

# Public Document Pack

## Planning and Rights of Way Panel

Tuesday, 19th January 2010  
at 9.30 am

### **PLEASE NOTE TIME OF MEETING**

Conference Room 3 - Civic Centre

This meeting is open to the public

#### **Members**

Councillor Fitzhenry (Chair)  
Councillor Jones (Vice-Chair)  
Councillor Mrs Blatchford  
Councillor Cunio  
Councillor Davis  
Councillor Norris  
Councillor Osmond

#### **Contacts**

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## **PUBLIC INFORMATION**

### **Terms of Reference**

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

### **Public Representations**

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

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

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

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

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

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

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

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

### **Dates of Meetings: Municipal Year 2009/10**

<b>2009</b>	<b>2010</b>
<b>26 May 2009</b>	<b>19 January 2010</b>
<b>23 June</b>	<b>16 February</b>
<b>21 July</b>	<b>16 March</b>
<b>18 August</b>	<b>13 April</b>
<b>1 September</b>	
<b>29 September</b>	
<b>27 October</b>	
<b>24 November</b>	
<b>22 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 now available via Southampton Online at [www.southampton.gov.uk/council/meeting-papers](http://www.southampton.gov.uk/council/meeting-papers)**

### **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**

### **4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING) (Pages 1 - 8)**

To approve and sign as a correct record the Minutes of the meeting held on 22<sup>nd</sup> December 2009 and to deal with any matters arising, attached.

## **CONSIDERATION OF PLANNING APPLICATIONS**

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

### **5 1A - 1H JANSON ROAD 09/01133/FUL (Pages 9 - 32)**

Report of the Development Control Manager recommending that the planning application be refused and that the Service of 8 Enforcement Notices be endorsed by the Panel, attached.

### **ITEMS TO BE HEARD BETWEEN 10 30 AM TO 11 30AM**

**6 LAND REAR OF 82 AND 86 - 88 SHIRLEY AVENUE 09/01213/FUL (Pages 33 - 68)**

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

**7 LAND TO THE REAR OF 68 - 70 SHIRLEY AVENUE 09/01154/FUL (Pages 69 - 102)**

Report of the Development Control 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 11 30 AM TO 12 30 AM**

**8 210 BASSETT GREEN ROAD 09/01236/FUL (Pages 103 - 116)**

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

**9 12-13 HOLLAND ROAD, WOOLSTON 09/01169/FUL (Pages 117 - 130)**

Report of the Development Control 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 12 30 PM TO 1 00 PM**

**10 238 WESTON LANE 09/ 01134 /FUL (Pages 131 - 152)**

Report of the Development Control 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 2.00 PM TO 3.00 PM**

**11 74 ST. ANNES ROAD 09/01185/FUL (Pages 153 - 186)**

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

**MAIN AGENDA ITEMS**

**12 WEST QUAY ROAD SITE - REQUEST TO REMOVE TREES (Pages 187 - 194)**

Report of the Head of Planning and Sustainability seeking conditional approval for the removal of 2 Silver Birch trees at West Quay Road, attached.

**13 PUBLIC RIGHTS OF WAY: UPDATE REPORT (Pages 195 - 202)**

Report of the Head of Planning and Sustainability providing an update on the main activities and some of the current key issues affecting the City Council's statutory Rights of Way function, attached.

Monday, 11 January 2010

SOLICITOR TO THE COUNCIL

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**PLANNING AND RIGHTS OF WAY PANEL**  
**MINUTES OF THE MEETING HELD ON 22<sup>ND</sup> DECEMBER 2009**

Present: Councillor Jones (Vice Chair)  
Councillors Cunio, Norris, Osmond and Thomas

Apologies Councillors Mrs Blatchford, Davis and Fitzhenry

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**COUNCILLOR JONES IN THE CHAIR**

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**40. APOLOGIES/ CHANGES IN MEMBERSHIP**

The Panel noted that Councillor Thomas was in attendance as a nominated substitute for Councillor Mrs Blatchford in accordance with Council Procedure Rule 4.3.

**41. MINUTES OF PREVIOUS MEETINGS (INCLUDING MATTERS ARISING)**

**RESOLVED** that the Minutes of the meeting held on 24<sup>th</sup> November 2009 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.

**42. 09/01071/R3CFL Bitterne Park School, Copsewood Road**

Erection of a new 6th form college building on three floors with associated works and access from Dimond Road

Mr Everett (Deputy Headteacher – Bitterne Park School) Ms Birtie (Architect) Mr Tanner (Local Resident) and Councillor Baillie (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 CONDITIONAL PLANNING PERMISSION WAS CARRIED UNANIMOUSLY

**RESOLVED** that planning approval be granted subject to the conditions in the report, and the amended and additional conditions set out below.

**Amended Conditions**

**5 - Sustainable Drainage Systems**

Prior to the commencement of development, a feasibility study demonstrating an assessment of the potential for the creation of a sustainable drainage system on site shall be carried out and submitted to the Local Planning Authority. Any measures shown to be feasible shall be verified in writing by the Local Planning Authority and implemented prior to first occupation of the development hereby granted consent. 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. A sustainable drainage system to the approved specification must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained

and maintained thereafter. In the development hereby granted consent, peak run-off rates and annual volumes of run-off shall be no greater than the previous conditions for the site.

**REASON:**

To conserve valuable water resources, in compliance with policy SDP13 (vii) of the City of Southampton Local (2006) and to protect the quality of surface run-off and prevent pollution of water resources and comply with SDP21 (ii) of the City of Southampton Local Plan (2006). To prevent an increase in surface run-off and reduce flood risk in compliance with SDP21 (i) of the City of Southampton Local Plan (2006). Code for Sustainable Homes: Category 4 - Surface Water Run-off.

**22 - Ecological Mitigation Statement**

Prior to development commencing including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, which go beyond the limited measures set out in the submitted December 2008 ECOSA extended phase 1 ecological survey, which shall be implemented in accordance with the programme before any demolition work or site clearance takes place.

**REASON:**

To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity, so as to mitigate against the loss of potential foraging habitat, increased lighting levels and general disturbance.

**24 - Travel plan**

The travel plan submitted by Capita Symonds dated 7 October 2009 shall be implemented at all times. The 6th form college is in use in conjunction with that already existing for the Bitterne Park Secondary School and shall be updated and reviewed on an annual basis. The City Council's Travel Plan Officer and at least one Deputy Head Teacher from Bitterne Park School shall be members of the body that will review the School Travel Plan, both for Bitterne Park School and the new sixth form college hereby approved. A copy of the reviewed Travel Plan shall be submitted to and approved in writing by the Local Planning Authority on an annual basis. The plan shall include provisions to encourage the use of alternative modes of travel to and from the site, together with targets and provisions for monitoring and review. In particular, the facilities proposed for bicycle parking, including shower facilities, lockers and secure bicycle parking shall be fully implemented as part of this permission and retained at all times thereafter.

**REASON:**

To encourage sustainable modes of travel.

**Additional Conditions**

**39 - Demolition/site clearance restriction**

No demolition of any building, scrub clearance or tree felling shall take place between March and July of any year.

**REASON:**

To avoid harm to breeding birds.

## REASONS FOR THE DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. In particular, objections relating to visual appropriateness and traffic/parking impact have been carefully assessed. The scale and appearance of the building mitigated by new planting and a change in levels across the site is considered acceptable. Traffic issues are judged to be capable of management with a planned reduction in car trips, as part of continued implementation of a regularly monitored and reviewed School Travel Plan. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus deemed planning permission should therefore be granted.

### **43. 09/00860/FUL**

### **330 Bursledon Road**

Redevelopment of the site with three-storey buildings to provide 8 x three-bedroom houses and 6 x two-bedroom flats, with associated car parking and vehicular access from Bursledon Road

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

RECORDED VOTE:

FOR: Councillors Jones, Norris, Osmond and Thomas

AGAINST: Councillor Cunio

### **RESOLVED**

- (i) that authority be delegated to the Development Control Manager to grant conditional planning approval subject to:-
  - a) the conditions in the report and the additional conditions below;
  - b) authorisation for the making of an order under S257 of the Planning Act for the diversion of the footpath on the grounds that the diversion is necessary for the application to proceed;
  - c) the applicant entering into a Section 106 Legal Agreement to secure:
    - 1 a financial contribution towards improvements to public open space in accordance with policy CLT5 and IMP1 of the adopted City of Southampton Local Plan and applicable SPG;
    - 2 a financial contribution towards the provision of a new children's play area and equipment in accordance with policy CLT6 and IMP1 the adopted City of Southampton Local Plan and applicable SPG;
    - 3 a financial contribution towards site specific transport

contributions for highway improvement in the vicinity of the site in accordance with IMP1 the adopted City of Southampton Local Plan and appropriate SPG to encourage sustainability in travel through the use of alternative modes of transport to the private car;

- 4 a financial contribution towards strategic transport contributions for highway network improvements in the wider area as set out in the Local Transport Plan and appropriate SPG;
  - 5 a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
  - 6 a bio-diversity management plan;
  - 7 a refuse management plan;
  - 8 a routing agreement for construction vehicles; and
- (ii) that the Development Control Manager be authorised to refuse permission should the Section 106 Agreement not be completed within a three month period from the date of determination, on the ground of failure to secure the provisions of the Section 106 Agreement.

#### Additional Conditions

20 - No access of any kind shall be made or created directly linking the site with the adjacent greenway

#### REASON

In the interests of protecting the character and bio-diversity value of the greenway.

#### REASONS FOR THE DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations including highway safety, land stability, loss of trees, the impact on the setting of the greenway, the impact on wildlife and the amenities of nearby residents 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, SDP2, SDP3, SDP4, SDP5, SDP6, SDP7, SDP9, SDP10, SDP12, SDP13, NE3, NE4, H1, H2, H7, H8, H12, CLT3, CLT5, CLT6 and IMP1 of the City of Southampton Local Plan Review (March 2006).

**44. 09/01173/FUL**

**110-120 BITTERNE ROAD WEST**

Change of use for a temporary period of part of first floor of southern building on the Bitterne Business Centre from office (Use Class B1a) to dental surgery (Use Class D1)

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO DELEGATE AUTHORITY TO THE DEVELOPMENT CONTROL MANAGER TO GRANT CONDITIONAL PLANNING PERMISSION SUBJECT TO NO SIGNIFICANT ADVERSE COMMENT BEING RECEIVED FROM STATUTORY CONSULTEES FOLLOWING THE EXPIRY OF CONSULTATION PERIOD ON 31 DECEMBER 2009, WAS CARRIED UNANIMOUSLY

**RESOLVED**

- (i) that authority be delegated to the Development Control Manager to grant conditional planning approval subject to no significant adverse comment being received from statutory consultees following the expiry of consultation period on 31 December 2009; and
- (ii) the conditions in the report.

**REASONS FOR THE DECISION**

The application constitutes a departure from the Development Plan (Policy RE1 11 (i) of the City of Southampton Local Plan March 2006). However, other material considerations, namely the temporary and personal nature of the permission and the need to provide a short term solution to relocate an existing business from the site of a large scale redevelopment, outweigh compliance with the policy. The aims of the policy will not be materially prejudiced in the longer term. Conditions have been imposed to satisfy these matters. The scheme is judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and planning permission should therefore be granted.

**45. 09/01038/FUL**

**Garage Site Adjacent to 27 Orpen Road**

Redevelopment of the site. Erection of 2 x two-storey terraced blocks comprising 6 three-bedroom houses with associated parking to include revised site access and stopping up of public footpath

Mr Groucott (Applicant's Agent) and Mrs Booth (Local Resident) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE AMENDED OFFICER RECOMMENDATION TO DELEGATE AUTHORITY TO THE DEVELOPMENT CONTROL MANAGER TO GRANT CONDITIONAL PLANNING PERMISSION SUBJECT TO A UNILATERAL UNDERTAKING BY THE EXECUTIVE DIRECTOR OF NEIGHBOURHOODS WAS CARRIED UNANIMOUSLY

**RESOLVED**

- (i) that authority be delegated to the Development Control Manager to grant conditional planning approval subject to:-

- (a) receipt of an undertaking from the Director of Neighbourhoods that contributions are put aside from the housing revenue account into the general fund to secure financial contributions towards public open space, site specific transport works and strategic transport projects in accordance with policy. The undertaking shall also secure a highway condition survey and that subject to agreement from the Electricity Board the developer will pay for enclosure of the electricity sub-station;
- (b) the making of an order under Section 257 of the TCPA 1990 to stop up the existing footpath running through the site as it is necessary to allow the development to proceed; and
- (c) the conditions in the report, the amended and additional conditions below.

#### Amended Conditions

##### 4 – No other windows or doors other than approved

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

##### REASON:

To protect the amenities of the adjoining residential properties

##### 10 – Ecological Mitigation Statement

Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures for approval which shall subsequently be implemented in accordance with the programme before any demolition work or site clearance takes place unless otherwise agreed in writing by the Local Planning Authority.

##### REASON:

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

##### 12 - Boundary fence

Before occupation of the development hereby approved, details of the design and specifications of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include secure gated access to the rear gardens of the houses. The agreed boundary enclosure details shall be subsequently erected prior to the occupation of any of the units provided under this permission and such boundary treatment shall thereafter be retained and maintained to the boundaries of the site.

##### REASON:

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

### Additional Conditions

#### 19 - Car parking

The car parking area shown on the approved drawing shall be laid out and surfaced before the use hereby permitted commences and shall only be made available for use by the occupiers of the dwellings hereby approved and thereafter kept clear and maintained at all times for that purpose.

REASON: To prevent obstruction to traffic in neighbouring roads.

#### 20 - Acoustic Report (Pre-Commencement Condition)

Prior to the commencement of development an acoustic report assessing the impact of the existing sub-station on the proposed residential dwellings shall be submitted and agreed in writing by the Local Planning Authority. Any mitigation measures recommended by the acoustic report shall be implemented prior to first occupation of the houses and permanently retained thereafter.

REASON: To ensure a satisfactory form of development.

#### 21 - Retained pedestrian and vehicular access from Orpen Road

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any other Order revoking or re-enacting this Order) no walls, fences or other permanent means of enclosure shall be erected across the pedestrian and vehicular access route through the site.

REASON: To ensure that permeability is retained through the site.

### REASONS FOR THE DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Overall the scheme is acceptable and the level of development proposed will not result in an adverse impact on the amenities enjoyed by surrounding occupiers or to the character and appearance of the area. A suitable balance has been achieved between securing additional family affordable housing, parking, on-site amenity space and landscaping, whilst ensuring that existing residential amenity is protected. Other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 Planning Permission should therefore be granted.

Policies SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP13, SDP14, H1, H2 and H7 of the City of Southampton Local Plan Review - Adopted March 2006, as supported by SPD and the emerging Core Strategy.

**46. 31 EASTFIELD ROAD**

The Panel considered the report of the Head of Planning and Sustainability in consultation with the Solicitor to the Council detailing issues in regard to the requirement for an Enforcement Notice at 31 Eastfield Road. (Copy of report circulated with the agenda and attached to the signed minutes).

The Panel noted the officer's recommendation not to pursue enforcement action in respect of a breach of planning control in respect of the increase in roof height of no more than 100mm above the approved height as detailed in consent granted by the Panel on 26 June 2009 allowing for the erection of a single storey rear extension

The Panel also noted that whilst the works carried out on site were not in accordance with the planning approval, the discrepancy between the 'as built' and the 'approved plans' was minor and would be unlikely to warrant the taking of formal enforcement action as no harm has been caused by the discrepancy identified.

The Panel further noted that should an application be submitted seeking consent for an increase in height of not more than 100mm it would be likely to result in a recommendation that planning permission be granted.

**RESOLVED** that an Enforcement Notice not be authorised.



# Agenda Item 5

Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 19 January 2010  
 Planning Application Report of the Head of Division

Application address	1a - 1h Janson Road Southampton SO15 5SU		
Proposed development	Conversion of 8 town houses to provide a total of 40 x one-bedroom flats and relief from Conditions 4, 5, 6 and 8 of previous planning permission reference 01/01003/FUL to enable retention of works carried out to convert garages to flat/bin store and retention of conservatories.		
Applicant	Mr P Louizou	Agent	Southern Planning Practice Attn Mr Ian Donohue Youngs Yard, Churchfields, Twyford, Winchester, So

Application number	09/01133/FUL	Application type	FUL
Case officer	Andy Amery	Application category	Major (Large)

<b>Recommendation Summary</b>	<b>1. Refuse 2. Authority to serve up to 8 separate enforcement notices against the breaches of planning control identified at 1a - 1h Janson Road.</b>
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Reason for Panel consideration	Major application and Enforcement issues.
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Date of receipt	17/11/2009	City Ward	Shirley
Date of registration	17/11/2009	Ward members	Councillor Matthews
Publicity expiry date	24.12.09		Councillor Dean
Date to determine by	16.02.10		Councillor Cooke

Site area	<b>400sq m (0.04ha)</b>	Usable amenity area Landscaped areas	<b>shown: 31.2 sq.m. per 'house'</b>
Density - whole site	<b>Existing = 200 d.p.h Proposed = 1000 d.p.h</b>		<b>shown: 4.9 sq.m. per flat</b>

Site coverage (developed area) 60%		Site coverage :60%	
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Residential numbers	unit size				
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mix						
Studio / 1-bedroom	<b>40</b>	<b>16 sq m (max)</b>				
2-bedroom						
3-bedroom						
Accessibility zone			Parking Permit Zone			
Car parking provision	<b>Proposed: 0</b>		<b>Existing: 8</b>		Policy maximum: 5	
Motor cycles / Bicycles	<b>Proposed: 0</b>					
Key submitted documents supporting application						
<b>Supporting Statement dated 17 November 2009.</b>						
Appendix attached						
1	Local Plan Policy schedule		2	Planning History		
3	Letter from agent giving series of management procedures					

### Recommendation in full

That the planning application be Refused and that the Service of 8 Enforcement Notices be endorsed by the Panel.

### Proposed Development & Surrounding Context

Located at the south-western end of Janson Road, and formally known as land to the rear of 325-327 Shirley Road, the site was quite recently developed (2006) to provide 8 three bedroom town houses in a three storey terrace.(01/01003/Ful - attached as an appendix to this report).

It is a high accessibility location, within the Shirley Town Centre boundary, close to all facilities and services.

The proposals seek to regularise the convert each of the 8 existing 3 bedroom town houses into 5 studio flats bringing the total number of flats across the development to 40.

The application also seeks to retain the conservatories which have been added to each of the properties without planning permission and relief of those originally imposed planning conditions which relate to the retention of the existing garages for car parking.

It should be noted that the application is part retrospective, the applicant having already converted 4 of the 8 units into self-contained flats.

For purposes of clarification, at the time of the application site visit on undertaken on 3 December 2009 it was identified that:

1a Janson Road was being lived in as a shared house with bed-space for up to 9 individuals but with individuals sharing some facilities including kitchen and bathroom.

1b Janson Road was being lived in as a HMO by 4 individuals with 4 rooms occupied but with no obvious communal interaction in the shared kitchen and bathroom areas.

1c Janson Road was being lived in as a HMO by 4 individuals with 4 rooms occupied but with no obvious communal interaction in the shared kitchen and bathroom areas.

1d Janson Road had been converted into 5 self-contained studio flats of which 4 were occupied. Only the ground floor unit, which was formerly the garage area, was not in occupation.

1e Janson Road had been converted into 5 self-contained studio flats of which 4 were occupied. Only the ground floor unit, which was formerly the garage area, was not in occupation.

1f Janson Road had been converted into 5 self-contained studio flats all of which were occupied.

1g Janson Road was being lived in as a HMO by 4 individuals with 4 rooms occupied but with no obvious communal interaction in the shared kitchen and bathroom areas.

1h Janson Road Janson Road had been converted into 5 self-contained studio flats of which 4 were occupied. Only the ground floor unit, which was formerly the garage area, was not in occupation.

The integral garage spaces for all units have, without the benefit of planning permission been converted into living accommodation, although at the time of the visit only one of the eight former garage spaces (1f) was being occupied.

Each of the units has been provided, without the benefit of planning permission, with conservatories to the rear elevation.

Two applications submitted in 2008 seeking to retain the conservatories and remove the conditions requiring the garages to remain were refused under delegated powers. The details of these applications are included in **Appendix 2** (Relevant Planning History).

Whilst not directly a planning issue it is considered that the Panel should be aware that the occupation of 7 of the 8 properties (1a being the exception) is by short-term tenancy agreements with a local charity who house homeless and other vulnerable individuals.

### **Relevant Planning Policy**

The planning policy to be considered as part of this proposal is scheduled in **Appendix 1** to this report.

### **Relevant Planning History**

The history of the site is attached in **Appendix 2** to this report.

### **Consultation Responses & Notification Representations**

A consultation exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement and erecting a site notice.

At the time of writing the report, 15 representations had been received from surrounding residents and local councillors.

### **Summary of Representations made**

The Council, across a number of departments, has received numerous complaints about activity, disturbance, poor refuse management and parking problems relating to this site.

Local residents are very concerned about the impact the development has on the character of the area and the amenities of those residents living close by.

It is considered that the creation of 40 flats is a gross over-development and over-intensive use of the site.

It is considered that the loss of family houses in this location is unacceptable both in policy terms and in terms of the character of the area.

There is a great deal of local anger at the flagrant breaches of planning control and the apparent lack of respect for the planning system.

### **Summary of Consultation comments**

Southern Water raises no objections.

The City Council's Housing team note the application and highlight that should it be refused the charity through which existing occupants have been housed would need to be notified.

Highways recognise that the lack of parking is well below the maximum requirement of 16 and that refuse and cycle storage facilities are not currently achieved to the required standards. Concern is also raised regarding the design of the garage doors which open out over the pavement and are a potential hazard if not managed properly.

### **Planning Consideration Key Issues**

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

#### 1. Principle of Development

The authorised use of the site is as 8 family town houses. Whilst policies in the adopted Local Plan Review 2006 do not prevent the conversion of houses to flats (policies H1 and H12 are most relevant) policies in the Core Strategy should now be given significant weight. The approved supplementary document on family housing (June 2009) should also be given significant weight when considering the principle of development.

Regard must also be had to whether the development can provide the appropriate facilities to provide occupiers with an acceptable living environment and also provide facilities such as refuse storage in such a manner as to safeguard the character of the area and the amenities of nearby residents. Policies SDP1, SDP7 and H7 in addition to requirements of the Residential Design Guide with regard to amenity space, refuse storage, cycle storage must be demonstrated to be satisfied.

#### 2. Loss of Family Housing

Policy CS 16 of the Core Strategy states that the council will seek to provide a mix of housing types and more sustainable and balanced communities through **no net loss of family homes on sites capable of accommodating a mix of residential units**. The site, as approved, provides 8 family sized dwellings . The proposal to convert these purpose built family units to flats is contrary to the Council's policies contained within the Core Strategy and the approved Supplementary Planning Document : Family Housing (June 2009).

#### 3. Provision of Specialist Housing for Homeless and Vulnerable Individuals

It is recognised that the Council's housing needs survey identifies a continuing need within the city for small households in particular to deal with the vulnerable and homeless.

The applicant has stated that the unauthorised conversion of the buildings is meeting this need and as such the development is compliant with the council's housing and planning policies.

Should the application be refused and any subsequent enforcement action is successful, up to 40 individuals would potentially be required to vacate the premises.

In this instance however it is considered the family housing policies and the supporting family housing document have the greatest weight when considering the application.

#### 4. Car-parking

One element of the application seeks relief from the originally imposed conditions 4, 5 and 6 which required the retention of the existing garage spaces. The garages have been converted into living accommodation without the benefit of planning permission. An application in 2008 (**08/01667/Ful**: Relief from conditions 4, 5 and 6 of permission reference 01/01003/FUL to allow partial conversion of garage to kitchen with removal of garage doors and creation of open parking areas - Retrospective application) was refused on 12.01.2009. The reasons for the refusal are set out in **Appendix 2** and remain relevant.

The maximum parking requirement for the existing development of 8 town houses would under today's policies would be 5, although at the time of granting consent in 2005 one space per unit was required.

The maximum number of spaces to serve 40 flats on the site is 16. The proposals are therefore significantly deficient in meeting the travel and parking needs of the development and as such are considered contrary to policies SDP3 and SDP5 of the Local Plan Review 2006.

#### 5. Amenity Space

The standards set out in the Core Strategy and the Residential Design Guide 2006 requires a minimum of 20sq m of amenity space to be provided per unit. The proposals only provide for 4.9sq m of amenity space per flat which represents a significant deficit and results in occupiers of the building having an unacceptable living environment. This is considered particularly relevant given the size of the average studio unit is only 16sq m which includes living, sleeping, kitchen and wash areas. The construction of the conservatories has only served to exacerbate this situation.

#### 6. Provision for and management of refuse storage and other facilities

There have been a number of repeated complaints about the condition and appearance of this site, in particular the manner in which refuse has been allowed to accumulate and be left out in full public view. The amount of refuse associated with the properties is a reflection of the density of occupation and poor on-site management. The original scheme was designed prior to the introduction of re-cycling facilities and therefore the approved refuse storage areas are not designed to accommodate the two bins now associated with a three bedroom family house.

Experience has shown that the unauthorised conversion of the houses to flats combined with the occupation of at least three of the other units as HMO's rather than as if there were family houses ( in the case of 1b, 1c, 1d and 1g each occupant has a separate tenancy agreement and has no connection with other occupiers) has led to serious problems of refuse storage.

Evidence suggests that the garage doors, which still remain in place, are often left broken and open over the footway, large quantities of refuse are left stored in the open and without proper management leading to problems of litter in addition to being unsightly and detrimental to the character of the area.

Since the initial site meeting the applicant has written to identify a series of management procedures that have been introduced including the employment of a site warden. A copy of this letter is appended to the report for information as **Appendix 3**.

Ultimately, the provision of refuse storage is not in accordance with the requirements set out in the Residential Design Guide.

It is also noted that no provision is made for adequate cycle storage provision. The standards as set out in the Local Plan Review and the Residential Design Guide require provision of 1 space per flat and 4 visitor spaces. It is not clear from the submission where secure and covered space for 44 cycles could be accommodated.

## 7. Retention of the unauthorised Conservatories

An application seeking the retention of the unauthorised conservatories - 08/01405/Ful: was refused on 28.11.2008 due to the provision of Insufficient amenity space. The conversion of the units to flats only increases the deficiency of amenity space and it is considered this element of the application should be refused on similar grounds to those previously stated.

### Summary

The proposals are wholly unacceptable.

## **CONCLUSION**

The application results in the loss of 8 family houses contrary to the most relevant and up-to date housing policies of the Council.

The provision of 40 flats on this site represents an over-intensive use of the site manifesting itself in poor living conditions and lack of amenity space for occupiers together with inadequate car parking and inadequate and poor management of refuse storage. The result is a detrimental impact on the character of the area and the amenities of nearby residents.

For these reasons the application is wholly unacceptable and should be refused.

Authorisation is also sought to serve up to 8 separate enforcement notices against the breaches of planning control identified on each of the units 1a - 1h Janson Road.

The notices would require the return of the properties at 1a-1h Janson Road to 8 three bedroom town houses as approved under 01/01003/Ful. In doing the notices would also require the removal of the conservatories and the re-instatement of the garages.

The time period for compliance is suggested as 6 months due to the length of the existing short-hold tenancies and the amount of work required to return the buildings to their authorised condition.

The reasons for serving the notices would be as set out in the reasons for refusal but with minor alterations to address the exact nature of the breach of planning control within each individual unit.

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

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(Andy Amery 4 January 2010)



**Relevant Planning Policy**

**Adopted City of Southampton Local Plan Review Policies**

SDP1	General Principles
SDP2	Integrating transport and Development
SDP3	Travel Demands
SDP5	Development Access
SDP6	Parking
SDP7	Context
SDP9	Scale, Massing and Appearance
SDP10	Safety and Security
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
H8	Housing Density
H12	Housing Type and Design
CLT5	Provision of Open Space
CLT6	Provision of Children's Play Space
IMP1	Provision of Infrastructure

**Core Strategy - Planning Southampton to 2026**

CS 3	Town, district and local centres
CS 4	Housing Delivery
CS 5	Housing Density
CS 15	Affordable Housing
CS 16	Housing Mix and Type
CS 19	Car and Cycle Parking

**Relevant Planning History**

**99/00893/Ful:** Redevelopment of the site by the construction of 7 no. maisonettes: Approved 23.05.2000

**01/01003/Ful:** Amendment to previous permission 99/00893/FUL - to redevelop site into 8 new dwellings: Approved 06.07.2005

**05/01057/Ful:** Erection of 8 no. three-bed, three-storey dwellings with associated car parking. Refused 13.09.2005 (due to failure of applicant to enter into s106 agreement).

**08/01405/Ful:** Vary condition 8 to permission 01/01003/FUL to allow construction of individual single storey conservatory to rear of each property. Refused 28.11.2008 for the following reason:

**REASON FOR REFUSAL - Insufficient amenity space**

The variation of condition 08 to permission 01/01003/FUL, to allow the enlargement of the dwellinghouses will fail to leave adequate private amenity space to serve each property. This would create an unacceptable living environment for occupiers of each property. As such, the proposed development would prove contrary to Policies SDP1 (i - particularly paragraphs 2.3.12-2.3.14 and Section 4.4 of The Residential Design Guide 2006 [September 2006]) and H7 (iii) of the City of Southampton Local Plan Review (March 2006).

**08/01667/Ful:** Relief from conditions 4, 5 and 6 of permission reference 01/01003/FUL to allow partial conversion of garage to kitchen with removal of garage doors and creation of open parking areas (Retrospective application). Refused 12.01.2009 for the following reasons:

**01. REASON FOR REFUSAL - Interrupt traffic flow**

Notwithstanding that the principle of a car free development in this location is acceptable the proposed garage conversions will result in additional on street parking in a location that is already heavily parked, whereby the impact of the free flow of traffic on Janson Road would be to the detriment of highway safety for all users. Furthermore, the subsequent length of retained driveway fail to retain sufficient parking to accommodate one vehicle and will, therefore, result in unsatisfactory parking taking place upon the site resulting in the obstruction of pedestrians using the adjacent highway land. The development would therefore prove contrary to the provisions of Policy SDP1, SDP3, SDP5, SDP7, SDP10 of the City of Southampton Local Plan (Adopted Version) March 2006 as supported by the relevant sections of the Council's approved Residential Design Guide SPD (2006).

**02. REASON FOR REFUSAL - Vehicle security**

Hampshire Constabulary have confirmed that there is evidence that residents on Janson Road have experienced and reported anti-social behaviour, which is often linked to criminal damage to vehicles parked on the road. The proposed garage conversions will result in additional on street parking and, therewith, more vehicle related crime on Janson Road to the detriment of the owners of the parked vehicles. Furthermore, the subsequent length of retained driveway of the host properties will result in parked vehicles overhanging adjacent highway land and, therefore, a likely increase in criminal damage to vehicles to the detriment of the owners. The development would therefore prove contrary to the provisions of Policy SDP1, SDP3, SDP5, and SDP10 of the City of Southampton Local Plan (Adopted Version) March 2006 as supported by the relevant sections of the Council's approved Residential Design Guide SPD (2006)

**03. REASON FOR REFUSAL - Out of character**

The proposed alteration to form an undercroft feature, by reason of its depth and design, would be out of character with design of the original dwellings and therefore

result in an incongruous addition to the street scene to the detriment of visual amenities in the local area. The proposed development would thereby prove contrary to policies SDP1(ii), SDP7 and SDP9 of the City of Southampton Local Plan Review (Adopted Version) March 2006 as supported by the relevant sections of the Council's approved Residential Design Guide SPD (2006)

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RECOMMENDATION: REF

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## **CONDITIONS for 09/01133/FUL**

01. Reason for refusal - loss of family housing, inadequate refuse, cycle and amenity provision for future occupiers, impact on character of the area and the amenities of local residents.

With regard to the Conversion of the 8 Town Houses to 40 flats:

a. The proposal results in the loss of 8 family houses for which there is an identified need and shortfall within the city. As such the proposals are contrary to Policy CS16 of the Core Strategy and the requirements of the Supplementary Planning Document: Family Housing June 2009 .

b. Notwithstanding the above the proposals fail to provide an appropriate mix of dwelling types and sizes contrary to the requirements of policy H12 of the City of Southampton Local Plan Review 2006 and the requirements of the Supplementary Planning Document: Family Housing June 2009.

c. The proposal represents an over-intensive use of the site which by reason of the level of activity and facilities associated with 40 individual households would be detrimental to the character of the area and the amenities of nearby residents contrary to Policies SDP1 (i) \_ (iii), SDP7 (iii), (iv) \_ (v), SDP9 (v), SDP 10 (ii) and H4 (i), (ii) \_ (iii) of the City of Southampton Local Plan Review 2006.

d. The proposal fails to make adequate provision for facilities to serve future occupiers of the units including amenity space, refuse storage and cycle storage. The significant deficit of amenity space is compounded by the size and layout of the individual units resulting in a failure to provide an acceptable living environment for future occupiers. The proposals are therefore contrary to policies SDP1 (i), and H4 of the City of Southampton Local Plan Review 2006 and paragraphs 4.4.1 - 4.4.4 (amenity space), 5.2.1 - 5.2.2 (car-parking), 5.3.1 - 5.3.4 (cycles), and 9.2 - 9.4.7 (refuse) of the Residential Design Guide 2006.

### **02. REASON FOR REFUSAL - Lack of Car Parking**

With regard to the relief of conditions 4, 5 and 6 of planning consent 01/01003/Ful:

a. Given number of individual units proposed, notwithstanding the high accessibility location of the site, a car free scheme is not considered appropriate and the proposed garage conversions will result in additional on street parking in a location that is already heavily parked, whereby the impact of the free flow of traffic on Janson Road would be to the detriment of highway safety for all users. Furthermore, the subsequent length of retained driveway fail to retain sufficient parking to even accommodate one vehicle and will, therefore, result in unsatisfactory

parking taking place upon the site resulting in the obstruction of pedestrians using the adjacent highway land particularly during the process of unloading and loading of goods or items given the current short term nature of the tenancies. The development would therefore prove contrary to the provisions of Policy SDP1, SDP3, SDP5, SDP7, SDP10 of the City of Southampton Local Plan (Adopted Version) March 2006 as supported by the relevant sections of the Council's approved Residential Design Guide SPD (2006).

b. Hampshire Constabulary have confirmed that there is evidence that residents on Janson Road have experienced and reported anti-social behaviour, which is often linked to criminal damage to vehicles parked on the road. The proposed garage conversions will result in additional on street parking and, therewith, more vehicle related crime on Janson Road to the detriment of the owners of the parked vehicles. Furthermore, the subsequent length of retained driveway of the host properties will result in parked vehicles overhanging adjacent highway land and, therefore, a likely increase in criminal damage to vehicles to the detriment of the owners. The development would therefore prove contrary to the provisions of Policy SDP1, SDP3, SDP5, and SDP10 of the City of Southampton Local Plan (Adopted Version) March 2006 as supported by the relevant sections of the Council's approved Residential Design Guide SPD (2006)

### 03. Reason for refusal - Inadequate Amenity Space

With regard to the relief of Condition 8 of planning permission 01/01003/Ful and the retention of the existing conservatories:

The variation of condition 08 to permission 01/01003/FUL, to allow the enlargement of the dwelling houses will fail to leave adequate private amenity space to serve each of the proposed flats. 4,9sq m of external amenity space per flat is significantly below the council's adopted minimum standards and coupled with the internal living accommodation provided creates an unacceptable living environment for occupiers of each property. As such, the proposed development would prove contrary to Policies SDP1 (i - particularly paragraphs 2.3.12-2.3.14 and Section 4.4 of The Residential Design Guide 2006 [September 2006]) and H7 (iii) of the City of Southampton Local Plan Review (March 2006).

### 04. REASON for Refusal - s106 contributions

In the absence of a completed S.106 Legal Agreement the proposals fail to mitigate against their direct impact and do not, therefore, satisfy the provisions of policy IMP1 of the City of Southampton Local Plan Review Adopted Version March 2006 as supported by the Council's Supplementary Planning Guidance on Planning Obligations (August 2005 as amended) in the following ways:-

A) Measures to satisfy the public open space requirements of the development have not been secured. As such the development is also contrary to the City of Southampton Local Plan Review Adopted Version March 2006 Policy CLT5.

B) Measures to support sustainable modes of transport such as necessary improvements to public transport facilities and pavements in the vicinity of the site have not been secured contrary to the City of Southampton Local Plan Review Adopted Version March 2006 policies SDP1, SDP2 and SDP3;

C) Measures to support strategic transportation initiatives have not been secured. As such the development is also contrary to the City of Southampton Local Plan Review Adopted Version March 2006 policies SDP1, SDP2 and SDP3;

D) Measures to support a refuse management plan to outline the methods of storage and waste collection of refuse from the land in line with policy SDP1 of the City of Southampton Local Plan March 2006.

E) In the absence of a Highway Condition survey the application fails to demonstrate how the development will mitigate against its impacts during the construction phase; and

#### Section106A Informative

The applicant is advised that the reason for refusal could be overcome following the completion of a S.106 Legal Agreement to support an acceptable scheme.

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RECOMMENDATION: CAP

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**CONDITIONS for 01/01003/FUL**

01. Standard 5 years

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. Details of Materials

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

REASON

In order to control the appearance of the development in the interests of visual amenity.

03. Means of Enclosure

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

REASON

In the interests of the visual amenities of the area and to protect the amenities and privacy of occupiers of neighbouring properties.

04. Car Parking

The car parking area shown on the approved drawing shall be laid out and surfaced before the use hereby permitted commences and shall thereafter be kept clear and maintained at all times for that purpose.

REASON

To prevent obstruction to traffic in neighbouring roads.

05. On-site Parking/Access

Before any dwelling unit hereby approved is occupied, both the on-site car parking and a proper vehicular access relating to it shall be provided to the satisfaction of the Local Planning Authority. The car parking shall thereafter be retained and not used for any trade, business or industrial use.

REASON

To ensure provision of vehicular access and car parking, to avoid congestion in the adjoining area and to protect the amenities of the area.

06. Garages/Parking Spaces

The garages and/or parking spaces shown on the approved plans shall only be used in connection with the dwelling units hereby approved and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

REASON

To ensure adequate on-site car parking provision for the approved dwelling units remains available for that purpose and to prevent parking on the adjoining highway.

07. Access - Stopped Up

Any existing access to the site shall be stopped up and abandoned and footway and verge crossings shall be reinstated immediately after completion of the new access.

REASON

In the interests of highway safety.

08. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any Order revoking or re-enacting that Order, under Schedule 2, Part 1 Classes A, B and E no extensions, enlargements or the provision of any building or enclosure within the curtilage of the houses hereby approved shall be erected without the express written authority of the Local Planning Authority,.

REASON

In order that the Local Authority may exercise further control in the locality in the interests of the amenities of the area.

09. Precise details of the method and programming of the demolition of the existing property shall be submitted to and approved in writing by the Local Planning Authority prior to the implementation of any works on site. The demolition scheme shall be carried out fully in accordance with the agreed details to the satisfaction of the Local Planning Authority.

REASON

In the interests of the residential amenities of adjoining premises.

10. Pursuant to condition 03 and 09 above the existing south eastern flank wall shall be retained within the site to a maximum height of 2.4m and details of the finish treatment to the wall shall be submitted to and agreed in writing by the Local Planning Authority. The scheme of works for the wall shall be fully implemented in accordance with the agreed scheme before the first house is occupied and shall subsequently be retained in association with the occupation of the site for residential purposes.

REASON

To secure a satisfactory form of development in the interests of the occupants of the houses and the visual amenities of the area.

11. The development to which this consent relates shall not be occupied in full or in part until secure, covered space has been laid out within the site for 1 cycle per unit to be stored. The cycle stores hereby approved shall thereafter be retained on site for that purpose.

REASON

To encourage cycling as an alternative form of transport

12. The rear walls of Nos 325-327 Shirley Road which are exposed as a result of the demolition of the existing building on the site shall be reinstated and in materials to be agreed by the Local Planning Authority in writing before the development commences. The reinstatement works shall be completed before the dwellings are first occupied.



REASON

To ensure that the appearance of the development is satisfactory

13. Unless otherwise agreed in writing by the Local Planning Authority all works related to the construction of the development hereby granted including works of demolition or preparation prior to building operations shall only take place between the hours of 8 am and 6 pm Monday to Friday and 9 am to 1 pm Saturdays and at no time on Sundays or Bank Holidays.

REASON

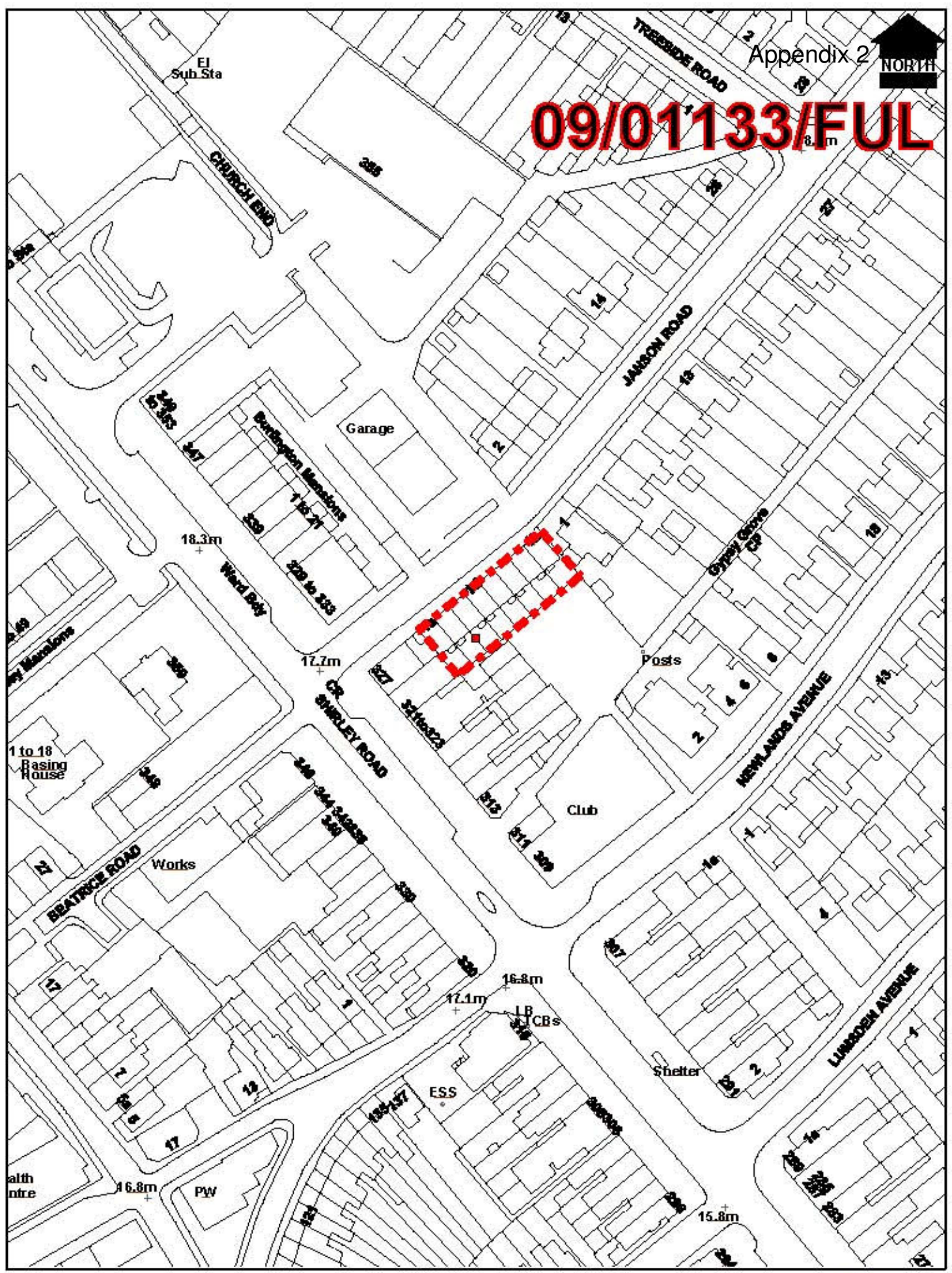
To protect the amenities to adjoining properties during the construction period.

00. The development is acceptable taking into account the material considerations and policies GP1 , H2 , and H12 of the City of Southampton Local Plan ; and policies , SDP 6 and H10 of the City of Southampton Local Plan Review

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# 09/01133/FUL



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Date : 06 January 2010

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Andrew Amery  
City of Southampton  
Planning and Sustainability  
Development Control Services  
Southampton City Council  
Southampton  
SO14 7LS

Our Ref: S/236/ID  
Your Ref: 09/01133/FUL  
Email: iand@southernplanning.co.uk  
Date: 04 January 2010  
Status: Email

Dear Mr Amery,

**1A-1H Janson Road Southampton**

I refer to our telephone conversation regarding the provision of additional information in support of the application. I have now had time to read through the letters of objection received by the council in relation to the proposal.

A number of the issues raised relate to the management of the property in terms of rubbish, noise and disturbance and anti social behaviour. As you are aware a management regime has now been put in place to address these points. This was clarified in my letter to yourself dated 9 December 2009.

The other issues raised relate to: -

Parking

In terms of parking, none of the residents have cars and as the site is within a highly accessible area there is no need for on site parking. This was confirmed by the highway engineer comments on the previous application where no objection to the loss of the garages was raised.

Marketing

Marketing information to follow

The loss of family accommodation

Policy CS 16 relates to the retention of family housing and the mix of housing however the inspector who reported on the core strategy commented that it should be recognized that there is a: -

**.... continuing and accepted need for a large proportion of new dwellings to be provided as flats for demographic reasons.**

He also commented that a pragmatic approach should be taken in relation to sites in terms of the requirements of the policy.



**4.112 However, it must also make allowances for the fact that some sites may be inherently unsuitable for new family houses and that in other situations there may be overriding reasons why a net loss may have to be accepted, on balance, to be reasonable and practical.**

In considering the application of the policy in relation to Jenson Road. Although permission was granted for 8 dwellings there are a number of reasons why they have proved to be unsuitable as family dwellings: -

1. The properties marketing was unsuccessful
2. They are not practical for a family because: -
  - a. Garden too small
  - b. on 3 floors

As such it has not been possible to either let or sell these houses to families as a result prior to the conversion all the houses have been in multiple occupation. The Council recognise in the Core Strategy that they have no control over the loss of dwellings to multiple occupancy.

**5.2.13 Current legislation allows for six or fewer unrelated people living as a single household to share a house without needing planning permission. If the Town and Country Planning (Use Classes) Order 1987 remains unchanged with respect to this element the council will continue to be constrained as to the action it can take in relation to the loss of family homes through this route. It is also recognised that these types of accommodation are important as a source of housing for people with low incomes, those on benefit payments and those starting off in the economy as young professionals.**

The first key point therefore is that there is no loss of family housing.

#### Housing Mix

In relation to the mix of housing it is considered that the implementation of the policy should relate to the area ie on a micro scale rather than a generic policy for the whole city. In addition it should be noted that there are very few one bed studios in the area. The provision of these units would provide a better mix in the area. Indeed a number of objectors have stated that that flats would be out of character as there are no others in the area.

In a recent appeal decision at the Royal Arms 14, Padwell Road (08/00641/ful) the inspector commented: -



23. Various criticisms from third parties have related to questioning the need for flats, and that such development will drive out families from within and near to the city centre. It appears to me that single bedroom flats contribute to the range of housing in the area and provide much needed accommodation. There is no evidence whatsoever to indicate that residents of family accommodation are driven out by the introduction of new flats. It is also considered by many that flats are out of character, but low rise flats are clearly a very appropriate building form in this area, such as Templar Court close to the appeal site, and fit in well with predominantly terraced and semi-detached housing.

It is considered therefore that the proposal would not be contrary to the 'mix requirements of policy CS16 of the Core Strategy.

#### The need for homeless accommodation

The Street Homelessness Prevention Team is a charitable service that helps homeless people in Southampton who not eligible to get council accommodation. This is a significant number of people and in 2009, 1400 people contacted the Street Homelessness Prevention Team.

Those people that require accommodation are passed onto other homeless organisations such as Two Saints who have access to accommodation. However To provide sufficient accommodation Two Saints and other organisations are increasingly relying on the private rented sector to provide accommodation. It should be noted that Two Saints are satisfied with the accommodation at Jansen Road.

#### Conclusion

In conclusion: -

- The current management regime implemented before Christmas for the premises has addressed many of the concerns raised about anti social behaviour and refuse storage
- There is no requirement for parking
- The current dwellings are not suitable as family dwellings
- The provision of the studios would provide an appropriate mix for this part of Shirley

Yours sincerely,

**Ian Donohue**  
**Associate Planner**

#### **SOUTHERN PLANNING PRACTICE LTD**

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Enclosure

Cc Mr P Loizou



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Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 19 January 2010  
 Planning Application Report of the Head of Division

Application address	Land rear of 82 and 86 - 88 Shirley Avenue		
Proposed development:	Erection of 3x2 Storey detached houses with integral garage (2 x 2 bed and 1 x 3 bed) with associated parking and storage		
Application number	09/01213/FUL	Application type	Full Detailed
Case officer	Jenna Turner	Application category	Q13 - Minor Dwellings

Recommendation Summary	<b>Delegate to Development Control Manager to grant planning permission subject to criteria listed in report.</b>
------------------------	---

Reason for Panel consideration	Due to the level of public interest and the planning history of the sites
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Applicant: Dasd Property Services Ltd, Mrs Baldwin and Mr Scott	Agent: Luken Beck Ltd 30 Carlton Crescent, Southampton
--	---

Date of receipt	17/11/2009	City Ward	Shirley
Date of registration	17/11/2009	Ward members	Cllr Cooke
Publicity expiry date	06/01/2010		Cllr Dean
Date to determine by	12/01/2010 <b>OVER</b>		Cllr Matthews

Site area	673 sq.m (0.07 ha)	Usable amenity area	shown: between 98 and 123 sq.m
Site coverage (developed area)	between 23 & 31% developed by building	Landscaped areas	shown: between 112 and 133 sq.m
Density - whole site	42 d.p.h		

Residential mix	nos	size sqm	Other land uses	class	size sqm
Studio / 1-bedroom	2	84 sq.m	Commercial use	-	-
2-bedroom	1	113 sq.m	Retail use	-	-
3-bedroom	-	-	Leisure use	-	-
other	-	-	other	-	-
Policy designation					

Accessibility zone	low	Policy parking max	4.5 spaces
Parking Permit Zone	no	existing site parking	3 spaces
Cyclist facilities	yes	car parking provision	4 spaces
motor & bicycles	3 cycles	disabled parking	0 spaces

Key submitted documents supporting application			
1	Design and Access Statement	2	Planning Statement
3	Transport Statement	4	Aboricultural Impact Assessment
Appendix attached			
1	Planning History	2	Relevant Planning Policy
3	Suggested conditions		

**Recommendation in full**

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

1. the applicant entering into a Section 106 Legal Agreement to secure the widening of the footway in front of the application site to a width of 2m;

And that the D C Manager be authorised to refuse permission if the Section 106 Agreement has not been completed within two months of the Panel favourable decision whichever is agreed with the Council on the ground of failure to secure the provisions of the Section 106 Agreement.

### **Proposed Development & Surrounding Context**

The application site comprises the end sections of three rear gardens associated with 82, 86 and 88 Shirley Avenue which are detached two-storey dwelling houses. The site fronts Howard's Grove and all plots benefit from vehicular access from Howard's Grove. The rear boundaries are demarcated by 2m high concrete block and brick walls.

Shirley Avenue is a residential street with a spacious suburban character and which typically comprises detached, two-storey family dwellings. Howard's Grove by contrast is more varied in character; to the south-west of the application site and on the same side of the road, is a row of Victorian semi-detached properties which lie to the rear of 38 to 64 Shirley Avenue. The rear gardens of 68 to 90 (with the exception of nos. 72 to 76) have remained undeveloped, although many of these properties have garages and or parking spaces which are accessed from Howard's Grove. There is a tree subject to a Tree Preservation Order which lies adjacent to 86 Howard's Grove.

The high rear boundary treatment and ad-hoc garages and similar structures have a negative impact on the visual quality of Howard's Grove and create an uncomfortable pedestrian environment.

### **Relevant Planning Policy**

The planning policy to be considered as part of this proposal is scheduled in **Appendix 1** to this report.

### **Relevant Planning History**

The history of the site is attached in **Appendix 2** and relevant appeal decisions are included in **Appendix 3** to this report.

### **Consultation Responses & Notification Representations**

A publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement and erecting a site notice. At the time of writing the report, **19** representations had been received from surrounding residents.

### Summary of Representations made

**Precedent** - If approved the proposal will set a precedent for the development of other rear gardens along Shirley Avenue which will adversely affect the character of the area.

**Garden grab character** - Developing the back gardens would have a harmful impact on the

## ITEM NO. 6

character of the area and on the environment. In previous appeal decisions the Planning Inspectorate has noted spacious character to the street scene at this point. The existing properties on Shirley Avenue will be less attractive as family dwellings and the proposal would increase the likelihood of properties on Shirley Avenue creating hard-standings to the frontages.

**Car parking** - The insufficient garage space width and the number of car parking spaces proposed is not sufficient to serve the size of the dwellings proposed which would increase on-road car parking which would represent an inconvenience to nearby residents and have an adverse impact on highway safety, including access by the emergency services.

**Highway Safety** - Poor visibility from the accesses would result in vehicles joining the carriageway from the parking spaces being difficult to spot by on-coming traffic or pedestrians. Adequate sight lines are not secured from site accesses due to the neighbouring 2m high boundary treatment. Lack of on-site turning means vehicles would have to back on to or off of the carriageway which would be dangerous. The highway survey undertaken by the applicant's is not reliable and contains factual errors, in particular the existing vehicular accesses are not used and the speed data collected was skewed by a parking of a vehicle adjacent to the application site. Furthermore, the previous planning inspector's comments relating to traffic speeds are cast in doubt by the more recent traffic survey. The proposal should improve the highway safety situation. Three dwellings would increase the vehicular movements from the sites and thereby have a harmful impact on highway safety.

**Visual Impact** - The proposed development would appear out of keeping with existing development and would create an unacceptable sense of enclosure in Howard's Grove The design is overly fussy and the plots would appear cramped.

**Privacy** - The new dwellings would result in overlooking of existing properties in St James Road, Howard's Grove and Shirley Avenue. The back-to-back distances at ground floor level between the development and 84 and 86 Shirley Avenue is at 17 metres less than the amount required by the Residential Design Guide.

**Loss of Light** - the proposal would result in a loss of daylight to properties opposite in Howard's Grove

**Outlook** - The proposed dwellings would appear oppressive when viewed from neighbouring properties in Shirley Avenue, Howard's Grove and St James Road.

**Drainage and Runoff** - The additional hard surfacing would result in drainage and flooding issues

**Amenity Space** - The rear storage areas depletes the amount of useable amenity space. The existing property at 86 Shirley Avenue is left with less than the required amount of rear amenity space (approximately 70sq.m in area and 7m deep)

**Access to rear** - The shared access path to the rear is not wide enough to enable access by wheelie bins or bicycles

**Overdevelopment** - The proposed dwellings would appear squeezed onto the plot and would not respect the rhythm of the street frontages within Howard's Grove. The amount of hardstanding would also result in the plot appearing over-intensively developed.

**Comprehensive Approach** - The proposal would not create a complete street scene and would look out of keeping with the more uniform development which surrounds the site.

Summary of Consultation comments

**SCC Highways Development Control** - No objection. Suggests a condition to ensure the access to the rear is retained as a shared pathway and to secure adequate sight lines. Further conditions are suggested relating to the hours of construction related deliveries and the materials to be used for the hard surfaced areas.

**SCC Environmental Health (Pollution and Safety)** - No objection subject to the suggested conditions

**Environmental Health (Contaminated Land)** - There is no indication of contamination on or adjacent to the application site. Environmental Health officers suggest an assessment is undertaken, however in the absence of evidence to indicate a presence of contamination, a condition is suggested to instead deal with unsuspected contamination.

**SCC Tree Team** - No objection. The proposal would not have an adverse impact on the adjacent protected tree.

**Architects Panel** (not in quorum) - Raise no issue with the proposal

**Southern Water** - No objection subject to the imposition of the suggested conditions

**Planning Consideration Key Issues**

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

- The principle of development
- Impact on the character of the area in terms of scale, design and visual impact
- The impact on the amenities of neighbouring occupiers
- The adequacy of the residential environment proposed

The key issues should also be assessed in light of the planning history of the sites.

1. Principle of development

The proposed development would result in the more efficient use of this brownfield site and as it is within 500m of Shirley Town Centre the principle of further residential development in this location is acceptable. The principle of residential development has been accepted by Planning Inspectors at land to the rear of both 82 and 88 Shirley Avenue (see decisions attached at **Appendix 3**). The application proposes a level of development which accords with the density requirements for this area. The additional family housing is welcomed.

2. Planning History

Initial applications relating to all three plots involved the construction of two semi-detached dwellings per plot. This was considered to be an over-intensive use of the plots which was evident in associated highway safety issues, a lack of useable amenity space and cramped design and appearance of the proposals. The Council's reasons for refusal were upheld at two separate appeals by the Planning Inspectorate (included as **Appendix 3**), although in the case of 82 Shirley Avenue, the inspectorate did not uphold the Council's reason for refusal in respect of insufficient car parking.

Subsequent applications proposed single dwellings per plot and the design and character of the dwellings were amended to reflect the suburban character of the area. The parking and access arrangements were also altered.

A further scheme at 88 Shirley Avenue was refused on the basis of the height of the dwelling (in particular the presence of a front facing dormer window) and on highway safety grounds. A subsequent appeal was dismissed and the principle reasons for dismissal are listed as follows:-

- It would be preferable to explore the possibility of including nearby land to create a more unified approach to the development
- The scale, height and proximity of the property including the prominent front dormer window would be out of character with the neighbouring development
- Given the isolated frontage to Howard's Grove the dwelling would appear unrelated to any other townscape feature in the locality and appear incongruous in the street scene.
- The height and dormer window is likely to adverse the privacy of 121 St James Road and would have an impact on outlook, although on their own this issue may not have been sufficient to withhold permission.

In addition to this, recently a further application at land to the rear of 82 Shirley Avenue has been refused under delegated powers given the stand alone nature of the dwelling.

### 3. Character of the area

The current application proposes dwellings which are 7m in height to the ridge; this is 1.9m lower than the last appeal scheme at 88 Shirley Avenue and 1m lower than the nearby residential properties on Shirley Avenue. The eaves height is the same as the properties on Shirley Avenue. The properties do not include accommodation within the roof space and a condition is suggested to remove permitted development rights to prevent accommodation being formed within the roof in the future. It is therefore considered that in terms of scale, height the proposed dwellings would be acceptable and the concerns raised in the appeal decision of the 24 July 2009 relating to scale and height is considered to have been addressed. In terms of the degree of enclosure to the street it is considered that the lesser height of the dwellings, the set back from the public highway and the soft landscaping would prevent an undue sense of enclosure to the street scene. Furthermore it is considered that by opening up the plots and removing the high unattractive boundary treatment would represent a marked improvement in street scene terms.

The applicants have chosen a traditional design approach which incorporates features which are common of the surrounding area including a hipped roof form, double-height bay window, porches and chimneys. The distance between the properties proposed to the rear of 86 and 88 with the northern side boundaries has also been increased by at least 0.6m to address the Inspector's comments in dismissing the most recent appeal at 88 Shirley Avenue. Spacing to the southern side of the dwellings to the boundaries would be between 1m & 3m to ensure that the plots do not appear cramped within the street scene. Typically properties within Howard's Grove and Shirley Avenue are built up to the boundary on one side and have between 1m & 2m spacing to the boundary on the other side. The frontage width of the property also relates to those found in the surrounding area and the buildings are positioned to respect the strong building line of properties 137 Howard's Grove downwards. A condition is suggested to secure low level brick boundary treatment to the front. It is therefore considered that the appearance of the dwellings would be sympathetic to the prevailing pattern of development within the locality of the site.

Having regard to concerns raised regarding the development of the rear gardens in Shirley Avenue, at paragraph 9 of the appeal decision of the 24 July 2009 the Inspector states that

the benefits of retaining the large gardens need to be balanced against the unattractive street scene created by the tall brick walls and entrance gates that front Howard's Grove and by the need to make more efficient use of urban land which falls within the definition of previously developed lands as specified by PPS3. At paragraph 10 the Inspector finds no objection to some development on land to the rear of 88 Shirley Avenue. In addition to this, paragraph 5 of the appeal decision of the 20 August 2009 also supports the principle of residential development on land to the rear of 82 Shirley Avenue.

In terms of the issue of precedent; each planning application is assessed on its own planning merits but notwithstanding this, such a precedent would not necessarily be harmful. From a visual point of view the introduction of an active frontage is preferable to the unattractive boundary treatment which currently exists. Highway officers have also indicated that the establishment of a row of similar dwellings would result in a betterment of the existing situation by creating a widened pavement, improved visibility and the regulation of the existing points of access. It is also noted that in dismissing appeals at nos 82 and 88 Shirley Avenue, the planning inspectorate has not found the issue of precedent as one being reason to dismiss the appeals; indeed the Inspector for 88 Shirley Avenue considered that a more comprehensive approach to development in this location would be preferable.

Paragraph 10 of the appeal decision of the 24 July 2009 states that whilst a comprehensive approach to the development of land to the rear of Shirley Avenue would be preferable, it would be likely difficult to achieve. A single application is proposed for three dwellings and whilst this is not comprehensive, the applicants have gone to lengths to fully explore delivering a comprehensive scheme on land to the rear of Shirley Avenue, including inviting the Council to use Compulsory Purchase powers and approaching the neighbouring land owners. In paragraph 10 of the appeal decision of the 24 July 2009 the Inspector also remarks that whilst the issue of comprehensive development was not raised during the earlier appeal scheme, that proposal at that time involved a pair of semi-detached housing. It is therefore considered that the proposal for three dwellings, of similar design and positioning on their respective plots would clearly relate to one another and better tie with the surrounding area, particularly the properties opposite and the proposed development to the rear of 68 and 70 Shirley Avenue.

#### 4. Residential amenity

The earlier appeal scheme at 88 Shirley Avenue have included a third level of accommodation within the roof-space. The planning inspector for 88 Shirley Avenue raised concerns about the impact that a taller dwelling would have on the neighbouring properties, although did not consider that this would be sufficient as a sole reason to withhold permission (paragraph 22 of the appeal decision for 88 Shirley Avenue in **Appendix 3** refers). The current proposal proposes dwellings which are almost 2m lower in height than the scheme dismissed at 88 Shirley Avenue and accordingly, the lesser height would have a significantly lesser impact on the surrounding properties. The proposal would not result in any loss of day-lighting or sun-lighting for neighbouring properties. In addition to this the third floor front dormer window has been omitted from the roof space which reduces any harmful overlooking of the properties opposite on Howard's Grove and the corner of St James Road.

It is noted that both 84 and 86 Shirley Avenue have single-storey extensions to the rear and would therefore be closer to the proposed dwellings. However, since the extensions are single-storey, rear boundary treatment secured by planning condition would assist in mitigating impact on privacy. A ground floor separation distance of 17m is considered to be acceptable in terms of outlook, particularly having regard to the lesser scale and massing of

the proposed dwellings. Furthermore, since the property at 84 Shirley Avenue is positioned at an angle to the application site any impact is lessened.

#### 5. Residential standards

The proposed dwellings would be served by rear gardens in excess of the amenity space standards suggested in the Residential Design Guide. Cycle and refuse storage can be accommodated within this space without significantly compromising the useability of the garden areas. The pathway to the rear gardens is of sufficient width to ensure that the cycle and refuse stores can be accessed and cycles and bins moved to the property frontage as required.

The amount of amenity space that would be left to serve the existing dwellings of 82, 86 and 88 Shirley Avenue would exceed the amount suggested by the Residential Design Guide to serve detached family houses. Although due to a single-storey rear extension, the property at 86 would be left with a 7m deep rear garden, the area and quality of the space is considered sufficient to meet the amenity space needs of the property. The properties could therefore continue to be able to be occupied as family housing.

#### 6. Highways and parking

Two of the proposed dwellings would be served by one off-street car parking space to be accessed from Howard's Grove and the other would be served by a garage and car parking space. This complies with the Council's adopted car parking standards and moreover it is noted that the appeal inspector when considering the scheme at 82 Shirley Avenue considered that a car-free residential development on Howard's Grove would be acceptable (please refer to paragraph 9 of the appeal decision for 82 Shirley Avenue in **Appendix 3**). The proposed garage is set back more than five metres from the edge of the footway which means a vehicle can pull fully off the road before entering the garage. The internal width of the garage is sufficient to enable a car to be parked and the doors opened once inside. All existing properties currently have off-road car parking to the front, accessed from Shirley Avenue.

Howard's Grove is an unclassified road and accordingly there is no requirement for the provision of on-site turning for a single point of access. The relatively low number of vehicular movements associated with the proposed dwellings would not significantly increase the existing traffic movements within Howard's Grove. Furthermore, all properties currently have vehicular access from Howard's Grove. The removal of the 2m high boundary treatment would represent a betterment in highway safety terms and a planning condition is suggested to secure low level front boundary treatment. In addition to this the Section 106 Agreement would secure public footpath widening in front of the dwellings.

Earlier appeal decision in which highway safety was upheld as a reason for refusal related to the proposal of two-dwellings per single plot. The subsequent appeal at 88 Shirley Avenue which proposed a single dwelling with an access and parking identical to this application and was not found to be detrimental to highway safety. Consequently the Council lost an award of costs against them.

#### Summary

The proposed development would provide three family sized homes within a sustainable location which would make efficient use of this brownfield site. The proposal has been designed to address previous reasons for refusal and comments that the planning inspectorate have made in dismissing appeals at 82 and 88 Shirley Avenue.

**CONCLUSION**

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

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

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

1(a) (b) (c) (d), 2 (c) (d), 3 (a), 6(l), 7 (a) (c), 8 (a) (j)

(JT 30.12.09)



**Application 09/01154/FUL - Shirley Avenue****Appendix 1****Relevant Planning History****68 - 70 Shirley Avenue**

09/01154/FUL

Pending Determination

Erection of 2 x three-bed detached dwellings with parking and associated storage accessed from Howards Grove

**88 Shirley Avenue History**

08/00768/FUL

Non-determination Appeal Dismissed 24.07.09

Erection of four-bed detached dwelling with integral garage on land rear of existing property.

The appeal decision is attached as **Appendix 3**

07/01725/FUL

Refused 23.01.08

Erection of a four-bed detached dwelling with integral garage. (Revised resubmission following the withdrawal of planning application reference 07/01392/FUL):

01.

The proposed development would fail to enable vehicles to turn on the site or enter and leave the highway in a forward gear. Having particular regard to the narrowness of the Howard's Grove carriageway and the proximity of the junction with St James Road, the development would therefore be to the detriment of the safety and convenience of the users of the adjoining highway. Moreover, the development would set a clear precedent for similar developments in the vicinity of the site which would further impact on the safety of the Howard's Grove highway. The development would therefore prove contrary to the provisions of policies SDP1 (as supported by 5.1.14 to 5.1.15 of the Residential Design Guide 2006) and SDP4 of the City of Southampton Local Plan Review (Adopted Version March 2006).

02.

The proposed dwelling, by reason of its height would appear out of keeping with the other residential properties in the vicinity of the site. This impact is compounded by the insertion of a dormer window in the front roof slope which increases perceived bulk and height of the proposed dwelling when viewed from Howard's Grove and the surrounding residential properties. The development would therefore not be in accordance with policies SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review (Adopted Version March 2006) as supported by the relevant sections of the approved Residential Design Guide (2006).

03.

In the absence of a completed S.106 legal agreement to secure works to the public highway that facilitate this development the proposal fails to satisfy the provisions of policy IMP1 of the City of Southampton Local Plan Review (Adopted Version March 2006) and the provisions of the Council's Supplementary Planning Guidance on Planning Obligations (August 2005 as amended) by failing to secure the widening of the adjacent public footway, contrary to the provisions of policies SDP1, SDP2 and SDP3 of the City of Southampton Local Plan Review – Adopted Version March 2006.

07/01392/FUL

Withdrawn 01.11.07

## ITEM NO. 6

Erection of 1 x four-bed dwelling with integral garage and associated bin and cycle storage on land to the rear of 88 Shirley Avenue with access onto Howards Grove

07/00292/FUL

Refused 15.05.07

Erection of a pair of two-storey semi-detached dwellings  
Delegated refusal for (i) lack of private amenity space and (ii) impact on highway safety. An **appeal** was lodged and subsequently dismissed on both issues

### 86 Shirley Avenue

07/00060/FUL

Withdrawn 01.03.07

Erection of a 2 x three bedroom, semi-detached dwelling houses with associated cycle/bin stores on land to the rear of the existing property

07/01411/FUL

Withdrawn 01.11.07

Erection of a four-bed detached dwelling with associated parking and vehicular access

07/01726/FUL

Withdrawn 15.01.08

Erection of a four-bed detached dwelling with integral garage (revised resubmission following withdrawal of application reference 07/01411/FUL)

09/00049/FUL

Withdrawn 04.03.09

Erection of a 2-storey, 4-bed detached house, with integral garage on land to the rear of 86 Shirley Avenue with associated bin/cycle storage

### 86-88 Shirley Avenue:

07/00740/FUL

Refused 23.07.07

Erection of a terrace of 4 no fours bedroom dwellings with rooms in the roof space and associated bin/cycle storage and parking

Delegated refusal for (i) insufficient amenity space; (ii) Inadequate refuse storage; (iii) Inadequate cycle storage; (iv) Overdevelopment-terraced form out of keeping with the character of the area.

### 82 Shirley Avenue:

08/00372/FUL

Withdrawn 15.07.08

Erection of 2 no. two-storey semi-detached houses with associated bin/cycle storage

08/01319/FUL

Refused 05.11.08 and appeal dismissed 20.08.09

Erection of 2 x two storey semi detached houses with associated bin/cycle storage. (Resubmission of 08/00372/FUL)

Appeal decision is attached in **Appendix 3**

09/01022/FUL

Refused 19.11.09 Appeal pending

Erection of detached 3 x bed dwelling with access from Howards Grove, after demolition of existing detached garage

01.

REFUSAL REASON – Impact on the street scene

The proposed dwelling would have an isolated appearance within Howard's Grove and would not relate to any other townscape feature in the locality. The proposal would therefore appear out of keeping with the Howard's Grove street scene and prove contrary to the provisions of polices SDP1 (ii), SPD7 (v) and SPD9 (v) of the City of Southampton

Local Plan (March 2006) and as supported by paragraph 3.7.7 of the Residential Design Guide Supplementary Planning Document September 2006.

02.

**REFUSAL REASON - Section 106 Agreement**

In the absence of a completed S.106 legal agreement to secure works to the public highway that facilitate this development the proposal fails to satisfy the provisions of policy IMP1 of the City of Southampton Local Plan Review (Adopted Version March 2006) and the provisions of the Council's Supplementary Planning Guidance on Planning Obligations (August 2005 as amended) by failing to secure the widening of the adjacent public footway, contrary to the provisions of policies SDP1, SDP2 and SDP3 of the City of Southampton Local Plan Review – Adopted Version March 2006.

**Application 09/01154/FUL - Shirley Avenue**

**Appendix 2**

**Relevant Planning Policy**

**Adopted City of Southampton Local Plan Review Policies**

SDP1	General Principles
SDP2	Integrating transport and Development
SDP3	Travel Demands
SDP5	Development Access
SDP6	Parking
SDP7	Context
SDP9	Scale, Massing and Appearance
SDP10	Safety and Security
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
H8	Housing Density
H12	Housing Type and Design
CLT5	Provision of Open Space
CLT6	Provision of Children's Play Space
IMP1	Provision of Infrastructure

**Core Strategy Policies**

CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS 15	Affordable Housing
CS16	Housing Mix and Type
CS18	Transport

CS19	Car and Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS21	Protecting and Enhancing Open Space
CS25	The Delivery of Infrastructure and Developer Contributions

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RECOMMENDATION: DEL

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## **CONDITIONS for 09/01213/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 - Details of External Materials [pre-commencement condition]

Notwithstanding the submitted information, no development shall take place until details (and samples where required) of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the local planning authority. These details shall include bricks, mortar, roof tiles, cladding and fenestration. The development shall be carried out in accordance with the approved details.

REASON:

In the interests of ensuring that the new development is constructed in accordance with the submitted details and to secure a harmonious form of development.

### 03. APPROVAL CONDITION – Boundary Treatment [pre-commencement condition]

Prior to the commencement of the development hereby approved, details of the boundary treatment shall be submitted to the Local Planning Authority for approval in writing. The details shall include a low wall (no more than 600 mm in height) to the front curtilage of the properties and boundary treatment to the side and rear of the properties of 1.8 metres in height. The boundary treatment shall be implemented as approved prior to the development first coming into occupation and thereafter retained as approved.

REASON

To secure a satisfactory form of development and in the interest of highway safety, privacy and crime prevention.

### 04. APPROVAL CONDITION - Landscaping Details [pre-commencement]

No development shall take place until full details of both hard and soft landscaping have been submitted to and approved in writing by the local planning authority. The submitted details shall include:

- i. hard surfacing materials, structures and ancillary objects (including lighting);
- 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; and

**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.

**05. APPROVAL CONDITION - Landscaping Implementation [Performance condition]**

The hard and soft landscaping works shall be carried out in accordance with the details approved in the above planning condition. 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.

**REASON:**

To ensure that the works are carried out as approved in the interests of the visual amenities of the area.

**06. APPROVAL CONDITION - Landscaping replacement [performance condition]**

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 ensure that any trees or shrubs planted as part of the landscaping scheme are replaced in accordance with that scheme.

**07. APPROVAL CONDITION - Sightlines specification [Pre-Commencement Condition]**

Sight lines in the form of a 2 metre strip measured from the back of footway] shall be provided before the use of any building hereby approved commences, and notwithstanding the provisions of the Town and Country Planning General Development Order 1988 no fences walls or other means of enclosure including hedges shrubs or other vertical structures shall be erected above a height of 0.6m above carriageway level within the sight line splays.

**Reason:**

To provide safe access to the development and to prevent congestion on the highway.

**08. APPROVAL CONDITION – Parking and Access [pre-occupation condition]**

Prior to the occupation of the development hereby approved both the access to the site and the parking spaces for the development shall be provided in accordance with the plans hereby approved. The parking shall be retained for that purpose and not used for any commercial activity.

**REASON**

To ensure a satisfactory form of development

**09. APPROVAL CONDITION - Removal of Permitted Development Rights [performance condition]**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, or any Order revoking or re-enacting that Order, no development permitted by classes A (extensions), B (roof alterations), C (other roof alterations), D(porches), E (outbuildings, enclosures or swimming pools) and F (hard surfaces) of Part 1 of Schedule 2 of the Order, shall be carried out without the prior written consent of the Local Planning Authority for the dwellings hereby approved.

**REASON**

In order to protect the amenities of the locality and to maintain a good quality environment and in order to ensure that sufficient private amenity space remains to serve the dwellings.

**10. APPROVAL CONDITION – No other windows [performance condition]**

No other windows, doors or openings shall be constructed above first floor level in the side elevations of the dwelling hereby approved.

**REASON**

In the interests of the privacy of the neighbouring properties

**11. APPROVAL CONDITION - Cycle Storage [performance condition]**

Cycle storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the plans hereby approved. The cycle storage shall be thereafter retained.

**REASON:**

In the interests of the visual appearance of the building and the area in general and to promote alternative modes of travel to the private car.

**12. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]**

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

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

**Reason:**

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

**13. APPROVAL CONDITION - Refuse & Recycling Bin Storage [Performance condition]**

Bin storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the plans hereby approved. The facilities shall include accommodation for the separation of waste to enable recycling. 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.

**14. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]**

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

**Reason:**

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

**15. APPROVAL CONDITION - Hours of Construction Deliveries [ Performance condition]**

In connection with the implementation of this permission any deliveries relating to the demolition and construction works, shall not take place between the hours of 08:30 and 09:00 and 15:00 and 16:00 Monday to Friday or outside the hours of 8am and 6pm Mondays to Fridays and 9am and 1pm on Saturdays. Deliveries shall not take place at all on Sundays or Public Holidays without the prior written approval of the Local Planning Authority.

**REASON:**

To protect local residents from unreasonable disturbances from works connected with implementing this permission and to prevent construction traffic from arriving during school rush hour.

**16. APPROVAL CONDITION - Hours of Construction[ Performance condition]**

In connection with the implementation of this permission any demolition, conversion and construction works, 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.

**REASON:**

To protect local residents from unreasonable disturbances from works connected with implementing this permission.

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

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

**Reason:**

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

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

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

**Reason:**

To secure a satisfactory setting for the proposed development and to ensure the retention, or if necessary replacement, of trees which make an important contribution to the character of the area.

**19. APPROVAL CONDITION – Foul and Surface Water Disposal [pre-commencement condition]**

Prior to the commencement of the development hereby approved details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved by the Local Planning Authority in writing. The development shall proceed in accordance with the agreed details.

**REASON**

To ensure that the development does not adversely impact on the public sewer system

**00. Reason for granting Planning Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The development is in keeping with the site and surrounds and would not have a detrimental on residential amenity or highway safety. The previous reasons for refusal and reasons for dismissing previous planning appeals have been addressed. 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).

**Note to Applicant**

1. A formal application for connection to the public sewerage system is required in order to service this development. Please contact Atkins Ltd in initiate a sewer capacity check.





# Appeal Decision

Site visit made on 29 July 2009

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

## Appendix 1

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**Decision date:**  
**20 August 2009**

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## Appeal Ref:APP/D1780/A/09/2102052

### 82 Shirley Avenue, Shirley, Southampton, Hampshire, SO15 5NJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Daniel Scott against the decision of Southampton City Council.
- The application Ref 08/01319/FUL, dated 10 September 2008, was refused by notice dated 5 November 2008.
- The development proposed is the erection of a pair of two bedroom, two storey semi-detached dwellings (resubmission).

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## Decision

1. I dismiss the appeal.

## Main Issues

2. The two main issues are: the effect of the proposed development on the character and appearance of the surrounding area; and the effect of the development upon car parking and highway safety.

## Reasons

3. The appeal site is currently part of the rear garden of 82 Shirley Avenue which faces onto Howards Grove. The site, similar to adjoining rear gardens, includes a high rear boundary wall with a vehicular access leading to a garage positioned close to the road. This and the other rear boundaries are not of uniform appearance. However the lack of two-storey development visible above the boundary walls and garages provides a sense of spaciousness to the street-scene on the south-eastern side of the road. Landscaping visible above the rear boundary walls further softens the setting.
  4. The dwellings on the opposite side of Howards Grove from the appeal site (Nos. 168 – 176) are laid out with a good degree of space between them as are those within Shirley Avenue. Generally the area close to the appeal site has an open, suburban feel. This gives way to higher residential densities towards the commercial area within Shirley High Street. The large sheltered housing development to the rear of 76 - 78 Shirley Avenue has the effect of bringing the higher density area closer to the appeal site. This, in my view, increases the sensitivity of this site and the adjoining rear gardens at the point of this transition in character.
-

5. The principle of residential development on this previously developed land is acceptable. However policy SDP1 of the City of Southampton Local Plan Review, 2006 (LP) allows for this only where it would respect and improve the quality of the built environment. LP policy SDP7 seeks to prevent material harm to the character and/or appearance of an area including by paying respect to the scale, density and proportion existing buildings. SP policy SDP9 requires high quality building design in a number of terms including scale, massing and visual impact. The Council's Residential Design also approved in 2006, helps to inform how such matters should be considered. This makes it clear that proposed development should be similar to adjacent development in terms of scale, massing position on the plot. Emphasis is given to vertical and horizontal rhythm as well as architectural detailing which is required to be harmonious with existing adjacent development.
6. In this case, the proposal would create a pair of semi-detached dwellings which are not a common feature in this part of Howards Grove from where they would predominantly be seen. The houses would have a narrower emphasis than the existing detached dwellings nearby. The Victorian semi-detached dwellings and municipal estate development further towards Shirley High Street are too far away to visually connect with this proposal. The proposed dwellings would appear cramped within the plot in a much tighter form than those in the immediate area. The dwellings would have a much narrower frontage than is found nearby which would emphasise the higher density of development.
7. In relation to the first main issue, the proposed development would have a harmful effect upon the character and appearance of the surrounding area. This would not comply with LP policies SDP1, SDP7 and SDP9 or the advice within the Residential Design Guide. Even though this would involve making better use of previously developed land, overall the proposal goes against the advice within Planning Policy Statement 1 "Delivering Sustainable Development". This makes it clear that designs inappropriate within their context, failing to take available opportunities for improving the character and quality of an area should not be accepted. I have not been provided with a copy of LP policy H2. However, from the explanation of it within the appellant's Character Assessment and Design Report, for the above reasons, the proposal would not appear to comply with it.
8. The layout would not incorporate parking spaces for the prospective residents. However the Council confirms that this would comply with the maximum parking standards set out in the LP. Current guidance in the form of Planning Policy Statement 3 "Housing" (PPS3) and Planning Policy Guidance note 13 "Transport" (PPG13) emphasise the need to reduce car dependence. The profligate use of land should be avoided and developers should not be required to provide for more parking spaces than they themselves wish. At paragraph 2.30 of the LP, it is confirmed that car parking is a key determinant in the choice of mode of travel.
9. The site is just outside the 400m radius from high accessibility bus corridor which runs along Shirley High Street. This does not in my view mean that the site has a poor standard of accessibility. It is around 500m over level ground

from a diverse commercial area which has a range of facilities and good public transport services. The proposed dwellings would not appeal to residents who insist on having cars or off-street parking spaces and the increased security that comes with that. In any event, the above policies do not encourage meeting such demands. Lower car ownership and sustainable travel choices are encouraged. The lack of parking, the generally good pedestrian footpaths along with provision for cycle stores would encourage the more sustainable alternatives particularly if co-ordinated with parking controls as advocated within PPG13. Even if such a co-ordinated approach is not implemented, some parking could take place safely within Howards Grove, close to the appeal site but away from the narrow junction with St James Road. Any inconvenience caused should not be decisive in this case, in my view.

10. In relation to the second main issue, I consider that the proposal would not have an adverse effect upon highway safety. The Council's adopted parking standards are not outweighed by the other matters brought to my attention. In this respect, the proposed development would not conflict with LP policies SDP1 SDP10 or SDP10.
11. There would be a good degree of separation between the backs of the proposed dwellings and those in Shirley Avenue. The garden spaces would also be sufficient for the use of existing and proposed residents. However despite this and my conclusion on the second main issue, because of my conclusion on the first on balance the development would be unacceptable.
12. For the above reasons and taking account of all other matters, I consider that the appeal should be dismissed.

*Andy Harwood*  
INSPECTOR

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# Costs Decision

Hearing held on 7 July 2009  
Site visit made on 7 July 2009

by **Richard J Maile BSc FRICS**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

## Appendix 2

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**Decision date:**  
**24 July 2009**

### **Costs application in relation to Appeal ref: APP/D1780/A/08/2081638 Land to the rear of 88 Shirley Avenue, Southampton, Hampshire, SO15 5NJ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by DASD Property Services Ltd for a full award of costs against Southampton City Council.
- The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for erection of new four bedroom house with integral garage.

**Summary of Decision: The application is allowed in part in the terms set out below in the Formal Decision and Costs Order.**

#### **The Submissions for DASD Property Services Ltd**

1. The application for costs is contained in a written submission (Document 5) prepared by Mr G Beck of Luken Beck Ltd. This outlines the sequence of events following submission of the application, including the appointment of highway engineers and the lack of any objections in terms of the design of the dwelling.
2. I was referred to paragraph 7 of Annex 3 to Circular 8/93, which states that: "*A Planning Authority should not prevent, inhibit or delay development which could reasonably be permitted in the light of the Development Plan so far as this is material to the application and of any other material considerations.*"
3. The proposed development of the site has been frustrated and delayed unnecessarily by the Local Planning Authority, as evidenced by the way in which the planning history has unfolded. Details of the negotiations with the Local Authority and the various applications are set out on Pages 2 and 3 of the costs application. The earlier appeal decision is referred to, together with the comments of the previous Inspector and the support for the scheme from officers, who recommended that permission be granted subject to conditions.
4. Reference is made to paragraph 9 of Annex 3 to the circular, which states that Authorities are not bound to adopt the professional or technical advice of their own officers or others. However, the wording of the circular continues that Local Planning Authorities "*will be expected to show that they had reasonable planning grounds for taking a decision in all respects.*"
5. I was also asked to take account of paragraph 16 of the annex to the circular, which states that "*a Planning Authority is likely to be regarded as having acted unreasonably in the event of a successful appeal against a refusal of planning permission, if it is clear from a relevant earlier appeal decision that the*

*Secretary of State or a Planning Inspector would have no objection to a revised application in the form which was ultimately allowed and circumstances have not changed materially meantime."*

6. It is suggested that the Planning Committee did not take account of the previous Inspector's decision and introduced an additional reason for refusal – that of unacceptable height.
7. Pages 6 and 7 of the costs application detail the sequence of events following the submission of an identical application to that the subject of this appeal. At Committee on 23 December 2008 the Planning Officer submitted a report for consideration with a recommendation for approval. The Council Minute states clearly that a resolution was agreed to delegate authority to the Development Control Manager to grant conditional planning permission.
8. On 9 February 2009 the Head of Development Control sent an email to the appellants' architect informing him that a letter had been received by the Council regarding a question of protocol at Committee in December 2008 for which a legal opinion would be obtained. As a result the application was reconsidered on 2 April 2009 and, despite the fact that yet another set of independent professionals from outside the Council prepared the planning report and advised the newly formed Planning Committee to approve, the application was again refused.
9. As to the suggestion that the decision to appeal was taken too early, it is necessary to consider the lengthy delays and requests for further information over a long period of time. The appellants have been patient and worked well with the Council officers.
10. For all of these reasons I am requested to make a full award of costs against Southampton City Council.

### **The Response by Southampton City Council**

11. A written rebuttal statement (Document 6) was submitted, which suggests that the appellants' decision to appeal the application after only 10 weeks when there was no indication that planning permission would not be forthcoming is considered precipitate. Whilst the appellants have worked diligently to overcome previous objections, they have failed to engage with adjoining owners. Committee members have a duty to respond to the views and objections of their constituents.
12. It is considered that the members' decision was well informed and balanced. The detailed letters of objection from residents are material considerations, including judgements on highway safety and the character/amenity impact of the scheme. The appeal submissions do not attempt to address the residents' concerns but merely highlight the fact that the applications were recommended for approval by the officers.
13. It is considered that the highway evidence is inconsistent and ambiguous and there is little or no reference to the findings of the previous Inspector. Detailed criticisms of the highway evidence are set out in the Council's

rebuttal statement (Document 6) with further detailed criticisms of evidence on matters of character/amenity and design.

14. In conclusion, it is suggested that the appellants are architects of their own downfall through the submission of a premature appeal in the first instance. Since that appeal they have failed to provide logical and compelling arguments to support their own case and are largely relying on the Officers' Reports to Committee and technical commentary which, it is suggested, are neither comprehensive nor compelling.
15. In the light of the above the appellants' costs claim is considered to be without foundation and, as such, it should be refused along with the appeal itself.

### **Conclusions**

16. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
17. In arriving at my decision I have taken into account the lengthy planning history of the site. In my judgement the appellants were entitled to submit an appeal against non-determination given the length of time that had elapsed since the original application had been submitted and the fact that any decision on the application was delayed by the decision to obtain an independent highway report. It would be wrong to speculate as to the outcome of the Committee's decision on the application the subject of this appeal.
18. My decision to dismiss the appeal is made principally upon the scale of the single dwelling and its appearance in the street scene. Such decisions are necessarily subjective and are at odds with those of the Council's own officers. Nevertheless, I consider that the members were fully justified in their subsequent decision to refuse the application on such grounds. The fact that the previous Inspector had not raised such issues is also irrelevant, given that the scheme before him was for a pair of semi-detached houses and that such issues may not have been canvassed by the parties. For these reasons I do not consider that the Council has acted unreasonably in terms of design issues, which to my mind are of primary importance in the consideration of the appeal proposals, albeit for a single dwelling. My decision is fully supported in policy terms by both the Development Plan and national policy.
19. Conversely, I consider that the Council members had no reasonable grounds for ignoring the considerable level of expert evidence before them on highway issues. There are three independent reports, together with the comments of the Council's own highway engineer that there is no highway evidence to support a refusal of permission. For the detailed reasons set out in my decision letter I agree with the professional evidence on this topic. I therefore consider that the Council's actions have been unreasonable and that an award

of costs relating solely to the highway evidence adduced by the appellants in the appeal process is justified.

20. I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93, has been demonstrated. I therefore conclude that a partial award of costs is justified.

### **Formal Decision and Costs Order**

21. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990, and all other powers enabling me in that behalf, I HEREBY ORDER that Southampton City Council shall pay to DASD Property Services Ltd the costs of the appeal proceedings, limited to those costs incurred in relation to evidence on highway issues, such costs to be assessed in the Supreme Court Costs Office if not agreed. The proceedings concerned an appeal under section 78 of the Town and Country Planning Act 1990 against the failure to determine an application for planning permission for erection of new four bedroom house with integral garage on land to the rear of 88 Shirley Avenue, Southampton, Hampshire, SO15 5NJ.
22. The applicant is now invited to submit to Southampton City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Supreme Court Costs Office is enclosed.

*R. J. Maile*

INSPECTOR





# Appeal Decision

Hearing held on 7 July 2009  
Site visit made on 7 July 2009

by **Richard J Maile BSc FRICS**

**an Inspector appointed by the Secretary of State  
for Communities and Local Government**

## Appendix 3

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**Decision date:  
24 July 2009**

**Appeal ref: APP/D1780/A/08/2081638**

**Land to the rear of 88 Shirley Avenue, Southampton, Hampshire, SO15 5NJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice, within the prescribed period, of a decision on an application for planning permission.
- The appeal is made by DASD Property Services Ltd against Southampton City Council.
- The application, ref: 08/00768/FUL, was dated 16 May 2008.
- The development proposed is erection of new four bedroom house with integral garage.

### Application for costs

1. At the hearing an application for costs was made by DASD Property Services Ltd against Southampton City Council. This application is the subject of a separate Decision.

### Decision

2. I dismiss the appeal.

### Preliminary Matters

3. I have been provided with a copy of a Section 106 Unilateral Undertaking dated 4 June 2009, which provides for the appellants to widen the footpath as indicated on Drawing No 207.37/02 and, in conjunction with the owner of 86 Shirley Avenue, to ensure that the visibility splays shown on the drawing shall be kept free of structures above 600mm in height.

### Main Issues

4. From my inspection of the appeal site and surrounding area and consideration of the representations made at the hearing and in writing, I am of the opinion that the principal issues in this case are:
  - a) The likely impact of the proposed dwelling upon the character and appearance of the surrounding area.
  - b) The acceptability of the proposed means of access in terms of highway safety and the free flow of traffic.
  - c) The likely effect of the proposal upon the living conditions of nearby residents.

## **Reasons**

### **a) *Impact***

5. The Development Plan comprises the adopted City of Southampton Local Plan Review (2006). Policy SDP 1 (Quality of Development) seeks, amongst other matters, to ensure that development respects and improves the quality of Southampton's built environment. Policy SDP 7 (Context) states that development which would cause material harm to the character and/or appearance of an area will not be permitted. Proposals should respect the existing layout of buildings within the streetscape and the scale, density and proportion of existing buildings. Policy SDP 9 (Scale, Massing and Appearance) states that planning permission will only be granted where the building design is of a high quality. Proposals should respect their surroundings in terms of scale, massing and visual impact, the quality and use of materials and that of architectural detailing.
6. The Council has also approved a Residential Design Guide (September 2006) following public consultation. Paragraph 3.9.5 states 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. However, paragraph 3.9.6 acknowledges that features which are not consistent with the height of eaves, parapets, ridges and window sills in the locality can add variety to what could be a monotonous elevational composition.
7. National guidance in PPS 3 (Housing) encourages the best use of land without compromising the quality of the environment. Design is seen as a key issue.
8. At the hearing Mr Goodall, on behalf of the Council, acknowledged the principle of residential development of the appeal site; preferably, however, as part of a more comprehensive scheme to include some of the other rear gardens of 78-90 Shirley Avenue and that to the rear of 119 St James Road. I agree with Mr Goodall that there may be scope for some development of these rear gardens. However, I also note that they are in separate ownerships and a comprehensive development may be hard to achieve.
9. On behalf of the various objectors Mr and Mrs Wiseman pointed to the open aspect to the rear of the houses in Shirley Avenue and to the benefits of retaining such family houses with their large gardens in a sustainable location close to local amenities. These arguments, however, need to be balanced against the somewhat unattractive street scene created by the tall brick walls and entrance gates that front Howards Grove and by the need to make effective use of urban land which falls within the definition of previously developed land as contained in Annex B to PPS 3.
10. The scheme before me is a full application on a single plot. Whilst I see no objection to some development of this site, it would be preferable to explore the possibility of including other nearby land to create a more unified approach to development. I am aware from the planning history that there has been a failed attempt to develop land to the rear of 86 and 88 Shirley Avenue and that an earlier scheme for development of the appeal site was

dismissed on appeal (ref: APP/D1780/ A/07/2047462 dated 22 October 2007). In arriving at my decision based upon design issues I am aware that the previous Inspector was silent in this regard. Nevertheless, that is not of itself an indication that he was satisfied on this topic. Furthermore, that scheme related to a different proposal involving the erection of a pair of three bedroom semi-detached houses.

11. In my judgement the detailed proposals before me in terms of their scale, height and proximity to the north boundary would be out of keeping with surrounding development. The introduction of a prominent dormer window would appear as an alien feature which would be out of context with the houses opposite. Given its isolated frontage to Howards Grove, the overall design of the dwelling would appear unrelated to any other townscape feature in the locality. For these reasons it would be at odds with the thrust of Policy SDP 7 (iii) and (iv) and that of Policy SDP 9, to which I have referred above. It would also be in conflict with certain of the objectives of the Council's Residential Design Guide.
12. I am aware that the submitted drawings have been amended on a number of occasions as a result of ongoing discussions with the Council Officers and that they were generally satisfied with the design of the proposed dwelling and its impact upon the character and appearance of the surrounding area. Indeed, they suggested it would enhance the appearance of this section of Howards Grove, particularly as it would replace high, unattractive boundary fencing and establish a traditional street scene with dwellings on both sides of the road. Such views are necessarily subjective. In my opinion, the erection of a single dwelling in this location would not achieve the suggested benefits and would appear as somewhat of an incongruous feature in the street scene.

**b) Access**

13. Mr and Mrs Wiseman have rightly pointed me to the section in the Council's adopted Residential Design Guide relating to access and parking.
14. Paragraph 5.1.14 of the guide states that adequate turning space must be provided for vehicles within a development. However, such provision is not always possible and, of course, the Design Guide is principally concerned with larger scale developments where such provision can be made. There are numerous examples within the locality, including in Shirley Avenue and Howards Grove, where on-site turning is not provided. Indeed, the property opposite (121 St James Road) has a car port with no on-site turning facility. It is also material that there is an established vehicular access from the appeal site to Howards Grove; likewise with several of the other houses in Shirley Avenue with frontage also to Howards Grove.
15. The professional evidence before me, including a report commissioned by the City Council, concludes that the proposal would generate little traffic; the existing zero accident trend would not be exacerbated by the proposed development and any development of the appeal site should seek to maximise intervisibility within the property and highway boundaries.

16. At the hearing Mr Mason, an experienced traffic engineer, stated that the proposed access would not affect highway safety. Furthermore, the pavement of Howards Grove would be widened to 2m and visibility splays of 2m x 39m provided in both directions. The car parking provision accords with the Council's standards. The site is located approximately 20m from the junction of Howards Grove and St James Road, such that traffic speeds are well below the permitted limit of 30mph, possibly even below 20mph. Table 7.1 of "*Manual for Streets*" suggests that at such speeds the stopping sight distance is between 20 and 23m.
17. The objectors have referred to the narrowness of Howards Grove. This was measured on site and found to be 4.9m, sufficient for two cars to pass with ease. I am also satisfied that the intervisibility between emerging cars and pedestrians is adequate given the improvements that would be carried out as part of the development. Paragraph 7.7.7 of "*Manual for Streets*" also suggests that a minimum figure of 2m may be considered in some very lightly trafficked and slow-speed situations.
18. In arriving at my conclusions that the proposed means of access is acceptable I am aware from the representations made that Howards Grove is regularly used by children attending Wordsworth Infant School.

**c) Effect**

19. Policy SDP 1 states that planning permission will only be granted for development which does not unacceptably affect the amenity of the City and its citizens, whilst Policy SDP 9 requires developments to respect their surroundings, including the impact on surrounding land uses and local amenity. Likewise, paragraph 2.2.1 of the Design Guide states that new housing should ensure access to natural light, outlook and privacy is maintained for existing occupants and their neighbours. Paragraph 2.2.4 sets out suggested minimum back-to-back distances.
20. As part of my site visit I was able to gain access to the gardens and interior of 84 and 88 Shirley Avenue. I agree that the gardens to these dwellings and their rear-facing living room and bedroom windows benefit from the openness to the rear towards Howards Grove.
21. The height and bulk of the proposed dwelling would be particularly detrimental to the outlook from No 88; much less so from No 84. There is unlikely to be any loss of privacy or daylight/sunlight arising from the scheme before me. Nevertheless, the scale of the proposal will be at odds with the requirements of Policy SDP 9 (v) by failing to respect local amenity. The prominent dormer window to the front roof slope is also likely to adversely affect the privacy of 121 St James Road given its elevation above street level and the actual or perceived overlooking that would be apparent from within the rear garden and patio area of that property.
22. On their own these concerns may not have been sufficient for me to withhold permission. They nevertheless add weight to my conclusion on the principal issue as to the impact of the detailed scheme before me upon the character

and appearance of the surrounding area arising from the bulk, scale and height of the proposed dwelling.

*R. J. Maile*

INSPECTOR

**Documents:**

1. List of persons present at the hearing.
2. Letter of notification of arrangements for hearing and list of persons circulated.
3. Written evidence produced by Mr and Mrs Wiseman.
4. Copy of email dated 1 February 2009 from Police Officer Mark Barker.
5. Costs application on behalf of DASD Property Services Ltd.
6. Costs award rebuttal by Southampton City Council.

**Plans:**

- A1 Drawing No 207.37/01 Rev C: Scheme proposal to various scales.
- A2 Drawing No D.035/02: Proposed site access from Howards Grove prepared by D M Mason, Engineering Consultants.
- B1 Drawing No P01: Scheme for pair of semi-detached houses on the appeal site.
- B2 Drawing No 207.37/01 Rev B: Scheme proposals as originally submitted for a single dwelling.



# Appeal Decision

Site visit made on 9 October 2007

by **D G T Isaac LLB**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

## Appendix 4

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**Decision date:**  
**22 October 2007**

### Appeal Ref: APP/D1780/A/07/2047462

### Land to rear of 88 Shirley Avenue, Southampton, SO15 5NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Davies Associates against the decision of Southampton Council.
- The application Ref. 07/00292/FUL, dated 22 February 2007, was refused by notice dated 15 May 2007.
- The development proposed is described as erection of 2 two and a half storey three bedroom dwellings.

### Decision

1. I dismiss the appeal.

### Main Issues

2. I consider the main issues in this case to be (a) the effect of the proposal in terms of highway safety, and (b) whether satisfactory living conditions would be provided for future residents of the proposed dwellings in terms of the provision made for private outdoor amenity space.

### Reasons

3. The appeal site fronts onto Howard's Grove and the proposed new dwellings would each have vehicular access from that road. Each dwelling would have a parking space for one vehicle to the front of the building, but the proposal would not incorporate any turning space for vehicles within the site.
4. The Council's Residential Design Guide advises that adequate turning space must be provided for vehicles within a development. The Residential Design Guide was approved by the Council as supplementary planning guidance in September 2006 following a process of public consultation and it is a material consideration to which I have attached significant weight.
5. The appellants have pointed out that there are numerous examples of properties in the surrounding area which have similar arrangements for on site parking without turning space. However, there is nothing before me to indicate that planning permission has been granted for other developments in the locality incorporating on site parking areas without any manoeuvring space.
6. There is an existing access to the rear of no. 88 Shirley Avenue on the site. Nevertheless, it seems to me that in comparison with the current situation, the proposal would result in an increase in vehicular movements onto and off the

site from Howard's Grove. I recognise that the proposal would result in the removal of the wall and gates that currently occupy the Howard's Grove boundary of the site. However, other neighbouring properties that back onto Howard's Grove have boundary walls and gates of a similar height.

7. By not incorporating any on site turning space for vehicles, the proposal would result in vehicles either having to be reversed onto the site from Howard's Grove or out of the site onto the highway. Having regard to the limited width of the carriageway and footways on this part of Howard's Grove, the proximity of the site to the junction with St James Road and the boundary treatment to the rear of other neighbouring properties, I consider that the reversing manoeuvres on this part of Howard's Grove that would be necessary to gain access either to or from the site would be hazardous. Moreover, by leading to an increase in such reversing manoeuvres in this location, to my mind, the proposal would be unduly hazardous to other users of the highway.
8. I conclude that the proposal would have a harmful effect in terms of highway safety and that it would conflict with Policy SDP1 of the City of Southampton Local Plan Review and with the advice in the Residential Design Guide.
9. Turning to the second main issue, the back garden areas of each of the proposed new dwellings would be less than the minimum back garden sizes indicated in the Residential Design Guide for semi-detached dwellings. Whilst the deficiency in terms of garden depth might be considered to be marginal, the overall area of only some 38m<sup>2</sup> would fall well short of the minimum area of 70m<sup>2</sup> which is indicated in the Design Guide.
10. The appellants have drawn my attention to the size of the gardens of some properties in St James Road and the rear gardens of other dwellings further down Howard's Grove. Nevertheless, it seems to me that in the context of their immediate surroundings, the back gardens of the proposed new dwellings would be uncharacteristically small. As for the development at 145 Howard's Grove to which reference has been made, the type of accommodation provided there which appears to be sheltered housing is not typical of the area.
11. I have considered what the appellants have said about some people not wanting more private outdoor amenity space than that which would be provided for the proposed new dwellings. I have taken into account the advice in Planning Policy Statement 3 (PPS 3): *Housing* regarding the more efficient use of brownfield land in sustainable locations such as this. However, PPS 3 also makes it clear that particularly where family housing is proposed, it will be important to ensure that the needs of children are taken into account and that there is good provision of recreational areas, including private gardens.
12. As the internal accommodation provided in the proposed new dwellings would make them suitable for occupation by families with children, it seems to me that it is important that adequate provision of private outdoor amenity space should be made for future residents including their children. However, to my mind, the limited amount of private outdoor amenity space provided, which would fall significantly short of the minimum overall area indicated in the Residential Design Guide, would not be adequate to provide satisfactory living conditions for families with young children.



13. I conclude that satisfactory living conditions would not be provided for future residents of the proposed dwellings in terms of the provision made for private outdoor amenity space and that in this respect the proposal would conflict with Local Plan Policies SDP1 and H7 and with the advice in the Residential Design Guide.
14. I have taken into account all of the other matters raised in the representations made about the scheme. I have considered the proposal on its individual merits. However, none of the other matters raised is sufficient to outweigh my conclusions on the main issues and those conclusions provide compelling reasons to dismiss the appeal.

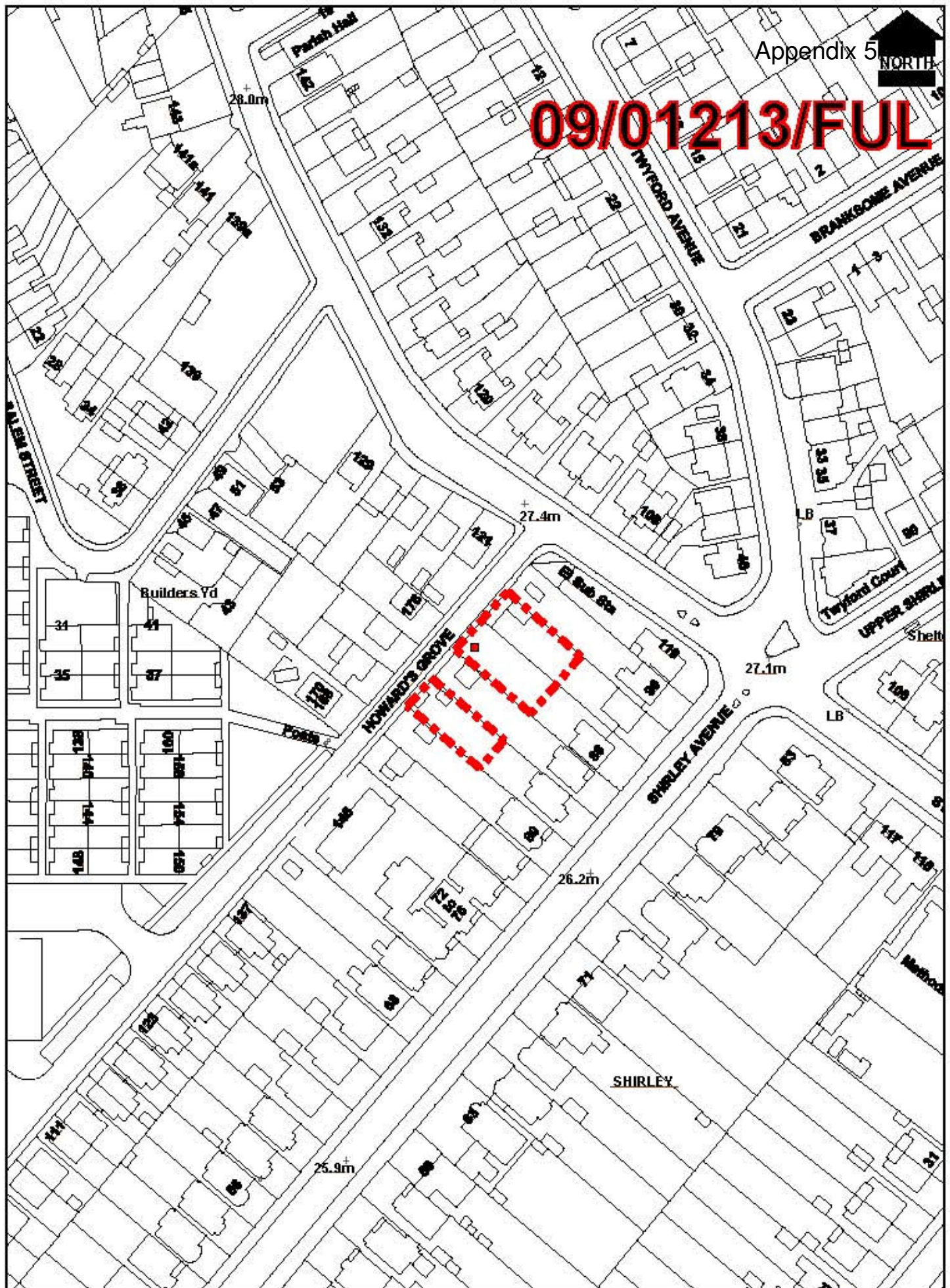
*D G T Isaac*

INSPECTOR

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09/01213/FUL



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# Agenda Item 7

Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 19 January 2010  
 Planning Application Report of the Head of Division

Application address	Land to the rear of 68 - 70 Shirley Avenue		
Proposed development:	Erection of 2 x three-bed detached dwellings with parking and associated storage accessed from Howards Grove		
Application number	09/01154/FUL	Application type	Full Detailed
Case officer	Jenna Turner	Application category	Q13 - Minor Dwellings

Recommendation Summary	<b>Conditionally Approve</b>
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Reason for Panel consideration	Due to the level of public interest and the planning history of the sites
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Applicant: Mr I Code and Mr and Mrs Dunnings	Agent: Owen Davies Architects
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Date of receipt	02/11/2009	City Ward	Shirley
Date of registration	02/11/2009	Ward members	Cllr Cooke
Publicity expiry date	10/12/2009		Cllr Dean
Date to determine by	28/12/2009 <b>IN TIME</b>		Cllr Matthews

Site area	410 sq.m (0.04 ha)	Usable amenity area  Landscaped areas	shown: 90sq.m per dwelling shown: 103 sq.m
Site coverage (developed area)	36 %		
Density - whole site	50 d.p.h		

Residential mix	nos	size sqm	Other land uses	class	size sqm
Studio / 1-bedroom	-	-	Commercial use	-	-
2-bedroom	2	114 sq.m	Retail use	-	-
3-bedroom	-	-	Leisure use	-	-
other	-	-	other	-	-

Policy designation	
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Accessibility zone	low – edge to high	Policy parking max	3 spaces
Parking Permit Zone	no	existing site parking	4 spaces
Cyclist facilities	yes	car parking provision	3 spaces
motor & bicycles	2 cycles	disabled parking	0 spaces

Key submitted documents supporting application			
1	Design and Access Statement		
Appendix attached			
1	Relevant Planning Policy	2	Planning History
3	Suggested conditions		

## Recommendation in full

Approve subject to the attached suggested conditions

## **Proposed Development & Surrounding Context**

The application site comprises the end sections of two rear gardens associated with 68 and 70 Shirley Avenue which are detached two-storey dwelling houses. The site fronts Howard's Grove and is positioned between existing residential developments either side. The more traditional housing lies to the south-west and a more recent infill development associated with the care home at 72-76 Shirley Avenue is sited immediately to the north-east. Both properties have single-storey garage structures to the rear which are accessed from Howard's Grove and the rear boundary is demarcated by 2m high concrete block and brick walls.

Shirley Avenue is a residential street with a spacious suburban character and which typically comprises detached, two-storey family dwellings. Howard's Grove by contrast is more varied in character; to the south-west of the application site and on the same side of the road, is a row of Victorian semi-detached properties which lie to the rear of 38 to 64 Shirley Avenue. Apart from the rear of 72 to 76 Shirley Avenue, the rear gardens of 68 to 90 Shirley Avenue have remained undeveloped, although many of these properties have garages and or parking spaces which are accessed from Howard's Grove.

The high rear boundary treatment and ad-hoc garages and similar structures have a negative impact on the visual quality of Howard's Grove and create an uncomfortable pedestrian environment.

### **Relevant Planning Policy**

The planning policy to be considered as part of this proposal is scheduled in **Appendix 1** to this report.

### **Relevant Planning History**

The history of the site is attached in **Appendix 2** and relevant appeal decisions are included in **Appendix 3** to this report.

### **Consultation Responses & Notification Representations**

A publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement and erecting a site notice. At the time of writing the report, **16** representations including 3 letters of support had been received from surrounding residents.

#### Summary of Representations made

**Precedent** - If approved the proposal will set a precedent for the development of other rear gardens along Shirley Avenue which will adversely affect the character of the area.

**Character impact (garden grab)** - Developing the back gardens would have a harmful impact on the character of the area and on the environment. The existing properties on Shirley Avenue will be less attractive as family dwellings and the proposal would increase the likelihood of properties on Shirley Avenue creating hard-standings to the frontages.

**Car parking** - The number of car parking spaces proposed is not sufficient to serve the size of the dwellings proposed which would increase on-road car parking which would represent an inconvenience to nearby residents and have an adverse impact on highway safety,

including access by the emergency services. The garage space is insufficient width.

**Highway Safety** - Poor visibility from the accesses would result in vehicles joining the carriageway from the parking spaces being difficult to spot by on-coming traffic or pedestrians.

**Visual Impact** - The proposed development would appear out of keeping with existing development and bears no relation to neighbouring development. The proposed frontage boundary treatment is not in keeping with neighbouring residential development.

**Privacy** - The new dwellings would result in overlooking of existing properties in St James Road, Howard's Grove and Shirley Avenue, in particular the neighbouring care home and 72 Shirley Avenue which has a back to back relationship with the development of 15 metres.

**Outlook** - The proposed dwellings would appear oppressive when viewed from neighbouring properties in Shirley Avenue and Howard's Grove.

**Drainage and Runoff** - The additional hard surfacing would result in drainage and flooding issues

**Amenity Space** - The rear storage areas depletes the amount of useable amenity space

**Access to rear** - The shared access path to the rear is not wide enough to enable access by wheelie bins or bicycles

**Overdevelopment** - The proposed dwellings would appear squeezed onto the plot and would not respect the rhythm of the street frontages within Howard's Grove. The amount of hardstanding would also result in the plot appearing over-intensively developed.

#### Summary of Consultation comments

**SCC Highways Development Control** - No objection. Suggests a condition to ensure the access to the rear is retained as a shared pathway and to secure adequate sight lines. Further conditions are suggested relating to the hours of construction related deliveries and the materials to be used for the hard surfaced areas.

**SCC Environmental Health (Pollution and Safety)** - No objection subject to the suggested conditions

**SCC Environmental Health (Contaminated Land)** - There is no indication of contamination on or adjacent to the application site. Environmental Health officers suggest an assessment is undertaken, however in the absence of evidence to indicate a presence of contamination, a condition is suggested to instead deal with unsuspected contamination.

**Southern Water** - No objections or conditions suggested

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

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

- The principle of development
- Impact on the character of the area in terms of scale, design and visual impact
- The impact on the amenities of neighbouring occupiers
- The adequacy of the residential environment proposed

The key issues should also be assessed in light of the planning history of the neighbouring sites at land to the rear of 82, 86 and 88 Shirley Avenue.

### 1. Principle of development

The proposed development would result in the more efficient use of this brownfield site and as it is within 500m of Shirley Town Centre the principle of further residential development in this location is acceptable. The principle of residential development has been accepted by Planning Inspectors at land to the rear of both 82 and 88 Shirley Avenue (see decisions attached at **Appendix 3**). The application proposes a level of development which accords with the density requirements for this area. The additional family housing is welcomed.

### 2. Character of the area

The application site differs from previous schemes considered at the rear of 82, 86 and 88 Shirley Avenue in that the site is neighboured by residential development on both sides. The chosen design approach refers to the more suburban properties to the north-east of the site, rather than the denser character of development of numbers 137 Howard's Grove downwards. This addresses paragraph 4 of the appeal decision for 82 Shirley Avenue (please refer to **Appendix 3**) in which the Inspector refers to the transition between higher to lower density in this section of Howard's Grove. The proposal would clearly read as the commencement of the more suburban character of Howard's Grove in terms of its detached built form, shallow pitch roof and the use of suburban design features such as bay windows and porches. The proposal would also help to 'bridge the gap' between the original development in Howard's Grove and the more recent car home development which neighbours the site.

Despite the more suburban character of the proposed dwellings, keeping the eaves height the same as the neighbouring property at no. 137 Howard's Grove and setting a section of the front elevation back would ensure the development would not appear anomalous when compared with the more denser development. The development would respect the Howard's Grove building line and furthermore, the proposed bay windows helps the dwellings to respect the verticality of the neighbouring properties. The development would incorporate planting to property frontages to soften their appearance within the street scene and a condition is suggested to secure a low brick boundary treatment with brick piers to match the neighbouring development.

The degree of spacing between the proposed dwellings and the neighbours either side reflects the prevailing pattern in the vicinity of the site. It is acknowledged that the spacing does not slavishly replicate the uniformity of the spacing between properties from Nos 137 Howard's Grove downwards, but the proposed development would clearly read as a separate development in character in reference to the transition to a lower density, suburban development. The footprint of the dwellings in relation to the plot size ensures that the plot would not appear over-developed; the soft landscaping to the frontages, set backs from the front boundary and spacing from the neighbouring residential development would ensure that the dwellings would not appear cramped when viewed from Howard's Grove.

In terms of the issue of precedent; each planning application is assessed on its own planning merits but notwithstanding this, such a precedent would not necessarily be harmful. From a visual point of view the introduction of an active frontage is preferable to the unattractive boundary treatment which currently exists. Highway officers have also indicated that the establishment of a row of similar dwellings would result in a betterment of the existing situation by creating a widened pavement, improved visibility and the regulation of the existing points of access. It is also noted that in dismissing appeals at nos 82 and 88 Shirley Avenue, the planning inspectorate has not found the issue of precedent as one being reason to dismiss the appeals; indeed the Inspector for 88 Shirley Avenue considered



that a more comprehensive approach to development in this location would be preferable. The application site at 68-70 Shirley Avenue is materially different from other applications considered at 82, 86 and 88 Shirley Avenue in terms of the residential development which immediately neighbour the site. As such, the proposal would not appear 'unrelated to any other townscape feature' (paragraph 11 of the appeal decision for 88 Shirley Avenue in **Appendix 3** refers) and a more comprehensive approach is not required.

Overall it is considered that the development would enhance the appearance of this section of Howard's Grove, particularly as it would replace high, unattractive boundary fencing and establish a traditional street scene. This is both preferable from a visual point of view and from a crime and safety perspective.

### 3. Residential amenity

In terms of the outlook and privacy of 68 and 70 Shirley Avenue, the proposal meets the back-to-back distances suggested by the Residential Design Guide. Previous schemes at 88 Shirley Avenue have included a third level of accommodation within the roofspace. The planning inspector for 88 Shirley Avenue raised concerns about the impact that a taller dwelling would have on the neighbouring properties, although did not consider that this would be sufficient as a sole reason to withhold permission (paragraph 22 of the appeal decision for 88 Shirley Avenue in **Appendix 3** refers). The current proposal for 68 and 70 proposes a dwelling which is 1 metre lower in height than the scheme dismissed at 88 Shirley Avenue and accordingly, the lesser height would have a significantly lesser impact on the surrounding properties. The proposal would not result in any loss of day light or sun light for neighbouring properties.

It is noted that the care home at 72-76 Shirley Avenue has a large, single-storey extension to the rear and would therefore be closer to the proposed dwellings. However, since the proposed development would be positioned at an angle to this property, it is considered that no harmful overlooking or loss of outlook would occur. In addition to this since the extension to the rear of 72-76 Shirley Avenue is single-storey, rear boundary treatment secure by planning condition would further mitigate any impact on privacy.

The rear building line of the development would not project significantly further to the rear than the neighbouring property at 137 and therefore the proposal would not affect the outlook from windows in the rear of the neighbouring property.

### 4. Residential standards

Both of the proposed dwellings would be served by rear gardens which comply with the standards suggested in the Residential Design Guide. Cycle and refuse storage can be accommodated within this space without significantly compromising the useability of the garden areas. A shared access between the centre of the dwellings would provide direct access to the rear garden and enable cycles and bin containers to be conveniently moved to the front of the property and the width of the access exceeds the minimum amount (900mm) required by the Council's Highways engineers for this purpose. A condition is suggested to ensure that the access remains as a shared area.

The amount of amenity space that would be left to serve the dwellings of 68 and 70 Shirley Avenue would exceed the amount suggested by the Residential Design Guide to serve detached family houses. The properties could therefore continue to be able to be occupied as family housing.

### 5. Highways and parking

One of the proposed dwellings would be served by one off-street car parking space to be accessed from Howard's Grove and the other would be served by a garage and car parking

space. This complies with the Council's adopted car parking standards and moreover it is noted that the appeal inspector when considering the scheme at 82 Shirley Avenue considered that a car-free residential development on Howard's Grove would be acceptable (please refer to paragraph 9 of the appeal decision for 82 Shirley Avenue in **Appendix 3**). The proposed garage is set back more than five metres from the edge of the footway which means a vehicle can pull fully off the road before entering the garage. The internal width of the garage complies is sufficient to enable a car to be parked and the doors opened once inside. Both 68 and 70 Shirley Avenue currently have off-road car parking to the front of the properties, accessed from Shirley Avenue and this is sufficient to serve the properties.

Howard's Grove is an unclassified road and accordingly there is no requirement for the provision of on-site turning for a single point of access. The relatively low number of vehicular movements associated with the proposed single dwelling would not significantly increase the existing traffic movements within Howard's Grove. Furthermore, both 68 and 70 currently have vehicular access from Howard's Grove. The two car parking spaces are positioned next to each other to maximise visibility across the site and conditions are suggested to secure low boundary treatment on the property frontage. Both neighbouring properties have low front boundary treatments which would ensure an acceptable level of visibility from the proposed vehicular accesses.

### Summary

The proposed development would provide two family sized homes within a sustainable location and would make efficient use of this brownfield site. The proposal has been designed to address previous reasons for refusal and comments that the planning inspectorate have made in dismissing appeals at 82 and 88 Shirley Avenue.

### **Conclusion**

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

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

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

1(a) (b) (c) (d), 2 (c) (d), 3 (a), 6(l), 7 (a) (c), 8 (a) (j)  
(JT 30.12.09)

**Relevant Planning Policy**

**Adopted City of Southampton Local Plan Review Policies**

SDP1	General Principles
SDP2	Integrating transport and Development
SDP3	Travel Demands
SDP5	Development Access
SDP6	Parking
SDP7	Context
SDP9	Scale, Massing and Appearance
SDP10	Safety and Security

H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
H8	Housing Density
H12	Housing Type and Design

CLT5	Provision of Open Space
CLT6	Provision of Children's Play Space

IMP1	Provision of Infrastructure
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**Core Strategy Policies**

CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS 15	Affordable Housing
CS16	Housing Mix and Type
CS18	Transport
CS19	Car and Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS21	Protecting and Enhancing Open Space
CS25	The Delivery of Infrastructure and Developer Contributions

**Relevant Planning History**

**68 Shirley Avenue**

1199/P10  
Use of land at rear for residential development

Refused 16.05.61

1201/P28  
1 house at rear

Refused 16.06.61

1630/W27  
Detached garage at rear

Conditionally Approved 03.05.83

**70 Shirley Avenue**

No previous applications

**Land rear of 82, 86 and 88 Shirley Avenue**

09/01213/FUL  
Erection of 3x2 Storey detached houses with integral garage (2 x 2 bed and 1 x 3 bed) with associated parking and storage

Pending Determination

**88 Shirley Avenue History**

08/00768/FUL  
Erection of four-bed detached dwelling with integral garage on land rear of existing property.

Non-determination Appeal Dismissed 24.07.09

The appeal decision is attached as **Appendix 3**

07/01725/FUL  
Erection of a four-bed detached dwelling with integral garage. (Revised resubmission following the withdrawal of planning application reference 07/01392/FUL):

Refused 23.01.08

01.

The proposed development would fail to enable vehicles to turn on the site or enter and leave the highway in a forward gear. Having particular regard to the narrowness of the Howard's Grove carriageway and the proximity of the junction with St James Road, the development would therefore be to the detriment of the safety and convenience of the users of the adjoining highway. Moreover, the development would set a clear precedent for similar developments in the vicinity of the site which would further impact on the safety of the Howard's Grove highway. The development would therefore prove contrary to the provisions of policies SDP1 (as supported by 5.1.14 to 5.1.15 of the Residential Design Guide 2006) and SDP4 of the City of Southampton Local Plan Review (Adopted Version March 2006).

02.

The proposed dwelling, by reason of its height would appear out of keeping with the other residential properties in the vicinity of the site. This impact is compounded by the insertion of a dormer window in the front roof slope which increases perceived bulk and height of the proposed dwelling when viewed from Howard's Grove and the surrounding residential properties. The development would therefore not be in accordance with policies SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review (Adopted Version March 2006) as supported by the relevant sections of the approved Residential Design Guide (2006).

03.

In the absence of a completed S.106 legal agreement to secure works to the public highway that facilitate this development the proposal fails to satisfy the provisions of policy IMP1 of the City of Southampton Local Plan Review (Adopted Version March 2006) and the provisions of the Council's Supplementary Planning Guidance on Planning Obligations (August 2005 as amended) by failing to secure the widening of the adjacent public footway, contrary to the provisions of policies SDP1, SDP2 and SDP3 of the City of Southampton Local Plan Review – Adopted Version March 2006.

07/01392/FUL

Withdrawn 01.11.07

Erection of 1 x four-bed dwelling with integral garage and associated bin and cycle storage on land to the rear of 88 Shirley Avenue with access onto Howards Grove

07/00292/FUL

Refused 15.05.07

Erection of a pair of two-storey semi-detached dwellings  
Delegated refusal for (i) lack of private amenity space and (ii) impact on highway safety. An **appeal** was lodged and subsequently dismissed on both issues

86 Shirley Avenue

07/00060/FUL

Withdrawn 01.03.07

Erection of a 2 x three bedroom, semi-detached dwelling houses with associated cycle/bin stores on land to the rear of the existing property

07/01411/FUL

Withdrawn 01.11.07

Erection of a four-bed detached dwelling with associated parking and vehicular access

07/01726/FUL

Withdrawn 15.01.08

Erection of a four-bed detached dwelling with integral garage (revised resubmission following withdrawal of application reference 07/01411/FUL)

09/00049/FUL

Withdrawn 04.03.09

Erection of a 2-storey, 4-bed detached house, with integral garage on land to the rear of 86 Shirley Avenue with associated bin/cycle storage

86-88 Shirley Avenue:

07/00740/FUL

Refused 23.07.07

Erection of a terrace of 4 no four bedroom dwellings with rooms in the roof space and associated bin/cycle storage and parking

Delegated refusal for (i) insufficient amenity space; (ii) Inadequate refuse storage; (iii) Inadequate cycle storage; (iv) Overdevelopment-terraced form out of keeping with the character of the area.

82 Shirley Avenue:

08/00372/FUL

Withdrawn 15.07.08

Erection of 2 no. two-storey semi-detached houses with associated bin/cycle storage

08/01319/FUL

Refused 05.11.08 and appeal dismissed 20.08.09

Erection of 2 x two storey semi detached houses with associated bin/cycle storage. (Resubmission of 08/00372/FUL)

Appeal decision is attached in **Appendix 3**

Erection of detached 3 x bed dwelling with access from Howards Grove, after demolition of existing detached garage

01.

REFUSAL REASON – Impact on the street scene

The proposed dwelling would have an isolated appearance within Howard's Grove and would not relate to any other townscape feature in the locality. The proposal would therefore appear out of keeping with the Howard's Grove street scene and prove contrary to the provisions of policies SDP1 (ii), SPD7 (v) and SPD9 (v) of the City of Southampton Local Plan (March 2006) and as supported by paragraph 3.7.7 of the Residential Design Guide Supplementary Planning Document September 2006.

02.

REFUSAL REASON - Section 106 Agreement

In the absence of a completed S.106 legal agreement to secure works to the public highway that facilitate this development the proposal fails to satisfy the provisions of policy IMP1 of the City of Southampton Local Plan Review (Adopted Version March 2006) and the provisions of the Council's Supplementary Planning Guidance on Planning Obligations (August 2005 as amended) by failing to secure the widening of the adjacent public footway, contrary to the provisions of policies SDP1, SDP2 and SDP3 of the City of Southampton Local Plan Review – Adopted Version March 2006.

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RECOMMENDATION:       CAP

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**CONDITIONS       for 09/01154/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 - Details of External Materials [pre-commencement condition]

Notwithstanding the submitted information, no development shall take place until details (and samples where required) of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the local planning authority. These details shall include bricks, mortar, roof tiles, cladding and fenestration. The development shall be carried out in accordance with the approved details.

REASON:

In the interests of ensuring that the new development is constructed in accordance with the submitted details and to secure a harmonious form of development.

03. APPROVAL CONDITION – Boundary Treatment [pre-commencement condition]

Prior to the commencement of the development hereby approved, details of the boundary treatment shall be submitted to the Local Planning Authority for approval in writing. The details shall include a low wall (no more than 600 mm in height) to the front curtilage of the properties and boundary treatment to the side and rear of the properties of no less than 1.8 metres in height. The boundary treatment shall be implemented as approved prior to the development first coming into occupation and thereafter retained as approved.

REASON

To secure a satisfactory form of development

04. APPROVAL CONDITION - Landscaping Details [pre-commencement]

No development shall take place until full details of both hard and soft landscaping have been submitted to and approved in writing by the local planning authority. The submitted details shall include:

- i. hard surfacing materials, structures and ancillary objects (including lighting);
- 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; and

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.

05. APPROVAL CONDITION - Landscaping Implementation [Performance condition]

The hard and soft landscaping works shall be carried out in accordance with the details approved in the above planning condition. 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.

REASON:

To ensure that the works are carried out as approved in the interests of the visual amenities of the area.

06. APPROVAL CONDITION - [performance condition]

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 ensure that any trees or shrubs planted as part of the landscaping scheme are replaced in accordance with that scheme.

07. APPROVAL CONDITION - Sightlines specification [Pre-Commencement Condition]

Sight lines in the form of a 2 metre strip measured from the back of footway] shall be provided before the use of any building hereby approved commences, and notwithstanding the provisions of the Town and Country Planning General Development Order 1988 no fences walls or other means of enclosure including hedges shrubs or other vertical structures shall be erected above a height of 0.6m above carriageway level within the sight line splays.

Reason:

To provide safe access to the development and to prevent congestion on the highway.

08. APPROVAL CONDITION – Parking and Access [pre-occupation condition]

Prior to the occupation of the development hereby approved both the access to the site and the parking spaces for the development shall be provided in accordance with the plans hereby approved. The parking shall be retained for that purpose and not used for any commercial activity.

REASON

To ensure a satisfactory form of development

09. APPROVAL CONDITION – Shared access path [performance condition]

The pedestrian route between the two dwellings to the rear gardens shall be made available as a shared access before the development first comes into occupation and thereafter retained as approved. For the avoidance of doubt, the path shall not be subdivided.

REASON

To ensure that satisfactory access to the refuse and cycle stores for both dwellings is provided and retained.

10. APPROVAL CONDITION - Removal of Permitted Development Rights [performance condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, or any Order revoking or re-enacting that Order, no development permitted by classes A (extensions), B (roof alterations), C (other roof alterations), D



(porches), E (outbuildings, enclosures or swimming pools) and F (hard surfaces) of Part 1 of Schedule 2 of the Order, shall be carried out without the prior written consent of the Local Planning Authority for the dwellings hereby approved.

**REASON**

In order to protect the amenities of the locality and to maintain a good quality environment and in order to ensure that sufficient private amenity space remains to serve both dwellings.

**11. APPROVAL CONDITION – No other windows [performance condition]**

No other windows, doors or openings shall be constructed above first floor level in the side elevations of the dwelling hereby approved.

**REASON**

In the interests of the privacy of the neighbouring properties

**12. APPROVAL CONDITION - Cycle Storage [performance condition]**

Cycle storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the plans hereby approved. The cycle storage shall be thereafter retained.

**REASON:**

In the interests of the visual appearance of the building and the area in general and to promote alternative modes of travel to the private car.

**13. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]**

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

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

**Reason:**

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

**14. APPROVAL CONDITION - Refuse & Recycling Bin Storage [Performance condition]**

Bin storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the plans hereby approved. The facilities shall include accommodation for the separation of waste to enable recycling. 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.

**15. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]**

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

**Reason:**

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

#### 16. APPROVAL CONDITION - Hours of Construction Deliveries [ Performance condition]

In connection with the implementation of this permission any deliveries relating to the demolition and construction works, shall not take place between the hours of 08:30 and 09:00 and 15:00 and 16:00 Monday to Friday or outside the hours of 8am and 6pm Mondays to Fridays and 9am and 1pm on Saturdays. Deliveries shall not take place at all on Sundays or Public Holidays without the prior written approval of the Local Planning Authority.

#### REASON:

To protect local residents from unreasonable disturbances from works connected with implementing this permission and to prevent construction traffic from arriving during school rush hour.

#### 17. APPROVAL CONDITION - Hours of Construction[ Performance condition]

In connection with the implementation of this permission any demolition, conversion and construction works, 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.

#### REASON:

To protect local residents from unreasonable disturbances from works connected with implementing this permission.

#### 00. Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The proposal would be in keeping with the site and surrounds and would not have an adverse impact on either highway safety or the amenities of the neighbouring residential occupiers. 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).



# Appeal Decision

Site visit made on 29 July 2009

by **Andy Harwood** CMS MSc MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

## Appendix 1

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**Decision date:**  
**20 August 2009**

## Appeal Ref: APP/D1780/A/09/2102052

### 82 Shirley Avenue, Shirley, Southampton, Hampshire, SO15 5NJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Daniel Scott against the decision of Southampton City Council.
- The application Ref 08/01319/FUL, dated 10 September 2008, was refused by notice dated 5 November 2008.
- The development proposed is the erection of a pair of two bedroom, two storey semi-detached dwellings (resubmission).

## Decision

1. I dismiss the appeal.

## Main Issues

2. The two main issues are: the effect of the proposed development on the character and appearance of the surrounding area; and the effect of the development upon car parking and highway safety.

## Reasons

3. The appeal site is currently part of the rear garden of 82 Shirley Avenue which faces onto Howards Grove. The site, similar to adjoining rear gardens, includes a high rear boundary wall with a vehicular access leading to a garage positioned close to the road. This and the other rear boundaries are not of uniform appearance. However the lack of two-storey development visible above the boundary walls and garages provides a sense of spaciousness to the street-scene on the south-eastern side of the road. Landscaping visible above the rear boundary walls further softens the setting.
4. The dwellings on the opposite side of Howards Grove from the appeal site (Nos. 168 – 176) are laid out with a good degree of space between them as are those within Shirley Avenue. Generally the area close to the appeal site has an open, suburban feel. This gives way to higher residential densities towards the commercial area within Shirley High Street. The large sheltered housing development to the rear of 76 - 78 Shirley Avenue has the effect of bringing the higher density area closer to the appeal site. This, in my view, increases the sensitivity of this site and the adjoining rear gardens at the point of this transition in character.

5. The principle of residential development on this previously developed land is acceptable. However policy SDP1 of the City of Southampton Local Plan Review, 2006 (LP) allows for this only where it would respect and improve the quality of the built environment. LP policy SDP7 seeks to prevent material harm to the character and/or appearance of an area including by paying respect to the scale, density and proportion existing buildings. SP policy SDP9 requires high quality building design in a number of terms including scale, massing and visual impact. The Council's Residential Design also approved in 2006, helps to inform how such matters should be considered. This makes it clear that proposed development should be similar to adjacent development in terms of scale, massing position on the plot. Emphasis is given to vertical and horizontal rhythm as well as architectural detailing which is required to be harmonious with existing adjacent development.
6. In this case, the proposal would create a pair of semi-detached dwellings which are not a common feature in this part of Howards Grove from where they would predominantly be seen. The houses would have a narrower emphasis than the existing detached dwellings nearby. The Victorian semi-detached dwellings and municipal estate development further towards Shirley High Street are too far away to visually connect with this proposal. The proposed dwellings would appear cramped within the plot in a much tighter form than those in the immediate area. The dwellings would have a much narrower frontage than is found nearby which would emphasise the higher density of development.
7. In relation to the first main issue, the proposed development would have a harmful effect upon the character and appearance of the surrounding area. This would not comply with LP policies SDP1, SDP7 and SDP9 or the advice within the Residential Design Guide. Even though this would involve making better use of previously developed land, overall the proposal goes against the advice within Planning Policy Statement 1 "Delivering Sustainable Development". This makes it clear that designs inappropriate within their context, failing to take available opportunities for improving the character and quality of an area should not be accepted. I have not been provided with a copy of LP policy H2. However, from the explanation of it within the appellant's Character Assessment and Design Report, for the above reasons, the proposal would not appear to comply with it.
8. The layout would not incorporate parking spaces for the prospective residents. However the Council confirms that this would comply with the maximum parking standards set out in the LP. Current guidance in the form of Planning Policy Statement 3 "Housing" (PPS3) and Planning Policy Guidance note 13 "Transport" (PPG13) emphasise the need to reduce car dependence. The profligate use of land should be avoided and developers should not be required to provide for more parking spaces than they themselves wish. At paragraph 2.30 of the LP, it is confirmed that car parking is a key determinant in the choice of mode of travel.
9. The site is just outside the 400m radius from high accessibility bus corridor which runs along Shirley High Street. This does not in my view mean that the site has a poor standard of accessibility. It is around 500m over level ground

from a diverse commercial area which has a range of facilities and good public transport services. The proposed dwellings would not appeal to residents who insist on having cars or off-street parking spaces and the increased security that comes with that. In any event, the above policies do not encourage meeting such demands. Lower car ownership and sustainable travel choices are encouraged. The lack of parking, the generally good pedestrian footpaths along with provision for cycle stores would encourage the more sustainable alternatives particularly if co-ordinated with parking controls as advocated within PPG13. Even if such a co-ordinated approach is not implemented, some parking could take place safely within Howards Grove, close to the appeal site but away from the narrow junction with St James Road. Any inconvenience caused should not be decisive in this case, in my view.

10. In relation to the second main issue, I consider that the proposal would not have an adverse effect upon highway safety. The Council's adopted parking standards are not outweighed by the other matters brought to my attention. In this respect, the proposed development would not conflict with LP policies SDP1 SDP10 or SDP10.
11. There would be a good degree of separation between the backs of the proposed dwellings and those in Shirley Avenue. The garden spaces would also be sufficient for the use of existing and proposed residents. However despite this and my conclusion on the second main issue, because of my conclusion on the first on balance the development would be unacceptable.
12. For the above reasons and taking account of all other matters, I consider that the appeal should be dismissed.

*Andy Harwood*  
INSPECTOR

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# Costs Decision

Hearing held on 7 July 2009  
Site visit made on 7 July 2009

by **Richard J Maile BSc FRICS**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

## Appendix 2

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**Decision date:**  
**24 July 2009**

### **Costs application in relation to Appeal ref: APP/D1780/A/08/2081638 Land to the rear of 88 Shirley Avenue, Southampton, Hampshire, SO15 5NJ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by DASD Property Services Ltd for a full award of costs against Southampton City Council.
- The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for erection of new four bedroom house with integral garage.

**Summary of Decision: The application is allowed in part in the terms set out below in the Formal Decision and Costs Order.**

#### **The Submissions for DASD Property Services Ltd**

1. The application for costs is contained in a written submission (Document 5) prepared by Mr G Beck of Luken Beck Ltd. This outlines the sequence of events following submission of the application, including the appointment of highway engineers and the lack of any objections in terms of the design of the dwelling.
2. I was referred to paragraph 7 of Annex 3 to Circular 8/93, which states that: "*A Planning Authority should not prevent, inhibit or delay development which could reasonably be permitted in the light of the Development Plan so far as this is material to the application and of any other material considerations.*"
3. The proposed development of the site has been frustrated and delayed unnecessarily by the Local Planning Authority, as evidenced by the way in which the planning history has unfolded. Details of the negotiations with the Local Authority and the various applications are set out on Pages 2 and 3 of the costs application. The earlier appeal decision is referred to, together with the comments of the previous Inspector and the support for the scheme from officers, who recommended that permission be granted subject to conditions.
4. Reference is made to paragraph 9 of Annex 3 to the circular, which states that Authorities are not bound to adopt the professional or technical advice of their own officers or others. However, the wording of the circular continues that Local Planning Authorities "*will be expected to show that they had reasonable planning grounds for taking a decision in all respects.*"
5. I was also asked to take account of paragraph 16 of the annex to the circular, which states that "*a Planning Authority is likely to be regarded as having acted unreasonably in the event of a successful appeal against a refusal of planning permission, if it is clear from a relevant earlier appeal decision that the*

*Secretary of State or a Planning Inspector would have no objection to a revised application in the form which was ultimately allowed and circumstances have not changed materially meantime."*

6. It is suggested that the Planning Committee did not take account of the previous Inspector's decision and introduced an additional reason for refusal – that of unacceptable height.
7. Pages 6 and 7 of the costs application detail the sequence of events following the submission of an identical application to that the subject of this appeal. At Committee on 23 December 2008 the Planning Officer submitted a report for consideration with a recommendation for approval. The Council Minute states clearly that a resolution was agreed to delegate authority to the Development Control Manager to grant conditional planning permission.
8. On 9 February 2009 the Head of Development Control sent an email to the appellants' architect informing him that a letter had been received by the Council regarding a question of protocol at Committee in December 2008 for which a legal opinion would be obtained. As a result the application was reconsidered on 2 April 2009 and, despite the fact that yet another set of independent professionals from outside the Council prepared the planning report and advised the newly formed Planning Committee to approve, the application was again refused.
9. As to the suggestion that the decision to appeal was taken too early, it is necessary to consider the lengthy delays and requests for further information over a long period of time. The appellants have been patient and worked well with the Council officers.
10. For all of these reasons I am requested to make a full award of costs against Southampton City Council.

### **The Response by Southampton City Council**

11. A written rebuttal statement (Document 6) was submitted, which suggests that the appellants' decision to appeal the application after only 10 weeks when there was no indication that planning permission would not be forthcoming is considered precipitate. Whilst the appellants have worked diligently to overcome previous objections, they have failed to engage with adjoining owners. Committee members have a duty to respond to the views and objections of their constituents.
12. It is considered that the members' decision was well informed and balanced. The detailed letters of objection from residents are material considerations, including judgements on highway safety and the character/amenity impact of the scheme. The appeal submissions do not attempt to address the residents' concerns but merely highlight the fact that the applications were recommended for approval by the officers.
13. It is considered that the highway evidence is inconsistent and ambiguous and there is little or no reference to the findings of the previous Inspector. Detailed criticisms of the highway evidence are set out in the Council's



rebuttal statement (Document 6) with further detailed criticisms of evidence on matters of character/amenity and design.

14. In conclusion, it is suggested that the appellants are architects of their own downfall through the submission of a premature appeal in the first instance. Since that appeal they have failed to provide logical and compelling arguments to support their own case and are largely relying on the Officers' Reports to Committee and technical commentary which, it is suggested, are neither comprehensive nor compelling.
15. In the light of the above the appellants' costs claim is considered to be without foundation and, as such, it should be refused along with the appeal itself.

### **Conclusions**

16. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
17. In arriving at my decision I have taken into account the lengthy planning history of the site. In my judgement the appellants were entitled to submit an appeal against non-determination given the length of time that had elapsed since the original application had been submitted and the fact that any decision on the application was delayed by the decision to obtain an independent highway report. It would be wrong to speculate as to the outcome of the Committee's decision on the application the subject of this appeal.
18. My decision to dismiss the appeal is made principally upon the scale of the single dwelling and its appearance in the street scene. Such decisions are necessarily subjective and are at odds with those of the Council's own officers. Nevertheless, I consider that the members were fully justified in their subsequent decision to refuse the application on such grounds. The fact that the previous Inspector had not raised such issues is also irrelevant, given that the scheme before him was for a pair of semi-detached houses and that such issues may not have been canvassed by the parties. For these reasons I do not consider that the Council has acted unreasonably in terms of design issues, which to my mind are of primary importance in the consideration of the appeal proposals, albeit for a single dwelling. My decision is fully supported in policy terms by both the Development Plan and national policy.
19. Conversely, I consider that the Council members had no reasonable grounds for ignoring the considerable level of expert evidence before them on highway issues. There are three independent reports, together with the comments of the Council's own highway engineer that there is no highway evidence to support a refusal of permission. For the detailed reasons set out in my decision letter I agree with the professional evidence on this topic. I therefore consider that the Council's actions have been unreasonable and that an award

of costs relating solely to the highway evidence adduced by the appellants in the appeal process is justified.

20. I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93, has been demonstrated. I therefore conclude that a partial award of costs is justified.

### **Formal Decision and Costs Order**

21. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990, and all other powers enabling me in that behalf, I HEREBY ORDER that Southampton City Council shall pay to DASD Property Services Ltd the costs of the appeal proceedings, limited to those costs incurred in relation to evidence on highway issues, such costs to be assessed in the Supreme Court Costs Office if not agreed. The proceedings concerned an appeal under section 78 of the Town and Country Planning Act 1990 against the failure to determine an application for planning permission for erection of new four bedroom house with integral garage on land to the rear of 88 Shirley Avenue, Southampton, Hampshire, SO15 5NJ.
22. The applicant is now invited to submit to Southampton City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Supreme Court Costs Office is enclosed.

*R. J. Maile*

INSPECTOR



# Appeal Decision

Hearing held on 7 July 2009  
Site visit made on 7 July 2009

by **Richard J Maile BSc FRICS**

**an Inspector appointed by the Secretary of State  
for Communities and Local Government**

## Appendix 3

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**Decision date:  
24 July 2009**

**Appeal ref: APP/D1780/A/08/2081638**

**Land to the rear of 88 Shirley Avenue, Southampton, Hampshire, SO15 5NJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice, within the prescribed period, of a decision on an application for planning permission.
- The appeal is made by DASD Property Services Ltd against Southampton City Council.
- The application, ref: 08/00768/FUL, was dated 16 May 2008.
- The development proposed is erection of new four bedroom house with integral garage.

### Application for costs

1. At the hearing an application for costs was made by DASD Property Services Ltd against Southampton City Council. This application is the subject of a separate Decision.

### Decision

2. I dismiss the appeal.

### Preliminary Matters

3. I have been provided with a copy of a Section 106 Unilateral Undertaking dated 4 June 2009, which provides for the appellants to widen the footpath as indicated on Drawing No 207.37/02 and, in conjunction with the owner of 86 Shirley Avenue, to ensure that the visibility splays shown on the drawing shall be kept free of structures above 600mm in height.

### Main Issues

4. From my inspection of the appeal site and surrounding area and consideration of the representations made at the hearing and in writing, I am of the opinion that the principal issues in this case are:
  - a) The likely impact of the proposed dwelling upon the character and appearance of the surrounding area.
  - b) The acceptability of the proposed means of access in terms of highway safety and the free flow of traffic.
  - c) The likely effect of the proposal upon the living conditions of nearby residents.

## **Reasons**

### **a) *Impact***

5. The Development Plan comprises the adopted City of Southampton Local Plan Review (2006). Policy SDP 1 (Quality of Development) seeks, amongst other matters, to ensure that development respects and improves the quality of Southampton's built environment. Policy SDP 7 (Context) states that development which would cause material harm to the character and/or appearance of an area will not be permitted. Proposals should respect the existing layout of buildings within the streetscape and the scale, density and proportion of existing buildings. Policy SDP 9 (Scale, Massing and Appearance) states that planning permission will only be granted where the building design is of a high quality. Proposals should respect their surroundings in terms of scale, massing and visual impact, the quality and use of materials and that of architectural detailing.
6. The Council has also approved a Residential Design Guide (September 2006) following public consultation. Paragraph 3.9.5 states 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. However, paragraph 3.9.6 acknowledges that features which are not consistent with the height of eaves, parapets, ridges and window sills in the locality can add variety to what could be a monotonous elevational composition.
7. National guidance in PPS 3 (Housing) encourages the best use of land without compromising the quality of the environment. Design is seen as a key issue.
8. At the hearing Mr Goodall, on behalf of the Council, acknowledged the principle of residential development of the appeal site; preferably, however, as part of a more comprehensive scheme to include some of the other rear gardens of 78-90 Shirley Avenue and that to the rear of 119 St James Road. I agree with Mr Goodall that there may be scope for some development of these rear gardens. However, I also note that they are in separate ownerships and a comprehensive development may be hard to achieve.
9. On behalf of the various objectors Mr and Mrs Wiseman pointed to the open aspect to the rear of the houses in Shirley Avenue and to the benefits of retaining such family houses with their large gardens in a sustainable location close to local amenities. These arguments, however, need to be balanced against the somewhat unattractive street scene created by the tall brick walls and entrance gates that front Howards Grove and by the need to make effective use of urban land which falls within the definition of previously developed land as contained in Annex B to PPS 3.
10. The scheme before me is a full application on a single plot. Whilst I see no objection to some development of this site, it would be preferable to explore the possibility of including other nearby land to create a more unified approach to development. I am aware from the planning history that there has been a failed attempt to develop land to the rear of 86 and 88 Shirley Avenue and that an earlier scheme for development of the appeal site was

dismissed on appeal (ref: APP/D1780/ A/07/2047462 dated 22 October 2007). In arriving at my decision based upon design issues I am aware that the previous Inspector was silent in this regard. Nevertheless, that is not of itself an indication that he was satisfied on this topic. Furthermore, that scheme related to a different proposal involving the erection of a pair of three bedroom semi-detached houses.

11. In my judgement the detailed proposals before me in terms of their scale, height and proximity to the north boundary would be out of keeping with surrounding development. The introduction of a prominent dormer window would appear as an alien feature which would be out of context with the houses opposite. Given its isolated frontage to Howards Grove, the overall design of the dwelling would appear unrelated to any other townscape feature in the locality. For these reasons it would be at odds with the thrust of Policy SDP 7 (iii) and (iv) and that of Policy SDP 9, to which I have referred above. It would also be in conflict with certain of the objectives of the Council's Residential Design Guide.
12. I am aware that the submitted drawings have been amended on a number of occasions as a result of ongoing discussions with the Council Officers and that they were generally satisfied with the design of the proposed dwelling and its impact upon the character and appearance of the surrounding area. Indeed, they suggested it would enhance the appearance of this section of Howards Grove, particularly as it would replace high, unattractive boundary fencing and establish a traditional street scene with dwellings on both sides of the road. Such views are necessarily subjective. In my opinion, the erection of a single dwelling in this location would not achieve the suggested benefits and would appear as somewhat of an incongruous feature in the street scene.

**b) Access**

13. Mr and Mrs Wiseman have rightly pointed me to the section in the Council's adopted Residential Design Guide relating to access and parking.
14. Paragraph 5.1.14 of the guide states that adequate turning space must be provided for vehicles within a development. However, such provision is not always possible and, of course, the Design Guide is principally concerned with larger scale developments where such provision can be made. There are numerous examples within the locality, including in Shirley Avenue and Howards Grove, where on-site turning is not provided. Indeed, the property opposite (121 St James Road) has a car port with no on-site turning facility. It is also material that there is an established vehicular access from the appeal site to Howards Grove; likewise with several of the other houses in Shirley Avenue with frontage also to Howards Grove.
15. The professional evidence before me, including a report commissioned by the City Council, concludes that the proposal would generate little traffic; the existing zero accident trend would not be exacerbated by the proposed development and any development of the appeal site should seek to maximise intervisibility within the property and highway boundaries.

16. At the hearing Mr Mason, an experienced traffic engineer, stated that the proposed access would not affect highway safety. Furthermore, the pavement of Howards Grove would be widened to 2m and visibility splays of 2m x 39m provided in both directions. The car parking provision accords with the Council's standards. The site is located approximately 20m from the junction of Howards Grove and St James Road, such that traffic speeds are well below the permitted limit of 30mph, possibly even below 20mph. Table 7.1 of "*Manual for Streets*" suggests that at such speeds the stopping sight distance is between 20 and 23m.
17. The objectors have referred to the narrowness of Howards Grove. This was measured on site and found to be 4.9m, sufficient for two cars to pass with ease. I am also satisfied that the intervisibility between emerging cars and pedestrians is adequate given the improvements that would be carried out as part of the development. Paragraph 7.7.7 of "*Manual for Streets*" also suggests that a minimum figure of 2m may be considered in some very lightly trafficked and slow-speed situations.
18. In arriving at my conclusions that the proposed means of access is acceptable I am aware from the representations made that Howards Grove is regularly used by children attending Wordsworth Infant School.

**c) Effect**

19. Policy SDP 1 states that planning permission will only be granted for development which does not unacceptably affect the amenity of the City and its citizens, whilst Policy SDP 9 requires developments to respect their surroundings, including the impact on surrounding land uses and local amenity. Likewise, paragraph 2.2.1 of the Design Guide states that new housing should ensure access to natural light, outlook and privacy is maintained for existing occupants and their neighbours. Paragraph 2.2.4 sets out suggested minimum back-to-back distances.
20. As part of my site visit I was able to gain access to the gardens and interior of 84 and 88 Shirley Avenue. I agree that the gardens to these dwellings and their rear-facing living room and bedroom windows benefit from the openness to the rear towards Howards Grove.
21. The height and bulk of the proposed dwelling would be particularly detrimental to the outlook from No 88; much less so from No 84. There is unlikely to be any loss of privacy or daylight/sunlight arising from the scheme before me. Nevertheless, the scale of the proposal will be at odds with the requirements of Policy SDP 9 (v) by failing to respect local amenity. The prominent dormer window to the front roof slope is also likely to adversely affect the privacy of 121 St James Road given its elevation above street level and the actual or perceived overlooking that would be apparent from within the rear garden and patio area of that property.
22. On their own these concerns may not have been sufficient for me to withhold permission. They nevertheless add weight to my conclusion on the principal issue as to the impact of the detailed scheme before me upon the character

and appearance of the surrounding area arising from the bulk, scale and height of the proposed dwelling.

*R. J. Maile*

INSPECTOR

**Documents:**

1. List of persons present at the hearing.
2. Letter of notification of arrangements for hearing and list of persons circulated.
3. Written evidence produced by Mr and Mrs Wiseman.
4. Copy of email dated 1 February 2009 from Police Officer Mark Barker.
5. Costs application on behalf of DASD Property Services Ltd.
6. Costs award rebuttal by Southampton City Council.

**Plans:**

- |    |                             |   |
|----|-----------------------------|---|
| A1 | Drawing No 207.37/01 Rev C: | Scheme proposal to various scales.  |
| A2 | Drawing No D.035/02:        | Proposed site access from Howards Grove prepared by D M Mason, Engineering Consultants. |
| B1 | Drawing No P01:             | Scheme for pair of semi-detached houses on the appeal site.                             |
| B2 | Drawing No 207.37/01 Rev B: | Scheme proposals as originally submitted for a single dwelling.                         |





# Appeal Decision

Site visit made on 9 October 2007

by **D G T Isaac LLB**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

## Appendix 4

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**Decision date:**  
**22 October 2007**

### Appeal Ref: APP/D1780/A/07/2047462

### Land to rear of 88 Shirley Avenue, Southampton, SO15 5NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Davies Associates against the decision of Southampton Council.
- The application Ref. 07/00292/FUL, dated 22 February 2007, was refused by notice dated 15 May 2007.
- The development proposed is described as erection of 2 two and a half storey three bedroom dwellings.

### Decision

1. I dismiss the appeal.

### Main Issues

2. I consider the main issues in this case to be (a) the effect of the proposal in terms of highway safety, and (b) whether satisfactory living conditions would be provided for future residents of the proposed dwellings in terms of the provision made for private outdoor amenity space.

### Reasons

3. The appeal site fronts onto Howard's Grove and the proposed new dwellings would each have vehicular access from that road. Each dwelling would have a parking space for one vehicle to the front of the building, but the proposal would not incorporate any turning space for vehicles within the site.
4. The Council's Residential Design Guide advises that adequate turning space must be provided for vehicles within a development. The Residential Design Guide was approved by the Council as supplementary planning guidance in September 2006 following a process of public consultation and it is a material consideration to which I have attached significant weight.
5. The appellants have pointed out that there are numerous examples of properties in the surrounding area which have similar arrangements for on site parking without turning space. However, there is nothing before me to indicate that planning permission has been granted for other developments in the locality incorporating on site parking areas without any manoeuvring space.
6. There is an existing access to the rear of no. 88 Shirley Avenue on the site. Nevertheless, it seems to me that in comparison with the current situation, the proposal would result in an increase in vehicular movements onto and off the

site from Howard's Grove. I recognise that the proposal would result in the removal of the wall and gates that currently occupy the Howard's Grove boundary of the site. However, other neighbouring properties that back onto Howard's Grove have boundary walls and gates of a similar height.

7. By not incorporating any on site turning space for vehicles, the proposal would result in vehicles either having to be reversed onto the site from Howard's Grove or out of the site onto the highway. Having regard to the limited width of the carriageway and footways on this part of Howard's Grove, the proximity of the site to the junction with St James Road and the boundary treatment to the rear of other neighbouring properties, I consider that the reversing manoeuvres on this part of Howard's Grove that would be necessary to gain access either to or from the site would be hazardous. Moreover, by leading to an increase in such reversing manoeuvres in this location, to my mind, the proposal would be unduly hazardous to other users of the highway.
8. I conclude that the proposal would have a harmful effect in terms of highway safety and that it would conflict with Policy SDP1 of the City of Southampton Local Plan Review and with the advice in the Residential Design Guide.
9. Turning to the second main issue, the back garden areas of each of the proposed new dwellings would be less than the minimum back garden sizes indicated in the Residential Design Guide for semi-detached dwellings. Whilst the deficiency in terms of garden depth might be considered to be marginal, the overall area of only some 38m<sup>2</sup> would fall well short of the minimum area of 70m<sup>2</sup> which is indicated in the Design Guide.
10. The appellants have drawn my attention to the size of the gardens of some properties in St James Road and the rear gardens of other dwellings further down Howard's Grove. Nevertheless, it seems to me that in the context of their immediate surroundings, the back gardens of the proposed new dwellings would be uncharacteristically small. As for the development at 145 Howard's Grove to which reference has been made, the type of accommodation provided there which appears to be sheltered housing is not typical of the area.
11. I have considered what the appellants have said about some people not wanting more private outdoor amenity space than that which would be provided for the proposed new dwellings. I have taken into account the advice in Planning Policy Statement 3 (PPS 3): *Housing* regarding the more efficient use of brownfield land in sustainable locations such as this. However, PPS 3 also makes it clear that particularly where family housing is proposed, it will be important to ensure that the needs of children are taken into account and that there is good provision of recreational areas, including private gardens.
12. As the internal accommodation provided in the proposed new dwellings would make them suitable for occupation by families with children, it seems to me that it is important that adequate provision of private outdoor amenity space should be made for future residents including their children. However, to my mind, the limited amount of private outdoor amenity space provided, which would fall significantly short of the minimum overall area indicated in the Residential Design Guide, would not be adequate to provide satisfactory living conditions for families with young children.

13. I conclude that satisfactory living conditions would not be provided for future residents of the proposed dwellings in terms of the provision made for private outdoor amenity space and that in this respect the proposal would conflict with Local Plan Policies SDP1 and H7 and with the advice in the Residential Design Guide.
14. I have taken into account all of the other matters raised in the representations made about the scheme. I have considered the proposal on its individual merits. However, none of the other matters raised is sufficient to outweigh my conclusions on the main issues and those conclusions provide compelling reasons to dismiss the appeal.

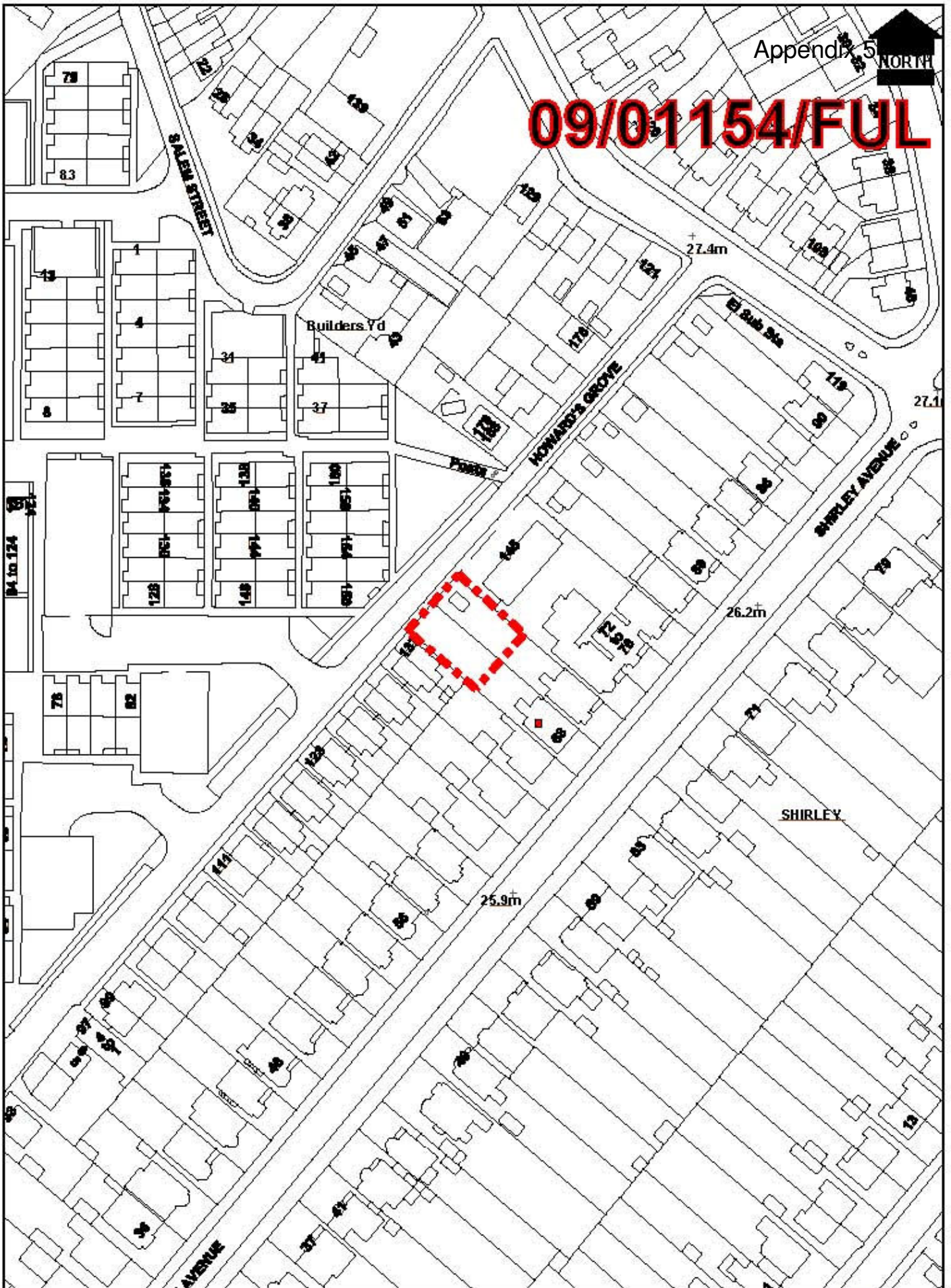
*D G T Isaac*

INSPECTOR

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**09/01154/FUL**



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Date :06 January 2010

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# Agenda Item 8

Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 19 January 2009  
 Planning Application Report of the Head of Division

Application address	210 Bassett Green Road SO16 3NF		
Proposed development:	<b>Redevelopment of the site. Erection of 9 x 4 bed houses (3 x 3 storey terraced houses, 2 x 3 storey semi-detached houses, 2 x 2 storey detached (one with accommodation in roof) and 2 x 2 storey detached houses with a accommodation in roof) following demolition of existing houses with parking and refuse/cycle storage</b>		
Application number	09/01236/FUL	Application type	Full Detailed
Case officer	Jenna Turner	Application category	Q13 - Minor Dwellings

<b>Recommendation Summary</b>	<b>Delegate to Development Control Manager to grant planning permission subject to criteria listed in report.</b>
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Reason for Panel consideration	<b>Member referral</b>
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Applicant	Drew Smith Ltd	Agent	Tony Oldfield Architects
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Date of receipt	23/11/2009	City Ward	Bassett
Date of registration	23/11/2009	Ward members	Cllr Samuels
Publicity expiry date	31/12/2009		Cllr Mizon
Date to determine by	18/01/2009 OVER		Cllr Hannides

Site area	2820.98 sq.m (0.28 ha)	Usable amenity area	plot 1 (detached): 121 sq.m. plot 2 (detached): 81 sq.m plot 3 (semi-detached): 155 sq.m plot 4 (semi-detached): 158 sq.m plot 5 (semi-detached): 62 sq.m plot 6 (semi-detached): 51 sq.m plot 7 (terraced): 63 sq.m plot 8 (terraced): 66 sq.m plot 9: (terraced)159 sq.m
Density - whole site	32 d.p.h		

Site coverage (developed area)	33 % covered by building and hard-surfacing		
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Residential mix	nos	unit size				
Studio / 1-bedroom						
2-bedroom						
3-bedroom						
Accessibility zone	Low		Parking Permit Zone	No		
Car parking provision	Proposed: 18 spaces		Existing:	Policy maximum: 18 spaced		
Motor cycles / Bicycles	Proposed: 18 long stay cycle spaces					
Key submitted documents supporting application						
Planning, Design, Sustainability and Access Report			Sustainability Checklist			
Landscaping details			Aboricultural Report			
Phase 1 and 2 Ecological Surveys						
Appendix attached						
1	Local Plan Policy schedule		2	Planning History		
3	Suggested conditions					

### Recommendation in full

Delegate to Development Control Manager to grant planning permission subject to

1. the applicant entering into a Section 106 Legal Agreement to secure
  - (i) Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site in line with polices SDP3, SDP4 and IMP1 of the City of Southampton Local Plan Review (March 2006) 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 as set out in the Local Transport Plan and appropriate SPG
  - (iii) Financial contributions towards the relevant elements of public open space required by the development in line with policies CLT5, CLT6 and IMP1 of the City of Southampton Local Plan (March 2006) and the adopted SPG relating to Planning Obligations (August 2005 as amended):
    - Amenity Open Space
    - Play Space
    - Playing Field
  - (iv) 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
  - (v) To implement an agreed series of site specific transport works under S.278 of the Highways Act in line with policies SDP3, SDP4 and IMP1 of the City of Southampton



Local Plan Review (March 2006) and the adopted SPG relating to Planning Obligations (August 2005 as amended);

Or

2. That the D C Manager be authorised to refuse permission if the Section 106 Agreement has not been completed within two months of the panel date on the ground of failure to secure the provisions of the Section 106 Agreement.

### **Proposed Development & Surrounding Context**

The application proposes the demolition of the existing property and the construction of 9 houses which are 2 and 3 storey in height (albeit the third storey is within the roofspace). The properties are arranged in a courtyard style development using the existing single vehicular access point from Bassett Green Road. Parking would be provided within the courtyard and the proposed dwellings would front this area with private garden spaces located between the properties and the site boundaries. The proposed dwellings are fairly traditional in appearance constructed of a facing brick and with a pitched roof form. The layout is well articulated with a staggered building line.

The application site comprises a detached two-storey dwelling which is located within a large, plot. The site is well screened from Bassett Green Road by a mature boundary hedge and tree screening which is subject to a Tree Preservation Order. The surrounding area is predominantly residential and has a low density, verdant character. The remaining site boundaries also benefit from mature vegetation screening. There is no prevalent architectural style within the vicinity of the site although the area is characterised by individually designed properties located within spacious and verdant plots.

### **Relevant Planning Policy**

The planning policy to be considered as part of this proposal is scheduled in **Appendix 1** to this report. There are no site-specific policies which relate to the application site. Policy H1 (v) supports the redevelopment of previously developed land to provide additional residential accommodation and the Council's normal consideration in respect of quality of development, protection of the character of the area and the amenities of neighbouring occupiers, apply as required by Policies SDP1, SDP7 & SDP9.

The development is broadly in accordance with the emerging policies in the Council's Core Strategy, although emerging requirements for affordable housing provision have not been met but at yet does not outweigh the adopted policies in the Local Plan Review.

### **Relevant Planning History**

The history of the site is attached in **Appendix 2** to this report.

### **Consultation Responses & Notification Representations**

A consultation exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement and erecting a site notice. At the time of writing the report, **31** representations had been received from surrounding residents.

#### Summary of Representations made

**Visual Impact** - The proposed development is too dense for the surrounding area and the scale and type of housing are out of keeping with the detached houses which surround the site. The proposal does not respect the established building lines.

**Overlooking** - The development would overlook the neighbouring properties and gardens and result in a loss of privacy.

**Car parking** - There is not enough car parking proposed to serve the development and the proposal would therefore lead to parking on the pavement and verges to the detriment of highway safety.

**Highway Safety** - The increase in vehicular movements would have a harmful impact on highway safety.

#### Summary of Consultation comments

**SCC Ecology** - No objection. A thorough ecological assessment of the site has been undertaken and planning conditions can be used to effectively secure biodiversity mitigation and enhancement measures.

**SCC Environmental Health (Contamination)** - No objection. Suggests conditions to assess the contamination risks on site and to secure remediation as necessary.

**SCC Environmental Health (Pollution and Safety)** - No objection. Suggests conditions to minimise disruption during construction and to protect the prospective residents from road transport noise disturbance

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

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

- Principle of development
- Residential design, density and impact on the established character;
- The impact on existing residential amenity;
- The quality of residential environment for future occupants
- Whether highway safety would be compromised and whether the travel demands of the development can be met.

The development proposal needs to be assessed in terms of its design, scale and massing within the street scene; its impact on neighbouring residential amenities; whether or not adequate amenity space is provided and if it is acceptable in terms of highway matters including cycle and refuse storage.

#### 1. Principle of Development

The redevelopment of this site for residential purposes is in accordance with central government's aims and local plan policies for the efficient use of vacant and brownfield sites. The application proposes a genuine mix of accommodation including more than the required amount of family sized units provision which will provide a greater choice of accommodation within this community, in accordance with central government planning guidance on housing development (PPS3). The residential density is slightly less than the minimum amount required by the Local Plan Review, however, the proposal would still represent a more efficient use of the site when compared with the existing situation whilst allowing the development to integrate into the low density character of the area.

#### 2. Character and Design Issues

The density of the proposed development is slightly less than the minimum density requirements of the Local Plan for this area of Low Accessibility and as such areas of soft landscaping would prevail over the proposed built form and areas of hard standing to ensure that the site would retain its verdant character. The development is well set back

from the property frontage with the majority of development being positioned to the centre of the site and away from properties boundaries thereby retaining the spacious character of the plot.

The application proposes to retain the substantial boundary hedging and by utilising the existing single point of access from Bassett Green Road ensures that from the street scene the proposal would have a minimal impact on the character of the area. The buildings are informally arranged with a staggered building line in reference to the prevailing pattern of development within the surrounding area. The layout has been amended slightly compared with the initial submission to improve the soft landscaping within the central car parking area.

In terms of scale and massing, whilst the application proposes three-storey residential accommodation, the third storey is contained within the roof space served by dormer windows and roof lights. This ensures that the development would have a two-storey massing which is sympathetic to the prevailing character of development within the vicinity of the site. Furthermore, the separation of the site from neighbouring properties would ensure that the additional height would not appear prominent within the street scene. The design incorporates variation between the different property types within the development which respects the variety of character to be found within the vicinity of the site. Traditional features are referenced in the composition of the elevations in a contemporary way so that the design would not appear incongruous but would also create visual interest.

### 3. Impact on residential amenity

The separation between the proposed buildings and the rear site boundaries ranges between 9 and 16 metres. The dwelling in plot 3 would be positioned the closest to a boundary with a neighbour and accordingly this property does not incorporate any accommodation within the roof space and the first floor rear facing windows are proposed to be obscurely glazed.

The proposed dwellings would be positioned to avoid direct back-to-back relationships with the properties of Grays, Brackenfield and Pine Ridge and where neighbouring properties have habitable room windows facing onto the site there is more than the requisite privacy distances provided. There would be approximately 16 metres between the dwellings in plot 3 and 4 and the closest neighbour at Brackenfield and given the angled position of this property, no harmful overlooking would occur nor would harmful loss of light or overshadowing occur. Furthermore, existing vegetation planting on the site boundaries would assist in screening the development from the surrounding properties.

Having regard to the orientation of the plot, there would be no significant increase in overshadowing as a result of the development.

### 4. Residential Standards

The majority of the proposed dwellings are served by private amenity space which is in excess of the standards required by the Residential Design Guide. The garden areas which would serve plots 2, 5 and 6 are slightly less than the required amount however these spaces would benefit from a good amount of sunlight, be sufficiently private, would relate well to the dwelling and are laid out to ensure usability. On balance, this slight deficit is therefore considered to be acceptable.

The car parking spaces relate well to the individual dwellings and benefit from natural surveillance. Cycle and refuse storage is proposed to be located conveniently to the dwellings and can be easily removed to the front for collection purposes.

## 5.Parking and Highways

The site lies within an area of low accessibility to public transport and the proposal incorporates the maximum number of car parking spaces permitted by the Local Plan and therefore there is no reason to suspect overspill car parking would be generated by this development. Nonetheless, in recognition of local residents' concerns it is suggested that the Section 106 agreement include a Traffic Regulation Order to introduce double yellow lines in the vicinity of the site. The car parking spaces relate well to the individual dwellings and benefit from natural surveillance. The development would be served by the existing point of access and there is sufficient space to enable vehicles to turn on site and so enter and leave the site in a forward gear. A condition is suggested to ensure adequate sight lines from the access.

## Summary

The proposed development would make more efficient use of this brownfield site and would deliver further family housing. The proposal respects the spacious and verdant character of the surrounding area and respects the amenities of nearby residential development.

## **CONCLUSION**

By securing the matters set out in the recommendations section of this report by the completion of a Section 106 Legal Agreement, the proposal would be acceptable. The application is therefore recommended for delegated approval to the Development Control Manager.

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

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

1 (a) (b) (c) (d), 2 (a) (c) (d), 3 (a), 6 (a) (c) (d) (l), 7 (a) (c) (k), 8 (a) (j)

(JT for 19.01.10 PROWP)

**Relevant Planning Policy**

**Adopted City of Southampton Local Plan Review Policies**

SDP1	General Principles
SDP2	Integrating transport and Development
SDP3	Travel Demands
SDP5	Development Access
SDP6	Parking
SDP7	Context
SDP9	Scale, Massing and Appearance
SDP10	Safety and Security

H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
H8	Housing Density
H12	Housing Type and Design

CLT5	Provision of Open Space
CLT6	Provision of Children's Play Space

IMP1	Provision of Infrastructure
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**Application 09/01236/FUL - Bassett Green Road**

**Appendix 2**

**Relevant Planning History**

860634/W-1	Conditionally Approved 18.09.86
Erection of 3 x 5 bedroom detached houses and garages on garden	

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**CONDITIONS for 09/01236/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 - Details of External Materials [pre-commencement condition]**

Notwithstanding the submitted information, no development shall take place until details (and samples where required) of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the local planning authority. These details shall include bricks, mortar, roof tiles, cladding and fenestration. The development shall be carried out in accordance with the approved details.

**REASON:**

In the interests of ensuring that the new development is constructed in accordance with the submitted details and to secure a harmonious form of development.

**03. APPROVAL CONDITION - Landscaping Details [pre-commencement]**

No development shall take place until full details of both hard and soft landscaping have been submitted to and approved in writing by the local planning authority. The submitted details shall include:

- i. hard surfacing materials, structures and ancillary objects (including lighting);
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. details of any proposed boundary treatment; and
- iv. a landscape management scheme.

**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.

**04. APPROVAL CONDITION - Landscaping Implementation [Performance condition]**

The hard and soft landscaping works shall be carried out in accordance with the details approved in the above planning condition. 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.

**REASON:**

To ensure that the works are carried out as approved in the interests of the visual amenities of the area.

**05. APPROVAL CONDITION - Landscaping Replacement [performance condition]**

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 ensure that any trees or shrubs planted as part of the landscaping scheme are replaced in accordance with that scheme.

**06. APPROVAL CONDITION – Parking and Access [pre-occupation condition]**

Prior to the occupation of the development hereby approved both the access to the site and the parking spaces for the development and the existing dwelling shall be provided in accordance with the plans hereby approved. The parking shall be retained for that purpose and not used for any commercial activity.

**REASON**

To ensure a satisfactory form of development

**07. APPROVAL CONDITION - Sightlines specification [Pre-Commencement Condition]**

Prior to the commencement of the development hereby approved details of the sight lines from the access shall be submitted to the Local Planning Authority on a plan for approval in writing. The sightlines shall be provided before the development is first occupied and notwithstanding the provisions of the Town and Country Planning General Development Order 1988 no fences walls or other means of enclosure including hedges shrubs or other vertical structures shall be erected above a height of 0.6m above carriageway level within the sight line splays.

**Reason:**

To provide safe access to the development and to prevent congestion on the highway.

**08. APPROVAL CONDITION - Cycle Storage [performance condition]**

Cycle storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the plans hereby approved. The cycle storage shall be thereafter retained.

**REASON:**

In the interests of the visual appearance of the building and the area in general and to promote alternative modes of travel to the private car.

**09. APPROVAL CONDITION - Refuse & Recycling Bin Storage [Performance condition]**

Bin storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the plans hereby approved. The facilities shall include accommodation for the separation of waste to enable recycling. 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.

**10. APPROVAL CONDITION - Amenity Space Access [performance condition]**

The 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 .

**REASON:**

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

#### 11. APPROVAL CONDITION – Obscure Glazing (performance condition)

The windows indicated as obscurely glazed on the plans hereby approved shall be non-opening and glazed in obscure glass before the development first comes into occupation and thereafter retained in this manner.

##### REASON

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

#### 12. APPROVAL CONDITION - Glazing - soundproofing from external traffic noise [Pre-Commencement Condition]

Works pursuant to this permission shall not be commenced until a scheme for protecting the proposed flats and houses from traffic noise from the M27 has been submitted to and approved by the local planning authority in writing. Unless otherwise agreed in writing, that scheme shall specify either:- Outer pane of glass - 10mm

Air gap between panes - 12mm

Inner pane of glass - 6 mm

or, with secondary glazing with a -

Outer pane of glass - 6mm

Air gap between panes - 100mm

Inner pane of glass - 6.4 mm

There must be no trickle vents installed in any case. For ventilation purposes in all cases, provision of acoustically treated 'BBA' approved mechanically powered ventilation should be the preferred option. However, provision of acoustic trickle vents will be acceptable. Once approved, that glazing shall be installed before any of the flats are first occupied and thereafter retained at all times.

##### Reason:

In order to protect occupiers of the flats from traffic noise.

#### 13. APPROVAL CONDITION - Lighting [Pre-Commencement Condition]

A written lighting scheme including light scatter diagram with relevant contours shall be submitted to and approved in writing by the Local Planning Authority prior to implementation of the lighting scheme. The scheme must demonstrate compliance with table 1 "Obtrusive Light Limitations for Exterior Lighting Installations", by the Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light 2005. The installation must be maintained in accordance with the agreed written scheme.

##### Reason:

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

#### 14. APPROVAL CONDITION – Removal of permitted development [performance condition]

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (as amended), or any Order revoking or re-enacting that Order, no development permitted by classes A (extensions), B (roof alterations), C (other roof alterations), D (porches), E (outbuildings, enclosures or swimming pools) and F (hard surfaces) of Part 1 of Schedule 2 of the Order, shall be carried out without the prior written consent of the Local Planning Authority for the dwellings hereby approved.

##### REASON

In order to protect the amenities of the locality and to maintain a good quality environment and in order to ensure that sufficient private amenity space remains to serve the dwellings.

#### 15. APPROVAL CONDITION - Ecological Mitigation Statement [Pre-Commencement Condition]

Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, [as set out in the submitted ... XXX ... with the application] which unless otherwise agreed in writing by the Local Planning Authority shall be implemented in accordance with the programme before any demolition work or site clearance takes place.



Reason

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

16. APPROVAL CONDITION – No other windows [performance condition]

Unless the Local Planning Authority agree otherwise in writing and notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (as amended), or any Order revoking or re-enacting that Order, in relation to the development hereby permitted, no windows, doors or other openings shall be constructed in the development hereby approved other than those expressly authorised by this consent.

REASON

In order to protect the amenity and privacy of neighbouring properties.

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

Written documentary evidence demonstrating that the development will achieve a minimum level 3 standard in the Code for Sustainable Homes (or equivalent ratings using an alternative recognised assessment method), shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted consent.

Reason:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy SDP13 of the City of Southampton Local Plan (2006).

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

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

Reason:

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

19. APPROVAL CONDITION - Arboricultural Protection Measures [Pre-Commencement Condition]

No works or development shall take place on site until a scheme of supervision for the arboricultural protection measures has been approved in writing by the LPA. This scheme will be appropriate to the scale and duration of the works and may include details of:

- Induction and personnel awareness of arboricultural matters
- Identification of individual responsibilities and key personnel
- Statement of delegated powers
- Timing and methods of site visiting and record keeping, including updates
- Procedures for dealing with variations and incidents.

Reason:

To provide continued protection of trees, in accordance with Local Plan Policy SDP12 and British Standard BS5837:2005, throughout the development of the land and to ensure that all conditions relating to trees are being adhered to. Also to ensure that any variations or incidents are dealt with quickly and with minimal effect to the trees on site.

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

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

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

#### Reason

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

#### 21. APPROVAL CONDITION - Hours of Construction [ Performance condition]

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.

#### REASON:

To protect local residents from unreasonable disturbances from works connected with implementing this permission.

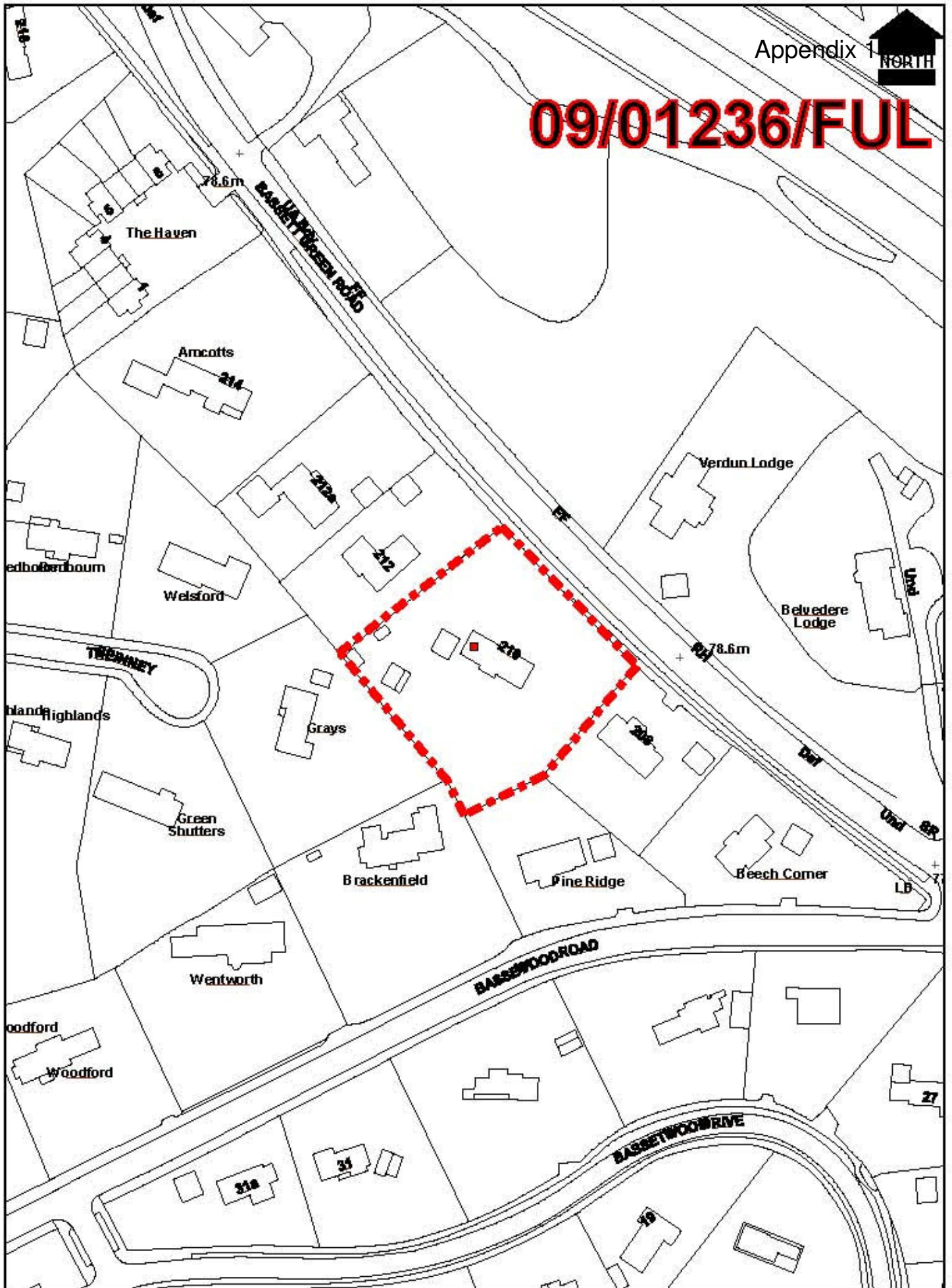
#### 00. Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted.

Policies - SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review (March 2006).



**09/01236/FUL**



Scale : 1:1250

Date : 06 January 2010

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Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 19 January 2010  
 Planning Application Report of the Head of Division

# Agenda Item 9

Application address <b>12-13 Holland Road, Woolston</b>			
Proposed development <b>Two storey side extension and alterations to existing building to provide 4x1-bed flats (2 additional) with associated parking and bin/cycle storage</b>			
Application number	09/01169/FUL	Application type	Full
Case officer	Andy Gregory	Application category	Q13 - minor dwellings

<b>Recommendation Summary</b>	<b>Conditional Approval</b>
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Reason for Panel consideration	In the interests of consistency following a Ward Member referral for the previous application
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Applicant Ms Allen	Agent Sanders Design Services Ltd
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Date of receipt	10.11.2009	Ward members	Woolston
Date of registration	10.11.2009		Cllr Cunio
Publicity expiry	11.12.2009		Cllr Williams
Date to determine	05.01.2010 <b>OVER</b>		Cllr Payne

Site area	0.05 hectares	Usable amenity area	130sqm
Site coverage (developed area)	25%		
Density - whole site	80dph		

Residential mix	numbers	size sqm	Other land uses	class	size sqm
Studio / 1-bedroom	2	40 sqm	Commercial use	-	
2-bedroom			Retail use	-	
3-bedroom			Leisure use	-	
other			other	-	

Accessibility zone	medium	Policy parking max	2 spaces
Parking Permit Zone	no	existing site parking	2 spaces
Cyclist facilities	no	car parking provision	4 spaces
motor & bicycles	4 cycles	disabled parking	0 spaces

Key submitted documents supporting application			
1	Design and Access Statement	2	Tree Report
Appendix attached			
1	Local Plan Policy schedule	2	Suggested Planning Conditions

## **Proposed Development and surrounding context**

This application relates to the extension, and subsequent conversion, of an attractive semi-detached building at 12 and 13 Holland Road. The building is currently occupied as 2 flats and is located at the end of the Holland Road cul-de-sac. The rear garden is currently characterised by mature evergreen planting, a large decked area, an outbuilding and a mature tree protected by a Tree Preservation Order (TPO). The rear garden slopes down to the west and the applicant's intend to retain the existing boundary planting. The surrounding area is predominantly residential in character, with a mix of accommodation and architectural styles including detached and semi-detached family housing and flatted schemes (including both purpose built, such as Mirabella Close, and converted dwellings). Parking along Holland Road is unrestricted, but limited, and the junction with Church Road is controlled by double yellow lines.

Full planning permission is sought for the extension and conversion of the property from 2 flats into 4 self-contained 1 bedroom flats with two flats per floor. The two storey side extension comprises two flats and follows the demolition of the existing porch. The existing single storey lean-to will be replaced with a similar extension that forms the entrance to the two-bed flat. The materials and fenestration proposed would match the existing building.

A timber cycle store and bin store would be provided and 4 car-parking spaces (on a 1 for 1 basis) would replace part of the existing decking area with access taken from the existing access. All residents would have direct access to approximately 130sq.m of useable amenity space within the rear garden.

## **Relevant Planning Policy**

There are no site-specific policies which relate to the application site, but a schedule of local plan policies is attached as **Appendix 1**.

The adopted Local Plan Review is the current development plan document for Southampton. However, the emerging Core Strategy has recently been ratified by Government and its policies should also be afforded significant weight as a material consideration. The proposed development is compliant with emerging policies contained within the Core Strategy (as amended by the Inspector's report, October 2009) as it provides affordable family housing on previously developed land to a high design and sustainable standard.

The Family Housing SPD is not applicable to schemes less than 15.

## **Relevant Planning History**

09/00026/FUL

2-storey side extension and alterations to existing building to create 4 flats (comprising of an additional 2x1-bed flats) with associated parking and bin/cycle storage - description amended following submission  
Withdrawn 27.02.2009

## Consultation Responses and Notification Representations

A publicity exercise in line with department procedures was subsequently undertaken which included notifying adjoining and nearby landowners, and erecting a site notice (26 November 2009). At the time of writing the report 12 representations had been received, which included 10 from surrounding residents and 2 from Local Ward Councillors.

### Summary of Representations made

- Holland Road is a very narrow street that cannot cope with extra traffic movements, compounded by the fact that the site is at the end of the no-through road.
- Building flats in this location is out of character with the local area, which is dominated by family housing.
- Car parking displacement - There is an acute shortage of on-street parking in Holland Road and the development will lead to increased on-street parking demand. This would compromise road safety in the area.
- Increased on-street car parking may stop service vehicles getting through.
- The extension could lead to overdevelopment of the site.
- The alteration of the property will fundamentally change the character of the road
- The extension will potentially result in loss of light to a window within the side of 10 Holland Road.
- Narrowing of the pathway serving 13 Holland Road
- Overlooking of neighbouring properties.

These issues are addressed in the 'planning considerations' section of this report.

### Summary of Consultation comments

**Highway Development Control** – No objection raised subject to the use of a revised surfacing material because the propose shingle drive will result in shingle being dragged onto the highway. The car parking layout should also be revised to reduce the amount of hard surfacing / turning area. The number of spaces exceeds the councils maximum standards however the level of car parking provision is considered acceptable in this instance having regard to the existing take-up of on-street parking and the likely level of car ownership. The level of provision will not compromise highway or pedestrian safety. However careful consideration should be given to measures to encourage alternative modes of transport to the private car. Details of the surfacing treatment and car parking layout should be reserved and secured by condition

**Trees** – No objection raised. The proposed extension is far enough away from the trees to not cause significant impact. However the parking area is within the root protection area of both the sycamore and oak. The submitted Tree Report has specified non-dig construction methods. This is feasible however the submitted Arboricultural Method Statement is not site specific. There are no details on how the level changes on site will overcome or mention of how the current structures within the root protection area of oak will be dismantled. There are no details on location of site compounds or storage of material. Conditions which safeguard the trees on and adjacent to the site should be added.

## Planning Consideration Key Issues

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

- Principle of development;
- Residential design, density and impact on established character;
- The impact on existing residential amenity;
- The quality of residential environment for future occupants; and,
- Whether the travel demands of the development can be met.

### 1. Principle of Development

The principle of converting and extending this existing building into 4 flats is supported by adopted Local Plan (2006) policy H1(iv) (which states that “*residential development will be permitted through the conversion, where appropriate, of existing dwellings*”) and paragraph 31 from PPS3 (as set out at **Appendix 2**). Furthermore, the intensification of use and the net gain of 2 further dwellings will assist the Council in meeting its strategic housing requirements. The provision of a genuine mix of accommodation is consistent with the aims of PPS3. The existing building is occupied as 2 flats and therefore there will be no net loss of family housing.

### 2. Residential design and impact on established character

This character property is not safeguarded as listed

A Design and Access Statement has been submitted in accordance with the requirements of Policy SDP6 of the Local Plan and identifies measures to be taken into account when maintaining the character of the area and achieving high standards of design. The proposed layout and scale of development is not considered out of keeping with the surrounding pattern of development. The surrounding area includes two-storey detached, semi-detached and terrace properties situated within varying plot sizes. The resultant plots are comparable to nearby plot sizes within Quilter Close.

The existing landscaped areas and trees on site are not safeguarded. The proposal seeks to provide enhanced replacement tree planting and landscaping to compensate for any loss.

The proposed design approach responds to the local context and will not be detrimental to the visual amenities of the area. Details of materials will be secured through condition; however an acceptable materials palette is currently proposed.

### 3. Impact on Residential Amenity

Following receipt of amended plans, the residential amenities of nearby residents will not be adversely harmed. The proposed development will not give rise to harmful sense of enclosure, loss of light, shadowing or overlooking / loss of privacy, having regard to the separation distance and orientation of the proposed two-storey housing development in relation to neighbouring properties and gardens.

The scheme has been amended to introduce obscure glazing to the bottom section of the first-floor windows within the front elevation of units 4-6 to prevent unreasonable overlooking / loss of privacy to 27 Orpen Road. A minimum back to back separation distance of 21m is proposed between the development and the rear elevations of 1-7 Sullivan Road to the south-west; this is compatible with the privacy and day lighting standards contained within the Councils Residential Design Guide SPD.



Furthermore the development will not unreasonably shadow neighbouring gardens on the basis of the building / plot orientation and separation distance in relation to neighbouring gardens and houses. Shadow diagrams have been requested to demonstrate this.

Replacement tree planting and enhanced landscaping is proposed to mitigate against any loss. The proposed layout will not directly contribute to anti-social behaviour and the positioning of trees close to neighbouring boundaries is a common arrangement on housing developments across the city.

In terms of increased demand on drainage, intensified residential development naturally places increased demand on public utilities. This is not a valid reason for refusal and it rests with the utility companies to ensure that supply meets demand. The application is supported by a S106 unilateral undertaking to mitigate against the schemes direct impacts.

#### 4. Residential Standard

The proposal seeks to provide a good mix of residential accommodation. All units will benefit from dual aspect, and room sizes are acceptable. Internally, the stacking of similar habitable rooms within the development has broadly been achieved and noise attenuation measures could be secured more aptly through the Building Regulations. All residents will have direct access to secure bin and cycle storage. The amenity space has been designed with direct access for all residents. The minimum requirement of 20sq.m per flat has also been achieved. As such, the application complies with those standards set out in the approved RDG.

#### 5. Highway Issues

The development proposes 6 car parking spaces (i.e. 1:1 provision) which is compliant with the maximum parking standards set out in the adopted Local Plan for an area defined as a "low" accessibility zone. The level of parking provision and re-configured access arrangement will not prejudice highway safety.

### **Conclusion**

It is considered that this application to convert and extend the site is acceptable as the level of development proposed will not result in an adverse impact on the amenities enjoyed by surrounding occupiers or to the character and appearance of the area. The conversion of this existing dwelling is supported by national planning guidance and the relevant policies contained within the adopted Southampton Local Plan Review listed at **Appendix 2**. The application is recommended for conditional planning approval.

#### Corporate Awareness Considerations

The planning assessment made on this planning application proposal has taken into account the relative importance of Council initiatives and corporate aims as considered appropriate to the formulation of the recommendation reached. For this scheme there has been no significant corporate issue identified

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

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

1(a), 1(b), 1(c), 3(a), 4(s), 6(a), 6(c), 6(f), 6(h), 7(c), 8(a), 9(a), 9(b), 2(c),  
Core Strategy and Family Housing SPD



## Appendix 1

### Adopted City of Southampton Local Plan Review Policies

SDP1	General Principles
SDP2	Integrating transport and Development
SDP3	Travel Demands
SDP4	Access
SDP5	Parking
SDP6	Design
SDP7	Context
SDP10	Safety and Security
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
H8	Housing Density
H12	Housing Type and Design
CLT5	Provision of Open Space
CLT6	Provision of Children's Play Space
IMP1	Provision of Infrastructure

### Emerging Core Strategy

CS4	Housing Delivery
CS5	Housing Density
CS15	Affordable Housing
CS16	Housing, mix and type
CS19	Parking

### Supplementary Planning Guidance

The following SPG also forms a material consideration in the determination of this planning application:

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - August 2005 as amended November 2006)

The Council's Family Housing SPD was adopted on 29<sup>th</sup> June 2009 and should be given significant weight in the determination of applications with 15 or more residential units. The SPD provides additional guidance on the interpretation of Policy H12 in the adopted City of Southampton Local Plan Review in that it introduces a definition of a family home and seeks, through negotiation, the provision of increased numbers of family homes. Although the current application is for less than 15 units it complies with the Family Housing SPD.

### Planning Policy Statement PPS3 - Housing (2006)

The Government's guidance on housing confirms the need to make the best use of previously developed sites, whilst respecting a site's existing context. The PPS also re-emphasises the need for the planning system to create sustainable, inclusive, mixed communities with an improved choice of accommodation.

### Planning Policy Guidance Note PPG13 - Transport (2001)

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).

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RECOMMENDATION: CAP

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## **CONDITIONS for 09/01169/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 and window recess, drainage goods and roof in the construction of the building 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 LPA.

Reason

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

### 04. APPROVAL CONDITION - Amenity Space Access [Pre-Occupation Condition]

The external amenity space serving the development hereby approved, and pedestrian access to it, shall be made available as a communal area prior to the first occupation of the development hereby permitted and shall be retained with access to it at all times for the use of the flat units.

REASON:

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

### 05. APPROVAL CONDITION - Glazing panel specification

The bathroom windows in the side elevation of the building hereby approved shall be glazed in obscure glass and shall only have a top light restricted opening. The window as specified shall be installed before the development hereby permitted is first occupied and shall be permanently maintained in that form.

REASON:

To protect the privacy enjoyed by the occupiers of the adjoining property

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

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

Reason:

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

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

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

Reason:

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

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

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

Reason:

To secure a satisfactory setting for the proposed development and to ensure the retention, or if necessary replacement, of trees which make an important contribution to the character of the area.

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

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

1. A specification for the location and erection of protective fencing around all vegetation to be retained
2. Specification for the installation of any additional root protection measures
3. Specification for the removal of any built structures, including hard surfacing, within protective fencing areas.
4. Specification for the construction of hard surfaces where they impinge on tree roots

5. The location of site compounds, storage areas, car parking, site offices, site access, heavy/large vehicles (including cranes and piling rigs)
6. An arboricultural management strategy, to include details of any necessary tree surgery works, the timing and phasing of all arboricultural works and protection measures.
7. Specification for soft landscaping practices within tree protection zones or the canopy of the tree, whichever is greatest.

**Reason**

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

**10. APPROVAL CONDITION - Arboricultural Protection Measures [Pre-Commencement Condition]**

No works or development shall take place on site until a scheme of supervision for the arboricultural protection measures has been approved in writing by the LPA. This scheme will be appropriate to the scale and duration of the works and may include details of:

- Induction and personnel awareness of arboricultural matters
- Identification of individual responsibilities and key personnel
- Statement of delegated powers
- Timing and methods of site visiting and record keeping, including updates
- Procedures for dealing with variations and incidents.

**Reason:**

To provide continued protection of trees, in accordance with Local Plan Policy SDP12 and British Standard BS5837:2005, throughout the development of the land and to ensure that all conditions relating to trees are being adhered to. Also to ensure that any variations or incidents are dealt with quickly and with minimal effect to the trees on site.

**11. APPROVAL CONDITION – Means of enclosure [Pre-Occupation Condition]**

Before occupation of the development hereby approved, details of the design and specifications of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed boundary enclosure details shall be subsequently erected prior to the occupation of any of the units provided under this permission and such boundary treatment shall thereafter be retained and maintained to the boundaries of the site.

**REASON:**

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

**12. APPROVAL CONDITION - Refuse & Recycling Bin Storage – [Pre Occupation Condition]**

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 plans. The facilities shall include accommodation for the separation of waste to enable recycling. The approved refuse and recycling storage shall be retained whilst the development is used for residential purposes.

**REASON:**

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

**13. APPROVAL CONDITION - Cycle storage**

The development to which this consent relates shall not be brought into use in full or in part until secure, covered space has been laid out within the site for 04 bicycles to be stored for the benefit of the residents/staff in accordance with the plans hereby approved. The cycle storage hereby approved shall thereafter be retained on site for that purpose.

**REASON:** To encourage cycling as a sustainable form of transport.

14. APPROVAL CONDITION - Details of surfacing treatment to car parking area and access  
Details of the surfacing treatment to the car parking area and access shall be submitted and agreed in writing by the Local Planning Authority prior to the commencement of development. The surfacing treatment shall be installed as agreed and retained.

**REASON:**

To secure a satisfactory form of development

**Reason for Granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. It is considered that this application to convert and extend the site is acceptable as the level of development proposed will not result in an adverse impact on the amenities enjoyed by surrounding occupiers or to the character and appearance of the area. The 12 representations made to the application have raised issues that have been considered as set in the report to Panel on 19/01/10. 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.

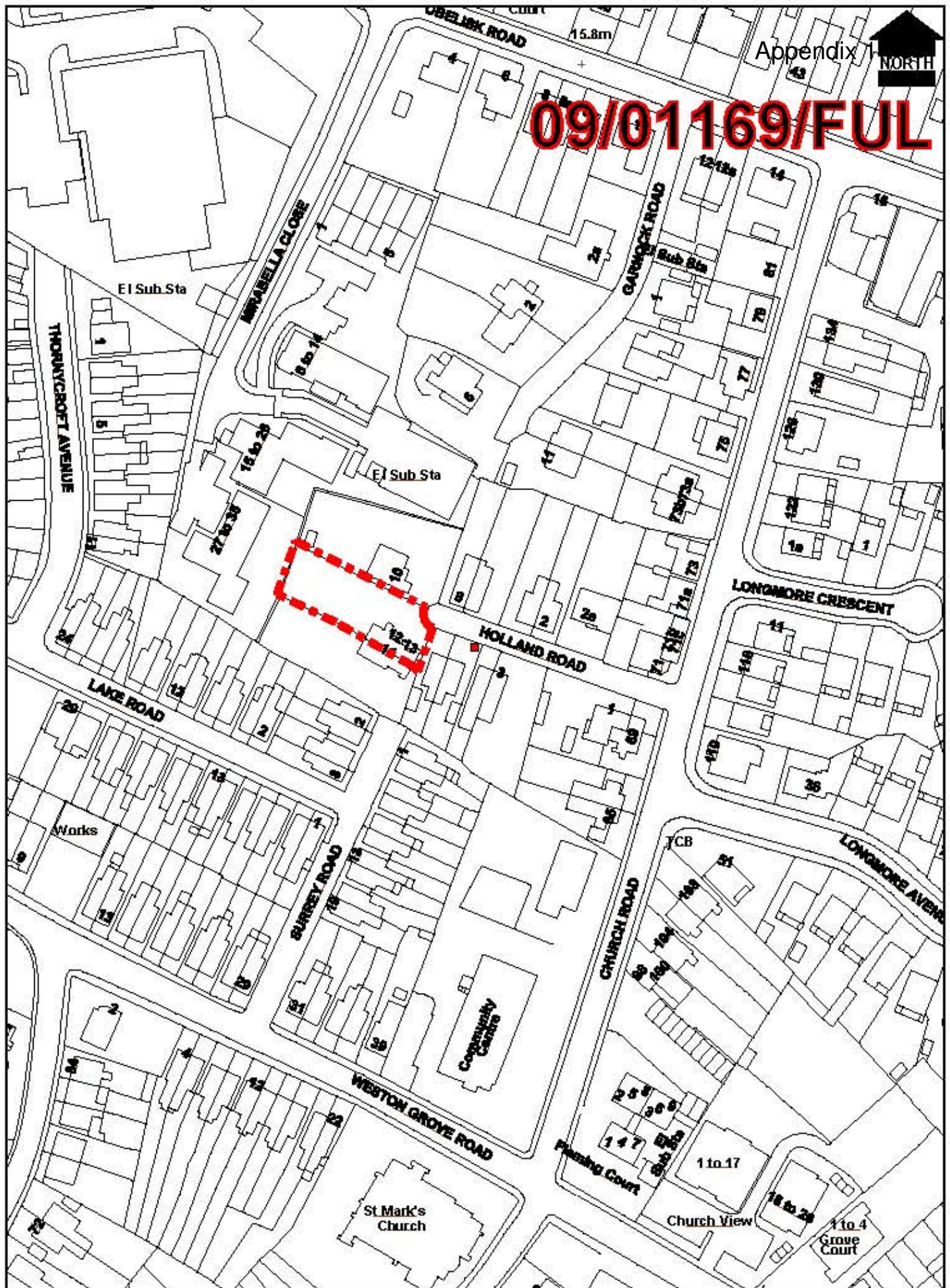
Policies SDP1, SDP4, SDP5, SDP7, SDP9, H1, H2 and H7 of the City of Southampton Local Plan Review - Adopted March 2006.

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# Agenda Item 10

Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 19 January 2010  
 Planning Application Report of the Head of Division

Application address	238 Weston Lane		
Proposed development:	Erection of a 3-storey building (including accommodation in roofspace) to create 6 x1-bed and 2 x 2-bed flats with associated parking and cycle/refuse storage		
Application number	09/ 01134 /FUL	Application type	Full Detailed
Case officer	Jenna Turner	Application category	Q13 - Minor Dwellings

Recommendation Summary	<b>Delegate to Development Control Manager to grant planning permission subject to criteria listed in report.</b>
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Reason for Panel consideration	Ward Member referral request - Item requested to go before the panel by local ward member Cllr Williams & Cllr Payne
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Applicant: Keycare Projects Ltd	Agent: Anders Roberts and Associates
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Date of receipt	04/11/2009	City Ward	Woolston
Date of registration	04/11/2009	Ward members	Cllr Cunio
Publicity expiry date	10/12/2009		Cllr R Williams
Date to determine	30/12/2009 <b>OVER</b>		Cllr Payne

Site area	718 sq.m (0.07 ha)	Usable amenity area • communal amenity space for flats • private space for retained dwelling	147 sq.m (24 sq.m per flat) 85 sq.m
Site coverage (developed area)	40%		
Density - whole site	100 d.p.h		

Residential mix	nos	size sqm	Other land uses	class	size sqm
Studio / 1-bedroom	6	40-46 sq.m	Commercial use	-	-
2-bedroom	2	52 sq.m	Retail use	-	-
4-bedroom	1	-	Leisure use	-	-
other	-	-	other	-	-
Policy designation	None				

Accessibility zone	Medium	Policy parking max	7.5 spaces
Parking Permit Zone	no	existing site parking	4 spaces
Cyclist facilities	yes	car parking provision	4 spaces
motor & bicycles	7 cycles	disabled parking	0 spaces

Key submitted documents supporting application			
1	Design and Access Statement	2	Shadow Diagrams
3	Sustainability Checklist	4	Aboricultural Repor
Appendix attached			
1	Relevant Planning Policy	2	Relevant Planning History
3	Previous appeal decision	4	Suggested conditions

## **Recommendation in full**

Delegate to Development Control Manager to grant planning permission subject to

1. the applicant entering into a Section 106 Legal Agreement to secure
  - i. a financial contribution towards the provision and maintenance of open space required by the development in line with policies CLT5 and IMP1 of the City of Southampton Local Plan Review (Adopted Version - March 2006) and the adopted SPG relating to 'Planning Obligations' (November 2006);
  - ii. A financial contribution towards the provision and maintenance of play space required by the development in line with policies CLT6 and IMP1 of the City of Southampton Local Plan March 2006 and adopted guidance on Planning Obligations November 2006.
  - iii. a financial contribution towards site specific transport contributions for highway improvements in the vicinity of the site towards measures to encourage the use of alternative modes of transport to the private car in line with policies SDP3, SDP4 and IMP1 of the City of Southampton Local Plan Review (Adopted Version - March 2006) and the adopted SPG relating to 'Planning Obligations' (November 2006);
  - iv. a financial contribution towards strategic transport contributions for highway network improvements in line with policies SDP3, SDP4 and IMP1 of the City of Southampton Local Plan Review (Adopted Version - March 2006), the Local Transport Plan, and the adopted SPG relating to 'Planning Obligations' (November 2006);
  - v. entering into a Traffic Regulation Order.
  - vi. 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
  - vii. submission and implementation within a specified timescale of a Waste Management Plan

And that the D C Manager be authorised to refuse permission if the Section 106 Agreement has not been completed within 6 weeks of the date of the Panel on the ground of failure to secure the provisions of the Section 106 Agreement.

## **Proposed Development & Surrounding Context**

The proposal is for the construction of a two-storey residential building with accommodation within the roof space served by gable windows, dormer windows and roof lights whilst retaining the existing dwelling on the site. A traditional design which is articulated with double-height bays and porches is proposed. The building addresses both street frontages with entrances on the Newtown Road and Weston Lane elevations. The building layout is staggered with the ridge height of the building also varying. The materials proposed to be used for the construction consist of a facing brick and render. The proposed vehicular entrance onto the site would be from Weston Lane. The proposal provides two integral stores for refuse and cycles.

The site comprises a detached two-storey dwelling of traditional appearance. It is located on the corner of Weston Lane and Newtown Road with vehicular access from Weston Lane.

The principle garden area of the property is to the north-east side of the dwelling. The road frontage is bounded by dense vegetation, which gives the plot a verdant character and contributes to the suburban character of the area. The surrounding area is predominantly residential and characterised by two-storey, semi-detached single family dwelling houses.

### **Relevant Planning Policy**

The planning policy to be considered as part of this proposal is scheduled in **Appendix 1** to this report. There are no site-specific policies which relate to the application site. Policy H1 (v) supports the redevelopment of previously developed land to provide additional residential accommodation and the Council's normal consideration in respect of quality of development, protection of the character of the area and the amenities of neighbouring occupiers apply as required by Policies SDP1, SDP7 & SDP9.

The development is in accordance with the emerging policies in the Council's Core Strategy.

### **Relevant Planning History**

The history of the site is attached in **Appendix 2** to this report.

### **Consultation Responses & Notification Representations**

A publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement and erecting a site notice. At the time of writing the report, 7 representations had been received from surrounding residents.

#### Summary of Representations made

**Highway Safety** - The site is located on a dangerous junction and the proposal would exacerbate highway safety there by increasing traffic movements onto the junction. The additional traffic would also exacerbate congestion on the junction.

**Parking** - The development would be not be served by sufficient car parking spaces which would have an adverse impact on highway safety

**Privacy Impact** - The proposal would result in overlooking of the neighbouring properties

**Character Impact** - Flats would be out of keeping with the character of the area

**Visual Impact** - The proposal would represent an over-development of the site and the new building would appear out of keeping with the older properties in the vicinity of the site.

#### Summary of Consultation comments

**SCC Highways** - No objection. Suggests a condition seeking details of the doors to the cycle storage to ensure it is easily accessible

**SCC Ecology** - No objection subject to securing a biodiversity mitigation and enhancement plan by planning condition

**SCC Sustainability** - No objection. Suggest conditions to secure level 3 of the Code for Sustainable Homes and a sustainable urban drainage system.

**SCC Environmental Health (Pollution and Safety)** - No objection. Suggests conditions to minimise disruption to residents during the construction phase.

**SCC Environmental Health (Contamination)** - No objection. There is historic contamination in the vicinity of the site and therefore conditions are suggested to assess the risk and secure remediation as necessary

**SCC Play Services** - No objection. Require a financial contribution to improve facilities in a local play area

**Southern Water** - No objection. Suggest a condition to secure details of foul and surface water drainage and an informative.

### **Planning Consideration Key Issues**

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

- Principle of development
- Residential design, density and impact on the established character;
- The impact on existing residential amenity;
- The quality of residential environment for future occupants
- The impact on protected trees and the ecological value of the site
- Whether the travel demands of the development can be met.

The development proposal needs to be assessed in light of the planning history of the site and in particular the appeal decision contained in **Appendix 3** to this report.

#### 1. Principle of development

The redevelopment of this site for residential purposes is in accordance with central government's aims and local plan policies for the efficient use of vacant and brownfield sites. The application proposes a genuine mix of accommodation and includes the retention of the existing family dwelling on site which is welcome.

#### 2. Character and design matters

The design approach remains similar to the previously refused scheme. Accommodation has been removed from the roofspace adjacent to 1 Newtown Road and the massing of the building along Weston Lane as also been reduced to enable the retention of the existing dwelling. Whilst scale, massing and footprint were cited as reason for refusing the previous application on this site, at appeal the Planning Inspectorate considered that massing, design and footprint of the proposed building was acceptable having particular regard to the corner nature of the site (paragraph 10 of the appeal decision in **Appendix 3** refers). The combined footprint of the proposed building and the retained building is 5% greater than previous scheme, however, the reduction in the massing in the roof of the building adjacent to 1 Newtown Road and the incorporation of a 3m gap between the existing building and the proposed building would ensure that in visual terms the massing of the building would not appear notably greater than the appeal scheme.

The proposed building turns the corner well and addresses both street frontages and is in accordance with design principles within the Residential Design Guide which acknowledges that a building of greater massing and height can provide a positive visual focus on corner locations. The building line is staggered to relieve the massing and the design is articulated traditional features. The building would therefore be sympathetic the prevailing pattern of development in the vicinity of the site.

Concerns have been raised that a development of flats would not be in character with the

surrounding area which is typified by family dwellings. This matter was debated at the earlier planning appeal and the Inspectorate considered at paragraphs 9 and 10 that the principle of a higher density scheme was acceptable and that the development of flats rather than houses is not in itself indicative of harm to the character of the area.

### 3. Residential amenity

The main consideration in this respect is the relationship of the proposal building with 1 Newtown Road which was the sole reason for the previous planning appeal being dismissed (paragraphs 22 to 27 of the appeal decision in **Appendix 3** refers). In particular the west side elevation of 1 Newtown Road contains windows at ground and first floor serving habitable rooms. There are no specific separation standards relating to this kind of relationship although a sunlight and shadow path analysis can indicate if any demonstrable harm to residential amenity will occur. The proposed building is positioned approximately 6m from the boundary with 1 Newtown Road and 10m from the side elevation of the neighbouring property itself. This represents a significant improvement to the refused scheme which was positioned just 0.6m from the common boundary. Daylight and shadow path analysis submitted with the application demonstrate that 1 Newtown Road would continue to enjoy a good level of day-lighting and not be adversely subject to a harmful level of overshadowing.

In terms of privacy, windows have been carefully positioned to mainly look over the public realm rather than the neighbouring residential properties. An existing intervening outbuilding structure positioned on the boundary of 1 Newtown Road will ensure that no harmful overlooking will occur as a result of the first floor east facing bedroom window.

### 4. Residential standards

The previous application was refused on the basis of insufficient amenity space which was not fit for purpose due to its positioning adjacent to a busy road. In dismissing the appeal, the inspector considered that the amount of amenity space was acceptable particularly having regard to the proximity of the site to a large public park. The amount of amenity space per flat remains the same as the appeal scheme and accordingly, in light of the inspector's comments is considered acceptable to serve the development. The retained dwelling would be left with 85 sq.m of private rear garden space which is slightly less than the 90 sq.m required by the Residential Design Guide however, the quality and useability is considered good and having regard to the weight the inspector gave of the proximity of the site to a public park, this slight shortfall is considered to be acceptable.

Both cycle and refuse storage is now integral to the building which is preferable from a visual perspective. Both stores are conveniently located for access by future residents.

### 5. Parking and highways matters

The level of car parking spaces proposed complies with the Council's adopted standards and current planning guidance in the form of PPG13: 'Transport', PPS1 'Delivering Sustainable Development' and PPS3 'Housing' emphasises the need to reduced car dependence. Furthermore, Local Plan policy SDP5 confirms that car parking is a key determinant in the choice of the mode of travel. The site lies within an area of Medium Accessibility for public transport meaning it lies within a 400m radius of a bus corridor served by between 10 and 19 buses an hour. The provision of secure and convenient cycle storage would promote cycling as an alternative to the private car. The level of car parking proposed to serve the development is therefore considered to be acceptable. The application proposes one additional car parking space when compared with the appeal scheme in which the Inspector found that the level of on-site car parking was acceptable (please refer to paragraph 21 of the appeal decision in **Appendix 3**).

The existing vehicular access to the from Weston Lane would be retained and slightly altered. The level of car parking remains the same as currently increase and therefore there would be no intensification of the use of this access. On-site turning is provided to ensure that vehicles can enter and leave the site in a forward gear. The application also proposes the gifting to a section of the site around the corner to the highways authority to improve the sight-lines at this junction. The proposal would therefore represent an improvement in highway safety terms and this is also acknowledged by the appeal inspector at paragraph 34 of the decision.

### Summary

The proposed development would make efficient use of this brownfield site whilst respecting the character of the area and providing an attractive visual focus for this corner site. The previous reason for dismissing the planning appeal has been fully addressed.

### **CONCLUSION**

By securing the matters set out in the recommendations section of this report by the completion of a Section 106 Legal Agreement, the proposal would be acceptable. The application is therefore recommended for delegated approval to the Development Control Manager.

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

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

1 (a) (b) (c) (d), 2 (a) (c) (d), 3 (a), 6 (a) (c) (d) (l), 7 (a) (c) (k), 8 (a) (j)

(JT for 19.01.10 PROWP)



**Relevant Planning Policy**

**Adopted City of Southampton Local Plan Review Policies**

SDP1	General Principles
SDP2	Integrating transport and Development
SDP3	Travel Demands
SDP5	Development Access
SDP6	Parking
SDP7	Context
SDP9	Scale, Massing and Appearance
SDP10	Safety and Security

H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
H8	Housing Density
H12	Housing Type and Design

CLT5	Provision of Open Space
CLT6	Provision of Children's Play Space

IMP1	Provision of Infrastructure
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**Core Strategy Policies**

CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS 15	Affordable Housing
CS16	Housing Mix and Type
CS18	Transport
CS19	Car and Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS21	Protecting and Enhancing Open Space
CS25	The Delivery of Infrastructure and Developer Contributions

**Relevant Planning History**

08/00612/FUL Refused 08.09.08 and appeal dismissed  
Redevelopment of the site. Erection of a 3-storey building (including accommodation within the roof space) to provide 10 flats (6 x one bedroom, 4 x two bedroom flats) with associated parking, following demolition of the existing building.

Reasons for refusal:

01.

Overdevelopment/ lack of amenity

The proposed development by virtue of its bulk, massing, excessive footprint would result in an overdevelopment of the site which does not respect the character of the surrounding area. In addition, in terms of the private amenity space whilst it accords with policy in terms of the area for the number of flats proposed, the area provided is not deemed usable due to its location fronting Newtown Road and Weston Lane in terms of noise pollution and that the part fronting Newtown Lane would be in the shade for long periods. As such the proposed development is contrary to Policies SDP1, SDP7, SDP9 and H7 of the Adopted City of Southampton Local Plan Review (March 2006) and guidance set out in the adopted Residential Design Guide 2006.

02.

Highway safety

The proposed development fails to make provisions to meet the travel demands of the residents of the new development, in particular it does not provide adequate car parking facilities. This would cause additional on-street parking and lead to congestion and inconvenience to the detriment of highway safety and therefore the proposal is therefore contrary to Policies SDP1 and SDP5 of the City of Southampton Local Plan Review Revised Deposit Version.

03.

Non-Compliance with S106 Agreement

The proposal fails to mitigate against its direct impacts and, as such, does not satisfy the provisions of Policy IMP1 of the adopted City of Southampton Local Plan Review - Adopted Version March 2006 and the provisions of the Council's Supplementary Planning Guidance on Planning Obligations (August 2005, as amended in November 2006) in the following ways:

(i) No provision for measures to support public open space a contrary to Policies CLT5 of the City of Southampton Local Plan Review - Adopted Version March 2006.

(ii) Measures to satisfy the children's play space requirements of the development. As such the development is contrary to Policy CLT6 of the City of Southampton Local Plan Review (March 2006).

(iii) No provision for measures to support sustainable modes of transport such as necessary improvements to public transport facilities and pavements in the vicinity of the site contrary to policies SDP1, SDP2 and SDP3 of the City of Southampton Local Plan Review - Adopted Version March 2006.

(iv) No provision for measures to support strategic transport initiatives;

(v) No provision for measures to secure a highway condition survey and post completion reinstatement

(vi) Failure to provide a Waste Management Plan to demonstrate how refuse will be stored / removed from the site

*The applicant is advised that this final reason for refusal could be overcome following completion of a S.106 Legal Agreement associated with an acceptable proposal.*

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RECOMMENDATION: DEL

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**CONDITIONS for 09/01134/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 - Details & samples of building materials to be used [Pre-Commencement Condition]**

No development works shall be carried out unless and until a detailed schedule of materials and finishes including samples (if required by the LPA) to be used for external walls and the roof of the proposed buildings has been submitted to and approved in writing by the Local Planning Authority. Details shall include all new glazing, panel tints, stained weatherboarding, drainage goods, and the ground surface treatments formed. The development shall proceed in accordance with the agreed details unless otherwise approved in writing by the Local Planning Authority.

Reason:

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

**03. APPROVAL CONDITION - Landscaping detailed plan [Pre-Commencement Condition]**

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

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

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

The approved scheme shall be carried out prior to 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

04. APPROVAL CONDITION - Boundary fence [Pre-Occupation Condition]

Before occupation of the development hereby approved, details of the design and specifications of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed boundary enclosure details shall be subsequently erected prior to the occupation of any of the units provided under this permission and such boundary treatment shall thereafter be retained and maintained to the boundaries of the site.

Reason:

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

05. APPROVAL CONDITION - Ecological Mitigation Statement [Pre-Commencement Condition]

Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, to identify whether there are slow worms present and a mitigation plan if any are found, a schedule for replacement native hedgerow and details and location of bats and swift roosting and nesting boxes which unless otherwise agreed in writing by the Local Planning Authority shall be implemented in accordance with the programme before any demolition work or site clearance takes place

Reason

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

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

Written documentary evidence demonstrating that the development will achieve a minimum level 3 standard in the Code for Sustainable Homes (or equivalent ratings using an alternative recognised assessment method), shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted consent.

Reason:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy SDP13 of the City of Southampton Local Plan (2006).

07. APPROVAL CONDITION – Drainage and Foul Water Disposal [pre-commencement condition]

Prior to the commencement of the development hereby approved details of the proposed means of foul water disposal and surface water disposal shall be submitted to the Local Planning Authority for approval in writing. The development shall proceed in accordance with the agreed details.

REASON

To ensure the proposal does not increase the likelihood of flooding in the vicinity of the site.

08. APPROVAL CONDITION - / egress arrangements (Pre-Commencement Condition)

Prior to works commencing on the site details of the means of access for construction (and demolition) of the structures on the site shall be submitted to and agreed with the Local Planning Authority. Such details shall indicate any areas of equipment and material storage during the work period and any measures to limit the possible nuisance effects on surrounding and neighbouring residential properties.

Reason:

In order to protect the residential amenity of nearby properties

09. APPROVAL CONDITION - Cycle parking [Pre-Occupation Condition]

Prior to the first occupation of the development the cycle storage shall be provided in accordance with the approved plans. The storage shall thereafter be retained for the benefits of the occupants of the development.

Reason:

To accord with sustainable transport policy aimed at providing a choice of travel mode available for residents by enabling adequate provision of a facility which is likely to reduce the amount of vehicular traffic on existing roads.

#### 10. 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

#### 11. APPROVAL CONDITION - Refuse & Recycling [Pre-Commencement Condition]

Before the works commence details (and amended plans) of facilities to be provided for the storage, removal and recycling of refuse from the premises shall be submitted to the Local Planning Authority and approved in writing. Such facilities as approved shall provide for a level approach and be permanently maintained and retained for that purpose.

Reason:

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

#### 12. APPROVAL CONDITION - Delivery times [Pre-Occupation Condition]

No deliveries shall be taken in or dispatched from the site during construction outside the following times;

9.30am to 15.00pm

Reason:

To avoid traffic congestion

#### 13. APPROVAL CONDITION - Sightlines specification [Pre-Commencement Condition]

Sight lines m by m measured at the kerblines shall be provided before the use of any building hereby approved commences, and notwithstanding the provisions of the Town and Country Planning General Development Order 1988 no fences walls or other means of enclosure including hedges shrubs or other vertical structures shall be erected above a height of 0.6m above carriageway level within the sight line splays

Reason

To provide safe access to the development and to prevent congestion on the highway

#### 14. APPROVAL CONDITION - Glazing - soundproofing from external traffic noise [Pre-Commencement Condition]

Works pursuant to this permission shall not be commenced until a scheme for protecting the proposed flats and houses from traffic noise from Weston Lane and Newtown Road has been submitted to and approved by the local planning authority in writing. Unless otherwise agreed in writing, that scheme shall specify either:- Outer pane of glass - 10mm

Air gap between panes - 12mm

Inner pane of glass - 6 mm

or, with secondary glazing with a -

Outer pane of glass - 6mm

Air gap between panes - 100mm

Inner pane of glass - 6.4 mm

There must be no trickle vents installed in any case. For ventilation purposes in all cases, provision of acoustically treated 'BBA' approved mechanically powered ventilation should be the preferred option. However, provision of acoustic trickle vents will be acceptable. Once approved, that glazing shall be installed before any of the flats are first occupied and thereafter retained at all times.

Reason:

In order to protect occupiers of the flats from traffic noise

00. Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted.

Policies - SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review (March 2006).



# Appeal Decision

Hearing held on 10 February 2009

Site visit made on 10 February 2009

by **R J Marshall LLB Dip TP MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

## Appendix 1

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email:enquiries@pins.gsi.gov.uk

**Decision date:**  
**26 February 2009**

### **Appeal Ref: APP/D1780/A/08/2086673 238, Weston Lane, Southampton, SO19 9HL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Keycare Developments against the decision of Southampton City Council.
- The application Ref 08/00612/FUL, dated 28 April 2008, was refused by notice dated 8 September 2008.
- The development proposed is described as "Redevelopment of the site. Erection of a 3 storey building (including accommodation within the roof space) to provide 10 flats (6x1 bedroom and 4x2 bedroom flats) with associated parking following demolition of the existing building".

### **Decision**

1. I dismiss the appeal.

### **Procedural matters**

2. The application description given above differs from that on the application forms. It is, however, as agreed between the Council and the appellant after the application was submitted.
3. The Council raised no objection to the appellant seeking to substitute plan 7750 (R1) 100, submitted with the application, with revision A of that plan. This plan accords with the appellant's landscaping plan and more accurately represents what is proposed. I shall determine the appeal on the basis of the proposal as so amended as to do so would not be detrimental to anyone with an interest in the appeal.
4. The appellant submitted a signed and dated Unilateral Undertaking. This overcomes the Council's concern that the proposal failed to "mitigate against its direct impacts" on various open space, transportation and highway matters.

### **Main issues**

5. The main issues in this appeal are:

first, the effect of the proposed development on the character and appearance of the surrounding area;

second, whether the location and extent of on-site amenity space would provide satisfactory living conditions for occupants of the proposed scheme;

third, whether the proposed on-site parking levels would give rise to on-street parking detrimental to public amenity; and

fourth, the effect on the living conditions of those at No. 1 Newtown Road with special reference to privacy, loss of light and visual impact.

6. The above issues differ slightly from those I gave. The fourth issue is added in light of all I heard and saw. Finally, although I no longer need to consider whether the Unilateral Undertaking meets the Council's concerns, Circular 05/2005 indicates that an obligation is only necessary to make a proposed development acceptable in planning terms. Thus, aside from the main issues I shall assess the weight to give to the Undertaking in light of this.

## **Reasons**

### ***Character and appearance***

7. The appeal site lies in a generally attractive and long established residential area. It is located on one corner of a crossroads formed by Weston Lane and Newtown Road. The site is a larger plot than others nearby. It contains a 1930s style detached house set well back from the road junction and with a large garden.
8. The proposed development would replace this house with a more substantial property of 10 flats at a density of approximately 140 dph. This would be higher than the minimum density figures of between 50-100 dph that the Council considers appropriate for such areas. However, this is a minimum rather than maximum standard. I see no in principal objection to a higher density, especially given Government Guidance on making the best use of urban land, provided the proposal is otherwise satisfactory.
9. The density of the proposed development would be notably higher than that in the locality. However, this is in part because the surrounding area comprises houses rather than the flats proposed. It is not of itself indicative of harm.
10. The Council's Supplementary Planning Guidance on Residential Design says that the footprint to plot ratio of new dwellings should be similar to those nearby. However, regarding the impact of the proposed building on the character and appearance of the area I find no harm in the fact that it would occupy a greater area of the site than much nearby development. In part this is because the crossroads location of the site provides scope for a slightly more intensive development that would provide added visual interest. For the same reason, I have no objection to the roof form proposed, which with its flat roof elements and dormer windows, would be slightly more bulky than the roofs of nearby properties.
11. Adding to the acceptability of the proposal in terms of its visual impact is the fact that it would accord well with the overall height and eaves line of adjoining properties. Moreover, the fact that the proposed development would face onto 2 roads is handled well in visual terms. The most prominent part of the development seen from Newtown Road would be a forward projection reflecting the style, proportions and design of adjoining properties in this road. By contrast, closer to the road junction and facing Weston Lane, the proposed development would reflect the more varied style of properties along this road.



Unlike the Council I see no objection to the proposed development having a lengthy ridge line parallel to both roads, for this is a feature of the shops opposite in Newtown Road and some other house along Weston Lane.

12. The proposed development would result in the loss of an extensive boundary hedge along both road frontages. However, its poor condition lessens its attractiveness. Given the adequate scope for frontage planting on the site, and the substantial well wooded park opposite, there would be no harm to the current verdant appearance of the area.
13. With the current extent of hard-standing on the site and locally I have no objection to the extent of hard-standing proposed. The proposed bin and cycle stores would be unobtrusively located well back from the highway.
14. I conclude that the proposed development would be appropriate in its context and even provide a modest improvement to the character and appearance of the surrounding area. As such there would be no conflict with Policies SDP1, SDP7, SDP9 and H7 of the City of Southampton Local Plan Review (2006).

#### ***On site amenity space provision***

15. The proposed development would provide approximately 24 m<sup>2</sup> of garden space per flat. This is subject to that calculation including landscaping in the garden area. Unlike the Council I see no reason not to do so as landscaping is often a feature of gardens. On this basis the proposed development would easily comply with the Council's Residential Design Guide requirement for 20m<sup>2</sup> of garden space per flat.
16. I agree with the Council that those areas of garden between the proposed building and the 2 adjoining roads are unlikely, due to lack of privacy and traffic noise, to be greatly used for many recreational purposes. However, I do not read the Council's guidance as being that the full 20m<sup>2</sup> of garden space per flat should be usable in this way. For development of the type and scale proposed there would be adequate usable space on the remainder of the proposed garden area. This area would not be so substantially shaded by trees, or affected by the proposed bin and cycle store, as to be unacceptable for this purpose. Moreover, in determining the level of usable garden space required regard may be had to the substantial public park nearby. Although separated from the appeal site by a busy road it would be readily accessible to those in the proposed development.
17. I conclude that the location and extent of on-site amenity space would provide satisfactory living conditions for occupants of the proposed scheme. There would be no conflict with Local Plan Policy H7.

#### ***Car parking and public amenity***

18. Local Plan Policy SDP5 seeks to discourage the use of the car by reducing car parking levels. It does so by saying that planning permission will only be granted for new development that provides no more than the maximum parking spaces set out in the adopted standards. These standards provide a maximum requirement for 6 car parking spaces for development of the proposed scale in areas such as this. With only 3 car parking spaces proposed in this scheme the Council accepts that this Policy would be complied with.

19. Given the above, and the fact that the Council is satisfied that a traffic regulation order may be imposed to restrict parking forward of the site in the vicinity of the road junction, there is no professional highways objection to the proposal.
20. However, the Council is concerned that the limited number of parking spaces on site would result in on-street car parking on the 2 adjoining roads that would displace existing residents' parking to the detriment of their amenities. However, there is no legal right for a space to park on the public highway. Moreover, there is no substantial evidence to support the concerns of the Council or local residents that the 2 adjoining roads are so heavily parked up that there would be the harm alleged. From what I saw, at school opening and closing times, there is extensive parking on these roads. However, in the daytime beyond these short periods there was little on-road parking. I appreciate that I obtained only a snapshot view. However, it supports the appellants' contention rather than that of the Council and local residents.
21. I conclude that the proposed on-site parking levels would not give rise to on-street parking detrimental to public amenity. There would thus be no conflict with Local Plan Policy SDP1 in so far that it seeks to protect residents' living conditions.

### ***Neighbour's living conditions***

22. The proposed development would have a notably lengthy flank wall at 2-storey height running along a substantial length of the side garden boundary with No. 1 Newtown Road. This wall would be close to the boundary and just under 5 metres from the side elevation of No. 1.
23. Within the side elevation of this neighbouring house and facing the appeal site is, at ground floor level, a patio window. This is the only window serving the neighbour's lounge. To one side of this is the sole window to a kitchen which is partly open to the lounge. Above the patio window is a bedroom window facing the appeal site.
24. Outlook from the neighbour's lounge and kitchen windows is already restricted to some degree by a boundary hedge. However, the additional height of the proposed development in such close proximity to the boundary would be far more oppressive and cause the proposed development to appear over-dominant and intrusive. Moreover, although evidence points towards there being no unacceptable loss of sunlight, the height, length and proximity of the proposed development may well cause unacceptable loss of daylight to the neighbour's lounge and kitchen. There is no substantial evidence to the contrary.
25. At first floor level in the proposed development a bedroom window in the side elevation facing No.1 would look out onto the neighbour's bedroom and lounge window. Although the windows would not be directly aligned the angle of vision would be sufficiently direct to cause unacceptable loss of privacy.
26. I appreciate that harm to neighbour's living conditions was not a ground on which the Council refused permission and that the Council Officer's report recommending permission discounted the possibility of such harm. However, that erroneously said that there were no habitable room windows in the

neighbour's side elevation facing the appeal site. I have also taken into account the fact that some of the nearby Victorian/Edwardian houses appear to have a similar relationship of windows and elevations. However, that does not justify perpetuating such poor conditions.

27. I conclude that the proposed development would harm the living conditions of those at No. 1 Newtown Road with special reference to privacy, loss of light and visual impact. As such it would conflict with Policies SDP1 and SDP9 of the Local Plan.

## **Other matters**

### ***Unilateral Undertaking***

28. The Unilateral Undertaking provides for contributions towards highway works, open space, play space and sports pitches. It also requires that occupants of the proposed development be provided with sustainable travel vouchers, that damage to the highway during construction be remedied or paid for and that payment be made to monitor the agreement.
29. The highway works contribution is broken down into: a) contributions to improve the sightlines at the adjoining road junction and for a Traffic Regulation Order to provide parking restrictions on those parts of the highway onto which the site fronts; and b) a strategic transport contribution for projects beyond the site and its locality in transport corridors serving the development.
30. From what I heard, and in the absence of substantial evidence to the contrary, I am broadly satisfied that the contributions under (a) above are required to make the proposed development acceptable. Regarding (b) above, the Council's Supplementary Planning Guidance (SPG) on Planning Obligations indicates that all development that generates additional trips should contribute towards strategic transport projects to address its impact in the wider area. It does so by reference to the Local Transport Plan and sets a threshold of 5 dwellings and over for contributions being required. In the absence of evidence to the contrary I am broadly satisfied that this justifies the strategic transport contribution offered.
31. The Undertaking says that a sustainable travel voucher shall be provided to the occupant of each flat. This may be spent on a bus season ticket, a cycle or a car club. However, given the other contributions that would be made, and without greater justification related to the Development Plan and the Council's SPG, I am not satisfied that this is required to make the proposed development acceptable. As for remedying damage to the highway, this could be required under other legislation. The Undertaking on this is thus unnecessary.
32. Local Plan Policy CLT5 read with the Planning Obligations SPG requires open space/sports pitch contributions in lieu of on-site provision for development of 5 units or over unless there is already adequate provision locally. The Undertaking provides money to improve a nearby open space. In the absence of evidence that provision in the locality is adequate this would seem to comply with the Council's guidelines and Circular advice. Given Local Plan Policy CLT6 and the Council's SPG, and the lack of on site play space in the proposed scheme, contributions for the improvement of an off-site play space meets a justified need.

33. On the above, I place substantial weight to the Undertaking in so far that it meets legitimate planning concerns. However, I give limited weight to it when this is not the case. Nor have I attached much weight to the agreement to pay for the Council to monitor the Undertaking. I can find no support in Circular 05/2005 for such payments.

***Other matters generally***

34. There is substantial local concern on highway safety. However, there is no professional support for this and from what I heard and saw there would, if anything, be some benefit to highway safety from improved sight lines. Evidence from the Council's ecologist shows that wildlife concerns could have been dealt with by condition.

**Conclusion**

35. In many respects the proposed development would be entirely satisfactory and in some ways as outlined, beneficial. It would also assist in providing additional housing in a sustainable urban location. However, none of this outweighs the harm identified on the fourth issue.

36. For the reasons given above I conclude that the appeal should be dismissed.

*RJ Marshall*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr R Henderson MA hons MRTPI	Of Ken Parke Planning Consultants
Mr C Shipperley	Of appellant company
Mr J Pickerill	Of appellant company

### FOR THE LOCAL PLANNING AUTHORITY:

Miss J Turner BSc MSc	Senior Planning Officer
Mr Harvey BSc	Trainee Planner
Mr S Mackie BA	Planning Agreements Officer

### INTERESTED PERSONS:

Mrs Chase	1, Newtown Road, Southampton SO19 9HX
Cllr Cunio	6, Julian Road, Sholing, Southampton SO19 8LZ

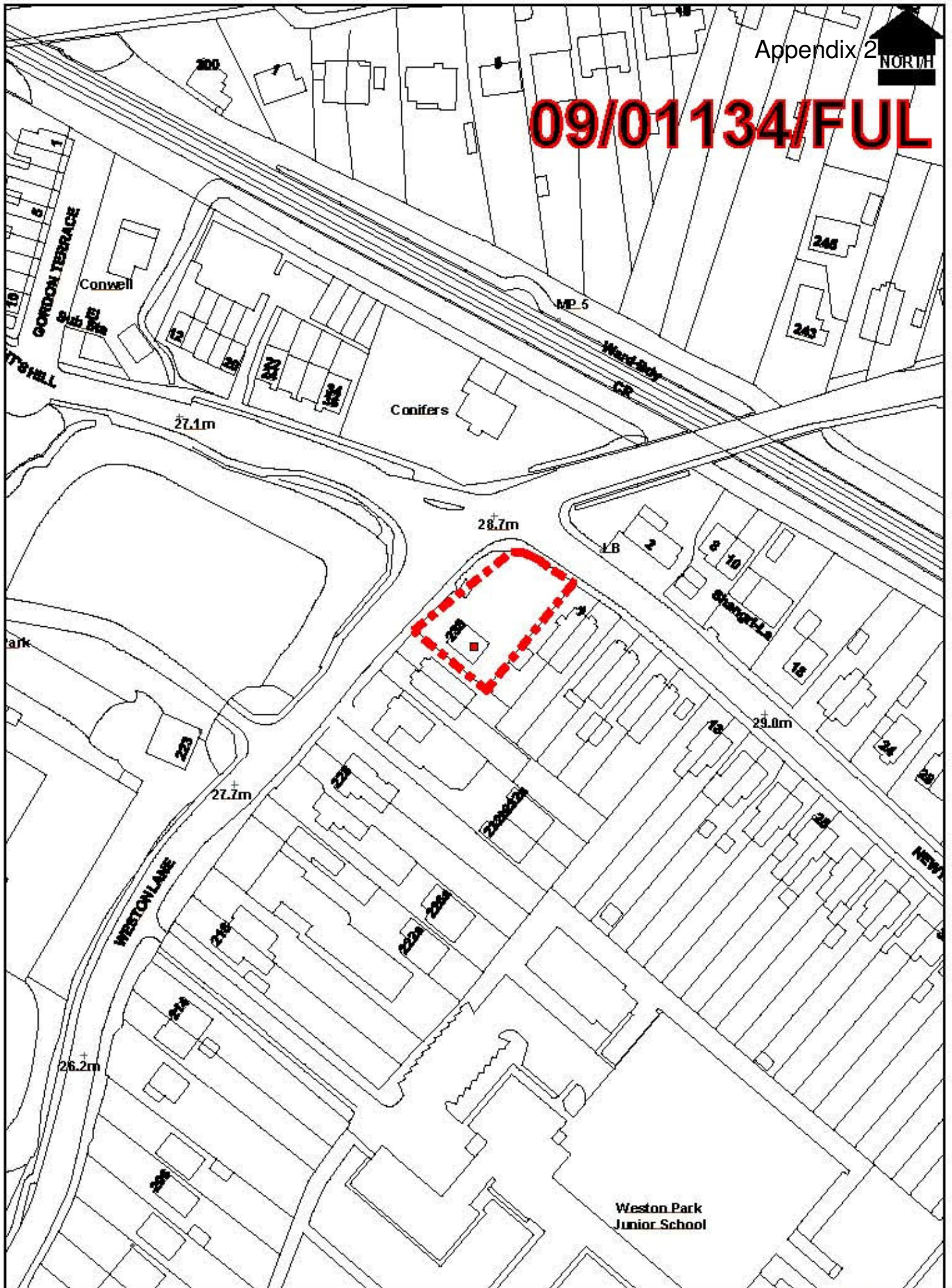
### DOCUMENTS

- 1 Letter of notification of hearing and those notified.
- 2 Appellant's Unilateral Undertaking.
- 3 Local Plan Policy SDP13.
- 4 Extract from Council's Residential Design Guide.
- 5 Extract of Local Plan parking standards.
- 6 Council's SPG on Planning Obligations.

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**09/01134/FUL**



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Date :06 January 2010

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# Agenda Item 11

Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 19<sup>th</sup> January 2009  
 Planning Application Report of the Head of Division

Application address: 74 St. Annes Road, Southampton			
Proposed development: Redevelopment of the site. Demolition of the existing building and erection of a 3 storey, 70 bedroom residential care home with associated parking and other facilities			
Application number	09/01185/FUL	Application type	FUL
Case officer	Stephen Harrison	Application category	Q.07

<b>Recommendation Summary</b>	<b>Delegate to Development Control Manager to grant planning permission subject to criteria listed in report</b>
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Reason for Panel consideration	Major development (small scale) requiring completion of legal agreement under Section 106 of the 1990 Act
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Applicant: Primary Care Investment Ltd & Cresta Homes Plc	Agent: DWA Architects Ltd
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Date of receipt	13.11.2009	City Ward	Woolston
Date of registration	13.11.2009	Ward members	Cllr Cunio
Publicity expiry date	24.12.2009		Cllr Payne
Date to determine by	12.02.2010 <b>IN TIME</b>		Cllr Williams

Site area	0.4 hectares	Usable amenity area	1,300sq.m (approx)
Site coverage (developed area)	80% building and parking	Landscaped areas	Yes
Density - whole site	N/A		

Residential mix	numbers	size sqm	Other land uses	class	size sqm
Studio / 1-bedroom	N/A	N/A	Commercial use	N/A	N/A
2-bedroom	N/A	N/A	Retail use	N/A	N/A
3-bedroom	N/A	N/A	Leisure use	N/A	N/A
other	N/A	N/A	other	C2	3,440sq.m 70 bedrooms

accessibility zone	medium	policy parking max	9 spaces
parking permit zone	no	existing site parking	Currently informal
cyclist facilities	Yes	car parking provision	18 spaces
motor & bicycles	0 motor / 10 cycles	disabled parking	2 spaces

Key submitted documents supporting application			
1	Design & Access Statement	2	Ground Investigation Report
3	Structural Report	4	Arboricultural Report
5	Arboricultural Impact Assessment Report	6	Biodiversity Check
7	Sustainability Checklist	8	Renewable Energy Report
9	Site Waste Management Plan	10	Landscaping Proposals
11	Transport Statement	12	Green Travel Plan
13	Statement of Community Involvement		

Appendix attached			
1	05/01265/FUL Appeal Decision Notice	2	Development Plan Policy & Guidance
3	Planning History	4	Suggested Planning Conditions

## Recommendation in full

Delegate to the Development Control Manager to grant planning permission subject to:

1. The submission of a bat survey and no objections being received by the Council's Ecologist; and,
2. The submission of a Slope Stability Report and no objections being received by the Council's Civil Engineering Team Leader; and,
3. The applicant entering into a Section 106 Legal Agreement to secure:
  - i) Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site – including works to secure a 2 metre wide footpath along the site's frontage - in line with policies SDP3, SDP4 and IMP1 of the City of Southampton Local Plan Review (March 2006) 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 as set out in the Local Transport Plan and appropriate SPG/D;
  - iii) 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,
  - iv) A revised Green Travel Plan

And in the event that the additional information has not been received and accepted by 12<sup>th</sup> February 2010 (13 week date) the D C Manager be authorised to refuse permission on the ground of a failure to provide sufficient information to support the proposal.

And in the event that the legal agreement is not completed by the 13 week date the D C Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Agreement.

## Background

A planning application on this site for 43 flats was refused by the Panel in November 2005 (application 05/01265/FUL). The appeal was subsequently dismissed and a copy of the Inspector's Decision Notice is attached to this Report at **Appendix 1**. Although the proposed use differs this decision notice forms a material consideration in the determination of this application.

Following this decision planning permission was subsequently issued for the erection of a part two-storey and part three-storey building to provide 40 flats and a new three-storey replacement club facility (application 06/01565/FUL). This scheme was amended and has been implemented by the completion of the clubhouse on the southern part of the site. As such, there remains an extant planning permission for a three-storey residential building comprising 40 flats, supported by 30 on-site parking spaces. This flattened block could still be implemented.

## **Proposed Development and surrounding context**

### Context

This application relates to the redevelopment of the Woolston and Sholing Conservative Club on the eastern side of St. Annes Road at its junction with Portsmouth Road and Station Road. The application site is bounded by a 1.8m close boarded fence and brick wall. The site boundaries are characterised by a mature tree screen, many of which are protected by the Portsmouth Road Tree Preservation Order (TPO) confirmed in 1975.

The former Woolston School Language College and the Station Road shopping parade are located on the opposite side of the junction between Portsmouth Road and St Annes Road, otherwise the surrounding area is characterised by detached and semi-detached housing, including bungalows in Portsmouth Road.

The site is located within an area of 'medium' transport accessibility, albeit close to Sholing Railway Station. Existing parking on site is accessed from St Annes Road close to its junction with Portsmouth Road. An underused private driveway marks the site's eastern boundary where the land slopes downwards. There is a 15m telecommunications mast within the site adjacent to the southern boundary.

### Proposal

Whilst the extant planning permission could yield an additional 40 residential flats the current application seeks, instead, approval for a 70 bed care home (Use Class C2) with associated communal facilities and on-site care provision. The applicants currently operate 8 other nursing homes and have confirmed that the proposal has been designed to meet the standards of the Care Quality Commission. They have also indicated that staffing numbers will vary throughout the day with approximately 90 new jobs being created in total, allowing for full and part time staff. During peak hours (9am to 5pm) it is anticipated that no more than 24 members of staff will be present on site. Visiting times are flexible.

A total of 18 on-site parking spaces are proposed to serve this use. Refuse and cycle storage, and staff shower facilities, are also proposed and can be secured with the attached planning conditions.

A comprehensive Design and Access Statement and Arboricultural Impact Assessment accompany this application. As with the previous permissions the current scheme seeks to redevelop the site with an 'L' shaped building. The proposed footprint, design and scale is almost identical to the previous permissions, and the application has been supported by a series of comparison plans to demonstrate this. In terms of the external appearance the same palette of materials as approved for both the approved flatted building and the completed clubhouse are proposed. This includes the main 'Westminster' stock brick, a recon-stone detailing, cream render, timber/aluminium fenestration details and a slate roof.

This development would result in the loss (and replacement on a 2:1 basis) of 9 non-protected trees (all category C and R – poor quality) as previously approved. As before no TPO protected trees will be felled to accommodate this proposal and following the receipt of amended plans a mature Sweet Chestnut is shown to be retained.

### **Relevant Planning Policy**

#### City of Southampton Local Plan Review (Adopted March 2006)

The site is not allocated in the adopted Local Plan and the existing building was, until recently, in use for community purposes. The club facility has been re-provided as part of

the earlier permissions and the application is, therefore, consistent with Local Plan Policy CLT2 (Community Buildings). The provision of specialist housing accommodation on previously developed land is, in principle, consistent with national planning policy guidance.

### Core Strategy - Planning Southampton to 2026

Following the receipt of the Inspector's Report from the Examination into the Southampton Core Strategy Development Plan Document (13/10/09) the Core Strategy forms a material consideration in this case. Its policies, and those "saved" from the Local Plan Review, should be afforded significant weight as a material consideration in the Council's decision. That said, until formal adoption by the City Council the Local Plan Review remains the current adopted Local Plan against which the application should be primarily determined.

### Sustainability Implications

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 Local Plan Policy SDP13 (Resource Conservation) and emerging Core Strategy Policy CS20 (Tackling and Adapting to Climate Change) the applicants have submitted a 'Sustainable Development Checklist' to support their application and have made a commitment to achieving a 'Very Good' BREEAM rating. Furthermore, 15% of the building's CO2 emissions are proposed to be offset through on-site Air Source Heat Pumps. These are to be located within a recess on the roof and can be secured with the attached planning conditions.

A schedule of the relevant adopted Local Plan and Core Strategy policies is provided at **Appendix 2**.

### **Relevant Planning History**

There is a long and complicated planning history for this site. A summary is provided at **Appendix 3**.

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

The application is supported by a 'Statement of Community Involvement', which details how the applicants engaged with the local community prior to the formal planning submission. A public meeting took place on 21<sup>st</sup> October 2009, which was attended by 41 local residents and 3 City Councillors.

Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (03.12.09) and erecting a site notice (03.12.09). At the time of writing the report **5** representations have been received from surrounding residents. Ward Councillor Williams has also raised an objection and requested a Panel decision.

### Summary of Representations made

**The proposed level of on-site parking is not sufficient to serve the Care Home and will result in a further encroachment of parked cars from this development onto the surrounding highway to the detriment of existing users.**

### Response

The adopted Local Plan aims to reduce reliance on the motor car in line with advice contained in PPG13. The proposed level of on-site parking (18 spaces) represents an over-provision of 9 parking spaces and is, therefore, double the Council's current maximum

standard for an area of “medium” accessibility. That said, the Council’s Highways Officer has raised no objection due to the sensitive nature of the use, the applicant’s commitment to their Green Travel Plan, the operators’ needs, the limited rail service offered by Sholing Station, and the local opposition to any further parking reduction to achieve current standards. Furthermore, the provision of 18 parking spaces accords fully with the Local Plan’s standards for areas of “low” accessibility (ie. 1 parking space per 4 bedrooms). That said, any additional parking could not be justified in planning policy terms.

**The development will result in additional trips being generated onto the junction of St Annes Road with Portsmouth Road.**

Response

The current proposal has reduced the amount of on-site parking from 30 spaces (serving the permitted flatted scheme) to 18. The applicant’s have suggested that a 70 bed care home would generate some 210 vehicle movements per day. As such, the likely level of trips generated is likely to be less than for the approved residential scheme, and there is no evidence to suggest that this junction is currently at its maximum capacity. Furthermore, it is unlikely that the trips generated would take place during peak traffic periods.

**A three-storey building is too tall and overly bulky for this location and is out of keeping with its surroundings and both street frontages. The application is, therefore, contrary to Local Plan policies SDP1 and SDP9.**

Response

As part of his consideration of the previous application for a flatted scheme (05/01265/FUL) the Planning Inspector commented that a three storey building “*would be acceptable in this streetscene around the road junction, notwithstanding the bungalows to the east and semi-detached houses to the west*”. Given the proposed setback from the highway and the mature tree screen the Inspector concluded that the proposed building “*would not be too imposing in this streetscene*”. The proposed building’s massing and scale follows the extant planning permission and, as such, the Council has already concluded that a three storey building is acceptable for this location.

**A three storey building will afford significant overlooking of neighbours at Temple Gardens (to the east) and is overbearing.**

Response

The comparison plan of the proposed building’s eastern elevation demonstrates that the proposed fenestration and building massing is very similar to that already permitted. Indeed, 3 windows nearest Temple Gardens previously approved have been removed. Furthermore, the view from the upper floors will be across the disused tennis courts with a separation distance of some 40 metres to the boundary with the Temple Gardens’ curtilages. A back-to-back separation distance of some 60 metres between these buildings is provided. This exceeds the Council’s minimum standards as set out in the Council’s approved Residential Design Guide (section 2.2 refers). Whilst located on higher land the proposed height of the building remains largely unchanged and the separation distances involved, again, mitigate against the building’s impact on its neighbours.

**There is a lack of on-site private amenity space serving the development.**

Response

Whilst the Council has no adopted standards for external amenity space serving this form of residential accommodation, it is reasonable to expect some provision to serve the residents’ needs. The application building is supported by some 1,300sq.m of external space of varying quality. A private roof terrace with a westerly outlook will provide an attractive external space, and the existing mature landscaping along all boundaries offers

an attractive outlook to residents, as well as providing an alternative type of external space to enjoy. The proposed external space compliments the use and is acceptable.

### **The proposal will devalue existing property**

#### Response

The issue of land value is not a relevant planning concern. Notwithstanding that there is no evidence to suggest that the proposed development will devalue neighbouring property.

#### Summary of Consultation comments

**SCC Highways** – No objection raised subject to the attached planning conditions and the use of a S.106 Legal Agreement to secure appropriate mitigation measures. The provision of 18 parking spaces is acceptable in this instance given the proposed nature of the use. The principal reason for the site being identified as having “medium” accessibility is the proximity to Sholing Railway Station. As only one train an hour stops in each direction at this station this level of service is considered to be insignificant, and the maximum standard for areas of “low” accessibility can be applied.

**SCC Archaeologist** – No objection raised subject to securing a watching brief with the attached planning condition.

**SCC Ecologist** – Holding objection raised (see recommendation above). The applicants for the above site have submitted a Biodiversity Checklist but not a bat survey of the existing building identified for demolition. Further details are required and a verbal update will be given at the Panel meeting.

**SCC Sustainability** – Supportive of the proposals as they include the use of Air Source Heat Pumps as a cost effective means of meeting the 15% renewable energy requirement. The submitted statements confirm that the scheme will also achieve a BREEAM “Very Good” standard, which accords with the emerging Core Strategy Policy CS20 (Tackling and Adapting to Climate Change).

**SCC Travel Plan Coordinator** – No objection raised. The submitted framework provides a good overview of the requirements of the full travel plan. The changes suggested can be accommodated through the S.106 Legal Agreement.

**SCC Environmental Health (Contaminated Land)** – Annex 2 of PPS23 considers the proposed land use as being sensitive to the affects of land contamination. It is recommended that the site be assessed for land contamination risks and, where appropriate, remediated to ensure the long term safety of the site. No objection raised subject to the attached planning condition.

**SCC Environmental Health (Noise & Pollution)** – No objections raised.

**SCC Tree Team** – No objection raised following the receipt of amended plans. The proposal will retain the TPO trees which form a material consideration in the Council’s consideration. Following the receipt of amended plans a large Sweet Chestnut is to be retained. Replacements are proposed for the 9 unprotected trees earmarked for removal. These trees would also be lost (as previously agreed) should the extant permission for the flatted scheme be implemented. Planning conditions recommended.

**SCC Civil Engineering** - Holding objection raised (see recommendation above). It would be reasonable to request that the applicants provide a slope stability report to support this application. A verbal update will be given at the Panel meeting.

**SCC Housing** – Whilst the loss of the 10 affordable units approved as part of the permitted residential scheme is regrettable, the Council's guidance accepts that institutional residential accommodation (such as residential homes for the elderly) where the accommodation is not self-contained would not be expected to provide affordable housing.

**Southern Water** – Southern Water can provide foul sewage disposal to service the proposed development. No objection raised subject to the attached planning condition and informative related to surface water.

**BAA** – The proposed development has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria. No objection raised subject to a planning informative being imposed concerning the use of cranes during construction.

**Hampshire Constabulary** – The application proposes a desirable layout with only a single point of entry from St Anne's Road. Additional access points would create unnecessary permeability. Any planting between the building and car park should be maintained at an appropriate level in order to allow clear lines of vision across the car park. The car parking area should be lit with column lighting and not wall mounted. Any cycle storage for staff and residents should be within a brick built lockable structure. To enable effective surveillance the facility should be no greater than 100m from the main entrance to the building and in view of habitable rooms. Locking points should be provided to encourage cyclists to secure their bikes. The rear amenity space should be secured with trellis topped fencing or the like to 2.2m at the front build line of both the north and south aspects.

### **Planning Consideration Key Issues**

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

- i. The principle of development;
- ii. The effect of the proposed development on the character and appearance of the surrounding area;
- iii. The effect of the proposed development on the living conditions of adjoining occupiers, with particular reference to visual impact and privacy;
- iv. Whether appropriate provision would be made for car parking on the site;
- v. Trees; and,
- vi. Whether or not the scheme mitigates sufficiently against its direct local impacts

### Principle of Development

Local Plan Policy HC3 (Primary Care) explains that there are no specific policies for homes for the elderly (see paragraph 9.10), although the principle of redevelopment at 74 St. Annes Road has already been accepted by the Local Planning Authority. Adopted Local Plan policies CLT2 and H1(ii) support the principle of replacing the existing club and the provision of extra care accommodation meets a growing City-wide need.

### Residential Design & Impact on Character

It is considered that the design and appearance of the proposed building is acceptable, and accords with the requirements for good urban design enshrined within Local Plan policies SDP1, SDP7 and SDP9. The proposal varies only slightly from the previous permission and would, therefore, sit comfortably in the street scene at this location on a significant junction. The reduction in hard-standing to the site's frontage, following a reduction in on-site parking from 30 to 18 spaces, is welcomed and improves the setting to this building.

### Impact on Residential Amenity

As part of his consideration of the previous application (05/01265/FUL) the Planning Inspector commented that *“the adjoining occupiers that would be mostly affected by the proposed development are those in the adjoining bungalows to the east, Nos. 114 and 116 Portsmouth Road”*, which currently enjoy *“a high level of privacy”*. The previous scheme proposed a three storey building on land adjacent to these bungalows. The design included windows and balconies along this elevation. The Inspector described this relationship as *“overbearing”*.

The proposed building follows the form of the recently approved flatted block. This building was itself redesigned following the previous refusal, reducing the height and increasing the distance from the eastern boundary. No balconies are proposed on the northern most section of the eastern elevation and this part of the building stands at two storeys (reduced from three as refused). Additional planting is proposed along the boundary between the proposed building and 114 Portsmouth Road. In addition, the applicants previously demonstrated that no significant overshadowing of neighbouring gardens would result. The likely impact on existing residential amenity has been assessed as acceptable against adopted Local Plan policies SDP1, SDP7 and SDP9.

### Highways and Parking

Car parking is a key determinant in the choice of mode of travel, and the site is close to principle bus routes and the Sholing railway station. The Local Plan aims to reduce reliance on the private car and encourage alternative modes of transportation. The proposed level of on-site parking exceeds the Council's adopted maximum standards. The applicants have applied the standards applicable to areas of “low” accessibility as these best reflect their operational needs. Although 9 more spaces are provided than current standards allow it is noted that no objection has been received from Highways DC for the reasons set out above. On this basis the proposed development is considered to be acceptable when assessed against adopted Local Plan policies SDP3 (Travel Demands) and SDP5 (Parking).

### Trees

The development of the application site is constrained by the mature trees that are a feature of its boundaries. A number of these trees are protected by a TPO, including two mature Cedars which dominate the centre of the site. A tree survey was undertaken in 2004 and updated to support this application. It takes account of the current British Standard relating to trees and construction (BS5837:2005). A non-protected Lime Tree is proposed for removal to facilitate the change to the access and two trees are to be removed along the southern boundary (as previously agreed). In total 9 trees will be removed and replaced on a 2:1 basis (as previously agreed). The Council's Arboricultural Officer has raised no objection to the proposed footprint or the impact on the protected trees. As such, the application is considered to safeguard the longevity of existing trees and accords with adopted Local Plan policies SDP1, SDP7, SDP9 and SDP12.

### S.106 Legal Agreement

The applicants have agreed to enter into a S.106 Legal Agreement to secure contributions towards transport improvements that mitigate against the development's direct impacts. The S.106 will also secure a Green Travel Plan to encourage staff and visitors to arrive by non-car modes.



## **Summary**

The current proposal has taken account of the previous decisions and sought to address the issues raised. The replacement of the approved flatted scheme with a residential care home is acceptable in planning policy terms and has attracted fewer objections from local residents. The scheme is considered in basic massing and appearance terms to fit within the character of the area (as before). There are no new tree issues to consider. Although the on-site parking levels have been reduced from that associated with the flatted scheme it still represents more than the current local plan “maximum” standards. Further justification for this additional provision has been made by the applicant and is summarised above.

## **Conclusion**

This application follows a long and complicated planning history and has been assessed as being acceptable to residential amenity and its local context. The application is recommended for conditional approval, subject to the completion of the aforementioned S.106 Legal Agreement and the receipt of the outstanding information relating to land stability and bats.

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

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

1(a), 1(b), 1(c), 3(a), 4(s), 6(a), 6(c), 6(f), 6(h), 7(c), 8(a), 9(a), 9(b), City Plan Review (Adopted Version) and the emerging Core Strategy  
SH for 19.01.10 PROW Panel

**POLICY CONTEXT**City of Southampton Local Plan Review – Adopted Version (March 2006)

Whilst there are no site-specific policies relating to this site within the City of Southampton Local Plan Review - Adopted Version March 2006, the plan contains general policies applicable to this development. This application needs to be assessed in the light of the following local planning policies:

SDP1	Quality of Development
SDP3	Travel Demands
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP13	Resource Conservation
H1	Housing Supply
H3	Special Housing Need
H7	The Residential Environment
HC3	Primary Care
CLT2	Community Buildings
IMP1	Provision of Infrastructure

Core Strategy - Planning Southampton to 2026

Following the receipt of the Inspector's Report from the Examination into the Southampton Core Strategy Development Plan Document (13/10/09) the Core Strategy forms a material consideration in this case. Its policies, and those "saved" from the Local Plan Review, should be afforded significant weight in the Council's decision. That said, until formal adoption by the City Council the Local Plan Review remains the current adopted Local Plan against which the application should be primarily determined.

Supplementary Planning Guidance

The following SPD/G also forms a material consideration in the determination of this planning application:

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

Other Relevant Guidance

PPS1	Delivering Sustainable Development (2004)
PPS3	Housing (2006)
PPG8	Telecommunications (2001)
PPG14	Development on Unstable Land (1996)
PPG24	Planning & Noise (1994)

**SITE HISTORY SUMMARY**

- 01/00025/TCC** Approved 06.02.2001  
Prior approval for a 15m high monopole telecommunications mast.
- 01/00879/FUL** Refused 14.08.2001  
20m high telecommunications mast and antennae with equipment cabin.
- 04/01806/FUL** Refused 14.02.2005  
Redevelopment of site by erection of 2 blocks comprising part 3/part 4 storey residential accommodation to provide 54 units (39 x 2 and 15 x 1 bed flats) with car parking and new 3 storey club with basement.
- 05/01265/FUL** Refused 02.11.05 and Appeal dismissed 10.03.2006  
Redevelopment of site by erection of 2 blocks comprising 3 storey residential accommodation to provide 43 units with car parking and new 3 storey club with basement. A copy of the Inspector's Decision Notice is attached to this Report at **Appendix 1**.
- 06/01565/FUL** Approved 14.01.2007  
Erection of a part two-storey and part three-storey building to provide 40 flats and a new three-storey club facility with staff accommodation, and associated parking and landscaping following demolition of the existing Conservative Club building (Description amended following submission of amended plans)
- 07/01346/VC** Approved 01.04.2008  
Demolition of existing buildings, erection of 40 residential units, a new club building (including managers flat) car parking and associated infrastructure works (amendment to previous permission reference 06/01565/FUL including the variation of conditions 2 (Approved Plans for the Club) and 36 (Phasing of Club redevelopment))
- 08/00804/TCC** Approved 12.08.2008  
Replacement of 3 existing antennae with three 3GG antennae and siting of three ground based equipment cabins and associated infrastructure
- 08/01003/VC** Approved 07.10.2008  
Variation of conditions 2 (approved plans in relation to clubhouse revised with the removal of the basement storey to create a two storey building) and 36 (phasing and the timing of demolition and subsequent removal of debris) of previous planning permission 06/01565/FUL for the erection of 40 flats, a new three-storey club facility and associated works.

**SUGGESTED PLANNING CONDITIONS (TO INCLUDE):**

**1. APPROVAL CONDITION - Full Permission Timing Condition - Physical works**

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

Reason:

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

**2. APPROVAL CONDITION - Scope and Limitation within same Class**

The use of the building and land hereby approved shall be limited to a 70 bedroom Residential Care Home identified as Use Class C2 within the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking, amending, or re-enacting that Order) and shall not be used for any other use within that Class without the prior approval of the Local Planning Authority.

REASON:

In recognition of the specific type of use proposed and considered, and to ensure that the Local Planning Authority maintains controls over any further intensification of use

**3. APPROVAL CONDITION - Details & samples of building materials to be used**

Notwithstanding the details shown on with the application and approved drawings no development works, excluding the demolition phase, shall be carried out unless and until a detailed schedule of materials and finishes including samples (if required by the LPA) to be used for external walls and the roof of the proposed buildings has been submitted to and approved in writing by the Local Planning Authority. Details shall include all new glazing, panel tints, stained weatherboarding, drainage goods, and the ground surface treatments formed. Development shall be implemented only in accordance with the agreed details.

Reason:

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

**4. APPROVAL CONDITION - External plant, vents and other equipment**

Other than those shown on the approved drawings no external vents, ducting, air conditioning units or plant shall be installed without the prior written approval of the Local Planning Authority.

REASON:

In the interest of protecting the visual appearance of the building.

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

The garden areas and external pathways shown on the approved site plan, and pedestrian access to them, shall be made available as a communal area prior to the first occupation of the care home and shall be retained with access to it at all times for the use of the residents and their visitors.

REASON:

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

**6. APPROVAL CONDITION - Landscaping detailed plan**

Notwithstanding the details shown on submitted plan ref: 2160/1 Rev A a detailed landscaping scheme and implementation timetable, which clearly indicates the numbers,

planting densities, types, planting size and species of trees and shrubs to be planted, and treatment of hard surfaced areas – to include permeable materials where feasible and practicable - and all means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any site works, excluding demolition.

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

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

The approved scheme shall be carried out prior to 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

**7. APPROVAL CONDITION - Refuse & Recycling Bin Storage**

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 plans. The facilities shall include accommodation for the separation of waste to enable recycling. The approved refuse and recycling storage shall be retained whilst the development is used for residential purposes.

**REASON:**

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

**8. APPROVAL CONDITION – Cycle storage [Pre-Occupation Condition]**

The development to which this permission relates shall not be brought into use in full or in part until secure, covered space has been laid out within the site for bicycles to be stored and for cycle stands to be made available for visitors to the site as specified hereunder. The cycle stores and stands hereby approved shall thereafter be retained on site for those purposes.

Number of secure covered cycle spaces: 10

In accordance with plan number: L3065 AL(O)81 Rev B

**Reason**

To encourage cycling as an alternative form of transport

**9. APPROVAL CONDITION – Care Home Deliveries**

Following the first occupation of the care home hereby approved no deliveries shall be taken at or despatched from the site outside the period of 08:00 hours and 18:00 hours (8.00am and 6.00pm) nor at any time on Sundays and recognised public holidays.

REASON

To protect the amenities of surrounding areas and neighbouring residential occupiers and to reflect the delivery hours of the adjacent clubhouse.

**10. APPROVAL CONDITION - Highways - Parking and Access Provision**

Unless otherwise agreed in writing by the Local Planning Authority the 18 car parking spaces shown on the approved site plan and a vehicular access to them shall be provided within the site before the use is commenced, and such parking shall be permanently retained for that purpose thereafter.

REASON

To prevent obstruction to traffic in neighbouring roads.

**11. APPROVAL CONDITION - Highways - Stopping Up Access**

Unless otherwise agreed in writing with the Local Planning Authority any existing access to the site not required to serve the approved layout shall be stopped up and abandoned and footway and verge crossings shall be reinstated immediately after completion of the new access.

REASON

In the interests of highway safety.

**12. APPROVAL CONDITION - Crime Prevention - Security Lights**

Excluding the demolition phase prior to construction works taking place details of the external security lighting to the development and associated cycle storage, pedestrian circulation areas, refuse and recycling bin storage, and vehicle access, including the siting, design and appearance of the lighting (which shall incorporate low wattage, anti-vandal facade mounted and column mounted down-lighter luminaires operated by photo-electric cells / ambient light sensors or time switch) shall be submitted to and approved in writing by the Local Planning Authority. The lighting arrangement as approved shall be subsequently installed, implemented and shall be retained on site and in use prior to the first occupation of the building.

REASON

In the interests of aiding surveillance in order to reduce crime.

**13. APPROVAL CONDITION - Hours of Construction**

All works relating to the construction of the development hereby granted, including the works to re-grade the levels of the site, demolition and ground preparation prior to building operations shall only take place between the hours of:

Monday to Friday      08.00 hours and 18.00 hours (8.00am to 6.00pm)  
Saturdays                09.00 hours and 13.00 hours (9am to 1pm)  
and at no time on Sundays and public holidays.

In addition deliveries of construction materials to the site and the removal of any waste materials from the site shall not take place during the following hours:-

Monday to Friday      08.00 hours and 09.30 Hours (8.00am to 9.30 am)  
Monday to Friday      15.00 hours and 16.30 hours (3.00pm to 4.30pm)

to take account of the peak traffic movements along Portsmouth Road in relation to the use, and at no time on Saturdays, Sundays and public holidays to take account the occupation and proximity of neighbouring residential properties.

#### REASON

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

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

Unless otherwise agreed in writing by the Local Planning Authority prior to any demolition works taking place, the existing building shall be demolished and all resultant materials removed from the site before the works to construct the care home hereby approved are commenced.

#### REASON

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

#### **15. APPROVAL CONDITION - Demolition Statement**

Before any demolition or construction 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; (e) measures to be used for the suppression of dust and dirt throughout the course of construction; (f) details of construction traffic wheel cleaning; and, (g) details of how noise emanating from the site during construction will be mitigated. 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.

#### **16. APPROVAL CONDITION - Unsuspected Contamination [Performance Condition]**

The site shall be monitored for evidence of unsuspected contamination throughout the demolition and construction phase. If potential contamination is encountered that has not previously been identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority. Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority. Any changes to the agreed remediation actions will require the express written consent of the Local Planning Authority.

#### Reason:

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

#### **17. APPROVAL CONDITION - BREEAM Standards (commercial development)**

Written documentary evidence demonstrating that the development will achieve at minimum a rating of Very Good against the BREEAM standard (or equivalent ratings using an alternative recognised assessment method) shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted consent unless otherwise agreed in writing with the Local Planning Authority.

#### Reason:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy SDP13 of the City of Southampton Local Plan (2006) and Core

**18. APPROVAL CONDITION - Renewable Energy - Micro-Renewables**

Unless otherwise agreed in writing by the Local Planning Authority part of the development's total energy demand shall be met by renewable energy technologies on the site that will achieve a reduction in CO2 emissions of at least 15% in accordance with the recommendations set out in the submitted Pentangle Consulting Engineers Limited Report (November 2009). Full details of the chosen renewable energy technologies (including the design specification, location and colour) shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development (excluding demolition) hereby granted permission. The agreed renewable technologies shall be installed and rendered fully operational prior to the first occupation of the development hereby granted permission and retained and maintained thereafter.

Reason:

To reduce the impact of the development on climate change and finite energy resources and to comply with policy SDP13 (vi) of the City of Southampton Local Plan (2006).

**19. APPROVAL CONDITION – Rainwater /Grey-water Harvesting**

A specification of the rainwater/grey-water harvesting system shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development (excluding demolition) hereby granted permission. The approved specification shall be installed and fully operational prior to the first occupation of the development hereby granted permission and retained and maintained thereafter.

Reason:

To reduce overall water consumption and demand on resources in compliance with SDP13 (vii) of the City of Southampton Local Plan (2006).

**20. APPROVAL CONDITION - Sustainable Urban Drainage System**

A feasibility study by independent consultants demonstrating the investigation and assessment of the potential for creation of a sustainable urban drainage system (SUDS) on site shall be carried out and verified in writing by the Local Planning Authority prior to first occupation of the development hereby granted permission. If the study demonstrates the site has the capacity for the implementation of a sustainable urban drainage system, a specification shall be agreed in writing with the Local Planning Authority and installed and be rendered fully operational prior to the first occupation of the development. It shall thereafter be retained and maintained for the benefit of the residents.

REASON

To conserve valuable water resources and prevent against flood risk and to comply with policy SDP13 (vii) of the City of Southampton Local Plan (2006).

**21. APPROVAL CONDITION – Drainage**

No construction works (excluding the demolition phase) shall take place until further details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved by the Local Planning Authority in consultation with Southern Water. The development shall proceed in accordance with these agreed details and shall be completed prior to the first use of the care home hereby approved.

Reason:

In the interests of securing appropriate drainage to serve the development in the interests of the local environment.

**22. APPROVAL CONDITION - Archaeology**

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 in writing by the Local Planning Authority.

#### REASON

To ensure that the archaeology of the site is properly investigated.

#### **23. APPROVAL CONDITION - Tree Retention and Safeguarding**

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

#### Reason:

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

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

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

#### Reason:

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

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

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

#### Reason:

To secure a satisfactory setting for the proposed development and to ensure the retention, or if necessary replacement, of trees which make an important contribution to the character of the area.

#### **26. APPROVAL CONDITION - Replacement trees [Performance Condition]**

Any trees to be felled pursuant to this decision notice will be replaced with species of trees to be agreed in writing with the Local Planning Authority at a ratio of two replacement trees for every single tree removed (see also Landscaping condition above). The trees will be planted within the site or at a place agreed in writing with the Local Planning Authority. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting. The replacement planting shall be carried out within the next planting season (between November and March) following the completion of construction. If the trees,

within a period of 5 years from the date of planting die, fail to establish, are removed or become damaged or diseased, they will be replaced by the site owner / site developer or person responsible for the upkeep of the land in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason:

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

### **27. APPROVAL CONDITION – Arboricultural Method Statement**

The demolition and construction phase shall be implemented only in accordance with the method statements specified in the submitted BHA Trees Ltd. 'Arboricultural Impact Assessment Report' 1750b (2<sup>nd</sup> November 2009).

Reason:

To ensure the provision for trees to be retained and adequately protected throughout the development.

### **28. APPROVAL CONDITION - Arboricultural Protection Measures**

No works or development (including the demolition phase) shall take place on site until a scheme of supervision for the arboricultural protection measures has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and may include details of:

- Induction and personnel awareness of arboricultural matters
- Identification of individual responsibilities and key personnel
- Statement of delegated powers
- Timing and methods of site visiting and record keeping, including updates
- Procedures for dealing with variations and incidents.

Reason:

To provide continued protection of trees, in accordance with Local Plan Policy SDP12 and British Standard BS5837:2005, throughout the development of the land and to ensure that all conditions relating to trees are being adhered to. Also to ensure that any variations or incidents are dealt with quickly and with minimal effect to the trees on site.

### **REASON FOR GRANTING PERMISSION**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The provision of a 70 bed care home is an acceptable use for this site and replaces a previous flatted block associated with an extant planning permission. The scale and design of the building is similar to that previously agreed as acceptable and the reduction in frontage hard-standing enhances the setting of the building. The proposed car parking exceeds the Council's current Local Plan standards but has been justified. There are no fresh tree issues following the receipt of an up-to-date Tree Survey and amended plans. The application has addressed the emerging policies of the Council's Core Strategy and meets its sustainable development obligations. There are no tree objections to the proposals. 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, SDP3, SDP5, SDP7, SDP9, SDP10, SDP13, H1, H7, HC3, CLT2 and IMP1 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the emerging Core Strategy.

### **Note to Applicant**

#### **Public Sewerage Informative**

A formal application for connection to the public sewerage system is required to service this development. Please contact Atkins Ltd, Anglo St James House, 39a Southgate Street, Winchester, S)23 9EH (tel. 01962 858688) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

#### **Cranes Informative**

Given the nature of the proposed development it is possible that a crane may be required during its construction. The BAA 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 Advise Note 4 – "Cranes and Other Construction Issues", which can be downloaded at [www.aoa.org.uk/publications/safeguarding.asp](http://www.aoa.org.uk/publications/safeguarding.asp).

#### **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. It is important that you note that if development commences in without the condition having been formally discharged by the Council in writing, any development taking place will be unauthorised in planning terms, invalidating 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 Control 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.

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RECOMMENDATION: S106

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## **CONDITIONS for 09/01185/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 - Scope and Limitation within same Class**

The use of the building and land hereby approved shall be limited to a 70 bedroom Residential Care Home identified as Use Class C2 within the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking, amending, or re-enacting that Order) and shall not be used for any other use within that Class without the prior approval of the Local Planning Authority.

#### **REASON:**

In recognition of the specific type of use proposed and considered, and to ensure that the Local Planning Authority maintains controls over any further intensification of use

### **03. APPROVAL CONDITION - Details & samples of building materials to be used**

Notwithstanding the details shown on with the application and approved drawings no development works, excluding the demolition phase, shall be carried out unless and until a detailed schedule of materials and finishes including samples (if required by the LPA) to be used for external walls and the roof of the proposed buildings has been submitted to and approved in writing by the Local Planning Authority. Details shall include all new glazing, panel tints, stained weatherboarding, drainage goods, and the ground surface treatments formed. Development shall be implemented only in accordance with the agreed details.

#### **Reason:**

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

### **04. APPROVAL CONDITION - External plant, vents and other equipment**

Other than those shown on the approved drawings no external vents, ducting, air conditioning units or plant shall be installed without the prior written approval of the Local Planning Authority.

#### **REASON:**

In the interest of protecting the visual appearance of the building.

### **05. APPROVAL CONDITION - Amenity Space Access**

The garden areas and external pathways shown on the approved site plan, and pedestrian access to them, shall be made available as a communal area prior to the first occupation of the care home and shall be retained with access to it at all times for the use of the residents and their visitors.

#### **REASON:**

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

### **06. APPROVAL CONDITION - Landscaping detailed plan**

Notwithstanding the details shown on submitted plan ref: 2160/1 Rev A a detailed landscaping

scheme and implementation timetable, which clearly indicates the numbers, planting densities, types, planting size and species of trees and shrubs to be planted, and treatment of hard surfaced areas – to include permeable materials where feasible and practicable - and all means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any site works, excluding demolition.

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

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

The approved scheme shall be carried out prior to 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

**07. APPROVAL CONDITION - Refuse and Recycling Bin Storage**

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 plans. The facilities shall include accommodation for the separation of waste to enable recycling. The approved refuse and recycling storage shall be retained whilst the development is used for residential purposes.

**REASON:**

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

**08. APPROVAL CONDITION – Cycle storage [Pre-Occupation Condition]**

The development to which this permission relates shall not be brought into use in full or in part until secure, covered space has been laid out within the site for bicycles to be stored and for cycle stands to be made available for visitors to the site as specified hereunder. The cycle stores and stands hereby approved shall thereafter be retained on site for those purposes.

Number of secure covered cycle spaces: 10

In accordance with plan number: L3065 AL(O)81 Rev B

**Reason**

To encourage cycling as an alternative form of transport

**09. APPROVAL CONDITION – Care Home Deliveries**

Following the first occupation of the care home hereby approved no deliveries shall be taken at or despatched from the site outside the period of 08:00 hours and 18:00 hours (8.00am and 6.00pm) nor at any time on Sundays and recognised public holidays.

**REASON**

To protect the amenities of surrounding areas and neighbouring residential occupiers and to reflect the delivery hours of the adjacent clubhouse.

**10. APPROVAL CONDITION - Highways - Parking and Access Provision**

Unless otherwise agreed in writing by the Local Planning Authority the 18 car parking spaces shown on the approved site plan and a vehicular access to them shall be provided within the site

before the use is commenced, and such parking shall be permanently retained for that purpose thereafter.

**REASON**

To prevent obstruction to traffic in neighbouring roads.

**11. APPROVAL CONDITION - Highways - Stopping Up Access**

Unless otherwise agreed in writing with the Local Planning Authority any existing access to the site not required to serve the approved layout shall be stopped up and abandoned and footway and verge crossings shall be reinstated immediately after completion of the new access.

**REASON**

In the interests of highway safety.

**12. APPROVAL CONDITION - Crime Prevention - Security Lights**

Excluding the demolition phase prior to construction works taking place details of the external security lighting to the development and associated cycle storage, pedestrian circulation areas, refuse and recycling bin storage, and vehicle access, including the siting, design and appearance of the lighting (which shall incorporate low wattage, anti-vandal facade mounted and column mounted down-lighter luminaires operated by photo-electric cells / ambient light sensors or time switch) shall be submitted to and approved in writing by the Local Planning Authority. The lighting arrangement as approved shall be subsequently installed, implemented and shall be retained on site and in use prior to the first occupation of the building.

**REASON**

In the interests of aiding surveillance in order to reduce crime.

**13. APPROVAL CONDITION - Hours of Construction**

All works relating to the construction of the development hereby granted, including the works to re-grade the levels of the site, demolition and ground preparation prior to building operations shall only take place between the hours of:

Monday to Friday	08.00 hours and 18.00 hours (8.00am to 6.00pm)
Saturdays	09.00 hours and 13.00 hours (9am to 1pm)

and at no time on Sundays and public holidays.

In addition deliveries of construction materials to the site and the removal of any waste materials from the site shall not take place during the following hours:-

Monday to Friday	08.00 hours and 09.30 Hours (8.00am to 9.30 am)
Monday to Friday	15.00 hours and 16.30 hours (3.00pm to 4.30pm)

to take account of the peak traffic movements along Portsmouth Road in relation to the use, and at no time on Saturdays, Sundays and public holidays to take account the occupation and proximity of neighbouring residential properties.

**REASON**

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

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

Unless otherwise agreed in writing by the Local Planning Authority prior to any demolition works taking place, the existing building shall be demolished and all resultant materials removed from the site before the works to construct the care home hereby approved are commenced.

**REASON**

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

**15. APPROVAL CONDITION – Demolition/Construction Statement**

Before any demolition or construction 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; (e) measures to be used for the suppression of dust and dirt throughout the course of construction; (f) details of construction traffic wheel cleaning; and, (g) details of how noise emanating from the site during construction will be mitigated. 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.

**16. APPROVAL CONDITION - Unsuspected Contamination [Performance Condition]**

The site shall be monitored for evidence of unsuspected contamination throughout the demolition and construction phase. If potential contamination is encountered that has not previously been identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority. Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority. Any changes to the agreed remediation actions will require the express written consent of the Local Planning Authority.

**Reason:**

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

**17. APPROVAL CONDITION - BREEAM Standards (commercial development)**

Written documentary evidence demonstrating that the development will achieve at minimum a rating of Very Good against the BREEAM standard (or equivalent ratings using an alternative recognised assessment method) shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted consent unless otherwise agreed in writing with the Local Planning Authority.

**Reason:**

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy SDP13 of the City of Southampton Local Plan (2006) and Core Strategy Policy CS20.

**18. APPROVAL CONDITION - Renewable Energy - Micro-Renewables**

Unless otherwise agreed in writing by the Local Planning Authority part of the development's total energy demand shall be met by renewable energy technologies on the site that will achieve a reduction in CO2 emissions of at least 15% in accordance with the recommendations set out in the submitted Pentangle Consulting Engineers Limited Report (November 2009). Full details of the chosen renewable energy technologies (including the design specification, location and colour) shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development (excluding demolition) hereby granted permitted. The agreed renewable technologies shall be installed and rendered fully operational prior to the first occupation of the development hereby granted permission and retained and maintained thereafter.

**Reason:**

To reduce the impact of the development on climate change and finite energy resources and to comply with policy SDP13 (vi) of the City of Southampton Local Plan (2006).

**19. APPROVAL CONDITION – Rainwater /Grey-water Harvesting**

A specification of the rainwater/grey-water harvesting system shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development (excluding demolition) hereby granted permission. The approved specification shall be installed and fully operational prior to the first occupation of the development hereby granted permission and retained and maintained thereafter.

Reason:

To reduce overall water consumption and demand on resources in compliance with SDP13 (vii) of the City of Southampton Local Plan (2006).

#### 20. APPROVAL CONDITION - Sustainable Urban Drainage System

A feasibility study by independent consultants demonstrating the investigation and assessment of the potential for creation of a sustainable urban drainage system (SUDS) on site shall be carried out and verified in writing by the Local Planning prior to first occupation of the development hereby granted permission. If the study demonstrates the site has the capacity for the implementation of a sustainable urban drainage system, a specification shall be agreed in writing with the Local Planning Authority and installed and be rendered fully operational prior to the first occupation of the development. It shall thereafter be retained and maintained for the benefit of the residents.

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).

#### 21. APPROVAL CONDITION – Drainage

No construction works (excluding the demolition phase) shall take place until further details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved by the Local Planning Authority in consultation with Southern Water. The development shall proceed in accordance with these agreed details and shall be completed prior to the first use of the care home hereby approved.

Reason:

In the interests of securing appropriate drainage to serve the development in the interests of the local environment.

#### 22. APPROVAL CONDITION - Archaeology

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 in writing by the Local Planning Authority.

REASON

To ensure that the archaeology of the site is properly investigated.

#### 23. APPROVAL CONDITION - Tree Retention and Safeguarding

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

Reason:

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

#### 24. APPROVAL CONDITION - no storage under tree canopy [Performance Condition]

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



Reason:

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

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

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

Reason:

To secure a satisfactory setting for the proposed development and to ensure the retention, or if necessary replacement, of trees which make an important contribution to the character of the area.

**26. APPROVAL CONDITION - Replacement trees [Performance Condition]**

Any trees to be felled pursuant to this decision notice will be replaced with species of trees to be agreed in writing with the Local Planning Authority at a ratio of two replacement trees for every single tree removed (see also Landscaping condition above). The trees will be planted within the site or at a place agreed in writing with the Local Planning Authority. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting. The replacement planting shall be carried out within the next planting season (between November and March) following the completion of construction. If the trees, within a period of 5 years from the date of planting die, fail to establish, are removed or become damaged or diseased, they will be replaced by the site owner / site developer or person responsible for the upkeep of the land in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason:

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

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

The demolition and construction phase shall be implemented only in accordance with the method statements specified in the submitted BHA Trees Ltd. 'Arboricultural Impact Assessment Report' 1750b (2nd November 2009).

Reason:

To ensure the provision for trees to be retained and adequately protected throughout the development.

**28. APPROVAL CONDITION - Arboricultural Protection Measures**

No works or development (including the demolition phase) shall take place on site until a scheme of supervision for the arboricultural protection measures has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and may include details of:

- Induction and personnel awareness of arboricultural matters
- Identification of individual responsibilities and key personnel
- Statement of delegated powers
- Timing and methods of site visiting and record keeping, including updates
- Procedures for dealing with variations and incidents.

Reason:

To provide continued protection of trees, in accordance with Local Plan Policy SDP12 and British Standard BS5837:2005, throughout the development of the land and to ensure that all conditions relating to trees are being adhered to. Also to ensure that any variations or incidents are dealt with quickly and with minimal effect to the trees on site.

**00. REASON FOR GRANTING PERMISSION**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The provision of a 70 bed care home is an acceptable use for this site and replaces a previous flatted block associated with an extant planning permission. The scale and design of the building is similar to that previously agreed as acceptable and the reduction in frontage hard-standing enhances the setting of the building. The proposed car parking exceeds the Council's current Local Plan standards but has been justified. There are no fresh tree issues following the receipt of an up-to-date Tree Survey and amended plans. The application has addressed the emerging policies of the Council's Core Strategy and meets its sustainable development obligations. There are no tree objections to the proposals. 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, SDP3, SDP5, SDP7, SDP9, SDP10, SDP13, H1, H7, HC3, CLT2 and IMP1 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the emerging Core Strategy.

#### Note to Applicant

##### Public Sewerage Informative

A formal application for connection to the public sewerage system is required to service this development. Please contact Atkins Ltd, Anglo St James House, 39a Southgate Street, Winchester, S)23 9EH (tel. 01962 858688) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

##### Cranes Informative

Given the nature of the proposed development it is possible that a crane may be required during its construction. The BAA 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 Advise Note 4 – "Cranes and Other Construction Issues", which can be downloaded at [www.aoa.org.uk/publications/safeguarding.asp](http://www.aoa.org.uk/publications/safeguarding.asp).

#### 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. It is important that you note that if development commences in without the condition having been formally discharged by the Council in writing, any development taking place will be unauthorised in planning terms, invalidating 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 Control 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.



## Appeal Decision

Site visit made on 7 March 2006

by **Chris Anscombe** BTP DMS MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail enquiries@planning-  
inspectorate.gsi.gov.uk

Date

18 MAR 2006

**Appeal Ref: APP/D1780/A/05/1196007**

**Woolston and Sholing Conservative Club, 74 St Anne's Road, Woolston, Southampton SO19 9FF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Cresta Homes plc against the decision of Southampton City Council.
- The application Ref 05/01265/FUL, dated 25 August 2005, was refused by notice dated 2 November 2005.
- The development proposed is the demolition of the existing club and the erection of a new purpose built club facility and the erection of 43 (1 & 2 beds) flats adjacent to the new club.

**Summary of Decision: The appeal is dismissed.**

### Planning Obligation

1. On 13 February 2006 the owners and the developer (the appellant company) entered into a unilateral undertaking as a planning obligation (the "obligation") under Section 106 of the Town and Country Planning Act 1990 (as amended). By this deed they undertook to make financial contributions towards off site highway works, sports facilities, public open space improvements and play facilities, to implement and promote a travel plan first approved by the Council and to identify and secure 11 units of affordable housing within the proposed development. The Council had previously indicated that entering into such an obligation would overcome its objections to the development set out in the third, fourth, fifth and sixth reasons for the refusal of planning permission in its decision notice. I consider that this obligation meets the tests set out in Annex B of Circular 05/2005: *Planning Obligations* and will give it significant weight in my decision.

### The Description of the Proposed Development

2. The description of the development was changed by the Council to, "*Redevelopment of the site. Demolition of the existing building and erection of a three-storey block of 43 flats with associated car parking and a new three-storey club facility with basement level adjoining the residential accommodation*". This amended description was used by the Council in its publicity and consultation processes for the application and has been adopted by the appellants in this appeal and in the obligation set out above. In the circumstances, despite two small parts of the block of flats being proposed to be only two storeys in height, for consistency I will also use this amended description in my decision.

### Main Issues

3. Having regard to the obligation set out in paragraph 1 above I consider that the three remaining main issues are:

- a) the effect of the proposed development on the living conditions of adjoining occupiers in Portsmouth Road, with particular reference to visual impact and privacy;
- b) the effect of the proposed development on the character and appearance of the surrounding area; and
- c) whether appropriate provision would be made for car parking within the site.

### **Planning Policy**

4. The development plan includes the City of Southampton Local Plan (1995). Policy GP1 sets out general principles for development including being sympathetic in scale and character, both in itself and in relation to adjoining buildings, providing adequate car parking and not causing danger to road users. With regard to townscape Policy ENV3 discourages development which would be inappropriate in terms of scale, design or character with the surrounding area. Policy H12 includes similar considerations in respect of residential development, but requires that the amenities of adjoining uses are safeguarded. Policy T2 relates to access and highway safety.
5. I have also been referred to the Local Plan Review, which has been the subject of a public inquiry and proposed modifications in response to the Inspector's report were published in June 2005. In this emerging Local Plan Policy SDP 1 seeks development which does not harm the amenity of the city and its citizens but respects and improves the quality of the built and natural environment. Policy SDP 3 protects the safety of the transport network. Policy SDP 9 relates to scale, massing and appearance. Policy H 3 states that the maximum use of underused land for residential development will be made provided that, amongst other things, the land does not make a valuable contribution to the character or amenity of the area and the location of any development would not have a significantly detrimental effect on the amenity of occupiers on adjoining land. In view of the advanced stage in the preparation of the emerging Local Plan I will attach considerable weight to these policies in my decision due to the likelihood that they will soon be adopted without significant change.

### **Reasons**

#### ***Living Conditions of Adjoining Occupiers***

6. The appeal site is located on the south side of Portsmouth Road (the A3025, a main route into the city from the east), and to the east side of St Anne's Road. The original two storey Victorian club building is sited close to the northern end of the site facing, but elevated above, Portsmouth Road and behind a wall screening the forecourt parking area. The access is from St Anne's Road to the side and it also serves a car park along that frontage and another parking area at the southern end of the site. On the eastern side of the club there is a single storey wing and a snooker room under a hipped roof with a lantern light at its ridge. To the rear is a modern, flat roofed, single storey extension overlooking a lawn extending to the bottom car park. There are a number of protected mature trees on the site, particularly around the side and bottom car parks, which give a sylvan quality to the St Anne's Road frontage.
7. The need to retain the existing trees has dictated the siting of the proposed replacement buildings. The block of flats would have an 'L' shaped plan and be sited adjacent to the northern and eastern boundaries of the site. The new club building would be sited in the

south-east corner. Much of the remainder of the site, adjacent to St Anne's Road, would be laid out as car parks to the proposed flats and club, broken up by the retained trees standing within landscaped areas.

8. The adjoining occupiers that would be most affected by the proposed development are those in the adjoining bungalows to the east, Nos.114 and 116 Portsmouth Road. These properties are some 3m lower than the ground level of the appeal site and separated by a 4m wide ramped access to disused tennis courts to their rear (to the east of the appeal site). No.114 has a bedroom window in its side elevation facing the appeal site. The existing club buildings closest to the eastern boundary are single storey but with relatively high eaves compared to modern buildings, particularly the snooker room. However, because of their elevation, their hipped roofs and the 1.8m high enclosing wall at the top of the steep bank by the access ramp, the effect that these existing buildings have on the rear gardens to the adjoining bungalows is limited. There is also a high level of privacy enjoyed within these gardens at present as there are no overlooking windows.
9. The proposed development would significantly alter the living conditions enjoyed by these adjoining occupiers. The proposed building would be predominantly three storeys in height. Although that would be little higher than the main two storey Victorian building, the section adjacent to No.114 Portsmouth Road would replace single storey buildings. That three storey section would be set back some 8m from the retained enclosing wall, but the top two storeys would contain the main elevations to flats 16 and 27.
10. Even if the balconies shown were omitted (as offered by the appellants) the rear gardens of Nos.114 and 116 would still be overlooked from the bedroom and living room windows of those flats. This main elevation of the building would be about 15m from the western boundary of No.114 but, in my view, the overbearing impact and sense of privacy loss, made worse by the difference in levels, would be unacceptable. I consider that the proposed tree planting would do little to mitigate these impacts but, in time, would be likely to become a source of complaint from the future occupiers of flats 16 and 27 as they would obstruct their outlook.
11. Just beyond the line of the rear boundary to No.114, adjacent to the tennis courts, the proposed building would step forward 4m. On this corner the proposed building would be reduced in height to two storeys but the living room window of the first floor flat (flat 19) would be only about 11m from the bottom corner of the adjacent garden to No.114, adding to the overlooking and loss of privacy.
12. Beyond this corner the building would step up to three storeys again for a length of 28m before returning to two storeys for the end units. There would then be a 6m gap to the rear elevation of the proposed club building. Both that part of the proposed block of flats and the club would be erected on the part of the site that is presently open and laid out as either a garden or car park behind the enclosing 1.8m high wall. Viewed from the rear of properties in Temple Gardens to the east (on the other side of the tennis courts) the new buildings would be quite imposing on the skyline. However, given the separating distance of some 60m between buildings, I consider this would be acceptable despite the elevated nature of the site.
13. Whilst the effect of the proposed development on the occupiers of Temple Gardens would be acceptable, on the first main issue I conclude that the effect on the living conditions of

adjoining occupiers in Portsmouth Road would be unacceptable, with particular reference to visual impact and privacy. In these respects the proposal would conflict with Policies GP1 and H12 of the Local Plan and Policies SDP 1, SDP 9 and H 3 of the emerging Local Plan.

#### ***Character and Appearance of the Area***

14. The proposed development would introduce a three storey building on the Portsmouth Road frontage. However the site is directly opposite commercial premises at the end of a block of buildings fronting Station Road and diagonally opposite a large and rather imposing school block. It would be acceptable in this street scene around the road junction, notwithstanding the bungalows to the east and semi-detached two storey houses to the west.
15. In St Anne's Road the character of existing development is predominantly two storey housing. However, the majority of the development would be set to the back of the site behind retained and protected trees. It would not be too imposing in this street scene.
16. On the second main issue I conclude that the proposed development would not harm the character or appearance of the area. In these respects it would not conflict with Policies GP1, ENV3 or H12 of the Local Plan or Policies SDP 1, SDP 9 and H 3 of the emerging Local Plan.

#### ***Car Parking***

17. The proposed car parking provision would be 47 spaces for the 43 flats and 16 spaces for the club. I note that, when consulted on the application, the Highway Engineer commented that the appeal site was located in an area of medium accessibility near Woolston with its major transport links into Southampton. He stated that the proposed modifications to the emerging Local Plan have reduced the car parking requirements for residential development and the maximum parking standard for the proposed flats would be 31 spaces. I also note that, at present, there are no parking restrictions on the majority of St Anne's Road away from the Portsmouth Road junction. If parking on this street were to become a highway safety issue then such restrictions could be introduced.
18. The reduced maximum car parking standard would appear to be in accordance with the advice on reviewing parking standards in Planning Policy Guidance Note 3: *Housing* (PPG3) at paragraphs 59-62. I also note that there is a proposed modification to paragraph 2.15 of the reasoned justification for the sustainable transport policies in the emerging Local Plan. That paragraph set out a number of measures to ensure that alternative choices of travel to the car will be genuinely attractive. The modification inserts the additional measure: "*Provides parking at as low a level as possible, having regard to the needs of the development*" (Proposed Mod. No.SDP/PM2).
19. In my opinion the provision of 47 spaces would be unlikely to encourage occupation of the proposed flats by non-car users or the use of other modes of transport. As advised in PPG3, "*Developers should not be required to provide more car parking than they or potential occupiers might want, nor to provide off-street car parking when there is no need, particularly in urban areas where public transport is available*".
20. The maximum parking standard for the proposed club would be 14 spaces. However, as two of the proposed 16 spaces would be for disabled drivers this provision would be acceptable. I acknowledge that the existing club has far more car parking at present but it

would appear that this is rarely fully utilised. I am advised that the existing bottom car park is presently used informally during the day for parking cars used by teachers at the nearby school. In my view the school should make appropriate arrangements for car parking on its own site, which could include a green travel plan for its staff. Local car parking standards have reduced significantly in accordance with Government policy and I consider that the proposed parking provision for the club would be acceptable.

21. On the third main issue I conclude that, whilst an appropriate provision would be made for car parking in respect of the proposed club, the provision to be made for the proposed flats would be excessive in this area of medium accessibility and contrary to the advice in PPG3 and the sustainable transport strategy in the emerging Local Plan.

**Other Matters**

22. I have noted the crime prevention design comments of the Hampshire Constabulary in its letter dated 28 September 2005. It is clear that not all of the previous comments raised have been properly addressed in the design and layout of the proposed development. In particular point 1 relates to the security of the proposed cycle store at the western end of the proposed flats fronting Portsmouth Road where a new public access is shown. This would appear to conflict with Policy SDP 10 of the emerging Local Plan. I consider that the suggested condition requiring a lockable gate at the proposed access would be an inadequate measure to overcome this issue. I also agree with the criticism of the proposed layout of the club car park in point 2 of that letter. If I were to allow this appeal I would impose conditions requiring these aspects of the layout to be redesigned.

**Overall Conclusions**

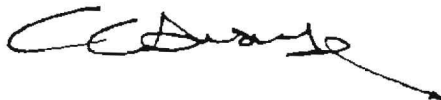
23. Although the proposed development would not harm the character and appearance of the surrounding area, the effect on the living conditions of adjoining occupiers in Portsmouth Road would be unacceptable. In addition an excessive amount of car parking is proposed to serve the block of flats. For these reasons planning permission should be withheld.
24. I have considered whether I should split my decision and allow the proposed club building. However, in my view the club is an integral part of the redevelopment of the whole site and should not be approved in the absence of a satisfactory scheme for the residential element.

**Conclusion**

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed.

**Formal Decision**

26. I dismiss the appeal.



INSPECTOR

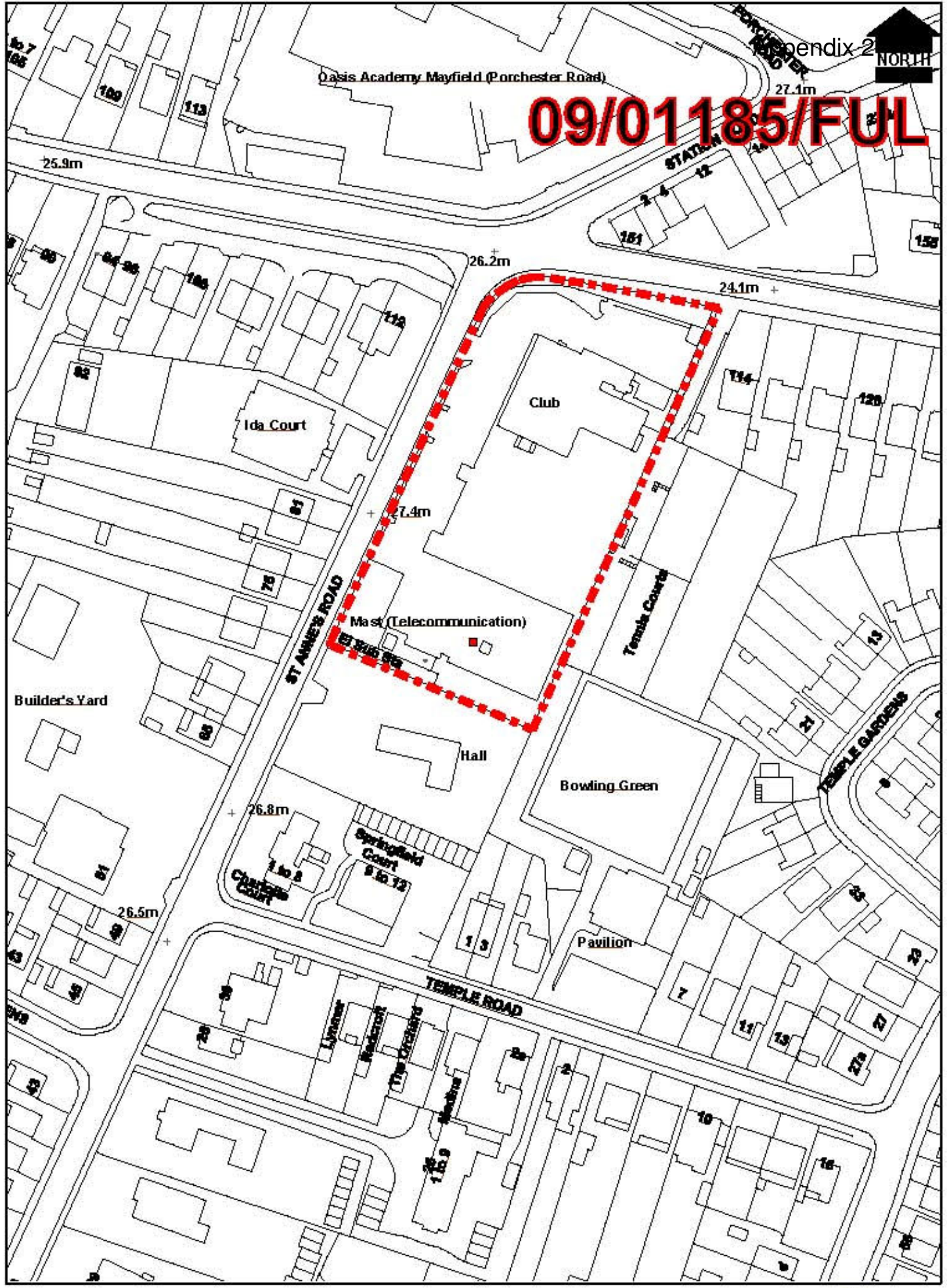
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Oasis Academy Mayfield (Porchester Road)

# 09/01185/FUL



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Date :06 January 2010

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# Agenda Item 12

## ITEM NO: 12

<b>DECISION-MAKER:</b>	PLANNING AND RIGHTS OF WAY PANEL		
<b>SUBJECT:</b>	WEST QUAY ROAD SITE - REQUEST TO REMOVE TREES		
<b>DATE OF DECISION:</b>	19 JANUARY 2010		
<b>REPORT OF:</b>	EXECUTIVE DIRECTOR OF NEIGHBOURHOODS – NICK MURPHY		
<b>AUTHOR:</b>	Name:	Mike Harris, Senior Tree Officer	Tel: 023 8083 3422
	E-mail:	Mike.p.harris@southampton.gov.uk	

### STATEMENT OF CONFIDENTIALITY

None.

### SUMMARY

- Richmond Hyundai lease a site from Southampton City Council (SCC) along West Quay Road, adjacent to the Holiday Inn, to use as a car retail centre.
- On the 27<sup>th</sup> October 2009 the Panel refused Richmond Hyundai's request to fell three Silver birch and three Italian Alders on this site due to problems with honeydew and various debris dropping onto the cars parked below. The Panel concurred with the recommendations of the Senior Tree Officer for permission to remove one Silver birch in poor health and to prune the remaining trees.
- On the 16<sup>th</sup> November 2009 the dominant Italian Alder along the eastern boundary had to be removed following storm damage and this, together with the reduced canopies of the remaining two Birches, has resulted in a significant decrease in the screening value of the two remaining Silver Birches and their removal would provide an opportunity to replant with more suitable species.
- The Tree Team officers are only delegated to authorise the removal of trees that are dead, dying or dangerous or for reasons of good arboricultural practice.

### RECOMMENDATIONS:

1. (i) To allow the removal of two Silver Birch trees on the Richmond Hyundai site.  
(ii) To condition the planting of up to 8 replacement fastigate crowned trees and to delegate the choice of species, size and spacing of trees to the Senior Tree Officer, in consultation with the leaseholder.

## **REASONS FOR REPORT RECOMMENDATIONS**

2. The loss of the dominant Italian Alder has significantly reduced the screening along the central portion of the eastern boundary. The two remaining Birch trees that are in this central section have, following recent pruning, minimal screening value and it is considered that their loss would not be significantly detrimental to the amenity of the area.
3. There is now an opportunity to improve the future amenity of the area and to re-establish a suitable screen along the edge of the site by the planting of fastigate (narrow-crowned) species which would minimise encroachment onto the area where the cars are parked. Where possible two for one replacement are planted, however, this may be determined by the size of replacement trees and spacing of planting.

## **CONSULTATION**

4. Property Services has provided the following comment.  
“Under the terms of the lease to Renault UK Ltd dated 24<sup>th</sup> July 1980 which was assigned to Richmond Cars (Bognor Regis) Ltd on 13<sup>th</sup> March 2009, the tenant is entitled to use the premises as a warehouse store workshop and motor vehicle showrooms.”  
The tenant cannot lop top or otherwise damage or remove any trees on the property without the consent of the Council. In situations such as these Property Services would usually rely on the specialised advice of Planning and the Trees Officers in particular.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

5. Do nothing.  
To retain the two Birch trees and plant up to 4 replacement trees, for the loss of the Italian Alder and birch felled with consent.  
This has been rejected as it would result in a less effective boundary screen as the retention of the Birches would require the replacement trees to be planted at variable spacings to reduce the effect of the retained trees on the growth rates of the new trees, thereby compromising the screen and overall aesthetics of the planting. Also, the pruning to the Birches has left them with what is now considered to be low amenity value.
6. To fell the two Birches and the remaining two Italian Alders and plant up to 12 no. replacement trees.  
Whilst this would clear the eastern boundary and provide a clear area for new planting, it is considered that the removal of two healthy Italian Alders, positioned in the southern corner and having minimal effect to the site, would have a detrimental effect on the amenity of the area. As long as the trees were reasonably safe, any issue with insect –produced “honeydew”, which is not usually associated with Alders, could be resolved by annual application of an approved chemical (imidacloprid).

## **DETAIL**

7. Richmond Hyundai, a car sales franchise, has leased the West Quay Road site from the City Council until the 31<sup>st</sup> December 2071 –see appendix A for location map. The terms of the lease require the leaseholder to seek the permission of the Council to prune or remove any trees on site.
8. An earlier request by Richmond Hyundai to fell three Silver Birch and three Italian Alder trees on this site, due to the nuisance they caused to the business, i.e. the cars requiring daily cleaning due to various debris and honeydew from the trees, was taken to the Planning and Rights of Way Panel on the 27<sup>th</sup> October 2009. The Panel concurred with the Senior Tree Officer’s recommendations that the permission be granted for the removal of one of the Birch trees (in poor health) and to refuse permission for the removal of the remaining trees. The Panel proposed that alternative measures to control, the aphids causing the honeydew problem should be trialled together with permitted pruning to reduce the size of the tree canopies.
9. Soon after the Panel’s decision some of the permitted pruning works were carried out with the removal of the lower branches. On the 16<sup>th</sup> November 2009 storm force winds caused the failure of a weak union on the dominant Italian Alder, central along the eastern boundary, resulting in the failure of a large stem, causing significant damage to two cars parked beneath the tree. The Senior Tree Officer visited the site the same day and agreed for the rest of the tree to be removed in the interest of health and safety.
10. The loss of the dominant Italian Alder and the reduced canopies of the two Birch trees has effectively removed their screening value and diminished their amenity value. As a result, it is now considered that the removal of the two Birch trees would have no significant impact on the amenity of the area,
11. The removal of the two Silver Birches would provide an opportunity to replant this boundary with appropriate species to provide future amenity. By using fastigate, or narrow-crowned trees, such as *Quercus robur* “Fastigiata” or *Carpinus betulus fastigiata* “Frans Fontaine”, or other species to be agreed by the Senior Tree Officer, it would also minimise future inconvenience to the leaseholder.
12. The remaining two Italian Alders in the south-east corner of the site are to remain.

## **FINANCIAL/RESOURCE IMPLICATIONS**

### **Capital**

13. None.

### **Revenue**

14. None.

### **Property**

15. None.

**Other**

16. None.

**LEGAL IMPLICATIONS**

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

17. In accordance with the Constitution any decision relating to council trees, unless delegated, will be determined by the Planning Panel.

**Other Legal Implications:**

18. None.

**POLICY FRAMEWORK IMPLICATIONS**

19. None

**SUPPORTING DOCUMENTATION**

**Appendices**

A.	Location map
B.	Photograph of eastern boundary of site.

**Documents In Members' Rooms**

1.	None.
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**Background Documents**

None.

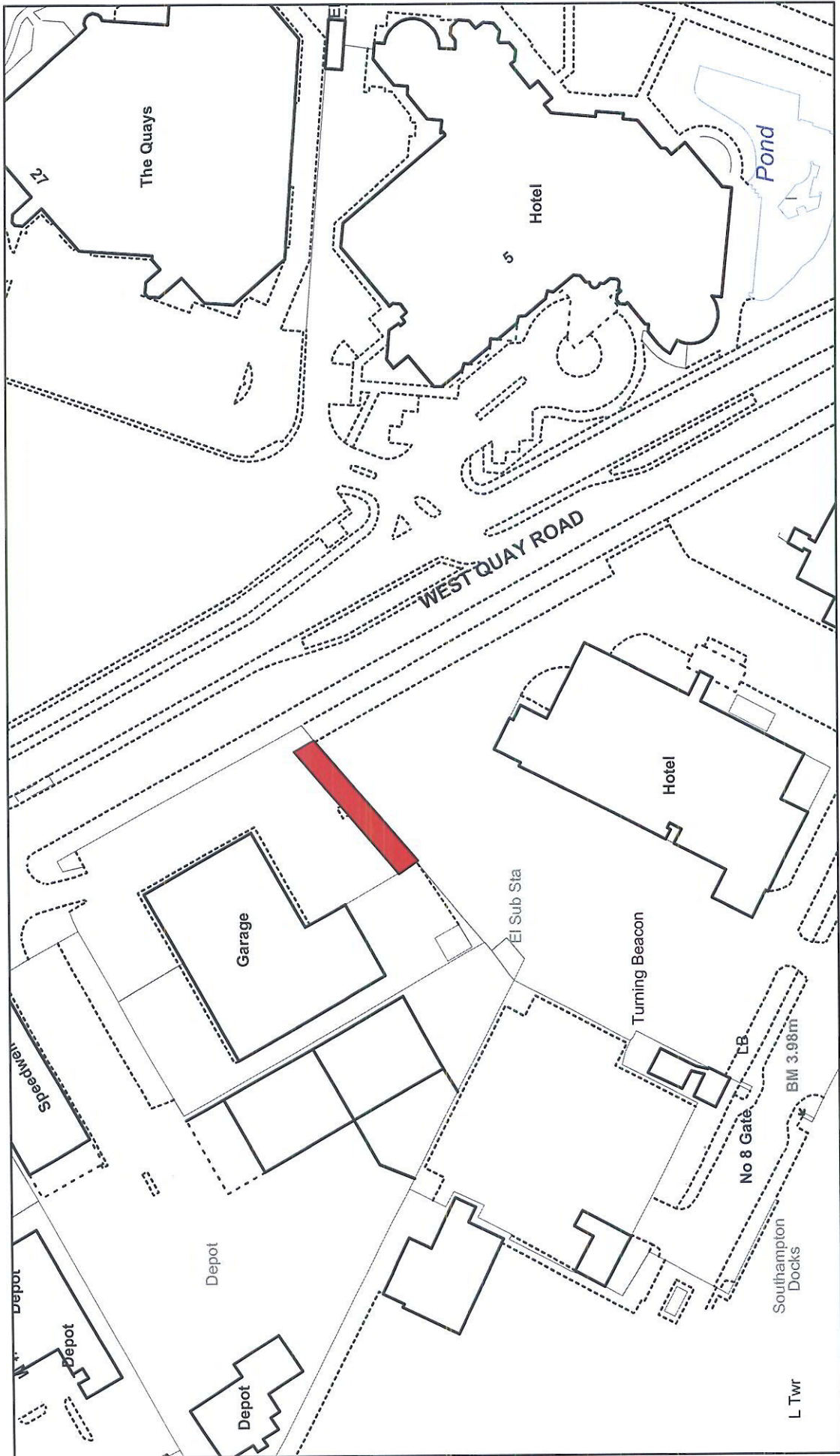
1.	None.	Not applicable
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**Background documents available for inspection at:** N/A

**FORWARD PLAN No:** None      **KEY DECISION?** No

<b>WARDS/COMMUNITIES AFFECTED:</b>	Bargate
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# Appendix A Location of birch and alder trees at Richmond Hyundai, West Quay Road



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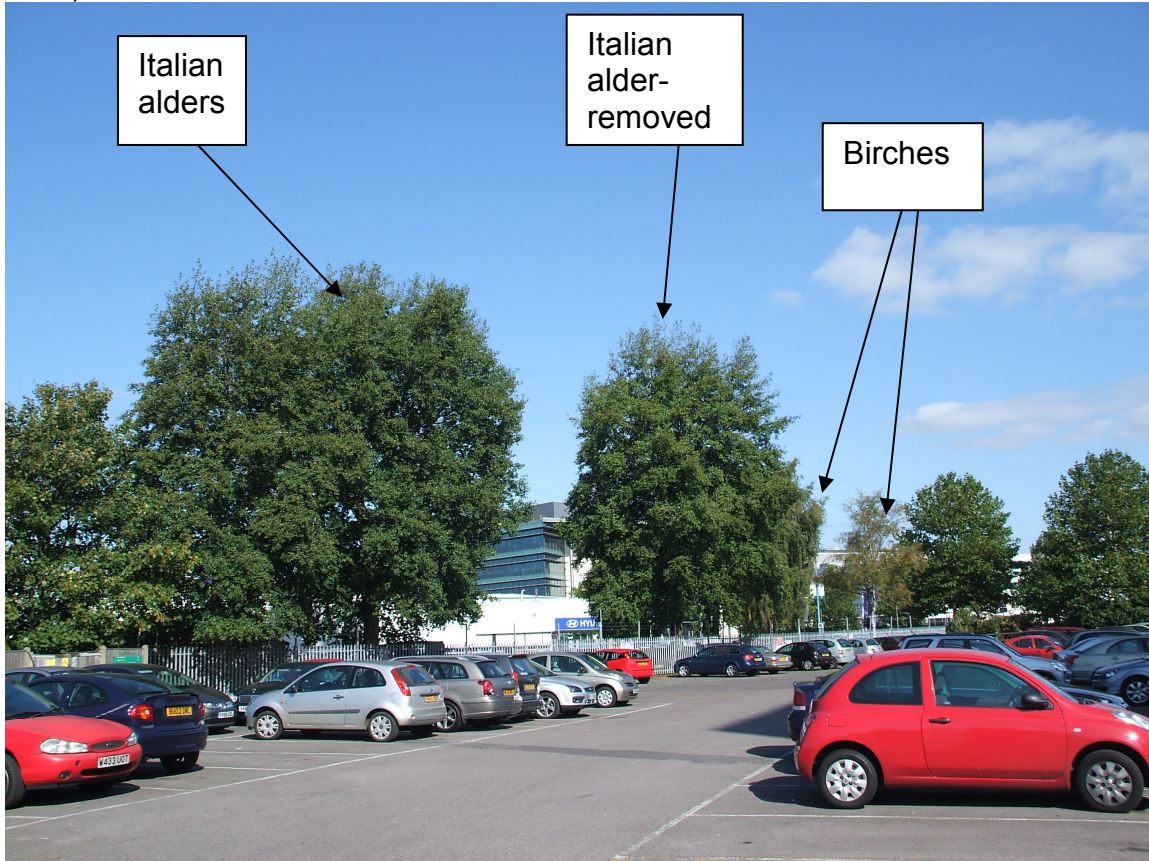
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**Richmond Hyundai site viewed from Holiday Inn**

Appendix 2

a) Before loss of Italian alder



b) After loss of Italian alder and pruning of birch trees



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# Agenda Item 13

## ITEM NO: 13

<b>DECISION-MAKER:</b>	PLANNING AND RIGHTS OF WAY PANEL		
<b>SUBJECT:</b>	PUBLIC RIGHTS OF WAY: UPDATE REPORT		
<b>DATE OF DECISION:</b>	19 JANUARY 2010		
<b>REPORT OF:</b>	HEAD OF PLANNING AND SUSTAINABILITY		
<b>AUTHOR:</b>	Name:	DAVE BLAKEWAY	Tel: 023 0883 3987
	E-mail:	david.blakeway@southampton.gov.uk	

### STATEMENT OF CONFIDENTIALITY

N/A

### SUMMARY

This report introduces an appendix that provides an update on the main activities of the City Council's statutory Rights of Way function and is supplementary to the two quarterly update reports sent by email to Panel members during 2009.

The Appendix outlines;

- The ward review and legal events affecting the Definitive Map and Statement; and
- Other actions carried out by the Section.

### RECOMMENDATION

That the Panel note the contents of the Report and Appendix as a means of bringing it up-to-date with some of the current key issues affecting the Rights of Way function

### REASONS FOR REPORT RECOMMENDATIONS

1. It was resolved by the Planning and Rights of Way Panel at its meeting on 8<sup>th</sup> January 2008 that an update report be received annually with interim e-mail updates to the Panel members (Minute 38).
2. To consolidate the two interim e-mailed update reports sent to Panel Members during 2009.
3. To inform Panel of those activities and issues that have developed since the last quarterly report in September 2009.

### CONSULTATION

4. A draft (version 1) of this report and appendix was sent to officers within Legal, Finance, Travel and Transport Policy and the Cabinet Member with Portfolio for Environment and Transport.

### ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

5. There were no alternatives considered as the topics outlined in the Appendix are statutory duties and the action of reporting to Panel complies with a previous resolution of January 2008.

## **DETAIL**

6. The overall duty of the Rights of Way Section is to fulfil the City Council's statutory responsibilities in respect of:-

- The National Parks & Access to the Countryside Act 1949, (NP&AC);
- The Countryside Act 1968, (CA);
- The Highways Act 1980, (HA);
- The Wildlife & Countryside Act 1981, (W&C);
- The Countryside & Rights of Way Act 2000, (CROW);
- The Marine & Coastal Access Act 2009, (MCA); and
- All other legislation that impacts on public rights of way within the City.

7. Primary duties include the:-

- review and maintenance of a Definitive Map & Statement;
- (preparation, publication), implementation and monitoring of a Rights of Way Improvement Plan;
- representing the City Council on the Local Access Forum, (the Hampshire Countryside Access Forum) and other bodies as required;
- consideration, assessment and investigation of Schedule 14 applications submitted by the public under section 53(5) of the W & C Act 1981;
- preparation, implementation, recording and reporting on a Local Performance Indicator, (ex BVPI 178, now obsolete in favour of National Indicators that do not include any for public rights of way);
- enforcement to remove obstructions from rights of way;
- historic research and investigation of routes that are potentially rights of way as part of the continuous review of the Definitive Map and Statement as directed by section 53(3)(c) of the W & C Act 1981;
- guidance to planning officers and others in respect of developments that impact on rights of way or potential rights of way; and
- response to all manner of enquiries from the public, Council Members, Council Officers, outside bodies, Government Departments and other Local Authorities.

## **FINANCIAL/RESOURCE IMPLICATIONS**

### **Capital**

8. There are no capital implications resulting from this report, its recommendation or its appendix.

### **Revenue**

9. Funding for the Rights of Way service is currently contained within the Environment and Transport Revenue Estimates.

### **Property**

10. There are no implications resulting from this report, its recommendation or its appendix.

## **Other**

11. There are no implications resulting from this report, its recommendation or its appendix.

## **LEGAL IMPLICATIONS**

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

12. Whilst there are no proposals within this report, there are various Acts that direct the rights of way function;
- Sections 53(2) and (3) of the Wildlife & Countryside Act 1981;
  - Sections 60 and 61 of the Countryside & Rights of Way Act 2000;
  - Section 61(1)(e) of the Countryside & Rights of Way Act 2000;
  - Section 94 of the Countryside & Rights of Way Act 2000;
  - Section 17 of the Crime & Disorder Act 1998;
  - Natural Environment & Rural Communities Act 2006;
  - The Highways Act 1980, as amended by various statutes including the Clean Neighbourhoods & Environment Act 2005; and
  - The Human Rights Act 1998 and anti-discrimination legislation.

### **Other Legal Implications:**

13. None

## **POLICY FRAMEWORK IMPLICATIONS**

14. Whilst the publication of an Improvement Plan and maintenance of a Definitive Map & Statement are statutory duties, the tasks associated with these and much of the work carried out by the rights of way section endeavours to meet the aims and objectives of several plans and strategies that constitute the Policy Framework:-
- The City Performance Plan
  - Community Strategy
  - Community Safety Strategy
  - Local Transport Plan
  - Medium Term Plan
  - Green Spaces Strategy

**SUPPORTING DOCUMENTATION**

**Appendices**

1.	Report of the Rights of Way Section on its activities since January 2009
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**Documents In Members' Rooms**

1.	None
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**Background Documents**

Title of Background Paper(s)

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

1.	Quarterly interim reports, sent via e-mail to Panel Members, July and September 2009	
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**Background documents available for inspection at:** N/A

**FORWARD PLAN No:** NONE      **KEY DECISION?** NO

<b>WARDS/COMMUNITIES AFFECTED:</b>	<b>ALL</b>
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## **Report of the Rights of Way Section on its activities since September 2009**

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### **1. Introduction**

- 1.1 This report complies with the resolution, recorded as minute 38 of the Planning & Rights of Way Panel meeting 8<sup>th</sup> January 2008; that an update report be received annually by the Panel with interim e-mail updates to Panel Members.
- 1.2 Since the last full report to Panel, January 2009, there have been two interim reports, July and September, the first quarterly interim report due March/April being deferred because of priority being given to the preparation of material that was presented to Panel at its meeting 23<sup>rd</sup> June.
- 1.3 The purpose of this paper is to précis the two interim reports and update Panel on more recent activities, thereby giving Panel the opportunity to comment.

### **2. Responsibilities**

- 2.1 The overall duty of the Rights of Way Section is to fulfil the City Council's statutory responsibilities in respect of:-
  - The National Parks & Access to the Countryside Act 1949, (NP&AC);
  - The Countryside Act 1968, (CA);
  - The Highways Act 1980, (HA);
  - The Wildlife & Countryside Act 1981, (W&C);
  - The Countryside & Rights of Way Act 2000, (CROW);
  - The Marine & Coastal Access Act 2009, (MCA); and
  - All other legislation that impacts on public rights of way within the City.
- 2.2 Primary duties include the:-
  - review and maintenance of a Definitive Map & Statement;
  - (preparation, publication), implementation and monitoring of a Rights of Way Improvement Plan;
  - representing of the City Council on the Local Access Forum, (the Hampshire Countryside Access Forum) and other bodies as required;
  - consideration, assessment and investigation of Schedule 14 applications submitted by the public under section 53(5) of the W & C Act 1981;
  - preparation, implementation, recording and reporting on a Local Performance Indicator, (ex BVPI 178, now obsolete in favour of National Indicators that do not include any for public rights of way);
  - enforcement to remove obstructions from rights of way;
  - historic research and investigation of routes that are potentially rights of way as part of the continuous review of the Definitive Map and Statement as directed by section 53(3)(c) of the W & C Act 1981;

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- guidance to planning officers and others in respect of developments that impact on rights of way or potential rights of way; and
- response to all manner of enquiries from the public, Council Members, Council Officers, outside bodies, Government Departments and other Local Authorities.

### **3. Definitive Map & Statement; Ward Review**

- 3.1 An assessment has been made of comments and representations regarding the 22 routes identified as potential rights of way within the ward of Bassett, following the 12 week informal consultation that concluded in September.
- 3.2 Indications are that 17 routes are footpaths and 5, because of prolonged periods of use by cyclists, could be Restricted Byways.
- 3.3 Preparations are now well in hand for a four-week consultation on proposals to apply for Definitive Map Modification Orders, inviting further representations prior to the legal procedures that will add them to the Definitive Map.

### **4. Definitive Map & Statement; Legal Events**

- 4.1 Two Definitive Map Modification Orders made 15<sup>th</sup> July and 19<sup>th</sup> August both received objections, not withdrawn, have now been submitted to the Secretary of State who will refer them to the Planning Inspectorate for determination.
- 4.2 To date, no response has been received from the Planning Inspectorate, but having submitted, in both cases, Statements on the grounds for confirmation and Statements on the Authorities comments on the objections, it is still presumed that one will be dealt with by written representations and the other leading to a Public Inquiry.

### **5. Other Actions**

#### **5.1 Enquiries**

Of the numerous and varied enquiries made of the section, priority is given to those which have an immediate impact on a right of way or potential right of way. Such a case has recently arisen concerning the obstruction of a route that lies to the rear of the Lord's Hill District Centre.

The present situation is that, in all probability, there will be a Schedule 14 Application to have a route added to the Definitive Map & Statement. Should a *bona fide* application be received, there will be a duty to investigate the claim and take appropriate action that may result in a Report to Panel, seeking its determination on whether or not the route has accrued public right of way status.



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### 5.2 Rights of Way Improvement Plan, (RoWIP).

Since the annual Full Report to Panel, January 2009, which included a summary list of the status for all actions from the RoWIP (as at December 2008), there has been progress within most of the generic actions but none that would deem any of the outstanding actions as being “completed”.

### 5.3 Local Transport Plan; LTP3

Whilst the rights of way section is not currently involved directly in preparing any part of the LTP, officers within the Travel & Transport Policy Team are making progress in accordance with guidelines and which eventually will include update information regarding the Rights of Way Improvement Plan and the Actions it contained.

### 5.4 Coastal Access

The Marine and Coastal Access Act 2009 received Royal Assent on 12<sup>th</sup> November, the Act fulfilling Government’s commitment to introducing a new marine framework, based on marine spatial planning, (balancing conservation, energy and resource needs), and to improve access to the English coastline.

Part 9 of the Act introduces new powers that extend recreational access to the coast, placing a duty on the Secretary of State and Natural England to secure, as far as possible, a continuous signed and managed long distance route accessible on foot.

To achieve this, the Act amends existing legislation, namely the National Parks & Access to the Countryside Act 1949 and the Countryside & Rights of Way (CROW) Act 2000. Such amendments to the CROW Act were consulted on by DEFRA during the latter part of 2009, closing date 1<sup>st</sup> December.

The MCA Act directs Natural England to prepare a coastal access Scheme, setting out its approach to implementing the new access rights. To this end, Natural England has embarked on a consultation on the contents of its proposed Scheme, closing date 5<sup>th</sup> February 2010. (Further information is available from the Natural England website at [www.naturalengland.org.uk/ourwork/position/consultations](http://www.naturalengland.org.uk/ourwork/position/consultations))

The impact on Southampton appears at this early stage to be slight in that the route identified by Natural England that could form part of the coastal trail is aligned to what is presently known as the Solent Way.

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Entering the City in the east, the trail would follow existing publicly maintained highway footways that cross the southern parts of the City, including the Itchen Bridge, terminating at Town Quay where the trail would continue via the Hythe Ferry towards the New Forest.

If this proves to be the eventual trail, there will be no impact to the western side of the City in and around the port workings onwards towards the A35 at Redbridge.

### 5.5 Southampton Online

The new look website, Southampton Online, went live in October and enabled the rights of way section to improve its web pages so that it is now easier to use and better locate relevant information, including the interactive on-line plan of Rights of Way and Research Projects. (Direct link being at [www.southampton.gov.uk/rightsofway](http://www.southampton.gov.uk/rightsofway))

### 5.6 Planning and Development

The rights of way section, as an internal consultee, has been involved in several planning applications and pre-applications that impact on rights of way or potential rights of way, including proposed regeneration of ex-car park areas within Thornhill and other locations.

DP Blakeway  
December 2009