

Planning and Rights of Way Panel 14th December 2021
Planning Application Report of the Head of Planning & Economic Development

Application address: 2-4 Cobden Avenue, Southampton			
Proposed development: Installation of a shipping container to accommodate hot food takeaway with associated stepped access from Whitworth Crescent.			
Application number:	21/00708/FUL	Application type:	FUL
Case officer:	Mark Taylor	Public speaking time:	5 minutes
Last date for determination:	15.09.2021	Ward:	Bitterne Park
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr D Fuller Cllr R Harwood Cllr I White
Applicant: Mr G Singh		Agent: DesignRed26	

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
3	Planning restrictions on hours of opening for food and drink uses within the vicinity of the application site.		

Recommendation in Full

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

1. The site and its context

- 1.1 From reviewing the planning history of the site (application 1480/E20) it appears that the site area once formed part of the garden of the Bitterne Park Hotel. There are no planning restrictions on this garden area for purposes ancillary to the hotel. This fall back position is a materials consideration for the application. Bitterne Park Hotel abuts the northern most boundary of the site. The area is currently used as an external seating area for the cocktail bar located on the ground floor of the hotel building.
- 1.2 The site is largely screened and separated from the streetscene of Cobden Avenue. The application site is located on the eastern side of Whitworth Crescent directly south of the Bitterne Park Triangle.
- 1.3 The application site is located on ground levels set significantly higher than those of the vehicle and pedestrian highway of Whitworth Crescent. The western side of the application site contains a steep bank (currently overgrown) leading from the highway to the level ground above. At the top of this bank is a timber boundary treatment of approximately 1.9 to 2m in height. Beyond this boundary treatment is an existing outbuilding/shelter that forms part of the cocktail garden.
- 1.4 The proposal site is located outside of the defined Bitterne Park Triangle Local Centre approximately 40m north of the site.
- 1.5 There is a mix of uses surrounding the site. As well as previously mentioned hotel and cocktail bar to the north. The premises license for the cocktail bar allows opening hours of 7am to 12:30am Monday to Sunday. To the west of the site is a vehicle repair garage. 20m to the west of the site boundary are the residential properties of Riverdene Place. The southern boundary abuts a large sales and distribution unit occupied by City Plumbing Supplies. Further south to the commercial unit and the residential properties of Whitworth Crescent.

2. Proposal

- 2.1 The application seeks to remove the existing outbuilding and open up the steep bank to Whitworth Crescent. The existing outbuilding is proposed to be replaced by a refurbished shipping container. The remodelled container will be adapted for the preparation, cooking and sale of takeaway pizza. The pizza oven will be gas powered and therefore smoke free. External seating will be retained within the enclosed area.
- 2.2 The container will measure 2.9m in height (a chimney/flue will be located along the centre line of the roof at southern end of the container at a height of 3.15m). The length of the container is approximately 9.1m and it has a width of 2.44m.
- 2.3 The container doors will be located on the north elevation and will provide

access into the structure for staff only. The southern elevation of the container will not contain any openings. Three windows are located on the west elevation facing onto the fenced boundary treatment. The eastern elevation will contain two windows looking into the site, and an opening for serving customers. This serving area will be covered by an awning that projects some 5.7m from the container. The external elevations will be black in colour.

2.4 The container will be sited 1.35m from the western fenced boundary treatment, the container will be located approximately 25m from the southern boundary.

2.5 Works are also proposed between the sites fence located on the higher ground level and the pedestrian highway of Whitworth Crescent. A new access is proposed into the north east corner of the site from Whitworth Crescent. This access will be in the form of steps and balustrade. A significant section of the timber fence on the west boundary is to be removed and it proposed to landscape the banked area that will be revealed with wood chippings.

2.6 The proposed opening hours are:

10am to 10pm	Monday to Friday
9am to 11pm	Saturday
10am to 9pm	Sundays and Bank Holidays

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, and erecting a site notice on the 13th August 2021. At the

time of writing the report **11 representations** have been received from surrounding residents. **9** objecting to the proposal 2 representations are in support of the application. The following is a summary of the points raised:

- 5.2 The application site is on a prominent embankment significantly taller than the highway (Whitworth Crescent). The siting of a shipping container will result in a poor form of development resulting in an obtrusive and visually dominant structure.

Response

The proposed container will replace an existing structure located on the site. There will be limited views of the container when viewed in the streetscene of Cobden Avenue. Furthermore, despite its elevated location the proposal will be positioned approximately 5m from the pedestrian highway and will be largely screened by the timber boundary treatment. These mitigating factors will reduce the prominence of the proposal in the streetscene.

- 5.3 Delivery options, such as Deliveroo (or the applicants own drivers) could result in a detriment to highway safety. The junction where Whitworth Crescent intersects with Cobden Avenue experiences high volume of traffic where Whitworth Road is used as a rat run. Delivery drivers parking dangerously and then speeding down the road, having a detrimental impact upon highway and pedestrian safety. At the moment other takeaway delivery drivers use the Crescent and the footpaths to park. If the new outlet intends to have an online delivery presence, there will be even more demand for the parking space and could encourage double parking and more illegal use of footpaths. Whitworth Crescent can be very narrow when cars are parked on both sides.

Response

The Councils Highway Engineers have been consulted at part of the application. The Highways Engineers have raised no objection to the proposal advising that the site falls within a controlled parking area, with No Waiting restrictions preventing obstructive parking close to junctions. There is provision for short stay visitor parking and loading on Whitworth Crescent immediately outside the proposed entrance to the proposed takeaway site. This parking provision is specifically for short stay use, is located away from residential frontages and is associated with the Bitterne Park Triangle Local Centre. As such, it is not in conflict with residential usage and would not impact on resident's access to parking outside homes. The provision of one hour limited waiting restrictions on Whitworth Crescent would be able to accommodate the short stay nature of such takeaway pick-ups (either delivery riders or in person) as it would not be competing with residential usage.

- 5.4 The siting of the container will encourage anti-social behaviour causing noise and disturbance up to and after 11pm. The hotel steps and wall may encourage takeaway users to hang around and sit.

Response

It is noted and accepted that the proposal includes operation into the evening. The impacts of the associated evening activities are considered in more detail in section 6 below.

5.5 Bitterne Park area is already served by plenty of takeaways the is no need for another.

Response

The application does not need to identify a need for the proposed hot food take away use. It is also not for the planning process to manage competition between hot food take away providers. The proposal offers the opportunity for a wider choice for consumers.

5.6 The application makes no further provisions to deal with litter from its clientele and it is also unclear as to how they intend to deal with their own trade waste.

Response

It is noted that there is an existing trade waste provision compound between the hotel building and the service garage. Should the application received consent a condition can be imposed that requires details waste management for the site to be submitted to and agreed in writing by the Local Planning Authority prior to the first use of the premises.

5.7 The proposal will result in odours and fumes from cooking

Response

The proposed pizza ovens are to be gas fired to prevent smoke. The Council's Environmental Health team have raised no objection to the proposal. The proposed unit will be adjacent to the Bitterne Park Hotel that also provides hot food. There is a significant level of separation from the proposed container to nearby residential properties.

5.8 Support - Anything that helps to make the old Bittern Park Hotel financially viable is a good thing. Currently extremely limited food options in the Bitterne Park area, and positive to attract people to the other businesses that reside in the triangle

Response

The support for the application is noted.

Consultation Responses

5.4 Consultee	Comments
Environmental Health	<p>Environmental Health have no objections to the proposed development provided that the opening hours as detailed in the application form are conditioned accordingly.</p> <p>Officer Comment: A condition that secures the hours of operation can be secured by condition.</p>
Highways	<p>In summary, Highways DM are satisfied a development of this nature is in keeping with the nature of the Bitterne Park Triangle District Centre and would not have a</p>

	<p>detrimental impact on highway safety or trip rates. If the case officer is minded to approve the application, we would ask for the following conditions be attached:</p> <ol style="list-style-type: none"> 1. Cycle Parking for staff and visitors - in the form of 3 sheffield stands within the site to allow staff and visitors to secure bikes to. 2. Commercial waste management; the sole use of the former pub garden as a hot food takeaway site would require a commercial waste management plan. It is not clear from the plans submitted if access to the site will be maintained via the hotel car park on Cobden Ave. If so, then please submit details a waste storage and collection from this access. If access is solely from Whitworth Crescent then details will need to be submitted detailing waste storage and access from the newly formed access on this side of the site. <p>Officer Comment: The proposed sheffield stands can be secured via a planning condition. There is an existing compound for the storage of refuse to the east of the site. However, in order to ensure appropriate waste management a condition can be imposed requiring a waste management plan to be agreed by the local planning authority.</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;
- Residential amenity; and,
- Parking highways and transport

6.2 Principle of Development

6.2.1 Policy REI7 of the City of Southampton Local Plan (2015 states that: Proposals involving Food & Drink uses will be permitted in city, town, district, local centres.

6.2.2 The proposal site does not fall with any of the listed centres and is located

approximately 40m south of the Bitterne Park Triangle Local Centre. Policy REI7 does not exclude hot-food takeaways outside of the locations listed above.

6.2.3 Furthermore, the application site is located within a group of commercial premises between Whitworth Crescent and Cobden Avenue, including food and drink uses, a vehicle repair garage, and a large sales and distribution unit. These uses help to serve the day-to-day needs of the local housing and form a part of the area's character and appearance.

6.2.4 There are a mix of different property types in the surrounding area, flats and more typical family residential dwellings in the wider area. Broadly no objection is raised to the principle of a takeaway use subject to the development not resulting in noise, odour and disturbance that would be detrimental to the residential amenities of the surrounding properties.

6.3 Character and Appearance of the area.

6.3.1 The site is located within an area of mixed uses. The sites boundaries to the north, east and south abut commercial uses and to on the opposite side of the road, and further to the south the character is predominately residential. The proposal will be largely screened from view in the Cobden Avenue streetscene by the existing commercial buildings to the north and east. The site is located on ground levels significantly higher than the public realm of Whitworth Crescent to the west. The sloped area between the existing garden and the highways has fallen into a state of disrepair, this current condition is largely screened from public view by the existing 2.6m (measured on site) tall boundary treatments that surround the site.

6.3.2 The proposal will replace an existing building/structure located to the south of the Bitterne Park Hotel. The container itself would be largely screened from view by the timber boundary treatments, with the 2.9m high container being set some 1.3m in from the upper boundary treatment. The height of this current fence is approximately 1.95m (measured on site). This level of separation from the pedestrian highway will reduce the prominence of the container when the site is viewed from the public realm and would not result in a visually dominant or harmful addition to the area.

6.3.3 The proposal also seeks to remove a significant stretch of the existing 2.6m high fencing that abuts the pedestrian highway of Whitworth Crescent. This will reduce some of the overbearing impact of the existing boundary treatment on the uses of that highway and provide a more open feel to the users of the pedestrian highway. The ground in this area will be finished in wood chippings, which reflects the existing landscape treatment of the hotel. Therefore the proposals bring forward an improvement to the openness and landscaping for this part of Whitworth Crescent and is considered to comply with our design policies and guidance.

6.4 Neighbour Amenity

- 6.4.1 The site previously formed the garden area for Bitterne Park Hotel. It currently provides external seating for the Cocktail bar on the ground floor of the Hotel Building. There is evidence to suggest that this area has already been used for dining and there is a sizeable barbeque located within the site. Furthermore, as can be seen from appendix 3 there are several food and drink uses in the vicinity including takeaways. In this context, a further takeaway is unlikely to intensify comings and goings to such a degree as to cause unacceptable or undue effects on local resident's living conditions, including during the evenings.
- 6.4.2 The rear boundaries of properties to the west of the site (Riverdene Place) will be located in excess of 23m from the proposed container. These properties are set on ground levels significantly lower than the pedestrian highway of Whitworth Crescent as such the outlook from the ground floor accommodation would be onto the tall rear boundary of those dwellings. This rear boundary is largely treelined providing significant screening of the container from the upperfloor windows particularly in the summer months.
- 6.4.3 With regard to the residential properties to the south these will be located some 40m from the proposed container. Due to the orientation, level of separation and relationship of the application property to its residential neighbours, it is not considered that there would be any adverse or unacceptable impact upon the residential amenity of any neighbouring properties in terms of loss of privacy, light or outlook.
- 6.4.4 With regard to noise and disturbance the proposed opening hours of 10am to 10pm Monday to Friday, 9am to 11pm Saturday, 10am to 9pm on Sundays are broadly consistent with nearby hot food takeaway premises (see **Appendix 3**). These hours of opening have been reviewed by the Council's Environmental Health Officers and no objection has been raised. In addition odour and waste impacts can be controlled through a suitably worded planning condition.
- 6.4.5 Occupiers of neighbouring residential properties have raised concern regarding anti-social noise and disturbance from the site and street, when using the facility or from people walking to the site on foot or by vehicle drivers visiting the site. The on road parking directly adjacent to the site (on both sides of the road) is restricted during the daytime (8am to 6pm) to 1 hr only. This has been provided to help meet the needs of the existing commercial activity associated with the Bitterne Park Local Centre to the north.
- 6.4.6 Demand for a hot-food takeaway use is likely to be greater in the evenings, coinciding broadly with the relaxation of parking restrictions. However, the parking adjacent to the container would not only be required for the proposed hot foot takeaway use, this parking would also still be expected to serve the Bitterne Park Triangle Local Centre including the existing hotfood takeaway uses within that centre. Local residents have advised that the local centre is already well served by hot food takeaway units, as such many of the trips to the area will be associated with the existing uses. It is not considered that the proposed hot food takeaway use would generate a significant amount of additional activity and competition for parking spaces between residents and

takeaway customers above the existing situation. Furthermore, there is no evidence to suggest that the proposed use would add to any greater level of anti-social behaviour than the existing use of the site. Therefore it is not considered that the proposals would be detrimental to residential amenity in this regard and therefore complies with saved Policy SDP1(i).

6.5 Parking highways and transport

- 6.5.1 No dedicated parking is provided in association with the proposed development. As advised above there is on road parking available on Whitworth Crescent. This parking is restricted during the day (1hour only between 8am and 6pm). This parking already serves the Bitterne Park Triangle Local Centre and its existing night time economy. No waiting restrictions are also imposed preventing obstructive parking close to junctions.
- 6.5.2 Concern has been raised with regard extra trip rates and any material impact on the local highway network associated with a food take away. Anecdotal evidence from local residents indicates existing highway safety issues and parking problems from the commercial activity at the parade. The proposal is seeking to utilise the existing garden for use for hot food takeaway whilst retaining the existing external seating area. Therefore, in essence, the proposal simply replaces the former cocktail/beer garden usage with hot food takeaway.
- 6.5.3 The extent of movements and parking would be naturally limited by the modest scale of the unit. Highways Officers have performed an analysis of typical trip rates for the proposed use, using the industry standard TRICS database for take-away food shops. The data shows a potential for a total two way vehicle trips rates of 126 vehicles, with potential for peak-hour two way trips of 14 vehicles during the evening hours of 7 till 8pm. However, this includes sites which are of much larger floor space than that of the proposals for this site. Likewise, much of TRICS analysis of sites pre-dates the rise in app based home delivery services such as Deliveroo, Uber Eats and Just Eat. The deliveries are often utilising cycle delivery riders which further reduces the impact of extra vehicle trips. The addition of a small hot food takeaway outlet is not considered to have a significant impact on trip rates in the area. Moreover, it will simply create another option for local visitors to Bitterne Park Triangle. The Council's Highway Officer also supports this view.
- 6.5.4 Highway Officers have recommended that short term cycle storage of three Sheffield stands should be provided on site for the use of staff and visitors. Such a requirement can be secure by condition with the proposed parking needing to be in place prior to the first use of the development. Cycles will be able to access the site via the sloped access point to the north of the site.
- 6.5.5 No details have been provided to advise how the trade and customer refuse and waste will be managed on site. There is an existing refuse storage compound to the east of the site. As such it is reasonable for a condition to be imposed requiring a waste and litter management plan to be approved by the local planning authority and in place prior to the first use of the premises.

7. Summary

- 7.1 The application proposes the siting of a shipping container to create a new pizza takeaway. For the reasons outlined above it is considered that the proposal would not result in such substantial harm as to justify refusing the application subject to suitable conditions to control and mitigate the impacts of the use.

8. Conclusion

- 8.1 It is recommended that planning permission be granted with conditions imposed to mitigate the impact from the proposed development

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

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

Case Officer **Mark Taylor** PROW Panel 14th December 2021

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. Hours of Use (Performance)

The use hereby approved shall not be open to the public outside the following hours:

10am to 10pm Monday to Friday

9am to 11pm Saturday

10am to 9pm on Sundays and Bank Holidays

Reason: To protect the amenities of nearby residential occupiers

04. Cycle Parking

Before the development hereby approved first comes into use, on-site secure storage in the form of 3 sheffield stands shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The storage shall be thereafter retained as approved for the lifetime of the development.

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

05. Refuse and Waste Management

Before the development hereby approved first comes into occupation, a waste and

litter management plan shall be submitted to and agreed in writing by the Local Planning Authority. The Refuse Management Plan shall provide details of on-site customer refuse bins, a collection point for refuse and recycling and the movement of containers to and from the collection point on collection days. With the exception of collection days, the refuse and recycling containers shall be kept only within the approved storage areas.

Reason: To ensure the development functions well and in the interests of visual and residential amenity.

06. External Seating and Lighting

Prior to the development hereby approved first coming into use, the seating area and external lighting shall be implemented in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The external seating and lighting schemes shall be thereafter retained as approved.

Reason: In the interest of residential amenity and to ensure that the seating area remains ancillary to the provision of takeaway meals

07. No Live or Amplified Music

No live or amplified music shall be played within the boundary of the site.

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

08. Restricted use

The development hereby permitted shall only be used for the preparation and cooking of pizza and associated foods. All cooking shall be undertaken using a gas fired oven only as outlined in section 3.1 of the submitted Design and Access statement and demonstrated on the submitted plan MELT21001-4.

09. Removal of Container

When the container hereby permitted is no longer required or becomes obsolete, it shall be removed, and the ground restored to an appropriate condition in accordance with a scheme of work submitted to and approved by the Local Planning Authority prior to the container's removal.

Reason: In the interest of preserving the character of the area.

10. No Storage on the Container Roof

No materials, goods or other items shall be stored on top of the container hereby approved at any time.

Reason: To ensure a satisfactory visual appearance in the interest of the amenities of the area and in the interests of safety.

11. No Noise or Vibration Emitting Equipment

No additional equipment that may result in noise or vibration (such as additional fume extraction or power generators) shall be used on site until specific details of the equipment have been submitted to and approved in writing by the Local Planning Authority. The equipment shall be implemented in accordance with the agreed details thereafter retained as approved.

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

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design

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

SDP1 Quality of Development

SDP4 Development Access

SDP5 Parking

SDP7 Urban Design Context

SDP9 Scale, Massing & Appearance

SDP16 Noise

REI7 Food and Drink Uses (Classes A3, A4 and A5)

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2021)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Relevant Planning History

Case Ref	Proposal	Decision	Date
945/23	ALTERATIONS TO HOTEL - Unconditionally Approved		23.03.1950
1011/BB	Erection of additional Petrol Pumps.	Conditionally Approved	10.02.1953
1015/BB	Petrol pumps		16.04.1953
1329/26	Alterations to garage		10.05.1967
1356/P46	Paraffin vending machine	Conditionally Approved	24.09.1968
1471/E6	Elevational alterations and toilets Appeal withdrawn	Application Refused	19.02.1974
1478/E11	Section 53 determination		13.08.1974
1480/E20	Use of public house and hotel to include Music and dancing	Application Refused	05.11.1974
891282/EA	Illuminated gantry sign 'q8'	Conditionally Approved	03.11.1989

Application 21/00708/FUL**APPENDIX 3**

Planning restrictions on hours of opening for food and drink uses within the vicinity of the application site.

Planning Application	Address	Permitted Hours
19/01317/FUL	7 Cobden Avenue	Monday to Sunday and recognised public holidays – 9am to 11pm
941133/E	5 Cobden Avenue	No planning restrictions
981219/E	3 Cobden Avenue	10am to 11pm Monday to Saturday. 10am to 10pm Sundays and Public Holidays
01/00920/FUL	1 Cobden Avenue	8am – 11pm Mondays to Saturdays and 9am – 10pm on Sundays.
20/00802/FUL	1 Manor Farm Road	Monday to Sunday and recognised public holidays 9am to 11.30pm
1500/E14	3 Manor Farm Road	8am to 11.30pm Monday to Saturday, 8am to 11pm on all other days.
13/00335/FUL	7 Manor Farm Road	Daily 11am to 11pm hours (Outside seating area 11.00 hours to 22.45 hours, permission 15/01069/FUL)
930955/E	13 Manor Farm Road	8am to 9pm Monday to Saturday, 8am to 5pm Sundays
870819/E	18 Manor Farm Road	11am to 11pm Monday to Thursday, 11am to 11.30 pm Fridays and Saturdays, No time on Sundays or Bank Holidays
09/00859/FUL	33 Manor Farm Road	7.30am to 10pm Monday to Saturday 11am to 10pm Sunday and recognised public holidays