

**Planning and Rights of Way Panel 31<sup>st</sup> January 2017**  
**Planning Application Report of the Service Lead - Infrastructure, Planning and Development**

<b>Application address:</b> Land adjacent to 65 Chamberlain Road/Southampton Common, University of Southampton			
<b>Proposed development:</b> Replacement and widening of existing steps and ramp (temporary diversion of public right of way)			
<b>Application number</b>	16/01724/FUL	<b>Application type</b>	FULL
<b>Case officer</b>	Stephen Harrison	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	30/11/2016	<b>Ward</b>	Portswood
<b>Reason for Panel Referral:</b>	Referred by Ward Cllr Claisse  Objection raised by the Southampton Common and Parks Protection Society (SCAPPS) should be referred to the Planning Panel	<b>Ward Cllrs:</b>	Cllr Claisse Cllr O'Neill Cllr Savage
<b>Applicant:</b> University of Southampton		<b>Agent:</b> N/A	

<b>Recommendation Summary</b>	i) Conditionally approve development
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<b>Community Infrastructure Levy Liable</b>	<b>No</b>
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**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered, and were reported to the Planning and Rights of Way Panel on 31<sup>st</sup> January 2017, 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, SDP7, SDP10, SDP11, SDP12, HE5, HE6, NE4 and L7 of the City of Southampton Local Plan Review (Amended 2015) and CS11, CS12 and CS13 of the Local Development Framework Core Strategy Development Plan Document (Amended

2015) as supported by the National Planning Policy Framework (2012)

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

## **Recommendation in Full**

- i) Conditionally approve the replacement and widening of the existing steps.

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

- 1.1 The application site comprises an existing set of steps and associated hard surfacing that links the western part of the University campus to Lover's Walk and the wider Common. The steps are within University ownership. The footpath link to Lover's Walk at the top of the steps is mainly within The Common. The Common is a designated Site of Importance for Nature Conservation (SINC).
- 1.2 The land from the Highfield Campus up to the top of the existing steps, and on either side, is owned by the University and the route is operated as a 'permitted route' by the University, although no formal designation exists. There is a level change from the footpath at the top of the steps (45.26 Above Ordnance Datum - AOD) to the base of the steps (41.53 AOD) of approximately 4 metres.

### **2.0 Proposal**

- 2.1 Full planning permission is sought to replace and widen the existing steps using materials of a similar nature, with tarmac at their base and a rolled gravel at their top. The existing steps are in need of investment and are an important route into the campus from the south. The existing steps measure 1.2 metres in width (2.1m including the side ramps) and this will be widened to 3.2 metres (4m including the cycle troughs). The width will be taken from the left hand side of the steps when viewed from the bottom (ie. away from The Common) and will include the removal of an existing Laurel hedge on the boundary with the University owned 65 Chamberlain Road. A stainless steel central, and one perimeter, handrail will be provided and concrete troughs will be provided on each side of the steps for cyclists to wheel their bicycles. The application form confirms that there will be replacement street lighting similar to existing, plus handrail mounted LED lighting within the steps, which will improve lighting levels on the steps without unduly increasing lighting levels on The Common. A single parking space will be lost to facilitate the change to the base of the steps.
- 2.2 The applicants cite the following objectives for this application:
- To replace the life expired current steps;
  - To provide increased capacity, particularly for pedestrians using the route;
  - To improve the environment for users of the steps – through better quality materials, lighting and hard and soft landscaping works; and
  - To improve safety and security, by making the steps more visible on approach and less enclosed by surrounding vegetation.
- 2.3 Partial vegetation clearance has already been undertaken as part of routine maintenance, and further vegetation removal would be needed on the south side of the steps in order to construct the scheme. The existing Laurel will be replaced with a new Yew hedge and a new Oak tree is proposed behind the hedge.

2.4 During the construction phase there would be a need to introduce a temporary diversion for pedestrians and cyclists for an anticipated maximum duration of 6 weeks. This route would take pedestrians heading north along Oakhurst Road and Hawthorn Road with access into the Campus taken from Chamberlain Road. This diversion does not require the approval of the Panel.

### **3.0 Relevant Planning Policy**

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

3.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> 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 There are various levels of planning policy and legislative protection afforded to The Common. At the local level the LDF Core Strategy seeks to ‘protect and enhance’ existing open space (Policy CS21). Paragraph 5.4.11 adds that *‘the LDF will seek to protect and improve the quality of open spaces and ensure adequate provision in a way which delivers the best outcome for the community, promotes participation in sports and active recreation, health and well-being and has regard for the city’s rich natural environment’*. The LDF also safeguards international, national and local designated sites from inappropriate development, thereby promoting biodiversity and protecting habitats (Policy CS22). These points are also echoed by the more general criterion of Policy CS13, which also promotes safe, secure, functional and accessible streets and quality spaces (Point 4); supports development that impacts positively on health, safety and amenity of the city and its citizens (Point 7); and seeks to improve accessibility throughout the city by ensuring that developments, including public places, are accessible to all users including senior citizens and disabled people (Point 9).

3.4 Although entirely separate from the planning process, with no bearing on the determination of this planning application, s38 of The Commons Act 2006 explains that additional consents are required from the Planning Inspectorate, on behalf of the Secretary of State, to carry out any works that would prevent or impede access to common land or for works for the resurfacing of land. These works could include:

- putting up new fences
- erecting buildings
- making ditches or banks
- resurfacing the land
- building new solid surfaced roads, paths or car parks

This point is explained in more detail within the Planning Considerations section of this report.

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

- 4.1 950346/295/W – Conditionally Approved 6th June 1995  
Provision of cycle path and relaying footpaths.
- 4.2 A subsequent application to the Department of the Environment, Transport and the Regions (DETR) was made under s.194 of the Law and Property Act (1925) for approval of the works to The Common. DETR approval was given, following a Public Inquiry, in November 1998.

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

- 5.1 Following the receipt of the planning application, a publicity exercise in line with department procedures was undertaken, which included notifying adjoining and nearby landowners and erecting a site notice (28.10.2016) and publishing a press notice (28.10.16). At the time of writing the report **10 representations** have been received, with a mix of objection to, and support for, the development, including a Panel referral request from Ward Cllr Claisse. The following is a summary of the relevant planning related points raised:
- 5.2 At the time of writing 6 letters of support have been received (from residents living on Furzedown Road and Orchards Way). They comment that the steps are in need of upgrade and can be done so with limited disruption to nearby residents. The lack of an existing handrail makes them currently unsafe for people with mobility difficulties.
- 5.3 The objector(s) make the following points:
- a) The University owns land that could facilitate an alternative that would meet their requirements whilst offering improvements over the current proposals. There can be no justification for facilitating an increase in footfall/cycling when there are suitable alternatives that avoid the need to change the relaxed character of The Common. Any application for works to The Common (s.38 Commons Act 2006)) will fail due to the option of a less intrusive alternative.
  - b) In terms of the character and appearance of The Common, a designated heritage asset, the works require the removal of existing vegetation thereby harming the integrity of The Common and sense of enclosure at this point. No assessment has been provided within the application. The increase in width from 1.4m to 3.5m will undoubtedly create a much more substantial break in the vegetation defining the boundary of The Common. The application is, therefore, contrary to policies HE5 and CS13. Furthermore, the application fails to make reference to the medieval ditch and bank; the failure to reference this significant heritage asset, and the chosen design (akin to railway crossing steps of the 1950s), represents a conflict with policy.
  - c) In terms of character and appearance of the area generally the existing steps are overtly functional, but the proposed replacements should be designed to meet the high(er) standards expected of public realm proposals today. The proposed steps follow the same utilitarian theme but on a larger and more intrusive scale. There is no mention of landscaping and the only visuals fail to show the true impact of the proposals (including any new cycling trough). These steps would be grossly unsightly to a great many people.

- d) In terms of cycling the Local Transport Plan seeks to encourage cycling as part of a coherent cycle network, although there is precious little evidence in practice of an existing or planned coherent approach to facilitating cycling by the University itself. The promotion of this route for cyclists, that have to dismount amongst a potentially large number of pedestrians, is a sub-standard solution. This is unnecessary if the University utilised a separate ramp on land within its control (running from the north of Furzedown Road alongside 1 Oakhurst Road). As such the application is contrary to Policy SDP11.
- e) In terms of disabled access this proposal makes no provision for the disabled travelling between the two campuses or accessing the Highfield Campus at its south west corner. It is hard to understand how the University can espouse equality aims in principle but abandon them in practice. This access discriminates against disabled people. An alternative ramped route is possible within University control meaning that the application conflicts with policies SDP11 and CS13(9).
- f) In terms of ecology the application is supported by out of date (2012) information. An alternative ramped solution passing through the adjacent garden is likely to have less impact than that shown. Policy NE4 states that development will not be permitted which would adversely affect protected species unless the development cannot be met by reasonable alternative means.
- g) In terms of health and safety the objectors point out that the steps have been in use for 20 years in their current state and it is difficult to believe that there is a safety issue that could not be overcome by the suggested alternative route to the west of 1 Oakhurst Road. A claimed urgency due to health and safety should not weigh conclusively in favour of granting permission.
- h) The granting of permission for these steps could set a precedent for allowing further works to Lover's Walk or elsewhere on The Common.
- i) Failure to apply the development plan policies correctly makes their disregard potentially subject to judicial review.

5.4 **Southampton Common and Parks Protection Society (SCAPPS) – Objection** based on a number of points made within 2 separate deputations:

- a) The planning history for the existing steps should be fully declared before any application to replace them is determined and failure to do so would be open to legal challenge. The consent under s.194 of the Law and Property Act (1925) should be made available as part of this application.
- b) The University has failed to effectively engage with the public on these proposals.
- c) Queries raised regarding landownership, particularly in respect of s.194 decision and associated legislation directly affecting common land.
- d) SCAPPS are surprised that the University does not want to provide a more prestigious approach to the campus than the works shown.
- e) A landscaping scheme is needed with proposals extended on both sides of the steps. The information submitted so far fails to soften the visual impact of the steps.
- f) SCAPPS suspect that the submitted sections do not provide the finished level of the steps – whilst recommending that the steps should finish at the same level as Lover's Walk and that further plans are needed - and suggest that a gravel finish linking into Lover's Walk is unsafe and unnecessary.
- g) The submission seems unreasonably to have been constrained by a

misplaced desire to avoid a s.38 (Commons Act 2006) application to the Secretary of State (SoS). An application to the SoS is needed for the engineering works and temporary fencing;

- h) SCAPPS objects to the widening of the steps as there is no survey data, projections, forecasts or other explanation to support the University's assertion that the additional width is necessary. The proposed width is excessive and unnecessary.
- i) A principal objection to the original application for the steps was the impact of them (and an increase in activity) on those enjoying The Common as a place for recreation and relaxation – further intensification of this route as planned is wrong and there are better alternatives that avoid The Common.
- j) The City Council must explore these alternatives before it can consider this application and there is no need to increase the existing width. SCAPPS strongly objects to tacit acceptance of increased levels of use.
- k) The steps should remain primarily a pedestrian, and not a cycle, route. The previous consents included barriers to impede cycle use. The University should be required to submit the University's policy, plans or strategy for cycle access to, and circulation within, the Highfield Campus to explain how these proposals fit in with that wider strategy. SCAPPS support the use of new route for cyclists from Furzedown Road to the base of the current steps thereby reducing conflict.
- l) The temporary diversion shows a proposal for a temporary fence on the registered Common and such works require a s.38 application.
- m) The proposals discriminate against wheelchair users.

5.5 **Highfield Residents' Association (HRA) – Objection** based on a number of points:

- a) Procedurally the application is technically deficient and contains no assessment of the likely visual impact of the proposals on The Common or any justification of need.
- b) There has been no engagement with HRA, or other users of the steps, by the University ahead of the application being lodged.
- c) The application fails to recognise the crucial role of The Common as a key part of the City's heritage, rather than just as a convenient access route for (mostly) students, staff and visitors leaving or entering the campus.
- d) The planning application conflicts with development plan policies HE5, SDP11, CS12 and CS13 as it doesn't follow a robust design process and fails to make provision for the disabled.
- e) Finally the application has no up to date analysis of the potential ecological impact of the proposal.

5.6 **SPECTRUM Centre for Independent Living** – representing the views and interests of disabled people living across Southampton – objects to the lack of adequate disabled access proposed with this application and particularly for wheelchair users. The alternative access arrangements are indirect and therefore discriminates against disabled people (see policies SDP11 and CS13(9)). An alternative solution is possible that provides ramped access

5.7 **Officer Response**

*These various concerns are picked up separately within the Planning Considerations section of this report. The Planning Panel have a duty to determine this planning application, regardless of alternative options which the*

*applicants are not keen to implement. The lack of any survey work to demonstrate how the use of the existing steps has increased, thereby creating a need for their replacement, does not in itself warrant a planning refusal as it is clear from a site visit that this access point is currently well used (particularly by students). A copy of the 1998 DETR approval in respect of the existing steps is not appended to this report as it relates to access issues relating to The Common (as required by separate legislation) rather than the planning merits of the proposed development. This decision is, however, a public document and can be provided on request.*

## 5.8 Consultation Responses

### 5.8.1 SCC Highways – No objection

The works proposed do not affect any public highway or public right of way. There are permitted route rights and is more of a legal issue. As it is only temporary and the fact there's a suitable temporary diversion or alternative route provided for the public, there will be limited highway concerns.

5.8.2 *As an informative: The applicant will need to contact the highways team at Balfour Beatty in order to place the diversion signs on the highway (please note, the plans show vehicular diversion signs rather than pedestrian)*

### 5.8.3 SCC Ecologist – No objection following submission of amended plan Initial Comment:

I would like to lodge a holding objection to this planning application. The application site consists of an extensive area of hardstanding and a flight of steps running through a steep bank supporting deciduous woodland. Part of the site lies within the Southampton Common Site of Importance for Nature Conservation (SINC).

5.8.4 The majority of the application site is of negligible biodiversity value however, the deciduous woodland is likely to support a range of protected species including bats and breeding birds. It also lies within the Southampton Common SINC. Some vegetation has already been cut down and a further proportion of the shrub layer will need to be removed in order to allow the flight of steps to be widened. This will result in a loss of habitat and damage to the SINC. There is an indication in the Design and Access Statement that replacement planting will be occur however, no details have been provided.

5.8.5 Vegetation removal also has the potential to adversely impact nesting birds which receive protection under the Wildlife and Countryside Act 1981 (as amended). It is important, therefore, that any vegetation clearance should either, take place outside the nesting season, which runs from March to August inclusive, or after it has been checked by a suitably qualified ecologist. If active nests are found vegetation clearance would need to be delayed until after the chicks have fledged.

5.8.6 The development as proposed has the potential for adverse impacts on biodiversity and I would therefore like to see details of the proposed replacement planting before consent is granted.

### 5.8.7 Officer Response

*A landscape plan has been submitted to address these concerns and the holding objection has been removed.*

#### 5.8.8 **SCC Historic Environment Group Leader – No objection**

The site was investigated in 1995 (SOU 705, Southampton Archaeology Unit). No evidence was recovered for the existence of The Common boundary due to later disturbance. No archaeological conditions are required.

5.8.9 **SCC Tree Team – No objection** raised following the submission of an amended landscape plan showing the planting of an Oak Tree to the side of 65 Chamberlain Road.

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

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

- a) The Principle of Development;
- b) Need & Residential Amenity;
- c) Design & Impact upon The Common;
- d) Highway Safety & impacts;
- e) Trees & Ecology; and
- f) Response to Third Party Objection.

#### 6.2 **Principle of Development**

6.2.1 From a site visit during term time it is evident that this is a busy pedestrian access point into the University throughout the day. As a set of steps already exist the principle of improving them is considered to be acceptable. A detailed assessment of the proposal then follows.

#### 6.3 **Need & Residential Amenity**

6.3.1 There is no Development Plan requirement for the University to demonstrate 'need' for their proposal. The proposed change to the steps will not facilitate a growth in student numbers at the University nor a significant increase in people using these steps (as predicted by the objectors). The University advise that the additional width is needed for health and safety reasons to cater for existing needs. Whilst SCAPPS, and others, are correct to point out that this assertion is made without any statistical analysis officers have visited the site on a number of occasions during term time and noted how busy this existing route is. This conclusion is also reached by those handful of residents that have written in to support the application.

6.3.2 It is considered that existing users are likely to continue to use the steps and those not needing to access the University at this point will continue to use other access points. It is considered unlikely that a widening of the steps will significantly change people's existing travel habits. Officers consider that the additional width to the steps will improve the experience for existing users without harming either existing residential amenity or removing existing accessibility.

6.3.3 The nearest residential properties are located along Oakhurst Road, and Chamberlain Road itself. These neighbours are already affected by users of the existing steps, and the proposed change will not have a detrimental impact on this existing arrangement.



## **6.4 Design & Impact upon The Common**

- 6.4.1 The existing steps serve a useful link between the built up character of the University, and the more verdant and open character of The Common. All parties agree that any development in this location needs to respect this important interface, and that Policy HE5 (Parks and Gardens of Special Historic Interest) is material in the determination of this planning application as it seeks to prevent development that would 'detract from the character or setting' of the City's parks and gardens of special historic interest. Furthermore, LDF Policy CS13 (4) promotes safe, secure, functional and accessible streets and quality spaces that contribute to place making and the quality of the public realm.
- 6.4.2 The existing steps are simple in design and are formed by a central sequence of steps bordered by a cycle ramp on both sides. The current proposals seek to follow the same simple design whilst introducing a perimeter and central handrail. The existing Laurel hedge along the south-eastern side will be removed and replaced with a Yew hedge as requested by the Council's Ecologist. This hedge will sit on the outside edge of the new perimeter handrail and will be supplemented by a new Oak tree on land within the University's ownership at 65 Chamberlain Road.
- 6.4.3 Objectors suggest that the design of the replacement steps does not achieve the high quality expected of the City's current planning policies and guidance and the additional vegetation clearance will harm the character of The Common. Limited vegetation clearance is needed, and some has already been undertaken as part of the ongoing maintenance requirements of The Common. Much of the land required to accommodate the extra width forms a worn bank on land adjacent to 65 Chamberlain Road which is currently marked with a Laurel hedge, rather than land with substantial planting. The applicants have provided a montage of the proposed steps to enable an assessment of the visual impact and officers have visited the site to review the proposals for themselves. It is considered that the simple and low key nature of the design is not offensive, or harmful, to the established character of the area and the supplemental planting is supported by officers. Given the low key nature of the existing steps officers do not consider that a more prestigious design is required before permission should be granted.
- 6.4.4 The proposed works are contained largely within the University's existing campus (and not the defined boundary of The Common) with the exception of the link from the top of the new steps into The Common's footpath network at Lover's Walk. The proposals would require a building up of the associated footpath (within The Common) by up to 500mm to secure a level landing, which the University suggest is a key safety enhancement. A rolled gravel finish is to be used and the plans show a barrier at the top of the steps to prevent cyclists riding to the top of the steps. A detailed section can be secured with the attached planning condition to ensure that an enforceable scheme is delivered.
- 6.4.5 The University have been advised by the Council that the use of rolled gravel does not require the approval of the Secretary of State through an application under s.38 of The Commons Act 2006. It is the opinion of SCC Legal Services that creating (or widening existing) unsurfaced or 'loosely surfaced' footpaths does not require s.38 consent. The legal advice is that raising the height and/or widening an existing gravel footpath would not require consent as long as the gravel surfacing was kept within the definition of 'loosely surfaced'. The cycle barriers

will, however, require s.38 consent and, whilst temporary fencing is exempt from the need to apply for full s.38 consent, a notice of exemption must be lodged with, and accepted by, the Planning Inspectorate before any temporary fencing is erected. It should be noted that this process is independent of planning and should not influence the determination of this planning application, which should be assessed on its own planning merits and the impacts of the proposed development. It is feasible that a scheme can secure a planning permission and then fail the s.38 application. These processes are independent of one another and the University are aware of this. Should permission be granted and the works are carried out without the necessary consents the Council would then need to consider whether or not to take enforcement action, although anyone can take civil action against someone who carries out works on a common without the correct consents.

## **6.5 Highways Safety & Impacts**

- 6.5.1 The proposed widening for people using the steps will inevitably improve the potential safety of these steps and allow more people to pass at peak times. The retained access for cyclists is not objectionable, given the existing arrangement, whilst accepting that the majority of cyclists would prefer not to dismount. The proposed cycle trough design, which differs to the current ramp solution, will provide a dedicated facility for cyclists. For those that are opposed to using the current or proposed steps there are already alternative routes that provide graded access to the University. The change proposed has been assessed by the Council's Highways Officer as acceptable.
- 6.5.2 There are no rights of way across The Common, although the steps themselves are a permitted route. The temporary diversion, applicable during the 6 week construction period whilst the steps are closed, would take users along Oakhurst Road, Hawthorn Road and Chamberlain Road. This diversion route equates to approximately 250 metres. Alternatively users can continue along Lover's Walk to the Salisbury Road entrance at the north-western edge of the campus. Again, there is no objection to this temporary diversion in planning or highway safety terms. It is considered that the development contributes, and will not adversely affect, to an attractive network of public routes and spaces for pedestrians and cyclists as required by Local Plan Review Policy SDP11. The issue of full access is considered later in this report.
- 6.5.3 There is no objection to the loss of 1 parking space given the significant provision made across the wider University campus.

## **6.6 Trees & Ecology**

- 6.6.1 The character of this part of the University Campus is predominantly characterised by The Common itself. The steps serve as a transition between the built up nature of the University and The Common. Following the initial objection from the Council's Ecologist, and the receipt of amended plans, the scheme now seeks to introduce additional indigenous planting following the removal of the existing Laurel hedge. This change represents an improvement and will assist the new steps to settle into the established character of the area, whilst also mitigating any direct impacts on local biodiversity. The application does not adversely affect species protected by law and, as such, Local Plan Policy NE4 is satisfied. The Council's Ecologist has removed her objection to the application. No trees will be

felled to facilitate the change, although further vegetation clearance is needed, and there are now no ecological or arboricultural objections to the application. As such, the application can be supported on these grounds.

## **6.7 Response to Objection**

- 6.7.1 In addition to a handful of letters of support (as outlined above) this application has attracted detailed objections from SCAPPS, the HRA, a group representing disabled users across the city and other third parties. In response to the specific points made above officers offer the following response to those points not already addressed by this section of the report:
- 6.7.2 Much of the objection to the widening of these steps hinges on the idea that the University could undertake an alternative solution that has less visual impact, whilst improving access to the campus for all users including cyclists and the disabled. The alternative proposals involve closing the existing steps and returning the land to a natural state at this point. Separate pedestrian and cycle paths could then be taken from the top of Furzedown Road along the side of The Common on land associated with the University's building at 1 Oakhurst Road. The applicant's Design and Access Statement confirms that *'consideration was given to a ramped access, but this would have been more visually intrusive, could have adversely affected trees on the University's Western boundary and increased costs greatly. A ramp also introduces new safety concerns relating to cyclist speeds and their safe egress onto Chamberlain Road...'*. The University, as with any applicant, are not obliged to make an application favoured by a third party
- 6.7.3 The Panel need to decide how much weight to attach to this alternative route. Whilst there is some merit to it this route does not have planning permission and there would be an additional cost implication for the University. Officers consider that, despite the alternative option, the University (as with any applicant) has a right to apply for development of their choosing and the Local Planning Authority has a duty to determine it following an assessment of the planning merits. Weight should not be afforded to an alternative suggested by a third party in these circumstances. In this case the widening of the existing steps is deemed reasonable and can be recommended favourably for the reasons set out above.
- 6.7.4 The Equality Act (2010) places, amongst other tests, a duty on the public sector (under s.149) to have due regard to the need to eliminate discrimination. Local Plan Policy SDP11 (Accessibility & Movement) seeks to promote an attractive network of public routes for pedestrians and cyclists, whilst securing *'adequate access for all pedestrians including people with mobility and sensory difficulties such as elderly people, disabled people, the very young and those using prams and wheelchairs'*. This Policy is supported by LDF CS13(9) that also seeks to improve access for all.
- 6.7.5 In this case, there is an existing set of steps that do not provide full access for all users, although the wider campus is accessible and permeable from all directions. The Panel needs to decide whether or not any works to these existing steps should automatically include a ramp in order for them to be compliant with Policy SDP11. Officers would suggest that only in circumstances where no access currently exists would it be correct to apply the full meaning of Policy SDP11 and CS13(9). In these current circumstances it is materially relevant that the existing steps do not provide a ramp, the proposals are not removing wheelchair access, and the 4

metre change in level at this location prohibits the introduction of a ramp alongside these steps without causing significant harm. Furthermore, the additional width is supplemented by a second handrail thereby easing access for some users. There may well be alternatives, as outlined above and promoted by objectors to the application, but a refusal of this planning application against Policy SDP11 and SC13(9) – because it doesn't include a ramp or provide full access - would be difficult to sustain at appeal given the current circumstances particularly as it is not feasible or practicable and no policy conflict therefore arises. Furthermore, when the Secretary of State determined the previous s.38 application they made the following remarks in relation to disabled access:

- 6.7.6 *'The Secretary of State notes that, although there would be minimal obstruction to pedestrians, access by persons in wheelchairs would be impossible because of the provision of steps. However, unrestricted access to The Common is available at other nearby locations, at the ends of Salisbury Road and Oakhurst Road, and he accepts the Inspector's view that, whilst the unsuitability of this access for wheelchairs is unfortunate, it is not a compelling objection to the proposed works'* (DETR letter 20<sup>th</sup> June 1997 – paragraph 9).
- 6.7.7 An approval of this planning application does not set a difficult precedent for determining subsequent planning applications along, and including, Lover's Walk as the planning merits of each case will differ and should be assessed on their own individual circumstances. Similarly, officers consider that this report, and its recommendation, provides the Panel with sufficient detail of the site's planning history and planning policy context in order to reduce the potential threat of a judicial review of any decision. The existing steps secured planning permission in 1995, and the necessary consent for development within The Common then followed. A similar scenario may well follow in this case.
- 6.7.8 The third party criticism of the University and its pre-application involvement with SCAPPS and others ahead of the planning application submission is a matter for these parties, rather than the planning application itself. The University advise that they did engage and objectors suggest that they didn't. Given the relatively minor scale and nature of development proposed (ie. not a 'Major' application as defined by legislation) there is no formal planning requirement for the University to engage ahead of submission as there would otherwise be for a 'major' proposal.

- In response to the suggestion by SCAPPS that the submitted sections do not provide the finished level of the steps and that a gravel finish linking into Lover's
- 6.7.9 Walk is unsafe the University has been asked to provide further detail. Further details have been provided and a build-up of up to 500mm is required to secure a level approach from the footpath to the top of the reconfigured steps; a further sectional drawing can be secured with the attached planning condition. This level of works is acceptable in planning terms and the use of a rolled gravel has also been assessed as acceptable for this location.

## 7.0 **Summary**

- 7.1 This planning application seeks to replace an existing set of steps that link the University of Southampton with Lover's Walk and the wider common. The existing steps are no longer fit for purpose and are in need of investment. There is also a capacity issue with the University seeking to increase the width of these steps to accommodate the safe movement of people at peak times. The planning

application has been assessed as acceptable in terms of highway safety, biodiversity and tree impact, and design and the scheme is recommended for conditional permission accordingly. Other considerations including the previous history of the steps, the need to provide satisfactory disabled access, the potential for a more satisfactory solution, and the need for avoiding future precedents have been considered but do not outweigh the circumstances of this case or the wider benefits that granting planning permission will bring.

## **8.0 Conclusion**

8.1 It is recommended that conditional planning permission for this development is granted.

### **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), 6(a)/(b).

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

#### **1.Full Permission Timing Condition (Performance)**

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).

#### **2.Approved Plans**

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

Reason:

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

#### **3.Landscaping, lighting & means of enclosure detailed plan (Pre-Commencement)**

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 with a section showing existing and proposed spot heights and the proposed build up to the top of the steps (Above Ordnance Datum - AOD); means of enclosure; car parking layouts; other vehicle pedestrian access and circulations areas, hard surfacing materials, structures and ancillary objects (refuse bins, lighting, handrails and barriers 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;
- iii. details of any proposed boundary treatment, including retaining walls; and,
- iv. a landscape management scheme.

The approved hard and soft landscaping scheme (including parking) for the whole site shall be carried out prior to the first use of the replacement steps, 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.

#### **4.Tree Retention and Safeguarding (Pre-Commencement Condition)**

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

Reason:

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

#### **Note to Applicant**

The applicant's attention is drawn to the possible need for approval for works under s.38 of the Commons Act (2006) and the granting of planning permission in no way overrides the need for other consents or approvals that may be necessary.

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS11	An Educated City
CS13	Fundamentals of Design
CS22	Promoting Biodiversity & Protecting Habitats

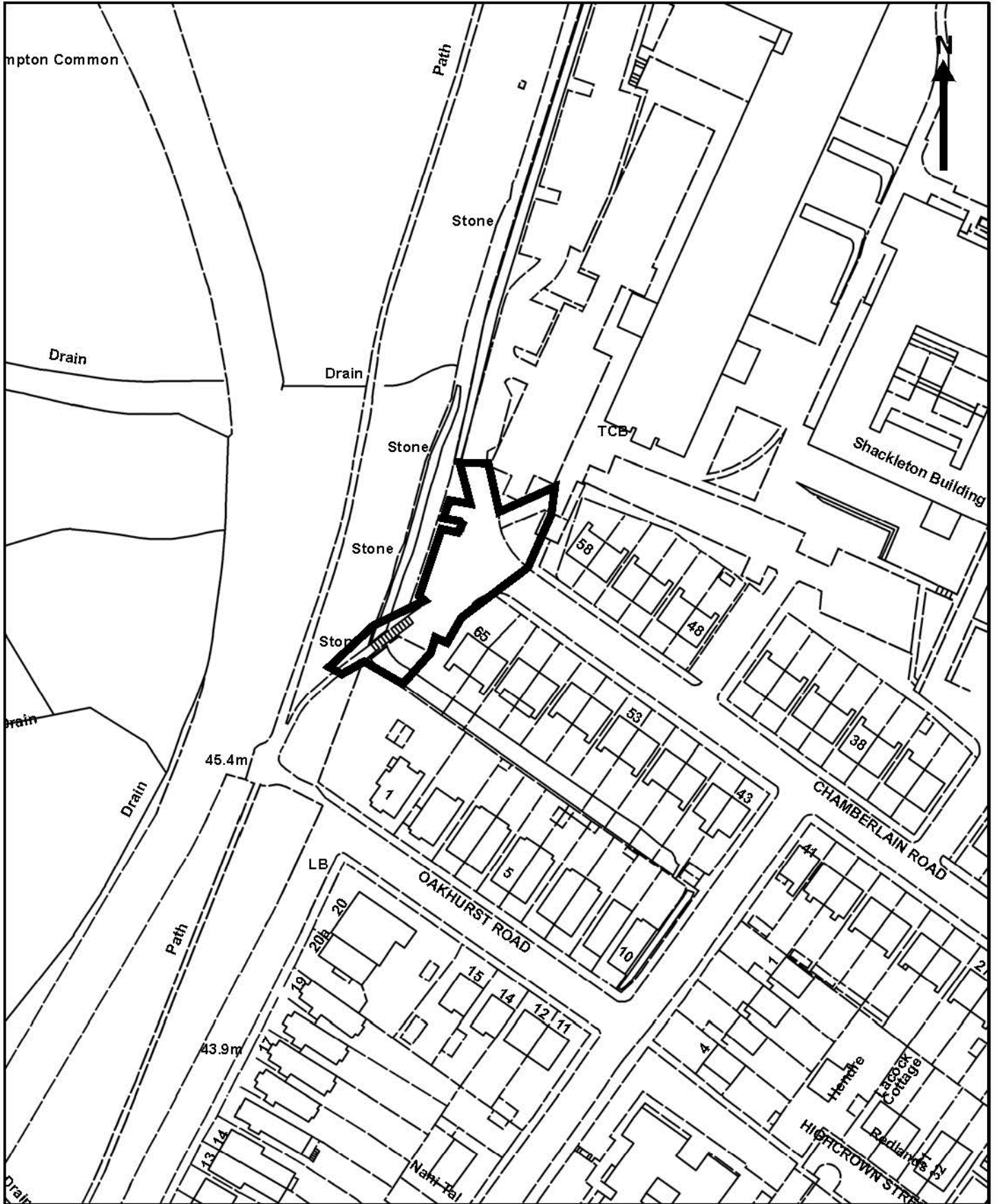
City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP7	Context
SDP10	Safety & Security
SDP11	Accessibility & movement
SDP12	Landscape & Biodiversity
HE5	Parks & Gardens of Special Historic Interest
HE6	Archaeological Remains
NE4	Protected Species
L7	University of Southampton

Other Relevant Guidance

The National Planning Policy Framework (2012)

# 16/01724/FUL



Scale: 1:1,250

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