

**Planning and Rights of Way Panel 11<sup>th</sup> July 2017**  
**Planning Application Report of the Service Lead - Infrastructure, Planning and Development**

<b>Application address:</b> Land to The rear of 4-8, Millbrook Road East, Southampton,			
<b>Proposed development:</b> Erection of a 7-storey building to provide 12 flats (4 x 1-bedroom, 8 x 2-bedroom) and two floors of offices with associated parking and landscaping.			
<b>Application number</b>	16/01125/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Anna Lee	<b>Public speaking time</b>	15 minutes
<b>Last date for determination:</b>	18.07.2017 (Extension of Time Agreed)	<b>Ward</b>	Freemantle

<b>Reason for Panel Referral:</b>	Major Development with 5 or more objections	<b>Ward Councillors</b>	Cllr Moulton Cllr Parnell Cllr Shields
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<b>Applicant:</b> Knightspur Homes Ltd	<b>Agent:</b> KF Planning Consultancy
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<b>Recommendation Summary</b>	<b>Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report</b>
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<b>Community Infrastructure Levy Liable</b>	<b>Yes</b>
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**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations including impact on neighbouring amenity, design, the scheme's viability and character 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 as set out in the report to the Planning & Rights of Way Panel on 11<sup>th</sup> July 2017. The scheme is judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and planning permission should therefore be granted. 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). "Saved" Policies – SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13, SDP14, SDP15, SDP16, SDP17, SDP22, HE6, H1, H2, H3, and H7 of the Local Development Framework Core Strategy Development Plan Document (March 2015)

Policies - CS4, CS5, CS6, CS11, CS13, CS15, CS16, CS18, CS19, CS20, CS22 and CS25 of the City of Southampton Local Plan Review (March 2015) and as supported by the adopted Residential Design Guide SPD (2006).

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

## **Recommendation in Full**

1. Delegate to the Service Lead - Infrastructure, Planning and Development to grant planning permission, subject to the planning conditions recommended at the end of this report and to the completion of a S.106 Legal Agreement to secure:
  - i. Financial contributions towards site-specific transport contributions for highway improvements in the vicinity of the site, in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), Policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015), and with the adopted SPD relating to Planning Obligations (September 2013);
  - ii. Either the provision of 20% affordable housing in accordance with LDF Core Strategy Policy CS15 or a mechanism for ensuring that development is completed in accordance with the agreed viability assessment with the submission of a further viability assessment if both the last residential unit is not completed within 30 months or if an application is sought for the office space to be converted to residential;
  - iii. Submission of a highway condition survey to ensure that any damage to the adjacent highway network attributable to the construction process is repaired by the developer;
  - iv. Restrictions to prevent future occupiers benefitting from parking permits in surrounding streets;
  - v. The submission, approval and implementation of a Carbon Management Plan setting out how the carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013);
  - vi. Financial contributions towards Solent Disturbance Mitigation in accordance with policy CS22 (as amended 2015) of the Core Strategy and the Conservation of Habitats and Species Regulations 2010; and
  - vii. Financial contributions to tree replacement off-site and the submission of a tree replacement plan.
2. In the event that the legal agreement is not completed within three months of the decision of the Planning and Rights of Way Panel, the Service Lead - Infrastructure, Planning and Development be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.
3. That the Service Lead - Infrastructure, Planning and Development be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

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

- 1.1 The application site forms part of the former Southbrook Rise office site on the corner of Millbrook Road East and Shirley Road. The relevant part of the site is adjacent to Central Station Bridge and is currently occupied by hardstanding and vegetation. The adjacent existing building is five storeys and has recently been converted into residential units via the prior approval process within the current national Permitted Development regime. There is a variation in levels on the site and, as such, the ground level (and the existing parking area to the

rear) is below the street level of Millbrook Road East. The surrounding area has a mixed commercial and residential character and to the rear of the site at a much lower level there is an industrial area and the Central Station.

- 1.2 The site fronts onto a public highway which is a shared cycleway/footpath, with land between the public highway and site landscaped by trees and vegetation owned and maintained by the Council. There are three trees (2 Sycamores and a Bay Laurel) adjacent to the site that are covered by Tree Preservation Order (TPO).

## **2.0 Proposal**

- 2.1 The proposal seeks to provide a new block adjacent to the existing converted office at Southbrook Rise. The proposed scheme is mixed-use with residential on the lower floors and office space provided on the top floors. The building has been designed to be seven storeys in height with a flat roof. At ground floor cycle and refuse storage is provided with 12 car parking spaces (including one disabled and motorcycle parking). Included in the 12 are two spaces proposed for the office use. On the upper floors three units are provided (2 no.2 bed units and 1 no.1 bed unit) per floor. On the top two floors office space is provided. Although vehicular access is provided via the existing access from Millbrook Road East pedestrian access would be via the existing path to the side of Southbrook Rise.
- 2.2 The building will be mainly built in buff brick, with grey brick to the ground floor, and grey window frames with timber clad linings. The balconies are to be constructed of metal balustrade and glass.
- 2.3 The original submitted scheme proposed a pedestrian access path that utilises some of Council's land but this element has been removed. Alternative arrangements are proposed.

## **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 at **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.

## **4.0 Relevant Planning History**

- 4.1 The building was originally granted planning permission in 1985 (LPA reference W05/1662 - 04.06.1985) and there have been a number of subsequent applications to extend at single storey level, place adverts and place air conditioning units on the roof. The following summarises the planning history for the neighbouring building:

13/01782/PA56 No objection raised  
03.01.2014  
Application for prior approval for a change of use of the building from offices (class b1) to 60 flats (2 x studio, 17 x 1-bed, 41 x 2-bed - class c3)

15/00519/PA56 No objection raised  
26.05.2015  
Application for prior approval for a change of use of the building from offices (class b1) to 84 flats (77 x 1 bed, 7 x 2 bed class c3)

15/01855/NMA No objection raised  
12.10.2015  
Application for a non-material amendment to prior approval permission ref 15/00519/PA56 to change the mix of the 84 approved flats to 4x studio, 66x 1-bed and 14x 2-bed flats.

15/01942/FUL Conditionally approved  
16.11.2015  
Insertion of windows to the roof and changes to existing fenestration/windows to enable conversion (Approved Under LPA Ref: 15/00519/PA56).

## **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, erecting a site notice (12.07.16) and by posting an advertisement in the local press (15.07.2016). At the time of writing the report **5 representations** have been received from surrounding residents/business, and in this case specifically owner/occupiers of the industrial units to the south. The following is a summary of the points raised:

5.2 **Concerned about residential development being approved adjacent to the industrial estate as the units often work unsociable hours and worried about noise complaints and unacceptable living conditions for the future occupiers.**

*Response: The site lies within an urban context and any occupier would be aware of the locality within which they are moving into. The issue is discussed at greater depth in the Planning Considerations section of this report and a condition is recommended to secure improved window specifications for the new residential units.*

5.3 **Overdevelopment of the site.**

*Response: The development in policy terms can be in excess of 100 dwellings per hectare (dph) as defined by policy CS5, but the development is 80 dph. The proposed built form is considered to respect its context, will provide additional housing and will be an appropriate addition to the streetscene. As such, the scheme is not considered to result in an overdeveloped plot.*

5.4 **Lack of amenity space.**

*Response: It is noted that the amenity space does not comply with policy but the site lies just outside the city centre, where there are local parks. All flats*

*have access to a private balcony with an attractive outlook across the city.*

**5.5 Height of the development excessive.**

*Response: A 7 storey building that makes use of the level changes is acceptable in this city centre location. No objection has been raised by the Council's Design Officer and, due to its corner position and level changes, the height of the development is acceptable.*

**5.6 Impact on trees and vegetation.**

*Response: There will be a loss of existing vegetation and tree planting and this needs to be assessed against the wider benefits of the scheme, including the offer of further planting to mitigate against the loss. No objection has been raised by the Council's Tree Team to the proposal providing the suggested conditions are imposed. There will be a loss of trees and vegetation but a landscaping condition is suggested to secure the provision of replanting, and replacement tree planting is secured via the S106 legal agreement.*

**5.7 Concerned about the impact on a public right of way.**

*Response: The proposal does not impact upon the public right of way as the application has been amended to allow access through the site.*

**5.8 Insufficient parking.**

*Response: The site is located in an area with good connections to public transport and within walking distance to the shops, employment opportunities and train station. Notwithstanding the above no objection has been raised by the Council's Highway Officer and 12 spaces have been provided with 10 units for the flats (albeit one space is for disabled occupiers) and two spaces for the office units.*

**5.9 Risk of flooding and impact on the sewers.**

*Response: No objection has been raised by Southern Water or the Council's Flooding team of these grounds and no further evidence has been provided. The site is in Floodzone 1 – meaning that the risk of flooding is minimal.*

**5.10 Pollution risk to occupiers of the industrial units.**

*Response: A condition is imposed to require a Construction Management Plan. The issue could also be dealt with using Environmental Health's statutory powers, but there is no evidence that the end use will be harmful.*

**5.11 Impact on the character of the area and existing neighbouring occupiers.**

*Response: The application has been assessed as acceptable to local context for the reasons set out in the Planning Considerations section of this report.*

**5.12 Road system inadequate and prejudices highway safety.**

*Response: The Council's Highway Team have not objected to the scheme on these grounds. Due to the scale of the development a section 106 legal*

*agreement is required to mitigate against its impacts, and in this case financial contribution will be required to improve the local cycle routes within the area.*

**5.13 Loss of open space.**

*Response: The proposal will not result in the loss of open space, but an area of hardstanding adjacent to the large car parking area. This area has negligible value and a more beneficial use is supported in principle.*

**5.14 Detrimental impact on economy and business and creates an imbalance between jobs and homes.**

*Response: The development results in a mixed-use scheme which is a positive contribution to the area. In terms of the impact on local business, other than noise issues raised above, no other comments have been received which identify harm. The office element may result in additional local employment and mixed use developments adjacent to train stations are encouraged in principle by the planning system.*

**5.15 Better alternative sites elsewhere**

*Response: Officers have to assess the current scheme and have not been made aware of alternative sites, which are nevertheless less relevant to the determination of this case.*

**5.16 Consultation Responses**

**5.17 SCC Highway Development Management: No objection**

The proposal is acceptable in terms of car parking levels and subject to conditions relating to cycle and refuse storage and a waste management plan no objection is raised.

**5.18 SCC Tree Team – No objection**

The removal of 6 trees is not ideal but subject to replacement trees on the basis of 2 for 1 the loss of trees is accepted. There is very little room to replant and therefore the loss of trees should be relocated elsewhere as secured via the S106 legal agreement.

The proposal will retain T7, sycamore which is has TPO on it, to the east which is in very close proximity to the proposed east elevation, with balconies. The tree survey (Barrell Tree Consultancy, April 2016 15367-AA-DC) notes that this will require pruning to facilitate the build. This will lead to heavy regrowth with this species and a denser, more oppressive outlook on this elevation. Sycamore are also prone to honeydew which will be an issue for the balconies.

The Tree Officer agrees with the comment that the pruning of T7 will have no significant impact on local character, but not with the comment “these works fall within the bounds of normal management” as it is only the proposal that is driving the need to prune. The Tree team are concerned that the proximity to the development will result in the Council being pressured to prune the trees at their expense. An addition of a condition is suggested to maintain a clearance distance from the side elevation of the building and the tree canopy. The clearance distance should be 3 metres and the condition suggested states that the pruning and maintaining of this distance is to be at the expense of the owners/occupiers (these works require consent in their own right due to the

TPO status). Subject to this the Tree team do not object to the scheme subject to conditions securing the trees retention and method statement for the works to be undertaken.

5.19 **SCC Sustainability Team – No objection** Subject to the imposition of conditions securing energy and water restriction.

5.20 **SCC Ecologist – No objection**

The application site consists of an area of hard standing with a number of shrubs. Further shrubs and a number of trees are located on a bank running along the northern and eastern boundaries. The nearest designated site is the Rollesbrook Valley Greenway Site of Importance for Nature Conservation (SINC). The nearest statutorily designated sites are the Southampton Common Site of Special Scientific Interest (SSSI) and the Hythe to Calshot Marshes SSSI, which is also a component part of the Solent and Southampton Water Special Protection Area (SPA) and Ramsar site, which are located approximately 1.65km to the north and south respectively. The risk of direct impacts on designated sites is therefore negligible. The proposed development will however, generate additional recreational activity and payment of the Solent Recreation Mitigation Partnership contribution will be required.

The ecological value of the site is generally low. The hard-standing has negligible ecological value however, the vegetation on the banks, which forms the end of a corridor of vegetation running westwards along the railway line, is likely to support breeding birds and foraging bats.

A bat survey was undertaken and submitted in support of the planning application however, no bat activity was detected within or immediately around the site.

The proposed development will involve the removal six cherry trees from the bank on the northern side of the site. This has the potential to adversely impact breeding birds. All nesting birds, their nests, eggs and dependent young receive protection under the Wildlife and Countryside Act 1981(as amended). It is important, therefore, that any vegetation clearance takes place either outside the nesting season, which runs from March to August inclusive, or after it has been checked by a suitably qualified ecologist.

To maintain the current extent of habitat for breeding birds, bats and other wildlife the ecologist would like to see a landscaping scheme that includes native and/or species of recognised value for wildlife. The Council's Ecologist would also like to see some simple biodiversity enhancements, including bird and bat boxes, included in the development. This can be secured via the submission of conditions relating to Ecological Mitigation Statement and Protection of nesting birds.

5.21 **SCC Archaeology: No objection**

The site lies within Area 7 of the Local Areas of Archaeological Potential, within the area of the village / hamlet of Fourposts. In the mid-late 19th century the site was occupied by a terrace of buildings known as Sea View Place (this terrace may be Georgian in origin).

The application is supported by a written scheme of investigation for archaeological evaluation (WSI) produced by the Southampton City Council

Archaeology Unit. This is approved for the purposes of the application, however the applicant should be aware that if a different contractor is appointed a revised WSI will be required. There are no objections subject to conditions on archaeology.

**5.22 SCC Environmental Health (Contaminated Land): No objection**

No objection subject to conditions to secure a contaminated land assessment and any required remediation measures.

**5.23 SCC Housing – No objection**

As the scheme comprises 12 dwellings in total, the affordable housing requirement from the proposed development is 20%. The affordable housing for this level of development is therefore 2 dwellings.

*Officer comment: Policy CS15 suggests that ‘the proportion of affordable housing to be provided by a particular site will take into account the costs relating to the development; in particular the financial viability of developing the site (using an approved viability model)’. The applicants have submitted a detailed viability appraisal of their scheme. It concludes that nil affordable housing can be supported by this scheme. This is a weakness of the scheme but has been assessed and verified by an independent adviser to the Council; in this case the District Valuation Service (DVS). Officers have no reason to dispute the DVS findings.*

**5.24 SCC Environmental Health (Pollution & Safety) – No objection** subject to conditions securing, a construction environment management plan, no bonfires (not secured as can be dealt with under separate legislation) demolition suppression and working hours.

**5.25 SCC Design – No objection**

Due to the design and location of the development a condition is requested requiring a 1:20 typical section of the window detail, and also how the applicants propose to create the number of acute and obtuse return angles in the façade using their chosen material.

**5.26 SCC Sustainability Team – No objection** Subject to the imposition of conditions securing energy and water restriction.

**5.27 SCC Flooding Team – No objection** Subject to a condition requiring a drainage system. No suitable information has been submitted with the application in relation to how surface water runoff from the site will be managed as part of the redevelopment proposals. In accordance with the written statement made by the Secretary of State for Communities & Local Government, dated 18 December 2014, major development is expected to utilise sustainable drainage systems to manage runoff, unless demonstrated to be inappropriate. Given the lack of information it is not possible to assess the application in relation to surface water drainage. Therefore a condition is required to secure its provision.

**6.0 Planning Consideration Key Issues**

**6.1** The key issues for consideration in the determination of this planning



application are:

- Principle of development;
- Design and amenity;
- Highway Safety and Parking;
- Landscaping and tree protection;
- Development Mitigation

## 6.2 Principle of development

The application site is not an allocated site within the Council's Development Plan, but it is located in an area with other residential properties. The LDF Core Strategy identifies the Council's current housing need and this scheme would assist the Council in meeting its targets. The city has a housing need. As detailed in Policy CS4 an additional 16,300 homes need to be provided within the city between 2006 and 2026 for the city to address its own requirements. The National Planning Policy Framework (NPPF) introduces a presumption in favour of sustainable housing development, the use of previously developed land and therefore the principle of a mixed use redevelopment is generally supported if it is agreed that it meets design and environmental policies.

- 6.2.1 The site is a large site when taking into account the access and this affects the overall density of 80 dph. Policy CS5 indicates that the development density should have regard to the character and appearance of the existing neighbourhood meaning that lower densities can also be supported. Due to the footprint of the area to be built on the density is acceptable when taking into consideration the provision of a further two floors for office use. This proposal will sit comfortably within its immediate context by providing a detached building that contains 12 residential units each with a balcony. The proposal provides a mix of flat sizes (one and two-bed units) and would therefore contribute to the creation of a mixed and balanced community. The family housing threshold is 15 units and does not apply in this instance. The principle of development and its relationship with the established pattern of development is considered to be acceptable.

## 6.3 Design and amenity

The layout of the development and height is acceptable and is sympathetic to the character of the area and the prominent location of the site. It is therefore in compliance with policy. The scheme provides good natural surveillance of the public footpath down to the station, although this will mainly be during the winter before the tree canopy fills out in summer. The design and materials chosen for the scheme are acceptable as a brick building is preferred in this location. The scheme put forward provides a mix of unit sizes which is welcomed. The plans demonstrate that the accommodation provided allows all rooms to have an outlook and adequate light and have access to the shared facilities including the cycle and refuse storage provided. No ground floor amenity space is provided for the units but each unit has a balcony of between 3 and 6 sq.m. The lack of amenity space is accepted due to the sites proximity to the City centre, where there is access to other facilities.

- 6.3.1 The proximity between the existing block of units and proposed block is close, but is acceptable. Due to the proposed design and layout of the habitable rooms of the proposed development there will not be any detrimental overlooking caused due to the shape of the building. However, it is clear that the occupiers of Southbrook Rise will have their outlook effected by the proposal as there are habitable windows on the side elevation including

bedroom windows.

6.3.2 With respect to the impact on the adjacent industrial units, and the concern that the occupiers and owners have in terms of the future residents seeking to curb their activities, officers can advise that the site is an urban site and prospective purchasers and residents will be fully aware of the environment within they are moving into. The site is located close to the railway line and industrial estate. The train line is a mainline service that has both passenger and freight trains using it, the trains use the line the evenings and early morning as well as at weekends. Conditions can be used to improve the window specification and associated noise transfer between sites.

6.3.3 The floor plan shows that the principle living space is arranged on the site to notionally 'look away' from the industrial estate to the south of the site. By turning the main aspect of living space to address an oblique view of the industrial estate, any noise would not have a significant bearing on the internal environmental qualities. The inclusion of inset balconies provides further protection from any noise in the surrounding area. Projecting balconies by their nature would be exposed to much more noise. The proposal includes an undercroft car park which serves to raise the residential accommodation further above the industrial estate. The elevation overlooking the industrial estate is characterised by small slot windows which will reduce the impact of any noise impact on the living accommodation on the boundary of the site. However, the bedroom accommodation is located on the southern aspect of the site and while this is close to the industrial estate the units would be likely to be shut in the later evening therefore not detrimentally impacting on bedrooms. The windows are proposed to be metal (double glazed aluminium) frames which has greater noise protection than plastic PVC frames.

6.3.4 The issue of noise has not been raised as a concern by the Environmental Health Officer in their consultation response to the planning application. They advised that they are aware of only one recent complaint against a music recording studio on the estate. The objector was from the Southbrook Rise development but works were carried out by the music studio and the issue has been resolved to both the Council's and complainants' satisfaction. If noise was an issue existing adjoining residents would have made complaints but this is not the case. The units within the JM Loveridge Trading Estate are not subject to planning controls (in terms of hours etc.) and therefore their activities are unrestricted. No information has been submitted to lead officers to the view that the impact on the future occupiers will be affected by the noise emanating from the units. The distance and level changes, along with the design of the building being planned, help to reduce the impact.

#### 6.4 Highway Safety and Parking

The site lies within a highly accessible location and therefore zero parking if proposed would be accepted. However, due to the size of the site parking for both the office use and residential use can be provided. The 12 parking spaces (two spaces for office use) provided are in line with the SCC Parking SPD 2011. The level of parking provision and access arrangements will not detrimentally prejudice highway safety. The proposal has been designed to give consideration to both refuse storage and cycle parking. As a refuse vehicle cannot enter the site, a waste management plan will be required in order to manage the collection of bins to take them to a service point adjacent to the highway for collection. Therefore on this basis the proposal is considered to

address the concerns relating to parking and highway safety and, subject to the suggested conditions, the layout is acceptable. The Council's Highways Officer agrees.

#### 6.5 Landscaping and tree protection

The proposed site has a number of low category trees on site; referred to as T1-T6 which are cherry trees. The Tree team have no objection to these trees being removed subject to the applicant fulfilling the Council's two for one policy on tree removal. Two trees are proposal so the replacement of eight trees will be sought via the S106 legal agreement.

6.5.1 The car park shows a high level of incursion into the Root Protection Area (RPA) of T7, which is a sycamore tree that is subject to a TPO. Due to the nature of the development a large number of significant roots would be destroyed from T7. Furthermore the proximity of the above ground structures would increase the pressure to severely prune or fell T7. The Tree Team have advised that they would object to the proposal if a planning condition is not added to secure appropriate maintenance of this tree post development. The other TPO trees (Sycamore and Bay Laurel) adjacent to the site will not be detrimentally effected by this development. Therefore, subject to the conditions and S106 clause suggested the proposal is acceptable.

6.5.2 The proposed site plan submitted shows soft landscaping to the front of the site near the pedestrian entrance behind the car parking level at lower ground level and more landscaping is proposed. Although details of types of plants proposed are provided numbers and densities are not known so a landscaping condition is imposed to secure the provision of these areas. In addition to low level soft landscaping two trees have been added to soften the hard landscaping appearance and to replace some of the vegetation to be lost. Subject to the conditions suggested by the Council's Tree Team the proposal will not result in any harm to the trees covered by the TPO.

#### 6.6 Development Mitigation

As with all major development the application needs to address and mitigate the additional pressure on the social and economic infrastructure of the city, in accordance with Development Plan policies and the Council's adopted Planning Obligations SPD (2013). Given the wide ranging impacts associated with a development of this scale, an extensive package of contributions and obligations is proposed as part of the application. Significantly, these measures would include 20% affordable housing (net additional) in accordance with Core Strategy Policy CS15 and highway contributions.

6.6.1 In terms of this development there is an expectation, in the first instance, that 2 units (20% of the 12 net additional) would be provided on site as 'affordable'. Policy CS15, however, suggests that 'the proportion of affordable housing to be provided by a particular site will take into account the costs relating to the development; in particular the financial viability of developing the site (using an approved viability model). The applicants have submitted a detailed viability appraisal of their scheme. It concludes that nil affordable housing can be supported by this scheme. This is a weakness of the scheme but has been assessed and verified by an independent adviser to the Council; in this case the District Valuation Service (DVS). Clearly at the present time both parties are showing the scheme as unviable to varying degrees.

- 6.6.2 In summary, the overall report demonstrates and confirms that the current development proposal has viability issues, which negates the provision of the Affordable Housing obligation. The report also queries the provision of the office elements of the development proposal, which according to the appraisal, has an “onerous” impact on the scheme suggesting that *“the cost of creating the office space is greater than the revenue achievable from it.”* Finally, the report also questions the suggested *“inefficient design”* of the proposed scheme and suggests that the scheme is *“not considered to be a sustainable development”* due to the height of the development and the lack of the units. Notwithstanding the above officers have to assess the scheme put forward and therefore it is recommended that the DVS report is accepted and the Council supports the delivery of this project on the basis of the current viability (i.e. with no provision of affordable housing). It is recommended that the S106 includes a clause that should the last unit not be developed within 30 months a revised viability is required, and the same is true should a scheme be submitted to change the office floors to residential. However, this stipulation requires the viability to be carried out for the whole site and not the two floors seeking consent.
- 6.6.3 In terms of highways contributions the legal agreement seeks to secure a Traffic Regulations Order (TRO) to prevent loading taking place forward of the site in Millbrook Road East. Installation of bollards either side of the cycle dropped kerb access to the front of the site and further measures are required to prevent parking on the footway forward of the site and improvements to the cycle right turn facility on Millbrook Road East to match the modified entrance to the off road route with bollards. In addition the scheme triggers the Community Infrastructure Levy (CIL).
- 6.6.4 The Conservation of Habitats and Species Regulations 2010 (as amended) provides statutory protection for designated sites, known collectively as Natura 2000, including Special Areas of Conservation (SAC) and Special Protection Areas (SPA). This legislation requires competent authorities, in this case the Local Planning Authority, to ensure that plans or projects, either on their own or in combination with other plans or projects, do not result in adverse effects on these designated sites. The Solent coastline supports a number of Natura 2000 sites including the Solent and Southampton Water SPA, designated principally for birds, and the Solent Maritime SAC, designated principally for habitats. Research undertaken across south Hampshire has indicated that current levels of recreational activity are having significant adverse effects on certain bird species for which the sites are designated. A mitigation scheme, known as the Solent Disturbance Mitigation Project (SDMP), requiring a financial contribution of £176 per unit has been adopted. The money collected from this project will be used to fund measures designed to reduce the impacts of recreational activity. When the legal agreement is signed and actioned this application will have complied with the requirements of the SDMP and met the requirements of the Conservation of Habitats and Species Regulations 2010 (as amended).

## **7.0 Summary**

- 7.1 Overall the scheme is acceptable and the level of development proposed will not result in an adverse impact on the amenities enjoyed by surrounding occupiers or the character and appearance of the area. The proposed layout and density provides an acceptable residential environment for future

occupiers. The proposal is consistent with adopted local planning policies and the National Planning Policy Framework.

- 8.0** A suitable balance has been achieved between securing additional housing, office floor space, parking, on-site amenity space and landscaping, whilst ensuring that existing residential amenity and trees protected by a Tree Preservation Order are protected.

## **8.0 Conclusion**

- 8.1 As such, the application is recommended for approval, subject to securing the matters set out in the recommendations section of this report and the conditions set out below.

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

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

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(f), 4(qq), 6(c), 7(a), 9(a), 9(b).

#### **ARL for 11/07/2017 PROW Panel**

### **PLANNING CONDITIONS**

#### **01. 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).

#### **02. Restricted Use (Performance)**

The top two floors of this building shall be for purposes falling within class B1(a) (office) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended), and for no other purpose whatsoever, without express planning consent from the local planning authority first being obtained.

Reason: In order that the Local Planning Authority may exercise further control in this locality given the specific circumstances of the application site and in the interests of highway safety, residential amenity, and to ensure that the correct level of affordable housing is secured from the development.

#### **03. Details of building materials to be used [Pre-Commencement Condition]**

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

alternatives on site. Development shall be implemented only in accordance with the agreed details.

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

**04. Window reveal and elevational details [Pre commencement Condition]**

Prior to commencement of the development detailed drawings to a scale of 1:20 showing the specification of the design and materials of the window reveals and how the acute and obtuse return angles in the façade can be completed using the chosen material, these details shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall subsequently be incorporated in the construction of the development hereby approved.

Reason: To ensure the quality of all window reveals.

**05. Archaeological evaluation [Performance Condition]**

The archaeological evaluation will be carried out in accordance with the Written Scheme of Investigation submitted by Southampton City Council Archaeology Unit, dated 10 June 2016 (Version 2). In the event that the developer commissions a different archaeological contractor to carry out the evaluation a revised WSI will be required.

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

**06. Archaeological evaluation 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.

**07. Archaeological investigation (further works) [Performance Condition]**

The Developer will secure the implementation of a programme of archaeological works in accordance with a written scheme of investigation which will be submitted to and approved by the Local Planning Authority.

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

**08. Archaeological work programme (further works) [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.

**09. Amenity Space Access [Pre-Occupation Condition]**

The balconies serving the development hereby approved, and pedestrian access to them, shall be made available prior to the first occupation of the flat hereby permitted to which they relate, and shall be retained with access to it at all times as approved.

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

#### **10. Refuse management plan [Pre-Commencement Condition]**

Prior to commencement a refuse management plan shall be submitted to and be agreed in writing by the Local Planning Authority which sets out refuse strategy for the movement of the euro refuse bins from the units to a collection point and back to the internal storage areas. The collection point should be within 10m of either the public highway or the route of the refuse vehicle. The approved refuse management plan shall be implemented and retain unless agreed otherwise by the Local Planning Authority.

Reason: In the interests of highway safety.

#### **11. Refuse & Recycling (Performance)**

Before the development hereby approved first comes into occupation, the storage for refuse and recycling shall be provided in accordance with the plans hereby approved and thereafter retained as approved.

Reason: In the interest of visual and residential amenity.

#### **12. Cycle parking [Performance Condition]**

Before the development hereby approved first comes into occupation, the storage for bicycles shall be provided and made available for use in accordance with the plans hereby approved. The storage shall thereafter be retained as approved.

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

#### **13. Parking area [Pre occupation Condition]**

The parking area shown on the approved plans illustrating the provision of 10 spaces for the residential units and two spaces for the office units shall be laid out and ready for use prior to the occupation of development unless agreed otherwise in writing by the Local Planning Authority. These parking spaces shall be retained during the lifetime of the development for use by residents of the office and residential units and their visitors only.

Reason: To prevent off site highway safety issues.

#### **14. 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, to include:

- i. proposed finished ground levels; means of enclosure; car parking layouts; other vehicle pedestrian access and circulations areas, hard surfacing materials, structures and ancillary objects ( lighting columns etc.);
- ii. planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. an accurate plot of all trees to be retained and to be lost. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise and agreed in advance);
- iv. details of any proposed boundary treatment, including low level boundary restrictions along the soft landscaped areas to prevent parking and;
- v. a landscape management scheme of all the landscaped areas within the site.

The approved hard and soft landscaping scheme (including parking) for the whole site shall be carried out prior to occupation of the building or during the first planting season

following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

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

#### **15. Tree protection and clearance [Performance]**

The sycamore tree known as T7 shown on the approved plans shall be pruned to maintain a clearance distance of three metres from the nearest elevation. The works shall be undertaken in agreement with the Local Planning Authority unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and the safeguarding of the tree.

#### **16. Tree Retention and Safeguarding [Pre-Commencement Condition]**

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

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

#### **17. No storage under tree canopy [Performance Condition]**

No storage of goods including building materials, machinery and soil, shall take place within the root protection areas of the trees to be retained on the site. There will be no change in soil levels or routing of services through root protection zones. There will be no fires on site within any distance that may affect retained trees. There will be no discharge of chemical substances including petrol, diesel and cement mixings within or near the root protection areas.

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

#### **18. Overhanging tree loss [Performance Condition]**

For the duration of works on the site no trees on or overhanging the site shall be pruned/cut, felled or uprooted otherwise than shall be agreed in writing by the Local Planning Authority. Any tree removed or significantly damaged, other than shall be



agreed, shall be replaced before a specified date by the site owners /site developers with two trees of a size, species, type, and at a location to be determined by the Local Planning Authority.

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

#### **19. Arboricultural Method Statement [Pre-Commencement Condition]**

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

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

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

#### **20. Ecological Mitigation Statement [Pre-Commencement]**

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

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

#### **21. Protection of nesting birds [Performance]**

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

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

#### **22. Construction Management Plan [Pre-Commencement]**

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a

Construction Method Plan for the development. The Construction Management Plan shall include details of:

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

The approved Construction Management Plan shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

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

### **23. Sustainable Drainage [Pre-Commencement Condition].**

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

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

Reason

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

### **24. Energy & Water [Pre-Commencement Condition]**

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

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

## **25. Energy & Water [performance condition]**

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

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

## **26. Land Contamination investigation and remediation [Pre-Commencement & Occupation]**

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.

## **27. Use of uncontaminated soils and fill [Performance]**

Any 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.

**28. Unsuspected Contamination [Performance]**

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

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

**29. Noise & Vibration [external noise sources] [Pre-Commencement]**

Prior to the commencement of the development hereby approved, a scheme of measures to protect the occupiers of the development from external noise and vibration sources, shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented as approved before the development first comes into occupation and thereafter retained as approved.

Reason: To protect the occupiers of the development from excessive external noise.

**30. Piling [Pre-Commencement]**

Prior to the commencement of development hereby approved, a piling/foundation design and method statement shall, if piling is necessary, be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: In the interest of residential amenity.

**31. Site Levels [pre-commencement]**

No development shall take place (excluding demolition and site set up) until further details of finished levels have been submitted to and approved in writing by the Local Planning Authority. These details shall include Above Ordnance Datum (AOD) for the proposed finished ground levels across the site, building finished floor levels and building finished eaves and ridge height levels and shall be shown in relation to off-site AOD. The development shall be completed in accordance with these agreed details.

Reason: To ensure that the heights and finished levels of the development are built as agreed in the interests of visual and neighbour amenity.

**32. 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.

### **33. Approved Plans [Performance Condition]**

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

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

### **Note to Applicant**

#### Public Sewerage system and water supply

A formal application for connection to the public sewerage system is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

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

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

Note to applicant: In accordance with para 9.2.3 of the Residential Design Guide (September 2006): if this development involves new dwellings, the applicant is liable for the supply of refuse bins, and should contact SCC refuse team at [Waste.management@southampton.gov.uk](mailto:Waste.management@southampton.gov.uk) at least 8 weeks prior to occupation of the development to discuss requirements.

#### Community Infrastructure Liability (Approval)

You are advised that the development appears liable to pay the Community Infrastructure Levy (CIL). Please ensure that you assume CIL liability prior to the commencement of the development (including any demolition works) otherwise a number of consequences could arise. For further information please refer to the CIL pages on the Council's website at: <http://www.southampton.gov.uk/planning/community-infrastructure-levy/default.aspx> or contact the Council's CIL Officer.

#### S106 Legal Agreement

Please note that a Section 106 agreement has been completed in relation to this site which should be read in conjunction with this planning consent. A full copy of the Section 106 Agreement is available to view on Public Access via the Southampton City Council website.

