

Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting **22<sup>nd</sup> June 2010**  
 Planning Application Report of the Head of Division

Application address	Land To R/O 104-106A East Street		
Proposed development:	Erection of a five-storey building to provide 14 flats (7 one-bedroom, 7 two-bedroom flats) with associated works		
Application number	10/00553/FUL	Application type	Full Detailed
Case officer	Bryony Giles	Application category	Major Small (Q07)

Recommendation Summary	<b>Delegate to Head of Planning &amp; Sustainability to grant planning permission subject to criteria listed in report.</b>
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Reason for Panel consideration	Major development (small scale) requiring completion of legal agreement under Section 106 of the 1990 Act
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Applicant: Southern Housing Group	Agent: Miller Hughes Associates Limited Bicentennial Building Southern Gate Chichester
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Date of receipt	21.04.2010	City Ward	Bargate
Date of registration	21.04.2010	Ward members	Cllr Bogle
Publicity expiry date	10.06.2010		Cllr Damani
Date to determine by	21 July 2010 In Time		Cllr Willacy

Site area	00.039 ha (390sqm)	Usable amenity area	337sqm
Site coverage (developed area)	294 sqm	Landscaped areas	(split between flats) 90sqm
Density - whole site	359 dph		

Residential mix	nos	size sqm	Other land uses	class	size sqm
Studio / 1-bedroom	7	46.98-51.09	Commercial use	-	-
2-bedroom	7	56.35-61.64	Retail use	-	-
3-bedroom	-	-	Leisure use	-	-
other	-	-	other	-	-
Policy designation	CLT 14				

Accessibility zone	High (Band 6)	Policy parking max	6 spaces
Parking Permit Zone	no	existing site parking	0 spaces
Cyclist facilities	yes	car parking provision	0 spaces
motor & bicycles	21 cycles	disabled parking	

Key submitted documents supporting application			
1	Design and Access Statement	2	Assessment of Noise Levels
3	Level, topographical and elevation surveys	4	Sustainability Check list
5	Structural and drainage design studies	6	Soil investigation
7	Study of low and renewable energy solutions	8	Shadow diagrams
Appendix attached			
1	Planning Policy	2	Planning History

## Recommendation in full

Delegate to Head of Planning & Sustainability to grant planning permission subject to the applicant entering into a Section 106 Legal Agreement to secure:

- a A financial contribution towards the relevant elements of public open space required by the development in accordance with policies CS21 & CS25 of the Local Development Framework Core Strategy Development Plan Document – Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) with regard to ;
  - Amenity Open Space (“open space”)
  - Play Space
  - Playing Field
- b To implement as agreed series of site specific transport works under S.278 of the Highways Act in accordance with policies CS18, CS19 & CS25 of the Local Development Framework Core Strategy Development Plan Document – Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended).
- c A financial contribution towards strategic transport projects for highway network improvements in the wider area in accordance with policies CS18 & Cs25 of the Local Development Framework Core Strategy Development Plan Document – Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended).
- d A highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
- e A financial contribution towards public realm improvements within the city centre as part of the North/South Spine strategy, in accordance with Policies CS13 & CS25 of the Local Development Framework Core Strategy Development Plan Document – Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended).
- f A financial contribution towards the renovation and repair of the Town Wall in accordance with appropriate SPG.
- g A refuse management plan to outline the methods of storage and waste collection of refuse from the land in accordance with policy SDP1 of the development plan and appropriate SPG.
- h The provision of a residents parking bay designated by the council by an order under the Road Traffic Regulation Act 1984 for use by residents of the locality in which the development is situated, and the issuing of residents parking permit to allow residents to park in the residents parking bay.
- i Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended).
- j In the event that the building has not achieved a shell and core finish (to be defined) within 18 months from the date of the decision notice the applicants shall submit an up to date Viability Appraisal for the Council’s consideration. Any increase in the

scheme's report profitability at that time (when taken against the figures reported within the application 10/00553/FUL) shall be reported to the Council with any increase in value being paid to the Council within 6 months of the Council's agreement of the revised viability )or within an alternative timescale to be agreed).

And that in the event that the legal agreement is not been completed by 21<sup>st</sup> July 2010 that the D C Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Agreement.

## **Background**

In 2006 the council resolved to grant planning permission (Ref: 05/01695/FUL) for the: *“Redevelopment of the site with a five-storey block of 16 flats (10 x 2 bedroom, 6 x 1 bedroom) and associated cycle parking”*.

Following a change in land owner, the scheme was not deemed viable and an entirely new proposal was produced to address the site's challenging constraints as well as being in accordance with current policy and design guidance. Due to the sites constraints and local significance (this is a key city centre site with an important historic context located on the edge of the Old Town North Conservation Area and immediately adjacent to a section of the Town Wall, a scheduled monument) detailed pre-application discussions were held the pre-submission period. The site is documented in the Old Town Development Strategy (April 2002)

On the 27<sup>th</sup> October 2009 the Planning and Rights of Way Panel resolved to grant planning consent for the erection of a five-storey building to provide 14 flats (7 x one bedroom, 7 x two bedroom flats) with associated works for social rent (Ref: 09/00842/FUL), subject to the applicant entering into a Section 106 agreement with the council. The Section 106 agreement was not completed and on the 3<sup>rd</sup> November 2009 the application was refused for its failure to comply with policy IMP1 of the adopted Local Plan Review (March 2006).

The current application is identical in design to the refused application submitted in 2009. However, with the application, the applicant has submitted a viability appraisal which sets out why in the current market the requirement to pay Section 106 costs is likely to result in the scheme not being built out, or at the very least being delayed and/or having to be developed for the private housing sector rather than housing for social rent.

The viability appraisal submitted by the applicant concludes that should the scheme be brought forward on the open market the site has a negative value. If brought forward for affordable housing (and therefore helped by grant funding) the input of the grant has a positive impact but the land value is approximately nil assuming no section 106 contributions. The applicant is therefore asking that all S106 contributions be waived for this development, in the interest of bringing an empty site into use and providing affordable housing within the city centre.

An independent assessment of the viability appraisal concludes that the assumptions made within the applicants' appraisal are fair and reasonable and that with no allowance for a profit having been made a private developer would be unlikely to undertake this development unless the units were offered for sale on the open market.

The council acknowledge the importance of bringing forward this site both in terms of its aesthetic improvements to the immediate area and in terms of providing quality affordable housing within the city centre. However, and as with all developments, there is a real need to mitigate against the effects of construction and an increase in the number of people living within an area. It is the local planning authority's view that a level of contribution must be sought, but given the circumstances a reduce contribution is reasonable.

As such, the applicant has been offered a reduction in Section 106 payments subject to the development coming forward for completion within 18 months of the date of the decision. The reduced payments will still require the developer to contribute a certain amount of money to all sections of the heads of terms listed within the above recommendation and will ensure that an appropriate amount of money is contributed towards the renovation and repair of the town wall.

## **Site and surrounds**

The application relates to the redevelopment of a rectangular parcel of land located on the corner of Canal Walk and Back of the Walls. The site was previously occupied by a stonemason's business and is now, following the removal of all buildings on site, in use as a storage area for the construction of a nearby development.

Located on the edge of the Old Town North Conservation area, this level site is accessed via Canal Walk and is bounded to the west by Back of the Walls, a car park serving 104 – 107 East Street to the north and a two storey building occupied by 'a restaurant to its east. To the immediate west of the application site stands the remains of a part of the old (medieval) town walls, this is protected as a scheduled monument.

The character of the area is mixed in terms of land use and architectural styles. A multi-storey car park is located to the south west, with servicing areas for the rear of shop units on East Street and the High Street surrounding it. The traditional red brick building to the north of the site is occupied by flats on its first and second floor, with the flat roofed two storey restaurant to the east of the site comprising of a red brick finish and traditional window proportioning. Directly opposite the site, the vacant land previously occupied by a nightclub has planning permission for the development of a part four-storey and part five-storey block of 36 flats (8 two-bedroom, 27 one-bedroom and 1 studio flats) approved under application 08/01009/FUL.

The site is in highly sustainable location within easy walking distance of the city centre facilities and amenities including the city parks, public transport, shops and services. The site is not located within a floodplain.

## **Application Details**

The development provides residential accommodation for 14 flats (comprising 7 one bedroom flats and 7 two-bedroom flats). The number of units proposed on site triggers a 20% affordable housing requirements under policy CS15 of the adopted Core Strategy. However, the applicant (a registered social landlord) has offered that, subject to market conditions, the site will provide 100% affordable accommodation. Should the development not be brought forward as 100% affordable accommodation, a clause within the S106 will require 20% of the 14 units to be affordable. This equates to 3 of the units proposed.

The proposal provides associated external courtyard at ground level, terraces at upper levels and servicing facilities grouped together along the eastern boundary. It is located with a defined area of high accessibility with good public transport links being found within the surrounding streets.

### The Building

The proposed building is a perimeter block development which is stepped in plan to form between three and five storeys of accommodation.

The top floor is set back forming a pavilion set behind a high solid guard feature. On its

southern elevation a mixture of glazing, balconies and projecting bays add depth to the design, providing an active frontage to the street scene, while offering external space for each unit.

As a design feature, and to ensure the proposed development does not adversely affect the scheduled monument to its west, the building has been designed to 'float' above the old town wall. The absence of the ground floor section here allows the rear of the site to be viewed from Canal Walk, allowing views through to the rear of East Street. This not only establishes a connection between the site and its surrounding area, but reduces the overall bulk and massing of the building.

Similarly, the staggered and stepped design of the building reduces its massing and provides appropriate articulation to its elevations.

The building is of modern design with a variety of building materials proposed. The external finishes include render, timber and metal. A textured cement finish for the west elevation has been chosen to act as a backdrop to the texture and colour of the Town wall. The range and quality of the materials to be used has been a key focus of the discussions with the city design team.

A mix of balconies and courtyard areas has been designed into the scheme to ensure that all units have access to a private out door space within the site.

## **Relevant Planning Policy**

### LDF Core Strategy - Planning Southampton to 2026

Following receipt of the Inspector's Report from the Examination into the Southampton Core Strategy Development Plan Document (13/10/2009) and its consideration and adoption by the Council (20/01/2010), the policies of the LDF Core Strategy, and those "saved" from the Local Plan Review form the planning policy framework, against which this application should be determined.

The relevant CS policies and the "saved" policies from the Local Plan Review are set out at **Appendix 1**. In particular, the adopted LDF Core Strategy Policy CS13 (Fundamentals of Design), as supported by Local Plan Policy SDP1 are relevant in the determination of this application, as are policies CS5, CS14, CS15, CS16, CS20, CS25 of the adopted Core Strategy.

Policy SDP1(i) requires planning permission to only be granted for development which does not unacceptably affect the health, safety and amenity of the city and its citizens.

Policy CS5 advocates that intensification and higher densities will be appropriate in some areas of the city in order to make best use of land, to support a range of local services and infrastructure and to create a residential environment with a mix of housing including smaller units and affordable housing. At all densities, residential development should be high quality, energy efficient and in line with best practice in sustainability and should maximise outdoor space, for example by providing gardens, roof terraces or balconies.

Policy CS13 (11) expands on this requiring urban form and scale to be considered and advocates the need to make higher densities work, being of an appropriate scale, massing and appearance.

Policy CS14 seeks to safeguard against inappropriate development and enhance important historical assets. Particular reference is made to the medieval walled town as a primary aim for protection.

Policy CS15 requires 20% affordable housing to be provide on site, while policy CS16 seeks to ensure a mix of housing types in order to ensure balanced and sustainable communities.

Policy CS25 states that development will only be permitted if necessary infrastructure, services and facilities are available or will be provided through financial contributions and brought forward at the appropriate time.

### Sustainability Implications

Major developments are expected to meet high sustainable construction standards in accordance with the City Council's adopted policies. In accordance with adopted Core Strategy Policy CS20 and Local Plan saved Policy SDP13 the applicant has submitted a 'Sustainable Development Checklist' to support their application and have made a commitment to achieving a Code for Sustainable Homes Level 3.

### **Relevant Planning History**

Planning application 05/01695/FUL for the Redevelopment of the site with a five-storey block of 16 flats (10 two-bedroom, 6 one-bedroom) and associated cycle parking. Details attached as **Appendix 2**.

09/00842/FUL - Erection of a five-storey building to provide 14 flats (7 x one bedroom, 7 x two bedroom flats) with associated works – REF – 03.11.2009.

Reason for refusal: Section 106 Legal Agreement

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

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

B) Measures to satisfy the provision and maintenance of play space required by the development in line with policies CLT6 and IMP1 of the City of Southampton Local Plan March 2006 and adopted guidance on Planning Obligations August 2005.

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

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

E) Measures to satisfy the provision of vehicular access to the site required by the development in line with policies SDP1, SDP3, SDP4 and IMP1 of the City of Southampton Local Plan March 2006.

F) Measures to satisfy the public realm contributions of the development have not been sought in accordance with the appropriate SPG.

G) Measures to satisfy contributions towards the renovation and repair of the Town Wall have not been sought in accordance with the appropriate SPG.

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

I) Measures to satisfy obligations relating to resource conservation measures to comply with policy SDP13 of the City of Southampton Local Plan March 2006 have not been sort.

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

#### Section 106A Informative

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

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

A publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement as appropriate and erecting a site notice. At the time of writing the report 1 representation had been received from surrounding residents objecting to the application.

#### Summary of representations

**The proposed construction works will cause an inconvenience to neighbouring business at 81-82 and 79 Canal Walk and will result in a down turn in trade, which will be detrimental to the lives of those who own the business and work there.**

#### Response

As with all redevelopment sites within the city centre, including that recently having been undertaken immediately opposite the site, it is recognised that construction does cause a temporary nuisance to those living, working and visiting the locality. It is wholly appropriate to impose conditions to mitigate disturbance and issues such as hours of construction, noise and dust suppression measures, the storage of materials and the parking of construction vehicles can be controlled with a planning condition to secure a 'Demolition and Construction Management Plan'.

#### Summary of Consultation comments

**SCC Archaeologist** - The site is of high archaeological importance being located adjacent to the Town Walls and partly over the line of the former ditch that ran alongside the original walls. If the planning application is approved, two conditions should be attached to ensure that (in accordance with Policy HE6 of the Local Plan) the archaeology is investigated recorded and published. These are: M001 and M005.

**SCC Conservation Officer** – No objections to the proposal.

**SCC Highways DC** – A car free scheme, the development's servicing requirements and all highway safety issues are considered to accord with policy. No objection raised subject to the attached planning conditions and S.106 clauses.

**SCC Environmental Health** – No objections raised subject to the imposition of conditions restricting the hours of construction and bonfires on site.

**SCC Land Contamination** – No objection raised subject to the imposition of conditions land Contamination investigation and remediation.

**SCC Sustainability** - Code level 3 supported. The imposition of condition ensuring compliance with Code for Sustainable homes level 3, sustainable drainage systems, renewable energy (Micro-renewables).

**SCC City Design** - City design have been involved in pre-application discussions on the site and are supportive of the proposed scheme.

**English Heritage** – No objection in principle, subject to approval of detailed design/materials for that part of the new building seen in context with the historic town wall, appropriate provision for the protection of the scheduled monument during construction, and for an appropriate level of archaeological mitigation for piling and ground works entailed in construction.

**SCC Play Services** – Offsite contribution for Threefield Lane Play area required as part of the S.106.

**BAA** – No objection to the proposal

**Southern Water** – The applicant has submitted a build over application to resolve the issue of building over an existing public sewer. Provided the works are carried out at the expense of the developer, Southern Water have raised no objection to the application subject to the imposition of appropriate conditions to ensure measures are undertaken to divert the public sewers, prior to the commencement of the development.

**Architects Panel comments made for previous application -**

- A strong scheme, perhaps not to all taste but the contemporary design is welcomed.
- Cantilever of upper floors respects integrity of historic town wall.
- One unit on the top floor has a very limited roof terrace.
- Notwithstanding the set back of the fifth floor, some aspects of this floor appear overbearing and out of scale with the surroundings. Removal of the top floor would improve the scheme.

**KEY ISSUES**

The key issues in the determination of this application are:

- i. The principle of residential development in this location
- ii. The design approach and its impact on the existing character of the street;
- iii. The impact of the development on an ancient scheduled monument (town walls)
- iv. The impact on existing and future residential amenity
- v. The requirement for a S106 agreement

**Planning Considerations**

The proposed scheme has to be assessed in terms of the Key Issues (identified above) together with whether the proposed development is acceptable in terms of the provisions of the Local Plan and the Council’s supplementary planning guidance.

The principle of residential development

The principle of redevelopment has been assessed as acceptable against the relevant policies of the adopted Core Strategy (January 2010) and the ‘saved’ Local Plan policies as



highlighted above. The Planning and Rights of Way Panel's resolution to approve application 09/ 00842/FUL and the council's favourable determination of the previous application 05/01695/FUL are also material considerations that should be afforded significant weight in the determination of this application.

#### The design approach and its impact on the established character;

This application proposes a development that maximises the potential of this previously developed land. The proposed density accords with the minimum density requirements identified by adopted Core Strategy policy CS5 (Housing Density) and paragraph 3.2.5 of the Residential Design Guide.

In June 2006 planning permission was granted for a five storey block of 16 flats on this site. The design of the approved building is similar in approach to the proposed scheme, but is not as well articulated, has limited amenity space and would appear greater in mass and height than the proposed building if built.

The proposed design makes efficient use of the site while avoiding overdevelopment. The primary access is in a prominent and easy to identify location on the corner of the site. Sufficient measures have been taken to ensure that entrances are safe and well surveyed. However, in response to comments made by the Hampshire Constabulary conditions requiring additional security controls on the building will be imposed.

Views of the site are limited to short range views; from East Street, Canal Walk and Back of the Walls. However, the design responds well to these offering a positive aspect to each view opportunity. The step up of the building from three to five storey's (with the fifth storey being significantly recessed) ensures the development does not dominate the street scene or appear overbearing in relation to neighbouring buildings. This, coupled with the highly articulated front elevation, reduces the overall bulk and massing of the building resulting in a design that responds to the context of the surrounding area.

The design also acknowledges that the rear elevation will be visible from East Street and has ensured that this has received as much design attention as the other more prominent edges.

Whilst it is appreciated that the introduction of a 5 storey building will have an impact on the existing amenity of neighbouring properties, it is judged that this impact will not be harmful. The proposed scheme is an improvement on the approved and will go a long way in improving the character and appearance of this area which at present appears rundown and inactive.

The contemporary nature of the design approach and the contrast between the design of each elevation reinforces the historic alignment of the Old Town Walls that run perpendicular to the site and will improve the character and appearance of the built environment.

It is considered that the proposed development will be a positive improvement to the visual aesthetic of the surrounding area and therefore complies with policy CS13 of the Core Strategy (January 2010) and saved policies SDP1, SDP7, SDP8 and SDP9 of the City of Southampton Local Plan Review (March 2006).

#### The impact of the development on an ancient scheduled monument

The proposal specifies that no building foundations should encroach within 4m of the scheduled wall, therefore providing a minimally satisfactory stand-off which will allow the monument to be retained as a spatially distinct feature.

Proposals further entail the cantilevering of the second floor of the apartment block to support upper floors above what would effectively comprise a double height undercroft. Upper floors would therefore be projected to a line approximately equivalent to that represented by the wall and would display clearance above the wall of approximately 2.5m. Consequently, although not directly affected by the proposed development, the scheduled monument would be visually show-cased within an imposing new structure. The use of the flat panel technique to extend the impression of “wall” along the historic edge of the town wall is an innovative one and is supported.

A very simple finish to this elevation will complement and contrast with the highly-textured appearance of the remaining section of the Old Town Walls beneath. The integration of the medieval wall offset by a modern elevation allows the emphasis of the monument as an historic feature within the street scene.

The proposed development offers a valuable opportunity for the conservation, presentation and public interpretation of the scheduled section of wall. It is considered that, subject to the compliance with necessary conditions, the application addresses the provisions of policies CS14, SDP1 and HE6 of the development plan and the Old Town Development Strategy.

#### The impact on existing residential amenity

On average there is 24sqm of amenity space available per unit. While this is not split evenly, each unit has access to a balcony and/or roof terrace plus the use of the communal courtyard areas. Given the site’s city centre location the amount of amenity space provided accords with policy and will provide a reasonable standard of residential environment for future occupants of the site.

Privacy and outlook distances are successfully achieved. The proposed roof terraces and balconies have been sensitively designed so as not to overlook any existing neighbours or units within the building itself. The use of tall vertical windows with coloured glazing in the northern (rear) elevation allows light into the units without direct overlooking of the property to the north.

Shadow diagrams indicate that an acceptable level of natural light and outlook would be maintained to the 4 flats at 104a -106 East Street.

Given the site’s high accessibility location a car free scheme accords with policy SDP5 (Appendix 1).

Appropriate cycle and refuse storage has been provided for future occupants of the site. For the previous application (09/00842/FUL) Hampshire Constabulary requested that the visitors’ cycle storage spaces are enclosed within a storage unit which is secure and lockable. These concerns are recognised, however, it is considered that by introducing a store in this location the design of the courtyard will be compromised, as will views of the Old Town Wall as seen from the street. The entrance point to the development is gated and will be secure and sufficient provision has been made for secure long stay cycle storage for occupants of the building.

It is not considered that the proposed development will lead to any adverse impact on the surrounding properties in terms of overshadowing, loss of outlook or loss of privacy. As such the application is again considered to address the requirements of adopted Core Strategy policies CS13 and CS14 and ‘saved’ Local Plan policies SDP1(i), SDP7(v) and SDP9(v) as supported by the relevant sections of the Council’s approved Residential Design Guide SPD (2006).

## The requirement for a S106 agreement

The council has considered the viability appraisal submitted with the application. A reduced S.106 contribution has been sought on the basis of this viability assessment. In the event that the recommendation is supported the applicant would be required to enter into a S106 agreement with the council based on the revised level of contribution in order to secure the planning permission.

### **Summary**

The final design of this development is considered to respond successfully to a constrained city centre site, using contemporary design techniques in proximity to a high profile heritage feature (old town walls) it will make a positive contribution to the built environment.

The previous conditions recommended for application 09/00842/FUL are to be re-imposed with additional conditions added in accordance with updated consultation responses and the adoption of the Core Strategy.

### **Conclusion**

The application is recommended for conditional approval subject to a S.106 legal agreement being completed.

### **Corporate Awareness Considerations**

The planning assessment made on this planning application proposal has taken into account the relative importance of Council initiatives and corporate aims as considered appropriate to the formulation of the recommendation reached. The recommendation is considered to accord with the wider aims and objectives of the councils agenda.

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

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

1(a), 1(b), 1(c), 1 (d), 2 (c), 2 (e), 4(s), 4 (am), 4(au), 5 (e), 6(a), 6(c), 6(h), 7 (a), 7(c), 7 (m), 7 (q), 7 (w), 7 (x), 7 (z), 8(a), 9(a), 9(b) and PPS5 – Planning and the historic environment

### **BG 08.06.2010 for 22.06.2010 PROW Panel**

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RECOMMENDATION:        DEL

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## **CONDITIONS for 10/00553/FUL**

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

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

Reason:

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

### **02. APPROVAL CONDITION - Details & samples of building materials to be used [Pre-Commencement Condition]**

No development works shall be carried out unless and until a detailed schedule of materials and finishes including samples (if required by the LPA) to be used for external walls and the roof of the proposed buildings has been submitted to and approved in writing by the Local Planning Authority. Details shall include all new glazing, panel tints, stained weatherboarding, drainage goods, the ground surface treatments formed and details of the water catch tray to be located on the west elevation of the building. 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. APPROVAL CONDITION - Landscaping detailed plan [Pre-Commencement Condition]**

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

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

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

Reason:

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

### **04. APPROVAL CONDITION - Archaeological work programme [Performance Condition]**

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.

#### 05. APPROVAL CONDITION – Archaeological damage-assessment [Pre-Commencement Condition]

No development shall take place within the site until the type and dimensions of all proposed groundworks have been submitted to and agreed by the Local planning Authority. The developer will restrict groundworks accordingly unless a variation is agreed in writing by the Local Planning Authority.

Reason: To inform and update the assessment of the threat to the archaeological deposits.

#### 06. APPROVAL CONDITION - Archaeological investigation [Pre-Commencement Condition]

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.

#### 07. APPROVAL CONDITION- Land Contamination investigation and remediation [Pre-Commencement & Occupation 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 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.

#### 08. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]

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

Reason:

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

#### 09. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority.

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

Reason:

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

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

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

REASON:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy

#### 11. APPROVAL CONDITION – Sustainable Drainage Systems (Pre-Occupation Condition)

Prior to the commencement of development a feasibility study demonstrating an assessment of the potential for the creation of a sustainable drainage system on site shall be carried out and submitted to the Local Planning Authority. Any measures shown to be feasible shall be verified in writing by the Local Planning Authority and implemented prior to first occupation of the development hereby granted consent. If the study demonstrates the site has the capacity for the implementation of a sustainable drainage system, a specification shall be agreed in writing with the Local Planning Authority. A sustainable drainage system to the approved specification must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter. In the development hereby granted consent, peak run-off rates and annual volumes of run-off shall be no greater than the previous conditions for the site.

##### REASON:

To conserve valuable water resources, in compliance with and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) and to prevent an increase in surface run-off and reduce flood risk.

#### 12. APPROVAL CONDITION – Renewable Energy - Micro-Renewables (Pre-Commencement Condition)

An assessment of the development's total energy demand and a feasibility study for the inclusion of renewable energy technologies on the site, that will achieve a reduction in CO2 emissions of 15% must be conducted. Plans for the incorporation of renewable energy technologies to the scale that is demonstrated to be feasible by the study, and that will reduce the CO2 emissions of the development of 15% be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development hereby granted consent. Renewable technologies that meet the agreed specifications must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter.

##### REASON:

To reduce the impact of the development on climate change and finite energy resources and to comply with adopted policy CS20 of the Local Development Framework

#### 13. APPROVAL CONDITION - Access Control

The following standards in relation to enhance security must be met;

- The outer communal doorsets, patio doors and flat entry doorsets must be to BS PAS 23-1 1999/BS PAS 24-1 1999: Doors of Enhanced Security.
- The ground floor windows within the development should be to BS 7950 1997; windows of enhanced security and laminated on the inner pane.
- The flats must be provided with audio/visual control of visitors through the communal access doorset.

Details of the specified measures must be submitted to and agreed in writing by the local planning authority prior to the occupation of the units hereby approved.

##### Reason

To help resist criminal intrusion and to reduce the fear of crime.

#### 14. APPROVAL CONDITION - Cycle store materials [Pre-commencement Condition]

The cycle store hereby approved must be built in brick and secured by a solid wooden door (44mm thick) hung with a hardwood framing on captive pin security hinges with hinge bolts and locked by a 5 lever mortice deadlock to BS 3621:2004. Furthermore, details of the illumination of the store must be submitted for consideration by the local planning authority and agreed in writing prior to the development of the cycle store. The cycle store must be retained and maintained in these materials at all times.

##### Reason

To help resist criminal intrusion and to reduce the fear of crime.

#### 15. APPROVAL CONDITION - Provision of on-site facilities for future occupiers (Performance Condition)

The amenity space areas, refuse store and cycle store shown on the approved plans shall be provided in full with proper access to them prior to first occupation of any of the units hereby approved and thereafter permanently retained for the benefit of the occupiers of the flats.

##### REASON

In the interests of the amenities of future occupiers.

#### 16. APPROVAL CONDITION - 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.

#### 17. APPROVAL CONDITION - Construction traffic access/ egress arrangements (Pre-Commencement Condition)

Prior to works commencing on the site details of the means of access for construction (and demolition) of the structures on the site shall be submitted to and agreed with the Local Planning Authority. Such details shall indicate any areas of equipment and material storage during the work period and any measures to limit the possible nuisance effects on surrounding and neighbouring residential and business properties.

##### Reason:

In order to protect the residential amenity of nearby properties.

#### 18. APPROVAL CONDITION - Material Storage (Pre-Commencement Condition)

Unless otherwise agreed in writing by the local planning authority, no work shall be carried out on site unless and until provision is available within the site, in accordance with details to be submitted to and approved in writing by the Local Planning Authority, for all temporary contractors buildings, plant and stacks of materials and equipment associated with the development and such provision shall be retained for these purposes throughout the period of work on the site. At no time shall any material or equipment be stored or operated from the public highway.



Reason:

To avoid undue congestion on the site and consequent obstruction to access.

19. APPROVAL CONDITION - 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 LPA. 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.

20. APPROVAL CONDITION – Diversion of Public Sewer (Pre-Commencement Condition)

Prior to the commencement of any development the developer must advise the local authority in writing, and in consultation with Southern Water, of the measures which will be undertaken to divert the public sewers. Once agreed the scheme shall be implemented in accordance with the agreed details and thereafter maintained.

Reason:

To ensure the protection and maintenance of the public sewer.

21. Approval Condition – Foul and Surface Water Disposal - [Pre-commencement condition]

Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved by the local planning authority. Once approved the development shall be implemented in accordance with the agreed details and thereafter retained and maintained at all times.

Reason

To ensure appropriate connection with the foul drainage system and drainage provision.

22.

APPROVAL CONDITION - Material Storage adjacent to the Town Wall (Performance Condition)

No storage of goods including temporary contractors buildings, plant and stacks of materials and equipment associated with the development shall be stored within 4m of the Town Wall, an scheduled monument.

To preserve the scheduled monument in the interest of historic conservation.

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

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

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

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

And at no time on Sundays and recognised public holidays.

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

Reason:

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

#### 24. APPROVAL CONDITION - Bonfires [Performance Condition]

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

Reason:

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

#### Reason for granting Planning Permission

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

Policies – CS4, CS5, CS13, CS14, CS15, CS16, CS19, CS20, CS25 of the adopted Core Strategy (January 2010) and SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, H1, HE1, HE6 and of the City of Southampton Local Plan Review (March 2006).

#### Notes to Applicant

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

2. A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for development please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, So23 9EH (01962 858688) or southernwater.co.uk.



**POLICY CONTEXT**

The application needs to be assessed in the light of the following local planning policies.

***City of Southampton Local Plan Review- Adopted Version March 2006***

SDP1	Quality of Development
SDP3	Travel Demands
SDP4	Development Access
SDP5	Parking
SDP7	Context
SDP9	Scale, massing and appearance
SDP10	Safety and security
H1 (iii)	Housing Supply
HE1	New Development in Conservation Areas
HE6	Archaeological Remains
CLT 5	Open Space
CLT6	Children's play space
IMP1	Provision of Infrastructure

***Core Strategy Adopted Version January 2010***

- CS4 - Housing Delivery
- CS5 - Housing Density
- CS13 – Fundamentals of Design
- CS14 - Historic Environment
- CS15 - Affordable Housing
- CS16 - Housing Mix and Type
- CS19 – Car & Cycle Parking
- CS20 - Tackling and Adapting to Climate Change
- CS25 - The delivery of infrastructure and Developer Contributions

**Supplementary Planning Guidance**

- Residential Design Guide (Consultation Draft, April 2006)
- Planning Obligations (August 2005)
- Old Town Development Strategy

**Other relevant guidance**

- PPS1 – Sustainable Development
- PPS 3 – Housing
- PPS 5 – Historic Environment

**PLANNING HISTORY**

**09/00842/FUL** - Erection of a five-storey building to provide 14 flats (7 x one bedroom, 7 x two bedroom flats) with associated works – Refused. 3<sup>rd</sup> November 2009.

Reason for refusal:-

**Section 106 Legal Agreement**

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

- A) Measures to satisfy the public open space requirements of the development have not been secured. As such the development is also contrary to the City of Southampton Local Plan Review Adopted Version March 2006 Policy CLT5.
- B) Measures to satisfy the provision and maintenance of play space required by the development in line with policies CLT6 and IMP1 of the City of Southampton Local Plan March 2006 and adopted guidance on Planning Obligations August 2005.
- C) Measures to support sustainable modes of transport such as necessary improvements to public transport facilities and pavements in the vicinity of the site have not been secured contrary to the City of Southampton Local Plan Review Adopted Version March 2006 policies SDP1, SDP2 and SDP3;
- D) Measures to support strategic transportation initiatives have not been secured. As such the development is also contrary to the City of Southampton Local Plan Review Adopted Version March 2006 policies SDP1, SDP2 and SDP3;
- E) Measures to satisfy the provision of vehicular access to the site required by the development in line with policies SDP1, SDP3, SDP4 and IMP1 of the City of Southampton Local Plan March 2006.
- F) Measures to satisfy the public realm contributions of the development have not been sought in accordance with the appropriate SPG.
- G) Measures to satisfy contributions towards the renovation and repair of the Town Wall have not been sought in accordance with the appropriate SPG.
- H) Measures to support a refuse management plan to outline the methods of storage and waste collection of refuse from the land in line with policy SDP1 of the City of Southampton Local Plan March 2006.
- I) Measures to satisfy obligations relating to resource conservation measures to comply with policy SDP13 of the City of Southampton Local Plan March 2006 have not been sort.
- J) In the absence of a Highway Condition survey the application fails to demonstrate how the development will mitigate against its impacts during the construction phase; and

**Section106A Informative**

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

**05/01695/FUL** - Redevelopment of the site with a five-storey block of 16 flats (10 x 2 bedroom, 6 x 1 bedroom) and associated cycle parking – Approved – June 2006.

