

**Planning and Rights of Way Panel 9<sup>th</sup> October 2018**  
**Planning Application Report of the Service Lead- Infrastructure, Planning & Development**

<b>Application address:</b> 35-36 Oxford Street, Southampton			
<b>Proposed development:</b> Change Of Use Of Basement To Bar Venue providing Food, Drink, Dancing and Musical Entertainment And External Alterations To Front Elevation.			
<b>Application number</b>	18/01561/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Melanie Robertson	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	10.10.2018	<b>Ward</b>	Bargate
<b>Reason for Panel Referral:</b>	Referred by the Service Lead-Infrastructure, Planning & Development	<b>Ward Councillors</b>	Cllr Bogle Cllr Noon Cllr Paffey

<b>Applicant:</b> Mr Simon & Mrs Carol Foderingham	<b>Agent:</b> Jb Design
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<b>Recommendation Summary</b>	<b>Conditionally approve</b>
<b>Community Infrastructure Levy Liable</b>	<b>Not applicable</b>

**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 including the Conservation Area location of the site 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 of the National Planning Policy Framework (2018).

Policies - SDP1, SDP7, SDP9, SDP16, HE1, REI7, and REI8 of the City of Southampton Local Plan Review (March 2006), CS3, CS13, CS14 and CS23 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015), and AP8 the City Centre Action Plan (Adopted 2015)

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

## **Recommendation in Full**

Conditionally approve

### **1.0 The site and its context**

- 1.1 The site is located at the eastern end of Oxford Street close to its junction with Terminus Terrace. The ground floor is currently operated as a restaurant with separate bar area. The upper floors have been converted to residential flats.
- 1.2 The site is within the Oxford Street Conservation Area and also within one of the Evening Zones as defined by policy AP8 of the City Centre Action Plan (Adopted 2015).

### **2.0 Proposal**

- 2.1 Consent was granted in 2013 for change of use of the basement to Private Members Club.
- 2.2 This application went before the Planning Panel with an officer recommendation for closing hours of 12.00 am (midnight) Monday to Sunday including recognised Public Holidays in accordance with the Local Plan policy CLT 14 (now replaced by City Centre Action Plan policy AP8). The applicant requested operating hours of 10am - 2.30am every day of the week including Sundays and recognised Public Holidays. The Planning and Rights of Way Panel approved an amended condition for operating hours 10am - 2.30am every day of the week including Sundays and recognised Public Holidays, with the additional condition of a Register of Members to ensure operation as a Private Members Club to protect the amenities of local residents
- 2.3 However the use did not commence within the 3 year period conditioned therefore this permission expired and the current application seeks to re-invoke this consent with operating hours Monday – Thursdays 10- 2am, Fridays and Saturdays and Bank Holidays 10-2.30am and Sundays 10-1.30am. However the current application seeks use as a public late night bar rather than a Private Members Club.
- 2.4 The basement is currently used for storage and some office used but otherwise unused and deteriorating.
- 2.5 Access to the club would be achieved by re-instating an original door opening along the Oxford Street frontage and forming a new staircase within the existing ground floor restaurant , via a sound and fireproof lobby, to the basement area.
- 2.6 Alterations are also required to the rear elevation (largely hidden from public view in John Street) to facilitate emergency exit, and refuse storage and collection. Confirmation of these alterations would be required prior to the use becoming operational.
- 2.7 The current operating hours of the ground floor bar/restaurant are 10am -1am Monday to Saturday and Midday to 1am on Sundays.

### **3.0 Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006), the City of Southampton Core Strategy (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 reviewed in 2018 and replaces the original 2012 version and the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy and City Centre Action 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.

#### **4.0 Relevant Planning History**

4.1 99/01055/FUL: Change of use of basements to private members club for food, drink dancing and musical entertainment.

Approved subject to Conditions.

4.2 13/00922/FUL: Change of use of basement to Private Members Club (Sui Generis Use Class), and external alterations to front elevation.

Approved subject to Conditions.

4.3 These consents have since expired without implementation.

#### **5.0 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 07.09.2018. 33 notification letters were sent out. At the time of writing the report **0 representations** had been received from surrounding residents.

5.2 **SCC Highways** – No objections to extension of existing use

5.3 **SCC Flood Risk**– No comments

5.4 **SCC Heritage** – No objections

5.5 **SCC Environmental Health** -No objections

#### **6.0 Planning Consideration Key Issues**

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

- i. Principle of development
- ii. Character and Impact on Conservation Area
- iii. Nature of the use
- iv. Hours of use

##### **6.2 Principle of Development**

6.2.1 The principle of development is acceptable. Utilising the basement area will help maintain the fabric of the building and bring back into use an underused area of a building which will complement existing uses at ground floor. Other night time uses in the surrounding area add to the diversity and variety of the Oxford Street night-time economy.

##### **6.3 Character and Impact on Conservation Area**

6.3.1 The proposed external alterations to the building include re-introducing an original access door onto Oxford Street and rationalising/improving the rear area in John Street. The alterations will not have a detrimental impact on the character of the Conservation Area but will maintain the high quality frontage of Oxford Street.

## 6.4 Nature of the Use

6.4.1 Evening/ late night venues are part of a diverse night-time economy. Planning conditions relating to sound attenuation, sound amplification and surveillance systems mean that the facility is less likely to attract or be the cause of anti-social behaviour.

## 6.5 Hours of Use

6.5.1 The applicant has highlighted that the existing bar and restaurant (ground floor) operate until 1am and that given nature of the venue should not generate the type of activity or problems that should result in a restriction of opening hours.

6.5.2 The detailed work undertaken to inform policy decision making (The Local Development Framework City Centre Action Plan - The Nighttime Economy Background Paper August 2013) identifies that the terminal hour for uses within the Oxford Street Zone should be midnight. This is consistent with the previous background paper on the night-time economy which supported Policy CLT14 of the City of Southampton Local Plan Review 2006.

6.5.3 Unless other material planning considerations are judged to outweigh up to date policies, then those policies should be followed to ensure consistent decision making. Oxford Street has been allocated as a nighttime zone but due to the mixed nature of the area which includes flats the policy identifies that late night uses should be limited to midnight in order to safeguard amenity.

6.5.4 Although an earlier consent gave approval for later hours this was following careful consideration by the Planning Panel and a restriction on the basement's use as a private members club/bar. The current application is for a public bar but again seeks extended hours past the midnight position set out in our current policy/guidance. This is a material consideration and officer's recommend that extended hours as requested would be contrary to policy and potentially harmful to residential amenity in neighbouring streets as patrons leave the bar in the early morning thereby extending the impacts. A difficult precedent for other similar requests could also arise. On this basis the scheme is recommended for permission, but with a midnight close. Hampshire Constabulary have been notified of the application and any comments will be reported verbally at the meeting.

## 7.0 Summary

7.1 The use of the basement area as bar venue providing food, drink, dancing and musical entertainment and will add to the vibrancy and diversity of what is an important and high quality part of Southampton's night-time economy. The external changes to the building maintain the character of the Conservation Area. The bringing back into use the basement area will benefit the building. The suggested conditions are required to ensure that the use operates in a manner which does not affect local amenity at hours when nearby residents should expect to enjoy quiet amenity without undue disturbance notwithstanding the city centre location.

## 8.0 Conclusion

The scheme is recommended for approval for the reasons set out above 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), 3 (a), 4 (d), 6 (c), 7 (a).

**MR for 09/10/18 PROW Panel**

**PLANNING CONDITIONS**

01 APPROVAL CONDITION - Full Permission Timing Condition - Change of use

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

Reason:

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

02 APPROVAL CONDITION - Extract Ventilation/Air Conditioning and other Plant and Equipment - Pre-Commencement Condition

Details of all external ventilation fans to compressors and acoustic shielding, ducting, flues or other plant, machinery or equipment used for the purposes of providing an adequate extract ventilation system or in connection with the provision of air conditioning shall be submitted to and approved by the Local Planning Authority before the development commences. No additional ventilation fans, ducting, flues, plant or machinery or other equipment shall be installed without the prior written consent of the Local Planning Authority.

REASON

The Authority wish to retain control over the ducting and flues to be installed externally in the interests of the visual amenities of the Conservation Area.

03. APPROVAL CONDITION - Hours of Use - Performance Condition

Unless the Local Planning Authority agree otherwise in writing, the premises to which this permission relates shall not be open for business outside the hours specified below:-

10.00 am to 12.00 am (midnight) Monday to Sunday including recognised Public Holidays.

REASON

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

4. APPROVAL CONDITION - Sound Amplification systems - Performance Condition

No sound amplifying equipment which is audible outside the premises shall be installed in the basement area without the prior written consent of the Local Planning Authority.

REASON

To protect the amenities of the surrounding area.

5. APPROVAL CONDITION - Site Surveillance - Pre-occupation Condition

Before the use hereby permitted is implemented a detailed scheme for the surveillance of the site frontage including door access and outside customer waiting area shall be

submitted to and agreed by the Local Planning Authority. The agreed scheme shall be in place and fully implemented to the satisfaction of the Local Planning Authority before the use hereby permitted is commenced.

REASON In the interests of public safety and security and to protect the amenities of the surrounding area.

6. APPROVAL CONDITION - Refuse Storage - Pre-occupation Condition  
Full details of the facilities to be provided for the storage and removal of refuse, within the building, shall be submitted to the Local Planning Authority before the use of the basement first commences. No refuse storage shall take place along the Oxford Street frontage.

REASON To ensure refuse is stored inside the building within a properly designed store to the rear of the building in the interests of the visual amenities of the Conservations Area.

7 APPROVAL CONDITION - Sound Attenuation - Pre-occupation Condition  
Before the use hereby approved commences, a detailed scheme for the soundproofing of the building including measures for ventilation, transmission of noise between other parts of the buildings and transmission of noise beyond the building shall be submitted to and approved by the Local Planning Authority. Such agreed scheme of soundproofing shall be fully implemented to the satisfaction of the Local Planning Authority before the basement area is first brought into use.

REASON To protect the amenities of the surrounding area.

8. APPROVAL CONDITION - Delivery Times - Performance Condition  
No deliveries to the basement use shall take place or be dispatched from the site outside the hours of 8.00 am - 6.00 pm Monday to Saturday and at no time on Sundays, Bank or Public Holidays.

REASON To protect the amenities of the surrounding area

9. APPROVAL CONDITION - Approved Plans  
The development hereby permitted, including the external alterations to the front elevation 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. Any additional external alterations required to be carried out to facilitate the development must be the subject of additional plans to be submitted and approved in writing by the Local Planning Authority prior to those works being undertaken.

Notwithstanding current submitted plans, details of access arrangements for wheelchair users and ambulant disabled to be confirmed in writing with the Local Planning Authority prior to commencement.

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

**POLICY CONTEXT**

Core Strategy - (January 2010)

CS1	City Centre Approach
CS3	Promoting Successful Places
CS13	Fundamentals of Design
CS14	Historic Environment
CS23	Flood Risk

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP16	Noise
HE1	New Development in Conservation Areas
REI7	Food and Drink Uses (Classes A3, A4 and A5)
REI8	Shopfronts

City Centre Action Plan (March 2015)

AP8 – The Night Time Economy

Other Relevant Guidance

The National Planning Policy Framework 2018