

Planning and Rights of Way Panel

Tuesday, 27th June, 2023
at 4.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 and 4 - Civic
Centre

This meeting is open to the public

Members

Councillor Savage (Chair)
Councillor Beaurain
Councillor Mrs Blatchford
Councillor Cox
Councillor A Frampton
Councillor Powell-Vaughan
Councillor Windle

Contacts

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Head of Transport and Planning
Pete Boustred
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PUBLIC INFORMATION

ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL

The Panel deals with various planning and rights of way functions. It determines planning applications and is consulted on proposals for the draft development plan.

PUBLIC REPRESENTATIONS

Procedure / Public Representations

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

Southampton: Corporate Plan 2022-2030

sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time.

SMOKING POLICY – The Council operates a no-smoking policy in all civic buildings

MOBILE TELEPHONES:- Please switch your mobile telephones or other IT to silent whilst in the meeting.

USE OF SOCIAL MEDIA:- The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

FIRE PROCEDURE – In the event of a fire or other emergency a continuous alarm will sound, and you will be advised by Council officers what action to take.

ACCESS – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: Municipal Year 2022/2023

2023	
6 June	19 September
27 June	10 October
11 July	31 October
1 August	21 November
22 August	12 December

2024	
23 January	16 April
20 February	
12 March	

CONDUCT OF MEETING

TERMS OF REFERENCE

The terms of reference of the Planning and Rights of Way Panel are contained in Part 3 (Schedule 2) of the Council's Constitution

BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of

- Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council, and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
 - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

OTHER INTERESTS

A Member must regard himself or herself as having an 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

PRINCIPLES OF DECISION MAKING

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability, and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

2 ELECTION OF VICE-CHAIR

To elect the Chair and Vice Chair for the Municipal Year 2023-2024.

3 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

4 STATEMENT FROM THE CHAIR

5 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

(Pages 1 - 8)

To approve and sign as a correct record the Minutes of the meeting 6 June 2023 and to deal with any matters arising.

CONSIDERATION OF TREE PRESERVATION ORDERS

6 TREE WORK APPLICATION 23/00037/TPO

(Pages 9 - 32)

Report of the Head of Service seeking a decision on a tree work application at Marlhill Copse

CONSIDERATION OF PLANNING APPLICATIONS

7 PLANNING APPLICATION - 23/00267/FUL - LAND ADJ. WATERMARK WESTQUAY

(Pages 37 - 52)

Report of the Head of Transport and planning recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

8 PLANNING APPLICATION - 23/00505/FUL - 25 NORTHOLT GARDENS

(Pages 53 - 68)

Report of the Head of Transport and planning recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

9 PLANNING APPLICATION - 23/00357/MMA - ELMFIELD HOUSE, MILLBROOK ROAD EAST

(Pages 69 - 92)

Report of the Head of Transport and planning recommending that the Panel refuse planning permission in respect of an application for a proposed development at the above address.

Monday, 19 June 2023

Director – Legal, Governance and HR

PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 6 JUNE 2023

Present: Councillors Savage (Chair), Beaurain, Mrs Blatchford, Cox, A Frampton and Shields

Apologies: Councillor J Baillie

1. **APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

It was noted that following receipt of the temporary resignation of Councillor Powell-Vaughan and Windle from the Panel the Director – Legal, Governance and HR acting under delegated powers, had appointed Councillor Shields and J Baillie to replace them for the purposes of this meeting. Apologies from Councillor J Baillie were received.

2. **ELECTION OF VICE-CHAIR**

RESOLVED that this item be deferred until the meeting of 27 June 2023.

3. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED: that the minutes for the Panel meeting on 11 April 2023 be approved and signed as a correct record.

4. **THE SOUTHAMPTON (SWIFT HOLLOW) TREE PRESERVATION ORDER 2022**

The Panel considered the report of the Head of City Services

Jurgita Smulskiene was present and with the consent of the Chair, addressed the meeting.

RESOLVED that the Panel confirm the Southampton (Swift Hollow) Tree Preservation Order 2022, with amendments as set out in the report.

5. **PLANNING APPLICATION - 23/00153/REG3 - SOUTHAMPTON SPORTS CENTRE**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the authority be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report.

Redevelopment of the Sports Centre to provide a new community hub and indoor tennis and netball facility, new Alpine snowsports centre, new family zone, new athletics pavilion and grandstand, new 275 space woodland car park accessed via Dunkirk Road following the removal of a cricket pitch. Together with the provision of new and upgraded football pitches and retention and upgrade of cricket and hockey pitches, improved facilities for cycling and walking and enhanced landscaping. (Departure from Development Plan).

Richard Plume, Simon Reynier- City of Southampton Society, Yvette Rumbold, Michael Hickey (local residents objecting), Tina Dyer-slade, Richard Millard, (applicant), Chris

Grainger, Tracey Jones, Dave Johnston, Lyn Brayshaw (supporters) and Councillors Blackman and Wood (ward councillors) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that an additional objection had been received from Councillor A Bunday in relation to the provision of cricket pitches. It was noted that Hampshire Constabulary had responded to the proposed application and advised that they had raised no objection to the application advising that they would require further details of the access gates to be secured and noted that Condition 11 would be amended to reflect this. In addition it was noted that both the Environment Agency and the Council's Flooding team were reviewing the issues in regard to flood and drainage and these matters would be delegated to resolve the technical matters.

The Planning officer noted that a number of Conditions would need to be amended as set out below.

Upon being put to the vote, the recommendation as amended was carried unanimously.

RESOLVED

1. Delegated to the Head of Transport and Planning to grant planning permission subject to;
 - a. the planning conditions recommended at the end of the report along with any amendment detailed at the meeting and,
 - b. the receipt of satisfactory amended plans and technical mitigation on flood and drainage (providing the submission does not significantly alter the proposed scheme's layout and form).
2. That the Head of Transport and Planning be given delegated powers to add, vary and/or delete relevant parts of the conditions as necessary.
3. In the event that the flood risk objection is not overcome within reasonable timescales, delegate to the Head of Transport and Planning to refuse planning permission.

Amended Conditions

3. Unilateral undertaking agreement (Pre-Commencement Condition)

- i. Either the developer enters into an agreement with the Council under s.278 of the Highways Act to undertake a scheme of works or provides a financial contribution towards site specific transport contributions for highway improvements in the vicinity of the site – as detailed in the Highway Team's response to the planning application - 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 the adopted Developer Contributions SPD (April 2013) – these works to be delivered prior to first occupation of the new development;
- ii. Submission of a highway condition survey (both prior to and following completion of the development) to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- iii. Submission of a Training & Employment Management Plan committing to adopting local labour and employment initiatives with financial contributions

towards supporting these initiatives during both the construction and operational phases (as applicable), in accordance with Policies CS24 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);

- iv. 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);
- v. The submission, approval and implementation of a Travel Plan for the facilities (where applicable) to promote sustainable modes of travel in accordance with Policy SDP4 of the City of Southampton Local Plan Review and policies CS18 and CS25 of the adopted LDF Core Strategy – This plan is to be delivered prior to first occupation of the new development and following notification/consultation with Ward Councillors and the posting of site notices;

REASON: Planning permission can be issued following the resolution of the Planning and Rights of Way Panel as the site is currently within Council ownership. Furthermore, as the development will create localised impacts the suggested mitigation is required in the interests of the proper planning of the area and to mitigate the impact of the development in accordance with Policy CS25 of the amended City of Southampton Core Strategy (2015).

6. Hours of Use (Performance Condition)

The buildings hereby approved shall not operate outside of the hours hereby set out:
06.00am and 11pm (Monday to Saturday) and
06.00am and 10pm Sundays, Bank and/or Public Holidays

REASON: In the interests of existing and proposed residential amenity

11. Boundary Treatment (Pre-Occupation)

Before the development hereby approved first comes into occupation, any proposed changes to boundary treatment including access gates shall be first submitted to and approved in writing by the Local Planning Authority. The agreed boundary treatment/access gates shall be thereafter retained as approved for the lifetime of the development.

REASON: In the interests of the visual amenities of the area and to protect the amenities and privacy of the occupiers of adjoining property.

12. Landscaping, lighting & means of enclosure detailed plan (Pre-Commencement)

Notwithstanding the submitted details, before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted to and approved by the Local Planning Authority in writing, which includes:

- (i) proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle pedestrian access and circulations areas, hard surfacing materials including permeable surfacing where appropriate, external lighting, structures and ancillary objects (refuse bins etc.);
- (ii) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- (iii) The Green Space Factor Tool;

- (iv) 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 including a range of trees sizes including heavy standards (a five-for-one basis as offered by the applicant unless circumstances dictate otherwise and agreed in advance);
- (v) details of any proposed boundary treatment, including retaining walls and;
- (vi) a landscape management scheme.

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 25 years following its complete provision, with the exception of boundary treatment and external lighting which shall be retained as approved for the lifetime of the development.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 25 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 25 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.

19. Green Roof / wall Specification (Pre-Commencement Condition)

Details of the biodiversity (green/brown) roof(s) and wall shall be submitted to and approved in writing by the Local Planning Authority prior to the superstructure works for each building hereby approved commencing on site.

The biodiversity (green/ brown) roof(s) and walls shall be:

- a) biodiversity based with extensive substrate base (depth 80-150mm);
- b) laid out in accordance with plans hereby approved;
- c) planted/seeded with an agreed mix of species within the first planting season following the practical completion of the building works (the seed mix shall be focused on wildflower planting, and shall contain no more than a maximum of 25% sedum)
- d) The biodiversity (green/brown) roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.
- e) The biodiversity roof(s) and walls shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter by a qualified maintenance company.

The green/brown roofs must be installed to the approved specification before the building hereby approved first comes into use or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for the lifetime of the development following its complete provision. If the green roof dies, fails to establish or becomes damaged or diseased it 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 the lifetime of development from the date of planting.

REASON: To reduce flood risk and manage surface water run-off in accordance with core strategy policy CS20 and CS23, combat the effects of climate change through mitigating the heat island effect and enhancing energy efficiency through improved insulation in accordance with core strategy policy CS20, promote biodiversity in accordance with core strategy policy

CS22, contribute to a high quality environment and 'greening the city' in accordance with core strategy policy CS13, improve air quality in accordance with saved Local Plan policy SDP13.

6. **PLANNING APPLICATION - 23/00079/FUL - 382 WINCHESTER ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be refused.

Re-development of the site to provide a three-storey 26-bedroom apart hotel providing short-term serviced accommodation, including residents gym/studio, cafe, secure cycle parking, 9 associated on site car parking spaces, space for public e-scooter or e-bike docking station and landscaping (Resubmission 22/00737/FUL).

June Vear, Simon Reyneir -City of Southampton Society, Dave Johnston - Old Bassett Residents' Association (local residents/ objecting), David Jobbins (agent), Max Easton (applicant) and Councillor Blackman (ward councillor objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that additional correspondence from the Applicants Agent had been received and posted online. It was noted that an amended plan had been received on the 5th June 2023 detailing the location of a laundry. The officer explained that in the event of the recommendation to refused be overturned and planning permission had been granted, the Council would have prepared a Habitats Regulations Assessment, which would have concluded that this form of overnight accommodation would have an impact upon designated Special Protection Areas. It would then have required the development to secure nitrate credits to mitigate the impact of the development, and its effect on nitrogen loading within the Solent, and a planning condition would have been used to secure those credits. The officer also detail an amendment was required to paragraph 6.12 of the report in order to list the correct results of parking surveys undertaken on the 8th and 9th September.

Upon being put to the vote the recommendation to refuse planning permission was carried unanimously.

7. **PLANNING APPLICATION - 22/01716/FUL - 2 VICTORIA ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be conditionally approved.

Change of use from retail to a learning centre and religious worship (class F)
(Retrospective)

Ibrahim Sen (supporter) was present and with the consent of the Chair, addressed the meeting. In addition the Panel noted that statements had been received, circulated to the Panel and posted online from Barry Hatton and Bob Brunnen.

The presenting officer reported the need for an additional condition that would restrict the use of premises as set out below. During the discussion on the item, Members

raised issues relating to Condition 3 of the application officers agreed to amend their recommended condition as set out below.

Upon being put to the vote, the amendment to the recommendation was carried unanimously.

RESOLVED that planning permission be approved subject to the conditions set out within the report and any additional or amended conditions set out below.

ADDITIONAL CONDITION

Restricted Use (Performance)

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, and the Town and Country Planning (General Permitted Development) Order 2015 as amended, or in any other statutory instrument amending, revoking and re-enacting those Orders, the development hereby approved shall only be used for place of worship and ancillary educational learning; and for no other purpose whatsoever (including any other purpose in Class F1; only of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or in any provision equivalent to that Class in any other statutory instrument revoking and re-enacting that Order).

REASON: In the interests of protecting residential amenity and highways safety.

AMENDED CONDITION

Condition 3 - Premises management plan (Regularisation)

Within 2 months of the date of the decision notice, a 'Premises Management Plan' shall be submitted to and agreed in writing by the local planning authority setting out measures to manage the use including, but not limited to:-

- The dispersal of attendees leaving the premises – particularly at closing;
- Activities permitted within the internal space and external rear area;
- Closure of windows and doors during noisy activities *if deemed appropriate; and*
- *Storage and collection of refuse bins.*

The use thereafter shall be operated in accordance with the approved 'Premises Management Plan' for the lifetime of the use.

REASON: In the interests of residential amenity, means of escape and highway safety

8. PLANNING APPLICATION - 23/00317/FUL - 10 HOLYROOD AVENUE

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be conditionally approved.

Erection of a single storey rear extension.

The Panel received a statement from the High Fields Resident's Association objecting to the application and noted that this had been posted online.

The presenting officer reported that no changes or updates were required to the report.

Upon being put to the vote, the recommendation was carried unanimously.

RESOLVED that planning permission be approved subject to the conditions set out within the report.

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Agenda Item 6

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL
SUBJECT:	Application to work on trees in Marlhill Copse that are subject to a tree preservation order
DATE OF DECISION:	27th June 2023
REPORT OF:	David Tyrie – Head of City Services

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director Place	
	Name:	Adam Wilkinson	Tel: 023 8083 3005
	E-mail	Adam.Wilkinson@southampton.gov.uk	
Author:	Title	City Tree Officer	
	Name:	Gary Claydon-Bone	Tel: 023 8083 3005
	E-mail	Gary.Claydon-Bone@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

NONE

BRIEF SUMMARY

To consider the content of a tree work application by Southampton International Airport to carry out work to protected trees at Marlhill Copse

RECOMMENDATIONS:

	(i)	<p>To <u>Grant Consent</u> for the following work.</p> <ul style="list-style-type: none"> i. 5813 - Ash - Reduce southern canopy extent by 2m, maximum cut diameter 100mm. ii. 5839 - Ash - Reduce southern canopy extent by 2m, maximum cut diameter 100mm iii. 5815 - Common Alder - Reduce southern leader by 3m to best appropriate union, maximum cut diameter 200mm iv. 5833 - Ash – Reduce lateral limb originating at 1.5m and extending north-west back to a point 3 metres from main stem and finish off with a coronet cut. v. 4 - Monterey Pine - Reduce pendulous limb extending to the south back by 3 metres from branch tips. Reduce dog-legged limb extending to the south back by 3 metres from branch tips.
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	(ii)	To <u>Refuse Consent</u> for the following work. <ul style="list-style-type: none"> i. 5840 - Ash - Reduce to previous reduction points. ii. 4 - Monterey Pine - Reduce two hazard beam limbs extending south from apex of trunk at approximately 17m to source. iii. 533 - Oak - Reduce crown by 4m to best appropriate growth points, maximum cut diameter 150mm. iv. 5833 - Ash - Remove hazard beam limb originating at 1.5m and extending north-west.
	(iii)	To note and approve the written statement appended to this report (Appendix 3)
REASONS FOR REPORT RECOMMENDATIONS		
1	The requested work has been identified by an independent arboricultural consultant who carried out a site visit to conduct a tree survey at Marlhill Copse and has issued a recommended schedule of works, which has been submitted with the application.	
2	The proposed work for each individual tree and its recommendation has been given in the body of the report.	
3	In relation to recommendation iii, this is for the interests of good administration.	
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED		
4	Granting consent to all the work within the application would have resulted in work deemed unnecessary being completed. This would have caused a detrimental impact to the trees health and the amenity they provide.	
DETAIL (Including consultation carried out)		
5	A tree survey had been carried out for Southampton International Airport Limited (SIAL) by an independent arboricultural consultant. From this survey, there were a series of recommendations from SJA Trees, which have been submitted in the application. (Appendix 1)	
6	The consultant has given a priority to each of the recommendations, and these are: - <ul style="list-style-type: none"> R1. Works to be carried out within 5 days. R2. Works to be carried out within 3 months. R3. Works to be carried out within 1 Year. R4. Works to be carried out during the next available programme, schedule a more detailed inspection, or review condition at the next inspection, based on an assessment of the risk of the deterioration before next visit. 	

	The work subject of this application has been identified as being in the R2 and R3 category.
7	The plan appended to the report has given the location of the trees, which are all but one, are located to the south of the permissive path. These trees are located to the rear of properties in Moat Hill, St Helena Gardens and Maryland Close. (Appendix 2)
8	The applicant seeks permission for work to the trees that are protected by W1 of The Southampton (Townhill Park - Cutbush Lane) Tree Preservation Order 1956.
9	Part of Marlhill Copse is a nationally registered garden, however none of the trees within the application are within this designated area, therefore there is no requirement to consult Historic England on this application.
10	The majority of Marlhill Copse is designated as a Site of Importance to Nature Conservation (SINC). However, none of the trees within this application fall within the SINC designation, therefore there is no requirement to consult with the Council's Planning Ecologist on the impact the work will have to the SINC.
11	The trees are also within the Itchen Valley conservation area and as such, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that ' <i>special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area</i> '. Therefore, the council's Historic Environment Officer was contacted in relation to this application.
12	When assessing the application to work on trees that are within a woodland, officers must apply regulation 17(3) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012. (<i>the regs</i>)
13	This regulation states – ' <i>Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area</i> '.
14	Due to the sensitive nature of the site, the application was assessed by two tree officers. Officers have considered the required tests set out within this regulation and have formed the following opinion.
15	The first part of the test is to determine if the application relates to an area of woodland.

16	<p>Does the application relate to an area of woodland?</p> <p>The TPO is a 'woodland' TPO and DEFRA describe the location with the following classifications.</p> <p>Priority Habitat Inventory – Deciduous Woodland</p> <p>National Forest Inventory – Broadleaved</p> <p>Ancient Woodland (England) – Ancient and Semi-natural woodland (ASNW)</p> <p>This, added with the definition of 'woodland' within the UK Forestry Standard (UKFS), leads officers to agree that the trees are within a woodland.</p>
17	<p>As it is the officers' opinion that the application does relate to an area of woodland, the test required in the other elements of regulation 17(3) are applied.</p>
18	<p>Does the work accord with the practice of good forestry?</p> <p>There is no definition in the TPO Regulations of what "the practice of good forestry" means. However, the UKFS is a guidance document prepared by the Forestry Commission which sets out the Government's approach to sustainable forestry. It is referred to within the national planning guidance on TPOs ("the PPG") and it is therefore relevant when assessing what is good forestry practice.</p>
19	<p>The term 'Forestry' is described in the UKFS as 'The science and art of planting, managing and caring for forests'.</p> <p>The UKFS states that the standard's requirements are divided into legal requirements and good forestry practice requirements. The Requirements are categorised into different elements of sustainable forest management, each supported by Guidelines for managers. It makes it clear that they should be interpreted and applied flexibly: "Some aspects of forest management lend themselves to 'yes or no' compliance, but most do not, and so the UKFS has not attempted to condense all the complexities of forest management into an over-simplistic format. The UKFS has therefore been written to be interpreted with a degree of flexibility and applied with an appropriate level of professional expertise."</p>
20	<p>The work detailed within the application is to remove limbs and reduce the canopy of trees. The UKFS does not give any advice on this type of work, and this is regarded by the officers as not being 'forestry operations'. Officers consider this work to be more akin to Arboriculture rather than a forestry operation.</p>
21	<p>The word 'Reduction' is not used in the UKFS in relation to Crown Reductions, nor is it listed within the glossary of terms at the rear of the document. Arboriculture is listed in the glossary and is defined as '<i>The management of individual trees, but sometimes used to include the management of trees and woodlands in urban situations</i>'.</p>

22	<p>Officers considered other aspects of what may constitute ‘good forestry’ and how this may relate to this application.</p> <p>Section 6 of the UKFS deals with Health and Safety and states ‘<i>Landowners and managers need to be fully aware of their obligations under both employment and health and safety legislation. This is extensive and includes equality of treatment for recruitment processes and contracts, and a duty of care for staff while at work. There is also a duty of care towards people visiting business premises or land, whether they are there with permission or not.</i></p> <p>The requirement to undertake this sits within paragraph 11 and points towards the duty of care under the Occupiers Liability Act.</p> <p>It states that: -</p> <ul style="list-style-type: none"> • ‘<i>The landowner or manager must discharge their statutory duty of care in relation to people visiting land, whether or not they are there with permission</i>’. <p>It can therefore be seen that the landowners are applying their ‘duty of care’ to ‘manage’ the woodland for visitors. This has been achieved by undertaking a survey of the trees and thus in alignment with section 6 of the UKFS.</p>
23	<p>Applying this to the decision that the officers have reached, where permission has been granted for the safety of visitors, this can be said to accord with the practice of good forestry and therefore the council are mandated to grant consent, if the maintenance of the special character or the woodland character of the area are not harmed.</p> <p>As can be seen with the test undertaken, which is detailed in paragraphs 41 to 43, the work would not harm these attributes, therefore are recommended to be granted under regulation 17(3).</p>
24	<p>Where officers have formed the view that the tree does not place visitors at an unreasonable risk, and therefore does not meet with the safety requirement of the UKFS, then officers have assessed the merits of the application in-line with the recommendations within the planning practice guidance laid out in paragraph 26.</p>
25	<p>All the proposed works that are recommended for refusal are not considered to accord with the UKFS and in particular the requirements set out above relating to visitors i.e. the state of the trees are not considered to present a risk to visitors. As such, reg 17(3) does not mandate approval therefore these have been assessed having regard to the advice set out in the PPG.</p> <p>In relation to works detailed in paragraphs 28 to 32, these are either considered to accord with the safety requirements within the UKFS and is</p>

	<p>considered to be a practice of good forestry, which regulation 17 (3) mandates approval, or that the work is not a requirement for safety but is not considered to be harmful to the local amenity, and on balance can be approved.</p>
26	<p>Where the work does not accord with the practice of good forestry, then the application has been considered in line with the Governments planning policy guidance publication 'Tree Preservation Orders and trees in conservation areas', which is also known as the PPG .</p> <p>Within the PPG, the following guidance is given: -</p> <p>When considering an application, the authority is advised to:</p> <ul style="list-style-type: none"> • assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area; • consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it; • consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions; • consider whether any requirements apply in regard to protected species; • consider other material considerations, including development plan policies where relevant; and • ensure that appropriate expertise informs its decision. <p>It is based on the points above, that the officers have formed the decision on the application.</p>
27	<p>The work listed below has an officer recommendation to GRANT CONSENT</p>
28	<p>Tree: Ash 5813</p> <p>Work Applied for: Reduce southern canopy extent by 2m, maximum cut diameter 100mm.</p> <p>Reason given to support work: Significant crown weight to the south, in close proximity to residential property and shows below average physiology.</p> <p>Officers' Assessment: The impact of the light lateral reduction of the canopy over the rear garden of the property will have negligible impact to the amenity that the tree provides within the woodland. The work is also unlikely to have an adverse impact to the tree's health.</p> <p>Decision: Reduce southern canopy extent by 2m, maximum cut diameter 100mm</p>
29	<p>Tree: Ash 5839</p> <p>Work applied for: Reduce southern crown extent by 2m to best appropriate growth points.</p>

	<p>Reason given to support work: Crown is significantly weighted over residential property and specimen shows significant dieback suggestion reduced physiology.</p> <p>Officers' Assessment: The impact of the light lateral reduction of the canopy over the rear garden of the property will have negligible impact to the amenity that the tree provides within the woodland. The work is also unlikely to have an adverse impact to the tree's health.</p> <p>Decision: Reduce southern canopy extent by 2m, maximum cut diameter 100mm.</p>
30	<p>Tree: Common Alder 5815 – Common Alder</p> <p>Work applied for: Reduce southern leader by 3m to best appropriate union, maximum cut diameter 200mm.</p> <p>Reason given to support work: Significant phototropic lean southwards towards the residential property. Acute union at base with bark to bark contact.</p> <p>Officers' Assessment: It was the officers opinion that the union at the base of the tree was not considered to be of a significant concern, however the officers assessed the impact of the work on the amenity and the trees health. The reduction of 1 stem by up to 3 metres would not adversely harm the amenity. The cut size that would be left after the work is acceptable and the species would respond well and produce growth over the following growing seasons.</p> <p>Decision: Reduce southern leader by 3m to best appropriate union, maximum cut diameter 200mm.</p>
31	<p>Tree: Ash 5833</p> <p>Work applied for: Remove hazard beam limb origination at 1.5m and extending north west.</p> <p>Reason given to support work: Large limb of hazard beam form overhangs public footpath.</p> <p>Officers' Assessment: The consultant refers to the limb as having 'hazard beam form'.</p> <p>A hazard beam is a branch that has a crack running along a limb. This is caused by excessive end weight placing pressure on the underside of a limb, which is under compression. As the top of the limb is under tension, when the forces become too great, the part of the limb under compression buckles and a split occurs. This may result in just a split occurring but also can result in the underside of the limb buckling downward. It is the officers view that the long extending limb over the footpath has the potential to form a hazard beam, and therefore, due to its location, appropriate management should be considered. The officers differed to that of the opinion of the consultant in as much as the extent of the work. The officers felt that a more appropriate way to deal with this limb was not to remove it back to the main stem, where it would expose the heartwood of the tree and open it to the potential for decay pathogens entering. The cut size would also be large and not likely to occlude, which would result in a cavity forming. The officers therefore agreed that it would be more appropriate to cut the limb approximately 3 metres from the union of the main stem. The cut would be required to be a coronet cut, which over time</p>

	<p>would resemble a branch failure rather than it being removed intentionally. It is felt that in the woodland setting and being adjacent to the path, this would be more suited to the location.</p> <p>Decision: Reduce lateral limb originating at 1.5m and extending north-west back to a point 3 metres from main stem and finish off with a coronet cut.</p>
32	<p>Tree: Monterey Pine 4</p> <p>Work applied for: Reduce two hazard beam limbs extending south from apex of trunk at approximately 17m to source.</p> <p>Reason given to support work: Specimen has historically lost its top, lateral limbs have extended upwards in response and formed hazard beams that are at increased risk of failure. The upper crown is wind-exposed and multiple adjacent trees have failed due to wind throw. Due to the removal of a large part of its crown, the tree should be re-inspected annually (initially) to ascertain its response to the works.</p> <p>Officers' Assessment: the consultant has stated that the work is to reduce two hazard beams, and within the reason to support the work, it states that the tree has formed a hazard beam. This was taken as the fractures had already occurred and not that it has hazard beam form, such as Ash 5833. Officers used binoculars to look for the fractures but were not able to identify any failures. Therefore, officers have considered the work request to be preventative work on a tree that has two limbs of hazard beam potential and not to resolve an existing failure.</p> <p>Decision: Reduce pendulous limb extending to the south back by 3 metres from branch tips. Reduce dog-legged limb extending to the south back by 3 metres from branch tips.</p>
33	<p>The work listed below has an officer recommendation to REFUSE CONSENT</p>
34	<p>Tree: Ash 5840</p> <p>Work applied for: Reduce to previous reduction points.</p> <p>Reason given to support work: Epicormic regeneration with potentially weak attachment points overhang residential property.</p> <p>Officers' Assessment: Officers were not able to identify the reduction points on the tree and it had the appearance of a maiden tree and not having ever undergone any form of crown reduction. It was felt that the work was not necessary and would impact that amenity that the tree provides.</p> <p>Decision: Refuse consent.</p> <p>Reason for refusal: The work was deemed not to be necessary, and the work would result in the loss of canopy that would impact the amenity that the tree provides to the local landscape.</p>
35	<p>Tree: Monterey Pine 4</p> <p>Work applied for: Reduce two hazard beam limbs extending south from apex of trunk at approximately 17m to source. Re-inspect within 2 years of completed works.</p>

	<p>Reason given to support work: Specimen has historically lost its top, lateral limbs have extended upwards in response and formed hazard beams that are at increased risk of failure. The upper crown is wind-exposed and multiple adjacent trees have failed due to wind throw. Due to the removal of a large part of its crown, the tree should be re-inspected annually (initially) to ascertain its response to the works.</p> <p>Officers' Assessment: No hazard beams noted. The work to reduce the limbs back to the main stem would result in the bulk of the upper canopy being removed and leaving a poor form tree with limited amenity or long-term future. Reducing the weight from the limbs will retain some form, albeit a smaller canopy, but the tree will still provide to the local landscape.</p> <p>Decision: Refuse consent to reduce two hazard beam limbs extending south from apex of trunk at approximately 17m to source. Re-inspect within 2 years of completed works. Consent was given to lesser works (See Above)</p> <p>Reason for refusal: The requested work would have a negative impact to the tree's health and to the amenity that it provides to the local landscape. There is other forms of management that are considered to be more appropriate in relation to the hazard beam potential.</p>
36	<p>Tree: Oak 533</p> <p>Work applied for: Reduce crown by 4m to best appropriate growth points, maximum cut diameter 150mm</p> <p>Reason given to support work: Specimen shows phototropic limbs which are newly wind exposed following the failure of the large adjacent tree and are at increased risk of failure.</p> <p>Officers' Assessment: The tree is set back into the woodland and has good protection from wind by neighbouring trees. The reason given to support the work is that this tree has been recently exposed following the failure of the large adjacent tree and that there is an increased risk of failure. By taking this view, after the tree were reduced by 4 metres, this would then expose other trees in close proximity to this tree, to additional wind forces that it had not experienced. It was accepted by the officers that that it would be a lesser extent, however the principle remains the same. This may then lead to a legitimate request being submitted for the reduction of neighbouring trees due to them being exposed.</p> <p>Decision: Refuse consent to reduce crown by 4m to best appropriate growth points, maximum cut diameter 150mm.</p> <p>Reason for refusal: The tree has protection by the neighbouring woodland and the reduction of the canopy by 4 metres is extensive and the work would result in a negative impact to the trees health and to the amenity that it provides to the local landscape.</p>
37	<p>Tree: Ash 5833</p> <p>Work applied for: Remove hazard beam limb originating at 1.5m and extending north-west</p> <p>Reason given to support work: Large limb of hazard beam form overhangs public footpath.</p> <p>Officers' Assessment: The removal of the entire limb would place a sizable cut against the main stem of the tree. Lesser works were considered to be a</p>

	<p>more appropriate method of dealing with the potential hazard beam. It is accepted that the limb is likely to produce growth from around the cut site, and this can be managed by removing it on a cyclical bases to be determined by the applicant.</p> <p>Decision: Refuse consent to remove hazard beam limb originating at 1.5m and extending north-west.</p> <p>Reason for refusal: The removal of the entire limb would place a large wound against the main stem of the tree. An alternative method of dealing with the potential hazard beam was considered and consented to. This would result in the final cut being moved away from the main stem with the same required result being achieved.</p>
38	<p>Officers understand that the members may form a different view to that of the officers, and may consider that the work, either in part or in full, does accord with the practice of good forestry.</p> <p>If members form this view, then the Council must go on to consider the other tests set out in regulation 17(3). Therefore, this further assessment has been made, should members determine that, in their mind, the work does accord with the practice of good forestry.</p>
39	<p>The remaining elements of regulation 17(3) of the TPO regulations are to consider is whether the work would fail to secure (a) the maintenance of the special character of the woodland and (b) the woodland character of the area.</p>
40	<p>The special Character.</p> <p>The officer has considered what the special character of the area is and agrees that in a large section of the copse, it conforms with the description as detailed by DEFRA as being a broadleaved ancient and semi-natural woodland with the areas falling outside of this being predominantly a mixed native and naturalised broadleaved woodland.</p>
41	<p>Does the work fail to secure the maintenance of the special character of the area?</p> <p>It is the officer's opinion that the work would not result in the failure to secure the special character of the area. As defined above, the special character is one of a broadleaved ancient and semi-natural woodland with the areas falling outside of this being predominantly a mixed native and naturalised broadleaved woodland. The work that has been requested would not remove any of the broadleaved trees or the semi-ancient natural woodland. As this character would remain after the work had been completed, it is the officer's opinion that it would not result in harm that would fail to secure the maintenance of this special character.</p>
42	<p>Does the proposed felling remove the woodland character of the area?</p> <p>Internal assessment:</p> <p>The work applied for would not result in the loss of the woodland character from within the woodland. Any visitor to the woodland would still have the experience of walking through woodland. The work is to reduce the canopy</p>

	<p>of trees or the removal of selected branches. As the work is on the occasional tree along the permitted path, it would not result in a woodland that has undergone a transformation by extensive crown works that may impact the woodland character internally. It is therefore the officer's opinion that the work on the occasional tree would not remove the woodland character when assessed internally.</p>
43	<p>External Assessment:</p> <p>As above, the work is spaced out on a small number of trees within the woodland. The requested work would not result in the loss of woodland and therefore the woodland character for visitors external to the woodland would remain the same. On the trees that are recommended for a lateral reduction where it extends over rear gardens, as this work would not result in the reduction of the trees height, then the canopy outline will remain largely unchanged. It is therefore the officer's opinion that the work would not result in the loss of the woodland character of the area when viewed external to the woodland.</p>
44	<p>Outcome of the assessment:</p> <p>If the members have formed the opinion that the work applied for does accord with the practice of good forestry, then the council are mandated to grant consent unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p>
45	<p>As can be seen in the above assessment, it is the officer's opinion that the work, subject of this application, would not fail to secure the maintenance of the special character of the woodland and would not remove the woodland character of the area when assessed internal and external to the site.</p>
46	<p>Therefore, if the members have formed the view that the work does accord with the practice of good forestry, then given the assessment of the remaining tests of regulation 17(3), it mandates that the council shall grant consent to all the work identified in this application.</p>
47	<p>Conservation Area.</p> <p>The trees subject of this application are within the Itchen Valley conservation area and as such, require the council to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990.</p> <p>To be able to assess the impact, first there must be a consideration as to what the character of the conservation area is. The Itchen Valley Conservation Area strategy document of 1993 was used to supply the details of the character of Marlhill Copse. This can be found in sections 17.2 and 17.3 of the document.</p>

48	<p>Section 17.2 – ‘Marlhill Copse itself originally formed part of the Townhill Park Estate and is shown on the 1st Edition Ordnance Survey Plan dated 1871, as a woodland block running along the Itchen Escarpment. The size of the trees suggest that they were planted around 1800 and the woodland is now a fine example of mature Oak trees grown as standards. During the 1920's and 30's these were thinned, and the glades were planted up with many unusual trees and shrubs, in particular Rhododendrons, Magnolia and Nothofagus, some of which remain today’.</p>
49	<p>Section 17.3 – ‘The Copse itself lies on an escarpment and its mature trees form a very important element in the landscape of this part of the City, providing a very effective transition in visual terms between the City and its surrounding countryside’.</p>
50	<p>When considering the work that is subject of the application and the councils requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area, it is the officers view that the work would not adversely harm the character or appearance of the conservation area as the work is minimal in its request and that the subject trees are spaced around the woodland and not concentrated within a smaller geographic zone. The transition between the City and its surrounding countryside will not be visually impacted and this would remain. The work is also not involving the felling of trees or work to such extent that would destroy the trees character or negatively impact the conservation area.</p>
51	<p>The councils Historic Environment Officer was contacted regarding this application and has provided the following comments: -</p> <p>Consultation response: No objection – subject to carrying out the works in accordance with best woodland management principles and practices.</p> <p>Assessment and advice:</p> <p>The trees affected are located within Riverside Park and Marlhill Copse which fall within the Itchen Valley Conservation Area and positively contribute to its overall character. Some of the trees also sit within the former historic boundary of Town Hill Park - a Registered Park and Garden. As such, the complete loss of the smaller Ash/Scotch Pines/Willows, and the reduction works to the taller Alders, Monterey Pines and Oak and would only be supported should it be satisfied that the works are urgent and necessary to safeguard property and people, and that the works accord with best woodland management principles and practices to ensure that the welfare of the wood, and the character or appearance of this part of the conservation area would continue to be sustained. Planting appropriate tall species to replace the trees to be lost would also be expected to ensure that the landscape setting of the affected heritage assets would be maintained.</p>
52	<p>Objections received.</p> <p>There were two objections received from members of the public in relation to this application.</p>

	<p>Objection 1 received on the 2nd March 2023</p> <p><i>While I accept the need to remove dead and frankly diseased trees, the justification for the works on some of the trees is flimsy and I hope the Council will commission an independent arboricultural report before granting permission.</i></p> <p><i>The summary of the proposed works is misleading, failing to mention that the proposed works include the complete felling of 2 Monterey Pines and a Scots Pine.</i></p> <p><i>The importance of the trees in this part of Marlhill Copse for public amenity and the special character of the woodland has been established at the recent planning appeal, therefore removal of any of these trees should not be permitted unless absolutely essential.</i></p> <p><i>The schedule of works also refers (felling of Monterey #82) to an 'additional tree report' which does not seem to be available on the planning site. In the absence of this there is no justification whatsoever for felling this tree.</i></p> <p>Objection 2 received on the 16th April 2023.</p> <p><i>This needs deep scrutiny and consideration of long-term affects. This applicant is whittling away at the woodland, destroying its immersive and enclosed character and risking the exposure of more and more trees to effects of wind. The map supplied clearly indicates that there are trees that they intend to fell and it is difficult to imagine that this current application is not just another blow to the woodland with the aim of eventually destabilising these specimens so that there is no option but to fell them. Please insist that all height reduction works are accompanied by a replacement with the tall species that characterise this area of the woodland such as scots pine and oak.</i></p>
53	<p>Compensation. Section 24 of the regulations.</p> <p>The council, as part of the decision process, is advised to consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.</p> <p>Any claim made must be within 12 months of the date of the council's decision and must also be above the minimum threshold of £500.</p> <p>As the work is not for felling in the course of forestry operations, the council would not be liable for the depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.</p> <p>However, the council has considered the possibility of a claim under the sections that do apply, in relation to its issuing of the decision.</p> <p>Regulation 24(1) of the regs states: -</p>

- *If, on a claim under this regulation, a person establishes that loss or damage has been caused or incurred in consequence of—*
 - *(a) the refusal of any consent required under these Regulations;*
 - *(b) the grant of any such consent subject to conditions; or*
 - *(c) the refusal of any consent, agreement or approval required under such a condition,*
- *that person shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.*

Given that the work is not for felling in the course of forestry operations, paragraph 3 does not apply, therefore the council have considered the impact of paragraph 4.

- *(4) In any case other than those mentioned in paragraphs (2) or (3), no compensation shall be payable to a person—*
 - *(a) for loss of development value or other diminution in the value of the land;*
 - *(b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;*
 - *(c) for loss or damage reasonably foreseeable by that person and attributable to that person's failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or*
 - *(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under these Regulations or the grant of any such consent subject to conditions.*

The officers' have considered the aspects of this section and have formed the following opinion.

Paragraph (a) – The decision issued would not result in the loss of development value or other diminution in the value of the land.

Paragraph (b) – The applicant has not supplied adequate information to justify that reasonable loss or damage may occur. Officers have considered the comments from the consultant, have formed an opinion and consider that loss or damage is not reasonably foreseeable in the elements of the application that have been refused.

	<p>Paragraph (c) – Compensation would not be payable by the council if the landowner fails to carry out the works approved on this application, therefore paragraph ‘c’ has no significance to the council in terms of liability.</p> <p>Paragraph (d) - Compensation would not be payable by the council for costs incurred in appealing to the Secretary of State against the refusal of any consent required under these Regulations or the grant of any such consent subject to conditions, therefore paragraph ‘d’ has no significance to the council in terms of liability.</p>
54	Officers therefore seek approval to issue the decision for the tree work, as set out within the recommendation in section (i) & (ii) of this report.
55	Members are also invited to note and approve the appended written statement, for the potential of ongoing minor work approvals, as per recommendation (iii) of this report.

RESOURCE IMPLICATIONS

Capital/Revenue

NONE

Property/Other

NONE

LEGAL IMPLICATIONS

Legal implications are set out in the report.

Other Legal Implications:

NONE

RISK MANAGEMENT IMPLICATIONS

POLICY FRAMEWORK IMPLICATIONS

KEY DECISION?	Yes/No
WARDS/COMMUNITIES AFFECTED:	
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	

1.	
2.	

Documents In Members' Rooms

1.	
2.	

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes/No
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	Yes/No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	
2.	

Arboricultural Impacts: Summary

(For details, see below)

Impact	No. of Trees
Trees to be removed	15
Trees to be pruned	9

Trees to be Removed

Ordered from west to east

No	Species
6001	Ash
6000	Ash
6002	Ash
6003	Ash
43	Monterey pine
82	Monterey pine
6004	Ash
5836	Ash
95	Scots pine
97	Monterey pine
6006	Ash
6010	Silver birch
6007	Goat willow
6008	Goat willow
6009	Goat willow

Trees to be pruned

(For full details, see SJA schedule of tree works*)

No.	Species	Works (Outline only)
5813	Ash	Reduce southern canopy extent by 2m
5815	Common alder	Reduce southern leader by 3m
5820	Monterey pine	Remove all deadwood over 100mm in diameter
4	Monterey pine	Reduce hazard beam limbs originating at 17m and extending upwards to source
5833	Ash	Remove hazard beam limb originating at 1.5m and extending north-west
533	Oak	Reduce crown by 4m
6005	English oak	Remove all deadwood over 100mm in diameter
5839	Ash	Reduce southern crown extent by 2m
5840	Ash	Reduce to previous reduction points

Pruning is to be undertaken in accordance with the British Standard Recommendations for Tree work, BS3998: 2010. Climbing irons or spikes are not to be used whilst pruning trees. Pruning will be undertaken according to the principles of good arboricultural practice as stated in Arboriculture Research Note ARN 48 'A Definition of the Best Pruning Position' (AAIB, 1983). When removing branches, care will be taken to cut back to the branch bark collar or ridge so as not to leave a stub that could provide a food base for decay fungi; yet not to cut into or beyond this collar or ridge. Where limbs or branches are to be shortened they will be cut back cleanly to a vigorous side branch, leaving the branch bark ridge and collar intact. At their point of origin, retained side branches intended to form the new dominant shoot shall be at least 30% of the diameter of the parent branch at the pruning point.

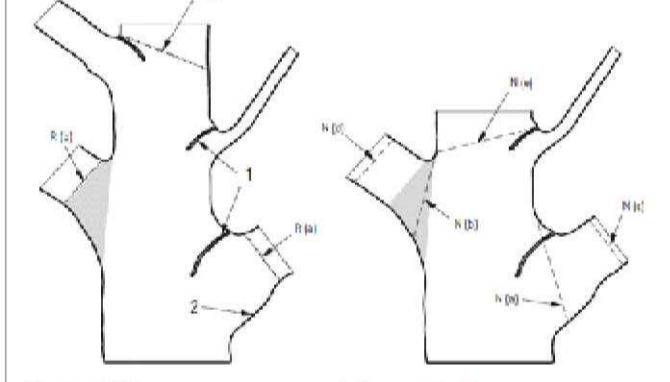
Pruning

Pruning shall be undertaken following the principles of good arboricultural practice as stated in British Standard BS 3998: 2010. The positions of final pruning cuts will comply with Figure 2 'Positions of final cuts' at p23 of this document, as shown below.

Where aerial growth is to be removed, great care shall be taken not to leave a stub which may provide a food base for both fresh wound parasites and decay fungi.

Where a limb, branch or leader is to be shortened it shall be cut back cleanly to a vigorous side branch leaving the branch bark ridge and branch collar intact. Retained side branches intended to form the new dominant shoot shall be at least 30% of the diameter of the parent branch at the pruning point. Injury to the wood and bark of the parent stem or branch above the cut will also be avoided.

The contractor shall relate the position of any individual final pruning cut to the form of the canopy as a whole, so that upon completion of the work the tree has as natural an appearance (for the species) as constraints allow.



- 1 Branch bark ridge
- 2 Branch collar
- 3 Cut on new main collar and branch bark ridge are square
- 4 Cut on new collar branch bark ridge on branch collar as square
- 5 Position for cut to be made - diagonal - diagonal cut - diagonal cut - diagonal cut
- 6 Cut on new main collar and branch bark ridge are square
- 7 Cut on new main collar and branch bark ridge are square
- 8 Cut on new main collar and branch bark ridge are square
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Tree Felling

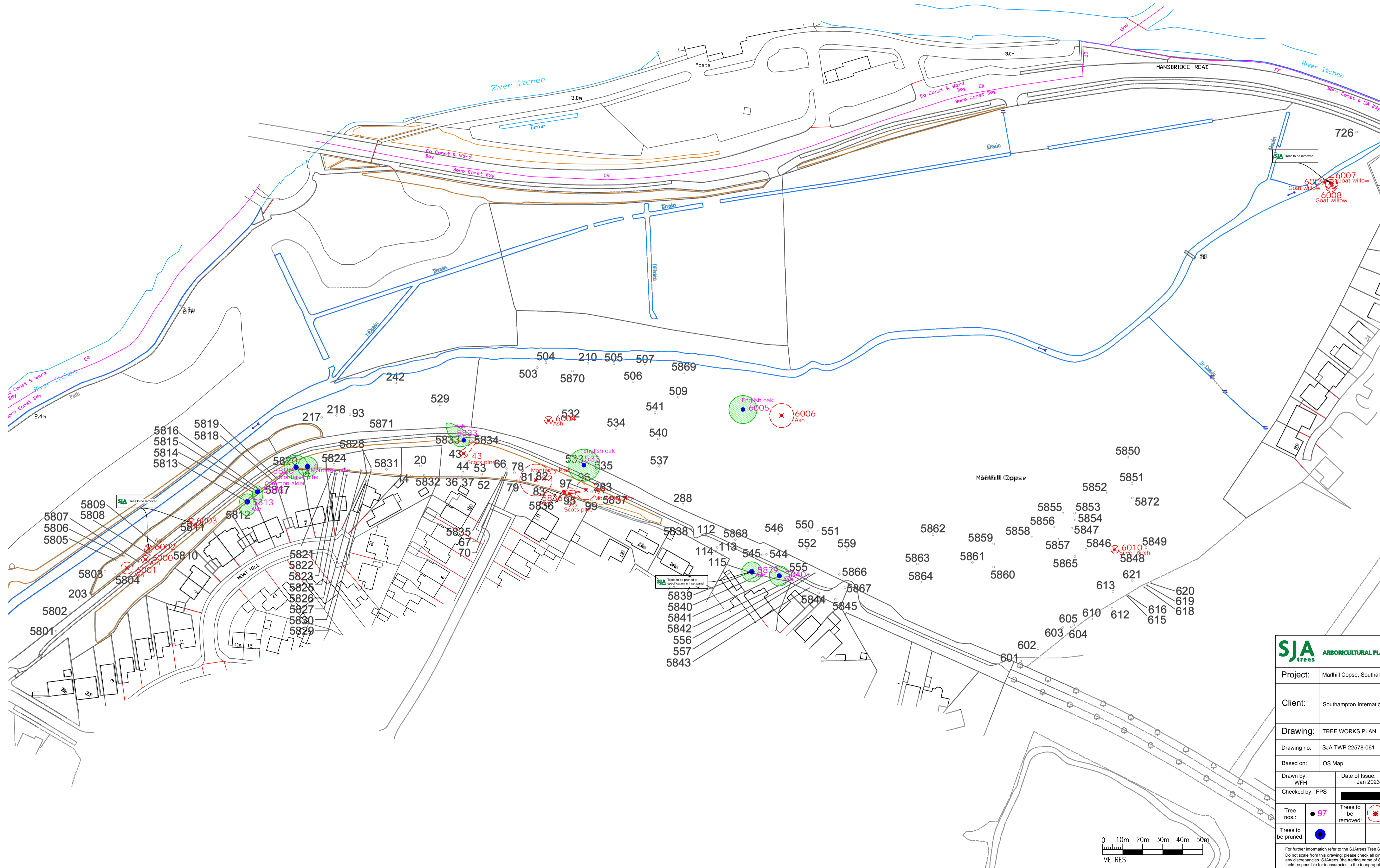
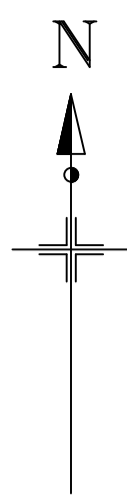
Felling is defined as the cutting down of a tree to a point as close to ground level as is reasonably practicable, but no higher than 100mm above surrounding ground level. (Unless a tree has pronounced buttress roots which makes this impractical, in which case it should be cut to as close to 100mm as possible).

Felling shall be carried out in a controlled manner, using guide ropes where appropriate to ensure that trees or branches fall away from buildings, equipment, and other trees and understory shrubs.

Where necessary, trees should be dismantled and removed in sections rather than felled from the ground to prevent them falling into, and damaging buildings, equipment, vehicles and the crowns of other trees.

No part of any tree shall fall outside the boundaries of the premises unless prior agreement has been reached with the adjacent landowner, and the client has been informed in advance.

In order to allow time for bats to re-locate, trees that are covered with dense ivy will be left for a period of 24 hours prior to cutting up or removal.



Crown Reduction

Crown reduction is defined as the reduction of the outline dimension of the canopy, from the tips of limbs and branches toward the main trunk, by pruning growth to an appropriately sized lateral branch, twig or bud to leave a flowing silhouette.

Reduction may be of the entire crown, or of one part of the crown. The extent of reduction is given in metres.

Where a limb, branch or leader is to be shortened it shall be cut back cleanly to a vigorous side branch leaving the branch bark ridge and branch collar intact. Retained side branches intended to form the new dominant shoot shall be at least 30% of the diameter of the parent branch at the pruning point. The contractor shall relate the position of any individual final pruning cut to the form of the canopy as a whole, so that upon completion of the work the tree has as natural an appearance (for the species) as constraints allow.

Dead-Wooding

Dead-wooding is the removal of all dead, dying or diseased branch wood, broken branches and stubs left from previous tree surgery operations that are 25mm in diameter or above at their point of origin.

When removing dead or diseased branches care will be taken to avoid injury to living bark or sapwood, which could lead to the development of further dysfunction and colonization by decay fungi or pathogens.

Pollarding should be avoided between the time of bud-burst and midsummer, when starch reserves are low, and again during autumn and early winter when the moisture content of wood is low. Pollarding should not be undertaken during a drought year.

SJA trees ARBORICULTURAL PLANNING CONSULTANTS

Project: Marhill Copse, Southampton

Client: Southampton International Airport

Drawing: TREE WORKS PLAN

Drawing no.: SJA TWP 22578-061

Based on: OS Map

Drawn by: WFH **Date of Issue:** Jan 2023 **Scale:** 1:1000 @ A1

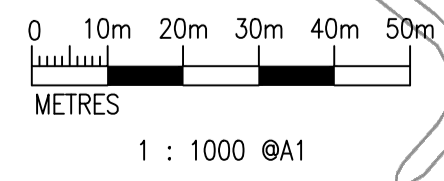
Checked by: FPS

Tree nos. ● 97	Trees to be removed: ● 82	Canopies of trees to be retained: ●
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Trees to be pruned: ●

For further information refer to the SJA Trees Tree Survey Schedule. Do not scale from this drawing; please check all dimensions on site, and report any discrepancies. SJA trees (the trading name of Simon Jones Associates Ltd) shall be responsible for inaccuracies in the topographical plan on which this drawing is based. © Simon Jones Associates Ltd. 2023. This drawing is copyright and may not be used or changed without the written permission of SJA trees.

This drawing is designed to reflect only the principles of layout and/or design insofar as these relate to the protection of trees to be retained, and should NOT be read as a definitive engineering or construction method statement. Reference should be made to the architect or structural engineer, as appropriate, over any matters of construction detail or specification, or any engineering standards or regulatory requirements relating to proposed structures, hard surfaces or underground services.



Agenda Item 6

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Written statement in relation to future TPO applications at Marlhill Copse

Members are invited to note and approve the following written statement in relation to future applications for TPO trees in Marlhill Copse.

1. Members will be aware of The Southampton (Townhill Park - Cutbush Lane) Tree Preservation Order 1956 and of the applications that Southampton Airport has made to the council in the last few years.
2. Following a petition submitted to a full council meeting held in 2019 in connection with one such application, members of full council were advised that the constitution did not permit the consideration of matters at a full council meeting where another committee had been identified as the appropriate decision making body. This is in accordance with the Constitution. This advice was followed up in an email from council officers, which stated *"the Council does understand the concerns regarding Marlhill Copse and I can assure you that as and when any application to carry out any works to trees on the Copse that requires the Council's consideration/consent that the matter will not be dealt with by officers under delegated powers but will be subject to a full report which will be placed before the Planning Committee at a public meeting for elected members to decide"*.
3. The terms of reference of the council's Planning and Rights of Way panel at paragraph 81 includes *"powers relating to the preservation of trees"* and notes that *"where a function or matter within the Panel's competence has been delegated to an officer, the Panel may exercise that function/matter concurrently with the officer to whom it has been delegated."*
4. The council's scheme of delegation at paragraph Part 10, 30.15 of the Constitution states *"To determine applications for works to trees that are subject to protection by Tree Preservation Order and to impose such conditions on any consent that s/he deems appropriate"*. Members will note that it authorises officers to determine all TPO applications. Any change to the scheme of delegation will require amendment to the council constitution at a meeting of full council. Officers as a matter of good practice and to reflect changes to the organisation and to legislation continuously review the scheme of delegation and bring reports to full council from time to time.
5. Officers now wish to provide further clarification in relation to the statement, which was intended to provide assurance to the public that applications of significant public interest made by the airport in relation to Marlhill Copse would be considered at a meeting of the council's Planning and Rights of Way panel.
6. Officers in the course of their duties exercise due care and attention when deciding whether to report a particular application to PROW panel, having regard to any number of relevant considerations such as the significance and size of the application and the level of interest from local councillors and members of the public.
7. Reporting all and any matters relating to Marlhill Copse to PROW panel is neither considered to be appropriate nor the best use of council resources.
8. In light of all of the above, and having regard to the present scheme of delegation and the discretion properly afforded to officers to exercise having regard to all relevant considerations, members are invited to note and approve that, in future, officers will exercise their discretion in relation to applications at Marlhill Copse and refer those applications made by the airport (or on its behalf) for consent to carry out works under a TPO that either relate to the operations of the airport or those that they consider to be significant or in the public interest. This is considered to be consistent with the statement made at full council and in the interests of good administration.

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Marhill Copse

Tree numbers ordered from western to eastern ends of site

No.	Species	Recommended works	Priority
6001	Ash	Fell to ground level. Reasons: Specimen is drawn-up and overhangs public footpath. Specimen also shows overall low physiological condition.	R3
6000	Ash	Fell to ground level. Reasons: Specimen is drawn-up. Specimen also shows overall low physiological condition.	R3
6002	Ash	Fell to ground level Reasons: Specimen is in immediate & irreversible overall decline and overhangs public footpath.	R2
6003	Ash	Fell to ground level Reasons: Small specimen is in immediate & irreversible overall decline and overhangs public footpath.	R2
5813	Ash	Reduce southern canopy extent by 2m, maximum cut diameter 100mm Reasons: Significant crown weight to the south, in close proximity to residential property and shows below average physiology	R3
5815	Common alder	Reduce southern leader by 3m to best appropriate union, maximum cut diameter 200mm Reasons: Significant phototropic lean southwards towards residential property. Acute union at base with bark to bark contact.	R3
5820	Monterey pine	Remove all deadwood over 100mm in diameter Reasons: Deadwood over 100mm in diameter overhangs footpath.	R3
4	Monterey pine	Reduce two hazard beam limbs extending south from apex of trunk at approximately 17m to source. Re-inspect within 2 years of completed works. Reasons: Specimen has historically lost its top, lateral limbs have extended upwards in response and formed hazard beams that are at increased risk of failure. The upper crown is wind-exposed and multiple adjacent trees have failed due to wind throw. Due to the removal of a large part of its crown, the tree should be re-inspected annually (initially) to ascertain its response to the works.	R2
5833	Ash	Remove hazard beam limb originating at 1.5m and extending north-west Reasons: Large limb of hazard beam form overhangs public footpath.	R3
43	Scots pine	Fell to ground level Reasons: Suppressed, drawn-up specimen with severe lean to north-east from 10m. Wind exposed upper crown.	R2

82	Monterey pine	Fell to ground level. Reasons: See additional tree report for details	R2
6004	Ash	Fell to ground level Reasons: Dead tree adjacent to desire line footpath.	R3
533	Oak	Reduce crown by 4m to best appropriate growth points, maximum cut diameter 150mm Reasons: Specimen shows phototropic limbs which are newly wind exposed following the failure of the large adjacent tree and are at increased risk of failure.	R3
5836	Ash	Fell to ground level Reasons: Small specimen is in immediate & irreversible overall decline and overhangs private property.	R3
95	Scots pine	Fell to ground level Reasons: Dead tree overhanging private property.	R3
97	Monterey pine	Fell to ground level Reasons: Specimen is situated at the top of a steep slope and is wind exposed. The tree has a 12 degree lean to the east and exhibits minimal corrective growth in the upper canopy. Additionally, there is no significant buttressing below the leaning side or on the side of the downward slope which would typically be expected of a conifer in this setting; as such, the tree is likely subsiding. Furthermore, the crown shows minor dieback at its branch tips, indicating reduced physiological function and, by extension, inhibited ability to compensate for structural deficiencies.	R2
6005	English oak	Remove all deadwood over 100mm. Reasons: Deadwood over 200mm in diameter situated over desire line footpath.	R3
6006	Ash	Fell to ground level. Reasons: Specimen is situated adjacent to a desire line footpath and shows a compression for main union at 1.5m as well as significant dieback throughout the crown.	R3
5839	Ash	Reduce southern crown extent by 2m to best appropriate growth points. Reasons: Crown is significantly weighted over residential property and specimen shows significant dieback, suggesting reduced physiological function.	R3
5840	Ash	Reduce to previous reduction points Reasons: Epicormic regeneration with potentially weak attachment points overhang residential property.	R3
6010	Silver birch	Fell to ground level. Reasons: Dead tree situated adjacent to desire line footpath.	R3
6007	Goat willow	Fell to ground level. Reasons: Specimen shows root plate heave and multiple cracked and failed structural limbs hung up in canopies of adjacent goat willows.	R3
6008	Goat willow	Fell to ground level. Reasons: Specimen shows root plate heave and multiple cracked and failed structural limbs hung up in canopies of adjacent goat willows.	R3

6009	Goat willow	Fell to ground level. Reasons: Specimen shows root plate heave and multiple cracked and failed structural limbs hung up in canopies of adjacent goat willows.	R3
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All tree works are to be done in accordance with the British Standard BS 3998:2010, *Tree work - Recommendations*.

Response time.

R.1. – Works to be carried out within 5 days

R.2. – Works to be carried out within 3 months

R.3. – Works to be carried out within 1 year

R.4. – Works to be carried out during the next available programme, schedule a more detailed inspection, or review condition at the next inspection, based on an assessment of the risk of deterioration before next visit.

Climbing irons or spikes are not to be used whilst pruning trees; they may only be used for the sectional removal of trees.

Care must be taken that the ground next to existing trees to be retained does not become compacted as a result of tree surgery operations. No vehicles or equipment such as tractors, timber lorries, cranes or excavators shall be driven or parked beneath the crowns of any trees to be retained, as this could cause soil compaction and consequent root death.

Birds. Please note that it is an offence under Wildlife and Countryside Act (WCA) of 1981, as amended by the Countryside and Rights of Way (CRoW) Act 2000, to:

- Kill, injure or take any wild birds
- Damage or destroy nests that are in use or are being built
- Take or destroy eggs
- Intentionally or recklessly disturb any wild bird while it is nest building, or at (or near) a nest containing eggs or young, or disturb the dependent young of any bird.

Care must therefore be taken that none of these offences are committed whilst undertaking the above works. If trees or hedges are to be felled or pruned between March and August, they should first be inspected carefully for nests; if found, and the proposed works are not necessary to preserve public health or safety, felling or pruning should be delayed until young birds have flown.

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INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 27th June 2023

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
Approximate Start Time 16:30pm				
7	RS	CAP	5	23/00267/FUL Land adj. Watermark WestQuay
Approximate Start Time 17:00pm				
8	SK	CAP	5	23/00505/FUL 25 Northolt Gardens
Approximate Start Time 17:30pm				
9	SB	REF	15	23/00357/MMA Elmfield House, Millbrook Rd E

PSA – Public Speaking Allowance (mins); CAP - Approve with Conditions: DEL - Delegate to Officers: PER - Approve without Conditions: REF – Refusal: TCON – Temporary Consent: NOBJ – No objection

Case Officers:

RS – Rob Sims

SK – Sam Kushner

SB – Stuart Brooks

Southampton City Council - Planning and Rights of Way Panel

Report of Head of Transport & Planning

Local Government (Access to Information) Act 1985

Index of Documents referred to in the preparation of reports on Planning Applications:

Background Papers

1. **Documents specifically related to the application**
 - (a) Application forms, plans, supporting documents, reports and covering letters
 - (b) Relevant planning history
 - (c) Response to consultation requests
 - (d) Representations made by interested parties

2. **Statutory Plans**
 - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Plan (Adopted 2013)
 - (b) Amended City of Southampton Local Plan Review (Adopted March 2015)
 - (c) Connected Southampton 2040 Transport Strategy (LTP4) adopted 2019.
 - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
 - (e) Adopted City Centre Action Plan (2015)
 - (f) Community Infrastructure Levy Charging Schedule (2013)
 - (g) Bassett Neighbourhood Plan (Adopted 2016)

3. **Statutory Plans in Preparation**

4. **Policies and Briefs published and adopted by Southampton City Council**
 - (a) Old Town Development Strategy (2004)
 - (b) Public Art Strategy
 - (c) North South Spine Strategy (2004)
 - (d) Southampton City Centre Development Design Guide (2004)
 - (e) Streetscape Manual (2005)
 - (f) Residential Design Guide (2006)
 - (g) Developer Contributions SPD (September 2013)
 - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
 - (i) Women in the Planned Environment (1994)
 - (j) Advertisement Control Brief and Strategy (1991)
 - (k) Biodiversity Action Plan (2009)
 - (l) Economic Development Strategy (1996)
 - (m) Test Lane (1984)

- (n) Itchen Valley Strategy (1993)
- (o) Portswood Residents' Gardens Conservation Area Character Appraisal (1999)
- (p) Land between Aldermoor Road and Worston Road Development Brief Character Appraisal(1997)
- (q) The Bevois Corridor Urban Design Framework (1998)
- (r) Southampton City Centre Urban Design Strategy (2000)
- (s) St Mary's Place Development Brief (2001)
- (t) Ascupart Street Development Brief (2001)
- (u) Woolston Riverside Development Brief (2004)
- (v) West Quay Phase 3 Development Brief (2001)
- (w) Northern Above Bar Development Brief (2002)
- (x) Design Guidance for the Uplands Estate (Highfield) Conservation Area (1993)
- (y) Design Guidance for the Ethelburt Avenue (Bassett Green Estate) Conservation Area (1993)
- (z) Canute Road Conservation Area Character Appraisal (1996)
- (aa) The Avenue Conservation Area Character Appraisal (2013)
- (bb) St James Road Conservation Area Character Appraisal (1996)
- (cc) Banister Park Character Appraisal (1991)*
- (dd) Bassett Avenue Character Appraisal (1982)*
- (ee) Howard Road Character Appraisal (1991) *
- (ff) Lower Freemantle Character Appraisal (1981) *
- (gg) Mid Freemantle Character Appraisal (1982)*
- (hh) Westridge Road Character Appraisal (1989) *
- (ii) Westwood Park Character Appraisal (1981) *
- (jj) Cranbury Place Character Appraisal (1988) *
- (kk) Carlton Crescent Character Appraisal (1988) *
- (ll) Old Town Conservation Area Character Appraisal (1974) *
- (mm) Oxford Street Conservation Area Character Appraisal (1982) *
- (nn) Bassett Green Village Character Appraisal (1987)
- (oo) Old Woolston and St Annes Road Character Appraisal (1988)
- (pp) Northam Road Area Improvement Strategy (1987)*
- (qq) Houses in Multiple Occupation (revised 2016)
- (rr) Vyse Lane/ 58 French Street (1990)*
- (ss) Tauntons College Highfield Road Development Guidelines (1993)*
- (tt) Old Woolston Development Control Brief (1974)*
- (uu) City Centre Characterisation Appraisal (2009)
- (vv) Parking standards (2011)

* NB – Policies in these documents superseded by the Residential Design Guide (September 2006, page 10), albeit character appraisal sections still to be had regard to.

5. Documents relating to Highways and Traffic

- (a) Hampshire C.C. - Movement and Access in Residential Areas
- (b) Hampshire C.C. - Safety Audit Handbook
- (c) Cycling Strategy – Cycling Southampton 2017-2027
- (d) Southampton C.C. - Access for All (March 1995)

- (e) Institute of Highways and Transportation - Transport in the Urban Environment
- (f) I.H.T. - Traffic Impact Assessment Guidelines
- (g) Freight Transport Association - Design for deliveries
- (h) Department for Transport (DfT) and Highways England various technical notes
- (i) CIHT's Manual for Streets and Manual for Streets 2
- (j) Bus Service Improvement Plan (BSIP) 2021.

6. Government Policy Planning Advice

- (a) National Planning Policy Framework (February 2019)
- (b) National Planning Policy Guidance Suite

7. Other Published Documents

- (a) Planning for Daylight and Sunlight - DOE
- (b) Coast and Countryside Conservation Policy - HCC
- (c) The influence of trees on house foundations in clay soils - BREDK
- (d) Survey and Analysis - Landscape and Development HCC
- (e) Root Damage to Trees - siting of dwellings and special precautions – Practice Note 3 NHDC
- (f) Shopping Policies in South Hampshire - HCC
- (g) Buildings at Risk Register SCC (1998)
- (h) Southampton City Safety Audit (1998)
- (i) Urban Capacity Study 2005 – 2011 (March 2006)
- (j) Strategic Housing Land Availability Assessment (March 2013)

**Planning and Rights of Way Panel 27th June 2023
Planning Application Report of the Head of Transport and Planning**

Application address: Land and area to the South of West Quay Watermark, South Harbour Parade, Southampton			
Proposed development: Use of grassed area to the South of West Quay Watermark for public events or activities for a maximum of 225 days per calendar year.			
Application number:	23/00267/FUL	Application type:	FUL
Case officer:	Rob Sims	Public speaking time:	5 minutes
Last date for determination:	25.04.2023	Ward:	Bargate
Reason for Panel Referral:	Request by Ward Member / Five or more letters of objection have been received	Ward Councillors:	Cllr S Bogle Cllr J Noon Cllr D Paffey
Referred to Panel by:	Cllr Noon	Reason:	Late evening noise and traffic disturbance
Applicant: Southampton City Council (Event Management)		Agent:	

Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	Not applicable
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

Conditionally approve

Background

The application is submitted on behalf of Southampton City Council under Regulation 3 of the Town and Country Planning General Regulations, which relates to proposals made by the Local Authority. Whilst the Council is both applicant and determining Planning Authority the Regulations allow for this, and the Panel's ability to determine the application based on

the favourable recommendation given by officers is not constrained as a consequence.

1. The site and its context

1.1 The site comprises of a 0.5 hectare, rectangular grassed piece of land to the south of Watermark West Quay. To the south is the Quays Swimming complex and parking. To the east are the Grade 1 listed Town Walls (Scheduled Ancient Monument) with the residential properties of Forest View above. The land is owned by the Council.

2. Proposal

2.1 The national planning system currently allows for this land to be used for temporary events up to 28 days per year without the need for planning permission.

2.2 The proposals seek the use of application site for unspecified public events or activities for a maximum of 225 days per calendar year. Flexibility is sought so that the Council's Events Team can respond quickly and positively to event organisers without asking them to apply for planning permission ahead of every event – with the subsequent 8 week delay whilst each application is considered by the Planning team.

2.3 The application submissions states that event organisers would need to apply to the Council's Event Team prior to holding an event. At that point they would provide significant detail regarding their events and the Council, as landowner, would retain controls over the suitability of each event on a case by case basis. In addition they may also need to apply for a temporary event licence from the Council, which will be determined by the Licensing Team.

2.4 Similar flexible planning permissions already exist for Above Bar and Guildhall Square following a similar application by the Council. Watermark has its own permission for events adjacent to the Town Walls, with a separate planning permission for the annual ice rink.

3. 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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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.

The NPPF (2021) seeks to promote the vitality of existing city centres. Paragraph 86 explains that planning decisions should support existing centres at the heart of local communities, 'by taking a positive approach to their growth, management and adaptation' with specific reference to retaining and enhancing space for markets (as an example).

4. **Relevant Planning History**

- 4.1 A schedule of the relevant planning history for the site is set out in **Appendix 2** of this report. The site forms part of the West Quay Watermark scheme approved under application 13/00464/OUT, with outline planning permission granted for up to 260 flats on this land. The residential permission expired on 21st February 2019.
- 4.2 Phase 1 of this permission was built out and comprised the Cinema and restaurant complex along with the public realm improvements at the base of the Town Walls (LPA ref: 14/00668/REM).

5. **Consultation Responses and Notification Representations**

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice 10/03/2023. At the time of writing the report **7 representations** have been received from surrounding residents. The following is a summary of the points raised:
- 5.2 The use of the land for events will result in noise and disturbance to residential dwellings, with noise vibrating off the walls.
Response
Noted. Noise and disturbance impacts on neighbouring properties will be considered in section 6 below.
- 5.3 The use would conflict with the Mayflower Masterplan
Response
The Mayflower masterplan is not an adopted Development Plan document and, therefore, the ambitions and potential future use of the site outlined in the Masterplan are not a material planning consideration at this time. That said, the application site is located within the defined City Centre where events are to be encouraged for its vitality and viability, as supported by local and national planning policy subject to the detail being acceptable also.
- 5.4 Conflict with residents parking requirements
Response
Impact on parking will be considered in Section 6 below. That said, it is unclear how residents parking would be affected by these proposals; given the existing parking controls across the city centre and the availability of pay and display parking within easy access of the site.
- 5.5 The use would result in the loss of green grass, impact on wildlife and lead to flooding. The grass would be churned up from events.
Response
The impact on the character and appearance of the locality will be considered in Section 6 below. The site is located in Flood Zone 1 (lowest risk of flooding), therefore it is not considered to be at risk of flooding or that the use of the site for events would increase the risk of flooding. The land is allocated for development, and had a permission for 260 flats, and its open character is only temporary.

Consultation Responses

5.4

Consultee	Comments
SCC Heritage	<p>No Objection</p> <p>BELOW GROUND ARCHAEOLOGY Deposits and remains of archaeological interest lie at depth in the former intertidal muds, below reclamation deposits. However, provided no deep excavations are required for the proposed land use, there should be no impact on those remains. I therefore have no objections as regards below-ground archaeology.</p> <p>SETTING OF THE SCHEDULED TOWN WALLS The application site lies within the setting of the medieval town walls and towers, and the proposal will therefore have an impact on that setting. For up to roughly two thirds of the year, the site will be covered by ancillary structures associated with events. The town walls and towers are scheduled monuments and are Grade I listed. They are therefore designated heritage assets of the highest significance under the National Planning Policy Framework. NPPF paragraph 194 states that the applicant should have described the significance of any heritage assets affected, including any contribution made by their setting, but this has not been done by the applicant.</p> <p>The proposed development will impact on the setting of the scheduled town walls and towers. It will therefore result in a loss of significance of the designated heritage assets.</p> <p>The proposal will lead to some harm to the significance of the scheduled monuments from development within their setting. However, the level of harm is judged to be less than substantial, as well as intermittent and temporary. The less than substantial harm can be weighed against the public benefits of the increased use of the site for public events. This will attract people to the area, leading to greater appreciation and enjoyment of the medieval walls. The impact of the proposal will be much less than the impact of events held in Western Esplanade, immediately adjacent to the town walls; there would be heritage benefit if some events currently held in Western Esplanade were to be relocated to the application site (although this is not part of the submitted justification for the proposal). I therefore do not object to the proposed development.</p>
SCC Environmental Health	<p>No Objection</p> <p>I do not have an objection in principle to this application.</p> <p>However I recognise that use of this space does have the potential to create annoyance for local residents I would</p>

	<p>therefore like to consider the hours of use for the space to reduce any possible future complaints.</p> <p>I recommend:</p> <p>Live music and recorded music may only be played between the hours of 09:00 and 23:00.</p> <p>Noisy on site activities e.g. construction traffic may only be allowed between the hours of 09:00 and 23:00.</p> <p>Other matters that will control potential future complaints will be dealt with at a licensing stage or when an event is being considered e.g. at a Safety Advisory Group.</p>
SCC Highways Development Management	No Objection
SCC Trees & Open Spaces	<p>No Objection</p> <p>Some trees on site, in SE corner which may be impacted by certain types of usage of the area, most likely impact would be compaction or accidental damage by vehicles being in close proximity. I am satisfied that this could be dealt with adequately via events application process and management of the site. Similarly, damage to grass by heavier usage of vehicles should be considered in management of the site and reinstatement costs be considered if applicable.</p>
Cllr John Noon	<p>Objection</p> <p>There is quite a lot of concern from resident in the local area to Westquay about late evening noise and traffic disturbance with this application. When this matter is considered I have asked that these concerns about late evening and night noise disturbances are taken into consideration and if approved conditions impose to ensure there are no late night noise or amplified music. Considering the amount of concerns regarding this application I asked that the matter does to the Planning & Rights of Away Panel</p>

6.0 Planning Consideration Key Issues

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

- The principle of development;
- Impact on the historic environment and character;
- Noise and disturbance and impact on residential amenity;
- Parking highways and transport

6.2 Principle of Development

6.2.1 The city centre benefits from a number of locations for hosting public events, including Guildhall Square, the High Street and Above Bar, the area around the Bargate Monument and the Plaza at Watermark West Quay (Phase 1 area). In

addition, the application site itself has also formed part of the area used by the Southampton Boat Show and for free football activities to promote Southampton's involvement in the UEFA Women's Euros.

6.2.2 The application site forms part of the Watermark West Quay development. Policy AP25 MDZ (North of West Quay Road) of the City Centre Action Plan (CCAP) states that:

'At Watermark West Quay, as shown on the Policies Map, development will be mixed use, and include retail (A1), food / drink or leisure uses. This site is also suitable for office, hotel and residential uses. Development will respect and enhance the Town Walls and their setting and create a major civic square at the foot of the Town Walls, with adjoining buildings providing active frontages.'

6.2.3 This application proposes to use the grassed area to the South of West Quay Watermark for public events or activities for a maximum of 225 days per calendar year. The application site would be used for a range of events including (but not restricted to):

- Outdoor Theatre
- Live music
- Cultural events
- Street entertainment
- Art exhibitions
- Filming location
- Civic events or appropriate ceremonies
- Busking
- Specialist markets including Christmas market
- Temporary ice rink
- Sporting events including activities linked to the Quays
- Big screen for televised sport / musical / films / cultural events
- Community fairs
- Product launches
- Promotional events for new initiatives
- Events and activities linked to Westquay
- Activities linked to the annual Southampton International Boat Show

The Town and Country Planning (General Permitted Development) Order 2015 (as amended), Schedule 2, Part 4, Class B (Temporary use of land), allows for the temporary use of any land for markets and events for up to 28 days per calendar year without the need for planning permission. In this instance the proposals seek to use the application site for up to 225 days per calendar year for the type of activity listed above. The use of this land for these leisure and cultural uses is considered to be acceptable in principle and in compliance with Policy AP25 of the CCAP. The application would not compromise future development proposals coming forward, such as Watermark Phase 2 or any development proposed under the Mayflower Masterplan.

6.2.4 As such the principle of development is acceptable subject to a detailed assessment of the management of the events, the impact on neighbouring amenity, the impact on the historic environment and character of the area, and the impact on highway safety. These are considered below:

6.3 The management of the events and impact on neighbour amenity

- 6.3.1 According to the applicant, the purpose of the application is to provide an additional event space to the City and to give *'flexibility and options to Westquay to spread-out their activities into this area and to hold individual public events and activities complementing the existing Westquay and the city offer to both residents and visitors.'*
- 6.3.2 Public realm works around the Town Walls were implemented as part of the Phase 1 Watermark West Quay development which created a public plaza to host public events. Condition 42 of the outline consent secured a City Centre Management Plan for the plaza which established a City Plaza Management Committee for approving vendors and events within the plaza. Applications from Vendors are submitted to a Management Committee, which includes type of events, timings and security. The Management Plan also limited events held by the Council to 18 per calendar year.
- 6.3.3 The additional event space provided by this adjacent application site would allow the Council and West Quay/Hammersons to host more events immediately adjacent to the public plaza at Watermark West Quay, and would make more efficient use of vacant land. This would allow for a wider variety of vendors and the cultural and leisure offer to this part of the city.
- 6.3.4 Alongside the need for planning permission the Council has its own procedures for dealing with requests to use council land for events. The form required to be submitted to the Council as part of such applications is a long and comprehensive. It includes details of the type of event, number of people, timings (including setup and take down), security arrangements, lighting, point of contact details, licensing elements (alcohol, music, required facilities), traffic management (road closures), types of vehicles and vendor parking, litter clearance/management. In terms of how events are selected and approved, the Events Team have explained their internal and external consultation process below:

'All events taking place in this site will be coordinated by the council's Events Team and will follow the same process to other events in the city. If the event is suitable for this site, event organisers are then required to complete and return an event application together with supporting documentation - Site plan, event management plan, risk and fire assessment and insurance details.'

When the completed application and documentation is received, it is checked by the council's Events Team and distributed to relevant representatives of the Events Safety Advisory Group (ESAG). This group consists of representatives from the Police, Fire, Ambulance services as well as other relevant council departments such as Licensing, Legal, Highways, Environmental Health. Other agencies and partners are also consulted depending on the nature of the event. This gives the opportunity for any feedback of concerns or comments to be addressed or to the event organiser to clarify or expand on any specific elements. Depending on the size and nature of the event, the event organisers may be asked to attend an ESAG (virtual or in person meeting) to present to the group, discuss the event and answer questions.'

Regarding proposed events on this site, specific and relevant event information from the application would also be shared with the management of Westquay and The Quays, so that they have advance notice of events that are due to take place and where appropriate will be presented with an opportunity to become involved. From experience of Westquay events on The Esplanade and when the

Southampton International Boat Show uses this land, we are aware that liaison of event organisers with nearby residents is key, especially on Forest View and the Old Town Residents Group. If the application successfully passes through the ESAG, the council's Events Team notifies the event organiser that the event may proceed.'

6.3.5 In addition the Council's Events Team is applying for a Premises License under the Licensing Act, 2003 for this site. If successful, this would enable the events to take place between the hours of 0600hrs – 2329hrs each day.

6.3.6 This application for planning permission relates to the use of the land only for events up to 225 days. The type of events, the vendors and the associated facilities required are all controlled and managed through the event application process and premises license. It is not deemed necessary to duplicate this approval process following the grant of planning permission as it would add a further 8 week process for sign off by Planning and would defeat the purpose of having such flexibility in the first place. The Council's events application process also involves considerable engagement with local interest groups and residents.

6.3.7 The main planning consideration for the use of land for this duration is the impact on neighbouring residents. The nearest residential properties are located to the east of the site, at Forest View, which are also on elevated land. That said, the immediate context is commercial in character; and the restaurants and bars (which have outside seating) are allowed to open until 01:00 hours (application 15/02454/NMA). However, as this application is for outdoor events and could comprise of live and/or amplified music, it would be prudent to impose a condition restricting the hours of use. The Westquay Watermark Public Realm Licence allows events between 0900-2300, it is therefore appropriate to repeat these hours for the application proposals. This will also ensure there is no public attendance or construction traffic before this time. In addition the recommendations made by the Environmental Health Officer to limit noisy activities and live music between 0900 – 2300 hours will be imposed in the interests of protecting neighbour amenity. Compliance with this condition would ensure noise and disturbance impacts to neighbouring residents would not be significant; whilst recognising that this is a city centre location.

6.3.8 It is therefore considered that the use of the land for events would be appropriately managed through the event application process, and by a planning condition limiting the use of the site to the hours to those recommended by the Environmental Health Officer. This would ensure an appropriate balance is maintained between allowing for a range of events to be held, enhancing the city centre's offer, and avoiding significant impact on neighbouring residents in the locality. The application is, therefore, considered to accord with saved Local Plan Review Policy SDP1(i).

6.4 Impact on the historic environment and character of the area

6.4.1 The statutory tests for the proposal, as set out in sections 16 (Listed Buildings), 66 (Listed Buildings) of the Planning (Listed Building and Conservation Areas) Act 1990, are: whether the proposal would preserve the building, its setting or, any features of special architectural or historic interest (Listed Buildings). The NPPF requires the proposal to be assessed in terms of the impact on the significance of the building having regard to:

- The desirability of sustaining and enhancing the significance of heritage

- assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and;
- The desirability of new development making a positive contribution to local character and distinctiveness.

The site lies in close proximity to the Town Walls which are Grade I listed structures that form part of the key historic environment of the city. Given that the land immediate adjacent to the walls is the public plaza implemented under the Watermark Phase 1 development, and is used for public events, it is not considered that the use of the application site for public events would result in any significant harm to the historic character and integrity of the walls.

6.4.2 In terms of the impact of the development on the general character of the area, as the surrounding area is commercial, including the Quays to the south and cinema and restaurants to the north, it is not considered that the use of land would be out of keeping with the area. However, the events will take place on an existing grassed area, and could house temporary structures such as marquees, chalets, staging and seating etc, which could lead to damage to this area of grass following the event.

6.4.3 The Council's Tree Officer is content that damage to grass from vehicles can be addressed through the management of the site and reinstatement costs. This could also apply to damage caused by the temporary structures. The applicant has confirmed that:

- *As part of the event application process for all events on public land, the area will be evaluated beforehand for its suitability and any potential or actual damage to the ground. The area will also be inspected after each event.*
- *The Event Organiser (EO) may be requested to refrain from moving heavy infrastructure in wet conditions to avoid further damage until it can be safely removed. The EO must also implement appropriate measures to prevent ground damage if the area is unsuitable for the planned activities for any reason, such as using tracking, modifying the site plan, or considering an alternative location or date.*
- *The parks and open spaces team will advise on the maintenance of the area, appropriate works to be carried out and timescales, this may involve temporarily restricting access if they need to re-seed the area for example.*
- *Taking into account other events scheduled in the same location, the application date and duration of each event will be assessed to ensure that the area has sufficient intervals within the calendar year to allow for the restoration of the grass and the availability of the area for public general use.*

6.4.4 Given the above, it is not necessary to impose planning condition to duplicate the requirement to re-seed and reinstate the land to its former condition. Furthermore, as the land is in the council's ownership, it is in the best interests of the Council as landowner to address this issue. On this basis the proposed use is considered to acceptable in terms of its impact on the historic environment and the character and appearance of the area.

6.5 Parking highways and transport

- 6.5.1 In terms of highways issues, the only source of traffic would be that associated with vendor vehicles. The site has historically been accessed by vehicles for temporary events off the Harbour Parade roundabout to the west (on a temporary basis). The same vehicle access point would be used for this application. Movements to and from the site would be managed by the event application process as part of the traffic management plan (with the Highway Department consulted as part of that).
- 6.5.2 In terms of pedestrian access, there is an opening in the north-east corner of the site (off the Plaza), which would be utilised to serve the application site. A condition will be imposed to secure further detail of the access points should any clearance works be needed to facilitate a wider access. Other pedestrian movements between Harbour Parade and Western esplanade (to the north of the application) would be retained and, therefore, there would be no significant highway impacts resulting from the use of the land.

7.0 Summary

- 7.1 This land is allocated for mixed-use development, with a lapsed permission for up to 260 flats. The current proposals relate to the use of the land for (currently unknown) events for up to 225 days per calendar year. Details of the events and their associated impacts would be appropriately managed through the event application process, which is controlled by the Council's Events Team.
- 7.2 Permitted development exists for the site to be used for 28 calendar days currently without the need for planning permission. Additional days are now sought as part of this application so that the Council can be more proactive on receipt of a request for an event. Seeking planning permission ahead of each individual request is not practicable. Neither is having a planning permission where specific details are agreed prior to the commencement of the proposed event. Both routes could lead to at least 8 weeks delay to the decision making, and may jeopardise the event occurring. Instead, the existing Events application process can be relied upon – as is also the case for Guildhall Square and Above Bar – to give the Council the controls it would need to ensure satisfactory management, consultation and care is given.
- 7.3 In order to protect neighbouring residents from adverse noise impacts, a planning condition will be imposed limiting the use of the site and public attendance to amenable hours. In addition any damage caused to the ground condition will be secured and reinstated through the event management process. Overall the proposed use of land for events is considered ensure an appropriate balance between allowing for a range of events to be held and supporting the socio-economic growth of the city, whilst avoiding significant environmental impact, such as adverse impacts on neighbouring residents.

8. Conclusion

- 8.1 It is recommended that planning permission be granted subject to conditions set out below.

Local Government (Access to Information) Act 1985 **Documents used in the preparation of this report Background Papers**

1. (a) (b) (c) (d) 2. (b) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

PLANNING CONDITIONS

1) Full Permission Timing (Performance)

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

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

2) Hours of Operation

The use of the land for events hereby approved shall only take place between the hours of 0900 and 2300 hours.

Reason: To protect the amenities of neighbouring occupiers.

3) Control of Amplified Equipment

No live/amplified music of the event space shall operate between the night time period of 23:00-09:00 hours.

Reason: To protect the amenities of the occupiers of nearby residential properties.

4) Approved Plans (Performance)

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.

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

5) Additional Access Details

Prior to first use of the any events that require additional vehicular or pedestrian access points to those already shown (that may affect existing landscaping) further details of any additional works to these access points, including a landscape mitigation strategy, shall be submitted in writing and approved by the Local Planning Authority. The development shall proceed only in accordance with these agreed details.

Reason: In the interests of highway safety and visual amenity.

Core Strategy - (as amended 2015)

CS1	City Centre Approach
CS2	Major Development Quarter
CS3	Promoting Successful Places
CS6	Economic Growth
CS13	Fundamentals of Design
CS14	Historic Environment
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS21	Protecting and Enhancing Open Space
CS22	Promoting Biodiversity and Protecting Habitats
CS23	Flood Risk
CS24	Access to Jobs
CS25	The Delivery of Infrastructure and Developer Contributions

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
SDP15	Air Quality
SDP16	Noise
SDP17	Lighting
SDP24	Advertisements
HE1	New Development in Conservation Areas
HE3	Listed Buildings
HE6	Archaeological Remains

City Centre Action Plan - March 2015

AP 5	Supporting existing retail areas
AP 8	The Night time economy
AP 12	Green infrastructure and open space
AP 15	Flood resilience
AP 16	Design
AP 18	Transport and movement
AP 19	Streets and Spaces
AP 25	North of West Quay Road

Supplementary Planning Guidance

Parking Standards SPD (September 2011)

Other Relevant Guidance

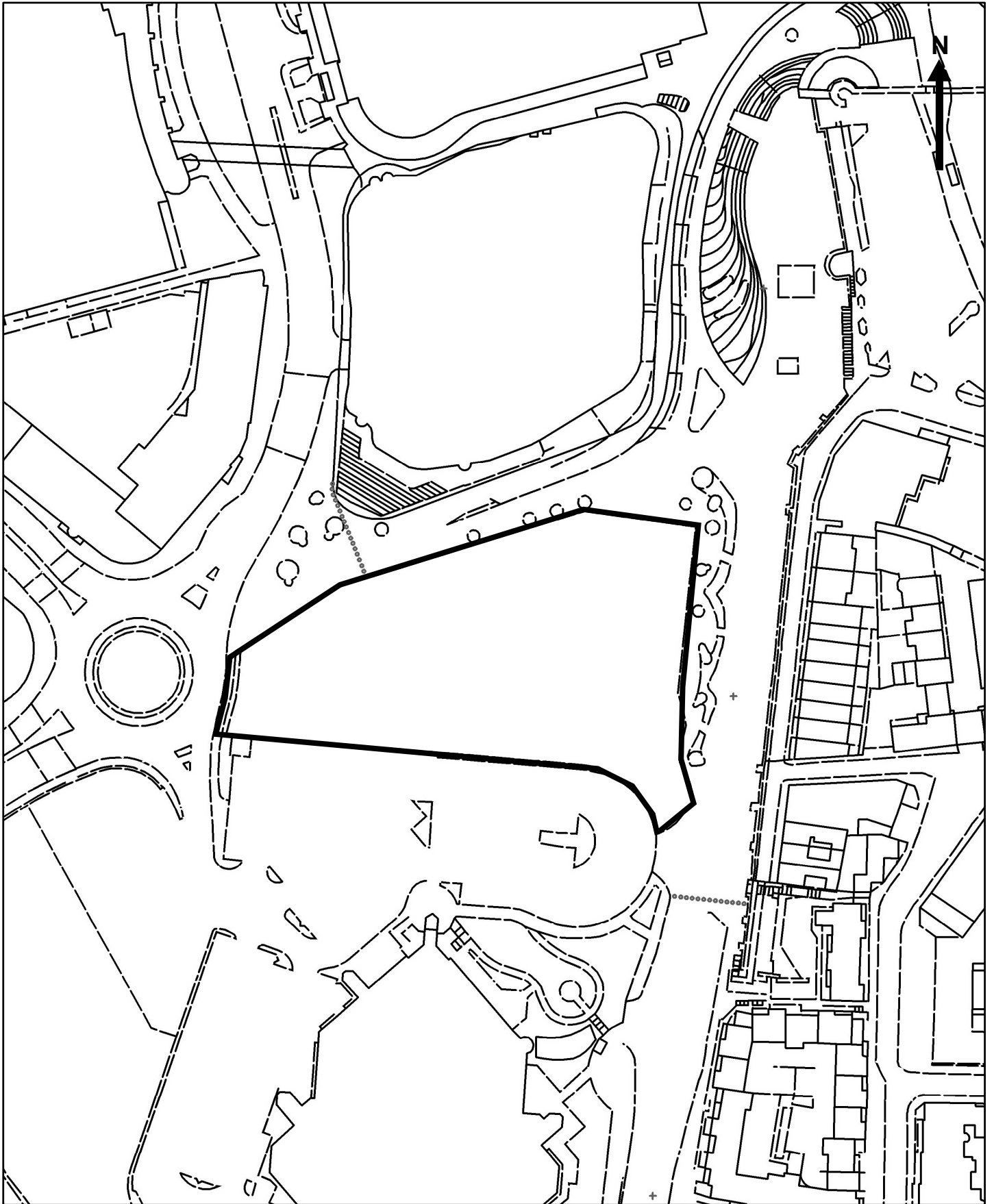
The National Planning Policy Framework (2021)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)_____

Relevant Planning History

Case Ref	Proposal	Decision	Date
13/00464/OUT	Mixed use development including alterations to the West Quay Shopping Centre comprising Retail (Use Class A1, A2, A3, A4 and A5 - 19,500 square metres maximum floorspace); Hotel (Use Class C1 - 28,000 square metres maximum floorspace); Residential (Use Class C3 - maximum 260 flats); Leisure (Use Class D2 - 19,500 square metres maximum floorspace) including a Cinema; Offices (Class B1(a) - maximum 10,000 square metres floorspace); public open space; with associated car parking, access, highway, landscaping and other works including infilling the existing pedestrian subway in Bargate Street (Outline application with access for consideration at this stage - Environmental Impact Assessment Development).	Conditionally Approved	21.02.2014
14/00668/REM	Application for reserved matters approval for Phase 1 of the Watermark West Quay development (covering layout, scale, appearance and landscaping pursuant to planning permission reference 13/00464/OUT) to provide leisure use including cinema (Class D2 - 11,200 square metres floorspace) retail (Classes A1, A2, A3, A4 and A5 - 13,000 square metres floorspace) and public realm works.	Conditionally Approved	01.07.2014

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**Planning and Rights of Way Panel 27th June 2023
Planning Application Report of the Head of Transport and Planning**

Application address: 25 Northolt Gardens, Southampton			
Proposed development: Change of use from dwelling house (C3 use) to a 4 bedroom house of multiple occupation (HMO, C4 use) (retrospective)			
Application number:	23/00505/FUL	Application type:	FUL
Case officer:	Sam Kushner	Public speaking time:	5 minutes
Last date for determination:	15.06.2023 ETA: 30.06.2023	Ward:	Coxford
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	TBC post election
Referred to Panel by:	N/A	Reason:	N/A
Applicant: Dr Nagarajan Elumalai		Agent: N/A	

Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	Not applicable
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2021).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History
3	40m Radius map		

Recommendation in Full

Conditionally Approve

1.	<u>The site and its context</u>																															
1.1	The application site is a mid terrace property, in an area with primarily other two storey terraced properties and a suburban character. The application site is in close proximity to Lordshill District Centre.																															
1.2	The application form states that C4 use has been operational since 01/03/2023. Beyond the change of use, no physical changes have been made to exterior of the application site. An additional bedroom has been created by dividing the lounge area.																															
2.	<u>Proposal</u>																															
2.1	This application seeks to regularise the currently unauthorised change of use from a C3 dwellinghouse to a 4 bed HMO (class C4). The only physical change is the formation of the downstairs bedroom by subdivision of the lounge area.																															
2.2	<table border="1"> <thead> <tr> <th>Room</th> <th>Location</th> <th>Size</th> <th>Minimum Standard</th> </tr> </thead> <tbody> <tr> <td>Bedroom 1</td> <td>First floor rear</td> <td>10.9sqm</td> <td rowspan="4">Minimum 6.51sqm</td> </tr> <tr> <td>Bedroom 2</td> <td>First floor front right</td> <td>11.1sqm</td> </tr> <tr> <td>Bedroom 3</td> <td>First floor front left</td> <td>8.9sqm</td> </tr> <tr> <td>Bedroom 4</td> <td>Ground floor front</td> <td>6.9sqm</td> </tr> <tr> <td>WC</td> <td>Ground floor</td> <td>---</td> <td rowspan="2">At least 1 shared bathroom for up to 5 persons</td> </tr> <tr> <td>Bathroom</td> <td>First floor</td> <td>---</td> </tr> <tr> <td>Kitchen</td> <td>Ground floor</td> <td>10.7sqm</td> <td rowspan="2">Minimum total combined kitchen / living area of 11.5sqm for up to 5 persons</td> </tr> <tr> <td>Lounge</td> <td>Ground floor</td> <td>15.5</td> </tr> </tbody> </table>	Room	Location	Size	Minimum Standard	Bedroom 1	First floor rear	10.9sqm	Minimum 6.51sqm	Bedroom 2	First floor front right	11.1sqm	Bedroom 3	First floor front left	8.9sqm	Bedroom 4	Ground floor front	6.9sqm	WC	Ground floor	---	At least 1 shared bathroom for up to 5 persons	Bathroom	First floor	---	Kitchen	Ground floor	10.7sqm	Minimum total combined kitchen / living area of 11.5sqm for up to 5 persons	Lounge	Ground floor	15.5
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3.	<u>Relevant Planning Policy</u>																															
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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at Appendix 1 .																															
3.2	The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of																															

	policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
3.3	<p>The Council's Houses in Multiple Occupation Supplementary Planning Document (SPD HMO) indicates:</p> <p><i>“1.1 Houses in Multiple Occupation (HMOs) provide much-needed housing accommodation. However, a large number of HMOs in one area can change the physical character of that residential area and this can lead to conflict with the existing community.</i></p> <p><i>1.2 The planning system can assist in achieving a mix of households within the city's neighbourhoods, meeting different housing needs whilst protecting the interests of other residents, landlords and businesses. This can best be delivered by preventing the development of excessive concentrations of HMOs and thus encouraging a more even distribution across the city.”</i></p>
3.4	Policies H4 (Houses in Multiple Occupation) and CS16 (Housing Mix and Type) support the creation of mixed and balanced communities and require an assessment of how the introduction of HMOs affect the character and amenity of the local area. The Council's Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) sets a maximum HMO concentration threshold of 10% (surveyed over a 40m radius from the front door of the property), in order to avoid over-concentrations of HMOs leading to an imbalance in the mix of households within a local neighbourhood.
3.5	Saved Policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. Policies SDP7 (Context) and SDP9 (Scale, Massing, and Appearance) allow development which respects the character and appearance of the local area. Policy H7 (The Residential Environment) expects residential development to provide attractive living environments. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design. These policies are supplemented by the design guidance and standards as set out in the relevant chapters of the Residential Design Guide SPD. This sets the Council's vision for high quality housing and how it seeks to maintain the character and amenity of the local neighbourhood.
3.6	Saved policy SDP5 (Parking) of the Local Plan Review and policy CS19 (Car and Cycle Parking) of the Core Strategy both seek to discourage reliance on cars and encourage alternative, more sustainable modes of transport by setting maximum standards for car parking and minimum standards for secure cycle storage, which are detailed in the Parking Standards SPD.
4.	<u>Relevant Planning History</u>
4.1	A schedule of the relevant planning history for the site is set out in Appendix 2 of this report.

5.	<u>Consultation Responses and Notification Representations</u>
5.1	<p>Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice on 27th April 2023. At the time of writing the report <u>7 objections (5 from within the ward)</u> have been received from surrounding residents. An objection has also been received from Cllr Margetts.</p> <p>The following is a summary of the points raised:</p>
5.2	<p><i>The change of use to an HMO has led to antisocial behaviour from residents</i> <u>Response</u> The Council's Environmental Health team have enforcement powers available outside of the Planning system to enforce against statutory noise nuisance. These issues are discussed in the Planning Considerations further below.</p>
5.3	<p><i>There are constraints on parking in the area and more residents would exasperate the issue</i> <u>Response</u> The impact of parking will be discussed below; however no objection has been received from the council's highways department on highway safety grounds or to the lack of parking on offer.</p>
5.4	<p><i>The area is characterised by family dwellings and an HMO would disturb this</i> <u>Response</u> The application site is compliant with the 10% density rule, and previous appeal decisions including 10 Lumsden Avenue APP/D1780/W/15/3005204 have determined that where this is the case, the character of the area will not be negatively impacted by an HMO. The Planning system seeks to secure a mix of accommodation to serve the whole community, and the Council's threshold tests ensure a balance.</p>
5.5	<p><i>Property prices will be negatively impacted</i> <u>Response</u> This is not a material planning considerations</p>
5.6	<p><i>Access for emergency services may be affected, greater risk of a fire with more residents</i> <u>Response</u> No objection has been received from the council's highways department. It is not considered that the fire risk from an HMO is materially greater than a family dwelling.</p>

<u>Consultation Responses</u>									
5.7	<table border="1"> <thead> <tr> <th>Consultee</th> <th>Comments</th> </tr> </thead> <tbody> <tr> <td>Highways Development Management</td> <td> <p>No objection</p> <p>The proposal does not appear to have any external changes including any parking or accesses. The local streets are unrestricted but the proposed change of use is not considered to generate any significant difference in car trips or ownership levels.</p> <p>It is however requested that cycle parking spaces are provided for each bedroom. This is due to that living style and nature of occupants could be akin to individual flats. One long stay space (as defined by the Parking SPD, 2011) to be provided per bedroom/occupant.</p> </td> </tr> <tr> <td>Environmental Health</td> <td> <p>No objection</p> <p>I have looked at the application form and associated documents. I have also looked at our records and I can confirm that the Environmental Health Neighbourhoods Team have no objections to this application.</p> </td> </tr> <tr> <td>Cllr Barrie Margetts</td> <td> <p>I am opposed to the conversion of this property to an HMO, I do not think it compatible to the area.</p> </td> </tr> </tbody> </table>	Consultee	Comments	Highways Development Management	<p>No objection</p> <p>The proposal does not appear to have any external changes including any parking or accesses. The local streets are unrestricted but the proposed change of use is not considered to generate any significant difference in car trips or ownership levels.</p> <p>It is however requested that cycle parking spaces are provided for each bedroom. This is due to that living style and nature of occupants could be akin to individual flats. One long stay space (as defined by the Parking SPD, 2011) to be provided per bedroom/occupant.</p>	Environmental Health	<p>No objection</p> <p>I have looked at the application form and associated documents. I have also looked at our records and I can confirm that the Environmental Health Neighbourhoods Team have no objections to this application.</p>	Cllr Barrie Margetts	<p>I am opposed to the conversion of this property to an HMO, I do not think it compatible to the area.</p>
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6.0	<u>Planning Consideration Key Issues</u>								
6.1	<p>The key issues for consideration in the determination of this planning application are:</p> <ul style="list-style-type: none"> - The principle of development; - Design and effect on character; - Residential amenity; - Parking highways and transport 								
6.2	<u>Principle of Development</u>								
6.2.1	<p>The permitted development right to change the use of a property from a C3 single dwelling to a C4 small HMO for up to 6 persons was removed by Southampton City Council on 23rd March 2012; when the Council enacted a citywide Article 4 Direction to control the problems associated with high</p>								

	concentrations of HMOs in local communities. Any new HMO uses that have begun since this date require planning permission.
6.2.2	<p>Policy H4 acknowledges there is a need to maintain the supply of housing whilst balancing this against maintaining a sustainable mix of households within the community. <i>Planning permission will only be granted for conversions to houses in multiple occupation where:</i></p> <ul style="list-style-type: none"> <i>(i) it would not be detrimental to the amenities of the residents of adjacent or nearby properties;</i> <i>(ii) would not be detrimental to the overall character and amenity of the surrounding area;</i> <i>(iii) adequate amenity space is provided which:</i> <ul style="list-style-type: none"> <i>a) provides safe and convenient access from all units;</i> <i>b) is not overshadowed or overlooked especially from public areas; and</i> <i>c) enables sitting out, waste storage and clothes drying.</i>
6.2.3	<p>The threshold test set out in section 1.1 of the Council's HMO SPD indicates that the maximum concentration of HMOs should not exceed 10% of the surrounding residential properties within a 40m radius. As this proposed HMO use is the first in the road, the HMO concentration as a result of this application would be only 3.7% (1 HMO out of 27 eligible residential properties), which is within the 10% maximum limit for the 40m radius survey area. This survey has reviewed the Electoral Register, Planning Register, Licensing Register, and Council Tax records available. Although the Council does not have a complete database on the location of all HMOs in the city, these sources provide the Council's best-known evidence. A copy of the 40m radius map is attached as Appendix 3.</p>
6.2.4	<p>Given the above, the principle of development to convert the property into a C4 HMO can be supported subject to an assessment of the planning merits in relation to Policy H4 and supporting guidance.</p>
6.3	<u>Design and effect on character</u>
6.3.1	<p>The internal works to facilitate the change of use do not visually impact on the appearance of the streetscene.</p>
6.3.2	<p>In terms of impact on the housing mix and community, it is not considered that the conversion would significantly change the character of the area. The 10% threshold in the HMO SPD seeks to ensure a balanced community and housing mix is maintained. In this instance the application would add to the mix of properties without significant harm to the area.</p>
6.4	<u>Residential amenity</u>
6.4.1	<p>There are no new side-facing windows proposed, nor any external alterations to the existing building, so the proposal does not raise concerns</p>

	for creating overbearing, overshadowing or overlooking impacts for neighbouring residents.
6.4.2	It is noted that there are objections from neighbouring residents regarding the existing HMO use, and in particular the activities of the current occupiers. Whilst this planning application can assess the general impact of a proposed HMO use, including the impact on residential amenity, the specific current issues of noise and antisocial behaviour are outside the scope of this application, as they are enforced by other agencies, such as Licencing, Environmental Health and the Police. Whilst officers do not condone the retrospective nature of this application the Council has a duty to determine it on its individual Planning merits.
6.4.3	In this instance it is not considered that the change of use of the property to a four bedroom HMO property would result in a significant increase in comings and goings that would disturb neighbouring properties and their amenity. However, as the application results in the conversion of a mid terrace property, internal activity from the HMO use may give rise to additional noise levels. Therefore a condition will be imposed to secure additional internal sound insulation. Subject to compliance with this condition, the application would not result in harmful impacts to neighbouring properties in terms of noise and disturbance.
6.4.4	The table at paragraph 2.2 demonstrates compliance with the nationally described space standards. The HMO property provides a good quality living environment for current and future occupiers of the property. All habitable rooms have good access to light and outlook. There are communal spaces available with a good-sized kitchen and separate living room, which exceed minimum standards. There is a modest sized garden at 25 sqm with space for sitting out, hanging washing, and for secure cycle storage. A condition will be imposed to ensure adequate internal communal spaces are maintained.
6.5	<u>Parking highways and transport</u>
6.5.1	The Council's parking standards within the HMO SPD limit parking to a maximum of 3 parking spaces for a 4 bedroom HMO. Parking can be provided by way of either on-street or off-street parking spaces. Two parking spaces are provided on the front drive and parking is not restricted on street. Both policies SDP5 and CS19 seek to encourage residents to use alternative, more sustainable modes of transport and discourage reliance on cars.
6.5.2	No objections on the level of car parking provided have been received from the highways officer, who noted that secure cycle storage should also be provided. This is discussed in paragraph 6.5.3

6.5.3	There is space to accommodate secure and covered cycle storage within the rear garden, of sufficient size to provide 4 cycles spaces, 1 per bedroom, meeting the design guidance given in the Parking Standards SPD. Further details of the size, layout and appearance of this structure can be secured by condition.
6.5.4	No details of bin storage have been proposed however details of a covered bin storage structure can be secured via a condition.
7.	<u>Summary</u>
7.1	In summary, the retention of the existing HMO use, with the conditions proposed, is not considered to significantly harm the character and amenity of the area, or highway safety. The comings and goings associated with an HMO use, including traffic and parking demand generated, are not considered to be detrimental to the amenity and safety of the residents living in the area. Furthermore, retention of the existing HMO use would not imbalance the mix of households locally, as 96.3% of properties within the 40m radius would remain as non HMO properties. An HMO use would contribute positively towards the availability of smaller lower cost and flexible accommodation.
8.	<u>Conclusion</u>
8.1	It is recommended that planning permission be granted subject to the conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

Case Officer **Sam Kushner** 27.06.2023 PROW Panel

PLANNING CONDITIONS

01. Retention of communal spaces (Performance)

The rooms labelled Kitchen, Conservatory, and Living Room shown on the plans hereby approved shall be retained for communal purposes only and shall be made available to all occupiers at all times for the duration of the approved C4 HMO use.

Reason: To ensure that suitable communal facilities are provided for the residents.

02. Limit of occupiers (Performance)

The HMO hereby approved shall be occupied by no more than 4 persons.

Reason: In the interests of protecting the character and amenity of the local area.

03. Cycle storage facilities

Unless within 2 months of the date of this decision a scheme for cycle storage is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's

approval, the use of the site as a house of multiple occupation shall cease until such time as a scheme is approved and implemented. If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site as a house of multiple occupation shall cease until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained for the lifetime of the development.

Note:

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To encourage non-car based modes of transport in accordance with Policy CS18 of the City of Southampton Core Strategy (2015).

04. Refuse & Recycling

Unless within 2 months of the date of this decision details of an enclosure for the storage of refuse and recycling shall be submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the site as a house of multiple occupation shall cease until such time as a scheme is approved and implemented. If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site as a house of multiple occupation shall cease until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained in perpetuity.

Note:

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties and in the interests of highway safety.

05. 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.

05. Noise Insulation

Unless within 3 months of the date of this decision a scheme for the insulation from floor to ceiling height of Party walls for the Sitting Room and all 4 bedrooms shown on the approved floorplans, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the site as a house of multiple

occupation shall cease until such time as a scheme is approved and implemented. If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site as a house of multiple occupation shall cease until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

Note:

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: to protect the amenities of neighbouring properties in accordance with saved Policy SDP16 of the City of Southampton Local Plan Review (2015).

06. PD Restriction (Residential)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order amending, revoking or re-enacting that Order, no building or structures within Schedule 2, Part 1, (Classes as listed below) shall be erected or carried out to any dwelling house hereby permitted without the prior written consent of the Local Planning Authority:

Class A (enlargement of a dwelling house);

Class B (roof alteration);

Class C (other alteration to the roof); and

Class E (curtilage structures), including a garage, shed and greenhouse;

REASON:

In order that the Local Planning Authority may exercise further control in this locality given the small private garden and amenity areas provided as part of this development in the interests of the comprehensive development and visual amenities of the area in line with Local Plan Policy SDP1

POLICY CONTEXT

Core Strategy – (as amended 2015)

CS13	Fundamentals of Design
CS16	Housing Mix and Type
CS19	Car & Cycle Parking

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

SDP1	Quality of Development
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
H4	Houses in Multiple Occupation
H7	The Residential Environment

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)
Houses in Multiple Occupation SPD (Adopted - May 2016)
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (Revised 2021)

Relevant Planning History

Case Ref	Proposal	Decision	Date
1426/P25/25	THE ERECTION OF 263 TWO STOREY HOUSES WITH ACCESS ROADS.		23.11.1971
1467/25/25-1	THE ERECTION OF 147 HOUSES AT LORDS HILL SECTOR 4 SOUTH.		27.11.1973
07/01754/FUL	Conservatory	Conditionally Approved	27.12.2007



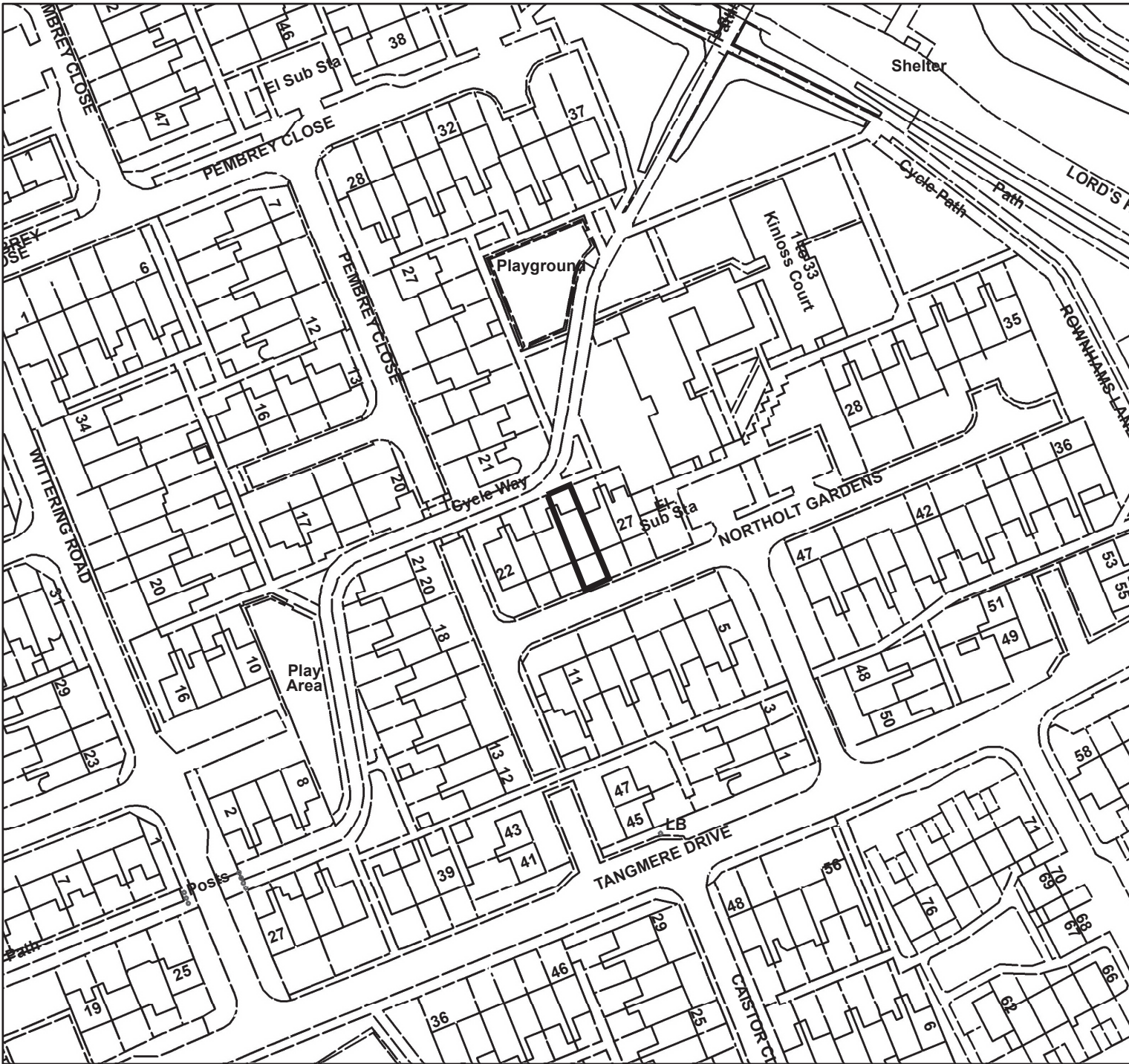
Properties included within search:

4-11, 14-27 Northolt Gardens

20-23 Pembrey Close

1-14 Kinloss Court excluded from assessment as per HMO SPD methodology as properties are 1 and 2 bed roomed flats

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**Planning and Rights of Way Panel 27th June 2023
Planning Application Report of the Head of Transport and Planning**

Application address: Elmfield North Block, Millbrook Road East, Southampton			
Proposed development: Minor material amendment to planning permission reference 20/01413/FUL for approved scheme of 16 flats (1 bed) to change the roof design of fourth storey extension to the north and west residential blocks (amended description)			
Application number:	23/00357/MMA	Application type:	Minor Material Amendment (MMA) to a previously approved MAJOR planning application
Case officer:	Stuart Brooks	Public speaking time:	15 minutes
Last date for determination:	EOT 04.07.2023	Ward:	Freemantle
Reason for Panel Referral:	Request by Ward Member	Ward Councillors:	Cllr Kenny Cllr Lambert Cllr Shields
Referred to Panel by:	Cllr Shields	Reason:	Supports changes to design
Applicant: Clydesdale Properties Ltd		Agent: Atlas Planning Group	

Recommendation Summary	Refuse
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Community Infrastructure Levy Liable	Yes – but paid under 20/01413/FUL
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Appendix attached			
1	Development Plan Policies	2	Relevant Planning History
3	Previously approved plans	4	Comparison of amenity space
5	CGIs of proposed roof design	6	CGIs of approved roof design

Recommendation in Full - REFUSE for the following reasons:

Reason 01. Design & Character

The prominence and form of the roof design changes that now include flat roof box extensions above the parapet line of the original roof will be at odds with the profile of the pitched roof form of the host buildings. The proposed roof design would, therefore, be out of keeping with the character and appearance of the host building and its wider context. As such, the material nature of the proposed design changes cannot be accepted as a minor material amendment, and do not represent good design. It is considered that the proposal is contrary to saved policies SDP7 and SDP9 of the adopted Local Plan Review (2015) and saved Policy CS13(1) of the adopted Local Development Framework Core Strategy (2015), as supported by paragraph 2.5.2 of the Residential Design Guide Supplementary Planning Document (September 2006) and the relevant sections of the NPPF (2021) relating to good design,

particularly paragraphs 134 and 135, which suggest that '*local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme*'.

Reason 02. Failure to secure Section 106 agreement

The application has failed to secure the completion of a section 106 Legal Agreement – Deed of Variation - to secure the following planning obligations as linked to planning permission no. 20/01413/FUL:

- i. Either the developer enters into an agreement with the Council under s.278 of the Highways Act and/or undertakes a scheme of works or provides a financial contribution 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 the adopted Developer Contributions SPD (April 2013);
- ii. Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013) taking into account the submitted build programme and the findings of any independently assessed viability appraisal with a commitment to regular and ongoing review mechanisms throughout the build process.
- iii. Submission of a highway condition survey (both prior to and following completion of the development) to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
- iv. 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).
- v. Either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.

Note to Applicant:

The second reason for refusal could be addressed following the submission of an acceptable scheme, and the completion of a s.106 Deed of Variation to ensure any fresh permission is supported by the correct s.106.

1. Background

- 1.1 *This application for a Minor Material Amendment (MMA) is related to planning permission no. 20/01413/FUL (Approved in May 2021) for an extension to both blocks to create 16 additional 1 bedroom flats (see **Appendix 3**, which show the approved*

scheme).

- 1.2 *The applicant has made significant progress with building out the roof extensions on both blocks but the flats are not yet occupied. However, the extensions have not been built in accordance with the approved plans.*
- 1.3 *A flat roofed box design was originally submitted for the original planning application 20/01413/FUL, but was not supported by officers on grounds of being out of keeping with the attractive appearance of the mansion-style buildings and pitched roof form of other buildings in the area.*
- 1.4 *During the course of determining the first application officers sought to negotiate rather than refuse the scheme. The applicant agreed to change the design to the roof extension to incorporate raised pitched corners to reflect the original pitched roof form of the building and screen the vertical box extension. Set-backs were used to create roof terrace areas and the planning application was approved on the basis of an amended roof design. Unfortunately the applicants have not built out this negotiated permission.*
- 1.5 *Instead, the applicants have reverted on site to their earlier scheme and this MMA seeks to regularise the flat roofed box design, and reverse the design changes agreed by officers, albeit keeping the tile hanging which officers agreed as an appropriate external finishing treatment for the previous approval.*
- 1.6 *Procedurally an MMA is an application to make a material change to a planning permission, and seeks to amend conditions on the previously approved scheme, namely condition 12 (approved plans). If an MMA is granted it takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. In effect an approval of this application 23/00357/MMA would result in 2 permissions for 16 flats on this site.*
- 1.7 *Ward councillor Shields has requested the case to be decided at Planning Panel.*

2. The site and its context

- 2.1 The site comprises a group of 2 residential mansion-style blocks joined by the link house building set within verdant landscaping and trees. The properties are known as Elmfield House accessed from southern side of Millbrook Road East, adjoining the mainline railway to south. The site lies in close walking distance to the city centre and bus links to Shirley Town Centre. The mock tudor style buildings pre-date 1947, although not listed for their historic character. The site is located between Hewitt's Road and Mounbatten Business Centre, with a single storey van hire compound on Millbrook Road East to the north.
- 2.2 The perimeter of the site along the south, east and west boundaries is mainly covered by mature tall trees which are protected under TPO ref no. T2-047. The existing 3 storey blocks (additional sub ground/basement level at base) with basement parking forming part of the development are known as 'north block' and 'west block'. The north block is highly visible from Millbrook Road East above the single storey van hire compound. The link house joining the blocks together has undergone residential prior

approval to 9 flats (ref no. 20/00519/PA56).

3. Proposal

- 3.1 This application seeks permission to amend the roof design of the vertical extension approved under planning permission no. 20/01413/FUL (see **Appendix 3**). The amended roof design seeks to remove the extended corner pitches, which visually blend the rooftop extension into the original pitched roof.
- 3.2 Most aspects of the approved development will be unchanged (i.e. quantum of flats) with exception to increasing the size of the private terrace area for the roof extension flats. A side by side comparison is shown in **Appendix 4**. This shows that only 2 of the flats in each block will gain further useable space:-
- Flat 8: approved = 7sqm & amended = 21sqm (+14sqm);
 - Flat 1: approved = 12sqm to proposed = 32sqm (+20sqm).
- 3.3 The 16 flats approved benefit from access to the resident's communal gardens serving the Elmfield blocks, so the proposed additional private amenity space is not necessary to make the scheme acceptable according to the amenity space standards under the Council's Residential Design Guide (RDG paragraph 2.3.14). The merits of the proposed external amenity space is assessed below with regards to the 'planning balance'.

4. Relevant Planning Policy

- 4.1 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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 4.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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.
- 4.3 Para 126 of the NPPF advises:
- "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this."*
- 4.4 Ahead of the adoption of the emerging Local Plan (City Vision), the application must be considered against existing design policy CS13 of the Core Strategy which requires new development to incorporate architecture which:

1. Respond positively and integrate with its local surroundings, character and architectural vernacular without being a pastiche of the past;
2. Contribute positively to the unique image of Southampton and local distinctiveness via innovative and high quality design.....

4.5 Linked to policy CS13 in the Council’s Residential Design Guide SPD (RDG). Para 2.5.1 of the RDG advises that there are a number of basic design principles that should be followed in the detailing of any extensions or modifications. Generally, the architectural detailing and materials used should be in keeping with the original building. Furthermore at 2.5.2 advises that roof form and pitch must relate to the original design of the building and existing roof and this usually means a pitched roof (hipped or gabled).

5. Relevant Planning History

5.1 A schedule of the relevant planning history for the site is set out in **Appendix 2** of this report.

6. Consultation Responses and Notification Representations

6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken, which included notifying adjoining and nearby landowners, and erecting a site notice on 31.03.2023. At the time of writing the report **no representations** have been received from surrounding residents. The application has been referred to Planning Panel by Ward Cllr Childs.

Consultation Responses

Consultee	Comments
CIL Officer	The CIL has been paid in full for 20/01413/FUL, the proposed amendment does not change the CIL calculation and as such there is no additional CIL liability.
SCC Design Team	<u>Objection</u> The photographs clearly demonstrate that without the sloping corners in place then the extension looks like a box on top of the roof, because of the visually jarring relationship between sloped existing roof and the vertical edge of the extension, rather than looking like (as per the approved drawings) that the extension is an integrated part of the roof

6.0 Planning Consideration Key Issues

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

- Process
- The principle of development;
- Design and effect on character;
- Living conditions for future occupiers.

6.2 Process

6.2.1 An MMA application can be made under section 73 of the Town and Country Planning Act 1990. This application route is available to make the planning system more flexible in order to carry out minor changes to extant planning permissions. Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

6.2.2 A section 73 application involves a consideration of the revisions against the relevant development plan policies. There is no statutory definition of a 'minor material amendment', but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

6.3 **Principle of Development**

6.3.1 The approved 16 flats should also be assessed against any material changes in the development plan since the original permission. The principle of additional housing on site has already been supported by the previous planning permission. There is no subsequent change to density or mix of the approved flats. Whilst a new permission for the 16 flats is effectively sought by the section 73 application, the main considerations for this application are the visual impact of the physical changes to the approved extension. The visual harm from the changes should be balanced against the benefits of the additional balcony space created for the flats. Since the original permission was granted in 2021, the Council has identified it has less than five years housing supply, so the 'titled balance' needs to be applied, as explained below, in context with a new permission for 16 flats.

6.3.2 The site is not allocated for additional housing, but the proposed dwellings would represent windfall housing development. The LDF Core Strategy identifies the Council's current housing need, and this scheme would assist the Council in meeting its targets. As detailed in Policy CS4 an additional 16,300 homes need to be provided within the City between 2006 and 2026. The NPPF and our saved policies, seeks to maximise previously developed land potential in accessible locations.

6.3.3 The NPPF requires LPAs to identify a five-year supply of specific deliverable sites to meet housing needs. Set against the latest Government housing need target for Southampton (using the standard method with the recent 35% uplift), the Council has less than five years of housing land supply. This means that the Panel will need to have regard to paragraph 11(d) of the NPPF, which states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, it should grant permission unless:

- the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

[the so-called "tilted balance"]

6.3.4 There are no policies in the Framework protecting areas or assets of particular importance in this case, such that there is no clear reason to refuse the development proposed under paragraph 11(d)(i). It is acknowledged that the proposal would make a contribution to the Council's five-year housing land supply, as would the approved scheme if it were built out correctly. There would also be social and economic benefits resulting from the construction of the new dwellings, and their subsequent occupation, including a revised scheme with more amenity space for the 16 flats, and these are set out in further detail below to enable the Panel to determine 'the Planning Balance' in this case.

6.4 **Design and effect on character**

6.4.1 The design guidance set out in paragraph 2.5.2 of the Residential Design Guide states that *"reconfiguring of roofs and their supporting structure to create additional accommodation in the roof space will not be acceptable if the changes adversely impact on the local character of the area"*.

6.4.2 The visual impact of the proposed roof design change to the 'north block' will be clearly seen from public vantage points in Millbrook Road East adjacent to the site. Whilst the 'west block' is less visible from the public realm, the negative change in building design would be noticeable to the occupants of Elmfield House themselves. The proposed changes will significantly change the overall appearance of the approved roof extension. Although the tile hung clad walls of the roof box extension matches the roof tiling of the existing buildings, the prominence of the roof box extension above the parapet line will be at odds with the profile of the pitched roof of the existing buildings. As such, roof design changes will adversely harm the characterful and attractive appearance of the mansion-style buildings, and the wider character of the local area. The material nature of the proposed design changes can therefore not be accepted as minor material amendment and do not constitute good design.

6.4.3 The applicant has produced a series of CGI views to contextually show the change in roof design, and for comparison CGI views of the approved roof design are also appended to the report (**see Appendices 5 & 6**). The site photographs included within Appendix 5 shows the extension currently built out as the flat roofed box without the approved corner pitches. It is telling from the site photos that the boxed form and window units are much more prominent beyond the parapet of the roof than represented by the CGI views, which should only be taken indicatively in the Panel's deliberations.

6.5 **Living conditions of future occupiers**

6.5.1 The positive benefits of the extra amenity space gained for the flats will not significantly benefit the residents when weighed against the adversely harmful impact of the roof design changes. To visualise the changes to the roof terrace amenity space, a side by side comparison of the proposed and approved roof areas (same layout for both west and north blocks) is shown in **Appendix 4**. The additional amenity space gained is shown by the red boxes (see paragraph 3.2 above for the sizes). The 16 flats are not deficient in amenity space as the occupiers already benefit from

access to the resident's communal gardens serving the Elmfield House blocks, whilst it was accepted that the amenity space standards could be applied flexibly for single occupancy 1 bed flats. The additional roof terrace space being provided is not necessary to make the living conditions of the 16 flats acceptable in terms of the amenity space standards under the Council's Residential Design Guide, and should be afforded less weight in the Planning balance than the harm caused by the retrograde design step taken.

6.6 Mitigation of direct local impacts

6.6.1 MMA applications do not always require a new s.106 legal agreement, but approving this application would result in a new planning permission for the 16 flats. In this instance, if the Panel were minded to disagree with the recommendation and support the application a s.106 would be needed to secure the site specific highway improvements, affordable housing obligation and highway condition survey. A Habitats Regulations Assessment would also be needed to secure mitigation, including nitrates credits, against the impacts of residential development on nearby Special Protection Areas. A delegation could resolve these issues should the Panel wish to approve this MMA.

7. Summary

7.1 The applicants have not built in accordance with their approved drawings and are now seeking to retrospectively remedy this breach in Planning control. Such an approach to development brings its own risks, and on this occasion the roof design of the building under construction is considered to represent poor design that cannot be supported by officers.

7.2 The principle of new residential development is again considered acceptable. It is acknowledged that the proposal would make a contribution to the Council's five-year housing land supply, and that currently there is a shortfall in Southampton meaning that the tilted balance is engaged. Whilst the delivery of housing, and the associated social and economic benefits resulting from the construction of the new dwellings, is material, the adverse impacts of the development when assessed against the policies in the Development Plan and the Framework taken as a whole, would significantly and demonstrably outweigh these benefits. The same benefits around housing delivery would be realised if the applicants had constructed in accordance with the approved plans.

7.3 The proposed gain from the additional amenity space for the 16 flats created would not significantly outweigh the adverse impact to the character and appearance of the area arising from the proposed incongruous roof form. It should be noted that the applicant can still build out the approved 16 flats (permission no. 20/01413/FUL), whilst the living conditions of the flats will not be deficient of amenity space against the Council's standards. The proposed changes to the roof form are not considered to have any adverse consequences for the housing delivery of 16 flats on this site. Having regard to s.38(6) of the Planning and Compulsory Purchase Act 2004, and the considerations set out in this report, the application is recommended for refusal.

8. Conclusion

- 8.1 It is recommended that planning permission be refused for the reasons set out in the officer's recommendation. This may result in an appeal and/or further planning enforcement action.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (f) 4. (f) (g) (vv) 6. (a) (b) 7. (a)

Stuart Brooks PROW Panel 27.06.23

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS15	Affordable Housing
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats
CS25	The Delivery of Infrastructure and Developer Contributions

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2021)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

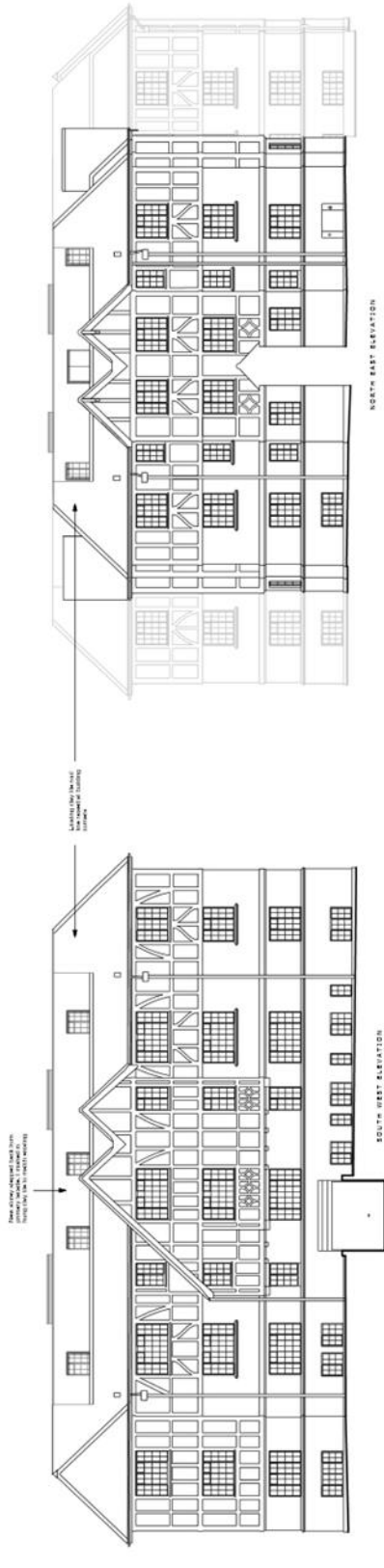
Relevant Planning History

Case Ref	Proposal	Decision	Date
20/01413/FUL	Erection of fourth storey extension at roof level to the north and west residential blocks to provide an additional 16x 1-bed flats with associated parking and cycle/refuse storage	Conditionally Approved	17.05.2021
22/00894/FUL	Conversion of part of the lower ground floors to create 5 x flats and the installation of dropped light wells to serve proposed units 1-5	Awaiting completion of section 106	
22/00951/DIS	Application for approval of details reserved by condition 2(materials), 4(Construction) and 6(Energy & Water) of permission 20/01413/FUL to 16x 1-bed flats	No Objection	27.09.2022

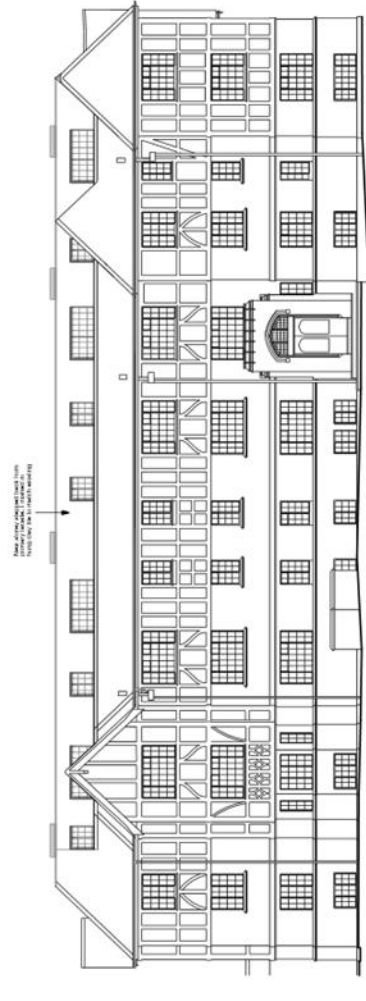
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Agenda Item 9

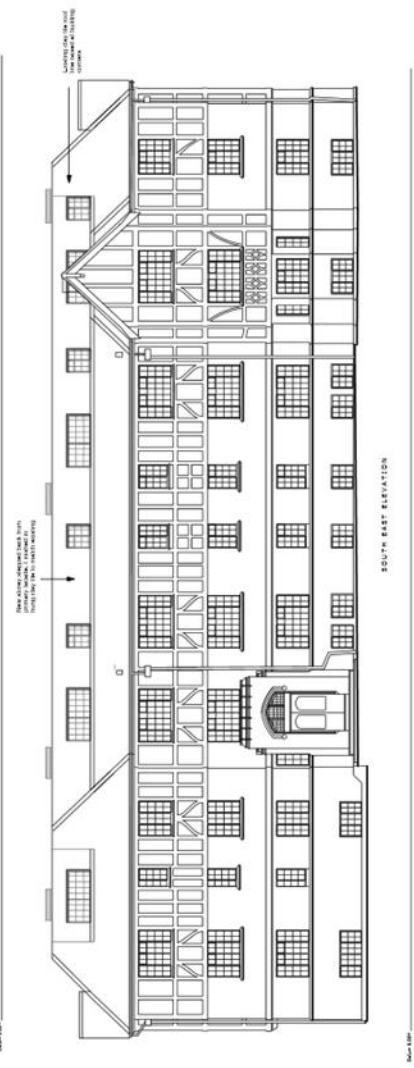
Appendix 1



Scale 1:100
 SOUTH WEST ELEVATION
 NORTH EAST ELEVATION
 Mark 1/10



Scale 1:100
 NORTH WEST ELEVATION
 Mark 1/10



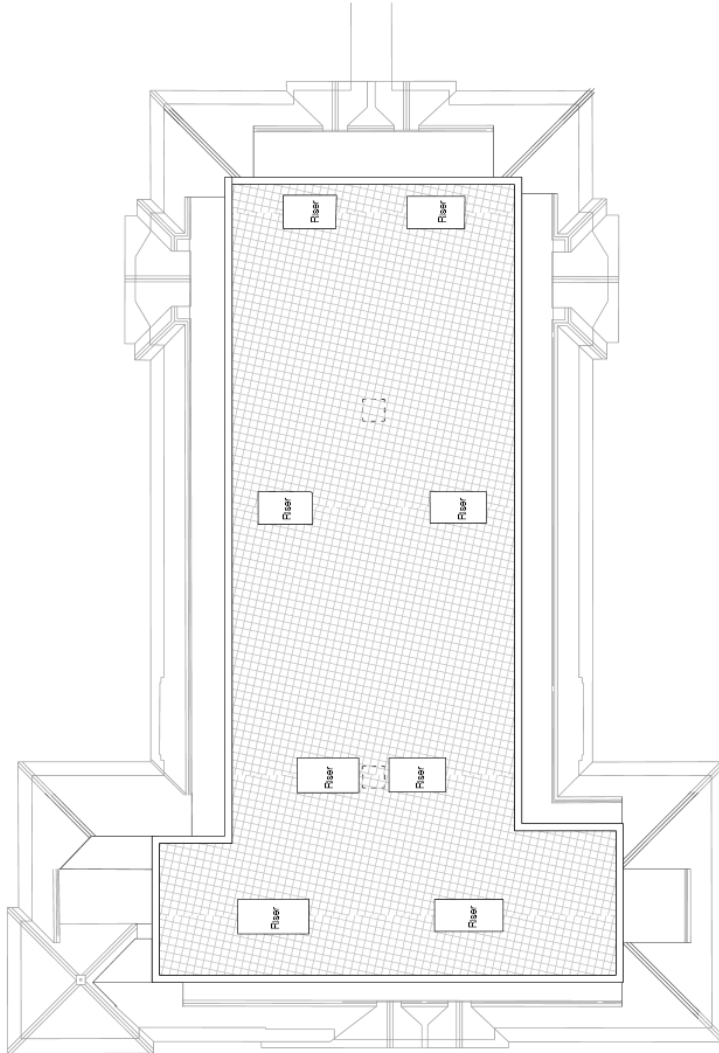
Scale 1:100
 SOUTH EAST ELEVATION
 Mark 1/10

NOTES

 Primmer Olds BAS - Chartered Surveyors -		61, Cornwell Road Southampton Hampshire SO16 2JE Tel: 023 8022 2202	
Project Title: Emfield Millbrook Road East SO16 1HZ		Drawing Title: West Block Elevations - as Proposed	
Client:		Scale:	1:200 @ A3
Dwg No:	20/26/41 - 02	Date:	Aug 2020
Drawn:	JF		
All dimensions in millimetres and are to be adopted as such. © Primmer Olds BAS 2020. All rights reserved.			




NOTES



PROPOSED THIRD FLOOR PLAN - WEST BLOCK



 Primmer Olds BAS — Chartered Surveyors —	61 Cromwell Road Southampton Hampshire SO16 2JF Tel: 023 8022 2292	
	Project Title: Einfield Millbrook Road East SO16 1HZ	
Drawing Title: West Block - Roof Plan as Proposed		
Client:		
Dwg No:	20/28/13 - 01	Scale: 1:200 @ A3
Drawn:	JF	Date: Aug 2020
<small>All dimensions in millimetres and are to be checked on site. © Primmer Olds BAS. All rights reserved. No part of this publication may be reproduced without the prior written permission of Primmer Olds BAS.</small>		

CGI view of proposed design change showing north block



CGI view of proposed design change showing north block (rear)



Site photograph – north block



Site photograph – view of north block from Millbrook Road East

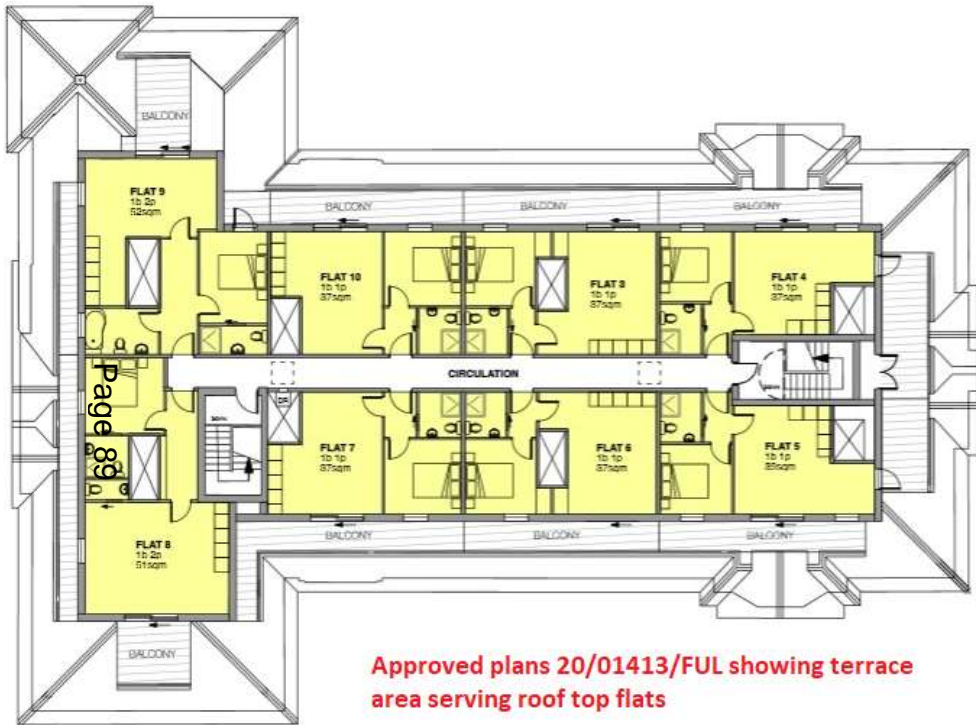


CGI view of approved roof design showing north block

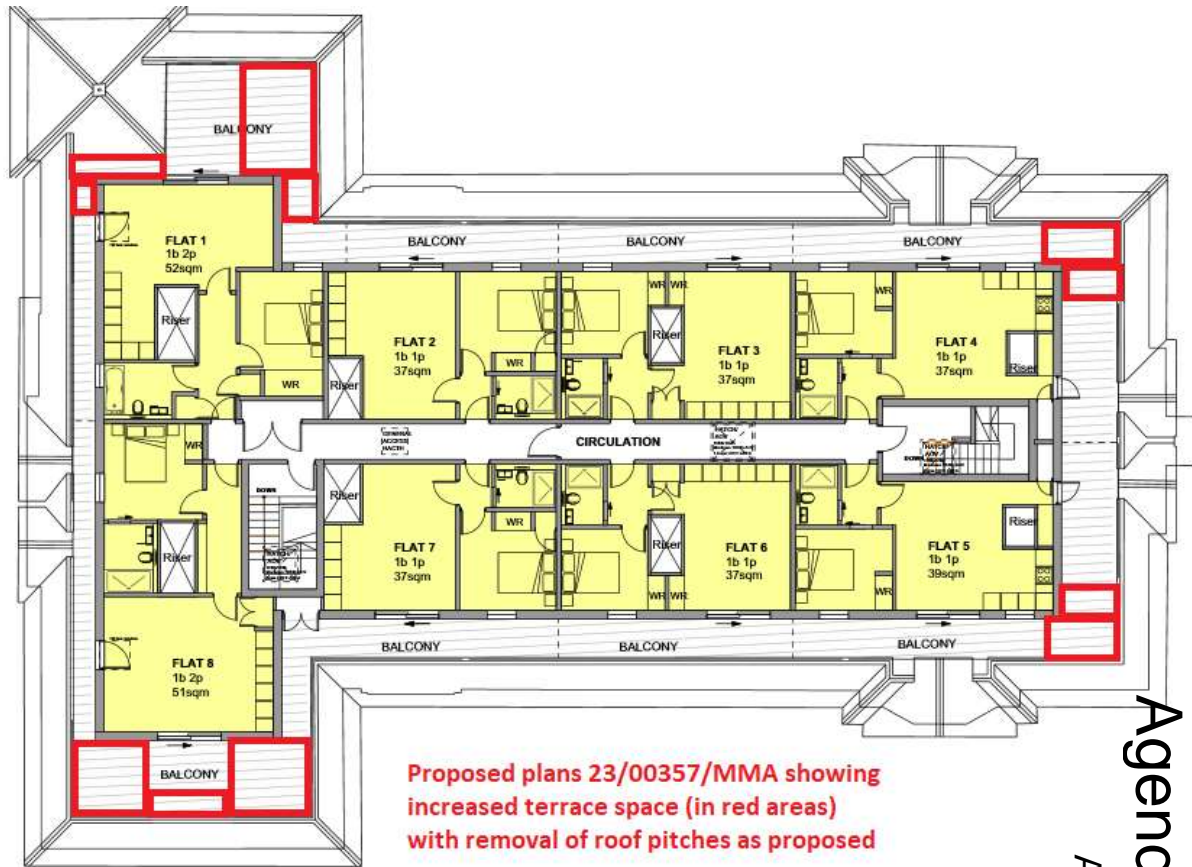


CGI view of approved roof design showing north block



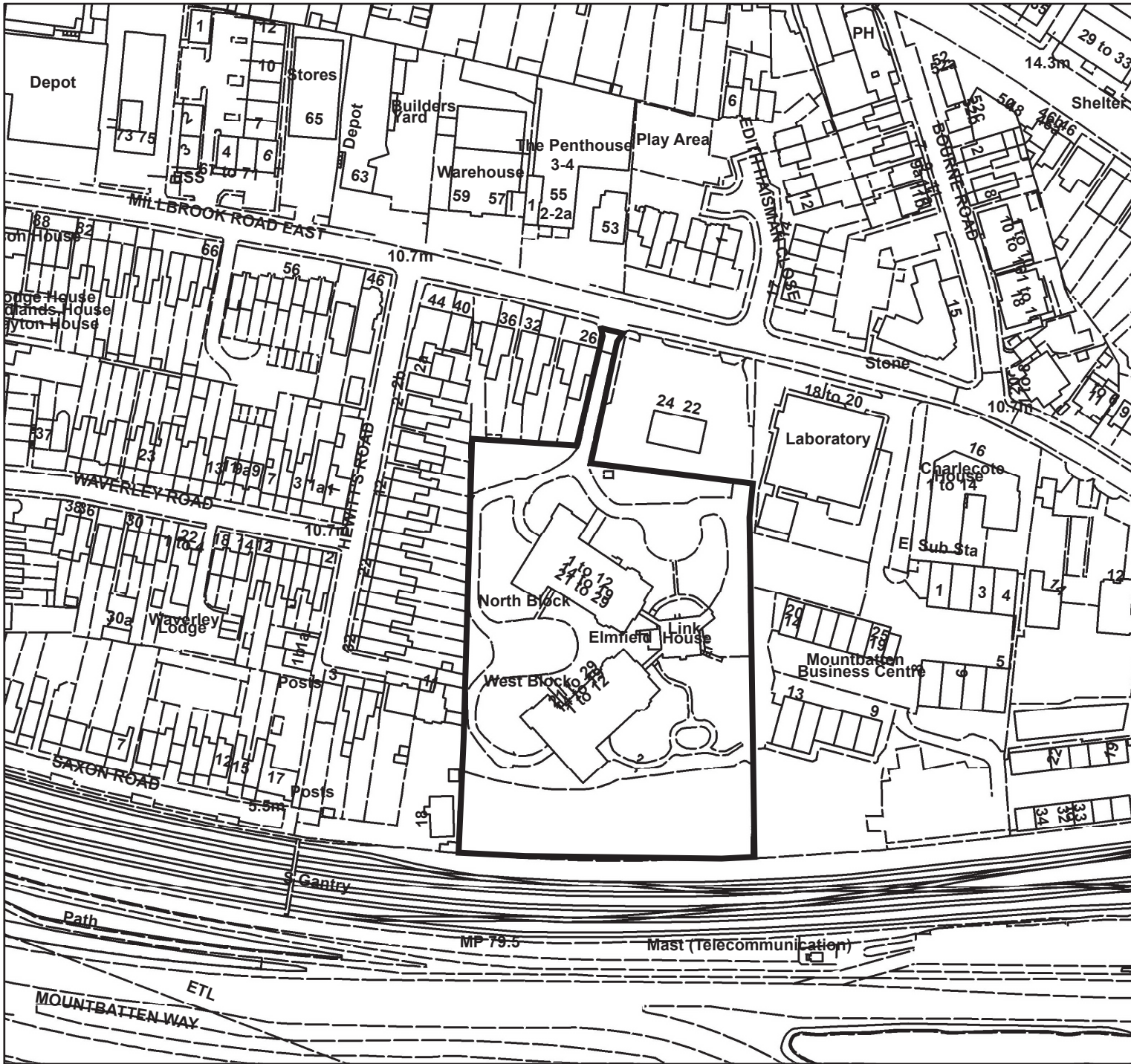


Approved plans 20/01413/FUL showing terrace area serving roof top flats



Proposed plans 23/00357/MMA showing increased terrace space (in red areas) with removal of roof pitches as proposed

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Scale: 1:1,750



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