

Planning and Rights of Way Panel

Tuesday, 21st February, 2017
at 6.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 and 4 - Civic
Centre

This meeting is open to the public

Members

Councillor Denness (Chair)
Councillor Coombs (Vice-Chair)
Councillor Barnes-Andrews
Councillor Claisse
Councillor L Harris
Councillor Hecks
Councillor Mintoff

Contacts

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PUBLIC INFORMATION

Role of the Planning and Rights of Way Panel

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

Public Representations

Procedure / Public Representations

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

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

Mobile Telephones:- Please switch your mobile telephones to silent whilst in the meeting

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

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

Southampton City Council's Priorities

- Jobs for local people
- Prevention and early intervention
- Protecting vulnerable people
- Affordable housing
- Services for all
- City pride
- A sustainable Council

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 2016/17

2016	
7 June	13 September
21 June	4 October
12 July	25 October
2 August	15 November
23 August	6 December

2017	
10 January	25 April
31 January	
21 February	
14 March	
4 April	

CONDUCT OF MEETING

Terms of Reference

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

Business to be discussed

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

Rules of Procedure

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

Quorum

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

DISCLOSURE OF INTERESTS

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

DISCLOSABLE PECUNIARY INTERESTS

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

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

- (iv) Any beneficial interest in land which is within the area of Southampton.

- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value for the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

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

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

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

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

Principles of Decision Making

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

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

In exercising discretion, the decision maker must:

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

AGENDA

1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)

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

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

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

3 STATEMENT FROM THE CHAIR

4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING) (Pages 1 - 10)

To approve and sign as a correct record the Minutes of the meetings held on 31 January 2017 and to deal with any matters arising, attached.

CONSIDERATION OF PLANNING APPLICATIONS

5 PLANNING APPLICATION - 16/02201/NMA - LAND AT TEST LANE (Pages 15 - 40)

Report of the Service Lead, Planning, Infrastructure and Development setting out considerations in regard to a Non Material Amendment to planning permission reference 14/01911/FUL at the above address.

6 PLANNING APPLICATION - 17/00154/NMA - LAND AT TEST LANE (Pages 41 - 64)

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

7 PLANNING APPLICATION - 16/01987/FUL - LAND TO THE REAR OF 21 - 23 CRABWOOD ROAD (Pages 65 - 88)

Report of the Service Lead, Planning, Infrastructure and Development recommending that delegated approval be delegated granted in respect of an application for a proposed development at the above address.

8 PLANNING APPLICATION - 17/00075/NMA- WATERMARK WEST QUAY
(Pages 89 - 104)

Report of the Service Lead, Planning, Infrastructure and Development detailing a request for Non-Material Amendment sought to planning permission ref 13/00464/OUT to vary Condition 17 to allow extended working hours on Saturdays for the development at the above address.

CONSIDERATION OF TREE PRESERVATION ORDERS

9 OBJECTION TO TREE PRESERVATION ORDER AT TEBOURBA WAY, MILLBROOK
(Pages 105 - 122)

Report of the Service Director – Transactions and Universal Services, seeking to confirm The Southampton (Tebourba Way 2) Tree Preservation order 2016.

Monday, 13 February 2017

SERVICE DIRECTOR, LEGAL AND GOVERNANCE

PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 31 JANUARY 2017

Present: Councillors Denness (except Minute Numbers 64 and 66) (Chair), Coombs (Vice-Chair), Barnes-Andrews, Claisse (except Minute Number 63), L Harris, Hecks and Mintoff

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

RESOLVED: that the minutes for the Panel meeting on 10th January 2017 be approved and signed as a correct record.

62. **PLANNING APPLICATION - 16/01805/FUL - REAR OF 19 CRABWOOD ROAD**

The Panel considered the report of the Service Head, Planning, Infrastructure and Development Manager recommending that authority to grant conditional approval in respect of the application for a proposed development at the above address.

Erection of a 2 storey building containing 4 x 1 bed maisonettes with access from Wimpson Gardens and associated parking and cycle/refuse storage

Kevin Liles, Denise Wyatt (local residents objecting), and Matt Holmes (agent), were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported some late correspondence from a Ward Councillor detailing their objection to the application. In addition the presenting officer updated the Panel with amendments to the proposed conditions set out within the report. It was explained adjustments were required to condition 5 relating to bin storage and that an additional condition would be required in relation to glazing.

On being put to the vote the officer recommendation to delegate approval to the Service Lead, Planning, Infrastructure and Development was LOST, with the use of the Chairs casting vote.

A further motion proposed by Councillor L Harris and supported by Councillor Denness to refuse the application was then put to the vote.

RECORDED VOTE to refuse planning permission
FOR: Councillors Claisse, Denness, L Harris
AGAINST: Councillor Coombs
ABSTAINED: Councillors Barnes-Andrews, Hecks and Mintoff

RESOLVED that conditional planning permission be refused for the reasons set out below:

1. Overdevelopment and harm to the character of area

The redevelopment of the site in the manner proposed, due to the proposed footprint and hard surfacing, would result in a combined building footprint and

hardstanding area (including parking and circulation) exceeding 50% of the site coverage and, therefore, will represent an overdevelopment of the site. Furthermore, due to the siting of the proposal, the scheme would fail to provide sufficient useable amenity space, exacerbated by the tree coverage on the adjacent sites and its north facing position, to serve all residents. Additionally, car parking arising from the development could have a detrimental impact on the amenity of nearby residents. Consequently, the proposal is contrary to Policies SDP1, SDP7 and SDP9 of the Adopted City of Southampton Local Plan (2015), Policies CS5 and CS13 of the adopted Southampton Core Strategy (2015) and the relevant sections of the Council's Residential Design Guide Supplementary Planning Document (September 2006) especially Parts 2, 3 and 4.

2. Lack of Section 106 or unilateral undertaking to secure planning obligations.

In the absence of either a completed Section 106 legal agreement or unilateral undertaking to support the development the application fails to mitigate against its wider direct impact with regards to the additional pressure that further residential development will place upon the Special Protection Areas of the Solent Coastline. Failure to secure mitigation towards the 'Solent Disturbance Mitigation Project' in order to mitigate the adverse impact of new residential development (within 5.6km of the Solent coastline) on internationally protected birds and habitat is contrary to Policy CS22 of the Council's adopted LDF Core Strategy as supported by the Habitats Regulations.

63. PLANNING APPLICATION - 16/01869/FUL - 12 RUSSELL PLACE

The Panel considered the report of the Service Head, Planning, Infrastructure and Development Manager recommending that authority to grant conditional approval in respect of the application for a proposed development at the above address.

Erection of a first floor rear extension and enlargement of rear dormer window.

Dr Buckle, Simon Hill (local residents objecting), Les Weymes (agent), and Councillor O'Neill (ward councillor objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported noted the receipt of an addition objection to application had been received. Upon being put to the vote the officer recommendation to grant conditional approval was carried.

RECORDED VOTE to grant planning permission

FOR: Councillors Barnes- Andrews, Coombs, Denness and Hecks

AGAINST: Councillors L Harris and Mintoff

RESOLVED that planning permission be granted subject to the conditions listed in the report.

NOTE: Councillor Claisse declared an interest in this item and withdrew from the meeting

COUNCILLOR COOMBS IN THE CHAIR

64. PLANNING APPLICATION - 16/01724/FUL - LAND ADJACENT - 65 CHAMBERLAIN ROAD

The Panel considered the report of the Service Head, Planning, Infrastructure and Development Manager recommending that authority to grant conditional approval in respect of the application for a proposed development at the above address.

Replacement and widening of existing steps and ramp (temporary diversion of public right of way)

Ian Loynes (SPECTRUM), Simon Hill (local resident objecting), and Graham Linecar (Southampton Commons and Parks Protection Society), Daniel Hopgood (applicant), and Sue Ingham (supporter) were present and with the consent of the Chair, addressed the meeting.

The presenting officer updated the Panel by explaining that the ownership of 65 Chamberlain Road was not in the ownership of the University as stated in the report. It was also explained that an additional objection to the report had been received.

Upon being put to the vote the officer recommendation to grant conditional approval LOST with a unanimous vote.

A further motion proposed by Councillor L Harris and seconded by Councillor Mintoff to refuse the application for the reasons set out below was carried by unanimous vote.

RESOLVED that conditional planning permission be refused for the reasons set out below.

REASONS FOR REFUSAL

1. Access and Discrimination

The proposed steps fail to provide full access to all users, including those using wheelchairs, and as such the application is not fully inclusive and has been assessed, therefore, as contrary to adopted Local Plan Review (Amended 2015) Policy SDP11 and adopted LDF Core Strategy (Amended 2015) Policy CS13(9) as supported by the requirements of the Equalities Act (2010).

2. Impact on Southampton Common & Character

The alterations to the top of the steps have not been fully explained and the introduction of a rolled gravel surface finish with the additional width is not considered to relate well to the established character of this part of The Common. As such the application does not accord with adopted Local Plan Review (Amended 2015) Policy HE5.

NOTE: Councillor Denness declared an interest and withdrew from the meeting.

COUNCILLOR DENNESS IN THE CHAIR

65. PLANNING APPLICATION - 16/01883/R3CFL - SOUTHAMPTON COMMON PADDLING POOL

The Panel considered the report of the Service Head, Planning, Infrastructure and Development Manager recommending that authority to grant conditional approval in respect of the application for a proposed development at the above address.

Installation of a replacement play area with fencing, associated structures and changes in level, following removal of paddling pool

Elizabeth Gates (local resident objecting), Graham Linecar (Southampton Commons and Parks Protection Society) and Nick Yeats (applicant), were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that additional correspondence had been received from the Hampshire Constabulary whom had requested that CCTV be positioned within the new play scheme. In addition the Panel discussed the both the style of fencing and the positioning of the fencing around the scheme. Upon being put to the vote the officer recommendation to grant authority for approval, subject to the conditions set out in the report and the amendments set out below, was carried unanimously.

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

Amended Condition

10. HARD AND SOFT LANDSCAPING

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

- i. proposed finished ground levels or contours; pedestrian access and circulations areas, hard surfacing materials, structures and ancillary objects (refuse bins, etc.);
- ii. means of enclosure – to include a design appropriate for the Common;
- iii. 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;
- iv. a landscape management scheme.

The approved hard and soft landscaping scheme for the whole site shall be carried out prior to the first use of the playarea hereby approved 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.

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.

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

Note to Applicant:

The design of the fence shall not be the 1.2m high galvanised steel dark green powder coated fence submitted within Davies White (25th October 2016) report and should respond more to the character of the Common.

Addition Condition

11. CORONATION AVENUE

Notwithstanding the plans hereby approved no development shall take place until amended plans showing a revised location for the playground's boundary fence along Coronation Avenue have been submitted to and agreed in writing by the Local Planning Authority. The fencing shall be implemented in accordance with the agreed revised details and shall be retained as approved thereafter.

REASON: As the installation of fencing at the back edge of Coronation Avenue is considered to harm the open character to this part of the Common.

Additional note to the applicant

The Planning and Rights of Way Panel recommends that the applicant should investigate the feasibility of providing a CCTV scheme to support these proposals following the objection from Hampshire Constabulary.

COUNCILLOR COOMBS IN THE CHAIR

66. **PLANNING APPLICATION - 16/01906/ADV - BOLDREWOOD CAMPUS BURGESS ROAD**

The Panel considered the report of the Service Head, Planning, Infrastructure and Development Manager recommending that authority to grant conditional approval in respect of the application for a proposed development at the above address.

Installation of freestanding externally illuminated sign

Graham Linecar (Southampton Commons and Parks Protection Society) and Robin Reay (agent) were present and with the consent of the Chair, addressed the meeting.

Upon being put to the vote the officer recommendation seeking conditional approval was lost.

A further motion proposed by Councillor L Harris and seconded by Councillor Claisse was carried.

RECORDED VOTE to refuse planning permission
FOR: Councillors Claisse, L Harris and Mintoff
AGAINST: Councillors Coombs and Hecks
ABSTAINED: Councillor Barnes-Andrews

RESOLVED that conditional planning permission be refused for the reasons set out below:

The proposed signage, being located in a prominent junction, at a key route into and out of the city, would have a deleterious effect on the visual amenity of the area. This is particularly due to its height, scale and illuminated nature which would appear highly prominent within the area and would detract from the attractive, sylvan character of Bassett Avenue, which is a locally distinctive feature of importance in the city. This impact would be more acute since, with the exception of the University, the surrounding area is predominantly residential in nature, devoid of advertisements and signage, meaning the introduction of a prominent sign would appear as an alien feature within this context. The proposal would, therefore, prove contrary to the following adopted Development Plan Policies:

The City of Southampton Local Plan Review (amended version adopted March 2015)

Policy SDP1 - in that that sign would unacceptably affect the visual amenity of the city.

Policy SDP24 - since the scale, size and luminance of the sign fails to respect the character of the area.

Policy NE6 - By detracting from the attractive wooded corridor along Bassett Avenue

The Bassett Neighbourhood Plan (adopted following examination, public consultation and referendum July 2016)

BAS4 - By detracting from the trees and shrubs that are the dominant characteristic of the Avenue, thereby eroding the impressive entrance to the City.

The Southampton Local Development Framework Core Strategy Development Plan Document (amended version adopted March 2015)

Policy CS13 - By failing to positively integrate with the surroundings and contribute positively to the local distinctiveness.

NOTE: Councillor Denness declared an interest and withdrew from the meeting.

COUNCILLOR DENNESS IN THE CHAIR

67. PLANNING APPLICATION - 16/01867/FUL - BASSETT WOOD NORTH

The Panel considered the report of the Service Head, Planning, Infrastructure and Development Manager recommending that authority to grant conditional approval in respect of the application for a proposed development at the above address.

Erection of a single storey rear extension with flue.

Mr Dermody (local resident objecting) was present and with the consent of the Chair, addressed the meeting.

Upon being put to the vote the officer recommendation to grant conditional approve was lost. A further motion to refuse permission subject to the reason set out below was then carried unanimously carried.

RESOLVED that conditional planning permission be refused for the reasons set out below:

Overdevelopment

The proposed single-storey rear extension, by means of its scale, massing and site coverage ratio, is considered to represent an overdevelopment of the site, with the proposed extension appearing out of proportion with the main dwelling and unbalancing the building-to-plot ratio of the application site. In particular, the extension would be out-of-character with the spacious context of surrounding properties, which is a locally distinctive feature, especially since the plot is already uncharacteristically smaller than others within the immediate area. The effect would be compounded due to the projection of the extension, further to the East than the existing building line of the host dwelling and neighbouring dwelling Bassett Wood House, and the manner in which the extension would span almost the entire side boundary with Bassett Wood House, and leaving insufficient gap to the rear boundary with The Coach House to the East. The proposal would, therefore, prove contrary to the following adopted development plan policies:

The City of Southampton Local Plan Review (amended version adopted March 2015)

Policy SDP1 (i) – in that the proposal would unacceptably affect the visual amenity of the City.

Policy SDP7 (iii), (iv), (v) – in that the development does not respect the existing layout of buildings.

Policy SDP9 (i) – By not respecting the site's surroundings in terms of the massing and plot coverage.

The Southampton Local Development Framework Core Strategy Development Plan Document (amended version adopted March 2015)

Policy CS13 (1), (2) (6) – By failing to positively integrate with the surroundings and contribute positively to the local distinctiveness and the erosion of the landscape quality of the site.

The Bassett Neighbourhood Plan (adopted following examination, public consultation and referendum July 2016)

BAS1 – By being out of character with the scale and massing of neighbouring buildings and the density and landscape features of the surrounding area.

BAS 4 – By failing to respect the character of the surrounding area in terms of scale, spacing and massing of neighbouring properties.

The Residential Design Guide (adopted as a Supplementary Planning Document following full public consultation September 2006)

Paragraphs 2.2.1 – 2.2.2 – By failing to maintain an appropriate gap between the proposed extension and neighbouring buildings.

Paragraph 3.2.4 – 3.2.5 – By failing to deliver a design that is appropriate to its context and by representing an over-development of the site that will have a negative impact on the character of the area and local amenity.

Paragraphs 3.9.1-3.9.2 – Since the resultant coverage of the plot by buildings and hard surfacing would be notably more intensive than is typical in nearby dwellings.

68. **PLANNING APPLICATION - 16/01898/FUL -ST MARYS STADIUM BRITANNIA ROAD**

The Panel considered the report of the Service Head, Planning, Infrastructure and Development Manager recommending that authority delegated for approval in respect of the application for a proposed development at the above address.

Application for variation of condition 6 of planning permission Ref 07/01397/VC to increase the maximum number of concerts to be held at the stadium in any calendar year from 4 to 6.

David Jobbins (agent) was present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that the planning conditions would be updated to re-impose requirements on the original permission. Upon being put to the vote the officer recommendation to delegate to the Service Lead, Planning, Infrastructure and Development permission to grant approval was carried unanimously.

RESOLVED

- (i) That the Panel delegated approval to the Service Lead, Planning Infrastructure and Development Manager to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a deed of variation to the original S.106 Legal Agreement to secure:
 - a. The submission, implementation and annual review of a Concert Management Plan, which includes the Vanguardia Noise Management Plan, to minimise noise and disturbance, transport impacts; safety and security and; anti-social behaviour in accordance with policies SDP1,

- SDP15 SDP16, SDP17 of the amended Local Plan Review 2015 and Policies CS19 and CS25 of the Core Strategy (revised 2015);
- b. To minimise disruption to local residents, mitigate transport impacts and reduce the air quality impact of the development, in accordance with policies SDP1, SDP5, SDP15 of the Local Plan and policies CS18, CS19 and CS25 of the Core Strategy and the Developer Contribution SPD, secure a scheme for the implementation of transport and parking measures to include:
 - The provision of satellite car parking;
 - The provision of a shuttle bus service from the Central Station and Ferry Terminals;
 - Other Highway and Traffic Measures including CCTV monitoring, residents parking schemes and traffic regulation orders;
 - The provision of a combined ticket or other method of payment to encourage public transport use; and
 - A Travel Plan.
 - c. To retain the operation of a scheme of mitigation measures for residents in Britannia Road in the interests of residential amenity and to meet the requirements of policy SDP1 of the Local Plan and policy CS25 of the Core Strategy.
 - d. To retain the implementation of a litter strategy in accordance with policy SDP1 of the Local Plan and policy CS25 of the Core Strategy.
 - e. To retain community facilities in accordance with policy CS3 of the Core Strategy 2015.
 - f. To secure and retain a Stadium Monitoring Group for community liaison with relevant local groups including the Stadium, the Police and the Council in accordance with policies SDP1, SDP10, SDP16 of the Local Plan and policy CS25 of the Core Strategy.
 - g. To secure off-site stewarding including at satellite car parking sites in the interest the safety and convenience of users of the public highway in accordance with policy SDP1 of the Local Plan Review (amended 2015), CS18 and CS25 of the Core Strategy (amended version 2015).
- (ii) In the event that the legal agreement is not completed or progressed within a reasonable timeframe after the Planning and Rights of Way Panel, the Service Lead Planning, Infrastructure and Development Manager will be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement, unless an extension of time agreement has been entered into.
 - (iii) That the Service Lead Planning, Infrastructure and Development Manager be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary. In the event that the scheme's viability is tested prior to planning permission being issued and, following an independent assessment of the figures, it is no longer viable to provide the full package of measures set out above then a report will be brought back to the Planning and Rights of Way Panel for further consideration of the planning application.

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INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 21st February 2017 - 6pm Conference Rooms 3 and 4, 1st Floor, Civic Centre

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
5	SH	CAP	5	16/02201/NMA Land at Test Lane
6	SH	CAP	5	17/00154/NMA Land at Test Lane
7	SB	DEL	5	16/01987/FUL r/o 21-23 Crabwood Rd
8	SH	NO OBJ	5	17/00075/NMA Watermark West Quay

PSA – Public Speaking Allowance (mins); CAP - Approve with Conditions: DEL - Delegate to Officers: PER - Approve without Conditions: REF – Refusal: TCON – Temporary Consent: NOBJ – No objection

Delete as applicable:

SH – Stephen Harrison

SB – Stuart Brooks

Southampton City Council - Planning and Rights of Way Panel

Report of Planning & Development Manager

Local Government (Access to Information) Act 1985

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

Applications:

Background Papers

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

2. Statutory Plans
 - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Plan (Adopted 2013)
 - (b) Amended City of Southampton Local Plan Review (Adopted March 2015)
 - (c) Local Transport Plan 2006 – 2011 (June 2006)
 - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
 - (e) Adopted City Centre Action Plan (2015)
 - (f) Community Infrastructure Levy Charging Schedule (2013)
 - (g) Bassett Neighbourhood Plan (Adopted 2016)

3. Statutory Plans in Preparation

4. Policies and Briefs published and adopted by Southampton City Council
 - (a) Old Town Development Strategy (2004)
 - (b) Public Art Strategy
 - (c) North South Spine Strategy (2004)
 - (d) Southampton City Centre Development Design Guide (2004)
 - (e) Streetscape Manual (2005)
 - (f) Residential Design Guide (2006)
 - (g) Developer Contributions SPD (September 2013)
 - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
 - (i) Women in the Planned Environment (1994)
 - (j) Advertisement Control Brief and Strategy (1991)
 - (k) Biodiversity Action Plan (2009)
 - (l) Economic Development Strategy (1996)
 - (m) Test Lane (1984)
 - (n) Itchen Valley Strategy (1993)

- (o) Portswood Residents' Gardens Conservation Area Character Appraisal (1999)
- (p) Land between Aldermoor Road and Worston Road Development Brief Character Appraisal(1997)
- (q) The Bevois Corridor Urban Design Framework (1998)
- (r) Southampton City Centre Urban Design Strategy (2000)
- (s) St Mary's Place Development Brief (2001)
- (t) Ascupart Street Development Brief (2001)
- (u) Woolston Riverside Development Brief (2004)
- (v) West Quay Phase 3 Development Brief (2001)
- (w) Northern Above Bar Development Brief (2002)
- (x) Design Guidance for the Uplands Estate (Highfield) Conservation Area (1993)
- (y) Design Guidance for the Ethelburt Avenue (Bassett Green Estate) Conservation Area (1993)
- (z) Canute Road Conservation Area Character Appraisal (1996)
- (aa) The Avenue Conservation Area Character Appraisal (1997)
- (bb) St James Road Conservation Area Character Appraisal (1996)
- (cc) Banister Park Character Appraisal (1991)*
- (dd) Bassett Avenue Character Appraisal (1982)*
- (ee) Howard Road Character Appraisal (1991) *
- (ff) Lower Freemantle Character Appraisal (1981) *
- (gg) Mid Freemantle Character Appraisal (1982)*
- (hh) Westridge Road Character Appraisal (1989) *
- (ii) Westwood Park Character Appraisal (1981) *
- (jj) Cranbury Place Character Appraisal (1988) *
- (kk) Carlton Crescent Character Appraisal (1988) *
- (ll) Old Town Conservation Area Character Appraisal (1974) *
- (mm) Oxford Street Conservation Area Character Appraisal (1982) *
- (nn) Bassett Green Village Character Appraisal (1987)
- (oo) Old Woolston and St Annes Road Character Appraisal (1988)
- (pp) Northam Road Area Improvement Strategy (1987)*
- (qq) Houses in Multiple Occupation (2012)
- (rr) Vyse Lane/ 58 French Street (1990)*
- (ss) Tauntons College Highfield Road Development Guidelines (1993)*
- (tt) Old Woolston Development Control Brief (1974)*
- (uu) City Centre Characterisation Appraisal (2009)
- (vv) Parking standards (2011)

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

5. Documents relating to Highways and Traffic

- (a) Hampshire C.C. - Movement and Access in Residential Areas
- (b) Hampshire C.C. - Safety Audit Handbook
- (c) Southampton C.C. - Cycling Plan (June 2000)
- (d) Southampton C.C. - Access for All (March 1995)

- (e) Institute of Highways and Transportation - Transport in the Urban Environment
- (f) I.H.T. - Traffic Impact Assessment Guidelines
- (g) Freight Transport Association - Design for deliveries
- (h) DETR Traffic Advisory Leaflets (various)

6. Government Policy Planning Advice

- (a) National Planning Policy Framework (27.3.2012)
- (b) National Planning Policy Guidance Suite

7. Other Published Documents

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

Agenda Item 5

Planning and Rights of Way Panel 21st February 2017 Planning Application Report of the Service Lead – Infrastructure, Planning & Development

Application address: Land at Test Lane, Southampton			
Proposed development: Non material amendment sought to planning permission ref 14/01911/FUL to reduce the height of the approved buildings and amend the approved drainage strategy - description amended following validation to remove reference to any external elevational changes.			
Application number	16/02201/NMA	Application type	NMA
Case officer	Stephen Harrison	Public speaking time	5 minutes
Last date for determination:	17.01.2017	Ward	Redbridge
Reason for Panel Referral:	Request by Ward Cllr and five or more letters of objection have been received	Ward Councillors	Cllr Mc Ewing Cllr Pope Cllr Whitbread
Referred to Panel by:	Councillor Pope	Reason:	The drainage changes are not insignificant

Applicant: Evander Properties Ltd/Peel Logistics	Agent: Michael Sparks Associates
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Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	Not applicable
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Reason for raising NO OBJECTION

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The request for a Non-Material Amendment seeks to change the finished floor level of the building, without affecting its approved footprint, whilst reducing the overall height. The drainage change applies the same principles as approved but changes the design without reducing the ability of the site to deal with drainage and flood events. Other material considerations, such as those listed in the report to the Council's Planning and Rights of Way Panel on 21st February 2017, 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 a revision to planning permission 14/01911/FUL should therefore be granted.

Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP13, SDP14, SDP15, SDP16, SDP17, SDP22, NE4, NE5, CLT7 and MSA19 of the City of Southampton Local Plan Review (as amended 2015) and CS6, CS7, CS13, CS18, CS19, CS20, CS21, CS22, CS23, CS24 and CS25 of the Southampton City Council Local Development Framework Core Strategy – Adopted January 2010 as supported by the Council's current adopted

Supplementary Planning Guidance and the guidance contained with the evolving National Planning Practice Guidance.

Appendix attached			
1	Development Plan Policies	2	14/01911/FUL Decision Notice

Recommendation in Full

Conditionally Approve - The proposed changes sought by this request (set out at paragraph 2.3 below) are considered to provide a Non-Material Amendment to the approved planning permission. All planning conditions applicable to the approved planning permission remain in force

1.0 The site and its context

- 1.1 The application site is some 6.5 hectares in area and is situated on the eastern side of Test Lane. The site is currently a grassed open area with some tree planting to the boundaries and hedgerows to the Test Lane frontage. The site is allocated in the Local Plan for light industrial and warehousing development (Classes B1(c) and B8) under Policy MSA19 of the Local Plan and planning permission was granted in June 2016 for a speculative development in accordance with this allocation (14/01911/FUL refers).
- 1.2 The surroundings are of mixed character with industrial development (including the Daily Echo headquarters) to the north; the M271 motorway to the east; the Lower Test Lane Nature Reserve to the West beyond the Southampton to Romsey railway line; and a residential area to the south comprising bungalows and two-storey houses in Gover Road, Coniston Road, Westover Road and Test Lane. The application site is close to the administrative boundary of the city with Test Valley Borough Council.

2.0 Proposal

- 2.1 Full planning permission was granted for the redevelopment of the site last year following consideration by the Planning and Rights of Way Panel (14/01911/FUL refers).
- 2.2 The permission gives approval for the redevelopment of the site to provide 19,132 square metres of employment floorspace in three buildings (Units 1 and 3 to be storage and distribution use (Class B8), Unit 2 to be Business use (Class B1c) and/or storage and distribution use (Class B8)) with an area of open space, associated landscaping, servicing areas and car parking with vehicular access from Test Lane.
- 2.3 A set of revisions to the approved scheme are now sought. The applicants have applied for a Non Material Amendment (NMA) to their original permission but are not seeking a fresh planning permission. If the Panel accept that these changes are relatively minor (and not material to the original permission) then no objection will be raised by the Council to the principal planning permission being implemented in accordance with the agreed changes. As originally submitted these alterations included:

- a) **A change to the finished floor level with the buildings set lower into the site by 1 metre (Unit 1), 80cm (Units 2 and 3) and reduction in overall height therefrom; and,**
- b) A reduction to the approved eaves heights by 1 metre (Unit 1), 60cm (Unit 2) and 1.7 metres (Unit 3) ; and,
- c) Overall a reduction in the height of the approved buildings by 1 metre (Unit 1 to 18.75m AOD), 1.95 metres (Unit 2 to 17.8m AOD) and 1 metre (Unit 3 to 19.76m AOD); and,
- d) A reduction in the number of loading bays serving Unit 3 (North Elevation) from 18 to 7;
- e) Amend the agree external materials; and, finally,
- f) **An amendment to the design of the proposed drainage layout as shown on approved RPS drawing 17798_0300 Rev B.**

2.4 The final change listed has, understandably, proven to be the most contentious amongst interested third parties.

2.5 Since validation the applicants have formally withdrawn their request to reduce the eaves height (b above), reduce the building height (c above), amend the loading bays (d above) and amend the cladding materials previously approved (e above) and these changes no longer form part of this request for a Non Material Amendment approval. For the avoidance of doubt only the changes set out in bold above (a and f) are for consideration by the Panel.

3.0 Relevant Planning Policy & Guidance

3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (Amended 2015) and the City of Southampton Core Strategy (Amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 The application site is allocated for development under Policy MSA19 which reads as follows:

Test Lane South is safeguarded for B1 and B8 uses. Development will be permitted which:

- (i) provides a buffer of landscaped and planted open space on the southern boundary of the site; refer to CLT 7;*
- (ii) would not adversely affect the residential amenity of the occupiers of nearby properties on Gover Road and Coniston Road.*

Built development will not be permitted on the southern part of the site.

3.3 In 2009 the Government introduced a formal procedure for agreeing changes to an existing planning permission. Flexibility was offered for small changes to existing schemes without the need for applying again for the whole development. A nominal planning fee and a 28 day target date applies, and it is for the Local Planning Authority to determine whether or not the requested changes can be treated as ‘Non Material’. Further guidance on this relatively new process can be found within the ‘National Planning Practice Guidance’. The Council can either ‘object’ (where a refusal notice would be issued and there would be no right of appeal; the applicants would then need to make a planning application for either the revised scheme or to vary the relevant planning conditions) or raise ‘no objection’ and issue a supplemental notice to the principal planning permission.

3.4 This procedure does not allow the Council, or the scheme's objectors, to revisit the planning merits of the original scheme as the planning permission will remain regardless of the decision made on the NMA application.

4.0 Relevant Planning History

4.1 14/01911/FUL – Conditionally approved 29.07.2016 – see **Appendix 2**
Redevelopment of the site to provide 19,132 square metres of employment floorspace in three buildings (Units 1 and 3 to be storage and distribution use (Class B8), Unit 2 to be Business use (Class B1c) and/or storage and distribution use (Class B8)) with an area of open space, associated landscaping, servicing areas and car parking with vehicular access from Test Lane.

5.0 Consultation Responses and Notification Representations

5.1 The Government's National Planning Practice Guidance explains that '*as an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views*'.

Notification

5.2 Once officers were comfortable that the submitted request could be considered as a NMA those interested parties that had provided written comment to the original application 14/01911/FUL were notified by letter (94 letters sent) and given 21 days to comment. A Site Notice was posted on 20th January 2017. A deadline for comments of the 7th February was set.

5.3 At the time of writing the report **32 objections** have been received, including representations from all three ward councillors and the Redbridge Residents Association. A verbal update will be given should any further objections be received before the Panel meeting. The following is a summary of the planning related points made:

5.4 **The proposed changes to the agreed drainage strategy are material to the scheme and will increase the possibility of flooding to local residents. The existing infrastructure is old and will not cope with the additional water.**

Response

It is in no one's interest to permit development that causes additional flooding. The design of the drainage for this scheme follows the principles of the approved scheme, but amends the layout, and has been designed and assessed by drainage specialists. This change is acceptable to both the Council's Senior Flood Risk Management Officer (regarding surface water and fluvial flooding) and Southern Water (regarding foul water drainage) and is discussed in more detail within the Planning Considerations section of this report.

5.5 **The proposed changes to the design of the buildings, in terms of the external cladding materials, are material and will impact upon the visual amenity of local residents. Residents want the opportunity to review and approve the**

chosen materials for this development. Some residents have asked for a complete redesign and comment on traffic impact and air quality issues.

Response

Following objection the applicants have formally withdrawn their request to amend the cladding materials previously approved and this no longer forms part of their request for a Non Material Amendment approval.

- 5.6 On the other matters it should be noted that officers were given delegation by the Planning and Rights of Way Panel to approve the chosen materials for this development, in line with the schedule of materials listed on the approved drawings that were consulted on ahead of the application being considered and that formed part of the officer presentation at the previous Panel meeting. These approved plans list profile steel cladding (in greens and grey) as the principal material for these buildings and that will not change. As it currently stands the applicants will retain the approved timber cladding and brickwork, but they are entitled to seek further NMAs separately should they wish.
- 5.7 The opportunity to formally comment on the details of the scheme – namely the quantum, location, appearance and the highways impact of the development has passed with the approval of planning permission 14/01911/FUL.

Consultation Response

5.8 SCC Senior Flood Risk Management Officer – No objection

The principle design criteria of the approved surface water drainage system ref 14/01911/FUL have been carried through to the proposed amended system submitted as part of this NMA application. The proposed amendments are limited to the layout and levels of the drainage components, size of the attenuation storage tanks (upsized) and permeable paving arrangement. Given this I have no objection to the proposed amendments to the SuDS system.

5.9 Southern Water – No objection

(to 16/01644/DIS showing the same drainage layout as 16/02201/NMA)

The discharge of foul sewerage to the public sewers via use of private pumping station should not exceed the agreed peak flow rate. An approval for connection to the public foul sewer should be obtained under Section 106 of the Water Industry Act. An approval for connection to the public surface water sewer should be obtained under Section 106 of the Water Industry Act. The peak run off rate discharged to the public sewer should not exceed the existing levels. Any further flows shall be accommodated by use of attenuation facilities. The evidence of the existing surface water flows contributing to the public network shall be provided during S106 application process.

6.0 Planning Consideration Key Issues

- 6.1 The key issues for consideration in the determination of this NMA application are the change to the drainage strategy for the scheme and the proposed amendments to the finished floor level and their cumulative impact upon their context and the amenity of its neighbours.

Non Material Amendments

- 6.2 In 2009 the Government set out a formal procedure and guidance (“Greater Flexibility for Planning Permissions”) to enable applicants to secure confirmation from the Local Planning Authority (LPA) that minor changes to a consented scheme are acceptable without the need to obtain a further planning permission.
- 6.3 No definition of what constitutes a “Non-Material Amendment” is provided. The National Planning Policy Guidance explains that *‘this is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another’*. The guidance explains that the LPA should be content that the proposed changes do not significantly alter the permission.
- 6.4 In respect of each of the proposed changes officers comment as follows:

a) A change to the finished floor level with the buildings set lower into the site by 1 metre (Unit 1), 80cm (Units 2 and 3) and reduction in overall height therefrom.

As a consequence of the change to the drainage strategy (discussed at (f) below) the building’s finished floor level can be reduced by between 80cm and 1 metre. This change assists in reducing the height of the buildings and is, therefore, regarded as a non-material change that does not need a fresh planning application. As an aside the applicants have suggested that a lower site level has *‘the additional benefit that an extra 67,500 tonnes of material does not have to be bought to site equating to over 5000 vehicles being removed from the construction process and c. 18 weeks of construction’*. This cannot be verified easily but it is, nevertheless, recommended that no objection is raised.

b) A reduction to the approved eaves heights by 1 metre (Unit 1), 60cm (Unit 2) and 1.7 metres (Unit 3).

This requested change has been withdrawn following validation.

c) Overall a reduction in the height of the approved buildings by 1 metre (Unit 1 to 18.75m AOD), 1.95 metres (Unit 2 to 17.8m AOD) and 1 metre (Unit 3 to 19.76m AOD).

This requested change has been withdrawn following validation.

d) A reduction in the number of loading bays serving Unit 3 (North Elevation) from 18 to 7.

This requested change has been withdrawn following validation. A second NMA application has been submitted for this change and is also for consideration by this Panel (see 07/00154/NMA).

e) Amend the agree external materials

This requested change has been withdrawn following validation.

f) An amendment to the design of the proposed drainage layout as shown on approved RPS drawing 17798_0300 Rev B.

This proposed change has proven to be the most contentious amongst third party objectors. Quite rightly neighbours to the development seek assurances that any change to the agreed drainage scheme will not put their property at additional risk from flooding. The Panel need to consider two separate points before making a decision; firstly is the proposed drainage strategy safe and fit for purpose and, secondly, is the revised design significantly different to that originally approved thereby requiring a fresh planning application.

In terms of the revised scheme's ability to cope with the site's drainage requirements officers have consulted with Southern Water and the Council's own Senior Flood Risk Management Officer. These are the same consultees that advised that the original drainage scheme (as shown on approved drawing 17798_0300 Rev B) is acceptable. They both raise no objection to the revised drainage scheme thereby concluding that the revision does not increase the risk of flooding to neighbour land and/or property. In response to specific questions raised by ward Cllr Pope the Council's Senior Flood Risk Management Officer has confirmed the following:

'The NMA will not increase flood risk. The fundamentals of the updated drainage plan are no different to those previously agreed (Drawing 17798_0300 Rev B (Proposed drainage layout) is listed in the schedule of drawings/plans which the development should be implemented in respect of in relation to the planning approval for 14/01911/FUL). The proposed amendments to the updated drainage plan are limited to the layout and levels of the drainage components, size of the attenuation storage tanks (upsized) and permeable paving arrangement.

For clarity I have provided an overview of the distinction between the different sources of flooding that residents are concerned about in relation to this site and the mitigation measures that will be implemented as part of the development to ensure flood risk is not increased.

Part of the site (and surrounding areas) are at risk from tidal flooding at present as the River Test at this location is tidally influenced. The risk of tidal flooding to the development site has been mitigated through raising the finished floor levels of the proposed buildings above the design flood event (1 in 200 year tidal flood event) over the assumed lifetime of the development (60 years). Part of the adjacent residential area is already at risk from tidal flooding but the development will not result in an increase to this risk. This is because a tidal system is different to a fluvial system. Displacement of tidal flood water by a structure (be it a flood defence, building etc.) will have minimal impact on the overall flood level in an area (matter of millimetres, if even that) as this is dictated by the tide level relative to the ground level. Displacement of flood water is a concern in relation to fluvial flooding as any water displaced from the functional floodplain will most likely result in an increase in water level locally, however, this is not the dominant flood source in this location. It is important to note that the risk of flooding to this area will increase over time as a result of projected sea level rise.

The concern regarding increased flood risk as a result of introducing impermeable areas on the site is associated with surface water runoff. The

impact on surface water runoff from the site has been mitigated through the introduction of the proposed sustainable drainage system which provides areas of storage for surface water in the form of below ground attenuation tanks and permeable paving with peak flow rates from the site limited to 68l/s. The drainage system has been designed to manage surface water for rainfall events up to and including the 1 in 100 year rainfall event plus 20% allowance for climate change which is the current standard technical requirement.

The link between these two different sources (surface water & tidal) are when surface water cannot discharge due to the level of the tide at the outfall, known as tide locking. This has been mitigated for by the use of a sustainable drainage system where surface water can be stored on the site below ground until the outfall is no longer tide locked'.

- 6.5 This response also answers the second question in that the drainage solution is based on the agreed principles. It is the below ground design that has changed meaning that the impact of the change is neither physical (in terms of visual appearance) nor operational (in terms of reducing capacity). It is recommended that no objection is, therefore, raised.

7.0 Summary

- 7.1 The proposed changes to the approved buildings are considered to maintain an acceptable scheme for the site and the drainage alterations have been assessed as acceptable and within the spirit of the approved drainage solution. The proposals are still considered to meet the requirements of the development plan as detailed at **Appendix 1**. The changes listed are not regarded material enough to warrant the need for a fresh planning application for the entire development, and have been assessed as non-material to the original planning permission. All previous planning conditions remain effective.

8.0 Conclusion

- 8.1 This application for a non-material amendment is acceptable and it is recommended that no objection is made.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 2(f), 4(b), 4(g), 4(m), 4(vv), 6(a) and 6(b).

SH2 for 21.02.17 PROW Panel

Amended Condition:

29. Approved Plans (Amended)

The development hereby permitted shall be carried out in accordance with the approved plans listed in the original permission as updated by the revised plans approved under 16/02201/NMA, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

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

Application 16/02201/NMA

APPENDIX 1

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS6	Economic Growth
CS7	Safeguarding Employment Sites
CS13	Fundamentals of Design
CS14	Historic Environment
CS18	Transport: Reduce-Manage-Invest
CS19	Car and Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS21	Protecting and Enhancing Open Space
CS22	Promoting Biodiversity and Protecting Habitats
CS23	Flood Risk
CS24	Access to Jobs
CS25	The Delivery of Infrastructure and Developer Contributions

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
SDP15	Air Quality
SDP16	Noise
SDP17	Lighting
SDP22	Contaminated Land
NE4	Protected Species
NE5	Intertidal Mudflat Habitats
NE7	Rail Corridor
HE6	Archaeological Remains
CLT7	Provision of New Public Open Space
MSA19	Test Lane South

Supplementary Planning Guidance

Planning Obligations (Adopted - September 2013)

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2012)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

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DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town & Country Planning (Development Management Procedure) (England) Order 2015

Michael Sparks Associates - FAO Mr Ashley Chambers
11 Plato Place
St. Dionis Road
London
SW6 4TU

In pursuance of its powers under the above Act and Regulations, Southampton City Council, as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

FULL APPLICATION - **CONDITIONAL APPROVAL**

Proposal: **Redevelopment of the site to provide 19,132 square metres of employment floorspace in three buildings (Units 1 and 3 to be storage and distribution use (Class B8), Unit 2 to be Business use (Class B1c) and/or storage and distribution use (Class B8)) with an area of open space, associated landscaping, servicing areas and car parking with vehicular access from Test Lane.**

Site Address: **Land at Test Lane, Southampton,**

Application No: **14/01911/FUL**

Subject to the following conditions.

01. 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. Details of building materials to be used [Pre-Commencement Condition]

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

Reason:

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

03. Landscaping, lighting & means of enclosure detailed plan [Pre-Commencement Condition]

Notwithstanding the submitted details before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted, which includes:

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

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

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

Reason:

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

04. Land Contamination investigation [Pre-Commencement]

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A report of the findings of the additional assessment/investigation, characterising the land gas and groundwater regime and allowing for potential risks (as identified in phase 1) to be assessed.
2. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason:

To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment.

05. 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.

06. Use of uncontaminated soils and fill [Performance Condition]

Only clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall 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.

07. 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.

08. Construction Environment Management Plan (Pre-Commencement Condition)

Prior to the commencement of any development a written construction environment management plan shall be submitted to and approved by the Local Planning Authority. The plan shall contain method statements and site specific plans to prevent or minimise impacts from noise, vibration, dust and odour for all operations, as well as proposals to monitor these measures at the site boundary to ensure emissions are minimised beyond the site boundary. All specified measures shall be available and implemented during any processes for which those measures are required.

Reason:

To protect the amenities of the occupiers of existing nearby properties and to safeguard the special ecological value of the adjoining nature reserve.

09. Wheel Cleaning Facilities [Pre-Use Condition]

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

Reason:

In the interests of highway safety.

10. Piling [Pre-Commencement Condition]

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a piling and/or foundations design risk assessment and method statement for the preferred piling/foundation design/designs shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

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

Condition Informative 1

Guidance is provided in the Environment Agency's publication NC/00/73, Piling and Penetrative Ground Improvements Methods on Land affected by Contamination: Guidance on Pollution Prevention, section 6.5

Condition Informative 2

Guidance suggests maximum vibration of 1mm/sec Peak Particle Velocity (measured in any one direction) at the foundations of the nearest occupied residential building and a maximum vibration of 3mm/sec Peak Particle Velocity (measured in any one direction) at the foundations of an occupied commercial building.

11. Lighting Scheme (Pre-Occupation 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.

12. Restricted Use [Performance Condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent amending Order) the buildings hereby approved shall only be used for the purposes specified in the application, namely Storage and Distribution (Class B8) for Units 1 and 3 and either Business Use (Class B1(c)) or (Class B8) for Unit 2.

Reason:

For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development in the interests of the amenities of the area and to comply with Policy MSA19 of the Local Plan.

13. Restriction on use (Performance Condition)

The maximum floorspace of the development hereby approved shall be 19,132 square metres gross and the buildings shall not be sub-divided into separate units without the approval of the Local Planning Authority.

Reason

To restrict the development to that set out in the application in the interests of the amenities of the area and local transport conditions.

14. Junction Details [Pre-Occupation Condition]

The junction between the proposed service road and the highway shall be constructed in accordance with the approved plans before the development is first occupied.

Reason:

To ensure a safe access to the site is achieved.

15. Cycle and changing facilities (Pre-Occupation Condition)

The buildings hereby approved shall not be first occupied until cycle storage, changing, washing and shower facilities for members of staff have been provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be retained thereafter.

Reason

To encourage cycling as an alternative sustainable means of transport in accordance with Council policy.

16. Storage / Removal of Refuse Material [Pre-Occupation Condition]

Before each building is first occupied full details of facilities to be provided for the storage and removal of refuse from the premises together with the provision of suitable bins accessible with a level approach shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall include accommodation and the provision of separate bins for the separation of waste to enable recycling. The approved refuse and recycling storage shall be retained thereafter.

Reason:

In the interests of visual amenity, the amenities of future occupiers of the development and the amenities of occupiers of nearby properties.

17. Layout of Car Parking/ Servicing (Pre-Occupation Condition)

The whole of the car parking, cycle storage and servicing facilities for the uses hereby approved shown on the approved plans shall be laid out and made available before the building to which the facilities relate is first occupied and thereafter retained solely for the use of the occupants and visitors to the that building and for no other purpose.

REASON

To ensure adequate on-site parking and servicing facilities and to avoid congestion in the adjoining highway.

18. Surface / foul water drainage [Pre-commencement Condition]

No development approved by this permission shall commence until a scheme for the disposal of foul water and surface water drainage have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied unless and until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority and subsequently implemented and maintained for use for the life of the development.

Reason:

To ensure satisfactory drainage provision for the area.

19. BREEAM Standards (Pre-Occupation Condition)

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum Excellent against the BREEAM Standard in the form of post construction assessment and certificate as issued by a legitimate BREEAM certification body shall be submitted to the Local Planning Authority for its approval.

REASON:

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

20. 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 Ecological Statement 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, site clearance or hedgerow removal takes place.

Reason

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

21. Protection of nesting birds [Performance Condition]

No clearance of vegetation likely to support nesting birds shall take place between 1 March and 31 August unless a method statement has been agreed in writing by the Local Planning Authority and works implemented in accordance with the agreed details.

REASON

For the safeguarding of species protected by The Wildlife & Countryside Act 1981 (as amended) and the conservation of biodiversity

22. No other windows or doors other than approved in specific location [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 2015 (or any order amending, revoking or re-enacting that Order) in relation to the development hereby permitted, no alternative or additional windows (including roof windows or dormer windows), doors or openings other than those expressly authorised by this permission shall be constructed in the southern elevations of Units 1 or 3.

Reason:

To protect the amenities of the adjoining properties.

23. Sustainable Urban Drainage (Pre-Commencement Condition)

No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i. a timetable for its implementation, and
- ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason

To ensure the proposed SUDs arrangements are provided in a satisfactory manner.

24. Acoustic barriers (Pre-Occupation Condition)

The position and height of acoustic barriers (comprising bunds and fencing) along the site boundary shall be in accordance with the approved plans. Details of the construction of the acoustic screening (including fencing design, materials and surface density) shall be verified for effectiveness by a competent acoustician and approved by the Local Planning Authority both prior to their construction and prior to commencement of use, and thereafter those barriers shall be maintained in a good state of repair so as to remain fully effective.

Reason

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

25. Electric Car Charging Points (Pre-Occupation Condition)

No part of the development shall be occupied until a minimum of 11 electric car charging points have been provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of sustainability and air quality given the proximity to an Air Quality Management Area.

26. Noise Mitigation Measures (Pre-Occupation Condition)

No part of the development shall be occupied until detailed noise mitigation measures, to include canopies above the loading dock and a scheme of management measures to include details of reversing alarms of fork lift trucks and lorries have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before first occupation and retained thereafter.

Reason

To limit noise and disturbance and to protect the amenities of neighbours.

27. Refrigerated Vehicles (Performance Condition)

All refrigeration vehicles serving the site shall use electrical hook up facilities rather than diesel engines.

Reason

To limit noise and disturbance and to protect the amenities of neighbours.

28. Refrigeration Compressors (Performance Condition)

All refrigeration equipment within the buildings shall utilise electric compressors and not diesel.

Reason

To limit noise and disturbance and to protect the amenities of neighbours.

29. Approved Plans

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

Reason:

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

30. Night time operation (Pre-Occupation Condition)

Between 2300 and 0700 hours the development shall not operate or be used otherwise than in accordance with a Night Time Operation Plan, which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure the occupiers of the building operate in a manner which would safeguard the amenities of adjoining residential occupiers.

31. Advertisement Restriction (Performance Condition)

Notwithstanding the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, or any subsequent amending regulations, no site marketing advertising shall be displayed on the site facing South so as to be visible from the residential properties in Gover Road.

Reason:

In the interests of the amenities of neighbouring residential properties.

32. Construction Phasing (Pre-Commencement Condition)

No development shall commence until a programme of construction work has been submitted to and approved in writing by the Local Planning Authority. The programme shall define the phasing of the development to include when the buildings and the bund along the boundary with the new park will be constructed. The development shall subsequently be carried out in accordance with the approved construction phase programme.

Reason:

To allow the Local Planning Authority to control the construction programme in the interests of the amenities of the area.

33. Construction Phasing (Performance Condition)

No occupation of Units 1 or 3 shall take place until both these buildings and the bund and acoustic fence between them have been constructed as shown on the approved plans or such alternative acoustic measures as may be approved in writing by the Local Planning Authority.

Reason:

To ensure that the noise mitigation measures are in place before these buildings are first occupied in the interests of the amenities of local residents.

34. No open storage of metal containers (Performance Condition)

No open storage of metal shipping containers shall take place within the service yards or car parking areas of this development.

Reason:

To mitigate potential noise problems in the interests of the amenities of residential neighbours.

Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The Council has considered the site allocation for industrial and warehousing development as set out in the Local Plan and the importance of the additional employment to be created by this development. The development would have an impact on the surrounding area in terms of character and appearance, traffic and noise but that the impact can be mitigated by Section 106 obligations and conditions. Ecology and flood risk issues have also been taken into account. 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 the development plan as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 and planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP13, SDP14, SDP15, SDP16, SDP17, SDP22, NE4, NE5, CLT7 and MSA19 of the City of Southampton Local Plan Review (as amended 2015) and CS6, CS7, CS13, CS18, CS19, CS20, CS21, CS22, CS23, CS24 and CS25 of the Local Development Framework Core Strategy Development Plan Document (as amended 2015) and guidance in the NPPF (2012).

Notes to Applicant

1. Water Main - The exact position of the public water distribution main on the site must be determined before the layout of the development is finalised. All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works. No excavation, mounding or tree planting should be carried out within 7 metres of the public water main without consent from Southern Water. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

2. Sewerage Infrastructure - The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

3. Water Supply - A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

4. Public Sewer - Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

5. Network Rail - The applicant should contact Network Rail's Asset Protection team at AssetProtectionWessex@networkrail.co.uk and sign up to an asset protection agreement prior to proceeding with any design and construction works.

6. Pollution Prevention - All precautions must be taken to avoid discharges and spills to the ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to the Environment Agency guidance, 'PPG1 - General Guide to the Prevention of Pollution. In the event of a pollution incident all works should cease immediately and the Environment Agency should be contacted via the Incident Hotline 0800 807060.

7. Noise Management Plan - The information to be submitted to discharge Condition 30 of this planning permission shall include the following matters:

- (a) Yard Surface Material and Maintenance.
- (b) Equipment Maintenance
- (c) Acoustic Barrier Maintenance
- (d) Site facilities including attenuation of external plant
- (e) Vehicle Management Arrangements
- (f) Staff Management Arrangements



Samuel Fox
Planning & Development Manager

29 July 2016

If you have any further enquiries please contact:

Richard Plume

IMPORTANT NOTE TO APPLICANT

This decision has been made in accordance with the submitted application details and supporting documents and the development should be implemented in respect of the following plans and drawings:

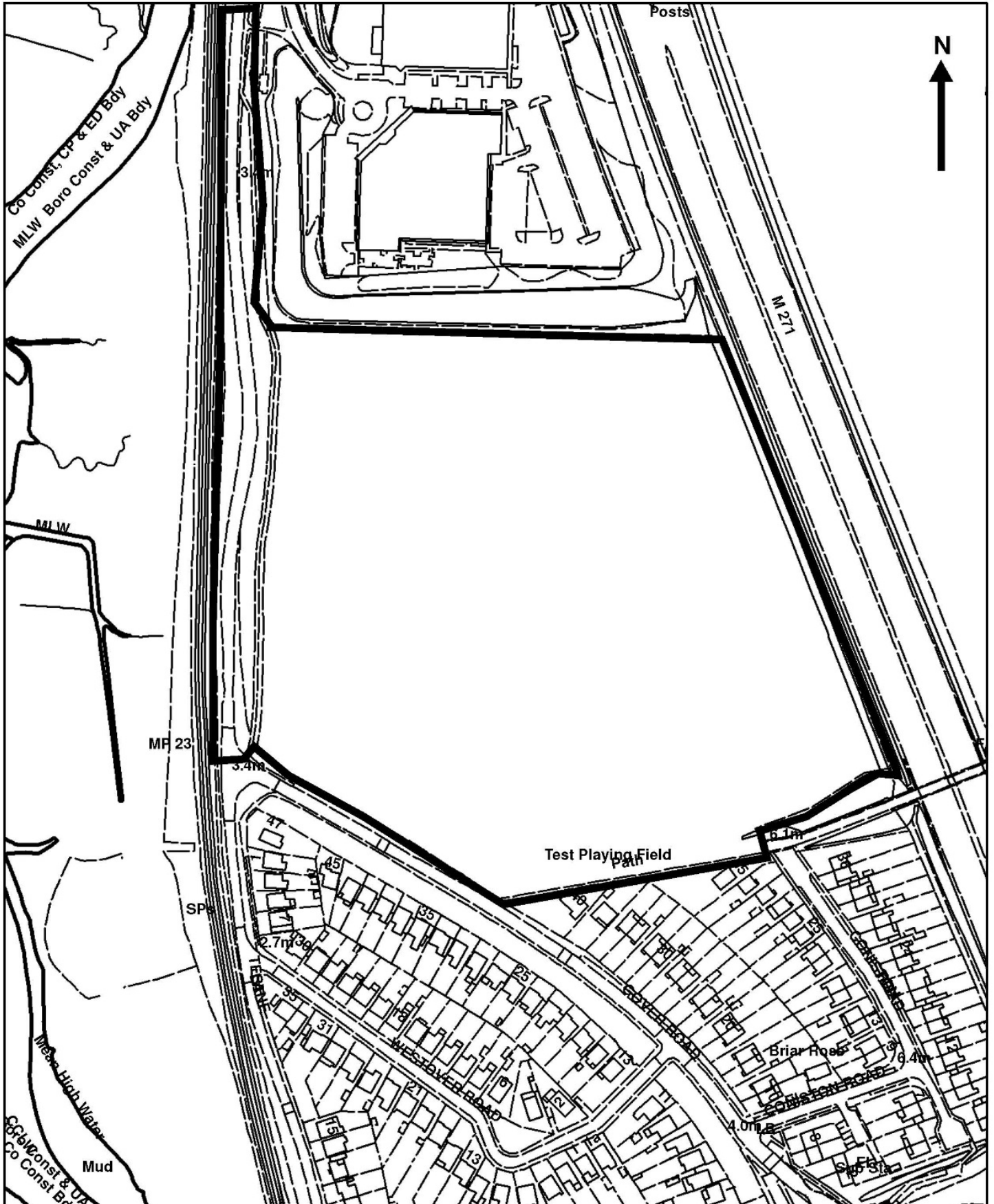
Drawing No:	Version:	Description:	Date Received:	Status:
30715-PL-100		Location Plan	09.12.2014	Approved
30715-PL-101	Rev D	Site Plan	18.09.2015	Approved
30715-PL-200	Rev B	Site Plan	18.09.2015	Approved
30715-PL-105	Rev A	Floor Plan	16.04.2015	Approved

30715-PL-106	Rev A	Floor Plan	16.04.2015	Approved
30715-PL-107	Rev A	Floor Plan	16.04.2015	Approved
30715-PL-102	Rev B	Elevational Plan	18.09.2015	Approved
30715-PL-201	Rev A	Elevational Plan	18.09.2015	Approved
30715-PL-103	Rev A	Elevational Plan	16.04.2015	Approved
30715-PL-202		Elevational Plan	16.04.2015	Approved
30715-PL-104	Rev A	Elevational Plan	18.09.2015	Approved
30715-PL-203	Rev A	Elevational Plan	18.09.2015	Approved
16089-04	Rev A	Other Plans	22.09.2015	Approved
2066-PL 006	Rev A	Other Plans	18.09.2015	Approved
2066-PL 002	Rev A	Other Plans	16.04.2015	Approved
2066-PL005	Rev A	Other Plans	18.09.2015	Approved
17798_0300	Rev B	Other Plans	18.09.2015	Approved
17798_0600	Rev C	Other Plans	18.09.2015	Approved

NOTES

1. This permission relates to Planning Control only. Approval under the Building Regulations may also be required and should you be in any doubt about this, please contact Building Control Services, Tel. 023 8083 2558. Any other necessary consent must be obtained from the appropriate authority. Special attention is drawn to the fact that this permission does not relate to the display of advertisements and separate consent is required under the Town and Country Planning (Control of Advertisements) England Regulations 2007. Development affecting buildings of special Architectural or Historical interest is also subject of separate Listed Building Consent. Any queries should be made to Development Control Service as indicated below.
2. This permission has been granted on the basis of all the information submitted by the applicant shown on the plans accompanying the application. Any material misstatement or wrong information may invalidate the permission.
3. If the applicant is aggrieved by the decision of the Local Planning Authority to approve the proposed development, subject to conditions, they may appeal to the Secretary of State in accordance with Section 78 of the Town and Country Planning Act 1990, within six months of the date of decision. Appeals must be made using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or do it online at <https://acp.planninginspectorate.gov.uk/>
4. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
5. If permission to develop land is granted subject to conditions, whether by the Local Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Council a purchase notice requiring the Council to purchase their interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
7. Attention is drawn to the provisions of Section 12 of the Hampshire Act 1983 relating to access for the Fire Brigade, and you are advised to contact Building Control Services as set out in Note 1.
8. For those developments which are covered by the Disability Discrimination Act, the attention of developers is drawn to the relevant provisions of the Act and to the British Standard B300:2001 Design of buildings and their approaches to meet the needs of disabled people code of practice.
9. The applicant is recommended to retain this form with the title deeds of the property.
10. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012)
Please address any correspondence in connection with this form quoting the application number to: **Development Management, Southampton City Council, Lower Ground Floor, Civic Centre, Southampton, SO14 7LY.**

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Planning and Rights of Way Panel 21st February 2017
Planning Application Report of the Service Lead – Infrastructure, Planning & Development

Application address: Land at Test Lane, Southampton			
Proposed development: Non material amendment sought to planning permission Ref: 14/01911/FUL to amend the number of dock loaders on unit 3 from 18 to 7 and pedestrian footpath extended to access unit 3.			
Application number	17/00154/NMA	Application type	NMA
Case officer	Stephen Harrison	Public speaking time	5 minutes
Last date for determination:	27.02.2017	Ward	Redbridge
Reason for Panel Referral:	For consideration alongside 16/02201/NMA for completeness	Ward Councillors	Cllr Mc Ewing Cllr Pope Cllr Whitbread
Referred to Panel by:	N/A	Reason:	N/A

Applicant: Evander Properties Ltd/Peel Logistics	Agent: Michael Sparks Associates
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Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	Not applicable
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Reason for raising NO OBJECTION

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The request for a Non-Material Amendment seeks to change the northern elevation of Unit 3 and its associated footpath. Other material considerations, such as those listed in the report to the Council's Planning and Rights of Way Panel on 21st February 2017, 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 a revision to planning permission 14/01911/FUL should therefore be granted.

Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP13, SDP14, SDP15, SDP16, SDP17, SDP22, NE4, NE5, CLT7 and MSA19 of the City of Southampton Local Plan Review (as amended 2015) and CS6, CS7, CS13, CS18, CS19, CS20, CS21, CS22, CS23, CS24 and CS25 of the Southampton City Council Local Development Framework Core Strategy – Adopted January 2010 as supported by the Council's current adopted Supplementary Planning Guidance and the guidance contained with the evolving National Planning Practice Guidance.

Appendix attached			
1	Development Plan Policies	2	14/01911/FUL Decision Notice

Recommendation in Full

Subject to no substantial and relevant planning objections, not covered by this report, being received by 24th February (when the Site Notice expires) Conditionally Approve - The proposed changes sought by this request (set out at paragraph 2.3 below) are considered to provide a Non-Material Amendment to the approved planning permission. All planning conditions applicable to the approved planning permission remain in force

1.0 The site and its context

- 1.1 The application site is some 6.5 hectares in area and is situated on the eastern side of Test Lane. The site is currently a grassed open area with some tree planting to the boundaries and hedgerows to the Test Lane frontage. The site is allocated in the Local Plan for light industrial and warehousing development (Classes B1(c) and B8) under Policy MSA19 of the Local Plan and planning permission was granted in June 2016 for a speculative development in accordance with this allocation (14/01911/FUL refers).
- 1.2 The surroundings are of mixed character with industrial development (including the Daily Echo headquarters) to the north; the M271 motorway to the east; the Lower Test Lane Nature Reserve to the West beyond the Southampton to Romsey railway line; and a residential area to the south comprising bungalows and two-storey houses in Gover Road, Coniston Road, Westover Road and Test Lane. The application site is close to the administrative boundary of the city with Test Valley Borough Council.

2.0 Proposal

- 2.1 Full planning permission was granted for the redevelopment of the site last year following consideration by the Planning and Rights of Way Panel (14/01911/FUL refers).
- 2.2 The permission gives approval for the redevelopment of the site to provide 19,132 square metres of employment floorspace in three buildings (Units 1 and 3 to be storage and distribution use (Class B8), Unit 2 to be Business use (Class B1c) and/or storage and distribution use (Class B8)) with an area of open space, associated landscaping, servicing areas and car parking with vehicular access from Test Lane.
- 2.3 A set of revisions to the approved scheme are now sought. The applicants have applied for another Non Material Amendment (NMA) to their original permission but are not seeking a fresh planning permission. If the Panel accept that these changes are relatively minor (and not material to the original permission) then no objection will be raised by the Council to the principal planning permission being implemented in accordance with the agreed changes. As originally submitted these alterations included:
- a) A reduction to the number of loading bays within the northern elevation of Unit 3 from 18 (approved) to 7 (now proposed); and

b) A change to the car park footpath with no alteration to the approved parking numbers or layout.

2.4 The change to the loading bays was originally submitted as part of the first NMA (16/02201/NMA) before it was withdrawn so that it could be resubmitted as a standalone application.

3.0 Relevant Planning Policy & Guidance

3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (Amended 2015) and the City of Southampton Core Strategy (Amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 The application site is allocated for development under Policy MSA19 which reads as follows:

Test Lane South is safeguarded for B1 and B8 uses. Development will be permitted which:

(i) provides a buffer of landscaped and planted open space on the southern boundary of the site; refer to CLT 7;

(ii) would not adversely affect the residential amenity of the occupiers of nearby properties on Gover Road and Coniston Road.

Built development will not be permitted on the southern part of the site.

3.3 In 2009 the Government introduced a formal procedure for agreeing changes to an existing planning permission. Flexibility was offered for small changes to existing schemes without the need for applying again for the whole development. A nominal planning fee and a 28 day target date applies, and it is for the Local Planning Authority to determine whether or not the requested changes can be treated as ‘Non Material’. Further guidance on this relatively new process can be found within the ‘National Planning Practice Guidance’. The Council can either ‘object’ (where a refusal notice would be issued and there would be no right of appeal; the applicants would then need to make a planning application for either the revised scheme or to vary the relevant planning conditions) or raise ‘no objection’ and issue a supplemental notice to the principal planning permission.

3.4 This procedure does not allow the Council, or the scheme’s objectors, to revisit the planning merits of the original scheme as the planning permission will remain regardless of the decision made on the NMA application.

4.0 Relevant Planning History

4.1 14/01911/FUL – Conditionally approved 29.07.2016 – see **Appendix 2**
Redevelopment of the site to provide 19,132 square metres of employment floorspace in three buildings (Units 1 and 3 to be storage and distribution use (Class B8), Unit 2 to be Business use (Class B1c) and/or storage and distribution use (Class B8)) with an area of open space, associated landscaping, servicing areas and car parking with vehicular access from Test Lane.

5.0 Consultation Responses and Notification Representations

- 5.1 The Government's National Planning Practice Guidance explains that *'as an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views'*.

Notification

- 5.2 Ward councillors have been notified of this change. A Site Notice was posted on 3rd February 2017. A deadline for comments of the 24th February was set and the above recommendation reflects this.
- 5.3 At the time of writing the report **0 objections** have been received. A verbal update will be given should any objections be received before the Panel meeting.

6.0 Planning Consideration Key Issues

- 6.1 The key issues for consideration in the determination of this NMA application are the change to the external appearance of Unit 3 and its impact upon the context and the amenity of its neighbours.

Non Material Amendments

- 6.2 In 2009 the Government set out a formal procedure and guidance ("Greater Flexibility for Planning Permissions") to enable applicants to secure confirmation from the Local Planning Authority (LPA) that minor changes to a consented scheme are acceptable without the need to obtain a further planning permission.
- 6.3 No definition of what constitutes a "Non-Material Amendment" is provided. The National Planning Policy Guidance explains that *'this is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another'*. The guidance explains that the LPA should be content that the proposed changes do not significantly alter the permission.
- 6.4 In respect of each of the proposed changes officers comment as follows:
- a) A reduction to the number of loading bays within the northern elevation of Unit 3 from 18 (approved) to 7 (now proposed).**
- 6.5 The affected elevation faces north towards Unit 2, away from Gover Road residents, and is central to the site. The removal of 11 loading bays is inconsequential to the design of the building or the external appearance of the building and may reduce the noise impact of the development further. It is recommended that no objection is raised.
- b) A change to the car park footpath with no alteration to the approved parking numbers or layout.**

6.6 This change affects approximately 16 metres of internal footway and is inconsequential to the original planning decision. It is recommended that no objection is raised.

7.0 Summary

7.1 The proposed changes to the approved buildings are considered to maintain an acceptable scheme for the site and have been assessed as acceptable and within the spirit of the approved scheme. The proposals are still considered to meet the requirements of the development plan as detailed at **Appendix 1**. The changes listed are not regarded material enough to warrant the need for a fresh planning application for the entire development, and have been assessed as non-material to the original planning permission. All previous planning conditions remain effective.

8.0 Conclusion

8.1 This application for a non-material amendment is acceptable and it is recommended that no objection is made.

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

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 2(f), 4(b), 4(g), 4(m), 4(vv), 6(a) and 6(b).

SH2 for 21.02.17 PROW Panel

Amended Condition:

29. Approved Plans (Amended)

The development hereby permitted shall be carried out in accordance with the approved plans listed in the original planning permission as updated by the revised plans approved under 17/00154/NMA, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

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

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Application 17/00154/NMA

APPENDIX 1

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS6	Economic Growth
CS7	Safeguarding Employment Sites
CS13	Fundamentals of Design
CS14	Historic Environment
CS18	Transport: Reduce-Manage-Invest
CS19	Car and Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS21	Protecting and Enhancing Open Space
CS22	Promoting Biodiversity and Protecting Habitats
CS23	Flood Risk
CS24	Access to Jobs
CS25	The Delivery of Infrastructure and Developer Contributions

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
SDP15	Air Quality
SDP16	Noise
SDP17	Lighting
SDP22	Contaminated Land
NE4	Protected Species
NE5	Intertidal Mudflat Habitats
NE7	Rail Corridor
HE6	Archaeological Remains
CLT7	Provision of New Public Open Space
MSA19	Test Lane South

Supplementary Planning Guidance

Planning Obligations (Adopted - September 2013)

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2012)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

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DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town & Country Planning (Development Management Procedure) (England) Order 2015

Michael Sparks Associates - FAO Mr Ashley Chambers
11 Plato Place
St. Dionis Road
London
SW6 4TU

In pursuance of its powers under the above Act and Regulations, Southampton City Council, as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

FULL APPLICATION - CONDITIONAL APPROVAL

Proposal: **Redevelopment of the site to provide 19,132 square metres of employment floorspace in three buildings (Units 1 and 3 to be storage and distribution use (Class B8), Unit 2 to be Business use (Class B1c) and/or storage and distribution use (Class B8)) with an area of open space, associated landscaping, servicing areas and car parking with vehicular access from Test Lane.**

Site Address: **Land at Test Lane, Southampton,**

Application No: **14/01911/FUL**

Subject to the following conditions.

01. 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. Details of building materials to be used [Pre-Commencement Condition]

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

Reason:

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

03. Landscaping, lighting & means of enclosure detailed plan [Pre-Commencement Condition]

Notwithstanding the submitted details before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted, which includes:

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

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

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

Reason:

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

04. Land Contamination investigation [Pre-Commencement]

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A report of the findings of the additional assessment/investigation, characterising the land gas and groundwater regime and allowing for potential risks (as identified in phase 1) to be assessed.
2. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason:

To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment.

05. 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.

06. Use of uncontaminated soils and fill [Performance Condition]

Only clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall 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.

07. 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.

08. Construction Environment Management Plan (Pre-Commencement Condition)

Prior to the commencement of any development a written construction environment management plan shall be submitted to and approved by the Local Planning Authority. The plan shall contain method statements and site specific plans to prevent or minimise impacts from noise, vibration, dust and odour for all operations, as well as proposals to monitor these measures at the site boundary to ensure emissions are minimised beyond the site boundary. All specified measures shall be available and implemented during any processes for which those measures are required.

Reason:

To protect the amenities of the occupiers of existing nearby properties and to safeguard the special ecological value of the adjoining nature reserve.

09. Wheel Cleaning Facilities [Pre-Use Condition]

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

Reason:

In the interests of highway safety.

10. Piling [Pre-Commencement Condition]

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a piling and/or foundations design risk assessment and method statement for the preferred piling/foundation design/designs shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

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

Condition Informative 1

Guidance is provided in the Environment Agency's publication NC/00/73, Piling and Penetrative Ground Improvements Methods on Land affected by Contamination: Guidance on Pollution Prevention, section 6.5

Condition Informative 2

Guidance suggests maximum vibration of 1mm/sec Peak Particle Velocity (measured in any one direction) at the foundations of the nearest occupied residential building and a maximum vibration of 3mm/sec Peak Particle Velocity (measured in any one direction) at the foundations of an occupied commercial building.

11. Lighting Scheme (Pre-Occupation 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.

12. Restricted Use [Performance Condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent amending Order) the buildings hereby approved shall only be used for the purposes specified in the application, namely Storage and Distribution (Class B8) for Units 1 and 3 and either Business Use (Class B1(c)) or (Class B8) for Unit 2.

Reason:

For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development in the interests of the amenities of the area and to comply with Policy MSA19 of the Local Plan.

13. Restriction on use (Performance Condition)

The maximum floorspace of the development hereby approved shall be 19,132 square metres gross and the buildings shall not be sub-divided into separate units without the approval of the Local Planning Authority.

Reason

To restrict the development to that set out in the application in the interests of the amenities of the area and local transport conditions.

14. Junction Details [Pre-Occupation Condition]

The junction between the proposed service road and the highway shall be constructed in accordance with the approved plans before the development is first occupied.

Reason:

To ensure a safe access to the site is achieved.

15. Cycle and changing facilities (Pre-Occupation Condition)

The buildings hereby approved shall not be first occupied until cycle storage, changing, washing and shower facilities for members of staff have been provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be retained thereafter.

Reason

To encourage cycling as an alternative sustainable means of transport in accordance with Council policy.

16. Storage / Removal of Refuse Material [Pre-Occupation Condition]

Before each building is first occupied full details of facilities to be provided for the storage and removal of refuse from the premises together with the provision of suitable bins accessible with a level approach shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall include accommodation and the provision of separate bins for the separation of waste to enable recycling. The approved refuse and recycling storage shall be retained thereafter.

Reason:

In the interests of visual amenity, the amenities of future occupiers of the development and the amenities of occupiers of nearby properties.

17. Layout of Car Parking/ Servicing (Pre-Occupation Condition)

The whole of the car parking, cycle storage and servicing facilities for the uses hereby approved shown on the approved plans shall be laid out and made available before the building to which the facilities relate is first occupied and thereafter retained solely for the use of the occupants and visitors to the that building and for no other purpose.

REASON

To ensure adequate on-site parking and servicing facilities and to avoid congestion in the adjoining highway.

18. Surface / foul water drainage [Pre-commencement Condition]

No development approved by this permission shall commence until a scheme for the disposal of foul water and surface water drainage have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied unless and until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority and subsequently implemented and maintained for use for the life of the development.

Reason:

To ensure satisfactory drainage provision for the area.

19. BREEAM Standards (Pre-Occupation Condition)

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum Excellent against the BREEAM Standard in the form of post construction assessment and certificate as issued by a legitimate BREEAM certification body shall be submitted to the Local Planning Authority for its approval.

REASON:

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

20. 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 Ecological Statement 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, site clearance or hedgerow removal takes place.

Reason

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

21. Protection of nesting birds [Performance Condition]

No clearance of vegetation likely to support nesting birds shall take place between 1 March and 31 August unless a method statement has been agreed in writing by the Local Planning Authority and works implemented in accordance with the agreed details.

REASON

For the safeguarding of species protected by The Wildlife & Countryside Act 1981 (as amended) and the conservation of biodiversity

22. No other windows or doors other than approved in specific location [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 2015 (or any order amending, revoking or re-enacting that Order) in relation to the development hereby permitted, no alternative or additional windows (including roof windows or dormer windows), doors or openings other than those expressly authorised by this permission shall be constructed in the southern elevations of Units 1 or 3.

Reason:

To protect the amenities of the adjoining properties.

23. Sustainable Urban Drainage (Pre-Commencement Condition)

No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i. a timetable for its implementation, and
- ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason

To ensure the proposed SUDs arrangements are provided in a satisfactory manner.

24. Acoustic barriers (Pre-Occupation Condition)

The position and height of acoustic barriers (comprising bunds and fencing) along the site boundary shall be in accordance with the approved plans. Details of the construction of the acoustic screening (including fencing design, materials and surface density) shall be verified for effectiveness by a competent acoustician and approved by the Local Planning Authority both prior to their construction and prior to commencement of use, and thereafter those barriers shall be maintained in a good state of repair so as to remain fully effective.

Reason

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

25. Electric Car Charging Points (Pre-Occupation Condition)

No part of the development shall be occupied until a minimum of 11 electric car charging points have been provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of sustainability and air quality given the proximity to an Air Quality Management Area.

26. Noise Mitigation Measures (Pre-Occupation Condition)

No part of the development shall be occupied until detailed noise mitigation measures, to include canopies above the loading dock and a scheme of management measures to include details of reversing alarms of fork lift trucks and lorries have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before first occupation and retained thereafter.

Reason

To limit noise and disturbance and to protect the amenities of neighbours.

27. Refrigerated Vehicles (Performance Condition)

All refrigeration vehicles serving the site shall use electrical hook up facilities rather than diesel engines.

Reason

To limit noise and disturbance and to protect the amenities of neighbours.

28. Refrigeration Compressors (Performance Condition)

All refrigeration equipment within the buildings shall utilise electric compressors and not diesel.

Reason

To limit noise and disturbance and to protect the amenities of neighbours.

29. Approved Plans

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

Reason:

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

30. Night time operation (Pre-Occupation Condition)

Between 2300 and 0700 hours the development shall not operate or be used otherwise than in accordance with a Night Time Operation Plan, which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure the occupiers of the building operate in a manner which would safeguard the amenities of adjoining residential occupiers.

31. Advertisement Restriction (Performance Condition)

Notwithstanding the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, or any subsequent amending regulations, no site marketing advertising shall be displayed on the site facing South so as to be visible from the residential properties in Gover Road.

Reason:

In the interests of the amenities of neighbouring residential properties.

32. Construction Phasing (Pre-Commencement Condition)

No development shall commence until a programme of construction work has been submitted to and approved in writing by the Local Planning Authority. The programme shall define the phasing of the development to include when the buildings and the bund along the boundary with the new park will be constructed. The development shall subsequently be carried out in accordance with the approved construction phase programme.

Reason:

To allow the Local Planning Authority to control the construction programme in the interests of the amenities of the area.

33. Construction Phasing (Performance Condition)

No occupation of Units 1 or 3 shall take place until both these buildings and the bund and acoustic fence between them have been constructed as shown on the approved plans or such alternative acoustic measures as may be approved in writing by the Local Planning Authority.

Reason:

To ensure that the noise mitigation measures are in place before these buildings are first occupied in the interests of the amenities of local residents.

34. No open storage of metal containers (Performance Condition)

No open storage of metal shipping containers shall take place within the service yards or car parking areas of this development.

Reason:

To mitigate potential noise problems in the interests of the amenities of residential neighbours.

Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The Council has considered the site allocation for industrial and warehousing development as set out in the Local Plan and the importance of the additional employment to be created by this development. The development would have an impact on the surrounding area in terms of character and appearance, traffic and noise but that the impact can be mitigated by Section 106 obligations and conditions. Ecology and flood risk issues have also been taken into account. 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 the development plan as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 and planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP13, SDP14, SDP15, SDP16, SDP17, SDP22, NE4, NE5, CLT7 and MSA19 of the City of Southampton Local Plan Review (as amended 2015) and CS6, CS7, CS13, CS18, CS19, CS20, CS21, CS22, CS23, CS24 and CS25 of the Local Development Framework Core Strategy Development Plan Document (as amended 2015) and guidance in the NPPF (2012).

Notes to Applicant

1. Water Main - The exact position of the public water distribution main on the site must be determined before the layout of the development is finalised. All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works. No excavation, mounding or tree planting should be carried out within 7 metres of the public water main without consent from Southern Water. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

2. Sewerage Infrastructure - The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

3. Water Supply - A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

4. Public Sewer - Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

5. Network Rail - The applicant should contact Network Rail's Asset Protection team at AssetProtectionWessex@networkrail.co.uk and sign up to an asset protection agreement prior to proceeding with any design and construction works.

6. Pollution Prevention - All precautions must be taken to avoid discharges and spills to the ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to the Environment Agency guidance, 'PPG1 - General Guide to the Prevention of Pollution. In the event of a pollution incident all works should cease immediately and the Environment Agency should be contacted via the Incident Hotline 0800 807060.

7. Noise Management Plan - The information to be submitted to discharge Condition 30 of this planning permission shall include the following matters:

- (a) Yard Surface Material and Maintenance.
- (b) Equipment Maintenance
- (c) Acoustic Barrier Maintenance
- (d) Site facilities including attenuation of external plant
- (e) Vehicle Management Arrangements
- (f) Staff Management Arrangements



Samuel Fox
Planning & Development Manager

29 July 2016

If you have any further enquiries please contact:

Richard Plume

IMPORTANT NOTE TO APPLICANT

This decision has been made in accordance with the submitted application details and supporting documents and the development should be implemented in respect of the following plans and drawings:

Drawing No:	Version:	Description:	Date Received:	Status:
30715-PL-100		Location Plan	09.12.2014	Approved
30715-PL-101	Rev D	Site Plan	18.09.2015	Approved
30715-PL-200	Rev B	Site Plan	18.09.2015	Approved
30715-PL-105	Rev A	Floor Plan	16.04.2015	Approved

30715-PL-106	Rev A	Floor Plan	16.04.2015	Approved
30715-PL-107	Rev A	Floor Plan	16.04.2015	Approved
30715-PL-102	Rev B	Elevational Plan	18.09.2015	Approved
30715-PL-201	Rev A	Elevational Plan	18.09.2015	Approved
30715-PL-103	Rev A	Elevational Plan	16.04.2015	Approved
30715-PL-202		Elevational Plan	16.04.2015	Approved
30715-PL-104	Rev A	Elevational Plan	18.09.2015	Approved
30715-PL-203	Rev A	Elevational Plan	18.09.2015	Approved
16089-04	Rev A	Other Plans	22.09.2015	Approved
2066-PL 006	Rev A	Other Plans	18.09.2015	Approved
2066-PL 002	Rev A	Other Plans	16.04.2015	Approved
2066-PL005	Rev A	Other Plans	18.09.2015	Approved
17798_0300	Rev B	Other Plans	18.09.2015	Approved
17798_0600	Rev C	Other Plans	18.09.2015	Approved

NOTES

1. This permission relates to Planning Control only. Approval under the Building Regulations may also be required and should you be in any doubt about this, please contact Building Control Services, Tel. 023 8083 2558. Any other necessary consent must be obtained from the appropriate authority. Special attention is drawn to the fact that this permission does not relate to the display of advertisements and separate consent is required under the Town and Country Planning (Control of Advertisements) England Regulations 2007. Development affecting buildings of special Architectural or Historical interest is also subject of separate Listed Building Consent. Any queries should be made to Development Control Service as indicated below.
2. This permission has been granted on the basis of all the information submitted by the applicant shown on the plans accompanying the application. Any material misstatement or wrong information may invalidate the permission.
3. If the applicant is aggrieved by the decision of the Local Planning Authority to approve the proposed development, subject to conditions, they may appeal to the Secretary of State in accordance with Section 78 of the Town and Country Planning Act 1990, within six months of the date of decision. Appeals must be made using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or do it online at <https://acp.planninginspectorate.gov.uk/>
4. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
5. If permission to develop land is granted subject to conditions, whether by the Local Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Council a purchase notice requiring the Council to purchase their interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
7. Attention is drawn to the provisions of Section 12 of the Hampshire Act 1983 relating to access for the Fire Brigade, and you are advised to contact Building Control Services as set out in Note 1.
8. For those developments which are covered by the Disability Discrimination Act, the attention of developers is drawn to the relevant provisions of the Act and to the British Standard B300:2001 Design of buildings and their approaches to meet the needs of disabled people code of practice.
9. The applicant is recommended to retain this form with the title deeds of the property.
10. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012)
Please address any correspondence in connection with this form quoting the application number to: **Development Management, Southampton City Council, Lower Ground Floor, Civic Centre, Southampton, SO14 7LY.**

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**Planning, Transport & Sustainability Division
 Planning and Rights of Way Panel 21st February 2017
 Planning Application Report of the Service Lead, Planning Infrastructure and
 Development**

Application address: Land rear of 21 – 23 Crabwood Road			
Proposed development: Redevelopment of the site. Erection of a 3-storey building containing 8 flats (6x 2-bed and 2x 1-bed) with associated parking and cycle/refuse storage			
Application number	16/01987/FUL	Application type	FUL
Case officer	Stuart Brooks	Public speaking time	5 minutes
Last date for determination:	24.01.2017	Ward	Redbridge
Reason for Panel Referral:	Request by Ward Member and more than 5 letters received from local residents	Ward Councillors	Cllr McEwing Cllr Whitbread Cllr Pope
Referred to Panel by:	Cllr Pope	Reason:	Overdevelopment Lack of parking

Applicant: Wickborne Homes	Agent: Sherlock Boswell Architecture
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Recommendation Summary	Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report
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Community Infrastructure Levy Liable	Yes
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012). Policies - SDP1, SDP5, SDP7, SDP9, SDP10, SDP12, H1, H2, H7, NE4 of the City of Southampton Local Plan Review (as amended 2015) and CS4, CS5, CS13, CS16, CS18, CS19, CS20, CS22, CS25 of the Local Development Framework Core Strategy Development Plan Document (as amended 2015).

Appendix attached			
1	Development Plan Policies	2	Details of 08/00610/FUL
3	Details of 16/01805/FUL		

Recommendation in Full

1. Delegate to the Service Lead, Planning Infrastructure and Development to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 Legal Agreement to secure:
 - i. Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
 - ii. 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;
 - iii. Either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
2. That the Service Lead, Planning Infrastructure and Development be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.
3. In the event that the legal agreement is not completed or progressing within a reasonable timeframe after the Planning and Rights of Way Panel, the Service Lead, Planning Infrastructure and Development will be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement, unless an extension of time agreement has been entered into.

1. The site and its context

- 1.1 The site lies within the ward of Redbridge. The site consists of a large plot formed from the long rear gardens of 21 and 23 Crabwood Road with vehicular access from the end of Haweswater Close. The site area of just over 1200sqm (0.12ha) is considerably large in size with a length and width of 41-48m by 26m.
- 1.2 The surrounding area mainly consists of suburban housing, very mixed in style, consisting of 2 storey dwellings to larger 3-4 storey blocks of flats. Historically, in the mid-20th century, Crabwood Road consisted of properties with long gardens to the south side of the street and larger plots on the north side. The street has evolved over the past 60 years to make use of the large plots and rear gardens for more housing, Crabwood Close being formed on the north side and Haweswater Close on the south side. Approved in the mid to early 1980s, Haweswater Close is formed from the rear gardens of 25 to 31 Crabwood Road which directly adjoins the site. Haweswater Close consists of a group 2 storey houses and flats with small back gardens and a wide expanse of tarmac hardstanding fronting the street.

2. Proposal

- 2.1 It is proposed to redevelop the rear gardens into a 2 storey block of 8 flats (6x 2-bed and 2x 1-bed) with accommodation in the roofspace. The site links to the end Haweswater close following the existing front building line, leaving a gap of 4.7m

between the side wall of 1 Haweswater Close to the west. Whilst the building has accommodation in the roof space, the eaves and ridge level replicates the height of the neighbouring property at 1 Haweswater Close. The development will leave each of the host dwellings in excess of 200sqm of private amenity space. The overall area of building footprint (including stores) and hardstanding is 600sqm which equates to a ratio of 50% footprint to plot coverage. The residents have access to 320sqm of useable communal amenity space (40sqm per flat), where smaller private spaces can be dedicated at the rear of the ground floor flats. The parking area also covers 320sqm, enclosed by 300sqm of soft landscaping including trees, hedge and shrub planting.

- 2.2 The site is currently covered by 10 small trees, of low amenity value, which will be replaced by 20 trees (mix of Silver Birch, Horn Beam, and fruit trees) around the perimeter of the site, including a mixed native species hedge around the entire perimeter to increase local biodiversity. The hardstanding area can be treated in permeable brick paviours, with the parking spaces being delineated by a darker set of paviours and the parking area being enclosed by an extensive tree and shrub planting. The new hardstanding within the site frontage would fit in with the wide expanse of tarmac hardstanding for parking in front of the properties in Haweswater Close. The view of the hardstanding from Haweswater Close will be screened by a hedge along the west boundary.
- 2.3 The front of the site consists of 14 parking spaces with an external bin and cycle store. The bin store is located next to the site access to allow convenient access by the SCC refuse lorry for collection. The number of parking spaces being provided is in excess of 1 for 1 parking (equivalent of 12 spaces for the 2 bed flats and 2 spaces for the 1 bed flats). This provides the maximum spaces required by the Council's parking policy.
- 2.4 A pedestrian access will link with the existing footway within Haweswater Close. The site can be successfully integrated into the local neighbourhood by seeking a contribution of £12,000 to introduce traffic calming measures in Haweswater Close which is sufficient to slow speeds and change driver's perceptions of the shared nature of the roadway. This will involve changing the nature of the approach to the site, which may include the formation of a raised table or changes to the surfacing texture or colour, to provide the necessary change in nature and environment.

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 Saved Policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. Policy SDP7 (Context) and SDP9 (Scale, Massing, and Appearance) allows development which will not harm the character and appearance of the local area, and the building design in terms of scale and

massing should be high quality which respects the surrounding area. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design.

- 3.4 Policy CS4 acknowledges that new homes will generally need to be built at higher densities. New dwellings coming forward on suitable windfall sites will contribute towards delivering the Council's strategic target for housing supply.
- 3.5 Policy CS5 acknowledges that whilst there is continuing pressure for higher densities in order to deliver development in Southampton, making efficient and effective use of land, however, the development should be an appropriate density for its context, and protect and enhance the character of existing neighbourhoods.
- 3.6 Policy CS19 of the Core Strategy (Car and Cycle Parking) of the Core Strategy sets out the Council's approach to car and cycle parking standards for new developments in the city, as supported by the guidance and standards set out in section 4.2 of the Parking Standards Supplementary Planning Document (formally adopted September 2012).

4. Relevant Planning History

- 4.1 A planning application was refused in 2008 (ref no. 08/00610/FUL) to redevelop the site into 12 flats on concerns that the scale and massing of the building would be out of character with the surrounding area. The plans and decision notice are attached to **Appendix 2**. The site was previously incorporated the rear garden of 19 Crabwood Road.

5. Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, and erecting a site notice (23.12.2016). At the time of writing the report **8** representations have been received from surrounding residents, and a referral by a local Ward councillor. The following is a summary of the points raised at the time of writing this report:

- 5.1.1 **Out of character due to overdevelopment and scale. Combined impact in addition of the development at 19 Crabwood Road (ref no. 16/01805/FUL).**

Response

This application should be considered separately to the refusal at 19 Crabwood Road as each application should be assessed on its own individual merits. Furthermore, this application has now been refused. The circumstances and characteristics of the two developments are markedly different. The footprint coverage of the building is in proportion to the size of its plot. The plots of the original dwellings have been fairly subdivided to retain decent sized gardens that would not be out of character with the mixed size of rear gardens in Crabwood Road. The back-land location of the development historically reflects the character of development established by the creation of Haweswater Close. The pitched roof of the building is similar in profile to the existing properties in Haweswater Close, whilst the eaves and ridge level would appear the same height as the existing properties in Haweswater Close and, therefore, not look out of place within the street scene. There will be an even balance of 320sqm of each hardstanding and garden space, with a further 300sqm of soft landscaping including trees, hedge and shrub planting. Overall, each flat would have access to 40sqm of useable amenity space which is double the size required by the Residential Design Guide. The hardstanding within the frontage is well screened by extensive planting including trees and shrubs, whilst the depth of the frontage

would be characteristic of the wide expanse tarmac fronting the properties in Haweswater Close.

5.1.2 Loss of privacy, outlook and light to neighbouring occupiers.

Response

The siting of the 2 storey building ensures there is adequate spacing between the neighbouring properties to ensure that the amenity of the neighbouring occupiers is not adversely affected. There would be in excess of 47 metres separation between the proposed building and No. 21 Crabwood Road; the building would be positioned approximately 10 metres from the boundary with the garden with no. 24 Windemere Avenue and; approximately 48 metres from the rear elevation of 10 Windemere Avenue. These distances comply with the standards set out in the Residential Design Guide Supplementary Planning Document. The light and outlook of habitable spaces of nearby properties are not directly affected.

5.1.3 Additional traffic will cause congestion, including access for emergency vehicles, and overspill parking in Haweswater Close leading to road safety problems. Haweswater Close is not through road and becomes congested with parked vehicles, and there will be increased disturbance to residents from additional movement of traffic.

Response

The Highways team are satisfied that the layout of the access and parking does not adversely affect road safety in Haweswater Close. The contributions sought by the Highways team towards site specific highways improvements will mitigate the impact of the additional traffic generated by acting as a measure to calm traffic entering Haweswater Close as a result of the development.

5.1.4 Loss of biodiversity and trees.

Response

The loss of the existing trees and planting and trees can be mitigated through 2 for 1 planting. The replacement trees shown by the applicant will extensively cover the perimeter of the site to give a good screen between neighbouring properties. The variety of species proposed will significantly improve the quality of the existing trees and increase the biodiversity of the site benefiting local wildlife. The Ecologist is satisfied that ecological impact of the development is likely to be low as the ecology assessment indicates that the site does not contain suitable habitat for protected species. The applicant is required to carry out further ecological mitigation measure, whilst the extensive planting and mixed native species hedgerow to be planted will improve biodiversity.

5.1.5 Has the developer purchased the sliver of land adjacent to the access point as this was thought to be in ownership of properties in Haweswater Close?

Response

The applicant has declared that they own this land, which is within the redline of the application site. Furthermore, land ownership will be checked through the section 106 process.

Consultation Responses

5.2 SCC Highways - No objection subject to conditions.

5.3 SCC Sustainability Team – No objection subject to conditions for energy and water efficiency to ensure compliance with policy CS20.

5.5 SCC Design – No objection.

- 5.7 **SCC Archaeology** – No objection subject to conditions.
- 5.8 **SCC Environmental Health (Contaminated Land)** – No objection subject to conditions.
- 5.9 **SCC Ecology** – No objection subject to conditions.
- 5.10 **SCC Trees** - No objection subject to conditions.

6. Planning Consideration Key Issues

6.1 The application needs to be assessed in terms of whether it has addressed the previous reasons for refusal and against the following key issues:

- Principle of Development;
- Impact on Character and Amenity and;
- Impact on Highway Safety.

6.2 Principle of Development

6.2.1 Whilst residential gardens are not previously developed land in planning terms, the National Planning Policy Framework requires the Council to set its own policies to resist inappropriate development in rear gardens where harm is caused to the character of the local area (para 53 refers). The Council does not have adopted policies which resist the use of gardens for new development and, therefore, the site should be assessed on the basis of the context and character of the local area and as such any inappropriate development proposals in rear gardens would be refused.

6.2.2 This proposal would contribute towards the delivery of housing and the provision of additional housing would meet an identified need and is, therefore, welcome. The development would achieve a residential density of 67 dwellings per hectare (dph). This will be slightly greater than the range of 35 to 50 (dph) that the Policy CS5 suggests as being appropriate for low accessibility locations such as this. The policy, however, also highlights that the density should be appropriate for its context and also judged in terms of the availability of open space. In this case, the slightly higher density of this scheme is not uncharacteristic of other nearby flatted blocks (ranging up to 4 storeys) and higher density housing in Haweswater Close, Crabwood Road, Ennerdale Road and Wimpson Lane. Furthermore, as noted above, the external space provided is in excess of the Council's standards. It is considered that the development strikes an appropriate balance between making efficient and effective use of the site to provide housing suitable for lower income households, whilst maintaining the mixed character of the area and the amenities of the neighbouring occupiers. The principle of development is, therefore, acceptable.

6.3 Impact on Character and Amenity

6.3.1 Following the refusal in 2008, the site has now come forward as a smaller parcel of land (reduction from 1700sqm to 1200sqm). The impact from the current proposal is much smaller given the reduction in building scale and number of flats. The application at 19 Crabwood Road was refused at the last panel meeting (ref no. 16/01805/FUL), whereby the details of this application are set out in **Appendix 3**. There is not a policy requirement for all the neighbouring gardens to be developed together under one application and the proposal would not prejudice the development of nearby land. As such, this application must be considered on its own individual merits.

6.3.2 The footprint to plot coverage of the site does not exceed 50% and therefore is

not considered to be overdevelopment under policy requirements. Striking an even balance between the coverage of building footprint and soft landscaping, the development will provide a source of good quality housing for low income groups and first time buyers. The character of housing within the surrounding area is very mixed ranging from bungalows to flats and therefore it is not necessary to define a particular design approach to fit in with the local character. The development of flats is not uncommon of other flatted blocks (ranging up to 4 storeys) and higher density housing already present nearby. That said, the massing of the development is equivalent to 2 storeys and ties in well with the scale and height of the properties within Haweswater Close. The efficient layout of the scheme makes effective use of the excess garden land with the benefit of boosting the city's housing supply, retaining sufficient open space and allowing for extensive tree planting.

6.3.3 The siting of the building has been well laid out to ensure that the neighbours on all boundaries of the site are not adversely affected. As noted above, the spacing of the building from nearest properties complies with adopted guidance and ensures that the light, outlook, privacy of habitable spaces are not adversely affected. The subdivision of 21 and 23 Crabwood Road will still maintain large and useable gardens.

6.4 Highway Safety

6.4.1 There have been a number of concerns raised about the potential parking overspill within Haweswater Close as a result of the new housing. The size of the development will be policy compliant by providing the maximum number of parking spaces. There will be in excess of 1 for 1 parking for the total number of flats, with 1 parking space provided per bedroom. Based on 2011 census data, within the surrounding area the average level of households that own 2 or more cars ranges from 8 to 25%. This suggests that the maximum parking level would be well sufficient to accommodate the parking demand. Whilst ensuring there is enough parking, it also important to strike a good balance between the amount of soft and hard landscaping to ensure there is adequate amount of garden space to provide good amenity for the occupiers.

6.4.2 The Highways team are satisfied that the layout of the access and parking does not adversely affect road safety in Haweswater Close. The contributions sought by the Highways team towards site specific highways improvements are considered to adequately mitigate the impact of the additional traffic generated by acting as a measure to calm traffic on the corner of Haweswater.

6.5 Other Matters

6.5.1 The Conservation of Habitats and Species Regulations 2010 (as amended) provides statutory protection for designated sites, known collectively as Natura 2000, including Special Areas of Conservation (SAC) and Special Protection Areas (SPA). This legislation requires competent authorities, in this case the Local Planning Authority, to ensure that plans or projects, either on their own or in combination with other plans or projects, do not result in adverse effects on these designated sites. The Solent coastline supports a number of Natura 2000 sites including the Solent and Southampton Water SPA, designated principally for birds, and the Solent Maritime SAC, designated principally for habitats. Research undertaken across south Hampshire has indicated that current levels of recreational activity are having significant adverse effects on certain bird species for which the sites are designated. A mitigation scheme, known as the Solent Disturbance Mitigation Project (SDMP), requiring a financial contribution of £176

per unit has been adopted. The money collected from this project will be used to fund measures designed to reduce the impacts of recreational activity. This application has complied with the requirements of the SDMP and meets the requirements of the Conservation of Habitats and Species Regulations 2010 (as amended).

- 6.5.2 The contributions deemed to make the development necessary, as listed in the recommendation, can be secured through the S106 agreement subject to the panel granting a resolution to support the scheme and delegating powers to officer's to complete the S106.

7. Summary

- 7.1 In summary, this is a well-designed residential scheme in terms of its layout and scale that will sit comfortably within the mixed character of the surrounding area. The layout of the development will respect the amenity of neighbouring occupiers, whilst the impact on road safety and on-street parking pressure can be adequately mitigated. The development makes an effective and efficient use of surplus garden land without being an overdevelopment with respect to the policy standards and being appropriate within the context of the surrounding area in terms of the mixed character. Importantly, the new housing would help meet the needs of first time buyers, especially those on lower incomes or small families seeking affordable housing within the suburbs of the city.

8. Conclusion

- 8.1 In conclusion, the proposal would have an acceptable impact in accordance with the Council's policies and guidance.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

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

SB for 21/02/17 PROW Panel

PLANNING CONDITIONS

01. Full Permission Timing Condition

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

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

02. Details of building materials to be used

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

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

03. Cycle storage facilities

Before the development hereby approved first comes into occupation, secure and covered storage for 8 bicycles (with the installation of Sheffield style cycle stands) shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The storage shall be thereafter retained as approved.

Reason: To encourage cycling as an alternative form of transport.

04. Land Contamination investigation and remediation

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A desk top study including;
 - historical and current sources of land contamination
 - results of a walk-over survey identifying any evidence of land contamination
 - identification of the potential contaminants associated with the above

- an initial conceptual site model of the site indicating sources, pathways and receptors
 - a qualitative assessment of the likely risks
 - any requirements for exploratory investigations.
2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed.
 3. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

On completion of the works set out in (3) a verification report shall be submitted to the Local Planning Authority confirming the remediation actions that have been undertaken in accordance with the approved scene of remediation and setting out any measures for maintenance, further monitoring, reporting and arrangements for contingency action. The verification report shall be approved by the Local Planning Authority prior to the occupation or operational use of any stage of the development. Any changes to these agreed elements require the express consent of the local planning authority.

Reason: To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment and where required remediation of the site is to an appropriate standard.

05. Unsuspected Contamination

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

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

06. Use of uncontaminated soils and fill

Only clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall 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.

07. Protection of nesting birds

No clearance of vegetation likely to support nesting birds shall take place between 1 March and 31 August unless a method statement has been agreed in writing by the Local Planning Authority and works implemented in accordance with the agreed details.

Reason: For the safeguarding of species protected by The Wildlife & Countryside Act 1981 (as amended) and the conservation of biodiversity

08. Ecological Mitigation Statement

The development hereby approved shall be implemented in accordance with the habitat and species mitigation and enhancement measures as set out in Ecological Assessment by 4 Woods Ecology dated August 2016 submitted with the application 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.

09. Landscaping detailed plan

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

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.

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. Other reasons include to protect highway safety, enhance biodiversity and protect the habitats of protected wildlife species.

10. Refuse & Recycling

The bin storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. In addition, the bin store shall be constructed of masonry under a suitable weatherproof roof, with adequate ventilation. The collection doors are to be of sturdy construction and hinged to open outwards with a minimum opening of 1.4m wide, to have level access avoiding thresholds, and a lock system to comply with SCC standard lock requirements operated by a coded key pad. It must be possible to secure the doors open whilst moving the bins.

Internal lighting to operate when doors are open, and a tap and wash down gulley to be provided, with suitable falls to the floor. Internal doors/walls/pipework/tap/conduits to be suitably protected to avoid damage cause by bin movements.

The access path to the bin store shall be constructed to footpath standards and to be a minimum width of 1.5m. Any gates on the pathway are not to be lockable, unless they comply with SCC standard coded keypad detail.

The gradient of the access path to the bin store shall not exceed 1:12 unless suitable anti-slip surfacing is used, and still shall not exceed 1:10.

A single dropped kerb to the adjacent highway will be required to access the refuse vehicle with the Euro bin.

The site management must contact SCC refuse team 8 weeks prior to occupation of the development to inspect the new stores and discuss bin requirements, which are supplied at the developer's expense. E mail waste.management@southampton.gov.uk

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.

11. Construction Management Plan

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Plan for the development. The Construction Management Plan shall include details of:

- (a) parking of vehicles of site personnel, operatives and visitors;
- (b) loading and unloading of plant and materials;
- (c) storage of plant and materials, including cement mixing and washings, used in constructing the development;
- (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;
- (e) measures to be used for the suppression of dust and dirt throughout the course of construction;
- (f) details of construction vehicles wheel cleaning; and,
- (g) details of how noise emanating from the site during construction will be mitigated. The approved Construction Management Plan 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.

12. Hours of work for Demolition / Clearance / Construction

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

Monday to Friday 08:00 to 18:00 hours

Saturdays 09:00 to 13:00 hours

And at no time on Sundays and recognised public holidays.

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

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

13. Energy & Water

Before the development commences, written documentary evidence demonstrating that the development will achieve at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of a design stage SAP calculations and a water efficiency calculator shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA.

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

14. Energy & Water

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of final SAP calculations and water efficiency calculator and detailed documentary evidence confirming that the water appliances/fittings have been installed as specified shall be submitted to the Local Planning Authority for its approval.

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

15. Amenity Space Access

Prior to the occupation of development, details of a private and defensible spaces to the rear of the ground floor flats shall be submitted to and agreed in writing by the Local Planning Authority. Before the development hereby approved first comes into occupation, the external amenity space and pedestrian access to it, including the private spaces agreed, shall be made available for use of the existing and proposed dwellings in accordance with the plans hereby approved and thereafter retained for the use of the dwellings.

Reason: To ensure the provision of adequate amenity space for the existing and future occupiers.

16. Parking and Access

The parking and access shall be provided in accordance with the plans hereby approved before the development first comes into occupation and thereafter retained as approved.

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

17. Archaeological watching brief investigation

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

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

18. Archaeological watching brief work programme

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

Reason: To ensure that the archaeological investigation is completed

19. Sustainable Drainage

No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the non-statutory technical standards for SuDS published by Defra (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To seek suitable information on Sustainable urban Drainage Systems as required by government policy and Policy CS20 of the Southampton Core Strategy (Amended 2015).

20. Obscure Glazing

The following windows shall be obscurely glazed and fixed shut up to a height of 1.7 metres from the internal floor level before the development is first occupied.

- i. all windows in the east elevation
- ii. all bathroom windows in the west elevation
- iii. second floor bathroom windows in the south facing roofslope

The windows shall be thereafter retained in this manner.

Reason: To protect the amenity and privacy of the adjoining property.

21. Approved Plans

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

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

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS19	Car and Cycle parking
CS20	Sustainability
CS22	Biodiversity
CS25	The Delivery of Infrastructure and Developer Contributions

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

SDP1	Quality of Development
SDP5	Parking
SDP7	Context
SDP9	Scale, Massing & Appearance
SDP10	Safety and Security
SDP12	Landscaping
NE4	Protected Species
H1	Housing supply
H7	Residential environment

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2012)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)



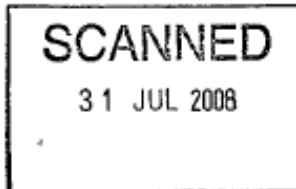
08/00610/FUL/31926

DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (General Development Procedure) Order 1995

Mr Chris Shipperley
Chapel Studios
14 Purewell
Dorset
BH23 1EP
UK



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

REFUSED

Proposal: **Erection of a new building (two-storeys plus additional accommodation in the roof space) to provide 12 x two bedroom flats with associated parking and vehicular access from Hawswater Close**

Site Address: **R/o 19-23 Crabwood Road Southampton SO16 9FD**

Application No: **08/00610/FUL**

For the following reasons:

01. Inappropriate massing and bulk

The proposed building, by reason of its massing and bulk is considered to be widely divergent from the character of buildings in the surrounding area. As such, the proposed development is considered to be contrary to Policies SDP1 (ii - in particular the guidance of paragraphs 3.7.7-3.7.8 and 3.9.5 of the Residential Design Guide [September 2006]), SDP7 (iii), SDP9 (i) and H7 (i)/(ii)/(iii) of the City of Southampton Local Plan Review (March 2006).

02. Failure to secure planning obligations

The proposal fails to satisfy the provisions of Policy IMP1 of the City of Southampton Local Plan Review (March 2006) and the Council's Supplementary Planning Guidance on planning obligations by not securing the following:

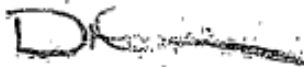
- a) measures to support sustainable modes of transport such as necessary improvements to public transport facilities and footways within the vicinity of the site;
- b) measures to support strategic transport initiatives;
- c) the provision of public space and children's play space to serve the needs of the

development as required by Policies CLT5 and CLT6 of the City of Southampton Local Plan Review (March-2006); and,

d) a commitment to repairing any damage to the public highway attributable to the build process.

Note to Applicant

1. The Local Planning Authority has decided to refuse planning application 08/00610/FUL on the basis of considering drawing nos.7714 (R1)/100A, 101, 102, 103 and 104 received by the Local Planning Authority on 28 April 2008 and 8 July 2008.



David Rothery *DR*
Development Control Manager

22 July 2008

For any further enquiries please contact:
David Randall

NOTES
 1. THIS PLAN IS THE PROPERTY OF PARSONS & JOYCE
 2. THIS PLAN IS FOR INFORMATION ONLY AND IS NOT TO BE USED FOR CONSTRUCTION
 3. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY CONSENTS AND APPROVALS
 4. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY CONSENTS AND APPROVALS
 5. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY CONSENTS AND APPROVALS



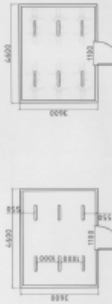
BLOCK PLAN
 SCALE 1:500
 BASED ON OS
 PLEASE NOTE: THERE IS A DISCREPANCY IN THE LOCATION OF THE BUILDINGS SHOWN IN THIS SURVEY



LOCATION PLAN
 SCALE 1:250
 BASED ON OS



SITE PLAN
 SCALE 1:200
 BASED ON TOPOGRAPHICAL SURVEY



CYCLE STORE PLANS
 SCALE 1:100



CYCLE STORE ELEVATIONS
 SCALE 1:100



BIN STORE PLANS
 SCALE 1:100



BIN STORE PLANS
 SCALE 1:100



EXISTING BUILDINGS TO BE DEMOLISHED



PROPOSED PLANTING



EXISTING LEVELS



PROPOSED LEVELS



TREES TO BE REMOVED



PREVIOUSLY REFUSED SCHEME OUTLINE



PLANNING 11 JUL 08
 SUSTAINAR

PROPOSED DEVELOPMENT
 12 X CAR SPACES & 2 X VISITOR CAR SPACES
 12 X CYCLE SPACES & 4 VISITOR CYCLE SPACES
 12 X BENCHES
 A. HIGHWAYS AMENDMENTS 08.07.08 WD

PROPOSED DEVELOPMENT
 LAND REAR OF 19-23
 CRABWOOD ROAD,
 SOUTHAMPTON, HANTS,
 SO16 9PD

PARSONS & JOYCE

PROPOSED SITE, BLOCK & LOCATION PLAN / BIN & CYCLE STORES

scale: AS SHOWN @ A1 | checked AP
 date: FEB 2008 | drawn: LM

7714 (R1)/100

ANDERS ROBERTS & ASSOCIATES LTD

CHARL TRODOL, 14 PINEWELL,
 CHRISTCHURCH, DORSET BH23 1EP
 TEL: 01302 47919
 FAX: 01302 49822
 WWW: www.andersroberts.com



16/01805/FUL/31926



DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (Development Management Procedure) (England) Order 2015

EMPERY + CO LTD
Mr Toby Peters
Parkstone Bay Marina
Turks Lane
Poole BH14 8EW

In pursuance of its powers under the above Act and Order, Southampton City Council as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

FULL APPLICATION - REFUSAL

Proposal: Erection of a 2 storey building containing 4 x 1 bed maisonettes with access from Wimpson Gardens and associated parking and cycle/refuse storage.

Site Address: Rear of 19 Crabwood Road, Southampton, SO16 9FD

Application No: 16/01805/FUL

For the following reason(s):

01. Overdevelopment and harm to the character of area
The redevelopment of the site in the manner proposed, due to the proposed footprint and hard-surfacing, would result in a combined building footprint and hardstanding area (including parking and circulation) exceeding 50% of the site coverage and, therefore, will represent an overdevelopment of the site. Furthermore, due to the siting of the proposal, the scheme would fail to provide sufficient useable amenity space, exacerbated by the tree coverage on the adjacent sites and its north facing position, to serve all residents. Additionally, car parking arising from the development could have a detrimental impact on the amenity of nearby residents. Consequently, the proposal is contrary to Policies SDP1, SDP7 and SDP9 of the Adopted City of Southampton Local Plan (2015), Policies CS5 and CS13 of the adopted Southampton Core Strategy (2015) and the relevant sections of the Council's Residential Design Guide Supplementary Planning Document (September 2006) especially Parts 2, 3 and 4.

02. Lack of Section 106 or unilateral undertaking to secure planning obligations.
In the absence of either a completed Section 106 legal agreement or unilateral undertaking to support the development the application fails to mitigate against its wider direct impact with regards to the additional pressure that further residential development will place upon the Special Protection Areas of the Solent Coastline. Failure to secure mitigation towards the 'Solent Disturbance Mitigation Project' in order to mitigate the adverse impact of new residential development (within 5.6km of the Solent coastline) on internationally protected birds and habitat is

contrary to Policy CS22 of the Council's adopted LDF Core Strategy as supported by the Habitats Regulations.



Samuel Fox
Planning & Development Manager

6 February 2017

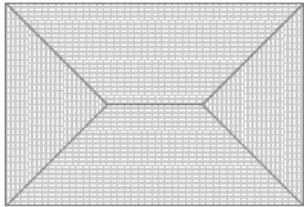
For any further enquiries please contact:
Anna Lee

IMPORTANT NOTE TO APPLICANT

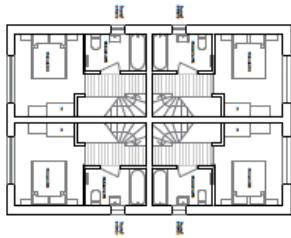
This decision has been made in accordance with the submitted application details and supporting documents and in respect of the following plans and drawings:

Drawing No:	Version:	Description:	Date Received:	Status:
01.1	October 2016	General Plan	20.10.2016	Refused
01.2	October 2016	General Plan	20.10.2016	Refused
DS/91116/AC	26 September	Arboricultural report	20.10.2016	Refused
1652J	27 June 2016	Transport assessment/statement	20.10.2016	Refused

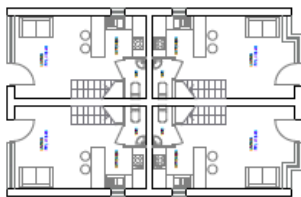
SITE AREA			
NO.	AREA	AREA	TOTAL
PROPOSED - GIA	NO.	AREA	TOTAL
Phd. 1	20	23.5	23.5
Phd. 2	20	23.5	23.5
Phd. 3	20	23.5	23.5
Phd. 4	20	23.5	23.5
Phd. 5	20	23.5	23.5
Phd. 6	20	23.5	23.5
Phd. 7	20	23.5	23.5
Phd. 8	20	23.5	23.5
Phd. 9	20	23.5	23.5
Phd. 10	20	23.5	23.5
Phd. 11	20	23.5	23.5
Phd. 12	20	23.5	23.5
Phd. 13	20	23.5	23.5
Phd. 14	20	23.5	23.5
Phd. 15	20	23.5	23.5
Phd. 16	20	23.5	23.5
Phd. 17	20	23.5	23.5
Phd. 18	20	23.5	23.5
Phd. 19	20	23.5	23.5
Phd. 20	20	23.5	23.5
TOTAL		470	470



ROOF PLAN
SCALE: 1/8"=1'-0"

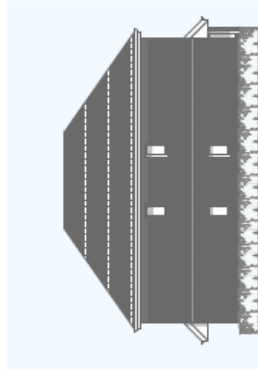


FIRST FLOOR PLAN
SCALE: 1/8"=1'-0"

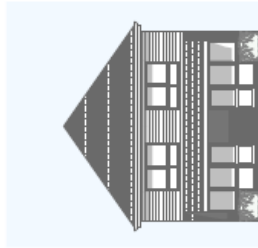


SECOND FLOOR PLAN
SCALE: 1/8"=1'-0"

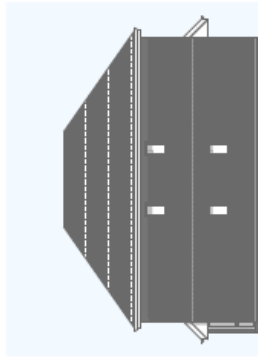
MATERIAL LISTING
 ROOF: Composite Deck
 EXTERIOR WALLS: Hardie Board
 INTERIOR WALLS: Drywall
 FLOORING: Carpet
 FINISHES: Paint



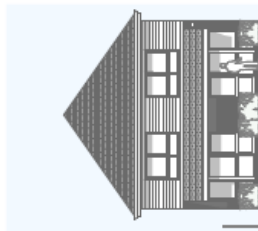
FRONT ELEVATION
SCALE: 1/8"=1'-0"



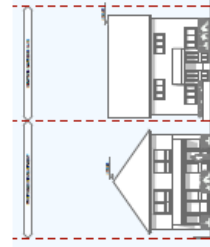
SIDE ELEVATION
SCALE: 1/8"=1'-0"



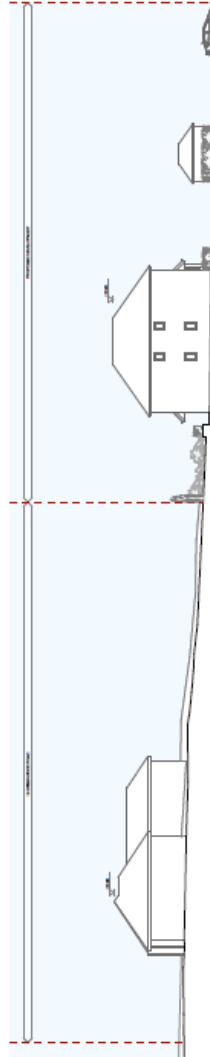
BACK ELEVATION
SCALE: 1/8"=1'-0"



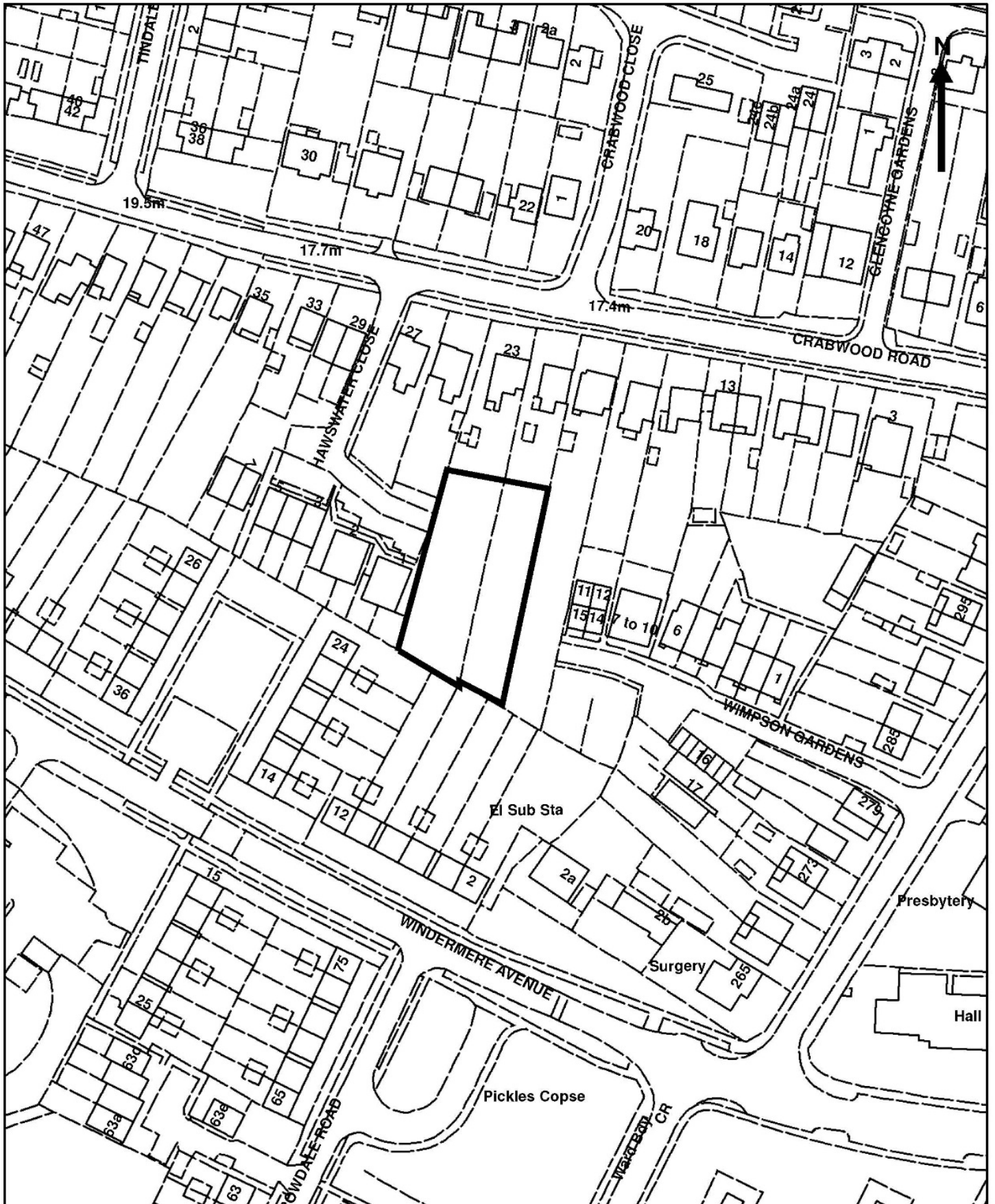
OTHER SIDE ELEVATION
SCALE: 1/8"=1'-0"



FLOOR PLAN
SCALE: 1/8"=1'-0"



SECTION
SCALE: 1/8"=1'-0"



Scale: 1:1,250

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Agenda Item 8

Planning and Rights of Way Panel 21st February 2017 Planning Application Report of the Service Lead – Infrastructure, Planning & Development

Application address: West Quay Shopping Centre and adjoining land, Harbour Parade and Portland Terrace.			
Proposed development: Non-Material Amendment sought to planning permission ref 13/00464/OUT to vary Condition 17 to allow extended working hours on Saturdays of 08:00 to 18:00 from 31 January 2017 to 31 July 2017 (09:00 to 13:00 on Saturdays currently permitted).			
Application number	17/00075/NMA	Application type	NMA
Case officer	Stephen Harrison	Public speaking time	5 minutes
Last date for determination:	13.02.2017	Ward	Bargate
Reason for Panel Referral:	Requested by the Service Lead – Infrastructure, Planning & Development given the strategic importance of the project	Ward Councillors	Cllr Bogle Cllr Noon Cllr Paffey
Referred to Panel by:	N/A	Reason:	N/A

Applicant: Hammerson (Watermark) Ltd	Agent: Barton Willmore
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Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	Not applicable
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Reason for raising NO OBJECTION

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The request for a Non-Material Amendment seeks to extend construction hours on a Saturday to enable the development to be completed in less time. There will be a direct impact of this change on nearby residents but given the temporary nature, the project's completion being close, and the limited extension proposed this impact is deemed to be acceptable. Other material considerations, such as those listed in the report to the Council's Planning and Rights of Way Panel on 21st February 2017, 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 a revision to planning permission 13/00464/OUT should therefore be granted.

The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to this proposal are Policies SDP 1 (Quality of Development) and SDP 16 (Noise) of the Local Plan and Policy AP25 of the City Centre Action Plan which is the site specific policy for the land north of West Quay Road, including the Watermark site as supported by the Council’s current adopted Supplementary Planning Guidance and the guidance contained with the evolving National Planning Practice Guidance.

Appendix attached			
1	Breach of Condition Notice		

Recommendation in Full

Conditionally Approve - The proposed change sought by this request is considered to provide a Non-Material Amendment to the approved planning permission. All planning conditions applicable to the extant planning permission remain in force

Background

The Panel will recall that a similar request to extend Saturday working for the construction phase at Watermark Westquay was considered at the meeting in July 2016 (LPA 16/00944/NMA). The request was approved and gave permission to work for longer on Saturdays until 31st December 2016. The approved Minutes for this meeting state that:

The Panel expressed concern that the developer had been operating outside of the permitted working hours and wanted assurance that action would be taken if the contract continued to ignore the permitted hours, especially with regard to working on Sundays.

RECORDED VOTE to grant planning permission

FOR: Councillors Barnes-Andrews, Denness, B Harris, L Harris and Hecks

AGAINST: Councillors Mintoff and Shields

RESOLVED

- (i) that planning permission be granted subject to the conditions listed in the report.*
- (ii) the Panel requested that officers write to the contractors expressing dissatisfaction with the previous working outside the permitted hours and stating that this should not continue in the future particularly on Sundays.*

This application seeks to extend Saturday construction working until 31st July 2017. Since the last Panel the Council has also issued a Breach of Condition Notice (BoCN) against the applicant for repeatedly working beyond the agreed construction hours, and this BoCN remains in force meaning that any evidence of further breaches will result in the applicants being prosecuted by the Magistrates Court. The Council’s Planning Enforcement Officer is monitoring the situation.

1. The site and its context

1.1 The application site is the first phase of the Watermark Westquay development on land directly to the south of the West Quay Shopping Centre (WQSC), between Portland Terrace and Harbour Parade. The approved development of a cinema, additional leisure accommodation, Class A3, A4 and A5 uses and associated public realm improvements is under construction and is programmed for completion in early 2017.

1.2 The surrounding area is predominantly commercial in character although to the east of the site are houses on top of the Town Walls at Forest View and Cement Terrace. The Premier Inn hotel adjoins to the west on the opposite side of Harbour Parade.

2. Proposal

2.1 This is an application to amend a condition of the previous planning permission to extend the hours of construction working on Saturdays for a limited period from the date of Planning Panel to 31st July 2017. The previously approved hours (the standard hours for Saturdays) are between 09.00 and 13.00 hours. The proposal is to extend those hours to between 08.00 and 18.00. Two previous applications to extend the hours have been granted 15/02244/NMA and 16/00944/NMA.

2.2 The applicants have suggested that, following the commencement of development, there have been several delays to the construction programme as set out below:

- a) Overall the construction industry is facing high market demands of both the supply chain and skilled labour. Supply chain delays such as concrete deliveries (and other materials) have occurred leading to delays in the delivery programme;
- b) Minor delays result in site stoppages as part of the company's management procedures. These occur when there is a need to address any overriding risks to the site team and local environment on health, safety and environmental grounds;
- c) Design complexities of the development envelope have led to delays in detailing specifications for construction to continue;
- d) The original planning condition for Saturday working (9am to 1pm) is too restrictive for any significant tasks to be carried out effectively within this time period.

2.3 The applicant has confirmed that works on a Saturday outside the current permitted hours will not be undertaken until confirmation is received that this amendment is acceptable to the Council.

3. Relevant Planning Policy & Guidance.

3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to this proposal are Policies SDP 1 (Quality of Development) and SDP 16 (Noise) of the Local Plan and Policy AP25 of the City Centre Action Plan which is the site specific policy for the land north of West Quay Road, including the Watermark site.

3.2 In 2009 the Government introduced a formal procedure for agreeing changes to an existing planning permission. Flexibility was offered for small changes to existing schemes without the need for applying again for the whole development.

A nominal planning fee and a 28 day target date applies, and it is for the Local Planning Authority to determine whether or not the requested changes can be treated as 'Non Material'. Further guidance on this relatively new process can be found within the 'National Planning Practice Guidance'. The Council can either 'object' (where there would be no right of appeal and the applicants would then need to make a planning application to formally vary the planning condition) or raise 'no objection' and issue a supplemental notice to the principal planning permission.

- 3.3 This procedure does not allow the Council, or the scheme's objectors, to revisit the planning merits of the original scheme as the planning permission will remain regardless of the decision made on the NMA application.

4. Relevant Planning History

- 4.1 In February 2014 outline planning permission was granted for a mixed use development including alterations to the West Quay Shopping Centre comprising Retail (Use Class A1, A2, A3, A4 and A5 - 19,500 square metres maximum floorspace); Hotel (Use Class C1 - 28,000 square metres maximum floorspace); Residential (Use Class C3 - maximum 260 flats); Leisure (Use Class D2 - 19,500 square metres maximum floorspace) including a Cinema; Offices (Class B1(a) - maximum 10,000 square metres floorspace); public open space; with associated car parking, access, highway, landscaping and other works including infilling the existing pedestrian subway in Bargate Street (13/00464/OUT refers)

- 4.2 Condition 17 of this permission reads as follows:

*APPROVAL CONDITION - Hours of work for Demolition/Clearance/Construction
All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of;
Monday to Friday 08:00 hours to 18:00 hours (8.00am to 6.00pm)
Saturdays 09:00 hours to 13:00 hours (9.00am to 1.00pm)
And at no time on Sundays and recognised public holidays.
Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the LPA.*

Reason:

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

- 4.3 In July 2014 reserved matters approval was granted for Phase 1 of the Watermark West Quay development (14/00668/REM refers). It is this development which is currently being built.
- 4.4 In January 2016 an amendment was approved (15/02244/NMA refers) for an extension of the hours of working on a Saturday up until the end of July 2016.
- 4.5 In July 2016 a further amendment was approved (16/00944/NMA refers) for a similar extension of the hours of working on a Saturday up until the end of December 2016.
- 4.6 This application is to further extend the hours of construction until the end of July 2017.

- 4.7 A further request for extended hours was withdrawn earlier this year when officer's advised that overnight working could not be supported:
- 4.8 16/02226/NMA – Withdrawn 10.01.2017
Non material amendment sought to planning permission ref 13/00464/OUT to vary condition 17 to allow extended working hours of 08:00 - 18:00 Monday - Saturday and 23:30 - 08:00 Monday - Saturday for Harbour Parade side of the building from 28 December 2016 to 31 January 2017.

5. Consultation Responses and Notification Representations

- 5.1 The Government's National Planning Practice Guidance explains that '*as an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views*'.
- 5.2 Once officers were comfortable that the submitted request could be considered as a NMA a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners (75 letters sent). At the time of writing the report **6 objections** (from 3 addresses) have been received from surrounding residents. The following is a summary of the points raised.
- 5.3 **Understand that the development is considered important to the city, but feel there must be a balance between this and the wellbeing of those residents living nearby. The development has been very disruptive and local residents have experienced months of noise, dust and late night disturbance with works carrying on into the evenings and at weekends. The developer in question has repeatedly shown utter contempt for both the residents of this area and conditions laid out in their existing planning permission. The council have a duty to protect the amenities of the occupiers of existing nearby residential properties.**
- 5.4 Response
It is unfortunate, but inevitable, that large scale regeneration projects of this nature result in some degree of noise and disturbance to adjoining occupiers, but officers do not condone the working outside of approved hours. This is a busy city centre location where the prevailing character is commercial in nature; the exception being Forest View and Cement Terrace where there are a total of 13 houses directly facing the development site. Like many projects this one has experienced delays due to adverse weather etc. An extension of the working hours on a Saturday only is not considered to be unreasonable given the nature of the surroundings. The BoCN is now served, and effective, meaning that the reported experience of neighbouring residents should no longer be repeated. Any further breaches will be reported to the Magistrates Court.
- 5.5 **At the previous meeting the Panel agreed amongst themselves that a city centre area such as the one under discussion is naturally very noisy on a Saturday and thus such work would have no impact. This is not the case at all, and even with the new development open now, the area is a pleasant and quiet area even on Saturday afternoon.**

5.6 Response
See response above

5.7 **Hammerson cannot be trusted to act in good faith with regard to planning permission and this latest application will allow them to work well beyond what is on paper.**

5.8 Response
The applicants are seeking an addition hour in the morning and five hours in the afternoon. See response above.

Consultation Responses

5.9 **SCC Environmental Health (Pollution & Safety)** – in response to application 16/00944/NMA raised no objection in principle to this application, but the applicant must ensure that the following comment is adhered to, '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 with the LPA.' To ensure there is no audibility of works outside of the building will require regular and frequent checks be carried out with an action plan in place that is followed to stop the works and hence the noise immediately if they are audible. Ideally written logs should be kept of these checks for inspection by the Council. Any works on the site are still controlled by the requirement not to cause noise nuisance, whatever the time of day. I should add that all works cannot be expected to be silent/inaudible but activities need to be controlled as to minimise both noise and dust. Controls include using best practicable means; adopting good work practices; good control of the workforce (to minimise loud voices, misuse of equipment and vehicles); planned maintenance of equipment, machinery and plant, and organisation of work to take into consideration that the noisier works which should take place in the middle of the day rather than early morning or late afternoon/evening. It is unfortunate that the works are taking longer than anticipated requiring this extension, but it will hopefully shorten the period overall during which construction continues to take place.

5.10 **SCC Highways** – No objections

6. Planning Consideration Key Issues

6.1 The key issues for consideration in the determination of this planning application are the importance of this key project for the city weighed against the impact on the amenities of local residents.

6.2 In 2009 the Government set out a formal procedure and guidance (“Greater Flexibility for Planning Permissions”) to enable applicants to secure confirmation from the Local Planning Authority (LPA) that minor changes to a consented scheme are acceptable without the need to obtain a further planning permission.

6.3 No definition of what constitutes a “Non-Material Amendment” is provided. The National Planning Policy Guidance explains that *“this is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another”*. The guidance explains that the LPA should be content that the proposed changes do not significantly alter the

permission.

- 6.4 The planning permission for this site is subject to a condition with the standard working hours across the city. For Saturdays, the hours are 09.00 to 13.00. This does not mean that no works can take place on the site outside of these hours but any such works should not be audible outside the buildings. Complaints have been received from local residents that the approved hours of work have been exceeded, including some works being carried out on Sundays. Following investigations of these complaints, the contractor has confirmed that no future works will take place on Sundays and a BoCN has been served meaning that any further breaches can now be followed up with prosecution action at the Magistrate's Court. The previous breaches should not influence a decision on whether or not Saturday working (as proposed) is acceptable.
- 6.5 Environmental Health and Planning Officers have been monitoring the site and been in regular contact with the contractors and the complainants. The ability to take action through planning powers and/or environmental protection legislation will be possible irrespective of the outcome of this application. Members' attention is drawn to the previous comments of the Environmental Health team as set out above.
- 6.6 This is a busy city centre location where background noise levels are high(er) including throughout the day on a Saturday. Permission has previously been granted (twice) for an extension of the Saturday hours up until the end of December 2016. In the circumstances, it is considered that a further limited period extension can be granted for Saturday working up until the end of July. In reality the applicants expect the scheme to have been completed well before July. This is an important regeneration project for the city centre and the developer is hoping to have the development completed shortly. The previous permission and NMA included an additional condition restricting deliveries to the site on Saturday afternoons and it is recommended that this condition is imposed again.
- 6.7 Should the Panel consider that the requested change cannot be supported a refusal could be issued. There is no right of appeal for NMA applications and the applicant would then need to apply for a formal variation of the permission where a similar objection could then be appealed. In reality, with the scheme nearing completion, it is not considered likely that this alternative approach would be pursued.

7. Summary

- 7.1 Extending the working hours on a Saturday is, again, considered to be reasonable in the circumstances of this case and the predominantly commercial nature of the surroundings.

8. Conclusion

- 8.1 That the application be approved for a limited period.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1 (a), 1 (b), 1 (d), 2 (b), 2 (e).

PLANNING CONDITIONS

For a temporary period expiring on 31 July 2017 Condition 17 of planning permission ref: 13/00464/Out is amended to read as follows:

17. 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 Saturdays 08:00 hours to 18:00 hours (8.00am to 6.00pm)

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

At the end of this period the permitted hours of work shall revert to that permitted by Condition 17 of outline planning permission reference 13/00464/OUT.

Add additional condition

APPROVAL CONDITION - Hours of deliveries to the site [Performance Condition]

No deliveries or collections of goods and materials shall take place after 13.00 on Saturdays for the duration of the extension of the hours of working hereby approved.

Reason

To limit traffic problems at peak hours on the highway network.



IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as Amended by the Planning and Compensation Act 1991)**

BREACH OF CONDITION NOTICE

Served by: Southampton City Council

To: The Site Manager, The Watermark, West Quay Development, Southampton and Sir Robert McAlpine Ltd, 1st Floor, 1-8 Ogle Road, Southampton, SO14 7HX and the Company Secretary, Hammerson PLC, 10 Grosvenor Street, London W1K 4BJ and The Company Secretary, Sir Robert McAlpine Ltd, Eaton Court, Maylands Avenue, Hemel Hempstead, Hertfordshire, HP2 7TR.

1 THIS IS A FORMAL NOTICE, which is served by the Council, under Section 187A of the above Act, because they consider that a condition imposed on a grant of planning permission, relating to the land described in paragraph 2 below, has not been complied with. They consider that you should be required to comply with the condition specified in this Notice. The Annex at the end of this notice contains important additional information.

2 THE LAND AFFECTED BY THE NOTICE

Land between Harbour Parade and Portland Terrace to the South of West Quay Shopping Centre, Southampton. (Also Known as Watermark, West Quay), shown edged red on the attached plan ("the Land").

3 THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by the Council on 21st February 2014 for Mixed use development including alterations to the West Quay Shopping Centre comprising Retail (Use Class A1, A2, A3, A4 and A5 – 19,500 square meters maximum floorspace); Hotel (Use Class C1 – 20,000 square meters maximum floorspace); Residential (Use Class C3 – maximum 260 flats); Leisure (Use Class D2 – 19,500 Square Meters maximum floorspace) including a Cinema; Offices (Class B1(a) – maximum 10,000 square meters floorspace); public open space; with associated car parking, access, highway, landscaping and other works including infilling the existing pedestrian subway in Bargate Street (Outline application with access for consideration at this stage – Environmental Impact Assessment Development) Ref **13/00464/OUT** subsequently amended by planning permission reference **16/00944/NMA** on 13th July 2016.


4 THE BREACH OF CONDITION

The following condition has not been complied with:

Condition No.17

Hours of work for Demolition/ Clearance/ Construction



Legend


Organisation	
Department	
Comments	
Date	

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)*

Amended to for a temporary period expiring on 31 December 2016 by ref: 16/00944/NMA

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

Monday to Saturdays 08:00 hours to 18:00 hours (8.00am to 6.00pm)

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.

5 WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition specified in paragraph 4 of this notice, you are required to *comply* with the stated condition by taking the following steps:

- (i) Cease all works relating to demolition, clearance and construction outside the permitted hours;*
- (ii) Comply with condition 17 as stated in paragraph 4 above.*

Period for compliance: 28 days beginning with the day on which this notice is served on you.

Dated: 30th November 2016



Signed.....

SERVICE DIRECTOR: LEGAL & GOVERNANCE
RICHARD IVORY, Solicitor
Southampton & Fareham Legal Services Partnership
Southampton City Council
Civic Centre
Southampton SO14 7LY

ANNEX

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVE IT BY POST

THERE IS NO RIGHT OF APPEAL AGAINST THIS NOTICE

It is an offence to contravene the requirements stated in Paragraph 5 of this Notice after the end of the compliance period. You will then be at risk of **immediate prosecution** in the Magistrates' Court, for which the maximum penalty is £2,500 for a first offence and for any subsequent offence. If you are in any doubt about what this notice requires you to do, you should get in touch *immediately* with Karl Collymore on (023) 8083 4318

If you need independent advice about this Notice, you are advised to contact urgently a Lawyer, Planning Consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for Judicial Review.

Do not leave your response to the last minute.

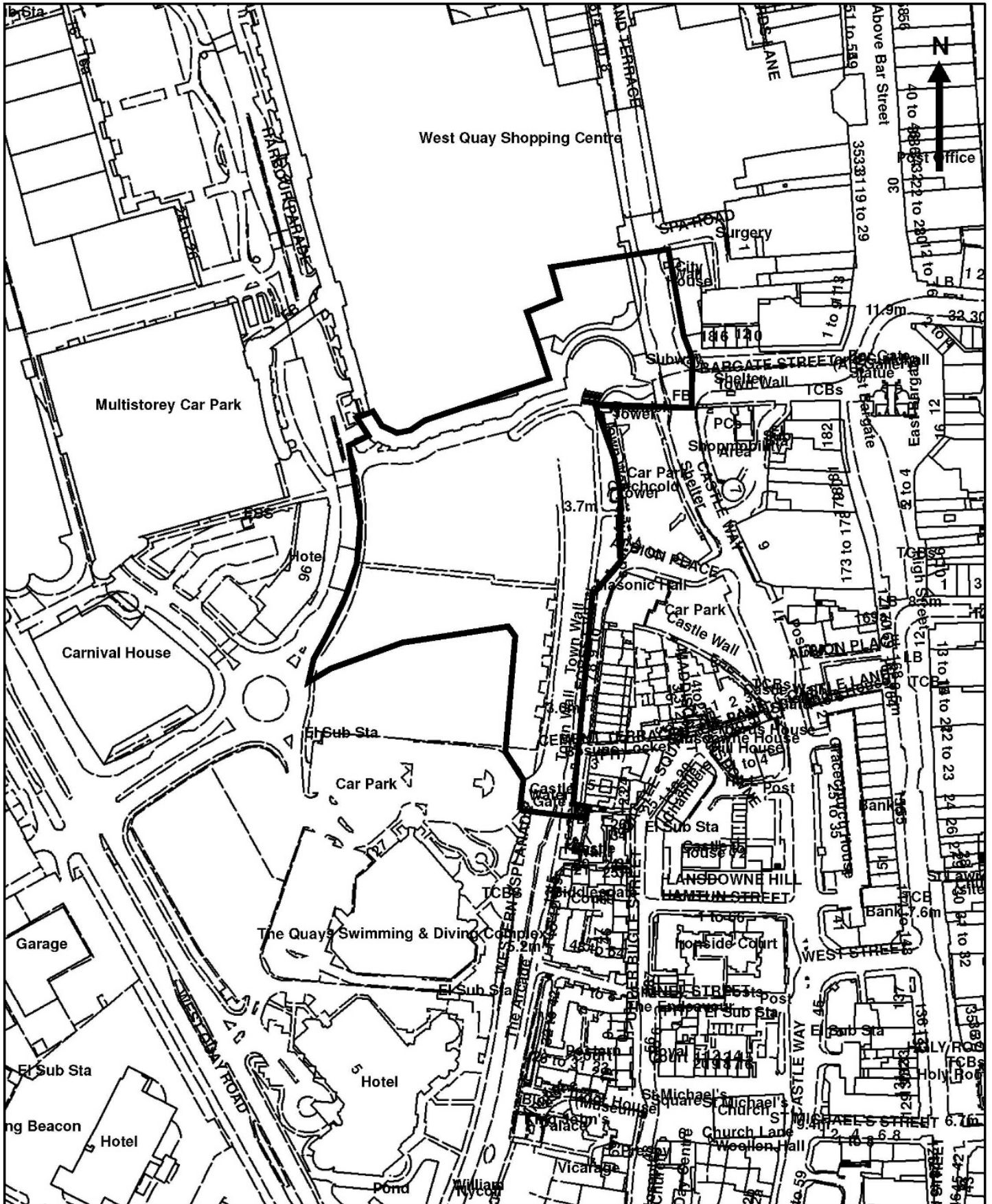
**TOWN AND COUNTRY PLANNING ACT 1990
(as Amended by the Planning and
Compensation Act 1991)**

BREACH OF CONDITION NOTICE

**LAND BETWEEN HARBOUR PARADE AND
PORTLAND TERRACE TO THE SOUTH OF
WEST QUAY SHOPPING CENTRE,
SOUTHAMPTON. (ALSO KNOWN AS
WATERMARK, WEST QUAY)
SOUTHAMPTON**

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Agenda Item 8 17/00075/NMA



Scale: 1:2,500

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DECISION-MAKER:	PLANNING RIGHTS OF WAY PANEL		
SUBJECT:	OBJECTION TO TREE PRESERVATION ORDER AT TEBOURBA WAY, MILLBROOK		
DATE OF DECISION:	21.02.16		
REPORT OF:	HEAD OF TRANSACTIONS AND UNIVERSAL SERVICES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Antony Peters	Tel: 023 8083 4028
	E-mail:	Antony.peters@southampton.gov.uk	
Director	Name:	Mitch Sanders	Tel: 023 8083 3005
	E-mail:	Mitch.Sanders @southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY	
None	
BRIEF SUMMARY	
<p>A Tree Preservation Order (TPO) was placed on a number of City owned trees along Tebourba Way following notification from the appellants' agent in which works detrimental to the trees' health and amenity value were proposed. The Order identifies 6 individual trees and 2 groups along Tebourba Way which I believe have demonstrably high amenity value from Tebourba Way.</p> <p>The proposal was to remove all overhanging vegetation and branches over to an adjacent property back to the boundary. I feel this work is excessive and would involve the removal of significant branches resulting in large wounds.</p> <p>This is the second Order to cover these trees. This is due to an administration error in the first Order which could not have been remedied any other way. The second Order was made on 2nd September 2016.</p>	
RECOMMENDATIONS:	
	(i) To confirm the Southampton (Tebourba Way 2) Tree Preservation Order 2015 (appendix 1) without further modification.
REASONS FOR REPORT RECOMMENDATIONS	
1.	The trees are valuable for public amenity, ecological benefit, visual screening and greening of the landscape. They are particularly important in this location next to a main road through the city. This not only increases the public visibility but also heightens the need for this canopy coverage as trees help improve air quality and reduce the negative impacts of exhaust gases & particulates.
2.	The works which were proposed would reduce the ability for the trees to provide these important benefits and result in trees which are visually unpleasing. Furthermore the wounds that would result from the proposals will be large, exposing heartwood and sapwood to colonisation by decay pathogens. Although the colonisation is not certain, is it certainly predictable

	and will result in a reduction of the trees' lifespan, ultimately leading to their premature removal at the city's expense.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
3.	To not confirm this Order. This would not offer the legal protection which is considered prudent for the future reasonable retention and management of the trees.
DETAIL (Including consultation carried out)	
4.	The order was made and notified to the agent, owner and a property on site (Unit A, Atlantic Works Oakley Road). One objection was received from the property owner's agent.
5.	<p>Emails were exchanged with the owners' agent and attempts were made to limit the proposed works to reduce the severity and impact on the trees.</p> <p>Despite the attempts made to resolve the concerns, which included a rejected request for a site meeting to discuss the trees in more detail, the agent and client still wish to prune the trees back to the boundary. This would reduce the amenity value of the trees and create large number of significant sized pruning wounds on the trees.</p>
6.	<p>A letter was received from the owner's agent objecting to the TPO (appendix 4).</p> <p>The objections which were raised are summarised below</p> <ul style="list-style-type: none"> ○ Objection Raised <ul style="list-style-type: none"> ○ this order has been borne out of further inefficiency by the Local Planning Authority rather than expediency ○ SCC Comment <ul style="list-style-type: none"> ○ Southampton City Council considered it expedient to protect the trees by serving a TPO due to the threat posed by the works submitted. ○ Objection Raised <ul style="list-style-type: none"> ○ The only tree works our client wishes to undertake would be to prevent damage and abate a nuisance to his property from overhanging branches by maintaining a reasonable clearance around his property which can be carried out as an exemption under a Tree Preservation Order. ○ SCC Comment <ul style="list-style-type: none"> ○ Southampton City Council are aware that works to abate a nuisance can be undertaken as an exemption to a TPO. However, the original works requested far exceed the works which would be required to abate a nuisance. ○ Objection Raised <ul style="list-style-type: none"> ○ We note that the Local Planning Authority state the reason for the serving of the Tree Preservation Order is due to concerns over the loss of these trees. We are unable to explain how the Local Planning Authority believe that minor pruning to these trees to abate a nuisance, constitutes loss ○ SCC Comment <ul style="list-style-type: none"> ○ The point which is raised in regards to the wording of the reasoning of the TPO is taken on board. It is unlikely that overhang pruning would result in the loss of these trees in the short term. This will be

	<p>addressed and our internal processes changed accordingly. This does not detract from the points made earlier where the canopy loss, amenity value reduction and creation of a large number of significant sized pruning wounds are mentioned as a reason to oppose the works.</p> <ul style="list-style-type: none"> ○ Objection Raised <ul style="list-style-type: none"> ○ the serving of a second Tree Preservation Order (T2-656) on the site protecting the same time is unlawful ○ SCC Comment <ul style="list-style-type: none"> ○ As detailed in The Town and Country Planning (Tree Preservation) (England) Regulations 2012, under regulation 10, the variation of a Tree Preservation Order is used to alter the schedule, plan or trees covered within it. The error was not in any of these sections and as a result the decision was taken to make a new TPO to avoid confusion. ○ No need or requirement was found to revoke the original TPO because it was made on a provisional basis. This means that after 6 months it will lapse and cease to be valid unless confirmed. The decision was taken to let the old TPO lapse and serve a new TPO which was legally correct and valid.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
8.	Cost will be those associated with the administration of confirming the Order and administration of any subsequent applications made under the Order.
<u>Property/Other</u>	
9.	If the order is confirmed, compensation may be sought in respect of loss or damage caused or incurred in consequence of the refusal of any consent required under the TPO or of the grant of such consent which is subject to condition. However, no compensation will be payable for any loss of development or other value of the land, neither will it be payable for any loss or damage which was not reasonably foreseeable.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
10.	In accordance with the Constitution, the officer has delegated power to make, modify or vary, revoke and not confirm Tree Preservation Orders under Sections 198 and 201 of the Town and Country Planning Act 1990; and to confirm such orders except where valid objections are received. If objections are received then the Planning and Rights of Way Panel are the appropriate decision making panel to decide whether to confirm the order or not.
<u>Other Legal Implications:</u>	
11.	The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy their possessions but it can be justified under Article 1 of the First Protocol as being in the public interest (the amenity value of the trees, tree groups and woodlands) and subject to the conditions provided for by law (the Town and Country Planning Act 1990) and by the general principles of international law.
POLICY FRAMEWORK IMPLICATIONS	
12.	None

KEY DECISION?	No	
WARDS/COMMUNITIES AFFECTED:	N/A	
<u>SUPPORTING DOCUMENTATION</u>		
Appendices		
1.	The Order: The Southampton (Tebourba Way 2) Tree Preservation Order 2016	
2.	Aerial image of the location of	
3.	Street view image of the trees concerned	
4.	The Objection as attachment	
Documents In Members' Rooms		
1.	None	
Equality Impact Assessment		
Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.		No
Privacy Impact Assessment		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		No
Other Background Documents		
Equality Impact Assessment and Other Background documents available for inspection at:		
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.	None	



Form of Tree Preservation Order

Town and Country Planning Act 1990

The Southampton (Tebourba Way 2) Tree Preservation Order 2016

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

Citation

1. This Order may be cited as The Southampton (Tebourba Way 2) Tree Preservation order 2016

Interpretation

2.— (1) In this Order “the authority” means the Southampton City Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

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

Dated this 2nd September 2016

Signed on behalf of the SOUTHAMPTON CITY COUNCIL

A handwritten signature in black ink, appearing to be 'MJS' followed by a large, stylized flourish.

Authorised by the Council to sign in that behalf

SCHEDULE 1

The Southampton (Tebourba Way 2) Tree Preservation order 2016

Individual Trees

(encircled black on the map)

No on Map	Description	Situation
T1	Monterey Pine	To the West of the property know as Atlantic Works, shown more particularly on the plan.
T2	Monterey Pine	To the West of the property know as Atlantic Works, shown more particularly on the plan.
T3	Monterey Pine	To the West of the property know as Atlantic Works, shown more particularly on the plan.
T4	Red Oak	To the West of the property know as Atlantic Works, shown more particularly on the plan.
T5	English Oak	To the West of the property know as Atlantic Works, shown more particularly on the plan.
T6	Beech	To the West of the property know as Atlantic Works, shown more particularly on the plan.

Groups of trees

(within a broken black line on the map)

No on Map	Description	Situation
G1	Monterey Pine	To the North West of the property know as Atlantic Works, shown more particularly on the plan.
G2	Maple	To the West of the property know as Atlantic Works, shown more particularly on the plan.

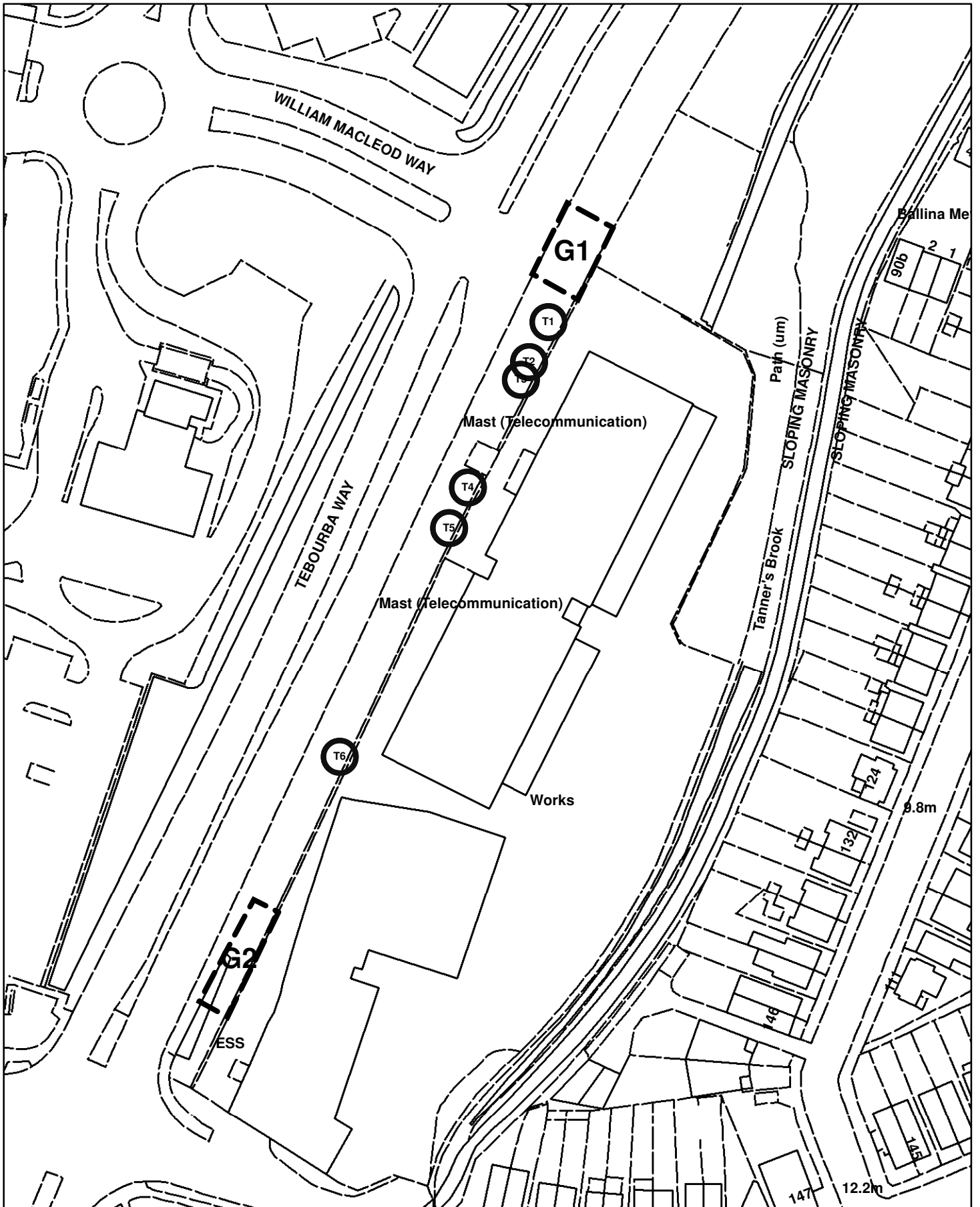
Woodlands

(within a continuous black line on the map)






No on Map	Description	Situation
	None	

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

No on Map	Description	Situation
	None	



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

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

The Southampton (Tebourba Way 2) Tree Preservation Order	
TPO Ref: T2-656	Department: Trees team
Drawn: AP Page 113	Scale: 1:1,000



Mitch Sanders
 Service Director
 Transactions and Universal Services
 Southampton City Council
 Southampton SO14 7LY

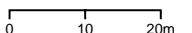
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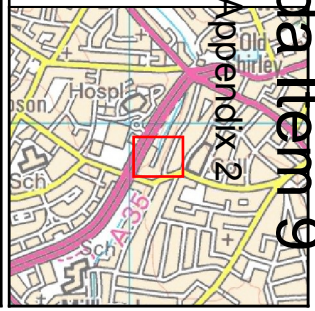
TPOs

- TPO
- TPO

Aerial photo 2011



Printed 07-02-2017

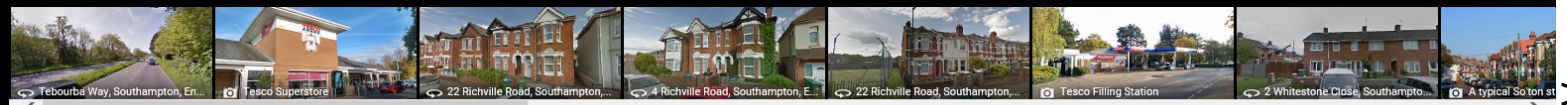
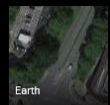
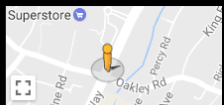


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NO THANKS YES



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Mark Hinsley

Arboricultural Consultants Ltd.

MSc Res Man (Arb), OND (Arb), F.Arbor. A.
Established 1994



Reg. Office Address: Office F11, 10 Whittle Road, Ferndown, Dorset, England BH21 7RU

Tel: 01202 876177 Email: enquiries@treeadvice.info

Company Reg. No. 07232825

VAT Reg. No. 730399627

Our Ref:3730/SWSC/TPOob/JC/9/16

30th September 2016-09-30

TPO Ref: T2-656

Trees Team
Southampton City Council
Civic Centre
Southampton
SO14 7LY

Dear Sir/Madam

TPO Objection under Regulation 6 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012.

We write on behalf of our client Mr. Peter Harding of Harding Holdings, Drivers Wharf, Northam Road, Southampton SO14 0PF to object to the recently made Tree Preservation Order (T2-656) for The Southampton (Tebourba Way) Tree Preservation Order.

The Trees that are the subject of this Objection are:

T1 Monterey Pine
T2 Monterey Pine
T3 Monterey Pine
T4 Red Oak
T5 English Oak
T6 Beech
G1 Monterey Pine
G2 Maple

Senior Consultant: Mark Hinsley MSc Res Man(Arb), OND(Arb), F.ArborA
Consultant: John Christopher FdScArb, HNC Building Studies
Arboriculturalist: Kym Brooks NDArb
Technician: Rebecca Hinsley BA(Hons), FdArt & Design
Support staff: Claire Perry, Teresa O'Neale

email: markhinsley@treeadvice.info
email: johnchristopher@treeadvice.info
email: kymbrooks@treeadvice.info

email: enquiries@treeadvice.info

Background Information to the Objection: Our client Harding Holdings initially approached Mark Hinsley Arboricultural Consultants Ltd to undertake a liability assessment of the tree resource in close proximity to his property along Tebourba Way in early March 2016. We undertook the site visit on the 22nd March 2016 and informally approached the Local Planning Authority on the same day to advise them of our concerns regarding a Monterey Pine. This Monterey Pine is situated on Southampton City Council land in close proximity to Tebourba Way, a busy traffic signalled T junction and our client's property, the tree had significant resin bleed and under our duty of care we contacted the Local Planning Authority to alert them to a potential safety concern.

After careful analysis of our liability survey, a Tree Works Application to undertake works to prevent damage and abate a nuisance from overhanging tree canopies along with removing several trees or limbs from trees either dead, in decline or within Southampton City Council land was submitted to Southampton City Council on the 6th May 2016. We fully understood that the trees along Tebourba Way were not covered by a Tree Preservation Order at that time; however we felt this formal approach to the Local Planning Authority was a considerate way of opening a line of discussion with them to best carry out works that did not require permission but could be considered sensitive due to the location of the trees and the need to undertake pruning cuts on Southampton City Council land.

On the 11th May 2016 a curt email response from the Local Planning Authority was received confirming that the trees were not the subject of a Tree Preservation Order. The response also clarified that the works within our clients land would need to be carried out with due diligence to ensure that the trees are not detrimentally affected. We also note that the Local Planning Authority considered any works exceeding the boundary of their land to be criminal damage and that any attempt to undertake such works would be met with prosecution.

On the 17th May 2016 a telephone call was held with the Local Planning Authority to explain the reasons for the formal approach and as a result of that phone call the Local Planning Authority expressed that they would revisit the site to consider the works in more detail. On the 31st May 2016 the Local Planning Authority requested a site meeting between ourselves, our client and the Local Planning Authority to be held on site to discuss the proposed pruning, however at that time we considered the cost to our client to attend a site meeting to be unreasonable and requested that the concerns the Local Planning Authority would like addressed at the site meeting could be briefly detailed within a written response for ourselves to take to our client justifying the cost of the meeting.

Disappointingly despite repeated phone calls and email approaches to the Local Planning Authority on the 1st June 2016 and 9th June 2016, we did not received any detail from the Local Planning Authority other than a notification of a response from them to be received on the 10th June 2016. No written detail was received from the Local Planning Authority on the 10th June 2016 and so again on the 21st June 2016 we emailed the Local Planning Authority to request the reasons for the meeting to be held. On the 22nd June 2016 the Local Planning Authority asked us again to put to them in writing the works we wished to carry out. As a final attempt to explain the works that our client wished to carry out to the trees a phone conversation was held with the Local Planning Authority to detail the pruning works that had already been addressed in both the formal Tree Works Application and repeated throughout our conversations with the Local Planning Authority between 6th May 2016 up until the 22nd June 2016.

On the 6th July 2016 formal notice of The Southampton (Tebourba Way) Tree Preservation Order T2-653 was received by mail detailing the order taking effect on a provisional basis from the 1st July 2016. A formal objection to this Tree Preservation Order was made on behalf of our client.

On the 2nd September 2016 a second Tree Preservation Order, The Southampton (Tebourba Way 2) Tree Preservation Order 2016 T2-656 was served on the site.

Grounds for Objection: We object to the confirmation of this Tree Preservation Order (T2-656) for several reasons.

As detailed above we believe this order has been borne out of further inefficiency by the Local Planning Authority rather than expediency. Mark Hinsley Arboricultural Consultants Ltd have repeatedly tried to engage in open discussion with the Local Planning Authority, our attempts to communicate have been met with resistance and an unwillingness to duly deal with trees on Southampton City Council land that are damaging and causing a nuisance to our clients property.

The only tree works our client wishes to undertake would be to prevent damage and abate a nuisance to his property from overhanging branches by maintaining a reasonable clearance around his property which can be carried out as an exemption under a Tree Preservation Order.

We note that the Local Planning Authority state the reason for the serving of the Tree Preservation Order is due to concerns over the loss of these trees. We are unable to explain how the Local Planning Authority believe that minor pruning to these trees to abate a nuisance, constitutes loss, especially when these trees are under the ownership of the Local Planning Authority and even if their removal was granted under a formal tree works application their removal could still not lawfully take place without the permission of the Local Planning Authority to enter their land and fell the trees.

We also believe that the serving of a second Tree Preservation Order (T2-656) on the site protecting the same trees as the first Tree Preservation Order (T2-653) and at the same time is unlawful for the following reasons.

Firstly the initial Tree Preservation Order T2-653 should have been modified or varied once it was recognised that it was not duly served as per Regulation 10 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Secondly at the point where the decision was taken to serve a second Tree Preservation Order (T2-656) on the site and not confirm the original Tree Preservation Order (T2-653). The original Tree Preservation Order should have been revoked and the persons interested in the land affected by the order of their decision been notified as such as per Regulation 9 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Therefore this Tree Preservation Order (T2-656) is unlawful, breaching our client's human rights and leaving the Local Planning Authority negligent.

We would also like the Local Planning Authority to recognise that should the Local Planning Authority confirm this or any other Tree Preservation Order they serve on the site, that any application the Local Planning Authority makes on its own trees should be decided by a committee or officer of the authority other than the one with responsibilities for management of the land in question.

Conclusion: We hope that the Local Planning Authority will see that the background information and objections noted above are sufficient to cause the Local Planning Authority to decide that this Tree Preservation Order should not be confirmed.

If you require any further information at this stage please do not hesitate to contact us.

Yours sincerely

John Christopher
Mark Hinsley Arboricultural Consultants Ltd

Senior Consultant: Mark Hinsley MSc Res Man(Arb), OND(Arb), F.ArborA
Consultant: John Christopher FdScArb, HNC Building Studies
Arboriculturalist: Kym Brooks NDArb
Technician: Rebecca Hinsley BA(Hons), FdArt & Design
Support staff: Claire Perry, Teresa O'Neale

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