

Southampton City Planning & Sustainability
 Planning and Rights of Way Panel meeting (6th September 2011)
 Planning Application Report of the Planning and Development Manager

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| Application address: | | | |
| Area Housing Office, Parkville Road, Southampton | | | |
| Proposed development: | | | |
| Redevelopment of the site. Demolition of the existing buildings and erection of a building ranging in height from 3-storeys to 15-storeys to provide student residential accommodation (53 cluster flats comprising a total of 348 rooms, 4 x 2-bedroom flats and 12 x 1-bedroom flats); a medical centre (Class D1 use), retail units (Class A1) and two units for community use or non-residential institution use (Class D1) or retail (A1) or food and drink use (A3) with associated landscaping, parking and site works, including the stopping up of existing highway. | | | |
| Application number | 11/00204/FUL | Application type | FUL |
| Case officer | Stephen Harrison | Public speaking time | 15 minutes |
| Last date for determination: | N/A Planning Performance Agreement | Ward | Swaythling |
| Reason for Panel Referral: | Major Development on Council Land | Ward Councillors | Cllr Vassiliou Cllr Osmond Cllr Turner |

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| Applicant: Bouygues Development | Agent: Fluid Architecture Ltd FAO: Mr Christopher Pickering |
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| Recommendation Summary | Delegate to the Planning and Development Manager to grant conditional planning permission subject to the criteria listed in this report. |
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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. The proposed development has been revised to increase the level of on-site car parking. Following the proposed change to the student-car ownership restriction the impact of the development, in terms of visual and neighbour amenity, highway safety and parking are still considered to be acceptable for the reasons detailed in the report to the Council's Planning and Rights of Way Panel on 6th September 2011. Particular account has also been taken of the third party response to the scheme, the quality of the proposed redevelopment proposals, 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, and application 11/00204/FUL should therefore be granted in accordance with the following policies:

City of Southampton Local Plan Review (March 2006) policies SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13,, SDP14, SDP15, SDP16, SDP17, SDP19, SDP22, NE7, HE1, CLT5, CLT7, H1, H2, H3, H7, H13, REI6 and TI2 and City of Southampton Core Strategy (January 2010) policies CS4, CS5, CS6, CS10, CS11, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22, CS24 and CS25 as supported by the relevant national planning guidance and the Council's current supplementary planning guidance listed in the Panel report.

| Appendix attached | | | |
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| 1/2/3 | 21 st June 2011/24 th May 2011 Panel Reports & Summary table | 4. | 21 st June 2011 Panel Minute |
| 5. | Applicant's Counsel Opinion | | |

Recommendation in Full

Conditional Approval - Subject to:

- (a) Confirmation in writing by the applicant prior to the grant of planning permission that the attached draft Heads of Terms are acceptable to the applicant;
- (b) the receipt of an undertaking from the Head of Property and Procurement Services that the contract for the sale of Council owned land, the subject of this application, will be conditional upon Bouygues Development and any other landowner entering into a S.106 legal agreement with the Council, prior to the land transfer taking place, to provide the following planning obligations:

Note: Changes to that previously agreed by the June Planning Panel are highlighted:

- i) An occupation restriction to ensure that all residents are in full time higher education and that the provider is a member of the Southampton Accreditation Scheme for Student Housing (SASSH) in accordance with Local Plan Policy H13(v);
- ii) The submission and implementation of a Student Drop Off/Collection Management Plan committing to an ongoing review of the site;
- iii) The scheme shall make a commencement within 6 months and achieve a shell and core finish within 36 months from the date of the planning permission so as to reflect the current viability assumptions made. In the event that this is not achieved a fresh viability appraisal shall be submitted with any uplift in value (up to an agreed sum) payable to the City Council;
- iv) A financial contribution and/or the implementation and maintenance of an agreed series of site specific transport and off-site landscaping works (including the proposed Stoneham Way service layby and Parkville Road Improvement Scheme with a minimum of 12 parking spaces) under S.278 of the Highways Act with implementation prior to first occupation in line with Policy SDP4 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS18 and CS25;
- v) The funding of Traffic Regulation Orders (TRO) required ~~for the above measures~~ to enable the development to be implemented;

- vi) A financial contribution and/or the implementation and maintenance of an agreed series of strategic transport projects for highway network improvements, including the potential for a new/revised UNlink bus route and bus stop serving the development with implementation prior to first occupation, in the wider area as set out in the Local Transport Plan and appropriate SPG/D;
- vii) The submission and implementation of a public parking management plan for those spaces along Parkville Road dedicated for public use. **Details to include additional explanatory signage to be erected in Parkville Road at the applicant's expense;**
- viii) A Student Car Ownership Restriction **Mechanism** as part of any student contract of tenancy shall be agreed and imposed. No student shall be entitled to park on the land. Upon the offer of the place a clear written statement shall be given to the students detailing the implications for their tenancy in the event that they are found to have a car. All student contracts to include the agreed ~~penalty clause~~ wording to the effect that they shall not bring a car to Swaythling Ward whilst living at City Gateway and **may** be evicted if found to have done so. In the event that evidence is provided by residents or the City Council that a resident has access to a car they will be given a warning **leading to possible eviction**. This will be ~~enforced by~~ **at the discretion of** the University of Southampton and/or any designated operator and/or the landowner upon receipt of valid evidence. ~~followed by eviction in the event that the car is still available. In the event that no enforcement is taken by the landowner (to either the evidence provided or the eviction notice) within agreed timescales a breach of planning will have occurred and a financial penalty (to be set and agreed) will be payable to the City Council by the landowner.~~ Reception area to have an up-to-date telephone number with information about when and where breaches can be reported ~~to the freeholder~~. **Without prejudice to the above paragraph, the mechanism will be agreed between the University/operator and Southampton City Council prior to first occupation of the building;**
- ix) A mechanism for replacing the existing community uses (both during and following the construction phase) in accordance with LDF Core Strategy Policy CS3;
- x) Financial contributions towards the relevant elements of public open space required by the development in line with Policy CLT5 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS21 and CS25;
- xi) The submission, approval and implementation of public art – possibly to include an art fence - that is consistent with the Council's Public Art 'Art People Places' Strategy;
- xii) Submission and implementation within a specified timescale of a Travel Plan, including the provision of UNlink bus passes to all residents;
- xiii) Provision of on-site CCTV coverage and monitoring in line with Policy SDP10 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS13 and CS25;

- xiv) Submission and implementation of a TV Reception Study committing to a pre and post construction assessment with off-site mitigation where necessary;
- xv) Submission and implementation of a Training & Employment Management Plan committing to adopting local labour and employment initiatives (during and post construction) in line with LDF Core Strategy policies CS24 and CS25;
- xvi) A Site Waste Management Plan;
- xvii) Submission and implementation of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- xviii) Agreement of construction vehicle routing;
- xix) Developer shall be responsible for the cost of checking of drawings and construction;
- xx) Market Buildings Car Parking Improvement Scheme (MBCPIS) – Prior to implementation to have approved in writing by the Council a scheme of works for the MBCPIS - to include consultation with Market Building’s residents and business owners, a minimum of 37 parking spaces, tree protection measures during construction, and enhancements to the area’s appearance including the associated Herbert Collin’s Memorial Garden. The MBCPIS shall be provided prior to the first occupation of the development in accordance with an agreed S.278 and TRO for any additional parking restrictions; and,**
- xxi) Details of additional explanatory signage to be erected in Ethelbert Avenue at the applicant’s expense.**

In the event that such an undertaking is not forthcoming within 3 months from the date of this decision that delegated authority be given to the Planning and Development Manager to refuse the application for failing to secure an appropriate mechanism for dealing with the S.106 legal agreement mitigation measures listed above.

1.0 Background

- 1.1 The Planning & Rights of Way Panel resolved to grant planning permission for this scheme, at its meeting on 21st June 2011, subject to the S.106 Legal Agreement including a clause that would ensure that the freeholder would evict any students found to be parking in Swaythling. A financial penalty clause was also agreed in the event that the freeholder failed to deal with any overspill parking by students.
- 1.2 Since the resolution the applicants have removed their offer of evicting students and have submitted an alternative approach to dealing with the scheme’s parking issues. Planning permission has not, therefore, been issued and, instead a re-consultation exercise has taken place giving those concerned an opportunity to comment on this change to the application.
- 1.3 For completeness a copy of the previous Panel reports and the Minutes from the June Panel are appended to this Panel report. The following report itself deals only

with the change in the proposed parking as all other matters (such as the principle of development, the chosen design and its impact on neighbours amenity) have been found by the Panel to be acceptable.

2.0 Consultation Responses and Notification Representations

- 2.1 Following confirmation from the applicants that they are unable to evict students that bring a car to Swaythling from the development, and the receipt of further Highways Technical Note explaining the student parking demand and provision, a re-consultation exercise has been carried out by the Council. A further 14 days to review and comment on the amended scheme and additional information has been given and, in addition to re-notifying all recorded objectors, letters have also been sent to every address in Phillimore Road, Willis Road, Daffodil Road, Langhorn Road, Ethelbert Avenue and the Market Buildings.
- 2.2 At the time of writing the Council has received a further **13 objections** to the proposals (including objections from Ward Councillors Turner and Vassiliou) raising the following planning related concerns:
- a) The removal of the eviction clause for those students that chose to bring a car to university and park in nearby streets is not acceptable. Local people have been misled. Being able to prevent student car use is fundamental to the validity of the Transport Assessment. The suggested 'discretionary' clause to enforcement is meaningless and has no credibility.
 - b) The developer could make use of the Contracts (Rights of Third Parties) Act as an alternative approach for dealing with the enforcement of the no car agreement. In short, this would offer third parties, such as local residents, the right to enforce a clause within the students tenancy agreements that those occupying the development will not bring a car to Swaythling.
 - c) Competition for on-street spaces will increase resulting in existing residents and surrounding businesses being inconvenienced. This will also adversely affect disabled people, elderly residents and the emergency services.
 - d) The conclusions drawn in Odyssey's revised Technical Note that overspill parking would occur 'within capacity' is not correct. The lack of enforcement will result in a saturation of those areas where parking is currently available, particularly by cars belonging to students. No account is taken to the loss of the existing parking in Parkville Road and the car park upon which the development is to be built. No account is taken on the parking demand from staff of the new development, which would add to the overspill. Parking restrictions would have to be introduced at Market Buildings that would move existing long-stay users to surrounding streets. Some 130 additional off-site parking spaces are required to meet this added demand (including some 77 spaces needed for students bringing cars to Swaythling).
 - e) The applicants should be encouraged to design the scheme with a basement car park instead of relying on the neighbouring streets to take the overspill parking from students.
 - f) The conservation area of Ethelbert Avenue is likely to be targeted by students looking for a convenient parking space. Additional on-street parking in Ethelbert Avenue will significantly harm its attractive character and by allowing it the Council would be in breach of S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- g) A barrier or permit holders scheme is again requested to prevent parking within Parkville Road. Overspill parking is already happening in Parkville Road as a consequence of the Council's closure of the existing car park.
- h) The additional parking spaces at Market Buildings would not be enough to deal with the likely overspill from student parking associated with the development. The existing layout underestimates the amount of existing parking available so as to make the proposed increase more generous than it actually is. In reality no additional parking spaces will be provided. Furthermore, the proposed one-way approach to Market Buildings will create a 'rat-run' to beat the traffic lights to the detriment of highway safety
- i) Existing residents and business operators have expressed concerns about the revised parking layout to the front of their property. An allocation of spaces for these affected third parties is requested so that students do not take all the available parking to the detriment of the existing users
- j) If planning permission were granted on the current basis it would be at high risk of a successful challenge at judicial review on the grounds of illegality and Wednesbury unreasonableness
- k) The scheme still fails to deal adequately with student drop-off and collection.
- l) Clarification is sought that only students will live in the scheme and what will happen should the University decide not to take the space and it is, instead, used for open market housing.
- m) Further updates are sought with regard to the ongoing provision of the youth and boxing clubs.

Consultation Response

2.3 **SCC Highways** - The information supplied by Odyssey is flawed to a degree, but looking at the situation as a whole, I have the following comment:

2.4 The students are still to be discouraged from bringing a car with them to University if they are to reside in this new purpose built development, and will be required to sign an agreement confirming that they agree to this. The difference is that there will be no financial penalty or final agreed power of eviction should a student chose to break the terms of the agreement they sign. This site is an island which does not benefit from any dedicated parking for residents of the development, and the nearest road, the private section of Parkville Road is not available for any parking other than for the houses which back onto it. Any student bringing a car to site would need to park it some distance from their residence, and this would be out of sight, which is not a preferred option for a car owner, as a driver does not feel that their car is safe it is a distance away. Residents of this development will have the benefit of a convenient Uni Link bus service for which they will be given a free bus pass for unlimited travel. There is no available parking on the University Campus when the students attend classes, so their cars would need to be left again, in a remote location. It is also a policy of the University to discourage students from bringing cars to the city, and the use of the very efficient and prestigious Uni Link bus service is actively encouraged, as is cycling and walking, with the provision of

secure cycle cages at the campus, and well lit and direct safe routes for walking and cycling.

- 2.5 The roads surrounding the Swaythling Gateway site are already subject to reasonably high levels of kerb side car parking, and some of these areas are likely to become subject to Controlled Residents Parking Zones in the near future, which could make finding unrestricted long term kerbside parking more difficult and push the student further away to find suitable parking. The result will be that the student who defies the car restriction clause of their agreement is likely to find that there is no convenience in bringing a car with them, because of the parking issue. The applicant is willing to improve the parking around the nearby shopping area of Market Buildings, where a more formalised parking layout could result in increasing the parking provision here. It is recommended that this parking area should be enhanced, and a consultation proposal should be put to the shop keepers to determine the number of limited time spaces which should be provided versus the number of unlimited waiting places are available. This will achieve some long stay formalised parking should there be any demand in the near vicinity which could be of a direct result of a student having a car whilst residing in the Swaythling Gateway Accommodation.
- 2.6 The residents of Ethelburt Avenue are seriously concerned for their own road which is a private unmade street, not maintained at the public expense, and forms a conservation area. Ethelburt Avenue is distanced from the site but is still as much at risk of abuse as any other of the nearby surrounding streets, should this actually occur.
- 2.7 I therefore have the following recommendations:
- 2.8 That the private section of Parkville Road and Ethelburt Avenue shall have suitably designed and worded signing provided and erected in agreed locations to make clear the 'no parking for unauthorised users' message is clear, all details to be agreed with the residents and highway and historic environment departments prior to erection, and those signs to be in place prior to the occupation of the development.
- 2.9 The parking layout and construction in front of Market Buildings including the need for a TRO for parking restrictions shall be agreed with the highway authority, and residents/shop proprietors of Market Buildings shall be consulted on the proportion of restricted parking spaces to be provided. This element of work shall be completed and the parking improvements in place prior to the occupation of the new building.
- 2.10 **SCC Heritage** - The proposals for Market Buildings deal sensitively with the site. Subject to the Highways Team being content that this will deal with the parking issues no further comment is made.

3.0 Planning Consideration Key Issues

- 3.1 Following the June Panel resolution to grant permission the key issue for consideration in the determination of this planning application is parking. In particular, the issue of whether or not a car free scheme as is proposed to serve the 368 student bedrooms.

- 3.2 The June Planning Panel meeting considered the scheme and added a clause to the S.106 Legal Agreement stating that:
- “A Student Car Ownership Restriction as part of any student contract of tenancy shall be agreed and imposed. No student shall be entitled to park on the land. Upon the offer of the place a clear written statement shall be given to the students detailing the implications for their tenancy in the event that they are found to have a car. All student contracts to include the agreed penalty clause wording to the effect that they shall not bring a car to Swaythling Ward whilst living at City Gateway and will be evicted if found to have done so. This will be enforced by the landowner upon receipt of valid evidence. In the event that evidence is provided by residents or the City Council that a resident has access to a car they will be given a warning followed by eviction in the event that the car is still available. In the event that no enforcement is taken by the landowner (to either the evidence provided or the eviction notice) within agreed timescales a breach of planning will have occurred and a financial penalty (to be set and agreed) will be payable to the City Council by the landowner. Reception area to have an up-to-date telephone number with information about when and where breaches can be reported to the freeholder.”*
- 3.3 Despite the initial offer of an eviction clause the applicants addressed the Panel meeting to explain that a financial penalty for inaction would render the scheme non-viable. Since the Panel meeting the applicant has sought Counsel opinion to the effect that not only is a financial penalty unreasonable but an eviction clause is unlawful in any event. This is a significant change in circumstance, but forms a material consideration nevertheless. A copy of the Opinion is attached at **Appendix 5**.
- 3.4 The applicants have agreed, however, that some form of wording to the effect that students ‘may’ be evicted if they are found to have brought a car to Swaythling whilst resident at the development is acceptable.
- 3.5 In addition, the applicants have reviewed the existing on-street parking availability around the application site to confirm whether or not there is existing capacity to serve any student parking overspill. Based on a series of assumptions it has previously been suggested that a scheme of this size might yield an additional parking demand for some 42 off-site parking spaces to serve the student accommodation use (based upon no prohibition of student parking). It is further reported that this figure will be further reduced in the event that a threat of eviction is retained.
- 3.6 The applicant’s survey work concludes that accounting for the possible controlled parking that is proposed by the Council for the Flowers Estate, the highway network around the application site (including Stoneham Lane, Willis Road, Phillimore Road, Dafodil Road and Langhorn Road) typically on any given evening would have capacity for some 73 additional vehicles.
- 3.7 This spare capacity is located nearer and, by inference, more conveniently to the site than Ethelbert Avenue and is sufficient to accommodate the likely overspill projected without harming the conservation area.
- 3.8 In addition to the spare capacity identified the applicants also propose to improve the efficiency in layout of the existing Council owner parking to the front of Market Buildings (adjacent to the Herbert Collins’ Memorial Gardens). With careful design,

and a means of construction that does not undermine the significant tree roots that prevail, it is anticipated that a further 10 parking spaces could be delivered to further ease the parking pressures in Swaythling. This additional parking could be secured with the additional S.106 clause recommended above.

- 3.9 In short, whilst less than 42 students are anticipated to own and bring a car to Swaythling whilst residing at the development, there is currently capacity for some 83 additional vehicles (ie. 73 spare on-street plus 10 proposed at Market Buildings) off-site in locations more convenient to users than Ethelbert Avenue from where a significant level of public objection to the scheme has arisen.

Summary

- 3.10 The Council has been asked to consider its opinion regarding the applicant's suggested eviction clause. Whilst the clause, as originally drafted, has been found to be unlawful the Council has to decide whether or not the scheme proposes sufficient parking so as not to result in highway safety concerns to surrounding streets.
- 3.11 The applicant's further revised application indicates that there is sufficient capacity within nearby streets to accommodate the anticipated parking overspill that will occur from the development from student car owners. Furthermore, additional parking capacity will be created at Market Buildings through the S.106 legal agreement to ease likely parking demands.
- 3.12 The level of any parking overspill is, they submit, unlikely to be significant given the wording of the clause suggested, the inconvenience and safety concerns of parking off-site and the provision by the University of free bus travel to all residents. Based on the assumptions made officers are minded to agree that any overspill can be accommodated without causing harm and the significant regeneration benefits and provision of specialist form of housing should be afforded due weight in the Council's final decision.

4.0 CONCLUSION

- 4.1 The application is recommended for conditional approval following confirmation from the Council's Head of Property & Procurement Services that the contract for the sale of Council owned land will be conditional upon Bouygues Development entering into a S.106 legal agreement with the Council prior to the land transfer to provide the package of measures listed above.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1a, b, c, d, 2b, c, d, 4b, f, 6a, c, d, h, 7a, b, f, g, i, n, p, t, u, v, w, 9a, 10a & b

SH2 for 06/09/11 PROW Panel

PLANNING CONDITIONS

(as agreed and amended by Panel on 21st June 2011) to include:

01. APPROVAL CONDITION - Implementation Commencement

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission was granted.

REASON:

In accordance with Section 91 of the Town & Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

02. APPROVAL CONDITION - 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.

03. APPROVAL CONDITION - Details of External Materials - Samples

Notwithstanding the submission to date no work for the construction of the buildings hereby permitted (excluding the demolition and site preparation phase) shall commence unless and until details and samples of the materials and finishes to be used for the external walls, windows, window reveals, doors and roof of the building have been submitted to and approved in writing by the Local Planning Authority. These details should include a commitment to using an anti-graffiti finish (where feasible) to the ground floor level. 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 interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality.

04. APPROVAL CONDITION - Building Heights

There shall be no alterations to or deviations from the finished floor levels and finished building heights as detailed on the approved plans without the prior written agreement of the local planning authority. No building works or ancillary structures including television aerials, satellite antennas and telecommunication equipment shall exceed a maximum building height of 54.33 metres AOD. Obstacle lights shall be placed on the top of the building. These obstacle lights must be steady state red lights with a minimum intensity of 2000 candelas. Periods of illumination of obstacle lights, obstacle light locations and obstacle light photometric performance must all be in accordance with the requirements of 'CAP168 Licensing of Aerodromes' (available at www.caa.co.uk/srg/aerodrome). The obstacle light(s) must be sited so as not to infringe the Obstacle Limitation Surface at 54.330m AOD.

REASON:

To ensure that the impact of the development in relation to the natural features of the site and nearby buildings is demonstrated and to prevent any undue conflict with the flight paths of Southampton Airport – BAA's response dated 8th March 2011 refers.

05. APPROVAL CONDITION - Security Measures

No development shall commence (excluding the demolition and site preparation phase) until a Security Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the:

- i. CCTV coverage & concierge arrangements with 24 hour on-site management;
- ii. semi-private ground floor courtyard access and management arrangements;

- iii. surface car park area including all means of enclosure and lighting;
 - iv. door types of the storage areas;
 - v. outer communal doorsets and the pod access doorsets;
 - vi. ground floor windows; and
 - vii. audio/visual control through the communal access doors.
- Development shall be completed and retained in accordance with the agreed details.

REASON:

In the interests of crime prevention and residential safety

06. APPROVAL CONDITION - Active frontages

Notwithstanding the provisions of Class 12 of Schedule 3 of the Town and Country Planning (Control of Advertisements) Regulations 2007 the occupier(s) of the non residential uses hereby approved on the ground floor shall retain an 'active window display' along the length of the shop frontages hereby approved (without the installation of window vinyls or roller shutters) in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of each unit to which the information relates.

REASON:

In the interests of retaining a lively and attractive streetscene.

07. APPROVAL CONDITION - Amenity Space Access

The communal roof terrace and first floor lounge area shown on the approved plans, and pedestrian access to them, shall be made available for all residents prior to the first occupation of the student pods and flats hereby permitted unless otherwise agreed in writing with the Local Planning Authority. The roof terraces shall be retained with access to them by all residents and their visitors at those times agreed in writing with the Local Planning Authority prior to the first occupation of the student accommodation.

REASON:

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

08. APPROVAL CONDITION - Servicing

Notwithstanding the details submitted with the application prior to the occupation of each of the non-residential units hereby approved full details of how service vehicle deliveries to the site will be managed shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details unless otherwise agreed in writing by the local planning authority and the approved details conformed to thereafter.

REASON:

In the interests of the safety and convenience of all highway users.

09. APPROVAL CONDITION - Hours of Use – Non Residential Uses

The non residential uses hereby approved shall not operate outside of the hours hereby set out:

- 6:30am and 10:30pm (Monday to Saturday) and 7am and 10pm Sundays, Bank and/or Public Holidays as supported by a Security Management Plan (As required by the condition above)
- The pharmacy shall not operate outside of the hours of 7am and 11pm 7 days a week including Sundays, Bank and/or Public Holidays.

REASON:

In the interests of existing and proposed residential amenity

10. APPROVAL CONDITION - Hours of Delivery – Non Residential Uses

No deliveries shall be taken at or despatched from the site outside the hours hereby set out:

- 6am and 7pm (7 days a week including Sundays and recognised public holidays) with deliveries between 6am and 7am restricted to one transit van delivery only.
- Any deliveries by articulated vehicles shall be in accordance with the above hours with such deliveries to take place no earlier than 7am (Monday to Friday) and 8am on weekends and recognised public holidays as supported by a Deliveries Management Plan that shall have been agreed in writing with the Local Planning Authority prior to the occupation of the commercial unit to which it relates.

REASON:

In the interests of existing and proposed residential amenity

11. APPROVAL CONDITION - Noise Mitigation & Attenuation

The approved development shall be implemented and completed only in accordance with the recommendations as set out in the applicant's Noise Assessment dated 28th January 2011. Any mechanical acoustic ventilation for noise issues from Thomas Lewis Way shall be ventilated from the roof. Notwithstanding these approved details, unless otherwise agreed in writing by the Local Planning Authority, windows and ventilation systems shall be provided to achieve the sound reduction levels of:

37dB(A) for living rooms overlooking Stoneham Way

42dB(A) for bedrooms overlooking Stoneham Way

37dB(A) for living rooms overlooking Thomas Lewis Way

43dB(A) for bedrooms overlooking Thomas Lewis Way

REASON:

To protect occupants of the student accommodation from traffic and railway noise and to ensure that the amenity of existing residents is not unduly compromised during the implementation phase.

12. APPROVAL CONDITION - Disabled Access

Lifts shall be provided in accordance with the approved plans and shall be made available for use prior to the first occupation of the student accommodation hereby approved. The approved lifts shall be effectively operated and maintained in accordance with manufacturer's instructions for as long as the approved use continues.

REASON:

In the interests of the amenities of future occupants and visitors and in accordance with the Council's policies and practice in respect of access for disabled persons.

13. APPROVAL CONDITION - Hours of Construction & Associated Deliveries

In connection with the implementation of this permission any demolition, conversion and construction works, including the delivery of materials to the site, shall not take place outside the hours of:

- 8am and 6pm Mondays to Fridays; and,
- 9am and 1pm on Saturdays.

Works shall not take place at all on Sundays or Public Holidays without the prior written approval of the Local Planning Authority. Any works outside the permitted hours shall be confined to the internal preparation of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

No deliveries of construction materials or equipment, or removal of demolition materials associated with this development shall take place between the following times:

- 8am to 9am and 4:30pm to 5:30pm Mondays to Fridays

REASON:

To protect local residents from unreasonable disturbances from works connected with implementing this permission, and to ensure that construction traffic does not conflict unduly with the City's peak hour traffic.

14. APPROVAL CONDITION - Demolition and Construction Method Statement

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 Demolition and Construction Method Statement (DCMS) for the development. The DCMS shall include details of: (a) parking of vehicles of site personnel, operatives and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials, including cement mixing and washings, used in constructing the development; (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary; (e) measures to be used for the suppression of dust and dirt throughout the course of construction; (f) details of construction vehicles wheel cleaning; (g) details of how noise emanating from the site during construction will be mitigated; and, (h) details of the Site Manager's telephone number that residents can use in the event that they wish to raise concerns. The approved DCMS 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.

15. APPROVAL CONDITION - Demolition - Removal of Debris

The existing building and/or structure shall be demolished (in accordance with the plans hereby approved) and all resultant materials removed from the site and disposed of at an appropriate authorised tip within 2 months of the commencement of the demolition works relating to that structure and before the redevelopment hereby approved is commenced unless otherwise agreed in writing by the Local Planning Authority.

REASON:

To secure a satisfactory and comprehensive form of development and to safeguard the visual amenity of the locality.

16. APPROVAL CONDITION - Piling Method

A method statement shall be submitted to and approved in writing by the Local Planning Authority before the development commences (excluding the demolition and site preparation phase) to demonstrate how any pile driving operation will take place as part of the development. Any pile driving operations as approved shall be carried out in

accordance with that approved method statement. To limit vibration, a continuous flight auger method is the preferred method.

REASON:

To ensure that appropriate measures are incorporated into the construction activities to mitigate any noise problems generated by pile driving operations.

17. APPROVAL CONDITION - Landscaping

Notwithstanding the information submitted with the application (and detailed on the Terrafirma plan 1070-101H) no development shall take place (excluding the demolition and site preparation phase) until full details of both hard and soft landscaping for both the roof terraces, landscape buffers, all car parking and the ground floor courtyard area have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i. a detailed response to the Council's landscape design comments dated 19th April 2010;
- ii. proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas, hard surfacing materials, structures and ancillary objects (refuse bins etc);
- iii. external lighting (to include type and luminance);
- iv. 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;
- v. a specification for the approved green/brown/biodiverse wall(s) and roof(s) forming the Thomas Lewis Way wing;
- vi. the provision of a 2 for 1 replacement of those trees to be lost (where practicable). The replacement trees shall be of a heavy standard size (12 - 14cm girth) as a minimum and will be planted within the site or at a place agreed in writing with the Local Planning Authority;
- vi. details of any proposed boundary treatment, including the "art fencing" to the south of the approved semi-public communal courtyard at ground floor level and the retained strip along the building's Thomas Lewis Way frontage; and
- vii. A landscaping management plan, including long term objectives, management responsibilities and maintenance schedules for the landscaped areas.

The hard and soft landscaping works shall be carried out in accordance with the details approved. The works shall be carried out before any of the development is occupied or in accordance with a timescale which has been agreed in writing with the local planning authority prior to the commencement of development.

If within a period of five years from the date of the planting of any tree or shrub, or any tree or shrub planted in replacement of it, it is removed, uprooted, destroyed, dies or becomes in any other way defective in the opinion of the local planning authority, another tree or shrub of the same species and size of that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

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.

18. APPROVAL CONDITION – Arboricultural Method Statement

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 (including those along Thomas Lewis Way that are to be retained) 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.

19. APPROVAL CONDITION - Sustainable Drainage System

Prior to development commencing (excluding the demolition and site preparation phase) details of the construction of the surface water drainage system shall be submitted to and approved in writing by the Planning Authority. The surface water drainage shall thereafter be undertaken only in accordance with the approved details. The submission shall include a feasibility study by independent consultants demonstrating the investigation and assessment of the potential for creation of a sustainable drainage system on site. If the study demonstrates the site has the capacity for the implementation of a sustainable drainage system, a specification shall be agreed in writing with the Local Planning Authority and fully operational prior to the first occupation of the development. It shall thereafter be retained and maintained for the benefit of the site and its users.

REASON:

To conserve valuable water resources and prevent against flood risk and to comply with policy SDP13 (vii) of the City of Southampton Local (2006) and the LDF Core Strategy Policy CS20 and in accordance with the applicant's FRA dated February 2011.

20. APPROVAL CONDITION - Sewers

No development shall commence (excluding the demolition and site preparation phase) until details of the proposed means of foul sewerage have been submitted to, and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed details prior to the first occupation of the development.

REASON:

As further capacity is required to accommodate the proposed intensification of development.

21. APPROVAL CONDITION - Flood Risk

Unless otherwise agreed in writing with the Local Planning Authority prior to the commencement of development the development shall be implemented in accordance with the Flood Risk Assessment (FRA) and Drainage Strategy (Odyssey February 2011) prior to the first occupation of the development.

REASON:

To ensure that a site can be developed safely the FRA is proposing mitigation measures that ensure increased surface water flow does not create flooding to people / property nearby.

22. APPROVAL CONDITION – Sustainable measures

Written documentary evidence demonstrating that the development has achieved at minimum a rating of Very Good against the BREEAM standard shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted, unless an otherwise agreed timeframe is agreed in writing by the LPA. The evidence shall take the form of a post construction certificate as issued by a qualified BREEAM certification body.

REASON:

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

23. APPROVAL CONDITION - Energy (Pre-Commencement Condition)

An assessment of the development's total energy demand and a feasibility study for the inclusion of renewable energy technologies on the site, or other means of improving energy efficiency that will achieve a reduction in CO₂ emissions of 15% for the residential and 12.5% for non-residential uses over part L of the Building Regulations must be conducted. Plans for the incorporation of renewable energy technologies or other means of improving energy efficiency to the scale that is demonstrated to be feasible by the study, and that will reduce the CO₂ emissions of the development of 15% for the residential and 12.5% for non-residential uses over part L of the Building Regulations must be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development hereby granted consent. Technologies that meet the agreed specifications must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter.

REASON:

To reduce the impact of the development on climate change and finite energy resources and to comply with adopted policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

24. APPROVAL CONDITION - Parking Provision

The 32 car parking spaces shown on the approved amended drawings listed below shall be provided and made ready for use prior to the first occupation of the development unless an alternative phased provision is agreed in writing with the Local Planning Authority. Notwithstanding the Odyssey Car Parking Management Plan (CPMP) the parking spaces shall be retained thereafter in accordance with a revised CPMP that shall have been agreed in writing with the Local Planning Authority prior to the first occupation of the development. Details shall include, for example, parking allocations between uses (including staff/permit allocations), means of security, pricing (if appropriate), enforcement and hours of use (where appropriate).

REASON:

In the interests of ensuring adequate provision is made for car parking on the site and the safety and convenience of all highway users and to ensure the distribution of spaces between units in order to meet the Council's adopted parking requirements.

25. APPROVAL CONDITION - Refuse & Recycling Bin Storage – In accordance

Bin storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the approved amended plans listed below. All storage shall be located and retained inside the building and presented only on the day of collection. The facilities shall include accommodation for the separation of waste to enable recycling by residents. The approved refuse and recycling storage shall be retained whilst the building is used for residential purposes.

REASON:

In the interests of the visual appearance of the building and the area in general.

26. APPROVAL CONDITION - Litter Bins

Provision shall be made on-site for the installation and subsequent emptying of litter bins and such provision shall be approved in writing by the Local Planning Authority before the first occupation of the development hereby permitted. The agreed scheme shall be retained and managed during the lifetime of the development.

REASON:

To ensure that adequate facilities are provided for the collection and disposal of litter likely to be generated by this mixed-use development.

27. APPROVAL CONDITION - Cycle Storage

Notwithstanding the information already submitted no development shall be occupied until details of the secure, covered cycle storage for all uses included within the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be made available prior to the occupation of the development in accordance with the approved details. The cycle storage shall be retained whilst the building is occupied for the approved use.

REASON:

In the interest of the amenity of residents and to reduce reliance on the private motor car.

28. APPROVAL CONDITION - Contamination – Desk Top Study

Notwithstanding the information already submitted no development shall take place until the developer has carried out adequate assessments to determine the likely presence of contamination on the site (desk study) and assessed the potential risks to human health and the wider environment. If any significant hazards are identified a scheme of further investigation will be required in order to assess the risk(s). If significant risk(s) are identified a detailed remediation scheme must be devised and implemented to ensure the long-term safety of the site.

Documented evidence of the above procedures shall be submitted to the Local Planning Authority for their written approval at each stage. Any remediation scheme required and approved shall be fully implemented and adhered to. Any amendments to the remediation scheme relevant to the risk associated with the contamination shall be submitted to the Local Planning Authority for prior approval in writing. On completion of the remediation

works and, prior to occupation of the properties on the development, the developer and/or his approved agent shall submit written confirmation that works have been completed in full and in accordance with the approved scheme.

The presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the Local Planning Authority and an investigation and management scheme implemented prior to occupation in accordance with details to be agreed.

REASON:

To identify unacceptable risks to human health and the environment and ensure investigation, assessment and remediation of the site is to an appropriate standard in accordance with the guidance given in Model Procedures for the Management of Land Contamination - Contaminated Land Report 11 - Environment Agency - 2001.

29. APPROVAL CONDITION - Contamination - Export of Soil

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 shall be submitted to the Local Planning Authority for approval prior to the first occupation of the development hereby approved.

REASON:

To ensure that no ground contamination risks to human health and the environment are introduced onto the application site.

30. APPROVAL CONDITION - Ecology

The ecology enhancements, as set out within the applicant's Ecological Assessment (dated February 2011), and updated by the emails from Dan Simpson from Aspect Ecology dated 9th and 17th February, shall be implemented in full prior to the first occupation of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority.

REASON:

In the interests of biodiversity and the wider ecology of the area.

31. APPROVAL CONDITION - Bird Hazard Management Plan (BHMP) - BAA

Development shall not commence (excluding the demolition and site preparation phase) until a Bird Hazard Management Plan (BHMP) has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include details of the management of any flat or shallow pitched roof that may be attractive to nesting, roosting and loafing birds and include details for preventing birds from perching in the window reveals. The BHMP shall comply with BAA's Advice Note 8. The BHMP shall be implemented as approved upon completion of the roof and shall remain in force for the life of the development. No subsequent alterations to the BHMP are to take place unless first submitted to and approved in writing by the Local Planning Authority.

REASON:

It is necessary to manage the roofs in order to minimise its attractiveness to birds which could otherwise endanger the safe movement of aircraft and the operation of Southampton Airport – BAA comments dated 8th March 2011 refer.

32. APPROVAL CONDITION – Archaeological investigation

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

REASON:

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

33. APPROVAL CONDITION – Archaeological work programme

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

REASON:

To ensure that the archaeological investigation is completed.

Note(s) To Applicant

Note to Applicant - Pre-Commencement Conditions

Your attention is drawn to the pre-commencement conditions above which require the full terms of the condition to be satisfied before development commences. In order to discharge these conditions you are advised that a formal application for condition discharge is required. You should allow approximately 8 weeks, following validation, for a decision to be made on such an application. If the Decision Notice includes a contaminated land condition you should contact the Council's Environmental Health Department, and allow sufficient time in the process to resolve any issues prior to the commencement of development. It is important that you note that if development commences without the conditions having been formally discharged by the Council in writing, any development taking place will be unauthorised in planning terms and this may invalidate the Planning Permission issued. Furthermore this may result in the Council taking enforcement action against the unauthorised development. If you are in any doubt please contact the Council's Development Management Service.

Note to Applicant - Performance Conditions

Your attention is drawn to the performance conditions above which relate to the development approved in perpetuity. Such conditions are designed to run for the whole life of the development and are therefore not suitable to be sought for discharge. If you are in any doubt please contact the Council's Development Control Service.

Note to Applicant - Southern Water – Water Supply - Informative

A formal application for connection to the public water supply is required in order to service this development. Please contact Atkins Ltd, Anglo St James House, 39a Southgate Street, Winchester, SO23 9EH (tel. 01962 858688).

Note to Applicant - Southern Water – Sewers - Informative

The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Atkins Ltd, Anglo St James House, 39a Southgate Street, Winchester, SO23 9EH (tel. 01962 858688).

Note to Applicant - Oversailing Public Highway

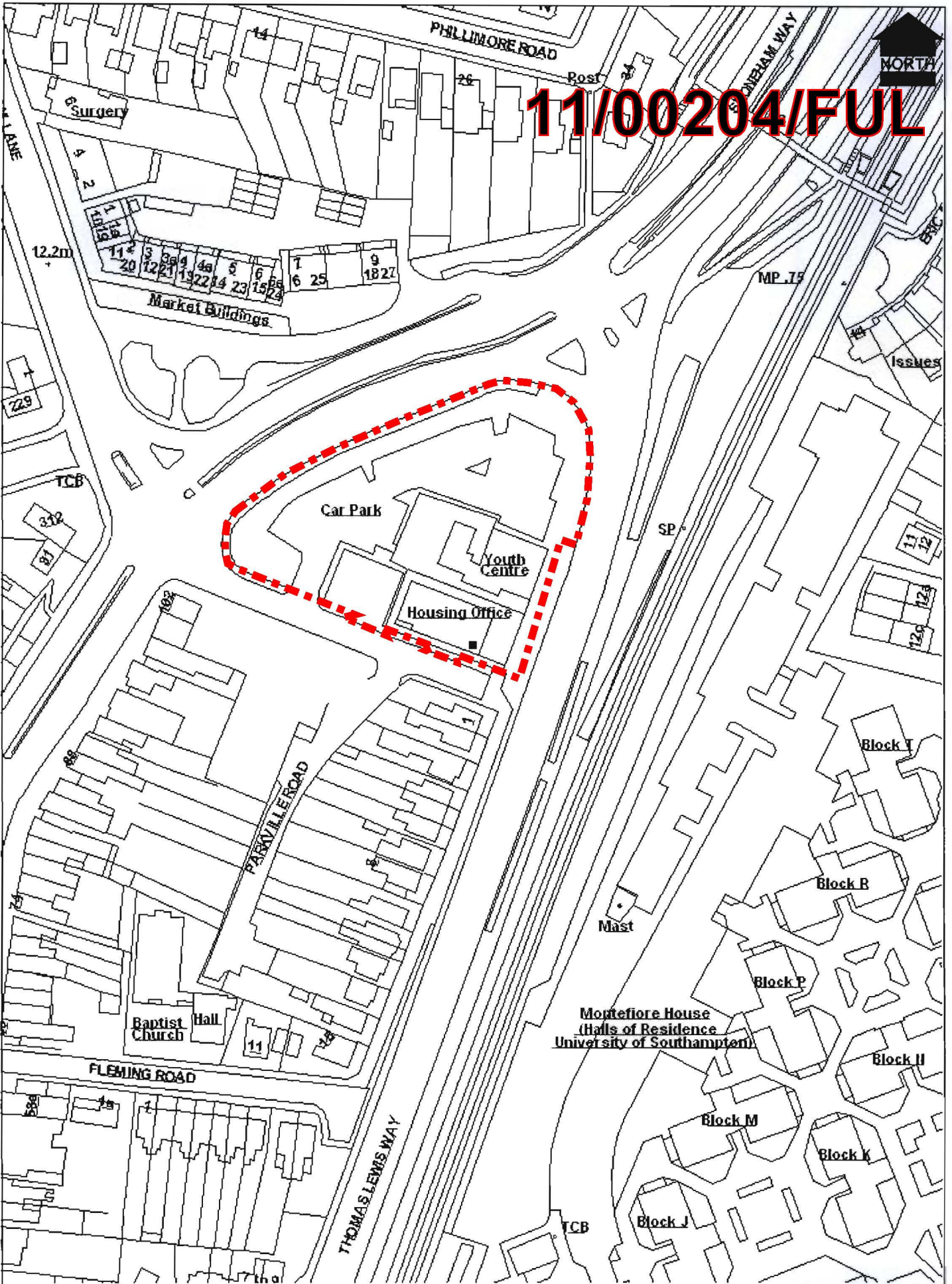
The applicant is reminded to contact the Highways Authority in the event that a license is required to oversail the public highway

Note to Applicant - Cranes

Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes and Other Construction Issues' (available at www.caa.co.uk/srg/aerodrome). The contact for crane issues at Southampton Airport is Iain Mc Dermott-Paine, Airside Compliance Manager telephone 02380 627173.

Note to Applicant – Nesting Birds

The applicant is reminded of their legal duty not to disturb any birds found nesting on site.



Scale : 1:1250

Date : 24 August 2011

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LIST OF APPENDICES

11/00204/FUL – Appendix 1/2/3

Report to the Planning & Rights of Way Panel (21.06.2011)

<http://www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=5857>

<http://www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=5890>

<http://www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=5864>

11/00204/FUL – Appendix 4

Minutes from the Planning & Rights of Way Panel (21.06.2011)

<http://www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=6174>

11/00204/FUL – Appendix 5

Applicant's Counsel Opinion regarding the student car-ownership restriction



1. Advice on s 106
southampton gatewa