the applicant submitted an Outline application (05/01409/OUT) covering the whole site for the redevelopment of the site to provide a supermarket of 6907 sq.m gross floor space (Class A1 retail), provision of 73 residential units, vehicular access from Portswood Road, St Denys Road and Belmont Road with a total of 441 car parking spaces and a primary care health facility following demolition of existing buildings. (Outline application for the whole site seeking approval for siting of buildings and means of access)

5.4 Both applications were recommended for approval and supported by the (then) Planning Committee. However, the final decision was referred to the Secretary of State who decided the applications should be the subject of a call-in Inquiry. The Inspector's report to the Secretary of State dated 10 August 2007 considered all aspects of the development including retail need, traffic generation, car-parking, design and layout, trees and living environment for future occupiers on the site. The report formed the basis upon which the Secretary of State issued her decision on 13 November 2007. The conclusions of the Secretary of State were supportive, with regard to qualitative and quantitative need, the scale of the store, the impact of a store on the district centre and transport issues including car-parking. The Secretary of State was also supportive of the mixed use re-development of the whole site, and the affordable housing need. The Secretary of State raised concerns about the loss of trees on the site and identified an opportunity for more to be retained and additional planting undertaken. However, the tree issues did not translate into the reasons for dismissing the applications.

5.5 The two issues stated by the Secretary of State for refusing the applications were design related. These were specifically, 'the configuration of both the key worker housing and the car park' which were deemed to be unacceptable '*because of the effect on living conditions and the character of the area*'.

5.6 08/00386/OUT - Redevelopment of the site to provide a new supermarket (Class A1 retail - 6,578 square metres gross floorspace) with associated 325 space car park, medical centre (Class D1), with associated 40 space car park and public play area (no matters reserved for later approval) and 140 residential units (22 houses, 118 flats) with 119 associated car parking spaces following demolition of the existing buildings (details of appearance reserved for later approval).

5.7 The application was similar in form to the current application in that it was a 'hybrid' application in 'outline' form seeking all matters to be agreed for the store and medical centre but reserving matters of detail to be agreed at a later date for the residential development. It was this scheme that introduced the underground car-parking and the pedestrian link through between Belmont and Portswold Roads. The application was approved 11.12.2008.

5.8 09/00513/OUT - Redevelopment of the site to provide a new supermarket (class A1 retail - 7,492sqm gross floorspace) with associated 325 space car park, medical centre (class D1) with associated 40 space car park and 140 residential units with 119 parking provision following demolition of the existing buildings. This is the currently approved scheme for which clearance works have begun on-site. The planning application was submitted following a review by the applicant of the 08/00386/OUT scheme.

5.9 The applicant made a number of changes to the proposals which included, a redesign of the elevational treatment to the scheme along the Portswood and St Denys' Road frontages including:-

- an increase in height of the building where it fronts onto Portswood Road,
- an increase in the gross floor area of the building from 6,578sq m to 7,492sqm,
- the re-orientation of the main pedestrian entrance of the store at the junction of Portswood Road and St Denys Road so that it addressed and faced towards the existing district centre,
- the widening of the store vehicular access to allow two lane exit and single lane entrance from Portswood Road,
- a re-organisation of the layout of the service yard area accessed from St Denys Road,
- a re-organisation of the internal floor layout including siting of the cafe at mezzanine level, and
- the addition of sustainability measures which include a bio-mass boiler.

## **6.0 Consultation Responses and Notification Representations**

### 6.1 Representations

6.1.1 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, placing a press advertisement and erecting a site notices. The amended plans received on 21 December 2010 were also the subject of a re-consultation with local residents. At the time of writing the report **40** representations have been received from surrounding residents. However, given the 14 day re-consultation period took place over the Christmas and New Year period the official closing date for representations of 3 January 2011 was agreed to be kept open until 14 January to enable sufficient time for local residents to view the plans and make comments. Therefore any additional representations received after 3 January will be verbally updated to the Panel. Of the representations received 39 were objections and 1 was of support.

6.1.2 Summary of Representations made: The objections to the scheme were largely founded on similar issues to those previously raised on earlier applications:-

- Significant concern has been raised by all objectors to the 25% increase in the size of the store and the retail impact it would have on existing district and local centres (especially taking into account the recession);
- The clear and over-riding concern of local residents however is the fear of the potential problems caused by traffic generation including potential gridlock in the area around the site;

- Potential for significant increases in traffic rat-running through nearby residential areas, due to the lack of a right hand turn into Highfield Lane at the junction with Portswood Road for traffic turning left out of the store but heading towards the west or northwest of the City;
- The majority of objectors consider that an increase of 19 parking spaces is wholly an inadequate amount of additional parking to serve the bigger store;
- The size of the building being massively out of scale and proportion with the area;
- The loss of the health facility;
- Increased noise and disturbance: and,
- Loss of trees.

6.1.3 A number of objectors were concerned about the combined impact of traffic from this scheme and the proposed petrol filling station submitted by the same applicant for the nearby car-sales site in St Deny's Road. However, that scheme has been refused under officer's delegated powers.

6.1.4 The letter of support welcomed the opportunity to create jobs in the area, the creation of better shopping opportunities for the area and the provision of the children's play space.

## 6.2 Consultation responses

6.2.1 **SCC Highways** - The increase in the store footprint will not result in a similarly linked increase in vehicular journeys to the site. The level of car parking which is increased from 325 to 344 spaces is satisfactory. The service yard is well laid out and is acceptable.

6.2.2 The movement of the access roundabout to the store car park further away from the St Deny's Road junction is better in highway terms than the previously approved scheme and should make traffic flows slightly better.

6.2.3 It is recommended that the staff parking bays along the access road be clearly marked and managed to prevent use by customers, which would cause problems at peak flow periods. Additionally, it is recommended that one of the staff parking bays, immediately adjacent to the stair core, needs to be removed.

6.2.4 With regard to the residential layout there are some concerns about the refuse collection from Portswood Road which need to be addressed to avoid obstruction of the carriageway and four of the parking spaces served off the street linking Belmont Road and Portswood Road must demonstrate that forward visibility of pedestrians can be achieved.

6.3.0 **SCC Policy** - The site is located to the north of Portswood District centre immediately adjacent to that centre. In terms of detailed layout it creates a good

relationship with the centre in that the store directly faces it. With the access point at the junction of Portswood Road and improved crossing facilities at the junction it will be easily accessible.

6.3.1 Retail impact - introduction: The immediate catchment area has a population of nearly 60 000 which is the equivalent of a medium sized town. At present, only one supermarket (Waitrose) and one medium sized supermarket (Co-op) serve this population resulting in the existing Waitrose Store trading significantly above the company average. There are also significant levels of 'out-flows' of expenditure from the catchment area to the large out town superstores, in particular Chandlers Ford and Hedge End.

6.3.2 It is recognised that since the original consents economic circumstances have changed as the country entered recession. It is noted that the health of the Portswood Centre has remained reasonably good during this period with low vacancy rates. The economic recovery has begun but it is accepted that there are still doubts about the strength of the recovery.

6.3.3 The proposed store seeks a net sales area of 4 645 sq m, a 25% increase on that currently approved. The applicant has submitted a revised retail impact which takes into account a number of assumptions are reasonable as one potential scenario.

6.3.4 However, forecasting future impact is not a precise science and so it is important to test other potential scenarios as a way of assessing the robustness of the applicant's case. In assessing retail impact therefore a number of variations have been made to the applicants submitted data. This includes an increased catchment area population as local data indicates a higher figure than used by the applicant, reduced levels of expenditure taking into account the recession, a 10% greater trade draw from existing Portswood stores than predicted by the applicants, a 10% greater turn-over by Sainsbury than predicted by the applicants. These variations have been done for both food and non-food items.

6.3.5 Impact on food sector: It is considered that there is scope for a major superstore in this location and of this larger size due to the combination of the large catchment population, the significant level of clawback trade from out of town sites and also the Waitrose store which is significantly over-trading. It is considered that a significant number of customers using the store will also utilise other services within the district centre and as a high percentage of these will be additional customers 'clawed-back' from out of town sites, this will reduce the impact on trading in the existing centre.

6.3.6 However, the exact impact on the smaller stores is more difficult to predict. Some stores provide a specialist, niche role and these are less likely to be affected. However, other food stores could close as a result of the direct

competition and convenience of the larger store. On balance it is considered that the centre is likely to undergo a degree of change over time rather than decline, with new uses replacing some of the existing shops to attract the additional customers coming into the centre as a result of the store. It is therefore considered that the likely retail impact in the food sector will not be harmful.

6.3.7 Impact on comparison goods sector: The comparison element of the superstore will draw from a range of locations including the city centre, out of centre locations and Portswood district centre. The proposed sale comparison goods include clothing, homeware, limited electrical goods, toys and seasonal goods and the floor area proposed for such items has increased by 406 sq m or 38% compared to the existing consent.

6.3.8 Again, the assessment of impact is not a precise science and an accurate level of trade taken from existing Portswood stores for comparison goods is difficult to estimate. However, the range of goods identified to be sold is normally associated with superstores.

6.3.9 Part of the rationale for the proposal is that it will attract more people into the centre to undertake particularly non-food shopping in the centre itself not just the new store, and this to some extent counteracts the impact.

6.3.10 However, given the increase size of the store and in particular the comparison goods element of it, coupled with the uncertainty of the strength of the recovery, additional conditions should be imposed to help protect the existing centre.

6.3.11 Suggested Policy led conditions: Similar conditions are recommended to those previously imposed, but conditions requiring clear signage on the car park are required to inform customers using the district centre not just the store can stay for up a two hour period to be able to undertake linked trips.

6.3.12 The net sales floorspace should be limited to 4 645sq m and maximum floorspace restrictions of 3 539sq m for convenience goods and 1 106 sq m for comparison goods should also be imposed.

6.3.13 The sub-division of the store into more than one unit and the provision of services such as a Post Office, dry cleaners, pharmacy, photoshop or key cutting should be prevented. The sale of Comparison goods should also be restricted to the sale of the following goods only; clothes, homeware, electricals, toys and seasonal items (e.g. Christmas and Halloween). Additionally, clothing should not take up more than one third of the comparison goods floorspace.

- 6.4 **SCC Housing** – Welcome the increased number and mix of family housing. No objection is raised to the reduced number of units being proposed.
- 6.5 **SCC Sustainability Team** - Supportive of the provision of the on-site bio-mass boiler system which will generate 24% of the total energy consumption of the store on site. Conditions are required to ensure the store and residential development achieve the appropriate levels of sustainability which for the store is BREEAM Very Good and for the housing a minimum of Code Level 3 as required by policy CS20.
- 6.6 **SCC Architect's Panel** – Consider the design of the store and community facility to represent good modern design. Initially very concerned about the proposed residential layout but the revised plans reducing the numbers to 59 and re-introducing the link street and areas of open space within the scheme are to be welcomed and supported.
- 6.7 **SCC Environmental Health (Pollution & Safety)** – No objections subject to similar conditions being imposed.
- 6.8 **SCC Environmental Health (Food Safety)** – No comments.
- 6.9 **SCC Environmental Health (Contaminated Land)** - No objections but require similar conditions to those previously imposed.
- 6.10 **SCC Ecology** – Welcomes the additional tree belt planting compared to the original proposals.
- 6.11 **BAA** - No objections but require similar bird hazard management conditions to be imposed.
- 6.12 **Hampshire Constabulary** - Still awaiting comments to the revised layout. These will be verbally updated to Panel.
- 6.13 **Southern Water** – Raise no objections and identify that the discharge of foul water from the site to the existing sewerage system can take place subject to the applicant demonstrating no net increase compared to existing flows. Any SUDS system must be the subject of a condition detailing future management of such a system.
- 6.14 **Environment Agency** - Raise no objections but highlight that SUDS systems may not always be suitable in high risk areas such as loading bays and large areas of car parking. Details of the surface and foul water drainage systems to be installed are therefore requested to be conditioned.



6.15 **City Design** - The scheme has been amended following meetings and negotiations with the City Design Team following initial concerns relating to the layout of the residential element of the proposals and the lack of active frontage along Portswood Road shown on the store elevations . The re-introduction of a linked street is welcomed and the general layout of the residential element has been greatly improved. The overall numbers and scale of the residential element is more sympathetic to its surroundings than the approved scheme. The additional tree planting and provision of open space is welcomed. The additional glazing to both the Portswood Road and Belmont Road frontages adds to the active frontages which need to be created and maintained. The design of the store and community facility is acceptable.

6.16 **SCC Play Space Officer** - Welcomes the provision of the play area and supports its re-location closer to the entrance of the store and the district centre.

## **7.0 Planning Consideration Key Issues**

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

### **7.2 Principle of Development**

7.2.1 The principle of re-developing the site for a mix of uses primarily comprising a retail store and residential development has already been agreed and work is progressing on preparing the site in order to implement the 09/00513/OUT consent.

7.2.2 The main issue therefore is whether the increased size of the store is acceptable in planning terms, in particular in terms of retail and traffic impact.

7.2.3 Other issues include whether the reduced housing numbers and density is acceptable in terms of housing delivery and the impact on the character of the area, the re-siting of the children's play area and the loss of trees.

### **7.3 The increased size of the store and its retail impact on the district centre and other local centres**

7.3.1 This has been carefully assessed as set out in the Policy comments of sections 6.3.0-6.3.13 of this report. It is acknowledged that there will be some on the existing district centre, potentially more so than previously due to the increased floorspace for comparison goods. The overall assessment is that the positive impacts from the clawback of trade from out of town stores will have an overall benefit to the local centre but conditions are recommended to restrict the way in which the store is able to trade and operate to minimise the negative impacts of the development.

7.3.2 A retail policy planner will be present at the Panel to facilitate the discussion on retail impact.

#### 7.4 The increased size of the store and its impact due to additional traffic generation

7.4.1 The traffic assessment for the scheme suggests that the 25% increase in the floorspace provided for the store will not translate into a similar increase in traffic generation. The increase in parking spaces to serve the development of 19 from 325 to 344 spaces is considered acceptable.

7.4.2 The relocation of the access point further north in Portswood Road is welcomed from a highways perspective, as it increases the capacity of the right-turn filter lane for vehicles heading from south of the site and is likely to help ease possible traffic flow congestion at peak times.

7.4.3 Some minor revisions are suggested to the layout of the parking area and refuse storage area for the residential scheme but otherwise no objections are raised on highways grounds.

7.4.4 A highways officer will be present at the Panel to facilitate the discussion on highways impact.

#### 7.5 The increased size of the store and its impact on local character and amenity

7.5.1 The store and community facility cover a similar footprint to that approved by the combined store and separate health centre building. Therefore the scale and massing of the overall building form on the commercial side of the site is not significantly different to that already approved and is not considered to have a materially greater visual impact or result in loss of light/overshadowing compared to the approved scheme. One advantage of the extended store is that the access to the community building on the Portswood Road frontage is on the district centre side of the access road rather than being separated from it by the access road to the store car park as was the case with the health centre. The revised design of the store and community facility also includes greater amounts of active frontage to both Portswood and St Deny's Roads which is supported in urban design terms.

#### 7.6 Housing Layout and Density

7.6.1 The area allocated for housing is similar to that approved on earlier schemes. Potentially the most material change to the proposals compared to previous approvals is the significant reduction in the total number of residential units proposed and the increased proportion of family housing. The total number

of units has been reduced by over 50% from 140 to 59. The residential area of the site is approximately 1 hectare giving a residential density of 59 units per hectare which is within the lower range expected to be found within a medium accessibility area.

7.6.2 The layout and density is considered to respond more sympathetically to the surrounding residential development than did the approved, mainly flatted scheme and creates, along the Belmont Road frontage, two distinct sections of terraced family housing separated by a landscaped area of open space and informal play where on the approved scheme there was an access and service area for the health centre. The parking to serve the residential units is all at surface level removing the need to engineer underground parking served from Belmont Road. The overall scale and massing of the proposed residential layout has also been reduced with a mix of two, mainly three and a small amount of four storey development, whereas the approved scheme was a mix of three and four storey flatted blocks and town houses.

7.6.3 Visually the residential scheme is considered to be more responsive to the local area. The additional tree planting and areas of open space, private gardens and private communal space give a more spacious feel to the scheme and are considered to represent an improvement to the character and sense of place achieved. The provision of more, family housing units is supported and in accordance with the Councils adopted policies.

## 7.7 Children's play area

7.7.1 The re-siting of the children's play area is fully supported by the Council's play space team. It's location closer to the entrance of the store and the district centre means access to it is easier and prevents the need for crossing the service access road to get to it. Casual surveillance is achieved from the first floor cafe in the store and the adjacent footpath. The site is also located opposite the Portswood Police station. The creation of a second area of informal play within the landscaped open space zone as part of the residential proposals is particularly welcomed.

## 7.8 Loss of trees

7.8.1 The proposals do not result in any additional tree loss than the currently approved scheme does. However, the revised layout creates an additional tree belt to be planted between the store and the residential elements of the scheme significantly increasing the amount of tree planting on the site. Additionally there is an increase in the provision of soft landscaping areas across the site in the form of private and communal garden areas and landscaped areas of open space.

## 7.9 Sustainability

7.9.1 The store includes a bio-mass boiler facility within the covered service area of the site which will generate up to 24% of the energy needs of the store. Conditions have been imposed with regard to the need to achieve a minimum of Code Level 3 for the housing development.

## 8.0 Summary

8.1 The increased size of the store will have some additional impact on the trading levels of existing stores in both the district and nearby local centres but the benefits of clawback from out of centre locations is considered likely to outweigh this impact.

8.2 The impact on the local highway network is considered to be manageable without causing significant levels of additional congestion or harmfully changing the character of some of the local residential areas. The overall number of strategic journeys may be reduced as people use Portswood rather than driving out to existing sites on the periphery of or beyond the city boundary.

8.3 The scheme delivers the opportunity to provide new community facilities which are easily accessible from the district centre and by public transport. The provision of the children's play facilities of which there is currently a shortfall serving the local community and the additional tree planting are supported.

8.4 The residential development delivers a greater amount of family housing than previously approved within a layout and at a density which is more compatible to the character of the local area than currently approved.

## 9.0 Conclusion

9.1 The application is recommended for delegated approval to the Development Control Manager, subject to the Secretary of State not wishing the application to be called-in for consideration and subject to the completion of a Section 106 legal agreement as detailed above.

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

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

1a, 1b, 1c, 1d, 2b, 2d, South East Plan Regional Spatial Strategy (May 2009), 4f, 5a, 5e, 6a, 6c, 6f, 7a, 7b, 7e, 7f, 7g, 7j, 7l, 7n, 7p, 7t, 7u, 7v, 7w, 9a, 9b.

**AA for 18/01/11 PROW Panel**

## **PLANNING CONDITIONS**

### **CONDITIONS for 10/01399/OUT**

#### **01. APPROVAL CONDITION - Outline Permission Timing Condition**

Outline Planning Permission for the principle of the development proposed and the following matters sought for consideration:

a. For the purposes of that area of the site comprising the retail store, the community facility, the new tree planting belt and the Local Equipped Area of Play and the emergency exit routes from the underground car park namely the layout of buildings and other external ancillary areas, the means of access (vehicular and pedestrian) into the site and the buildings, the appearance and design of the structure, the scale, massing and bulk of the structure, and the principles of the landscaping areas (both hard, soft and including enclosure details) of the site is approved subject to the following:

- (i) Written approval of the details of the following awaited reserved matters shall be obtained from the Local Planning Authority within 3 months of the date of this consent.  
Landscaping: Tree pit design and planting specification should be supplied for all of the tree and shrub planting. In relation to sections of soft landscape fronting St Deny's Road, including the play area, further full details of the tree and shrub planting design should be submitted for these elements. (See Note to applicant below).
- (ii) An application for the approval of the outstanding reserved matters shall be made in writing to the Local Planning Authority before the expiration of three years from the date of this Outline Permission
- (iii) The development hereby permitted shall be begun [either before the expiration of five years from the date of this Outline permission, or] before the expiration of two years from the date of approval of the last application of the reserved matters to be approved [whichever is the latter].

b. For the purposes of that area of the site comprising the residential development namely the layout of buildings and other external ancillary areas, the means of access (vehicular and pedestrian) into the site and the buildings, the scale, massing and bulk of the structure, and the principles of the landscaping areas (both hard, soft and including enclosure details) of the site is approved subject to the following:

- (i) Written approval of the details of the following awaited reserved matters shall be obtained from the Local Planning Authority prior to any works taking place on the site the appearance and architectural design specifying the external materials to be used, and the detailed landscaping of the site specifying both the hard, soft treatments, including tree planting,

- means of enclosures and the layout and specification for the public open space fronting Belmont Road.
- (ii) An application for the approval of the outstanding reserved matters shall be made in writing to the Local Planning Authority before the expiration of three years from the date of this Outline Permission
  - (iii) The development hereby permitted shall be begun [either before the expiration of five years from the date of this Outline permission, or] before the expiration of two years from the date of approval of the last application of the reserved matters to be approved [whichever is the latter].

**REASON::**

To enable the Local Planning Authority to control the development in detail and to comply with Section 91 and Section 92 of the Town and Country Planning Act 1990 (as amended).

**02. APPROVAL CONDITION - Details of building materials to be use [Pre-Commencement Condition]**

Full details of the manufacturers, types and colours of the external materials to be used, including samples if required, shall be submitted to and approved in writing by the Local Planning Authority before development commences.

**REASON:**

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

**03. APPROVAL CONDITION - Anti-social behaviour [Pre-Commencement Condition]**

Unless otherwise agreed in writing, prior to first use of the retail store or parking area details of measures shall be submitted to and approved by the Local Planning Authority demonstrating how the development will be designed, implemented and operated or managed in such a way as to discourage the antisocial use of the public areas including the underground car-parks, surface parking areas , ramps, travelators and landscaped areas by skateboarders, cyclists and rollerbladers.

**REASON:**

In the interest of residential amenity.

**04. APPROVAL CONDITION - Details of Piling Method [Pre-Commencement Condition]**

The method of piling foundations for the development shall be carried out in accordance with a scheme to be submitted to and approved in writing by the

Local Planning Authority before any piling begins. No percussion or impact driven piling operations shall take place unless agreed.

**REASON::**

To ensure the selected piling method can be justified on the grounds of structural, geotechnical, contamination, noise, vibration and practicability and ensure any adverse environmental impacts are identified and appropriate mitigation measures are proposed.

**05. APPROVAL CONDITION - Shop Frontage [Performance Condition]**

The proposed retail store shall incorporate and maintain the active frontage along the Portswood Road and St Deny's frontage as shown on the approved plans. All glazing to the shopfronts shall be of laminated glass.

**REASON:**

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

**06. APPROVAL CONDITION - Landscaping scheme [Pre-Commencement Condition]**

The approved detailed landscaping scheme required to be submitted by Condition 1a, including the new tree belt between the store and the residential site shall be implemented prior to the first opening of the store. The approved scheme shall be carried out in accordance with a programme to be agreed in writing by the Local Planning Authority before the development commences. Any trees, shrubs, seeded or turfed areas which, within a period of 5 years from the date of planting (including any replanting) die, fail to establish, are removed or become damaged or diseased, shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

**REASON:**

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

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

All trees and shrubs to be retained shall be fully safeguarded during the course of all site works including excavation, construction and building operations. Before

any work is commenced on site, trees or other features which are to be retained shall be fenced off from the working area with 1.2 metre high chestnut fencing to

B.S. 1722, Part 4 as follows:

(a) For trees and shrubs, the fencing shall follow a line 1 metre outside the furthest extent of the canopy, unless otherwise agreed in writing by the Local Planning Authority.

Details of the position of all protective fencing pursuant to this condition shall be indicated on a site plan and agreed in writing by the Local Planning Authority before any site works commence. The fencing shall be maintained in 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. No goods, materials, soil, etc., shall be stacked or stored inside the fenced off area.

REASON::

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

08. APPROVAL CONDITION - Protective fencing [Pre - Commencement Condition]

Details of the position of all protective fencing pursuant to Condition 7 shall be indicated on a site plan and agreed in writing by the Local Planning Authority before any site works commence. The fencing shall be maintained in 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. No goods, materials, soil, etc., shall be stacked or stored inside the fenced off area.

REASON::

In the interests of the visual amenities of the adjoining residents and the character of the area.

09. APPROVAL CONDITION - No burning of materials

No burning of demolition or construction materials shall take place on the site.

REASON::

To protect the amenities of the occupiers of existing nearby properties

10. APPROVAL CONDITION - Hours of Construction

Unless otherwise agreed in writing by the Local Planning Authority all works



relating to the construction of the development hereby permitted, including the works to form the basement to the site, demolition and ground preparation prior to construction, shall only take place between the hours of 0800 and 1800 Monday to Friday (excluding Public Holidays) and 0800 to 1300 Saturdays and at no time on Sundays or Public Holidays.

**REASON::**

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

**11. APPROVAL CONDITION - Dust Control [Pre-Commencement Condition]**

Measures to control dust generated by construction activities shall be implemented in accordance with details (including a method statement) agreed in writing by the Local Planning Authority before the development commences.

**REASON::**

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

**12. APPROVAL CONDITION - Wheel Cleaning**

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.

**13. APPROVAL CONDITION - Soundproofing [Residential Pre-Commencement Condition]**

The residential element of the development hereby approved must make provision for soundproofing so as to protect the occupants of the residential units from traffic noise from the adjoining highway and from noise generated by the shop and basement car park. Details must be submitted to and agreed in writing by the Local Planning Authority before any development of the residential phase of development commences. The soundproofing agreed by the Local Planning Authority pursuant to this condition must be implemented before any of the dwelling units are first occupied.

**REASON::**

In order to protect occupiers of the flats from traffic noise and noise generated by the shop and basement car park.

14. APPROVAL CONDITION - Contractors Compound [Residential Pre-Commencement Condition]

Detailed plans specifying the areas to be used for building operatives' and contractors' vehicle parking and plant, storage of building materials and any excavated material, huts, and all working areas required for the construction of the residential phase of development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall then be implemented in accordance with the approved details and the areas identified for the above purposes shall be retained and kept available for those purposes.

REASON::

In the interests of highway safety and the amenities of the area.

15. APPROVAL CONDITION - Restriction

No building, structure or crane exceeding 54.3m AOD shall be constructed within the application boundary.

REASON::

So that it does not breach the Obstacle Limitation Surfaces detailed in CAA Publication CAP168 Licensing of Aerodromes.

16. APPROVAL CONDITION - Lighting scheme [Pre-Commencement Condition]

The development shall be undertaken in accordance with details already approved under 09/00513/Out for the of the scheme of lighting required to be provided during construction of the retail and be operated so as to comply with Advice Note 2, Lighting Near Aerodromes, (also available at [www.caa.co.uk/srg/aerodrome](http://www.caa.co.uk/srg/aerodrome)).

REASON::

To avoid endangering the safe operation of aircraft and in the interests of protect residential amenity.

17. APPROVAL CONDITION - Archaeological works (Residential Pre-commencement condition)

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

REASON::

To ensure that the archaeological investigation is properly investigated and complete.

18. APPROVAL CONDITION - Retail floorspace restrictions

The retail building shall comprise not more than 9 730 square metres gross retail floorspace and 4,465 square metres net retail sales floorspace of which not more than 800 square metres net sales area shall be used for the sale of comparison goods unless otherwise agreed in writing by the Local Planning Authority

REASON::

To ensure compliance with local and national retail policies.

19. APPROVAL CONDITION - No subdivision of the retail unit

The retail building provided as part of the development shall not be subdivided into two or more retail units unless otherwise agreed in writing by the Local Planning Authority

REASON::

For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development in the interests of the amenities of the area

20. APPROVAL CONDITION - Operating Hours

Unless otherwise agreed in writing by the Local Planning Authority, the retail building, its car park and associated travelators shall not be open for business outside of the hours of 0800 to 2300 Monday to Saturday and 0900 to 1700 on Sundays.

REASON::

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

21. APPROVAL CONDITION - Extract Ventilation System [Pre-Commencement Condition]

Before the use of the retail building hereby approved is commenced a scheme for the provision of an adequate extract ventilation system, including details of the external appearance of the equipment to be installed and its intended position on the premises, shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed as approved and shall be in full working order prior to the commencement of the use; as long as the use continues shall be operated and maintained in such a manner as to effectively suppress the emission of fumes and smells; and shall include such equipment (including grease filters and odour neutralising plant) as may be specified to meet this requirement.

REASON::

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

22. APPROVAL CONDITION - Play area

Before the retail store is first opened for use the children's play area shall be fully implemented and equipped and made available for use by the public.

REASON:

To ensure adequate provision of open space.

23. APPROVAL CONDITION - Provision of Tree Belt - Pre-occupation condition

Before the retail store is first open for use the new landscaped tree belt between store and the residential area shall be fully implemented in accordance with the approved landscaping details.

REASON:

In the interests of local amenity, bio-diversity, sustainability and to achieve a satisfactory form of development.

24. APPROVAL CONDITION - Gate [Pre-Occupation Condition]

Access to the retail building delivery or service area shall be controlled by a gate. Details of the gate shall be submitted to and approved in writing by the Local Planning Authority before the store or service area is first used.

REASON::

In the interests of highway safety and to achieve a satisfactory form of development.

25. APPROVAL CONDITION - Means of Enclosure [Residential Pre-Commencement Condition]

No development shall be commenced on the residential phase of development until details of all means of enclosure on the site have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use. The means of enclosure shall subsequently be retained to the satisfaction of the Local Planning Authority.

REASON::

In the interests of the visual amenities of the area and to protect the amenities and privacy of the occupiers of adjoining property

26. APPROVAL CONDITION - Refuse storage details [Residential Pre-Commencement Condition]

Before the development commences on the residential units, details of satisfactory facilities to be provided for the storage and removal of refuse from the residential units shall be submitted to and agreed in writing by the Local Planning Authority. They shall be provided before any residential unit is first occupied and retained thereafter. The submitted details of the facilities shall include accommodation for the separation of waste to enable recycling.

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.

27. APPROVAL CONDITION - Refuse facilities for retail store [Performance Condition]

The refuse storage facilities for the retail building shall incorporate suitable drainage gulleys around any compactors to enable cleaning and washing down of the facility.

REASON::

In the interests of health and safety

28. APPROVAL CONDITION - Rubbish bins - Retail store [Performance Condition]

Self-closing rubbish bins must be provided for the disposal of putrescible waste and must be emptied on a regular basis to prevent the build up of exposed putrescible waste across the development.

REASON::

To avoid endangering the safe operation of aircraft through the attraction of birds.

29. APPROVAL CONDITION - Public recycling facilities [Pre-Commencement Condition]

Provision shall be made on the retail area of the site prior to first opening of the store for public recycling facilities in accordance with details to be submitted to and agreed in writing by the Local Planning Authority.

REASON::

To encourage sustainable initiatives.

30. APPROVAL CONDITION - Car Park [Pre-occupation Condition]

The car park shall be used as a public car park for short-stay purposes for a maximum period of 2 hours or such other period as may be agreed in writing by the Local Planning Authority and operated in accordance with a scheme of management to be approved in writing by the Local Planning Authority before the retail store is first opened for business. The scheme shall include the following:

- (a) The hours during which the car park is to be available for use
- (b) The method and means of controlling access to the car park

REASON::

In the interests of highway safety.

31. APPROVAL CONDITION - Management of Trolleys [Pre-Commencement Condition]

A scheme for the storage and management of supermarket trolleys shall be submitted to and approved in writing by the Local Planning Authority before the retail store first opens for business. The scheme shall include measures to ensure that trolleys are returned to appropriate collection points and storage positions and not otherwise left or abandoned. The approved scheme shall operate from the first opening of the store. The effectiveness of the scheme shall be reviewed in accordance with a programme to be included in the scheme and such changes to the scheme as are necessary and approved by the Local Planning Authority shall be introduced in accordance with an agreed timescale.

REASON::

To protect the character of the area and to avoid circulation problems which might otherwise be caused by abandoned trolleys.

32. APPROVAL CONDITION - Availability of Parking [Pre-Occupation Condition]

The retail building hereby permitted shall not be first opened for business until the area shown on the submitted plans for parking, loading and unloading of vehicles has been made available and surfaced. Such areas shall be subsequently retained and reserved for those purposes at all times.

REASON::

In the interests of highway safety.

33. APPROVAL CONDITION - Disabled Parking [Pre Commencement Condition]

The development shall incorporate parking spaces for a minimum of 20 disabled

persons to serve the store and district centre in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. The spaces shall be marked for this purpose and thereafter retained.

REASON::

In the interests of highway safety

34. APPROVAL CONDITION - Parent and Toddler Parking [Pre-Occupation Condition]

The parent and toddler parking illustrated on the submitted plans shall be provided in accordance with a programme to be agreed in writing by the Local Planning Authority prior to first opening of the retail store. The spaces shall be marked for this purpose and thereafter retained.

REASON::

In the interests of highway safety.

35. APPROVAL CONDITION - Motorcycle Parking [Pre-Occupation Condition]

The retail building shall incorporate parking for a minimum of 17 motorcycles in accordance with details to be submitted to and agreed in writing by the Local Planning Authority before the retail store first opens for business.

REASON::

In interests of highway safety.

36. APPROVAL CONDITION - Bicycle Storage [Pre-Occupation Condition]

The retail building shall not be occupied until secure, covered and enclosed space has been laid out within the site for a minimum of 30 cycles to be stored for the benefit of staff employed at the retail building in accordance with plans to be submitted to and approved in writing by the Local Planning Authority. The approved cycle storage arrangement shall thereafter be retained on site for that purpose.

REASON::

To encourage cycling as an alternative form of transport

37. APPROVAL CONDITION - Visitor Bicycle Storage [Pre-Occupation Condition]

The retail building shall not be occupied until a minimum of 68 cycle stands have been made available for customers in accordance with plans to be submitted to and approved in writing by the Local Planning Authority. The approved cycle stand arrangement shall thereafter be retained on site for that purpose.

REASON::

To encourage cycling as an alternative form of transport

38. APPROVAL CONDITION - Bicycle provision for Community (D1) Use [Pre-Occupation Condition]

No part of the community (D1 Use) element of the development shall be occupied until a secure, covered and enclosed space has been laid out within the site for a minimum of 20 cycles to be stored for the benefit of the staff and visitors in accordance with plans to be submitted to and approved in writing by the Local Planning Authority. The approved cycle storage arrangement shall thereafter be retained on site for that purpose.

REASON::

To encourage cycling as an alternative form of transport

39. APPROVAL CONDITION - Staff Parking Provision

Unless otherwise agreed in writing by the Local Planning Authority, a minimum of 12 parking spaces shall be made available for parking by staff employed at the retail building.

REASON::

In the interests of highway safety

40. APPROVAL CONDITION - Use of ATM - Performance Condition

Unless otherwise agreed in writing by the Local Planning Authority, automatic teller machines, wherever located, shall only be available during store opening hours.

REASON::

To ensure that the use of such machines does not result in any harm to residential amenities or threat to highway safety.

41. APPROVAL CONDITION - Retail Store Delivery Times - Performance Condition

Unless otherwise agreed in writing by the Local Planning Authority no deliveries shall be received or items despatched from the retail building outside the hours of 0700 to 2300 Mondays to Saturdays and 0800 to 1800 Sundays and Public Holidays.

REASON::

To protect the amenity of neighbouring residential dwellings.



42. APPROVAL CONDITION - Drainage

No sewage or trade effluent (including vehicle wash or vehicle steam cleaning effluent), except site drainage shall be discharged to any surface water drainage system.

REASON::

To prevent land contamination

43. APPROVAL CONDITION - Soakaway - Performance Condition

No soakaway shall be constructed in contaminated ground.

REASON::

To prevent land contamination

44. APPROVAL CONDITION – Residential : Details of water disposal [Pre-Commencement Condition]

No development shall commence on the residential phase of development until a scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior any occupation of the development.

REASON::

To prevent the increase of flooding and to improve water quality.

45. APPROVAL CONDITION - Retail Drainage – Performance Condition

Drainage from loading bays shall not be discharged to any watercourse, surface water sewer or soakaway.

REASON::

To prevent ground contamination.

46. APPROVAL CONDITION – Retail and Residential Drainage – Performance Condition

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstanding shall be passed through an oil separator designed and constructed to have a capacity and operation compatible with the site being drained. Roof water shall not pass through the separator

REASON:.

To avoid ground pollution.

47. APPROVAL CONDITION: Submission of a Bird Hazard Management Plan

The retail store shall not be first opened for business until a Bird Hazard Management Plan has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include details of:

Management of any flat/shallow pitched roofs on buildings within the site which may be attractive to nesting, roosting and 'loafing' birds. The management plan shall comply with Advice Note 8 'Potential Bird Hazards from Building Design'.

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

REASON

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

For Information: The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. The owner/occupier must not allow gulls to nest, roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the breeding season. Outside of the breeding season gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/occupier when detected or when required by BAA Airside Operations staff. In some instances it may be necessary to contact BAA Airside Operations staff before bird dispersal takes place. The owner/occupier must remove any nests or eggs found on the roof.

The breeding season for gulls typically runs from March to June. The owner/occupier must obtain the appropriate licences where applicable from Natural England before the removal of nests and eggs.

48. APPROVAL CONDITION: Retail Store site area -No further development if contamination found - Performance Condition

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

REASON:: To protect the minor aquifer beneath the site and the surface waters surrounding the site. There may be areas of the site which cannot be fully characterised by a site investigation and unexpected contamination may be identified.

49. APPROVAL CONDITION: Residential site area - No further development if contamination found - Performance Condition

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

REASON:: To protect the minor aquifer beneath the site and the surface waters surrounding the site. There may be areas of the site which cannot be fully characterised by a site investigation and unexpected contamination may be identified.

50. 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.,
- Class F (hard surface area)

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.

51. APPROVAL CONDITION - Community facility - Scope and Limitation within same Class (D1) - Performance Condition

Permission is hereby granted for the use of the second floor area and ground floor access to it for Community related uses falling within Use Class [D1 of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking, amending, or re-enacting that Order) and shall not be used for any other use within that Use Class.

REASON::

To ensure the re-development of the site includes a mix of uses which benefits the local community.

52. APPROVAL CONDITION - BREEAM Standards (commercial development) [Pre-Occupation Condition]

Written documentary evidence demonstrating that the development has achieved at minimum a rating of Very Good against the BREEAM standard 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 certificate as issued by a qualified BREEAM 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).

53. APPROVAL CONDITION - Code for Sustainable Homes [Pre-Occupation Condition]

Written documentary evidence demonstrating that the development will achieve at minimum Level 3 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 certificate as issued by a qualified 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).

54. APPROVAL CONDITION - Residential Renewable Energy - Micro-Renewables (Pre-Commencement Condition)

An assessment of the development's total energy demand and a feasibility study for the inclusion of renewable energy technologies on the site, that will achieve a reduction in CO2 emissions [as required in core strategy policy CS20] must be conducted. Plans for the incorporation of renewable energy technologies to the scale that is demonstrated to be feasible by the study, and that will reduce the CO2 emissions of the development [as required in core strategy policy CS20] must be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development hereby granted consent. Renewable technologies that meet the agreed specifications must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter.

REASON:

To reduce the impact of the development on climate change and finite energy resources and to comply with adopted policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

55. APPROVAL CONDITION - Loafing Birds on Retail Store [Performance Condition]

Any flat/shallow pitched roofs including the store, community element and shall be constructed to allow access to all areas by foot using permanent fixed access stairs, ladders or similar. The owner/occupier shall not allow gulls to nest, roost or loaf on the building or the decked car park. Checks shall be made weekly during the breeding season. Outside of the breeding season gull activity shall be monitored and the roof and decked car park shall be checked regularly to ensure that gulls do not use them. Any gulls found nesting, roosting or loafing shall be dispersed by the owner/occupier when detected or when requested by BAA Airfield Operations staff. The owner/occupier shall remove any nests or eggs found on the roof or decked car park.

REASON::

To avoid endangering the safe operation of aircraft through the attraction of birds.

56. 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.

## Notes To Applicant

1. Development in accordance: The applicant is advised that all works to which this permission relates must be carried out strictly in accordance with the plans, drawings and other relevant supporting material submitted as part of this application and hereby approved. The local planning authority must be immediately advised of any proposed variation from the approved documents and the prior approval in writing of the Council must be obtained before any such works are carried out on the site. Failure to comply with this advice may render those responsible liable to enforcement proceedings which may involve alterations and/or demolition of any unauthorised building or structures and may also lead to prosecution.

2. Pre-commencement Conditions: Notwithstanding the requirement of the submission of a further application(s) for the reserved matters for the residential area of the site your attention is drawn to the pre-commencement conditions above which require the terms of the conditions to be satisfied before development commences. If development commences in contravention of that these conditions, the development taking place will be made unauthorised in planning terms. This may result in the Council taking enforcement action against the unauthorised development. If you are in any doubt please contact the Council.

3. S.106 Legal Agreement: A Section 106 agreement relates to this site which includes a requirement for contributions towards: affordable housing, public art, public realm, open space, play space, cctv, site specific and strategic highways. A full copy of the S106 legal agreement is available on the Public Register held at Southampton City Council.

4. Southern Water/Water Supply: A formal application for connection to the water supply is required in order to service this development. Please contact Atkins Ltd, Anglo St James House, 39a Southgate Street, Winchester (Tel. 01962 858600).

5. Southern Water/Sewers: The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Atkins Ltd, Anglo St James House, 39a Southgate Street, Winchester, SO23 9EH (tel. 01962 858600).

6. External Vents/Air Conditioning Units: Other than those shown on the approved drawings no external vents, ducting, air conditioning units or plant shall be installed without the prior written approval of the Local Planning Authority upon submission of a formal planning application.

7. Cranes: The applicants attention is drawn to the requirement within the British Standard Code of Practice for the safe use of cranes for operators to first consult the aerodrome as suggested by BAA in their response to this planning application.

8. For Information: The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. The owner/occupier must not allow gulls to nest, roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the breeding season. Outside of the breeding season gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/occupier when detected or when required by BAA Airside Operations staff. In some instances it may be necessary to contact BAA Airside Operations staff before bird dispersal takes place.

9. The owner/occupier must remove any nests or eggs found on the roof. The breeding season for gulls typically runs from March to June. The owner/occupier must obtain the appropriate licences where applicable from Natural England before the removal of nests and eggs.

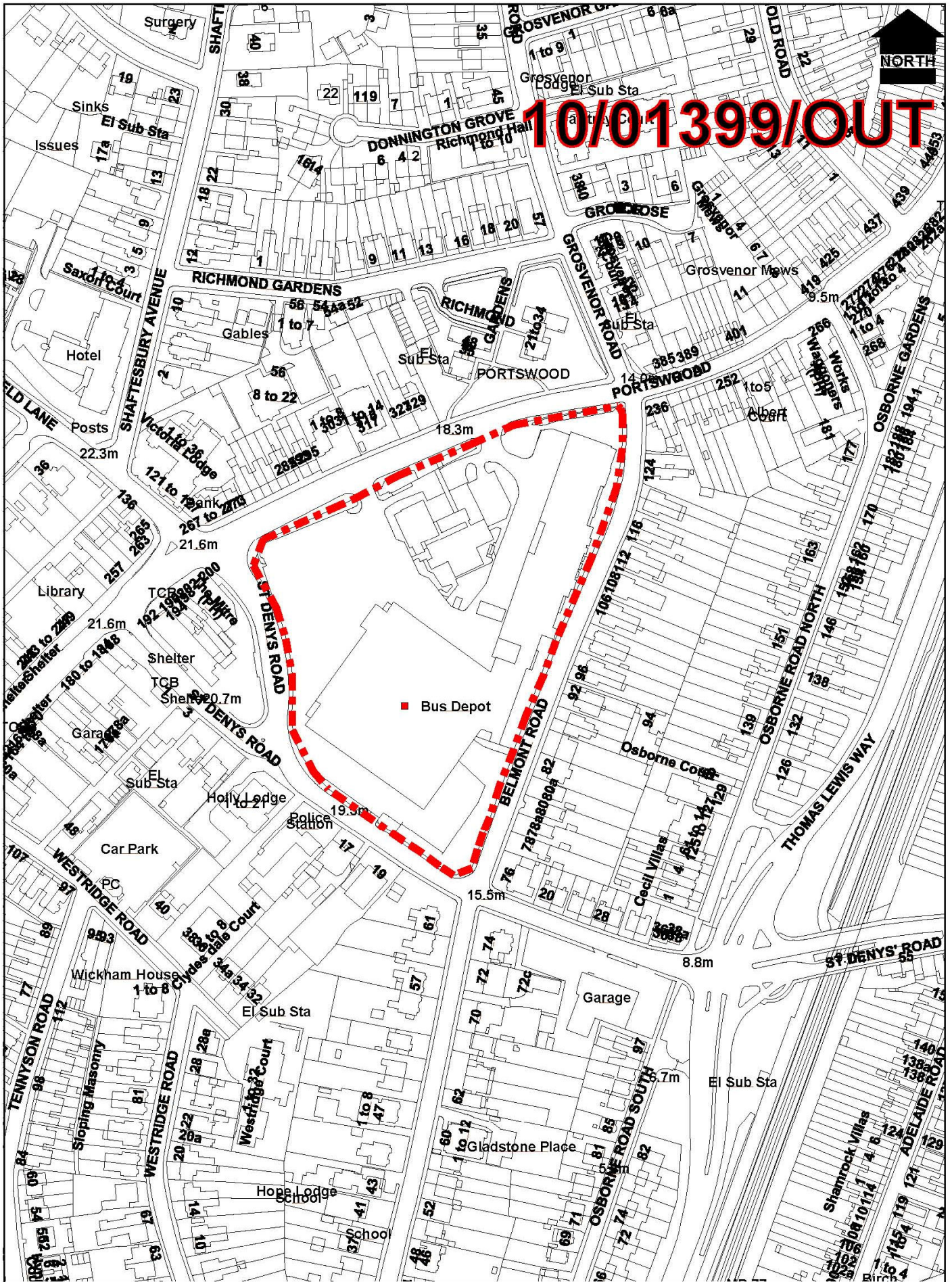
**City of Southampton Local Plan Review (March 2006) 'saved' policies:-**

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP8	Urban Form & Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility and movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP15	Air Quality
SDP16	Noise
SDP17	Lighting
SDP19	Aerodrome safeguarding
SDP21	Water quality and drainage
SDP22	Contaminated Land
HE6	Archaeological Remains
CLT5	Open Space
CLT6	Children's play space
H1	Housing Supply
H2	Previously developed land
H3	Special housing need
H7	Residential Density
REI7	Food and drink uses
REI8	Shopfronts
TI2	Vehicle Access

**City of Southampton Core Strategy (January 2010) policies:-**

CS4	Housing delivery
CS5	Housing density
CS13	Fundamentals of Design
CS15	Affordable Housing
CS16	Housing Mix and Type
CS18	Transport: Reduce-manage-invest
CS19	Car and Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS21	Protecting and Enhancing Open Space
CS22	Promoting Bio-diversity and Protecting Habitats
CS23	Flood Risk
CS24	Access to Jobs
CS25	The Delivery of Infrastructure and Developer Contributions





Scale : 1:2500

Date :06 January 2011

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# Agenda Item 7

Southampton City Planning & Sustainability  
Planning and Rights of Way Panel meeting 18<sup>th</sup> January 2011  
Planning Application Report of the Planning and Development Manager

<b>Application address:</b> Boldrewood (Building 62), University of Southampton			
<b>Proposed development:</b> Erection of a single storey detached building to house plant and equipment for the electricity supply to the campus - <i>description amended following validation and receipt of amended plans.</i>			
Application number	10/01058/FUL	Application type	FUL
Case officer	Stephen Harrison	Public speaking time	5 minutes
Last date for determination:	13.10.2010 <b>OUT OF TIME</b>	Ward	Bassett
Reason for Panel Referral	Councillor Referral	Ward Councillors	Cllr Samuels Cllr Harris Cllr Hannides

<b>Applicant:</b> University Of Southampton	<b>Agent:</b> Luken Beck Ltd (Robin Reay)
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<b>Recommendation Summary</b>	<b>Conditionally Approve</b>
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## Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Following the receipt of amended plans the proposed buildings are considered to respect the visual amenities of Bassett Avenue whilst satisfying initial highway safety concerns. Other material considerations, such as those listed in the report to the Council's Planning and Rights of Way Panel on 18<sup>th</sup> January 2011, do not have sufficient weight to justify a refusal of the application. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004 Planning Permission should therefore be granted.

Policies – SDP1, SDP7, SDP9, SDP12, TI2, NE6 and L7 of the City of Southampton Local Plan Review - Adopted March 2006 and Policies – CS6, CS11 and CS13 of the Southampton City Council Local Development Framework Core Strategy – Adopted January 2010 as supported by the Council's current adopted Supplementary Planning Guidance.

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

## Recommendation in Full

### Conditionally Approve



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

1.1 This application is required to meet the needs of the redevelopment proposals for the University's Boldrewood site. The existing six-storey buildings on the site are currently being demolished.

1.2 The site is currently characterised by a 12 metre change in level (from the north-west corner) and its landscape setting, which is defined, in part, by the Southampton (Bolderwood, Burgess Road/Bassett Avenue) Tree Preservation Order 2007. Boldrewood is located some 50 metres from the Southampton Common Site of Special Scientific Interest (SSSI) and Site of Importance for Nature Conservation (SINC). The site is located within Flood Zone 1, where there is a low probability of a flood event.

## **2. Proposal**

2.1 Full planning permission was initially sought for the erection of two brick built single storey structures on the site of the former greenhousing. These small ancillary buildings will provide Southern Electric supply equipment, transformers and switch rooms in connection with the electricity supply to the Boldrewood Campus. They are necessary to maintain a continuous electricity supply to the site (including the existing Annex building and the approved Maritime Centre of Excellence) following the demolition of Building 62.

2.2 The substation building has a footprint of 9sq.m and a flat roof design with a height of 2.5 metres. This building is located approximately 9 metres from the western boundary hedge. This building can be constructed under the electricity company's permitted development allowances and no longer forms part of the application.

2.3 The electrical switch room building has a footprint of 52sq.m and a flat roof design with a height of 3.4 metres. This building is located approximately 17 metres from the western boundary hedge and is partly screened by the substation building.

2.4 Following the receipt of amended plans these buildings will be accessed from within the site, via the approved Burgess Road vehicular access. The applicants have also removed the smaller substation building from the application as these works can be undertaken under the permitted development rights of the statutory undertaker

2.5 The existing Bassett Avenue boundary fence and hedgerow will no longer be affected. No new tree works are proposed to facilitate this development.

2.5 It is proposed to clad the buildings following the construction works to the main Maritime Centre of Excellence.

## **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 Major developments are expected to meet high sustainable construction standards in accordance with the City Council's adopted and emerging policies. In accordance with adopted Core Strategy Policy CS20 and Local Plan "saved" Policy SDP13.

## **4.0 Relevant Planning History**

4.1 The relevant planning history for the site is set out at **Appendix 2**.

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

### **Notification**

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 (26.08.2010). Further notification was carried out following the receipt of the amended scheme. At the time of writing the report representations from **7** different addresses have been received.

5.2 The East Bassett Residents' Association have suggested that these buildings should be sited near to (or within) the existing annex building (in the south-east corner of the site) where there would be less disruption and easier access.

5.3 Further issues raised include:

- **It was the intention that Block A would provide the power supply when the redevelopment proposals were first approved. This is a departure.**

It is not unusual for the details of a scheme to change from its conception to delivery. The applicants have advised that, following further investigation, it has become evident that the Burgess Road electricity supply is not capable of serving the proposed redevelopment. The Council has been asked to consider a revised solution and has to assess the planning merits of the change.

- **Detrimental impact on the character of the area.**

The proposed amendments have removed the access onto Bassett Avenue and, in doing so, has reduced the impact of the buildings on the character of the area.

- **The Boldrewood development is taking place in an *ad hoc* manner.**

The development is evolving but is governed by the original Masterplan and parameters approved under the 07/00985/OUT permission. This amendment is not regarded as a significant departure from the approval.

- **A new entrance onto Bassett Avenue will destroy the protected greenway.**

Agreed. The amended plans have been sought and the initial approach has been removed from the scheme.

- **Amendment to the car parking layout is not acceptable.**

In response, there are no changes to the current parking layout as approved. The plans show the approved parking layout at the request of officers to demonstrate that the new buildings will not prejudice the delivery of the approved redevelopment proposals.

### **Consultation Responses**

5.4 **SCC Highways** – No objection raised following the receipt of the amended plans

5.5 **SCC Environmental Health** – No objection raised

5.6 **SCC Tree Team** - There are no objections to this proposal on tree grounds subject to the inclusion of an agreed Method Statement.

## **6.0 Planning Consideration Key Issues**

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

- The Principle of Development
- Design and Impact on Local Character
- Highway Safety
- Tree Issues

### Principle of Development

6.2 The adopted Local Plan Policy L7 supports development on the designated University Campus, which includes Boldrewood. These ancillary structures are essential to serve the redevelopment proposals approved under permission 07/00985/OUT and 08/01097/FUL. The applicants have advised that without these structures in place to provide a continuous electricity supply the demolition phase of the scheme cannot continue.

6.3 The proposed substation building can be erected under the statutory undertakers permitted development allowances as explained by Part 17 Class G of the Town and Country Planning (Permitted Development) Order 1995.

### Design and Impact on Local Character

6.4 Following the receipt of amended plans the siting of the proposed buildings are deemed to be acceptable. They replace existing greenhousing, are designed with a flat roof and an external cladding to improve their appearance, and are set in from the boundary with the Avenue by 17 metres (in the case of the switch rooms). Whilst alternative locations may, indeed, be possible the current scheme is not considered to be harmful and accords with the requirements of the development plan, namely Local Plan policies SDP7 and NE6 as supported by Core Strategy Policy CS13.

### Highways Safety

6.5 Following the receipt of the amended plans to remove the servicing access onto Bassett Avenue there are no highway safety issues raised by the proposal.

### Tree Issues

6.6 The submitted details suggest that no new tree works (affecting the Southampton (Bolderwood, Burgess Road/Bassett Avenue) Tree Preservation Order 2007 will be required. The Council's Tree Officer has raised no objection to the proposal.

## **7.0 Summary**

7.1 The proposed development has been amended following concerns raised by officers and residents. The siting of two new single storey flat roof structures on the western boundary of the Boldrewood Campus is now considered to respect the landscape setting of Bassett Avenue, whilst maintaining highway safety. Although alternative locations for these buildings have been suggested the Local Planning Authority has a duty

to consider the scheme as amended. The proposals are not considered to be harmful and, instead, meet the requirements of the development plan (as detailed at **Appendix 1**).

## **8.0 Conclusion**

8.1 This application for the erection of a single storey detached building to house plant and equipment for the electricity supply to the Boldrewood campus is acceptable and is recommended for conditional planning approval.

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

1a, b, c and d, 2b, d and e, 4dd, 6c, 7a, f, k, o and r and 10b

### **SH2 for 18/01/11 PROW Panel**

### **PLANNING CONDITIONS to include:**

#### **1. 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).

#### **2. APPROVAL CONDITION - Materials**

Further details (including full details of the manufacturers, types and colours of the external finish) of the building's cladding shall be submitted to and agreed in writing by the Local Planning Authority within 6 months from the date of this permission. The approved cladding system shall be installed, as agreed, within 2 months of the final demolition works to Building 62 or within 18 months from the date of this permission, whichever is sooner.

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 in accordance with the applicant's email dated 22nd November 2010.

#### **3. APPROVAL CONDITION – Hedgerow to Western Boundary**

There shall be no works (associated with the construction and/or on going operation of the approved buildings) to the existing hedgerow that forms the western boundary of the Boldrewood Campus unless agreed firstly in writing with the Local Planning Authority.

REASON:

To ensure that the landscape character of Bassett Avenue is respected by the development in accordance with Local Plan Review "saved" Policy NE6

#### **4. APPROVAL CONDITION - Hours of work for Demolition / Clearance / Construction**

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 the occupiers of existing nearby residential properties.

**5. APPROVAL CONDITION - Arboricultural Method Statement [Pre-Commencement Condition]**

No operation in connection with the development hereby permitted shall commence on site until a site specific Arboricultural Method Statement in respect of the protection of the trees during all aspects of work on site is submitted and agreed in writing by the Local Planning Authority. It will be written with contractors in mind and will be adhered to throughout the duration of the demolition and development works on site. The Method Statement will include the following:

1. A specification for the location and erection of protective fencing around all vegetation to be retained
2. Specification for the installation of any additional root protection measures
3. Specification for the removal of any built structures, including hard surfacing, within protective fencing areas.
4. Specification for the construction of hard surfaces where they impinge on tree roots
5. The location of site compounds, storage areas, car parking, site offices, site access, heavy/large vehicles (including cranes and piling rigs)
6. An arboricultural management strategy, to include details of any necessary tree surgery works, the timing and phasing of all arboricultural works and protection measures.
7. Specification for soft landscaping practices within tree protection zones or the canopy of the tree, whichever is greatest.

Reason

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



Core Strategy - (January 2010)

CS6	Economic Growth
CS11	An Educated City
CS13	Fundamentals of Design

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP12	Landscape & Biodiversity
TI2	Vehicular Access
L7	The University of Southampton
NE6	Protection/Improvement of Character

Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)  
PPS4 Planning for Sustainable Economic Growth (December 2009)  
PPS9 Biodiversity and Geological Conservation (August 2005)  
PPG13 Transport (April 2001)  
PPG16 Archaeology and Planning (November 1990)

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**08/01097/FUL      Conditionally Approved 19/02/09 with S.106**

Development of Phase One of the Boldrewood Campus to include the construction of Block A, a 6-storey building (Class B1 office accommodation linked to university use including provision for the Maritime Institute - 10,270sqm gross external floorspace); Block B, a 5-storey building of new University accommodation (Class D1 - 5,749sqm gea); extensions and alterations to Block C (Class D1 - 286sqm gea new floorspace) with a new vehicular access from Burgess Road, associated access alterations, parking and interim landscape works following demolition of the existing buildings.

**07/00985/OUT      Conditionally Approved 18/06/08 with S.106**

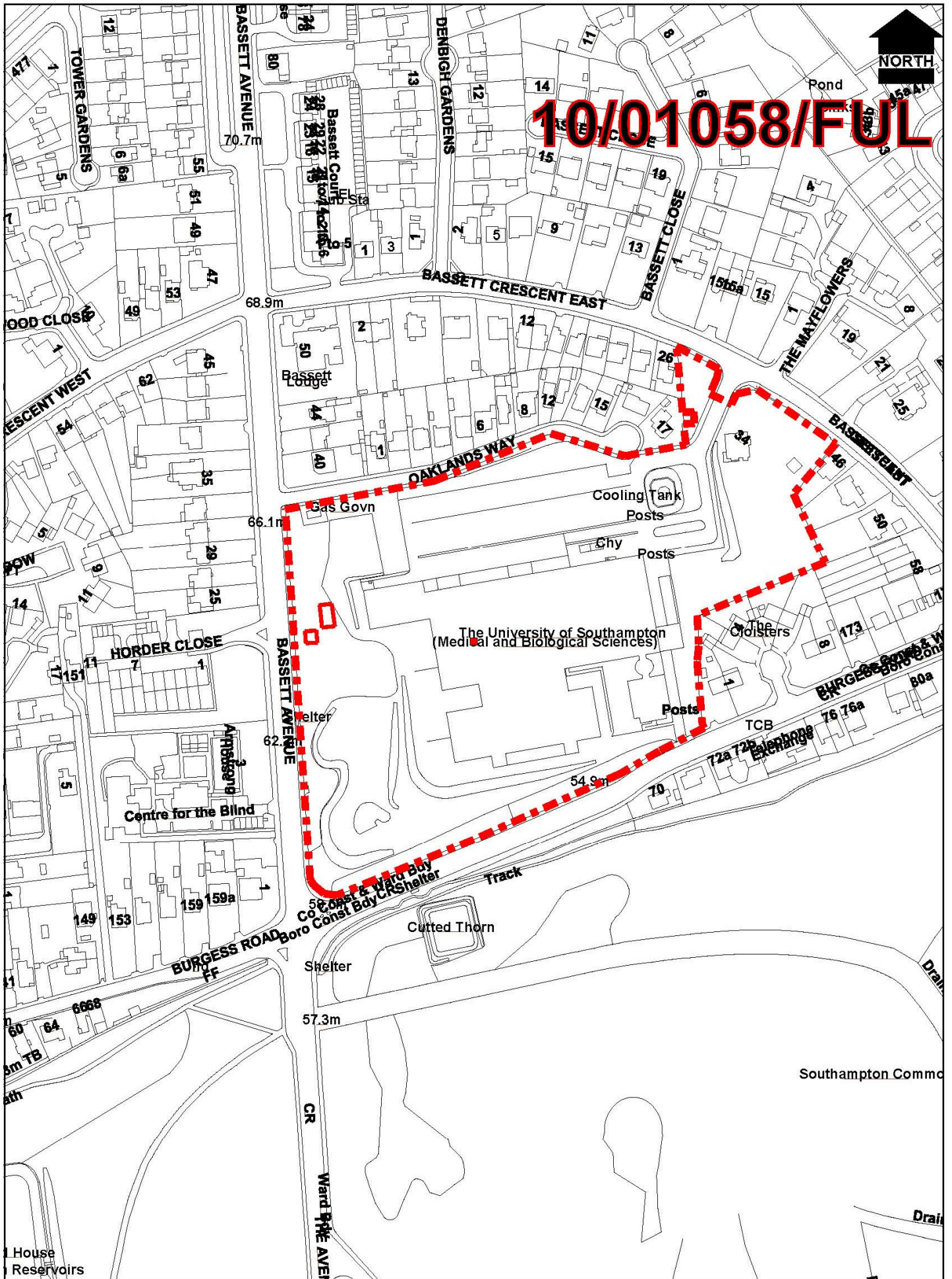
Redevelopment of the site by the erection of new buildings to provide up to 32,000sqm gross floorspace for University purposes, 468 car parking spaces, landscaping, temporary and permanent access arrangements, including a new vehicular access from Burgess Road and ancillary works following demolition of most of the existing buildings (Outline application seeking approval for access arrangements).

**06/01566/SCR      No Objection - not an EIA Development 07/11/06**

Screening request under Part II Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 for the redevelopment of the site.

**02/01343/FUL      Permitted by Panel 28/10/2003**

Three storey annex extension



**10/01058/FUL**

Scale : 1:2500

Date :06 January 2011

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# Agenda Item 8

Southampton City Planning & Sustainability  
Planning and Rights of Way Panel meeting 18 January 2011  
Planning Application Report of the Planning and Development Manager

<b>Application address:</b> 80 Bellemoor Road SO15 7QU			
<b>Proposed development:</b> Part two storey, part single storey side and rear extensions			
Application number	10/01654/FUL	Application type	FUL
Case officer	Stuart Brooks	Public speaking time	5 minutes
Last date for determination:	20.01.2011	Ward	Shirley
Reason for Panel Referral	The applicant is related to an employee of the SCC Planning Department	Ward Councillors	Cllr Mead Cllr Dean Cllr Matthews

<b>Applicant:</b> Mrs Elizabeth Harrison	<b>Agent:</b> none
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<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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## Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The proposed extension is not considered to be harmful to the appearance of the host dwelling nor harmful to the character of the surrounding. No harm would result to the amenities of neighbours. 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 - SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review (March 2006) and CS13 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

<b>Appendix attached</b>			
1	Development Plan Policies		

## Recommendation in Full

**Conditionally approve**

## **1.0 The site and its context**

1.1 This application site lies on the north side of Bellemoor Road. The street is mainly characterised by groups of 2 storey semi-detached and detached dwellings of various architectural styles.

1.2 The host dwelling is set back from the street by a 6 metre long front garden, following the established building line. The rear and side garden spaces are some 260 sq.m.

1.3 The western side boundary with 78 Bellemoor Road consists of tall close boarded fence and mature hedge.

1.4 The boundary adjoining to the curtilage of Upper Shirley High (Secondary) School is enclosed by tall close boarded fence. Outline planning permission has been granted to form a secondary access road onto Bellemoor Road as part of proposals to create a new replacement school. This access is only to be used by delivery and service vehicles. Funding to that project has been withdrawn by the Government. The point at which the access is approved is currently marked by a tall hedge.

## **2.0 Proposal**

2.1 A part two and part single storey side/rear extension is proposed, introducing a dormer window in the front facing roof slope of the side extension. The net additional sq.m ground coverage is 47 sq.m.

## **3.0 Relevant Planning Policy**

3.1 The Development Plan for Southampton currently comprises the Regional Spatial Strategy (May 2009), "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 Policies generally seek to safeguard the amenity of the city and its citizens, achieving high quality design, to integrate into the local context, in terms of the scale, massing and appearance of proposals.

3.3 These aspirations are supported by the guidance in the Council's Residential Design Guide. Section 2 of the Guide sets out standards for extensions to existing homes, to ensure that the access to natural light, outlook and privacy for existing occupants and their neighbours is protected (paragraph 2.2.1 - 2.2.23 refers). Furthermore, paragraph 2.2.3 specifies that the best way of ensuring privacy between houses is to avoid windows to habitable rooms (living room, dining room, kitchen, bedroom) directly facing one another. The guidance in paragraph 2.2.3 under paragraphs 2.3.1 - 2.3.5 seeks the design of extensions to be subordinate to the original dwelling, and to respect the character and rhythm of the street.

3.4 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 None.

## **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. At the time of writing the report 0 representations have been received from surrounding residents.

## **6.0 Planning Consideration Key Issues**

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

- Design and impact on the appearance of the host dwelling/locality;
- Impact on residential Amenity.

### **6.2 Design**

6.2.1 The proposed extension will mostly infill the existing gap to the eastern boundary, leaving a 900mm gap to maintain pedestrian access to the rear garden.

6.2.2 The proposed side and rear extension will appear single storey in height and subordinate to the original dwelling. The roof profile of the extension will be aligned to match the existing roof profile and pitch, introducing a front facing dormer which would not visually dominate in terms of style and proportion.

6.2.3 The design and form of scale and massing of the proposed extension is considered to harmonise with the appearance of the original dwelling, and maintain the balance of symmetry of the semi detached pair.

6.2.4 The materials and finishes to be used for construction of the extension will match the original dwelling and blend with the street scene.

### **6.3 Residential Amenity**

6.3.1 The scale and massing of the proposed extension will be set back sufficiently from the closest habitable spaces of the adjacent properties at 78 and 82 Bellemoor Road, which ensures that access to outlook and natural light of the neighbouring occupiers will not be adversely affected.

6.3.2 The proposed side extension will introduce a side facing window to serve the new first floor bedroom, directly facing the existing first floor windows on the side elevation of 82 Bellemoor Road. These windows currently serve a bathroom (treated with obscure glazing) and stairway landing, with a separation distance of 17 and 21 metres respectively.

6.3.3 Although the new bedroom window and stairway landing window will directly face one another, this will not result in a significant loss of privacy to the occupiers of 82 Bellemoor Road, as the stairway landing is not a habitable room. Furthermore, it is the preference of the applicant not to obscure glaze the new bedroom window in terms of their own privacy.

## **7.0 Summary**

7.1 As such the proposed extension is considered not to be harmful to the surrounding character and local amenity of the local area and therefore comply with the requirements of Local Development Framework Core Strategy policy CS13 and saved policies SDP1, SDP7 and SDP9 of the Local Plan Review as supported by the relevant sections of the Residential Design Guide.

## **8.0 Conclusion**

8.1 The application has been assessed as being acceptable to residential amenity and visual amenity.

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

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

1(a), 1(b), 1(c), 1(d), 2(c), 2(e), 6(c), 6(l), 7(a), 7(c), 9(a), 9(b)

#### **SB for 18/01/11 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 - Materials to match [Performance Condition]**

Unless otherwise agreed in writing by the Local Planning Authority, the materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the extension hereby permitted shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those on the existing building.

**REASON:**

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

#### **03. 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.



**POLICY CONTEXT**

Core Strategy - (January 2010)

CS13          Fundamentals of Design

City of Southampton Local Plan Review – (March 2006)

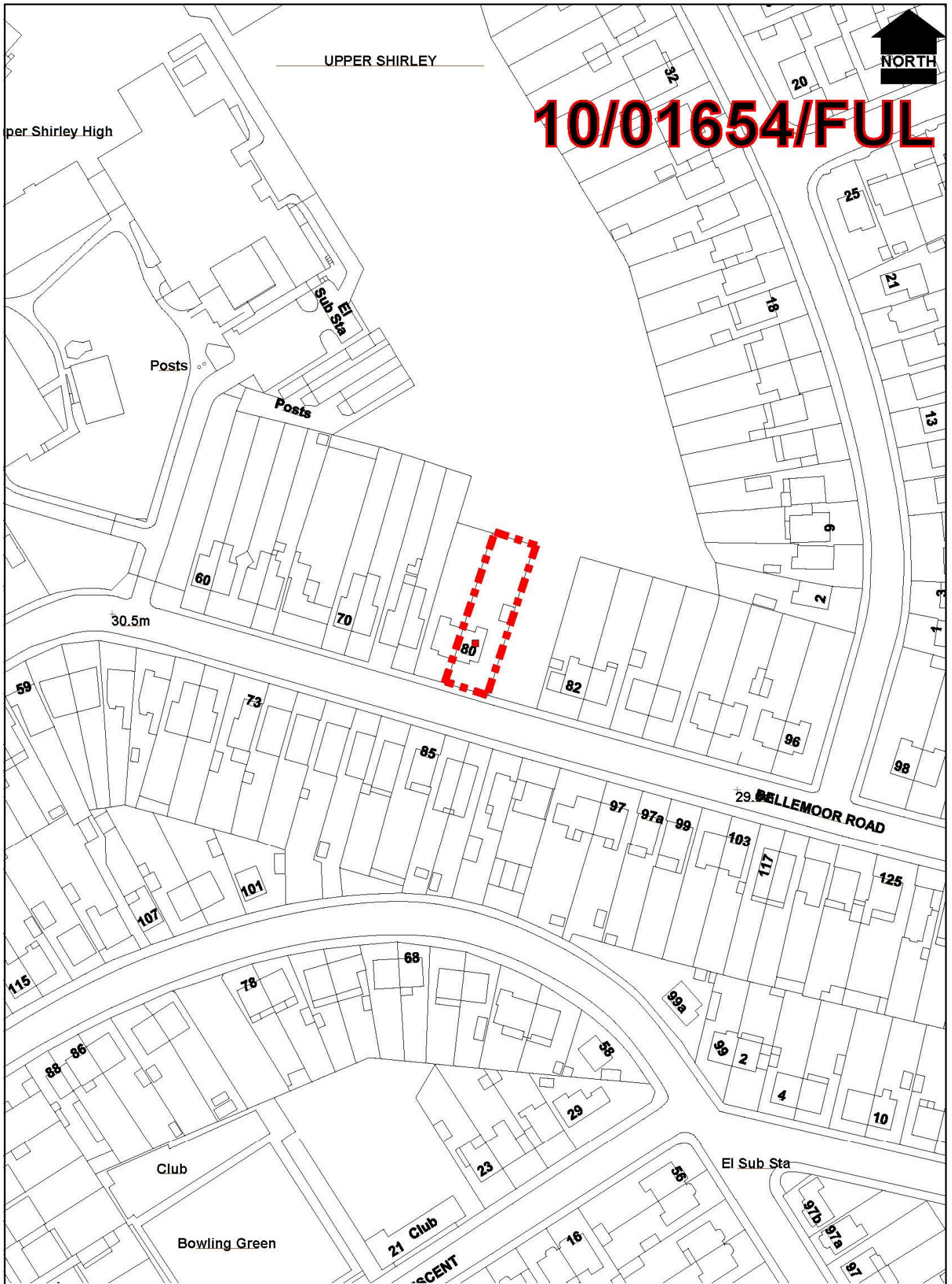
SDP1          Quality of Development  
SDP7          Urban Design Context  
SDP9          Scale, Massing & Appearance

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)  
PPS3 Housing (November 2006)



**10/01654/FUL**

Scale : 1:1250

Date :06 January 2011

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