

Planning and Rights of Way Panel

Tuesday, 21st September,
2021

at 4.00 pm

PLEASE NOTE TIME OF MEETING

Guildhall

This meeting is open to the public

Members

Councillor L Harris (Chair)
Councillor Prior (Vice-Chair)
Councillor Coombs
Councillor Magee
Councillor Savage
Councillor Vaughan
Councillor Windle

Contacts

Democratic Support Officer
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Interim Head of Planning and Economic
Development
Paul Barton
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PUBLIC INFORMATION

ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL

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

PUBLIC REPRESENTATIONS

Procedure / Public Representations

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

Southampton: Corporate Plan 2020-2025 sets out the four key outcomes:

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

Dates of Meetings: Municipal Year 2020/2021

2021	
1 June	21 September
22 June	12 October
13 July	2 November
3 August	23 November
24 August	14 December

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.

2022	
25 January	29 March
15 February	26 April
8 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

PLEASE NOTE

This meeting is being held in the Guildhall out of necessity to comply with Covid social distancing requirements.

As many people will know it is a large space and unfortunately the acoustics for live streaming are not ideal. Every effort will be taken to ensure that members of public can view the meeting online. However, given the necessary precautions set out to try and combat the spread of Covid it is acknowledged that the sound quality may need to be compromised in order for online viewers to follow the meeting; we apologise if this causes any difficulties.

A recording of the meeting will be uploaded to the web after the meeting. Officers will continue to refine the streaming arrangements

Should you wish to attend the meeting to address the Panel please register with Democratic Services in advance of the meeting by emailing democratic.services@southampton.gov.uk thank you for your corporation.

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 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING) (Pages 3 - 8)

To approve and sign as a correct record the Minutes of the meetings held on 24 August 2021 and to deal with any matters arising.

3 STATEMENT FROM THE CHAIR

4 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.

CONSIDERATION OF PLANNING APPLICATIONS

5 PLANNING APPLICATION - 20/00138/FUL -QUAY 2000 (Pages 13 - 48)

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

6 PLANNING APPLICATION - 21/00764/FUL - 30-32 ST MARYS PLACE

(Pages 49 - 62)

Report of the Interim Head of Planning and Economic Development recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

7 PLANNING APPLICATION - 21/01047/FUL - 20 HOWARD ROAD

(Pages 63 - 78)

Report of the Interim Head of Planning and Economic Development recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

Monday, 13 September 2021

Service Director – Legal and Business Operations

Agenda Annex

COVID – 19 MEETING PROTOCOL

GENERAL POINTS FOR ALL IN ATTENDANCE

- All attendees are expected to undertake the free Covid-19 lateral flow test within 24 hours prior to attendance at any meetings available from <https://www.gov.uk/order-coronavirus-rapid-lateral-flow-tests>
- If you are experiencing COVID-19 symptoms, have tested positive for COVID-19, or are self-isolating you must not attend the meeting.
- Please consider in advance how you will safely travel to and from the meeting. Public transport should be avoided if possible, with walking or cycling recommended where possible
- NHS Test and Trace QR code and a self-registration facility will be available for attendees.
- Hand Sanitising points will be available on entry and exit to the venue.
- Face coverings must be worn (unless an exemption applies)
- Identified seating plan will be available at the venue observing social distancing requirements.
- You will be responsible for your own refreshments while in attendance at the meeting.
- There should be no unnecessary movement around the meeting room.
- There should be no sharing of stationery, documents or other equipment.

COUNCILLORS AND OFFICERS

- All Councillors and Officers attending the meeting are strongly encouraged to take a staggered approach to arrival/departure and avoid any socialising and mixing before or after the meeting.
- A seating plan will ensure safe social distancing and seating will be labelled accordingly.
- Face coverings must be worn whilst moving to and from seating. Face coverings may be removed whilst seated.
- Microphones in the Council Chamber are free standing, there is no requirement for these to be shared or passed around.

PUBLIC/MEDIA ATTENDANCE

- Public and Media attendees are encouraged to please provide some advance notice of their intention to attend the meeting by contacting democratic.services@southampton.gov.uk or by telephoning 023 8083 2390 as we may need to review the venue to ensure we can facilitate a covid-safe meeting.
- There will be clearly defined seating areas for members of the public and media.
- Face coverings must be worn if within 2m of someone.
- Members of the public/media wishing to attend the council chamber for particular agenda items will be escorted in and out of the council chamber by a member of council staff.

It is important to note that although the impact of the COVID-19 testing and vaccination programmes has been positive, the 'Hands Face Space Fresh Air' message is still crucial. People who have been vaccinated and/or tested negative for COVID-19 must still apply COVID-safe measures such as social distancing, good hand hygiene and wearing of face coverings where required.

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PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 24 AUGUST 2021

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

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

RESOLVED: that the minutes for the Panel meeting on 13 July 2021 be approved and signed as a correct record.

20. **OBJECTION TO THE SOUTHAMPTON (158 ATHELSTAN ROAD) TREE PRESERVATION ORDER 2021**

The Panel considered the report of the Head of City Services setting out an objection to the Tree Preservation Order at the above address.

Jacqui Turner and Giles Brotherton (tree owners) were present and with the consent of the Chair, addressed the meeting.

Upon being put the vote the Panel supported the officer recommendation.

RECORDED VOTE to confirm the Tree Preservation Order

FOR: Councillors L Harris, Prior, Coombs, Savage and Windle

AGAINST: Councillors Magee and Vaughan

RESOLVED that the Panel; confirmed The Southampton (158 Athelstan Road) Tree Preservation Order 2021.

21. **PLANNING APPLICATION - 21/00827/FUL - 1 GOVER ROAD**

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

Change of use of land for staff car parking associated with the adjacent commercial vehicle garage and installation of associated surfacing treatment and landscaping.

Margret Wright, Ian Harley and Dave Smith (local residents/ objecting), and Councillors McEwing and Spicer (ward councillors) were present and with the consent of the Chair, addressed the meeting. In addition the Panel noted the apologies of Councillor Guest and two statements received from the City of Southampton Society and Pat Walsh, which had been circulated to them previously and were posted online.

The presenting officer reported that the recommendation required amending to ensure that an updated site plan showing 10 and not 12 parking spaces would be provided. It was also noted that the landscaping and means of enclosure condition (Condition 3) would need to be amended as set out below.

The Panel considered amendments to Conditions 5, 6 and 7 and after voting on each amendment and the new wording is as set out below.

In addition it was noted that the Case officer would contact Adams Morey to request that they engage with the occupier of 3 Gover Road to discuss the potential for a brick wall along the northern boundary, ahead of submission of details to discharge condition 03 (landscaping and means of enclosure). The Case officer stated that he would advise Adams Morey over the concerns of the occupiers of 3 Gover Road regarding to the condition and overhanging nature of the existing trees adjacent to the side boundary of 3 Gover Road.

The Panel then considered the amended recommendation to grant conditional planning permission.

RESOLVED that planning permission be approved subject to:

- (a) the receipt of an amended site plan showing 10 car parking spaces ahead of issuing the decision; and
- (b) the conditions set out within the report and any additional or amended conditions set out below.

Amended Conditions

03. Landscaping & means of enclosure (Pre-Commencement)

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

- (a) Native hedgerow planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- (b) details of proposed boundary treatment and;
- (c) a landscape management scheme.

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

If any of the native hedgerow dies, fails to establish, is removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

The front boundary fence, gated access and hedgerow shall be maintained to a maximum height of 1m from ground level. The side boundary fence to 3 Gover Road shall be a maximum of 2m in height measured from the ground level of the car park hereby approved. The approved means of site enclosure shall be retained for the lifetime of the development

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

05. Use of the Car Park (Performance)

The proposed car park shall only be only used as staff parking for domestic sized vehicles and for no other purpose.

REASON: To prevent obstruction to traffic in neighbouring roads and in the interests of highway safety. In the interests of the amenities of neighbouring occupiers.

06. Hours of Use (Performance)

The car park hereby approved shall be closed and access gates locked between the hours of 7pm-7.30am Monday-Friday and all times during weekends and Public Holidays.

REASON: In the interests of the amenities of neighbouring occupiers and in the interests of site security.

07. Electric Vehicle Charging Point(s)

Prior to the car park hereby approved coming into use, a specification for the installation of electric charging point(s) for staff vehicles within the red or blue line site boundary (Adams Morey site). The electric charging point(s) shall be installed in accordance with the agreed specification and thereafter be retained for staff use.

REASON: In the interests of air quality.

22. PLANNING APPLICATION - 21/00909/FUL - 152 MILTON ROAD

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

Erection of a 2-bed, detached house to rear of existing house, with access from Wilton Avenue (Resubmission of ref 20/01456/FUL)

Owen Rushworth (agent) was present and with the consent of the Chair, addressed the meeting. Additional it was noted that two local residents Ms Steele and Lorraine Barter and Councillor Bogle had submitted statements in objection to the application. These were circulated to the Panel in advance and posted online.

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

The Panel then considered the recommendation to delegate authority to the Head of Planning and Economic 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 authority to the Head of Planning and Economic Development to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 or S.111 Legal Agreement to secure either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010..
- (iii) Delegated authority to the Head of Planning and Economic Development to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.
- (iv) Delegated authority to the Head of Planning and Economic Development to refuse the application in the event that the legal agreement set out in (ii) above is not completed within a reasonable timescale.

23. **PLANNING APPLICATION - 21/00920/FUL - REAR OF 5-7 ROSE ROAD**

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

Erection of a single storey detached 5-bed residential block to provide supported living.

Ann Woolnough (Outer Avenue Residents Association), Darren Bray (agent), Trevor Pickup (applicant), and Councillor Denness (ward councillor) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that amendments would required to Condition 2 to ensure the provision of a green roof. It was also explained that an additional condition would be required to be added ensure the design details of the development.

The Panel noted the concerns of residents and sought responses that reassured them that there was a proper management plan for the property that would address the concerns raised at the meeting.

Before the Panel then considered the recommendation to delegate authority to the Head of Planning and Economic Development to grant planning permission. A further motion to defer any decision on the application at the meeting voted on and carried unanimously.

RESOLVED that decision on the application be deferred until a future meeting to enable the submission of a management plan prior to determination.

Reason for deferral

The application was deferred to enable the submission of a management plan prior to determination securing the following;

- Details of staffing on-site during office hours;

- Details of out of hours support;
- Contact information for residents and occupants to contact if there is an issue;
- Details of internal and external CCTV provision and how it is monitored;
- Details of the 24 hour remote staffing;
- Details of patrol car; and
- Any other management measures that aid the day to day running of the facility, including measures to manage noise and disturbance within the outdoor garden area.

The Panel requested that following receipt of the Management Plan third parties would be consulted and, if the management plan is sufficient, the application would be considered at the next available Planning and Rights of Way Panel

24. **ANNUAL DEVELOPMENT MANAGEMENT FIGURES**

The Panel considered and noted the report of the Head of Planning of Economic Development detailing the Planning Department's performance against key planning metrics

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INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 21st September 2021 - 4pm Venue -----

Please note:

That the numbers of seats have been limited within the Guildhall in line with Public Health guidelines and that timings are estimated Members of public are advised to attend in advance of these estimated timings. Members of public are advised to arrive in good time allowing for potential variation to the timings.

Members of public wishing to speak must register in advance with the Panel clerk by emailing democratic.services@southampton.gov.uk

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
4:00pm – 5:00/ 5:30pm (approximately)				
5	SM	REF	15	20/00138/FUL Quay 2000
5:00/ 5:30pm – 6:00pm (approximately)				
6	RS	CAP	5	21/00764/FUL 30-32 St Marys Place
5:30/ 6:00pm – close (approximately)				
7	SB	CAP	5	21/01047/FUL 20 Howard Rd

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

Case Officers:

SM – Simon Mackie

RS – Rob Simms

SB – Stuart Brooks

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) Connected Southampton 2040 Transport Strategy (LTP4) adopted 2019.
 - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
 - (e) Adopted City Centre Action Plan (2015)
 - (f) Community Infrastructure Levy Charging Schedule (2013)
 - (g) Bassett Neighbourhood Plan (Adopted 2016)

3. **Statutory Plans in Preparation**

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

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

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

5. Documents relating to Highways and Traffic

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

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

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 21st September 2021 Planning Application Report of the Head of Planning & Economic Development

Application address: Quay 2000, Horseshoe Bridge, Southampton			
Proposed development: Closure of waterside walkway for public use - Application 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 outside of the following hours: 1st April - 31st October (Summer Period) 08:00 - 20:00, 1st November - 31st March (Winter Period) 08:00 - 16:00 (Revised submission to application 19/00719/FUL)			
Application number:	20/00138/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: Ian Johnson - Luken Beck	

Recommendation Summary	<ol style="list-style-type: none"> 1. Refuse submitted request 2. Alternative offer to vary the Planning Obligation and secure that the Waterfront Access (the Walkway) provides public access over the walkway in line with previous decision of the Planning & Rights of Way Panel in July 2019 under planning application 19/00719/FUL.
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Community Infrastructure Levy Liable	Not applicable
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Appendix attached			
1	Development Plan Policies	2	Original Section 106 Agreement
3	19/00719/FUL Decision Notice	4	19/00719/FUL Panel Minutes

Recommendation in Full

1. Reject the request to vary the previous decision (19/00719/FUL) of the Planning & Rights of Way Panel (July 2019) under S106A of the Town & Country Planning Act that the planning obligation shall continue to have effect without modification, as contrary to CLT10 – Public Waterfront and Hards and CS 12 – Accessible & Attractive Waterfront.

2. Authorise the Head of Planning & Economic Development to enter into a s.106 Deed of Variation, at the applicant's expense, in accordance with the following heads of terms:
 - a. Amend the original planning 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 Deed of Variation. The Management Plan to ensure that the gate is unlocked in the morning and locked in the evening every day, in line with the hours approved, 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 gates to remain open / closed as agreed in line with the hours set out below:

2 nd April – 29 th September	07.00 – 21.00
30 th September – 1 st April	07.00 – 18.00

 with no further means of enclosure erected on the land without prior written approval.
3. Authorise the Head of Planning & Economic Development – Infrastructure, Planning & Development to take enforcement action in respect of any breach of the extant planning obligation if the Deed of Variation 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 Head of Planning & Economic Development – Infrastructure, Planning & Development to take enforcement action in respect of any breach of the revised hours, in line with the agreed amendment within 1 month from the written approval by the Council of the Management Plan.

Background

Any 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, which has to be balanced with the safety and residential amenity of the residents of Quay 2000.

In response to the previous Planning & Rights of Way Panel decision of July 2019, in relation to the planning application referenced 19/00719/FUL, which refused the request to close the Walkway on a permanent basis, but allowed for a compromise position, whereby public access to the Walkway was to be retained during specific hours of daylight, the principle of opening the Walkway for a set period has been accepted as a reasonable compromise.

Although the formalisation of hours set out by the July 2019 Planning & Rights of Way Panel has never been complied with, the applicant, representing the residents of Quay 2000, have submitted the current application, on the basis that "*they are not opposed to providing access to the public within set hours*" requesting that the hours of the compromise position set out in the 19/00719/FUL planning application decision are revised in accordance with the latest opening/closing hours set out in the current planning application.

Originally the applicant proposed the following hours:

<i>1st April - 31st October:</i>	<i>09.00 - 18.00.</i>
<i>1st November - 31st March:</i>	<i>09.00 - 16.00.</i>

but these have now been amended by the applicant to the current proposed hours as set out below and which represent the hours proposed for the Walkway to be open:

1st April – 31st October	08.00 – 20.00
1st November – 31st March	08.00 – 16.00

Unfortunately, due to both issues of health and safety, which required both repairs to be carried out to the Walkway, and the Covid 19 Pandemic this matter has been deferred for a significant timeframe.

Since the submission of the current planning application, it is understood that a security company has been employed to perform the function of opening and closing the Walkway gates, which has been performed to the hours now proposed in the current planning application (in bold above). Officers have visited the site on three occasions (the latest being the 22nd June 2020 at 12.29pm) and found the gates to be open and the Walkway fully accessible.

This application has undergone two consultation exercises, one for the original proposed hours, in February 2020, and again in July 2021, for the current proposed hours.

Overall, the decision for Planning is very much in the balance, with the key issue being to secure a position, which both protects the safety and amenity of the residents, whilst allowing a reasonable level of access to the city's waterfront, of which the route around Quay 2000 is a part. Although the revised position and proposal from the applicant is welcomed and does certainly have merit, there has been no demonstrable evidence provided to dissuade officers that the difference from the applicant's proposed hours to those previous hours set from the July 2019 Planning Panel, would not secure the same balanced position sought by the Council and that which has been achieved thus far in closing the Walkway during the hours of darkness.

Therefore, the recommendation of the officer is, on balance, to refuse the hours proposed in this current planning application and look to secure the hours set out from the previous July 2019 Planning & Rights of Way Panel decision, as detailed below:

2 nd April – 29 th September	07.00 – 21.00
30 th September – 1 st April	07.00 – 18.00

As before, the requirement is to formalise the above position, by which the Council 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 continued 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. In the event that these details are not forthcoming the Council would then need to take enforcement action through the courts.

1. The site and its context

1.1 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 which 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.”

- 1.2 The initial closure of the Walkway was initiated by the Quay 2000 RTM Company Ltd in August 2018 and remained closed until February 2020.
- 1.3 An application was made requesting permission to permanently close the Walkway gates (19/00719/FUL), which was refused by the Planning Pnel, but allowed for a compromise position, whereby public access to the Walkway was to be retained during specific hours of daylight in line with the following hours:

2 nd April – 29 th September	07.00 – 21.00
30 th September – 1 st April	07.00 – 18.00

2. Proposal

- 2.1 A revised planning application has been submitted to vary the hours, set out in Para 1.2 above, for the opening / closure of the on-site waterside walkway for public use. The applicant proposes to manage the gates and keep them open between the following hours:

1 st April – 31 st October	08.00 – 20.00
1 st November – 31 st March	08.00 – 16.00

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton hasn't changed since the previous application, and 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;

3.4 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 initial closure of the Walkway was initiated by the Quay 2000 RTM Company Ltd in August 2018 and remained closed until February 2020.

4.3 A planning application was made requesting permission to permanently close the Walkway gates (19/00719/FUL), which was refused but allowed for a compromise position, whereby public access to the Walkway was to be retained during specific hours of daylight in line with the following hours:

2 nd April – 29 th September	07.00 – 21.00
30 th September – 1 st April	07.00 – 18.00

5. Consultation Responses and Notification Representations

5.1 Following receipt of the application a publicity exercise in line with department procedures was undertaken, in February 2020, which included notifying adjoining and nearby landowners. Placing a press advertisement on the 14th February 2020 and erecting site notices on the 18th February 2020 and the 7th July 2021. A further consultation was undertaken when a further revision to the proposed hours was made from the 7th July 2021. Following the first consultation we received thirty representations in support and 31 against.

5.2 The following is a summary of the points raised:

5.3 Those in support of the proposal, generally residents of Quay 2000, were concerned that the anti-social behaviour experienced previously would return due to the later opening hours set by the original Planning Decision.

5.4 However, the contrary view is that the revised hours are too restrictive, especially the original hours proposed by the applicant and do not provide a reasonable level of waterfront access for all.

5.5 Both consultations provided a response which was distinctly split between those in support of the revised opening hours of the Walkway, which in the majority are residents of Quay 2000, and those opposed to the revised opening hours of the Walkway, who suggested that the original set hours from the previous Planning

Panel decision should be enforced, or at least a further compromise on hours should be sought.

- 5.6 The applicant sets out that the original hours, based on another city waterfront scheme within Ocean Village (Andes Close & Calshot Court) is not comparable, as the setting of each development is different and the anti-social behaviour occurred during the hours of twilight / darkness and the above hours would mean the Walkway would still be required to be open during such hours, hence the current revised hours submission.

5.7 **Officer Response**

Overall the issues previously raised do not appear to have returned now the Walkway is closed during night time hours and there has been no demonstrable evidence provided to suggest that the anti-social behaviour would return, as a result of imposing the hours set previously by the Planning Panel against those revised hours set out within the current proposal.

Consultation Responses

- 5.8 **Hampshire Constabulary** – No response has been received

As such we would refer to the previous consultation response, which set out the following position that 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.*”

- 5.9 **SCAAPS (Southampton Commons & Parks Protection Society)** - have objected to the original more restrictive hours of closure only, making the following comment that “*SCAAPS hopes the applicant will amend the application to limit closure to hours of darkness only. If the applicant is unwilling to make that concession, then the application should be refused & the City Council commence enforcement action to secure compliance with the legal agreement.*”

6.0 Planning Consideration Key Issues

- 6.1 The key issues for consideration in the determination of this planning request are:
- Accessible & Attractive Waterfront;
 - Impact on waterfront access;
 - Residential amenity; and,
 - 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. The decision of the Planning Panel to the first request is a significant material consideration in the determination of this second request, and has informed this recommendation.

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, 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 Panel Options

6.5.1 The Planning & Rights of Way Panel has at least three options available to it;

1. Refuse the proposed hours herein and enforce previous decision from July 2019, by way of formally enforcing the hours set out below:

<i>2nd April – 29th September</i>	<i>07.00 – 21.00</i>
<i>30th September – 1st April</i>	<i>07.00 – 18.00</i>

2. Allow the revised hours submitted by the applicant and formally enforce the hours set out below:

<i>1st April – 31st October</i>	<i>08.00 – 20.00</i>
<i>1st November – 31st March</i>	<i>08.00 – 16.00</i>

3. Negotiate a further revision to the opening / closing hours.

6.5.2 Option 1 is recommended as this is aligned to the previous Planning Panel decision.

7. Summary

7.1 Having reviewed the consultations and given weight to all, it is judged on balance, that the principle of closing the Walkway during the hours of darkness does seem to have removed the previous anti-social behaviour blighting the Walkway, as officers have received no further reports of any such anti-social behavioural issue, associated with the Walkway, from the public.

7.2 Therefore, as no further demonstrable evidence has been provided by the applicant there does not appear to be any reason to not expect the original decision made by the Planning & Rights of Way Panel to be enforced. The difference in hours would not be expected to create an environment which would lead to the return of the anti-social behaviour issues, just based on the difference between the previous Planning Panel determined hours and those being proposed by this application.

7.3 Whichever option regarding the hours above is taken, a formalisation of the Walkway access arrangements is required, whereby a management plan is to be submitted to the Council for approval and implementation.

7.4 The Management Plan should detail how the gates would be managed and maintained, in perpetuity, secured by way of a Deed of Variation to the original Section 106 Agreement. It is understood that the applicant's have employed a company to manage the gates on their behalf.

7.5 All costs relating to the variation and provision of night-time closure should be borne by the applicant, and further failure to comply may result in enforcement action being taken through the courts

8. Conclusion

8.1 It is therefore recommended that the proposed hours for access to the Walkway is refused , and revert to the original decision made by the Planning & Rights of Way Panel in July 2019.

Local Government (Access to Information) Act 1985

LDF 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 (2021)

[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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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.

DRAFT

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

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.

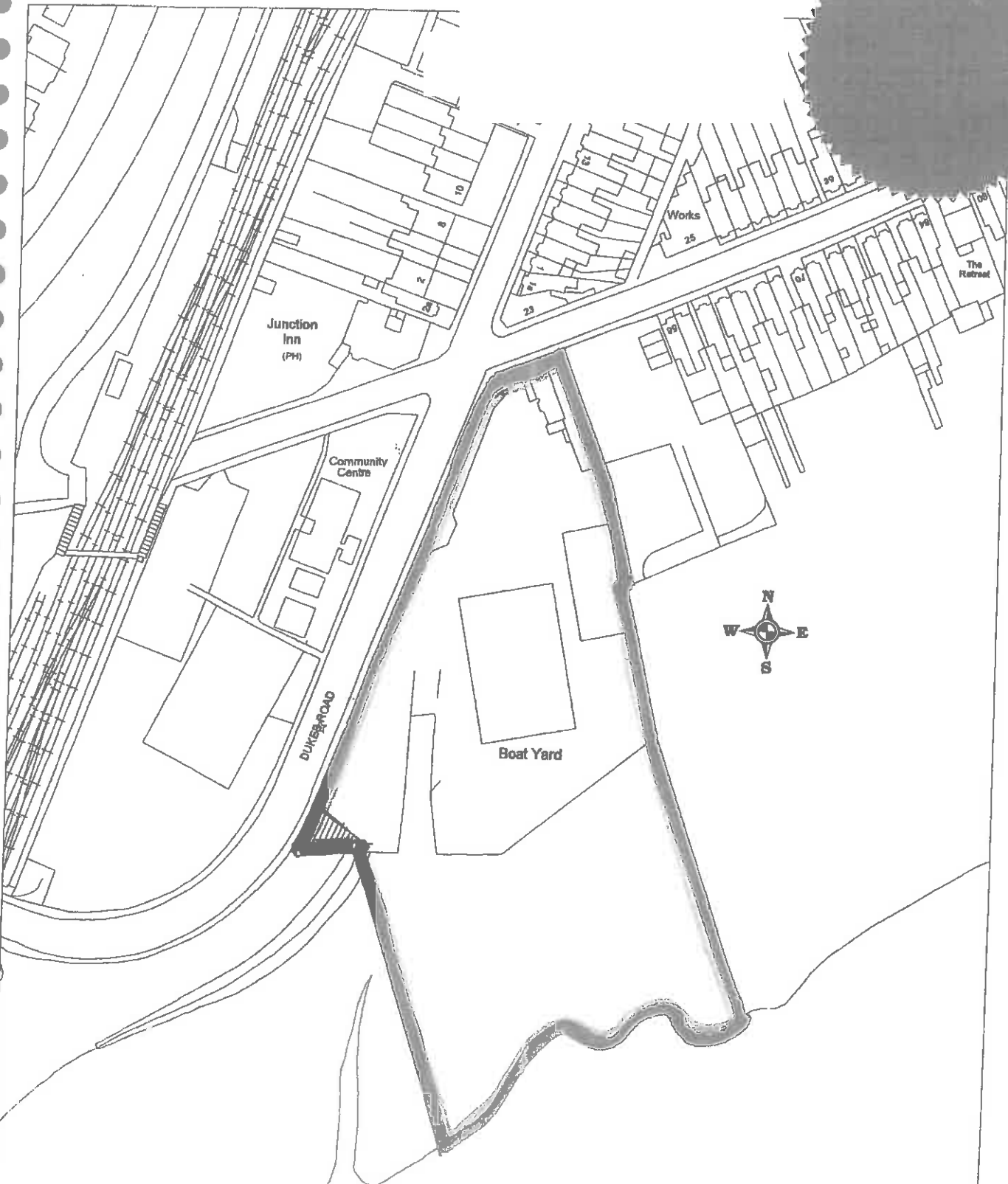
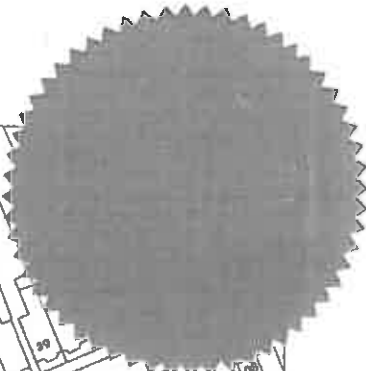
REASON

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

Mark Luken
Head of Planning and Development Management

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DRAFT

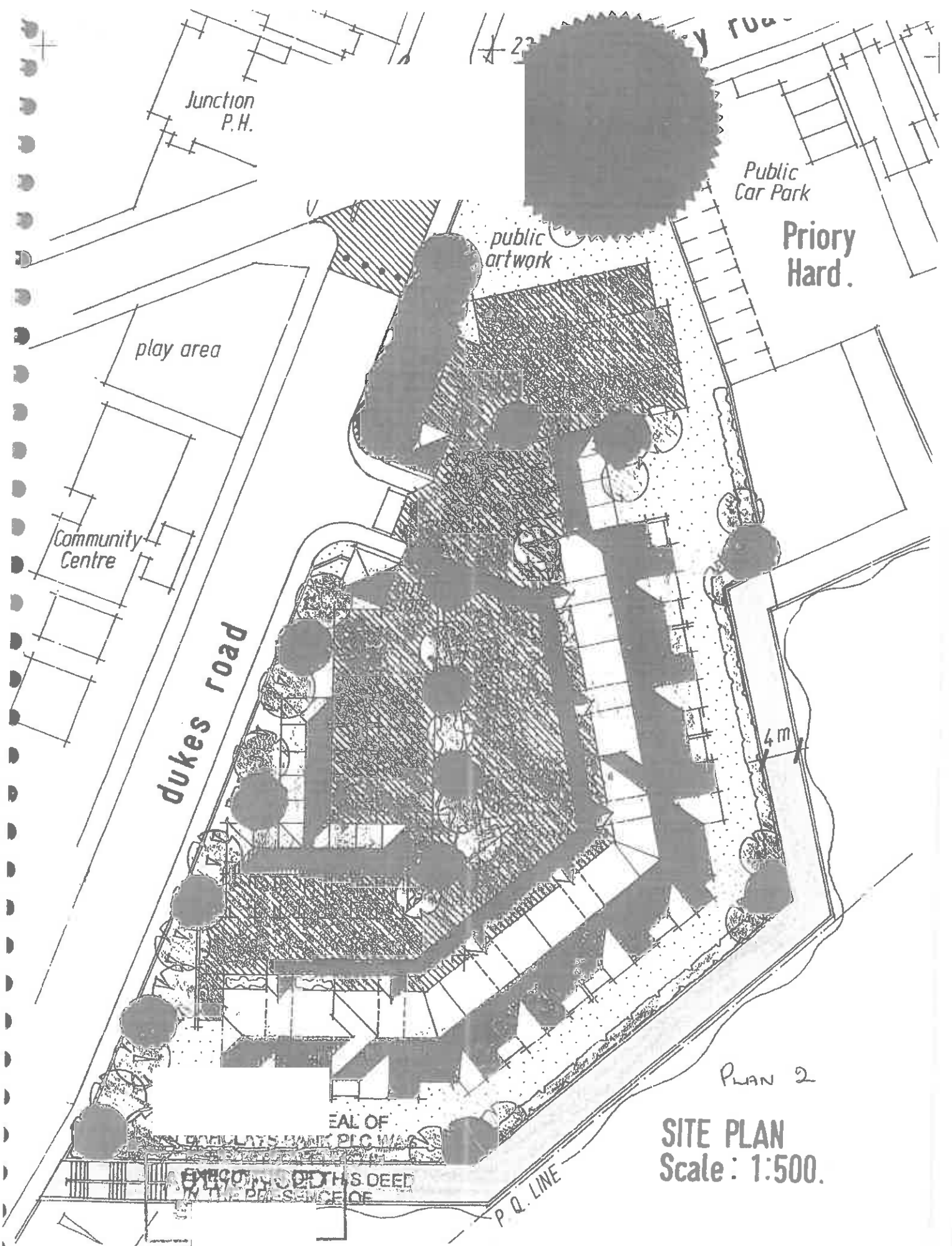


**AUTHORISED
SIGNATORY**

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

PLAN 1

.....
Witnessing Officer

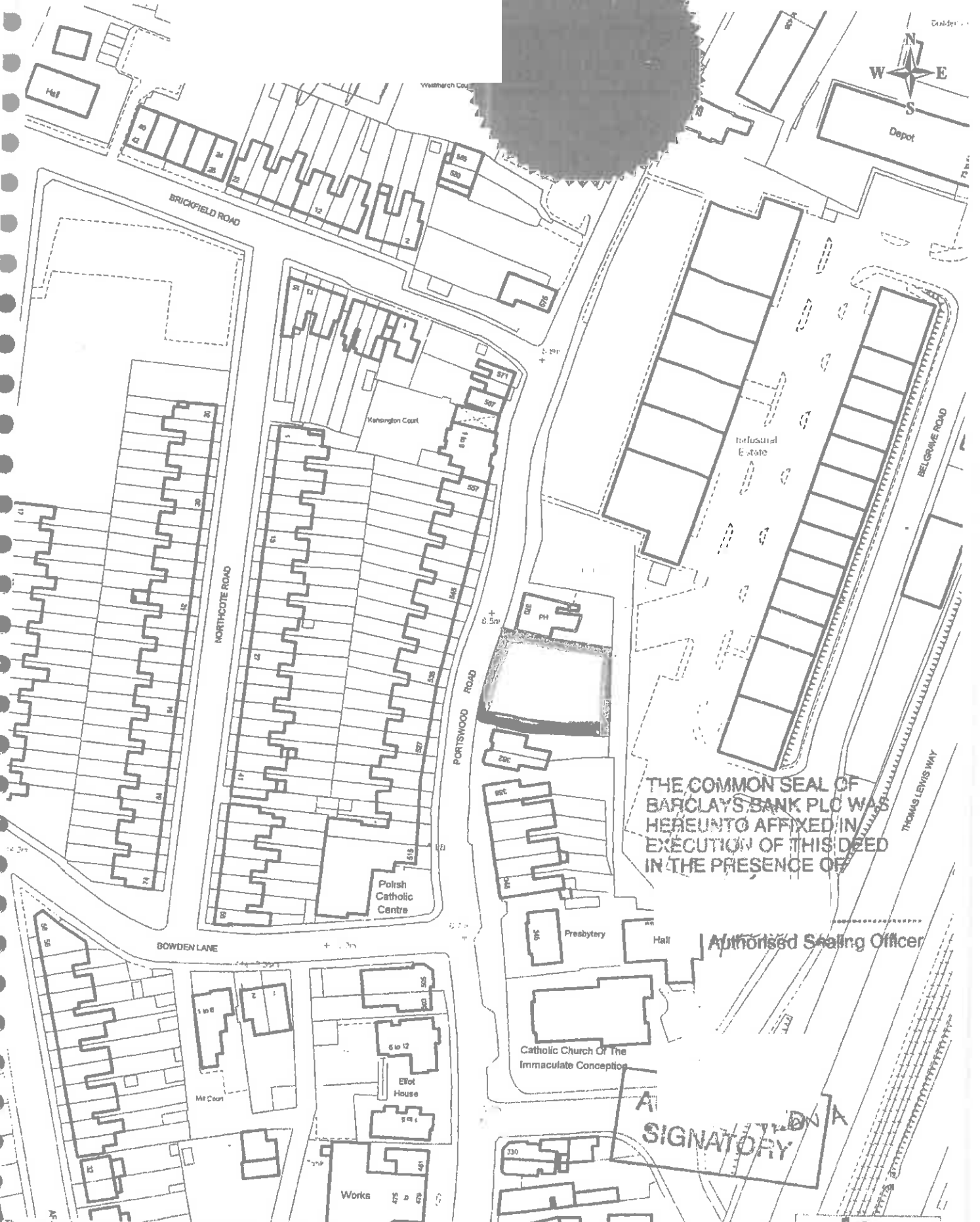
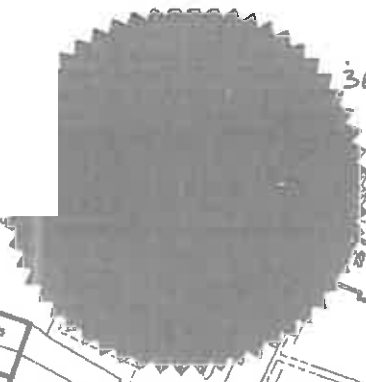


PLAN 2

SITE PLAN
Scale: 1:500.

DEED OF
 EXECUTION OF THIS DEED
 IN THE PRESENCE OF

366-368A PORTSWOOD ROAD.



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

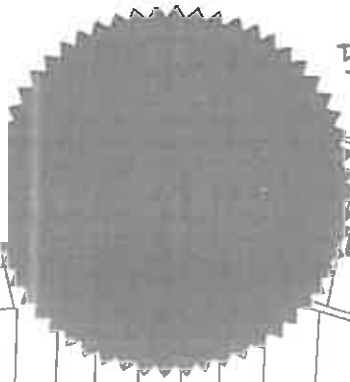
Authorised Sealing Officer

A SIGNATORY

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5 LAWN ROAD.



PORTSWOOD PARK

PORTSWOOD ROAD

PORTSWOOD PARK

PORTSWOOD PARK

Accident House

LAWN ROAD

THOMAS LEWIS WAY

DUKES ROAD

DUKES ROAD

HILL SQUARE

BEVOIS HILL

Bevois Mansions

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

Sealing Office

SIGNATURE

PLAN B





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

AUTH SIGN TAIN



- 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

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)

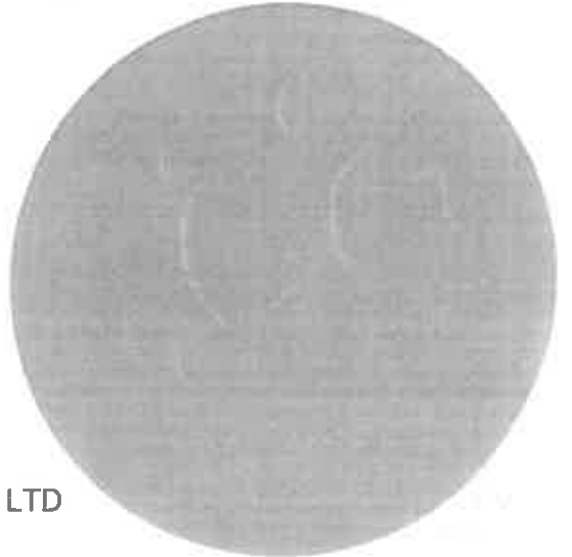
- 2.1 To provide and thereafter maintain in accordance with a programme agreed with the Council a waterfront walkway/cycleway within the 4 metres wide area of land shown coloured blue on Plan 2 ("the Walkway")
- 2.2 The Owner hereby grants to the Council its successors in title all those authorised by 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

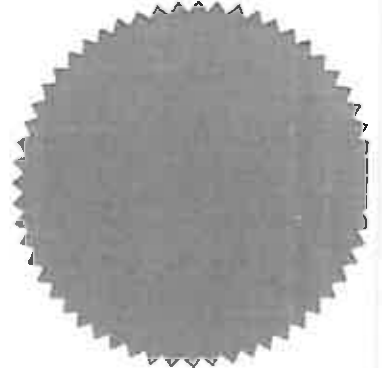
IN WITNESS whereof the parties have executed this agreement as a Deed the date and year first before written

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



DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992

Robert Tutton Town Planning Consultants Ltd
23 Romsey Avenue
Fareham
PO16 9TR

In pursuance of its powers under the above Act and Regulations, Southampton City Council as the Local Planning Authority, hereby gives notice that the application to discharge the relevant planning obligation in the s.106 agreement described below has been determined. The decision is:

REFUSAL

Proposal: 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.

Site Address: Quay 2000, Horseshoe Bridge, Southampton

Application No: 19/00719/FUL

For the following reason(s):

1. REFUSAL REASON – Loss of Public Waterside Access

The permanent closure of the public waterside access has been rejected by the City Council as this walkway, and public access across it, continues to serve a useful purpose in line with the Council's wider aspirations of providing public waterside access wherever development proposals arise, in line with the site specific S.106 Legal Agreement (16th November 1998) and saved Local Plan Review (adopted 2015) Policy CLT 10 and saved Local Development Framework Core Strategy (adopted 2015) Policy CS12. It is considered 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 and, furthermore, the permanent closure as requested will set a difficult precedent for other waterside developments looking to limit public access.

Note to Applicant

At the Planning & Rights of Way Panel on 16th July 2019 the Panel agreed to a compromise delegation to officers to agree a s.106 Deed of Variation as set out in the Panel Minutes and set out, in part, below for information:

- a. *Amend the obligation to provide a waterfront walkway/cycleway for recreational purposes at all times subject to the Management Plan, which should include the agreed review timeframe and mechanism;*
- b. *Submit a Management Plan detailing the retaining waterfront access for wider public use ensuring compliance with the approved Management Plan for the lifetime of the Development; for approval in writing by the Council within 1 month from the completion of the*

DoV; ensuring that the gates are unlocked in line with the 16/01971/FUL planning consent at Land adjacent to 2 Andes Close and 1 Calshot Court, with requirements set out below;

- i. That the gates hereby approved shall not be closed between the following hours:
- 0700 hours and 2100 hours on any day between 02 April - 29 September;
 - 0700 hours and 1800 hours on any day between 30 September - 01 April

The gates to remain unlocked as per hours set out above and no further means of enclosure erected on the land without prior written approval;

As the gates remain locked further delegation was given to take planning enforcement action in the event that the compromise offer is not pursued.



Samuel Fox
Planning & Development Manager

6 August 2019

For any further enquiries please contact:
Simon Mackie

NOTES

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, they may appeal to the Secretary of State.

1. Appeals **must be registered within six months of the date of this notice** and be made using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or do it online at <https://acp.planninginspectorate.gov.uk/>
2. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
3. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
4. If permission to develop land is refused, whether by the Local Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Local Planning Authority a purchase notice requiring that the Authority purchase their interest in the land in accordance with Part IV of the Town and Country Planning Act 1990.
5. The applicant is recommended to retain this form with the title deeds of the property.
6. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Please address any correspondence in connection with this form quoting the application number to: **Development Management, Southampton City Council, Lower Ground Floor, Civic Centre, SOUTHAMPTON, SO14 7LS.**

PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 16 JULY 2019

Present: Councillors Savage (Chair), Coombs (Vice-Chair), G Galton, L Harris, Windle, Fitzhenry and Shields

Apologies: Councillors Mitchell and Vaughan

11. **PLANNING APPLICATION- 19/00719/FUL - QUAY 2000, HORSESHOE BRIDGE**

The Panel considered the report of the Service Lead, Infrastructure, Planning 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.

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.

Jason Bluemel (local residents/ objecting), R Tutton (agent) A Mitchell, C Coles and Z Orton (supporter) and Councillor Savage (Ward Councillor objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that further correspondence from the Police and that the recommendations should refer to gates. Panel Members suggested that that the timings used within the recommendation be updated to timings in line with restrictions that had been granted at Ocean Village. The Panel, following a vote, amended the officer recommendation to set the timings of the opening of the gates to the same as Ocean Village. The Panel also requested that the recommendation be amended to take into consideration, the Panel's request, to ensure that there was a mechanism to monitor and review the effects of the closure of the gates.

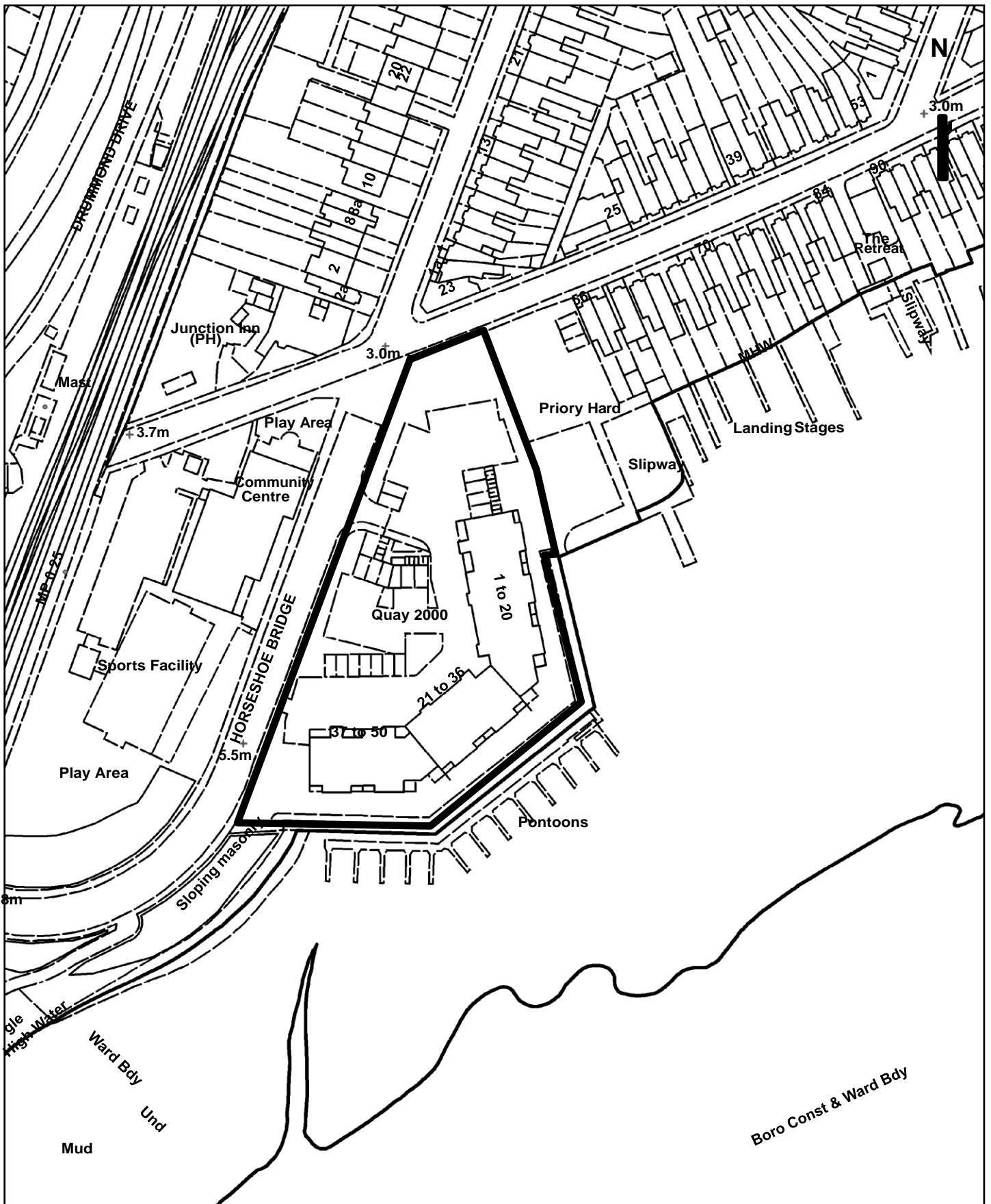
The Panel then considered the amended recommendation to vary the section 106 arrangement permission. Upon being put to the vote the amended recommendation was carried unanimously.

RESOLVED that the Panel

- (i) rejected the request to vary the planning obligation as contrary to CLT10 – Public Waterfront and Hards and CS 12 – Accessible & Attractive Waterfront;

- (ii) delegated authority to the Service Lead – Infrastructure, Planning and 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, which should include the agreed review timeframe and mechanism;
 - b. Submit a Management Plan detailing the retaining waterfront access for wider public use ensuring compliance with the approved Management Plan for the lifetime of the Development; for approval in writing by the Council within 1 month from the completion of the DoV; ensuring that the gates are unlocked in line with the 16/01971/FUL planning consent at Land adjacent to 2 Andes Close and 1 Calshot Court, with requirements set out below;
 - i. That the gates hereby approved shall not be closed between the following hours:
 - 0700 hours and 2100 hours on any day between 02 April - 29 September;
 - 0700 hours and 1800 hours on any day between 30 September - 01 April
 - ii. That in order to ensure public access to the waterfront during day time hours in accordance with policy CS12 of the City of Southampton Core Strategy and policy AP35 of the City Centre Action Plan;
 - iii. The gates to remain unlocked as per hours set out in (ii) b. above and no further means of enclosure erected on the land without prior written approval;
- (iii) delegated authority to the Service Lead – Infrastructure, Planning and 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 (18th October 2019) and/or the Management Plan hasn't been agreed as required; and
- (iv) delegated authority to the Service Lead – Infrastructure, Planning and Development to take enforcement action in respect of any breach of the proposed planning obligation if the gates is not unlocked in line with the agreed amendment within 1 month from the written approval by the Council of the Management Plan (22nd November 2019.)

20/00138/FUL



Scale: 1:1,250

**Planning and Rights of Way Panel 21st September 2021
Planning Application Report of the Head of Planning & Economic Development**

Application address: 30-32 St Marys Place, Southampton			
Proposed development: Retrospective Canopy			
Application number:	21/00764/FUL	Application type:	FUL
Case officer:	Rob Sims	Public speaking time:	5 minutes
Last date for determination:	16/08/2021	Ward:	Bargate
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Clr Bogle Clr Noon Clr Paffey
Applicant: Eco Tyres Holding Property		Agent: Southern 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. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2021). Policies CS13 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1 and SDP7 of the City of Southampton Local Plan Review (Amended 2015). Policies AP 2, AP16 Design and AP36 of the City Centre Action Plan March 2015.

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

Conditionally approve

1. The site and its context

- 1.1 The application site is located to the east of St Marys Place, facing the registered Hoglands Park. The immediate area is predominantly commercial in character, with an office block to the south, a meeting church to the north and a parade of shops/take-a-ways to the east within the same building. There is also an element of residential dwelling/flats close by (behind the site) on St Marys Street, to the north-east and a little distance more to the south. The application site is currently in lawful use as a tyre replacement and car maintenance garage (Eco Tyres). To the front of the site is an area for car parking from which activities associated with the business can take place without restriction through the Planning system.

2. Proposal

- 2.1 The application is for the retention of a canopy over the existing parking area, measuring 15.5m wide x 11.9m deep x 7.5m high. The framing of the canopy is painted yellow. At present there is no roof to the structure, however it is proposed to cover the roof with transparent sheeting. The sides will remain open.

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4. Relevant Planning History

- 4.1 A schedule of the relevant planning history for the site is set out in **Appendix 2** of this report.
- 4.2 In March 2021 a planning application for the same proposal was refused using delegated powers under application 21/00026/FUL. The reason for refusal was:

Insufficient information has been submitted by the applicant regarding the function and operational use of the canopy for supporting the requirement of the existing business. The failure to provide this information does not allow an assessment to be undertaken regarding the impacts of the development on noise and disturbance to neighbouring premises, or allow any harm identified to be mitigated. On this basis the application would be contrary to Saved Policy SDP1 of the City of Southampton Local Plan Review (2015) and the guidance contained within the National Planning Policy Framework 2019, in particular paragraph 180.

4.3 The previous application was refused due to a lack of information regarding the intended use and purpose of the canopy and the subsequent impacts of its function on neighbouring premises. The current application is supported with an acoustic report, prepared by 24 Acoustics, that seeks to address this previous reason for refusal.

5. Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice on **02/07/2021**. At the time of writing the report 7 representations have been received from surrounding property. The following is a summary of the points raised:

5.2 The ground and first floor windows sit directly under this canopy and the noise will then be contained under the roof, and directly significantly impact occupiers of the offices and the ability to open the windows and still be able to work/ not effect telephone calls etc. Although the roof will be transparent, this will also impact on the natural light, the view and quality of life for our employees while in the office.

Response

Impact on noise and amenity to neighbouring premises will be considered in Section 6.4 below.

5.3 The height of the structure is overpowering and sits over neighbouring windows resulting in noise impacts.

Response

It is understood that the height of the structure is required by the applicant in order to meet their business demands to accommodate deliveries and customer demands. The following has been provided by the applicant to justify the height of the building:

'The reason the canopy is as high as it is, is due to the location we are in.. We are located on a service road which only has parking spaces on one side with high traffic passing by. We get regular deliveries with lorries almost every day of the week. If this was to be carried out on the side of the service road it would block the road for a considerable amount of time so taking other road users into consideration the lorries have to pull in our forecourt and to enable this we have left enough room for them to be able to go under the canopy. This would ensure the passing traffic is moving freely.'

Consultation Responses

Consultee	Comments
Environmental Health (Noise)	<p>Environmental Health has no objection to the canopy based on the usage as described in the attached noise report (16 tyre changes and minimal use of the lift)</p> <p>No complaints have been received about the premises regarding nuisance resulting from its</p>

	<p>use.</p> <p>However EH recommend that the hours of use are conditioned to 09.00 to 17.00 Mon to Fri, 09.00 to 16.00 Saturday only.</p>
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6.0 **Planning Consideration Key Issues**

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

- The principle of development;
- Design and effect on character;
- Impact on noise and amenity;
- Parking highways and transport

6.2 **Principle of Development**

6.2.1 The proposals relate to the erection of a canopy on a commercial building, located in a commercial area within the defined city centre. The framing and roof structure has already been erected, however the transparent sheeted roof has not been installed. Whilst carrying out development without prior consent is strongly discouraged, this is not in itself a reason to refuse the application. Each application is considered on its own and merits and in accordance with the relevant policies contained in the Development Plan and the guidance contained within the National Planning Policy Framework 2021.

6.2.2 Paragraph 81 of the NPPF (2021) states that: *'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'* Paragraph 187 also states that *'Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities.'*

6.2.3 According to the applicant's Design and Access Statement, the canopy was constructed primarily to enable the business to operate in all weathers as well as enable social distancing measuring to be incorporated for visitors to the site. It confirms that:

6.2.4 *'Prior to the installation of the canopy, tyres were being fitted to cars outside due to limited internal space, however only when the weather permitted. The limited internal space at eco tyres is as a result of the extensive room required to store tyres. All tyres are stored inside the existing premises to reduce the need for additional buildings or outside storage containers. As such, there is a need for additional space to enable the business to operate viably...the intended use beneath the canopy remains the same as prior to its installation. The installation of the canopy is just to allow the business to operate in wet weather conditions, increasing the businesses productivity and providing support for the local economy.'*

6.2.5 The principle of providing development in support of existing businesses is acceptable, however the specific impacts of the development on the character and function of the local environment falls for consideration, including the design of the structure, impact on noise and neighbouring occupiers and parking.

6.3 Design and effect on character

- 6.3.1 The site lies to the east of St Marys Place and is prominently visible from Hoglands Park to the west and from north and south on the busy approach to and from the southern part of the City. This part of St Marys Place is commercial in nature, which a range of buildings and uses. The existing use has been in operation for a number of years, as have the other commercial uses in neighbouring units, including the 5 storey office block to the south (Roman Landings) and the car garage and church to the north.
- 6.3.2 In terms of the physical and visual impact of the canopy, the structure would span the full width of the unit and be of a similar height (7.5m). Whilst the painted yellow framing results in a visually prominent addition to the area, it is not considered that the canopy is disproportionately large or obtrusive for the size and operation of the existing business. The size of the structure is justified due to its requirement to allow for the covering of any external area already in use. This would sustain the operation of the existing business without any increase in business hours (the impact of this development in terms of noise and amenity will be considered below), which is supported by Policies AP16 and AP36 of the CCAP and paragraphs 81 and 187 of the NPPF (2021) . When considering the backdrop of the existing commercial business units behind and to immediate sides of the application site, it is not considered that the canopy structure would be out of character or significantly harmful to the visual amenities of the area. On this basis the proposal is considered to be acceptable in terms of its design and appearance.
- 6.3.3 The site lies opposite Hoglands Park which is registered historic park. Whilst the canopy structure would be visible from the park, the size, siting and design of the structure would be seen and absorbed in to the backdrop of the existing commercial development. On this basis it is not considered that the application would result in significantly harm to the setting and appearance of the park and therefore the proposals can be supported in this regard.

6.4 Impact on noise and amenity

- 6.4.1 There are two issues that fall for consideration regarding the impact of the development on neighbouring occupiers: Noise impacts from the external working area; and loss of light and outlook caused by the structure itself. The previous planning application (21/00026/FUL) was submitted without any information regarding the business requirement for the canopy structure. Without this information it was not known what noise impacts the covered workspace would generate especially without an accompanying noise report. The applicant has addressed this reason for refusal by providing more information regarding the use and function of the canopy area and a noise report. The applicant has confirmed that:

In terms of work undertaken outside, this is principally changing tyres on vehicles and using the ramp to inspect the underneath of vehicles. However, the outside facility is only utilised when there is no space inside the building. On average, 20 tyres a day are changed. The changing of tyres involves the use of an electric wheel nut gun, as opposed to an air gun which would require a compressor and would generate more noise.

- 6.4.2 The roof of the structure at 7.5m high spans up to the height of the neighbouring ground and first floor offices (Roman Landing Offices). The applicant has confirmed in their submission that on average 20 tyres (not vehicles) are fitted per day, with 16

tyres fitted in the outside area between the working hours of the business. The canopy structure would allow this operation to take place in wet weather and therefore the frequency of noise outside may increase but would not result in an increase in the volume level of noise. However concerns have been raised by the business occupiers of the neighbouring premises that the addition of a covered roof would result in the containment and amplification of the external noise generated from development.

- 6.4.3 The applicant has submitted a noise report to assess the impact of noise generated from the external area on the three neighbouring premises (Roman Landing Offices, Medway car repair garage and the Church further north). The noise report calculates that the activities underneath the canopy comprise of an average of two tyre changes per hour using an electric wheel nut gun used for less than 30seconds as well an inspection pit lift 2-3 times a day. The noise generated from this activity is estimated between 48-58db. The noise report highlights that the acceptable noise level specified in BS 8233 for open plan offices is of 45 – 50 dB. The particular impact on the northern façade of the Roman Landing buildings is stated to be mitigated by the fact that the windows for these offices were shut at the time of the visit (June 2021) and their letting advertisement stating that these are air conditioned offices. On this basis the Noise Report Consultant concludes that the average internal noise levels from Eco Tyres are likely to be less than 30 dB and therefore in accordance with the noise level standard. The Council's Environmental Health Officer also considers the conclusions of the Noise Report to be accurate and that the development would not result in adverse noise impacts on neighbour amenity subject to the hours of use being restricted in line with the opening hours of the business (09.00 to 17.00 Mon to Fri, 09.00 to 16.00 Saturday only).
- 6.4.4 Notwithstanding that the noise report concludes that the noise generated from the development taking place underneath the canopy would be 58db at the northern façade of the Roman Landings Offices. This would exceed the noise levels under the British standard for open plan offices (45-50db). The impact of these activities on neighbouring premises would be reduced if the windows on the offices remain shut, which the noise report assumes would be the case. However, third party representations state that the windows are opened for ventilation purposes, therefore they do not remain shut all the time. This point is noted and the applicant should not rely on the windows remaining shut to fully mitigate the noise impacts of the development. However, when considering the short duration in which the noise generating sources are in operation, officers consider that the direct noise impacts on neighbour amenity would not be significant. The number of tyre changes in addition to the length of the time of equipment is very short (2mins) over an hour period. This would not warrant significant harm to neighbouring businesses and their day to day operations. Realistically the windows could be open for sustained periods during the warmer months however the office spaces are advertised as being fully air conditioned and therefore allowing internal temperatures to be regulated without the need to open the windows. This reliance and benefit to office occupiers allows the noise impacts of the development to at least be partially mitigated to an acceptable and compliant level. On this basis the proposals are considered to be acceptable in terms of their noise impacts, subject to a condition securing the use of the area in accordance with the specified opening hours.
- 6.4.5 The previous application was refused based on insufficient information with regards to the use and function of the covered area and their impact in terms of noise. Concerns were raised at the time by third parties that the canopy results in loss of light and outlook to their premises, however officers did not consider that this impact would be significant or justify a reason for refusal. Notwithstanding this opinion, Cllrs

are not bound by this previous conclusion nor any subsequent recommendation by officers on this issue or other issues and may determine that the impacts of the development are harmful. Any such conclusion should be taken in the context of the EHO comments and the fact that the existing forecourt could be used for activities associated with the business without restriction.

6.4.6 Third parties have raised concerns that the provision of the canopy structure and its roof extending up to the first floor of the neighbouring offices and result in loss of light and outlook from these windows. Notwithstanding that these windows are north facing and do not benefit from a significant amount of sunlight, the close proximity of the structure to the neighbouring building could result in some loss of natural light to the offices. The applicant has attempted to mitigate these concerns through the use of a transparent roof. Officers acknowledge that there would be some reduction in natural light to these offices due to the close proximity of the structure and installation of the roof, despite this being made of a transparent material. However this impact would be limited to only part of the ground and first floor offices. According to the sales brochure for the Roman Landings Offices, offices are let as a whole floor in order to provide an open plan office. This means that each floor is served by other windows further west in the northern façade as well as the western and southern façades, which would provide a significant amount of uninterrupted natural light to this office space. Furthermore, modern office space is typically artificially lit and do not rely upon natural lighting.

6.4.7 It is acknowledged by officers that the canopy structure would result in some loss of light and outlook to the northern façade of the Roman Landings offices. However, given that the offices would be served by other windows it is not considered that a reason for refusal on this basis could be justified in this instance. On this basis the application is considered to be acceptable in terms of its impact on amenity of neighbouring occupiers.

6.5 Parking highways and transport

6.5.1 The applicant states that the activities taking place underneath the canopy were previously occurring and that the canopy would enable all year round working. With this in mind it is not considered that the application results in any material increase in parking and transport activity and, therefore, the proposals are acceptable in this regard.

7. Summary

7.1 The application seeks approval for a retrospective canopy structure, already constructed except for the roof, which would be a transparent sheeted roof. The canopy structure is not considered to be disproportionate or out of keeping with the character and appearance of the area. The key impact is on the noise and amenity of the neighbouring business, Roman Landings. A noise report has been submitted, which demonstrates the impact of noise taking place underneath the canopy would not be significant. Whilst it is acknowledged that the height and close proximity of the structure would result in a loss of light and outlook to the ground and first floor of Roman Landings. However it is not considered that a reason for refusal could be substantiated in this instance given that each floor is served by a number of other windows with better orientation for receiving natural light. Furthermore, the application proposals would support and sustain the existing business, which is supported by paragraphs 81 and 187 of the NPPF. This would represent a benefit of the proposals and attracts weight against the lack of a justified reason for refusal for impacts of light and amenity of the offices. Overall it is not considered that the

proposals would result in significant harm for the reasons stated above and therefore the application is recommended for approval.

8. Conclusion

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

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

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

RS for 21/09/2021 PROW Panel

PLANNING CONDITIONS

1. 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.

2. Hours of Use (Performance Condition)

The commercial use taking place underneath the canopy hereby permitted shall not operate outside the following hours:

Monday to Fridays	09:00 to 17:00 hours
Saturdays	09:00 to 16:00 hours

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

3. Materials as specified

The materials and finishes to be used for the roof of the building hereby permitted shall match those specified on the application form and approved plans. The proposed roof shall be installed within three months from the date of this permission in accordance with the agreed details.

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.

POLICY CONTEXT

Summary:

The most relevant Development Plan policies are highlighted below:

Policy CS13 of the adopted Core Strategy states development should “respond positively and integrate with its local surroundings”.

Policy SDP1 of the City Local Plan states that Planning Permission will only be granted for development which does not unacceptably affect the health, safety and amenity of the city and its citizens; and contributes, where appropriate, to a complementary mix of uses.

Policy SDP7 seeks to prevent “development which would cause material harm to the character and/or appearance of an area”.

Policy AP16 (Design of the City Centre Action Plan (CCAP) seeks to ensure Development in the city centre will deliver the highest standards of sustainable development and design by: relating well to the predominant scale and mass of existing buildings in the street, and be of an adaptable form to respond to future uses; strengthen the unique distinctiveness of the city’s heritage, through use of proportions, plot widths, contemporary interpretations of architectural and landscape styles and features, materials and colours that reflect the individual local characteristics of the urban quarters; and respect the existing residential amenity of neighbouring property and provide safe access and external defensible space where practical

The site also lies in the area defined under Policy AP 36 for St Mary Street and Northam Road. The policy seeks to ‘retain commercial uses in the core of St Mary Street and meet the need for local convenience retailing and services whilst providing more flexibility in terms of land uses outside the shopping area. All redevelopment must respect the character of the area and preserve strategic views within and across St Marys. In order to improve linkages into the city centre core, the Council will work to reduce the severance of Kingsway and St Marys Place and improve crossings to St Mary Street as part of the redevelopment of the East Street Centre...’

Core Strategy - (as amended 2015)

- CS1 City Centre Approach
- CS6 Economic Growth
- CS7 Safeguarding Employment Sites
- CS13 Fundamentals of Design

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

- SDP1 Quality of Development
- SDP5 Parking
- SDP9 Scale, Massing & Appearance
- SDP10 Safety & Security
- SDP11 Accessibility & Movement
- SDP16 Noise
- SDP17 Lighting

City Centre Action Plan - March 2015

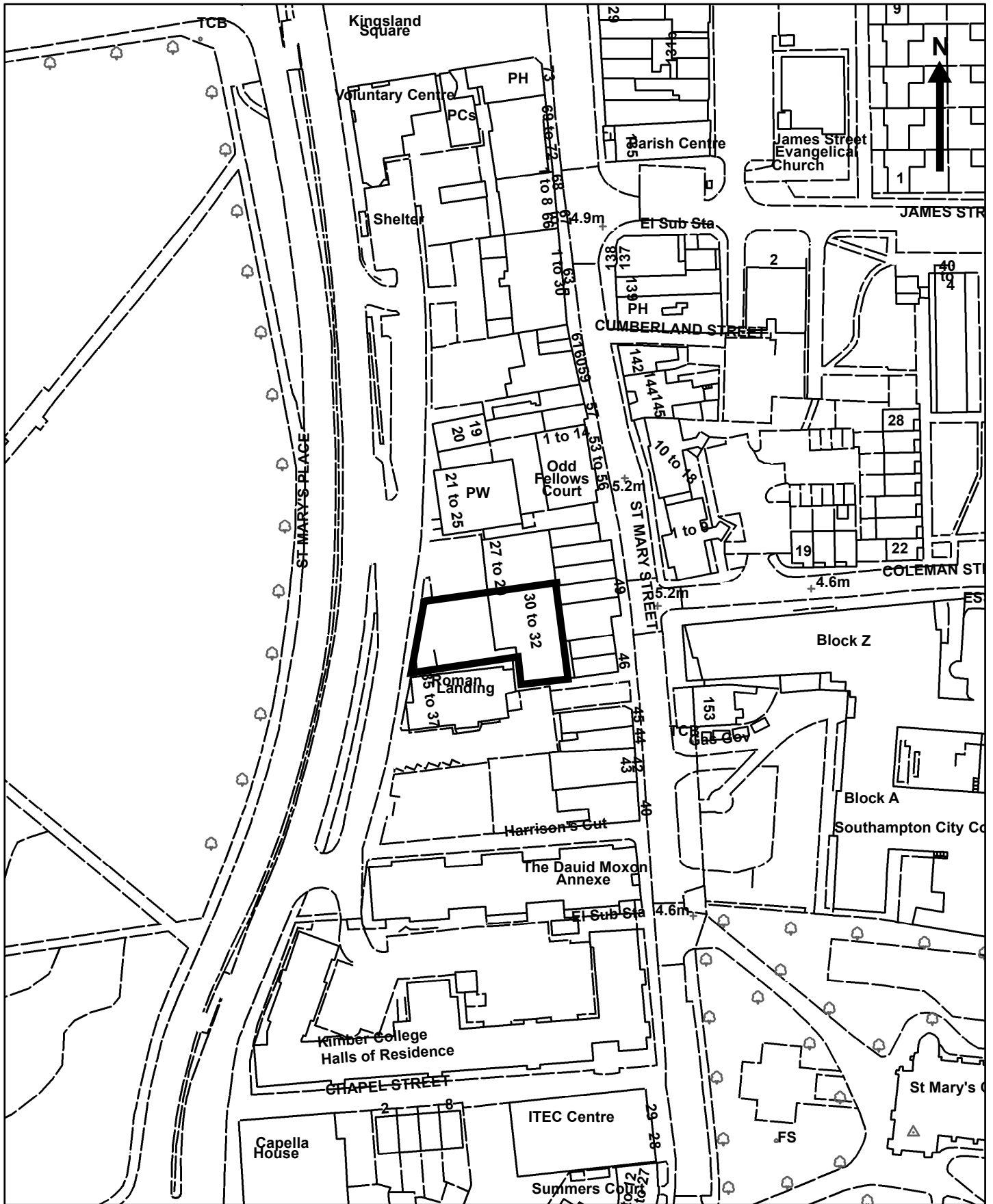
AP 2 Existing offices
AP 16 Design
AP 36 St Mary Street and Northam Road

Other Relevant Guidance

The National Planning Policy Framework (2021)

Relevant Planning History

Case Ref	Proposal	Decision	Date
871581/E	Change of use from retail to workshop for servicing cars and light vehicles at Unit B, Kingsgate Centre	Application Refused	16.12.1987
06/00403/FUL	Retrospective application for the siting of a mobile food takeaway van in the car park between 21.00 hours and 05.00 hours.		09.05.2006
14/01628/ADV	Advertisement application for 1 x externally illuminated fascia sign and 1 x externally illuminated hanging sign	Conditionally Approved	20.11.2014
21/00026/FUL	Retrospective canopy.	Application Refused	10.03.2021



Scale: 1:1,250

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**Planning and Rights of Way Panel 21st September 2021
Planning Application Report of the Head of Planning & Economic Development**

Application address: 20 Howard Road, Southampton			
Proposed development: Change of use of premises to Offices (Class E (g)(i))			
Application number:	21/01047/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	5 minutes
Last date for determination:	03.09.2021	Ward:	Freemantle
Reason for Panel Referral:	Request by Ward Member	Ward Councillors:	Cllr Windle Cllr Shields Cllr Leggett
Referred to Panel by:	Cllr Shields	Reason:	Impact on residential amenity and street parking
Applicant: Enthuse Care Limited c/o Agent		Agent: Consultant Planning Services	

Recommendation Summary	Conditionally approve
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2021). Policies – CS8, CS18, CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP10, SDP16 of the City of Southampton Local Plan Review (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History
3	Appeal decision 36 Thornbury Avenue		

**Recommendation in Full
Conditionally approve**

1. The site and its context

- 1.1 A change of use is sought at 20 Howard Road. The application site has an area of 450sqm and comprises a large two storey semi-detached property (with rooms in the roof). Since 1983, it has been permitted and occupied for a Guest House use (8 guest bedrooms with owner accommodation), albeit there is an extant permission to create 4 flats (2 x 1 bed and 2 x 2 bed) under LPA ref no. 19/01136/FUL. The property has off-road parking to the front and rear of the plot.
- 1.2 The site is located within a residential area comprising a mix of higher density flatted blocks/conversions amongst family dwellings. The adjoining property at 22 Howard Road is also a guest house, and on the opposite side is a Nursery (Paint Pots) at no. 19 Howard Road with a maximum attendance limit of 52 children permitted (LPA ref no. 10/01196/FUL).

2. Proposal

- 2.1 The proposal is for a change of use from guest house to an office premises (class E (g)(i)) for a homecare local business known as Enthuse Care Limited. The proposed offices would be used primarily for business administration functions.
- 2.2 The proposed offices will serve 7 administrative employees over a 252sqm floor area with 7 office rooms and ancillary facilities and storage space for staff welfare and filling/PPE. The office use will operate between 08:00 to 18:00 Monday to Saturday, 10:00 to 16:00 Sundays and Public Holidays 09:00 to 13:00, where peak times fall with contractual hours 9 to 5 Monday to Friday in a typical working day. The off-road parking provision will be 6 spaces utilising a similar arrangement to existing.
- 2.3 The Company, which has Staff Offices in Southampton, Portsmouth, Bournemouth and the New Forest, provide qualified staff for work in the Care Sector with services as a Homecare Agency, specialising in dementia, mental health conditions, personal care, physical disabilities, sensory impairments, substance misuse problems, caring for young adults under 65 years and caring for adults over 65 years. The group is seeking to relocate its administrative offices from 33 Highfield Lane. The Group currently have their combined Registered Office and Staff headquarters at 94 Oakley Road, Shirley. The Staff and customer focussed facilities and headquarters are to remain at the Oakley Road premises, with all the administrative functions and staff being located at the Howard Road site. The Howards Road office is not proposed to be used as a base for care workers to visit. The nature of the use class type applied for means that the office use would only primarily be allowed for office administrative purposes.

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4. Relevant Planning History

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

5. Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, erecting a site notice 30.07.2021. At the time of writing the report **2 representations** have been received from surrounding residents, in addition to the Panel referral by Ward Cllr Shields (see below). The following is a summary of the points raised:

5.2 No site notice erected.

Officer Response

A site notice was erected by the Planning team on 30.07.2021 and 13 neighbouring properties were notified in accordance with statutory consultation requirements.

5.3 Noise disturbance from transmission through party wall in relation to office related activities such as telephone rings and visitors and additional traffic.

Officer Response

The Environmental Health Officer has raised no significant concerns about the noise disturbance impact on the neighbouring occupiers. The quiet nature of the office use coupled with scale and intensity is not considered to adversely harm the amenity of the neighbouring occupiers and customers of the guest house at 22 Howard Road.

- 5.4 **Fire hazard from the IT room in the roofspace from a high use of electrical equipment in a room that would be close to the wood structure of the roof.**

Officer Response

This matter falls outside the scope of planning controls and fire safety is a Building Regulations matter.

- 5.5 **Increased traffic and vehicle trips not improving pollution or traffic issues in the locality. Howard Road is a very busy road, and the nursery on the opposite side of the road to the property already contributes to traffic hazards in the morning and the late afternoon, and disruption from HMO occupants block pavements with parked cars. These existing issues are likely to be compounded with the opening of the new St. Mark's Secondary School. Lack of visitors parking.**

Officer Response

The predicted level of vehicle trips and parking demand generated with the proposed office use and limited administrative staffing numbers is not considered to adversely impact on road safety and local street parking. This conclusion is also reached in the context of the existing guesthouse use.

- 5.6 **Out of character. Inappropriate location for a commercial business in a primarily residential area and given the housing demand in the city. There are other vacant offices in the city centre which would be more suitable. Signage would detract from the appearance of the Victorian houses. The appearance of the building is likely to fall into a state of disrepair given the recent neglect and lack of maintenance of flatted properties elsewhere in the local area.**

Officer Response

The nature of the commercial use is considered compatible with the residential area. Class E(g)(i) in the Use Classes Order is deemed a use which can be carried out in a residential area without detriment to its amenity. The floor area of the office use falls under the threshold for sequential testing to locate in centres first under policy CS8 (Office Location). Any signage would either need express consent or can be installed under deemed consent within specific size and illumination limits. The upkeep of the building is outside the control of planning application as it is a private matter for the owner.

- 5.7 **The empty property at night-time will increase the risk of crime for local residents. The large rear garage to 20 Howard Road was the target of a serious night-time arson attack in approximately the year 2003/4, which resulted in the total destruction of the garage and flames leaping so high and wide that the property at 20 Howard Road, along with the neighbouring properties at 22 Howard Road and 1 Thornbury Avenue, were placed in serious danger. There should be 24 hour CCTV installed to mitigate risk.**

Officer Response

It is the responsibility of the land owner or tenant to provide appropriate

security measures for this office accommodation.

5.8 **The office premises should not be extended in the future.**

Officer Response

The Local Planning Authority will be able to decide the impacts of an extension at the time based on any planning application submitted in the future.

Consultation Responses

5.9

Consultee	Comments
Cllr David Shields	<p>I wish to object to this planning application as wholly inappropriate to and totally out of character in a predominantly residential area. Moreover I am concerned that the proposed conversion to offices takes place in a busy road close to a major junction which regular experiences road traffic accidents - including ones involving serious injury and even death.</p> <p>Further comments received on 27.08.21:- I want to provide support to those local Howard Road residents who object to this application. My main reason is concern over parking and transport movements in a predominantly residential area. There are plenty of alternative locations elsewhere in the Freemantle ward (e.g. Paynes Road, Shirley Road and Millbrook Road East) that are far better suited to the type of business wanting to relocate here e.g. with good access to public transport.</p> <p>I note that Enthuse Southampton currently operates from offices in a shopping parade in Oakley Road (Millbrook) as well as a base in 33 Highfield Lane (a small row of shops next to the Highfield public house) so I'm unsure of any additional local employment benefits that will be generated by a move to Howard Road.</p> <p>Enthuse Southampton are primarily providers of domiciliary care which will, I suspect, generate vehicle movements for home care staff as well as administrative personnel. Where there is insufficient on-site car parking at the proposed Howard Road HQ their home care workers (who use cars to visit clients right across the City and in Totton) will inevitably park in neighbouring residential streets (e.g. Thornbury Avenue or Atherley Road) where residents express concerns about excessive commuter parking and longer term parking by visiting cruise ship passengers. I would also reference resident concerns with parking problems generated some years ago with Paint Pots Nursery on the other side of Howard Road.</p>

	<p>I appreciate that the applicants seek a change of use from one type of business to another but there is a big difference between a traditional family-owned B&B business (within easy walking distance to the Central Station) where the owners also reside here and an office.</p> <p>I would like to maintain my objection and request that this planning application is determined by Panel.</p>
<p>SCC Highways Development Management</p>	<p>No objection In summary, the application can be supported subject to the following conditions:</p> <p>1) Parking and Access. Only two parking spaces to be permitted on the forecourt which could be centralised to provide best possible sightlines. Parking spaces to be fully marked out. On site management is needed to prevent vehicular access via the side alleyway in the interest of highway safety.</p> <p>2) Cycle Parking. Details to be submitted and agreed in writing by the LPA.</p> <p><u>Case Officer Response</u> <i>The applicant has confirmed they will not be amending the existing parking arrangements and that the scheme should be determined based on plans as submitted. Whilst it is preferential to seek betterment through the planning process, officers agree that the continued use of the existing parking arrangement serving an 8 bed guest house and owners accommodation, would not have further adverse impact on road safety following the change of use.</i></p>
<p>SCC Environmental Health</p>	<p>No objection</p>

6.0 Planning Consideration Key Issues

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

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

6.2 Principle of Development

6.2.1 The guest house use is not safeguarded by the Council's local plan policies. Policy CS8 (Office Location) requires the location of medium scale offices and larger (greater than a threshold of 750sqm) to be first directed sequentially to suitable sites in the city, town and district centres. The proposed 252sqm office

use falls below this sequential test threshold and, therefore, the proposed location of the office use is not contrary to local plan policy by falling outside the defined centres in the city. The principle of development can therefore be supported.

6.3 Effect on character

6.3.1 Class E of the Use Classes Order acknowledges that an office use (class E(g)(i)) can be carried out in a residential area without detriment to its amenity. It is considered that the quiet nature of the daytime office use with regards to the administrative related activities and the overall scale and intensity of the use would be compatible with the character of this residential area and, therefore, would not have an adverse impact. This application is for change of use only and there are no material alterations proposed to the external appearance of the building or existing parking area.

6.4 Residential amenity

6.4.1 As explained above, the administrative activities and tasks associated with the office use will be quiet in nature and does not involve any noisy industrial processes or use of heavy machinery. The broad range of the Class E use can be restricted to office use by condition to prevent changing to other types of Class E uses which could involve more noisier and more intensive commercial activities i.e. retail, restaurant, light industry, nursery, etc. Furthermore, the daytime hours of the office use (08:00 to 18:00 Monday to Saturday, 10:00 to 16:00 Sundays and Bank Holidays 09:00 to 13:00) would minimise disturbance within evening hours when the neighbouring occupiers expect to enjoy peace and quiet or sleeping in the residential area. Given the unfettered planning controls over the guest room occupancy and hours of arrival/departure, it is considered that the comings and goings associated with the traffic and movements of the office use comprising of 7 employees will not cause any significant noise disruption to the neighbouring occupiers in comparison to the existing guest house use. As such, the proposed office use would not adversely affect the residential amenity of the neighbouring occupiers and residents.

6.4.2 In the interests of protecting the residential amenity of neighbouring occupiers and allowing the Local Planning Authority to retain control, the Planning Panel might decide to impose a restriction on the number of employees associated with this business. This would be consistent with the conditions imposed by the Planning Inspectorate on a nearby privately owned Nursery business in a residential area at 36 Thornbury Avenue (**see Appendix 3** PINS ref no. APP/D1780/A/04/1153114), and subsequently a permission this month (under officers delegated authority) to increase staff numbers from 5 to 8 at the Nursery (LPA ref no. 21/01071/FUL). Officers do not, however, deem such a restriction necessary given the nature of the business and the limited floorspace available to it.

6.5 Parking highways and transport

6.5.1 The Highways Officer has advised that the level of trip rates for office use is not considered to be significant due to the relatively small floorspace. Peak hour trips are around 3-4 with average 1 per hour outside the peaks and, therefore, do they not have significant concerns from traffic generation with regards to road safety impact and interrupting the free flow of traffic on the road network in the neighbourhood.

6.5.2 The Highways Officers recommendation had been passed to the applicant to improve sightlines by centralising the frontage parking spaces and to adopt on site management to prevent vehicles obstructing each other on the narrow vehicular access via the side alleyway. The applicant has commented that the changes to parking layout and circulation are unnecessary given that the historic use for a number of years in a similar parking and access arrangement for the existing guest house and, therefore, make no material difference in harm if continued by the office use. Whilst betterment is always sought through the planning process, it is considered that the material harm from re-utilising the existing access and parking arrangement would not be sufficient enough to substantiate a robust and sound reason for refusal against road safety. The applicant has confirmed that the existing rear garage will be provided for cycle storage to serve the office users. As such, no layout changes are deemed necessary and the business itself will be able to monitor and manage its own parking.

7. Summary

7.1 In summary, the proposed office use is considered to be compatible with the surrounding residential uses, and will not adversely affect the local character and amenity, and highways safety. Furthermore, whilst the new premises for the applicant does not offer a direct economic benefit from employment generation itself, it has the benefit of supporting a local business seeking to relocate to a suitable premises in the city.

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) 4. (ee) (vv) 6. (a) (b)

SB for 21/09/21 PROW Panel

PLANNING CONDITIONS to include:

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. 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 only be used as accommodation for the purposes indicated in the submitted details and not for any other purpose, including any other use within Use Class E.

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

3. Hours of Use(Performance)

The office use hereby approved shall not operate outside the following hours.

Additionally, there shall be no deliveries outside of the following hours:

Monday to Saturday – 08:00 to 18:00;

Sunday – 10:00 to 16:00;

Recognised public holidays – 09:00 to 13:00

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

4. Cycle parking (Performance Condition)

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

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

5. 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)

CS8	Office Location
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP16	Noise

Supplementary Planning Guidance

Parking Standards SPD (September 2011)
Howard Road Character Appraisal (1991)

Other Relevant Guidance

The National Planning Policy Framework (2021)

Relevant Planning History

Case Ref:	Proposal:	Decision:	Date:
1631/W14	CHANGE OF USE FROM RESIDENTIAL TO GUEST HOUSE	Conditionally Approved	28.06.1983
W22/1641	ERECTION OF A GROUND FLOOR EXTENSION	Conditionally Approved	13.03.1984
W14/1650	ERECTION OF A GARAGE	Conditionally Approved	25.09.1984
891313/W	ERECTION OF A FIRST FLOOR REAR EXTENSION TO OWNERS ACCOMMODATION	Conditionally Approved	24.08.1989
18/01109/FUL	Conversion of a guest house (Class C1) to residential and single storey rear extension to provide 5 x flats (3 x 1 bed and 2 x 2 bed) with associated car parking bin and cycle storage.	Application Refused	11.09.2018
19/01136/FUL	Conversion of a guest house (Class C1) to residential (Class C3) including erection of a single storey rear extension to provide 4 x flats (2 x 1 bed and 2 x 2 bed) with associated car parking, bin and cycle storage (Resubmission of 18/01109/FUL).	Conditionally Approved	03.10.2019



Appeal Decision

Site visit made on 5 January 2005

by Robin Bradbeer BA (Hons) MRTPI

an Inspector appointed by the First Sr

PLANNING &

10 FEB 2005

SUSTAINABILITY

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2, The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date

09 FEB 2005

Decision



Appeal Ref: APP/D1780/A/04/1153114

36 Thornbury Avenue, Shirley, Southampton SO15 5BR

- 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 Mrs A.Chennells against the decision of Southampton City Council.
- The application (ref: 03/01341/VC/25244), dated 19 September 2003, was refused by notice dated 22 March 2004.
- The application sought variation of conditions attached to a planning permission (ref. 901533/25244/W), dated 3 January 1991, that permitted the following development:
"Use of 2 no. ground floor rooms as a nursery".
- The conditions in dispute are nos. 2 and 3 which state that:
"2. The maximum number of children that shall attend the nursery school at any one time be not more than 10 and no more than 2 members of staff shall be employed at any one time on the premises".
"3. The proposal hereby approved shall be used only as a nursery school between the hours of 8.15am and 5.30pm Monday to Friday and not at any time on Saturdays, Sundays or Bank Holidays".
- The reasons given for the conditions were:
"2. To prevent an over-intensive use of the premises, and to satisfy the Local Planning Authority in terms of off-street car parking in the interests of residential and amenities".
"3. To prevent an over-intensive use of the site in the interests of the amenity of local residents".

Summary of Decision. The appeal is dismissed.

Procedural Matters

1. The Council has acknowledged that the planning permission referred to in the application has lapsed, being of temporary duration which expired on 3 January 1992. However, the site has an extensive planning history and, as I understand, the current lawful position as granted by permanent permission ref. 92/0014/25244/WT, as amended by ref. 960046/25244/WX, is that the nursery school may be attended by a maximum number of 22 children at any one time between the hours of 08.15 and 17.30 Monday to Friday and I will consider the appeal on this basis.

Main Issues

2. The application sought permission to increase the number of children attending the nursery at any one time to not more than 40, and also to lengthen the opening hours to between 0800 and 1800 hours. I consider the main issues to be the effect of these proposed variations firstly, on the living conditions of nearby occupants in terms of privacy, noise and disturbance; and secondly, on highway safety in terms of on-street parking implications.

Planning Policy

3. The development plan includes the City of Southampton Local Plan 1991-2001 (1996).

Policy GP1 sets out general principles for development with reference to a range of criteria relating to the environment and transportation. With reference to the latter, criterion x) requires provision of adequate car parking and manoeuvring space in accordance with the Council's current standards. Policy H8 is permissive of proposals for day nurseries and play schools in residential areas provided certain criteria are met. These aim to ensure under i) and ii) that any adverse impact on the amenities of neighbouring residential premises can be prevented; under iii) that a safe and secure external environment can be provided to enable children to play; and under iv) that adequate car parking is provided for staff, and pick up and set down space is available in accordance with the Council's prevailing standards.

4. There is an emerging replacement Local Plan called the City of Southampton Local Plan Review, Revised Deposit Version (2003). Policy SDP5 sets out parking criteria for development, which under (i) applies an approach based on maximum car parking standards consistent with national policy contained in Planning Policy Guidance Note 13 (PPG13) *Transport*. Policy L4 broadly reflects the aims of adopted Policy H8 relating to nursery provision.

Reasons

Living conditions

5. The appeal site is located in a primarily residential urban area that includes flats and single family dwellings as well as a variety of non-residential uses. No. 36 Thornbury Avenue is located a short distance to the south of the junction with Darwin Road and comprises a two storey property on a plot that measures approximately 18 metres wide and 20 metres deep, which is noticeably shallower than many in the area. Due to the siting of the building, close to the northern flank and rear boundaries, the outdoor amenity space lies mainly to the south adjacent to No. 34 Thornbury Avenue which is a two storey semi-detached property divided into flats. The adjoining property to the north at No. 9 Darwin Road is in use as a residential care home next door to which there are flats at Charles Court, Nos. 5-7 Darwin Road, that have vehicular access to a parking area adjacent to the east boundary of the appeal site.
6. The proposal to increase the number of children would represent a significant increase upon both the currently permitted number of 22 children and the figure of 28 children, which the Council has indicated it would find acceptable consistent with the temporary permission granted for one year in 1998 (ref. 980706/25244/WX). Whilst I appreciate that children play in the garden in groups according to age I consider that the proposed development would result either in those groups being larger and/or an increase in the number of groups of children using the garden for play. Notwithstanding the practice of the appellant to take children to local areas of public open space I consider that a significant intensification in use of the garden would result.
7. The nearest building to this garden is at No. 34 Thornbury Avenue. The main flank wall of that property has limited aspect towards the appeal site and contains two ground floor windows that are fitted with obscure glass. However, the rear outshoot contains further windows at both ground and first floor level and due to the height of the common boundary treatment there is significant intervisibility between these windows and the nursery garden. The appellant has acknowledged that her ownership of the ground floor flat at that property is not relevant to this proposal and I agree with that view. Whilst I am satisfied that the

garden is sufficiently separated from the windows and amenity areas of other properties nearby, in my opinion the proposal to increase the number of children would have an unneighbourly and intrusive effect on the living conditions of the occupants of No. 34 Thornbury Avenue arising from intensification of use of the garden causing unacceptable overlooking, noise and disturbance. Furthermore, the proposed increase in the number of children would add to the amount of traffic associated with the premises causing additional comings and goings. This would represent a further source of noise and disturbance, which I consider would be harmful to the living conditions of nearby occupants. On the evidence before me I am not satisfied that these harmful impacts could be acceptably mitigated by measures that could be made a conditional requirement.

8. The proposal to vary the hours of use of the premises would represent a minor adjustment to the permitted hours. This modest change would not permit use of the property beyond times that are widely accepted as representing a typical working day and which I understand apply to other nurseries in the area. Furthermore, I consider that the proposed lengthened hours of opening would assist to spread the range of times when parents drop off and collect children and this would help to dissipate such activity to the benefit of the living conditions of nearby residents.

9. On this issue I conclude that whereas the proposal to vary the hours of use would not harm the living conditions of nearby occupants, the proposal to increase the number of children would be harmful to the living conditions of nearby occupants in terms of privacy, noise and disturbance. It therefore conflicts with Local Plan Policy H8 i) and ii) together with emerging Local Plan Policy L4.

Highway safety

10. The appellant has indicated that the nursery currently employs 4-5 full time staff plus 2 part-time staff and that the proposals would result in a requirement for an additional 1.5 members of staff. Although I have not been provided with details of its parking standards the Council has stated that the anticipated staffing level associated with the proposals would result in a requirement for 3 off-street parking spaces. There is an existing hard surfaced parking area at the front of the building which the Council suggests is suitable to provide 2 car parking spaces. I understand that this area has recently been altered and according to measurements agreed between the parties at the site visit it now has a width of approximately 7.1 metres and a depth of approximately 5.9 metres. Taking into account the dimensions for a parking bay recommended in the Government publication *Residential Roads and Footpaths, Design Bulletin 32 (1992)*, which refers to a width of 2.4 metres and a depth of 4.8 metres, I consider that the provision of 3 parking spaces within this area would be sufficiently close to these recommended dimensions to be acceptable. This consideration, taken together with the choice of travel mode available to members of staff in this urban location, indicates to me that, subject to the marking out and retention of 3 car parking spaces within the existing hardstanding area, the proposal would make adequate provision for staff car parking in accordance with the aims of the development plan and national guidance.

11. Thornbury Avenue is not subject to parking control and in this urban setting there is high demand for on-street car parking by both local residents and commuters. Third parties have expressed concerns that the proposed development would endanger the safety of road users by adding to traffic at peak times in the vicinity of the junction with Darwin Road,

PLANNING &

exacerbating instances of parking close to the junction and double parking. Whilst noting these concerns they are not ones shared by the Council. The Council's Principal Traffic Management Officer has indicated that the traffic accident record in the area has been generally good in recent years and he is not aware of any regular access problems. Against this background and taking into account the scope for the Highway Authority to introduce on-street parking controls, if found to be necessary, I am not persuaded that the proposal would have significant implications for road safety. Furthermore, I consider that the proposal to lengthen the hours of use would provide the advantage of spreading drop off and collection over a longer period and thus help to avoid the peaking of vehicular activity associated with the premises.

12. On this issue I conclude that the proposed development would not have implications for on-street parking in the area that would be harmful to highway safety. It therefore accords with Local Plan Policy GP x) and Policy HS iv) together with emerging Local Plan Policy SDP5 (i).

Other Matters

13. I appreciate that OFSTED space standards indicate that the property has a maximum capacity of 40 children and have no reason to doubt that the business fulfils a need in the local community. I am also sympathetic to the appellant's understandable desire to reduce the nursery waiting list. However, none of these considerations outweigh the harm I have identified to the living conditions of nearby occupants in relation to the proposal to increase the number of children. Whereas the appellant has made reference to the number of children registered at other nursery premises, in the absence of details concerning the characteristics of those premises and their context, I have given limited weight to this aspect of her case. Taking into account advice at paragraph 60 in PPG1 *General Policy and Principles*, local opposition or support for this proposal is not of itself determinative and I confirm that I have considered this case on its own planning merits. Finally, the further condition suggested by the appellant limiting the number of employees travelling to work by car would not overcome my objections to the proposal to increase the number of children.

Conclusion

14. Notwithstanding my conclusions in favour of the proposed development in relation to its effect on highway safety, the harm I have identified in relation to its effect on the living conditions of nearby occupants represents a compelling reason to reject this appeal. Accordingly, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

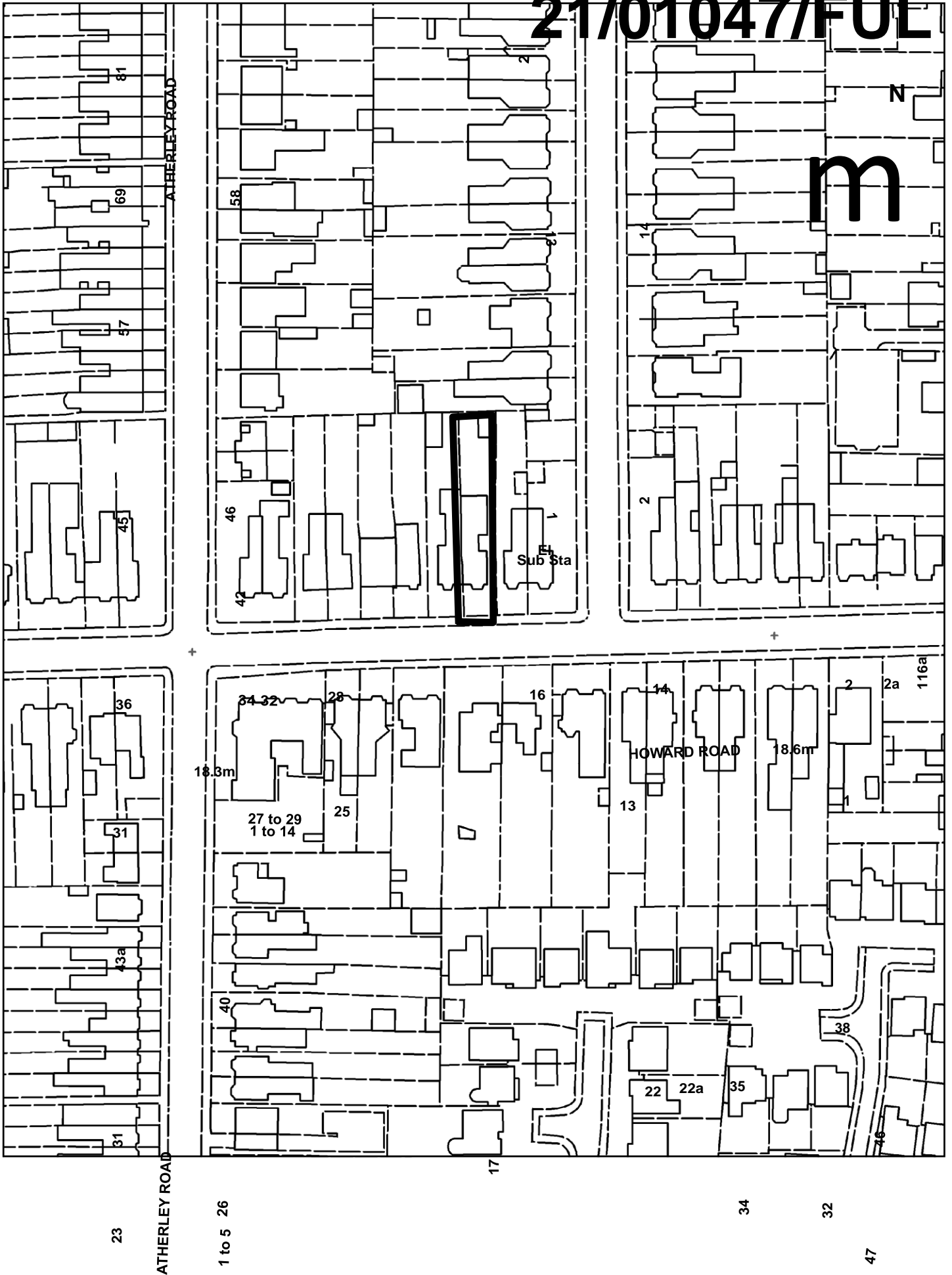
Formal Decision

15. I dismiss the appeal.



INSPECTOR

21/01047/FUL



Scale: 1:1,250

