

Southampton City Planning & Sustainability  
 Planning and Rights of Way Panel meeting 26<sup>th</sup> October 2010  
 Planning Application Report of the Planning and Development Manager

<b>Application address:</b> 20 - 26 College Street And 29 - 35 Richmond Street, Southampton			
<b>Proposed development:</b> Minor material amendment sought to consent 06/00246/FUL - (Redevelopment of the site to provide 90 flats (45 x one-bedroom and 45 x two-bedroom flats), 1220 square metres of commercial floorspace within buildings ranging in height from 6 to 8 storeys and 43 car parking spaces with vehicular access from Richmond Street and College Street) - to alter development mix on 1st floor, putting 7No. flats (2x1-bed and 5x2-bed) in place of 488 square metres of class B1 office floor space.			
Application number	10/00521/MMA	Application type	MMA
Case officer	Stephen Harrison	Public speaking time	15 minutes
Last date for determination:	24/06/2010 <b>OUT OF TIME</b>	Ward	Bargate
Reason for Panel Referral	To seek the Panel's approval to remove the previously agreed affordable housing contribution following the submission by the applicant of an Economic Viability Appraisal of the approved scheme.	Ward Councillors	Cllr S Bogle Cllr P Damani Cllr Amy Willacy

<b>Applicant:</b> Crest Nicholson (South East) Ltd	<b>Agent:</b> Mr Julian Goodban (GL Hearn)
--	--

<b>Recommendation Summary</b>	<b>Delegate to Planning and Development Manager to grant planning permission subject to <u>the revised</u> criteria listed in report</b>
-------------------------------	--

**Reason for Granting a Minor Material Amendment (MMA) to Permission 06/00246/FUL**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Although the proposed development does not accord with policy REI11 (vi), particular account has been taken of the quality of the proposed replacement employment floorspace, current market conditions and the overall viability of the scheme. Other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, a Minor Material Amendment to Permission 06/00246/FUL should therefore be granted.

City of Southampton Local Plan Review (March 2006) Policies – SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13, SDP16, SDP17, SDP19, SDP22, HE1, HE6, CLT5, CLT6, H1, H2, H7, H9, REI11 (vi) and MSA1

City of Southampton Core Strategy (January 2010) Policies – CS1, CS4, CS5, CS6, CS7, CS8, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22, CS23 and CS25.

<b>Appendix attached</b>			
1	June 2010 P&RoW Panel Report	2	June 2010 P&RoW Panel Minutes

## **1.0 Background**

1.1 This application site has a long and complicated planning history, as set out below. In summary, there is an extant full planning permission for the redevelopment of the site for 90 flats with ground floor commercial (LPA ref: 06/00246/FUL).

1.2 At the June 2010 Planning Panel the applicants request to make a material alteration to the mix and arrangement of the approved development was agreed, with an additional 7 flats agreed (97 flats in total) following the removal of 488sq.m of commercial (LPA ref: 10/00521/MMA). A copy of the previous Panel report is attached to this report at **Appendix 1**. A copy of the agreed Panel Minute is attached to this report at **Appendix 2**.

1.3 As part of finalising the S.106 legal agreement for the scheme it has become evident that, despite the increase in units, the scheme is no longer viable given the current economic market. The S.106 has not, therefore, been completed and planning permission 10/00521/MMA has not been issued. Instead, the applicants have submitted a confidential "open book" market appraisal of the scheme that the Panel resolved to grant in June 2010. It suggests that the scheme will only be viable in the current economic climate if the Council's affordable housing requirement of 24 on-site units is removed.

1.4 The agreement of the Panel is required to this requested change before planning permission can be issued.

1.5 Whilst officers are reluctantly agreeable to the proposal, at the time of writing an agreed mechanism for agreeing this change has not be finalised with the applicant and a verbal update will be given at the meeting.

### **Recommendation in Full**

**As agreed by Panel in June 2010 with the exception of iii) below:**

Delegate the authority to the Head of Planning & Sustainability to grant planning permission, subject to the applicant entering into a Section 106 planning agreement secure:-

- i) a financial contribution towards the provision of public open space in accordance with policy CLT5 and IMP1 of the adopted City of Southampton Local Plan and applicable SPG;
- ii) a financial contribution towards the provision of a new children's play area and equipment in accordance with policy CLT6 and IMP1 the adopted City of Southampton Local Plan and applicable SPG;
- iii) **provision of affordable housing in accordance with appropriate SPG – unless a mechanism for agreeing the delivery of the scheme in the current market conditions can be found with any uplift in revenue being ring fenced for a financial contribution towards affordable housing elsewhere in the City in accordance with LDF Core Strategy Policy CS15;**

*Note: A verbal update on this clause will be provided at the Panel meeting once it has been agreed in writing with the applicant.*

- iv) site specific transport obligation for highway improvements in the vicinity of the site in accordance with appropriate SPG to encourage sustainability in travel through the use of alternative modes of transport to the private car;
- v) adherence to the previously submitted Travel Plan;
- vi) details outlining a waste management scheme for the flats;

- vii) dedication of land to public use to enable widening of footways and an undertaking to enter into Section 278 Agreement;
- viii) a financial contribution towards strategic transport contributions for highway network improvements in the wider area as set out in the Local Transport Plan and appropriate SPG;
- ix) a financial contribution towards public realm improvements in accordance with policy;
- x) a financial contribution to the provision of Public Art in accordance with policy;
- xi) obligations relating to water, energy and waste management conservation measures to achieve a minimum of Code Level 3 of the Code for Sustainable Homes for all 97 flats within the development, to comply with policy SDP13 of the City of Southampton Local Plan Review (March 2006) and Policy CS20 of the City of Southampton Core Strategy (January 2010);
- xii) an undertaking to ensure that the commercial units are completed (shell and core finish) before first habitation of the flats;
- xiii) a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer; and
- xiv) the submission, agreement and implementation of a flood risk management plan.

that the Planning and Development manager be authorised to refuse permission should the Section 106 Agreement not be completed within 2 months from the date of this Panel on the grounds of failure to secure the provisions of the Section 106 Agreement.

## **2.0 The Site and its Context**

2.1 As set out in the attached report to the Planning Panel in June 2010 (**Appendix 1** refers).

## **3.0 Proposal**

3.1 As set out in the attached report to the Planning Panel in June 2010 (**Appendix 1** refers). The reason for reporting the application to Panel again is to seek agreement that the permission can be issued with nil affordable housing.

## **4.0 Relevant Planning Policy**

4.1 As set out in the attached report to the Planning Panel in June 2010 (**Appendix 1** refers) with the exclusion of the South East Plan which has recently been revoked. The main policy issue in relation to the proposed change is LDF Core Strategy Policy CS15 (Affordable Housing). It states that:

“On housing sites where 15 or more net dwellings are proposed, or which exceed 0.5 hectares in size (irrespective of the number of dwellings), the Council will seek provision, through negotiation, of 35% affordable housing.

The proportion of affordable housing to be provided by a particular site will take into account:

1. **The costs relating to the development; in particular the financial viability of developing the site (using an approved viability model)**
2. The need to contribute towards the sub-regional target whereby the total provision of affordable housing is made up of 65% social rented and 35% intermediate affordable housing
3. The proximity of local services and the accessibility of the site to public transport
4. Constraints on the development of the site imposed by other planning objectives

5. The need to achieve a successful housing development in terms of the location and mix of affordable homes...”

## **5.0 Relevant Planning History**

5.1 As set out in the attached report to the Planning Panel in June 2010 (**Appendix 1** refers).

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

6.1 As set out in the attached report to the Planning Panel in June 2010 (**Appendix 1** refers) with the following additions:

6.2 **SCC Housing Solutions** – Accept the findings of the submitted economic appraisal and raise no objection to nil affordable housing provision as part of the current scheme. The development should be completed as soon as possible to reflect the current economic viability with any uplift in sales being ring fenced for a financial contribution towards affordable housing elsewhere in the City.

6.3 **Environment Agency** – Objection removed. It is clear from the Flood Risk Assessment (FRA) that the applicant has explored options for improving safe access and egress during times of flooding and made improvements to the extant permitted development to limit the damage caused by such a flood. An additional planning condition is recommended to secure compliance with the FRA.

## **7.0 Planning Consideration Key Issues**

7.1 The key issues for consideration in the determination of this planning application for a Minor Material Amendment are:

- i) Principle of Development & Flooding; and,
- ii) Viability & Affordable Housing

### **7.2 Principle of Development & Flooding**

7.2.1 As set out in the attached report to the Planning Panel in June 2010 (**Appendix 1** refers). At the June Planning Panel delegated authority was granted to resolve the holding objection from the Environment Agency (the EA) prior to the grant of planning permission. The EA have now reviewed the applicant’s Flood Risk Assessment (FRA) and raise no objection to the proposal subject to the attached condition that requires the development to be implemented in accordance with the FRA. The principle of development is acceptable.

### **7.3 Viability & Affordable Housing**

7.3.1 In order to satisfy Policy CS15 (as set out above) it has previously been agreed that the affordable housing requirements of this scheme should be met with an on-site provision of 24 flats (comprising 12 no.1 bed and 12 no.2 bed).

7.3.2 Following approval by the June 2010 Planning Panel the current planning application for a minor material amendment is supported by an up-to-date viability appraisal of the proposal, which concludes that this contribution makes the delivery of the scheme non-viable on a commercial basis. No contribution towards affordable housing is, therefore, offered by the applicants to support the application.

7.3.3 The applicant's submitted appraisal has been independently tested. It is recommended by officers that the Council should accept that the previously agreed affordable housing requirement currently makes the scheme non-viable.

7.3.4 A scheme's viability, and the delivery of affordable housing, are both material considerations where they are directly linked to housing delivery (Policy CS15(1) refers).

7.3.5 However, the key to the determination of this application is to ensure the continued housing delivery despite the current market situation. The Council can assist by taking a flexible approach to its S.106 requirements. The Council needs to be satisfied that the housing delivery will be forthcoming on this City Centre site and should note that the usual 3 year permission may not achieve this. If 3 year permissions are granted during the current economic climate (or are capable of being kept alive for far longer periods by implementing the permission and then mothballing the development until the viability improves) without the provision of affordable housing, then the Local Plan objective of providing a good supply of affordable housing could be cumulatively frustrated and the scheme will no longer reflect the day that the economic appraisal was assessed and the obligation waived.

7.3.6 In deciding whether or not to grant permission other material considerations have to be taken into account, such as the need to secure continued housing delivery (thus providing homes and jobs) and the current need for affordable housing. It is the need to secure housing delivery during recessionary times that would enable the Council to grant permission without an affordable housing contribution, on the basis that it could be satisfied that the units of accommodation would be delivered within a given timescale. As the submitted viability appraisal is a "snapshot" of current market conditions the development needs to be implemented and delivered earlier than would otherwise be the case so as to reflect the applicant's current market assumptions.

7.3.7 As such, officers recommend that if the developer isn't able to deliver the units within a shorter timescale to reflect their current market conditions, then it is proper to look to see whether or not the economics of the development may permit a contribution towards affordable housing in the future. The consequence of this approach is that the development would be achieving both the aim of delivering housing whilst also meeting the need to contribute towards the provision of affordable housing. At the time of writing it is recommended that the S.106 Legal Agreement includes a clause (as set out at iii above) that ensures the scheme is realised (provisionally within 24 months – yet to be agreed with the applicant). A revised appraisal should be submitted if this is not possible when an off-site affordable housing contribution may then be viable. In addition, any uplift in the assumed revenues of the flats should be ring-fenced for an affordable housing contribution.

7.3.8 At the time of writing the exact mechanism for securing the delivery of the scheme, and the suggested uplift in value, has not been agreed with the applicant. A verbal update of the agreed position will be given at the Panel meeting.

## **8.0 Summary**

8.1 The proposed development makes efficient use of the application site whilst minimising the impact on the neighbouring properties and the surrounding area. The proposed changes to the scheme have previously been agreed as minor without causing material harm. The introduction of a viability issue has proven that a scheme with 24 on-site affordable units is not currently viable, and this has been independently checked and ratified. Subject to an agreed form of wording within the S.106 legal agreement to secure

appropriate mechanisms for securing the delivery of the project, the proposal adheres to the Development Plan policies identified including Core Strategy Policy CS15(1).

## **9.0 Conclusion**

9.1 This application has been assessed as being acceptable to residential amenity and its local context. The application is recommended for conditional approval subject to a revised S.106 legal agreement being completed.

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

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

1(a), 1(b), 1(c), 2 (c), 2 (d), 2 (e), 4(s), 5 (e), 6(a), 6(c), 6 (f), 6(h), 7 (a), 7(c), 7 (d), 7 (m), 7 (q), 7 (x), 7 (y), 8(a), 9(a) and 9(b)

### **SH for 26/10/10 PROW Panel**

## **PLANNING CONDITIONS**

As set out in the attached report to the Planning Panel in June 2010 (**Appendix 1** refers) with the addition of the following:

### **41. APPROVAL CONDITION - Full Permission Timing Condition - physical works**

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

Reason:

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

### **42. APPROVAL CONDITION – Flood Risk Assessment**

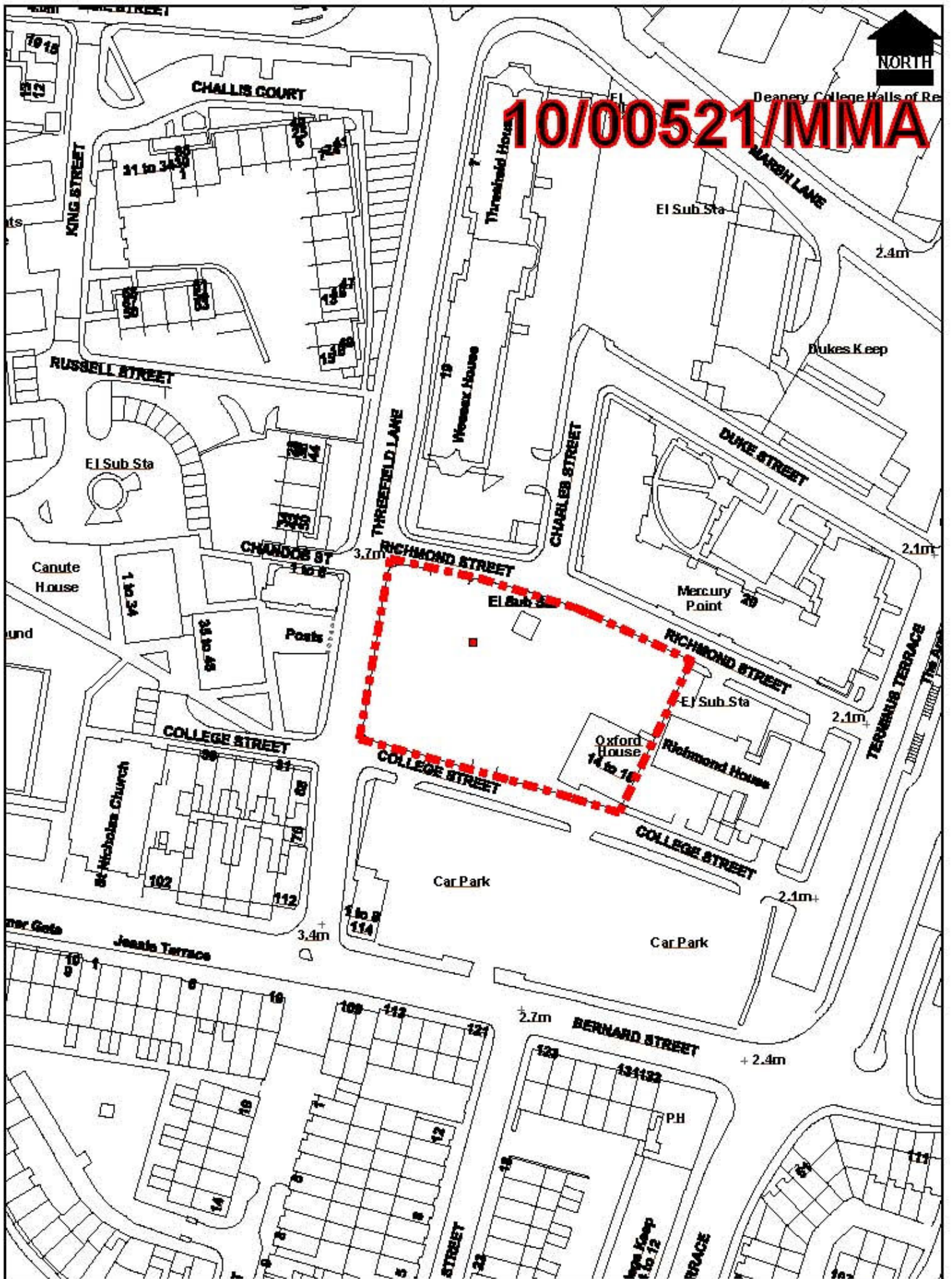
The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Ref: 247178/001 (July 2010), by Peter Brett Associates LLP and the following mitigation measures detailed within the FRA, namely:

- Identification and provision of safe route(s) into and out of the site to an appropriate safe haven;
- Flood proofing measures detailed on page 14, that service ducts will be sealed from flood waters, electrical plant (ie. the back up generator) will be raised above or sealed from flood waters and electrical sockets will be fitted above flood waters, up to 0.5% tidal event for 2115 in the proposed development; and
- Finished floor level of the residential units are set no lower than 6.85 metres above Ordnance Datum (AOD).

Reason:

To reduce the risk to the development's users should they need to access and egress from and to the site during/prior to a flood. To reduce the impact/risk of flooding on the proposed development and future occupants in accordance with the Environment Agency's response dated 31<sup>st</sup> August 2010 to the planning application.





Scale : 1:1250

Date : 13 October 2010

© Crown copyright. All rights reserved. Southampton City Council 100019679 2004.

