

Planning and Rights of Way Panel 06 August 2019
Planning Application Report of the Service Lead – Infrastructure, Planning and Development.

Application address: 128-130 West End Road, Southampton			
Proposed development: Redevelopment of the site. Erection of 10 x 3-bed, 2-storey dwellings with accommodation in roof space, in a terrace block of 5, a terrace block of 3 and 2 x semi-detached, with associated car port, parking and cycle/refuse storage, following demolition of existing public house (resubmission 17/00750/FUL)			
Application number	19/00346/FUL	Application type	Full
Case officer	Andrew Gregory	Public speaking time	15 minutes
Last date for determination:	29.05.19	Ward	Harefield
Reason for Panel Referral:	Five or more objections have been received.	Ward Councillors	Cllr Daniel Fitzhenry Cllr Valerie Laurent Cllr Peter Baillie

Applicant: MHH Poole Ltd	Agent: Aspire Architects Ltd
---------------------------------	-------------------------------------

Recommendation Summary	Delegate conditional approval to the Service Lead – Infrastructure, Planning and Development.
-------------------------------	---

Community Infrastructure Levy Liable	Yes
---	------------

Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The pub was marketed for freehold sale for 6 months without any interest from existing pub operators and no bid was made by the community interest group during the asset of community value moratorium period. Furthermore there are alternative pubs and community buildings within the surrounding area to meet the day to day needs of the community. The development has addressed the previous appeal dismissal by reconfiguring the car parking area in order to provide larger and usable private rear gardens for plots 1-3. Other material considerations including housing need, impact on neighbouring amenity, tree impact and on street car parking pressure 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 (2019).

Policies - SDP1, SDP4, SDP5, SDP7, SDP8, SDP9, SDP10, SDP12, SDP13, SDP14, NE4, H2 and H7 of the City of Southampton Local Plan Review (Amended 2015) and CS3, CS4, CS5, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22 and CS25 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Habitats Regulations Assessment
3	Appeal Decision 17/00750/FUL	4	Map to show location of nearby pubs
5	DVS Viability dated 02 May 2019	6	Minutes of previous panel

Recommendation in Full

1. That the Panel confirm the Habitats Regulation Assessment in Appendix 2 of this report.
2. Delegate to the Service Lead to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 Legal Agreement to secure:
 - a. Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
 - b. 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.
 - c. Either a scheme of measures or a financial contribution towards Solent Disturbance Mitigation Project 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.
 - d. Employment and Skills Plan to secure training and employment initiatives.
 - e. The provision of one on-site affordable housing unit based on the DVS Viability Assessment dated 02 May 2019 in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013).
3. In the event that the legal agreement is not completed or progressing within a reasonable timeframe after the Planning and Rights of Way Panel, the Service Lead – Infrastructure, Planning and Development will be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement, unless an extension of time agreement has been entered into.
4. That the Service Lead – Infrastructure, Planning and Development 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 Savills were instructed to dispose of the Big Cheese Public House on behalf of Green King PLC in July 2016. Green King took the decision to dispose of the asset because of declining return and because a re-branding exercise (Hungry Horse) had failed to improve turnover and profitability. The premises was marketed between July 2016 and December 2016 for freehold sale and as having potential for retail conversion and residential redevelopment opportunity. During this period, three acceptable offers were received, all from residential developers. The pub was closed in February 2017 and sold for £651,000 to a residential developer, £51,000 over the guide price.

1.2 *Asset of Community Value*

The Localism Act was introduced in November 2011 and gave communities a chance to save assets that are important to them. The Department of Communities and Local Government indicate that 'assets of community value' can include pubs. The Community Right to Bid came into effect on 21 September 2012. Local Authorities are required to keep a list of all these 'assets of community value' (ACV). If an owner of a listed asset wants to sell it they have to notify the local authority. The local authority then has to notify any interested parties. If community groups are interested in buying an asset they can use the Community Right to Bid to 'pause' the sale, giving them 6 months to prepare a bid to buy it before the asset can be sold.

1.3 The Council received an ACV nomination from a community interest group on 14 February 2017 (supported by a petition with circa 150 signatories) and decided to list the Big Cheese Public House as an ACV on 27 April 2017 for the following reasons:

"From the evidence submitted in recent times ie prior to its closure earlier this year, the premises were of significant and wide-ranging benefit to the community and community groups over and above simply being a well-used pub."

1.4 On 18 May 2017, the owner notified the Council of their intention to sell the property and the community interest group responsible for the listing were given until 29 June 2017 to make a request to be treated as a bidder and until 18 November 2017 to complete a bid.

It should be noted that the provisions of the community right to bid do not restrict in any way who the owner of a listed asset can sell their property to, or at what price. As such the owner is under no obligation to dispose of the property to the community interest group and after the 18 November 2017 is free to sell on the open market. The community group made a request to be treated as a bidder however no bid was made by 18 November 2017 and therefore the owner is now free to sell on the open market.

1.5 A planning application for redevelopment of the site with 10 houses following demolition of the existing public house was refused planning permission on 05.11.2018 (Application Ref 17/00750/FUL). The planning application was refused for overdevelopment reasons and no principle objection was raised to the loss of the public house. The refused scheme was subject to an appeal which was dismissed on the grounds of insufficient garden sizes to plots 1-3 however the Planning Inspector also raised no principle objection to the loss of the public house. As such the Panel should not raise the loss of the pub as a planning concern as part of this planning application.

2 The site and its context

- 2.1 The application site has an area of 0.2 hectares and comprises a vacant public house. A large car parking area is located to the side and garden area to the rear. Access is taken from West End Road, in close proximity to the West End Road / Mousehole Lane / Dean Road / Townhill Park roundabout. The pub building is now boarded up and temporary herring fencing has been installed to secure the site. Mature trees, protected by the Southampton (Bitterne Village) Tree Preservation Order 1974, enclose the side and rear boundaries to Dean Road and Tenby Close.
- 2.2 The area surrounding the site is predominantly residential, comprising a mix of two storey housing and 3-4 storey flatted blocks. A convenience retail unit occupies the adjoining site to the north-east. The nearest alternative pubs are the Fox and Hound, Humble Plum and the Red Lion, all less than 1 mile from The Big Cheese Public House. Alternative community meeting places within the vicinity include Gordon Hall, Moorlands Community Centre and Harefield Community Centre, all within 1 mile of the Big Cheese Public House. Bitterne District Centre is 0.6 miles from the site.

3 **Proposal**

- 3.1 The proposal seeks permission for redevelopment of the site with 10 x 3-bed houses following demolition of the existing public house. The proposal is a re-submission of the previously refused scheme and seeks to address the previous overdevelopment reason by re-configuring the car parking area and providing larger rear gardens for plots 1-3. The layout retains the existing trees along the boundaries with Dean Road and Tenby Close with the residential plots again framing a parking court. A terrace of 3 houses has been orientated to face towards the parking court. A semi-detached pair and terrace of 5 houses have been orientated to face West End Road.
- 3.2 The proposed houses are two-storey in scale with additional accommodation in the roof. The houses are traditional in design with pitched roof form incorporating front and rear dormers. The dwellings have a materials palette of render and face brickwork. The proposed front boundary would comprise dwarf wall and railings.
- 3.3 The parking court provides 14 resident car parking spaces and 3 visitor car parking spaces (17 in total to serve 10 dwellings) with access taken from West End Road. An open sided car port with pitched is proposed to provide coverage to the spaces along the south-eastern boundary. Bin and cycle storage is provided to the rear of each plot. A gated pedestrian access is provided to a bin collection point adjacent to Dean Road

4 **Relevant Planning Policy**

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 4.2 The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 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. A key thread to the NPPF is the promotion of healthy communities (section 8 refers). Paragraph 91

indicates that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Paragraph 92 goes on to indicate the need to plan positively for the provision for community facilities and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

4.3 Policy CS3 of the Core Strategy (January 2010) is the Council's most up to date planning policy relating to community facilities and indicates that:

“proposals that result in the loss of a community facility throughout the city will not be supported if it is viable for the commercial, public or community sector to operate it and if there are no similar or replacement facility in the same neighbourhood. Community facilities include: community buildings; drop-in centres / day centres; Meeting Rooms / Day Centres; Places of Worship; Sports Club and recreation; Youth Clubs / Scout huts / Guide huts / Clubs for Senior Citizens.”

4.4 Public houses and cafes are not included within the list of community facilities as set out within policy CS3. However it should be noted that the Council did seek to have public houses included within the defined list of community facilities within the draft Local Development Framework. During the examination into the Core Strategy the Inspector decided not to include pubs and cafes for the following reasons:

“Whilst desirable in principle, experience elsewhere suggests that such a policy can be difficult and complex to operate reasonably and realistically in practice, especially in relation to commercially run facilities and privately owned businesses, such as public houses and cafes, as distinct from public sector organisations.....

Moreover, in a densely built up area such as Southampton, unlike a small rural settlement, equivalent or similar businesses are usually available nearby and within a reasonable walking distance. In such circumstances it is not necessary or realistic for the Council to seek to control the operations of the free market in this way in relation to public houses and cafes, which can be distinguished from the other types of community facilities listed by virtue of their normally operating in the fully commercial sector.”

4.5 The National Planning Policy Framework post-dates this analysis and specifically references pubs as community use and as such becomes directly relevant. That said, in this case the Panel will note that the loss of the pub was not previously cited as a Reason for Refusal and it would be unreasonable to suggest it is now an issue.

5 Relevant Planning History

5.1 A planning application for residential redevelopment comprising 10 x 3-bed houses following demolition of the public house (LPA Ref 17/00750/FUL) was refused on 12.01.2018 for the following reasons:

01. Site Overdevelopment

The proposed redevelopment represents an overdevelopment of the site by reason of a residential layout and design that fails to respond to the established pattern of development within the locality, is reliant upon a significant amount of building and hardstanding (in excess of 50% of the site), fails to meet the Council's standards in respect of useable amenity space; particularly in respect of Units 1-3, but also in terms of usability for

Units 8-10 given the boundary planting and subsequent shade, and which proposes car parking in close proximity to the main living space of Units 8-10 to the detriment of these residents' amenity in terms of noise, disturbance and headlight glare. As such, the application is considered to fail the requirements of Local Plan Review (Amended 2015) policies SDP1 (i) and SDP7 as supported by Policy CS13 of the adopted Local Development Framework Core Strategy (2015) and the relevant paragraphs from the Council's approved Residential Design Guide SPD (2006); with particular reference to sections 3.9 and 4.4 and paragraph 2.3.14.

02. *Lack of Section 106 agreement to secure planning obligations.*

In the absence of a Section 106 agreement the development fails to mitigate its impact in the following areas:

- (a) 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 (as amended 2015) Policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Developer Contributions (April 2013);*
- (b) 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; and*
- (c) Contributions or otherwise towards a scheme of measures that mitigate against the impacts of the development on the Solent Special Protection Area as required by LDF Core Strategy (Amended 2015) policies CS22 and CS25; and*
- (d) An Employment Training and Skills Plan to secure local employment initiatives during the construction phase as required by LDF Core Strategy Policy CS24.*

5.2 A copy of the Panel minutes are attached as **Appendix 6**

5.3 A subsequent planning appeal was dismissed with the Inspector concluding that the proposal would provide unsatisfactory living conditions for occupants of the houses on Plots 1-3 arising from inadequate private amenity space. A copy of the appeal decision is attached as **Appendix 3**.

5.4 Planning permission was granted on 26.04.2018 for change of use of the pub from a drinking establishment (Class A4) to flexible use within A1, A2, A3 or A4 (Retail, financial, professional services, restaurants, cafe and drinking establishments) (LPA Ref 18/00347/FUL)

6 Consultation Responses and Notification Representations

6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (15.03.2019) and erecting a site notice (12.03.2019). At the time of writing the report **21 representations** have been received from surrounding residents. The following is a summary of the points raised:

6.1.1 Loss of the public house as a community meeting place

Officer Response – The pub has been closed since February 2017. The site was marketed as a freehold pub for sales for 6 months and during that period no acceptable offers were received from pub operators. Furthermore no bid was made by the community group during the ACV moratorium period. There are alternative public house and community buildings with the area to meet the day

to day needs of the community. The Council does not have a public house protection policy (see planning policy section). Planning permission was not previously refused for loss of pub reasons nor was it dismissed by the appeal Inspector for this reason. Planning permission has also been granted for conversion of the pub into alternative A class uses

6.1.2 Increased traffic congestion / Highway Safety

Officer Response – No objection has been raised by SCC Highways Development Management. The proposed residential use is likely to result in a net reduction in vehicular trips in comparison to the historic pub use. The proposal uses an existing access point and would generate a reduction in right turn movements into the site when compared to the first application

6.1.3 Overdevelopment

Officer Response – The proposed scheme comprises 10 x 3-bed houses and has a density of 50 dwellings per hectare which is considered in keeping with the character of the area and compliant with policy CS5. The introduction of private residential gardens for each plot will result in a net reduction of hard surfacing across the site.

6.1.4 The proposed development is over-bearing, out-of-scale and out of character in terms of its appearance compared with existing development in the vicinity.

Officer Response - The provision of two-storey housing with rooms in the roof is not considered out of keeping with the character of the area which comprises detached, semi-detached and terraced two-storey housing and larger flatted block which are 3 to 4-storey. Furthermore the proposed housing will not have an overbearing impact on existing properties within Dean Road and West End Road having regard to the building separation, layout and retained tree screen along the side and rear boundaries.

6.1.5 Request that the existing trees are safeguarded in the interests of the visual amenities of the area and privacy of neighbouring occupiers.

Officer Response - None of the existing trees are proposed to be removed. Additional tree planting can be secured as part of the approval of landscaping details.

6.1.6 Insufficient on-site car parking provision will lead to increased on-street parking pressures within surrounding streets.

Officer Response – The provision of 14 resident car parking plus 3 visitor spaces accords with the Council's maximum car parking standards and no objection has been raised by Highways Development Management. The maximum number of spaces permissible is 20 resident parking spaces (2 spaces per 3-bed dwelling).

6.1.7 Loss of light and privacy to neighbouring occupiers in Dean Road

Officer Response – The layout and orientation of the proposed dwellings in relation to neighbouring dwellings will not lead to harmful loss of light or privacy. There is circa 40m separation between the rear elevation of units 1-7 and the

southern boundary with Tenby Close. There are no windows in the side elevation of unit10.

6.1.8 Refuse collection from Dean Road

Officer Response – Collection from Dean Road is the preferred option to prevent obstruction to flow on West End Road. The frequency of collections and length of time needed to collect the bins will not lead to harmful obstruction of traffic flow on Dean Road.

6.1.9 Potentially Contaminated Site

Officer Response – See comments from SCC contamination team below

6.1.10 Insufficient existing foul drainage capacity

Officer Response – Southern Water have raised no concerns regarding existing network capacity

6.1.11 No cycle storage provided

Officer Response – The site plans shows that cycle storage provision has been made within each rear garden with storage for a minimum of 1 bicycle per unit which accords with the Council's Parking Standards SPD

6.1.12 Noise and other disturbance during construction

Officer Response – Conditions are recommended to control the construction environment, such as hours of work controls, measures to limit noise and dust and also to secure details of construction vehicle parking arrangements.

6.1.13 Concerns regarding the impact of surface water drainage

Officer Response – It is recommended that a SUDS scheme be secured by condition. The introduction of rear gardens will reduce the existing run-off rates.

7 Consultation Responses

7.1 SCC Highways – No objection subject to conditions.

In terms of impact on the highway, the existing use as a public house would have a greater impact due to the higher level of trips and servicing requirements. Therefore in principle, the proposed development is considered acceptable in highway terms. The proposed access, parking layout, bin storage/collection arrangements are considered acceptable.

7.2 SCC Trees – No objection subject to agreement of tree works to accommodate the car port.

7.3 SCC Ecology – No objection

The application site consists of a building, hard-standing, amenity grassland and a number of trees.

7.3.1 The ecological value of the site is limited to the trees, which have potential to support nesting birds, the other habitats have negligible intrinsic biodiversity value. In addition, the building is in good condition with no obvious access points for bats. The proposed development will lead to an increase in amenity grassland which will be an improvement on the current situation. I would like the landscaping scheme to include native species, or ornamental species with recognised value for wildlife.

7.4 SCC Land Contamination - No objection. Suggest a condition to secure a full land contamination assessment and any necessary remediation measures

7.5 SCC Archaeology – **No objection.** The proposed development involves demolition of the existing public house and the construction of 10 new houses,

with associated parking etc. The site has some archaeological potential, and development here threatens to damage archaeological deposits. To mitigate this, an archaeological watching brief on all groundworks will be required.

7.5.1 The current public house is much altered, with replacement UPVC windows, although it is still of some local interest and its demolition is to be regretted. To mitigate its loss, an archaeological building record (to Historic England Level II) will need to be made of the building before demolition

7.6 SCC Sustainability Team - No objection

Subject to the imposition of conditions securing energy and water restriction.

7.7 SCC Drainage – No objection subject to condition to secure sustainable drainage.

7.8 Southern Water – No objection

Request a condition to secure details of means of surface and foul water disposal.

7.9 Environmental Health – No objection subject to a condition to secure a construction environment management plan

7.10 SCC Housing - As the scheme comprises of 10 dwellings in total the affordable housing requirement from the proposed development is 20% (CS15- sites of 5-14 units = 20%). The affordable housing requirement is therefore 2 dwellings.

7.10.1 Policy CS 15 of the adopted Core Strategy sets a hierarchy for the provision of affordable housing as:

- (i) On-site as part of the development and dispersed amongst the private element of the scheme;
- (ii) 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;
- (iii) Commuted financial payment to be utilised in providing affordable housing on an alternative site

7.10.2 In this case on site provision would be sought, subject to the independent findings on the financial viability of the scheme.

7.10.3 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.

Officer Response – The application has been subject to viability review and the DVS Viability Assessment dated 02 May 2019 has found that the scheme can viably deliver one on-site affordable housing

7.11.1 City of Southampton Society - No objection in principle.

A bit of a squeeze, but good design. Units facing West End Road a bit closer to the road than might have been wished. Important to keep something of a belt of trees along the Tenby Close boundary. Traffic coming and going through the one point in West End Road will be rather awkward, especially traffic turning right into and out of the site. An access/egress point in Tenby Close would have been safer in traffic terms, although Dean Road is one way at this point.

7.11.2 *Officer Response – The previous appeal decision found that the proposal for 10 houses would represent a reduction in the amount of hard standing on the site and raised no concerns in relation to the building line facing West End Road*
The proposal has addressed the concerns regarding the amount of amenity space for plots 1-3 by reconfiguring the car parking area to extend the garden

areas of plots 1-3. Therefore the current proposal is not considered an overdevelopment of the site.

SCC highways have raised no objection to the proposed access arrangements - vehicular access onto West End road is an existing situation and the proposal would generate less vehicular trips than the former pub.

8. Planning Consideration Key Issues

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

- the principle of the development;
- the impact of the design of the building on the character of the area;
- the quality of the residential environment;
- the impact on the amenities of neighbouring and surrounding residents;
- Highway safety, car parking, access and mitigation; and
- Habitat Regulations.

8.1 Principle of Development

8.1.1 The Big Cheese Public House has been closed since February 2017. Green King took the decision to dispose of the asset because of declining return and because a re-branding exercise (Hungry Horse) had failed to improve turnover and profitability. A marketing exercise for freehold sale was carried out by Savills between July 2016 and December 2016 however no acceptable offers were received from pub operators or other groups or individuals seeking retained public house use. All offers were from residential developers.

8.1.2 DCLG (non-statutory) guidance in the 'Community Right to Bid: Non-statutory advice note for local authorities (October 2012) indicates that:

"...the fact that the site is (a) listed (Aocv) may affect planning decisions - it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case."

8.1.3 In this case, it is considered the Asset of Community Value can now only be given limited weight because the community group did not make a bid for the premises during the 6 month moratorium period. The ACV listing process is designed to give community groups the opportunity to purchase and operate valued community buildings. The ACV process does not protect community buildings from redevelopment if no community bid is made. The current owner is now free to sell the site on the open market for a protected period of 12 months following the close of the moratorium period on 18 November 2017.

8.1.4 Public houses are not protected within the development plan and they not defined as community facilities under the requirements of policy CS3 of the Core Strategy. Paragraph 70 of the National Planning Policy Framework, which post-dates policy CS3, does indicate that public houses can be considered as community facilities and that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Whilst the loss of the Big Cheese Public House will clearly reduce the number and availability of public houses within this area, it is not considered to reduce the community's ability to meet its day to day needs having regard to the availability of alternative pubs and community facilities within the vicinity of the site, namely:

Alternative A4 pub uses

- The Fox and Hounds Public House (0.3 miles / 5 minute walk from the site)
- Humble Plumb (0.4 miles / 7 minute walk from the site)
- The Red Lion (0.6 miles / 13 minute walk from the site)

Alternative community facilities

- The Gordon Hall (0.1 miles / 2 minute walk from the site)
- Moorlands Community Centre (0.4 miles / 7 minute walk from the site)
- Harefield Community Centre (0.6 miles / 11 minute walk from the site)

A plan showing the location of alternative public houses within this area is attached as ***Appendix 4***.

- 8.1.5** The site is not allocated for housing and the scheme would represent windfall housing delivery on previously developed land, thereby assisting the Council in meeting its housing requirements of 16,300 homes to 2026. The proposal incorporates 10 x 3 bedroom family homes and thus will help to increase the number of family houses within the local community as required by policy CS16. The provision of family housing is welcomed and policy CS16 requires a minimum of 30% family homes on sites of 10 or more dwellings. Furthermore the scheme has satisfied policy CS15 with the delivery of one on-site affordable housing unit following a viability review.
- 8.1.6** Policy H2 of the Local Plan encourages the maximum use of derelict, vacant and underused land for residential development. Furthermore Policy CS5 of the Council's Core Strategy (2015) indicates that development will only be permitted which is of an appropriate density for its context. The site is located within an area of lower accessibility where net density levels of 35-50 dwellings per hectare will be sought, providing the character and appearance of the area is not compromised. The development achieves 50 dwellings per hectare which accords with policy CS5
- 8.1.7** The previously refused planning application for 10 houses (Ref 17/00750/FUL) was refused for overdevelopment and living environment reasons and not for loss of the public house. The subsequent appeal decision agreed that there was no principle issue in terms of loss of the public house. The Inspector was satisfied that in light of the circumstances, the loss of this public house would not adversely affect the community's ability to meet its day to day needs. Therefore the principle of residential redevelopment is supported.
- 8.2** The impact of the design of the building on the character of the area
- 8.2.1** The surrounding area is not homogenous in design terms and includes a variety of house types, and building scale. The provision of two-storey housing (albeit with rooms in the roof) with pitched roof form and traditional appearance is considered in keeping with the character and appearance of the area. The proposed materials palette of face brick and render is considered acceptable and will not be harmful to the visual amenities of the area
- 8.2.2** The site layout has been informed by the need to retain the existing protected tree group along the side and rear boundaries. This has meant that units 8-10 have been orientated to face towards the parking court with the trees to Dean Road forming the rear garden boundaries. Therefore the proposal will have no adverse impact on the Dean road street scene.
- 8.2.3** This re-submission has an amended layout which addresses previous concerns regarding garden sizes to units 1-3. These units now have gardens sizes of circa 14m/70sqm which satisfy design standards for terraced housing with the

minimum requirements of 10m length / 50sqm area exceeded. The improvements in amenity space provision are a result of a reconfiguration to the car parking area which has not resulted in the loss of parking nor has it compromised access arrangements or on-site turning. Brick rear boundary walls will be sought to enclose the parking court and appropriate hard and soft landscaping will be required to ensure the parking court is appropriately treated

8.3 The quality of the residential environment produced for prospective residents.

8.3.1 The proposed living environment is considered acceptable with all habitable rooms receiving genuine outlook and day lighting. The orientation and separation of plots will ensure that no harmful overlooking will occur. It is recommended that the first-floor bathroom window in the side elevation of unit 8 be obscured with top light opening to prevent overlooking of adjacent gardens. A 12m separation distance is provided between the rear windows of unit 6 and the side gable of unit 8 which is broadly compliant with Residential Design Guide standards.

8.3.2 All plots now accord with Residential Design Guidance in relation to rear garden sizes and are also acceptable in terms of quality and usability. The proposal satisfies the requirements of policy CS16 which requires a minimum of 30% of total dwellings to be provided as family homes (defined as 3 bedrooms or more with private amenity space which is fit for purpose and minimum garden areas of 50sqm for terraced homes and 70sqm for semi-detached properties).

8.4 The impact on the amenities of neighbouring and surrounding residents:

8.4.1 The proposed development will have no adverse impact on the residential amenities of neighbouring occupiers. The proposed layout, building orientation, separation distances and retention of existing trees will ensure that no harmful shadowing, loss of light, sense of enclosure or loss of light will occur. The previous refusal and subsequent appeal decision raised no concerns in relation to neighbouring amenities.

8.5 Highways safety, car parking, access and mitigation.

8.5.1 The provision of 14 resident car parking spaces plus 3 visitor spaces accords with the Council's maximum car parking standards and no objection has been raised by Highways Development Management. The maximum number of spaces permissible is 20 resident parking spaces (2 spaces per 3-bed dwelling). The level of parking proposed and nature of the use, would result in a net reduction in vehicular trips when compared with the historic pub use and therefore the proposal will not lead to increased congestion. The site is located in close proximity to shops and amenities within Bitterne District Centre and frequent bus services run from nearby bus stops on West End Road.

8.5.2 Bin and bike storage facilities are provided within the rear of each plot. A refuse collection point is provided for collection from Dean Road

8.5.3 A legal agreement will be used to secure off site works and measures needed to mitigate the impact of the development, in particular site specific transport contributions for highway improvements, to include:

- Conversion of the existing Pelican crossing, adjacent to the site on West End Road, to a Toucan crossing, to facilitate pedestrian and cycle use;
- Dedication of land to the highway frontage of the site along West End Road into Dean Road to a point just beyond the tactile paving at the narrowing of Dean Road to provide a minimum width of 3.5m for a shared cycleway/footpath route; and

- To provide a cycle dropped crossing adjacent to the pedestrian facility in Dean Road, to enhance the link between the cycle only plug at the end of Dean Road towards the crossing facility on West End Road.

8.5.4 Additionally a highway condition survey will be required to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer and financial contribution towards SDMP 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.

8.6 Habitat Regulations

8.6.1 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 2**. 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

8.7 Affordable Housing and Viability

8.7.1 Policy CS15 sets out that “the proportion of affordable housing to be provided by a particular site will take into account the costs relating to the development; in particular the financial viability of developing the site (using an approved viability model).” The application is accompanied by a viability assessment which sets out that the development would not be viable and able to commence should the usual package of financial contributions and affordable housing be sought. In particular, the assessment sets out that the development would not be able to meet the requirement to provide 2 Affordable Housing units on the site (policy requirement for 20% provision). However the viability appraisal has been assessed and verified by an independent adviser to the Council; in this case the District Valuation Service (DVS) which has found that the scheme can viably deliver 1 on-site affordable housing unit. A copy of their report is appended to this report at **Appendix 5**.

8.7.2 DVS conclude that:

“On the basis of a scheme providing 1 x affordable unit, CIL at £40,551 and S106 contributions totalling £27,470, the Residual Land Value (RLV) is £593,596, which is significantly above the Benchmark Land Value which DVS have adopted. DVS therefore consider that on this basis a scheme is financially viable and should be deliverable on this site.”

8.7.3 The benefits of redeveloping the site in this manner and the need to comply with the policy constraints outweigh the requirement for 20% affordable housing in this case. The Panel may attach greater weight to the need for affordable housing in this part of the City but in doing so – and thereby rejecting this application – the Council would then need to defend an appeal where an independent Inspector is likely to attach significant weight to the DVS report (also independent).

9 **Summary**

The pub freehold was marketed for 6 months without any interest from existing pub operators and no bid was made by the community interest group during the asset of community value moratorium period. Furthermore there are alternative pubs and community buildings within the surrounding area to meet the day to day needs of the community. As such the principle of redevelopment for housing is supported by the development plan. The proposed replacement scheme is acceptable. The proposal has addressed the previous reason for refusal and appeal decision by providing acceptable garden sizes for units 1-3. Other material considerations, are not considered to outweigh the merits of family housing delivery on this site.

8 **Conclusion**

The positive aspects of the scheme are not judged to be outweighed by the negative and as such the scheme is recommended for conditional approval.

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), 4 (f) (g), 6 (a) (c), 7 (a), 9 (a) (b)

AG for 06/08/2019 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. Residential - Permitted Development Restriction (Performance Condition)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 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),

Class D (porch),

Class E (curtilage structures), including a garage, shed, greenhouse, etc.,

Class F (hard surface area)

Class G (chimneys, flues etc)

Reason: In order that the Local Planning Authority may exercise further control in this locality given the specific circumstances of the application site and in the interests of the comprehensive development and visual amenities of the area.

04. Obscure Glazing (Performance Condition)

The first floor bathroom window in the side elevation of Unit 8 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.

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

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

- i. 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 and agreed in advance);
- iv. details of any proposed boundary treatment, including retaining walls and;
- v. a landscape management scheme.

Private rear garden boundaries adjacent to the site access and car parking area shall comprise brick walls with a minimum height of 1.8m that shall be retained for the lifetime of the scheme.

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

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

06. 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.

07. 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.

08. Glazing- Soundproofing from external noise (Performance Condition)

Unless otherwise agreed in writing by the Local Planning Authority, the glazing for the residential accommodation shall be 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

Any trickle vents must be acoustically rated. The above specified 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.

09. Demolition Statement (Pre-Commencement)

Precise details of the method and programming of the demolition of the existing property shall be submitted to and approved in writing by the Local Planning Authority prior to the implementation of the scheme. The agreed scheme shall be carried out to the details as specified in the demolition programme unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of adjacent residential properties.

10. Demolition - Dust Suppression (Pre-Commencement)

Measures to provide satisfactory suppression of dust during the demolition works to be carried out on the site shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The agreed suppression methodology shall then be implemented during the demolition period.

Reason: To protect the amenities of users of the surrounding area.

11. Land Contamination investigation and remediation (Pre-Commencement & Occupation)

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.

12. 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.

13. 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.

14. Energy & Water (Pre-Commencement)

Before the development commences, written documentary evidence demonstrating that the development will achieve at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of a design stage SAP calculations and 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.

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).

15. Energy & Water (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 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of final SAP calculations and water efficiency calculator and detailed documentary evidence confirming that the water appliances/fittings have been installed as specified 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).

16. APPROVAL CONDITION - Sustainable Drainage (Pre-Commencement Condition).

No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the non-statutory technical standards for SuDS published by Defra (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason

To seek suitable information on Sustainable urban Drainage Systems as required by government policy and Policy CS20 of the Southampton Core Strategy (Amended 2015).

17. APPROVAL CONDITION Archaeological watching brief 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.

18. APPROVAL CONDITION Archaeological watching brief 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.

19. APPROVAL CONDITION Archaeological structure-recording [Pre-Commencement Condition]

No development shall take place within the site until the implementation of a programme of recording 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 recording of a significant structure is initiated at an appropriate point in development procedure.

20. 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.

21. Surface / foul water drainage (Pre-commencement)

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. The development shall proceed in accordance with the agreed details and be retained as approved.

Reason: To ensure satisfactory drainage provision for the area.

22. Sightlines specification (Pre-Commencement)

Sight lines of 2m by 2m measured at the back of footway shall be provided before the use of any building hereby approved commences, and 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 within the sight line splays.

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

23. Parking (Pre-Occupation)

The parking and access shall be provided in accordance with the plans hereby approved before the development first comes into occupation and thereafter retained as approved.

The car parking shall be allocated to each residential unit on at least a 1:1 basis. The 2 no. visitor spaces shall be made available at all times as visitor parking only.

Reason: To prevent obstruction to traffic in neighbouring roads and in the interests of highway safety.

24. Cycle parking (Performance Condition)

Before the development hereby approved first comes into occupation, the storage for bicycles shall be provided and made available for use in accordance with the plans hereby approved. The storage shall thereafter be retained as approved.

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

25. Refuse & Recycling (Performance)

Before the development hereby approved first comes into occupation, the storage for refuse and recycling shall be provided in accordance with the plans hereby approved and thereafter retained as approved. The bins shall be stored in the location as shown on the plans hereby approved and collected from within the site. At no time shall bins shall be stored on the public highway or to the front of plots 1-7.

Reason: In the interest of visual and residential amenity and highway safety.

26. Arboricultural Impact Assessment (Pre-commencement Condition)

Prior to commencement of the car port details of any crown lift works shall be submitted and agreed in writing by the Local Planning Authority. In all other respects the development hereby approved shall be carried out in accordance with the Arboricultural Impact Assessment and Protection Scheme by Hearne Arboricultural Ref JH/AIA/TPP/17/011/Rev1.

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

27. 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.