

# Planning and Rights of Way Panel

Tuesday, 6th September,  
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 Jones (Chair)  
Councillor Claisse (Vice-Chair)  
Councillor Mrs Blatchford  
Councillor Cunio  
Councillor L Harris  
Councillor Osmond  
Councillor Thomas

### **Contacts**

Democratic Support Officer  
Pat Wood  
Tel: 023 8083 2302  
Email: [pat.wood@southampton.gov.uk](mailto:pat.wood@southampton.gov.uk)

Head of Planning and Sustainability  
Paul Nichols  
Tel: 023 8083 2553  
Email: [paul.nichols@southampton.gov.uk](mailto:paul.nichols@southampton.gov.uk)

## **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 Seven Priorities**

- More jobs for local people
- More local people who are well educated and skilled
- A better and safer place in which to live and invest
- Better protection for children and young people
- Support for the most vulnerable people and families
- Reducing health inequalities
- Reshaping the Council for the future

**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 2011/12**

<b>2011</b>	<b>2012</b>
<b>24 May 2011</b>	<b>17 January 2012</b>
<b>21 June</b>	<b>14 February</b>
<b>19 July</b>	<b>13 March</b>
<b>16 August</b>	<b>17 April</b>
<b>6 September</b>	
<b>27 September</b>	
<b>25 October</b>	
<b>22 November</b>	
<b>20 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**

## **CONSIDERATION OF PLANNING APPLICATIONS**

### **ITEMS TO BE HEARD BETWEEN 9:30 AM TO 11:00 AM**

### **4 AREA HOUSING OFFICE, YOUTH CENTRE AND CAR PARK SITE, PARKVILLE ROAD 11/00204/FUL**

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

### **ITEMS TO BE HEARD BETWEEN 11:00 AM TO 11:45 AM**

### **5 13 GROSVENOR ROAD 11/01025/FUL**

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

**6 13 GROSVENOR ROAD 11/01026/FUL**

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

**ITEMS TO BE HEARD BETWEEN 11:45 AM TO 12:30 PM**

**7 73 MILTON ROAD 11/00754/FUL**

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

**ITEMS TO BE HEARD BETWEEN 1:15 PM TO 1:45 PM**

**8 SEA CITY MUSEUM, CIVIC CENTRE ROAD 10/01550/DIS**

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

**ITEMS TO BE HEARD BETWEEN 1:45 PM TO 2:15 PM**

**9 UNIT 3A, NORTHBROOK INDUSTRIAL ESTATE, VINCENT AVENUE**

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

Friday, 26 August 2011

HEAD OF LEGAL AND DEMOCRATIC  
SERVICES

# Agenda Annex

## INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 6 September 2011 - Committee Rooms 1 and 2

PLEASE NOTE: THE PANEL WILL BREAK FOR LUNCH

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
<b><u>BETWEEN 9.30 AM AND 11.00 AM</u></b>				
4	SH	DEL	15	11/00204/FUL / Area Housing Office, Youth Centre and Car Park Site, Parkville Road Swaythling
<b><u>BETWEEN 11.00 AM AND 11.45 AM</u></b>				
5	SL	REC 1 – REF REC 2 – Institute Enforcement proceedings, if REC 1 agreed	5	11/01025/FUL / 13 Grosvenor Road
6	SL	REC 1 – REF REC 2 – Institute Enforcement proceedings, if REC 1 agreed	5	11/01026/FUL / 13 Grosvenor Road
<b><u>BETWEEN 11.45 AM AND 12.30 PM</u></b>				
7	MP	CAP	5	11/00754/FUL / 73 Milton Road
<b><u>LUNCH 12.30PM – 1.15PM</u></b>				
<b><u>BETWEEN 1.15 PM AND 1.45 PM</u></b>				
8	JT	PART APPROVE	5	10/01550/DIS/ Sea City Museum Civic Centre Road
<b><u>BETWEEN 1.45 PM AND 2.15 PM</u></b>				
9	MP	CAP	5	11/01104/FUL / Unit 3A Northbrook Industrial Estate Vincent Avenue

### **Abbreviations:**

PSA – Public Speaking Allowance; CAP - Approve with Conditions: DEL - Delegate to Officers: PER - Approve without Conditions: REF – Refusal: TEMP – Temporary Consent REC - Recommendation

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 Ethelbert 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) PPS7 Planning Policy Statement 7: Sustainable Development in Rural Areas (August 2004)
- (i) PPG8 Telecommunications (August 2001)
- (j) PPS9 Biodiversity and Geological Conservation (August 2005)
- (k) PPS10 Planning for Sustainable Waste Management (July 2005)
- (l) PPS11 Regional Spatial Strategies (September 2004 – amended January 2009)
- (m) PPS12 Local Spatial Planning (June 2008)
- (n) PPG13 Transport (January 2011)
- (o) PPG14 Development on Unstable Land (April 1990)
- (p) PPG17 Planning for Open Space, Sport and Recreation (July 2002)
- (q) PPG18 Enforcing Planning Control (December 1991)
- (r) PPG19 Outdoor Advertising Control (March 1992)
- (s) 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)

10. Other Statutes

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

Partially Revised: 6/01/11

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# Agenda Item 4

Southampton City Planning & Sustainability  
Planning and Rights of Way Panel meeting (6<sup>th</sup> September 2011)  
Planning Application Report of the Planning and Development Manager

<b>Application address:</b> Area Housing Office, Parkville Road, Southampton			
<b>Proposed development:</b> Redevelopment of the site. Demolition of the existing buildings and erection of a building ranging in height from 3-storeys to 15-storeys to provide student residential accommodation (53 cluster flats comprising a total of 348 rooms, 4 x 2-bedroom flats and 12 x 1-bedroom flats); a medical centre (Class D1 use), retail units (Class A1) and two units for community use or non-residential institution use (Class D1) or retail (A1) or food and drink use (A3) with associated landscaping, parking and site works, including the stopping up of existing highway.			
Application number	11/00204/FUL	Application type	FUL
Case officer	Stephen Harrison	Public speaking time	15 minutes
Last date for determination:	N/A Planning Performance Agreement	Ward	Swaythling
Reason for Panel Referral:	Major Development on Council Land	Ward Councillors	Cllr Vassiliou Cllr Osmond Cllr Turner

<b>Applicant:</b> Bouygues Development	<b>Agent:</b> Fluid Architecture Ltd FAO: Mr Christopher Pickering
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<b>Recommendation Summary</b>	<b>Delegate to the Planning and Development Manager to grant conditional planning permission subject to the criteria listed in this report.</b>
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## Reason for Granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The proposed development has been revised to increase the level of on-site car parking. Following the proposed change to the student-car ownership restriction the impact of the development, in terms of visual and neighbour amenity, highway safety and parking are still considered to be acceptable for the reasons detailed in the report to the Council's Planning and Rights of Way Panel on 6<sup>th</sup> September 2011. Particular account has also been taken of the third party response to the scheme, the quality of the proposed redevelopment proposals, current market conditions and the overall viability of the scheme. Other material considerations 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, and application 11/00204/FUL should therefore be granted in accordance with the following policies:

City of Southampton Local Plan Review (March 2006) policies SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13,, SDP14, SDP15, SDP16, SDP17, SDP19, SDP22, NE7, HE1, CLT5, CLT7, H1, H2, H3, H7, H13, REI6 and TI2 and City of Southampton Core Strategy (January 2010) policies CS4, CS5, CS6, CS10, CS11, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22, CS24 and CS25 as supported by the relevant national planning guidance and the Council's current supplementary planning guidance listed in the Panel report.

<b>Appendix attached</b>			
1/2/3	21 <sup>st</sup> June 2011/24 <sup>th</sup> May 2011 Panel Reports & Summary table	4.	21 <sup>st</sup> June 2011 Panel Minute
5.	Applicant's Counsel Opinion		

### **Recommendation in Full**

Conditional Approval - Subject to:

- (a) Confirmation in writing by the applicant prior to the grant of planning permission that the attached draft Heads of Terms are acceptable to the applicant;
- (b) the receipt of an undertaking from the Head of Property and Procurement Services that the contract for the sale of Council owned land, the subject of this application, will be conditional upon Bouygues Development and any other landowner entering into a S.106 legal agreement with the Council, prior to the land transfer taking place, to provide the following planning obligations:

*Note: Changes to that previously agreed by the June Planning Panel are highlighted:*

- i) An occupation restriction to ensure that all residents are in full time higher education and that the provider is a member of the Southampton Accreditation Scheme for Student Housing (SASSH) in accordance with Local Plan Policy H13(v);
- ii) The submission and implementation of a Student Drop Off/Collection Management Plan committing to an ongoing review of the site;
- iii) The scheme shall make a commencement within 6 months and achieve a shell and core finish within 36 months from the date of the planning permission so as to reflect the current viability assumptions made. In the event that this is not achieved a fresh viability appraisal shall be submitted with any uplift in value (up to an agreed sum) payable to the City Council;
- iv) A financial contribution and/or the implementation and maintenance of an agreed series of site specific transport and off-site landscaping works (including the proposed Stoneham Way service layby and Parkville Road Improvement Scheme with a minimum of 12 parking spaces) under S.278 of the Highways Act with implementation prior to first occupation in line with Policy SDP4 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS18 and CS25;
- v) The funding of Traffic Regulation Orders (TRO) required ~~for the above measures~~ to enable the development to be implemented;

- vi) A financial contribution and/or the implementation and maintenance of an agreed series of strategic transport projects for highway network improvements, including the potential for a new/revised UNIlk bus route and bus stop serving the development with implementation prior to first occupation, in the wider area as set out in the Local Transport Plan and appropriate SPG/D;
- vii) The submission and implementation of a public parking management plan for those spaces along Parkville Road dedicated for public use. **Details to include additional explanatory signage to be erected in Parkville Road at the applicant's expense;**
- viii) A Student Car Ownership Restriction **Mechanism** as part of any student contract of tenancy shall be agreed and imposed. No student shall be entitled to park on the land. Upon the offer of the place a clear written statement shall be given to the students detailing the implications for their tenancy in the event that they are found to have a car. All student contracts to include the agreed ~~penalty clause~~ wording to the effect that they shall not bring a car to Swaythling Ward whilst living at City Gateway and **may** be evicted if found to have done so. In the event that evidence is provided by residents or the City Council that a resident has access to a car they will be given a warning **leading to possible eviction**. This will be ~~enforced by~~ **at the discretion of** the University of Southampton and/or any designated operator and/or the landowner upon receipt of valid evidence. ~~followed by eviction in the event that the car is still available. In the event that no enforcement is taken by the landowner (to either the evidence provided or the eviction notice) within agreed timescales a breach of planning will have occurred and a financial penalty (to be set and agreed) will be payable to the City Council by the landowner.~~ Reception area to have an up-to-date telephone number with information about when and where breaches can be reported ~~to the freeholder~~. **Without prejudice to the above paragraph, the mechanism will be agreed between the University/operator and Southampton City Council prior to first occupation of the building;**
- ix) A mechanism for replacing the existing community uses (both during and following the construction phase) in accordance with LDF Core Strategy Policy CS3;
- x) Financial contributions towards the relevant elements of public open space required by the development in line with Policy CLT5 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS21 and CS25;
- xi) The submission, approval and implementation of public art – possibly to include an art fence - that is consistent with the Council's Public Art 'Art People Places' Strategy;
- xii) Submission and implementation within a specified timescale of a Travel Plan, including the provision of UNIlk bus passes to all residents;
- xiii) Provision of on-site CCTV coverage and monitoring in line with Policy SDP10 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS13 and CS25;

- xiv) Submission and implementation of a TV Reception Study committing to a pre and post construction assessment with off-site mitigation where necessary;
- xv) Submission and implementation of a Training & Employment Management Plan committing to adopting local labour and employment initiatives (during and post construction) in line with LDF Core Strategy policies CS24 and CS25;
- xvi) A Site Waste Management Plan;
- xvii) Submission and implementation of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- xviii) Agreement of construction vehicle routing;
- xix) Developer shall be responsible for the cost of checking of drawings and construction;
- xx) Market Buildings Car Parking Improvement Scheme (MBCPIS) – Prior to implementation to have approved in writing by the Council a scheme of works for the MBCPIS - to include consultation with Market Building’s residents and business owners, a minimum of 37 parking spaces, tree protection measures during construction, and enhancements to the area’s appearance including the associated Herbert Collin’s Memorial Garden. The MBCPIS shall be provided prior to the first occupation of the development in accordance with an agreed S.278 and TRO for any additional parking restrictions; and,**
- xxi) Details of additional explanatory signage to be erected in Ethelbert Avenue at the applicant’s expense.**

In the event that such an undertaking is not forthcoming within 3 months from the date of this decision that delegated authority be given to the Planning and Development Manager to refuse the application for failing to secure an appropriate mechanism for dealing with the S.106 legal agreement mitigation measures listed above.

## **1.0 Background**

- 1.1 The Planning & Rights of Way Panel resolved to grant planning permission for this scheme, at its meeting on 21<sup>st</sup> June 2011, subject to the S.106 Legal Agreement including a clause that would ensure that the freeholder would evict any students found to be parking in Swaythling. A financial penalty clause was also agreed in the event that the freeholder failed to deal with any overspill parking by students.
- 1.2 Since the resolution the applicants have removed their offer of evicting students and have submitted an alternative approach to dealing with the scheme’s parking issues. Planning permission has not, therefore, been issued and, instead a re-consultation exercise has taken place giving those concerned an opportunity to comment on this change to the application.
- 1.3 For completeness a copy of the previous Panel reports and the Minutes from the June Panel are appended to this Panel report. The following report itself deals only



with the change in the proposed parking as all other matters (such as the principle of development, the chosen design and its impact on neighbours amenity) have been found by the Panel to be acceptable.

## **2.0 Consultation Responses and Notification Representations**

- 2.1 Following confirmation from the applicants that they are unable to evict students that bring a car to Swaythling from the development, and the receipt of further Highways Technical Note explaining the student parking demand and provision, a re-consultation exercise has been carried out by the Council. A further 14 days to review and comment on the amended scheme and additional information has been given and, in addition to re-notifying all recorded objectors, letters have also been sent to every address in Phillimore Road, Willis Road, Daffodil Road, Langhorn Road, Ethelbert Avenue and the Market Buildings.
- 2.2 At the time of writing the Council has received a further **13 objections** to the proposals (including objections from Ward Councillors Turner and Vassiliou) raising the following planning related concerns:
- a) The removal of the eviction clause for those students that chose to bring a car to university and park in nearby streets is not acceptable. Local people have been misled. Being able to prevent student car use is fundamental to the validity of the Transport Assessment. The suggested 'discretionary' clause to enforcement is meaningless and has no credibility.
  - b) The developer could make use of the Contracts (Rights of Third Parties) Act as an alternative approach for dealing with the enforcement of the no car agreement. In short, this would offer third parties, such as local residents, the right to enforce a clause within the students tenancy agreements that those occupying the development will not bring a car to Swaythling.
  - c) Competition for on-street spaces will increase resulting in existing residents and surrounding businesses being inconvenienced. This will also adversely affect disabled people, elderly residents and the emergency services.
  - d) The conclusions drawn in Odyssey's revised Technical Note that overspill parking would occur 'within capacity' is not correct. The lack of enforcement will result in a saturation of those areas where parking is currently available, particularly by cars belonging to students. No account is taken to the loss of the existing parking in Parkville Road and the car park upon which the development is to be built. No account is taken on the parking demand from staff of the new development, which would add to the overspill. Parking restrictions would have to be introduced at Market Buildings that would move existing long-stay users to surrounding streets. Some 130 additional off-site parking spaces are required to meet this added demand (including some 77 spaces needed for students bringing cars to Swaythling).
  - e) The applicants should be encouraged to design the scheme with a basement car park instead of relying on the neighbouring streets to take the overspill parking from students.
  - f) The conservation area of Ethelbert Avenue is likely to be targeted by students looking for a convenient parking space. Additional on-street parking in Ethelbert Avenue will significantly harm its attractive character and by allowing it the Council would be in breach of S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- g) A barrier or permit holders scheme is again requested to prevent parking within Parkville Road. Overspill parking is already happening in Parkville Road as a consequence of the Council's closure of the existing car park.
- h) The additional parking spaces at Market Buildings would not be enough to deal with the likely overspill from student parking associated with the development. The existing layout underestimates the amount of existing parking available so as to make the proposed increase more generous than it actually is. In reality no additional parking spaces will be provided. Furthermore, the proposed one-way approach to Market Buildings will create a 'rat-run' to beat the traffic lights to the detriment of highway safety
- i) Existing residents and business operators have expressed concerns about the revised parking layout to the front of their property. An allocation of spaces for these affected third parties is requested so that students do not take all the available parking to the detriment of the existing users
- j) If planning permission were granted on the current basis it would be at high risk of a successful challenge at judicial review on the grounds of illegality and Wednesbury unreasonableness
- k) The scheme still fails to deal adequately with student drop-off and collection.
- l) Clarification is sought that only students will live in the scheme and what will happen should the University decide not to take the space and it is, instead, used for open market housing.
- m) Further updates are sought with regard to the ongoing provision of the youth and boxing clubs.

### Consultation Response

- 2.3 **SCC Highways** - The information supplied by Odyssey is flawed to a degree, but looking at the situation as a whole, I have the following comment:
- 2.4 The students are still to be discouraged from bringing a car with them to University if they are to reside in this new purpose built development, and will be required to sign an agreement confirming that they agree to this. The difference is that there will be no financial penalty or final agreed power of eviction should a student chose to break the terms of the agreement they sign. This site is an island which does not benefit from any dedicated parking for residents of the development, and the nearest road, the private section of Parkville Road is not available for any parking other than for the houses which back onto it. Any student bringing a car to site would need to park it some distance from their residence, and this would be out of sight, which is not a preferred option for a car owner, as a driver does not feel that their car is safe it is a distance away. Residents of this development will have the benefit of a convenient Uni Link bus service for which they will be given a free bus pass for unlimited travel. There is no available parking on the University Campus when the students attend classes, so their cars would need to be left again, in a remote location. It is also a policy of the University to discourage students from bringing cars to the city, and the use of the very efficient and prestigious Uni Link bus service is actively encouraged, as is cycling and walking, with the provision of

secure cycle cages at the campus, and well lit and direct safe routes for walking and cycling.

- 2.5 The roads surrounding the Swaythling Gateway site are already subject to reasonably high levels of kerb side car parking, and some of these areas are likely to become subject to Controlled Residents Parking Zones in the near future, which could make finding unrestricted long term kerbside parking more difficult and push the student further away to find suitable parking. The result will be that the student who defies the car restriction clause of their agreement is likely to find that there is no convenience in bringing a car with them, because of the parking issue. The applicant is willing to improve the parking around the nearby shopping area of Market Buildings, where a more formalised parking layout could result in increasing the parking provision here. It is recommended that this parking area should be enhanced, and a consultation proposal should be put to the shop keepers to determine the number of limited time spaces which should be provided versus the number of unlimited waiting places are available. This will achieve some long stay formalised parking should there be any demand in the near vicinity which could be of a direct result of a student having a car whilst residing in the Swaythling Gateway Accommodation.
- 2.6 The residents of Ethelburt Avenue are seriously concerned for their own road which is a private unmade street, not maintained at the public expense, and forms a conservation area. Ethelburt Avenue is distanced from the site but is still as much at risk of abuse as any other of the nearby surrounding streets, should this actually occur.
- 2.7 I therefore have the following recommendations:
- 2.8 That the private section of Parkville Road and Ethelburt Avenue shall have suitably designed and worded signing provided and erected in agreed locations to make clear the 'no parking for unauthorised users' message is clear, all details to be agreed with the residents and highway and historic environment departments prior to erection, and those signs to be in place prior to the occupation of the development.
- 2.9 The parking layout and construction in front of Market Buildings including the need for a TRO for parking restrictions shall be agreed with the highway authority, and residents/shop proprietors of Market Buildings shall be consulted on the proportion of restricted parking spaces to be provided. This element of work shall be completed and the parking improvements in place prior to the occupation of the new building.
- 2.10 **SCC Heritage** - The proposals for Market Buildings deal sensitively with the site. Subject to the Highways Team being content that this will deal with the parking issues no further comment is made.

### **3.0 Planning Consideration Key Issues**

- 3.1 Following the June Panel resolution to grant permission the key issue for consideration in the determination of this planning application is parking. In particular, the issue of whether or not a car free scheme as is proposed to serve the 368 student bedrooms.

- 3.2 The June Planning Panel meeting considered the scheme and added a clause to the S.106 Legal Agreement stating that:
- “A Student Car Ownership Restriction as part of any student contract of tenancy shall be agreed and imposed. No student shall be entitled to park on the land. Upon the offer of the place a clear written statement shall be given to the students detailing the implications for their tenancy in the event that they are found to have a car. All student contracts to include the agreed penalty clause wording to the effect that they shall not bring a car to Swaythling Ward whilst living at City Gateway and will be evicted if found to have done so. This will be enforced by the landowner upon receipt of valid evidence. In the event that evidence is provided by residents or the City Council that a resident has access to a car they will be given a warning followed by eviction in the event that the car is still available. In the event that no enforcement is taken by the landowner (to either the evidence provided or the eviction notice) within agreed timescales a breach of planning will have occurred and a financial penalty (to be set and agreed) will be payable to the City Council by the landowner. Reception area to have an up-to-date telephone number with information about when and where breaches can be reported to the freeholder.”*
- 3.3 Despite the initial offer of an eviction clause the applicants addressed the Panel meeting to explain that a financial penalty for inaction would render the scheme non-viable. Since the Panel meeting the applicant has sought Counsel opinion to the effect that not only is a financial penalty unreasonable but an eviction clause is unlawful in any event. This is a significant change in circumstance, but forms a material consideration nevertheless. A copy of the Opinion is attached at **Appendix 5**.
- 3.4 The applicants have agreed, however, that some form of wording to the effect that students ‘may’ be evicted if they are found to have brought a car to Swaythling whilst resident at the development is acceptable.
- 3.5 In addition, the applicants have reviewed the existing on-street parking availability around the application site to confirm whether or not there is existing capacity to serve any student parking overspill. Based on a series of assumptions it has previously been suggested that a scheme of this size might yield an additional parking demand for some 42 off-site parking spaces to serve the student accommodation use (based upon no prohibition of student parking). It is further reported that this figure will be further reduced in the event that a threat of eviction is retained.
- 3.6 The applicant’s survey work concludes that accounting for the possible controlled parking that is proposed by the Council for the Flowers Estate, the highway network around the application site (including Stoneham Lane, Willis Road, Phillimore Road, Dafodil Road and Langhorn Road) typically on any given evening would have capacity for some 73 additional vehicles.
- 3.7 This spare capacity is located nearer and, by inference, more conveniently to the site than Ethelbert Avenue and is sufficient to accommodate the likely overspill projected without harming the conservation area.
- 3.8 In addition to the spare capacity identified the applicants also propose to improve the efficiency in layout of the existing Council owner parking to the front of Market Buildings (adjacent to the Herbert Collins’ Memorial Gardens). With careful design,

and a means of construction that does not undermine the significant tree roots that prevail, it is anticipated that a further 10 parking spaces could be delivered to further ease the parking pressures in Swaythling. This additional parking could be secured with the additional S.106 clause recommended above.

- 3.9 In short, whilst less than 42 students are anticipated to own and bring a car to Swaythling whilst residing at the development, there is currently capacity for some 83 additional vehicles (ie. 73 spare on-street plus 10 proposed at Market Buildings) off-site in locations more convenient to users than Ethelbert Avenue from where a significant level of public objection to the scheme has arisen.

### Summary

- 3.10 The Council has been asked to consider its opinion regarding the applicant's suggested eviction clause. Whilst the clause, as originally drafted, has been found to be unlawful the Council has to decide whether or not the scheme proposes sufficient parking so as not to result in highway safety concerns to surrounding streets.
- 3.11 The applicant's further revised application indicates that there is sufficient capacity within nearby streets to accommodate the anticipated parking overspill that will occur from the development from student car owners. Furthermore, additional parking capacity will be created at Market Buildings through the S.106 legal agreement to ease likely parking demands.
- 3.12 The level of any parking overspill is, they submit, unlikely to be significant given the wording of the clause suggested, the inconvenience and safety concerns of parking off-site and the provision by the University of free bus travel to all residents. Based on the assumptions made officers are minded to agree that any overspill can be accommodated without causing harm and the significant regeneration benefits and provision of specialist form of housing should be afforded due weight in the Council's final decision.

## **4.0 CONCLUSION**

- 4.1 The application is recommended for conditional approval following confirmation from the Council's Head of Property & Procurement Services that the contract for the sale of Council owned land will be conditional upon Bouygues Development entering into a S.106 legal agreement with the Council prior to the land transfer to provide the package of measures listed above.

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

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

1a, b, c, d, 2b, c, d, 4b, f, 6a, c, d, h, 7a, b, f, g, i, n, p, t, u, v, w, 9a, 10a & b

**SH2 for 06/09/11 PROW Panel**

### **PLANNING CONDITIONS**

**(as agreed and amended by Panel on 21<sup>st</sup> June 2011) to include:**

#### **01. APPROVAL CONDITION - Implementation Commencement**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission was granted.

**REASON:**

In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

**02. 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.

**03. APPROVAL CONDITION - Details of External Materials - Samples**

Notwithstanding the submission to date no work for the construction of the buildings hereby permitted (excluding the demolition and site preparation phase) shall commence unless and until details and samples of the materials and finishes to be used for the external walls, windows, window reveals, doors and roof of the building have been submitted to and approved in writing by the Local Planning Authority. These details should include a commitment to using an anti-graffiti finish (where feasible) to the ground floor level. Development shall be implemented only in accordance with the agreed details.

**REASON:**

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

**04. APPROVAL CONDITION - Building Heights**

There shall be no alterations to or deviations from the finished floor levels and finished building heights as detailed on the approved plans without the prior written agreement of the local planning authority. No building works or ancillary structures including television aerials, satellite antennas and telecommunication equipment shall exceed a maximum building height of 54.33 metres AOD. Obstacle lights shall be placed on the top of the building. These obstacle lights must be steady state red lights with a minimum intensity of 2000 candelas. Periods of illumination of obstacle lights, obstacle light locations and obstacle light photometric performance must all be in accordance with the requirements of 'CAP168 Licensing of Aerodromes' (available at [www.caa.co.uk/srg/aerodrome](http://www.caa.co.uk/srg/aerodrome) ). The obstacle light(s) must be sited so as not to infringe the Obstacle Limitation Surface at 54.330m AOD.

**REASON:**

To ensure that the impact of the development in relation to the natural features of the site and nearby buildings is demonstrated and to prevent any undue conflict with the flight paths of Southampton Airport – BAA's response dated 8<sup>th</sup> March 2011 refers.

**05. APPROVAL CONDITION - Security Measures**

No development shall commence (excluding the demolition and site preparation phase) until a Security Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the:

- i. CCTV coverage & concierge arrangements with 24 hour on-site management;
- ii. semi-private ground floor courtyard access and management arrangements;

- iii. surface car park area including all means of enclosure and lighting;
  - iv. door types of the storage areas;
  - v. outer communal doorsets and the pod access doorsets;
  - vi. ground floor windows; and
  - vii. audio/visual control through the communal access doors.
- Development shall be completed and retained in accordance with the agreed details.

**REASON:**

In the interests of crime prevention and residential safety

**06. APPROVAL CONDITION - Active frontages**

Notwithstanding the provisions of Class 12 of Schedule 3 of the Town and Country Planning (Control of Advertisements) Regulations 2007 the occupier(s) of the non residential uses hereby approved on the ground floor shall retain an 'active window display' along the length of the shop frontages hereby approved (without the installation of window vinyls or roller shutters) in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of each unit to which the information relates.

**REASON:**

In the interests of retaining a lively and attractive streetscene.

**07. APPROVAL CONDITION - Amenity Space Access**

The communal roof terrace and first floor lounge area shown on the approved plans, and pedestrian access to them, shall be made available for all residents prior to the first occupation of the student pods and flats hereby permitted unless otherwise agreed in writing with the Local Planning Authority. The roof terraces shall be retained with access to them by all residents and their visitors at those times agreed in writing with the Local Planning Authority prior to the first occupation of the student accommodation.

**REASON:**

To ensure the provision of adequate amenity space in association with the approved flats.

**08. APPROVAL CONDITION - Servicing**

Notwithstanding the details submitted with the application prior to the occupation of each of the non-residential units hereby approved full details of how service vehicle deliveries to the site will be managed shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details unless otherwise agreed in writing by the local planning authority and the approved details conformed to thereafter.

**REASON:**

In the interests of the safety and convenience of all highway users.

**09. APPROVAL CONDITION - Hours of Use – Non Residential Uses**

The non residential uses hereby approved shall not operate outside of the hours hereby set out:

- 6:30am and 10:30pm (Monday to Saturday) and 7am and 10pm Sundays, Bank and/or Public Holidays as supported by a Security Management Plan (As required by the condition above)
- The pharmacy shall not operate outside of the hours of 7am and 11pm 7 days a week including Sundays, Bank and/or Public Holidays.



**REASON:**

In the interests of existing and proposed residential amenity

**10. APPROVAL CONDITION - Hours of Delivery – Non Residential Uses**

No deliveries shall be taken at or despatched from the site outside the hours hereby set out:

- 6am and 7pm (7 days a week including Sundays and recognised public holidays) with deliveries between 6am and 7am restricted to one transit van delivery only.
- Any deliveries by articulated vehicles shall be in accordance with the above hours with such deliveries to take place no earlier than 7am (Monday to Friday) and 8am on weekends and recognised public holidays as supported by a Deliveries Management Plan that shall have been agreed in writing with the Local Planning Authority prior to the occupation of the commercial unit to which it relates.

**REASON:**

In the interests of existing and proposed residential amenity

**11. APPROVAL CONDITION - Noise Mitigation & Attenuation**

The approved development shall be implemented and completed only in accordance with the recommendations as set out in the applicant's Noise Assessment dated 28<sup>th</sup> January 2011. Any mechanical acoustic ventilation for noise issues from Thomas Lewis Way shall be ventilated from the roof. Notwithstanding these approved details, unless otherwise agreed in writing by the Local Planning Authority, windows and ventilation systems shall be provided to achieve the sound reduction levels of:

37dB(A) for living rooms overlooking Stoneham Way

42dB(A) for bedrooms overlooking Stoneham Way

37dB(A) for living rooms overlooking Thomas Lewis Way

43dB(A) for bedrooms overlooking Thomas Lewis Way

**REASON:**

To protect occupants of the student accommodation from traffic and railway noise and to ensure that the amenity of existing residents is not unduly compromised during the implementation phase.

**12. APPROVAL CONDITION - Disabled Access**

Lifts shall be provided in accordance with the approved plans and shall be made available for use prior to the first occupation of the student accommodation hereby approved. The approved lifts shall be effectively operated and maintained in accordance with manufacturer's instructions for as long as the approved use continues.

**REASON:**

In the interests of the amenities of future occupants and visitors and in accordance with the Council's policies and practice in respect of access for disabled persons.

**13. APPROVAL CONDITION - Hours of Construction & Associated Deliveries**

In connection with the implementation of this permission any demolition, conversion and construction works, including the delivery of materials to the site, shall not take place outside the hours of:

- 8am and 6pm Mondays to Fridays; and,
- 9am and 1pm on Saturdays.

Works shall not take place at all on Sundays or Public Holidays without the prior written approval of the Local Planning Authority. Any works outside the permitted hours shall be confined to the internal preparation of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

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

- 8am to 9am and 4:30pm to 5:30pm Mondays to Fridays

**REASON:**

To protect local residents from unreasonable disturbances from works connected with implementing this permission, and to ensure that construction traffic does not conflict unduly with the City's peak hour traffic.

**14. APPROVAL CONDITION - Demolition and Construction Method Statement**

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Demolition and Construction Method Statement (DCMS) for the development. The DCMS shall include details of: (a) parking of vehicles of site personnel, operatives and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials, including cement mixing and washings, used in constructing the development; (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary; (e) measures to be used for the suppression of dust and dirt throughout the course of construction; (f) details of construction vehicles wheel cleaning; (g) details of how noise emanating from the site during construction will be mitigated; and, (h) details of the Site Manager's telephone number that residents can use in the event that they wish to raise concerns. The approved DCMS shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

**REASON:**

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

**15. APPROVAL CONDITION - Demolition - Removal of Debris**

The existing building and/or structure shall be demolished (in accordance with the plans hereby approved) and all resultant materials removed from the site and disposed of at an appropriate authorised tip within 2 months of the commencement of the demolition works relating to that structure and before the redevelopment hereby approved is commenced unless otherwise agreed in writing by the Local Planning Authority.

**REASON:**

To secure a satisfactory and comprehensive form of development and to safeguard the visual amenity of the locality.

**16. APPROVAL CONDITION - Piling Method**

A method statement shall be submitted to and approved in writing by the Local Planning Authority before the development commences (excluding the demolition and site preparation phase) to demonstrate how any pile driving operation will take place as part of the development. Any pile driving operations as approved shall be carried out in

accordance with that approved method statement. To limit vibration, a continuous flight auger method is the preferred method.

**REASON:**

To ensure that appropriate measures are incorporated into the construction activities to mitigate any noise problems generated by pile driving operations.

**17. APPROVAL CONDITION - Landscaping**

Notwithstanding the information submitted with the application (and detailed on the Terrafirma plan 1070-101H) no development shall take place (excluding the demolition and site preparation phase) until full details of both hard and soft landscaping for both the roof terraces, landscape buffers, all car parking and the ground floor courtyard area have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i. a detailed response to the Council's landscape design comments dated 19<sup>th</sup> April 2010;
- ii. proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas, hard surfacing materials, structures and ancillary objects (refuse bins etc);
- iii. external lighting (to include type and luminance);
- iv. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- v. a specification for the approved green/brown/biodiverse wall(s) and roof(s) forming the Thomas Lewis Way wing;
- vi. the provision of a 2 for 1 replacement of those trees to be lost (where practicable). The replacement trees shall be of a heavy standard size (12 - 14cm girth) as a minimum and will be planted within the site or at a place agreed in writing with the Local Planning Authority;
- vi. details of any proposed boundary treatment, including the "art fencing" to the south of the approved semi-public communal courtyard at ground floor level and the retained strip along the building's Thomas Lewis Way frontage; and
- vii. A landscaping management plan, including long term objectives, management responsibilities and maintenance schedules for the landscaped areas.

The hard and soft landscaping works shall be carried out in accordance with the details approved. The works shall be carried out before any of the development is occupied or in accordance with a timescale which has been agreed in writing with the local planning authority prior to the commencement of development.

If within a period of five years from the date of the planting of any tree or shrub, or any tree or shrub planted in replacement of it, it is removed, uprooted, destroyed, dies or becomes in any other way defective in the opinion of the local planning authority, another tree or shrub of the same species and size of that originally planted shall be planted at the same place, unless the local planning authority gives its 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.

**18. APPROVAL CONDITION – Arboricultural Method Statement**

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 (including those along Thomas Lewis Way that are to be retained) 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.

#### **19. APPROVAL CONDITION - Sustainable Drainage System**

Prior to development commencing (excluding the demolition and site preparation phase) details of the construction of the surface water drainage system shall be submitted to and approved in writing by the Planning Authority. The surface water drainage shall thereafter be undertaken only in accordance with the approved details. The submission shall include a feasibility study by independent consultants demonstrating the investigation and assessment of the potential for creation of a sustainable drainage system on site. If the study demonstrates the site has the capacity for the implementation of a sustainable drainage system, a specification shall be agreed in writing with the Local Planning Authority and fully operational prior to the first occupation of the development. It shall thereafter be retained and maintained for the benefit of the site and its users.

REASON:

To conserve valuable water resources and prevent against flood risk and to comply with policy SDP13 (vii) of the City of Southampton Local (2006) and the LDF Core Strategy Policy CS20 and in accordance with the applicant's FRA dated February 2011.

#### **20. APPROVAL CONDITION - Sewers**

No development shall commence (excluding the demolition and site preparation phase) until details of the proposed means of foul sewerage have been submitted to, and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed details prior to the first occupation of the development.

REASON:

As further capacity is required to accommodate the proposed intensification of development.

## **21. APPROVAL CONDITION - Flood Risk**

Unless otherwise agreed in writing with the Local Planning Authority prior to the commencement of development the development shall be implemented in accordance with the Flood Risk Assessment (FRA) and Drainage Strategy (Odyssey February 2011) prior to the first occupation of the development.

### **REASON:**

To ensure that a site can be developed safely the FRA is proposing mitigation measures that ensure increased surface water flow does not create flooding to people / property nearby.

## **22. APPROVAL CONDITION – Sustainable measures**

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).

## **23. APPROVAL CONDITION - Energy (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, or other means of improving energy efficiency that will achieve a reduction in CO<sub>2</sub> emissions of 15% for the residential and 12.5% for non-residential uses over part L of the Building Regulations must be conducted. Plans for the incorporation of renewable energy technologies or other means of improving energy efficiency to the scale that is demonstrated to be feasible by the study, and that will reduce the CO<sub>2</sub> emissions of the development of 15% for the residential and 12.5% for non-residential uses over part L of the Building Regulations must be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development hereby granted consent. 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).

## **24. APPROVAL CONDITION - Parking Provision**

The 32 car parking spaces shown on the approved amended drawings listed below shall be provided and made ready for use prior to the first occupation of the development unless an alternative phased provision is agreed in writing with the Local Planning Authority. Notwithstanding the Odyssey Car Parking Management Plan (CPMP) the parking spaces shall be retained thereafter in accordance with a revised CPMP that shall have been agreed in writing with the Local Planning Authority prior to the first occupation of the development. Details shall include, for example, parking allocations between uses (including staff/permit allocations), means of security, pricing (if appropriate), enforcement and hours of use (where appropriate).

**REASON:**

In the interests of ensuring adequate provision is made for car parking on the site and the safety and convenience of all highway users and to ensure the distribution of spaces between units in order to meet the Council's adopted parking requirements.

**25. APPROVAL CONDITION - Refuse & Recycling Bin Storage – In accordance**

Bin storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the approved amended plans listed below. All storage shall be located and retained inside the building and presented only on the day of collection. The facilities shall include accommodation for the separation of waste to enable recycling by residents. The approved refuse and recycling storage shall be retained whilst the building is used for residential purposes.

**REASON:**

In the interests of the visual appearance of the building and the area in general.

**26. APPROVAL CONDITION - Litter Bins**

Provision shall be made on-site for the installation and subsequent emptying of litter bins and such provision shall be approved in writing by the Local Planning Authority before the first occupation of the development hereby permitted. The agreed scheme shall be retained and managed during the lifetime of the development.

**REASON:**

To ensure that adequate facilities are provided for the collection and disposal of litter likely to be generated by this mixed-use development.

**27. APPROVAL CONDITION - Cycle Storage**

Notwithstanding the information already submitted no development shall be occupied until details of the secure, covered cycle storage for all uses included within the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be made available prior to the occupation of the development in accordance with the approved details. The cycle storage shall be retained whilst the building is occupied for the approved use.

**REASON:**

In the interest of the amenity of residents and to reduce reliance on the private motor car.

**28. APPROVAL CONDITION - Contamination – Desk Top Study**

Notwithstanding the information already submitted no development shall take place until the developer has carried out adequate assessments to determine the likely presence of contamination on the site (desk study) and assessed the potential risks to human health and the wider environment. If any significant hazards are identified a scheme of further investigation will be required in order to assess the risk(s). If significant risk(s) are identified a detailed remediation scheme must be devised and implemented to ensure the long-term safety of the site.

Documented evidence of the above procedures shall be submitted to the Local Planning Authority for their written approval at each stage. Any remediation scheme required and approved shall be fully implemented and adhered to. Any amendments to the remediation scheme relevant to the risk associated with the contamination shall be submitted to the Local Planning Authority for prior approval in writing. On completion of the remediation

works and, prior to occupation of the properties on the development, the developer and/or his approved agent shall submit written confirmation that works have been completed in full and in accordance with the approved scheme.

The presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the Local Planning Authority and an investigation and management scheme implemented prior to occupation in accordance with details to be agreed.

**REASON:**

To identify unacceptable risks to human health and the environment and ensure investigation, assessment and remediation of the site is to an appropriate standard in accordance with the guidance given in Model Procedures for the Management of Land Contamination - Contaminated Land Report 11 - Environment Agency - 2001.

**29. APPROVAL CONDITION - Contamination - Export of Soil**

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

**REASON:**

To ensure that no ground contamination risks to human health and the environment are introduced onto the application site.

**30. APPROVAL CONDITION - Ecology**

The ecology enhancements, as set out within the applicant's Ecological Assessment (dated February 2011), and updated by the emails from Dan Simpson from Aspect Ecology dated 9<sup>th</sup> and 17<sup>th</sup> February, shall be implemented in full prior to the first occupation of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority.

**REASON:**

In the interests of biodiversity and the wider ecology of the area.

**31. APPROVAL CONDITION - Bird Hazard Management Plan (BHMP) - BAA**

Development shall not commence (excluding the demolition and site preparation phase) until a Bird Hazard Management Plan (BHMP) has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include details of the management of any flat or shallow pitched roof that may be attractive to nesting, roosting and loafing birds and include details for preventing birds from perching in the window reveals. The BHMP shall comply with BAA's Advice Note 8. The BHMP shall be implemented as approved upon completion of the roof and shall remain in force for the life of the development. No subsequent alterations to the BHMP 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 otherwise endanger the safe movement of aircraft and the operation of Southampton Airport – BAA comments dated 8<sup>th</sup> March 2011 refer.

### **32. APPROVAL CONDITION – 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.

### **33. APPROVAL CONDITION – 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.

### **Note(s) To Applicant**

#### **Note to Applicant - Pre-Commencement Conditions**

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

#### **Note to Applicant - Performance Conditions**

Your attention is drawn to the performance conditions above which relate to the development approved in perpetuity. Such conditions are designed to run for the whole life of the development and are therefore not suitable to be sought for discharge. If you are in any doubt please contact the Council's Development Control Service.

#### **Note to Applicant - Southern Water – Water Supply - Informative**

A formal application for connection to the public water supply is required in order to service this development. Please contact Atkins Ltd, Anglo St James House, 39a Southgate Street, Winchester, SO23 9EH (tel. 01962 858688).

#### **Note to Applicant - Southern Water – Sewers - Informative**

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 858688).

#### **Note to Applicant - Oversailing Public Highway**



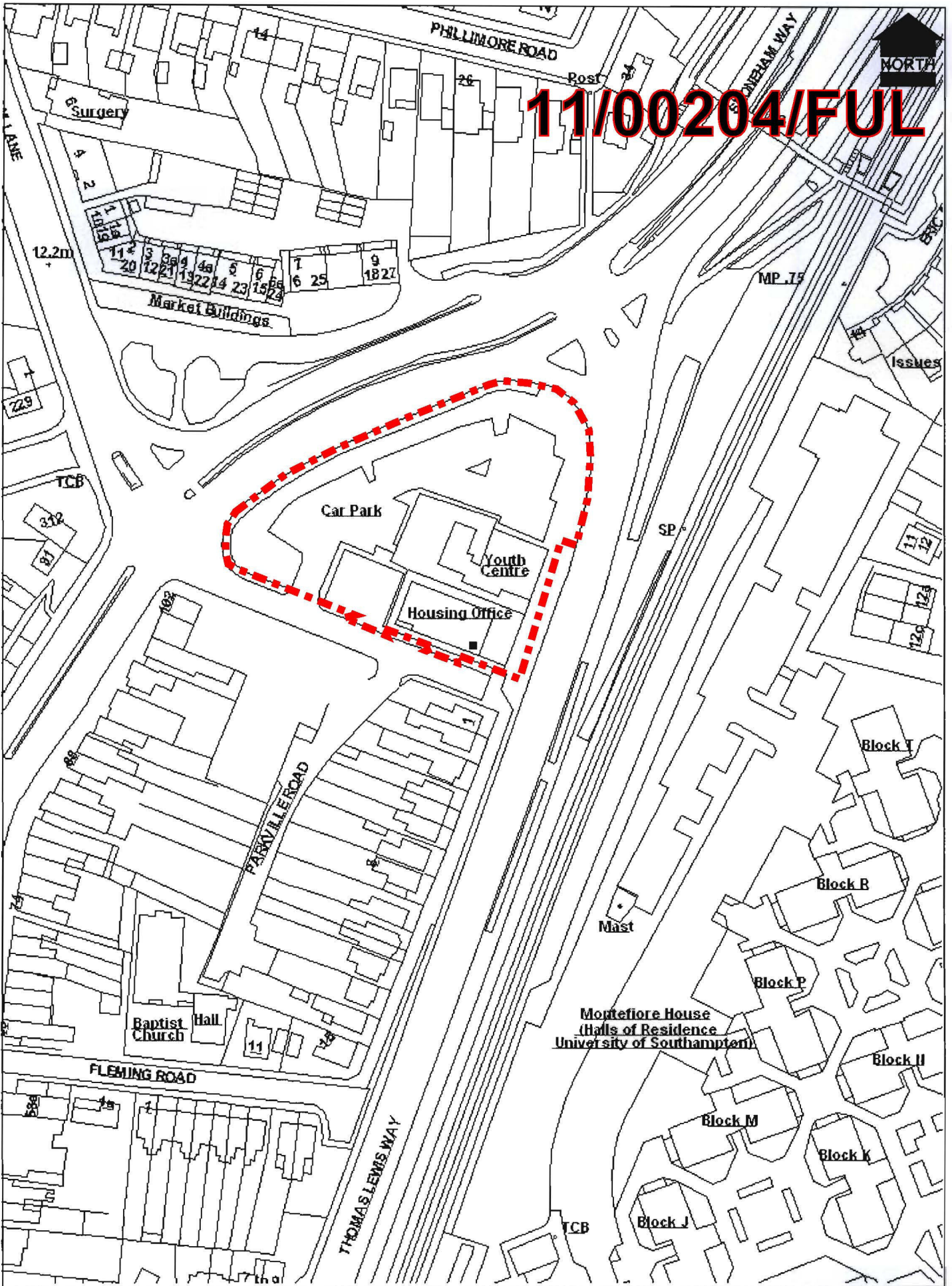
The applicant is reminded to contact the Highways Authority in the event that a license is required to oversail the public highway

**Note to Applicant - Cranes**

Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes and Other Construction Issues' (available at [www.caa.co.uk/srg/aerodrome](http://www.caa.co.uk/srg/aerodrome)). The contact for crane issues at Southampton Airport is Iain Mc Dermott-Paine, Airside Compliance Manager telephone 02380 627173.

**Note to Applicant – Nesting Birds**

The applicant is reminded of their legal duty not to disturb any birds found nesting on site.



Scale : 1:1250

Date : 24 August 2011

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## **LIST OF APPENDICES**

### **11/00204/FUL – Appendix 1/2/3**

#### **Report to the Planning & Rights of Way Panel (21.06.2011)**

<http://www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=5857>

<http://www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=5890>

<http://www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=5864>

### **11/00204/FUL – Appendix 4**

#### **Minutes from the Planning & Rights of Way Panel (21.06.2011)**

<http://www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=6174>

### **11/00204/FUL – Appendix 5**

#### **Applicant's Counsel Opinion regarding the student car-ownership restriction**



1. Advice on s 106  
southampton gatewa

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# Agenda Item 4

## Southampton City Planning & Sustainability Planning and Rights of Way Panel meeting 21<sup>st</sup> June 2011 Appendix 1 Planning Application Report of the Planning and Development Manager

<b>Application address:</b> Area Housing Office, Parkville Road, Southampton			
<b>Proposed development:</b> Redevelopment of the site. Demolition of the existing buildings and erection of a building ranging in height from 3-storeys to 15-storeys to provide student residential accommodation (53 cluster flats comprising a total of 348 rooms, 4 x 2-bedroom flats and 12 x 1-bedroom flats); a medical centre (Class D1 use), retail units (Class A1) and two units for community use or non-residential institution use (Class D1) or retail (A1) or food and drink use (A3) with associated landscaping, parking and site works, including the stopping up of existing highway.			
<b>Application number</b>	11/00204/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Stephen Harrison	<b>Public speaking time</b>	15 minutes
<b>Last date for determination:</b>	N/A Planning Performance Agreement	<b>Ward</b>	Swaythling
<b>Reason for Panel Referral:</b>	Major Development on Council Land	<b>Ward Councillors</b>	Cllr Vassiliou Cllr Osmond Cllr Turner
<b>Applicant:</b> Bouygues Development		<b>Agent:</b> Fluid Architecture Ltd FAO: Mr Christopher Pickering	
<b>Recommendation Summary</b>	<b>Delegate to the Planning and Development Manager to grant conditional planning permission subject to the criteria listed in this report.</b>		

### 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 development has been revised to increase the level of on-site car parking and restrictions on student car ownership are deemed possible. In light of these changes the impact of the development, in terms of visual and neighbour amenity, highway safety and parking are considered to be acceptable for the reasons detailed in the report to the Council's Planning and Rights of Way Panel on 21<sup>st</sup> June 2011. Particular account has also been taken of the third party response to the scheme, the quality of the proposed redevelopment proposals, current market conditions and the overall viability of the scheme. Other material considerations 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, and application 11/00204/FUL should therefore be granted in accordance with the following policies:

City of Southampton Local Plan Review (March 2006) policies SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13,, SDP14, SDP15, SDP16, SDP17, SDP19, SDP22, NE7, HE1, CLT5, CLT7, H1, H2, H3, H7, H13, REI6 and TI2 and City of Southampton Core Strategy (January 2010) policies CS4, CS5, CS6, CS10, CS11, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22, CS24 and CS25 as supported by the relevant national planning guidance and the Council's current supplementary planning guidance listed in the Panel report.

<b>Appendix attached</b>			
1	24 <sup>th</sup> May 2011 Panel Report	2.	Comparison Table (Updated)

## Recommendation in Full

Conditional Approval - Subject to receipt of an undertaking from the Head of Property and Procurement Services that the contract for the sale of Council owned land, the subject of this application, will be conditional upon Bouygues Development and any other landowner entering into a S.106 legal agreement with the Council as part of the land transfer to provide the following planning obligations:

- i) An occupation restriction to ensure that all residents are in full time higher education and that the provider is a member of the Southampton Accreditation Scheme for Student Housing (SASSH) in accordance with Local Plan Policy H13(v);
- ii) The submission and implementation of a Student Drop Off/Collection Management Plan committing to an ongoing review of the site;
- iii) The scheme shall make a commencement within 6 months and achieve a shell and core finish within 36 months from the date of the planning permission so as to reflect the current viability assumptions made. In the event that this is not achieved a fresh viability appraisal shall be submitted with any uplift in value (up to an agreed sum) payable to the City Council;
- iv) A financial contribution and/or the implementation and maintenance of an agreed series of site specific transport and off-site landscaping works (including the proposed Stoneham Way service layby and Parkville Road Improvement Scheme with a minimum of 12 parking spaces) under S.278 of the Highways Act with implementation prior to first occupation in line with Policy SDP4 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS18 and CS25;
- v) The funding of Traffic Regulation Orders (TRO) required for the above measures to enable the development to be implemented;
- vi) A financial contribution and/or the implementation and maintenance of an agreed series of strategic transport projects for highway network improvements, including the potential for a new/revised UNilink bus route and bus stop serving the development with implementation prior to first occupation, in the wider area as set out in the Local Transport Plan and appropriate SPG/D;
- vii) The submission and implementation of a public parking management plan for those spaces along Parkville Road dedicated for public use;
- viii) A Student Car Ownership Restriction as part of any student contract of tenancy shall be agreed and imposed. No student shall be entitled to park on the land. Upon the offer of the place a clear written statement shall be given to the students detailing the implications for their tenancy in the event that they are found to have a car. All student contracts to include the agreed penalty clause wording to the effect that they shall not bring a car to Southampton whilst living at City Gateway and will be evicted if found to have done so. This will be enforced by the landowner upon receipt of valid

evidence. In the event that evidence is provided by residents or the City Council that a resident has access to a car they will be given a warning followed by eviction in the event that the car is still available. In the event that no enforcement is taken by the landowner (to either the evidence provided or the eviction notice) within agreed timescales a breach of planning will have occurred and a financial penalty (to be set and agreed) will be payable to the City Council by the landowner.

- ix) A mechanism for replacing the existing community uses (both during and following the construction phase) in accordance with LDF Core Strategy Policy CS3;
- x) Financial contributions towards the relevant elements of public open space required by the development in line with Policy CLT5 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS21 and CS25;
- xi) The submission, approval and implementation of public art – possibly to include an art fence - that is consistent with the Council's Public Art 'Art People Places' Strategy;
- xii) Submission and implementation within a specified timescale of a Travel Plan, including the provision of UNlink bus passes to all residents;
- xiii) Provision of on-site CCTV coverage and monitoring in line with Policy SDP10 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS13 and CS25;
- xiv) Submission and implementation of a TV Reception Study committing to a pre and post construction assessment with off-site mitigation where necessary;
- xv) Submission and implementation of a Training & Employment Management Plan committing to adopting local labour and employment initiatives (during and post construction) in line with LDF Core Strategy policies CS24 and CS25;
- xvi) A Site Waste Management Plan; and,
- xvii) Submission and implementation of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.

In the event that such an undertaking is not forthcoming within 3 months from the date of this decision that delegated authority be given to the Planning and Development Manager to refuse the application for failing to secure an appropriate mechanism for dealing with the S.106 legal agreement mitigation measures listed above.

## **1.0 Background**

- 1.1 The Planning & Rights of Way Panel agreed to defer this application from its meeting in May 2011 to allow officers an opportunity to consider the

applicant's revised submission and Transport Assessment. The additional information was submitted to address the previous recommendation of refusal. A further public consultation exercise has also been undertaken.

- 1.2 In light of the revised details it is now considered that the increased level of parking proposed is sufficient to meet the needs of the development without causing harm to highway safety, or the visual amenities of nearby streets caused by any potential overspill parking. The previous concerns have, therefore, been addressed for the reasons set out in this report.
- 1.3 The previous Panel report is attached at **Appendix 1** and should be read in conjunction with this report. It includes details of the previous highway objection to the scheme as submitted.
- 1.4 This report seeks to explain how the revised Transport Assessment and parking layout have addressed the reasons for refusal recommended previously. A comparison summary of the scheme (as submitted and amended) is attached at **Appendix 2**.

## **2.0 Consultation Responses and Notification Representations**

- 2.1 Since the May Panel report was published the Council has received 19 additional representations comprising:
  - A highway/parking objection to the proposals from new Ward Cllr Vassiliou;
  - Confirmation from Ward Cllr Turner that her objection remains;
  - 2 further neighbour objection letters seeking a student car ownership restriction clause in the event that permission is granted;
  - A letter from the Inner City Boxing Club removing their objection to the application providing their facility is re-provided for (in line with Bouygues offer dated 5<sup>th</sup> May);
  - A further petition with 322 signatures in support of the project with 14 further neighbour letters of support.
- 2.2 Following the receipt of the applicant's revised site layout and associated Transport Assessment those interested parties that have made a formal written representation to the original submission have been re-notified. A closing date for comment of Friday 17<sup>th</sup> June has been given and a verbal update of any further responses will be given at the Panel meeting.
- 2.3 **SCC Highways** – Objection removed. It would appear that the applicants have gone a long way to overcome the original highways objections raised, and I am prepared to remove my objection on highway grounds.
- 2.4 The levels of car parking shown are more in line with anticipated traffic generation to this site with the level of development proposed, as long as students are precluded from bringing cars to their university accommodation.
- 2.5 Previous consents have included similar levels of car parking provision to that now proposed. The applicants have however shown 8 parking spaces to be dedicated to medical staff which creates some concern. However, if a



condition is imposed to require that these spaces are for medical staff only during surgery hours and are available to unrestricted use outside of those times I would be prepared to accept this proposal. The doctors surgery have requested that 13 staff members in total are provided with permits allowing them to park on site, and this is to include the 8 spaces dedicated for their use, not an addition. A car park management plan will be required to provide detail of how the car park will operate and be policed.

- 2.6 The students are to be restricted on the matter of bringing cars to their accommodation. It is of concern to residents in surrounding areas that if students were not to be restricted on this matter, up to 42 students may bring cars with them to this accommodation. A robust agreement must be put into place which has powers to evict students who do not comply with the no car aspect, and there must be measures in place to ensure that this can be checked and policed.
- 2.7 Issues to be covered:
- i. not withstanding any documentation submitted with this planning consent, a car park management plan shall be submitted and approved prior to occupation by the LPA.
  - ii. not withstanding any documentation submitted with this planning consent, details of the student car restriction policy shall be agreed prior to occupation by the LPA.
  - iii. all works to the public highway shall be undertaken either via a 278 agreement, S37/38 agreement, 171 Licensing, or be funded whereby SCC can carry out the works on behalf of the developer. All works are to be agreed prior to commencement of construction on site. Details of the lay-by and works to the Parkville Road modifications are to be agreed to ensure that their detail is of sufficient quality to achieve the desired outcomes.
  - iv. stopping up procedures are to be complete prior to commencement of development on site.
  - v. a plans showing construction vehicle routing, timing of deliveries and a site workers parking strategy to be submitted and approved prior to commencement of the development.
  - vi. all previous highway conditions to be transferred to this application.
  - vii. the developer shall be responsible for the cost of checking of drawings and construction where this may fall outside any other legal agreement entered into.
- 2.8 **SCC Heritage** – Objection removed providing there is an appropriate control mechanism in place to prevent overspill parking.
- 2.9 **SCC City Design** - The proposal offers a well designed development on a challenging site that should enhance the local character, regenerate the local community and provide a distinctive new gateway to the city. This is a very large development on a relatively constrained triangular site on the edge of the Swaythling/Portswood suburb. The site was identified in the Gateways and Approaches Initiative 2006 as lacking distinction as a turning point for navigating the approach to the city from the M27. The principle of a tall building was established under the previous approved application. This distinctive proposal would create a sense of arrival at this key gateway to the city and strengthen a sense of place for the local community. The scale of the development is of a 'city scale' which is appropriate in relationship to

the approach from the north along Thomas Lewis Way as the setting is dominated by the dual carriageway and tree lined edge to the railway to the east. Looking north along Thomas Lewis Way the development quickly increases in height providing a stark contrast between the domestic scale of dwellings on Parkville Road but one appropriate to the urban context and relatively large scale of Thomas Lewis Way.

- 2.10 It is unfortunate that the courtyard amenity space has been reduced to increase the parking provision. This will put more emphasis on the need for really high quality landscape scheme including hard landscaping materials, the design of the 'art' fence and soft landscaping species and features.
- 2.11 In conclusion, the scheme has evolved to a sophisticated design using panelling system of cladding to both the tower and the outward facing elevations of the two accommodation wings. The proposed Trespa Meteon panelling product will be fitted to give the elevations a varied colour rendering resulting from the reflective qualities of the product. This will add interest to the scheme, and reduce the visual mass of the tower and the wings, creating a distinctive gateway feature. The use of the grey brick to the base of the development and the wood effect panelling to upper storey of both the tower and wings again helps to reduce the mass and gives the scheme a distinctive 'top, middle and bottom'. The wood effect panelling visually lightens the upper storey whilst adding a softer looking material to the elevations that introduces a more human scale with its richer textures. The use of render on the rotund close to the existing Stoneham Way development helps to tie the scheme into the existing context.

### **3.0 Planning Consideration Key Issues**

- 3.1 The key issues for consideration in the determination of this planning application are (as previously reported):
- i. The principle of mixed-use & the replacement of community facilities;
  - ii. The principle of a tall building development in this location;
  - iii. The design approach & its impact on the established character;
  - iv. The level of on-site parking and servicing, and its impact on highway safety; and,
  - v. The impact on existing and proposed residential amenity;
  - vi. Impact on Local Trees;
  - vii. The requirement for a S.106 Agreement and the provision of affordable housing.
- 3.2 This report provides an update to the level of on-site parking and its impact on highway safety, and explains why the scheme has now addressed the previous recommendation of refusal. All other matters remain as previously reported (**Appendix 1** refers).

#### **Highways and Parking**

- 3.3 As reported to the May Planning Panel this application was recommended for refusal on highway grounds. The previously recommended reason for refusal stated that:

## 1. REFUSAL REASON – Parking & Highway Safety

In the absence of a robust Transport Assessment the proposed level of parking located within the red line, and along Parkville Road, is considered to represent a shortfall to that required to serve the proposed mixed-use development. This deficiency is symptomatic of an over-intensive use of the site and, in the opinion of the Local Planning Authority, will result in additional pressures on existing off-site parking spaces and will result in inconvenient parking taking place within Parkville Road, the proposed service layby and neighbouring streets (including those forming the Ethelbert Avenue Conservation Area) to the detriment of highway safety, visual amenity and the convenience of Parkville Road residents as users of the site attempt/wait to park. The application has, therefore, been assessed as contrary to 'saved' policies SDP1(i), SDP5 (as supported by Appendix 1), SDP7(v), H13(iv) and HE1 of the adopted City of Southampton Local Plan Review (2006), policies CS14, CS18 and CS19 of the adopted LDF Core Strategy (2010) and the relevant guidance contained within the Government's PPG13 (2011).

3.4 In response:

### i) Parking

3.5 The scheme as originally submitted was served by 24 parking spaces that rose to 36 spaces through the application process. Officer's raised concerns that of the 36 spaces shown only 11 spaces would be made available for users of the medical centre, which itself has 8 consulting rooms. In addition only 7 spaces were identified for the retail and community uses, and the existing local centre. This lack of public parking compounded the limited number of spaces proposed and this raised a highways objection and recommendation of refusal.

3.6 Following the deferred recommendation to refuse the applicant has appointed new transport consultants and revised the scheme. The parking layout has been redesigned to include a total of 44 parking spaces. The additional 8 parking spaces (ie. 44 proposed less 36) are located partly within an extended car park into the internal courtyard, partly by reallocating between uses, and partly by redesigning the Parkville Road layout. In real terms, the number of public spaces has been increased from 18 (as outlined above and previously considered too few) to 36 as now proposed. In short:

- Of the 13 medical staff spaces only 8 will be marked and enforced as such. This frees up 5 spaces for public use and makes better use of the available space. A further 5 permits will be allocated for medical staff use, but these spaces will form part of the overall provision;
- 3 spaces for University servicing have been reallocated to public use, with servicing taking place on an informal basis from behind the controlled gate into the courtyard space;
- The dedicated car club space has been deleted following dialogue with the possible providers confirming that this is not be a viable location;

- The dedication of highway land for parking to serve 1 Parkville Road has been removed; and,
  - 3 additional parking spaces have been accommodated onto Parkville Road (from 9 to 12 in total).
- 3.7 The increased numbers, revised layout and reallocation (as supported by the new Transport Statement) address officers' concerns and the suggested reason for refusal.
- 3.8 The applicant's revised Transport Assessment explains that the current maximum parking standard for this form of development is 49 spaces. This represents the maximum number of spaces that our current development plan would allow for this proposal. The proposal is therefore 5 short of this maximum standard. However, PPG13 states that Council's should "not require developers to provide more (parking) spaces than they themselves wish, other than in exceptional circumstances which might include for example where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls" (Paragraph 50 refers). It is considered that the parking layout will serve the proposed development without harming highway safety and the competition for spaces will be reduced. It should also be noted that the earlier permission 08/01489/FUL was supported by 25 public parking spaces. A summary comparison table of the permitted scheme with the current proposals is provided at **Appendix 2** to this report. The current application represents an increase in provision when compared to the extant position.
- 3.9 There is no objection to the proposed level of parking as revised.

ii) Student Car Ownership

- 3.10 It was reported to the May Panel that "during the consideration of the application it has become evident that neither the University nor the City Council could reasonably restrict any student from bringing a car to University and parking on nearby roads". This is still broadly the case, however, whilst the University maintain that they could not enforce car ownership it is evident that the freeholder still could.
- 3.11 Therefore, in addition to the package of measures to encourage non-car use when studying in Southampton (such as the free bus pass, the re-routing of the UNlink service to stop at the site, access to secure cycle storage and the site's relatively accessible location to the University and the rail network), and the inconvenience of having to park off-site, the freeholder would accept a clause requiring them to enforce against any student occupier found to have access to a car whilst in residence. A S.106 legal agreement could be used to ensure that the freeholder acts upon any reliable evidence provided and terminates the tenancy of any guilty party. The principle of this form of agreement has been agreed with Legal Services, and addresses the further concern raised previously regarding the impact of overspill parking on surrounding streets, including those unmade roads forming the Ethelbert Avenue Conservation Area.

S.106 Mitigation and Viability

- 3.12 The second reason for refusal centred around the need for the development to mitigate against its direct impacts through the S.106 legal agreement process.
- 3.13 The applicants have agreed to enter into a S.106 legal agreement with the Council (at the land transfer stage). The application is, however, supported by an up-to-date viability appraisal of the proposal that concludes that a full S.106 contribution makes the delivery of the scheme non-viable on a commercial basis. A scheme's viability is a material consideration where it is directly linked to housing delivery and the wider regeneration benefits. The applicant's submitted appraisal has been independently tested. It is recommended by officers that the Council should accept that a full contribution currently makes the scheme non-viable and that the required Strategic Transport contribution can be reduced to reflect this.

### Summary

- 3.14 The proposed development has been revised to increase the level of on-site car parking and restrictions on student car ownership are deemed possible. In light of these changes the impact of the development, in terms of visual and neighbour amenity, highway safety and parking are considered to be acceptable. Particular account has also been taken of the third party response to the scheme, the quality of the proposed redevelopment proposals, current market conditions and the overall viability of the scheme.

## **4.0 CONCLUSION**

- 4.1 The application is recommended for conditional approval following confirmation from the Council's Head of Property & Procurement Services that the contract for the sale of Council owned land will be conditional upon Bouygues Development entering into a S.106 legal agreement with the Council as part of the land transfer to provide the package of measures listed above.

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

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

1a, b, c, d, 2b, c, d, 4b, f, 6a, c, d, h, 7a, b, f, g, i, n, p, t, u, v, w, 9a, 10a & b

**SH2 for 21/06/11 PROW Panel**

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

#### **01. APPROVAL CONDITION - Implementation Commencement**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission was granted.

**REASON:**

In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

**02. 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.

**03. APPROVAL CONDITION - Details of External Materials - Samples**

Notwithstanding the submission to date no work for the construction of the buildings hereby permitted (excluding the demolition and site preparation phase) shall commence unless and until details and samples of the materials and finishes to be used for the external walls, windows, window reveals, doors and roof of the building have been submitted to and approved in writing by the Local Planning Authority. These details should include a commitment to using an anti-graffiti finish (where feasible) to the ground floor level. Development shall be implemented only in accordance with the agreed details.

**REASON:**

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

**04. APPROVAL CONDITION - Building Heights**

There shall be no alterations to or deviations from the finished floor levels and finished building heights as detailed on the approved plans without the prior written agreement of the local planning authority. No building works or ancillary structures including television aerials, satellite antennas and telecommunication equipment shall exceed a maximum building height of 54.33 metres AOD. Obstacle lights shall be placed on the top of the building. These obstacle lights must be steady state red lights with a minimum intensity of 2000 candelas. Periods of illumination of obstacle lights, obstacle light locations and obstacle light photometric performance must all be in accordance with the requirements of 'CAP168 Licensing of Aerodromes' (available at [www.caa.co.uk/srg/aerodrome](http://www.caa.co.uk/srg/aerodrome) ). The obstacle light(s) must be sited so as not to infringe the Obstacle Limitation Surface at 54.330m AOD.

**REASON:**

To ensure that the impact of the development in relation to the natural features of the site and nearby buildings is demonstrated and to prevent any undue conflict with the flight paths of Southampton Airport – BAA's response dated 8<sup>th</sup> March 2011 refers.

**05. APPROVAL CONDITION - Security Measures**

No development shall commence (excluding the demolition and site preparation phase) until a Security Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the:

- i. CCTV coverage & concierge arrangements with 24 hour on-site management;
- ii. semi-private ground floor courtyard access and management arrangements;

- iii. surface car park area including all means of enclosure and lighting;
  - iv. door types of the storage areas;
  - v. outer communal doorsets and the pod access doorsets;
  - vi. ground floor windows; and
  - vii. audio/visual control through the communal access doors.
- Development shall be completed and retained in accordance with the agreed details.

**REASON:**

In the interests of crime prevention and residential safety

**06. APPROVAL CONDITION - Active frontages**

Notwithstanding the provisions of Class 12 of Schedule 3 of the Town and Country Planning (Control of Advertisements) Regulations 2007 the occupier(s) of the non residential uses hereby approved on the ground floor shall retain an 'active window display' along the length of the shop frontages hereby approved (without the installation of window vinyls or roller shutters) in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of each unit to which the information relates.

**REASON:**

In the interests of retaining a lively and attractive streetscene.

**07. APPROVAL CONDITION - Amenity Space Access**

The communal roof terrace and first floor lounge area shown on the approved plans, and pedestrian access to them, shall be made available for all residents prior to the first occupation of the student pods and flats hereby permitted unless otherwise agreed in writing with the Local Planning Authority. The roof terraces shall be retained with access to them by all residents and their visitors at those times agreed in writing with the Local Planning Authority prior to the first occupation of the student accommodation.

**REASON:**

To ensure the provision of adequate amenity space in association with the approved flats.

**08. APPROVAL CONDITION - Servicing**

Notwithstanding the details submitted with the application prior to the occupation of each of the non-residential units hereby approved full details of how service vehicle deliveries to the site will be managed shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details unless otherwise agreed in writing by the local planning authority and the approved details conformed to thereafter.

**REASON:**

In the interests of the safety and convenience of all highway users.

**09. APPROVAL CONDITION - Hours of Use – Non Residential Uses**

The non residential uses hereby approved shall not operate outside of the hours hereby set out:

- 6:30am and 10:30pm (Monday to Saturday) and 7am and 10pm Sundays, Bank and/or Public Holidays as supported by a Security Management Plan (As required by the condition above)
- The pharmacy shall not operate outside of the hours of 7am and 11pm 7 days a week including Sundays, Bank and/or Public Holidays.

REASON:

In the interests of existing and proposed residential amenity

**10. APPROVAL CONDITION - Hours of Delivery – Non Residential Uses**

No deliveries shall be taken at or despatched from the site outside the hours hereby set out:

- 6am and 7pm (7 days a week including Sundays and recognised public holidays) with deliveries between 6am and 7am restricted to one transit van delivery only.
- Any deliveries by articulated vehicles shall be in accordance with the above hours with such deliveries to take place no earlier than 7am (Monday to Friday) and 8am on weekends and recognised public holidays as supported by a Deliveries Management Plan that shall have been agreed in writing with the Local Planning Authority prior to the occupation of the commercial unit to which it relates.

REASON:

In the interests of existing and proposed residential amenity

**11. APPROVAL CONDITION - Noise Mitigation & Attenuation**

The approved development shall be implemented and completed only in accordance with the recommendations as set out in the applicant's Noise Assessment dated 28<sup>th</sup> January 2011. Any mechanical acoustic ventilation from noise issues from Thomas Lewis Way shall be ventilated from the roof.

Notwithstanding these approved details, unless otherwise agreed in writing by the Local Planning Authority, windows and ventilation systems shall be provided to achieve the sound reduction levels of:

- 32dB(A) for living rooms overlooking Stoneham Way
- 42dB(A) for bedrooms overlooking Stoneham Way
- 32dB(A) for living rooms overlooking Thomas Lewis Way
- 43dB(A) for bedrooms overlooking Thomas Lewis Way

REASON:

To protect occupants of the student accommodation from traffic and railway noise and to ensure that the amenity of existing residents is not unduly compromised during the implementation phase.

**12. APPROVAL CONDITION - Disabled Access**

Lifts shall be provided in accordance with the approved plans and shall be made available for use prior to the first occupation of the student accommodation hereby approved. The approved lifts shall be effectively operated and maintained in accordance with manufacturer's instructions for as long as the approved use continues.

REASON:



In the interests of the amenities of future occupants and visitors and in accordance with the Council's policies and practice in respect of access for disabled persons.

### **13. APPROVAL CONDITION - Hours of Construction & Associated Deliveries**

In connection with the implementation of this permission any demolition, conversion and construction works, including the delivery of materials to the site, shall not take place outside the hours of:

- 8am and 6pm Mondays to Fridays; and,
- 9am and 1pm on Saturdays.

Works shall not take place at all on Sundays or Public Holidays without the prior written approval of the Local Planning Authority. Any works outside the permitted hours shall be confined to the internal preparation of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

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

- 8am to 9am and 4:30pm to 5:30pm Mondays to Fridays

#### **REASON:**

To protect local residents from unreasonable disturbances from works connected with implementing this permission, and to ensure that construction traffic does not conflict unduly with the City's peak hour traffic.

### **14. APPROVAL CONDITION - Demolition and Construction Method Statement**

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Demolition and Construction Method Statement (DCMS) for the development. The DCMS shall include details of: (a) parking of vehicles of site personnel, operatives and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials, including cement mixing and washings, used in constructing the development; (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary; (e) measures to be used for the suppression of dust and dirt throughout the course of construction; (f) details of construction vehicles wheel cleaning; (g) details of how noise emanating from the site during construction will be mitigated; and, (h) details of the Site Manager's telephone number that residents can use in the event that they wish to raise concerns. The approved DCMS shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

#### **REASON:**

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

### **15. APPROVAL CONDITION - Demolition - Removal of Debris**

The existing building and/or structure shall be demolished (in accordance with the plans hereby approved) and all resultant materials removed from the site and disposed of at an appropriate authorised tip within 2 months of the

commencement of the demolition works relating to that structure and before the redevelopment hereby approved is commenced unless otherwise agreed in writing by the Local Planning Authority.

**REASON:**

To secure a satisfactory and comprehensive form of development and to safeguard the visual amenity of the locality.

**16. APPROVAL CONDITION - Piling Method**

A method statement shall be submitted to and approved in writing by the Local Planning Authority before the development commences (excluding the demolition and site preparation phase) to demonstrate how any pile driving operation will take place as part of the development. Any pile driving operations as approved shall be carried out in accordance with that approved method statement. To limit vibration, a continuous flight auger method is the preferred method.

**REASON:**

To ensure that appropriate measures are incorporated into the construction activities to mitigate any noise problems generated by pile driving operations.

**17. APPROVAL CONDITION - Landscaping**

Notwithstanding the information submitted with the application (and detailed on the Terrafirma plan 1070-101H) no development shall take place (excluding the demolition and site preparation phase) until full details of both hard and soft landscaping for both the roof terraces, landscape buffers, all car parking and the ground floor courtyard area have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i. a detailed response to the Council's landscape design comments dated 19<sup>th</sup> April 2010;
- ii. proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas, hard surfacing materials, structures and ancillary objects (refuse bins etc);
- iii. external lighting (to include type and luminance);
- iv. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- v. a specification for the approved green/brown/biodiverse wall(s) and roof(s) forming the Thomas Lewis Way wing;
- vi. the provision of a 2 for 1 replacement of those trees to be lost (where practicable). The replacement trees shall be of a heavy standard size (12 - 14cm girth) as a minimum and will be planted within the site or at a place agreed in writing with the Local Planning Authority;
- vi. details of any proposed boundary treatment, including the "art fencing" to the south of the approved semi-public communal courtyard at ground floor level and the retained strip along the building's Thomas Lewis Way frontage; and
- vii. A landscaping management plan, including long term objectives, management responsibilities and maintenance schedules for the landscaped areas.

The hard and soft landscaping works shall be carried out in accordance with the details approved. The works shall be carried out before any of the development

is occupied or in accordance with a timescale which has been agreed in writing with the local planning authority prior to the commencement of development.

If within a period of three years from the date of the planting of any tree or shrub, or any tree or shrub planted in replacement of it, it is removed, uprooted, destroyed, dies or becomes in any other way defective in the opinion of the local planning authority, another tree or shrub of the same species and size of that originally planted shall be planted at the same place, unless the local planning authority gives its 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.

**18. APPROVAL CONDITION – Arboricultural Method Statement**

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 (including those along Thomas Lewis Way that are to be retained) 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.

**19. APPROVAL CONDITION - Sustainable Drainage System**

Prior to development commencing (excluding the demolition and site preparation phase) details of the construction of the surface water drainage system shall be submitted to and approved in writing by the Planning Authority. The surface water drainage shall thereafter be undertaken only in accordance with the approved details. The submission shall include a feasibility study by independent consultants demonstrating the investigation and assessment of the potential for creation of a sustainable drainage system on site. If the study demonstrates the site has the capacity for the implementation of a sustainable drainage system, a

specification shall be agreed in writing with the Local Planning Authority and fully operational prior to the first occupation of the development. It shall thereafter be retained and maintained for the benefit of the site and its users.

**REASON:**

To conserve valuable water resources and prevent against flood risk and to comply with policy SDP13 (vii) of the City of Southampton Local (2006) and the LDF Core Strategy Policy CS20 and in accordance with the applicant's FRA dated February 2011.

**20. APPROVAL CONDITION - Sewers**

No development shall commence (excluding the demolition and site preparation phase) until details of the proposed means of foul sewerage have been submitted to, and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed details prior to the first occupation of the development.

**REASON:**

As further capacity is required to accommodate the proposed intensification of development.

**21. APPROVAL CONDITION - Flood Risk**

Unless otherwise agreed in writing with the Local Planning Authority prior to the commencement of development the development shall be implemented in accordance with the Flood Risk Assessment (FRA) and Drainage Strategy (Odyssey February 2011) prior to the first occupation of the development.

**REASON:**

To ensure that a site can be developed safely the FRA is proposing mitigation measures that ensure increased surface water flow does not create flooding to people / property nearby.

**22. APPROVAL CONDITION – Sustainable measures**

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).

**23. APPROVAL CONDITION - Energy (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, or other means of improving energy efficiency that will achieve a reduction in CO2 emissions of 15% for the residential and 12.5% for non-residential uses over part L of the Building Regulations must be conducted. Plans for the incorporation of renewable energy technologies or other means of improving energy efficiency to the scale that is demonstrated to be feasible by the study, and that will reduce the CO2 emissions

of the development of 15% for the residential and 12.5% for non-residential uses over part L of the Building Regulations must be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development hereby granted consent. 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).

**24. APPROVAL CONDITION - Parking Provision**

The 32 car parking spaces shown on the approved amended drawings listed below shall be provided and made ready for use prior to the first occupation of the development unless an alternative phased provision is agreed in writing with the Local Planning Authority. Notwithstanding the Odyssey Car Parking Management Plan (CPMP) the parking spaces shall be retained thereafter in accordance with a revised CPMP that shall have been agreed in writing with the Local Planning Authority prior to the first occupation of the development. Details shall include, for example, parking allocations between uses (including staff/permit allocations), means of security, pricing (if appropriate), enforcement and hours of use (where appropriate).

**REASON:**

In the interests of ensuring adequate provision is made for car parking on the site and the safety and convenience of all highway users and to ensure the distribution of spaces between units in order to meet the Council's adopted parking requirements.

**25. APPROVAL CONDITION - Refuse & Recycling Bin Storage – In accordance**

Bin storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the approved amended plans listed below. All storage shall be located and retained inside the building and presented only on the day of collection. The facilities shall include accommodation for the separation of waste to enable recycling by residents. The approved refuse and recycling storage shall be retained whilst the building is used for residential purposes.

**REASON:**

In the interests of the visual appearance of the building and the area in general.

**26. APPROVAL CONDITION - Litter Bins**

Provision shall be made on-site for the installation and subsequent emptying of litter bins and such provision shall be approved in writing by the Local Planning Authority before the first occupation of the development hereby permitted. The agreed scheme shall be retained and managed during the lifetime of the development.

**REASON:**

To ensure that adequate facilities are provided for the collection and disposal of litter likely to be generated by this mixed-use development.

**27. APPROVAL CONDITION - Cycle Storage**

Notwithstanding the information already submitted no development shall be occupied until details of the secure, covered cycle storage for all uses included within the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be made available prior to the occupation of the development in accordance with the approved details. The cycle storage shall be retained whilst the building is occupied for the approved use.

**REASON:**

In the interest of the amenity of residents and to reduce reliance on the private motor car.

**28. APPROVAL CONDITION - Contamination – Desk Top Study**

Notwithstanding the information already submitted no development shall take place until the developer has carried out adequate assessments to determine the likely presence of contamination on the site (desk study) and assessed the potential risks to human health and the wider environment. If any significant hazards are identified a scheme of further investigation will be required in order to assess the risk(s). If significant risk(s) are identified a detailed remediation scheme must be devised and implemented to ensure the long-term safety of the site.

Documented evidence of the above procedures shall be submitted to the Local Planning Authority for their written approval at each stage. Any remediation scheme required and approved shall be fully implemented and adhered to. Any amendments to the remediation scheme relevant to the risk associated with the contamination shall be submitted to the Local Planning Authority for prior approval in writing. On completion of the remediation works and, prior to occupation of the properties on the development, the developer and/or his approved agent shall submit written confirmation that works have been completed in full and in accordance with the approved scheme.

The presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the Local Planning Authority and an investigation and management scheme implemented prior to occupation in accordance with details to be agreed.

**REASON:**

To identify unacceptable risks to human health and the environment and ensure investigation, assessment and remediation of the site is to an appropriate standard in accordance with the guidance given in Model Procedures for the Management of Land Contamination - Contaminated Land Report 11 - Environment Agency - 2001.

**29. APPROVAL CONDITION - Contamination - Export of Soil**

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by

documentation to validate their quality and shall be submitted to the Local Planning Authority for approval prior to the first occupation of the development hereby approved.

**REASON:**

To ensure that no ground contamination risks to human health and the environment are introduced onto the application site.

**30. APPROVAL CONDITION - Ecology**

The ecology enhancements, as set out within the applicant's Ecological Assessment (dated February 2011), and updated by the emails from Dan Simpson from Aspect Ecology dated 9<sup>th</sup> and 17<sup>th</sup> February, shall be implemented in full prior to the first occupation of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority.

**REASON:**

In the interests of biodiversity and the wider ecology of the area.

**31. APPROVAL CONDITION - Bird Hazard Management Plan (BHMP) - BAA**

Development shall not commence (excluding the demolition and site preparation phase) until a Bird Hazard Management Plan (BHMP) has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include details of the management of any flat or shallow pitched roof that may be attractive to nesting, roosting and loafing birds. The BHMP shall comply with BAA's Advice Note 8. The BHMP shall be implemented as approved upon completion of the roof and shall remain in force for the life of the development. No subsequent alterations to the BHMP 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 otherwise endanger the safe movement of aircraft and the operation of Southampton Airport – BAA comments dated 8<sup>th</sup> March 2011 refer.

**32. APPROVAL CONDITION – 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.

**33. APPROVAL CONDITION – 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.

**Note(s) To Applicant**

### **Note to Applicant - Pre-Commencement Conditions**

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

### **Note to Applicant - Performance Conditions**

Your attention is drawn to the performance conditions above which relate to the development approved in perpetuity. Such conditions are designed to run for the whole life of the development and are therefore not suitable to be sought for discharge. If you are in any doubt please contact the Council's Development Control Service.

### **Note to Applicant - Southern Water – Water Supply - Informative**

A formal application for connection to the public water supply is required in order to service this development. Please contact Atkins Ltd, Anglo St James House, 39a Southgate Street, Winchester, SO23 9EH (tel. 01962 858688).

### **Note to Applicant - Southern Water – Sewers - Informative**

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 858688).

### **Note to Applicant - Oversailing Public Highway**

The applicant is reminded to contact the Highways Authority in the event that a license is required to oversail the public highway

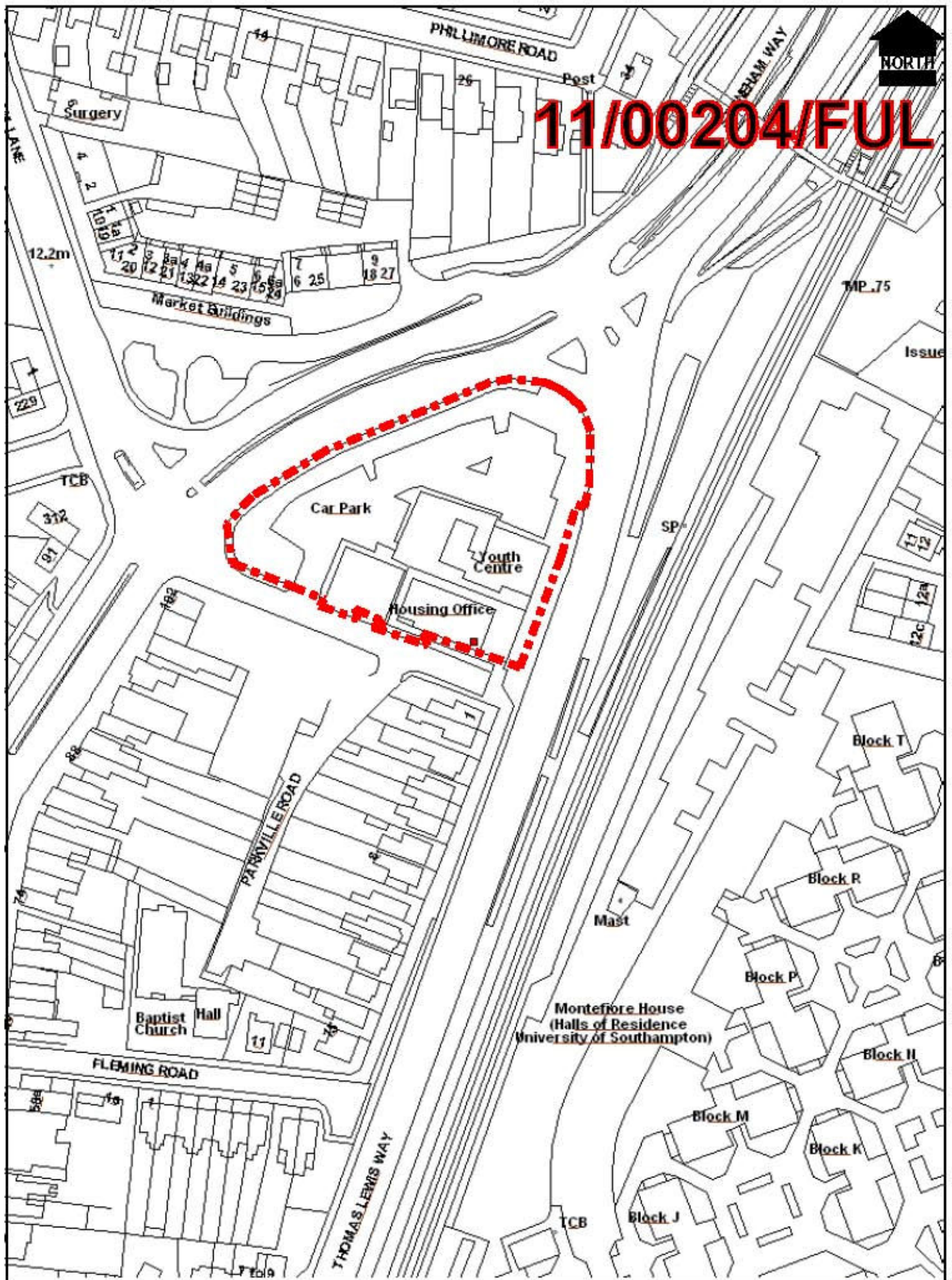
### **Note to Applicant - Cranes**

Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes and Other Construction Issues' (available at [www.caa.co.uk/srg/aerodrome](http://www.caa.co.uk/srg/aerodrome)). The contact for crane issues at Southampton Airport is Iain Mc Dermott-Paine, Airside Compliance Manager telephone 02380 627173.

### **Note to Applicant – Nesting Birds**

The applicant is reminded of their legal duty not to disturb any birds founds nesting on site.





Scale : 1:1250

Date : 07 June 2011

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# Agenda Item 4

Appendix 2

**Southampton City Planning & Sustainability**  
**Planning and Rights of Way Panel meeting 24<sup>th</sup> May 2011**  
**Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> Area Housing Office, Parkville Road, Southampton			
<b>Proposed development:</b> Redevelopment of the site. Demolition of the existing buildings and erection of a building ranging in height from 3-storeys to 15-storeys to provide student residential accommodation (53 cluster flats comprising a total of 348 rooms, 4 x 2-bedroom flats and 12 x 1-bedroom flats); a medical centre (Class D1 use), retail units (Class A1) and two units for community use or non-residential institution use (Class D1) or retail (A1) or food and drink use (A3) with associated landscaping, parking and site works, including the stopping up of existing highway.			
Application number	11/00204/FUL	Application type	FUL
Case officer	Stephen Harrison	Public speaking time	15 minutes
Last date for determination:	N/A Planning Performance Agreement	Ward	Swaythling
Reason for Panel Referral:	Major Development on Council Land	Ward Councillors	Cllr Vassiliou Cllr Osmond Cllr Turner

<b>Applicant:</b> Bouygues Development	<b>Agent:</b> Fluid Architecture Ltd FAO: Mr Christopher Pickering
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<b>Recommendation Summary</b>	<b>Refuse</b>
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<b>Appendix attached</b>			
1	Reasons for Refusal	2	Scheme Comparison Table
3	Development Plan Policies	4	Relevant Planning History
5	SCC Highways Objection	6	Community Use Offer

## Recommendation in Full

Refuse for the reasons set out at **Appendix 1** of this report.

## Background

The Council resolved to grant planning permission (ref: 08/00081/FUL) in April 2008 for the redevelopment of this site for:

*“The erection of new buildings (part two-storey, part three-storey, part four-storey, part five-storey and part fourteen-storeys) to provide a mixed use development comprising a health centre, community use, retail use and 119 flats with associated parking, landscaping and access facilities - Description amended following reduction in height of tower element by 3 storeys.”*

Subsequently, the Council granted planning permission (ref: 08/01489/FUL) in January 2009 for a revised scheme comprising:

*“Redevelopment of the site. Demolition of the existing buildings and erection of new buildings (part two-storey, part three-storey, part four-storey and part fourteen storeys) to provide a mixed use development comprising a Medical Centre, community use, retail use and 81 flats (40 x two-bedroom, 41 one-bedroom) with associated parking, landscaping and access facilities (amended application to ref. 08/00081/FUL to include additional land).”*

Neither development has proven to be deliverable in the current economic climate, although permission 08/01489/FUL is extant and still implementable.

The site is within the ownership of the City Council. The Council’s Cabinet agreed, on 25<sup>th</sup> October 2010, that the site is again, in principle, suitable for disposal.

## **1. The Site and its Context**

- 1.1 This application relates to the redevelopment of the existing Parkville Road car park (66 parking spaces, of which 54 are public), youth centre (308sq.m) and local housing office (243sq.m), which is currently vacant.
- 1.2 This level site is accessed directly from Parkville Road and is bounded to the east by Thomas Lewis Way and the railway line beyond, and to the west by Stoneham Way/High Road and its junction with Stoneham Lane. Both boundaries are defined by mature planting.
- 1.3 The character of the area is mixed in terms of land use and architectural styles. The terrace to the south of Parkville Road forms part of the Swaythling Local Centre, which is characterised by two storey development with retail space fronting the road. The red brick Market Buildings on the opposite side of Stoneham Way/High Road are of three storey construction. They also form part of the defined Local Centre. Swaythling Railway Station is located approximately 220 metres from this site, with existing pedestrian linkages.
- 1.4 The application is located within a defined area of “medium” accessibility, albeit with good access to the Swaythling Railway Station. The application site area measures 0.37 hectares.

## **2. Proposal**

- 2.1 Full planning permission is sought for a mixed use development following the redevelopment of the site with a tall building.
- 2.2 It is intended to provide improved health care facilities over two floors of accommodation (756sq.m), which will enable the existing Stoneham Lane Surgery to relocate. The proposed building has also been flexibly designed to accommodate a future expansion of the medical centre into the first floor (200sq.m) should this be required.
- 2.3 The existing community space (formed by the youth centre) will not be re-provided on site. Instead, the Council has agreed to find alternative off-site provision for the youth club users as part of the land deal between the applicant and the Council as landowner. The Council’s existing housing office use has also been consolidated off-site.

- 2.4 Small scale retail (918sq.m), including a new/replacement pharmacy, and four additional 'flexible' retail units (use class A1/A3/D1), a plant room and storage, and a site manager's office will occupy the remaining ground floor space.
- 2.5 The development provides student accommodation for 368 bed spaces (comprising 53 shared 'pods' formed from 348 bedrooms, 4 no.2 bed flats and 12 no.1 bed flats). Given the proposed use no affordable housing is provided.

### The Building

- 2.6 The proposed building is a perimeter block development formed by two wings of between one (4.2 metres high) and seven (19.8m) storeys that are hinged together by a fifteen-storey (42.8m) landmark tower around an internal courtyard and parking area. The chosen design provides a southerly aspect to this courtyard and takes a similar form and footprint as that previously consented. The wings incorporate a communal roof terrace and a series of green roofs and walls as the building steps upwards. The building is modern in design with a facing brick, horizontal timber cladding, and through colour rendered finish. The main tower element and wings are formed by a high pressure laminate Trespa cladding.

### External Space(s)

- 2.7 As with permission 08/01489/FUL the current scheme has removed the basement car park that was originally approved under application 08/00081/FUL.

- 2.8 A total of 36 spaces are provided at surface level within the courtyard and off-site along Parkville Road. The parking spaces are allocated as follows:

13	Permit controlled spaces for medical centre staff use	On-site
11	spaces for patients of the medical centre (inc. 2 disabled spaces)	On-site
7	Public spaces to serve the retail and community uses	Parkville Rd
3	Informal University Servicing Spaces	On-site
1	Car Club Space	Parkville Rd
1	Private space serving 1 Parkville Road following de-adoption	Parkville Rd
0	Residential spaces	

- 2.9 Permission 08/01489/FUL was approved with 59 parking spaces (including 5 disabled spaces) split across Parkville Road including the former Bower's garage site on the opposite side the road. These spaces were to be allocated between the residential flats (19 spaces) medical staff (14 spaces) and public use (25 spaces) with 1 car club space. A summary comparison table of this scheme with the previous approvals is provided at **Appendix 2** to this report.

- 2.10 The scheme includes a service layby on Stoneham Way/High Road and there is also scope for a bus stop to be located on this frontage following a re-route to the Unilink bus service. A communal bin store is integral to the proposed building as is a cycle store for students with provision for 1 space per 2 students proposed. Additional spaces are provided for visitors to the scheme. All can be secured and retained with a planning condition.

- 2.11 The proposal seeks to retain all existing trees and landscaping along the site's Thomas Lewis Way frontage, although replacement planting is proposed along the

Stoneham Way/High Road frontage. Although these trees are not formally protected by a TPO they are located on Council owned land and are, therefore, afforded protection from inappropriate works. In total 20 trees will be felled to accommodate this development, 14 of which have been identified as Grade B (“worthy of retention”). The scheme proposes their replacement with 16 stand alone trees, 48 densely planted trees in a large courtyard planter, and 13 densely planted trees in a small courtyard planter (77 in total).

- 2.12 The scheme includes a semi-private courtyard and approximately 316sq.m of shared and usable amenity space located on a private roof terrace. All students have access to the communal roof terraces and lower courtyard and management controls are suggested to restrict access after dusk.

### **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 3**.
- 3.2 The proposed mixed-use development is in principle considered to provide substantial positive regeneration benefits to the Swaythling Local Centre. At ground floor level appropriate retail and community services are provided that will positively extend and enhance the local centre (Local Plan Policy REI6 and Core Strategy Policy CS3 refer). The location of the site provides the opportunity for a tall landmark building that, by its nature, accompanies an intensive form of development.
- 3.3 The existing community uses are protected by adopted LDF Core Strategy Policy CS3.
- 3.4 Policy CS10 is permissive of additional health care facilities in appropriate locations.
- 3.5 Local Plan Policy H13 seeks to ensure that the growth of the city’s Universities is co-ordinated with the provision of student accommodation.
- 3.6 Core Strategy Policy CS16 requires that schemes of 10 or more dwellings provides at least 30% of the units as “family homes” with at least 3 bedrooms and access to private amenity space. An exception is made for “specialist” housing schemes including purpose built student accommodation.
- 3.7 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. In this instance the applicants will achieve a ‘Very Good’ BREEAM standard and will meet their micro-renewables obligations with an air source heat pump located within the plant room.

### **Planning Policy Guidance Note PPG13 - Transport (2010)**

- 3.8 The Government is committed to reducing the need to travel by the private car as part of an integrated transport policy. Land use planning has a key role to play in delivering this strategy. PPG13 explains that by “influencing the location, scale,

density, design and mix of land uses, planning can help to reduce the need to travel”. One element of this approach is the implementation of maximum car parking standards, as set out at Policy SDP5 and Appendix 1 of the adopted City of Southampton Local Plan Review (2006).

- 3.9 PPG13 states that Council’s should “not require developers to provide more (parking) spaces than they themselves wish, other than in exceptional circumstances which might include for example where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls” (Paragraph 50 refers).

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

- 4.1 The relevant planning history for this site is set out at **Appendix 4**.

#### **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 validation stage and following the receipt of amended information), placing a press advertisement (21<sup>st</sup> February 2011) and erecting a site notice (24<sup>th</sup> February and 3<sup>rd</sup> March 2011). The application was also advertised as a potential departure from the Development Plan (28<sup>th</sup> February 2011). Those that objected were notified as the scheme was amended.

#### **Third Party Comment**

- 5.2 At the time of writing the report **85** representations have been received from surrounding addresses (excluding multiple responses from the same address), including an objection from Ward Cllrs Odgers and Turner to the submitted and amended scheme.
- 5.3 **City of Southampton Society** – Supportive of the proposals for this site. No objection raised to the current proposals, but have requested that a clock is added to the top of the tower.
- 5.4 1 letter of support has been received from the existing Stoneham Lane Surgery, and 9 representations explain that, whilst objecting to the detailed application, they welcome the principle of a regeneration project on the site.
- 5.5 In addition 4 separate petitions have been lodged comprising:
1. 190 signatures objecting to the sale of the site by the City Council and its subsequent redevelopment for student accommodation and shops;
  2. 188 signatures in support of the provision of university accommodation, new healthcare facilities and retail;
  3. 149 signatures (131 from Ethelbert Avenue) objecting because of inadequate parking and subsequent overspill into the Ethelbert Avenue Conservation Area;
  4. 6 signatures requesting that if permission is granted a condition is imposed restricting car ownership to residents
- 5.6 Relevant planning issues raised include:

## **i) Highways**

- There is a lack of on-site parking to serve the development as evidenced by the applicant's own transport assessment. The University have accepted that restricting student car ownership is unenforceable. This will result in pressure to park off-site in already over-parked streets (such as Parkville Road, Phillimore Road, Rayners Gardens, Ethelbert Avenue, Stoneham Lane, Carnation Road, Laburnum Road and other streets within the Flowers Estate). The submission does not take account of the likely Controlled Residents Parking Zone in the Lower Flowers' roads, which will also lead to additional overspill. This scheme will result in highway safety problems and access difficulties for the emergency services. The number of discrepancies within the transport assessment undermines the credibility of the survey work.

### **Response**

Agreed in part. The adopted Local Plan aims to reduce reliance on the motor car in line with advice contained in PPG13 (Transport). The provision of 32 parking spaces and 1 car club space to serve the proposed level of development in this area of 'medium' accessibility to public transport routes and local facilities is insufficient for the reasons detailed in the Planning Considerations section of this report as informed by the comments of the Council's Highways Officer (attached at **Appendix 5**). That said, the applicant's Transportation Assessment suggests that the existing car park is under utilised, and the City Council has taken steps to close it permanently.

- The management plans for the drop-off and collection of students are inadequate and impractical, particularly for students travelling long distances.

### **Response**

These concerns are shared by the Council's Highways Officer, although it is likely that a planning condition or planning agreement could be used to properly assess the likely demand and make appropriate arrangements with ongoing monitoring. This, in itself, is not a sustainable planning objection.

- Cycle parking is inadequate for a student block and there are no motorcycle spaces.

### **Response**

Since the original submission the level of on-site cycle parking to serve the students has been significantly increased so that a secure store with 1 bike space per 2 students is now available. As part of this change motorcycle parking has been introduced into the site layout.

- The existing public car park will not be replaced to the detriment of the existing Local Centre.

### **Response**

A total of 18 spaces will be available to serve the patients of the doctors (11 identified), users of the commercial floorspace (7 identified) and the existing local centre. As the existing car park has been underused it is likely that many trips to the Local Centre already take place by non-car modes. That said, the level of parking proposed has raised an objection from the Council's Highways Officer.

- The location of the nearest bus stop is too far from the development to encourage the use of public transport.

### **Response**

The applicants propose to re-route the existing Unilink service, and the amended scheme introduces a new stop to the front of the development. These measures could be secured with a S.106 Legal Agreement.



- In the event that planning permission is issued it is essential that the University includes a clause in the tenancy agreements that the student residents will not bring a car to Southampton.

**Response**

The applicants agree that such a clause is not legally binding or enforceable.

- The development will result in additional trips on the network, which is already at capacity particularly during peak times.

**Response**

Agreed in part. Discussions with the developers have identified a package of highway works that could be implemented to mitigate against this impact and make the scheme workable. Similarly, it should not be forgotten that there are existing uses on site (including a car park) and that an extant planning permission could be implemented that also yields additional trips on the network.

**ii) Community Use**

- The existing youth centre provides a valuable resource to the Swaythling community that should be kept or replaced. Similarly, the existing boxing club is providing a valuable activity at minimal cost to its users. The closure of this building without proper replacement will harm Swaythling, which already has high levels of unemployment and social deprivation.

**Response**

Agreed. This issue is discussed further in the Planning Considerations section of this report. The Council has confirmed the measures it will undertake to replace the youth club provision and the applicants are working with the boxing club to ensure ongoing provision is possible (**Appendix 6** refers).

**iii) Design & Residential Amenity**

- A 15 storey tower and the chosen design are grossly out of keeping with its context. The proposal would be visually intrusive.

**Response**

The issue of design, height, scale and the suitability of a tall building for this site is discussed in the Planning Considerations section of this report. Refer also to the comments of the Council's City Design Manager. The Council has previously resolved to grant permission for a 14 storey tower with a similar building height.

- The application fails to respect views out from the nearby Ethelburt Conservation Area. Overspill parking may take place within the CA to the detriment of its character.

**Response**

The application was previously considered to be suitably removed from the nearby conservation area so as not to harm its setting. The previous scheme was also assessed as having an appropriate level of on-site car parking. The submission includes a full visual impact assessment (as was presented with the previous scheme) and the tower element, whilst visible, is considered to be acceptable. The highway concerns of overspill parking are shared by the Council's Heritage Team Leader.

- The tower will restrict the flight path to Southampton Airport.

**Response**

BAA are a statutory consultee on this matter and have raised no objection to the proposals.

- The scheme does not provide sufficient details of the proposed external lighting and fails to demonstrate how light spill will be reduced.

**Response**

The detailed lighting scheme could be resolved by a planning condition following further consultation with colleagues in Environmental Health.

- A 15 storey tower will result in significant overshadowing of surrounding buildings.

**Response**

The applicants submission includes a detailed shadow path analysis, which confirms that the majority of the shadow caused will fall across the existing highway network rather than nearby residents (the nearest of which are located to the south of the development and away from any shadow caused).

- The submitted noise survey does not include any new survey work since the previous application (including noise from the likely occupants) and is inadequate. The site should be reclassified as Noise Category D where PPG24 recommends that planning permission is refused.

**Response**

The Council's Environmental Health Officer has reviewed the submission and the detailed objection to it. The EHO agrees, in part, with the objectors criticisms but comments that "the proposal recognises that this site is in a noisy area, on the cusp of category C/D of PPG 24 and the criticisms will not make a great deal of difference to the calculated levels and, therefore, the high specification windows with acoustically treated ventilation that are proposed should be sufficient to ensure the internal noise climate is suitable. No objection has been raised to the assessment and planning conditions are recommended to resolve any detailed issues.

- The nearby residents will suffer from noise and antisocial behaviour from the student residents – as evidenced elsewhere in the City where concentrations of students live.

**Response**

The applicants have given careful consideration to the impact that the development (and its users) will have on its neighbours. The site will have a 24 hour concierge/manned site office and external gates will be locked at an agreed time to ensure that all pedestrian movements take place through the tower and away from Parkville Road residents. Similarly, the proposed roof terrace will be locked after dusk. Further details of this management plan and CCTV can be secured with a planning condition.

- Loss of privacy to the resident of 1 Parkville Road and others who live nearby.

**Response**

The proposed alterations to the wings of the building and the removal of any communal roof terrace or window with a southerly aspect from the Thomas Lewis Way wing will remove any possible overlooking. The main building is sufficiently separated from its neighbours to cause any concern. For instance, the tower is some 42 metres from Market buildings and 63 metres from the rear of those dwellings fronting Phillimore Road. A separation distance of 49 metres between the tower and 1 Parkville Road is achieved, which reduces to some 11.7 metres to the nearest wing. There are no windows proposed at this point. The level of overlooking proposed is no worse than those previously assessed as acceptable.

- The quality of television reception will be reduced by this tower scheme (and certain addresses, particularly within the Ethelbert Avenue Conservation Area, are unable to erect a satellite dish).

### **Response**

PPG8 Telecommunications (2001) advises that “large, prominent structures such as tower blocks, cranes, warehouses or football stadiums can cause widespread disruption to analogue television reception... Digital television signals are far more robust than analogue and, as viewers change to digital over time, offer the prospect of the elimination of such problems.... Certain factors can be taken into account at the planning application stage, in particular the height and width of each face of the structure, the material and outside surface finish, and the orientations of the sides of the structure in relation to any local transmitter”. Whilst the issue is material to Planning, as with the previous scheme the S.106 legal agreement could be used to secure a pre and post construction TV reception study with any change in circumstances rectified at the developer’s expense.

- The building will have a wind funnelling effect

### **Response**

As with the previous scheme(s) the proposed design reduces any significant harmful microclimate impacts as detailed in the applicant’s submission.

### **iv) Other**

- There are nesting birds using the site, and the submitted ecology report fails to make any assessment of the site’s bat population. The loss of trees and habitat should be resisted.

### **Response**

The Council’s Ecologist and Natural England have identified that the site has a very limited biodiversity value and have raised no objection to the application. The Council has already accepted the principle of redevelopment. The issue of nesting birds can be resolved by carefully programming the commencement of development.

- The proposed retailing will compete with the existing Local Centre, which is already suffering from high vacancy rates. The submitted Retail Impact Report contains deficiencies.

### **Response**

The Local Plan identifies this junction as a Local Centre. Although the application site does not form part of this designation the use of retail space along Stoneham Way will activate the ground floor of this building, whilst linking the Stoneham Way retail frontages with Market Buildings. The proposed commercial space is formed by 5 separate units with a combined floor area of 918sq.m. At the time of writing the applicant’s have indicated that two of these units have been earmarked for a convenience retailer and a pharmacy respectively. Given the relative small-scale operations the proposal will not significantly impact upon existing trading but should compliment the existing Centre. The Council has previously resolved to grant permission for 608sq.m of complimentary retail serving a mixed-use redevelopment proposal on this site.

- The public consultation undertaken as part of the pre-application stage was inadequate. It comprised 1 evening session on 8<sup>th</sup> December at the Jury’s Inn with little notice.

### **Response**

Noted. The Council has undertaken its own consultation exercise in line with statutory requirements.

- There would be vandalism to medical staff cars (off and on-site).

## **Response**

The scheme has been designed to accommodate the needs of the Surgery so as to reduce the likelihood of staff needing to park off-site. On-site provision has been made for CCTV coverage and management that should deter any vandalism taking place.

## **Consultation Responses**

- 5.7 **SCC Highways** – Objection raised. A full copy of the objection is attached to this report at **Appendix 5**.
- 5.8 **SCC Heritage** – Concerns raised. There are potential implications arising from the implementation of the Gateway scheme and the nearby Residents Parking Scheme. Concerns are raised that casual parking would relocate to other areas, the Conservation Area included. As Ethelburt Avenue is a private road managing casual parking will prove problematic as the Council will not be able to enforce a Residents Parking scheme. Such parking may be detrimental to the character and appearance of the Conservation Area.
- 5.9 **SCC City Design** – following detailed discussions at both pre-application and application stage no objection raised. Previously advised that the form, height and massing is acceptable and promises to provide a dramatic gateway building on this key approach to the city. The wings are tall, given the context and local plan policy SDP 9 (5 storeys or greater), and the same applies as above. These wings, particularly on Stoneham Way, complement and relate more closely to the local context providing a human scale at street level. The pedestrian route through to the medical centre includes windows to allow some natural surveillance as well as being well lit. The route should also be clearly legible through to the medical centre entrance. In response to this scheme it is considered that the strip windows to the wings introduce a rhythm of windows and mullions that reflects the proportions of the Market buildings. They will improve their visual relationship whilst reducing the scale of the wing, as does the use of the timber cladding to the top floor and the black brick plinth ground floor detailing.
- 5.10 **SCC Tree Team** - The trees on this site are under Council ownership and are therefore considered to have the same protection as a Tree Preservation Order. They do, therefore constitute a material consideration in the planning process. The objection raised from previous consultations (ref. 08/00081/FUL) is still relevant although constrained by the outstanding permission. There are some 20 trees and hedgerow trees shown to be removed. It was previously recommended that this application is refused due to the loss of important visual amenity trees without suitable mitigation.
- 5.11 **SCC Housing** – No objection raised to nil affordable housing provision providing a restriction on the use of the units for students only is imposed. The provider should also be required to sign up to SASSH - Southampton Accreditation Scheme for Student Housing.
- 5.12 **SCC Landscaping** - No objection subject to the imposition of appropriate planning conditions. This is an acceptable solution, which is a mature and thoughtful response to both the new development and the existing context.
- 5.13 **SCC Sustainability** – No objection subject to the imposition of appropriate planning conditions. The BREEAM pre-assessment indicates that at least a ‘Very Good’

standard will be achieved, however there is a lack of additional information on the residential and retail assessments on how each of the credits is planned to be achieved. The design and access statement says 'A 10% improvement or better over Building Regs Part L2A shall be achieved.' The applicants should be aware that the multi-residential element should be achieving at least 15% improvement.

- 5.14 **SCC Ecology** – No objection subject to the imposition of appropriate planning conditions. It is pleasing to see the introduction of a bio-diverse green roof, although it only accounts for a small proportion of the available roof space. This roof will provide some mitigation for the loss of foraging provided by the tree belt. The proposed development is unlikely to have a significant adverse impact on local biodiversity. Implementation of the enhancement measures listed in the Ecological Appraisal January 2011 should be secured through a planning condition. An informative should be placed on any permission advising of the legal duty to avoid disturbance to nesting birds.
- 5.15 **SCC Environmental Health (Pollution & Safety )** - No objection subject to the imposition of appropriate planning conditions relating to noise attenuation, hours of construction, piling method, demolition method and the management of operational deliveries. The proposal recognises that this site is in a noisy area, on the cusp of category C/D of PPG24. A high specification window with acoustically treated ventilation is proposed and should be sufficient to ensure the internal noise climate is suitable. It should be noted that mechanical ventilation may be required for the lower levels of the site to overcome any potential concerns for air quality issues from the traffic.
- 5.16 **SCC Environmental Health (Air Quality)** – No objection subject to the imposition of appropriate planning conditions. The Air Quality Report is acceptable.
- 5.17 **SCC Environmental Health (Contamination)** - No objection subject to the imposition of appropriate planning conditions. Annex 2 of PPS23 considers the proposed land use as being sensitive to the affects of land contamination. Therefore, to ensure compliance with Annex 2 of PPS23 and policies SDP1 and SDP22 of the City of Southampton Local Plan Review (adopted version, March 2006) this department would recommend that the site be assessed for land contamination risks or assume that land contamination exists and take a precautionary approach.
- 5.18 **SCC Archaeology** – No objection subject to the imposition of appropriate planning conditions. A desk-based assessment and programme of field evaluation was undertaken back in February 2009. Although prehistoric material (including Bronze Age pottery and burnt flint) was discovered on the site, the archaeological potential for the site can best be dealt with by carrying out a Watching Brief on the groundwork associated with the development.
- 5.19 **BAA** - No objection subject to the imposition of appropriate planning conditions relating to bird hazard management, removal of permitted development rights for telecoms, lighting and cranes.
- 5.20 **Natural England** – No objection. The site is within 500m of the habitats that form part of the River Itchen Site of Special Scientific Interest (SSSI), which also forms part of the River Itchen Special Area of Conservation (SAC). It is the opinion of NE

that this project, either alone or in combination, would be unlikely to have a significant effect.

- 5.21 **Southern Water** - No objection subject to the imposition of appropriate planning conditions. A public sewer crosses the site and will need to be diverted as part of the proposals.
- 5.22 **Hampshire Constabulary** – No objection following confirmation that the proposed lighting will be either column or building mounted to avoid Secured By Design issues. Previously advised that the Design & Access Statement addresses the context of the site in compliance with PPS1.
- 5.23 **The Environment Agency** – Previously raised no objection in principle, but requested that planning conditions are imposed to ensure that the development complies with the applicant's Flood Risk Assessment.

## **6.0 Planning Consideration Key Issues**

- 6.1 The key issues for consideration in the determination of this planning application are:
- i. The principle of mixed-use & the replacement of community facilities;
  - ii. The principle of a tall building development in this location;
  - iii. The design approach & its impact on the established character;
  - iv. The level of on-site parking and servicing, and its impact on highway safety; and,
  - v. The impact on existing and proposed residential amenity;
  - vi. Impact on Local Trees;
  - vii. The requirement for a S.106 Agreement and the provision of affordable housing.

### **6.2 Principle of Mixed-use Redevelopment**

The re-use of this previously developed land with a mixed-use proposal is consistent with the requirements of 'saved' Local Plan policies H2 and H13 as supported by policies CS3, CS5 and CS10 from the Council's adopted LDF Core Strategy (2010) and the national guidance identified above.

- 6.3 The Council's favourable determination of the previous applications (08/00081/FUL and 08/01489/FUL) is also a material consideration that should be afforded significant weight in the determination of this application, especially as the latter scheme could still be implemented

#### **i) Community Uses**

- 6.4 Policy CS3 seeks to prevent the loss of existing community uses unless the use can be relocated to a site providing equivalent community benefit or there is no community need for the building.
- 6.5 As submitted the application proposed to replace the existing community uses, but as discussions have developed so has the ground floor layout and the proposed uses. Rather than replace the community uses on site, the Council's Children's and Services Team have confirmed that from September 2011 they will maintain youth support provision in the Swathing area via an advertised programme of activities (taking place once a week) utilising existing venues such as Cantell School, Swaythling Neighbourhood Centre, Woodmill and the new MUGA on Daisy Dip (when it is completed).

6.6 The existing youth centre operates in tandem with the Inner City Boxing Club, which is a voluntary organisation. The boxing club have an informal arrangement with the Council to operate from the site on a temporary basis whilst redevelopment plans are fixed. As such, whilst the value of their work cannot be overstated, in planning terms they should be afforded only limited weight when assessed against Policy CS3 as they took the space in the knowledge of the Council's planned redevelopment proposals. That said, the applicants are working with the Boxing Club and propose to assist in finding alternative provision for the club as detailed in their attached letter at **Appendix 6**.

6.7 The application accords with the aims of Policy CS3.

(ii) Retail (Use Class A1)

6.8 As with the extant permission the application seeks a commercial ground floor use. The application proposes 3 retail units (use class A1) to include a pharmacy, a flexible retail unit (use class A1/A3 food and drink) and a Unit for D1 uses (Non-Residential). A combined floor area of 918sq.m is proposed. Policy CS3 states that "new development must be at a scale appropriate to the size and role of the centre" and identifies Swaythling as being served by a 'Local Centre' that meets 'day to day' needs for the immediate neighbourhood. The Policy is permissive of new development to protect the vitality and viability of these existing centres. The application site is located outside of the existing defined centre, but is an obvious link between the designation along High Road and the Market buildings.

6.9 The applicant's updated 'Retail Report' (2011) explains the retail impact of the proposal and concludes that the existing centre is still struggling (since their assessment of earlier, similar, proposals). Vacancy rate has increased from 5% in 2007 to 14% in 2011. The proposed uses will regenerate the area as part of the mixed-use proposals and should compliment the existing centre. The application is considered to have addressed the requirements of Policy CS3 and the additional retail floorspace proposed is again deemed to be acceptable. The application has, nevertheless, been advertised as a departure from the development plan as it proposes more than 750sq.m of retail floorspace outside of a recognised centre.

6.10 In accordance with previous discussions the applicants propose the following hours for trading:

- 6:30am to 10:30pm Monday to Saturday
- 7am to 10pm on Sundays and Public Holidays
- The pharmacy shall not operate outside of the hours of 7am and 11pm 7 days a week

6.11 Site deliveries will be restricted to between 6am and 7pm (7 days a week including Sundays and public holidays) with deliveries between 6am and 7am restricted to one transit van delivery only. Any deliveries by articulated vehicles shall take place no earlier than 7am (Monday to Friday) and 8am on weekends and public holidays.

6.12 These suggested hours are considered to be acceptable.

iii) Medical Centre (Use Class D1)

6.13 The application proposes 756sq.m for a medical centre serving the catchment of the existing Stoneham Lane Surgery. Policy CS10 is permissive, in principle, of applications for primary care facilities in existing accessible centres and where there is a need as part of an expansion of an existing facility. This part of the application accords with these aims and is supported by officers.

(iv) Residential (Use Class C3)

6.14 The principle of additional housing on this previously developed site is supported and will assist in providing a genuine “mixed and balanced community” as required by PPS3 (2010), Core Strategy Policy CS16 and Part 6 of the approved Residential Design Guide (2006). A high-density residential scheme will facilitate the provision of improved community and health facilities and has already been accepted.

6.15 The key change following the consideration of application 08/01489/FUL is that the residential element of the scheme is to be taken by the University of Southampton for student accommodation. With the exception of the 16 self-contained flats the accommodation is provided in pods or “cluster flats”, where 5 or 6 students share a communal living space with one another. There are 53 of these flats. The principle of this type of accommodation is supported by saved Policy H13 and is well suited for the site and the Swaythling Local centre. Furthermore, the provision of purpose built student accommodation reduces the pressure, in part, on the City’s existing family housing stock to be converted to housing in multiple occupation. Policy H13 requires such housing to be restricted by a planning condition or an appropriate legal agreement. Where this is accepted the Council’s normal affordable housing requirements do not apply.

Principle of a Tall Building

6.16 The application site is defined by mature planting and a low density context of between two and three storeys. The provision of a 15 storey building requires further justification and consideration before it can be accepted within this defined context. Adopted Local Plan Policy SDP9 defines a tall building as having 5 or more storeys of accommodation and states that the principle of tall(er) buildings is accepted on major routes into and out of the City, at junctions and at “gateway” locations. The application site meets these requirements and has already been assessed as acceptable, in principle, for a tall building proposal. The form of the current tower is similar to that previously considered to be acceptable, and the additional storey within the tower can be accommodated by reducing the storey heights throughout the building with no additional overall height required.

6.17 A material change following the approval of application 08/01489/FUL relates to the High Road and Thomas Lewis Way wings, which have been increased in height from 4 to 6/7 storeys.

6.18 A tall building scheme on this site is acceptable. This conclusion is shared by the Council’s City Design Manager and the Council’s “Gateways and Approaches Initiative” document (2006), which remains an un-adopted strategic document at this time.



## Design Approach and Impact on Established Character

- 6.19 The proposed design approach should be assessed against the development plan unless other material considerations dictate otherwise.
- 6.20 In particular, PPS3 (2010) states that “good design should contribute positively to making places better for people. 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).
- 6.21 Local Plan Policy SDP7 states that “development which would cause material harm to the character and/or appearance of an area will not be permitted”. The supporting text explains that “context is about understanding the uses, visual characteristics and the patterns of local life of an area” (paragraph 2.49 refers). The Council’s Residential Design Guide SPD explains that one of its key objectives is to positively enhance local character. In line with national urban design guidance the RDG recognises that the scale, massing and appearance of a dwelling or a group of dwellings should create a balanced composition in relation to each other and be in harmony with existing nearby development (paragraph 3.9.5 refers).
- 6.22 In terms of immediate context, it is clear that only a building of domestic scale would truly respect the existing Swaythling Local Centre. However, it does not follow that development of a greater scale and massing will automatically be viewed as alien or harmful to a given context. The site’s redevelopment potential has already been accepted and it sits on land bounded by significant highway distributors (in terms of volume and width). The site has an urban feel and appearance and its gateway location is recognised in the Council’s “Gateways and Approaches Initiative” document (2006). Marking a gateway with a landmark building is an established design technique. The Council has accepted a modern tall building proposal on this site already, and circumstances have not changed significantly, despite the subsequent adoption of the LDF Core Strategy in January 2010. The current proposal is formed using a very similar building footprint and envelope. The massing of the tower element has remained similar to the consented scheme, with the height and width being identical. The scheme is still compliant with Policy SDP19 in terms of airport safety and BAA have again raised no objection to the application’s height or form.
- 6.23 The chosen design expands on that already approved, albeit the wings have been increased in height by two/three storeys and all balconies have been omitted. The tenure has been amended and now proposes a scheme comprising wholly student residential accommodation above the ground floor commercial uses. The Council’s City Design Manager has commented that the taller strip windows to the wings provide a rhythm of windows and mullions that reflects the proportions of the Market buildings and will improve their visual relationship whilst reducing the scale of the wing, as does the use of the timber cladding to the top floor and the black brick plinth ground floor detailing. No objection to the proposed scale, design or massing is made.
- 6.24 The proposed quantum of residential development enables the provision of a good “community” offer as part of a wider regeneration scheme. It is, therefore, considered that the proposed footprint and quantum of development (in terms of its built form) is acceptable, and would not result in any substantial harm to the visual

amenities of the locality. The current application enables the applicant to make better use of this previously developed land and assists the Council in addressing its housing requirements.

- 6.25 The application is considered to have addressed the requirements of local and national design guidance identified above and supported by Local Plan policies SDP6, SDP7, SDP8 and SDP9 as supported by Core Strategy Policy CS13 and CABE's guidance relating to "Tall Buildings".
- 6.26 Finally, the impact of the development on the nearby Ethelbert Avenue Conservation Area has also been considered as required by Local Plan Policy HE1. The impact of the physical form on the setting of this conservation area is considered to be negligible given the separation distances involved and the existing development between the two. The Council's Heritage Team Leader has raised concerns, however, to the impact that any overspill parking may have on the character of the conservation area itself, especially as Ethelbert Avenue is currently an un-adopted unmade road with no parking restrictions (unlike others in the vicinity of the site) and its adoption or use for parking to serve the development would affect its character.

### Highways and Parking

- 6.27 Car parking is a key determinant in the choice of mode of travel, and the site is close to principal bus routes and Swaythling Train Station. The Local Plan aims to reduce reliance on the private car and encourage alternative modes of transportation such as public transport, walking and cycling. Since submission the level of on-site car parking has increased from 24 to 36 (including 3 spaces to meet the University's servicing needs) with the use of Parkville Road for designated parking. Whilst this parking is located outside of the submitted 'red line' it is highway land and could be secured with a S.106 legal agreement.
- 6.28 The Council's Highways Officer has raised an objection to the proposals based on the lack of appropriate on-site parking to meet the needs of this mixed-use development, and the local centre following the loss of the existing public car park. Furthermore, during the consideration of the application it has become evident that neither the University nor the City Council could reasonably restrict any student from bringing a car to University and parking on nearby roads. Whilst there is no certainty that any student will choose to do so, especially given the availability of on-site cycle parking, a car club space, the 'free' Unilink bus pass to residents (with a possible diversion of the UNilink bus route) and the close proximity of the proposal to a Local Centre and the University itself, there is a possibility that additional demand for off-site parking spaces will be caused by the residential element of the scheme. An Assessment of whether this off-site demand is likely and harmful is, therefore, required. A full copy of the Highways Officer's response that informs the recommended reason for refusal is set out at **Appendix 5** to this report. In light of this objection it is considered that the scheme fails to accord properly with the Local Plan and Core Strategy policies relating to parking and highway safety, and this shortfall in provision will give rise to additional inconvenience to those existing residents of Parkville Road.

## The Impact on Existing Residential Amenity

- 6.29 It is accepted that the introduction of a 15 storey building will have an impact on the existing amenities enjoyed by residential neighbours. An assessment of the significance of any harm caused by this proposal in terms of proximity to neighbours, overlooking and overshadowing was previously undertaken and accepted. A similar assessment has been submitted and the same conclusion reached with regard to the tower.
- 6.30 The increase in the height of the wings will have little bearing on existing neighbours given the separation distances involved. The additional height is stepped away from the nearest neighbour in Parkville Road and the nearest part of this two/three storey wing is 11.7 metres away. The first floor of this part of the proposed building is again dedicated to medical use and has omitted any windows fronting 1 Parkville Road. Instead, a green wall is proposed to this part of the site.
- 6.31 The proposed roof terraces have been sensitively designed to limit any overlooking of nearby neighbours. Concerns had been raised by other residents in Parkville Road that the tower element will afford significant overlooking of their property. Although there are no established guidelines for suitable privacy distances for a building of the height proposed it should be noted that the tower is itself located some 49 metres from the boundary of 1 Parkville Road. There will be no significant overlooking afforded towards this property and its neighbours from the student accommodation located in the lower sections of this scheme as the building's eastern wing will obscure any views. At the higher storeys the outlook from these pods will relate more to the wider context and the skyline than the nearest neighbours. In any event the minimum separation distance of 49m is considered to reduce any harmful overlooking afforded.
- 6.32 Finally, the application has again been supported with shadow diagram information to demonstrate that the majority of any shadow cast will fall across the public highway (particularly in the early and late afternoon, when private amenity space is more likely to be used by residents).
- 6.33 Given the building's proposed siting it is not considered that the proposed development will lead to any adverse impact on the surrounding properties in terms of overshadowing, loss of outlook or a significant loss of privacy. As such the application is again considered to address the requirements of adopted Local Plan 'saved' policies SDP1(i), SDP7(v) and SDP9(v) as supported by the relevant sections of the Council's approved Residential Design Guide SPD (2006).

## Living Environment

- 6.34 The site is located at a major highway junction and close to the railway line and is still located within Noise Exposure Category C (as defined by PPG24). The potential for noise nuisance to prospective residents is, therefore, significant. PPG24 states that, in such locations, planning permission should not normally be granted without planning conditions that can secure a commensurate level of protection against noise.
- 6.35 The applicants have submitted an Air Quality Assessment and Acoustic Assessment that suggest mitigation measures that can make this scheme

acceptable for this location. These reports have been forwarded to Environmental Health for consideration and no objection has been raised. The provision of fixed shut glazing and mechanical ventilation is considered to be an appropriate solution in these circumstances. In addition, it is noted that 10 of the proposed bedrooms (less than 3% of the total) have compromised outlooks, particularly those in the tower that look out towards the wings. On a scheme of this nature this type of accommodation is mitigated by access to other (internal and external) communal spaces that provide for a satisfactory living environment. As such, the layout of the building is again judged acceptable. All room sizes are acceptable and noise transfer between units can be mitigated at the Building Regulations stage. The applicant's previous "Micro-climate Study" confirmed that the building has been designed to sensitively mitigate any changes in microclimate and the wind environment, especially around the base of the building. Pedestrian comfort is deemed to be acceptable. The building has safe and convenient access to integral bin and cycle storage. Lift access is provided to serve all floors.

- 6.36 In accordance with the Council's current external space standards a 69 flat scheme should be supported by some 1,380sq.m of amenity space that is "fit for its intended purpose". This level of provision cannot be achieved on a scheme of this nature and would make any such scheme undevelopable. A degree of flexibility is therefore recommended (as was the case with the previous scheme). In this instance, the amenity space provision is met by approximately 316sq.m of shared and usable amenity space located on the proposed roof terrace. Additional external space is provided in the semi-private ground floor courtyard. The scheme does not comply with the external space standards of the Council's approved Residential Design Guide SPD (2006); namely paragraph 2.3.14 and section 4.4. That said, these units are not for private market accommodation and will serve a student need. As such, an exception to these requirements can be afforded, especially as students often have good access to social and sporting groups (and the University's formal sports pitches). An off-site financial contribution towards local open space is proposed.

#### Impact on Local Trees

- 6.37 Adopted Local Plan policies SDP6(vii), SDP7(i), SDP12 (as supported by section 4.7 of the Council's approved Residential Design Guide and Core Strategy Policy CS13 ) seek to ensure that major planning applications are supported by tree survey work and details of tree protection.
- 6.38 In total 20 trees will be felled to accommodate this development, 14 of which have been identified as Grade B ("worthy of retention"). The scheme proposes their replacement with 16 stand alone trees, 48 densely planted trees in large courtyard planters and 13 densely planted trees in a small courtyard planter (77 in total). The majority of the trees earmarked for removal are located along the Stoneham Way elevation. The proposed building seeks to activate the ground floor to this street frontage with the introduction of additional retail space and pedestrian entrances. The building is also serviced from a proposed lay-by taken from Stoneham Way. In order to provide a building that successfully relates to the street, whilst ensuring that the development's servicing requirements are not met from Parkville Road, it is deemed necessary to remove the existing trees along this frontage. The internal courtyard will be landscaped and tree pits will be utilised to accommodate further planting within the heart of the development. The loss of these trees is again considered to be acceptable.

## Section 106 Legal Agreement

- 6.39 In the event that the recommendation were to approve the applicants have agreed to enter into a S.106 Legal Agreement with the Council (at the land transfer stage) in order to secure contributions towards transport and open space improvements that mitigate against the development's direct impacts.
- 6.40 A development of this scale would normally trigger the need for 35% affordable housing in accordance with Core Strategy Policy CS15. However, as the proposal is for student accommodation no affordable housing requirement is required. Any S.106 legal agreement could have included a restriction that occupiers of the flats would be in full time higher education in accordance with Local Plan Review Policy H13(v).

## 7.0 Summary

- 7.1 The determination of this application has to be considered in the context of the recent approval for a very similar scheme on this site. This application again proposes a landmark building at one of the City's gateways and there are only marginal changes to the external appearance of this building (when compared to the recent approval) with the main change being the increase in height to the wings, an alternative design finish and the accommodation type. It again offers a mixed-use scheme with significant regeneration and community benefits, including an improved health care offer for this catchment. In order to achieve these benefits and make the scheme viable the application seeks permission for a high-density residential tower. The site is accessible to good public transport links and the consideration of density should follow that of good urban design. On that basis the proposed density is not considered to be unduly harmful and in conjunction with the other changes to the proposal (outlined above) it represents an improvement to the extant permission. The re-provision of the existing youth club use can be resolved by the Council as landowner, and the applicants are working with the Boxing Club to resolve their accommodation difficulties in the event that the existing buildings are lost to a redevelopment proposal.
- 7.2 It is evident that there are many positives arising from the development, including the provision of specialist housing that may reduce demand on existing family housing stock, an exciting landmark design fit for Southampton and the re-provision of improved medical facilities with wider regeneration and community benefits. It is also considered, however, that the level of development proposed and the further intensification of the site is not properly served by a level of on-site car parking to meet its own needs. The stated benefits should not be at any cost and the proposed level of parking will result in a demand for off-site parking to serve the commercial and, possibly, residential uses. The applicant's submission fails to deal with this properly and, in light of the highway safety concerns raised by the Council's Highway Officer, the recommendation is that planning permission should be refused.

## **8.0 CONCLUSION**

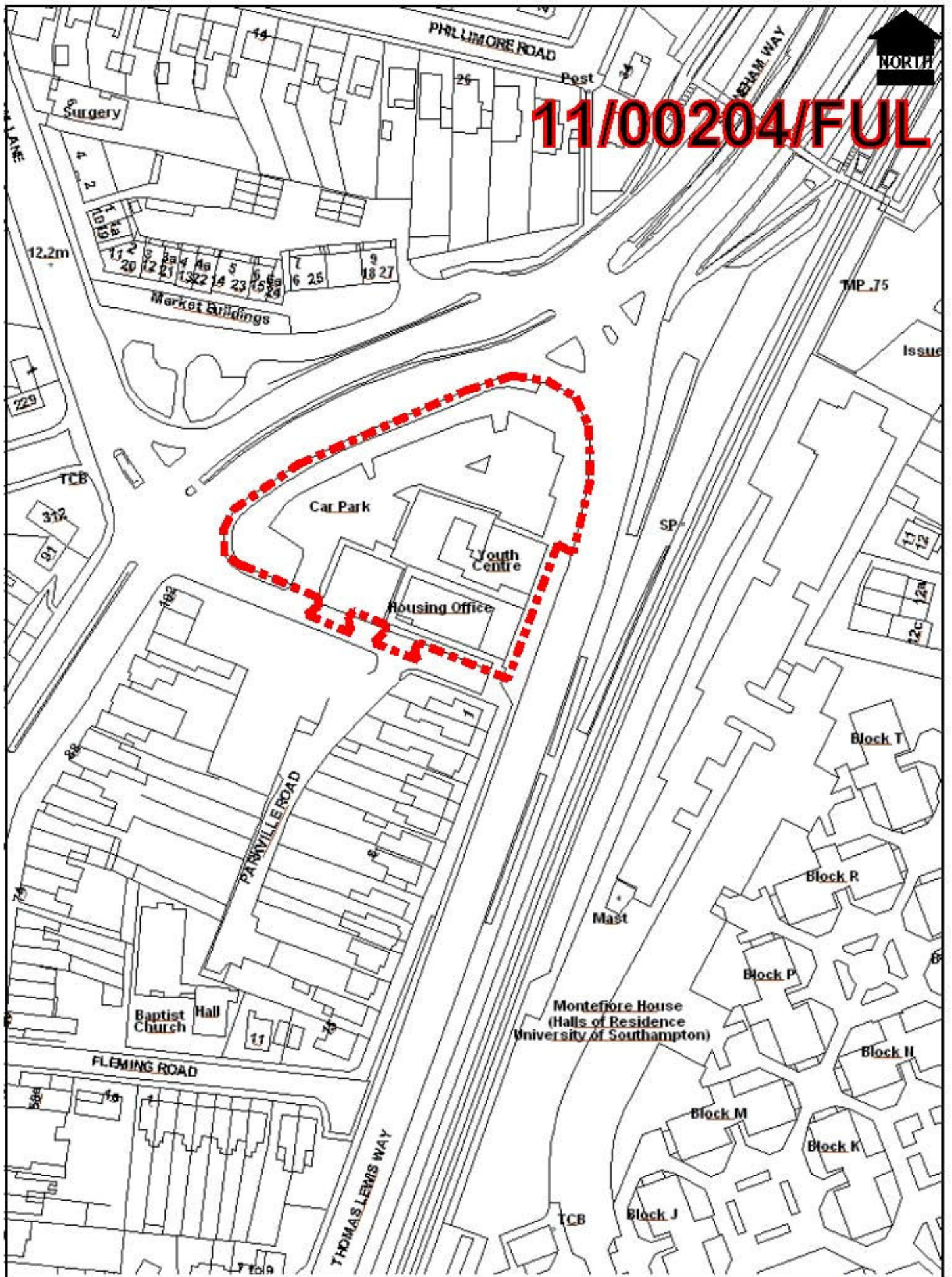
8.1 The application is recommended for refusal for the reasons set out in ***Appendix 1*** to this report.

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

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

1a, b, c, d, 2b, c, d, 4b, f, 6a, c, d, h, 7a, b, f, g, i, n, p, t, u, v, w, 9a, 10a & b

**SH2 for 24/05/11 PROW Panel**



Scale : 1:1250

Date : 10 May 2011

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## 11/00204/FUL – Updated Comparison Summary Table

	08/01489/FUL - Approved	11/00204/FUL – Deferred	11/00204/FUL – Proposed Revision
Residential Units	81 flats	69 pods and flats	69 pods and flats
Residential Mix	0 studios 41 no.1 bed 40 no.2 bed	53 student pods 12 no.1 bed 4 no.2 bed	53 student pods 12 no.1 bed 4 no.2 bed
Affordable Housing	62 units (ie. 77% on-site) comprising: 31 no.1 bed flats 31 no.2 bed flats	N/A	N/A
Affordable Mix	50% socially rented 50% intermediate rented/shared ownership	N/A	N/A
Non Residential Uses	D1 Medical - 746sq.m+ A1 Retail – 608sq.m D2 Community – 320sq.m	D1 Medical - 756sq.m+ A1/A3/D1 Commercial – 918sq.m D2 Community – 0sq.m	D1 Medical - 756sq.m+ A1/A3/D1 Commercial – 918sq.m D2 Community – 0sq.m
Employment	43 employees	50 employees	50 employees
Parking	Total – 59 spaces comprising Basement - removed Surface Level - 25 Bowers site - 34 spaces	Total – 36 spaces comprising Basement – N/A Surface Level – 36 9 – Parkville Road 27 – On-site Bowers site – N/A	Total – 44 spaces comprising Basement – N/A Surface Level – 44 12 – Parkville Road 32 – On-site Bowers site – N/A
Parking Split	Residential – 19 spaces Staff – 14 spaces Shared Public – 25 spaces  Car Club – 1 space	Residential – 0 spaces Staff – 13 spaces Shared Public – 18 spaces comprising: 7 – Retail/Community 11 – Patients Car Club – 1 space University Servicing – 3 spaces Private (1PR) – 1 space	Residential – 0 spaces Staff – 13 spaces Shared Public – 31 spaces comprising: 31 – Patients/Retail/Community  Car Club – 0 space University Servicing – 0 space Private (1PR) – 0 space
Amenity Space	19sq.m per unit	316sq.m (0.9sq.m per student)	316sq.m (0.9sq.m per student)
Sustainable Homes	Code Level 3	BREEAM - Very Good	BREEAM - Very Good
Site Area	0.49 hectares	0.37	0.37
Residential Density	165 dph	186dph	186dph
Building Height	Tower – 14 storeys (44 metres) Wings – Up to 4 storeys (14 metres)	Tower – 15 storeys (42.8 metres) Wings – Up to 7 storeys (19.8 metres)	Tower – 15 storeys (42.8 metres) Wings – Up to 7 storeys (19.8 metres)
Tree Loss	24 trees removed Replaced with 18 trees on site	20 trees removed Replaced with 77 trees on/off site	20 trees removed Replaced with 77 trees on/off site

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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 21 JUNE 2011

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Present: Councillors Jones (Chair), Claisse (Vice-Chair), Mrs Blatchford, Cunio, L Harris, Osmond (Except Minute 13) and Thomas

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

**RESOLVED** that the Minutes of the Meeting held on 24<sup>th</sup> May 2011 be approved and signed as a correct record.

**CONSIDERATION OF PLANNING APPLICATIONS**

Copy of all reports circulated with the agenda and appended to the signed minutes.

13. **AREA HOUSING OFFICE, PARKVILLE ROAD 11/00204/FUL**

Redevelopment of the site. Demolition of the existing buildings and erection of a building ranging in height from 3-storeys to 15-storeys to provide student residential accommodation (53 cluster flats comprising a total of 348 rooms, 4 x 2-bedroom flats and 12 x 1-bedroom flats); a medical centre (Class D1 use), retail units (Class A1) and two units for community use or non-residential institution use (Class D1) or retail (A1) or food and drink use (A3) with associated landscaping, parking and site works, including the stopping up of existing highway.

Mr Lewis, Mr Kiddle, (Applicants), Mr Hopgood, Mr Spinney, Mr Dixon, Mr Piccinino (Local residents), Councillors Osmond, Turner and Vassiliou (Ward Councillors) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO DELEGATE AUTHORITY TO THE PLANNING AND DEVELOPMENT MANAGER TO GRANT CONDITIONAL PLANNING PERMISSION SUBJECT TO THE APPLICANT ENTERING INTO A SECTION 106 LEGAL AGREEMENT WAS CARRIED

RECORDED VOTE

FOR: Councillors Jones, Mrs Blatchford, Claisse, L Harris and Thomas

AGAINST: Councillor Cunio

**RESOLVED** that authority be delegated to the Planning and Development Manager to (i) negotiate/finalise the 'penalty clause' contribution and (ii) amend planning conditions before issue and grant conditional planning approval subject to:-

(a) Confirmation that draft Heads of Terms are acceptable to the applicant prior to the grant of planning permission, and receipt of an undertaking from the Head of Property and Procurement Services that the contract for the sale of Council owned land, the subject of this application, will be conditional upon Bouygues Development and any other landowner entering into a S.106 legal agreement with the Council, prior to the land transfer taking place, to provide the following planning obligations:

- i) An occupation restriction to ensure that all residents are in full time higher education and that the provider is a member of the Southampton Accreditation Scheme for Student Housing (SASSH) in accordance with Local Plan Policy H13(v);
- ii) The submission and implementation of a Student Drop Off/Collection Management Plan committing to an ongoing review of the site;
- iii) The scheme shall make a commencement within 6 months and achieve a shell and core finish within 36 months from the date of the planning permission so as to reflect the current viability assumptions made. In the event that this is not achieved a fresh viability appraisal shall be submitted with any uplift in value (up to an agreed sum) payable to the City Council;
- iv) A financial contribution and/or the implementation and maintenance of an agreed series of site specific transport and off-site landscaping works (including the proposed Stoneham Way service layby and Parkville Road Improvement Scheme with a minimum of 12 parking spaces) under S.278 of the Highways Act with implementation prior to first occupation in line with Policy SDP4 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS18 and CS25;
- v) The funding of Traffic Regulation Orders (TRO) required for the above measures to enable the development to be implemented;
- vi) A financial contribution and/or the implementation and maintenance of an agreed series of strategic transport projects for highway network improvements, including the potential for a new/revised UNlink bus route and bus stop serving the development with implementation prior to first occupation, in the wider area as set out in the Local Transport Plan and appropriate SPG/D;
- vii) The submission and implementation of a public parking management plan for those spaces along Parkville Road dedicated for public use;
- viii) A Student Car Ownership Restriction as part of any student contract of tenancy shall be agreed and imposed. No student shall be entitled to park on the land. Upon the offer of the place a clear written statement shall be given to the students detailing the implications for their tenancy in the event that they are found to have a car. All student contracts to include the agreed penalty clause wording to the effect that they shall not bring a car to Swaythling Ward whilst living at City Gateway and will be evicted if found to have done so. This will be enforced by the landowner upon receipt of valid evidence. In the event that evidence is provided by residents or the City Council that a resident has access to a car they will be given a warning followed by eviction in the event that the car is still available. In the event that no enforcement is taken by the landowner (to either the evidence provided or the eviction notice) within agreed timescales a breach of planning will have occurred and a financial penalty (to be set and agreed) will be payable to the City Council by the landowner. Reception area to have an up-to-date telephone number with information about when and where breaches can be reported to the freeholder.

- ix) A mechanism for replacing the existing community uses (both during and following the construction phase) in accordance with LDF Core Strategy Policy CS3;
- x) Financial contributions towards the relevant elements of public open space required by the development in line with Policy CLT5 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS21 and CS25;
- xi) The submission, approval and implementation of public art – possibly to include an art fence - that is consistent with the Council’s Public Art ‘Art People Places’ Strategy;
- xii) Submission and implementation within a specified timescale of a Travel Plan, including the provision of UNlink bus passes to all residents;
- xiii) Provision of on-site CCTV coverage and monitoring in line with Policy SDP10 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS13 and CS25;
- xiv) Submission and implementation of a TV Reception Study committing to a pre and post construction assessment with off-site mitigation where necessary;
- xv) Submission and implementation of a Training & Employment Management Plan committing to adopting local labour and employment initiatives (during and post construction) in line with LDF Core Strategy policies CS24 and CS25;
- xvi) A Site Waste Management Plan; and,
- xvii) Submission and implementation of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
- xviii) Agreement of construction vehicle routing.
- xix) Developer shall be responsible for the cost of checking of drawings and construction.

In the event that such an undertaking is not forthcoming within 3 months from the date of this decision that delegated authority be given to the Planning and Development Manager to refuse the application for failing to secure an appropriate mechanism for dealing with the S.106 legal agreement mitigation measures listed above.

(b) the conditions in the report and the amended conditions below:

#### 11 Noise Mitigation and Attenuation

The approved development shall be implemented and completed only in accordance with the recommendations as set out in the applicant’s Noise Assessment dated 28<sup>th</sup> January 2011. Any mechanical acoustic ventilation from noise issues from Thomas Lewis Way shall be ventilated from the roof. Notwithstanding these approved details,

unless otherwise agreed in writing by the Local Planning Authority, windows and ventilation systems shall be provided to achieve the sound reduction levels of:

37dB(A) for living rooms overlooking Stoneham Way  
42dB(A) for bedrooms overlooking Stoneham Way  
37dB(A) for living rooms overlooking Thomas Lewis Way  
43dB(A) for bedrooms overlooking Thomas Lewis Way

**REASON:**

To protect occupants of the student accommodation from traffic and railway noise and to ensure that the amenity of existing residents is not unduly compromised during the implementation phase.

## 17 Landscaping

Notwithstanding the information submitted with the application (and detailed on the Terrafirma plan 1070-101H) no development shall take place (excluding the demolition and site preparation phase) until full details of both hard and soft landscaping for both the roof terraces, landscape buffers, all car parking and the ground floor courtyard area have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i. a detailed response to the Council's landscape design comments dated 19<sup>th</sup> April 2010;
- ii. proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas, hard surfacing materials, structures and ancillary objects (refuse bins etc);
- iii. external lighting (to include type and luminance);
- iv. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- v. a specification for the approved green/brown/biodiverse wall(s) and roof(s) forming the Thomas Lewis Way wing;
- vi. the provision of a 2 for 1 replacement of those trees to be lost (where practicable). The replacement trees shall be of a heavy standard size (12 - 14cm girth) as a minimum and will be planted within the site or at a place agreed in writing with the Local Planning Authority;
- vi. details of any proposed boundary treatment, including the "art fencing" to the south of the approved semi-public communal courtyard at ground floor level and the retained strip along the building's Thomas Lewis Way frontage; and
- vii. A landscaping management plan, including long term objectives, management responsibilities and maintenance schedules for the landscaped areas.

The hard and soft landscaping works shall be carried out in accordance with the details approved. The works shall be carried out before any of the development is occupied or in accordance with a timescale which has been agreed in writing with the local planning authority prior to the commencement of development.

If within a period of five years from the date of the planting of any tree or shrub, or any tree or shrub planted in replacement of it, it is removed, uprooted, destroyed, dies or becomes in any other way defective in the opinion of the local planning authority, another tree or shrub of the same species and size of that originally planted shall be

planted at the same place, unless the local planning authority gives its 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.

**31 Bird Hazard Management Plan (BHMP) - BAA**

Development shall not commence (excluding the demolition and site preparation phase) until a Bird Hazard Management Plan (BHMP) has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include details of the management of any flat or shallow pitched roof that may be attractive to nesting, roosting and loafing birds and include details for preventing birds from perching in the window reveals. The BHMP shall comply with BAA's Advice Note 8. The BHMP shall be implemented as approved upon completion of the roof and shall remain in force for the life of the development. No subsequent alterations to the BHMP 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 otherwise endanger the safe movement of aircraft and the operation of Southampton Airport – BAA comments dated 8<sup>th</sup> March 2011 refer.

**REASONS FOR DECISION**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The proposed development has been revised to increase the level of on-site car parking and restrictions on student car ownership are deemed possible. In light of these changes the impact of the development, in terms of visual and neighbour amenity, highway safety and parking are considered to be acceptable for the reasons detailed in the report to the Council's Planning and Rights of Way Panel on 21<sup>st</sup> June 2011. Particular account has also been taken of the third party response to the scheme, the quality of the proposed redevelopment proposals, current market conditions and the overall viability of the scheme. Other material considerations 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, and application 11/00204/FUL should therefore be granted in accordance with the following policies:

City of Southampton Local Plan Review (March 2006) policies SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13,, SDP14, SDP15, SDP16, SDP17, SDP19, SDP22, NE7, HE1, CLT5, CLT7, H1, H2, H3, H7, H13, REI6 and TI2 and City of Southampton Core Strategy (January 2010) policies CS4, CS5, CS6, CS10, CS11, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22, CS24 and CS25 as supported by the relevant national planning guidance and the Council's current supplementary planning guidance listed in the Panel report.

**NOTE:** Councillor Osmond declared an interest and withdrew from the meeting for the determination of this item.

14. **BOLDREWOOD CAMPUS, BASSETT CRESCENT EAST, UNIVERSITY OF SOUTHAMPTON 11/00499/FUL**

Erection of a decked car park to provide 165 car parking spaces together with the provision of a surface car park (168 spaces) for use in association with the approved uses of Block A of the Boldrewood campus redevelopment as approved under planning permission reference 08/01097/FUL, and/or in association with the Class D1 university use of the buildings and associated access roads and landscaping.

Mr Reay (Agent), Mrs Cowie, Mr Vashisht, Mr Carter, Mr Cowie (Local residents), Mr Moore, Mrs Wawman (East Bassett Residents Association) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO GRANT CONDITIONAL PLANNING PERMISSION WAS CARRIED.

RECORDED VOTE:

FOR: Councillors Jones, Mrs Blatchford, Claisse, Cunio, Osmond and Thomas  
AGAINST: Councillor L Harris

RESOLVED that the conditional planning permission be granted subject to the conditions listed in the report and the amended conditions set out below.

16 Energy & Water Conservation

Notwithstanding the information submitted with the application, and prior to the commencement of construction works for Car Park 1 (excluding site preparation) hereby approved, the applicant shall submit for approval in writing by the Local Planning Authority, a scheme of measures outlining how the car park will:

- a) minimise its energy and water consumption;
- b) use energy and resources efficiently; and,
- c) safeguard and facilitate the future implementation and utilisation of a campus-wide centralised heating plant (CHP).

Development shall be carried out in accordance with the agreed details and verified in writing by the applicant prior to the first occupation of the development hereby approved.

REASON:

In the interests of maximising the site's contribution towards energy and water conservation.

19 BREEAM Standards – whole Condition to be deleted.

19 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.

20 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.

20 Approved Plans – amended to read Condition 21 (amend numbering to run concurrently).

REASONS FOR DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The principle of the proposed car park building, and the parking numbers associated with the Lloyds Register and University have already been established by earlier planning permissions. The scheme represents an improvement when compared with the parameters set at the outline stage, and the chosen contemporary design solution is fitting for the site and the recently approved Maritime Centre of Excellence, as detailed in the report to the Planning and Rights of Way Panel on 21<sup>st</sup> June 2011. Other material considerations 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, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, SDP14, SDP15, SDP16, SDP17, SDP22, NE6, L7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by policies CS6, CS11, CS13, CS18, CS19, CS20, CS22 of the adopted Local Development Framework Core Strategy (2010) and the Council's current adopted Supplementary Planning Guidance.

15. **36 TAMARISK GARDENS 11/00608/FUL**

Erection of a 2-bed bungalow with associated parking and cycle/refuse storage

Mr Wyles (Agent), Mrs Dicker and Mr Stratford (Local residents) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDED TO GRANT CONDITIONAL PLANNING PERMISSION WAS CARRIED UNANIMOUSLY.

**RESOLVED** that conditional planning permission be granted subject to amended and additional conditions set out below:

Amended condition

11. Amenity space provision

Prior to any development taking place two things shall occur:-

- (1) The fence currently erected along the line on the attached plan marked a-b shall be taken down.
- (2) The garden area to be given over to the curtilage of 36 Tamarisk Gardens, shown cross-hatched on the attached plan, shall be fenced off from the proposed dwelling and made available to the occupiers of 36 Tamarisk Gardens . Once made available to occupiers of No 36 Tamarisk Gardens for use as part of their private garden, that land shall be retained within the curtilage of No. 36 Tamarisk Gardens at all times thereafter.

Prior to the first occupation of the dwelling hereby approved the amenity space shown to serve it on the site plan and the pedestrian access to it for the proposed dwelling shall be made prior to the first occupation of the new dwelling hereby approved and shall be retained all time times thereafter.

**REASON:**

To ensure the provision of adequate amenity space in association with the approved dwelling and the existing dwelling at 36 Tamarisk Gardens.

Additional Condition

17. Replacement Tree

The replacement tree for the TPO'd tree previously removed on health grounds shall be planted prior to the first occupation of the dwelling hereby approved.

**REASON**

In the interests of the visual amenity of the area.

REASONS FOR DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance as set on the attached sheet. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on the 21.06.11 do not have sufficient weight to justify a refusal of the application. The proposal has addressed the previous reasons for refusal and appeal decision and where appropriate planning conditions have been imposed to mitigate any harm identified. The proposal would be acceptable in character and design terms and not harm the amenities of the neighbouring occupiers. The parking and access arrangements are also acceptable. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted having account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS4, CS5, CS13, CS19, and CS20 and the Council’s current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport 2011) are also relevant to the determination of this planning application.

16. **PART OF THE FORMER NEW COLLEGE SITE, CARLTON ROAD / ARCHERS ROAD 11/00350/FUL**

Erection of two residential blocks, part three-storey's, part four-storey's in height to provide 47 dwellings (17 x one-bedroom 12 x two-bedroom and 18 x three-bedroom) with associated parking (30 spaces as amended including 2 for the disabled), access and landscaping.

Mr Reay (Agent), Mr O'Brien (Applicant) and Mr Mullins (Local resident) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO GRANT PLANNING PERMISSION WAS CARRIED UNANIMIOUSLY

**RESOLVED** that authority be delegated to the Planning and Development Manager to grant conditional planning approval subject to:-

- (a) The completion of a S.106 Legal Agreement to secure the following heads of terms:
  - i. Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site in accordance with polices CS18, CS19 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
  - ii. A financial contribution towards strategic transport projects for highway network improvements in the wider area in accordance with policies CS18 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
  - iii. Financial contributions towards the relevant elements of public open space required by the development in line with polices CLT5, CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) regard to
    - Amenity Open Space ("open space");
    - Play Space and;
    - Playing Field.
  - iv. Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
  - v. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer and;
  - vi. The provision of an expressly dedicated public right of way route between the western and eastern site boundaries.

- vii. A training and employment plan.

In the event that the legal agreement is not completed within two months the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

- (b) the conditions in the report and the amended conditions set out below:

Delete condition 10.

### 3 Landscaping, lighting and means of enclosure detailed plan

The details set out in drawing 3310-101 Rev A shall be fully implanted as part of the development hereby approved. Further details relating to the following matters shall be submitted before the commencement of any site works, including:

- i. means of enclosure including alterations and making good of existing boundary walls to be retained and measures to be installed at either end of the east – west cycle/pedestrian route between the approved northern and southern blocks to prevent motor-cyclists using that route, but still allow a person pushing a pram/child buggy to traverse that route;
- ii. hard surfacing materials, structures and ancillary objects (refuse bins, lighting columns etc.); and,
- iii. defensible planting to the ground floor private amenity space areas.

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

The approved hard and soft landscaping scheme (including parking and any approved details for items i-iii above) for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

#### 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.

### 5 Code for Sustainable Homes Residential Development

Written documentary evidence demonstrating that the development will achieve at minimum Level 3 of the Code for Sustainable Homes, including at least 15% in category Ene1 and at least 1 credit in Wat1 - (informed by the commitment to greywater recycling measures, of surface water run-off from the building and hard surfaced areas

within the site - set out in the applicant's design and access statement), shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted, unless an otherwise agreed timeframe is agreed in writing by the LPA. The evidence shall take the form of a post construction assessment and certificate as issued by a legitimate Code for Sustainable Homes certification body.

**REASON:**

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) also having regard to the commitment to greywater recycling given in the applicant's design and access statement.

**17 Amenity Space Access**

The communal garden areas shown on the site plan, and pedestrian access to it, shall be made available as amenity space prior to the first occupation of the flats hereby permitted and shall be retained with access to it at all times for the use of all occupiers of the development. The private garden areas, balconies and roof terraces shown on the approved plans shall be provided before the first occupation of each relevant associated dwelling and thereafter retained at all times thereafter.

**REASON:**

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

(N.B. re-numbered as 17 owing to deletion of Condition 10 set out in recommendation to the report – amend numbering to run concurrently).

**REASONS FOR DECISION**

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance as set on the attached sheet. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on the 21.06.11 do not have sufficient weight to justify a refusal of the application. The proposal has addressed the previous reasons for refusal and where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted having account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS4, CS5, CS13, CS19, and CS20 and the Council's current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport 2011) are also relevant to the determination of this planning application.

17. **1 GLEN EYRE ROAD 11/00706/FUL**

Erection of a single-storey rear extension and change of use from dwelling house (C3) to house of multiple occupation (sui-generis). Resubmission of planning application.

Dr Coleman (Applicant), Mr Cox and Mrs Wawman (East Bassett Residents Association) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO GRANT PLANNING PERMISSION WAS LOST.

RECORDED VOTE:

FOR: Councillors Jones and Mrs Blatchford  
AGAINST: Councillors Claisse, Cunio, L Harris and Osmond  
ABSTAINED: Councillor Thomas

A FURTHER MOTION PROPOSED BY COUNCILLOR CLAISSE AND SECONDED BY COUNCILLOR CUNIO "THAT THE APPLICATION BE REFUSED FOR THE FOLLOWING REASONS" WAS CARRIED

**Reason for Refusal - Unacceptable Intensification of use**

The change of use of the property from a 5 bedroom C4 house in multiple occupation to a 7 bedroom house in multiple occupation (HMO) will result in an unacceptable intensification in the use of the property. This would be to the detriment of the character of the area and the amenity of nearby residents by reason of increased additional general activity/noise/disturbance and taking into account the number of existing HMO's already in the area (cumulative impact). The proposal is therefore contrary Policies SDP1 (i), SDP7 (v) and H4 (i) and (ii) of the City of Southampton Local Plan Review (March 2006) and policy CS16 (3) of the Local Development Framework Core Strategy (January 2010).

RECORDED VOTE:

FOR: Councillors Cunio, Claisse and L Harris  
AGAINST: Councillor Jones and Mrs Blatchford  
ABSTAINED: Councillor Thomas

**RESOLVED** that planning permission be refused for the reasons set out above.

18. **ARRANGEMENTS FOR PRE-APPLICATION CONSULTATION FOR THE BIOMASS PLANT AT SOUTHAMPTON PORT**

The Panel considered the report of the Head of Planning and Sustainability seeking approval of the proposed arrangements for pre-application consultation, as set out in the revised draft Statement of Community Consultation and Community Consultation Strategy. (Copy of report circulated with the agenda and attached to the signed minutes).

Mr Galton (Local resident) was present and with the consent of the Chair, addressed the meeting.

**RESOLVED that:**

- (i) the proposed arrangements for pre-application consultation, as set out in the revised draft SoCC and CCS be agreed and reported to the IPC and Helius Energy as acceptable;
- (ii) that the following be included in the list of as part of the consultation process:
- The Inner Zone should include Redbridge and Shirley wards;
  - Solent University, SUSTRANS, Solent LEP, Hampshire Chamber of Commerce, to be added as stakeholders;
  - All City Councillors to receive an invite to the public meetings as part of the consultation process;
  - Name of Marchwood Ward Councillors to be checked;
  - Councillor Matthews is now Mayor of Southampton;
  - At least 2 weeks notice be given for any public event;
  - All exhibition venues to be fully accessible;
  - Exhibitions to focus on public safety issues;
  - Advertising to be at staggered times in the local press;
  - Events to be staggered over more than a 4 week period;
  - Consultation leaflets to be drafted in consultation with the No Southampton Biomass Group and City Council;
  - All invites and correspondence to provide the correct comment form or weblink to enable easy response.
- (iii) an appropriately scaled model of the existing site and the proposed scheme(s) be made available at each consultation event.

19. **68-70 AND 80-84 PORTSWOOD ROAD 11/00393/FUL**

Redevelopment of the site. Demolition of the existing buildings and erection of three x 4-storey buildings to provide 43 flats (18 x 1-bed, 22 x 2-bed and 3x 3-bed) and 9 x 3-storey houses (2 x 2-bed, 3 x 3-bed and 4 x 4-bed) with associated access, parking and landscaping.

Mr Edmond (Agent), Mr Stout (Local resident) and Councillor Vinson (Ward Councillor) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO GRANT PLANNING PERMISSION SUBJECT TO THE APPLICANT ENTERING INTO A SECTION 106 AGREEMENT, THE DETAILS OF WHICH TO BE AGREED BY OFFICERS, WAS CARRIED.

RECORDED VOTE

FOR: Councillors Jones, Claisse, Cunio, L Harris, Osmond and Thomas  
ABSTAINED: Councillor Mrs Blatchford

**RESOLVED** that authority be delegated to the Planning and Development Manager to grant conditional planning approval subject to:-

- (a) The completion of a S.106 Legal Agreement to secure the following heads of terms:

- i. Financial contributions towards site specific highway improvements in the vicinity of the site in accordance with polices CS18, CS19 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
- ii. A financial contribution towards strategic transport improvements in the wider area in accordance with policies CS18 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
- iii. Financial contributions towards the relevant elements of public open space required by the development in line with polices CLT5, CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) with regard to
  - Amenity Open Space (“open space”);
  - Play Space and;
  - Playing Field.
- iv. Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
- v. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- vi. The submission of a lorry routeing plan including the timing and routes for construction traffic;
- vii. Submission and implementation of a Training and Employment Management Plan committing to adopting local labour and employment initiatives, in accordance with Policies CS24 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
- viii. The restriction of parking permits for the surrounding streets for the future occupants of the development and;
- ix. The consultation and implementation of a Traffic Regulation Order to prevent parking in the new access road and adjacent to the site entrance to ensure a refuse vehicle can turn on site.
- x. Submission and implementation of a Waste Management Plan.

That the Planning and Development Manager be delegated powers to vary relevant parts of the Section 106 agreement and to add or vary conditions as necessary as a result of further negotiations with the applicant.



In the event that the legal agreement is not completed within two months the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

(b) the conditions in the report and the amended condition set out below:

### 3 Landscaping, lighting and means of enclosure detailed plan

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

- i. proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle pedestrian access and circulations areas, hard surfacing materials, structures and ancillary objects (refuse bins, lighting columns etc.);
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate, including defensible planting/privacy screening to the ground floor private amenity space areas including to the rear elevation of 78 Portswood Road;
- iii. an accurate plot of all trees to be retained and to be lost. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise);
- iv. details of any proposed boundary treatment, including retaining walls; and
- v. a landscape management scheme.

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

The approved hard and soft landscaping scheme (including parking) for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

#### 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

#### REASONS FOR DECISIONS

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on 21.06.11 do not have sufficient weight to justify a refusal of the application. The proposal would be in keeping with the site and surrounding properties and would not have a harmful impact on the

amenities of the neighbouring properties. Where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted taking account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS4, CS5, CS13, CS16, CS19, and CS20 and the Council’s current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport 2011) are also relevant to the determination of this planning application.

20. **88-94 PORTSWOOD ROAD 11/00313/FUL**

Redevelopment of the site to provide 7 flats (1 x 3-bed, 1 x 4-bed and 5 x 5-bed) with 2 ground floor lettings agents (Use Class A2) and 2 x 5-bedroom houses in three and four storey buildings following demolition of the existing buildings. Residential units to be either use class C3 (single family dwelling) or use class C4 (House in Multiple Occupation).

Mr Edmond (Agent), Mr Stout (Local resident) and Councillor Vinson (Ward Councillor) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO GRANT PLANNING PERMISSION SUBJECT TO THE APPLICANT ENTERING INTO A SECTION 106 AGREEMENT, THE DETAILS OF WHICH TO BE AGREED BY OFFICERS, WAS CARRIED

RECORDED VOTE

FOR: Councillors Jones, Mrs Blatchford, Osmond and Thomas

AGAINST: Councillors Claisse, Cunio and L Harris

**RESOLVED** that authority be delegated to the Planning and Development Manager to grant planning approval subject to the completion of a S106 Legal Agreement, the details of which to be agreed by officers in light of the submitted viability appraisal:

- (a) The completion of a S.106 Legal Agreement to secure the following heads of terms:
  - i. Financial contributions towards site specific highway improvements in the vicinity of the site in accordance with policies CS18, CS19 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
  - ii. A financial contribution towards strategic transport improvements in the wider area in accordance with policies CS18 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);

- iii. Financial contributions towards the relevant elements of public open space required by the development in line with policies CLT5, CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) with regard to
  - Amenity Open Space (“open space”);
  - Play Space and;
  - Playing Field.
- iv. Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
- v. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- vi. The restriction of parking permits for the surrounding streets for the future occupants of the development.
- vii. Submission and implementation of a Waste Management Plan.

In the event that the legal agreement is not completed within two months the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

- (b) the conditions in the report and the amended and additional conditions set out below:

#### Amended Condition

##### 4 Code for Sustainable Homes

Written documentary evidence demonstrating that the development will achieve at minimum Level 3 of the Code for Sustainable Homes, including at least 15% in category Ene1, shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted, unless an otherwise agreed timeframe is agreed in writing by the LPA. The evidence shall take the form of a post construction assessment and certificate as issued by a legitimate Code For Sustainable Homes certification body.

#### REASON:

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

#### Additional Conditions

##### 25 Access to Dwellings

The ramped pedestrian access to the dwellings to the rear of the site shall be provided in accordance with the plans hereby approved before the development first comes into

occupation. Before the development is first brought into occupation, the access path shall be lit, surfaced and secured in accordance with details to be submitted to the Local Planning and agreed in writing and retained in accordance with these details thereafter, unless otherwise agreed in writing.

**REASON:**

To provide a satisfactory residential environment

**26 Privacy Screens**

Prior to the development first coming into occupation, privacy screens to the upper level roof terraced shall be installed in accordance with details to be agreed by the Local Planning Authority in writing. The screens shall thereafter be retained as approved.

**REASON:**

In the interests of the privacy of the occupiers of the neighbouring mosque.

**REASONS FOR DECISION**

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on 21.06.11 do not have sufficient weight to justify a refusal of the application. The proposal would be in keeping with the site and surrounding properties and would not have a harmful impact on the amenities of the neighbouring properties. Where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted taking account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS4, CS5, CS13, CS16, CS19, and CS20 and the Council’s current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport 2011) are also relevant to the determination of this planning application.

### RE: Southampton City Gateway

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#### Advice

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#### Introduction

1. I am asked by Planning Potential, who act as planning consultants to Bouygues Development, to advise in connection with an application for planning permission (Planning Application 11/00204/FUL) for the redevelopment of a brownfield site for a mixed use development comprising a three to fifteen storey building to accommodate 53 cluster flats, 4 x 2 bedroom flats; 12 x 1 bedroom flats for 368 students; a medical centre; retail units and community use in Swaythling, Southampton. Southampton City Council (“the Council”) resolved to grant planning permission for this scheme on 21 June 2011 subject to agreement to the Heads of Terms of a draft s.106 agreement. That agreement contains clause 6 (set out in full below) which seeks to prohibit car use by student residents at this site. I am asked to advise on, in particular:
  - a) the lawfulness of clause 6 of the draft s. 106 agreement; and;
  - b) the prospects of success on appeal assuming no agreement is reached between the parties.

#### Material Background Facts

2. In early 2010, Bouygues Development, the applicant, submitted its application for the mixed use development described above. The application came before the Council’s planning committee on 24 May 2011. The Officer’s Report (“the May report”) to committee stated that the proposal was “considered to provide substantial positive regeneration benefits to the Swaythling Local Centre” (paragraph 3.2) and was supported by a number of key development plan policies. A material consideration in determining the application was the fact that the Council had recently determined two applications for development at the application site favourably ((08/00081/FUL) and (08/01489/FUL) (which remains extant)).
3. Nevertheless, the May Report recommended refusal. The Council’s Highways officer objected to the scheme on the grounds that it provided insufficient on-site parking to meet the traffic generated by its various uses for retail, the medical centre and

residential purposes. There was a consequent risk of overspill parking onto neighbouring streets which, it was claimed, would have harmful impacts on highway safety and local amenity. In particular the Highways Officer drew attention to the applicant's Transport Assessment which stated that there was a potential demand for 42 students cars to park their cars [see Appendix 5; the May Report at 6.27-6.28; the applicant's Transport Assessment Addendum March 2011 paragraphs 2.33-2.47]. The original application provided 24 parking spaces. This figure was revised upwards during the application process to 36 spaces. 36 spaces was, however, regarded as insufficient by highway officers.

4. The Committee resolved to defer their decision on the application to allow officers to reconsider a revised Transport Assessment and parking allocation produced by the applicant's new consultants WSP. The revised scheme provided for 44 parking spaces on-site and on Parkville Road, the entrance road to the application site. Officers considered that the 44 parking spaces provided adequate provision for the non-residential uses proposed for the site. However officers considered that there was need for a mechanism to control the potential for parking overspill generated by the residential student use. This was proposed to be achieved by preventing students from bringing cars to Southampton.
5. On 21 June 2011, the Council resolved to grant planning permission subject to securing agreement on the s.106 agreement. The Planning Committee delegated authority to officers to negotiate the Student Car Ownership clause of the s. 106 agreement. Following Member's resolution Officers issued instructions to their solicitor and they have produced Clause 6 of the draft s.106 agreement. This provides:

"A Student Car Ownership Restriction as part of any student contract of tenancy shall be agreed and imposed to ensure that no student shall be entitled to park on the land.

Upon the offer of the [university] place a clear written statement shall be given to the students detailing the implications for their tenancy in the event that they are found to have a car. All student contracts to include the agreed penalty clause wording to the effect that they shall not bring a car to Southampton whilst living at City Gateway and will be evicted if found to have done so. This will be enforced by the landowner upon receipt of valid evidence.

The landowner will ensure that a relevant contact number is available to facilitate the report of breaches to this obligation can be reported to the landowner [sic].

In the event that evidence is provided by residents or the City Council that a resident has access to a car they will be given a warning followed by eviction in the event that the car is still available. In the event that no enforcement is taken by the landowner (to either the evidence provided or the eviction notice) within the agreed timescales a breach of planning will have occurred and a financial penalty will be payable, equivalent to one years rent, to mitigate development overspill parking issues, payable within a timescale to be agreed with the City Council.” (emphasis added)

### **The lawfulness Clause 6**

6. Clause 6 effectively requires the landowner to prohibit student residents’ car use through its tenancy agreements with students. The prohibition is achieved through three mechanisms:

- a) A warning to any student who uses their car in Southampton;
- b) Followed by eviction from the student residence (“the eviction clause”); and
- c) Where there has been failure by the landowner to evict, a requirement that the landowner pay a financial penalty worth 1 years student rent (“the financial penalty”).

7. The lawfulness of Clause 6 must be tested against the relevant legal framework. The Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regs) have since 6 April 2010 introduced a new legal framework for the consideration of planning obligations. Regulation 122(2) of the CIL Regs states:

“(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.”

8. All three limbs of the test must be complied with (see *R(on the application of Bleaklow Industries Ltd) v Peak District National Park Authority and Glebe Mines Ltd*

[2006] EWHC 2287 (Admin). The planning obligation must be reasonable in all other respects. Regulation 122 does not automatically render obligations which offend the three principles unlawful. Its effect is that where a planning obligation does not comply with any of the three tests, the obligation cannot constitute a material consideration weighing in favour of granting planning permission.

9. The question of whether Clause 6 is reasonable and complies with the tests laid down in the CIL Regs is not merely a question of law but whether, on applying the evidence available, the tests are satisfied. The central issue is whether the clause is necessary and reasonable to address the identified harm which it is designed to remedy. Eventually, on appeal, an Inspector must consider whether the harm caused by the development, taken together with the section 106 obligation offered to mitigate the harm nevertheless still justifies the refusal of planning permission all things considered.
10. To begin, it is necessary to specify the nature and extent of the harm which clause 6 purports to address. The anticipated impact of overspill parking from the student and non-student users of the site on neighbouring streets was the basis for the Highway Officer's initial objection to scheme.
11. In respect of non-student parking, that objection was overcome by the revised parking scheme which increased the number of on-site parking spaces from 36 to 44 spaces. As a consequence of that revision, the WSP traffic assessment concluded that there would not be any remaining overspill parking from the development. That conclusion was, however, premised on the assumption that there would be a prohibition on the use of cars by students.
12. In respect of the potential for student overspill parking the applicant's Transport Assessment Addendum (dated March 2011) sought to assess the levels of student car use. The assessment's practical estimates of use were based on unconstrained car ownership potential at different universities [page 10 at 2.35]. After examining data for a number of student residencies the consultants concluded that car ownership for students was lower than for other groups and there was less car ownership among students living in halls of residents than in private housing. Taking an average across different universities (and excluding outliers) the level of unconstrained car ownership was assumed to be 11% among students. That gave rise to a potential demand for 42 cars at the application site. The assessors stressed that this prediction was not intended as a realistic forecast of car parking demand but



“represents an indication of pragmatic worst case demand, where all constraints and restrictions to ownership...[are] ignored” [see 2.47].

13. It is therefore reasonable to conclude that the worst case scenario where student car use is wholly unrestricted is a potential overspill of 42 cars. I am instructed that the applicant has indicated that it is content with requiring a prohibition in the tenancy agreement but is reluctant to include a requirement of eviction as the proposed end user – Southampton University - has indicated that they would not accept student accommodation that contained this requirement.

14. The applicant’s highway experts, WSP, in their Transport Assessment dated May 2011, which is specifically directed at considering this matter concluded (at page 22 at para. 5.3.17) that:

“There is no explicit parking provision for the student accommodation and it is proposed to prohibit the use of cars by students living in the accommodation. In reality, this should substantially reduce parking demand for the student accommodation”

15. Reading the conclusions of the two transport assessments together, it is clear that where there is a prohibition against student parking (for example, stated in the student’s tenancy agreement and combined with the lack of any on-site student parking) the figure for student car use will be far less than the “worst-case” figure of 42 student car users. Thereafter the real figure of users, who will contribute to overspill parking is likely to be small, and no more than a handful of students.

### ***The eviction clause***

16. Therefore the eviction clause targets the small number of potential students who are determined to ignore the prohibition on car use in the tenancy agreement. It is notable, however, that other recent examples of s.106 agreements involving this Council in connection with student housing indicate that up until this application eviction clauses have not been deemed necessary to secure the desired outcome of reducing parking demand. This reinforces the views of WSP that once the prohibition is in place the vast majority of those who might have brought a car (i.e. the worst case scenario of 42) will not in fact do so.

17. As I have already mentioned the University of Southampton has said that whilst it is content for there to be a prohibition on car use in a tenancy agreement it is not prepared to contemplate the requirement for an eviction if a student were to bring a car into Southampton and that it would not accept accommodation that required

that. This indicates that the inclusion of any such clause could hinder the deliverability of the applicant's scheme. Furthermore I am of the view that the University have a point. The requirement to evict allows no discretion whatsoever and therefore fetters the University's discretion. It is also likely to be discriminatory against students with disabilities. It fails to allow for or address the student who may for very good reason need to rely on a car due to disability or other reasons. In my view a tenancy agreement which allowed the option for eviction, but not a requirement for it, could equally serve the purpose of addressing the harm of the persistent offender who for no good reason uses his or her car, which in any event is likely to be small, but allows for the student who has a good reason or need to use a car.

18. Confronted by a prohibition on student car use and the potential of eviction it seems unlikely that many students will insist on using their cars. The harm caused by those persistent offenders who insist on breaching the rules by parking in surrounding streets is likely to be minimal and in any event needs to be weighed against the much needed and substantial regeneration benefits to this part of Southampton which all agree will be delivered by the scheme. A refusal of planning permission by the Council on the insistence that a *requirement*, (rather than an option), to evict, be included in the s.106 obligation is, in my view, unreasonable given that there are no other matters of dispute. On applying the tests set out in the CIL regulations it can strongly be argued that the requirement to evict is not necessary to make the development acceptable in planning terms and not fairly or reasonably related in scale or kind to the development. For the reasons I have already given it is also potentially ultra vires.
19. In my view, the prospects of success on appeal, where a requirement, rather than an option, to have an eviction clause in the 106 obligation constituted the only justification for refusal would be very good indeed and probably at around 70%. In fact it is likely that such a reason for refusal could be characterised as unreasonable giving rise to a successful application for costs.
20. I therefore advise that an amendment to the draft Clause 6 be put forward. Rather than automatically requiring eviction following a single warning the tenancy agreement would include an *option to terminate* the tenancy upon discovery that the student had been using a car in Southampton. This would seem to be a more reasonable approach to remedying the actual, relatively minimal harm which is likely to be generated by the scheme in terms of student parking demand, would accommodate the University's concerns, would not fetter their discretion, would be lawful and would ensure that the substantial regeneration benefits are realised.

### ***Financial Penalty***

21. Furthermore, in my view, the financial penalty in Clause 6 is unreasonable and does not comply with three CIL tests. The clause states that its purpose is to “mitigate development overspill parking issues”. However, it not clear how the financial penalty addresses the harm caused by student car ownership. Nothing is said about what the money is being collected for or what the equivalent of 1 years rent might pay for. The clause appears to be in the nature of a penalty against the landowner rather than being necessary in planning terms or addressed at the specific harm in question.
22. Since the financial penalty is not necessary to remedy the harm of the overspill it does not constitute a reasonable/lawful planning obligation.
23. The Council’s reason for including the threat of financial penalty is that without such a sanction it is concerned that the landowner might not evict offending students. However for all the reasons I have explained above I do not consider that the requirement for eviction is either necessary nor reasonable.
24. Moreover, there is a danger that the retention of the financial penalty clause could threaten the viability of the scheme. I am instructed that potential funders of the scheme are unwilling to accept this clause. This threat to the financing of the scheme also means that the substantial regeneration benefits of the scheme would not be delivered. I consider that if the financial penalty clause is insisted upon by the Council, this would be unlawful and unreasonable. The applicant’s prospects of success on appeal are substantial as is an award of costs.

### **Conclusion**

25. For the reasons given above, I consider it would be unreasonable for the Council to refuse planning permission on the basis that the s.106 agreement must retain a *requirement* to evict following discovery of student car use. Given the balance between the small scale of the harm and the substantial regeneration benefits of the scheme, which would be lost were the application refused, the Council’s insistence on the mandatory eviction clause is unreasonable and unjustified. An amendment to provide for an option to terminate would be a reasonable, appropriate and proportionate course to pursue.

26. In respect of the financial penalty, that provision fails to comply with the CIL Regs 2010 in that it is neither necessary nor reasonably related in scale or kind to the development.
27. In relation to costs, a planning authority which seeks a planning obligation that does not comply with regulation 122(2) of the 2010 CIL regulations (and with guidance in circular 05/2005) is at risk of costs. Where an appeal raises the question of whether a planning obligation is justifiable or not, it is usually approached on the basis that the local planning authority bears the initial burden of demonstrating how the obligation it requires is justified by relevant policy and evidence, in accordance with circular 05/2005. For the reasons I have explained I consider the council would struggle to do this.
28. Circular 05/2005 itself advises that the Secretary of State will consider “sympathetically” applications for costs made by a party to an appeal on the basis that an unreasonable obligation has been sought (circular 05/2005, paragraph B57).
29. For the reasons I have set out above I consider that the applicant, in relation to both the eviction clause and the financial penalty clause, would have good prospects of success on appeal and a good prospect of recovering its costs.

**SUZANNE ORNSBY**

**FRANCIS TAYLOR BUILDING**

**TEMPLE**

**LONDON**

**21 JULY 2011**

# Agenda Item 5

**Southampton City Planning & Sustainability  
Planning and Rights of Way Panel meeting 6 September 2011  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 13 Grosvenor Road SO17 1RU			
<b>Proposed development:</b> Change of use to sui generis 15 bedroom student let from C3 use			
<b>Application number</b>	11/01025/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Steve Lawrence	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	23.8.2011 (Over time)	<b>Ward</b>	Portswood
<b>Reason for Panel Referral:</b>	Referred by the Planning & Development Manager	<b>Ward Councillors</b>	Cllr M Claisse Cllr A J Vinson Cllr V Capozzoli

<b>Applicant:</b> Mr H Singh	<b>Agent:</b> Mr Balbinder Heer
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<b>Recommendation Summary</b>	(i) <b>Refuse planning permission</b> (ii) <b>Take enforcement action to secure the cessation of use of the property as a sui generis house in multiple occupation.</b>
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<b>Appendix attached</b>			
1	Development Plan Policies	2	Summary of planning history
3	Letter from previous owner of 13 Grosvenor Road dated 14.2.1973.	4	Copy of decision notice 02/00482/FUL

## Reason for Refusal – Harm to the character of the area

The local planning authority considers that the intensification of residential occupation of the property from either family occupation within class C3, or from a C4 occupation by up to 6 unrelated persons, to occupation as a Sui Generis House in Multiple Occupation by 15 persons would cause serious harm, contrary to policies of the Development Plan for Southampton (SDP7 (v), H4 and SDP16) Local Plan Review (March 2006) and CS16 (3) Core Strategy (January 2010). The harm from this over intensive use of the property would manifest itself in the following ways:-

- (i) Disturbance to neighbouring occupiers from comings and goings to and from the site by 15 separate students at various times of the day and night and their use of the garden at the property, potentially more likely to be at unsocial hours (being that the tenants are to be students with more active lifestyles), which would not be compatible with the surrounding family housing;

- (ii) Adversely affect the character and nature of occupation of this immediate part of the street, by causing the loss of a single family house, in a street predominantly comprised of family houses;
- (iii) Be likely to cause overspill parking difficulties in the street, prejudicial to highway safety with people having to park tight to others' driveways and access points, detrimentally interfering with driver visibility when emerging into the street, whilst also not demonstrating adequate secure cycle storage as an alternative to the private car;
- (iv) Not demonstrating adequate refuse storage facilities, where the visual impact of the quantum of such storage would be likely to be visually intrusive in the street scene, given that the open forecourt of the property is the only realistic place to store refuse; and,
- (v) Not demonstrating convenient access through the building by occupiers of the separate tenancy agreement for 8 persons in the front of the property, sought through 'saved' Policy H4 of the City of Southampton Local Plan Review (March 2006) as supported by Section 4.4 of the Residential Design Guide (September 2006).

## **Recommendations in Full**

- 1. Refuse planning permission**
- 2. Take enforcement action to secure the cessation of use of the property as a sui generis house in multiple occupation.**

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

- 1.1 Substantial (floorspace arranged on three floors – top floor in roofspace) detached property on west side of street between the junctions of Welbeck Avenue to the north and Grosvenor Gardens to the south. There is very large garden to the rear. This is accessible via doors from the single storey rear projection and via a side way abutting No.11 Grosvenor Road. There are two single storey structures in the back garden. One is brick faced, whose flat roof is not yet fully clad. The other is a timber summerhouse which partly dog-legs behind No.11 Grosvenor Road's back garden. An amount of waste building materials and scaffolding equipment was present at the time of the officer site visit. There is a 7m deep (from back edge of pavement to front door steps) x 10m (measured at pavement, where no front boundary wall has been retained) wide hard surfaced forecourt sloping down from the front door to the street. This is capable of accommodating 3 cars, or 4 cars if a single access route for pedestrians is left to reach the front door and side accessway abutting No.11.
- 1.2 Either side of the site are single family, detached houses. A great part of the street is comprised of detached character properties, in use as single family houses, but elsewhere in the street there are semi-detached properties and some purpose built flats (Richmond Gardens, Grosvenor Court, Dawtrey Court, Richmond Hall and Grosvenor Lodge, all south of the application site. The latter are the closest to the application site being some 110m away. The immediate area is wholly residential in character with good plot to building footprint ratios and mature, treed gardens. There are no TPO trees on, or overhanging, the site. Some properties in the street have been converted to flats. It appears that the majority of properties in the street are occupied as family homes.

## **2. Proposal**

- 2.1 The applicant has recently undertaken building works inside the building under a Building Notice. This was to facilitate its use as letting accommodation for 15 people. Permission is now sought for that use, supported by cycle parking and refuse storage facilities.
- 2.2 The ground floor (working front to back) comprises lounge/hall space, kitchen/diner, lockable door leading to 3 separate bedrooms, corridor door leading to kitchen/lounge space, Shower-room, bathroom, and three other bedrooms (one with French doors leading into an attached glass conservatory).
- 2.3 The first floor (working front to back) comprises two bedrooms, a bathroom and four further bedrooms.
- 2.4 The second floor (in the roofspace) comprises two bedrooms and a bathroom.
- 2.5 Two tenancy agreements have been signed. One for a group of 7 students, the other for 8 students. On 4 July 2011, 5 students were residentially occupying the property. An update as to the current level of occupation will be reported at the meeting. All bedrooms are lockable by a key at the front and by 'thumb-turn' to the rear. No sanitary or cooking facilities were witnessed in any of the bedrooms.

## **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.
- 3.3 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

## **4.0 Relevant Planning History**

- 4.1 A summary of the site's relevant history is listed in **Appendix 2**. It is the opinion of planning officers that the authorised use of the site is as a single dwelling under permission 02/00482/FUL. This allowed for No. 11 to be a single house and for No.13 to be a single house. It is contended that this permission was implemented, not least because No. 11 Grosvenor Road is now in use as a single family house and electoral roll entries for just before and every year since the permission was granted. Where rest home use subsisted, this is easily apparent from the roll entries, with the applicant for the 02/00482/FUL permission also

resident until 2004, whereafter a couple of the same surname occupied the property and paid council tax for single residential property. Later a large (and it is believed to be extended) family were in occupation between 2004 and 2009.

- 4.2 Conversion of the roofspace to provide owners accommodation took place under a permission granted in 1976, when the property appears to have been in use as a guest house (although no planning permission for that use was ever established/obtained. **Appendix 3** indicates how the property was being used at that time, when the loft conversion was first applied for). A rest home for the elderly in both 11 and 13 Grosvenor Road, was subsequently granted planning permission and in 1985 a single storey extension was approved that provided owners accommodation, which was not permitted to be used to house any further elderly residents in care at the rest home use, which then allowed for up to 16 elderly residents to be cared for in 11-13 Grosvenor Road.
- 4.3 On 24.1.2011, a Planning Enforcement Officer called at the site to investigate a brick built outbuilding being constructed. The property at that time was asserted to be a single house enjoying permitted development rights for the outbuilding. The property itself was gutted inside and not being occupied. The owner was told that planning permission for use for anything other than a single house or within Class C4 purposes would require planning permission before that use commenced.
- 4.4 During this summer the Planning Enforcement Team, acting on intelligence that contracts for occupation for 15 students had been signed with the owner, had occasion to use its Rights of Entry powers to gain access to the property. Having ascertained that the contracts had been signed and were due to commence, the Council took action and sought an injunction from the High Court to prevent the unauthorised use from taking place. The High Court granted an interim injunction. On a further visit before the matter was to be re-heard by the High Court, the property was only being occupied by 5 people.
- 4.5 The (new) judge refused to extend the injunction on the basis that he did not consider that the harm caused by the students going in to occupation was great enough to outweigh the harm and detriment that they would suffer in losing their accommodation especially bearing in mind that they had acted in good faith with the landlord.
- 4.6 The witness statement of the officer set out the full history of the matter including the fact that tenants had collected keys and that less than 6 persons had actually taken up occupation. The judge was therefore well aware of the fact most of the students were not in actual occupation but were contractually entitled to move in under the terms of the agreement that they had signed and took into account that an extension of the injunction would mean that Mr Singh would be in breach of his contract with the students, but more significantly, it would leave the students without accommodation for the forthcoming academic year.
- 4.7 The owner has sought to regularise this situation by the submission of this planning application. An alternative option is put forward in a parallel application 11/01026/FUL, which is being reported separately.

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

- 5.1 Following the receipt of the planning application a publicity exercise in line with



department procedures was also undertaken which included notifying adjoining and nearby landowners and erecting a site notice (11.7.2011). At the time of writing the report **24 objections** from mostly local addresses/Portswood Ward Councillor Vinson/The Highfield Residents' Association and **a petition of objection** signed by 21 people from 14 different addresses (some of who have also written individual letters) have been received from surrounding residents. Those **objections** are summarised below:-

- 5.1.1 The intensity of occupation is grossly excessive, overdeveloped and out of character with a street which is still predominantly comprised of mostly well cared for family houses, whose average occupancy No.'s 1-26 is calculated at 4 persons per property. The life-styles of the students would be incompatible with those in family occupation and certainly very different to occupation by elderly persons being cared for in a rest home. Reference is made to the intensity of occupation when a rest home existed in 11 & 13, (that use and its impact not being in existence for the last [it is asserted] ten years) limited by condition to prevent overintensive use and protect the character of the area. This approach has consistently been applied through the property's planning history. If permitted, this will be enough for the occupants of No.15 to assert they will move house. The Council sought an injunction to prevent such a level of occupation, indicating that it did not find that acceptable.

**Response – Notwithstanding the size of the property, occupation by 15 students is considered an over-intensive use of the site, largely for the reasoning articulated above and prompted the Council to seek an injunction to prevent such use.**

- 5.1.2 Increased noise disturbance from that level of occupation and attendant comings and goings – especially to occupiers of No. 11 and No.15, the former having bedroom windows above the position where access to the rear tenancy agreement is proposed/exists. With no on-site warden to manage such a mini hall of residence, the property and garden would be likely to become a focus for uncontrolled social events. Such disturbance would be more troublesome at night/unsocial hours and is cited as already occurring from an existing HMO in the street (8 Grosvenor Road), which wakes small children. One neighbour is a doctor and works night shifts, so undisturbed sleep is of clear importance.

**Response – It is considered that unacceptable noise disturbance would be likely to occur, to the detriment of neighbours' amenities and peaceful enjoyment of their properties.**

- 5.1.3 Inadequate car parking to support that level of occupation. Occupation by 6 students so far appears to have generated 4 cars being parked at the front of the site. Residents would also have visitors and parking would overspill into the street, exacerbating existing capacity problems, where the street is currently being considered for a residents' parking scheme and adversely affecting highway safety in a street, where many walk their children to Portswood Primary School. Whilst provision of cycle parking as a sustainable alternative is admirable, the Council has no means of controlling actual car ownership and use.

**Response – Notwithstanding the views of the Highways DM Team, it is considered that overspill street car parking would be likely, which would harm amenity and potentially interfere with highway safety, especially where people would park tight to private driveways and restrict driver**

**visibility of other highway users – especially pedestrians – leading to increased highway hazards. The fact that the council has also balloted residents on a residents’ only parking scheme is also indicative of the existing pressures on on-street parking in the area. Whilst pressures may increase naturally over time, it is considered appropriate for the local planning authority to seek to intervene and regulate the intensity of occupation of the site in this instance.**

- 5.1.4 The quantum of bins to be placed on the forecourt would be unsightly and liable to be left in that position after being emptied and not returned to any storage location.

**Response – The applicant has proposed a refuse storage area separate from the front forecourt. It is agreed that a large quantum of bins just left on the forecourt would be unsightly and probably also conflict with available car parking there. If Members are minded to grant permission, this is matter which could be controlled by planning condition.**

- 5.1.5 ‘Thin end of the wedge’/precedent - One writer who has lived in Shaftesbury Road for many years (backing onto the application site) and has seen the decline in the character of that street, with families moving away, which in turn has taken children out of Portwood School. Another writer talks of those retired people in the street who may be down-sizing with private landlords being able to bid more for such properties coming onto the market, such that more family homes could be lost and the family, well-integrated character of the street eroded yet further.

**Response – Given the evidence of what properties might come onto the market, the local planning authority accepts in this case that if permission were to be granted, further applications for HMO sui generis use would probably result, having an increased deleterious impact on the character of the area and integrity of an existing settled, family-based community.**

- 5.1.6 Loss of a family house – the agent’s assertion that the property has not and is not capable of occupation by a single family is not accepted. The next door neighbour in Shaftesbury Road confirms occupation at one time by a couple and their child.

**Response – The proposals would result in the loss of a property whose authorised use is as a single house. This would be contrary to Policy CS16 of the adopted Core strategy.**

- 5.1.7 Light disturbance is asserted to neighbours – especially those adjoining at No.11 and No15.

**Response – Whilst lights may be left on later into the evening compared to family occupation, this is not considered so significant to be used in the reasoning to refuse such a proposal.**

- 5.1.8 Overlooking is asserted to neighbours from additional windows, adversely affecting their privacy, especially from the now glazed rear fire escape door to the roof level accommodation and fears that the flat roof to the rear addition would be used as a sun terrace, causing clear overlooking.

**Response – Windows inserted to the side of No.13, where two new**

bedrooms have been created internally, only look at the blank flank wall of No.11. They do not harm that property's privacy. The glazed door to the rooftop fire escape serves a corridor and would ordinarily only be used in the event of a fire. It is not considered to constitute a level of overlooking so severe to be used in any reasoning to reject the proposed use. The flat roofed area is not controlled by any planning condition, with regard to the site's planning history. However, access to it is limited and so the potential for overlooking from that area is not considered great.

5.1.9 An allegation that an outbuilding was erected without planning permission when the property was used as a rest home.

**Response** – This cannot be confirmed or denied. The timber structure is over 4 years old (thereby immune from planning enforcement action) and the more recent brick built structure was constructed at a time when the owner was asserting permitted development rights from use of No.13 as a dwellinghouse.

5.1.10 Some statements in the application form/design and access statement are not accepted, relating to (a) the authorised planning use of the property, (b) whether a 13a Grosvenor Road ever existed, (c) predominant character of the street/area and how that might change if this application were permitted, (d) trees existing on the site, (e) that the property did not originally have 15 bedrooms, (f) that external elevational changes have been made, (g) that use of the property would not become intensified and (h) property not having been used as a single house (for latter, see above).

**Response** – The planning authority do not consider the information set out by the applicant to be wholly accurate and have determined this application based upon the site as inspected and referring to its planning history.

5.1.11 Current use is unauthorised, which gives neighbours no confidence in the owner managing or maintaining the site. The owner has only applied for planning permission when forced to do so, with no respect for regulatory procedures. Reference is also made to the lack of care shown to neighbours by heaps of building waste having been left on the forecourt for months during the recent lengthy refurbishment. Concern is expressed for the 'hapless students' who have been duped by the property owner, resulting in the recent interim injunction being obtained at the High Court. The validity and purpose of the planning system is being circumvented.

**Response** – PPG18 advises that people quickly lose faith in the planning system if it is not seen to be followed and upheld. The owner has been advised in January of this year that planning permission would be required for alternative residential use to a single house and has chosen not to apply, misleading those he has arranged to sign tenancy agreements, placing their certainty of being accommodated in grave doubt, purely for financial gain and with no regard to the statutory planning system. Recommendation 2 to this report is to institute enforcement proceedings, should Members decide to refuse the application.

5.1.12 Devaluation of nearby properties.

**Response** – This is not a material planning consideration. Issues of

**amenity and highways safety are and are considered elsewhere in this report.**

- 5.1.13 That the use would reduce CO<sub>2</sub> emissions is not accepted. Greater intensity of occupation above occupation by 6 persons under a Class C4 HMO is bound to increase use of energy and water resources.

**Response – The logic of this argument is accepted. The sustainable credentials of this conversion are not set out in the design and access statement in terms of whether any water or energy saving measures have been incorporated into the recent refurbishment of the property.**

- 5.1.14 Concerns for health and safety of the students. The kitchen is right by the sole means of access/escape to the rear tenancy agreement, querying whether the property enjoys a Licence as a Registered HMO and general concerns as to the quality of workmanship undertaken. Internal amenities to serve the occupiers are considered insufficient.

**Response – These are separate considerations under HMO Licencing under the Housing Act, addressed elsewhere in this report.**

- 5.1.15 Insufficient garden space.

**Response – The large rear garden is considered sufficient to provide for the 15 residents proposed.**

- 5.2 **SCC Highways** – No objections. Parking within this area of Portswood is unrestricted, and therefore on street parking is available for use by all. There may be overspill parking as a result of this use, but there is no evidence that increased kerbside pressure would lead to a highway safety issue. The only recorded injury accidents were at nearby junctions where double yellow lines are already in place and are likely to involve turning traffic. The following conditions are recommended, should Panel be minded to grant planning permission:-

- 5.2.1
1. A refuse management plans will be required to ensure that bins are moved on collection day to a suitable point within the curtilage of the property no further than 10m from the highway, and shall be returned to the bin store after collection. The bin store shall be constructed of brick under a suitable weatherproof roof, with adequate ventilation. The collection doors are to be of sturdy construction and hinged to open outwards with a minimum opening of 1.4m wide. Internal lighting to operate when doors are open, and a tap and wash down gulley to be provided, with suitable falls to the floor. The access path to the bin store shall be constructed to footpath standards and to be a minimum width of 1.5m. Any gates on the pathway are not to be lockable, unless they comply with SCC standard fob lock detail. The gradient of the access path to the bin store shall not exceed 1:12 unless suitable anti-slip surfacing is used, and still shall not exceed 1:10. All details to be agreed and implemented prior to occupation.
  2. A suitable brick built building under a weatherproof roof with adequate security, lighting and ventilation shall be provided for the storage of cycles, with a space for a cycle per bedroom. Each space shall have the ability for the cycle to be locked to a secure hoop or eye. Details to be agreed and implemented prior to occupation.

3. Parking for 2 cars shall be provided at the front of the premises, and be formally laid out in a manner to be agreed prior to occupation, and be maintained for that purpose. A front boundary wall shall be reinstated no higher than 600mm with a suitably agreed access point to ensure the correct use of this area, and to safeguard the bin storage area and access to the cycle store at the rear of the property. Any areas of unused dropped kerb crossing shall be reinstated to full kerb height. Please contact the Highways Network Management Team to gain approval for this work.

5.3 **SCC Private Housing** – The applicant has applied for an HMO licence and the Council is minded to grant a licence with conditions for the use of the property by 15 people/households. The licence has not been issued pending receipt of electrical test certificates.

5.3.1 The Team has visited the property with one of the officers from Hampshire Fire and Rescue, and would offer opinion as follows:

1. The property currently has sufficient kitchen and bathroom amenities for use by 15 people either in separate units or as the whole house. There are pipeworks to bedrooms for the provision of wash hand basins that had not been installed but will be required as a condition of the HMO licence.
2. The use of the property as a 15 bedroom HMO is likely to lead to more problems for neighbours than the use of the property as 2 separate flats. Therefore we would support the application for 2 separate flats over the application for a 15 bedroom HMO.
3. The interconnecting door is not required and could lead to more problems if left in situ, for example being propped open or blocked. The rear flat has escape routes either through their main door to the property (which is via the kitchen) or via the side exit. This leads to an ultimate place of safety at the rear of the garden or access can be obtained to the front of the house round the building. This is also the view of the fire officer in attendance that this escape is satisfactory, once garden clearance has taken place and external lighting is provided. We have requested the removal or emptying of the conservatory at the ground floor right rear to allow a secondary means of escape from that bedroom.
4. The owner has submitted an application to licence the HMO. We will be requiring an additional partition wall in the front entrance of the main house (labelled as lounge on the plans) to create a 30 minute protected route from the upper levels to the front door.
5. The owner has applied to Southern Electric to split the electricity supply for the units. They will also be required to split the fire alarm system that is currently covering both units if given permission to create 2 units of accommodation and 60 minute fire separation would be required.

The improvements to the fire precautions can be required under Housing Act 2004 powers.

5.4 **SCC Sustainability Team** – As no additional dwellings are being created, there are no quantitative requirements under policy CS20. However the applicant should endeavour to maximise sustainability and condition K001 - Sustainable

Measures could be applied if Members are minded to grant planning permission.

5.5 **SCC Environmental Health (Pollution & Safety)** – No objections.

5.6 **Hampshire Constabulary** – No objections.

## **6.0 Planning Consideration Key Issues**

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

### 6.2 The acceptability of this intensity of occupation of the building

6.2.1 Disturbance to neighbouring occupiers from comings and goings to and from the site by 15 separate students at various times of the day and night and their use of the garden at the property, potentially more likely to be at unsocial hours (being that the tenants are to be students with more active lifestyles), would not be compatible with the surrounding family housing.

### 6.3 The potential to adversely impact highway safety

6.3.1 Notwithstanding the views of the Highways DM Team, it is considered that overspill street car parking would be likely, which would harm amenity and potentially interfere with highway safety, especially where people would park tight to private driveways and restrict driver visibility of other highway users – especially pedestrians – leading to increased highway hazards. The fact that the council has also balloted residents on a residents' only parking scheme is also indicative of the existing pressures on on-street parking in the area. Whilst pressures may increase naturally over time, it is considered appropriate for the local planning authority to seek to intervene and regulate the intensity of occupation of the site in this instance.

### 6.4 Precedent and harm to the character of the area

6.4.1 On the basis of evidence given by those who have objected and a detailed officer survey of most of the street, confirming a pre-dominance of occupation of single houses by families, granting planning permission would be likely to have an adverse effect on the character of the area and make it more difficult to resist similar proposals were they to come forward.

### 6.5 The adequacy of the facilities being provided to serve 15 residents

This is considered acceptable by colleagues in the Private Housing Team, who are in receipt of an application for a Licence, which they are minded to approve. The size of the garden is considered more than adequate to meet the private recreational needs of 15 residents.

### 6.6 The standard of outlook and natural light to habitable room spaces

Concern was initially expressed about outlook and daylighting received by two bedrooms formed internally, whose sole outlook is the blank flank wall of No.11, some 1.8-2.0m away. However, having inspected those rooms, they do benefit from reasonable light and ventilation and occupiers would have the use of communal spaces, which enjoy good outlook. All other habitable rooms are

considered acceptable and the Private Housing Team have not raised any objections to the 2 rooms identified above, which will be pointed out during the Panel presentation.

## 6.7 Sustainability issues

6.7.1 Whereas CS20 is not applicable in cases of conversion, the applicant has made no great efforts to sell the sustainable credentials of the use and sympathy is held with those who have objected that such a use would not promote or support the government's aspirations for sustainable communities.

## 7.0 Summary

7.1 The authorised use of the property is within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended)(UCO). This allows occupation by a single family all related to one another and in 2007-2008 the building was occupied by 10 people. Alternatively, under amendments to the UCO, it is currently permitted to change to Class C4, whereby the property may be occupied by up to 6 unrelated people without planning permission being necessary. On 4 July 2011, 5 unrelated students were residentially occupying the building. As such, no breach of planning control was occurring at that time.

7.2 The applicant now proposes that 15 people occupy the property and has carried out alterations to create 15 separate bedrooms, served by 4 sets of sanitary facilities and by two kitchen/diner areas and one lounge space. The property is in a very good internal decorative state, just having been renovated. Most bedrooms have good outlook and natural light, with only two having very restricted outlook to the side flank wall of No.11 Grosvenor Road.

7.3 Whereas planning concerns itself with the use of land, rather than who uses it, it is legitimate to consider whether the pattern and character of proposed residential occupation compared to that of the authorised or previous residential occupation of the site. The likely associated amenity or highway safety impacts typically flowing from these different forms of residential occupation also need to be considered.

7.4 In terms of the authorised use under Class C3 of the UCO, a family unit occupying the property – even a large extended family – would be a fairly settled form of occupation, under parental control, with reasonably predictable comings and goings from the property, usually at sociable hours. One pair of bins would serve a family and depending on who was of an age to hold a driving licence and income levels, the level of car ownership could be fairly low and more likely to be accommodated on the property forecourt.

7.5 In terms of Class C4 use under the UCO (occupation by up to 6 unrelated persons), the pattern of use of the site could be very similar to occupation by a large family, albeit persons would be likely to live more independently and come and go at varying times, perhaps at less social hours compared to members of a family unit. Depending upon income and ability to hold a driving licence, the potential for the level of car ownership to be greater than a family unit is likely, albeit the quantum of refuse storage not necessarily more than for a family.

7.6 In terms of use as a rest home for the elderly, the character and pattern of use would again be different to Class C3 and Class C4 use. Residents would be likely

to lead more sedate lifestyles and unlikely to come and go from the property at unsocial hours. Even coupled with owner's family accommodation, the pattern of activity would be rather low. It should be remembered that when in this use, the property was combined with No.11 Grosvenor Road, where overall occupation was limited to 16 elderly residents. Residents could be likely to receive visitors or visits from health care professionals or occasionally an undertaker. However, no amenity or highway safety issues appear to have resulted from that use of the property, which appears to have ceased, some time in 2002.

7.7 Occupation of the site by 15 persons, with active lifestyles, living independently of one another, where the potential for conflict between tenants is greater than that between 6 tenants, is altogether very different in land use planning terms than the forms of occupation identified above. Comings and goings are likely to be a later hours than under family occupation and a high volume of such movements, especially some down the side passageway to No.11 could reverberate and pose a nuisance to occupiers of adjoining properties.

## **8.0 Conclusion**

Such a use would be harmful to the character of the area, for the reasoning set out at the front of the report. Enforcement action should be taken to secure the cessation of such a use. An update on the level of occupation of the building will be given at the Panel meeting.

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

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

1. (a), (b), (c), (d), 2. (b), (c), (d), 4. (f), 5. (e), 6. (c), 7. (a), (b), (e), (p), (v), 9 (a), 10 (a), 10 (b).

**for 6/09/2011 PROW Panel**



**POLICY CONTEXT**

Core Strategy - (January 2010)

CS6	Housing Density
CS16	Housing Mix and Type
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP16	Noise
H4	Houses in Multiple Occupation
H6	Housing Retention
H7	The Residential Environment

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)  
PPS3 Housing (November 2006)  
PPG13 Transport (April 2001)  
PPG18 Enforcing Planning Control (December 1991)  
PPG24 Planning and Noise (October 1994)

**Relevant Planning History**

**1365/P4** (REF - 28.01.1969) – Outline application for erection of bungalow on the rear garden of 13 Grosvenor Road refused for the following reason:-

“The proposals constitute a form of backland development without proper road frontage and would be detrimental to the privacy and amenities of the surrounding properties”.

**1368/6** (CAP – 25.3.1969) – Extension to existing house at 13 Grosvenor Road. Condition 1 stated:-

“The proposed extension being used solely in connection with the use of the property as a dwelling house and not for any business or guest house use”.

**1512/M2** – (CAP – 9.9.1976) – Rooms in roof and dormer windows at 13 Grosvenor Road. Condition 2 stated:-

“The three additional bedrooms provided as a result of the loft conversion, the subject of this application, shall only be used by members of the resident family only and not as part of or ancillary to the use of the property as a guest house”.

**N.B.** under a similar but previously refused application in 1973, the applicant had stated that in **Appendix 3** and then in the subsequent application form dated 7.1.1975 stated that the property had been then used as a guest house for 9 years.

**1601/M19** – (CAP – 16.6.1981) – Use of premises as a rest home at No. 13 Grosvenor Road.

**M27/1639** - (CAP – 20.12.83) – Use of 11 Grosvenor Road as rest home and erection of a single storey link between 11 and 13 Grosvenor Road. (Implemented).

**M03/1661** – (CAP - 14.05.1985) – Erection of a single storey rear extension to provide 1 x 1 bed self-contained flat at 13 Grosvenor Road. The application form clearly stated that it related to Grosvenor Rest Home 11-13 Grosvenor Road and following conditions of interest were imposed:-

“(3) The premises shall be used as a rest home for the elderly only and for no other purpose including a nursing home or any other purpose within class XIV of the Schedule to the Town and Country Planning (Use Classes) Order 1972.

Reason: To prevent overintensive use of the premises in the interests of road safety and in order to safeguard the amenities of nearby residential properties”.

“(4) No more than 16 elderly persons shall be accommodated on the premises at any one time.

Reason: To prevent overintensive use of the premises”.

“(5) The extension hereby approved shall only be used as the owners accommodation and not for the accommodation of elderly persons.

Reason: To prevent overintensive use of the premises in the interests of road safety and in order to safeguard the amenities of nearby residential properties”.

**02/00482/FUL** (CAP - 17.05.2002) - 11-13 Grosvenor Road - Change of use to form two dwellings (Implemented – see **Appendix 4**).

WEH/AHJ/01/1

Mr. Jackson  
unsuccessful  
in his  
appeals.13, Grosvenor Road,  
Highfield,  
Southampton.

14.2.73.

City Planning Office  
 Civic Centre.

Correspondence

Alterations and addition - 13, Grosvenor Rd.  
Code No: 10331/1452/49.

Dear Sir,

Mr. Rickman has passed your letter to me so that I can reply to your queries.

I have five children (four in their teens) making us a large family of seven.

My wife and I are teachers and have been approached by the University to provide accommodation for students and foreign students who visit in the Summer and at Easter. The Carriatum Centre (which is at the end of the street) has also asked if we could provide temporary accommodation for teachers taking up posts in Southampton. If the alterations were carried out I feel we could provide more adequate and suitable accommodation and amenities for these people.

The forecourt is already concreted for parking, and there is space for seven cars (we have only one).

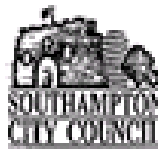
The house next door to us and the two houses opposite already provide this sort of accommodation as do several other houses at this end of Grosvenor Road. The two houses opposite have recently had rooms built into their roofs for this purpose.

Should you require further information I would be happy to supply it.

Yours faithfully,

Peter Roberts

02/00482/FUL/10955



5014, Soton CC



**DETERMINATION OF APPLICATION  
TOWN AND COUNTRY PLANNING ACT 1990**

**Town and Country Planning (General Development Procedure) Order 1995**

Mr & Mrs B D Tate  
c/o M D Tate  
360 Butts Road  
Southampton  
SO19 1BW

Decision



In pursuance of its powers under the above Act and Regulations, Southampton City Council, as the District Planning Authority, hereby gives notice that the application described below has been granted:

**CONDITIONALLY APPROVED**

**Proposal:** Change of use to form two dwellings  
**Site Address:** 11-13 Grosvenor Road Southampton SO17 1RU  
**Application No:** 02/00482/FUL

In accordance with the plans and application submitted with the above FULL Application, subject to the following condition(s):

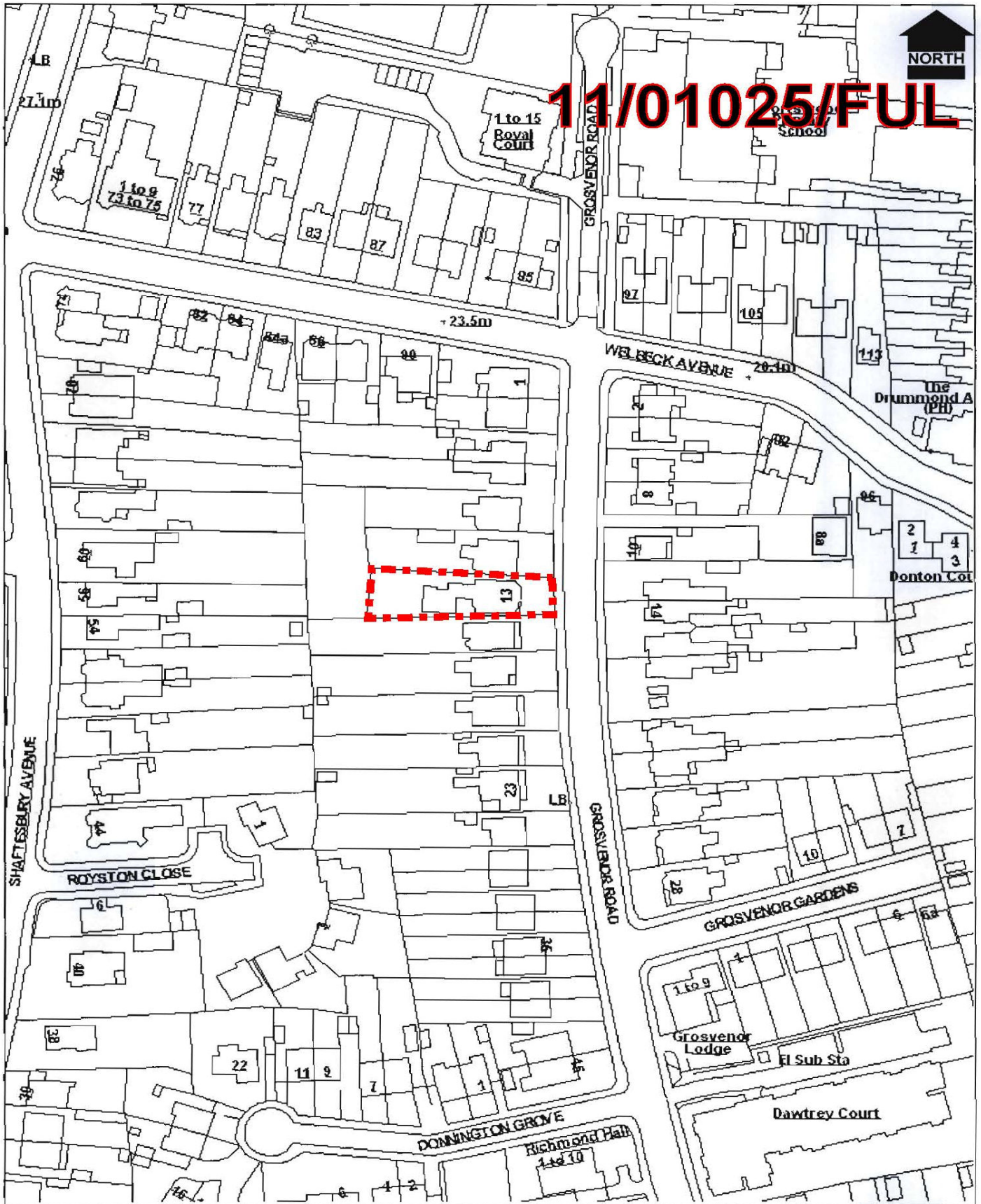
01.  
The development hereby permitted shall begin not later than five years from the date on which this planning permission was granted.

**REASON**  
To comply with S.91 of the Town and Country Planning Act 1990.

02.  
The development to which this consent relates 02/00482/FUL; The building shall not be brought into use/occupied in full or in part until secure/covered space for 2 cycles to be parked and stored have been submitted to and approved in writing by the Local Planning Authority.

**REASON**  
To encourage cycling as an alternative form of transport.

Alan Sayle  
Development Control Manager  
42 May 2002  
CMD



Scale : 1:1250

Date : 24 August 2011

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# Agenda Item 6

**Southampton City Planning & Sustainability  
Planning and Rights of Way Panel meeting 6 September 2011  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 13 Grosvenor Road SO17 1RU			
<b>Proposed development:</b> Conversion of existing dwelling to 2 sui generis houses in multiple occupation (1 x 7 bedroom dwelling and 1 x 8 bedroom dwelling) with associated bin and cycle storage (alternative proposal to application 11/01025/FUL)			
<b>Application number</b>	11/01026/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Steve Lawrence	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	23.8.2011 (Over time)	<b>Ward</b>	Portswood
<b>Reason for Panel Referral:</b>	Referred by the Planning & Development Manager	<b>Ward Councillors</b>	CLlr M Claisse CLlr A J Vinson CLlr V Capozzoli

<b>Applicant:</b> Mr H Singh	<b>Agent:</b> Mr Balbinder Heer
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<b>Recommendation Summary</b>	(i) <b>Refuse planning permission</b> (ii) <b>Take enforcement action to secure the cessation of use of the property as a sui generis house in multiple occupation.</b>
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<b>Appendix attached</b>			
1	Development Plan Policies	2	Summary of planning history
3	Letter from previous owner of 13 Grosvenor Road dated 14.2.1973.	4	Copy of decision notice 02/00482/FUL

## **Reason for Refusal – Harm to the character of the area**

The local planning authority considers that the intensification of residential occupation of the property from either family occupation within class C3, or from a C4 occupation by up to 6 unrelated persons, to occupation as two Sui Generis House units in Multiple Occupation by 15 persons would cause serious harm, contrary to policies of the Development Plan for Southampton (SDP7 (v), H4 and SDP16) Local Plan Review (March 2006) and CS16 (3) Core Strategy (January 2010). The harm from this over intensive use of the property would manifest itself in the following ways:-

- (i) Disturbance to neighbouring occupiers from comings and goings to and from the site by 15 separate students at various times of the day and night and their use of the garden at the property, potentially more likely to be at unsocial hours (being that the tenants are to be students with more active lifestyles), which would not be compatible with the surrounding family housing;

- (ii) Adversely affect the character and nature of occupation of this immediate part of the street, by causing the loss of a single family house, in a street predominantly comprised of family houses;
- (iii) Be likely to cause overspill parking difficulties in the street, prejudicial to highway safety with people having to park tight to others' driveways and access points, detrimentally interfering with driver visibility when emerging into the street, whilst also not demonstrating adequate secure cycle storage as an alternative to the private car;
- (iv) Not demonstrating adequate refuse storage facilities, where the visual impact of the quantum of such storage would be likely to be visually intrusive in the street scene, given that the open forecourt of the property is the only realistic place to store refuse; and,
- (v) Not demonstrating convenient access through the building by occupiers of the separate tenancy agreement for 8 persons in the front of the property, sought through 'saved' Policy H4 of the City of Southampton Local Plan Review (March 2006) as supported by Section 4.4 of the Residential Design Guide (September 2006).

## **Recommendations in Full**

- 1. Refuse planning permission**
- 2. Take enforcement action to secure the cessation of use of the property as a sui generis house in multiple occupation.**

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

- 1.1 Substantial (floorspace arranged on three floors – top floor in roofspace) detached property on west side of street between the junctions of Welbeck Avenue to the north and Grosvenor Gardens to the south. There is very large garden to the rear. This is accessible via doors from the single storey rear projection and via a side way abutting No.11 Grosvenor Road. There are two single storey structures in the back garden. One is brick faced, whose flat roof is not yet fully clad. The other is a timber summerhouse which partly dog-legs behind No.11 Grosvenor Road's back garden. An amount of waste building materials and scaffolding equipment was present at the time of the officer site visit. There is a 7m deep (from back edge of pavement to front door steps) x 10m (measured at pavement, where no front boundary wall has been retained) wide hard surfaced forecourt sloping down from the front door to the street. This is capable of accommodating 3 cars, or 4 cars if a single access route for pedestrians is left to reach the front door and side accessway abutting No.11.
- 1.2 Either side of the site are single family, detached houses. A great part of the street is comprised of detached character properties, in use as single family houses, but elsewhere in the street there are semi-detached properties and some purpose built flats (Richmond Gardens, Grosvenor Court, Dawtrey Court, Richmond Hall and Grosvenor Lodge, all south of the application site. The latter are the closest to the application site being some 110m away. The immediate area is wholly residential in character with good plot to building footprint ratios and mature, treed gardens. There are no TPO trees on, or overhanging, the site. Some properties in the street have been converted to flats. It appears that the majority of properties in the street are occupied as family homes.



## **2. Proposal**

- 2.1 The applicant has recently undertaken building works inside the building under a Building Notice. This was to facilitate its use as letting accommodation for 15 people. Permission is now sought for that use, supported by cycle parking and refuse storage facilities. This application only differs to 11/01025/FUL in two respects. Firstly, that two separate dwelling units would be created and secondly, that each would enjoy their own dedicated amenity space to the rear of the property.
- 2.2 The ground floor (working front to back) comprises lounge/hall space, kitchen/diner, lockable door leading to 3 separate bedrooms, corridor door leading to kitchen/lounge space, Shower-room, bathroom, and three other bedrooms (one with French doors leading into an attached glass conservatory).
- 2.3 The first floor (working front to back) comprises two bedrooms, a bathroom and four further bedrooms.
- 2.4 The second floor (in the roofspace) comprises two bedrooms and a bathroom.
- 2.5 Two tenancy agreements have been signed. One for a group of 7 students, the other for 8 students. On 4 July 2011, 5 students were residentially occupying the property. An update as to the current level of occupation will be reported at the meeting. All bedrooms are lockable by a key at the front and by 'thumb-turn' to the rear. No sanitary or cooking facilities were witnessed in any of the bedrooms.

## **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 Only 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.
- 3.3 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

## **4.0 Relevant Planning History**

- 4.1 A summary of the site's relevant history is listed in **Appendix 2**. It is the opinion of planning officers that the authorised use of the site is as a single dwelling under permission 02/00482/FUL. This allowed for No. 11 to be a single house and for No.13 to be a single house. It is contended that this permission was implemented, not least because No. 11 Grosvenor Road is now in use as a single

family house and electoral roll entries for just before and every year since the permission was granted. Where rest home use subsisted, this is easily apparent from the roll entries, with the applicant for the 02/00482/FUL permission also resident until 2004, whereafter a couple of the same surname occupied the property and paid council tax for single residential property. Later a large (and it is believed to be extended) family were in occupation between 2004 and 2009.

- 4.2 Conversion of the roofspace to provide owners accommodation took place under a permission granted in 1976, when the property appears to have been in use as a guest house (although no planning permission for that use was ever established/obtained. **Appendix 3** indicates how the property was being used at that time, when the loft conversion was first applied for). A rest home for the elderly in both 11 and 13 Grosvenor Road, was subsequently granted planning permission and in 1985 a single storey extension was approved that provided owners accommodation, which was not permitted to be used to house any further elderly residents in care at the rest home use, which then allowed for up to 16 elderly residents to be cared for in 11-13 Grosvenor Road.
- 4.3 On 24.1.2011, a Planning Enforcement Officer called at the site to investigate a brick built outbuilding being constructed. The property at that time was asserted to be a single house enjoying permitted development rights for the outbuilding. The property itself was gutted inside and not being occupied. The owner was told that planning permission for use for anything other than a single house or within Class C4 purposes would require planning permission before that use commenced.
- 4.4 During this summer the Planning Enforcement Team, acting on intelligence that contracts for occupation for 15 students had been signed with the owner, had occasion to use its Rights of Entry powers to gain access to the property. Having ascertained that the contracts had been signed and were due to commence, the Council took action and sought an injunction from the High Court to prevent the unauthorised use from taking place. The High Court granted an interim injunction. On a further visit before the matter was to be re-heard by the High Court, the property was only being occupied by 5 people.
- 4.5 The (new) judge refused to extend the injunction on the basis that he did not consider that the harm caused by the students going in to occupation was great enough to outweigh the harm and detriment that they would suffer in losing their accommodation especially bearing in mind that they had acted in good faith with the landlord.
- 4.6 The witness statement of the officer set out the full history of the matter including the fact that tenants had collected keys and that less than 6 persons had actually taken up occupation. The judge was therefore well aware of the fact most of the students were not in actual occupation but were contractually entitled to move in under the terms of the agreement that they had signed and took into account that an extension of the injunction would mean that Mr Singh would be in breach of his contract with the students, but more significantly, it would leave the students without accommodation for the forthcoming academic year.
- 4.7 The owner has sought to regularise this situation by the submission of this planning application. An alternative option is put forward in a parallel application 11/01026/FUL, which is being reported separately.

## 5.0 Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was also undertaken which included notifying adjoining and nearby landowners and erecting a site notice (11.7.2011). At the time of writing the report **24 objections** from mostly local addresses/Portswood Ward Councillor Vinson/The Highfield Residents' Association and **a petition of objection** signed by 21 people from 14 different addresses (some of who have also written individual letters) have been received from surrounding residents. Those **objections** are summarised below:-

5.1.1 The intensity of occupation is grossly excessive, overdeloped and out of character with a street which is still predominantly comprised of mostly well cared for family houses, whose average occupancy No.'s 1-26 is calculated at 4 persons per property. The life-styles of the students would be incompatible with those in family occupation and certainly very different to occupation by elderly persons being cared for in a rest home. Reference is made to the intensity of occupation when a rest home existed in 11 &13, (that use and its impact not being in existence for the last [it is asserted] ten years) limited by condition to prevent overintensive use and protect the character of the area. This approach has consistently been applied through the property's planning history. If permitted, this will be enough for the occupants of No.15 to assert they will move house. The Council sought an injunction to prevent such a level of occupation, indicating that it did not find that acceptable.

**Response – Notwithstanding the size of the property, occupation by 15 students is considered an over-intensive use of the site, largely for the reasoning articulated above and prompted the Council to seek an injunction to prevent such use.**

5.1.2 Increased noise disturbance from that level of occupation and attendant comings and goings – especially to occupiers of No. 11 and No.15, the former having bedroom windows above the position where access to the rear tenancy agreement is proposed/exists. With no on-site warden to manage such a mini hall of residence, the property and garden would be likely to become a focus for uncontrolled social events. Such disturbance would be more troublesome at night/unsocial hours and is cited as already occurring from an existing HMO in the street (8 Grosvenor Road), which wakes small children. One neighbour is a doctor and works night shifts, so undisturbed sleep is of clear importance.

**Response – It is considered that unacceptable noise disturbance would be likely to occur, to the detriment of neighbours' amenities and peaceful enjoyment of their properties.**

5.1.3 Inadequate car parking to support that level of occupation. Occupation by 6 students so far appears to have generated 4 cars being parked at the front of the site. Residents would also have visitors and parking would overspill into the street, exacerbating existing capacity problems, where the street is currently being considered for a residents' parking scheme and adversely affecting highway safety in a street, where many walk their children to Portswood Primary School. Whilst provision of cycle parking as a sustainable alternative is admirable, the Council has no means of controlling actual car ownership and use.

**Response – Notwithstanding the views of the Highways DM Team, it is**

considered that overspill street car parking would be likely, which would harm amenity and potentially interfere with highway safety, especially where people would park tight to private driveways and restrict driver visibility of other highway users – especially pedestrians – leading to increased highway hazards. The fact that the council has also balloted residents on a residents' only parking scheme is also indicative of the existing pressures on on-street parking in the area. Whilst pressures may increase naturally over time, it is considered appropriate for the local planning authority to seek to intervene and regulate the intensity of occupation of the site in this instance.

- 5.1.4 The quantum of bins to be placed on the forecourt would be unsightly and liable to be left in that position after being emptied and not returned to any storage location.

**Response** – The applicant has proposed a refuse storage area separate from the front forecourt. It is agreed that a large quantum of bins just left on the forecourt would be unsightly and probably also conflict with available car parking there. If Members are minded to grant permission, this is matter which could be controlled by planning condition.

- 5.1.5 'Thin end of the wedge'/precedent - One writer who has lived in Shaftesbury Road for many years (backing onto the application site) and has seen the decline in the character of that street, with families moving away, which in turn has taken children out of Portswood School. Another writer talks of those retired people in the street who may be down-sizing with private landlords being able to bid more for such properties coming onto the market, such that more family homes could be lost and the family, well-integrated character of the street eroded yet further.

**Response** – Given the evidence of what properties might come onto the market, the local planning authority accepts in this case that if permission were to be granted, further applications for HMO sui generis use would probably result, having an increased deleterious impact on the character of the area and integrity of an existing settled, family-based community.

- 5.1.6 Loss of a family house – the agent's assertion that the property has not and is not capable of occupation by a single family is not accepted. The next door neighbour in Shaftesbury Road confirms occupation at one time by a couple and their child.

**Response** – The proposals would result in the loss of a property whose authorised use is as a single house. This would be contrary to Policy CS16 of the adopted Core strategy.

- 5.1.7 Light disturbance is asserted to neighbours – especially those adjoining at No.11 and No15.

**Response** – Whilst lights may be left on later into the evening compared to family occupation, this is not considered so significant to be used in the reasoning to refuse such a proposal.

- 5.1.8 Overlooking is asserted to neighbours from additional windows, adversely affecting their privacy, especially from the now glazed rear fire escape door to the roof level accommodation and fears that the flat roof to the rear addition would be

used as a sun terrace, causing clear overlooking.

**Response** – Windows inserted to the side of No.13, where two new bedrooms have been created internally, only look at the blank flank wall of No.11. They do not harm that property's privacy. The glazed door to the rooftop fire escape serves a corridor and would ordinarily only be used in the event of a fire. It is not considered to constitute a level of overlooking so severe to be used in any reasoning to reject the proposed use. The flat roofed area is not controlled by any planning condition, with regard to the site's planning history. However, access to it is limited and so the potential for overlooking from that area is not considered great.

- 5.1.9 An allegation that an outbuilding was erected without planning permission when the property was used as a rest home.

**Response** – This cannot be confirmed or denied. The timber structure is over 4 years old (thereby immune from planning enforcement action) and the more recent brick built structure was constructed at a time when the owner was asserting permitted development rights from use of No.13 as a dwellinghouse.

- 5.1.10 Some statements in the application form/design and access statement are not accepted, relating to (a) the authorised planning use of the property, (b) whether a 13a Grosvenor Road ever existed, (c) predominant character of the street/area and how that might change if this application were permitted, (d) trees existing on the site, (e) that the property did not originally have 15 bedrooms, (f) that external elevational changes have been made, (g) that use of the property would not become intensified and (h) property not having been used as a single house (for latter, see above).

**Response** – The planning authority do not consider the information set out by the applicant to be wholly accurate and have determined this application based upon the site as inspected and referring to its planning history.

- 5.1.11 Current use is unauthorised, which gives neighbours no confidence in the owner managing or maintaining the site. The owner has only applied for planning permission when forced to do so, with no respect for regulatory procedures. Reference is also made to the lack of care shown to neighbours by heaps of building waste having been left on the forecourt for months during the recent lengthy refurbishment. Concern is expressed for the 'hapless students' who have been duped by the property owner, resulting in the recent interim injunction being obtained at the High Court. The validity and purpose of the planning system is being circumvented.

**Response** – PPG18 advises that people quickly lose faith in the planning system if it is not seen to be followed and upheld. The owner has been advised in January of this year that planning permission would be required for alternative residential use to a single house and has chosen not to apply, misleading those he has arranged to sign tenancy agreements, placing their certainty of being accommodated in grave doubt, purely for financial gain and with no regard to the statutory planning system. Recommendation 2 to this report is to institute enforcement proceedings, should Members decide to refuse the application.

5.1.12 Devaluation of nearby properties.

**Response** – This is not a material planning consideration. Issues of amenity and highways safety are and are considered elsewhere in this report.

5.1.13 That the use would reduce CO<sub>2</sub> emissions is not accepted. Greater intensity of occupation above occupation by 6 persons under a Class C4 HMO is bound to increase use of energy and water resources.

**Response** – The logic of this argument is accepted. The sustainable credentials of this conversion are not set out in the design and access statement in terms of whether any water or energy saving measures have been incorporated into the recent refurbishment of the property.

5.1.14 Concerns for health and safety of the students. The kitchen is right by the sole means of access/escape to the rear tenancy agreement, querying whether the property enjoys a Licence as a Registered HMO and general concerns as to the quality of workmanship undertaken. Internal amenities to serve the occupiers are considered insufficient.

**Response** – These are separate considerations under HMO Licencing under the Housing Act, addressed elsewhere in this report.

5.1.15 Insufficient garden space.

**Response** – The large rear garden is considered sufficient to provide for the 15 residents proposed.

5.2 **SCC Highways** – No objections. Parking within this area of Portswood is unrestricted, and therefore on street parking is available for use by all. There may be overspill parking as a result of this use, but there is no evidence that increased kerbside pressure would lead to a highway safety issue. The only recorded injury accidents were at nearby junctions where double yellow lines are already in place and are likely to involve turning traffic. The following conditions are recommended, should Panel be minded to grant planning permission:-

5.2.1 1. A refuse management plans will be required to ensure that bins are moved on collection day to a suitable point within the curtilage of the property no further than 10m from the highway, and shall be returned to the bin store after collection. The bin store shall be constructed of brick under a suitable weatherproof roof, with adequate ventilation. The collection doors are to be of sturdy construction and hinged to open outwards with a minimum opening of 1.4m wide. Internal lighting to operate when doors are open, and a tap and wash down gully to be provided, with suitable falls to the floor. The access path to the bin store shall be constructed to footpath standards and to be a minimum width of 1.5m. Any gates on the pathway are not to be lockable, unless they comply with SCC standard fob lock detail. The gradient of the access path to the bin store shall not exceed 1:12 unless suitable anti-slip surfacing is used, and still shall not exceed 1:10. All details to be agreed and implemented prior to occupation.

2. A suitable brick built building under a weatherproof roof with adequate security, lighting and ventilation shall be provided for the storage of cycles, with a space for a cycle per bedroom. Each space shall have the ability for the cycle to be locked

to a secure hoop or eye. Details to be agreed and implemented prior to occupation.

3. Parking for 2 cars shall be provided at the front of the premises, and be formally laid out in a manner to be agreed prior to occupation, and be maintained for that purpose. A front boundary wall shall be reinstated no higher than 600mm with a suitably agreed access point to ensure the correct use of this area, and to safeguard the bin storage area and access to the cycle store at the rear of the property. Any areas of unused dropped kerb crossing shall be reinstated to full kerb height. Please contact the Highways Network Management Team to gain approval for this work.

5.3 **SCC Private Housing** – The applicant has applied for an HMO licence and the Council is minded to grant a licence with conditions for the use of the property by 15 people/households. The licence has not been issued pending receipt of electrical test certificates.

5.3.1 The Team has visited the property with one of the officers from Hampshire Fire and Rescue, and would offer opinion as follows:

1. The property currently has sufficient kitchen and bathroom amenities for use by 15 people either in separate units or as the whole house. There are pipeworks to bedrooms for the provision of wash hand basins that had not been installed but will be required as a condition of the HMO licence.
2. The use of the property as a 15 bedroom HMO is likely to lead to more problems for neighbours than the use of the property as 2 separate flats. Therefore we would support the application for 2 separate flats over the application for a 15 bedroom HMO.
3. The interconnecting door is not required and could lead to more problems if left in situ, for example being propped open or blocked. The rear flat has escape routes either through their main door to the property (which is via the kitchen) or via the side exit. This leads to an ultimate place of safety at the rear of the garden or access can be obtained to the front of the house round the building. This is also the view of the fire officer in attendance that this escape is satisfactory, once garden clearance has taken place and external lighting is provided. We have requested the removal or emptying of the conservatory at the ground floor right rear to allow a secondary means of escape from that bedroom.
4. The owner has submitted an application to licence the HMO. We will be requiring an additional partition wall in the front entrance of the main house (labelled as lounge on the plans) to create a 30 minute protected route from the upper levels to the front door.
5. The owner has applied to Southern Electric to split the electricity supply for the units. They will also be required to split the fire alarm system that is currently covering both units if given permission to create 2 units of accommodation and 60 minute fire separation would be required.

The improvements to the fire precautions can be required under Housing Act 2004 powers.

5.4 **SCC Sustainability Team** – As no additional dwellings are being created, there are no quantitative requirements under policy CS20. However the applicant should endeavour to maximise sustainability and condition K001 - Sustainable Measures could be applied if Members are minded to grant planning permission.

5.5 **SCC Environmental Health (Pollution & Safety)** – No objections.

5.6 **Hampshire Constabulary** – No objections.

## **6.0 Planning Consideration Key Issues**

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

### 6.2 The acceptability of this intensity of occupation of the building

6.2.1 Disturbance to neighbouring occupiers from comings and goings to and from the site by 15 separate students at various times of the day and night and their use of the garden at the property, potentially more likely to be at unsocial hours (being that the tenants are to be students with more active lifestyles), would not be compatible with the surrounding family housing.

### 6.3 The potential to adversely impact highway safety

6.3.1 Notwithstanding the views of the Highways DM Team, it is considered that overspill street car parking would be likely, which would harm amenity and potentially interfere with highway safety, especially where people would park tight to private driveways and restrict driver visibility of other highway users – especially pedestrians – leading to increased highway hazards. The fact that the council has also balloted residents on a residents' only parking scheme is also indicative of the existing pressures on on-street parking in the area. Whilst pressures may increase naturally over time, it is considered appropriate for the local planning authority to seek to intervene and regulate the intensity of occupation of the site in this instance.

### 6.4 Precedent and harm to the character of the area

6.4.1 On the basis of evidence given by those who have objected and a detailed officer survey of most of the street, confirming a pre-dominance of occupation of single houses by families, granting planning permission would be likely to have an adverse effect on the character of the area and make it more difficult to resist similar proposals were they to come forward.

### 6.5 The adequacy of the facilities being provided to serve 15 residents

This is considered acceptable by colleagues in the Private Housing Team, who are in receipt of an application for a Licence, which they are minded to approve. The size of the garden is considered more than adequate to meet the private recreational needs of 15 residents.

### 6.6 The standard of outlook and natural light to habitable room spaces

Concern was initially expressed about outlook and daylighting received by two bedrooms formed internally, whose sole outlook is the blank flank wall of No.11,



some 1.8-2.0m away. However, having inspected those rooms, they do benefit from reasonable light and ventilation and occupiers would have the use of communal spaces, which enjoy good outlook. All other habitable rooms are considered acceptable and the Private Housing Team have not raised any objections to the 2 rooms identified above, which will be pointed out during the Panel presentation.

## 6.7 Sustainability issues

6.7.1 Whereas CS20 is not applicable in cases of conversion, the applicant has made no great efforts to sell the sustainable credentials of the use and sympathy is held with those who have objected that such a use would not promote or support the government's aspirations for sustainable communities.

## 7.0 Summary

7.1 The authorised use of the property is within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended)(UCO). This allows occupation by a single family all related to one another and in 2007-2008 the building was occupied by 10 people. Alternatively, under amendments to the UCO, it is currently permitted to change to Class C4, whereby the property may be occupied by up to 6 unrelated people without planning permission being necessary. On 4 July 2011, 5 unrelated students were residentially occupying the building. As such, no breach of planning control was occurring at that time.

7.2 The applicant now proposes that 15 people occupy the property and has carried out alterations to create 15 separate bedrooms, served by 4 sets of sanitary facilities and by two kitchen/diner areas and one lounge space. The applicant proposes that this accommodation be split between two separate dwellings, one to be occupied by 8 persons, the other by 7 persons, giving the same material planning considerations as to intensity of occupation as those proposals under application 11/01025/FUL. The property is in a very good internal decorative state, just having been renovated. Most bedrooms have good outlook and natural light, with only two having very restricted outlook to the side flank wall of No.11 Grosvenor Road.

7.3 Whereas planning concerns itself with the use of land, rather than who uses it, it is legitimate to consider whether the pattern and character of proposed residential occupation compared to that of the authorised or previous residential occupation of the site. The likely associated amenity or highway safety impacts typically flowing from these different forms of residential occupation also need to be considered.

7.4 In terms of the authorised use under Class C3 of the UCO, a family unit occupying the property – even a large extended family – would be a fairly settled form of occupation, under parental control, with reasonably predictable comings and goings from the property, usually at sociable hours. One pair of bins would serve a family and depending on who was of an age to hold a driving licence and income levels, the level of car ownership could be fairly low and more likely to be accommodated on the property forecourt

7.5 In terms of Class C4 use under the UCO (occupation by up to 6 unrelated persons), the pattern of use of the site could be very similar to occupation by a large family, albeit persons would be likely to live more independently and come

and go at varying times, perhaps at less social hours compared to members of a family unit. Depending upon income and ability to hold a driving licence, the potential for the level of car ownership to be greater than a family unit is likely, albeit the quantum of refuse storage not necessarily more than for a family.

- 7.6 In terms of use as a rest home for the elderly, the character and pattern of use would again be different to Class C3 and Class C4 use. Residents would be likely to lead more sedate lifestyles and unlikely to come and go from the property at unsocial hours. Even coupled with owner's family accommodation, the pattern of activity would be rather low. It should be remembered that when in this use, the property was combined with No.11 Grosvenor Road, where overall occupation was limited to 16 elderly residents. Residents could be likely to receive visitors or visits from health care professionals or occasionally an undertaker. However, no amenity or highway safety issues appear to have resulted from that use of the property, which appears to have ceased, some time in 2002.
- 7.7 Occupation of the site by 15 persons, with active lifestyles, living independently of one another, where the potential for conflict between tenants is greater than that between 6 tenants, is altogether very different in land use planning terms than the forms of occupation identified above. Comings and goings are likely to be a later hours than under family occupation and a high volume of such movements, especially some down the side passageway to No.11 could reverberate and pose a nuisance to occupiers of adjoining properties.

## **8.0 Conclusion**

Such a use would be harmful to the character of the area, for the reasoning set out at the front of the report. Enforcement action should be taken to secure the cessation of such a use. An update on the level of occupation of the building will be given at the Panel meeting.

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

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

1. (a), (b), (c), (d), 2. (b), (c), (d), 4. (f), 5. (e), 6. (c), 7. (a), (b), (e), (p), (v), 9 (a), 10 (a), 10 (b).

**for 6/09/2011 PROW Panel**

**POLICY CONTEXT**

Core Strategy - (January 2010)

CS6	Housing Density
CS16	Housing Mix and Type
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP16	Noise
H4	Houses in Multiple Occupation
H6	Housing Retention
H7	The Residential Environment

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)  
PPS3 Housing (November 2006)  
PPG13 Transport (April 2001)  
PPG18 Enforcing Planning Control (December 1991)  
PPG24 Planning and Noise (October 1994)

**Relevant Planning History**

**1365/P4** (REF - 28.01.1969) – Outline application for erection of bungalow on the rear garden of 13 Grosvenor Road refused for the following reason:-

“The proposals constitute a form of backland development without proper road frontage and would be detrimental to the privacy and amenities of the surrounding properties”.

**1368/6** (CAP – 25.3.1969) – Extension to existing house at 13 Grosvenor Road. Condition 1 stated:-

“The proposed extension being used solely in connection with the use of the property as a dwelling house and not for any business or guest house use”.

**1512/M2** – (CAP – 9.9.1976) – Rooms in roof and dormer windows at 13 Grosvenor Road. Condition 2 stated:-

“The three additional bedrooms provided as a result of the loft conversion, the subject of this application, shall only be used by members of the resident family only and not as part of or ancillary to the use of the property as a guest house”.

**N.B.** under a similar but previously refused application in 1973, the applicant had stated that in **Appendix 3** and then in the subsequent application form dated 7.1.1975 stated that the property had been then used as a guest house for 9 years.

**1601/M19** – (CAP – 16.6.1981) – Use of premises as a rest home at No. 13 Grosvenor Road.

**M27/1639** - (CAP – 20.12.83) – Use of 11 Grosvenor Road as rest home and erection of a single storey link between 11 and 13 Grosvenor Road. (Implemented).

**M03/1661** – (CAP - 14.05.1985) – Erection of a single storey rear extension to provide 1 x 1 bed self-contained flat at 13 Grosvenor Road. The application form clearly stated that it related to Grosvenor Rest Home 11-13 Grosvenor Road and following conditions of interest were imposed:-

“(3) The premises shall be used as a rest home for the elderly only and for no other purpose including a nursing home or any other purpose within class XIV of the Schedule to the Town and Country Planning (Use Classes) Order 1972.

Reason: To prevent overintensive use of the premises in the interests of road safety and in order to safeguard the amenities of nearby residential properties”.

“(4) No more than 16 elderly persons shall be accommodated on the premises at any one time.

Reason: To prevent overintensive use of the premises”.

“(5) The extension hereby approved shall only be used as the owners accommodation and not for the accommodation of elderly persons.

Reason: To prevent overintensive use of the premises in the interests of road safety and in order to safeguard the amenities of nearby residential properties”.

**02/00482/FUL** (CAP - 17.05.2002) - 11-13 Grosvenor Road - Change of use to form two dwellings (Implemented – see **Appendix 4**).

WEH/AHJ/01/1

Mr. Jackson  
unsuccessful  
in his  
appeals.13, Grosvenor Road,  
Highfield,  
Southampton.

14.2.73.

City Planning Office  
 Civic Centre.

Correspondence

Alterations and addition - 13, Grosvenor Rd.  
Code No: 10331/1452/49.

Dear Sir,

Mr. Rickman has passed your letter to me so that I can reply to your queries.

I have five children (four in their teens) making us a large family of seven.

My wife and I are teachers and have been approached by the University to provide accommodation for students and foreign students who visit in the Summer and at Easter. The Carriatum Centre (which is at the end of the street) has also asked if we could provide temporary accommodation for teachers taking up posts in Southampton. If the alterations were carried out I feel we could provide more adequate and suitable accommodation and amenities for these people.

The forecourt is already concreted for parking, and there is space for seven cars (we have only one).

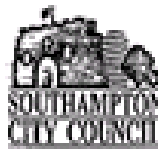
The house next door to us and the two houses opposite already provide this sort of accommodation as do several other houses at this end of Grosvenor Road. The two houses opposite have recently had rooms built into their roofs for this purpose.

Should you require further information I would be happy to supply it.

Yours faithfully,

Peter Roberts

02/00482/FUL/10955



5014, Soton CC



**DETERMINATION OF APPLICATION  
TOWN AND COUNTRY PLANNING ACT 1990**

**Town and Country Planning (General Development Procedure) Order 1995**

Mr & Mrs B D Tate  
c/o M D Tate  
360 Butts Road  
Southampton  
SO19 1BW

Decision



In pursuance of its powers under the above Act and Regulations, Southampton City Council, as the District Planning Authority, hereby gives notice that the application described below has been granted:

**CONDITIONALLY APPROVED**

**Proposal:** Change of use to form two dwellings  
**Site Address:** 11-13 Grosvenor Road Southampton SO17 1RU  
**Application No:** 02/00482/FUL

In accordance with the plans and application submitted with the above FULL Application, subject to the following condition(s):

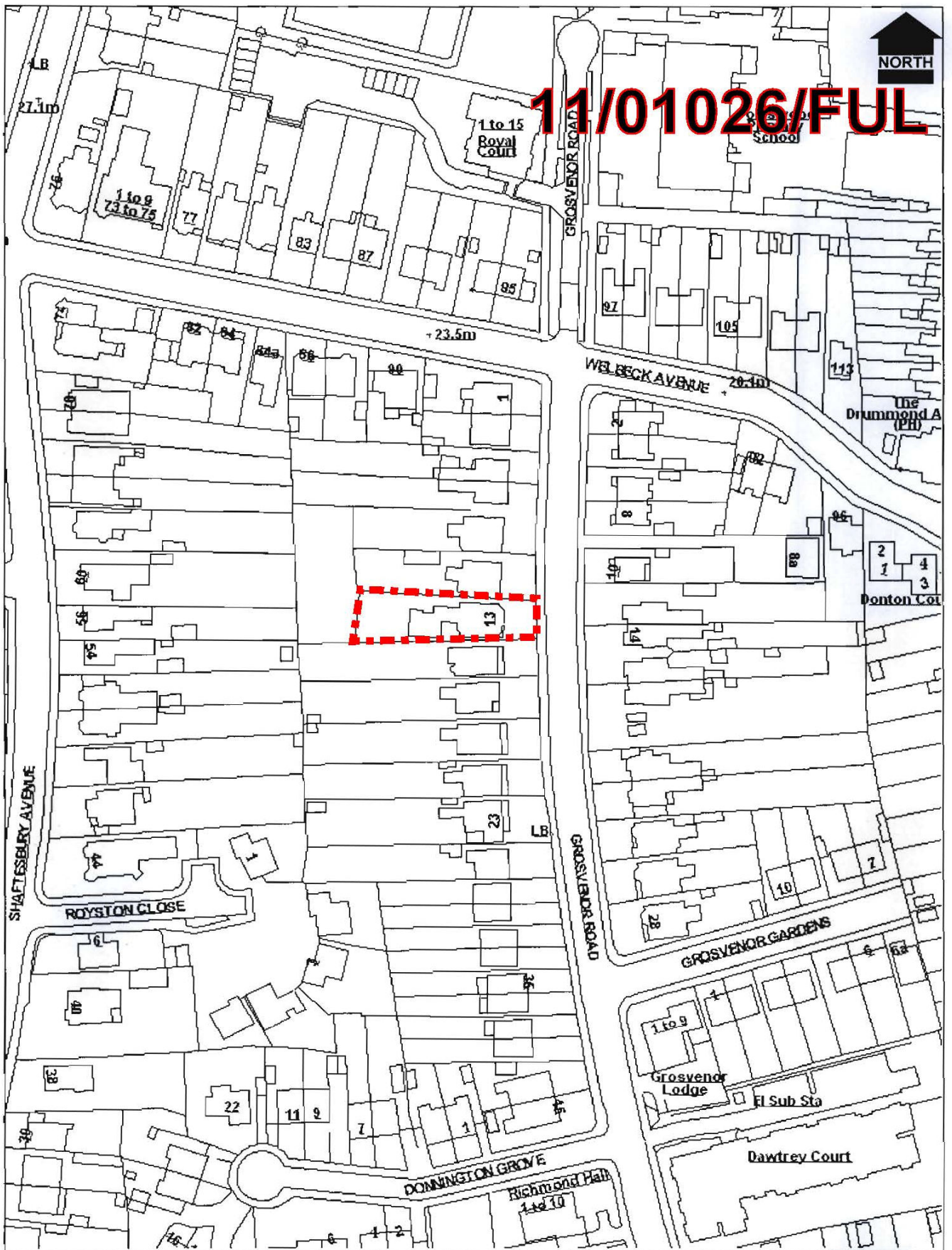
01.  
The development hereby permitted shall begin not later than five years from the date on which this planning permission was granted.

**REASON**  
To comply with S.91 of the Town and Country Planning Act 1990.

02.  
The development to which this consent relates 02/00482/FUL; The building shall not be brought into use/occupied in full or in part until secure/covered space for 2 cycles to be parked and stored have been submitted to and approved in writing by the Local Planning Authority.

**REASON**  
To encourage cycling as an alternative form of transport.

Alan Sayle  
Development Control Manager  
42 May 2002  
CMD



11/01026/FUL



Scale : 1:1250

Date : 24 August 2011

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# Agenda Item 7

**Southampton City Planning & Sustainability  
Planning and Rights of Way Panel meeting 06 September 2011  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 73 Milton Road SO15 2HS			
<b>Proposed development:</b> Replacement two storey extension and part single storey rear extension			
<b>Application number</b>	11/00754/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Mathew Pidgeon	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	14/07/2011	<b>Ward</b>	Bargate
<b>Reason for Panel Referral:</b>	Referred by the Planning & Development Manager	<b>Ward Councillors</b>	Cllr Bogle Cllr J Noon Cllr Willacy

<b>Applicant:</b> Posh Pads	<b>Agent:</b> Snug Projects Ltd
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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 occupation of this property is not considered likely to result in an unacceptable intensification of activity resulting in a material increase in the level of noise and refuse generated from the site. Other material considerations including the impact on the amenity of adjoining occupiers or the character of the street 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**

## **Background**

This application was deferred from the August Panel so that a re-notification with neighbours would take place with an amended description of development. As a result of seeking additional comment no new representations have been received at the time of writing.

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

1.1 The application site contains a two-storey mid-terraced C3 dwelling house located within a residential area of predominantly terraced dwellings. To the rear of the site is an un-adopted highway.

1.2 The property fronts Milton Road with a typical façade of pre-war design. The original design of the property incorporated a subservient rear section measuring approximately 4m in depth. The roof of the subservient section was pitched to form a gable end with the roof of the neighbouring property number 71. Since its original construction a two storey section projecting 3m had been added to the subservient rear section, the addition had a flat roof.

1.3 During the preparation of the site the subservient element to the rear, both original and additional sections, were found to be condemned and have subsequently been removed.

1.4 The property fronts the North side of Milton Road and is located in an area which is popular with student landlords due to the close proximity to the main campus of Solent University.

1.5 The boundary treatment for the East side of the site had been removed prior to the site visit however the applicant has indicated the intention to enclose the site with 2m high close boarded fencing. To the West the site is defined by a brick wall which varies in height from between 1.4m and 1.8m. There is also a section of trellis upon part of the wall which takes the boundary height to approximately 2m.

1.6 The neighbouring property at number 71 currently maintains its original design form. The neighbour at number 75 however has had a variety of extensions added as have many of the surrounding properties. Number 71 is therefore rather unusual in so far as it retains its original form.

### **2.0 Proposal**

2.1 The planning application seeks to replace the two storey subservient section which previously stood on the site. The roof of the additional 3m projection would become pitched rather than flat. The proposal would also incorporate a ground floor extension to improve the communal space within the dwelling.

2.2 The ground floor extension would add 1m to the depth of the property. The extension would be 5.5m wide and therefore occupy the full width of the plot. The extension would be 1.3m wider than the existing rear projection. The extension would wrap around the rear projecting element and would span 3.8m along the boundary of the site with the neighbour at number 75.

2.3 As a result of the development there would be approximately 45m<sup>2</sup> of amenity space remaining.

### **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 in **Appendix 1**.

3.2 It should be noted that the proposal would not facilitate an increase in the number of bedrooms at the host dwelling. Planning permission is not, at present, required to change the use from a family dwelling house (Use Class C3) to a small HMO (Use Class C4 with a maximum number 6 occupants) and therefore the application should not be judged in relation to policy H4 (Houses in multiple Occupation) or CS16 (Housing mix and type).

3.3 Only once the proposed Article 4 Direction is formalised would planning permission for a change of use to C4 be required. The current timetable for adoption of the Article 4 Direction is March 2012.

### **4.0 Relevant Planning History**

**4.1 11/00234/FUL** – Erection of single storey side and rear extension and external alterations to include installation of first floor window within west facing side elevation - Refused 07.04.2011 for the following reasons:

REFUSAL REASON - Impact on Neighbouring Amenity.

The proposed ground floor rear extension, by means of its rearward projection, height and proximity with the common boundary, relates poorly to the neighbouring properties (numbers 71 and 75 Milton Road) and would result in the introduction of an increased sense of enclosure to these neighbours. Furthermore, the scheme would adversely affect outlook from a neighbouring habitable room window as well as the visual amenities currently enjoyed by existing neighbouring occupiers. Therefore, the scheme is considered to be harmful to existing and proposed residential amenity and has been assessed as contrary to policies SDP1 (i), SDP7 (v) and SDP9 (i) and (v) of the adopted City of Southampton Local Plan Review (2006) (and be contrary to paragraphs 2.2.1 and 2.2.2 of the approved Residential Design Guide SPD 2006) and Policy CS13 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010).

REFUSAL REASON, Residential Environment.

The proposal, by reason of the layout of the building and the width of the extension would result in an unsatisfactory residential environment for current or future occupiers of the dwelling by means of unsatisfactory outlook from a habitable room window (illustrated as room 0.3 and as such the proposal is contrary to policies SDP1 (i) and SDP9 (i) of the adopted City of Southampton Local Plan Review (2006) (and be contrary to paragraphs 2.2.1 and 2.2.3 of the approved Residential Design Guide SPD 2006) and Policy CS13 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010).

## 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 undertaken which included notifying adjoining and nearby landowners and by erecting a site notice (02/06/2011). A re-consultation has taken place following the deferral of this application from August Panel. At the time of writing the report 5 representations have been received, 2 from local residents, 2 from local ward members and one from Banister Freemantle and Polygon Community Action Forum. The following observations/comments were made:

- Reduced light to ground floor bedroom window.
- Reduced outlook.
- Use of double doors opening to the rear garden increases the potential for noise nuisance.
- Five double bedrooms are too many for a property of this nature, potentially having as many as 10 occupants.
- Increase potential for rubbish in the streets, anti social behaviour, burglaries and vandalism.
- Contrary to policies H4 (i) and (ii).
- Overdevelopment of the site.
- Overcrowding of the area.
- Width of extension is a concern – fire.
- Out of keeping with neighbouring properties.
- Loss of amenity space.
- Parking pressure.

### RESPONSE

The above considerations are responded to in detail in section 6 of the report - Planning Considerations.

5.2 Private Sector Housing – No objection.

## **6.0 Planning Consideration, Key Issues**

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

- i. The principle of development and whether the previous reasons for refusal have been addressed.
- ii. The impact on character of the host dwelling;
- iii. The impact on the amenity of the surrounding area; and
- iv. The adequacy of the living environment for the residents.

Since the original submission amended plans have been provided with the aim of relieving concerns raised by officers. The revised plans reduce the overall length of the ground floor structure so that it projects 1m past existing rear building line of the host dwelling.

### 6.2 Principle of Development

6.2.1 The application is for an extension to the property at ground floor level and the replacement of the two storey subservient section which was recently removed. The

proposal will result in 5 bedrooms and, therefore, the number of bedrooms will not be increasing.

6.2.2 There are no relevant policies which object in principle to extending the property. The proposal must therefore be judged in terms of its potential impact as a result of the physical characteristics of the extension.

### 6.3 The impact on character of the host dwelling;

6.3.1 The first floor element of the dwelling will not be any larger than the first floor element which was existing on the site prior to the demolition of the condemned part of the building. There is a slight change to the roof profile.

6.3.2 The ground floor extension would be used to enlarge the communal living environment provided.

6.3.3 The change to the rear is considered acceptable in appearance. The adopted design has ensured harmony with the original building, incorporating shallow pitched roofs at ground and first floor.

6.3.4 The width of the extension, at ground floor level, is also considered acceptable as is the scale and degree of projection. The development adequately respects and maintains the character of the original dwelling and therefore accords with the principle set out in the Residential Design Guide.

### 6.4 The impact on the amenity of the surrounding area

6.4.1 An additional bathroom window is proposed to be added at first floor level. A condition is recommended to prevent overlooking from that window to neighbouring gardens/habitable rooms. As the proposed extension to the property is single storey and owing to the boundary treatment on site the proposal is unlikely to reduce privacy to neighbouring occupants.

6.4.2 The reconfiguration of the internal space of the property and the increased scale of the extension is not considered to significantly alter the amenity enjoyed by neighbouring occupants in terms of loss of outlook, or additional overshadowing. As such the previous reason for refusal has now been addressed.

6.4.3 The proposal cannot be directly linked to increased burglaries, additional litter on streets/poor upkeep of front gardens, anti-social behaviour and vandalism, as suggested in letters of representation.

6.4.5 Prior to the removal of the two storey subservient section there were 5 bedrooms in the property and therefore it is considered unlikely that parking pressure will be significantly increased as raised within letters of representation.

6.4.6 The amount of noise originating from the host dwelling will be determined by the occupants of the property and how considerate they are to surrounding neighbours. The double doors should not lead the panel to refuse the development as suggested within letters of representation.

## 6.5 The adequacy of the living environment for the residents.

6.5.1 The garden area is sufficient (approximately 45m<sup>2</sup>) for the occupiers of the property. The amenity space provision is in character with the surroundings and it is noted that a garage was, until relatively recently, occupying a large area of the rear garden. The development is not considered to be an overdevelopment of the site.

6.5.2 Light to the habitable rooms will not be affected as a result of the proposal as the extension will be built to the North of the property. The Building Control Team are satisfied that the development can comply with fire regulations. The proposed standard of living accommodation is acceptable.

## **7.0 Conclusion**

7.1 The extension satisfies the requirements of the Residential Design Guide and would not cause harm to neighbouring amenity. In addition the site is considered large enough to deal with the level of occupancy and the design is sympathetic to the character of the property; and for these reasons the scheme can be supported as the previous reasons for refusal have been addressed.

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

1(a), 1(b), 1(d), 2(b), 2(d), 4(f), 6(c), 7(a), 7(e), 9(a), 10 (a) and 10(b).

**MP3 for 06/09/2011 PROW Panel**

## **PLANNING CONDITIONS**

### **CONDITIONS for 11/00296/FUL**

#### 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]

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 - Hours of work for Demolition / Clearance / Construction  
[Performance Condition]

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

Monday to Friday 08:00 hours to 18:00 hours (8.00am to 6.00pm)

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

And at no time on Sundays and recognised public holidays.

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

Reason:

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

04. APPROVAL CONDITION – Obscured window specification [Pre-Occupation Condition]

The window in the west elevation of the building, at first floor level [serving the room indicated as a bathroom] must be obscured and shall only have a top light opening above a height of 1.7m above the floor level of the room to which it serves. The window as specified shall be installed prior to the occupation of the building and retained as stated.

Reason:

To protect the privacy enjoyed by the occupiers of the adjoining property

05. 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.

Note to Applicant

The applicant's attention is also drawn to the approved use of the property as a small HMO (C4 use). In the event that more than 6 un-related people reside at the address a material change of use may have occurred and a further planning application may be required.

**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

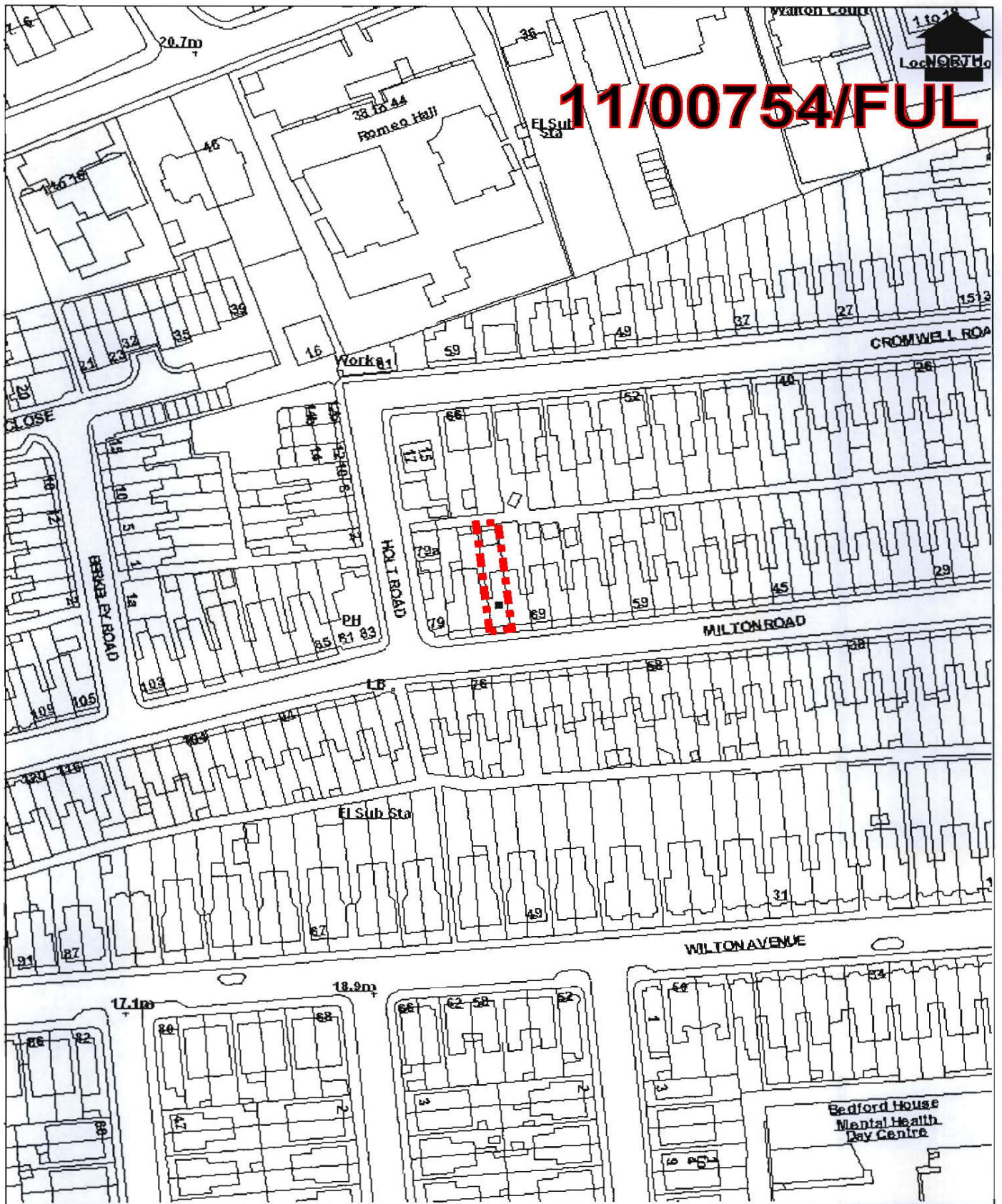
Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)





**11/00754/FUL**

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Date : 24 August 2011

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# Agenda Item 8

**Southampton City Planning & Sustainability**  
**Planning and Rights of Way Panel meeting 6th September 2011**  
**Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> Sea City Museum (Former Magistrates Courts), Civic Centre, Havelock Road			
<b>Proposed development:</b> Application for approval of details reserved by Conditions 5 (lighting scheme), 7 (details of signage), 11 (details of hard landscaping and highway works) and 13 (visitor cycle storage), of planning permission 10/00020/R3CFL for alterations connected with the use of the building as a museum.			
<b>Application number</b>	10/01550/DIS	<b>Application type</b>	DIS
<b>Case officer</b>	Jenna Turner	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	05.01.11	<b>Ward</b>	Bargate
<b>Reason for Panel Referral:</b>	Referred by the Planning and Rights of Way Panel	<b>Ward Councillors</b>	Councillor Bogle Councillor Noon Councillor Willacy

<b>Applicant:</b> Mrs Tina Dyer-Slade - Southampton City Council	<b>Agent:</b> Wilkinson Eyre Architects
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<b>Recommendation Summary</b>	<b>Discharge in part</b>
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## Reason for Discharging in Part

The proposed landscaping works, lighting scheme, signage and visitor cycle storage is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations, such as those listed in the report to, and discussed at, the Council's Planning and Rights of Way Panel on 6th September 2011, do not have sufficient weight to justify an objection to the application. Full details of the lighting specification and the appearance of cycle stands will be need to be agreed by the Local Planning Authority before work on the landscaping commences. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004 no objection is, therefore, raised and this notice is issued in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

Policies – SDP1, SDP8, SDP12 and HE3 of the City of Southampton Local Plan Review - Adopted March 2006 and Policies – CS13 and CS14 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	Proposed Landscape Plan	2	Development Plan Policies

## **Recommendation in Full**

Conditions 5, 7, 11 and 13 of Planning Permission 10/00020/R3CFL will be discharged following the completion of the works in accordance with the details agreed in writing with the Local Planning Authority.

### **1. Background**

- 1.1 Works are well underway on the alterations and additions to the Magistrates Courts to enable its conversion into a museum which was granted planning permission on the 10th November 2010. At the Planning and Rights of Way Panel meeting, members resolved that the proposals for the landscaping works should be approved by the panel to ensure that a high-quality setting to this important project was achieved.
- 1.2 Condition 11 of the planning permission for the museum requires the a timetable to be provided for the submission of a detailed landscaping scheme and the implementation of the landscaping scheme to be approved by the Local Planning Authority. The timetable has been submitted and agreed by officers and in accordance with that timetable, the applicant has now submitted the detailed landscape scheme for approval by the Planning and Rights of Way panel.
- 1.3 The landscaping proposals relate to the treatment of the Havelock spur road and paved pedestrian areas, which lie to the west of the building. The Havelock Road spur has been closed for the duration of the construction works and this served as a trial period to assess the impact of the closure of this route on traffic circulation in the wider area. As such, the applicant is applying for a further Traffic Regulation Order which would enable the permanent closure of the Havelock Road spur to traffic.
- 1.4 Whilst details of lighting, signage and visitor cycles were not required for member's approval, the details have been integrated into the overall landscape strategy for consideration.
- 1.5 Details of the remaining pre-commencement planning conditions have already been agreed by officers under the Planning and Development Manager's delegated powers.

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

- 2.1 The Civic Centre is a Grade II\* Listed building designed by Berry Webber following a design competition. The complex of buildings was designed in in the neo-classical modern style and is a steel framework building clad in Portland Stone. The Magistrates Courts block, which contains the prominent clock tower, front Havelock Road and to the north of the building is West Watts Park which is part of English Heritage's register of parks and gardens of special historic interest.

### **3. Proposal**

- 3.1 The proposed landscaping works also includes details for signage and lighting, which are integrated into the landscape design. A copy of the proposed landscaping plan is included in **Appendix 1**.

- 3.2 The proposal involves the re-surfacing of the Havelock Road spur and the existing areas of hard paving to the west of the former Magistrates Courts with a mixture of paving types.
- 3.3 A taxi drop off point would be provided on Commercial Road, to the north of the Havelock Road spur. A new coach drop off point, which would accommodate two coaches, would be provided adjacent to Havelock Road.
- 3.4 The scheme also proposes the removal of part of the existing Portland Stone dwarf wall around the common land to the west of the pavilion extension. This would enable the grassed area to be extended slightly eastwards. The Portland stone dwarf wall would be adapted and re-used to provide areas of seating in front of the museum.
- 3.5 The signage for the museum includes banner signs on the five replacement lampposts in the public realm area, and the name of the museum etched into the new glazing in the main entrance. In addition to this, two stelae would be constructed to the west of the main entrance, constructed from fair faced concrete and with the name of the museum carved into the surface. Two further stelae would be constructed at the end of the new seating area.
- 3.6 The proposed stelae would be illuminated by up-lighters. The entrance to the pavilion extension would be uplit and additional lighting columns would also be installed within the paved area.
- 3.7 A total of 15 visitor cycle stands would be provided within two different areas within the new area of public realm.

### **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 2**.

### **4.0 Relevant Planning History**

- 4.1 The two relevant applications relating to this proposal seeking discharge of conditions are the original planning permission for the alteration and extension of the magistrates courts to provide a museum (application reference 10/00020/R3CFL) and the associated Listed Building Consent (10/00021/LBC).

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

- 5.1 There is no statutory obligation on the Council to notify on this type of application.
- 5.2 **English Heritage** - At the time of writing, no comments have been received. A verbal update will therefore be provided at the Panel meeting if comments are received.
- 5.3 **SCC Highways** - No objection.
- 5.4 **SCC Historic Environment Team** – No objection.

## **6.0 Planning Consideration Key Issues**

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

- (i) The impact on the setting of the Grade II\* Listed Civic Centre
- (ii) The impact of the proposal on highway safety

### **6.3 Impact on the Civic Centre**

6.3.1 The hard surfacing materials chosen for the landscape works would have a high quality appearance and accord with the materials that the Street Scape Manual Supplementary Planning Guidance identifies as being acceptable in the city centre. The hardsurfacing materials have also been chosen to be sympathetic to those used within Guildhall Square, which would help to provide coherence in the Cultural Quarter.

6.3.2 The extension of the Common Land to the west of the building would enhance the useability of this area of open space and the re-use of the dwarf stone walls as seating would assist in creating a functional area of public space as well as provide a positive setting to the Listed Building.

6.3.3 The proposed signage is integrated into the landscape design and is complementary to the classicism of the Civic Centre. The position and height of the two stelae at the entrance would help to reinforce the hierarchy and procession of height of the entrance to the Civic Centre.

6.3.4 The proposed lighting scheme is designed to highlight the building and signage without appearing obtrusive. Street lighting will also be provided in accordance with highway requirements.

### **6.4 Highway Safety**

6.4.1 The Highways Team have reviewed the submitted information and raised no objection to the proposal in highway safety terms. A full specification of the lighting will be required prior to works commencing to ensure that light spillage or reflection onto the public highway will be minimised.

## **7.0 Summary**

7.1 The proposed landscape scheme is considered to create a positive setting to the new museum and would enhance the appearance of the Grade II\* Listed Magistrates Court.

## **8.0 Conclusion**

8.1 This application to discharge planning conditions 5, 7, 11 and 13 of planning permission 10/00020/R3CFL is acceptable. These planning conditions can be discharged following the works being completed in accordance with these agreed details.

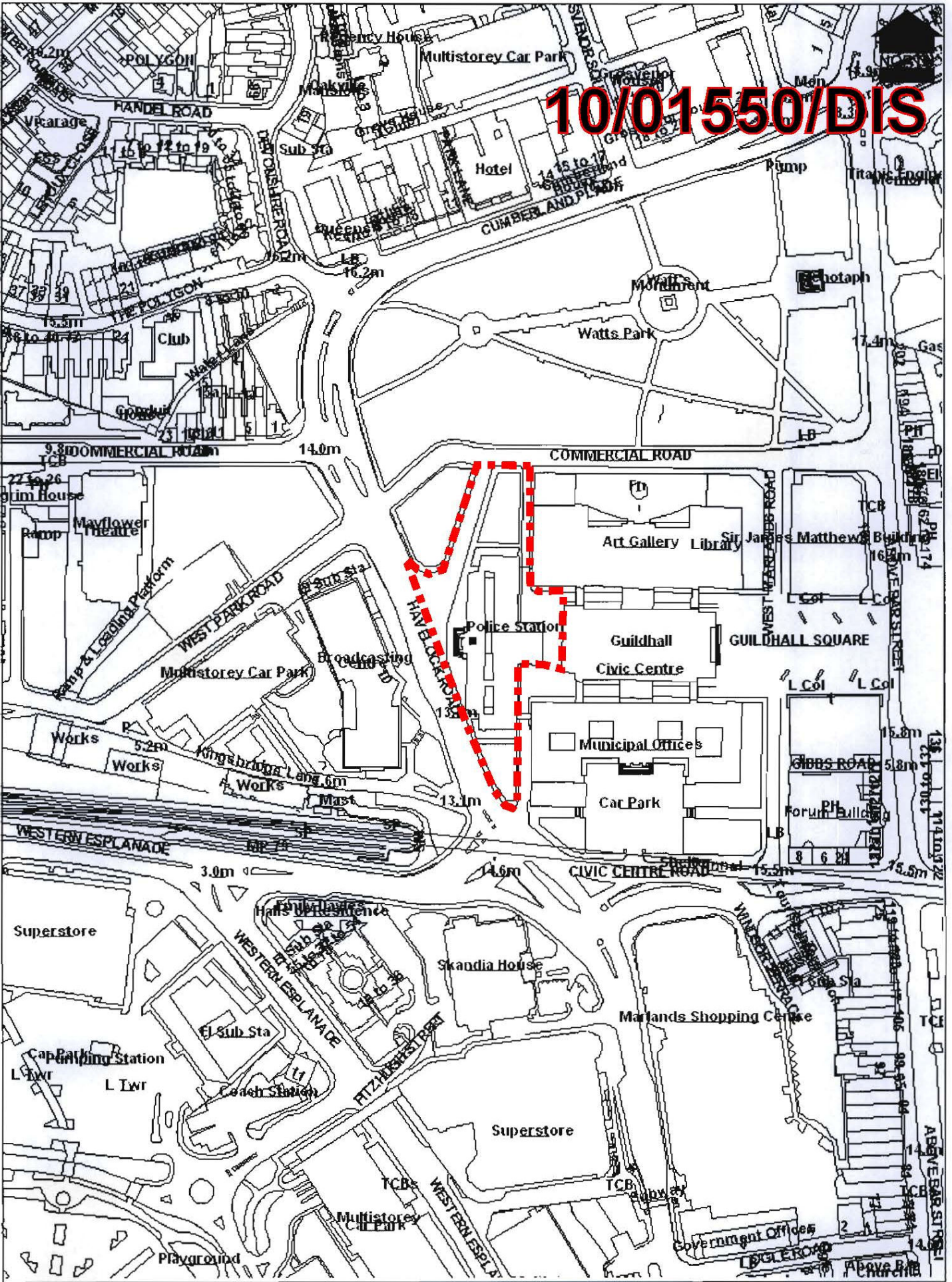
## **Local Government (Access to Information) Act 1985**

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

1(a) (b) (c), 2 (b) (d), 7 (a)

**JT for 06/09/11 PROW Panel**

10/01550/DIS



Scale : 1:2500

Date : 24 August 2011

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# Agenda Item 8

Appendix 2

**Application 10/01550/DIS**

**APPENDIX 2**

## **POLICY CONTEXT**

### Core Strategy - (January 2010)

CS1	City Centre Approach
CS2	Major Development Quarter
CS13	Fundamentals of Design
CS14	Historic Environment

### City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP17	Lighting
SDP24	Advertisements
HE3	Listed Buildings
CLT1	Location of Development
MSA5	Civic Centre and Guildhall Square

### Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)

PPS5 Planning Policy Statement 5: Planning for the Historic Environment  
(March 2010)

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# Agenda Item 9

**Southampton City Planning & Sustainability  
Planning and Rights of Way Panel meeting 06/09/2011  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> Unit 3A Northbrook Industrial Estate, Vincent Avenue SO16 6PB			
<b>Proposed development:</b> Use Of The Existing Building For MoT Testing And Vehicle Repairs (Class B2)			
<b>Application number</b>	11/01104/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Mathew Pidgeon	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	29/08/2011	<b>Ward</b>	Bassett
<b>Reason for Panel Referral:</b>	Departure from Local Plan	<b>Ward Councillors</b>	Cllr Les Harris Cllr Beryl Harris Cllr Hannides

<b>Applicant:</b> Mr Aref Imanpour	<b>Agent:</b> N/A.
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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. Other material considerations including the affect which the proposal will have on the economic viability of the site and the potential for employment to continue at the site in addition to character, parking, and amenity have been considered and are not judged to have sufficient weight to justify a refusal of the application. 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, SDP5, SDP16 and RE11 of the City of Southampton Local Plan Review (March 2006) and Policy CS7 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. The site and its context**

- 1.1 The proposal site lies within the Northbrook Industrial Estate. Access is achieved from Hollybrook Road rather than Vincent Avenue.
- 1.2 Residential properties are located on the North side of Hollybrook Road within 25m of the application site and the surrounding uses are within the B1(b), B1(c) and *sui generis* use classes. The application site has an established B1 use and has until recently been used as a garage.
- 1.3 It should be noted that there is another MOT testing centre within the Industrial estate which is accessed off Vincent Avenue (Local Planning Authority reference 06/00726/FUL)
- 1.4 A parking permit zone is identified within Hollybrook Road (non permit holders are unable to park for longer than two hours).
- 1.5 Parking spaces located in the car park which fronts the unit are allocated to individual units within the industrial estate.

## **2. Proposal**

- 2.1 The application unit is currently vacant and has been, according to the applicant for about to years. A change of use is sought from B1 to B2 to allow for MOT testing.
- 2.2 The MOT testing centre would have one MOT bay and three car hoists. The unit also has space for the parking of 12 additional vehicles (customers and staff).

## **3.0 Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The site is designated by the adopted Local Plan Review by Policy REI11(x) and is thereby safeguarded for B1(b) [Research and development of products and processes] and B1(c) [Light Industry] uses. The application therefore represents a departure from this policy.

## **4.0 Relevant Planning History**

- 4.1 There is no planning history for Unit 3a and therefore the established use of the unit is considered to be within the B1 use class. The applicant has advised that the site has previously been used for B2 use (repair and maintenance of limousines over a period of approximately 15 years). The applicant has also informed the Local Planning Authority that the unit has been vacant for approximately 2 years. As no lawful development certificate has been sought for the B2 use, this application seeks a change of use from B1 to B2.
- 4.2 Heritage Accident Repairs (Unit 3), Northbrook Industrial Estate, Vincent Avenue

## **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, placing a press advertisement confirming a potential Local Plan departure (04.08.2011) and erecting a site notice (01.08.2011). At the time of writing the report **four** representations have been received from surrounding residents. The following observations/comments were made:

- Parking on the forecourt is objected to (no allocated parking bays).
- Parking pressure on surrounding streets (overspill).
- Parking pressure and informal parking resulting in highways safety issues.
- Noise and pollution, disturbance to residential amenities.

5.2 **SCC Highways** – No objection following receipt of amended parking layout subject to relevant conditions.

5.3 **SCC Environmental Health (Pollution & Safety)** - No objection subject to relevant conditions.

5.4 **SCC Planning Policy** – No objection to proposed departure from Local Plan Policy REI 11 (x).

## **6.0 Planning Consideration Key Issues**

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

- Principle of the use.
- Impact on the residential amenity.
- Impact on parking and highways safety.

### **6.2 Principle of Use**

The proposal site lies within the Adopted LPR designated area REI11(x) - which is safeguarded for B1(b) and B1(c) uses. It is the view of Planning Policy that because this industrial site is safeguarded for employment use, the proposal would be an appropriate development; particularly in view of government priority that planning supports economic recovery. Additionally the proposed use could be accommodated alongside existing industrial uses already on the estate without detrimental impacts on adjacent users if appropriate conditions are put in place.

### **6.3 Impact on the residential amenity**

The MOT testing bay has been sited to the rear of the building so as to mitigate any noise out spill. Unit 3a has recently been used for vehicle repair and as such the overall noise levels generated should not significantly increase as a result of the development. As such the Environmental Health Team has been able to support the scheme subject to the attached conditions.

#### 6.4 Impact on parking and highways safety

The proposal complies with the maximum parking standards set out in the Local Plan Review. The scheme provides 12 parking spaces which will be allocated for use by customers. The Highways Officer are satisfied that harmful overspill of parking into the surrounding streets will not occur as a result of the development provided that parking spaces are laid out prior to the commencement of the commercial operation and maintained as such thereafter in perpetuity.

#### 7.0 Summary

The established use of the property (notwithstanding the previous unauthorised use) is B1. In submitting the application the applicant seeks to regularise the last known (albeit unauthorised) use of the B2 activity. Adequate parking can be provided for customers and the noise levels will not significantly increase. The use is compatible with the surrounding uses in the industrial estate and the development would create a valuable employment opportunity.

#### 8.0 Conclusion

It is recommended that planning permission be granted subject to relevant conditions.

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

1(a), 1(b), 1(d), 2(b), 2(d), 6(c), 7(a), 7(f), 7(y), 9(a), 10 (a) and 10(b).

#### **MP3 for 06/09/11 PROW Panel**

#### **PLANNING CONDITIONS**

##### 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).

but would require that all work takes place within the building, and no spraying of bodywork takes place on the premises.

##### 2. 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.

3. APPROVAL CONDITION - Vehicular repairs within building. [PERFORMANCE CONDITION]

No repairs or servicing of vehicles shall take place other than in the garage workshop/building itself.

REASON

In the interests of the visual amenities of the area and to protect the amenities of occupiers of nearby residential properties.

4. APPROVAL CONDITION - Paint Spraying [PERFORMANCE CONDITION]

No paint spraying shall take place on the premises.

REASON

In the interests of the amenities of the area.

5. APPROVAL CONDITION – Hours of Operation [PERFORMANCE CONDITION]

Unless the Local Planning Authority agree otherwise in writing the premises shall only be used for the purpose hereby approved between the hours specified below and at no time on Sundays or recognised Public Holidays.

0800 to 1700 Monday to Friday  
0800 to 1300 on Saturdays

REASON

To protect the amenity of surrounding occupiers and to reflect the hours sought by the applicant.

6. APPROVAL CONDITION – Parking Layout [PRE-OPERATION CONDITION]

The four external parking spaces shall be marked out in accordance with the approved plans prior to the site undertaking MOT testing and servicing. The internal parking spaces shall be marked out in accordance with the approved plans within 30 days of the date of this consent or within a timescale that is agreed with the Local Planning Authority prior to the commencement of development.

REASON

To prevent harmful over spilling of parking and obstruction of the public highway.

7. APPROVAL CONDITION – Vehicle Repair Bays [PERFORMANCE CONDITION]

At no time shall there be more than four vehicle repair bays within the premises (including one MOT bay).

#### REASON

In order to ensure that the use of the site is not over-intensive and in order to ensure that the scheme accords with parking requirements.

#### 8. APPROVAL CONDITION – Parking [PERFORMANCE CONDITION]

All cars associated with the use of the premises shall be parked within the application site area shown on the approved plans whether being dropped off prior to servicing, awaiting collection or waiting to be serviced.

#### REASON

In the interests of highway safety on the surrounding road network and so as to minimise the impact of the use on adjacent businesses.

#### 9. APPROVAL CONDITION - Cycle Storage Facilities [PRE-COMMENCEMENT CONDITION]

Prior to the operation of the development as a commercial business the applicant shall provide space for at least 1 secure and covered cycle storage space. Such facilities shall be permanently retained for that purpose.

#### Reason:

To encourage cycling as an alternative form of transport.

**POLICY CONTEXT**

Core Strategy - (January 2010)

CS7            Safeguarding Employment Sites

City of Southampton Local Plan Review – (March 2006)

SDP1            Quality of Development  
SDP5            Parking  
SDP16           Noise  
REI11           Light Industry

Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)

PPS4 Planning Policy Statement 4: Planning for Sustainable Economic Growth  
(December 2009)

PPG24 Planning and Noise (October 1994)

