

Planning and Rights of Way Panel

Tuesday, 16th July, 2019
at 6.00 pm

PLEASE NOTE TIME OF MEETING

Conference Rooms 3 & 4 - Civic
Centre

This meeting is open to the public

Members

Councillor Savage (Chair)
Councillor Coombs (Vice-Chair)
Councillor Galton
Councillor L Harris
Councillor Mitchell
Councillor Vaughan
Councillor Windle

Contacts

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Service Lead - Planning Infrastructure and
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PUBLIC INFORMATION

ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL

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

PUBLIC REPRESENTATIONS

Procedure / Public Representations

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

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

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

MOBILE TELEPHONES:- Please switch your mobile telephones to silent whilst in the meeting

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

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

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

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

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

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

Dates of Meetings: Municipal Year 2019/2020

2019	
4 June	17 September
25 June	15 October
16 July	12 November
6 August	10 December
31 August	

2020	
14 January	31 March
11 February	23 April
10 March	

CONDUCT OF MEETING

TERMS OF REFERENCE

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

BUSINESS TO BE DISCUSSED

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

RULES OF PROCEDURE

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

QUORUM

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

DISCLOSURE OF INTERESTS

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

DISCLOSABLE PECUNIARY INTERESTS

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

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
 - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
 - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

OTHER INTERESTS

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

- Any body to which they have been appointed or nominated by Southampton City Council
- Any public authority or body exercising functions of a public nature
- Any body directed to charitable purposes
- Any body whose principal purpose includes the influence of public opinion or policy

PRINCIPLES OF DECISION MAKING

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

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

In exercising discretion, the decision maker must:

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

AGENDA

1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)

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

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

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

3 STATEMENT FROM THE CHAIR

4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

(Pages 1 - 12)

To approve and sign as a correct record the Minutes of the meetings held on 4 and 25 June 2019 and to deal with any matters arising.

CONSIDERATION OF PLANNING APPLICATIONS

5 PLANNING APPLICATION- 19/00719/FUL - QUAY 2000, HORSESHOE BRIDGE

(Pages 17 - 62)

Report of the Service Lead, Planning, Infrastructure and Development in regard to a request to vary the planning obligation set out at The Second Schedule (Waterfront Access) of the Section 106 Agreement dated the 16th November 1998 in respect of an application for a proposed development at the above address.

6 PLANNING APPLICATION - 19/00137/FUL - 224 PORTSWOOD RD (Pages 63 - 86)

Report of the Service Lead, Planning, Infrastructure and Development recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

7 PLANNING APPLICATION - 19/00735/FUL - 267-271 PORTSWOOD RD

(Pages 87 - 112)

Report of the Service Lead, Planning, Infrastructure and Development recommending that the Panel delegate approval in respect of an application for a proposed development at the above address.

8 PLANNING APPLICATION - 19/00026/FUL - NORTHBROOK ESTATE, VINCENT AVE (Pages 113 - 128)

Report of the Service Lead, Planning, Infrastructure and Development recommending that the Panel delegate approval in respect of an application for a proposed development at the above address.

9 PLANNING APPLICATION - 19/00711/FUL - 25 OXFORD STREET (Pages 129 - 138)

Report of the Service Lead, Planning, Infrastructure and Development recommending that conditional planning permission be refused in respect of an application for a proposed development at the above address.

10 PLANNING APPLICATION - 19/00392/FUL - 21 LOWER BANISTER STREET (Pages 139 - 166)

Report of the Service Lead, Planning, Infrastructure and Development recommending that the Panel refuse planning permission in respect of an application for a proposed development at the above address.

Monday, 8 July 2019

Director of Legal and Governance

Agenda Item 4

Minutes for the Panel meetings on:

- 4 June 2019: and
- 25 June 2019

Attached as appendix 1 & 2

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PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 4 JUNE 2019

Present: Councillors Savage (Chair), Coombs, Galton, L Harris, Mitchell, Vaughan and Shields

Apologies: Councillors Windle

1. **ELECTION OF VICE-CHAIR**

RESOLVED that Councillor Coombs be elected as Vice-Chair for the Municipal Year 2019/20.

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

It was noted that following receipt of the temporary resignation of Councillor Windle from the Panel, the Service Director Legal and Governance acting under delegated powers, had appointed Councillor Shields to replace them for the purposes of this meeting.

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

RESOLVED: that the minutes for the Panel meeting on 23 April 2019 be approved and signed as a correct record.

4. **PLANNING APPLICATION - 18/01659/FUL, 18/01679/MMA, 18/01964/FUL AND 18/02087/FUL - SPITFIRE QUAY, HAZEL ROAD (SIVA PLASTICS)**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that conditional planning permission be granted in respect of the applications for proposed development at the above address.

The report details the following applications:

- 18/01659/FUL, Erection of a single storey building for use as logistics office with associated car parking, following demolition of existing building;
- 18/01679/MMA, Minor material amendment sought for variation of condition 2 (Approved plans) of planning permission 16/00844/FUL for removal of columns, resizing of building footprint and canopy, installation of a gate house and relocation of office/restroom/car parking. (retrospective);
- 18/01964/FUL, Installation of a boundary fence with entrance and exit gates fronting Hazel Road and part of access road (Part Retrospective); and
- 18/02087/FUL, Construction of a transfer building and bridge to connect building to main site following demolition of units 3 and 4.

Joseph Higgins and Tina Coombs(objecting), Marle Smith and Ian Donohue (agent), Hannah Mehta (applicant), Peter Gibson-Barnfantu (Architect) (supporter) and Councillors Keogh and Houghton (ward councillors) were present and with the consent of the Chair, addressed the meeting.

The presenting officer detailed a number of updates and changes to the reports within the presentations of each the applications. The Panel requested that each of the

applications conditions be amended and gave officers an indication, listed below, of how the Panel wished for the conditional authority to be amended. It was agreed that the specific wording of any amended conditions be amended as per the Panels instruction and then presented as a courtesy to the applicant prior to any conditional planning permission.

The Panel then considered the recommendations to delegate authority grant planning permission to the Service Lead, Planning, Infrastructure and Development. Upon being put to the vote the amended recommendations for application numbers 18/01659/FUL, 18/01679/MMA, 18/01964/FUL and 18/02087/FUL were carried unanimously.

RESOLVED

1. Application 18/01659/FUL, - Erection of a single storey building for use as logistics office with associated car parking, following demolition of existing building;

The Panel delegated to the Service Lead – Planning, Infrastructure and Development to grant conditional planning permission subject to a review of the recommended planning conditions and consultation with the applicants, to include changes to conditions relating to:

- Commencement;
- flood resilience;
- operational management plan;
- Quayside Road parking and storage restrictions;
- Quayside Road pedestrian footpath;
- automated gate opening;
- site signage;
- provision of a green roof;
- landscaping;
- construction noise;
- external lighting; and
- electric car charging feasibility.

2. Application 18/01679/MMA, - Minor material amendment sought for variation of condition 2 (Approved plans) of planning permission 16/00844/FUL for removal of columns, resizing of building footprint and canopy, installation of a gate house and relocation of office/restroom/car parking. (retrospective);

The Panel delegated to the Service Lead – Planning, Infrastructure and Development to grant conditional planning permission subject to a review of the recommended planning conditions and consultation with the applicants, to include changes to conditions relating to:

- Commencement;
- flood resilience and site flood safety plan;
- operational management plan;
- Quayside Road pedestrian footpath;
- site signage;
- landscaping including bollards,
- construction noise; external lighting;
- electric car charging feasibility;

- contamination control;
- BREEAM and noise mitigation; and
- B8 storage restriction

3. Application 18/01964/FUL, Installation of a boundary fence with entrance and exit gates fronting Hazel Road and part of access road (Part Retrospective);

The Panel delegated to the Service Lead – Planning, Infrastructure and Development to grant conditional planning permission subject to a review of the recommended planning conditions and consultation with the applicants, to include changes to conditions relating to:

- Landscaping; construction noise; and
- external lighting.

4. Application 18/02087/FUL. - Construction of a transfer building and bridge to connect building to main site following demolition of units 3 and 4

The Panel delegated to the Service Lead – Planning, Infrastructure and Development to grant conditional planning permission subject to a review of the recommended planning conditions and consultation with the applicants, to include changes to conditions relating to:

- Commencement;
- operational management plan;
- site signage;
- external lighting;
- noise mitigation, and
- bridge height signage.

5. **PLANNING APPLICATION - 19/00422/FUL - HAWKESWOOD ROAD**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that conditional planning permission be granted in respect of an application for a proposed development at the above address.

Part demolition and conversion of existing building to provide a fast food restaurant (classes A3/A5) with drive thru, car parking, landscaping and associated works

RESOLVED that it was noted that the applicant had withdrawn their request to consider planning permission.

6. **PLANNING APPLICATION - 19/00235/FUL - 69-73 ANGLESEA ROAD**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Redevelopment of the site. Erection of a part two-storey and part three-storey building fronting Anglesea Road to provide 49 retirement flats (24x2 and 25x1 beds) with access from Stratton Road with associated access, parking and landscaping.

Mrs Lindsay-Anne Heathershaw (local resident objecting), Gian Bendinelli (agent), were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that the paragraph 7.8.5 of the report needed to be amended as it correctly stated the contribution for affordable housing. It was noted that this should have read as £515, 414. In addition the presenting officer detailed that there was a need for a condition to stop up a redundant access point, as set out below. In response to the Panel officers added an additional condition for cycle storage.

Upon being put to the vote the Panel confirmed the Habitats Regulation Assessment.

The Panel then considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was carried unanimously.

RESOLVED that the Panel:

- (i) confirmed the Habitats Regulation Assessment set out in Appendix 1 of the report.
- (ii) Delegated approval to the Service Lead – Planning, Infrastructure and Development Manager to grant planning permission subject to any amendments set out below and the completion of a S.106 Legal Agreement to secure:
 - a. Either a s.278 agreement or financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site – including works to both Stratton Road and Anglesea Road to improve access, visibility and pedestrian safety (where necessary) - 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. Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
 - c. 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;
 - d. Submission of a Training & Employment Management Plan committing to adopting local labour and employment initiatives, in accordance with Policies CS24 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
 - e. The submission, approval and implementation of a Carbon Management Plan setting out how the carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013);
 - f. 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, the Solent Disturbance Mitigation Project (SDMP) and the Conservation of Habitats and Species Regulations 2010 as set out in the attached Habitats Regulations Assessment;

- g. Parking permit restriction to prevent residents gaining permits for the nearby Controlled Parking Zone.
- (iii) In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Service Lead- Planning Infrastructure and Development be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.
- (iv) That the Planning and Development Manager be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

Additional conditions

CYCLE STORAGE FACILITIES (Pre-Occupation Condition)

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. The storage shall be thereafter retained as approved.

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

STOP UP REDUNDANT ACCESS (Performance)

Prior to the occupation of the development hereby approved, any redundant vehicle access to the site shall be stopped up and the kerb reinstated.

REASON: In the interests of highways safety.

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PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 25 JUNE 2019

Present: Councillors Savage (Chair), Coombs (Vice-Chair), Galton, L Harris, Mitchell, Vaughan and Windle

7. **PLANNING APPLICATION - 19/00387/FUL - BROADLANDS RD (UNIVERSITY)**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that conditional planning permission be granted in respect of an application for a proposed development at the above address.

Construction of a 130 space car park for use in association with the University of Southampton, with associated landscaping works.

Chris Buckle (local resident objecting), Councillor Savage(stakeholder objecting) Chris Patterson (agent), Kevin Monaghan (applicant), and Councillors Fielker, Mintoff and Bunday (Ward Councillors objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer distributed a sheet of amended conditions prior to the meeting. This showed minor amendments were needed for Conditions 2, 6 and 8. The presenting officer also noted, at the hearing, that an amendment would be required for Condition 7.

The Panel then considered the recommendation to grant conditional planning permission. Upon being put to the vote the recommendation was lost.

A further motion to refuse planning permission for the reasons set out below was then proposed by Councillor Mitchell and seconded by Councillor Galton.

RECORDED VOTE to refuse planning permission
FOR: Councillors Coombs and L Harris
AGAINST: Councillors Galton, Mitchell, Vaughan and Windle

RESOLVED that planning permission be refused subject to the reason for refusal set out below:

Reasons for Refusal:

Effect on Residential Amenity

The proposed car park and access would have an unacceptable impact on the adjoining residential properties at 171 to 185 Broadlands Road due to the proximity of the parking and access to these properties. The development would result in general disturbance due to comings and goings to and from the site; the starting and idling of car engines and associated emissions from vehicles. In particular, these impacts would erode the enjoyment of the private gardens that directly adjoin the site and be at odds with the quiet and tranquil character that residents have the right to expect. The proposal would, therefore, prove contrary to the provisions of policies SDP1 (i) (iii),

SDP7 (v) and SDP9 (v) of the City of Southampton Local Plan Review 2nd Revision (2015) and policy CS13 of the Southampton Core Strategy Development Plan Document (2015).

NOTE: Councillor Savage declared an interest and withdrew from the Panel for this item.

8. **PLANNING APPLICATION - 19/00623/FUL - 33 BASSETT GREEN CLOSE**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that conditional planning permission be granted in respect of an application for a proposed development at the above address.

Erection of a single storey rear extension and raised terrace, including re-profiling of rear garden. Alteration to roof including hip to gable front and rear dormers to facilitate loft conversion. (Resubmission of ref: 19/00303/FUL).

Barry Smith (local residents/ objecting) was present and with the consent of the Chair, addressed the meeting.

The presenting officer reported the need for additional conditions in regard to the ground levels of the rear garden and a privacy screen for the raised terrace, as set out below. In response to concerns raised by the Panel it was agreed that a further condition governing working hours should be added to the application, set out below.

The Panel then considered the recommendation to grant conditional planning permission. Upon being put to the vote the recommendation was carried unanimously.

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

Additional Conditions

Condition 6.

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.

Condition 7:

Prior to completion of the raised terrace area details of a privacy screen to be installed along the western edge of the terrace shall be submitted to and agreed in writing by the Local Planning Authority. Prior to first use of the terrace, the privacy screen shall be installed in accordance with the approved details and thereafter retained and maintained.

REASON: to protect the private amenities of the adjoining occupiers.

Condition 8:

Prior to works being undertaken to raise the ground levels of the rear garden, a survey and sectional drawing showing the existing and proposed levels of the rear garden relative to the height of the existing means of enclosure to both side boundaries shall be submitted to and agreed in writing with the local planning authority. The plan should also include details of the height, alignment and design of the proposed retaining wall. The works to raise the level of the garden shall then be undertaken in accordance with the approved details.

REASON: To ensure the works remain in character with the area and have a finished height that does not compromise the privacy of neighbouring occupiers.

NOTE: Councillor Harris declared an interest and withdrew from the Panel for this item

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INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 16th July 2019 - 6pm Conference Rooms 3 and 4, 1st Floor, Civic Centre

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
5	SM	OBJ	15	19/00719/FUL Quay 2000, Horseshoe Bridge
6	SB	CAP	5	19/00137/FUL 224 Portwood Rd
7	SB	DEL	5	19/00735/FUL 267-271 Portwood Rd
8	SB	DEL	5	19/00026/FUL 4 Northbrook Estate, Vincent Av
9	JF/AA	REF	5	19/00711/FUL 25 Oxford Street
10	JF/AA	REF	5	19/00392/FUL 21 Lower Banister Street

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

Case Officers:

SM – Simon Mackie

SB – Stuart Brooks

JF – John Fanning

AA – Andy Amery

Southampton City Council - Planning and Rights of Way Panel

Report of Service Lead – Planning, Infrastructure & Development

Local Government (Access to Information) Act 1985

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

Background Papers

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

2. Statutory Plans
 - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Plan (Adopted 2013)
 - (b) Amended City of Southampton Local Plan Review (Adopted March 2015)
 - (c) Local Transport Plan 3 2011-2031
 - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
 - (e) Adopted City Centre Action Plan (2015)
 - (f) Community Infrastructure Levy Charging Schedule (2013)
 - (g) Bassett Neighbourhood Plan (Adopted 2016)

3. Statutory Plans in Preparation

4. Policies and Briefs published and adopted by Southampton City Council
 - (a) Old Town Development Strategy (2004)
 - (b) Public Art Strategy
 - (c) North South Spine Strategy (2004)
 - (d) Southampton City Centre Development Design Guide (2004)
 - (e) Streetscape Manual (2005)
 - (f) Residential Design Guide (2006)
 - (g) Developer Contributions SPD (September 2013)
 - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
 - (i) Women in the Planned Environment (1994)
 - (j) Advertisement Control Brief and Strategy (1991)
 - (k) Biodiversity Action Plan (2009)
 - (l) Economic Development Strategy (1996)
 - (m) Test Lane (1984)
 - (n) Itchen Valley Strategy (1993)

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

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

5. Documents relating to Highways and Traffic

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

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

6. Government Policy Planning Advice

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

7. Other Published Documents

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

Agenda Item 5

Planning and Rights of Way Panel 16th July 2019
Planning Application Report of the Service Lead - Infrastructure, Planning & Development

Application address: Quay 2000, Horseshoe Bridge, Southampton			
Proposed development: Closure of waterside walkway for public use:- Request to vary the planning obligation set out at The Second Schedule (Waterfront Access) of the Section 106 Agreement dated the 16th November 1998, allowing the Waterfront Access (the Walkway) gates to remain locked thus removing the ability for the general public to access the walkway for recreational purposes at all times.			
Application number:	19/00719/FUL	Application type:	FUL
Case officer:	Simon Mackie	Public speaking time:	15 minutes
Last date for determination:	N/A	Ward:	Portswood
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr Gordon Cooper Cllr Lisa Mitchell Cllr John Savage
Referred to Panel by:	N/A	Reason:	N/A
Applicant: Quay 2000 RTM Company Ltd		Agent: Robert Tutton Town Planning Consultants Ltd.	

Recommendation Summary	<ol style="list-style-type: none"> 1. Object to Submitted Request 2. Delegate to Service Lead – Infrastructure Planning & Development to vary the Planning Obligation and secure that the Waterfront Access (the Walkway) is reopened to provide public access over the walkway during the specified night-time hours.
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Community Infrastructure Levy Liable	Not applicable
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Reason for Granting Permission to Partially Vary the Planning Obligation

The closure of the Walkway is in breach of the Section 106 Agreement, dated the 16th November 1998 and contrary to the Council’s Planning Policy CLT 10 and CS 12 – Accessible & Attractive Waterfront, however this has to be balanced with the safety and residential amenity of the residents of Quay 2000 and the consultation response has demonstrated a distinct split between those in support of retaining the closure of the Walkway, which in the majority are residents of Quay 2000 and those opposed to the Walkway’s continued closure, referring to the importance of retaining access to the city’s waterfront.

Taking the overall result of the validated evidence provided and all consultation responses, coupled with the importance of not undermining the Council’s Planning Policy CLT 10 and

CS 12 – Accessible & Attractive Waterfront citywide, it is judged that the continued permanent closure of the Walkway is not an acceptable solution in planning terms and the issues of anti-social behaviour should be mitigated in partnership with all responsible bodies and authorities.

Therefore in seeking to mitigate the anti-social behaviour issues, a balanced solution to the proposed problem is suggested, whereby the Walkway is reopened to provide public access over the route but only during the hours of daylight. Such a solution would require the submission, by the Freehold Landowner / Right To Manage Company, of a Waterfront Access Management and Maintenance Plan, detailing within the methodology of how the night time closure of the Walkway would be managed and maintained in perpetuity, which would be secured by way of a variation to the Section 106 Agreement. For the avoidance of doubt the Waterfront Access Management and Maintenance Plan, would be subject to Council approval and any costs incurred by the Council in varying the original Section 106 Agreement will be covered by the applicant.

Appendix attached			
1	Development Plan Policies	2	Original Section 106 Agreement
3	Hampshire Constabulary Consultation Response	4	Danesdale Land Limited (Freehold Landowner) Consultation Response
5	Applicants Response to Hampshire Constabulary Consultation Response (see Appendix 3)		

Recommendation in Full

1. Reject the request to vary the planning obligation as contrary to CLT10 – Public Waterfront and Hards and CS 12 – Accessible & Attractive Waterfront;
2. Authorise the Service Lead – Infrastructure, Planning & Development to enter into a s.106 Deed of Variation (DoV), at the applicant’s expense, in accordance with the following heads of terms:
 - a. Amend the obligation to provide a waterfront walkway/cycleway for recreational purposes at all times subject to the Management Plan;
 - b. Submit a Management Plan for approval in writing by the Council within 1 month from the completion of the DoV; the Management Plan to ensure that the gate is unlocked in the morning (7am) and locked in the evening (7pm) every day, with an ongoing commitment to retaining waterfront access for wider public use and compliance with the approved Management Plan for the lifetime of the Development;
 - c. The gate to remain unlocked as agreed and no further means of enclosure erected on the land without prior written approval;
3. Authorise the Service Lead – Infrastructure, Planning & Development to take enforcement action in respect of any breach of the extant planning obligation if the DoV is not completed within 3 months from the date of this Panel meeting and/or the Management Plan hasn’t been agreed as required; and,
4. Authorise the Service Lead – Infrastructure, Planning & Development to take enforcement action in respect of any breach of the proposed planning obligation if the gate is not unlocked in line with the agreed amendment within 1 month from the written approval by the Council of the Management Plan.

1. The site and its context

1.1 This request relates to a waterfront flatted development on Horseshoe Bridge, known as Quay 2000.

1.2 The planning consent for the construction of the flats, subject to the Section 106 Agreement, was granted on 16th November 1998, under reference 97/0581/2084/W and was registered as a land charge on the 20th November 1998, with the following planning obligation included at:

- Schedule 2 of the section 106 agreement provides for a footpath to be publicly accessible in perpetuity and maintained;

“To provide and thereafter maintain in accordance with a programme agreed with the council a waterfront walkway / cycleway within the 4m wide area of land shown coloured blue on plan 2 (“the walkway”)

“The Owner hereby grants to the council its successors in title all those authorised by it and the general public at large in perpetuity the right to use the land shown coloured blue on plans 2 and the walkway for recreational purposes at all times.”

1.3 Danesdale Land Limited are the current freehold landowner of the Quay 2000 site, with the long leaseholders of the building setting up a Right-to-Manage Company in 2008, which subsequently took over legal responsibility for the Freeholders management functions at the site.

1.4 The Walkway closure occurred in August 2018 and was as a result of the outlined incidents of anti-social behaviour recorded in the original submission by the Directors of the Quay 2000 Right-to-Manage Company Limited. As a response to this closure the Council wrote to the freehold landowner seeking a request to vary the relevant planning obligation, to allow the matter to be assessed and determined, subject to a full formal review and consultation. A formal request to vary the relevant planning obligation was submitted, after ongoing communication and correspondence with the various parties, on the 16th April 2019.

2. Proposal

2.1 A request has been lodged on behalf of the residents of Quay 2000 for the closure of the on-site waterside walkway for public use. Their request is to vary the planning obligation set out at The Second Schedule (Waterfront Access) of the Section 106 Agreement dated the 16th November 1998, allowing the Waterfront Access (the Walkway) gates to remain locked thus removing the ability for the general public to access the walkway for recreational purposes at all times.

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 within policies CLT10 and CS 12 - Accessible & Attractive Waterfront of the Core Strategy.

3.2 All waterfront development sites should, where appropriate, achieve greater integration between the city and its waterfront through “improving the physical connections to and from the waterfront including provision of well designed, attractive and safe public access to the waterfront”

3.3 Paragraph 91 b) of the National Planning Policy Framework states:

Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas;

and is also supported by paragraph 127 f) which states that:

Planning policies and decisions should ensure that developments:

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

4. Relevant Planning History

4.1 The original Section 106 Agreement was completed in the 16th November 1998.

4.2 The current closure of the Walkway was initiated by the Quay 2000 RTM Company Ltd in August 2018 and remains closed.

5. Consultation Responses and Notification Representations

5.1 Following the receipt of the request a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement on the 3rd May 2019 and erecting a site notice on the 3rd May 2019. A further consultation was undertaken when further information was made publically available from the 17th June 2019. At the time of writing the report, 90 representations have been received from surrounding residents. The following is a summary of the points raised:

5.2 Those in support of the proposal, generally residents of Quay 2000, were concerned that the anti-social behaviour experienced, as supported within the applicants submission, would resume should the Walkway be required to be re-opened

Response

The issue of Anti-Social Behaviour could be a reason to depart from the Council's core Planning Policies, although it is for all parties / relevant bodies to find mitigation, where possible. The consultation response from Hampshire Constabulary identified that the Walkway did not play a part in over half of the incidents reported, with many of the incidents starting on the slipway and adjacent grassed area. As such, less weight is afforded to the applicants arguments when assessed in the round against policies CLT10 and CS12.

- 5.3 Those objecting, including two ward councillors, raise concerns that access to this area of waterfront is an issue citywide and closing access to this water frontage would create a difficult precedent and undermine the Council policy to re-connect with the city's water frontage.

Response

Although the Council's policy is important and should be applied, due to the nature of the Walkway, in that, it merely wraps around the development site and the location of the more significant river walkway adjacent to the site, there is more scope to seek a compromise on this occasion, given the material considerations. So while a full closure should not be supported it seems reasonable that a more flexible solution is sought, so as to not undermine the waterfront policy but at the same time allow a more secure environment for the residents of Quay 2000. This is discussed in more detail in the Planning Consideration section of this report.

Consultation Responses

- 5.4 **Hampshire Constabulary** – the summarised response is that, since the closure of the gates, incidents in the area have still been reported and of all of the actual anti-social behaviour recorded the majority was instigated on the slipway and adjacent grassed area, with the “boardwalk” not playing a part in half of the incidents. Overall, the data held by Hampshire Constabulary *“does not show that the boardwalk has a disproportionate effect on the levels of crime and anti-social behaviour in the area, when compared with any other local transit route.”*

The full response is set out at Appendix 3 (Hampshire Constabulary) and the Applicants Response to the Hampshire Constabulary consultation response is at Appendix 5

- 5.5 **SCAAPS (Southampton Commons & Parks Protection Society)** - have also strongly objected to the continuing closure of the walkway commenting that *“the walkway is an important continuation of the small Priory Road Hard public open space giving local people access to the river front for recreation.* The reason advanced by the applicant for removal of the legal obligation is insufficient to justify denying the public an opportunity to enjoy access to an attractive stretch of river frontage

- 5.6 **Ward Councillors** – two of three Ward Councillors (Cllr Savage & Cllr Mitchell) have responded and commented that they objected to the request and in summary pointed out that:

“We don't have enough access to the waterfront in Southampton and the removal of more is unacceptable.

Whilst I sympathise with residents who have been bothered by anti-social behaviour this is a problem that the whole of St Denys is facing at the moment.”

“Access to the water and the views available is an important amenity to the local population. All waterside developments should have access to water frontage for this reason and the removal of this right as standard may undermine the planning principle. In general planning terms, the threat of ASB is not normally enough to threaten a development. Mitigation should take place.

At the very least, the river access should be maintained through hours of daylight for the amenity enjoyment of local people as per the original plans.”

6.0 Planning Consideration Key Issues

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

- Accessible & Attractive Waterfront
- Impact on waterfront access;
- Residential amenity;
- Precedent;
- Panel Options;

6.2 CS 12 - Accessible & Attractive Waterfront of the Core Strategy

6.2.1 The Council has a duty to enforce its own planning policies and ensure that these are not undermined disproportionately by individual decisions for individual sites. The retention of waterside access is a policy requirement and was a material consideration when the original Quay 2000 planning application was determined and remains a core planning policy requirement for all new waterfront development.

6.3 Impact on waterfront access

6.3.1 The Panel need to determine the impacts that the specific proposal have on the availability of waterfrontage within the city and to the general public. In this specific scenario the Walkway wraps only around the site and currently does not directly link up with any other waterfront walkway, save for the slipway to the north and Horseshoe Bridge to the south.

6.4 Residential amenity

6.4.1 Anti-Social Behaviour is a material consideration (policy SDP 10 Safety & Security) but, given the need for waterfront access in the city and lack of strong objection from the police, should not be a sole reason to depart from Council policy and it is the duty of all relevant parties / bodies to mitigate the impact of these issues.

6.5 Precedent

6.5.1 Panel need to be aware that any closure of waterfront access may undermine the city-wide policy and set precedents that are difficult to resist on other waterfront developments and sites.

6.6 Panel Options

6.6.1 Panel has at least three options available to it

1. Do nothing and allow gates to remain closed and waterfront access be denied, whether on a temporary or permanent basis
2. Refuse request and enforce current planning obligation by way of injunction
3. Allow the compromise position, which allows for the waterfront access to be provided during daylight hours and closed during the hours of darkness, subject to a Variation to the original Section 106 Agreement and secured by the submission and approval of Waterfront Access Management & Maintenance Plan

6.6.2 Option 3 is recommended

7. Summary

7.1 Anti-social behaviour is an issue and it is unfortunate for all residents who have to experience this, however, it seems that in this situation much of the anti-social behaviour experienced occurs mainly at night, during the hours of darkness and also stems from the Slipway area adjacent to the site and not from the Walkway itself, albeit this may not offer any comfort for the residents who experience the anti-social behaviour first hand. However, having reviewed the consultations and given weight to all, it is judged on balance, that to allow the closure of the Walkway on a permanent basis would not be a reasonable or proportionate decision to take and will deprive the wider population from public access to the city's waterfront.

7.2 However, even though a full closure is not reasonable, on balance allowing the closure of the Walkway during night time hours will mitigate the impact of much of the anti-social behaviour but will also not undermine the Council's policy of access to the city's waterfront. As no details are provided as to how the gates would be locked / opened and maintained, it is proposed that a management plan is submitted to the Council within for approval and implementation, detailing how the gates would be managed and maintained.

8. Conclusion

8.1 It is therefore recommended that the request to fully close the Walkway is rejected

8.2 However, allow a partial closure of the Walkway, during night time hours, subject to a Variation to the original Section 106 agreement, the details of which will be set out within the submission and subsequent approval of a Waterfront Access Management and Maintenance Plan, secured within the Deed of Variation to the original Section 106 Agreement. All costs relating to the variation and provision of night-time closure should be borne by the applicant.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1 (a-d) 2 (b) & (d) 4 (g) 6 (a) & (b)

SM for 16/07/19 PROW Panel

Application 19/00719/FUL

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS25 The Delivery of Infrastructure and Developer Contributions

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

CLT10 Public Waterfront and Hards

CLT11 Waterside Development

CLT12 Waterside Open Space

SDP10 Safety & Security

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Other Relevant Guidance

The National Planning Policy Framework (2012)

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Application 19/00719/FUL

APPENDIX 1

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS25 The Delivery of Infrastructure and Developer Contributions

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

CLT10 Public Waterfront and Hards

CLT11 Waterside Development

CLT12 Waterside Open Space

SDP10 Safety & Security

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Other Relevant Guidance

The National Planning Policy Framework (2012)

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[01/95] REV

THIS DEED dated 16th November 1998

is made between

- (1) 'the Council' SOUTHAMPTON CITY COUNCIL of Civic Centre, Southampton
- (2) 'the Owner' ROXAN CONSTRUCTION LIMITED of 34 Padwell Road, Southampton SO14 6RA
- (3) 'the Mortgagee' BARCLAYS BANK PLC of PO Box 612, Ocean Way, Ocean Village, Southampton SO14 2SB

PARTICULARS

- Part 1 the Site ALL THAT land known as Belsize Boatyard, Priory Road, St. Deny's, Southampton more particularly delineated and edged red on the plan 1 attached hereto
- Part 2 Planning Application Planning Application Reference Number 970581/2084/W for the erection of 50 no. flats (42 x2 bed, 8x1 bed) and associated car parking
- Part 3 the Development The development of the Site in the manner and for the uses specified in the Planning Application
- Part 4 Planning Permission Draft Planning Permission being Annex 1 attached hereto in respect of the Planning Application (which shall be subject to such conditions as may from time to time be in force)
- Part 5 The Act The Town and Country Planning Act 1990
- Part 6 "Housing Site A" 366-368A Portswood Road, Southampton more particularly delineated and edged red on Plan A attached hereto
- Part 7 "Housing Site B" 5 Lawn Road, Southampton more particularly delineated and edged red on Plan B attached hereto
- Part 8 "Housing Site C" Land adjacent to 20 Eastfield Road, Southampton more particularly delineated and edged red on Plan C attached hereto
(collectively called "the Housing Sites")

DRAFT

Application No. 970581/2084/W

DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning General Development Order 1988

**DYER AND SEY LIMITED
UNIT A WARWICK COURT 32 LEIGH ROAD
EASTLEIGH
HANTS SO50 9DT**

In pursuance of its powers under the above Acts and Order, the Southampton City Council, as the District Planning Authority, hereby gives notice that the application described below is:

CONDITIONALLY APPROVED

Proposal	ERECTION OF 50 NO.FLATS (42 X 2 BED, 8 X 1 BED) AND ASSOCIATED CAR PARKING
Site Address	BELSIZE BOATYARD PRIORY ROAD ST DENYS SOUTHAMPTON
Application No	970581/2084/W

In accordance with the details submitted with the FULL Application No 970581/2084/W subject to the following conditions:-

01

The development hereby permitted shall be begun not later than five years from the date on which this planning permission was granted.

REASON

To comply with s.91 of the Town and Country Planning Act 1990.

02

The development hereby approved shall be implemented solely in accordance with the following plans or documents received by the Local Planning Authority.

Drawing nos.....

REASON

To define the consent and for the avoidance of doubt.

03

Full details of the manufacturers, types and colours of the external materials to be used, including samples if required, shall be submitted to and approved by the Local Planning Authority before development commences.

REASON

In order to control the appearance of the development in the interests of visual amenity.

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DRAFT

04

Full details of the public art works which shall be incorporated within the redevelopment proposals shall be submitted to and agreed by the Local Planning Authority prior to the development commencing. Such works shall be fully implemented prior to the occupation of the penultimate dwelling hereby permitted. The art works shall thereafter be maintained at all times to the reasonable satisfaction of the Local Planning Authority and retained for the benefit of the public.

REASON

To ensure the provision of public art works in the interests of the visual amenities of the area.

05

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 archaeology of the site is properly investigated.

06

No development shall be commenced until details of all means of enclosure on the site have been submitted to and approved by the Local Planning Authority. Such detailed scheme shall be implemented before the development is brought into use. The means of enclosure shall subsequently be retained to the satisfaction of the Local Planning Authority.

REASON

In the interests of the visual amenities of the area and to protect the amenities and privacy of occupiers of neighbouring properties.

07

Details of satisfactory facilities to be provided for the storage and removal of refuse from the flats shall be submitted to the Local Planning Authority prior to the commencement of any of the development hereby permitted. The agreed facilities shall be completed and made available prior to the occupation of any of the flats and shall thereafter remain available for that purpose at all times to the satisfaction of the Local Planning Authority.

REASON

In the interests of visual amenity, the amenities of future occupiers of the development and the amenities of occupiers of nearby properties.

08

Before any dwelling unit hereby approved is occupied, both the on-site car parking and a proper vehicular access relating to it shall be provided to the satisfaction of the Local Planning Authority. The car parking shall thereafter be retained and not used for any trade, business or industrial use.

REASON

To ensure provision of vehicular access and car parking, to avoid congestion in the adjoining area and to protect the amenities of the area.

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09

The garages and/or parking spaces shown on the approved plans shall only be used in connection with the dwelling units hereby approved and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

REASON

To ensure adequate on-site car parking provision for the approved dwelling units remains available for that purpose and to prevent parking on the adjoining highway.

10

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

REASON

In the interests of highway safety.

11

Details of the provision of facilities for the parking and storage of bicycles and motorbikes in accordance with the City Council's adopted standards shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the development hereby permitted. The approved facilities shall thereafter be provided in a phased manner to first be agreed with the Local Planning Authority and shall thereafter be retained at all times for those purposes.

REASON

To secure a properly planned development.

12

No habitable accommodation shall have a floor level less than 3.486m above Ordnance Datum Newlyn and no car parking will be at a level below that of the carriageway of Priory Road at its junction with Dukes Road.

REASON

To protect the occupiers of the proposed accommodation from the likelihood of flooding.

13

Other than for the filling of the existing slipway no reclamation shall take place beyond the existing reclaimed area of the site which shall for the avoidance of doubt be as identified on RJS drawing no. 97/12/04/403 (Rev.B).

REASON

To prevent the encroachment of the site onto the adjacent mudland to the detriment of the open character of the river, the amenities of recreational users of it and its nature conservation value and contrary to the provisions of the City of Southampton Local Plan.

14

Details of the proposed drainage of the site shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the works hereby permitted.

REASON

To secure properly planned development and to prevent the pollution of the adjacent river environment.

DRAFT

15

Details of the design and construction of the quay wall where it terminates adjacent to both the Priory Hard and the existing river bank at its downstream end shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the works hereby permitted. The quay wall shall thereafter be constructed wholly in accordance with that agreed scheme.

REASON

To secure properly planned development.

16

All fill material shall be confined to inert, non-toxic, non-putrescible material.

REASON

To prevent pollution of the water environment and to ensure a safe environment for the occupiers and other users of the site.

17

Details of the design and materials of the proposed hand rail, lighting, surfaces and of all street furniture to the waterfront walkway/cycleway and a programme for its construction shall be submitted to and agreed by the Local Planning Authority prior to the commencement of any of the works hereby permitted. The walkway/cycleway shall be constructed and made available for use wholly in accordance with the agreed scheme and shall thereafter be maintained at all times to the satisfaction of the Local Planning Authority.

REASON

In the interests of visual amenity and of public safety.

18

Details of all external lighting and a programme for its provision shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development hereby permitted. No light fitting shall in any case be so designed or sited as to allow light to fall directly onto the adjacent river.

REASON

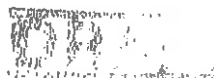
To ensure that the application site is adequately lit in the interests of the amenity and safety of its occupants and other users and in such a manner that is not prejudicial to the character of the river, its recreational use and the safety of navigation.

19

Details of lifesaving equipment to be provided in association with the proposed waterfront walkway/cycleway, a programme for its provision and arrangements for its subsequent maintenance shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the development hereby permitted.

REASON

In the interests of public safety.



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20

Full longitudinal cross-sections of the proposed waterfront walkway/cycleway which shall include details of the means of addressing all changes in levels along its length and between it and any adjacent land shall be submitted to and agreed by the Local Planning Authority prior to the commencement of any of the development hereby permitted.

REASON

To secure properly planned development and in the interests of public safety and access.

21

Details of the proposed method of piling to be undertaken shall be submitted to and approved by the Local Planning Authority prior to the commencement of any of the development hereby permitted. Piling shall not in any case be undertaken on the site other than between the hours of 8.00 am to 6.00 pm Monday to Saturday and not at all on Sunday, unless otherwise first agreed in writing with the Local Planning Authority.

REASON

To protect the amenities of nearby residents.

22

The approved landscaping scheme shall be implemented wholly in accordance with the agreed timetable. Any trees, shrubs, seeded or turfed areas which within a period of 10 years from the date of planting die, fail to establish, are removed or become damaged or diseased shall be replaced by the Developer in the next planting season with others of 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 planing. The approved scheme shall be carried out before the penultimate flat is occupied or the developer leaves the site, whichever is the sooner.

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 to reflect the anticipated establishment difficulties associated with the contaminated ground conditions and exposed location of the site.

23

A detailed scheme to deal with the contamination of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any of the development hereby permitted. That scheme shall also include such other additional investigation and monitoring as might be required by the Local Planning Authority, management arrangements for any underfloor mechanical ventilation equipment and measures for the protection of services and utilities within the site. The agreed scheme shall be fully implemented and completed before any of the dwellings hereby permitted is first occupied.

REASON

To ensure a safe environment for the occupiers and other users of the site.

DRAFT

24

Prior to the commencement of any of the development hereby permitted, the size, design, location and contents of a sign to be erected at the northern end of the proposed public walkway/cycleway shall be agreed with the Local Planning Authority. The sign shall advise of the restrictions to access represented by the steps at the southern end of the walkway/cycleway and shall be erected prior to the walkway/cycleway first being available for use.

REASON

For the convenience of users of the walkway/cycleway.

25

No development hereby permitted shall be commenced until the Local Planning Authority have approved:

(i) a specification of the type of construction proposed for the roads, footpaths and the riverside footpath/cycleway including all relevant horizontal cross-sections and longitudinal sections showing existing and proposed levels together with details of street lighting and the method of disposing of surface water.

(ii) a programme for the making up of the roads and footpaths and the riverside footpath/cycleway.

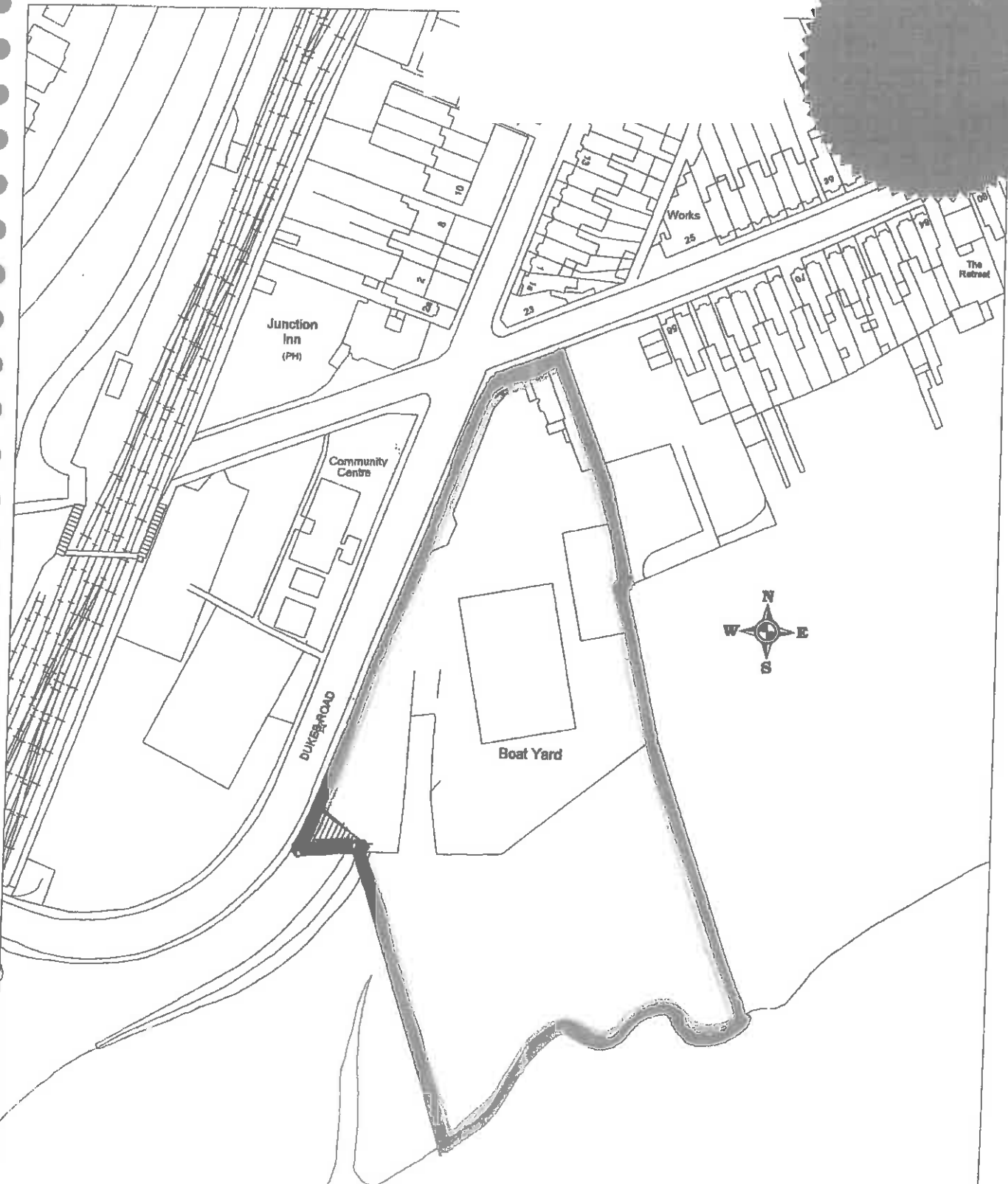
REASON

To ensure that the roads are constructed to an adoptable highway standard.

Mark Luken
Head of Planning and Development Management

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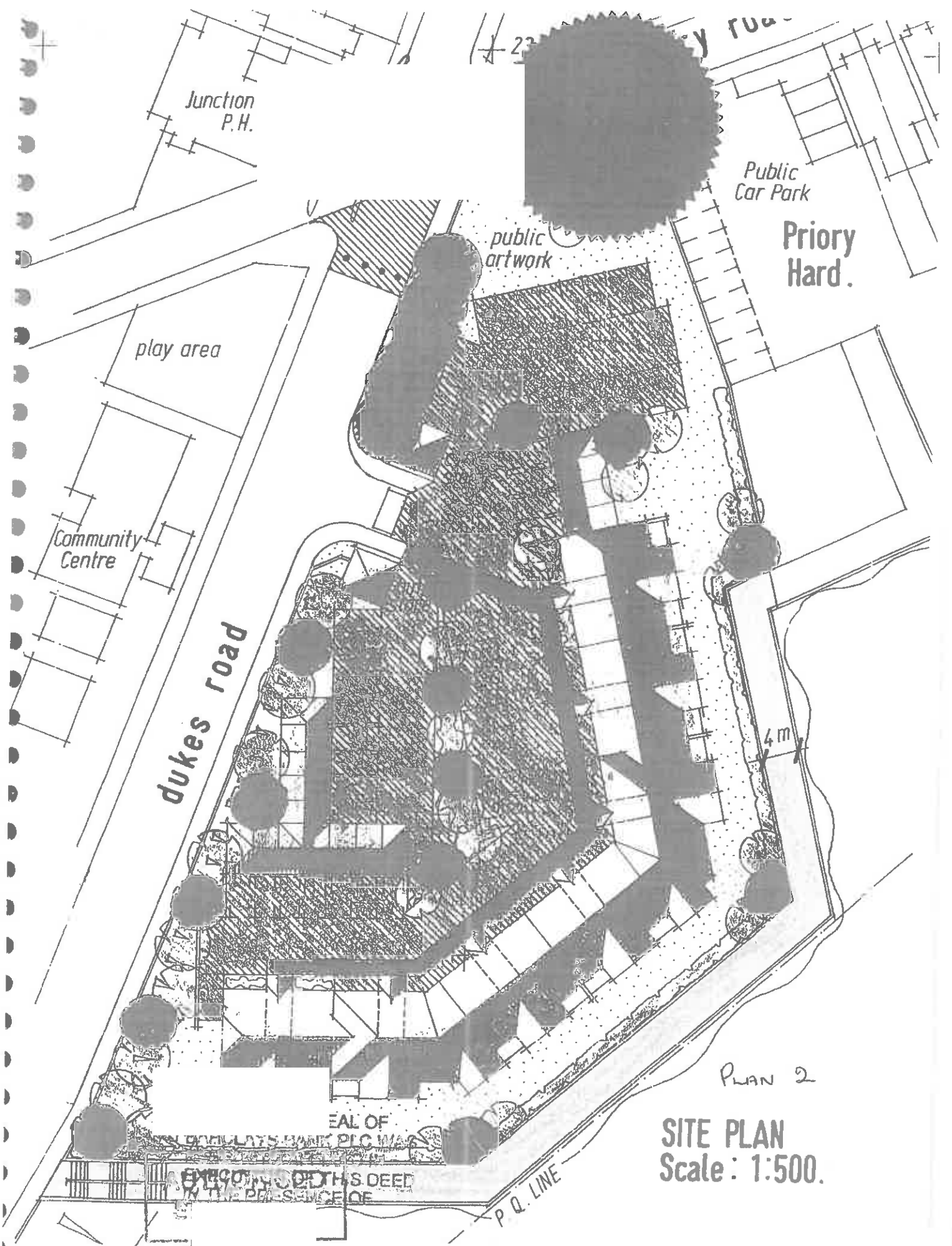


**AUTHORISED
SIGNATORY**

THE COMMON SEAL OF
BARCLAYS BANK PLC WAS
HEREUNTO AFFIXED IN
EXECUTION OF THIS DEED
IN THE PRESENCE OF

PLAN 1

.....
Witnessing Officer



PLAN 2
 SITE PLAN
 Scale: 1:500.

366-368A PORTSWOOD ROAD.



THE COMMON SEAL OF
BARCLAYS BANK PLC WAS
HEREUNTO AFFIXED IN
EXECUTION OF THIS DEED
IN THE PRESENCE OF

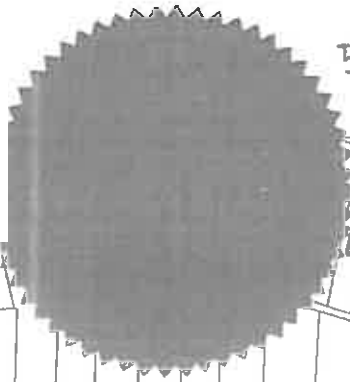
Authorised Sealing Officer

A SIGNATORY

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5 LAWN ROAD.



THE COMMON SEAL OF
B. POLYCLAYS BANK PLC WAS
HEREUNTO AFFIXED IN
EXECUTION OF THIS DEED
IN THE PRESENCE OF

SIGNATURE

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THE COMMON SEAL OF BARCLAYS BANK PLC WAS HEREUNTO AFFIXED IN EXECUTION OF THIS

AUTH SIGN



- Part 9 "the Dwellings" 4x3 bed houses to be provided at Housing Site A;
9x1 bed flats to be provided at Housing Site B
2x2 bed, 2x3 bed houses to be provided at Site C
- Part 10 "the Housing Association" Western Challenge Housing Association Limited whose registered office is at Hengistbury House, 35 Purewell, Christchurch, Dorset, BH23 1EH

WHEREAS

- (1) The Council is the local planning authority for the purposes of the Act for the area within which the Site is situated and by whom the obligations contained in this Deed are enforceable
- (2) The Owner is the owner in fee simple of the Site save for the area hatched black on Plan 1 subject to restrictive covenants and subject to a Mortgage in favour of the Mortgagee dated 4th March 1997
- (3) By a Statutory Declaration dated the 3rd day of November 1998 the Owner claims possessory title to the area hatched black on Plan 1
- (4) The Owner is the owner in fee simple of Housing Site A, Housing site B and Housing Site C subject to restrictive covenants and subject to Mortgages in favour of the Mortgagee dated 14th July 1998, 12th December 1997 and 1st October 1998 respectively
- (5) The Planning Application was made to the Council for the Development by the Owner
- (6) The Council has resolved that the Planning Permission be granted in accordance with the Planning Application subject to the making of this Agreement without which planning permission for the Development would not have been granted

NOW THIS DEED WITNESSETH as follows:-

- 1 This Deed is made pursuant to Section 106 of the Act and is a planning obligation for the purposes of that Section
2. It is agreed and declared as follows:-
 - 2.1 Where the expression "the Council" "the Owner" and "the Mortgagee" appear they shall include its and their successors in title and assigns
 - 2.3 The covenants contained in this Agreement shall take effect upon the grant of the Planning Permission PROVIDED THAT in the event of the Owner not implementing the Planning Permission by the carrying out of specified operations as defined by Section 56(4) of the Act nothing in this Agreement shall oblige the Owner to carry out any works or pay any monies to the Council
 - 2.4 If the Planning Permission granted pursuant to the Planning Application shall expire before the Development is begun as defined above or shall at any time be revoked this Agreement shall forthwith determine and cease to have effect.
 - 2.5 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than one relating to the Development as specified in the Planning Application) granted (whether or not on appeal) after the date of this Agreement
 - 2.6 The Council will upon the written request of the Owner at any time after the obligations of the Owner under this Agreement have been fulfilled issue written confirmation thereof and thereafter cancel all related entries in the Register of Local Land Charges
 - 2.7 This Agreement is a local land charge and shall be registered as such
- 3 The Owner shall pay the Council's costs for the preparation and completion of this Agreement
- 4 Nothing contained in this Agreement shall prejudice or affect the Council's rights powers duties and obligations in the exercise of their functions as a Local Authority and the rights powers duties and obligations of the Council under all public and private statutes byelaws and regulations
- 5 THE OWNER covenants with the Council to observe and perform the restrictions and obligations set out in the Schedules below:

First Schedule Affordable Housing

Second Schedule Waterfront Access

Third Schedule Play Area

PROVIDED THAT the obligations shall not be enforceable against the Owner or its successors in title once it or they have parted with the whole of its or their respective interests in the Site and the Housing Sites and for the avoidance of doubt the obligations contained in the Second and Third

Schedules to this Deed shall only apply to the Owner for the time being of the Site and not the Housing Sites

- 6 THE MORTGAGEE hereby consents to the completion of this Deed and acknowledges that subject as herein provided the Site shall be bound by the restrictions and obligations contained in this Deed but no liability to perform the obligations shall accrue to the Mortgagee by virtue of it entering into this Deed
- 7 No liability to perform the obligations under this Deed shall fall on any individual leasehold owners of the flats erected on the Site pursuant to the Planning Permission but only in so far as they do not constitute the freehold owner of the Site or any part of it

EXECUTED AS A DEED

THE FIRST SCHEDULE

1. On the implementation of the Planning Permission the Owner shall transfer Housing Site A for the consideration of £52,000, Housing Site B for the consideration of £108,000 and Housing Site C for the consideration of £57,000 to the Housing Association on the following terms:-
 - (a) the transfers to the Housing Association shall contain the following provisions:-
 - (i) the grant by the Transferor to Transferee of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Dwellings
 - (ii) a covenant not to use the Housing Sites otherwise than for the purposes of housing and the Dwellings constructed on the Housing Sites shall be used for the purposes of providing housing to persons in need who are unable to afford to buy or rent at market values and market rents provided that if any current or future mortgagee in possession of the Housing Sites (or any of them) deems it necessary to dispose thereof or any part thereof it may do so after which the provisions of this paragraph 1 (a) (ii) shall cease to have effect in relation to the land disposed of which may at all times thereafter be used free from those provisions but this paragraph 1(a) (ii) shall continue in full force and effect in relation to any of the Housing Sites or any part thereof which have not been so disposed of

THE SECOND SCHEDULE
(Waterfront Access)

- 2.1 To provide and thereafter maintain in accordance with a programme agreed with the Council a waterfront walkway/cycleway within the 4 metres wide area of land shown coloured blue on Plan 2 ("the Walkway")
- 2.2 The Owner hereby grants to the Council its successors in title all those authorised by it and the general public at large in perpetuity the right to use the land shown coloured blue on Plans 2 and the Walkway for recreational purposes at all times

THE THIRD SCHEDULE
(Play Area)

The Owner will pay the sum of £30,000.00 to the Council on or before the occupation of the 25th flat in the Development or one year from the commencement of the Development whichever is the sooner as a contribution in respect of the off-site provision of an equipped play area

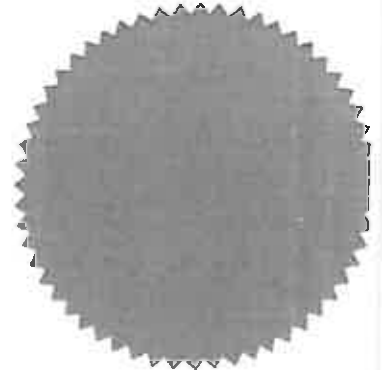
IN WITNESS whereof the parties have executed this agreement as a Deed the date and year first before written

THE COMMON SEAL OF SOUTHAMPTON CITY COUNCIL was hereunto affixed in the presence of:-



Authorised Signatory

THE COMMON SEAL of ROXAN CONSTRUCTION LTD was hereunto affixed in the presence of:-



Director

Secretary

THE COMMON SEAL of BARCLAYS BANK PLC was hereunto affixed in the presence of:-

THE COMMON SEAL OF BARCLAYS BANK PLC WAS HEREUNTO AFFIXED IN EXECUTION OF THIS DEED IN THE PRESENCE OF

Director

Secretary

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Telephone

Direct Dial

Fax

Text Relay

Email Address

Mr. S. Mackie
Planning Services
Southampton City Council
Civic Centre
Southampton
Hampshire
SO14 7LS

Our ref: app/19
Your ref: 19/00719/FUL

21st May 2019

Dear Mr. Mackie,

QUAY 2000, HORSESHOE BRIDGE, SOUTHAMPTON

Thank you for your letter of the 7th May 2019 and the opportunity to comment upon the application. Having considered the application I have the following comments to make with reference to crime prevention.

A review of the information shown as attachment 1 of the “Request” shows the following:

The submission details eight incidents (incident number 5 occurs between 23:15 hours on the 31st July 2018 and 03:20 hours 1st August 2018 with 4 calls to the police at various times and incident number 8 occurs between 20:15 hours and 22:40 hours on 28th August 2018 with 3 calls at various times to the police), reported to the Police using both the 999 and 101 system.

Analysing these incidents:

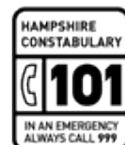
1. One incident occurs completely on the boardwalk, incident number 2 on the 26th July 2018 at 21:15 hours.
2. Of the other seven incidents:
 - a. Five occur on the slipway, two of which at times spill over on to the boardwalk,
 - b. In incident number 3 the boardwalk is used lawfully to transit from Horseshoe Bridge to the benches at the slipway
 - c. Incident number 6 occurs on Horseshoe Bridge.
3. The majority of calls were made in the late evening and early morning.
4. The majority of incidents are reported by the same six apartments.
5. Incident number 5 is the only incident reported by other properties.



www.hampshire.police.uk

Deaf? Non-emergency text **07781 480999**

For crime and community information www.hampshirealert.co.uk



6. The slipway and the grassed area adjacent to the slipway feature in the all but two of the incidents (incidents 2 and 6).

Analysing the incidents, the slipway and the adjacent grassed area is the place where many of the incidents including the most violent incidents cited have started. Often the participants arrive by motor vehicle.

Since the gates have been secured incidents have still be reported, as occurring in the area.

Reviewing incidents of Anti-Social Behaviour (ASB), drug offences, vehicle crime, public order and criminal damage held by Hampshire Constabulary on their Records Management System (RMS) for the period 25th May 2017 to 31st December 2017, for the same area shows: four incidents reported, none of which involved the boardwalk nor the area of the slipway.

At paragraph 4 of the “Request for partial variation of planning agreement” the following assertion is made, “The gates at either end of the walkway have been kept locked since 1st September 2018 and there has been no cause for complaint since that date. It is evident that unsociable behaviour on the walkway cannot and does not take place when the gates are locked and that, as the Police are unwilling/unable to respond to complaints of unsociable behaviour, the gates should remain closed, as a self-policing measure to control activity on the walkway.”

In response to that statement:

1. There have been complaints made to Hampshire Constabulary after the gates have been secured, but perhaps not by those flats mentioned in attachment 1.
2. If the gates at either end of the boardwalk are secured, unsociable behaviour cannot occur on the boardwalk.
3. The boardwalk does not play a part in half of the incidents reported, of those where it does it is not the main driver of the behaviour
4. For the period 25th May 2017 to 31st December 2017, there were only 4 incidents reported, none of which involved the boardwalk or the area of the slipway.

In summary, the data held by Hampshire Constabulary on their records management system does not show that the boardwalk has a disproportionate effect on the levels of crime and anti-social behaviour in the area, when compared with any other local transit route.



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If I can be of any further assistance please do not hesitate to contact me.

Yours sincerely,



Designing Out Crime Officer

DISCLAIMER

This survey is based on information supplied by yourself and the current crime trends. I can only give a view on what measures might reduce the risk of crime and there can be no guarantee that the measures will prevent crime. The advice is given free with no intention of creating a contract. Neither the Home Office nor Hampshire Constabulary take any other legal responsibility for the advice given.



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Deaf? Non-emergency text **07781 480999**

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RESPONSE TO HAMPSHIRE CONSTABULARY – (PC

Report).

Paragraph 3. He says the total submission of calls was 8 !! Totally Incorrect !! We have made that many calls in 1 night from various flats in the height of all of this going on, so we know this is NOT a factual statement. We have been told more than once by the police control room, that once an incident is logged for the first time a crime reference number is issued, but if 4 or 5 further people also ring in to them advising them of the same issue, it is only logged as ONE incident, which puts the police statistics totally incorrect. On the police report we produced everything logged was actual at the time, and everything was recorded in fine detail, type of incident, times, dates, police response etc, and these were noted at the actual time accurately. So we are very unsure as to where PC is getting this figures from!!

Paragraph 4 – Items 1 & 2. As previously said on the Quay 2000 report, these incidents were noted very accurately at the time of happening, Secondly ALL of this incidents eventually interacted with the Quay 2000 walkway as being a target to carry out the serious ASB without being seen from the road, as at the end of our footpath was a hideaway. This too was frequently seen by a large number of residents. How can the police make this statement when they never ever came out?

Paragraph 5. - Item 4 . Again a totally incorrect statement! Look at our police report and see just how many different flats phoned 101 & 999 on various occasions. **Item 6** – Yes that's correct that's where it all started, but ALWAYS made its way to our property walkway, with the debris of broken glass bottles, fighting, white powder (Drugs), needles, and condoms, etc and we had to clean it all up after the aftermath, and it is so unfair as we own that walkway, pay rates on it, maintain it, and yet SCC still appear to want to penalise us living an ordinary life without "FEAR". At ALL times we ended up with the aftermath.

Paragraph 6. Analysing the incidents, yes it did often start on the slipway or grass, but on at least 4 occasions it started on our walkway by the mooring gate. But it would always escalate on to our property as it was easy access and hidden, and the longer it went on the worse it got, to where the residents were frightened to open their curtains. This is not a story book we are writing, it's the facts of serious incidents that took place and it was like a warzone sometimes.

Paragraph 7. We would like to point out that since the gates have been secured; the incidents that you say have been reported in the area are NOTHING to do with Quay 2000, so in fact there are NO more issues here at the moment. Again this police statement has no foundation whatsoever.

Paragraph 8 . What has the RMS stats between May 2017 – December 2017 got to do with our situation? Quay 2000 got bad from June 2018 onwards?? Crime gets worse daily nowadays! Not sure what this is about or what it has to do with our application??

Paragraph 9 . Quay 2000 statement which is absolutely correct.

Paragraph 10. Police response to Paragraph 9 :

- 1. There have been NO complaints by Quay 2000 residents since the gates closure, but PC says “ But perhaps not by those flats mentioned in attachment 1”, which indicates it was not Quay 2000, this is nonsense and doesn’t even connect with our situation.**
- 2. AGREES that if we keep the gates at either end secured it will stop the ASB happening and that it then cannot occur!! So he then agrees with our statement!**
- 3. The Quay 2000 boardwalk is the MAIN instigation of the behaviour as down by the front fence you cannot be seen from the road and from the slipway it is slightly obstructed and the noise of course is further away, so less heard by the general public. This obviously enhances the situation to be able to get worse without the public outside knowing straight away as the activity is further away. On one occasion when PC Scott Walker & his Colleague were chasing a drug dealer along the grassland as the gates were open they got away , had the gates been closed then , these 2 guys could of easily made the arrest. This is also written on a police e mail.**
- 4. 25th May 2017 – 31st December 2017 ??? What has these dates got to do with our application?? We were not experiencing any serious problems then! Not sure what this has to do with anything? Are the police trying to make their case better?**

Paragraph 11. In summary the statistics which PC has produced are totally incorrect & inaccurate, and they hold no foundational truths whatsoever, and a lot of what he says does not even relate to our application! The control centre figures too are inaccurate in the way which calls are noted down (Only 1 call logged per incident) not the number of calls made relating to that incident!! So that puts the amount of total calls totally incorrect!!. PC then goes on to say that the boardwalk has a disproportionate effect on the ASB in the area yet above in Paragraph 10 – Item 2 his response says that he agrees that keeping the gates secured will stop the behavioural problems arising!! Very contradictory.

PC seems to be stating quite a lot facts, Not sure how when the police never attended!!

Please E mail your views URGENTLY on this to :

and

Could you please also cc - Myself & Angela for our files.

Very Many Thanks for supporting us with this Planning Application.

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Your Ref: 19/00719/FUL

Our Ref: alicedu\DANQ04

Date: 3 June 2019

Mr Simon Mackie
Infrastructure Planning and Development Service
Southampton City Council
Civic Centre
Southampton
Hampshire
SO14 7LS

Sent via first class post & email

Dear Simon,

Re: The Planning Application for Quay 2000.

As discussed, the Directors of the RTM Management Company came to Danesdale's office in Salisbury last week to meet with us, and brought all the relevant paperwork that we haven't had sight of to this point. It was a very productive meeting, and as a result we are now able to comment on the Application.

1. It seems that the result of policing area boundaries being re-drawn in Southampton and the closure of the 2 police-stations local to this building, Quay 2000 is currently located in an area that is not covered by either policing zone, and as such receives limited police support at this time due to lack of clarity. Presumably this fact now acts as a magnet relocating social problems (gangs) and other anti-social behaviour to this area.
2. Clearly the intention of granting public access to this private land (the maintenance costs of which fall entirely to the flat-owners at Quay 2000) was for "recreational purposes" – this, we would imagine, consists of walking, dog-walking, cycling, sitting and enjoying the view, picnics maybe or fishing etc.
3. This access could not possibly have been granted with the intention that the area be used for illicit business use of various kinds – such as prostitution and drug-dealing & the ensuing violence/turf wars that such illicit business activities engender (these are not recreational activities).
4. In more than 15 years since the building was built, the residents have paid for and maintained this area for public use without any complaints. However, there has been significant abuse of the access rights by anti-social members of the general public during 2018 (could this be as a result of policing boundaries being redrawn?). In 2018 there have been multiple & escalating incidents of drug-dealing, prostitution & violent behaviour within a few feet of residents' windows on their land. This is a terrible situation for residents, and one fears especially for elderly and vulnerable residents, and those with children and teenagers.

5. Every time the residents have sought police-protection to deal with this problem, it has not been available to the required degree (although there have been members of the police-force that have tried their best to assist within their constraints). The residents on the whole have been told, if their calls can even be answered by the police, that they have to allocate resources first to Category A crimes (which the police sadly normally seem to be tied-up with when the residents of Quay 2000 require their assistance), and that the police are under-resourced. The residents are asked if the offenders are “showing a weapon”. The response of the law-abiding residents is that “really we aren’t prepared to go out to find out!”
6. When there was a violent fight to the degree that an ambulance was called to attend to one party who received a head-injury, the police were unable to attend due to attendance at Category A crimes.
7. The citizen Directors of the RTM Management Company have made numerous attempts to deal with this problem at this Estate; liaising with police, relocating CCTV cameras, consulting with the local Council. No credible neighbourhood watch scheme is available to them.
8. It was originally the police themselves that advised the Management Company that since the police currently could not provide effective policing to the area, that they should close the gates to thus afford some protection for the residents, and apply for a change in the original Planning Permission.
9. There have been incidents logged by the police, whereby the open gates enabled a suspect to escape from a police apprehension. There has also been an incident logged by the police, since the gates were closed pending this application for a change in planning permission, that this particular escape route being cut-off resulted in the successful apprehension of a suspect who had sought to flee the police by entering Quay 2000 grounds.

In conclusion, Danesdale Land Ltd as the Land-owner has 2 covenants – one with the general public to arrange recreational access, and the other to ensure residents’ rights to the peaceful enjoyment of their properties. At this point, it seems that sadly without the police’s ability to support lawful and recreational use of this area, and no-one but the police enabled to carry-out law-enforcement, then we must support the Residents’ application to change access, so as to support their right to peaceful enjoyment. It would be terrible if what is currently an escalating situation were allowed to continue to develop and only be resolved after a tragedy occurred. If it is possible to temporarily suspend the planning requirement for public access with a future review tabled to see if public access for recreational purposes could be enforced by the police in future, then that would be our preferred option. However if the only solution is to permanently change the Planning Requirement, then at this point we must support that, as this is a very serious matter.

We have discussed with the Management Company whether electronic gates on a timer could be an option, however they have rightly pointed out that this could be very dangerous from a health and safety point of view, as a member of the public could get caught-up within the Estate when the gates closed. And if such person happened to be intent on carrying-out anti-social activities, then this could be very dangerous indeed for residents without adequate recourse to a police response.

We would also note that the majority of comments on the Planning Portal do not seem to be from local residents stating that they do currently use this access path and for what purpose – cycling, running, picnics etc., but from residents further away. Whilst normally we would agree with their comments that some incidents of anti-social behaviour during one particular period would not normally merit the right granted to the public to use this area for recreational purposes in perpetuity to be cancelled. However, I'm sure that those who have commented may not have understood the severity of the problem, that the Quay 2000 residents have relocated CCTV cameras, spent money and time, trying to access law & order resources to deal with this problem. However, if the public right of access is adopted by gangs to carry-out illicit business-activities rather than for the wider community to use for recreation, and there is no lawful ability to enforce the intended purpose of that covenant, then the area will simply become dangerous not only for the building's residents but also for everyone in the wider community who will not want to use it.

We would be grateful if you could keep us updated on further developments.

Kind regards,

Tamara Folkesson

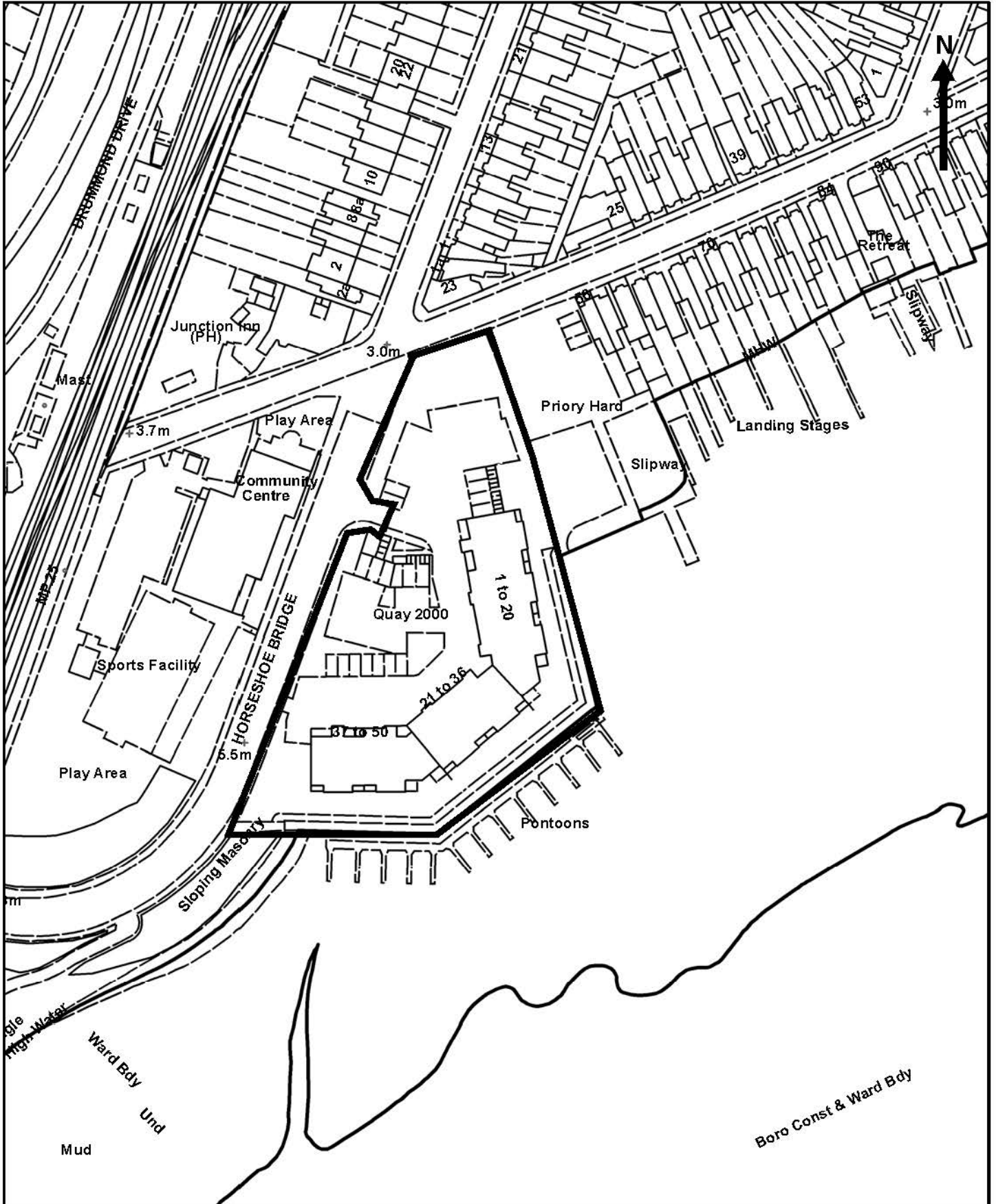
Director

For and on behalf of Danesdale Land Limited

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Agenda Item 5 19/00719/FUL

Appendix 6



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Agenda Item 6

Planning and Rights of Way Panel 16th July 2019 Planning Application Report of the Service Lead - Infrastructure, Planning & Development

Application address: 224 Portswood Road			
Proposed development: Change of use of first floor from D1 use to a 24 hour gym (class D2) with erection of link corridor at roof level and use of the car park by the D2 use between 05:00 - 23:00 Monday-Saturday and 08:00 - 20:00 Sunday			
Application number:	19/00137/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	5 minutes
Last date for determination:	22.07.19	Ward:	Portswood
Reason for Panel Referral:	Request by Ward Member/ Five or more letters of objection have been received	Ward Councillors:	Cllr Gordon Cooper Cllr John Savage Cllr Lisa Mitchell
Referred to Panel by:	Cllr Mitchell Cllr Claise (former cllr pre-elections May 2019)	Reason:	Loss of community space; Lack of parking; night time disturbance to local residents
Applicant: Sainsbury's		Agent: WYG	

Recommendation Summary	Delegate to Service Lead – Infrastructure Planning & Development to refuse planning permission subject to criteria listed in report
-------------------------------	--

Community Infrastructure Levy Liable	Not applicable
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2019). Policies –CS3, CS6, CS13, CS18, CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP15, SDP16, SDP17, REI5 of the City of Southampton Local Plan Review (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History
3	Appeal decision – Supermarket hours	4	Graph of gym attendance

Recommendation in Full

1. Delegate to the Service Lead – Infrastructure, Planning & Development to grant conditional planning permission subject to no fresh issues regarding the extended car parking hours being received by 16.07.19 when the notification period expires.
2. That the Service Lead – Infrastructure, Planning & Development be given delegated powers to add, vary and /or delete conditions as necessary.

1. Background & Introduction

- 1.1 A hybrid planning permission was granted full planning permission for the redevelopment of the former Portswood Bus Depot into the current Sainsbury's supermarket in 2010, combined with an outline permission for housing on the remaining parcels of land. These parcels of land have been recently built out as a retirement persons home and student accommodation. In October 2012, the Planning Inspectorate allowed the extension of the opening hours between 07:00 to 23:00 (see the appeal decision in **Appendix 3**). The current operating hours of the basement car park is allowed to open and close 30 minutes before and after the store trading hours (as agreed under car parking management plan pursuant to the section 106 agreement for the supermarket development). Deliveries to the store are restricted to between 07:00 to 23:00 Mondays to Saturdays and 08:00 to 18:00 Sundays and Public Holidays.
- 1.2 A 1000sqm space for a D1 community facility (facing the service road leading to the car park) has been provided within the supermarket building on the first floor and fitted out to 'second fix' (specified as a full finish to walls and ceilings including connection of electrical cables and any gas pipes to the electrical or gas fixtures and all pipes connected to sinks and toilets and doors fitted to doorframes). The reason why the Council only specified a fit out to 'second fix' standard was because the specification need of the end user was unknown at the time and, therefore, the interior could be adapted at a later time depending on the nature of the end user. The obligation required the Council or partner service to be given reasonable opportunity for first and continued use and occupation of the community space. Since the community space was offered to the Council and partner services after the building completion, the local Health Service and Portswood Library both declined using the space, whilst the Council's Early years and childcare team have no active interest in using the space. Separate to the designated community facility, the supermarket at present has an informal arrangement with local community groups to make use of the meeting room space adjacent to the in-store café on the first floor.

2. The site and its context

- 2.1 The Sainsbury's superstore is located immediately outside the edge of the Portswood District Shopping Area (designated under policy RE15: District Centres) on the corner of St Denys Road. The surrounding area is characterised by a vibrant mix of commercial uses fronting Portswood Road to the west and suburban residential streets within close walking distance from the edge of the designated shopping area. The supermarket became operational in 2011 and currently operates under the permitted hours of 07.00 to 23.00 hours Monday to Saturday and 09.00 to 17.00 hours on Sundays. The hours of the underground car park (336 parking spaces with up to maximum of 2 hours stay) are allowed to open and close

30 minutes before and after the permitted trading hours. Access between the food store and basement car park is provided by means of a traveller and lifts.

- 2.2 The area subject to the proposed change of use itself, is located in the north east part of the building, comprising a 1000sqm floor area on the first floor fitted out to 'second fix'. Immediately adjacent to the site is the student accommodation building (facing onto the site itself) and an elderly person housing complex recently completed. There are residential properties nearby on the opposite side of Portswood Road and Belmont Road to the east. The parking for the site is accessed from a mini roundabout junction on Portswood Road and pedestrian access from a ground floor entrance on the Portswood Road frontage.
- 2.3 Parking on Belmont Road is partly unrestricted, with restrictions at either end in the vicinity of its junctions with Portswood Road and St Denys Road and adjacent to the entrance of the student accommodation. St Denys Road has double yellow lines running along its full length from the Portswood Road junction to the Thomas Lewis Way junction, and thus parking is not permitted along this stretch. Parking is not permitted on the spur of St Denys Road either, with the exception of a small number of parking bays on the south-west side of this road.

3. Proposal

- 3.1 It is proposed to change the use of the first floor space from the permitted class D1 community facility to a 24 hour gym (class D2) with the erection of a link corridor at roof level and use of the car park by the D2 use between 05:00 - 23:00 Monday-Saturday and 08:00 - 20:00 Sunday. The applicant is not seeking a 24 hour use of the car park or an extension of the supermarket trading hours. Under the supermarket permission, the basement car park is currently required to dedicate 10 parking spaces to be solely used by the permitted class D1 community use. There are no dedicated parking spaces for the gym, and the 10 spaces will continue to be used as short stay car park to be managed by Sainsbury and dedicated for both customers and staff to the foodstore, the proposed gym and visitors to the district centre. There are 42 cycle parking spaces (21 sheffield stands) provided in the basement car park. There are also 11 sheffield stands (22 spaces) at ground level under the store's canopy and along the store's frontage on Portswood Road.
- 3.2 The car parking hours for the proposed D2 gym use have been extended to 1 hour earlier on Monday to Friday only (i.e. 5am start). This has been requested since the validation of the application in response to concerns about disturbance from traffic and displacement of parking affecting local residential streets.
- 3.3 Furthermore, the applicant will formalise the meeting room space adjacent to the in-store café on the first floor for community users (same times as the café opening hours – 08:00 to 19:00 Monday to Saturday and 10:30 to 16:30 Sundays).

4. Relevant Planning Policy

- 4.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

- 4.2 The National Planning Policy Framework (NPPF) was revised in 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.
- 4.3 Paragraph 92(c) of the NPPF recognises 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 (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship). There is a presumption against the loss of the community facilities if it has not been demonstrated that the use is no longer viable or the continued operation as another form of community use. Policy CS3 confirms that commercially operated buildings fall within the scope of community uses. Policy CS3 does not support the loss of a community facility if it is viable for the commercial, public or community sector to operate it and if there is no similar or replacement facility in the same neighbourhood.
- 4.4 Although the site lies on the edge of the designation it is still in close proximity to Portswood District Centre. Policy RE15 (District Centres) seeks to protect the vitality and viability of the Portswood District Centre. Furthermore, policy CS3 seeks to protect existing centres by controlling retail and leisure development in locations on the edge of the centre through a sequential test approach for development above 750sqm.

5. Relevant Planning History

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

6. Consultation Responses and Notification Representations

- 6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, erecting a site notice on **19.02.2019 and 25.06.19**. Following the amendment to the car park opening hours, a second publicity exercise was undertaken which closes on **16.07.2019**, and any additional material comments will be verbally updated at the panel meeting. At the time of writing the report **15** objections have been received from surrounding residents, including objections from a Ward Cllr (and former Ward Cllr pre-elections May 2019), the HRA, PRA, OARA. The following is a summary of the points raised:
- 6.2 **The 24 hour use of the premises in close proximity to local residential properties and increased comings and goings from parking in local streets (with no dedicated parking in the store car park) will cause light spill, noise and disturbance to the detriment of the amenity of nearby residents. Increased amenity impact from extending the opening hours of the supermarket car park with the exception of the weekends. Increased potential for anti-social and criminal behaviour by extending car park opening hours including joyriders and skateboarders abusing the car park unless security is increased.**

Response

The Environmental Health Officer is satisfied that the proposal would not have significant adverse impact with regards to noise impact from the proposed gym use, whilst a condition can be applied to ensure that suitable acoustic measures are put in place to control the noise generated from amplified music systems and equipment/classes inside the building so it is kept to a insignificant level for nearby residents. Furthermore, the noise impact from extending the car park hours will be mostly apparent within the basement car park itself where the cars are parked. A condition can be applied to agree further details of darkening the windows fronting the student accommodation to ensure that no artificial lighting can penetrate from the inside of the building (some natural surveillance/activity is positive so some windows left untreated would be beneficial across the street). The noise disturbance to residents from car users parking in nearby residential streets outside the car park hours would not be harmful given the projected small amount of visitors during the late night and early hours of the morning (**see Appendix 4**). The car park management plan confirms that Sainsbury's has its own security measures to control the use of the car park, whilst the car park has been vetted under a risk assessment conducted by the Police in relation to the 'Park Mark Award Scheme'.

- 6.3 **The community space was not fitted out for use as required by the section 106 agreement and is not fit for purpose. Loss of community space including the informal meeting room area adjacent to the in-store café. It is not understood why there has not been a demand for the use of the space. The large sized community space would be ideal for larger groups and for more active use such as youth clubs, sports, fitness clubs, martial arts, scouts and guides, dance & drama, and general recreational activities beneficial for the public. There is a lack of marketing by Sainsbury's for use of the D1 community space, and the unfinished space could be taken on by a management committee with the appropriate funding. The provision of the community space/medical centre and a swimming pool was a requirement of the original planning permission for redeveloping the bus depot into a supermarket. Booking the informal meeting space is not easy to book and is unavailable in the evenings.**

Response

The reason for only specifying a fit out to 'second fix' standard was because the specification required for the end user was unknown at the time. Therefore, it was only reasonable to impose a 'second fix' requirement so the interior could be adapted at a later time depending on the nature of the end user. The obligation required the Council or partner service to be given reasonable opportunity for first and continued use and occupation of the community space. Although there is limited evidence to demonstrate compliance with policy CS3 (Community uses) and the relevant section of the NPPF, after 8 years of having the opportunity to find a suitable user the Council's community development team and the applicant have both advised that there is not any active interest in taking up the community facility. The applicant will formalise the meeting room space adjacent to the in-store café on the first floor for community users and this can be secured by a planning condition for perpetuity while the store is trading. A condition can be used to secure a management plan to improve the booking system and advertising for this community space.

- 6.4 **The gym would not be a benefit for the whole community. There should be a community access/concession for local residents secured by condition.**

Response

The gym use being applied for is a private commercial operation and not a community use within class D1, so it would be unreasonable of the Council to require the applicant to make special concessions for the local community in relation to access and use.

- 6.5 **Increased traffic negatively impacting on the flow of traffic at peak times and worsen air quality. Poor safety access from car park to gym via the access road when the store is closed. No dedicated space is to be provided for the gym, unlike the community use, where this was required (condition 58 of original consent). Staff and gymgoers would, therefore, park in nearby roads, even when the car park is open- especially at peak times e.g. in the evenings, which is a peak time for the gym and customers at the store.**

Response

The Highway's Officer has raised no objection to the impact on highway's safety with the regards to access, parking and traffic flow in relation to the proposed use. The application site is located near the Bevois Valley Road Air Quality Management Area (terminates at the junction of Portswood Road and St Denys Road). Typical trip rates from a gym of this location and size do not generate a significant amount of impact on the road traffic network when compared to D1 use with the same footprint, so as a fallback position the potential impact to air quality would be neutral.

- 6.6 **The 24 hour use is out of keeping with the character of the area and general trading hours of Portswood District Centre and, therefore, set a precedent for other businesses to apply for later closing hours. Sainsbury's will potentially apply for 24 hour use.**

Response

Sainsbury's are not applying for a 24 hour use of the supermarket and the car park, so the 24 hour gym use should be considered on its own individual merits. That said, the scale and nature of the gym use and its users is significantly different to the impact from the supermarket and nearby late night uses having 24 hours trading and therefore would hold limited weight in setting a precedent for further extension of its own hours and other businesses. The proposed gym use is located on the edge of the Portswood District Centre (PDC) within the existing Sainsbury building itself and, therefore, would not be out of character with the commercial nature of the nearby shopping area. It is acknowledged that the trading hours of the late night economy in PDC is generally limited to closing at midnight. Although there are no equivalent 24 hours uses already operating within PDC, 24 hour gyms are not uncommon in Southampton shopping areas, including Shirley High Street, Bitterne Local Centre, and Winchester Road.

Consultation Responses

- 6.7 **SCC Highways – No objection**
- 6.8 **SCC City of Southampton Society – No objection in principle as no tenants have been found in the last 8 years for the community facility. A 24 hour gym use would not be harmful to the character and amenity of the area and is unlikely to cause parking difficulties when the supermarket is closed. Recognises the benefits of a gym to the local community, however, not fully satisfied that the applicant has done all it could to find suitable D1 users.**
- 6.9 **SCC Environmental Health (Pollution & Safety) – No objection**

7.0 Planning Consideration Key Issues

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

- The principle of development;
- Design and effect on character, including vitality and viability of District Centre;
- Residential amenity and;
- Parking highways and transport.

7.2 Principle of Development

7.2.1 The community facility has been fitted out to 'second fix' with a permitted class D1 use. Policy CS3 confirms that commercially operated buildings fall within the scope of community uses. Policy CS3 does not support the loss of a community facility if it is viable for the commercial, public or community sector to operate it and if there is no similar or replacement facility in the same neighbourhood. Despite a request by Officers the applicant has not come forth with any supporting evidence to demonstrate that the loss of the community facility would meet the tests of policy CS3 by providing a reasonable level of marketing evidence to show the interest from other community users and an investigation to show whether or not there are any similar or replacement facilities in the same neighbourhood. The applicant considers that there is no loss of a community facility in land use terms because the space has never been occupied for community use and has been vacant for 8 years.

7.2.2 Since the community facility was offered 8 years ago to the Council and partner services through the obligation of the section 106 agreement, the local health service and Portswood Library both declined taking over the space, whilst the Council's Early years and childcare team have no active interest in using the space. Without the supporting evidence from the applicant, the proposal does not strictly meet the tests of policy CS3 as stated above, however, it is evident that the Council or partner services do not currently have an active interest in using the community facility. Given the space has never been occupied for community use it cannot be considered a valued community facility and its loss would not undermine the community's ability to meet its day to day needs (NPPF tests). Furthermore, given the significant passage of time since the community facility has not been used, it is therefore reasonable to conclude that there is no local demand for the facility.

7.2.3 As such, there is no policy objection against the principle of development to re-use the existing commercial premises (albeit a community facility) for a D2 gym use subject to meeting the sequential test and community needs as set out in policy CS3. Although there is limited evidence to demonstrate compliance with policy CS3 and the NPPF, the principle of development can be broadly accepted given that after 8 years of having the opportunity to find a suitable user, the applicant and the Council's community development team have both advised that there is not any active interest in using the community facility, whilst the applicant has shown that there are no sequentially preferable sites within the Portswood District Centre and the gym business would not negatively impact on the trading of the centre by taking the place of another valuable gym facility that is essential to the vitality and viability of the centre.

7.2.4 Furthermore, in weighing up the 'planning balance' against the loss of the community facilities, significant weight should be applied to the socio-economic benefits of bringing a vacant unit into use with regards to employment generation and the provision of health related facilities (albeit commercially operated). Whilst not being a direct replacement and neutralising the loss of the existing community facility, the existing meeting room being used by community groups will be made available in perpetuity and this can be secured by the recommended condition. This space measures 39sqm.

7.3 Design and effect on character, including vitality and viability of District Centre

7.3.1 With the exception of the link corridor to be built, there would be minimal changes to the appearance of the building to facilitate the change of use on the first floor. The views of the proposed link corridor structure would be limited from public vantage points given its substantial set back on the roof top of the first floor level. A condition can be applied to prevent the use of the flat roof area being used for any ancillary related activity or storage use.

7.3.2 The proposed gym use is located on the edge of the Portswood District Centre (PDC) within the existing Sainsbury building itself and, therefore, would not be out of character with the commercial nature of the nearby shopping area. It is acknowledged that the trading hours of the late night economy in PDC is generally limited to closing at midnight. Although there are no equivalent 24 hours uses already operating within PDC, 24 hour gyms are not uncommon in Southampton shopping areas, including Shirley High Street, Bitterne Local Centre, and Winchester Road.

7.3.3 The proposed commercial use itself is not considered to negatively affect the vitality and viability of the PDC as there are positive and complimentary economic benefits from the gym users linking their trips and spending with other shops and services offered by PDC, especially for businesses open late evening and early morning. The applicant has shown that edge of centre location does not adversely affect the vitality and viability of the PDC given that there are no sequentially preferable sites to equivalently host the gym use of this size.

7.4 Residential amenity

7.4.1 Based on the average number of gym attendees for other Pure Gyms operations in Southampton, it is projected that per hour there would be a range of between 20 to 98 customers during the daytime, with peak numbers ranging between 52 to 65 during 16:00 to 21:00 (see the graph appended to **Appendix 4**). The gym use will take place above the existing supermarket use which is already established as a significant commercial operation in the local area with a significant amount of visitor footfall and car traffic and, therefore, the additional impact from the proposed gym use during the day would be neutral. This building is not physically attached to any other uses, whilst the pedestrian entrance for the building is from the Portswood Road frontage. The nature of the gym use in relation to its associated activities are not significantly noisy, whilst the Environmental Health Officer has no objection with regards to noise disturbance from the gym use. A condition can be applied to require details of a noise management plan to mitigate the impact from amplified music particularly during the night time. This will ensure that the volume and other associated noise can be acoustically controlled below a significantly adverse level affecting nearby residential properties including the adjacent student accommodation and the retirement home. Furthermore, a condition can be applied

to agree further details of darkening the windows to ensure that no artificial lighting can penetrate from the inside of the building.

7.4.2 Once the car park is closed outside the hours of 05:00 - 23:00 Monday-Saturday and 08:00 - 20:00 Sunday, customers travelling by car to the gym will have to rely on parking in nearby streets. There are no trip figures shown for these periods in the applicant's Transport Statement, however, the projection of customers does give an indication of visitors during the period when the car park is closed. The number of customers expected during the Monday to Saturday periods per hour are a maximum of 10 (lowest 2). There will be potentially more customers relying on local street parking on Sundays when car park is open less, with the number of customers ranging from 52 at 20:00 to 33 at 07:00, whilst the number of customers significantly reduce during the period 23:00 to 04:00 (ranging from 7 to 10 customers per hour) when residents are expected to enjoy peace and quiet in their homes. As such, the noise disturbance to residents from car users parking in nearby residential streets outside the car park hours would not be harmful given the projected small amount of visitors during the late night and early hours of the morning (*see Appendix 4*).

7.4.3 Sainsbury's are not applying for a 24 hour use of the supermarket and the car park, so the application should be considered on its own individual merits specifically for the gym use. That said, the scale and nature of the gym use with regards to the activities taking place and the behaviour/dispersion movements of its users would be significantly different to the impact from the supermarket and nearby late night uses (food and drink/entertainment) having 24 hours trading and, therefore, would hold limited weight in setting a precedent for further extension of its own hours and these other businesses.

7.5 Parking highways and transport

7.5.1 The proposed gym will be accessed via the existing car park entrance for vehicles and pedestrians from the existing entrance fronting Portswood Road (lifts to first floor). The customers of the gym are able to make use of the existing travellers from the basement car park to gain ground floor access during the store trading hours. The car park ramp would be the only available pedestrian access to the Portswood Road street entrance outside the opening hours of the store. However, given the minimal levels of traffic using the ramp outside the store trading hours, this is not considered to be an unsafe route for the pedestrians.

7.5.2 The representative figures provided in the applicant's Transport Statement are in part questionable and the limitations of TRICs data available for Saturdays for the proposed use are, however, based on assessments of other gym applications in the city and trips rates gathered from other transport assessments, the Highway's Officer is satisfied that the issues regarding trip rates are not of significant concern. Reason being that on a couple of visits at this car park during peak hours, the car park was not near full capacity with only approximately 60%-70% occupied. This leaves a large amount of unoccupied space which that the car park would be able to accommodate the gym use and its parking demand. Likewise, typical trip rates from a gym of this location and size do not generate a significant amount of impact on the road traffic network when compared to D1 use with the same footprint.

7.5.3 The competition for local street parking with local residents would be an amenity issue rather than a highway's safety issue. With regards to the displacement of street parking for local residents and competition from the gym users during the

closure times of the car park, the Highway's Officer has acknowledged that there is unrestricted on-street parking available in the local area that can provide parking for these customers. Furthermore, the impact from the inconvenience of parking displacement will be minimalised given that by the time the car park does close, the local residents in nearby streets are likely to have been parked up for the night.

- 7.5.4 To avoid servicing taking place from the Portswood Road frontage a condition can be applied to restrict any servicing to only take place in the basement car park and during the same hours permitted for the supermarket. Taking into the modal split for the proportion of cyclists from the TRICs trip rate data for the proposed use, there will be a requirement for a minimum of 10 cycle spaces. A condition can be imposed to require further details of secure cycle parking to be secured.

8. Summary

- 8.1 In summary, the re-use of the vacant community facility as a 24 hour gym would not be harmful to the character and amenity of the area, and highway's safety, and would maintain the vitality and viability of the nearby Portswood District Centre. The loss of the vacant community facility has been accepted given the significant passage of time that the Council and its partners have not taken up the facility with community user. Furthermore, in weighing up the 'planning balance' in relation to the socio-economic objectives of the development plan, the proposed gym use and re-use of the vacant premises would bring significant positive socio-economic benefits to the local community and economy through job creation and opportunities for health related activities (albeit commercially driven by private organisation).

9. Conclusion

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

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

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

SB for 16/07/19 PROW Panel

PLANNING CONDITIONS

1. 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).

2. Materials to match (Performance Condition)

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the extension hereby permitted shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those on the existing building.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

3. Restricted Use (Performance)

Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking, amending, or re-enacting that Order, the development hereby approved shall be used only for the purposes indicated in the submitted details and not for any other purpose, including any other use within Use Class D2.

Reason: In the interest of the amenities of neighbouring occupiers and highways safety.

4. Refuse & Recycling (Pre-Occupation)

Prior to the occupation of the development, details of storage for refuse and recycling, together with the access to it, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved.

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

5. Extract Ventilation - control of noise, fumes and odour (Pre-Operational Use)

The first operational use of any external extract equipment to be installed in connection with the approved D2 use shall not commence until a written scheme for the control of noise, from extractor fans have been submitted to and approved in writing by the Local Planning Authority. The written scheme shall be implemented as approved prior to the first operational use of the extract equipment and thereafter retained as approved.

Reason: To protect the amenities of the occupiers of existing nearby properties

6. Amplified music (Pre-occupation)

The D2 use hereby approved shall not commence operating until a written scheme for the control of noise, from equipment in association with the gym use including the playing of amplified music have been submitted to and approved in writing by the Local Planning Authority. The written scheme shall be implemented as approved prior to the use operating during the extended hours and thereafter retained as approved.

Reason: To protect the amenity of the neighbouring residential properties from noise disturbance.

7. Light spill (Pre-occupation)

The use hereby approved shall not commence operating, until a specification is submitted to and agreed in writing with the Local Planning Authority to tint or black out the first floor windows fronting the student accommodation. The agreed specification shall be installed in accordance with the agreed details prior to the extension of hours commencing and thereafter retained.

Reason: To protect the amenity of the neighbouring residential properties from light spill during the night time hours.

8. Restricted use of flat roof area (Performance Condition)

The roof top area adjacent to the floor area of the use hereby approved, which incorporates a flat roof surface, shall not be used as a balcony, terrace, roof garden, storage or other ancillary activities in association with the approved D2 use without the grant of further specific permission from the Local Planning Authority.

Reason: In order to protect the amenity of adjoining occupiers.

9. Servicing (Performance)

Unless otherwise agreed in writing by the Local Planning Authority, the servicing of the D2 use hereby approved shall only be undertaken in the basement car park of the existing supermarket building and shall not be serviced from the Portswood Road frontage at any time whatsoever. The servicing in association with the use hereby approved shall not be undertaken outside the hours of 07:00 – 23:00 Monday to Saturdays and 08:00 - 20:00 Sundays.

Reason: In the interests of amenity of nearby residential properties and to prevent obstruction to traffic in neighbouring roads and in the interests of highway safety.

10. Car Park Management (Performance)

The basement car park shall be used as a public car park for short-stay purposes for a maximum period of 2 hours or such other period as may be agreed in writing by the Local Planning Authority and shall be operated in accordance with the car management plan before the approved D2 use first commences. The car park shall not be available for the D2 use outside the following hours:-

05:00 - 23:00 Monday-Saturday and 08:00 - 20:00 Sunday

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

11. Use of Community Facility (Pre-occupation)

The D2 use hereby approved shall not commence until details of an operational management plan for community use of the meeting room adjacent to the in-store cafe has been submitted to and agreed in writing by the Local Planning Authority. This shall include details of a user booking system and access, pricing, and means of advertising to the local community. The meeting room shall thereafter be made available in accordance with the approved plans prior to the commencement of the D2 use hereby approved and operated in accordance with the approved operational management plan. The meeting room shall be operated during the following hours:-

08:00 to 19:00 Monday to Saturday and 10:30 to 16:30 Sundays

Reason: To define the consent for the avoidance of doubt and to contribute to secure a community use as part of the mixed use scheme under planning permission 10/01399/OUT.

12. Bicycle Storage (Pre-Occupation)

The retail building shall not be occupied until secure, covered and enclosed space has been laid out within the site for a minimum of 10 cycles to be stored for the benefit of customers and staff in accordance with plans to be submitted to and approved in writing by the Local

Planning Authority. The approved cycle storage arrangement shall thereafter be retained on site for that purpose.

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

13. 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.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS3	Promoting Successful Places
CS6	Economic Growth
CS13	Fundamentals of Design
CS18	Transport
CS19	Parking

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

SDP1	Quality of Development
SDP4	Access
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP15	Air Quality
SDP16	Noise
SDP17	Lighting
REI5	District Centres

Supplementary Planning Guidance

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2019)

Relevant Planning History

16/01778/MMA - Conditionally Approved 13.01.2017

Development to provide purpose built student residential accommodation (435 bedspaces) in three buildings of between 3-storeys and 6-storeys plus lower ground floor level with vehicle access from Belmont Road and associated landscaping (amendment to previous planning permission reference 15/01510/FUL - changes relate to the type of accommodation and changes to elevations).

15/02468/FUL – Conditionally Approved 21.09.2016

Erection of a part 3-storey and part 4-storey building to provide 73 sheltered housing flats for the elderly (49 x one bedroom and 24 x two bedroom) including lodge manager, communal facilities, access, car parking and landscaping.

15/01510/FUL – Conditionally Approved 25.11.2015

Development of the site to provide 252 Purpose Built Student Accommodation flats (435 bed spaces) in three buildings of between 3-storey's and 6-storey's plus lower ground floor level with vehicle access from Belmont Road and associated landscaping.

11/01877/FUL – Refused and allowed at appeal 10.10.2012 (*see Appendix 3* for appeal decision)

Variation or removal of the following conditions of planning permission ref 10/01399/OUT to provide a new supermarket. Variation of condition 20 to allow opening hours of 07:00 to 23:00 Monday to Saturday and 09:00 to 17:00 on Sundays and imposition of restrictions on the use of the car park by the public to prevent access earlier than 30 minutes prior to the store opening and 60 minutes after the store closing time. Variation of condition 41-delivery hours, to allow no more than 3 deliveries to be received or items despatched from the retail building between the hours of 2300 to 0700 Monday to Saturday. On Sundays no deliveries to be take place before 0800 and no more than two deliveries to take place after 6pm. Variation of condition 58 to restrict the allocation of the parking spaces for the D1 use to between the hours of 0900 and 17.30 Monday to Friday.

10/01399/OUT – Conditionally approved 02.11.2011

Redevelopment of the site to provide a new supermarket (Class A1 retail 9,730 square metres gross floorspace with associated 344 space car park, new community use (Class D1 1,166 square metres gross floorspace) and public play area (no matters reserved for later approval) and 59 residential units (29 houses and 30 flats) with 49 associated car parking spaces (details of landscaping and appearance reserved for later approval)



Appeal Decision

Hearing held on 14 August 2012

Site visits made on 13 and 14 August 2012

by **M T O'Rourke BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 October 2012

Appeal Ref: APP/D1780/A/12/2175464

224 Portswood Road, Southampton SO17 2AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Sainsbury's Supermarkets Ltd (SSL) against the decision of Southampton City Council.
 - The application Ref 10/01399/OUT, dated 25 October 2010, was approved on 2 November 2011 and planning permission was granted subject to conditions.
 - The development permitted is redevelopment of the site to provide a new supermarket (Class A1 retail 9,730 square metres gross floorspace) with associated 344 space car park, new community use (Class D1 1,166 square metres) and public play area (no matters reserved for later approval) and 59 residential units (29 houses and 30 flats) with 49 associated car parking spaces (details of landscaping and appearance reserved for later approval).
 - The condition in dispute is No 20 which states that: Unless otherwise agreed in writing by the Local Planning Authority, the retail building, its car park and associated travelators shall not be open for business outside of the hours of 0800 to 2100 Monday to Saturday and 0900 to 1700 on Sundays.
 - The reason given for the condition is: To protect the health and vitality of the existing district centre.
-

Procedural Matters

1. In the grounds of appeal the appellants (SSL) disputed Condition 19 (no sub-division of the retail unit) as well as Condition 20. By letter dated 26 June 2012 to The Planning Inspectorate and copied to the City Council, SSL's agent withdrew the appeal against Condition 19. This was confirmed at the hearing.
2. The appellants seek to vary the times when the store is open to 07.00 to 23.00 hours Mondays to Saturdays with no change to operating hours on Sundays. At the hearing SSL also asked for the inclusion of additional wording to allow the car park to remain open for 60 minutes after the store's closing time and to open 30 minutes prior to the store opening.
3. Unaccompanied visits were made to the store, to the Portswood district centre and to the surrounding area on the evening of 13 August, just before and after the store closed at 21.00 hours, on the following morning from 07.00 hours and again after the hearing.

Decision

4. The appeal is allowed and the planning permission Ref 10/01399/OUT for redevelopment of the site to provide a new supermarket (Class A1 retail 9,730

square metres gross floorspace) with associated 344 space car park, new community use (Class D1 1,166 square metres) and public play area (no matters reserved for later approval) and 59 residential units (29 houses and 30 flats) with 49 associated car parking spaces (details of landscaping and appearance reserved for later approval) at 224 Portswood Road, Southampton SO17 2AD granted on 2 November 2011 by Southampton City Council, is varied by deleting condition 20 and substituting for it the following condition:

20. Unless otherwise agreed in writing by the Local Planning Authority, the retail building and associated travelators shall not be open for business outside of the hours of 07.00 to 23.00 hours Monday to Saturday and 09.00 to 17.00 hours on Sundays.

Main Issues

5. Advice on the use of conditions is given in Circular 11/95 and in paragraphs 203 and 206 of the National Planning Policy Framework (the Framework). They should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Having regard to the reason given for the disputed condition and to the representations made by local residents, the main issues in this case are the effect that varying the disputed condition to extend the operating hours of the store would have; first on the vitality and viability of Portswood district centre and secondly, on those living around the store.

Reasons

6. The store is built on the site of the former Portswood Bus Depot and opened for trading in April this year. The recent planning history is relevant in that permissions have been granted by the Council, albeit for slightly less net retail floorspace, which allowed for longer weekday evening operating hours than those imposed on the store that has now been built.
7. Although permission was refused in 2007 for two called in applications for a Sainsbury's store and housing on the site, in advising on potential conditions, that Inspector considered that operating hours of 08.00 to 23.00 hours Monday to Saturday would '*protect local residents' living conditions*'. Subsequent permissions granted by the Council in 2008 and 2009 for mixed use schemes on the site similarly controlled the operating hours of the store to 08.00 to 23.00 hours Monday to Saturday '*to protect the amenities of the occupiers of existing nearby residential properties*'.
8. In recommending permission for a larger store in 2011 (the subject of the current appeal), officers again recommended that permission be granted subject to operating hours of 08.00 to 23.00 hours Monday to Saturday. However members amended the operating hours to only allow the store to open between 08.00 to 21.00 hours Monday to Saturday. The reason given for the condition is '*to protect the health and vitality of the existing district centre*', and not, as before, to protect the amenities of local residents.
9. In November 2011 SSL made an application under Section 73 of the 1990 Act to vary 4 of the conditions including the operating hours condition. That application is not before me for consideration. However I understand that the variation sought to Condition 19 to allow an in-house pharmacy was withdrawn by SSL and in determining the application the Council resolved that Conditions 20 and 58 should remain.

The vitality and viability of the district centre

10. The development plan includes the saved policies of the Local Plan Review (March 2009) (LPR) and the Core Strategy, adopted in 2010 (CS). Saved LPR policy RE5 seeks to strengthen and enhance the vitality and viability of the defined district centres which include Portswood. CS policy CS3 similarly supports the role of the district centres and requires new development to make a positive contribution to the centre's vitality and viability. Aims for Portswood include maintaining the health of the centre, improving the street scene and successfully integrating local facilities. Paragraph 4.5.3 of the CS describes Portswood as being '*currently in good health, with low vacancy rates and a distinctive local form*' and refers to the potential for a new superstore on the bus depot site. In that the retail policies of the LPR and CS support the vitality and viability of town centres they are consistent with the Framework and can be given full weight.
11. The Framework has replaced all previous Planning Policy Statements including PPS4 on Sustainable Economic Growth although the accompanying practice guidance remains extant. The store is in an edge of centre location and the appeal application was accompanied by a detailed retail impact assessment including a health check of the centre, consistent with the methodology identified in the practice guidance. In granting permission the Council would have had regard to the predicted impacts on existing trade in the centre and found that these were acceptable when balanced with the benefits of clawing back expenditure that was being spent outside the centre and the potential for shoppers linking their trips to the store with a visit to the district centre.
12. Evidence was presented at the hearing of various changes in Portswood that were said to be directly attributable to the opening of the Sainsbury's store, including the Co-op reducing its opening hours, shops becoming vacant and the likely closure of the Halal butcher. However the store has been trading for less than 6 months. It takes time for any changes in shopping patterns to become established and the impact assessment was based on a design year of 2013.
13. The Council in its statement describes the health of the centre as '*reasonably good*'. Of the 5 units that are currently vacant, one is being refurbished and others result from the demise of national chains, rather than because of local events. There may be a number of charity shops in Portswood but in many centres these are seen as established retail outlets and a permanent presence in the High Street and I do not think they are necessarily indicative of Portswood's vulnerability.
14. SSL are seeking to open one hour earlier in the mornings and for an additional two hours in the late evening. Neither party referred to any accepted methodology for assessing the potential for impact as a result of additional trading hours. When making the appeal application in 2010, it was reasonable for SSL to expect that the Council would consider operating hours up to 23.00 hours to be acceptable, as it had done for the earlier schemes. In recommending permission officers also considered opening till 23.00 hours to be acceptable for the larger store and maintained this view in the report to committee on the Section 73 application.
15. It was suggested by the Council that logically having longer opening hours must increase the store's turnover and figures were offered based on estimates of hourly sales figures derived from the retail impact assessment. However the

Council provided no other evidence to support that argument which contrasted with SSL's view that any effect from extending opening hours would be shoppers 'time shifting' their expenditure.

16. The new store is larger than that previously permitted. However the convenience elements of both schemes are broadly the same, and in both cases substantially larger than any of the other convenience stores in Portswood. The key difference is the additional floorspace for comparison goods and the depth of non-food ranges on sale.
17. Portswood has an active evening economy with take-aways, restaurants and pub/bars. There are convenience stores that stay open after 21.00 hours but there are few, if any, non-food goods being sold in the centre at that time. Thus the SSL store opening for two extra hours would not have the potential to divert any comparison goods trade from the centre. Of course someone purchasing non-food goods in the store between 21.00 and 23.00 hours might, if the store had not been open, otherwise have returned to Portswood another time to make their purchase, assuming that they could in fact buy the required item in one of the shops in the centre.
18. However what seems to me to be more probable is that if the SSL store is not open between 21.00 and 23.00 hours they would return another time to the store to make their purchase or, if urgent, drive to one of the out of centre stores that open late. I conclude that any potential to divert comparison goods trade from the centre to the store as a consequence of opening between 21.00 and 23.00 hours is likely to be so small such as to have no significant adverse impact on the centre.
19. The Council refers to the lack of potential for linked trips as during the period 21.00 to 23.00 hours any shopping trip to the SSL store would be unlikely to be linked to trips to the shops in the centre as most shops (other than the Co-op) will be closed. The same could be said for the period between 17.00/18.00 hours (when most of the non-food shops close) and 21.00 hours yet the Council is content for the store to trade until 21.00 hours. Further from what I saw on my visits it seems to me that some shoppers in the store after 21.00 hours could well make a linked trip to the centre to collect a take-away or have a drink or meal, all of which would contribute positively to the centre's overall vitality and viability, in accord with CS policy CS3.
20. There are other convenience stores in the centre that currently open later than 21.00 hours. However as advised in the practice guidance '*in all cases ... it is important that the impacts are considered on the vitality and viability of the whole of the centre or centres, not simply on individual facilities which may be similar to the proposed development*' (paragraph D.38). Whilst there would be some diversion of trade between those late opening convenience stores and SSL store, this was considered by the Council in terms of the impacts identified in SSL's retail impact assessment (which was not operating hours specific), and which were found to be acceptable in terms of the overall impact on the district centre. It is not the purpose of the planning system to prevent competition between retailers and I am not persuaded on the case put by the Council that condition 20 is necessary or reasonable to offer an opportunity for other retailers to retain trade by opening when SSL is closed.
21. SSL is also seeking to open the store one hour earlier in the morning. Similar arguments prevail to those put forward in terms of opening later in the

evening. There are few shops open in the centre at 07.00 hours and Waitrose, at the southern end of the centre, does not open until 08.00 hours. Evidence from other SSL stores is that only 1.5% of the store's total trade takes place in that first hour. Again there could be some diversion of trade from the Co-op and other convenience stores between 07.00 and 08.00 hours. However some of that diversion would be from out of centre stores that open 24 hours, bringing expenditure back to the district centre. I do not consider that the store opening earlier is likely to result in a significant adverse impact on the district centre as a whole.

22. Thus I conclude on my first issue that varying the condition to allow longer operating hours would not have a significant adverse impact on the vitality and viability of Portswood district centre and thus would not conflict with the Framework or with the objectives of LPR policy RE5 and CS policy CS3.

The effect on those living around the site

23. The reason for the disputed condition does not refer to the effect on the amenity of residents. However concerns were expressed in writing and at the hearing about the impact of extended hours on those living around the site and the Council sought to use those objections to add weight to its arguments. Saved LPR policy SDP16 requires that development should not have an unacceptable noise impact. The impact on residential amenity was addressed in SSL's statement and identified as an issue at the hearing.
24. The store is now trading. It has an underground car park with access onto Portswood Road at a mini-roundabout. Concerns were expressed about problems of traffic queuing back at the re-phased traffic lights and shoppers and staff parking in the residential streets around. I appreciate that my visits were during the university recess and school holidays when traffic will be lighter. Also that the store car park is open to the public. Nonetheless given the size of the car park, it's observed light use in the evening and the early morning, and with many of the surrounding streets subject to parking controls, I do not consider that the extended opening times would be likely to materially exacerbate parking pressure on the residential streets around the store.
25. The site was formerly in use as a bus depot with early morning vehicular activity. The experience at other similar SSL stores is that only a small proportion of the store's trade takes place before 08.00 hours and after 21.00 hours. I am satisfied that the additional traffic movements that might be generated here could be accommodated on the network without detriment to highway safety or the free flow of traffic.
26. The store is located at a busy junction on one of the main arterial routes into and out of the city centre. Although there are residential properties opposite the car park entrance, most activity and noise takes place in the car park under the store which is relatively well contained. The appellants' noise statement indicates that worst case noise levels associated with customers visiting the store if open till 23.00 hours and at 07.00 hours, would be within the World Health Organisation's recommended criteria to avoid sleep disturbance, for both the Portswood Road properties and the new housing. With respect to headlight glare, mentioned at the hearing, the appellants' agent referred to officers' detailed consideration of the gradient of the approach road at the application stage who were satisfied that there would not be unacceptable disturbance to those living opposite the exit.

27. The store is on the edge of the Portswood district centre, one of the focuses of commercial activity in the city and where residents must expect there to be a level of activity commensurate with the nature and function of the district centre. Extending the operating hours to 23.00 hours would be consistent with other uses in the centre. Having regard to the layout of the store, the surrounding uses and the general level of traffic and activity in the area, I do not consider that the extended operating hours sought would give rise to noise and disturbance such as to cause unacceptable harm to those living around the site. Thus I find no conflict with the objective of saved LPR policy SDP16.

Conclusion

28. The Council has been inconsistent in the restrictions it has applied to the operating hours of the stores it has permitted on the site. It has also been inconsistent as to the reasons for applying conditions. On the basis of the evidence, I am satisfied that there would be no significant adverse impact on the vitality and viability of Portswood district centre as result of the extended operating hours sought. Further the longer operating hours of the store would not give rise to any unacceptable disturbance to those living around the site. Accordingly varying condition 20 would not conflict with national or local policy, would be reasonable and would meet the tests of Circular 11/05.

29. However in that the Council has recently agreed a car parking management plan pursuant to the Section 106 agreement which provides for the car park to open 30 minutes before the store and to close 30 minutes after the store trading hours, it appears to me unnecessary to control the hours when the car park is open through condition 20 and I will vary the condition accordingly.

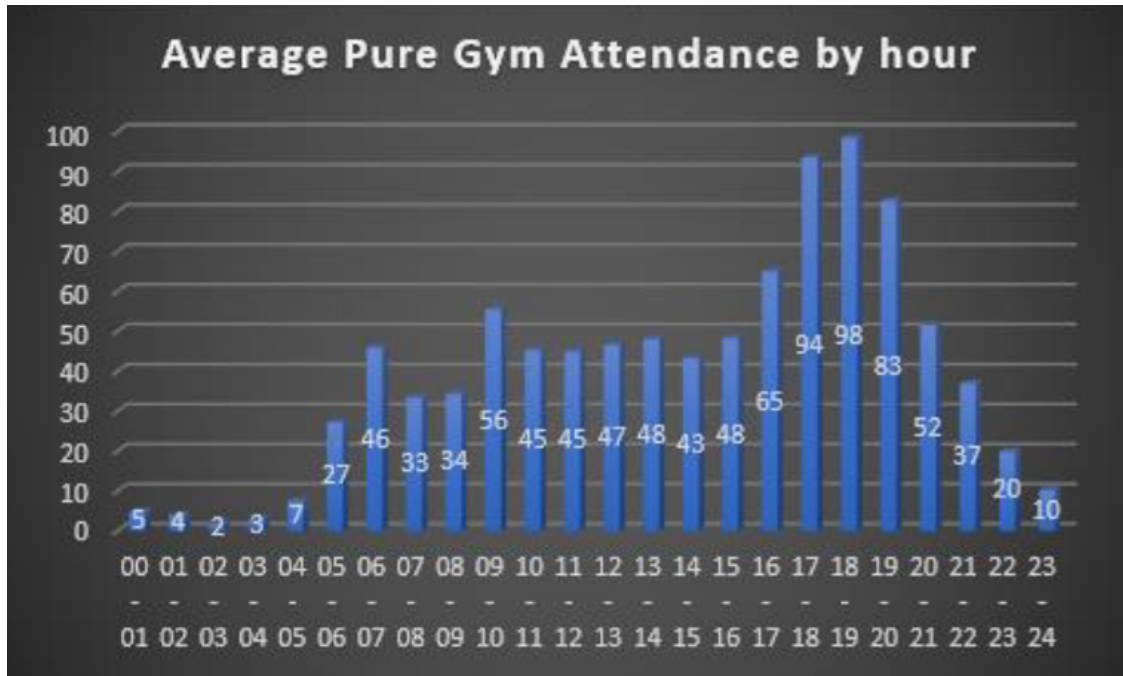
30. The appeal is made pursuant to Section 79 of the 1990 Act (as amended). The effect of allowing the appeal is to modify the original permission by the variation of the disputed condition. As a new planning permission is not created, no amendment or variation is required to the Section 106 agreement dated 21 October 2011.

Overall conclusion

31. For the reasons given above I conclude that the appeal should succeed. I am varying the planning permission by deleting the disputed condition 20 and substituting a new operating hours condition.

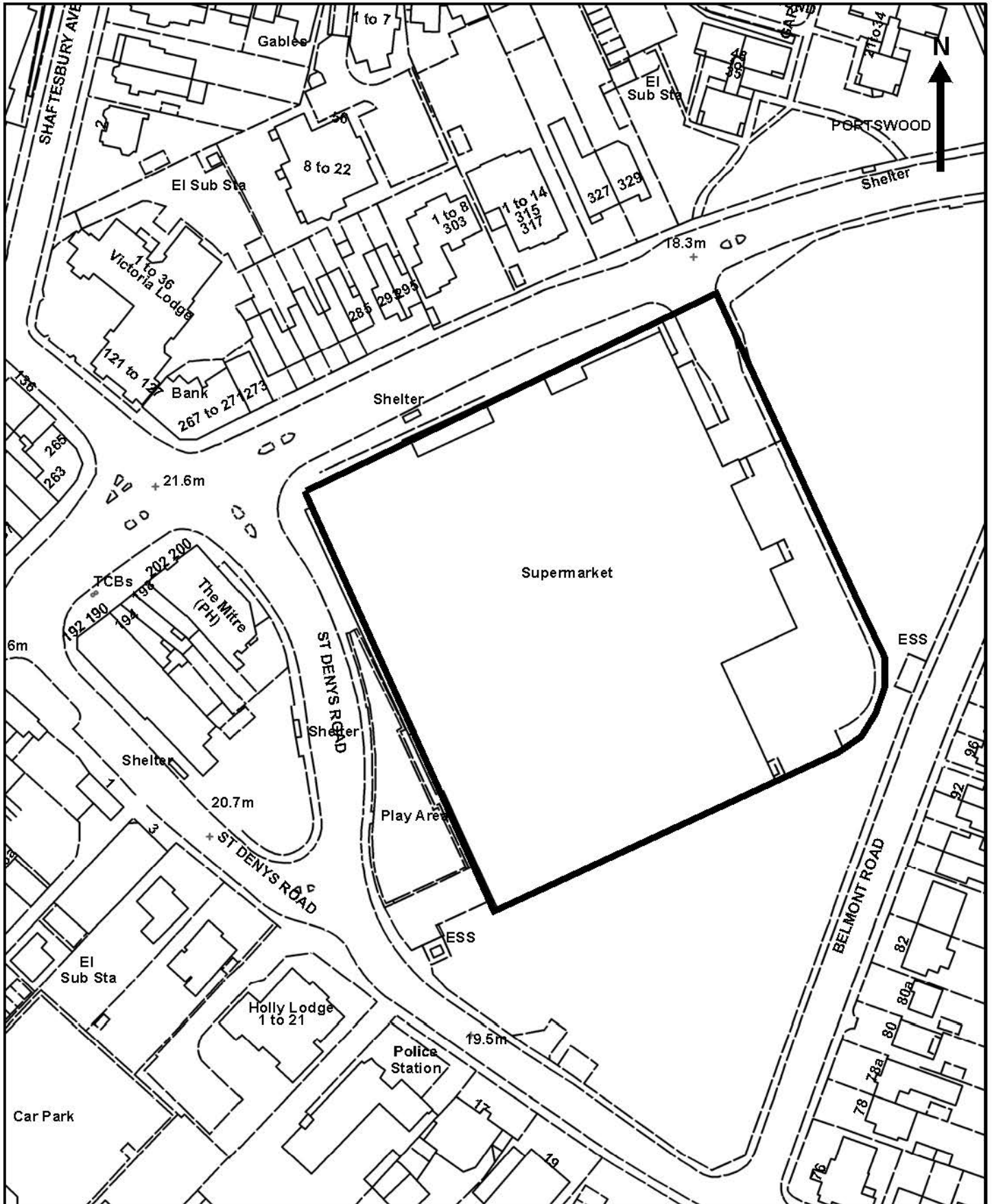
Mary O'Rourke

Inspector



Agenda Item 6 19/00137/FUL

Appendix 1



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Agenda Item 7

Planning and Rights of Way Panel 16th July 2019 Planning Application Report of the Service Lead - Infrastructure, Planning & Development

Application address: 267-271 Portswood Road			
Proposed development: Erection of an additional floor to create 4x 1-bed flats with associated cycle/refuse storage following partial demolition of existing building to create new entrance and extension of existing restaurant flue			
Application number:	19/00735/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	5 minutes
Last date for determination:	22.07.2019	Ward:	Portswood
Reason for Panel Referral:	Request by Ward Member and Five or more letters of objection have been received	Ward Councillors:	Cllr Gordon Cooper Cllr John Savage Cllr Lisa Mitchell
Referred to Panel by:	Cllr Cooper	Reason:	Loss of light and shadowing impact to neighbouring sheltered housing units (Victoria Lodge)
Applicant: Mr Joseph Muscat		Agent: BLOCK 3 Architects	
Recommendation Summary		Delegate to Service Lead – Infrastructure Planning & Development to refuse planning permission subject to criteria listed in report	
Community Infrastructure Levy Liable		Yes	

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 (2019). Policies - SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP12, SDP13, SDP14, H2, H7, HE4, REI4, REI5 of the City of Southampton Local Plan Review (Amended 2015) and 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	Habitats Regulation Assessment	2	Development Plan Policies
3	Relevant Planning History	4	Scheme under 17/00005/FUL

Recommendation in Full

1. That the Panel confirm the Habitats Regulation Assessment in **Appendix 1** of this report.
2. Delegate to the Service Lead – Infrastructure, Planning & Development to grant planning permission subject to the receipt of (i) confirmation in writing by the applicant that the pre-commencement planning conditions recommended at the end of this report are acceptable (ii) amended plans showing the removal of the internal partitions for the bedrooms (iii) and the completion of a S.106 Legal Agreement or Section 111 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 Service Lead – Infrastructure, Planning & Development be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement or Section 111 agreement and/or conditions as necessary. In the event that the above requirements not met delegation given to refuse the application.

1. Introduction & Background

- 1.1 The applicant was previously sought permission for a 2 storey roof top extension (ref no. 17/00005/FUL), however, decided to withdraw the application following advice from the case officer that the scheme would not be supported because the additional two floors comprising 8 flats were considered overbearing and would result in harmful loss of light and sunlight to Victoria Lodge (**see Appendix 4** for the previous scheme). The applicant continued to work with the Council to discuss an amended scheme that would be likely to gain the support of the Council Officers and has resubmitted with a single floor extension comprising 4 flats.

2. The site and its context

- 2.1 The site is located on corner of the traffic light controlled junction of Portswood Road and Highfield Lane within the outer edge of the designated Portswood District Centre (PDC). The surrounding area is characterised by the nearby commercial uses fronting Portswood Road in the shopping area and suburban housing adjacent to the north-west of the centre. This includes the Portswood Residents' Gardens Conservation Area. The site lies adjacent to the Bevois Valley Road AQMA (air quality management area).
- 2.2 The site itself contains a locally listed building (circa post war, formerly a bank) of attractively historic character from its traditionally proportioned windows and stonework detailing, comprised of classic style with Portland Stone façade. The building is in use as a pizza restaurant use known as 'Baffis'. The building has a small servicing area to the rear. Immediately to the north-west of the building lies the 3 storey building comprising sheltered housing units, known as 'Victoria Lodge' (121-127 Highfield Lane).

3. Proposal

- 3.1 It is proposed to erect an additional floor to create 4x 1-bed flats with associated cycle/refuse storage following partial demolition of existing building to create new entrance. As part of the proposal, the existing extraction chimney (on the north rear elevation) will be extended higher so it still projects above the eaves line. An integral refuse store is proposed which is accessed from the entrance lobby. The access to the collection of refuse storage would be from the Portswood Road frontage, whilst the applicant has agreed to use a private operator to collect the refuse.

4. Relevant Planning Policy

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 4.2 The National Planning Policy Framework (NPPF) was revised in 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.
- 4.3 The city’s Local Listed building policy HE4 aims to resist the demolition and alteration of the buildings on the list and sets out a series of criteria to be considered in determining planning applications related to them. Paragraph 197 of the NPPF expects the Council to take into the effect of an application on the significance of a non-designated heritage asset in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 4.4 Saved Policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. Policies SDP7 (Context) and SDP9 (Scale, Massing, and Appearance) allows development which will not harm the character and appearance of the local area, and the building design in terms of scale and massing should be high quality which respects the surrounding area. Policy H7 expects residential development to provide attractive living environments. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design. These policies are supplemented by the design guidance and standards as set out in the relevant chapters of the Residential Design Guide SPD. This sets the Council’s vision for high quality housing and how it seeks to maintain the character and amenity of the local neighbourhood.
- 4.5 Policy CS4 acknowledges that new homes will generally need to be built at higher densities. New dwellings coming forward on suitable windfall sites will contribute towards delivering the Council’s strategic target for housing supply.

- 4.6 Policy CS5 acknowledges that whilst there is continuing pressure for higher densities in order to deliver development in Southampton, making efficient and effective use of land, however, the development should be an appropriate density for its context, and protect and enhance the character of existing neighbourhoods.
- 4.7 Policy REI4 and REI5 supports residential development on upper floors within the District Centre. The conversion works do not significantly compromise the viability and servicing of the commercial unit, with details of the upgrading of the cooking extraction equipment and internal soundproofing to be agreed by condition.

5. Relevant Planning History

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

6. Consultation Responses and Notification Representations

- 6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, and erecting a site notice **21.05.2019**. At the time of writing the report **20** representations have been received from surrounding residents, including an objection from the Ward Cllr Cooper, and Dr Buckle (on behalf of Portswood Residents Gardens). The following is a summary of the points raised:
- 6.2 **Overdevelopment. Out of keeping with the historic character of the locally listed building given the type of materials and colour, and poor design.**
Response
The Design Officer and Heritage Officer both raise no objection to the design with regards to its impact on the locally listed building and character and appearance of the vicinity. The resultant two-storey scale is in keeping with the Portswood Road street scene.
- 6.3 **The additional height of the building will result in loss of outlook, light and privacy to the neighbouring occupiers. This includes the residents of Victoria Lodge (elderly persons home) who are less mobile and rely on staying in their homes and, therefore, the shading of the sunny garden would affect their enjoyment of the garden where they are able to easily access.**
Response
The increased height and recess of the extension in proximity to the neighbouring properties and garden is not considered to dominate their outlook, whilst the proposed arrangement of the internal living accommodation maintains privacy to Victoria Lodge. The daylight and sunlight assessment shows that the proposal will meet the national good practice guidelines as set out by BRE.
- 6.4 **Additional pressure to street parking and road safety problems in the local area due to the increased demand from the proposed flats. The entrance of the proposed flats next to the traffic light controlled junction would cause road safety issues. The construction works would be unsafe located near a busy junction controlled by traffic lights with only access from the pavement, and there will be obstruction from the parking of construction workers.**
Response

The maximum on site parking required for this form of development is 4 spaces. Given the constraints of the site no parking is possible and the Panel need to decide whether a residential scheme in this highly accessible location with no dedicated parking is acceptable. The Highway's Officer has raised no objection on road safety grounds. The high accessibility of the location to public transport links and proximity to the services at the Portswood shopping area will encourage less use and ownership of a motor vehicle and, therefore, the parking demand from the proposed development for local street parking would be limited.

- 6.5 **Bedrooms with no natural light or ventilation. The flats would be a fire hazard being built on top of the existing hot food business and storing waste inside the building. Lack of safe fire escape for residents.**

Response

The main living areas of the flats are served by the front facing windows. Although the bedrooms are not directly served by windows, the delegation seeks removal of the partition screen, which isn't an acceptable solution and results in a poor living environment. The safety of the residents with regards to fire risk is assessed separately under Building Regulations so this matter is outside the scope of this application. A condition is recommended to prohibit the installation of the partition dividing structures as it would not be acceptable for residents to rely on partitioned habitable spaces which are effectively internalised with no direct source of natural daylighting or ventilation. A condition is recommended to prohibit the installation of the partitions. The Council has successfully defended an appeal at Saxon Gate in showing that the use of partitions is not acceptable (ref no. 18/00075/APFUL and appeal no. APP/D1780/W/18/3203952).

- 6.6 **Loss of view for residents and loss of property value.**

Response

These matters are not considered to be a valid planning consideration as the private interests of third parties are not protected by the planning system. Reasonable outlook is maintained having regard to the limited additional height of the first-floor extension and separation distances achieved.

- 6.7 **Will cause additional loss of amenity to local residents from 'Baffi's' restaurant due to its inadequate waste disposal causing overflowing bins onto Portswood Road, excessive noise, and unpleasant cooking odours. The restaurant would have to raise the height of the existing chimney which is not shown on the plans. There will be additional nuisance from refuse being left on Portswood Road.**

Response

The Highway's Officer is satisfied that the arrangement for the collection and storage waste to be managed by a private collection company would address the concerns about the road safety and amenity issue affecting Portswood Road and the nearby traffic light controlled junction. The applicant has demonstrated that the existing extract flue serving the restaurant can be extended above the roof level in order to effectively discharge cooking odours. Further details of the system in relation to noise and odour control can be secured by condition.

Consultation Responses

- 6.8 **SCC Highways** – No objection subject to a waste management plan to ensure that the servicing vehicle is not positioned on or near the Portswood

Road/Highfield Lane junction especially near the pedestrian crossing in front of 273 Portswood Road.

Response

The applicant has confirmed that the refuse will be collected by a private operator. The refuse servicing approved for 'Baffi's' restaurant (ref no. 16/02101/FUL) successfully agreed to position the refuse collection vehicle in a safe location away from the junction.

6.9 **SCC Heritage – No objection**

See paragraph 7.3.2 for detailed comments.

6.10 **City of Southampton Society – No objection in principle**

The proposed additional storey would seem to be rather brutal and dark in colour. A lighter touch would have been preferable. The design is unusual, but acceptable. Clarification on whether there is noise attenuation, mechanical ventilation, control of food odours from the restaurant below, and bin management strategy to avoid bins being left on the footway.

6.11 **SCC Sustainability Team – No objection**

6.12 **SCC Design Officer – No objection**

6.13 **SCC Environmental Health (Pollution & Safety) – No objection subject to conditions for construction management**

Response

Not considered necessary.

6.14 **Ecologist – No objection subject to condition to protect nesting birds during construction**

7.0 Planning Consideration Key Issues

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

- The principle of development;
- Design and effect on character;
- Residential amenity;
- Living conditions of future occupiers;
- Parking highways and transport;
- Mitigation of direct local impacts and;
- Likely effect on designated habitats.

7.2 **Principle of Development**

7.2.1 The Local Plan set out that there is a 16,300 housing need in the city by 2026 whilst utilising brownfield sites in sustainable locations to achieve further housing development is encouraged. In terms of the level of development proposed, policy CS5 of the Core Strategy confirms that in high accessibility locations such as this, density levels should generally accord with the range of over 100 dwellings per ha (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 120 dph which, whilst compliant with the range set out above, needs to be tested in terms of the merits of the scheme as a whole. This is discussed in more detail below.

7.2.2 The principle of development can be supported to make better utilisation of the existing building to provide windfall housing to contribute towards the city's housing supply.

7.3 Design and effect on character

7.3.1 Section 2.3 of the Residential Design Guide sets out detailed design guidance for extensions and modifications of existing dwellings. The design guidance set out in paragraphs 2.3.1 to 2.3.2 of the Residential Design Guide expects extensions to appear subordinate to the host dwelling. The recessed design and height of the proposed roof top extension is considered to be subordinate to the appearance of the existing building, whilst its height is contiguous with the eaves line of the adjacent Victoria Lodge and, therefore, is not considered to be dominant within the street scene. Although the modern materials contrast with the classically styled ornate stone building, this is a common approach to extending buildings with historic character rather than using a pastiche approach. The Design Officer is supportive of this design approach. The resultant building height would be in keeping within the Portswood Road Street scene. Paragraph 3.6.10 of the Residential Design Guide supports increased height to create a visual focus at a street corner.

7.3.2 The Conservation Officer is satisfied that the proposal is in accordance with policy HE4 (Locally Listed) because it retains the main architectural features and qualities of the building and in my opinion, enhances the landmark status of the corner site. The proposed first floor extension is simple in composition and the darker copper material accentuates the Portland stone frontage of the bank, thus raising its prominence in the street scene. The Conservation Officer therefore raises no objection to the proposal on these heritage grounds and recommends that the use of the copper cladding is not changed at any stage as this is a key element of making this proposal a design success.

7.3.3 As such, the proposal is not considered to adversely affect the character and appearance of the local area, and would enhance the setting and character of the locally listed building in accordance with policies HE4 and CS14.

7.4 Residential amenity

7.4.1 There are standards set out in section 2.2 of the Residential Design Guide to protect the living conditions of the neighbouring occupiers to safeguard privacy, natural light and outlook in relation to habitable areas. Paragraph 2.2.1 expects extensions to maintain the access to natural light, outlook and privacy for neighbouring occupiers. Paragraph 2.2.18 expects the Council to carefully consider the impact of an extension close to a garden boundary from the perspective of someone standing in that location.

7.4.2 The main impact from the proposed development would be on the amenity of the adjacent occupiers at Victoria Lodge to the north of the site. Following the withdrawal of the previous application (**see Appendix 4**), the mass and bulk of the roof top extension has been significantly reduced in height from its former 2 storeys to 1 storey. At the rear of the building, the single storey roof top extension directly facing will be set back 8.5m from the rear boundary with the garden of Victoria Lodge and 14m from the nearest rear elevation of Victoria Lodge with habitable rooms facing. Normally a minimum separation of distance of 15m is expected in this type of relationship where side/rear walls face each other

(paragraph 2.2.7 of the Residential Design Guide refers). That said, the rear elevation of Victoria Lodge is angled away from the site, and the non-uniform and tapering nature of the neighbouring plots and the existing relationship of the buildings does not neatly fit the separation standards set out in the guidance, so an individual judgement can be made on its own merits.

- 7.4.4 Having viewed the impact of the proposed development directly from a flat looking onto the site and the private garden area, the height and proximity of the roof top extension is not considered to be harmful to the outlook of the neighbouring occupiers. The extension would be noticeable from these spaces, however, the recessing and height of the roof top extension is not considered to be over-dominant and will not cause an undue sense of enclosure to the outlook from the neighbour's habitable spaces. Furthermore, the privacy of the neighbouring occupiers would not be adversely affected as they would not be directly overlooked by obscured glazed windows (with high level top openings for ventilation 1.7m above the internal floor) at the rear serving the corridor and bathroom areas.
- 7.4.5 The applicant has now submitted a daylight and sunlight assessment following the good practice guidelines set out by the BRE (Site layout planning for daylight and sunlight, 2011). The shadowing model shows that the existing building at the site already casts shadow (30th March represents worst case scenario) across the garden edge of Victoria Lodge between 9am to 11am, and then the building at Victoria Lodge overshadows its own garden substantially from 3pm. The study demonstrates that whilst the proposed extension would cause a minor increase in shading of the habitable spaces and garden of Victoria Lodge in the morning to afternoon period, there will be limited impact from the late afternoon onwards as the orientation of Victoria Lodge would extensively shade its own garden. The assessment concluded that the proposed extension would comply with the good practice guidance of the BRE guidelines and would not result in a notable reduction in the amount of either daylight or sunlight enjoyed by the neighbouring buildings.
- 7.4.6 The applicant has demonstrated that the existing extract flue serving the restaurant can be extended above roof level in order to effectively discharge cooking odours. Further details of the system in relation to noise and odour control can be secured by condition to protect the existing and future occupiers. Furthermore, the collection and management of waste by commercial operators will ensure that waste is not left on Portswood Road on collection days.

7.5 Living conditions of future occupiers

- 7.5.1 There are standards set out in section 2.2 of the Residential Design Guide to protect the living conditions of the existing and future occupiers to safeguard privacy, natural light and outlook in relation to habitable areas. Section 4.4 of the Residential Design Guide requires all developments to provide an appropriate amount of the private amenity which should be fit for the purpose intended. Paragraph 2.3.14 of the Residential Design Guide requires a flat to have a minimum garden size of 20sqm, where this space can be shared communally. Although no external amenity space is proposed due to the first floor nature of the conversion, this is not an uncommon arrangement for single occupancy flats in district centres and the constraints of the site in the district centre location to encourage high densities is accepted in this case.

- 7.5.2 The Council does not have its own adopted policy for minimum internal floor spaces for new dwellings, however, the national described floor space standards (dated March 2015) acts as a relevant guideline to what size of accommodation is acceptable. These standards expect a minimum floor area (gross internal area – GIA) of 37-50sqm for studio/1 bedroom flat. The floor area of 1 bed flats are 33sqm (apt. 1); 37sqm (apt 2); 38sqm (apt 3); and 38sqm (apt 4). The floor areas are generally compliant in size when assessed against the guidance of the national standards. Although, flat (apt 1) is slightly substandard, the smaller size of the single occupancy flats are not uncommon of district centre housing where higher densities are encouraged.
- 7.5.3 The main living areas of the flats are served by the front facing windows. A condition is recommended to prohibit the installation of the partition dividing structures as it would not be acceptable for residents to rely on partitioned habitable spaces which are effectively internalised with no direct source of natural daylighting.
- 7.5.4 It is noted that the Bevois Valley Road AQMA terminates next the traffic light junction adjacent to the site. It should be noted that it is not uncommon for housing to front onto Portswood Road. The Environmental Health Officer has raised no objection about the quality of the accommodation with regards to its proximity to Portswood Road, whilst a scheme of sound proofing and ventilation can be conditioned with regards to the windows facing onto Portswood Road to ensure that there is adequate mitigation from noise and air quality associated with the traffic, and sound proofing between the commercial use on the ground floor.
- 7.6 Parking highways and transport
- 7.6.1 The maximum parking standards within this high accessibility zone requires a total of 4 spaces for 4x1 bed flats. No off-street parking spaces are provided however this would still be policy compliant as the parking standards are a maximum. The census data shows for the Portswood ward that 43.7% of households own 1 car, and 24.3% own 2 or more cars, 32% own no cars.
- 7.6.2 Whether the development provides the maximum permissible amount, or lower quantity, the guidance in the Parking Standards SPD (section 4.2.1 refers) expects the applicant to demonstrate that there is sufficient kerbside capacity to absorb the additional parking demand. This should be assessed by undertaking a parking survey using the preferred Lambeth model. No parking survey has been provided.
- 7.6.3 The provision of no spaces is policy compliant with the maximum standards. Although a parking survey has not been submitted, the sustainable location within the city centre would allow good accessibility to public transport so there is less need to own a motor vehicle and, therefore, is unlikely to cause further pressure to local street parking. Residents will make a decision ahead of occupation and there isn't easy parking in close proximity to the site which may discourage car ownership.
- 7.6.4 The Highways Officer has raised no objection in terms of the impact on highways safety, whilst they are satisfied that the arrangement for the collection and storage waste to be managed by a private collection company would address the concerns about the road safety and amenity issue affecting Portswood Road and

the nearby traffic light controlled junction. The additional trips associated with the development is not considered to significantly affect highway safety.

7.7 Likely effect on designated habitats

7.7.1 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.

7.7.2 The contributions towards SDMP have not yet been secured, however, it is recommended to delegate authority to officer's to resolve this issue.

8. Summary

8.1 In summary, the design and layout of the proposed development would respect and compliment the character and appearance of the locally listed building using an innovative and modern design to the benefit of the street scene and district centre, whilst it is demonstrated that the limited impact on the adjacent residents at Victoria Lodge would not be harmful to their amenity. It is considered that the socio-economic benefits of delivering housing suitable for low incomes persons and improving the mix and balance of the local community by introducing smaller households outweighs by the negative socio-economic and environmental impacts of the loss of the opportunity for residents in the vicinity to use the street parking on the kerb adjacent to the site. As such, it is considered that the impacts of the development when assessed as whole are acceptable. A presumption of favour of this sustainable development is recommended as the net positive outcomes of the development do achieve a favourable planning balance.

9. Conclusion

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

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

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

SB for 16/07/19 PROW Panel

PLANNING CONDITIONS

1. 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).

2. 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 and to ensure that the highest quality materials are used to protect the character and setting of the locally listed building.

3. 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.

4. 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 to avoid the obstruction of the footway and carriageway of Portswood Road and Highfield Lane fronting the site;
- (b) loading and unloading of plant and materials to avoid the obstruction of the footway and carriageway of Portswood Road and Highfield Lane fronting the site;
- (c) storage of plant and materials, including cement mixing and washings, used in constructing the development;
- (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;

- (e) measures to be used for the suppression of dust and dirt throughout the course of construction;
- (f) details of construction vehicles wheel cleaning;
- (g) details of how noise emanating from the site during construction will be mitigated;

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, and highway safety.

5. 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 2011)

6. 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).

7. Noise & Vibration (external noise sources) (Pre-Commencement)

Prior to the commencement of the development hereby approved, a scheme of measures to protect the occupiers of the development from external noise and vibration sources, shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented as approved before the development first comes into occupation and thereafter retained as approved.

Reason: To protect the occupiers of the development from excessive external noise.

8. Noise & Vibration (internal noise source) (Pre-Commencement)

The use hereby approved shall not commence until sound insulation measures against internally generated noise and vibration have been provided in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The measures shall be thereafter retained as approved.

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

9. Extract Ventilation (Pre-Commencement)

No development shall take place until a written scheme for the control of noise, fumes and odours from extractor fans and other equipment have been submitted to and approved in writing by the Local Planning Authority. The revised extraction equipment shall be implemented in accordance with the approved details and findings before the development first comes into occupation.

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

10. Obscure Glazing (Performance Condition)

Before the development is first occupied, all windows in the rear (north-west and north-east) elevations 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. Furthermore, the moveable partition screens serving the bedrooms shall be provide in accordance with the approved plans. The windows shall be thereafter retained in this manner.

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

11. Refuse & Recycling (Pre-Commencement)

Prior to the commencement of development, details of storage and ventilation arrangements to the integral store for refuse and recycling, together with the access to it and management servicing plan for the collection of refuse by a private operator and to be serviced by vehicles not outside the traffic light controlled junction adjacent to the site, shall be submitted to and approved in writing by the Local Planning Authority. The storage and management servicing plan shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the development hereby approved.

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

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 at least 8 weeks prior to occupation of the development to discuss requirements.

12. Cycle storage facilities (Pre-Occupation)

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. The storage shall be thereafter retained as approved.

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

13. No Partition wall/screen for bedroom (Performance)

Notwithstanding the submitted plans, there shall be no dividing partition structure installed between the main living area and the bedroom at any time.

Reason: In the interests of protecting the living conditions of the future occupiers by avoiding the creation of internalised living spaces without a direct source of natural day light and to ensure that the flats achieve the nationally prescribed internal floorspace standard.

14. 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.

Note to Applicant - Community Infrastructure Liability (Approval)

You are advised that the development appears liable to pay the Community Infrastructure Levy (CIL). Please ensure that you assume CIL liability prior to the commencement of the development (including any demolition works) otherwise a number of consequences could arise. For further information please refer to the CIL pages on the Council's website at: <http://www.southampton.gov.uk/planning/community-infrastructure-levy/default.aspx> or contact the Council's CIL Officer.

Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement

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	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.

connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	
Are there any other 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>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 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 (https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire up to 2034.</p>

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	£346.00
2 Bedroom	£500.00
3 Bedroom	£653.00
4 Bedroom	£768.00
5 Bedroom	£902.00

Therefore, in order to deliver the an 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 5% 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 5% 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 2012.

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
CS14	Historic Environment
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
HE4	Locally Listed Buildings
H1	Housing Supply
H7	The Residential Environment
REI4	Secondary Retail Frontages
REI5	District Centres

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 (2019)
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

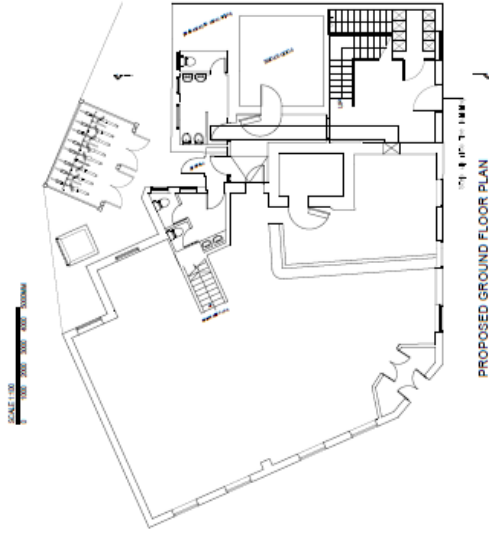
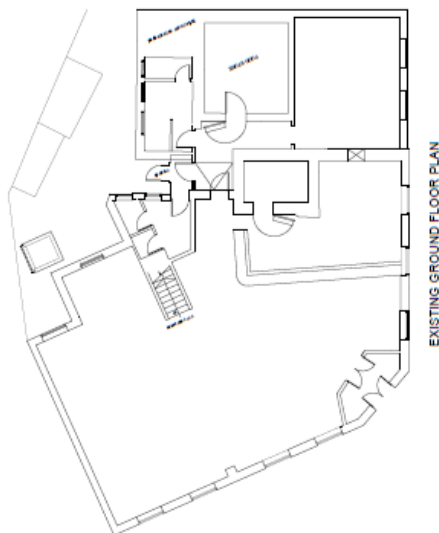
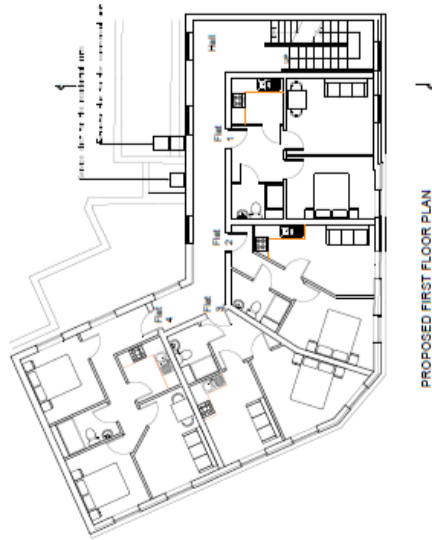
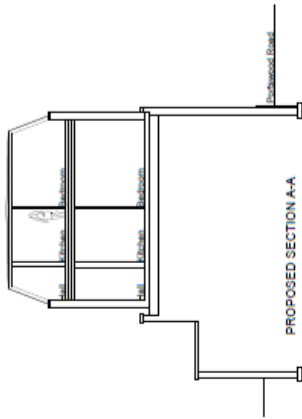
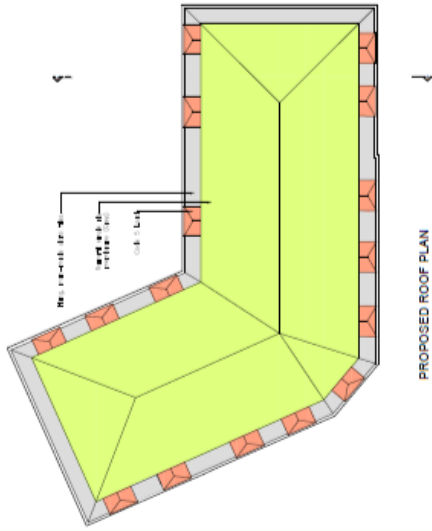
Relevant Planning History

17/00005/FUL – Withdrawn 24.03.2017 (*see Appendix 4*)

Erection of additional two storeys above existing building to create 8 flats (6 x one bed and 2 x two bed) with ground floor alterations to facilitate access

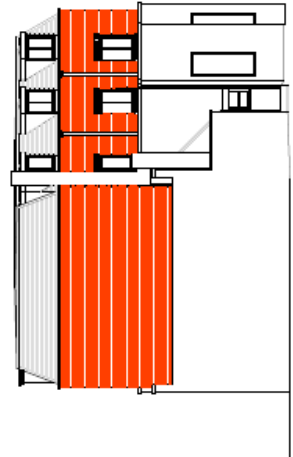
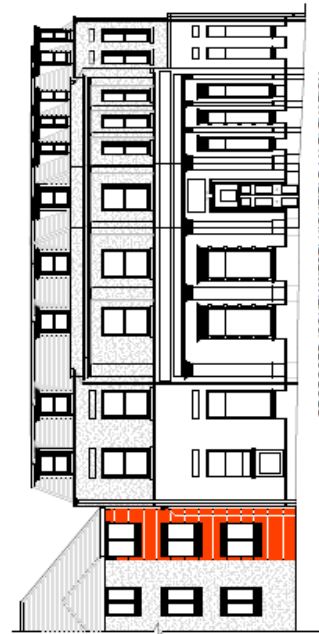
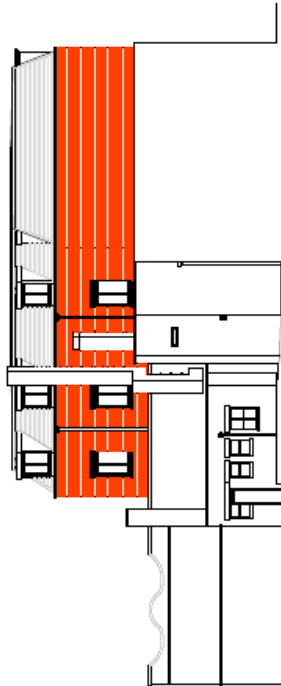
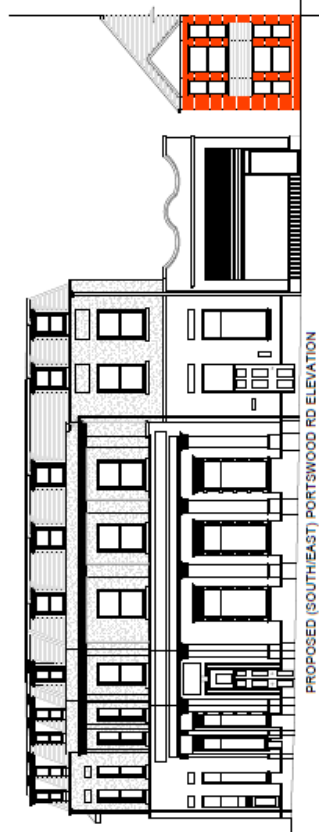
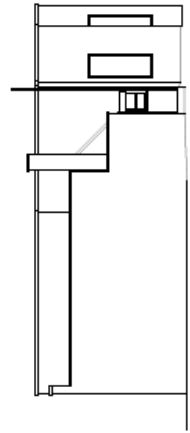
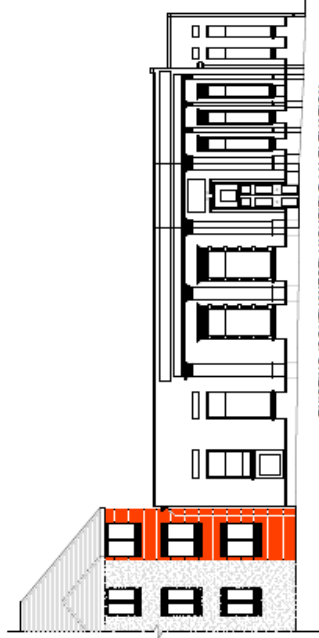
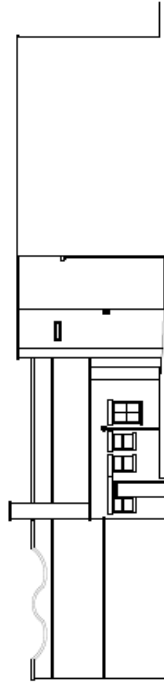
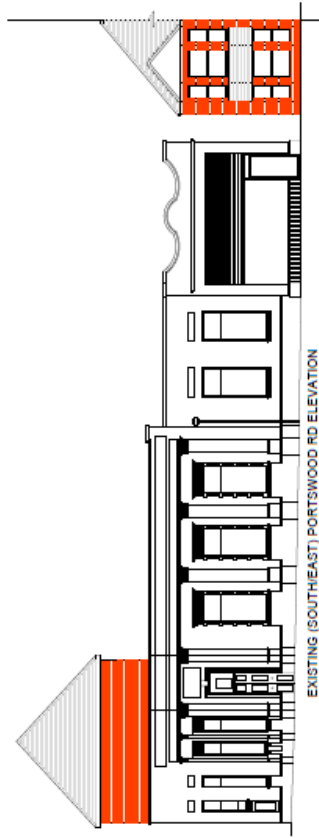
16/02101/FUL – Conditionally Approved 17.03.2017

Change of use from bank (Class A2) to a restaurant/Cafe (Class A3) and installation of extraction flue.



ELLIS AND PARTNERS ARCHITECTS 267-271 Periswood Road Solihull Parkway SO17 2JL Birmingham, B37 7YU Tel: 0121 717 1100 Fax: 0121 717 1101 www.ellisandpartners.co.uk	
PROJECT:	267-271 Periswood Road Solihull Parkway SO17 2JL
DRAWING NO.:	EXISTING and Proposed Floor Plans
DATE:	PP-001
SCALE:	A





SCALE: 1/8" = 1'-0"

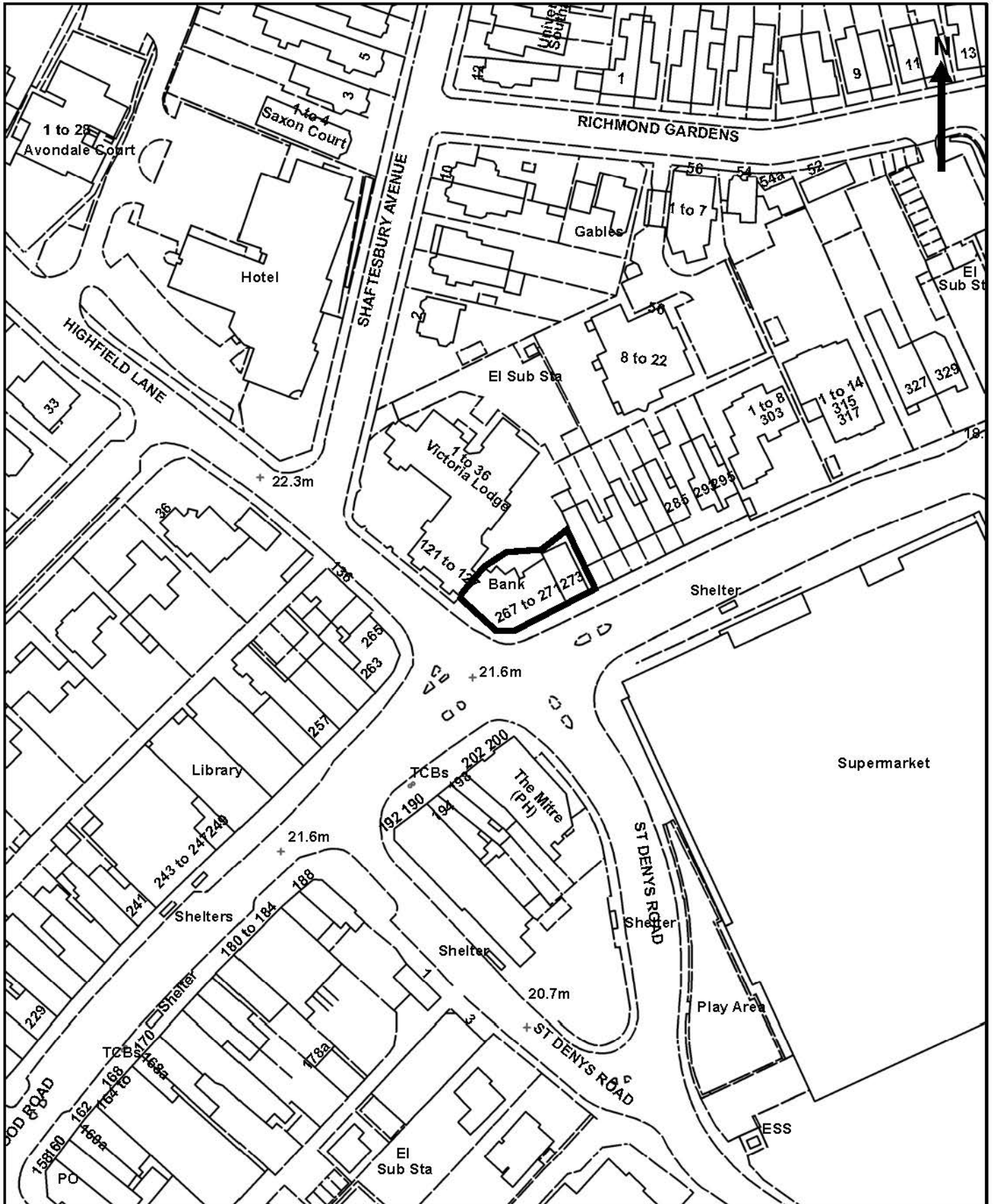
Drawn	Checked	Date
ELLIS AND PARTNERS		
ARCHITECTS - INTERIORS - EXTERIORS - PLANNING - HISTORIC PRESERVATION		
1000 17th Street, Suite 1000, Berkeley, CA 94710		
Phone: (415) 863-1710 Fax: (415) 863-1711 www.ellispartners.com		
Project	267-271 Portswood Road	
Location	SOLVILLA	
Drawing Title	EXISTING and Proposed ELEVATIONS	
Sheet	PP-102	

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Agenda Item 7

19/00735/FUL

Appendix 1



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Agenda Item 8

Planning and Rights of Way Panel 16th July 2019 Planning Application Report of the Service Lead - Infrastructure, Planning & Development

Application address: Unit 4 Northbrook Industrial Estate Vincent Avenue, Southampton			
Proposed development: Change of use from industrial (class B2) to education and training facility (retrospective) (Departure from Local Plan - policy REI11) – TEMPORARY			
Application number:	19/00026/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	5 minutes
Last date for determination:	22.07.2019	Ward:	Bassett
Reason for Panel Referral:	Request by Ward Member/Five or more letters of objection have been received	Ward Councillors:	Cllr Beryl Harris Cllr Les Harris Cllr John Hannides
Referred to Panel by:	Cllr Beryl Harris	Reason:	Loss of safeguarded industrial unit
Applicant: Assure Healthcare Group		Agent: Concept Design & Planning	

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

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The departure from the Local Plan can be supported as the educational use of the premises can be reverted back to the safeguarded light industrial use after the temporary 3 year period if then found to be commercially viable under future market conditions and is not reallocated for other purposes under the emerging site allocation policies for employment. The delivery of the educational facility can be afforded significant weight given the importance attached by the government and opportunity to widen educational choice. 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 (2019). Policies – CS6, CS7, CS11, CS13, CS18, CS19, CS25 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP16, REI11 of the City of Southampton Local Plan Review (Amended 2015). Policy BAS12 of the Bassett Neighbourhood Plan (July 2016).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History
3	Decision notice from 17/01251/FUL		

Recommendation in Full

Conditionally Approve

1. Introduction & Background

- 1.1 The applicant 'Assure Health Group' (AHG) already uses the upper floors of Northbrook House to provide short hold residential tenancies for supported care accommodation for young adults with disabilities under a class C3(b) arrangement. This is run by the landlord group 'Safe Living Foundation'. The 18 flats were approved in 2015 under permitted development rights under then Part 3 Class N to change from offices to residential use (15/00430/PA56 refers).
- 1.2 The same organisation AHG are seeking retrospective permission to regularise the unauthorised use of the ground floor industrial unit as an education and training facility for young vulnerable adults to teach practical life skills. The use has been in operation since mid to late 2017. A previous application for this proposal (ref no. 17/01251/FUL) was refused in early 2018 and the decision notice is attached to **Appendix 3**. The main reasons for refusal was the loss of the safeguarded industrial unit for employment use without any necessary justification to change to the educational use. Secondly the scheme failed to secure a financial contribution to towards local footway improvements to make the route more accessible for less ambulant/confident students living within the local area. Any potential enforcement action against the unauthorised use is being held in abeyance until the outcome of this application.

2. Proposal

- 2.1 AHG seeks retrospective permission to use the premises 'Unit 4', situated on the ground floor below unit 10 (residential accommodation managed by AHG), to provide an educational and training facility to teach practical life skills for the purpose of preparing young vulnerable adults such as the tenants living in Northbrook House to live independently as possible. This would be done within a college setting using practical training to teach a wide range of basic domestic and independence skills such as numeracy, money management, shopping, cooking, vocational, social, arts, and computer literacy.
- 2.2 With regards to the operation of the training centre:-
- The opening hours are 08:00-17:00 Monday to Friday;
 - The facility accommodates up to 8 staff accompanied students in a session. Currently there are no more than four students attending a session. Sessions are broken down into the individual needs of the students, and due to complex needs of the students, this is managed by the staff in the centre;
 - There is minimal car ownership for the students who visit the facility. The majority of the students who use the facility do so from the flats above, so there is no added traffic in this respect. For students from other facilities, car ownership (mobility car) is minimal, due to their disabilities others will either use public transport or a unit vehicle. There are currently a total of 18 available car parking spaces for students and staff. The catchment area currently encompasses Southampton and Fareham;
 - The social events in the 'education room/workshop' include Christmas and Easter parties, discos, birthdays but these take place during the afternoon sessions;

- There is designated outside smoking area for staff and students. Students who smoke are accompanied by their support workers.

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 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.
- 3.3 NPPF paragraph 94 expects the Local Planning Authority (LPA) to take a proactive, positive and collaborative approach to meeting the requirement to ensure that a sufficient choice of school places are available to meet the needs of existing and new communities, and widen the choice in education. The government attaches great importance to delivering this educational requirement.
- 3.4 To achieve strong economic, paragraph 80 and 81 of the NPPF expects significant weight to be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Policies should be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.
- 3.5 Paragraph 127, which sets out the core planning principles underpinning the NPPF, expects LPAs to seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 3.6 Saved Policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. Policy SDP7 (Context) allows development which integrates within the local community and does not harm the character and appearance of the local area. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design.
- 3.7 Policy CS7 (Employment) sets out the strong need to safeguard all employment sites in order to meet the South East’s economic aims, unless there is clear evidence that a site is not, and is not likely to become, viable for employment use.
- 3.8 Policy REI11(x) (Industry) identifies the Northbrook Industrial Estate as a safeguarded area of light industry and research and development uses within class B1(b) and B1(c). The policy recognises that these are predominantly small industrial estates which provide a valuable resource to the city of industrial units/workshops for light industrial use. These uses are more suited being close to

residential areas. These light industrial sites provide a vital contribution to the local economy by offering local employment opportunities and their protection will ensure that accommodation suitable for local and start up business is retained.

- 3.9 Policy BAS12 of the Bassett Neighbourhood Plan encourages the safeguarding of the use of the Industrial Estate for employment use given the importance for supporting job opportunities within the local community.
- 3.10 Policy CS11 (Education) expects the LPA to promote new inspirational, high quality educational and related facilities which encourages community use of their facilities. It highlights developer's contributions, including travel plans, may be sought from new development to support any additional education infrastructure required in accordance with policy CS25 (Infrastructure Delivery).

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, placing a press advertisement **15.02.2019** to advertise the departure from the Local Plan and erecting a site notice **15.02.2019**. At the time of writing the report 7 letters of objection have been received from surrounding residents including a local Ward Cllr B Harris. The following is a summary of the points raised:

- 5.2 **Businesses are not permitted to work after 5pm during the week and only from 8am to 1pm on a Saturday (although this is not enforced). The unit is already operating beyond its permitted hours. Noise disturbance from the intensification of use and increased traffic, including late night social events, especially outside the permitted working hours of the adjacent industrial units. The residents from the recently converted units smoke outside their flats making more noise and there is a lack of suitable outdoor recreation area so people sit outside in the road in warm weather. The residential units also owned by the applicant are causing anti-social behaviour issues with particular tenants being abusive to local residents and businesses. These incidents have been reported to the police, council and local councillor. The applicant is unable to properly manage the behaviour problems of the residents.**

Response

The amenity and anti-social concerns experienced from the adjacent residential accommodation operated by the applicant are a separate matter to the consideration of this application. These issues are related to the management of the premises, and can be controlled by enforcements powers of other agencies such as the Police and Environmental Health. The creation of the residential accommodation without garden space and the chosen location fell outside the scope of the Council's control, as it had to determine the office conversion under prior approval where these issues are not a valid material consideration for the Council to object against. The social activities associated with the proposed use would not be permitted outside the day time operating hours, whilst the limited

number of students and the quiet nature of the activities taking place inside the facility would not significantly affect the amenity of the neighbouring residents and businesses.

5.3 The proposed use is out of character with the nature of the industrial area and will set a precedent for similar uses. Loss of safeguarded industrial use.

Response

In terms of the comings and goings and associated activities, the scale and nature of the proposed use in the ground floor unit is considered to be compatible with the commercial nature of the industrial estate. No policy objection to loss of safeguarded use, subject to a temporary 3 year consent in order for further review of employment market conditions.

5.4 Increased traffic pressures and congestion affecting the free flow of traffic in a congested dead end road. This will be exacerbated by increase of staffing. Inadequate parking available already for the residents and industrial units so the proposal would lead to displacement of street parking for local residents and business users and road safety concerns for pedestrians due to obstruction to driveways and footways. There is no drop off location for the students and this is busy dead end road with limited space for vehicles to turn around. An application for a MOT centre was recently denied due to parking issues.

Response

The Highway's Officer has raised no objection with regards to highway's safety. There are currently a total of 18 available car parking spaces for students and staff. There are also numerous on street parking bays with 2 hour restrictions in the vicinity which would also accommodate the 'pickup' and 'drop off' movements. The applicant has been asked to provide a plan to show the allocated parking area so this can be conditioned and retained. The maximum number of staff and students attending the site can be limited by condition.

5.5 The refuse facilities are inadequate whilst they are already overflowing from the residential units.

Response

The management of the refuse facilities for the residential accommodation owned by the applicant are outside the control of this application. A condition can be applied to secure adequate refuse facilities for the proposed education and training use.

5.6 The Council should have taken earlier action given the retrospective nature of the use. Previous changes of use for this unit have been declined due to parking and disturbance.

Response

The applicant is entitled to regularise the retrospective use. Enforcement action is being held in abeyance until the outcome of this decision. Each application site has to be judged on its own individual merits. The previous change of use application was refused because of insufficient evidence in relation to the loss of employment use and for S106 reasons. These concerns have now been addressed.

Consultation Responses

5.7 SCC Highways – No objection

5.8 **SCC Environmental Health (Pollution & Safety) – No objection**

The Environmental Health Service have no substantiated noise complaints on record concerning the actual use of the building as an education/training facility and after carefully considering this application we have no objections to the retrospective internal alterations to allow conversion of existing industrial use (Class B2) to form an education and training facility.

5.9 **SCC Planning Policy – No objection subject to a temporary 3 year permission**

The site is safeguarded for light industry and research and development uses within use class B1(b) and B1(c). It is understood that insufficient marketing evidence has been provided since 2014 to support the proposed departure from the site employment allocation on a permanent basis. However a temporary 3 year consent would be acceptable to bring this vacant unit back into use. During that 3 year period the Local Planning is undertaking an employment land appraisal as part of the local plan review evidence. Therefore during the 3 year temporary period we may have changed the site employment allocation if there is oversupply of employment land. During that temporary period, the applicants would also have opportunity to gather further marketing evidence to demonstrate there is no market demand for B1(b) or B1(c) use in this location. Of course, there is no guarantee that in 3 years-time that a permanent departure would be acceptable.

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;
- Delivery of employment opportunities and need for educational facilities;
- Safeguarding character and amenity;
- Parking highways and transport and;
- Mitigation of direct local impacts.

6.2 Principle of Development

6.2.1 The proposed change of use is a departure from the local plan (policy RE11(x)) as the proposed use fails to safeguard the premises for uses within class B1(b) and B1(c). This departure has been advertised as such. Policy CS7 coincides with the thrust of paragraph 81 of the NPPF to consider alternative uses where the safeguarded use is not considered to be viable by the market, whilst the need to provide specialist education facilities is of great importance to the government's planning agenda (paragraph 94 of the NPPF).

6.2.2 Although the proposed educational use is a departure from the Local Plan, it can be supported in principle subject to the applicant demonstrating that there is no market demand for B1(b) and B1(c) use. That said, the Planning Policy team have advised that, if the applicant is not able to provide any up to date marketing information, a 3 year temporary consent can be granted because during that time an employment land appraisal will be conducted as part of the Council's Local Plan review when evidence and employment site allocations could be revised where necessary. As such, when it comes round to the point of that unit needing to renew the consent, the site allocation may have changed and the use may then be acceptable. Furthermore, an assessment of the 'planning balance' should weigh up the benefits of the educational facilities against achieving the other socio-economic priorities of the Local Plan.

6.3 Delivery of employment opportunities and need for educational facilities

- 6.3.1 The previous application (ref no. 17/01251/FUL) was refused on the basis of the lack of evidence to show that the safeguarded use would no longer be commercially viable. The proposal would still result in the loss of a safeguarded industrial unit. Prior to applicant taking occupation in 2017, the unit was reported as being vacant since February 2014. The marketing evidence supplied by 'Hughes Ellard' indicates that very limited market interest was shown between February and December 2014. There is no other marketing evidence provided since that period. The alternative use proposed would indeed still offer a level of employment with a maximum of 8 staff supervising students as well as support/administrative staff.
- 6.3.2 Given the circumstances of the upcoming Local Plan evidence review of allocated employment sites, the Policy team have recommended that a 3 year temporary consent can be granted. This is acceptable to the applicant. When it comes round to the point of the unit needing to renew the consent, the allocation may have changed and the use may be acceptable. Furthermore, the applicant would be expected to gather further marketing evidence if they reapply to make the permission permanent after the temporary consent expires. This would be consistent with the policy approach set out in paragraph 81 of the NPPF.
- 6.3.3 NPPF paragraph 94 expects the LPA to take a proactive, positive and collaborative approach to meeting the requirement to ensure that a sufficient choice of school places is available to meet the needs of existing and new communities, and widen the choice in education. The government attaches great importance to delivering this requirement. The benefits of the educational facility are recognised as it will provide for a specialist need for residents in the city and widen the choice in education for vulnerable adults and those with learning disabilities, whilst significant weight should be afforded to the delivery of these facilities given the importance attached by the government.

6.4 Safeguarding character and amenity

- 6.4.1 The educational use of Unit 4 itself has not significantly changed the appearance of the building from the street scene, whilst the layout of the building lends itself to the facilities of the training centre. Local residents are concerned that the intensification of use and its location within the cul-de-sac of Hollybrook Road would negatively impact on the amenity of the residents living within Hollybrook Road. This is from noise disturbance and nuisance due to increased traffic visiting the premises, students smoking outside which already allegedly happens with the residents of Northbrook House, and late night social events planned for the students. They also state that businesses are not permitted to work after 5pm during the week and only from 8am to 1pm on a Saturday, although this allegedly has not been enforced properly.
- 6.4.2 The Industrial Estate has co-existed for many years within the heart of the surrounding residential area, including Vincent Road and Hollybrook Road, mainly because the compatible and quiet nature of light industrial businesses. In terms of the comings and goings and associated activities, the scale and nature of the proposed use in the ground floor unit is considered to be compatible with the commercial nature of the industrial estate. Whilst this suggests an alternative commercial/institutional use may be appropriate for the premises given the established use, a judgement still needs to be made whether there would be a harmful intensification of use to the detriment of the amenity enjoyed by the local residents and businesses.

6.4.3 The facility accommodates up to 4 students and 4 staff members of staff (1:1 ratio) in a half-day session, with 8 students attending a day. Currently there no more than four students attending a session. The training activities take place within the building itself with purpose built facilities and classrooms such as a catering kitchen to teach cooking, so it is considered that the nature of the use would not cause any undue noise disturbance to local residents living nearby. Furthermore, the hours of use are confirmed as 08:00-17:00 Monday to Friday and, therefore, would be in keeping with the nature of the residential area and the typical business hours of the surrounding businesses. The social events in the 'education room/workshop' would include Christmas and Easter parties, discos, birthdays but these would take place during the afternoon sessions. This timing of the social activities can be conditioned to avoid disturbance in the evenings for local residents. Although there may be a combined impact from the activities of Northbrook House, this use was allowed under permitted development so limited weight can be attached to its impact.

6.5 Parking highways and transport

6.5.1 In relation to the visitor trips in association with the use, the facility accommodates up to 8 staff accompanied students in a session. Currently there are no more than four students attending a session (AM or PM). The catchment area currently encompasses Southampton and Fareham. The applicant has advised that there is minimal car ownership for the students who visit the facility. The majority of the students who use the facility do so from the flats above, so there is no added traffic in this respect. For students from other facilities, car ownership (mobility car) is minimal, due to their disabilities others will either use public transport or a unit vehicle. There will be two sessions held during the day and, therefore, the developments could generate slightly higher trip rates during peak hours than the previous light industrial use. However, the level of trip impact is not considered to be significant in terms of highway safety. As such, the Highway's Officer has confirmed that there are no major highway's safety concerns with regards to the impact on the flow of traffic and access to the site. Furthermore, an occupancy condition can be applied to avoid a more traffic intensive D1 end user such as nursery or church using the premises.

6.5.2 The concerns of local residents are noted with regards to anti-social parking from the proposed use. That said, there are currently a total of 18 available car parking spaces for students and staff. There are also numerous on street parking bays with 2 hour restrictions in the vicinity which would also accommodate the 'pickup' and 'drop off' movements. The applicant has been requested to provide a plan to show the allocated parking area so this can be conditioned and retained whilst the use is in duration.

6.6 Mitigation of direct local impacts

6.6.1 The previous scheme was refused, in part, for not providing new footpath surfacing. Although the level of trip impact is not considered significant, the local environment has a mixed commercial/residential character which includes vehicular/HGV movements throughout the day, which is not the most pedestrian friendly and could be improved with better footway surface. Notwithstanding there is already an existing safe pedestrian route from Hollybrook Road across the car park adjacent to the site and the surfacing improvements to this route would benefit the less ambulant visitors, it would not be reasonable to expect the development to fund this mitigation measure given that the permission would only be granted on temporary

basis. Footway resurfacing works should be considered if an application for permanent change of use is submitted and could be improved with better footway surface.

7. Summary

7.1 In summary, the departure from the Local Plan can be supported. This is because the educational use of the premises can be reverted back to the safeguarded light industrial use after the temporary 3 year period if then found to be commercially viable under future market conditions and is not reallocated for other purposes under the emerging site allocation policies for employment. The delivery of the educational facility can be afforded significant weight given the importance attached by the government and opportunity to widen educational choice. Following the assessment above, the proposed use is not considered to harmfully impact on the character and amenity of the area, and highways safety. As such, it is considered that the 'planning balance' would therefore weigh in favour of the benefits from delivering the educational facility.

8. Conclusion

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

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

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

SB for 16/07/19 PROW Panel

PLANNING CONDITIONS

1. Time Limited (Temporary) Permission Condition (Performance)

The development hereby approved shall be discontinued either on or before the period a period of 3 years from the date of this decision notice. After this time the land and buildings shall be restored to their former condition, or to a condition to be agreed in writing by the Local Planning Authority prior to this time, and the use of the premises shall revert back to B1(c) (industrial use).

Reason: To enable the Local Planning Authority to review the viability and allocation of safeguarded use and ensure that the use is reverted back after the permission expires to the safeguarded use to comply with the employment site allocation under the current Development Plan (policies REI11 and BAS12).

2. Refuse & Recycling (Time-limited)

Within 2 months of the date of the decision notice, details of storage for refuse and recycling, together with the access to it, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details within 1 month of approval and thereafter retained as approved for the duration of the use hereby approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored outside of the store hereby approved.

Reason: To regularise the breach in planning control. In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties and

in the interests of highway safety.

3. Restricted Use (Performance)

Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking, amending, or re-enacting that Order, the development hereby approved shall be used only for the purposes indicated in the submitted details (including the email received from the applicant on 23rd May 2019) and not for any other purpose, including any other use within Use Class D1.

Reason: In the interest of the amenities of neighbouring occupiers and highways safety and to secure management of the use.

4. Hours of Use (Performance)

The use hereby approved shall not operate outside the following hours:

Monday to Friday – 08:00 – 17:00

This shall include any social activities in association with the approved use.

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

5. Occupancy limit (Performance)

The maximum number of students and teaching staff attending the educational facility shall not exceed 8 at any time.

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

6. Parking (Time-limited)

Within 2 months of the date of the decision notice, the allocated layout of the 18 parking spaces available (as confirmed by the applicant in the email received on 23rd May 2019) shall be submitted to and agreed in writing by the Local Planning Authority. The spaces shall be laid out in accordance with the plans hereby approved within 1 month from approval and thereafter retained as approved duration of the use hereby approved.

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

7. 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.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS6	Economic Growth
CS7	Safeguarding Employment Sites
CS11	An Educated City
CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
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
SDP16	Noise
REI11	Light Industry

Bassett Neighbourhood Plan (July 2016)

BAS12	Employment Use
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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 (2019)

Relevant Planning History

17/01251/FUL – Refused 13.02.2018 (*see Appendix 3*)

Change of use from industrial (class B2) to education and training facility (retrospective)
[Departure from Local Plan - policy REI11)

Unit 1 Northbrook Industrial Estate

15/00430/PA56 – No objection 20.05.2015

Application for prior approval for a change of use of first floor from offices (use class B1)
to 5x 1-bed flats and 13 x studio flats (use class C3)

17/01251/FUL/35458



DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (Development Management Procedure) (England) Order 2015

Concept Design & Planning
 Rob Wiles
 Morgans Yard
 Shepherds Road
 Bartley
 Southampton
 SO40 2LH

In pursuance of its powers under the above Act and Order, Southampton City Council as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

FULL APPLICATION - REFUSAL

Proposal: Change of use from industrial (class B2) to education and training facility (retrospective) [Departure from Local Plan - policy RE111)

Site Address: Unit 4, Northbrook Industrial Estate , Vincent Avenue, Southampton SO16 6PB

Application No: 17/01251/FUL

For the following reason(s):

01.Loss of safeguarded employment use

There is insufficient evidence submitted to demonstrate that by marketing the premises over a period of at least 12 months there is no reasonable prospect of a site being used for B1(b/c) uses. Although there may be employment benefits it is unclear whether this is comparable to the previous usages. The loss of the safeguarded employment uses for local employment opportunities is therefore considered a greater economic loss to the existing community that would outweigh the benefit gained from the specialist educational and training use. Whilst the economic and social importance is acknowledged from delivering these type of educational facilities and greatly encouraged by paragraph 72 of the NPPF, insufficient justification has been given to the necessity of delivering these facilities to meet the needs by the existing community. As such, the proposal would be contrary to the aims of policy RE111(x) of the Local Plan Review (March 2015 amended), CS7 of the Core Strategy (March 2015 amended), BAS12 of the Bassett Neighbourhood Plan (July 2016) and paragraph 22 of the NPPF.

02.Lack of S106 agreement

In the absence of a completed Section 106 Legal Agreement, the proposals fail to mitigate against their direct impacts and do not, therefore, satisfy the provisions of Policy CS25 of the adopted Local Development Framework Core Strategy (2015) as supported by the Council's Developer Contributions Supplementary Planning Document (2013) in the following ways:-

(i) Site specific transport works for highway improvements in the vicinity of the site which are directly necessary to make the scheme acceptable in highway terms have not been secured in accordance with policies SDP4 of the Local Plan Review (2015) and CS18, CS19, and CS25 of the

Southampton Core Strategy (2015) and the adopted Developer Contributions SPD (2013). This a contribution of £5,000 towards local footway improvements including the slurry seal of nearby footways to make the route more accessible for less ambulant/confident students living within the local area.



Samuel Fox
Planning & Development Manager

13 February 2018

For any further enquiries please contact:
Stuart Brooks

IMPORTANT NOTE TO APPLICANT

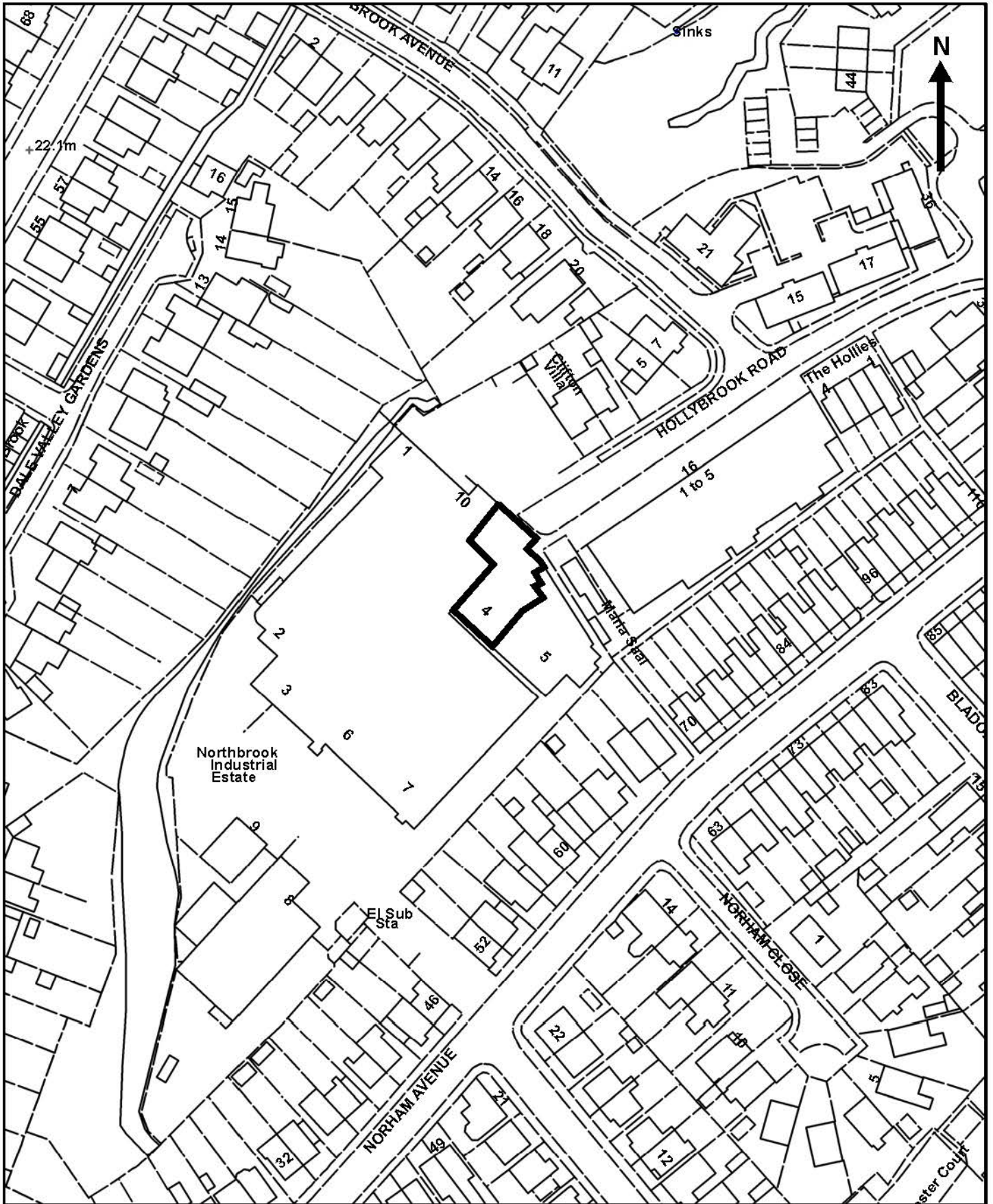
This decision has been made in accordance with the submitted application details and supporting documents and in respect of the following plans and drawings:

Drawing No:	Version:	Description:	Date Received:	Status:
C17/051.02	Revision A	Proposed Plans	25.08.2017	Refused

Agenda Item 8

19/00026/FUL

Appendix 1



Scale: 1:1,250

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Agenda Item 9

Planning and Rights of Way Panel 16th July 2019 Planning Application Report of the Service Lead - Infrastructure, Planning & Development

Application address: 25 Oxford Street, Southampton			
Proposed development: Proposed change of use from restaurant/cafe (Class A3) to mixed use restaurant/cafe/bar (Class A3/A4)			
Application number:	19/00711/FUL	Application type:	FUL
Case officer:	John Fanning	Public speaking time:	5 minutes
Last date for determination:	27.06.2019	Ward:	Bargate
Reason for Panel Referral:	Request by Ward Member	Ward Councillors:	Cllr Bogle Cllr Noon Cllr Paffey
Referred to Panel by:	Cllr Bogle	Reason:	Positive use which maintains vitality of Oxford Street
Applicant: Dr Serkan Ceylan		Agent: N/A	

Recommendation Summary	Refuse
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Community Infrastructure Levy Liable	Not applicable
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Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

Reason for Refusal - Noise and disturbance

Whilst the principle of the change of use is supported, the proposed extension to opening hours would result in an extended late night use. It is considered that the intensification of use into the early hours of the morning would cause further detriment to the amenities of neighbouring properties by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would be contrary to the particular provisions of AP8 which outlines acceptable limits on opening hours within the city centre and would set a difficult precedent for further trading that could lead to additional premises trading after midnight in an area with evidenced problems of late night disturbance. The proposal would thereby prove contrary to and conflict with 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) and Policy AP8 of the City Centre Area Action Plan (adopted 2015).

Reason for Refusal - Lack of Section 106 or unilateral undertaking to secure planning obligations.

In the absence of a completed Section 106 legal agreement to support the development the application fails to mitigate against its wider direct impacts in the following areas:

- i. Late Night Community Safety Contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013).
- ii. CCTV contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013).

1. The site and its context

- 1.1 The application relates to an existing Class A3 restaurant use situated in the commercial Oxford Street frontage (on the corner with the more residential Latimer Street). The site lies within the defined city centre and within one of the designated late night zones.
- 1.2 The application site is situated prominently within the Oxford Street conservation area. The building itself is locally listed, with other nationally listed buildings in the immediate context.

2. Proposal

- 2.1 The application proposes no physical alterations to the existing building but rather seeks permission for the conversion to a mixed Class A3/A4 use (with the ground floor serving as a bar and the upper floor retained as a restaurant).
- 2.2 The application also proposes an extension of the existing opening hours of the property. At present the existing Class A3 use has the following opening hours:

Monday-Saturday	9AM-11PM
Sunday	10AM-10.30PM

- 2.3 The application proposes the following opening times:

Class A3 (1st floor)

Monday-Sunday 4PM-11.30PM

Class A4 (ground floor)

Monday-Sunday 4PM-2AM

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. Specifically, the site lies within one of the defined late night zones highlighted in AP8 of the Councils City Centre Action Plan. AP8 outlines terminal hours for late night uses in these areas depending on which part of the city they fall in. With reference to the application site this is set at midnight.

3.2 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.

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.

4.2 The site has been in use as a restaurant falling within Class A3 for a number of years. Permission was originally granted for the use of the ground and first floors as a restaurant with residential above in 1994 under application 940304/E. This was granted subject to a number of conditions including restricting the opening hours as outlined in section 2.2.

4.3 A subsequent application to extend the opening hours to 12.30AM Mon-Sat and midnight on Sunday was refused in 1998 under application reference 980695/EX on the basis of the exacerbating of noise impacts on the residents of Latimer Street. A further application granted permission in 2004 for the conversion of the entire building to serve as a single Class A3 use. There have additionally been a number of other applications for minor physical alterations to the building and the installation of advertisements on the premises.

5. Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement on **17.05.2019** and erecting a site notice on **17.05.2019**. At the time of writing the report **no** representations have been received from surrounding residents. One Ward Councillor did write in to support the scheme and the below is a summary of their comments:

5.2 Cllr Bogle

- If managed well could be a positive development which supports vitality of Oxford Street.

5.3 Consultation Responses

5.4 **Police** – No comment. A verbal update will be given at the meeting.

5.5 **Licensing** – No comment. A verbal update will be given at the meeting.

5.6 **Historic Environment** – This is a locally listed building in the Oxford Street conservation area. The change of use although technically different in planning terms of the existing permitted use, should not make any fundamental changes to the structure of the building and I would therefore not object in principle. However, should the additional use require any physical alterations affecting the external appearance of the building it may trigger the requirement for planning permission.

6.0 **Planning Consideration Key Issues**

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

- Change of use
- Hours of operation

6.2 The application proposes no physical alterations to the existing building under this application but seeks permission for the change of use of the ground floor of the premises to serve as a bar (Class A4) while retaining a restaurant function upstairs (Class A3) in addition to an extension of the existing opening hours.

6.3 Change of use

6.3.1 The site lies within the defined city centre and forms part of the commercial Oxford Street frontage. Oxford Street offers a number of food and drink uses and is one of the city centres identified late night zones. At present the site is vacant but was previously in use as a restaurant forming part of this offering.

6.3.2 The site does sit on the corner with Latimer Street which is residential in nature, however notwithstanding this it is considered that taking into account the context of the surrounding area, the existing use of the site and the late night policy designation the principle of the A4 use can be considered acceptable with reference to the surrounding area and the overall character of the conservation area. As such the key issue becomes whether or not the specific impacts of the proposed use are acceptable.

6.4 Hours of operation

6.4.1 The application proposes an extension of the existing opening hours. At present the premises is restricted by planning condition to:

Monday-Saturday	9AM-11PM
Sunday	10AM-10.30PM

6.4.2 The application proposes extending the opening hours to:

Class A3

Monday-Sunday	4PM-11.30PM
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Class A4

Monday-Sunday	4PM-2AM
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- 6.4.3 As noted, the site lies within the identified city centre and falls under the remit of the Councils City Centre Action Plan (CCAP). Under Policy AP8 of the CCAP Oxford Street was identified as a late night zone. The policy reviewed the various parts of the city centre and sought to identify terminal hours of operation for late night uses in different parts of the city centre to mitigate and manage the impacts of the late night uses on nearby occupiers. This remains the Councils adopted position.
- 6.4.4 In accordance with AP8 of the CCAP, the Oxford Street late night zone, which is situated in close proximity to nearby residential occupiers, was identified as being appropriate to have a terminal opening time of midnight. As the application proposes extending the existing opening hours of the premises beyond this limit it is considered that the proposal would be contrary to policy and as such it is considered sufficient to justify refusing the application despite the support for the intended use.
- 6.4.5 It is considered that allowing a later opening hour would, in addition to the specific local impacts in immediately proximity to the application site, result in additional comings and goings later into the evening which would result in disruption for properties and local residents in the wider surrounding area as patrons dispersed. Policy AP8 in the CCAP was put in place to control and manage this impact. While each case must be considered on its individual merits it is noted that granting applications contrary to this policy without clear justification would weaken the position of the Local Planning Authority in terms of relying on the policy both in the local area and in other parts of the city centre where the Council has sought to control and manage the impacts associated with congregated evening and late night uses.

7. Summary

- 7.1 While no objection is raised to the principle of the mixed A3/A4 use proposed, it is considered that the proposed hours of operation are contrary to the provisions of AP8 in the Councils City Centre Action Plan and therefore it is considered that the application should be refused.

8. Conclusion

- 8.1 It is recommended that planning permission be refused for the reasons outlined above.

Local Government (Access to Information) Act 1985
Documents used in the preparation of this report Background Papers
1(a)(b)(c)(d), 2(b)(d)(e)(f), 4(g)(mm), 6(a)(b)

JF for 16/07/19 PROW Panel

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS1	City Centre Approach
CS3	Promoting Successful Places
CS13	Fundamentals of Design
CS14	Historic Environment
CS25	The Delivery of Infrastructure and Developer Contributions

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

SDP1	Quality of Development
SDP4	Development Access
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP16	Noise
HE1	New Development in Conservation Areas
HE2	Demolition in Conservation Areas
HE4	Local List
REI7	Food and Drink Uses (Classes A3, A4 and A5)
REI8	Shopfronts

City Centre Action Plan - March 2015

AP 8	The Night time economy
AP 16	Design

Supplementary Planning Guidance

Planning Obligations (Adopted - September 2013)

Other Relevant Guidance

The National Planning Policy Framework (2019)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Relevant Planning History

10/01282/ADV, Replacement signage 3 x internally illuminated fascia signs, 1 x externally illuminated projecting sign and 2 x internally illuminated menu boxes
Conditionally Approved, 09.11.2010

04/00829/FUL, Retention of extract duct to rear elevation and the installation of an air fan and duct.
Conditionally Approved, 22.07.2004

04/00070/ADV, Installation of fascia and projecting sign externally illuminated with spot lights and the installation of an externally illuminated menu box.
Conditionally Approved, 05.05.2004

03/01808/FUL, Change of use of second floor from residential to restaurant (A3 use class).
Conditionally Approved, 06.04.2004

980695/EX, VARIATION OF CONDITION 6 OF PLANNING PERMISSION
940304/4849/E TO EXTEND OPENING
TIMES TO 12.30 AM MONDAY TO SATURDAY AND 12 PM SUNDAYS
Refused, 27.11.1998

Reason for Refusal

The extension of opening hours proposed is likely to exacerbate the existing noise nuisance suffered by residents in Latimer Street. The extension is likely to result in some form of late night entertainment use of the building which is considered would adversely affect the residential amenities of the occupiers of the nearby dwelling houses by virtue of late night noise and disturbance. The proposal is therefore considered to be contrary to the provisions of Policies S10(b), (c) and GP1 (v) and (vi) of the City of Southampton Local Plan 1996.

940305/EL, DEMOLITION OF FRONT CORNER AND REAR WALL
Conditionally Approved, 17.05.1994

940304/E, CHANGE OF USE OF GROUND AND FIRST FLOOR TO A3 (FOOD AND DRINK) AND SECOND FLOOR TO RESIDENTIAL WITH ELEVATIONAL ALTERATIONS
Conditionally Approved, 12.05.1994

Condition 6

Unless the Local Planning Authority agree otherwise in writing the premises to which this permission relates shall not be open for business outside the hours of 9.00 am to 11.00 pm Mondays to Saturdays and 10.00am to 10.30pm on Sundays.

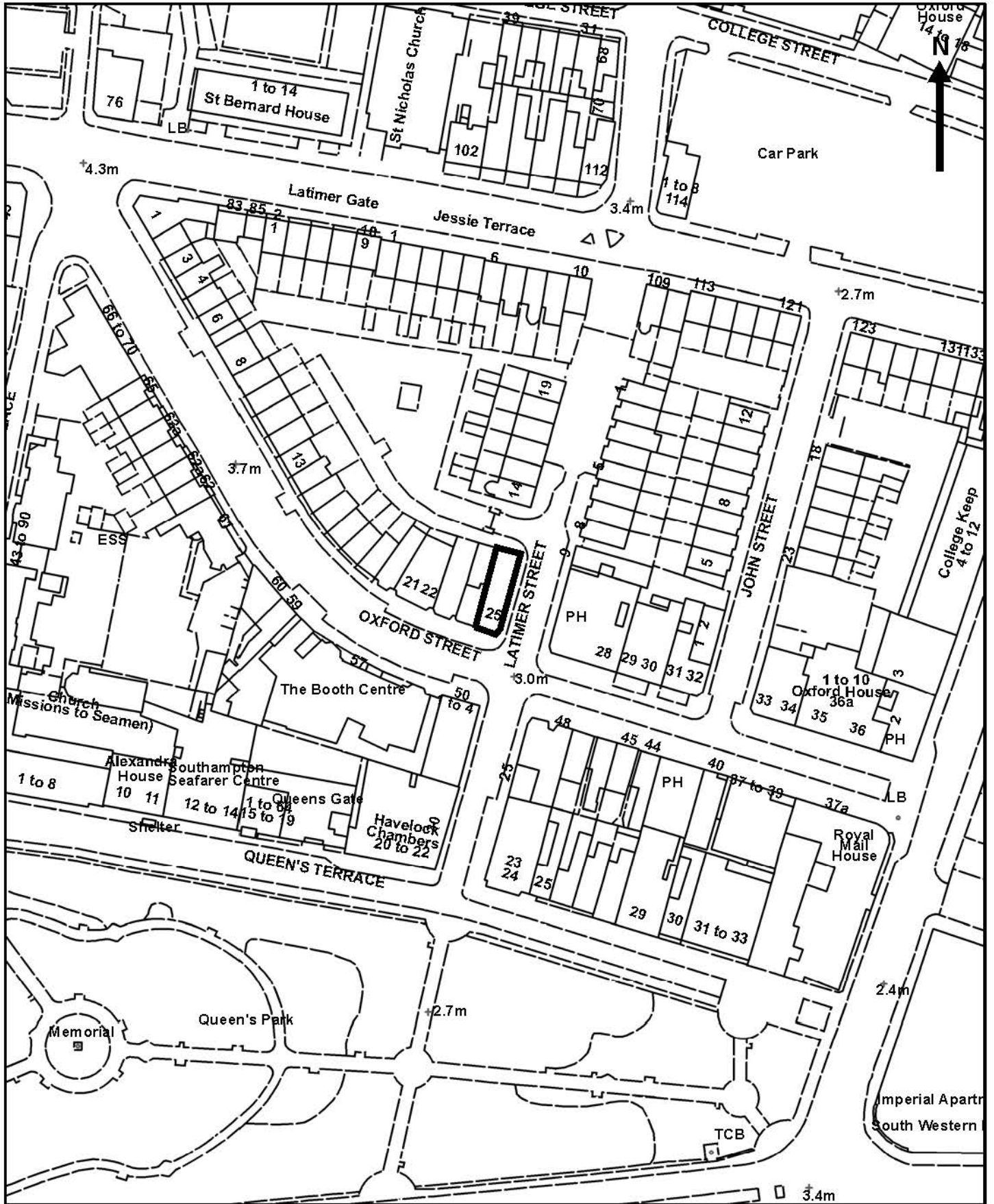
Reason: To protect the amenities of the area.

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Agenda Item 9

19/00711/FUL

Appendix 1



Scale: 1:1,250

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Planning and Rights of Way Panel 16th July 2019
Planning Application Report of the Service Lead - Infrastructure, Planning & Development

Application address: 21 Lower Banister Street, Southampton			
Proposed development: Application for variation of condition 2 of planning permission ref: 09/00336/FUL and condition 1 of planning permission ref: 13/01840/FUL to allow opening hours from 08:30am - 12 midnight to 08:30am - 01:00am 7 days a week.			
Application number:	19/00392/FUL	Application type:	FUL
Case officer:	John Fanning	Public speaking time:	5 minutes
Last date for determination:	06.03.2019	Ward:	Bevois
Reason for Panel Referral:	Five or more letters of support have been received	Ward Councillors:	Cllr Kataria Cllr Rayment Cllr Barnes-Andrews
Applicant: Mr Kannangara		Agent: Sennitt Planning	

Recommendation Summary	Refuse
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Community Infrastructure Levy Liable	Not applicable
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Appendix attached			
1	Development Plan Policies	2	Relevant Planning History
3	Appeal Decision 14/00686/FUL (2AM)	4	Appeal Decision 10/01567/FUL (1AM)
5	Survey surrounding opening hours	6	Minutes from 18/01987/FUL

Recommendation in Full

Reason for Refusal - Noise and disturbance

The proposed extension to opening hours would result in an extended late night use. It is considered that the intensification of use into the early hours of the morning would cause further detriment to the amenities of neighbouring properties by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would be contrary to the particular provisions of AP8 which outlines acceptable limits on opening hours within the city centre. Whilst the trade with existing hours on another premises is noted this approach is likely to create further harm to nearby residents of the application site and sets a difficult precedent for further trading that could lead to additional premises trading after midnight in an area with evidenced problems of late night disturbance. The proposal would thereby, having regard to similar appeal decisions in the locality for extended hours of use and the objection from the Police, prove contrary to and conflict with 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) and Policy AP8 of the City Centre Area Action Plan (adopted 2015).

1. The site and its context

- 1.1 The application site lies within the defined city centre, situated on Lower Banister Street between Bedford Place and London Road.
- 1.2 The area contains a number of late night music and drink venues with a mix of other uses in the wider surrounding area including a multi-storey car park.

2. Proposal

- 2.1 The site has a somewhat complicated planning history, with the premises currently operating as a single unit. Historically this was not always the case and there are two separate consents for the use of the ground floor and first floor as Class A4 uses.
- 2.2 Application 09/00336/FUL granted consent for the use of the ground floor as an A4 use and imposed the following condition:

APPROVAL CONDITION – A4 Hours of Use - [Performance Condition]

The ground floor A4 use hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

<i>Monday to Saturday</i>	<i>8.30 am to 12 Midnight</i>
<i>Sunday and recognised public holidays</i>	<i>8.30am to 12 Midnight</i>

Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.

Reason:

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

- 2.3 Application 13/01840/FUL granted consent for the use of the first floor as an A4 use and imposed the following condition:

APPROVAL CONDITION - Hours of Use - drink establishments [Performance Condition]

The drinking establishments hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

<i>Monday to Thursday</i>	<i>08.30am to 12.00 midnight</i>
<i>Friday and Saturday</i>	<i>08.30am to 12.00 midnight</i>
<i>Sunday and recognised public holidays</i>	<i>08.30am to 12.00 midnight</i>

Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.

Reason:

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

- 2.4 A recent application was made for 3AM opening and was refused by Panel. The current application seeks to vary the consented hours for both floors to allow opening from 08.30AM to 01.00AM, 7 days a week. A trading hours swap is proposed whereby it is intended that a legal agreement will secure restriction of the opening hours of a nearby site, 5A Bedford Place (which has previously

operated under the name of The Rhino), which has no conditions restricting hours of operation. A legal agreement would bind the 2 premises to that 5A Bedford Place would trade with the midnight close that currently restricts the applicant.

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 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.

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.
- 4.2 The site was historically in use as a single retail unit before being subdivided to form separate food and drink elements. Presently the site is lawfully occupied as a single premises operating under separate consents for A4 uses on the ground floor and first floor. An application for the first floor to extend its opening hours to 2AM under application 14/00686/FUL was made in 2014. This application was refused and a subsequent appeal dismissed. Earlier applications in 2009 and 2010 under 09/01025/FUL and 10/01567/FUL for 2AM and 1AM opening were also refused and an appeal dismissed. A copy of the appeal decision for the 2014 application for 2AM is attached as **Appendix 3**. A copy of the appeal decision for the 2010 application for 1AM is attached as **Appendix 4**.
- 4.3 In the appeal of application 10/01567/FUL the Inspector made the following comments:

“The appellant company says that it has an excellent record of managing late night establishments in the area. However, the weight to be attached to this is limited by the fact that, as the planning permission runs with the land, the current appellant may not continue to run the premises.”

“...the evidence before me strongly points to the harmful effect of late night activity in the area on the living conditions of local residents. Allowing later opening hours would increase the potential for noise and disturbance to those living nearby and at a time when many will be seeking to sleep. It would also have a more damaging cumulative effect by making it difficult for the Council to maintain its current approach of limiting opening hours.”

- 4.4 In the appeal of application 14/00686/FUL the Inspector made the following comments:

“The presence of late night uses is acceptable but they are also highlighted as key contributors to the issues of noise, disturbance, anti-social behaviour and littering which have led to the policy approach described. To permit later opening hours of existing premises within the Late Night Zone would conflict with this policy approach and exacerbate these issues.”

“I have had regard to the appellant’s track record of successfully operating other local venues, the type of venue aspired to, focusing on entertainment and culture rather than a cheap drinks establishment, as well as the economic benefits that result from local businesses. However, the planning application relates to an open A4 use and there is no guarantee that any subsequent occupier would maintain the same values. In any case, these matters do not outweigh the harm I have identified with regard to the main issue.”

- 4.5 A previous application was recently submitted and refused by the Planning & Rights of Way Panel under application 18/01987/FUL for a variation of these conditions to allow opening until 3AM. This application was refused by the Panel on 31.01.2019. A copy of the Panel minutes is attached as **Appendix 6**. An appeal has been submitted against the refusal of this application but has not yet been determined.

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 (**26.03.2019**). At the time of writing the report **30** representations in support of the scheme have been received from surrounding residents (from 22 separate addresses). The following is a summary of the points raised:

5.2 • *Precedent set by Buddha Lounge application*

Response

The Council has previously accepted a similar arrangement for an ‘hours swap’ on premises at 3 Winchester Street (Buddha Lounge) under application 15/02217/FUL. It is considered that there are substantial differences between the circumstances of the two cases which require a fresh assessment. This issue is discussed in more detail in section 6 below.

- 5.3
- ***Significant noise and disturbance associated with The Rhino when it was open***
 - ***The Rhino had more anti-social issues while The Social is more well managed and serves a different clientele with less associated noise/anti-social behaviour***

Response

It is noted that a planning consent runs with the land, not the current operator. While the Council encourages land owners to operate their premises responsibly and considerately of nearby residents, a future tenant may operate in a different way.

- 5.4
- ***Existing closing time results in people leaving into dark, uneven footing. Additional lighting and staff would improve matters.***

Response

It is not clear that allowing later opening hours would improve this situation.

- 5.5 • ***Occupiers near The Social moved into the properties aware of the context of surrounding late night premises and would not suffer greater disturbance***

Response

The application would extend later opening hours in this area. It is noted that The Rhino is also a historic use of the premises and a similar argument can be made for that premises.

- 5.6 • ***Individuals leaving application site are less likely to pass takeaways and exacerbate associated impacts***

Response

It is not clear that the difference in location will have a substantial impact on the uptake of nearby food outlets.

- 5.7 • ***Reduce queues for nearby premises***

Response

The additional hours proposed will result in additional capacity later into the night, resulting in larger groups congregating later at night.

- 5.8 • ***Additional foot traffic and viability for bars in the area***

Response

The Council has identified the area as a late night zone and supports the principle of late night uses in the area where they are not considered to have a harmful impact on the character or amenities of surrounding properties. In this case AP8 of the Councils CCAP outlines appropriate late night opening hours in this area and the proposed application would exceed those hours.

- 5.9 • ***The proposal would be in keeping with the hours of other nearby premises***

Response

As part of implementing the City Centre Action Plan the Council reviewed areas of the city centre and made an assessment on appropriate opening hours in an effort to try and address areas where late night opening issues were problematic. Some properties in the area may benefit from historic uses not covered by conditions or consents granted prior to the implementation of the CCAP. The idea of implementing the policies is that over time as a result of the application of the policy that these impacts will reduce. It is not considered that the presence of an existing impact justifies deviation from a policy designed to prevent the further intensification of that problem. For context, a summary of opening times of nearby premises are included in ***Appendix 5***.

5.10 **Consultation Responses**

- 5.11 **Environmental Health** – Environmental Health do not have an objection in principle, however there are considerations to be made and works to attenuate sound may be required, the detail of which will only be known following a noise assessment. The issue of noise break out has been discussed at length with the management of the premises in the past following noise nuisance complaints (no substantiated) so the potential points for noise break out have already been identified. A noise report will be required, as notwithstanding that there are adjacent properties open until the early hours, each premises has to be considered independently for potential noise break out that may result in a statutory nuisance. The responsibility is on the operator and management to minimise problems,

including use of any external areas. The building may require sound proofing, not only to the front elevation windows and external doors, but also as sound may break out through the roof. Noise break out from the front elevation can in part be achieved by keeping the external doors and windows closed and maintaining the double door lobby after 21.00 hours. A noise assessment must include levels at above the height of the building where residents living on the upper floors of particularly Roebuck House may be affected by noise which at ground level is not a problem/not audible. A good management plan will be required and this should be covered in licence conditions, but I think it is fair to say that detail of management of the premises relating to noise should be a condition of the planning application being granted. Although the building and use may have existed prior to the residential accommodation that does not remove the responsibility for the venue operator to take appropriate steps to protect against any noise that may adversely affect neighbours, particularly domestic residents, due to the longer opening hours.

5.12 **Police** – The proposal is contrary to the provisions of the City Centre Action Plan. The Rhino has been closed since 2014 and does not have a current alcohol licence. Records show that incidents reported to the police in this area peak between midnight and 2AM. It is considered that staggered opening times at present help prevent build ups of people in the public realm and the applicant is not considered to have clearly demonstrated that the change will not adversely impact the local area. Objection to application.

5.13 Reviewing the incident information held by Hampshire Constabulary on their Records Management System (RMS) for the period 20th June 2018 to 19th June 2019, for this area, gives some idea of the numbers of incidents being reported to the police:

Hour	8pm	9pm	10pm	11pm	12pm	1am	2am	3am	4am
Number of incidents	5	7	16	11	41	51	32	19	7

5.14 **Contamination** – The proposed use is sensitive to the effects of land contamination.

Response

As the proposed application involves no physical ground works and primarily relates to a variation of opening hours it is not considered appropriate to impose further conditions in relation to land contamination.

6.0 Planning Consideration Key Issues

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

- Impact on surrounding character and amenity

6.2 The proposal represents a resubmission of a scheme previously refused by the Panel, seeking an extension of opening hours to 1AM compared to the 3AM of the previously refused application. The application for 3AM opening is currently in the process of being appealed by the applicant. There are other recent applications on the site which were dismissed at appeal for 2AM opening (14/01567/FUL) and 1AM opening (10/01567/FUL). These decisions were made prior to the Councils

adoption of the City Centre Action Plan but given the relevant circumstances of the decisions the Council considers that the key issues remain relevant and the assessments made can be given weight in the Panels decision.

- 6.3 The site lies within one of the specified late night zones, laid out in the Councils City Centre Action Plan (CCAP). Policy AP8 in this document identifies late night uses are an important part of meeting the needs of those living within the city but that the impacts associated with such uses need to be carefully managed so as to avoid disruption and other negative impacts on local residents associated with congregations of such uses.
- 6.4 Specifically, in this area the CCAP identifies that premises should have a terminal hour of midnight, which is the existing closing time of the premises per their planning conditions. As such it is considered that a later opening time would be contrary to policy and strengthens the Councils position in policy terms when compared to the previously dismissed appeals on the site for 2AM and 1AM opening.
- 6.5 In order to address this issue the applicant has suggested they are willing to enter into a legal agreement where the opening hours on another nearby premises, The Rhino (which has currently been vacant for a number of years), will be limited to midnight (per the current restrictions on the application site), while the application site will have the opening hours proposed of 1AM.
- 6.6 The planning history of The Rhino (5A Bedford Place) is included in **Appendix 2** but in summary application 1530/M23 granted consent for the use of the premises as a 'folk club' with no restriction on opening hours. The property has been extended a number of times since then. It is considered that the premises could lawfully operate as a music/drink venue without any restrictions on its hours. The premises has been vacant for a number of years and a number of applications have been submitted for the redevelopment of the site (16/01051/OUT, 16/01930/OUT) but were refused.
- 6.7 The Panel has previously rejected the same request on this site under application 18/01987/FUL but accepted a similar arrangement for an 'hours swap' on premises at 3 Winchester Street (Buddha Lounge) under application 15/02217/FUL. It is considered that there are substantial differences between the circumstances of the two cases. In that situation, the two premises were immediately adjacent and, at the time, linked internally. This meant that the impacts associated with the two uses were somewhat difficult to differentiate in terms of anything except hours of opening. As such it was considered that the agreement could secure a definitive improvement over the existing situation.
- 6.8 In this case the application site is a distinct separate premises from The Rhino. The properties are over 100m apart, on different frontages and separated by large multi-storey car park. The Rhino has also been closed for several years and does not currently have a licence to operate, though it is accepted that it could reopen without requiring planning permission.
- 6.9 While both properties are situated in the wider context of the Bedford Place/London Road area, it is not considered that there is a direct equivalency between the relative impacts associated with the two uses. As such it is not felt that a legal agreement would be an appropriate method of addressing the additional harm

associated with the later opening hours. As such it is considered that the proposal should be refused in line with the provisions of AP8.

- 6.10 The Planning & Rights of Way Panel have previously been asked to consider a very similar proposal on the site for 3AM opening and found that the proposed legal agreement was not sufficient to mitigate the impacts of the extended opening hours. The current application has been resubmitted with no other alterations except a change in the proposed opening hours from 3AM to 1AM. While it is considered that 1AM is an improvement when compared to the previously refused scheme, the proposal is still contrary to policy and it is considered that the substantial reasons for the refusal of the previous scheme remain as they were under the previous application. On this basis it is considered that the same issues remain regarding the principle of the development and the application is recommended for refusal on the same basis.

7. Summary

- 7.1 The Police have raised concerns that the proposal would exacerbate existing issues associated with late night opening in the immediate area. A number of applications for later opening hours have been submitted on the site over the last 10 years which have been refused with subsequent appeals dismissed. The Council considers that the adoption of the CCAP in 2015 has only reinforced its stance on the harm resulting from later opening hours in this area.
- 7.2 The Council do not consider that the proposed legal agreement is sufficient to mitigate the immediate and wider impacts of the development and as such it is considered that the provisions of AP8 in the CCAP should be given significant weight and the application refused.

8. Conclusion

- 8.1 It is recommended that planning permission be refused.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1(a)(b)(c)(d), 2(b)(d)(e)(f), 4(f), 6(a)(b)

JF for 16/07/19 PROW Panel

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS1 City Centre Approach
CS13 Fundamentals of Design

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

SDP1 Quality of Development
SDP16 Noise
REI7 Food and Drink Uses (Classes A3, A4 and A5)

City Centre Action Plan - March 2015

AP 8 The Night time economy

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Other Relevant Guidance

The National Planning Policy Framework (2019)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Relevant Planning History

21 Lower Banister Street

**18/01987/FUL, Variation of condition 2 of planning permission ref 09/00336/FUL and condition 1 of planning permission ref 13/01840/FUL to allow opening hours of 08:30am to 03:00am 7 days a week
Refused, 31.01.2019
Appeal Pending**

Reason for Refusal - Noise and disturbance

The proposed extension to opening hours would result in an extended late night use. It is considered that the intensification of use into the early hours of the morning would cause further detriment to the amenities of neighbouring properties by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would be contrary to the particular provisions of AP8 which outlines acceptable limits on opening hours within the city centre. Whilst the trade with existing hours on another premises is noted this approach is likely to create further harm to nearby residents of the application site and sets a difficult precedent for further trading that could lead to additional premises trading after midnight in an area with evidenced problems of late night disturbance. The proposal would thereby, having regard to similar appeal decisions in the locality for extended hours of use and the objection from the Police, prove contrary to and conflict with 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) and Policy AP8 of the City Centre Area Action Plan (adopted 2015).

15/02302/FUL, Variation of condition 6 of planning permission 05/00174/FUL to allow extended opening hours to 2am Thursday, Friday and Saturday
Withdrawn, 27.09.2017

14/00686/FUL, Variation of condition 1 of planning permission 13/01840/FUL to extend the approved opening hours for the first floor bar (A4 use) from 08:30am - 12 midnight (Monday - Sunday) to 08:30am - 02:00am (Monday - Sunday and recognised public holidays)
Refused, 30.07.2014
Appeal Dismissed, 31.12.2014

REFUSAL REASON: Noise and disturbance

The proposed extension to opening hours would result in an extended late night use, which is situated in a location where there are nearby residential properties. As such, it is considered that the intensification of use into the early hours of the morning would cause further detriment to the residential amenities of neighbours by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would thereby, having regard to similar appeal decisions in the locality for extended hours of use, prove contrary to the provisions of 'Saved' policies SDP1, SDP16, REI7 and CLT14 of the adopted City of Southampton Local Plan Review (2006) and Policy AP8 of the emerging City Centre Area Action Plan (2013).

**13/01840/FUL, Change of use of the first floor from A3 (restaurants) to A4 (drinking establishment) (retrospective)
Conditionally Approved, 07.03.2014**

Condition 1

APPROVAL CONDITION - Hours of Use - drink establishments [Performance Condition]

The drinking establishments hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

***Monday to Thursday 08.30am to 12.00 midnight
Friday and Saturday 08.30am to 12.00 midnight
Sunday and recognised public holidays 08.30am to 12.00 midnight***

Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.

Reason:

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

10/01567/FUL, Application for variation of conditions 2 and 3 of planning permission 09/00336/FUL to extend the approved opening hours for both A3 and A4 uses from 08:30am-midnight Monday-Sunday to 08:30am-01:00am Monday-Sunday.

Refused, 10.01.2011

Appeal Dismissed, 12.09.2011

REFUSAL REASON: Noise and Disturbance

The proposed extension to opening hours would result in an extended late night use, which is situated in a location where there are nearby residential properties. As such, it is considered that the intensification of use into the early hours of the morning would cause further detriment to the residential amenities of neighbours by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would thereby prove contrary to the provisions of Policies SDP1, SDP 16, REI7 and CLT 14 of the adopted City of Southampton Local Plan Review (2006).

09/01025/FUL, Variation of conditions 2 and 3 of permission 09/00336/FUL to extend the approved opening hours for both A3 and A4 use from 08.30 (8.30 am) until midnight (Monday - Sunday) to 08.30 (8.30 am) until 02.00 (2am) (Monday - Sunday).

Refused, 19.11.2009

REFUSAL REASON: Noise and Disturbance

The proposed extension to opening hours would result in an extended late night use, which is situated in a location where there are nearby residential properties. As such, it is considered that the intensification of use into the early hours of the morning would cause further detriment to the residential amenities of neighbours by reason of noise, litter and disturbance caused as patrons leave the premises. The proposal would thereby prove contrary to the provisions of Policies SDP1, SDP 16, REI7 and CLT 14 of the adopted City of Southampton Local Plan Review (2006).

09/00336/FUL, Alterations to ground floor front/side elevations and change of use from Class A3 to mixed use Class A3/A4

Conditionally Approved, 04.06.2009

Condition 2

APPROVAL CONDITION – A4 Hours of Use - [Performance Condition]

The ground floor A4 use hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

Monday to Saturday 8.30 am to 12 Midnight
Sunday and recognised public holidays 8.30am to 12 Midnight

Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.

Reason:

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

Condition 3

APPROVAL CONDITION – A3 Hours of Use - [Performance Condition]

The first floor A3 use hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

Monday to Saturday 8.30 am to 12 Midnight
Sunday and recognised public holidays 8.30am to 12 Midnight

Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.

Reason:

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

06/01682/FUL, Retrospective application for external alterations to front elevation, erection of decking to front, insertion of windows and formation of fire escape.
Conditionally Approved, 22.12.2006

06/01559/VC, Variation of Condition 06 of Planning Permission (ref 05/00174/FUL) to allow opening hours of 8.30am to 12 midnight 7 days a week.
Conditionally Approved, 15.12.2006

05/00174/FUL, Subdivision of the premises and change of use of part of premises from A1 (Retail) to A3 (Restuarants and cafes) and change of use of another part of the premises from A1 (Retail) to A4 (Drinking establishment) to form an extension to The Orange Rooms and alterations to the fenestration of the building on the south and west elevations (resubmission).
Conditionally Approved, 08.03.2006

5A/6A Bedford Place

16/01930/OUT, Redevelopment of the site. Demolition of the existing building and erection of a 5-storey building to provide commercial use on the ground floor and 10 flats above (7 x 2-bed and 3 x 1-bed) with associated refuse facilities (Outline application seeking approval for Access, Layout and Scale)
Refused, 07.02.2017

16/01051/OUT, Redevelopment of the site. Demolition of the existing building and erection of a 6-storey building to provide commercial use on the ground floor and 15 flats above (5 x one bedroom, 8 x two bedroom and 2 x three bedroom. (Outline application seeking approval for access, layout, scale and appearance).
Refused, 11.08.2016

10/00127/FUL, Change of use from A1 (retail) to mixed use comprising a combination of uses within Use Class A1 (retail), A2 (financial services), A3 (drinking establishment), A4 (restaurant) and/or A5 (take-away)
Conditionally Approved, 08.04.2010

09/00861/FUL, Installation of a new shop front
Conditionally Approved, 25.09.2009

09/00617/FUL, Change of use from retail (class A1) to mixed use restaurant/cafe and takeaway (A3 and A5)
Conditionally Approved, 10.08.2009

09/00193/FUL, Change of use of ground floor from retail (use class A1) to hot food takeaway (use class A5)
Conditionally Approved, 01.05.2009

04/01586/FUL, Installation of automatic sliding door to existing shopfront.
Conditionally Approved, 06.12.2004

971262/E, INSTALLATION OF A NEW SHOPFRONT
Conditionally Approved, 26.01.1998

1631/M18, INSTALLATION OF 6 NEW WINDOWS FRONTING WATERLOO TERRACE
Conditionally Approved, 07.06.1983

1626/M17, USE OF GROUND FLOOR AS RESTAURANT
Conditionally Approved, 01.02.1983

1571/M27, ERECTION OF A FIRST FLOOR REAR EXTENSION FOR USE AS CASINO
Conditionally Approved, 24.06.1980

1554/M29, ALTERATIONS TO FLANK WALL FRONTING WATERLOO
Conditionally Approved, 03.04.1979

1548/M29, USE OF PREMISES AS RESTAURANT
Conditionally Approved, 09.01.1979

1532/M25, ALTERATIONS TO THE EXTERNAL ELEVATIONS IN CONNECTION WITH THE USE OF REAR OF PREMISES AS FOLK CLUB.

Conditionally Approved, 29.11.1977

1530/M23, USE AS FOLK CLUB
Conditionally Approved, 20.10.1977



Appeal Decision

Site visit made on 8 December 2014

by **Michael Boniface MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 December 2014

Appeal Ref: APP/D1780/A/14/2226053

Triad House, 24 Lower Banister Street, Southampton, SO15 2EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Neil Homer (Roxx) against the decision of Southampton City Council.
 - The application Ref 14/00686/FUL, dated 22 April 2014, was refused by notice dated 30 July 2014.
 - The application sought planning permission for the change of use of the first floor from A3 (restaurant) to A4 (drinking establishment) (retrospective) without complying with a condition attached to planning permission Ref 13/01840/FUL, dated 7 March 2014.
 - The condition in dispute is No 1 which states that: *The drinking establishments hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours: Monday to Thursday 08.30am to 12.00 midnight, Friday and Saturday 08.30am to 12.00 midnight, Sunday and recognised public holidays 08.30am to 12.00 midnight. Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.*
 - The reason given for the condition is: *To protect the amenities of the occupiers of existing nearby residential properties.*
-

Decision

1. The appeal is dismissed.

Background

2. The appellant considers that the hours restrictions contained in condition 1 of the planning permission granted by the Council are overly onerous on the business, are not appropriate for modern drinking habits and offer competitors with later opening hours an unfair advantage. As such, the application seeks to vary the permissible hours to allow opening from 08.30 to 02.00am on all days of the week.

Main Issue

3. The main issue is the effect that the proposed variation of opening hours would have on the living conditions of local residents.

Reasons

4. The appeal property is the first floor within a building comprising a further drinking establishment at ground floor level. A mix of uses surround the site including a wide range of pubs, night clubs, restaurants and other night time uses. A modern development of residential flats is located on the opposite side of the road and other residential streets, including a large residential area known as the Polygon, are located nearby.
5. The Council has identified issues of noise, disturbance, anti-social behaviour and littering which are said to be associated with people leaving late night premises and making their way through residential streets. This is a matter that was considered in some detail during the Examination into the City of Southampton Local Plan Review (LPR) (2006). The Inspector noted attempts to support and maintain the night-time economy whilst protecting the living conditions of neighbouring residents. In doing so, she drew a distinction between 'Late Night Zones' where existing concentrations of night time uses stand close to residential uses, and 'Late Night Hubs', evening economy areas more remote from residential areas where future late night uses with extended opening hours should be focused.
6. Policies CLT 14 and REI 7 of the LPR enshrine this approach within the development plan and the site, falling within the Bedford Place/London Road area, is identified on the Proposals Map as a Late Night Zone. Whilst A4 uses are not precluded from these areas, they will only be permitted where potential adverse impacts can be mitigated, including through the imposition of planning conditions. In particular, these policies seek to protect the living conditions of nearby residents.
7. In order to implement these policies consistently, the Council has produced a Planning Policy Note, *Night Time Economy, Guidelines for opening hours relating to Policies CLT 14 and CLT 15*. I can attach this document only limited weight as it has not undergone public consultation. However, it suggests a terminal hour of 12am for premises within the London Road (Bedford Place) zone. This appears to have been implemented consistently by the Council, and indeed at appeal, having had regard to the examples submitted, most recently at 22 Bedford Place (APP/D1780/A/13/2210207).
8. The appellant refers to an appeal example where opening hours were allowed until 02.00 in relation to 24 Carlton Place (APP/D1780/A/08/2078978). Whilst acknowledged by the Council, it makes clear that the Inspector in that case was unaware of the policy background described above as no appeal statement was provided. I have also had regard to a decision at 42B London Road (APP/D1780/A/00/1046651) but this considerably predates the LPR. Having regard to the more recent examples provided by the Council and the evidence outlined above, I attach these examples little weight.
9. I note that the LPR is aged but Policies CLT 14 and REI 7 remain saved with the firm intention of maintaining residential living conditions. This is an objective that I consider to be consistent with the National Planning Policy Framework (the Framework), one of its core planning principles being to ensure a good standard of amenity for all existing and future occupants of land and buildings. As such, I attach them significant weight.

10. Furthermore, the Council's emerging policy AP8, contained within the City Centre Action Plan Proposed Submission (CCAP) (September 2013) seeks to maintain this policy approach, identifying that the issues raised above are ongoing. This is further highlighted in the responses I have received from local people which outline ongoing objections and concerns with regards to the issues identified above. This document has undergone independent examination but the results are yet to be published and I do not know the extent of any outstanding objections to the document. With this in mind, and the fact that the document is yet to be adopted, I can only attach it limited weight, but it nonetheless supports the Council's current policy position.
11. There are a number of other premises in the vicinity of the site that operate later opening hours than the appeal premises. However, the Council suggest that these are outside the scope of planning control, resulting from historic planning permissions without hours restrictions or having established lawful uses over the passage of time. I have seen no compelling evidence, notwithstanding the examples discussed above, that demonstrates any deviation by the Council from the policy approach set out within the development plan. The presence of late night uses is accepted but they are also highlighted as key contributors to the issues of noise, disturbance, anti-social behaviour and littering that have led to the policy approach described. To permit later opening hours of existing premises within the Late Night Zone would conflict with this policy approach and exacerbate these issues.
12. I have had regard to the appellant's track record of successfully operating other local venues, the type of venue aspired to, focusing on entertainment and culture rather than a cheap drinks establishment, as well as the economic benefits that result from local businesses. However, the planning application relates to an open A4 use and there is no guarantee that any subsequent occupier would maintain the same values. In any case, these matters do not outweigh the harm that I have identified with regard to the main issue.
13. I note the existing sound mitigation measures including entry system, sound proofing and dispersion policy, as well as measures employed in nearby residential developments. However, the issues identified relate to noise and disturbance from patrons that have left the site rather than noise emanating from the building and its immediate environs. Whilst these measures, combined with the proposed security staff and litter pickers would no doubt assist in managing patrons at the site, the appellant can have little control over behaviour further afield. Although financial contributions towards local management schemes are offered, these appear to be having only limited effect given the level of objection identified by local people and the ongoing policy impetus to restrict opening hours in the Late Night Zones.
14. The appellant highlights that no objections have been received from immediate neighbours, the Police or the Council's Environmental Health team but this does not alter the harm that I have identified. It is also apparent from the evidence before me that the Police have visited the appeal premises on a number of occasions and reported later opening hours to the Council, suggesting some level of concern.
15. Whilst the concerns raised by the Council and local residents cannot be directly attributed to customers visiting the appeal site the examination into the LPR accepted that issues were associated with late night uses in a general sense. It

is clear that allowing later opening hours would intensify the number of people on the streets at unsociable hours. It is, therefore, sensible to consider the cumulative impact of concentrated night time uses and the impacts of further intensification.

16. I acknowledge that the Framework has been introduced since a number of previous appeal decisions were made and subsequent to the LPR being adopted. I have had regard to the presumption in favour of sustainable development advocated but I have already identified conflict with social objectives to protect the living conditions of local people and the development cannot, therefore, be said to comprise 'sustainable development', notwithstanding that there would be some economic benefits.
17. The proposed opening hours would harm the living conditions of neighbouring occupants. As such, the development would conflict with Policies SDP 1, SDP 16, REI 7 and CLT 14 of the LPR, which seek to direct night time uses to appropriate locations, require development to contribute, where appropriate, to a complimentary mix of uses whilst avoiding harm to the health, safety and amenity of residents, with particular regard to noise, disturbance and litter; as well as Policy AP8 of the emerging CCAP, which has similar objectives.
18. In light of the above, and having considered all other matters, the appeal is dismissed.

Michael Boniface

INSPECTOR



Appeal Decision

Site visit made on 15 August 2011

by **R J Marshall LLB Dip TP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 September 2011

Appeal Ref: APP/D1780/A/11/2154256

Triad House, 24 Lower Banister Street, Southampton, Hampshire, SO15 2EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Aura Bar and Lounge Ltd. against the decision of Southampton City Council.
 - The application Ref 10/01567/FUL, dated 12 November 2010, was refused by notice dated 10 January 2011.
 - The application sought planning permission for "Alterations to ground floor front/side elevations and change of use from Class A3 to mixed use Class A3/A4 without complying with conditions attached to planning permission Ref 09/00336/FUL/23748, dated 4 June 2009.
 - The conditions in dispute are Nos. 2 and 3 which state that:
 - (2) *The ground floor A4 use hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:
Monday to Saturday 8.30am to 12 Midnight
Sunday and recognised public holidays 8.30am to 12 Midnight
Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.*
 - (3) *The first floor A3 use hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:
Monday to Saturday 8.30am to 12 Midnight
Sunday and recognised public holidays 8.30am to 12 Midnight
Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.*
 - The reason given for both the conditions is: *To protect the amenities of the occupiers of existing nearby residential properties.*
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the permitted use of the appeal premises on the living conditions of local residents in the absence of the disputed condition with special reference to noise and disturbance.
-

<http://www.planning-inspectorate.gov.uk>

Reasons

3. The permitted use of the appeal premises is as a restaurant and bar. The appellant had sought, in the application for development without complying with condition Nos. 2 and 3, to enable the premises to open until 01.00 hours every day of the week.
4. The appeal site lies in an area containing a mix of commercial uses. There is within this area quite a substantial concentration of A3 (restaurant/café) and A4 (drinking establishment) uses. Within this area, and in the vicinity of the appeal site, there appears to be residential accommodation on the upper floors of buildings and in some purpose built flats. Only slightly further afield to the west is an extensive area of residential streets.
5. The area in which the appeal site lies is defined in the City of Southampton Local Plan Review (LPR) (2006) as a Night Time Zone (NTZ). In this area A3, A4 and A5 uses are permitted under Policy CLT 14 subject to compliance with Policy REI 7. Amongst other things, this Policy seeks to prevent the generation of any undue noise or other forms of nuisance arising from the proposed use.
6. The Council has prepared a *Night Time Economy* briefing paper to give guidance for operating hours relating to Policy CLT 14. The recommended closing time for premises in this area is 12am each day. The weight to be attached to this document is limited by the fact that it has not been subject to public consultation. However, the Council's recent planning decisions have been in accordance with this approach. As too have been appeal decisions, other than in one case where the decision was made without the benefit of a statement of case from the Council.
7. In support of the proposal the appellant says that the appeal site is in a lively area full of vitality by day and night. However, the Inspector's report into the LPR referred to the problems of late-night noise in the area in which the appeal site is located and to tension between long-term local residents and a large transitory student population. The appellant says that matters have improved since then. Reference is made to a city wide ban on drinking in public places, to the provision of CCTV in the area, the availability of a late night multi-storey car park along with resident parking zones and to the new licensing regime improving the regulation of premises. It is also said that if there was the harm alleged then it would be expected that there would be evidence of the Council enforcing or reviewing license restrictions.
8. However, the police object to the proposal before me. They say that over the last 18 months there has been a need to increase police patrols and resources in this area at night because of problems directly related to licensed premises in the area. Residents meetings have shown antisocial behaviour in the area to be a major cause of concern. These concerns have been reiterated in public observations on the planning application and this appeal.
9. The appellant company says that it has an excellent record of managing late-night establishments in the area. However, the weight to be attached to this is limited by the fact that, as the planning permission runs with the land, the current appellant may not continue to run the premises.
10. I appreciate that there is a substantial variation in the opening hours of premises in the area and note the appellant's references to many premises opening later than the appeal premises. However, the Council says that this is

a result of venues operating under old planning permissions that contain no reference to opening hours.

11. It is understandable why, from a commercial viewpoint and to compete with other late night venues, the appellant would prefer to operate later. Regard also needs to be had to the Government encouragement of economic growth. However, the evidence before me strongly points to the harmful effect of late night activity in the area on the living conditions of local residents. Allowing later opening hours would increase the potential for noise and disturbance to those living nearby and at a time when many will be seeking to sleep. It would also have a more damaging cumulative effect by making it difficult for the Council to maintain its current approach of limiting opening hours.
12. The current condition appears to strike the correct balance between allowing commercial uses such as this in the area whilst at the same time protecting the amenities of local residents. I am of this view notwithstanding the appellant's reference to the fact that students frequenting other areas in the city where later hours of opening are accepted may well return home through the residential streets in the vicinity of the appeal site.
13. I conclude that in the absence of the disputed condition the permitted use of the appeal premises would detract from the living conditions of local residents with special reference to noise and disturbance. As such it would be contrary to LPR Policies SDP 1, SDP 16, CLT 14 and RE 17 in so far that they seek to prevent such harm.
14. In arriving at this conclusion regard has been had to the appellant's reference to the effects of "pre-loading", that is the recent trend of people drinking extensively in private residences before going out to bars and clubs, and to the current tough economic climate reducing the number of customers. The appellant says that these factors are likely to lead to customers of the premises merely vacating it at the current closing time to go to an adjoining venue that opens later. However, the circumstances referred to may not be long term trends and the alleged consequence of them is a largely speculative view.
15. Regard has also been had to the Draft National Planning Policy Framework. However, as this document is still in draft form and subject to change little weight has been accorded to its Policies.

Conclusion

16. It is for the reasons given above that it has been concluded that the appeal should be dismissed.

RJ Marshall

INSPECTOR

1. 21 Lower Banister Street (The Social)
2. 17 Lower Banister Street (Pop World)

No planning restrictions (940538/E)
3. 1-2 Vernon Walk (Orange Rooms)

Roof terrace 8AM-10PM (08/00922/FUL)
No planning restrictions (M26/1671)
4. 3 Winchester Street/3-4 Vernon Walk (Buddha Lounge)

3 Winchester Street –
Monday to Thursday 08:00-02:00
Friday and Saturday 08:00-03:00
Sunday and Public Holidays 08:00-01:00

3-4 Vernon Walk –
Monday to Saturday 08:00-00:00
Sunday and Bank Holidays 12:00-00:00
(15/02217/FUL)
5. 24 Carlton Place (Fever and Vibe)

Monday to Saturday 08:00-02:00
Sunday and Public Holidays 10:00-02:00
(08/00371/VC – allowed at appeal)
6. 23 Bedford Place (The Bedford)

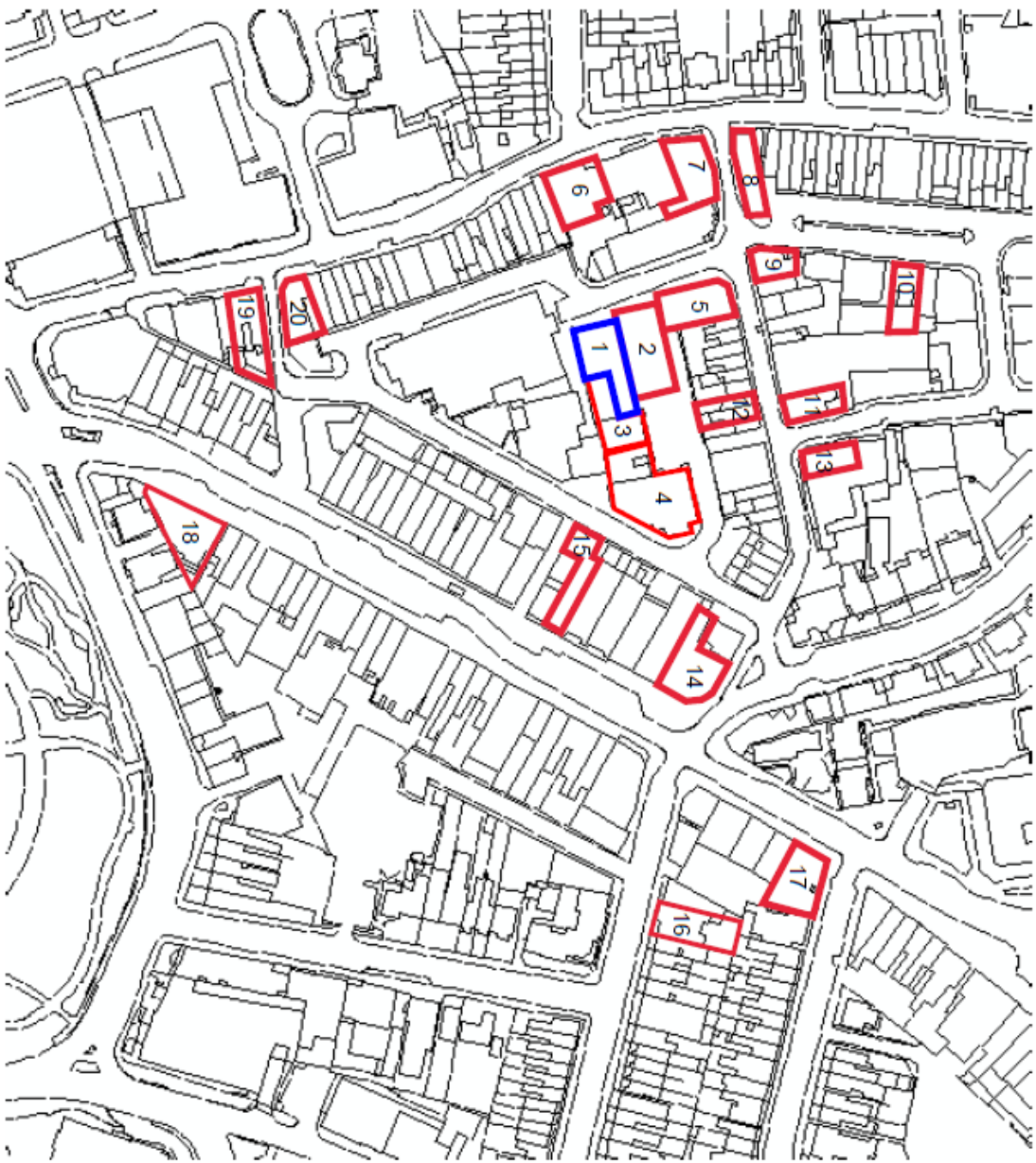
No planning restrictions (historic consent)
7. 28A Bedford Place (Revolution)

Roof terrace 08:00-23:00 (15/00047/FUL)
No planning restrictions
8. 28 Carlton Road/29 Bedford Place (XOXO)

Monday to Saturday 08:00-00:00
Sunday 10:00-23:00
(07/01737/VC)
9. 29 Carlton Place (4Q Bar and Lounge)

No planning restrictions (historic use)

10. 18A Upper Banister Street (Brewdog)
Monday to Sunday 11:00-00:00
(15/01624/FUL)
11. 34 Carlton Place (Cricketers Arms)
No planning restrictions (historic use)
12. 16-17 Carlton Place (Smugglers)
Monday to Sunday 10:00-23:30
(04/00230/FUL – appeal dismissed seeking 10:00-00:00)
13. Carlton House, Carlton Place (Seymours)
No planning restrictions (M29/1661)
14. 67-75 London Road (Brewhouse)
Monday to Sunday 09:00-00:00
(11/00537/FUL)
15. 55 London Road (Rebel)
No planning restrictions (1422/P10)
16. 6 Bellevue Road (The Alexandra)
No planning restrictions
17. 74-76 London Road (Sadler's)
No planning restrictions (1582/M22)
18. 12-16 London Road (Giddy Bridge)
Monday to Sunday 07:00-00:00
(07/00190/VC)
19. 5A/6A Bedford Place (The Rhino)
No planning restrictions (1530/M23)
20. 1-2 Bedford Place (The Lion)
No planning restrictions (historic use)



- 1 - 21 Lower Banister Street (The Social)
- 2 - 17 Lower Banister Street (Pop World)
- 3 - 1-2 Vernon Walk (Orange Rooms)
- 4 - 3 Winchester Street/3-4 Vernon Walk (Buddha Lounge)
- 5 - 24 Carlton Place (Fever and Vibe)
- 6 - 23 Bedford Place (The Bedford)
- 7 - 28A Bedford Place (Revolution)
- 8 - 28 Carlton Place/29 Bedford Place (XOXO)
- 9 - 29 Carlton Place (4Q Bar and Lounge)
- 10 - 18A Upper Banister Street (Brewdog)
- 11 - 34 Carlton Place (Cricketers Arms)
- 12 - 16-17 Carlton Place (Smugglers)
- 13 - Carlton House, Carlton Place (Seymours)
- 14 - 67-75 London Road (Brewhouse)
- 15 - 55 London Road (Junk)
- 16 - 6 Bellevue Road (The Alexandra)
- 17 - 74-76 London Road (Sadler's)
- 18 - 12-16 London Road (Giddy Bridge)
- 19 - 5A/6A Bedford Place (The Rhino)
- 20 - 1-2 Bedford Place (The Lion)

PLANNING APPLICATION – 18/01987/FUL – 21 LOWER BANISTER STREET

The Panel considered the report of the Service Lead, Planning Infrastructure and Development recommending that conditional planning permission be refused in respect of an application for a proposed development at the above address.

Variation of Condition 2 of planning permission ref 09/00336/FUL and Condition 1 of planning permission ref 13/01840/FUL to allow opening hours of 08:30am to 03:00am 7 days a week.

Mark Sennit (agent), Lorraine Barter, and David Rogers (supporters) were present and with the consent of the Chair, addressed the meeting.

The Panel then considered the recommendation to refuse conditional planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to refuse planning permission

FOR: Councillors Savage, Coombs, Claisse, Mitchell, and Wilkinson

AGAINST: Councillors L Harris and Murphy

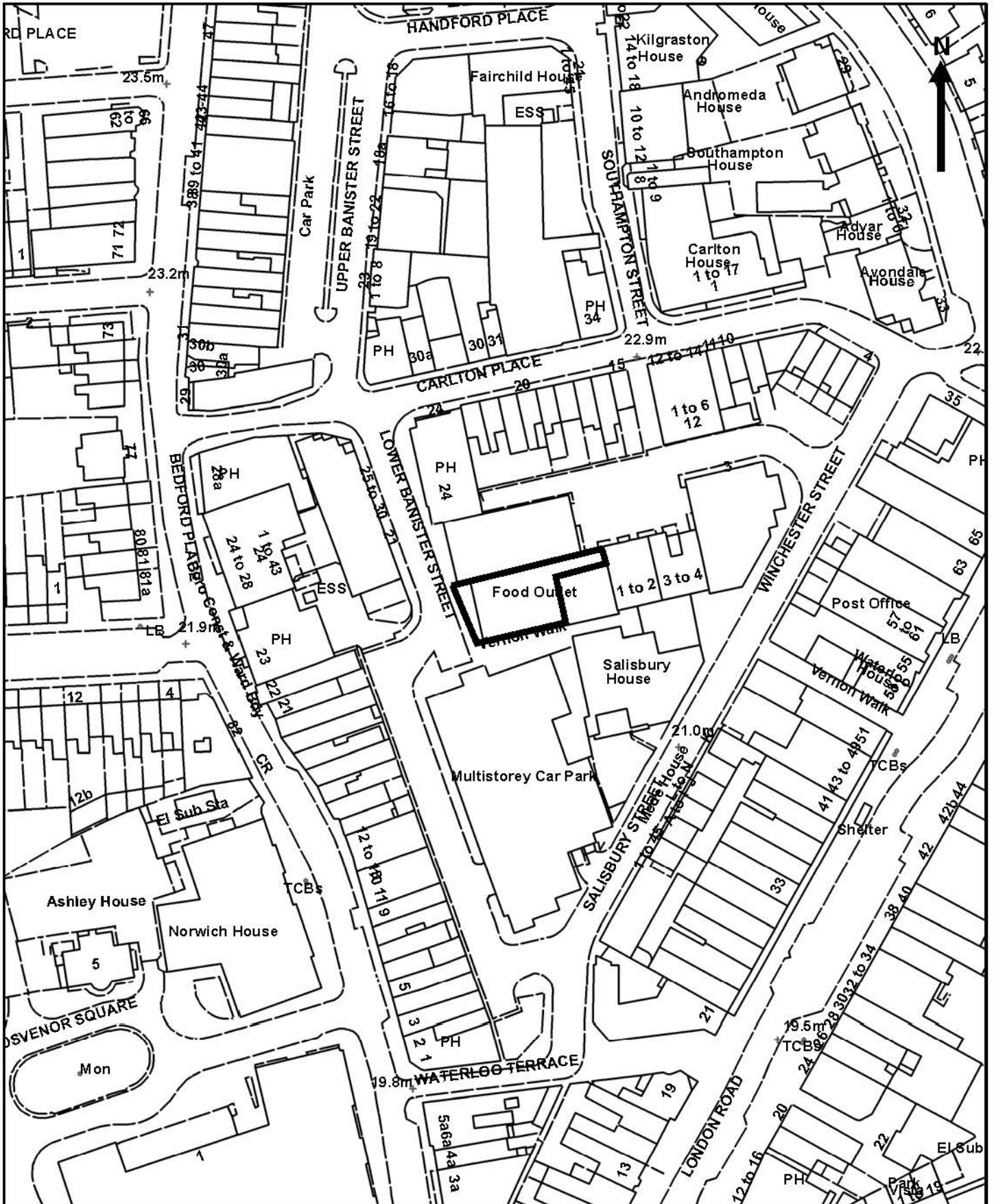
RESOLVED that the Panel refused to grant conditional planning permission for the reasons set out within the report.

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Agenda Item 10

19/00392/FUL

Appendix 1



Scale: 1:1,250

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