

Planning and Rights of Way Panel 23rd November 2021
Planning Application Report of the Head of Planning & Economic Development

Application address: 243 Portswood Road Southampton SO17 2NG			
Proposed development: Change of use to hot food takeaway including the installation of an extract flue to the rear elevation and a replacement roller shutter to the shopfront (amended after validation to include flue and shutter)			
Application number:	21/01285/FUL	Application type:	FUL
Case officer:	Anna Coombes	Public speaking time:	5 minutes
Last date for determination:	Extension of time: 30 th November 2021	Ward:	Portswood
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr L Mitchell Cllr G Cooper Cllr J Savage
Referred to Panel by:	N/A	Reason:	N/A
Applicant: Mr Sheraz Ahmed		Agent: Mr Richard Bentley, Alexander Associates	

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).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

Conditionally approve subject to the conditions listed at the end of this report.

1. The site and its context

- 1.1 The application site occupies a two-storey, mid-terrace unit within the secondary retail frontage of Portswood District Centre. The premises is currently vacant, but was formally occupied by October Books bookshop. The first floor comprises office, storage space and staff WC, with a retail unit at ground floor. A rear door leads to a narrow rear alleyway containing a 660ltr refuse bin, which opens onto the communal service road behind this row of shops. The shop front is secured by a metal roller shutter at night. There is an existing blank fascia level advertising sign on the shopfront.
- 1.2 There are residential flats at first floor and within the roof space of neighbouring and nearby premises along Portswood Road, although there are none directly above this unit. There are also nearby residential properties on Abbots Way to the rear, which back onto the communal service road behind this row of shops.

2. Proposal

- 2.1 The proposal is to change the use of this commercial unit into a hot food takeaway with kitchen and service area at ground floor and storage and staff facilities at first floor. The proposal includes a kitchen extract ventilation system exiting at the rear wall of the building with a new flue extending up to and above the roof line and a replacement roller shutter to the front window. 2x 660 ltr bins are provided within the rear alleyway for refuse and recycling, along with a wall mounting for a staff cycle parking space.
- 2.2 The opening hours requested on the application form are as follows:
07:30am to 11:30pm (07:30 – 23:30) every day.

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

4.2 The most recent and relevant records are included below:

Case Ref:	Proposal:	Decision:	Date:
21/01288/ADV	Installation of 1x internally illuminated fascia sign	Pending consideration	
10/00083/ADV	Externally illuminated fascia sign to front elevation and internally illuminated projecting sign to replace existing.	Conditionally Approved	25.03.2010
<i>The following planning consent for a nearby site is also of relevance:</i>			
13/00738/FUL	237 Portswood Road Change of use from restaurant / cafe (class A3) to mixed use restaurant/cafe and hot food takeaway (classes A3/A5) (retrospective)	Conditionally approved	27/06/2013

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 17.09.2021. At the time of writing the report **5 representations** have been received from surrounding residents. The following is a summary of the points raised:

5.2 There are already a high number of food and drink uses, particularly hot food takeaways, on Portswood Road, some of which have the same menu (Peri Peri Chicken). This is an excessive number of food outlets and will negatively impact the business of existing Peri Peri Chicken takeaways nearby.

Response

The number of food uses along Portswood Road are noted, however this reflects the nature of the area as a designated District Centre and the number of hot food takeaways nearby is not considered excessive for this busy centre. Whilst it would be preferable to have an alternative menu to increase the variety of food on offer, the menu specifics are not under consideration, only the use of the property as a hot food takeaway.

5.3 Existing hot food takeaways produce an unacceptable level of noise and cooking odour for neighbouring residents on Abbots Way. This noise and odour pollution is harming the character of the Portswood Residents' Gardens Conservation Area.

The Council failed to act in a timely manner to address a recent failure of kitchen extract system, which led to months of noise and odour pollution for surrounding residents.

Response

The impact on residential amenity and the neighbouring conservation area from noise and cooking odours is a material consideration, which is discussed further below in Section 6. The issue of delay in taking action against faulty kitchen extract will be reported back to the Council's Environmental Health Team for further investigation.

- 5.4 The proposed hours are excessive for 7 days a week. Later hours will attract more people in from outside the area, resulting in increased noise disturbance and littering.

Response

The impact of the proposed hours on residential amenity is discussed further below in Section 6.

Consultation Responses

5.5 **Environmental Health**

Environmental Health has no objection in principle. It appears from the detail provided that if the system is both fitted and maintained appropriately the noise and odour from the extraction system will not affect neighbours.

Response

Condition has been recommended to ensure the kitchen extract system is installed and retained in accordance with the agreed details.

5.6 **Highways Development Management**

Highways DM have no objections or concerns to raise regarding the above change of use - refuse storage and collection is to remain as per existing arrangements and visitor cycle parking is provided publicly in close proximity on Portswood Road. The provision of 2x 660ltr refuse and recycling bins is recommended. The amended proposal of 3x 240ltr bins would not be sufficient to serve a hot food takeaway.

Response

The plans have been amended to show 2x 660ltr refuse and recycling bins as requested.

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;
- Impact on the character and appearance of the area;
- Impact on Residential amenity;
- Impact on Parking

6.2 **Principle of Development**

- 6.2.1 The application site is located within the Portswood District Centre and forms part of the identified secondary retail frontage. Policy RE14 of the Local Plan identifies properties within these area as being appropriate for Class A1-5 uses or other uses which offer a direct service to the public. In September 2020 the Use Classes Order

was updated which included changing hot food takeaways into a Sui Generis use. Prior to this change, a hot food takeaway was an 'A5' use. As such, when assessed directly against Policy REI4, there is no objection to the principle of the use as a hot food takeaway.

6.2.2 Policy CLT15 of the Local Plan states that 'proposals for A3, A4 and A5 uses will be permitted in town, district and local centres subject to compliance with Policy REI 7.

6.2.3 Policy REI7 (Food and Drink Uses (Classes A3, A4 and A5) states that:

Proposals involving classes A3, A4 and A5 Food & Drink uses will be permitted in city, town, district, local centres and sites identified for mixed use areas in accordance with CLT 14 and 15 provided that;

(i) appropriate planning conditions are imposed where necessary to prevent the generation of any undue noise or other forms of nuisance directly arising from the proposed use;

(ii) any adverse impact on the amenities of neighbouring residential premises by reason of noise and disturbance within the premises can be prevented by the installation of sound attenuation measures by appropriate conditions;

(iii) any adverse impact caused by cooking smells can be prevented by the installation of fume filtration and extraction equipment which in itself is not visually intrusive or otherwise unneighbourly by appropriate conditions;

(iv) any adverse impact on the amenities of the area through the discarding of litter is prevented by the provision of litter bins on the premises.

6.2.4 Based on the above requirements of Policy REI7, the acceptability of the change of use to a hot food takeaway is subject to appropriate conditions being applied and assessing the material harm of the use.

6.2.5 Minimal changes are proposed to the shopfront of the premises, which are considered in more detail below. Policy REI8 (Shopfronts) resists the introduction of solid shutters, but it is noted that the proposed replacement shutter is perforated in the same way as the existing shutter, and that the existing shutter has been in place for at least 10 years.

6.2.6 In addition, given the close proximity of the residential properties at first floor of properties fronting Portswood Road, and neighbouring properties to the rear on Abbots Way, the impact of the proposed use on noise and disturbance to neighbouring properties must also be considered.

6.3 Design and effect on character

6.3.1 Policies CLT15, REI4 and REI7 establish that the principle of a hot food takeaway in this location, along Portswood Road, is acceptable subject to any adverse impact on the amenities of neighbouring residential premises by reason of noise and disturbance being considered. Therefore, it can be concluded that the principle of the use itself would not cause harm to the character and visual appearance of the area, but further mitigation and assessment will be required.

- 6.3.2 The proposal includes minimal changes to the existing shopfront, namely a replacement metal roller shutter which appears very similar to the existing metal roller shutter, which has been in situ for at least 10 years, since at least 2008, according to Google Streetview archive images.
- 6.3.3 The proposed new flue to the rear of the property will be in addition to the existing slim metal flue that exits from neighbouring unit 245-247 Portswood Road (Poundland, formerly Co-operative). The submitted technical drawing of the proposed kitchen extract system (Proposed Canopy Ventilation Layout C1685/M01) clearly shows the correct size and placement of the proposed flue on a floor plan with part rear and side elevations. However, it is noted that this has not been correctly shown on the drawing sheet comprising the full front and rear elevations and full floor plans (Proposed Planning A5 Use 290721/A2/243P-COU). This drawing does not clearly represent the existing flue from neighbouring unit, nor does it correctly show the size and placement of the proposed new flue. A condition is therefore recommended to obtain further details of the correct size and location of the new flue, which will include further consultation with Environmental Health Officers.
- 6.3.4 Whilst slightly wider than the existing flue, and appearing in addition to the existing flue, the proposed new flue exiting from No.243 will not appear out of character with the property or local area. Given the nature of the rear elevation of this terrace with a mix of food and drink uses and commercial uses, the presence of kitchen extract flue on the rear elevation is not uncommon. There are other, larger extract flues visible to nearby premises, namely No.237 Portswood Road (Roosters Piri Piri). As such, the proposed flue is not considered to cause undue harm to the character of the property or local area.
- 6.3.5 Officers note the concerns of neighbouring residents for the impact of noise and odour on the neighbouring Portswood Residents' Gardens Conservation Area, however it is also noted that the Council's Environmental Health Officer is satisfied that the submitted technical details of the proposed kitchen extract system will sufficiently minimise the potential for nuisance from noise and cooking odours. The secondary retail frontage of Portswood District Centre is also considered an appropriate location for food and drink uses. As such, the proposal is not considered to cause harm to the setting of the Portswood Residents' Gardens Conservation Area.
- 6.3.6 A replacement fascia advertisement sign has also been proposed and will be considered under the concurrent application ref: 21/01288/ADV, which is pending consideration, however it is noted that this replicates the size and scale of the existing fascia signage area. As such, these changes are not considered to harm the character and visual amenities of the area. An assessment of the impact on local amenity is, nevertheless, still required.

6.4 Residential amenity

- 6.4.1 At first floor of the application site is office and storage space serving the unit below, however we note that other properties along Portswood Road typically have flats at first floor. There is no residential flat immediately neighbouring to the North (No.245-247, Poundland). There is no record of a residential flat immediately to the South (No.241, Healthy Nuts), however a visual inspection suggests that the first floor and

front dormer windows could potentially serve a residential flat and there is mention of a first floor flat in the officer's notes for historic planning application 971359/W for this neighbouring unit, so for the purposes of this application it is assumed that these windows serve a residential use. There are also residential properties on Abbots Way to the rear of the site, whose gardens back onto the communal service road at the rear of the site.

6.4.2 It is acknowledged that the use of the premises as a hot food takeaway may contribute to noise and odour disturbances. That said the policy requirement under REI7 for assessing the acceptability of the hot food takeaway use advocates the use of planning conditions and sound insulation measures to protect the amenity of neighbouring residents.

6.4.3 The proposal includes a design and specification for kitchen extract and ventilation system to minimise the transfer of noise and cooking odour from the unit. The Council's Environmental Health Officer has reviewed the proposal and is satisfied that it will sufficiently minimise potential disturbance due to noise and odour nuisance. Conditions have been recommended to secure the installation and maintenance of this equipment in line with the agreed details.

6.4.4 The proposed hours on the application form slightly exceeded the typical opening hours of nearby uses and the Applicant has accepted shorter opening hours as proposed below. These hours mirror those conditioned for the nearby hot food takeaway use at 237 Portswood Road in 2013 under ref: 13/00738/FUL and would be comparable to other hot food takeaways in the area:

Monday to Saturday – 07:30am to 11:30pm (07:30 – 23:30)
Sunday and recognised public holidays – 07:30am to 11pm (07:30 – 23:00)

6.4.5 Nearby consented evening opening hours include the following:

Roosters Piri Piri, 237 Portswood Road Ref: 13/00738/FUL	Monday to Saturday until 11:30pm Sundays until 11:00pm
The Tramstop, 186-188 Portswood Road Ref: 14/00739/FUL	Monday to Saturday until 11:00pm Sundays until 9:30pm
Burga, 170 Portswood Road Ref: 17/01414/FUL	Monday to Saturday until midnight Sundays until 11:00pm
Takeaway (Vacant), 162 Portswood Road Ref: 20/01690/FUL	Monday to Sunday until 11:00pm
Fu House, 160A Portswood Road Ref: 17/01014/FUL	Monday to Friday until 11:00pm Sundays until 10:00pm
Land to rear of The Broadway, Portswood Road Food court including takeaway Ref: 19/01261/FUL	Monday to Sunday until 10:00pm
Noodle 8, 5 The Broadway, Portswood Road Ref: 18/02035/FUL	Tuesday to Sunday until 10:00pm
Pho Vietnam, 3 The Broadway, Portswood Road Ref: 14/01044/FUL	Monday to Sunday until 11:00pm

- 6.4.6 The imposition of these opening hours would seek to mitigate concerns of local residents, alongside the anti social behaviour controls that the Police can monitor. If further concerns are raised in relation to noise and disturbance, these can be reported to Environmental Health team who can use Environment Protection powers to enforce further controls on the premises.
- 6.4.7 The visual impact of the flue will not be harmful when viewed from the first-floor rear window of No.241 to the South (Healthy Nuts), as this window is set much further back so the rear-ward projection of the application unit ensures that the proposed flue would be mostly screened from this neighbouring premises. No.245-247 to the North (Poundland) has side-facing windows facing the application site, however these serve offices and store rooms, not protected residential uses.
- 6.4.8 Subject to compliance with the conditions mentioned above and recommended at the end of this report, the application would meet the requirements of saved Policy SDP1(i) as the application would ensure that it does not 'unacceptably affect the health, safety and amenity of the city and its citizens.'

6.5 Parking highways and transport

- 6.5.1 The site lies within a very sustainable location with good access by foot and to public transport. There is no dedicated parking area on site. The takeaway use would inevitably generate footfall from customers, however its sustainable location would not generate the requirement for on-site parking spaces. There are public cycle stands along Portswood Road for short stay cycle parking and one wall mounted cycle stand is proposed within the rear alleyway to serve staff, in accordance with our Parking Standards SPD.

7. Summary

- 7.1 Subject to conditions regarding the opening hours of the premises, and the extract ventilation, the proposed use would not give rise to material harm in terms of noise and disturbance to neighbouring occupiers and the proposals would comply with the requirements of the Development Plan policies.

8. Conclusion

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

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

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

PLANNING CONDITIONS

01. Full Permission Timing Condition (Performance)

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

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

02. 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.

03. Extract Ventilation (Pre-commencement condition)

Prior to commencement of the hot food takeaway use hereby approved, further details of the siting, appearance and operation of the proposed kitchen extract ventilation system, including measures for the control of noise, fumes and odours from extractor fans and other equipment, shall be submitted to and approved in writing by the Local Authority. The approved extract system and any other measures for the control of noise fumes and odours shall then be installed and implemented in accordance with the approved details prior to commencement of the hot food takeaway use hereby approved and shall be retained and maintained in full operation for the life of the development.

Reason: To protect the amenities of the occupiers of existing nearby properties and to clarify the development in the interests of proper planning.

04. Hours of Use (Performance)

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

Monday to Saturday - 07:30am to 11:30pm (07:30 to 23:30)

Sunday and recognised public holidays - 07:30am to 11:00pm (07:30 to 23:00)

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

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

05. Refuse & Recycling (Performance)

Before the development hereby approved first comes into occupation, the storage for refuse and recycling shall be provided in accordance with the plans hereby approved and thereafter retained as approved.

Reason: In the interest of visual and residential amenity.

06. 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.

07. Litter bin (Performance condition)

A litter bin shall be provided on the site within the customer area of the floor space and made available for use of patrons of the hot food takeaway hereby approved during trading hours.

Reason: To prevent littering in the surrounding area.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS3	Town District and Local Centres
CS6	Economic Growth
CS13	Fundamentals of Design
CS19	Car & Cycle Parking

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

SDP1	Quality of Development
SDP5	Parking
SDP7	Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP16	Noise
CLT15	Night time Uses in Town, District and Local Centres
REI4	Secondary Retail Frontages
REI5	District Centres
REI7	Food and Drink Uses (Classes A3, A4 and A5)
REI8	Shopfronts

Supplementary Planning Guidance

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2021)

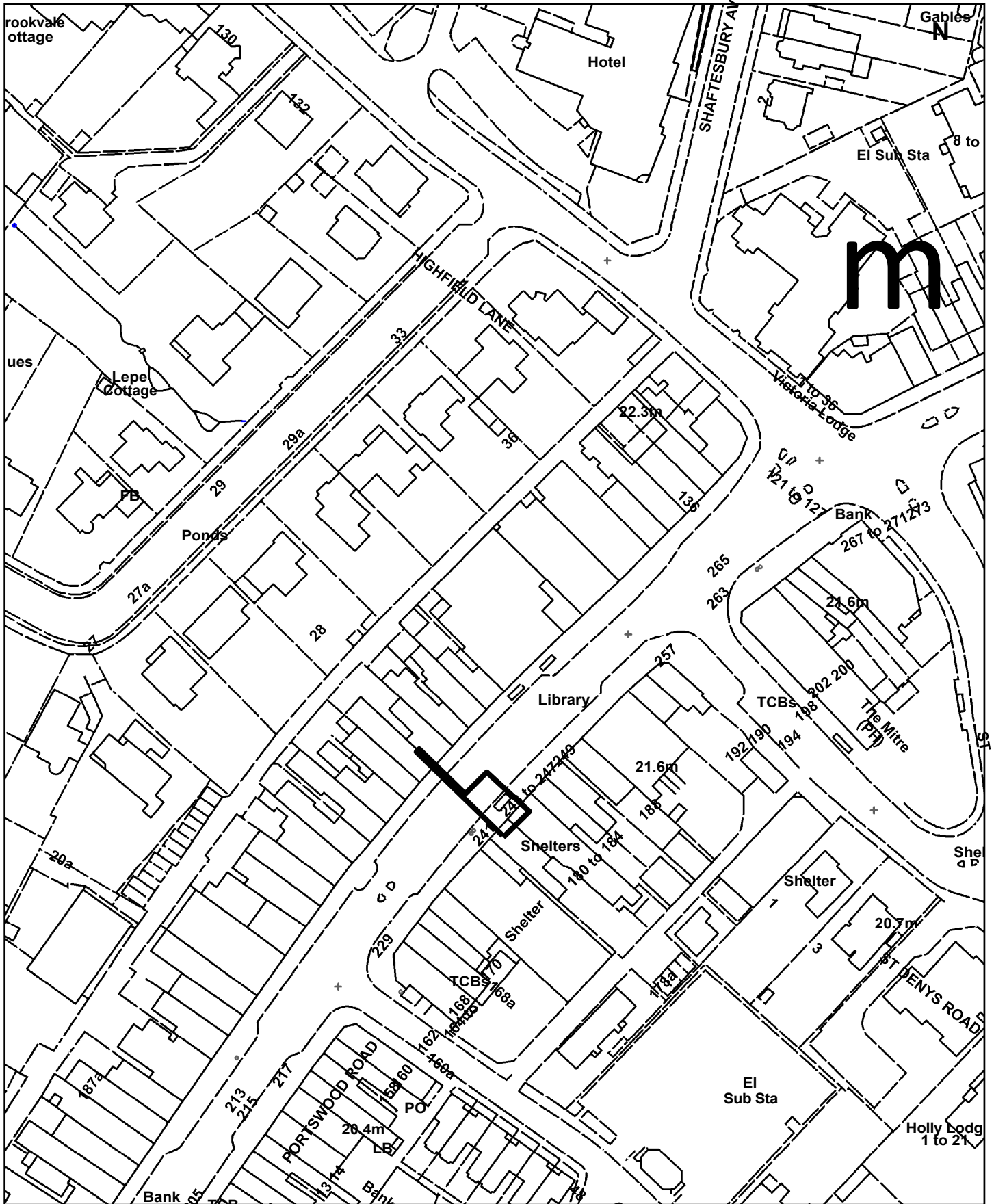
Relevant Planning History

Case Ref:	Proposal:	Decision:	Date:
21/01288/ADV	Installation of 1x internally illuminated fascia sign	Pending consideration	
10/00083/ADV	Externally illuminated fascia sign to front elevation and internally illuminated projecting sign to replace existing.	Conditionally Approved	25.03.2010
890031/WA	Illum fascia & projecting signs Halifax	Conditionally Approved	03.02.1989
860789/M	Automatic teller machine in existing shop front	Conditionally Approved	08.10.1986
1544/M11	Alts to front elevations GF	Conditionally Approved	05.09.1978
1544/M11/1	Alts to front elevations & ground floor (243)	Conditionally Approved	05.09.1978
1525/M16/1	Change of use of ground floor & 1st floors from retail to building society (243)	Conditionally Approved	26.07.1977
1525/M16	Ch of GF & FF from retail to building society	Conditionally Approved	26.07.1977
1126/D/1	Convert to self service store & erect single shop unit on site of 243 (outline)	Conditionally Approved	03.03.1958
1126/D	Convert to self service store & erect single shop unit on site of 243 (outline)	Conditionally Approved	03.03.1958

The following recent planning consent for a nearby site is also relevant to this application:

13/00738/FUL	Roosters Piri Piri, 237 Portswood Road Change of use from restaurant/cafe (class A3) to mixed use restaurant/cafe and hot food takeaway (classes A3/A5) (retrospective)	Conditionally approved	27/06/2013
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21/01285/FUL



Bank
201 203 205

The Broadway 11

107

Car Park

97

PC

Scale: 1:1,250

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