

**Planning and Rights of Way Panel 1<sup>st</sup> November 2022**  
**Planning Application Report of the Head of Green City & Infrastructure**

<b>Application address:</b> Land rear of 14 Rother Dale Southampton SO19 0HL			
<b>Proposed development:</b> Erection of a detached 3 bedroom dwelling			
<b>Application number:</b>	22/00939/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Stuart Brooks	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	31.08.2022	<b>Ward:</b>	Bitterne
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received	<b>Ward Councillors:</b>	Cllr Magee Cllr Prior
<b>Applicant:</b> Preston Properties		<b>Agent:</b> Porter Robson	

<b>Recommendation Summary</b>	<b>Delegate to the Head of Green City &amp; Infrastructure to grant planning permission subject to criteria listed in report</b>
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<b>Community Infrastructure Levy Liable</b>	<b>Yes</b>
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**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2021). Policies – CS4, CS5, CS7, CS13, CS16, CS18, CS19, CS20, CS22, CS25 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP7, SDP9, SDP10, SDP12, SDP13, SDP16, H1, H2, H7 of the City of Southampton Local Plan Review (Amended 2015).

<b>Appendix attached</b>			
1	Habitats Regulation Assessment	2	Development Plan Policies
3	Relevant Planning History		

## **Recommendation in Full**

1. That the Panel confirm the Habitats Regulation Assessment in **Appendix 1** of this report.
2. Delegate to the Head of Green City & Infrastructure to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 or S.111 Legal Agreement to secure either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
3. That the Head of Green City & Infrastructure be given delegated powers to add, vary and /or delete conditions as necessary, and to refuse the application in the event that item 2 above is not completed within a reasonable timescale.

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

- 1.1 The site has a developable area of 185sqm and comprises residential garden land at the rear of 12 and 14 Rother Dale, which has been subdivided to form a separate plot with a frontage onto Morrison Close. Works were recently completed at 14 Rother Dale to create an additional 3 bedroom dwelling under planning permission ref no. 20/01511/FUL. The proposed development site sits to the rear of this development and would be accessed from Morrison Close (which is, itself, a recent housing development granted permission in 2013 under LPA ref: 13/00186/FUL). Access rights are in place for site access via the private courtyard parking area of Morrisons Close.
- 1.2 The surrounding area has a suburban residential character, predominantly comprising predominantly two storey housing. Morrison Close and Botley Gardens are laid out as cul de sacs, are characterised by a tightly packed urban grain of housing in smaller plots. The parking spaces within the adjacent private courtyard in Morrison Close are allocated for residents. A mature Leyland Cypress tree in the neighbouring garden (16 Rother Dale) currently overhangs the site. The south-western boundary of the application site adjoins the car park at the rear of 12-28 Botley Gardens.

### **2. Proposal**

- 2.1 The proposal seeks planning permission for the erection of a 3-bed detached a two storey dwellinghouse and driveway accommodating 2 car parking spaces within the rear garden of 14 Rother Dale. The dwelling will provide 84sqm of internal floor space and 80sqm private external garden space. The plot sub-division will retain 50sqm of private garden space for both of the existing terraced properties at 12 and 14 Rother Dale.

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

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan

(adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

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

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

#### **5. Consultation Responses and Notification Representations**

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice on 15.07.2022. At the time of writing the report **10 representations** have been received from surrounding residents. The following is a summary of the points raised:

5.2 ***Overdevelopment. And out of keeping with the spatial character of the area by building on residential garden.***

##### **Response**

The proposed development has a 46% ratio of building footprint/hardstanding to plot coverage and therefore does not exceed the 50% guideline in the Residential Design Guide (paragraph 3.9.2 refers). A character assessment has also been undertaken and it is considered that the proposed development fits within the established pattern of development in the area. The loss of the residential garden would not be out of keeping with the prevailing character of the area and wider street scene given the new infill dwelling would form its own street frontage, and the established nature of higher density housing and smaller plots in the local area. The opportunity for windfall housing delivery must also be given significant weight as part of the overall planning balance having regard to the city's 5 year housing land supply shortfall.

5.3 **The following concerns are raised about traffic, access and parking:-**

- **The site requires access across private land. Unclear whether the new property would contribute to the maintenance costs paid by properties number 2,3,4 and 5 Morrison Close as the proposed access to the property involves crossing private land. The freeholder of the land (Ibex Homes) promised residents of Morrison Close no further development would take place.**
- **Unclear whether shared access via Rother Dale across original land has been considered instead.**
- **Pressure from overspill parking to street parking in the local area including Morrison from increased demand of new dwelling and visitors. It is difficult to park or leave parking spaces in Morrison Close as its often overcrowded and the turning circle is very tight. The bays are short so often larger cars overhang them which makes access to some of the spaces very difficult.**

**Botley Gardens is already a very congested road with cars parking along the pavement. It is difficult to turn in and out of Botley Gardens onto the main and busy Botley Road. Adding a 3-bed house to the cul-de-sac will only make parking and access issues worse, including disabled person blue badge holders, and increase road safety risk.**

**Response**

The applicant has confirmed there is a right of access over the private courtyard car park, and the application red line extends to the public highway and includes Morrison Close with notice serviced on the landowner. Issues regarding future maintenance is a private civil matter between the applicants (and future occupiers) and the neighbouring landowner. The impacts regarding traffic, parking and access are further assessed in section 6.5 of the report. The suitable access to emergency vehicles is assessed separately under Building Regulations.

- 5.4 ***Disruption and noise disturbance to nearby residents during construction including congestion and road safety issues/damage to parked vehicles/blocking emergency vehicle access in Morrison Close from contractor parking and deliveries, and off site space required to locate welfare facilities and site waste.***

**Response**

In consultation with the Council's Highways and Environmental Health teams, a condition will require a construction management to be agreed prior to the commencement of development which will take into account managing construction related deliveries, parking and storage, hours of working and will seek to agree appropriate measures to minimise the level of noise and dust nuisance during the construction.

- 5.5 ***Loss of light, privacy and outlook to neighbouring properties***

**Response**

The separation distances between neighbouring properties, and the proposed to existing window arrangement, will ensure that the access to privacy, outlook and light enjoyed by neighbouring residents is adequately maintained.

- 5.6 ***Loss of biodiversity and wildlife habitat by cutting back the neighbouring tree, including bats and nesting bird species/owls***

**Response**

The Council's Ecologist considers the site to have negligible biodiversity value, and they have not raised an objection to the impact from cutting back the neighbouring trees.

- 5.7 ***Loss of property value***

**Response**

This is not a material planning consideration.

- 5.8 ***The planning notice was placed on a lamppost tucked down by the garages of 8 and 9 Morrison Close facing away from the road, when the lamppost in the middle of Morrison Close would have been able to be viewed by a greater number of people. Letters advising of the development were not received by property numbers 5, 6 or 7 Morrison Close.***

**Response**

The Council has a statutory duty to notify local residents by either posting a site notice or sending letters to the adjoining landowners. In this case, letters were sent to 24 adjoining and nearby properties, so the Council has met its minimum statutory requirement to notify local residents. In response to the statutory consultation, 10 local residents have made representations.

5.9 **It was made unclear on the previous application to extend 14 Rother Dale into a second house that the owner already had planned to further develop the garden into a third property. The images shown of the current land shows it is not being used and is fenced off from the properties, which comes across as an underhand tactic.**

**Response**

Applicants are under no obligation to advise of future plans when they make a planning application. The Council will still have to assess the current application based on the plans now submitted. The impact on the spatial character of the area arising from the plot sub-division to accommodate the proposed dwellings is a planning consideration in the determination of this planning application and is assessed in more detail below as acceptable.

5.10 **Unclear whether the property numbers in Morrison Close will have to be renumbered.**

**Response**

This is not material planning consideration. An application for street numbering would need to be made to the Council, and it is understood that developments on existing numbered streets may be numbered using suffixes (e.g. 12A and 12B).

**Consultation Responses**

5.11 <b>Consultee</b>	<b>Comments</b>
SCC Tree team	<p><b>No objection</b> subject to securing methodology for ground protection in the root protection area</p> <p>Comments - I am of the opinion that the neighbouring Leyland cypress trees are not worthy for long term protection by a tree preservation order, nevertheless they do provide amenity to the local area and as a respectful developer and consultant, having regard to these trees, being third party, should be a consideration within the planning process.</p> <p>Although the roots and canopy of the tree can be cut under common law rights, I still feel that there should be some consideration towards the neighbours trees, therefore I would ask what the level of ground protection will be installed and also request that the pouring of the concrete foundation be lined when installing within the root protection area of the neighbours trees. There is going to be a section of the RPA that will be lost for the development, however it is rather small, but I would not want to see the leachate from the concrete entering into the root system within the RPA section of the foundation.</p>

	<p>If we can get an undertaking in this, it will be less harmful to the neighbouring trees. Also, given the location and proximity to the trees, there may be future issues with the proximity of property to tree, it may not result in a significant shade issue, however it will be close and has the potential to be a large tree. An open discussion with the tree owner may be the best policy for the developer as it would seem unfair to go ahead with the construction to then sell, along with the potential nuisance issues associated with the proximity to the dwelling.</p> <p><u>Officer Response</u> Condition 14 is recommended to secure tree protection..</p>
Ecology	<p><b>No objection.</b> The application site consists of an area of amenity grassland, which has negligible biodiversity value, and a number of trees. The trees have potential to support nesting birds and any vegetation removal should be undertaken outside the bird nesting season which runs from March to August inclusive. The development will need to provide a net gain in biodiversity.</p> <p><u>Officer Response</u> A condition is recommended to secure measures to improve biodiversity such as nesting or bat boxes.</p>
Environmental Health	<p><b>No objection</b> Environmental Health has no objection in principle, however recommend standard working hours during which potential for nuisance from noise, dust etc to be minimised. Hence a construction management plan should be submitted.</p>
Highways Development Management	<p><b>No objection</b> No highways objections to the above proposals. The access via Botley Gardens is currently utilised for car parking so the proposed arrangement for two parking spaces accessed from Botley Gardens residents car park can be done safely with sufficient space for manoeuvring. Refuse collection is also currently accessed to residential frontages on Botley Gardens, so this too can be safely supported. We would ask a condition is secured to keep the boundary fencing along Morrison Close car park to no higher than 0.6m to ensure clear sightlines of vehicles existing the proposed new driveway spaces. Details of the cycle store to ensure it's in line with section 5.3 of the parking standards SPD can also be secured through the appropriate condition.</p>
Sustainability	<p><b>No objection</b> subject to conditions requiring energy and water use improvements.</p> <p><u>Officer Response</u> Only a condition requiring water use has been applied as the Local Planning Authority cannot insist on energy use improvements beyond current Building Regulations Part L energy performance levels, which have recently been increased.</p>
Southern Water	<p>The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised.</p> <p><u>Officer Response</u></p>

	The plans show building footprint lies outside the southern water sewer easement area.
SCC Design Officer	<b>No objection</b> to the architecture as it matches with other recent houses in the street.

## 6.0 Planning Consideration Key Issues

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

- The principle of development;
- Design and effect on character;
- Residential amenity;
- Parking highways and transport and;
- Likely effect on designated habitats.

### 6.2 Principle of Development

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

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

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

[the so-called "tilted balance"]

6.2.3 There are no policies in the Framework protecting areas or assets of particular importance in this case, such that there is no clear reason to refuse the development proposed under paragraph 11(d)(i). It is acknowledged that the proposal would make a contribution to the Council's five-year housing land supply. There would also be social and economic benefits resulting from the construction of the new dwelling(s), and their subsequent occupation, and these are set out in further detail below to enable the Panel to determine 'the Planning Balance' in this case.

6.2.4 In terms of the level of development proposed, policy CS5 of the Core Strategy confirms that in low accessibility locations such as this, density levels should generally accord with the range of 35-50 dph, although caveats this in terms of the need to test the density in terms of the character of the area and the quality and quantity of open

space provided. The proposal would achieve a residential density of 54 dph which, whilst slightly in excess of the suggested range set out above, needs to be tested in terms of the merits of the scheme as a whole, including the visual impact from subdividing the residential garden of 12 & 14 Rother Dale, and the density of the site in context to the established pattern of residential plots in the locality. This is discussed in more detail below.

### 6.3 Design and effect on character

6.3.1 The established cul de sac and courtyard pattern of development in Botley Gardens and Morrison Close, with a varied style of dwellings, creates a mixed character in the surrounding area. The size and density of the plot formed by subdividing the residential gardens reflects this established character of the area in relation to the tighter urban grain and non-uniform layout of the residential properties in Botley Gardens and Morrison Close. By siting the proposed dwelling in front of the courtyard parking area, the dwelling would not be out of keeping with the appearance of the street scene and the style of the recently built dwellings in Morrison Close. The 46% ratio of building footprint/hardstanding to plot coverage does not exceed the 50% guideline in the Residential Design Guide (paragraph 3.9.2 refers). Furthermore, the loss of the residential gardens would not be out of keeping with the prevailing character of the area and street scene; given that the new infill dwelling would form its own street frontage and nature of the tighter urban grain in the locality.

6.3.2 The mature Leyland Cypress tree adjacent to the site in the rear garden of no. 16 Rother Dale will require a significant level of pruning to cut back the canopy overhang to facilitate the construction works. Overhanging branches can be lopped under civil law. Whilst the tree affected does provide amenity value, the Tree Officer acknowledges that the visual quality of the tree and its group are not worthy for long term protection by a Tree Preservation Order, so the impact on local visual amenity from the loss of the tree would not warrant a reason for refusal by itself. The Tree Officer advises that the roots and canopy of the tree can be cut under common law rights so the Council has limited control over the impact to the trees and their retention. The small section of the Root Protection Area that will be lost for the development is not considered to be significantly harmful. That said, there should be some consideration towards the protection of the neighbour's tree(s) to ensure that damage to the root system doesn't cause a safety risk by the tree subsequently dying. The level of ground protection should be agreed by condition including the method of lining the foundations when pouring concrete to prevent leachates within the root protection area. The onus is still on the applicant to act under common law rights as a civil matter with their neighbour when cutting back the tree canopies and root system overhanging their boundary.

### 6.4 Residential amenity

6.4.1 The proposed development will sit on the north-west side of the courtyard parking area of Morrison Close and to the south-east/south-west of the adjoining properties in Rother Dale. The 16m spacing between the side gable and the rear elevation of the adjoining Rother Dale properties complies with the minimum 12.5m separation required under standards in paragraph 2.2.7 of the Residential Design Guide. This separation would ensure that the neighbours will maintain sufficient access to light



and outlook. The ground floor kitchen/dining room window has been moved to the north-west elevation so it does not directly overlook the rear of the Rother Dale properties. The internal layout is designed so the aspect of the first floor windows are not to the rear or side. The angled side window of the first floor bedroom window overlooks the car park to the south-west of the site and the rear of 20-28 Botley Gardens 30m beyond, however, the overlooking would be at an oblique angle towards to the rear of nos. 12-15 Botley Gardens and no. 1 Morrison Close.

6.4.2 The mass and bulk of the proposed dwelling will be noticeable from the garden of no. 1 Morrison Close albeit at an oblique angle across the Botley Gardens car park and, therefore, would not have undue sense of enclosure to the outlook and light of the neighbouring occupiers. The 16m front to front separation distance between the flat properties no. 2, 3, 4, 5 Morrison Close on the south-east side of the courtyard car park is not dissimilar to the existing overlooking arrangement across Morrison Close between no.1 and nos. 8/9 (12m separation). The minimum 21m separation distances applies for back to back overlooking rather than this scenario. As such, this is not considered to adversely affect the privacy and outlook of these Morrison Close neighbours.

6.4.3 Amenity and safety concerns have been raised by local residents regarding how the construction works will be managed to avoid causing disruption and disturbance given the limited access through Morrison Close, especially across private land. The applicant has the legal right to pass and repass from the private parking court in front of the site, however, they will need to demonstrate in a construction management plan how deliveries and contractor parking will be managed to ensure residential amenity is protected throughout the construction works. The construction management plan will also require a plan showing how the materials, welfare facilities and equipment are stored on site. This level of detail can be reserved by condition as it will require input from the future (currently unknown) contractor/subcontractors and suppliers and, therefore, would be unreasonable to withhold planning permission on this basis.

6.4.4 The internal and external residential layout is considered to provide an acceptable living environment for future occupiers. Whilst the 84sqm internal floor space meets the nationally described floor space standards, the 6sqm deficiency of the 90sqm detached garden standard can be applied flexibly given many other houses in the local area tend to have smaller gardens, and the garden provided will be fit for purpose with good access to sunlight. The existing terraced Rother Dale properties will retain the minimum 50sqm required for a terraced property, as set out within the Council's Residential Design Guide SPD, following the works. As such the development has been assessed as being in compliance with saved Local Plan Policy SDP1(i).

## 6.5 Parking highways and transport

6.5.1 The Council's Highways Officer has raised no objection to the impact on highways safety to users of Morrison Close, and Botley Gardens, with regards to the traffic movement, access and parking. The access via Botley Gardens/Morrison Close is currently utilised for car parking so the proposed arrangement for two parking spaces accessed from Morrison Close resident's car park can be done safely with sufficient space for manoeuvring. The details of refuse and secure cycle storage will be agreed by condition.

6.5.2 The 2 on-site car parking spaces will meet the Council's maximum parking standards for the 3 bedroom dwelling in this accessibility zone and, therefore, the overspill impact from the additional parking demand is not considered to put undue pressure on street parking available for local residents.

#### 6.6 Likely effect on designated habitats

6.6.1 The proposed development, as a residential scheme, has been screened (where mitigation measures must now be disregarded) as likely to have a significant effect upon European designated sites due to an increase in recreational disturbance along the coast and in the New Forest. Accordingly, a Habitat Regulations Assessment (HRA) has been undertaken, in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, see **Appendix 1**. The HRA concludes that, provided the specified mitigation of a Solent Recreation Mitigation Strategy (SRMP) contribution and a minimum of 5% of any CIL taken directed specifically towards Suitably Accessible Green Space (SANGS), the development will not adversely affect the integrity of the European designated sites.

### 7. Summary

7.1 The principle of new residential development is considered acceptable. It is acknowledged that the proposal would make a contribution to the Council's five-year housing land supply. There would also be social and economic benefits resulting from the construction of the new dwelling, and their subsequent occupation, as set out in this report. Taking into account the benefits of the proposed development, and the limited harm arising from the conflict with the policies in the development plan as set out above, it is considered that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, consideration of the tilted balance would point to approval. In this instance it is considered that the above assessment, alongside the stated benefits of the proposal, suggest that the proposals are acceptable. Having regard to s.38(6) of the Planning and Compulsory Purchase Act 2004, and the considerations set out in this report, the application is recommended for approval.

### 8. Conclusion

8.1 It is recommended that planning permission be granted subject to securing Solent Bird Aware contributions, and conditions set out below.

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

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

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

**Stuart Brooks for 01.11.22 PROW Panel**

#### **PLANNING CONDITIONS**

##### **01. Full Permission Timing Condition (Performance)**

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

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

**02. Details of building materials to be used (Pre-Commencement Condition)**

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

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

**03. Construction Management Plan (Pre-Commencement)**

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Plan for the development. The Construction Management Plan shall include details of:

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

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

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

**04. Hours of work for Demolition / Clearance / Construction (Performance)**

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 to 18:00 hours

Saturdays                                09:00 to 13:00 hours

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.

**05. Unsuspected Contamination (Performance)**

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

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

**06. Use of uncontaminated soils and fill (Performance)**

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.

**07. Water Efficiency (Pre-Construction)**

With the exception of site clearance, demolition and preparation works, no development works shall be carried out until written documentary evidence demonstrating that the development will achieve a maximum of 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of a water efficiency calculator shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA. The appliances/fittings to be installed as specified.

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 (Amended 2015) and to minimise the impact on Solent SPAs by reducing nitrate emissions.

**08. Cycle storage facilities (Pre-Occupation)**

Notwithstanding the approved plans, before the development hereby approved first comes into occupation, secure and covered storage for bicycles shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. This shall include details of the provision of internal horizontal stands to secure each cycle, entrance locking system for residents, and specification of internal and external lighting to be fitted. The storage shall be thereafter retained as approved for the lifetime of the development.

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

**09. Refuse & Recycling (Performance)**

Notwithstanding the approved plans, before the development hereby approved first comes into occupation, covered storage for refuse and recycling, shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Before the development hereby approved first comes into occupation, the approved storage for refuse and recycling shall be provided in accordance with the plans hereby approved and thereafter retained as approved for the lifetime of the development. With the exception of collection days, the refuse bins shall be kept in the approved storage area.

Reason: In the interest of visual and residential amenity.

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

**10. Access & Parking (Pre-occupation)**

Prior to the occupation of the dwelling hereby approved, the development shall be implemented in accordance with the approved access and parking and shall thereafter be retained for the duration of the lifetime of the development. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 no fences walls or other means of enclosure shall be erected above a height of 0.6m above ground level adjacent to the site entrance where otherwise shown on the approved plans.

Reason: In the interests of securing safe access in the interests of highways safety.

**11. Amenity Space Access (Pre-Occupation)**

Before the dwelling hereby approved first come into occupation, the external amenity space and pedestrian access to it, shall be made available for use in accordance with the plans hereby approved for both the approved and existing dwellings. The amenity space and access to it shall be thereafter retained for the use of the dwelling hereby approved.

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

**12. Landscaping (Pre-Commencement)**

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

- i. proposed finished ground levels or contours; means of enclosure; hard surfacing materials to include a non-permeable surfacing to prevent surface water run off onto the adjoining parking courtyard;
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants and trees, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. details of any proposed boundary treatment and means of enclosure and;
- iv. a landscape management scheme.

The approved hard and soft landscaping scheme 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. This is with exception to the other works approved to be carried out prior to occupation of the dwelling. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision and the other works shall be retained as approved for the lifetime of the development.

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

Reason: To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990.

**13. Tree Retention and Safeguarding (Pre-Commencement)**

Prior to the commencement of the development hereby approved, including site clearance and demolition, details of tree protection measures shall be submitted to and approved in writing by the Local Planning Authority. The tree protection measures shall be provided in accordance with the agreed details before the development commences and retained, as approved, for the duration of the development works. No works shall be carried out within the fenced off area. All trees shown to be retained on the plans and information hereby approved and retained pursuant to any other condition of this decision notice, shall be fully safeguarded during the course of all site works including preparation, demolition, excavation, construction and building operations.

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

**14. No Other Windows or Doors (Performance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended or any order amending, revoking or re-enacting that Order), no windows, doors or other openings, other than those expressly authorised by this permission, shall be inserted above ground floor level in the side elevations of development hereby permitted without the prior written consent of the Local Planning Authority.

Reason: To protect the amenities of the adjoining residential properties.

**15. Residential Permitted Development Restriction (Performance)**

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

Class A (enlargement of a dwelling house), including a garage or extensions,  
Class B (roof alteration),  
Class C (other alteration to the roof),

Reason: In the interests of visual and residential amenity.

**16. Ecological Mitigation Statement (Pre-Commencement)**

Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, 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. The agreed mitigation measures shall be thereafter retained as approved.

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

**17. Protection of nesting birds (Performance)**

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

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

**18. Obscure Glazing (Performance)**

The first floor level bathroom window of the hereby approved development, shall be obscurely glazed and fixed shut up to a height of 1.7 metres from the internal floor level before the development is first occupied. The window shall be thereafter retained in this manner.

Reason: To protect the amenity and privacy of the adjoining property.

**19. Approved Plans (Performance)**

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

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



## Habitat Regulation Assessment (HRA)

**PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.**

HRA completion date:	See Main Report
Application reference:	See Main Report
Application address:	See Main Report
Application description:	See Main Report
Lead Planning Officer:	See Main Report
Please note that all references in this assessment to the 'Habitats Regulations' refer to The Conservation of Habitats and Species Regulations 2017.	

### Stage 1 - details of the plan or project

European site potentially impacted by planning application, plan or project:	Solent and Southampton Special Protection Area (SPA) and Ramsar site. Solent Maritime Special Area of Conservation (SAC). Collectively known as the Solent SPAs. New Forest SAC, SPA and Ramsar site.
Is the planning application directly connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.
Are there any other	Yes. All new housing development within 5.6km of the Solent SPAs is considered to contribute towards an impact on site integrity as a result of

projects or plans that together with the planning application being assessed could affect the site (Applicant to provide details to allow an 'in combination' effect to be assessed)?	<p>increased recreational disturbance in combination with other development in the Solent area.</p> <p>Concerns have been raised by Natural England that residential development within Southampton, in combination with other development in the Solent area, could lead to an increase in recreational disturbance within the New Forest. This has the potential to adversely impact site integrity of the New Forest SPA, SAC and Ramsar site.</p> <p>The PUSH Spatial Position Statement (<a href="https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/">https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/</a>) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire up to 2034.</p>
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## Stage 2 - HRA screening assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.

### Solent SPAs

The proposed development is within 5.6km of the collectively known European designated areas Solent SPAs/Ramsar sites. In accordance with advice from Natural England and as detailed in the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those sites through a consequent increase in recreational disturbance.

Development within the 5.6km zone will increase the human population at the coast and thus increase the level of recreation and disturbance of bird species. The impacts of recreational disturbance (both at the site-scale and in combination with other development in the Solent area) are analogous to impacts from direct habitat loss as recreation can cause important habitat to be unavailable for use (the habitat is functionally lost, either permanently or for a defined period). Birds can be displaced by human recreational activities (terrestrial and water-based) and use valuable resources in finding suitable areas in which to rest and feed undisturbed. Ultimately, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.

### The New Forest

The New Forest National Park attracts a high number of visitors (13.3 million annually), and is notable in terms of its catchment, attracting a far higher proportion of tourists and non-local visitors than similar areas such as the Thames Basin and Dorset Heaths. Research undertaken by Footprint Ecology, Sharp, J., Lowen, J. and Liley, D. (2008) Changing patterns of visitor numbers within the New Forest National Park, with particular reference to the New Forest SPA. (Footprint Ecology.), indicates that 40% of visitors to the area are staying tourists, whilst 25% of visitors come from more than 5 miles (8km) away. The remaining 35% of visitors are local day visitors originating from within 5 miles (8km) of the boundary.

The report states that the estimated number of current annual visits to the New Forest is predicted to increase by 1.05 million annual visits by 2026 based on projections of housing development within 50km of the Forest, with around three quarters (764,000) of this total increase originating from within 10km of the boundary (which includes Southampton).

Residential development has the potential to indirectly alter the structure and function of the habitats of the New Forest SAC, SPA and Ramsar site breeding populations of nightjar, woodlark and Dartford warbler through disturbance from increased human and/or dog activity. The precise scale of the potential impact is currently uncertain however, the impacts of recreational disturbance can be such that they affect the breeding success of the designated bird species and therefore act against the stated conservation objectives of the European sites.

### Stage 3 - Appropriate Assessment

Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

#### Solent SPAs

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs and in accordance with the findings of the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development, is likely. This is contrary to policy CS 22 - Promoting Biodiversity and Protecting Habitats, of the Southampton Core Strategy Partial Review, which states that,

*Within Southampton the Council will promote biodiversity through:*

*1. Ensuring development does not adversely affect the integrity of international designations, and the necessary mitigation measures are provided; or the development otherwise meets the Habitats Directive;*

In line with Policy CS22, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

Southampton City Council formally adopted the Solent Recreation Mitigation Strategy (SRMP) in March 2018. The SRMP provides a strategic solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development. This strategy represents a partnership approach to the issue which has been endorsed by Natural England.

As set out in the Solent Recreation Mitigation Strategy, an appropriate scale of mitigation for this scheme would be:

Size of Unit	Scale of Mitigation per Unit
1 Bedroom	£390.00
2 Bedroom	£563.00

3 Bedroom	£735.00
4 Bedroom	£865.00
5 Bedroom	£1014.00

Therefore, in order to deliver the adequate level of mitigation the proposed development will need to provide a financial contribution, in accordance with the table above, to mitigate the likely impacts.

A legal agreement, agreed prior to the granting of planning permission, will be necessary to secure the mitigation package. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. Providing such a legal agreement is secured through the planning process, the proposed development will not affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.

### **New Forest**

The project being assessed would result in a net increase in dwellings within easy travelling distance of the New Forest and a permanent significant effect on the New Forest SAC, SPA and Ramsar, due to an increase in recreational disturbance as a result of the new development, is likely. This is contrary to policy CS 22 - Promoting Biodiversity and Protecting Habitats, of the Southampton Core Strategy Partial Review, which states that,

*Within Southampton the Council will promote biodiversity through:*

- 1. Ensuring development does not adversely affect the integrity of international designations, and the necessary mitigation measures are provided; or the development otherwise meets the Habitats Directive;*

In line with Policy CS22, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

At present, there is no scheme of mitigation addressing impacts on the New Forest designated sites, although, work is underway to develop one. In the absence of an agreed scheme of mitigation, the City Council has undertaken to ring fence 5% of CIL contributions to fund footpath improvement works within suitable semi-natural sites within Southampton. These improved facilities will provide alternative dog walking areas for new residents.

The proposed development will generate a CIL contribution, and the City Council will ring fence 10% of the overall sum, to fund improvements to footpaths within the greenways and other semi-natural greenspaces.

### **Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England**

In conclusion, the application will have a likely significant effect in the absence of avoidance and mitigation measures on the above European and Internationally protected sites. The authority has concluded that the adverse effects arising from the proposal are wholly consistent with, and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy.

The authority's assessment is that the application coupled with the contribution towards the SRMS secured by way of legal agreement complies with this strategy and that it can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above.

In the absence of an agreed mitigation scheme for impacts on the New Forest designated sites Southampton City Council has adopted a precautionary approach and ring fenced 10% of CIL contributions to provide alternative recreation routes within the city.

This represents the authority's Appropriate Assessment as Competent Authority in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework 2021.

Natural England Officer: Becky Aziz (email 20/08/2018)

Summary of Natural England's comments:

Where the necessary avoidance and mitigation measures are limited to collecting a funding contribution that is in line with an agreed strategic approach for the mitigation of impacts on European Sites then, provided no other adverse impacts are identified by your authority's appropriate assessment, your authority may be assured that Natural England agrees that the Appropriate Assessment can conclude that there will be no adverse effect on the integrity of the European Sites. In such cases Natural England will not require a Regulation 63 appropriate assessment consultation.

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS4	Housing Delivery
CS6	Housing Density
CS13	Fundamentals of Design
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats
CS25	The Delivery of Infrastructure and Developer Contributions

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

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

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Planning Obligations (Adopted - September 2013)  
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2021)  
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

**Relevant Planning History**

<b>Case Ref</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
20/01511/FUL	Erection of 3 bedroom dwelling house	Conditionally Approved	15.01.2021
21/00240/DIS	Application for approval of details reserved by condition 2(Details of building materials to be used), 4(Construction Management Plan), 5(Energy & Water), 7(Landscaping & means of enclosure detailed plan), 10(Refuse & Recycling) and 11(Cycle storage facilities) of permission 20/01511/FUL for erection of 3 bedroom dwelling house	No Objection	13.04.2021