

**Planning, Transport & Sustainability Division**  
**Planning and Rights of Way Panel 18 February 2014**  
**Planning Application Report of the Planning and Development Manager**

|  |                                     |                             |  |
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| <b>Application address:</b><br>165 St Mary Street and former Chantry Hall site, Chapel Road, SO14 5NH  |                                     |                             |  |
| <b>Proposed development:</b><br>Redevelopment of the site to provide 59 flats (9 x one bedroom, 46 x two bedroom and 4 x three bedroom) in a building ranging in height from 3-storeys to 6-storeys with associated parking and landscaping (Development not in accordance with conditions 19 and 27 of planning permission reference 12/01953/FUL relating to Code for Sustainable Homes) |                                     |                             |  |
| <b>Application number</b>  | 13/01828/FUL                        | <b>Application type</b>     | FUL                                    |
| <b>Case officer</b>  | Richard Plume                       | <b>Public speaking time</b> | 15 minutes                             |
| <b>Last date for determination:</b>  | 18.02.2014                          | <b>Ward</b>                 | Bargate                                |
| <b>Reason for Panel Referral:</b>  | Departure from the Development Plan | <b>Ward Councillors</b>     | Cllr Bogle<br>Cllr Noon<br>Cllr Tucker |

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| <b>Applicant:</b> Drew Smith Group | <b>Agent:</b> N/A |
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| <b>Recommendation Summary</b> | <b>Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report</b> |
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| <b>Community Infrastructure Levy Liable</b> | <b>Yes - potential for affordable housing relief</b> |
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**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The impact of the development in terms of design and neighbouring amenity, highway safety and parking and the impact of the proposal on the setting of the adjoining St Mary's Church was previously considered to be acceptable. The additional information submitted relating to the Code for Sustainable Homes is considered acceptable when weighed in the balance with the other benefits of the development including the level of affordable housing provision. 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 be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP4, SDP5, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13, SDP16, SDP22, HE3, HE6, CLT5, CLT6, H1, H2, H7, MSA1 and MSA12 of the City of Southampton Local Plan Review (March 2006) and Policies CS1, CS3, CS4, CS5, CS13, CS14, CS15, CS16, CS18, CS20, CS23, CS24 and CS25 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

|                          |                               |  |  |
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| <b>Appendix attached</b> |                               |  |  |
| 1                        | Panel report for 12/01953/FUL |  |  |
|                          |                               |  |  |

**Recommendation in Full**

1. Delegate to the Planning and Development Manager to grant planning permission subject to the completion of a variation to the S.106 Legal Agreement to secure the same heads of terms as set out in Appendix One to this report.
2. In the event that the legal agreement is not completed within two months of the Panel the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.
3. That the Planning and Development Manager be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

**1. Background**

- 1.1 Consideration of this application was deferred by the Panel on 14 January 2014 for one month to allow further work to be undertaken on the Code for Sustainable Homes assessment. This additional information has now been submitted and is addressed in this report.
- 1.2 This application is effectively for an amendment to the previous planning permission granted in August 2013 (reference number 12/01953/FUL). The only changes being sought are to Conditions 19 and 27 which together require the development to meet Code 4 of the Code for Sustainable Homes. In considering this application the Council can have regard only to these conditions and not to other matters. Consequently, this report relates only to these issues and the report on the previous application is appended.

**2. Proposal**

- 2.1 This application is identical to the previous permission apart from the conditions in question. The applicant’s justification for this application is based on the viability of the scheme despite the previous agreement to suspend the financial contributions associated with the Section 106 agreement. The applicant states that the imposition of the planning conditions renders the scheme unviable and exceeds the central government minimum standards for affordable housing schemes which requires Code for Sustainable Homes Level 3 to be achieved.
- 2.2 Additional representations have been submitted in support of the application from the housing association who are proposing to manage the development. They state that the previous scheme was designed on the basis of a community energy centre which they will not accept due to potential risks associated with on-going

maintenance and management as well as the welfare of tenants. The housing association require individual gas boilers within the flats to provide the heating and hot water needs. This requirement is to address the following: the managed risk of system failure; concerns in relation to over-heating of communal areas from the district heating main; the management of debt recovery as a result of sub-metering and billing arrangements; removing resident choice of energy suppliers; and additional service charges for residents.

### **3. Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 Major developments are expected to meet high sustainable construction standards in accordance with Core Strategy Policy CS20 and Local Plan “saved” Policy SDP13.
- 3.3 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

### **4. Relevant Planning History**

- 4.1 The previous planning history is set out in the report in Appendix One. The planning permission granted in August 2013, to which this application relates, is for redevelopment to provide 59 flats in a building ranging in height from 3-storeys to 6-storeys with associated parking and landscaping. Full details of this development are included within Appendix One to this report.

### **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, placing a press advertisement (29.11.2013) and erecting a site notice (29.11.2013). At the time of writing the report, **1** representation has been received from surrounding residents. The following is a summary of the points raised:
- 5.2
- The area is already very congested and surrounded by other tall buildings;
  - The area suffers from severe noise pollution and this will make the situation worse;
  - The proposal will significantly change the character of the area and result in further parking problems

#### **Response**

These matters were all addressed as part of the previous scheme and this application raises no additional issues apart from the conditions relating to sustainability considerations.

## **Consultation Responses**

5.3 **SCC Housing** – As the scheme comprises 59 dwellings in total, the affordable housing requirement is 35% (21 dwellings which will be provided on site). The Housing Team support this development which is very important in providing affordable housing on this long-term vacant site which has had significant viability issues.

5.4 **SCC Sustainability Team** – Do not find the proposals to remove the code for sustainable homes conditions acceptable and therefore refusal of this application is recommended. It is recognised that there are site specific issues which make some credits difficult to achieve, however, other credits could have been achieved if the applicants had allocated additional buffer credits in the original application, e.g. additional material credits to allow for unforeseeable changes with the application. In summary, Sustainability still believes that Code Level 4 could be achieved if additional commitments are made, or else the applicant should look to amending the design. Therefore we would maintain our objection to the variation of the condition. However 65.61 credits is an improvement on the 59 credits previously, and the minimum energy requirements for code level 4 are being met. The applicant has stated that it is their intention to pursue the additional credits and achieve code level 4 if possible.

## **6. Planning Consideration Key Issues**

6.1 The only issues for consideration in the determination of this application relate to the two conditions of the previous planning permission which require the new flats to meet Code 4 of the Code for Sustainable Homes. All other planning matters were addressed as part of the previous permission. In considering an application of this nature the Council can only have regard to the conditions in question: if the decision taken is that the conditions should be retained, planning permission should be refused; if, on the other hand, the Panel were to accept the applicants arguments it would be possible for a new planning permission to be issued with different conditions relating to the recently submitted pre-assessment which indicates a high score within Code 3.

6.2 The applicants designed the development subject of the previous application on a speculative basis with a community heating system. This involved three large gas fired boilers offering combined heat and power within a communal plant room. The incorporation of this system would have allowed the development to meet the Code 4 level. It is understood that the applicants were subsequently unable to reach agreement with various local housing associations to take these units as affordable housing. Radian Housing Association are prepared to take the site on, but are not prepared to accept the community heating system for the reasons outlined in paragraph 2.2 of this report. Radian's requirements are that all the flats have heating and hot water generation from individual gas boilers located within the dwellings.

6.3 Following the Panel meeting in January, officers have met the applicants and a revised assessment for the Code for Sustainable Homes has been submitted. The minimum number of credits to meet Code Level 4 is 68 points. The current weighted score is 65.61. The applicants have investigated whether additional credits could be achieved in other categories, those relating to internal cycle storage; surface water drainage; sound improvement; composting; and Lifetime

Homes. The assessment states that it may be possible to achieve some additional credits in these categories but that cannot be guaranteed at this stage. For example, until the Archaeology Survey has completed on site it is not possible for the necessary site investigation to be carried out to establish surface water drainage arrangements. With regard to cycle storage, the scheme is designed on the basis of storage facilities within the flats and it is not clear whether the consenting body will allow credits to be awarded in such circumstances. The applicants have concluded that whilst it may be possible to achieve 4.6 additional credits through these measures, which would bring the number of credits to 70, this cannot be guaranteed at this stage.

- 6.4 It is regrettable that the applicants, in partnership with an experienced local housing association, are unable to meet the requirements of Policy CS20, particularly as the objections to the community heating system would appear to be on the basis of predominantly housing management issues rather than financial viability. However, it is accepted that additional efforts have been made through other measures, to bring the score up to 65 credits and that there are site specific constraints which mitigate against credits being achieved in some areas. In particular, this is a high density flatted scheme, with relatively limited amenity space situated within a flood risk zone which means some credits cannot be achieved. Furthermore, there are other significant material considerations which must be weighed in the balance when considering this case. As recognised in the earlier report, this is a long-term vacant site in the city centre and its development would provide significant housing and regeneration benefits. In particular, the proposal does result in more affordable housing being provided than the minimum sought by Core Strategy Policy CS15. The intention is that 40 out of the 59 flats would be made available as affordable housing (68%) with 31 affordable rent and 9 low cost home ownership units. This is a significant planning consideration which weighs in favour of the development.

## **7. Summary**

- 7.1 The application has been amended since it was considered by the Panel in January. The revised Code for Sustainable Homes assessment indicates that although it may be possible to achieve Code 4 post construction, this cannot be guaranteed at this stage partly due to the nature of the site. Taking into account the other benefits of the scheme, in particular the level of affordable housing being provided, it is considered, on balance, that the development is acceptable.

## **8. Conclusion**

It is recommended that permission be granted subject to a Section 106 agreement and conditions.

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

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

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 3(a), 4(d), 4(f), 4(g), 4(r), 4(vv), 6(a), 6(c), 7(a), 8(a), 8(j), 9(a) and 9(b).

**RP2 for 18/02/2014 PROW Panel**

## **PLANNING CONDITIONS**

### **01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works**

The development works hereby permitted shall begin not later than 30 August 2016.

Reason:

To comply with Sections 73 and 91 of the Town and Country Planning Act 1990 (as amended) and to be consistent with the time limit of planning permission reference 12/01953/FUL.

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

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

Reason:

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

### **03. APPROVAL CONDITION - Landscaping, lighting & means of enclosure detailed plan [Pre-Commencement Condition]**

Notwithstanding the submitted details before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted, 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, structures and ancillary objects (refuse bins, lighting columns etc.);
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. an accurate plot of all trees to be retained and to be lost. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise);
- iv. details of any proposed boundary treatment, including retaining walls; and
- v. a landscape management scheme.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

The approved hard and soft landscaping scheme (including parking) for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

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

#### 04. APPROVAL CONDITION- Land Contamination investigation and remediation [Pre-Commencement & Occupation Condition]

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A desk top study including;
  - historical and current sources of land contamination
  - results of a walk-over survey identifying any evidence of land contamination
  - identification of the potential contaminants associated with the above
  - an initial conceptual site model of the site indicating sources, pathways and receptors
  - a qualitative assessment of the likely risks
  - any requirements for exploratory investigations.
2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed.
3. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

On completion of the works set out in (3) a verification report shall be submitted to the Local Planning Authority confirming the remediation actions that have been undertaken in accordance with the approved scene of remediation and setting out any measures for maintenance, further monitoring, reporting and arrangements for contingency action. The verification report shall be approved by the Local Planning Authority prior to the occupation or operational use of any stage of the development.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason:

To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment and where required remediation of the site is to an appropriate standard.

05. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by documentation to validate their quality and be submitted to the Local Planning Authority for approval prior to the occupancy of the site.

Reason:

To ensure imported materials are suitable and do not introduce any land contamination risks onto the development.

06. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority.

Any changes to the agreed remediation actions will require the express written consent of the Local Planning Authority.

Reason:

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

07. APPROVAL CONDITION - Archaeological investigation [Pre-Commencement Condition]

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

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

08. APPROVAL CONDITION - Archaeological work programme [Performance Condition]

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

Reason: To ensure that the archaeological investigation is completed.

09. APPROVAL CONDITION - Archaeological damage-assessment [Pre-Commencement Condition]

No development shall take place within the site until the type and dimensions of all proposed groundworks (including details of foundations, ground beams, all services etc)



have been submitted to and agreed by the Local planning Authority. The developer will restrict groundworks accordingly unless a variation is agreed in writing by the Local Planning Authority.

Reason: To inform and update the assessment of the threat to the archaeological deposits.

#### 10. APPROVAL CONDITION - Hours of work for Demolition / Clearance / Construction [Performance Condition]

All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of;

Monday to Friday 08:00 hours to 18:00 hours (8.00am to 6.00pm)

Saturdays 09:00 hours to 13:00 hours (9.00am to 1.00pm)

And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To protect the amenities of the occupiers of existing nearby residential properties.

#### 11. APPROVAL CONDITION - Construction Environment Management Plan (Pre-Commencement Condition)

Prior to the commencement of any development a written construction environment management plan shall be submitted to and approved by the LPA. The plan shall contain method statements and site specific plans to prevent or minimise impacts from noise, vibration, dust and odour for all operations, as well as proposals to monitor these measures at the site boundary to ensure emissions are minimised beyond the site boundary. The measures shall include arrangements for vehicle parking by site operatives during construction. All specified measures shall be available and implemented during any processes for which those measures are required.

Reason:

To protect the amenities of the occupiers of existing nearby properties.

#### 12. APPROVAL CONDITION - Wheel Cleaning Facilities [Pre-Use Condition]

During the period of the preparation of the site, excavation for foundations or services and the construction of the development, wheel cleaning facilities shall be available on the site and no lorry shall leave the site until its wheels are sufficiently clean to prevent mud being carried onto the highway.

Reason:

In the interests of highway safety.

#### 13. APPROVAL CONDITION - Glazing - soundproofing from external traffic noise [Pre-Commencement Condition]

Works pursuant to this permission shall not be commenced until a scheme for protecting the proposed flats and houses from traffic noise from St Mary Street and Marsh Lane has

been submitted to and approved by the local planning authority in writing. Unless otherwise agreed in writing, that scheme shall specify either:- Outer pane of glass - 10mm

Air gap between panes - 12mm

Inner pane of glass - 6 mm

or, with secondary glazing with a -

Outer pane of glass - 6mm

Air gap between panes - 100mm

Inner pane of glass - 6.4 mm

There must be no trickle vents installed in any case. For ventilation purposes in all cases, provision of acoustically treated 'BBA' approved mechanically powered ventilation should be the preferred option. However, provision of acoustic trickle vents will be acceptable. Once approved, that glazing shall be installed before any of the flats are first occupied and thereafter retained at all times.

Reason:

In order to protect occupiers of the flats from traffic noise.

#### 14. APPROVAL CONDITION - Bird Hazard Management Plan (BHMP)

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

REASON:

It is necessary to manage the roofs in order to minimise its attractiveness to birds which could otherwise endanger the safe movement of aircraft and the operation of Southampton Airport - BAA comments dated 9th May 2012 refer.

For information:

The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs, ladders or similar. The owner/occupier must not allow gulls, to nest, roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the breeding season. Outside of the breeding season, gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/occupier when detected or when requested by BAA Airfield Operations Staff. In some instances, it may be necessary to contact BAA Airfield Operations staff before bird dispersal takes place. The owner/occupier must remove any nests or eggs found on the roof. The breeding season for gulls typically runs from March to June. The owner/occupier must obtain the appropriate licences from Natural England before the removal of nests and eggs.

#### 15. APPROVAL CONDITION - Piling Method (Pre-Commencement Condition).

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a piling/foundation design risk assessment and method statement for the

preferred piling/foundation design/designs shall be submitted to and approved in writing by the Local Planning Authority. Any pile driving operations as approved shall be carried out in accordance with that approved method statement. To limit vibration, a continuous flight auger method is the preferred method and no percussion or impact driven piling activities should take place for pre-works, foundations, or as any part of the development unless otherwise agreed in writing by the Local Planning Authority.

**REASON:**

To ensure the selected piling method can be justified on the grounds of structural, geotechnical, contamination, noise, vibration and practicability and ensure any adverse environmental impacts are identified and appropriate mitigation measures are proposed

**16. APPROVAL CONDITION - Details of visitor cycle parking (Pre-Occupation Condition)**

The development hereby approved shall not be first occupied until visitor cycle facilities have been provided in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

**REASON**

To ensure satisfactory provision of cycle facilities for visitors to the site.

**17. APPROVAL CONDITION - Layout of Car Parking/Servicing (Pre-Occupation Condition)**

The whole of the car parking, cycle storage and servicing facilities shown on the approved plans shall be laid out and made available before the use of the building to which these facilities relate commences and thereafter retained solely for the use of the occupants and visitors to the site and for no other purpose.

**REASON**

To ensure adequate on-site parking and servicing facilities and to avoid congestion in the adjoining highway.

**18. APPROVAL CONDITION - Refuse facilities (Pre-Occupation Condition)**

The refuse storage facilities, which shall include recycling facilities, as shown on the approved drawings shall be provided before the use to which the facility relates has been provided. Prior to installation of the facilities, details of the design of the structure including lighting, gradient to the entrance of the store and means of locking shall be submitted to and approved in writing by the Local Planning Authority. The storage area shall be constructed in accordance with these approved details and retained thereafter.

**REASON**

To ensure suitable refuse and recycling facilities are provided and in the interests of visual amenity

**19. APPROVAL CONDITION - Code for Sustainable Homes [performance condition]**

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum a score of 65 of the of the Code for Sustainable Homes (including the individual credits as set out in the pre-assessment document dated 27 January 2014) in the form of post construction assessment and certificate as issued by a legitimate Code for Sustainable Homes certification body shall be submitted to the Local Planning Authority for its approval.

REASON:

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

20. APPROVAL CONDITION - Restricted use of flat roof area [Performance Condition]

With the exception of the areas shown on the approved drawings as terraces/balconies the roof area of the building hereby approved which incorporates a flat roof surface shall not be used as a balcony, terrace, roof garden or similar amenity area without the grant of further specific permission from the Local Planning authority.

Reason:

In order to protect the privacy of adjoining occupiers.

21. APPROVAL CONDITION - Ecological Mitigation Statement [Pre-Commencement Condition]

Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, [as set out in the 'Former Chantry Hall Site, CSH Ecology Checklist, Final Document, February 2013' submitted with the application] which unless otherwise agreed in writing by the Local Planning Authority shall be implemented in accordance with the programme before any demolition work or site clearance takes place.

Reason

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

22. APPROVAL CONDITION - Stopping up existing access [Pre-Commencement Condition]

Any redundant access to the site shall be stopped up and abandoned and the footway, and verge crossings and kerbs shall be reinstated before the development is brought into use.

Reason:

To provide safe access to the development and to prevent congestion on the highway.

23. APPROVAL CONDITION - Surface / foul water drainage [Pre-commencement Condition]

No development approved by this permission shall commence until a scheme for the disposal of foul water and surface water drainage have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied unless and until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority and subsequently implemented and maintained for use for the life of the development.

Reason:

To ensure satisfactory drainage provision for the area.

#### 24. APPROVAL CONDITION - Arboricultural Method Statement [Pre-Commencement Condition]

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

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

##### Reason

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

#### 25. APPROVAL CONDITION - Surface Water Drainage (Pre-Commencement Condition)

No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm (30% climate change allowance) will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The details shall also specify how the scheme will be maintained and managed after completion.

##### Reason:

To prevent the increased risk of flooding, both on and off site.

#### 26. APPROVAL CONDITION - Approved Plans

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

##### Reason:

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

27. APPROVAL CONDITION - Telecommunications Equipment [Performance Condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) in relation to the development hereby permitted, no external telecommunications equipment or similar plant shall be installed on the roofs of the buildings hereby approved.

Reason:

In the interests of visual amenity and to safeguard the setting of the adjoining listed St Mary's Church.

**Planning, Transport & Sustainability Division  
Planning and Rights of Way Panel 23 April 2013  
Planning Application Report of the Planning and Development Manager**

|  |   |                             |  |
|--|---|-----------------------------|--|
| <b>Application address:</b><br>165 St Mary Street and former Chantry Hall site, Chapel Road, SO14 5NH  |   |                             |  |
| <b>Proposed development:</b><br>Redevelopment of the site to provide 59 flats (9 x one bedroom, 46 x two bedroom and 4 x three bedroom) in a building ranging in height from 3-storeys to 6-storeys with associated parking and landscaping. |   |                             |  |
| <b>Application number</b>  | 12/01953/FUL                                    | <b>Application type</b>     | FUL                                    |
| <b>Case officer</b>  | Richard Plume                                   | <b>Public speaking time</b> | 15 minutes                             |
| <b>Last date for determination:</b>  | 22.03.2013                                      | <b>Ward</b>                 | Bargate                                |
| <b>Reason for Panel Referral:</b>  | Major planning application subject to objection | <b>Ward Councillors</b>     | Cllr Bogle<br>Cllr Noon<br>Cllr Tucker |

|  |                              |
|--|------------------------------|
| <b>Applicant:</b> Drew Smith Group And Warburg Property Developments | <b>Agent:</b> Paris Smith Lp |
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|                               |   |
|-------------------------------|---|
| <b>Recommendation Summary</b> | <b>Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report</b> |
|-------------------------------|---|

### Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The impact of the development in terms of design and neighbouring amenity, highway safety and parking is considered to be acceptable. The impact of the proposal on the setting of the adjoining St Mary's Church is considered to be acceptable in the context of previously approved developments on this site. 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 planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP4, SDP5, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13, SDP16, SDP22, HE3, HE6, CLT5, CLT6, H1, H2, H7, MSA1 and MSA12 of the City of Southampton Local Plan Review (March 2006) and Policies CS1, CS3, CS4, CS5, CS13, CS14, CS15, CS16, CS18, CS20, CS23, CS24 and CS25 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

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

## **Recommendation in Full**

### **Conditionally approve**

1) Delegate to the Planning and Development Manager to grant planning permission subject to the completion of a S.106 Legal Agreement to secure:

i Financial contributions towards site specific transport improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (March 2006), Policies CS18 and CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended).

ii. A financial contribution towards strategic transport improvements in the wider area as set out in the Local Transport Plan and appropriate SPG/D.

iii. Financial contributions towards the relevant elements of public open space required by the development in line with Policies CLT5 and CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended).

iv. The provision of affordable housing in accordance with Policy CS15 of the Core Strategy.

v. Submission and implementation of a Training & Employment Management Plan committing to adopting local labour and employment initiatives (during and post construction) in line with LDF Core Strategy Policies CS24 and CS25.

vi. A Site Waste Management Plan.

vii. No resident shall be entitled to obtain parking permits to the Council's Controlled Parking Zones.

viii. A financial contribution towards public realm improvements in accordance with Council Policy.

ix. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.

x. Submission and implementation of a flood evacuation plan.

2) In the event that the legal agreement is not completed within two months of the Panel meeting the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.



3) That the Planning and Development Manager be given delegated powers to vary relevant parts of the Section 106 agreement and to remove, vary or add conditions as necessary.

## **1. The site and its context**

- 1.1 The application site is 0.3 hectares in area and is situated on the south side of St Mary Street and Chapel Road. The site is vacant and has been cleared of the buildings which were previously on the site. The site was previously in two parts: the land to the west, 165 St Mary Street, was formerly a garage and tyre fitting depot; the eastern part of the site was the former listed Chantry Hall building, originally a church hall but later a night club, which was destroyed by fire.
- 1.2 The surrounding area is mixed in terms of uses, building type and design. The substantial Central Hall church and community building adjoins to the south west with a hall of residence (4 to 6-storeys) on the opposite side of St Mary Street. Smaller scale two and three-storey residential buildings adjoin to the south and east in Maryfield. The listed St Mary's Church and its substantial landscaped grounds is on the opposite side of Chapel Road. The application site is within the city centre boundary as defined by the Local Plan. The site is not within a conservation area but there are two protected Lime trees on the Chapel Road frontage which are subject of The Southampton (Deanery) Tree Preservation Order 1986.

## **2. Proposal**

- 2.1 The current application proposes redevelopment of the site to provide 59 flats in a building ranging in height from 3-storeys to 6-storeys. At the eastern end of the site, adjoining the access to Maryfield the building would be 3-storeys and would accommodate eight duplex flats. In the central part of the site the building rises to 6-storeys in height dropping down to 5-storeys on the boundary with Central Hall. The mix of dwellings proposed are 9 x one bedroom flats, 46 x two bedroom flats and 4 x three bedroom units. The density of the development would be 193 dwellings per hectare. The land level on the site would be raised to provide a flood level of 4.5 metres AOD.
- 2.2 Vehicular access would be provided from Maryfield to a car park of 28 parking spaces with a refuse storage enclosure close to the road. Pedestrian access to the building would be provided from both the front and rear. The eastern part of the building would be set back from the Chapel Road frontage to allow the two protected Lime trees to be retained within a landscaped frontage.
- 2.3 The application has been amended since it was first submitted. The changes are mainly of a design nature but also involved a reduction in the number of flats from 62 to 59, a reduction in the height of the building and an increase in the number of parking spaces from 23 to 28. The proposed external materials are a mixture of red brickwork and cladding panels.
- 2.4 The application is supported by a series of background documents including a Design and Access Statement, a Sustainability Statement, Ecology Report

and a Flood Risk Assessment.

### **3. Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 Major developments are expected to meet high sustainable construction standards in accordance with adopted Core Strategy Policy CS20 and Local Plan “saved” Policy SDP13.
- 3.3 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

### **4. Relevant Planning History**

- 4.1 **165 St. Mary Street:** In 2007, outline planning permission was granted for redevelopment of this site with a 6-storey building to provide retail, offices and 36 x one-bedroom flats (ref: 06/01120/OUT). This permission was not taken up and could not now be implemented.
- 4.2 **Chantry Hall site:** In September 2008, outline planning permission was refused for erection of a new building ranging in height from 4-storeys to 7-storeys to provide shops (Class A1), restaurants/cafes (Class A3) and 59 flats (ref: 08/00870/OUT). The grounds of refusal were: the height and massing of the proposed building and the detrimental impact this would have on the character of the area and the setting of the listed church; the impact on residential amenity of the properties in Maryfield through loss of privacy, overshadowing and increased enclosure; the lack of an adequate flood risk assessment; inadequate vehicle access for a refuse vehicle; and failure to complete a Section 106 agreement.
- 4.3 In February 2009, outline planning permission was refused for a revised application proposing a building ranging in height from 4-storeys to 7-storeys to provide shops (Class A1), restaurants/cafes (Class A3) and 56 flats (ref: 08/01743/OUT). The reasons for refusal were similar to the previous development in terms of scale of building, character, residential amenity and Section 106 obligations. A different reason for refusal covered alterations to the highway and the acceptability of these changes as a means of escape in the event of a flood.
- 4.4 **Both parts of the site:** In July 2010 the Panel resolved to grant outline permission, subject to a Section 106 agreement, for a 4-storey multi-use building to provide an ice-rink and associated facilities including car parking, retail, café and restaurant uses with vehicular access from St Mary Street and alterations to the adjoining highway (ref: 10/00335/OUT). The Section 106 agreement has not been completed and therefore the permission has not been issued.

## **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, placing a press advertisement (07.02.2013) and erecting a site notice (31.01.2013). At the time of writing the report **3** representations have been received from surrounding residents. The comments can be summarised as follows.

5.2 **The proposal would be the biggest building in the area, up to 7-storeys, which would be out of character with the area. The plot should be left as an open park for all to enjoy as St Mary's has no open space for people to relax in.**

### Response

The amendments to the application have resulted in the height of the building being reduced from 7-storeys maximum to 6-storeys. The surroundings are mixed in terms of height of building and architectural treatment. Although the immediate surroundings in Maryfield are smaller scale, there are other 6-storey buildings nearby in the form of halls of residence on the opposite side of St Mary Street and taller buildings fronting Marsh Lane. The site is in private ownership and has not previously been public open space so it would not be reasonable to insist on such a use now.

5.3 **The level of car parking proposed is totally insufficient for this amount of development. Car parking overspill is already a major problem within this area.**

### Response

Since these comments were made the application has been amended to reduce the number of flats from 62 to 59 and increase the amount of car parking from 23 spaces to 28 which accords with the maximum standard for the city centre. There is insufficient space on site to allow for any more parking. On street parking in surrounding roads is restricted and an obligation can be included in the Section 106 agreement to preclude future residents from receiving parking permits.

5.4 **City of Southampton Society** - Object to the application, the proposal affects the conservation area, represents an overdevelopment and is of poor design. This notable site deserves a striking building but the proposal is just an architectural cut and paste. The building makes no reference to the history of the area or the sense of place. The boundary wall should be of stone in keeping with Chapel Road east of the site.

5.5 **SCC Highways** - The principle of residential development here is accepted and with reduced levels of parking provision as the site is within an area of high accessibility. Local parking controls and zoning should prevent any overspill parking from affecting neighbours. Cycle parking within the flats is accepted, but some flats have cycle parking shown to block cupboards. A ground floor lobby cycle parking zone should be provided for those residents who do not wish to take cycles into their flats, and there is ample space for this.

5.6 **SCC Housing** – Fully support the application. As the scheme comprises 59 dwellings in total the affordable housing requirement from the proposed development is 35% (CS15- sites of 15 + units = 35%). The affordable housing requirement is therefore 21 dwellings. Policy CS 15 of the adopted Core Strategy sets a hierarchy for the provision of affordable housing as:

1. On-site as part of the development and dispersed amongst the private element of the scheme.
2. On an alternative site, where provision would result in more enhanced affordable units, through effective use of available resources, or meeting a more identified housing need such as better social mix and wider choice
3. Commuted financial payment to be utilised in providing affordable housing on an alternative site

In this case the decision is to accept affordable housing provision on site as part of the main development. Planning conditions and or obligations will be used to ensure that the affordable housing will remain at an affordable price for future eligible households, or for the subsidy to be recycled to alternative housing provision.

5.7 **SCC City Design** - The proposal for 6 storeys is contrary to CCAP Policy 37 which refers to the adjacent St Mary Street and developments being no taller than 5 storeys. The setting back of the building line from Chapel Road and the setting back of the top storey will help mitigate this. The development will help mitigate long views towards the taller buildings around Marsh Lane and Richmond Street by providing an end stop to this view. The design has been amended and represents an improvement on the original submission. The main entrance position has been revised with consequential amendments to layout of some ground floor apartments and ramped / stepped approaches to the front and rear entrances – this is in a much better location but is understated – a canopy could be incorporated over the entrance to improve its legibility. The amended balcony design is a much more elegant solution than the curved balconies and the amendments to the cladding and roof design are also welcomed.

5.8 **SCC Heritage Team** – The site lies within area 5C of the Local Areas of Archaeological Potential, at or near the presumed southern extent of the Middle-Saxon settlement of Hamwic. While part of the site has already been evaluated the results of the evaluation have never been properly analysed. The applicant will be required to secure a programme of archaeological field evaluation of the area proposed for development, which will include analysis of the previous work on the site, in order to inform the final design, foundations and service plans.

5.9 **SCC Trees** - The two Lime trees fronting this site are protected by The Southampton (Deanery) TPO 1986. The proximity of the main building to these trees is considered acceptable, my only concern is with the construction of a new boundary wall within the Root Protection Area. An alternative that does not require a traditional strip foundation would be preferred. The details of this along with site supervision could be tied up in a detailed Arboricultural Method Statement condition.

- 5.10 **SCC Environmental Health (Pollution & Safety)** - No objections subject to conditions on soundproofing, hours of working, refuse storage etc.
- 5.11 **SCC Flood Risk Officer** – Supportive of the approach for managing tidal flood risk through raised finished floor levels above the extreme water levels for the lifetime of the development and reduction in the volume of surface water runoff from the site by 32%. Reference has been made to SuDS in Section 8.2.4 of the Flood Risk Assessment and in the Sustainability checklist but there is no information on the size or location of the various elements. SuDS should be used on the site to reduce the peak flow rate to as low as possible through the provision of storage with controlled discharge.
- 5.12 **SCC Environmental Health (Contaminated Land)** - This department considers the proposed land use as being sensitive to the affects of land contamination. The subject site is located on/adjacent to the following historic land uses;
- Garage (on site). This land use is associated with potential land contamination hazards. There is the potential for these off-site hazards to migrate from source and present a risk to the proposed end use, workers involved in construction and the wider environment. Therefore, to ensure compliance with Para 121 of the National Planning Policy Framework ' March 2012 and Policies SDP1 and SDP22 of the City of Southampton Local Plan Review (adopted version, March 2006) this department would recommend that the site be assessed for land contamination risks and, where appropriate, remediated to ensure the long term safety of the site.
- 5.13 **SCC Ecology** – There are no adverse biodiversity impacts and the recommended enhancements are considered to be appropriate for the site.
- 5.14 **BAA** – No objections from an aerodrome safeguarding perspective providing a condition is imposed requiring submission of a bird hazard management plan.
- 5.15 **Hampshire Constabulary** – The Police support this application as it aims to achieve 'Secured by Design' status for this site subject to planning approval.
- 5.16 **Southern Water** – There is currently inadequate capacity in the local network to provide foul sewage disposal to service the proposed development. The public sewer is a combined system, receiving both foul and surface water flows. It is possible that by removing some of the existing surface water entering the sewer, additional foul flows could be accommodated. Southern Water have no objections to the application subject to the imposition of a condition and an informative.
- 5.17 **Environment Agency** - No objections to the proposed development. The application site lies partly within Flood Zone 3 which means it has a high possibility of flooding. The Council may decide that in the absence of a safe access and egress, the risk to the users of the development can be mitigated by alternative means i.e. a flood warning and evacuation plan. On the issue of surface water drainage, the impermeable area across the site will reduce by 32%. However, there is no evidence of the infiltration potential at the site. The Council may wish to see evidence of the reduction in runoff in the form of a surface water drainage strategy which could be covered by a condition.

## **6. Planning Consideration Key Issues**

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

- The principle of development.
- The layout, scale of development and impact on established character including the impact on the setting of the listed St Mary's Church.
- Residential amenity.
- Highways and parking.
- Flood risk issues.

### **6.2 Principle of Development**

This site has been vacant for some time following the unfortunate fire which destroyed the listed Chantry Hall. The other half of the site was previously in commercial use having previously been a garage and tyre fitting operation. The planning history of the site shows a variety of previous applications for residential use, the only permission granted has now expired and there have been previous refusals of permission based on the scale and massing of the buildings. The site was not allocated for residential use in the Local Plan but the most recent proposal was for an ice rink and commercial uses which unfortunately has proved to be undeliverable. In these circumstances, a residential development to bring this vacant site back into use accords with Core Strategy policy and is acceptable in principle.

6.3 A mix of 1, 2 and 3 bedroom dwellings is proposed. The development does not meet the target of Core Strategy Policy CS16 which seeks a target of 30% family sized accommodation. In this case only four 3 bedroom flats are provided, equivalent to 7% provision. Furthermore, the 3 bedroom flats proposed do not have access to private amenity space of 20 square metres as sought by the Core Strategy. However, the policy does allow for an exception to be made based on the character and density of the neighbourhood and the viability of the scheme. This is a high density development within the city centre where family sized houses are difficult to provide and the family sized flats are on the upper floors. The applicant has submitted a case that a reduction in the number of smaller flats to accommodate more family accommodation would make the scheme unviable. In these circumstances, the mix of dwellings proposed is considered to be acceptable and will assist in meeting housing targets and need for the city.

### **6.4 Design Issues**

The layout of the site is appropriate with the creation of a varied building line to address St Mary Street and Chapel Road and to allow the protected Lime trees to be retained. As amended, the building would have entrances at the front and rear to allow pedestrian access from both the street and the car park. As stated earlier in this report, the immediate area is mixed in terms of storey heights and architectural treatment. The city centre wide design guidance in the Development Design Guide identifies this street block as being suitable for building heights of 4 to 6-storeys. However, Policy 37 of the emerging City Centre Action Plan requires proposals to respect the character of the St Mary Street and Old Northam Road area, including its historic

buildings and the fine grain, scale and height of buildings. The policy states that tall buildings of 5-storeys or greater will not be permitted. It should be pointed out that this is 'emerging' rather than adopted policy. Furthermore, there are other 6-storey buildings in the immediate vicinity, at Hamwic College Halls of Residence on the corner of St Mary Street and Evans Street and taller buildings at the Deanery Halls of Residence on Marsh Lane. It should also be appreciated that the proposed building reduces to 3-storeys at its eastern side to respect the more domestic scale of adjoining properties. This overcomes the reason for refusal of previous proposals for the Chantry Hall part of the site. Although the main part of the building is 6-storeys in height, the top floor is set back which helps to break up the mass of the building.

- 6.5 The impact of the development on the setting of the listed St Mary's Church is an important consideration in this case. The retention of the two large Lime trees will be essential to retaining the leafy almost suburban character of the setting of St Marys Church and its Churchyard. The setting back of the 3 storey duplex units helps to reduce the impact of the development on views from the east down Chapel Road and the relationship with the 2 and 3 storey Maryfield development to the east and south. Although this is quite a tall building (approximately 18 metres in height at its maximum) it is set back from the road frontage by 4 to 5 metres for the taller element and 14 metres in the case of the 3-storey section. The previously approved ice rink building proposed total site coverage with a height of some 16 metres on the back edge of the pavement and would probably have had a more significant impact on the setting of the listed church than this proposal. Overall it is considered that this development would not adversely affect the setting of the listed church.
- 6.6 In terms of the quality of the new residential accommodation, the size of the flats and the internal arrangements are satisfactory with only a few solely north facing flats. The proposed duplex flats are dual aspect with an interesting layout. Due to the amount of site coverage, the need to retain the protected trees and the amount of surface level car parking, there are only small areas of communal amenity space at the rear of the building which is otherwise dominated by the large area of car parking. All the upper floor flats have balconies with the exception of the duplex flats which have only a front garden area. This site is within the city centre where the prevailing character is of high density developments with smaller gardens than would be provided in a more suburban location. Furthermore, the site is close to the central parks for more active recreational use and some flexibility is required in applying standards to ensure this long vacant site comes forward for development. Overall, it is considered that the development would not significantly affect the amenities of neighbours in terms of loss of light, privacy or outlook.

6.7 Impact on neighbouring properties

The height of the development, now reduced to 6 storeys on the north west of the site is taller and of greater mass than other residential development in the close vicinity – Maryfield development being 3 storey and development on Chapel Road being 3 to 5 storeys. As it is on the north side of Maryfield it will not cast shadows over these properties however it may feel overbearing given that at its closest it is only 24m apart, although habitable rooms are not

directly facing each other. The impact on the neighbours will be less than would have been the case with the ice rink proposal which proposed total site coverage. Overall, it is considered that the development would not significantly affect the amenities of neighbours in terms of loss of light, privacy, outlook or increased overshadowing.

## 6.8 Highways and parking

Highways officers are satisfied with the proposed vehicular access, the car and cycle parking arrangements. The availability of car parking is a key determinant in the choice of mode of travel. Local and national policies aim to reduce reliance on the private car and encourage alternative modes of transportation such as public transport, walking and cycling. The level of parking equates to one space per two flats and it would not be possible to increase the amount of parking without creating underground spaces which is neither viable nor practical given the site is within a flood risk zone. Providing that future residents are not able to obtain a permit to park in one of the nearby Controlled Parking Zones, as secured through the S.106 legal agreement, the proposal is considered to be acceptable given this location.

## 6.9 Flood Risk Issues

This site is partly within Flood Zones 1, 2 and 3. The flood risk assessment submitted with the application demonstrates that by raising the finished floor level of the building to 4.5 metres AOD the accommodation would not be at risk of flooding in the 1 in 200 year flood event. The site is currently completely hardsurfaced so the introduction of areas of soft landscaping would introduce permeable areas to improve surface water drainage, the details of which can be covered by a condition. Further mitigation in the form of a flood evacuation plan can be incorporated within the Section 106 agreement.

## 7. Summary

- 7.1 This is a long vacant site within the city centre where previous schemes have not proved to be deliverable. Despite not being an allocated residential site it is suitable for a high density flatted scheme given the nature of the surroundings. The proposals make efficient and effective use of the land with a reasonable balance between amenity space provision and car parking. The mix of dwellings falls short of the normal family housing target but the policy allows flexibility for high density parts of the city centre. The design is considered to be acceptable and the setting of the adjoining listed church would not be adversely affected. Neighbours amenities would not be detrimentally affected when compared with the previous ice rink proposal for the site.

## 8. Conclusion



This application has been assessed as being acceptable to the local context and is in accordance with policy. The application is recommended for conditional approval, subject to the completion of a S.106 Legal Agreement.

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

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

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 3(a), 4(d), 4(f), 4(g), 4(r), 4(vv), 6(c), 7(a), 8(a), 9(a) and 9(b).

### **RP2 for 23/04/2013 PROW Panel**

## **PLANNING CONDITIONS**

### **01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works**

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

Reason:

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

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

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

Reason:

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

### **03. APPROVAL CONDITION - Landscaping, lighting & means of enclosure detailed plan [Pre-Commencement Condition]**

Notwithstanding the submitted details before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted, 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, structures and ancillary objects (refuse bins, lighting columns etc.);

- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. an accurate plot of all trees to be retained and to be lost. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise);
- iv. details of any proposed boundary treatment, including retaining walls; and
- v. a landscape management scheme.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

The approved hard and soft landscaping scheme (including parking) for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

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

#### 04. APPROVAL CONDITION- Land Contamination investigation and remediation [Pre-Commencement & Occupation Condition]

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A desk top study including;
  - historical and current sources of land contamination
  - results of a walk-over survey identifying any evidence of land contamination
  - identification of the potential contaminants associated with the above
  - an initial conceptual site model of the site indicating sources, pathways and receptors
  - a qualitative assessment of the likely risks
  - any requirements for exploratory investigations.
2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed.
3. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

On completion of the works set out in (3) a verification report shall be submitted to the Local Planning Authority confirming the remediation actions that have been undertaken in accordance with the approved scene of remediation and setting out any measures for maintenance, further monitoring, reporting and arrangements for contingency action. The verification report shall be approved by the Local Planning Authority prior to the occupation or operational use of any stage of the development.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason:

To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment and where required remediation of the site is to an appropriate standard.

#### 05. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by documentation to validate their quality and be submitted to the Local Planning Authority for approval prior to the occupancy of the site.

Reason:

To ensure imported materials are suitable and do not introduce any land contamination risks onto the development.

#### 06. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority.

Any changes to the agreed remediation actions will require the express written consent of the Local Planning Authority.

Reason:

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

#### 07. APPROVAL CONDITION - Archaeological investigation [Pre-Commencement Condition]

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

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

08. APPROVAL CONDITION - Archaeological work programme [Performance Condition]

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

Reason: To ensure that the archaeological investigation is completed.

09. APPROVAL CONDITION - Archaeological damage-assessment [Pre-Commencement Condition]

No development shall take place within the site until the type and dimensions of all proposed groundworks (including details of foundations, ground beams, all services etc) have been submitted to and agreed by the Local planning Authority. The developer will restrict groundworks accordingly unless a variation is agreed in writing by the Local Planning Authority.

Reason: To inform and update the assessment of the threat to the archaeological deposits.

10. APPROVAL CONDITION - Hours of work for Demolition / Clearance / Construction [Performance Condition]

All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of;

Monday to Friday 08:00 hours to 18:00 hours (8.00am to 6.00pm)

Saturdays 09:00 hours to 13:00 hours (9.00am to 1.00pm)

And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To protect the amenities of the occupiers of existing nearby residential properties.

11. APPROVAL CONDITION - Construction Environment Management Plan (Pre-Commencement Condition)

Prior to the commencement of any development a written construction environment management plan shall be submitted to and approved by the LPA. The plan shall contain method statements and site specific plans to prevent or minimise impacts from noise, vibration, dust and odour for all operations, as well as proposals to monitor these measures at the site boundary to ensure emissions are minimised beyond the site boundary. The measures shall include arrangements for vehicle parking by site operatives during construction. All specified measures shall be available and implemented during any processes for which those measures are required.

Reason:

To protect the amenities of the occupiers of existing nearby properties.

12. APPROVAL CONDITION - Wheel Cleaning Facilities [Pre-Use Condition]

During the period of the preparation of the site, excavation for foundations or services and the construction of the development, wheel cleaning facilities shall be available on the site and no lorry shall leave the site until its wheels are sufficiently clean to prevent mud being carried onto the highway.

Reason:

In the interests of highway safety.

### 13. APPROVAL CONDITION - Glazing - soundproofing from external traffic noise [Pre-Commencement Condition]

Works pursuant to this permission shall not be commenced until a scheme for protecting the proposed flats and houses from traffic noise from St Mary Street and Marsh Lane has been submitted to and approved by the local planning authority in writing. Unless otherwise agreed in writing, that scheme shall specify either:- Outer pane of glass - 10mm

Air gap between panes - 12mm

Inner pane of glass - 6 mm

or, with secondary glazing with a -

Outer pane of glass - 6mm

Air gap between panes - 100mm

Inner pane of glass - 6.4 mm

There must be no trickle vents installed in any case. For ventilation purposes in all cases, provision of acoustically treated 'BBA' approved mechanically powered ventilation should be the preferred option. However, provision of acoustic trickle vents will be acceptable. Once approved, that glazing shall be installed before any of the flats are first occupied and thereafter retained at all times.

Reason:

In order to protect occupiers of the flats from traffic noise.

### 14. APPROVAL CONDITION - Bird Hazard Management Plan (BHMP)

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

REASON:

It is necessary to manage the roofs in order to minimise its attractiveness to birds which could otherwise endanger the safe movement of aircraft and the operation of Southampton Airport - BAA comments dated 9th May 2012 refer.

For information:

The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs, ladders or similar. The owner/occupier must not allow gulls, to nest, roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the

breeding season. Outside of the breeding season, gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/occupier when detected or when requested by BAA Airfield Operations Staff. In some instances, it may be necessary to contact BAA Airfield Operations staff before bird dispersal takes place. The owner/occupier must remove any nests or eggs found on the roof. The breeding season for gulls typically runs from March to June. The owner/occupier must obtain the appropriate licences from Natural England before the removal of nests and eggs.

15. APPROVAL CONDITION - Piling Method (Pre-Commencement Condition).

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a piling/foundation design risk assessment and method statement for the preferred piling/foundation design/designs shall be submitted to and approved in writing by the Local Planning Authority. Any pile driving operations as approved shall be carried out in accordance with that approved method statement. To limit vibration, a continuous flight auger method is the preferred method and no percussion or impact driven piling activities should take place for pre-works, foundations, or as any part of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON:

To ensure the selected piling method can be justified on the grounds of structural, geotechnical, contamination, noise, vibration and practicability and ensure any adverse environmental impacts are identified and appropriate mitigation measures are proposed

16. APPROVAL CONDITION - Details of visitor cycle parking (Pre-Occupation Condition)

The development hereby approved shall not be first occupied until visitor cycle facilities have been provided in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

REASON

To ensure satisfactory provision of cycle facilities for visitors to the site.

17. APPROVAL CONDITION - Layout of Car Parking/Servicing (Pre-Occupation Condition)

The whole of the car parking, cycle storage and servicing facilities shown on the approved plans shall be laid out and made available before the use of the building to which these facilities relate commences and thereafter retained solely for the use of the occupants and visitors to the site and for no other purpose.

REASON

To ensure adequate on-site parking and servicing facilities and to avoid congestion in the adjoining highway.

18. APPROVAL CONDITION - Refuse facilities (Pre-Occupation Condition)

The refuse storage facilities, which shall include recycling facilities, as shown on the approved drawings shall be provided before the use to which the facility relates has been provided. Prior to installation of the facilities, details of the design of the structure including lighting, gradient to the entrance of the store and means of locking shall be submitted to

and approved in writing by the Local Planning Authority. The storage area shall be constructed in accordance with these approved details and retained thereafter.

**REASON**

To ensure suitable refuse and recycling facilities are provided and in the interests of visual amenity

**19. APPROVAL CONDITION - Code for Sustainable Homes [Performance Condition]**

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum Level 4 of the Code for Sustainable Homes in the form of post construction assessment and certificate as issued by a legitimate Code for Sustainable Homes certification body, shall be submitted to the Local Planning Authority for its approval.

**REASON:**

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

**20. APPROVAL CONDITION - Restricted use of flat roof area [Performance Condition]**

With the exception of the areas shown on the approved drawings as terraces/balconies the roof area of the building hereby approved which incorporates a flat roof surface shall not be used as a balcony, terrace, roof garden or similar amenity area without the grant of further specific permission from the Local Planning authority.

**Reason:**

In order to protect the privacy of adjoining occupiers.

**21. APPROVAL CONDITION - Ecological Mitigation Statement [Pre-Commencement Condition]**

Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, [as set out in the 'Former Chantry Hall Site, CSH Ecology Checklist, Final Document, February 2013' submitted with the application] which unless otherwise agreed in writing by the Local Planning Authority shall be implemented in accordance with the programme before any demolition work or site clearance takes place.

**Reason**

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

**22. APPROVAL CONDITION - Stopping up existing access [Pre-Commencement Condition]**

Any redundant access to the site shall be stopped up and abandoned and the footway, and verge crossings and kerbs shall be reinstated before the development is brought into use.

**Reason:**

To provide safe access to the development and to prevent congestion on the highway.

### 23. APPROVAL CONDITION - Surface / foul water drainage [Pre-commencement Condition]

No development approved by this permission shall commence until a scheme for the disposal of foul water and surface water drainage have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied unless and until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority and subsequently implemented and maintained for use for the life of the development.

Reason:

To ensure satisfactory drainage provision for the area.

### 24. APPROVAL CONDITION - Arboricultural Method Statement [Pre-Commencement Condition]

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

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

Reason

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

### 25. APPROVAL CONDITION - Surface Water Drainage (Pre-Commencement Condition)

No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm (30% climate change allowance) will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The details shall also specify how the scheme will be maintained and managed after completion.

Reason:



To prevent the increased risk of flooding, both on and off site.

**26. APPROVAL CONDITION - Approved Plans**

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

Reason:

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

**Additional Conditions (added at Panel):**

**27. APPROVAL CONDITION - Code for Sustainable Homes [Pre-Commencement Condition]**

Before the development commences, written documentary evidence demonstrating that the development will achieve at minimum Level 4 of the Code for Sustainable Homes in the form of a design stage assessment, shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA.

REASON:

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

**28. APPROVAL CONDITION – Telecommunications Equipment [Performance Condition]**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) in relation to the development hereby permitted, no external telecommunications equipment or similar plant shall be installed on the roofs of the buildings hereby approved.

Reason:

In the interests of visual amenity and to safeguard the setting of the adjoining listed St Mary's Church.

**POLICY CONTEXT**

Core Strategy - (January 2010)

|      |  |
|------|--|
| CS1  | City Centre Approach                                       |
| CS3  | Promoting Successful Places                                |
| CS4  | Housing Delivery   |
| CS5  | Housing Density  |
| CS13 | Fundamentals of Design                                     |
| CS14 | Historic Environment                                       |
| CS15 | Affordable Housing   |
| CS16 | Housing Mix and Type                                       |
| CS18 | Transport: Reduce-Manage-Invest                            |
| CS19 | Car & Cycle Parking  |
| CS20 | Tackling and Adapting to Climate Change                    |
| CS23 | Flood Risk   |
| CS24 | Access to Jobs   |
| CS25 | The Delivery of Infrastructure and Developer Contributions |

City of Southampton Local Plan Review – (March 2006)

|       |  |
|-------|--|
| SDP1  | Quality of Development                     |
| SDP4  | Development Access                         |
| SDP5  | Parking                                    |
| 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                                   |
| SDP22 | Contaminated Land                          |
| HE3   | Listed Buildings                           |
| HE6   | Archaeological Remains                     |
| CLT5  | Open Space in New Residential Developments |
| CLT6  | Provision of Children's Play Areas         |
| H1    | Housing Supply                             |
| H2    | Previously Developed Land                  |
| H7    | The Residential Environment                |
| MSA1  | City Centre Design                         |
| MSA12 | St. Mary's Area                            |

Supplementary Planning Guidance

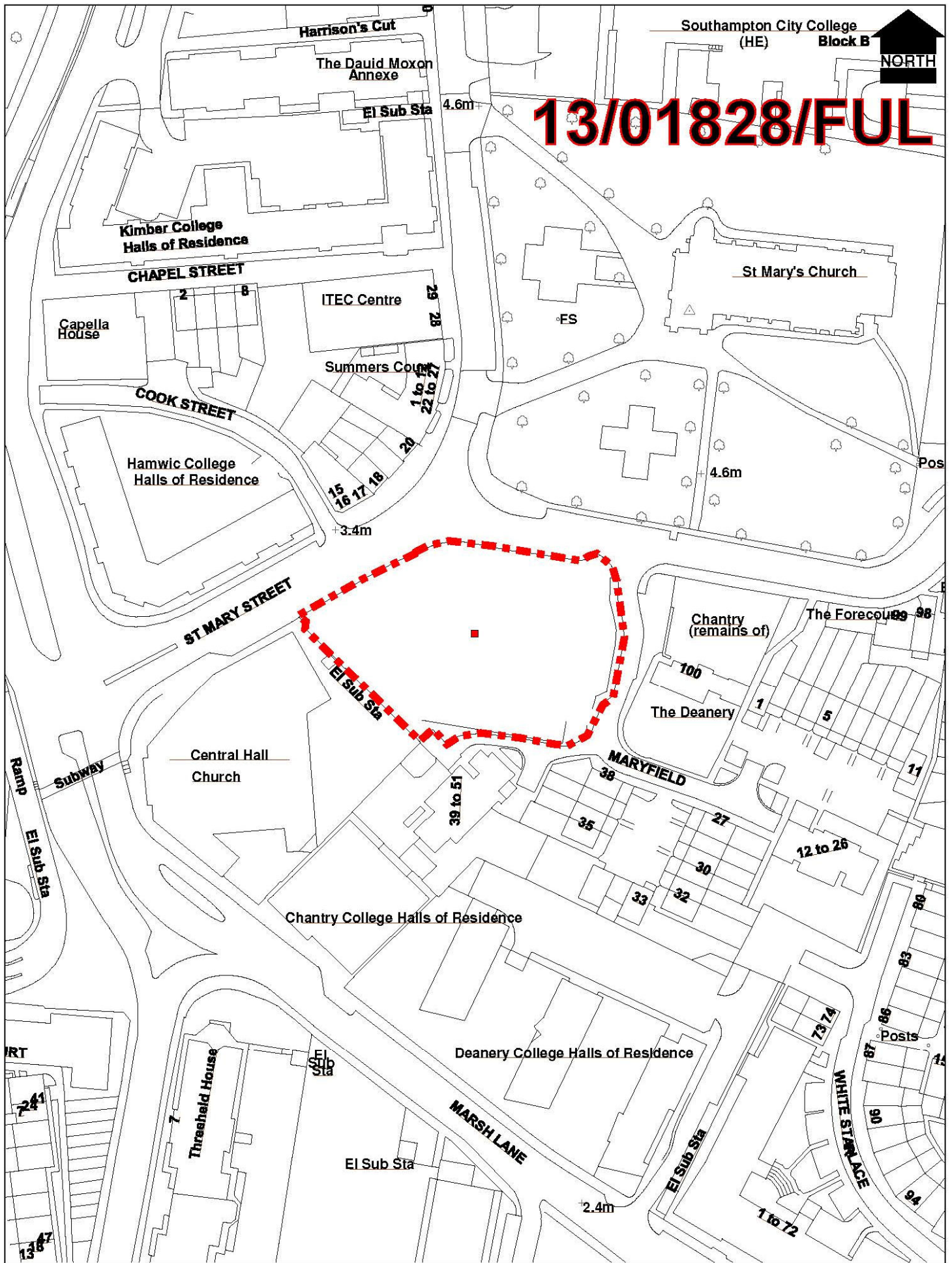
Residential Design Guide (Approved - September 2006)  
Planning Obligations (Adopted - August 2005 and amended November 2006)  
Parking Standards (September 2011)

Other Relevant Guidance

The National Planning Policy Framework 2012

City Centre Action Plan - Preferred Approach (January 2012)

The Development Design Guide (2004)



Scale : 1:1250

Date : 04 February 2014

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