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:**	Cllr Bogle Cllr Noon Cllr Paffey
Applicant: Eco Tyres Holding Property		**Agent:** Southern Planning	

Recommendation Summary	**Conditionally approve**

Community Infrastructure Levy Liable	**Not applicable**

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

5.4

Consultee	Comments
Environmental Health (Noise)	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) No complaints have been received about the premises regarding nuisance resulting from its

	use. 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.

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.

Application 21/00764/FUL **APPENDIX 1**

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

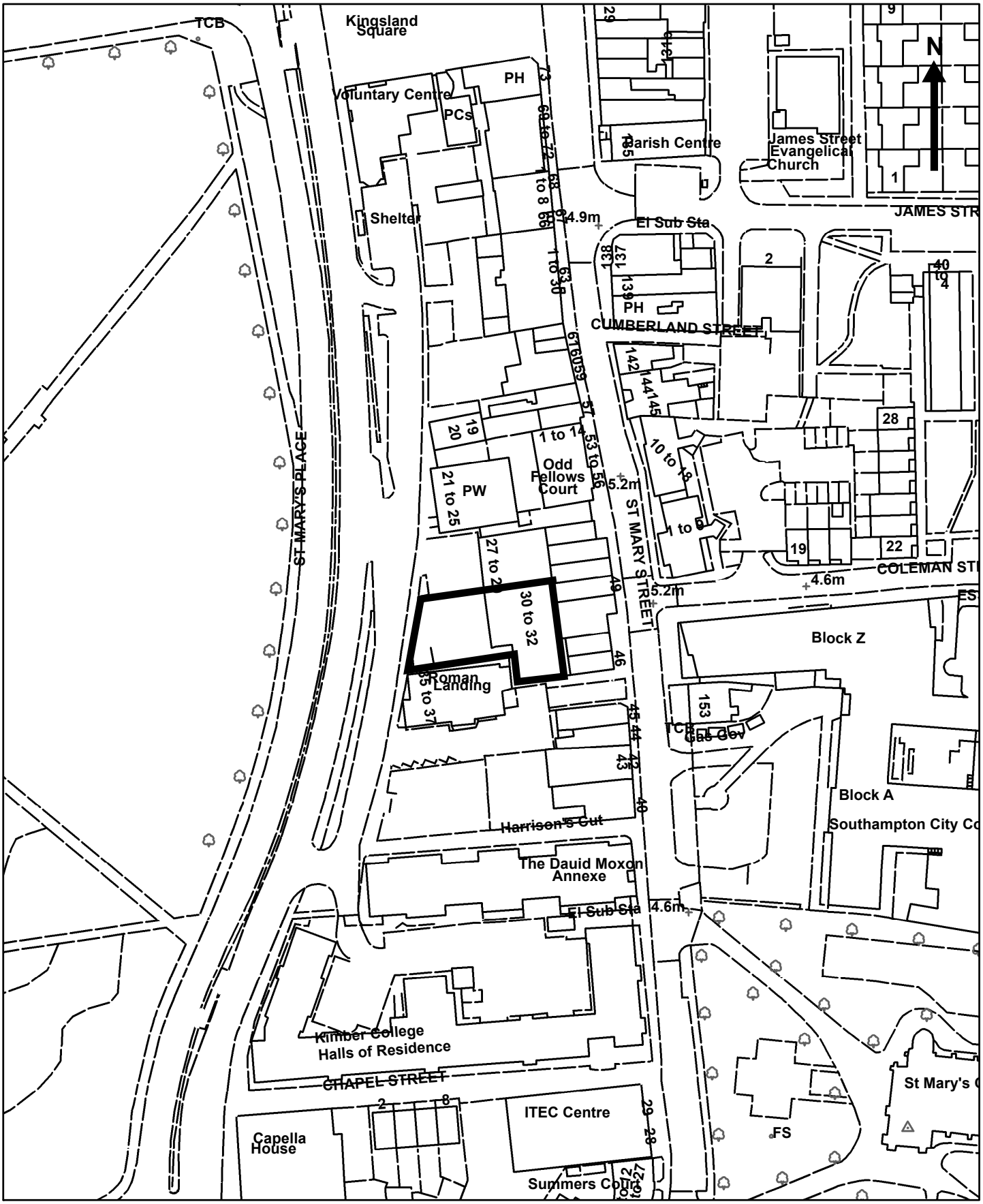
The National Planning Policy Framework (2021)

Application 21/00764/FUL **APPENDIX 2**

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

21/00764/FUL



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SOUTHAMPTON CITY COUNCIL