

# Planning and Rights of Way Panel

Tuesday, 23rd November,  
2021

at 4.00 pm

**PLEASE NOTE TIME OF MEETING**

Council Chamber - Civic Centre

This meeting is open to the public

## **Members**

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

## **Contacts**

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Interim Head of Planning and Economic  
Development  
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## **PUBLIC INFORMATION**

### **ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL**

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

### **PUBLIC REPRESENTATIONS**

Procedure / Public Representations

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

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

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

### **Dates of Meetings: Municipal Year 2020/2021**

| <b>2021</b> |              |
|-------------|--------------|
| 1 June      | 21 September |
| 22 June     | 12 October   |
| 13 July     | 2 November   |
| 3 August    | 23 November  |
| 24 August   | 14 December  |

**SMOKING POLICY** – The Council operates a no-smoking policy in all civic buildings

**MOBILE TELEPHONES:-** Please switch your mobile telephones to silent whilst in the meeting

**USE OF SOCIAL MEDIA:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting. By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

**FIRE PROCEDURE** – In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**ACCESS** – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

| <b>2022</b> |          |
|-------------|----------|
| 25 January  | 29 March |
| 15 February | 26 April |
| 8 March     |          |

## CONDUCT OF MEETING

### TERMS OF REFERENCE

The terms of reference of the Planning and Rights of Way Panel are contained in Part 3 (Schedule 2) of the Council's Constitution

### BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

### RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:  
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
  - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
  - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **OTHER INTERESTS**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

- Any body to which they have been appointed or nominated by Southampton City Council
- Any public authority or body exercising functions of a public nature
- Any body directed to charitable purposes
- Any body whose principal purpose includes the influence of public opinion or policy

## **PRINCIPLES OF DECISION MAKING**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.



## AGENDA

### 1 **APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

#### PLEASE NOTE

This meeting is being held adhering the public health guidance necessary precautions to try and combat the spread of Covid, complying with Covid social distancing requirements.

Space is limited and whilst ever effort is being taken to ensure there is enough room it would be helpful if you could register in advance especially if you wish to address the meeting.

The online agenda has a link so that you will be able to watch the meeting virtually.

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

### 2 **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### 3 **STATEMENT FROM THE CHAIR**

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

To approve and sign as a correct record the Minutes of the meetings held on 2 November 2021 and to deal with any matters arising.

## CONSIDERATION OF PLANNING APPLICATIONS

### 5 **PLANNING APPLICATION - 21/01027/FUL - 140 ABOVE BAR (UNIT 5)** (Pages 13 - 52)

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

### 6 **PLANNING APPLICATION - 21/01285/FUL - 243 PORTSWOOD ROAD** (Pages 53 - 66)

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

**7 DEVELOPMENT MANAGEMENT PERFORMANCE** (Pages 67 - 70)

Report of the Interim Head of Planning and Economic Development detailing performance.

Monday, 15 November 2021

Service Director – Legal and Business Operations

# Agenda Annex

## COVID – 19 MEETING PROTOCOL – COUNCIL CHAMBER

### GENERAL POINTS FOR ALL IN ATTENDANCE

- All attendees are strongly encouraged to undertake the free Covid-19 lateral flow test within 24 hours prior to attendance at any meetings available from <https://www.gov.uk/order-coronavirus-rapid-lateral-flow-tests>
- If you are experiencing COVID-19 symptoms, have tested positive for COVID-19, or are self-isolating you must not attend the meeting.
- We advise that you should not attend the event if you are a close contact of a positive case even when exempt from self-isolation, in order to protect other people who may be vulnerable
- Please consider in advance how you will safely travel to and from the meeting. Walking or cycling recommended where possible
- Hand Sanitising points will be available on entry and exit to the venue.
- Consideration should be given to the wearing of face coverings to reduce the risk to individuals and others. Face coverings in crowded enclosed spaces are expected and recommended.
- Identified seating plan will be devised that allows for space between seats. Side to side seating advised rather than face to face seating where possible.
- You will be responsible for your own refreshments while in attendance at the meeting.
- There should be no unnecessary movement around the meeting room.
- There should be no sharing of stationery, documents or other equipment. We request that attendees do not adjust any ventilation settings in the room or close windows that have been left open

### COUNCILLORS AND OFFICERS

- All Councillors and Officers attending the meeting are strongly encouraged to take a staggered approach to arrival/departure and avoid any socialising and mixing before or after the meeting.
- A seating plan will ensure safe social distancing and seating will be labelled accordingly.
- Consideration should be given to the wearing face coverings, especially if attendees are coming into close contact with people they do not usually meet. Face coverings in crowded enclosed spaces are expected and recommended.
- Microphones in the Council Chamber are free standing, there is no requirement for these to be shared or passed around.

### PUBLIC/MEDIA ATTENDANCE

- Public and Media attendees are encouraged to please provide some advance notice of their intention to attend the meeting by contacting [democratic.services@southampton.gov.uk](mailto:democratic.services@southampton.gov.uk) or by telephoning 023 8083 2390 as we may need to review the venue to ensure we can facilitate a covid-safe meeting.
- There will be clearly defined seating areas for members of the public and media.
- Consideration should be given to the wearing face coverings, especially if attendees are coming into close contact with people they do not usually meet. Face coverings in crowded enclosed spaces are expected and recommended.
- Members of the public/media wishing to attend the council chamber for particular agenda items will be escorted in and out of the council chamber by a member of council staff.

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

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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 2 NOVEMBER 2021

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

Apologies: Councillors Vaughan

36. **APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

It was noted that following receipt of the temporary resignation of Councillor Vaughan from the Panel, the Service Director, Legal and Business Operations acting under delegated powers, had appointed Councillor Laurent to replace them for the purposes of this meeting.

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

**RESOLVED:** that the minutes for the Panel meeting on 12 October 2021 be approved and signed as a correct record.

38. **PLANNING APPLICATION - 21/00915/FUL - FORMER FORDS, WIDE LANE**

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

Re-development of the site to erect four industrial units with associated parking (flexible use Class E (g)(iii), B2 (General Industrial) and/B8 (Storage or distribution)) following demolition of the existing buildings.

Alan Matlock, David Key and Julian Temple (local residents/ objecting), James Hicks (agent), and Councillor Fielker (ward councillor) were present and with the consent of the Chair, addressed the meeting. In addition the Panel acknowledged the submission of further information from both Alan Matlock and David Key and noted that this had been posted online.

The presenting officer reported that the Public Art clause in the proposed S106 agreement needed to be removed as the new commercial floor space was below the threshold targets with planning obligations. It was noted that reference to building recording as mitigation within the Reason for granting permission and at paragraphs 5.8 and 7.1 should be amended and changed to confirm that building recording is record evidence of the past but is not a determining factor in the loss of this non-designated heritage asset. Additionally the presenting officer noted that the reason for granting permission also needed to be adjusted to reflect the low degree of significance attached to the building in heritage terms, as set out below.

The Panel then considered the recommendation to delegate authority to the Head of Planning and Economic Development to grant planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to grant planning permission.

FOR: Councillors L Harris, Prior, Coombs, Laurent, Magee, Windle

AGAINST: Councillor Savage

**RESOLVED** that the Panel:

1. Delegated authority to the Delegate to the Head of Planning & Economic Development to grant planning permission subject to criteria listed in report to grant conditional planning permission subject to the completion of a S.106 Legal Agreement to secure:
  - a. Either a s.278 Agreement to undertake agreed works within the highway or a financial contribution and other highway obligations, including Traffic Regulation Orders, where necessary, towards site specific transport improvements in the vicinity of the site in line with policies SDP4 and TI2 of the City of Southampton Local Plan Review (as amended 2015), Policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013) to include: Contributions toward bus priority within the traffic signals at Wide Lane, to mitigate the impact on capacity to what is a high frequency bus route to the University and City Centre; and contribution toward low-level cycle lights, dropped kerbs and Advanced Stop Line on the Mountpark exit arm to improve overall and in particular cycle safety.
  - b. An off-site contribution towards sustainable travel improvements on Hampshire County Council Road network, within the vicinity of the site. Contribution towards the design and improvement works at Spitfire Roundabout, Wide Lane Bridge and Wide Lane/A335 Roundabout, in line with policies SDP4 and TI2 of the City of Southampton Local Plan Review (as amended 2015), Policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
  - c. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
  - d. Submission of a Training & Employment Management Plan committing to adopting local labour and employment initiatives, both during and post construction, in accordance with Policies CS24 and CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
  - e. Submission of a Training & Employment Management Plan committing to adopting local labour and employment initiatives, both during and post construction, in accordance with Policies CS24 and CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
  - f. Submission and implementation of a Construction Traffic Management Plan;
  - g. Submission and implementation of an Operational Phase Lorry Routing Agreement to limit HGV traffic turning left out of the site; and
  - h. Submission and implementation of a Staff Travel Plan.

2. Delegated authority to the Head of Planning and Economic Development be given powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.
3. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Planning & Economic Development be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

### **Reason for granting Permission (Amended wording)**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations 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 loss of the utilitarian Flight Shed as a non-designated heritage asset would represent 'less than substantial harm' due to the low degree of significance attached to the building in heritage terms. Mitigation for the loss of this non-designated heritage asset has been secured with heritage interpretation boards to be installed. The development will bring this vacant site back into use and would accord with the site employment allocation and would be in keeping with the character and appearance of the adjacent Mountpark. Furthermore it has been demonstrated that the development will not have an adverse impact on highway safety or in terms of capacity within the surrounding highway network. 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).

### 39. **PLANNING APPLICATION - 20/00182/FUL - 289 SHIRLEY ROAD**

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

Change of use to Sui Generis (Drinking establishment). Erection of decking and balustrading to the front and lean to side extension (Retrospective)

Greg Clerk (local residents objecting), Attal Mihanpoor (applicant) and Councillor Shields (ward councillors/objecting) were present and with the consent of the Chair, addressed the meeting. In addition, the Panel acknowledged the submission of Statements from both Martyn Biffin and Cevin Vibert and noted that this had been posted online.

The presenting officer reported further consultation responses from Hampshire Constabulary, City Council Licensing and Environmental Health departments had been received and that as a result a further condition: to remove the picnic tables located on the area of land on the applicant's land and the Lumsden Road pavement would be required as set out below.

The Panel expressed concern over the potential of outdoor noise and queried whether the restriction on outdoor noise sources included the lean-to extension. Officers confirmed that it did, however for completeness Condition 5 has been updated as below

In addition, the Panel discussed the need for the property to have a boundary treatment condition that would restrict access to the bar from Lumsden Avenue. Upon being put to the vote the Panel unanimously agreed to delegate to officers to agree a satisfactory boundary treatment that would restrict access and prevent potential public order issues by spilling onto the public highway, as set out below.

The Panel then considered the recommendation with the amended and additional conditions to grant planning permission. Upon being put to the vote the recommendation was carried unanimously.

**RESOLVED** that planning permission be approved subject to the conditions set out within the report and any additional or amended conditions set out below:

#### **5. NO SOUND AMPLIFICATION SYSTEMS**

No sound amplification systems that is audible from outside the building (including the lean to extension) shall be operated unless a noise assessment has been submitted to and approved by the Local Planning Authority, and any noise mitigation measures required have been installed in accordance with the approved details. Any such mitigation shall be installed within a timeframe first agreed by the Local Planning Authority and retained thereafter for the lifetime of the development

REASON: To ensure the amenities of nearby residents and businesses are not harmed.

#### **6. REMOVAL OF PICNIC TABLES AND ADDITION BOUNDARY TREATMENT – Additional Submissions Required**

Within one month from the date of this consent the picnic tables located on the applicant's land between the pavement of Lumsden Avenue and the side shelter hereby approved shall be removed from the site in accordance with amended plan ref 'Rios – Rev B' received 01/11/2021. The applicant's land between the pavement of Lumsden Avenue and the side shelter hereby approved shall, thereafter, be kept free from seating for the lifetime of the development.

Furthermore, details of a new boundary treatment to the back of Lumsden Avenue pavement shall be submitted in writing to the Local Planning Authority within one month from the date of this decision notice. The submission shall include details of design, materials, height, landscaping and construction. Once approved in writing by the Local Planning Authority the new boundary treatment shall be installed within one month of that approval and shall thereafter be retained in accordance with approved details. Once approved no additional fencing shall be erected.

REASON: In the interests of visual amenity, neighbour amenity and preventing anti-social behaviour; whilst limiting the ability for noise and disturbance arising and spilling onto the public highway by users of the open land between the building and Lumsden Avenue itself.





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**INDEX OF PLANNING APPLICATIONS FOR DECISION**  
**DATE: 23<sup>rd</sup> November 2021 - 4pm Venue Council Chamber**

**PLEASE NOTE:**

Public Health guidelines have unfortunately limited the numbers of seats available.

Timings are estimated Members of public are advised to attend in advance of these estimated timings. Members of public are advised to arrive in good time allowing for potential variation to the timings.

Members of public wishing to speak must register in advance with the Panel clerk by emailing [democratic.services@southampton.gov.uk](mailto:democratic.services@southampton.gov.uk)

| Main Agenda Item Number                                   | Officer | Recommendation | PSA | Application Number / Site Address      |
|-----------------------------------------------------------|---------|----------------|-----|----------------------------------------|
| <b>Application will NOT be considered at this meeting</b> |         |                |     |                                        |
| 5                                                         | AC      | CAP            | 5   | 21/01027/FUL<br>140 Above Bar (Unit 5) |
| <b>Application will be heard from approximately 16:00</b> |         |                |     |                                        |
| 6                                                         | AC      | CAP            | 5   | 21/01285/FUL<br>243 Portswood Rd       |
|                                                           |         |                |     |                                        |

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

Case Officers:

AC – Anna Coombes

MT – Ma

## **Southampton City Council - Planning and Rights of Way Panel**

### **Report of Service Lead – Planning, Infrastructure & Development**

#### **Local Government (Access to Information) Act 1985**

#### **Index of Documents referred to in the preparation of reports on Planning Applications:**

##### **Background Papers**

1. **Documents specifically related to the application**
  - (a) Application forms, plans, supporting documents, reports and covering letters
  - (b) Relevant planning history
  - (c) Response to consultation requests
  - (d) Representations made by interested parties
  
2. **Statutory Plans**
  - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Plan (Adopted 2013)
  - (b) Amended City of Southampton Local Plan Review (Adopted March 2015)
  - (c) Connected Southampton 2040 Transport Strategy (LTP4) adopted 2019.
  - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
  - (e) Adopted City Centre Action Plan (2015)
  - (f) Community Infrastructure Levy Charging Schedule (2013)
  - (g) Bassett Neighbourhood Plan (Adopted 2016)
  
3. **Statutory Plans in Preparation**
  
4. **Policies and Briefs published and adopted by Southampton City Council**
  - (a) Old Town Development Strategy (2004)
  - (b) Public Art Strategy
  - (c) North South Spine Strategy (2004)
  - (d) Southampton City Centre Development Design Guide (2004)
  - (e) Streetscape Manual (2005)
  - (f) Residential Design Guide (2006)
  - (g) Developer Contributions SPD (September 2013)
  - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
  - (i) Women in the Planned Environment (1994)
  - (j) Advertisement Control Brief and Strategy (1991)
  - (k) Biodiversity Action Plan (2009)
  - (l) Economic Development Strategy (1996)
  - (m) Test Lane (1984)

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

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

## 5. Documents relating to Highways and Traffic

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

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

6. Government Policy Planning Advice

- (a) National Planning Policy Framework (February 2019)
- (b) National Planning Policy Guidance Suite

7. Other Published Documents

- (a) Planning for Daylight and Sunlight - DOE
- (b) Coast and Countryside Conservation Policy - HCC
- (c) The influence of trees on house foundations in clay soils - BREDK
- (d) Survey and Analysis - Landscape and Development HCC
- (e) Root Damage to Trees - siting of dwellings and special precautions – Practice Note 3 NHDC
- (f) Shopping Policies in South Hampshire - HCC
- (g) Buildings at Risk Register SCC (1998)
- (h) Southampton City Safety Audit (1998)
- (i) Urban Capacity Study 2005 – 2011 (March 2006)
- (j) Strategic Housing Land Availability Assessment (March 2013)

**Planning and Rights of Way Panel 23<sup>rd</sup> November 2021**  
**Planning Application Report of the Head of Planning & Economic Development**

|                                                                                                                                                                                                                                                                         |                                                      |                              |                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------|----------------------------------------------|
| <b>Application address:</b> Unit 5, 140 Above Bar Street, Southampton                                                                                                                                                                                                   |                                                      |                              |                                              |
| <b>Proposed development:</b> Variation of condition 21 of planning permission ref 13/00593/FUL sought to extend opening/closing hours for Unit 5, 140 Above Bar Street only (Departure from Local Plan) (amended after validation to amend hours and specify departure) |                                                      |                              |                                              |
| <b>Application number:</b>                                                                                                                                                                                                                                              | 21/01027/FUL                                         | <b>Application type:</b>     | FUL                                          |
| <b>Case officer:</b>                                                                                                                                                                                                                                                    | Anna Coombes                                         | <b>Public speaking time:</b> | 5 minutes                                    |
| <b>Last date for determination:</b>                                                                                                                                                                                                                                     | Extension of time:<br>30.11.2021                     | <b>Ward:</b>                 | Bargate                                      |
| <b>Reason for Panel Referral:</b>                                                                                                                                                                                                                                       | Five or more letters of objection have been received | <b>Ward Councillors:</b>     | Cllr S Bogle<br>Cllr J Noon<br>Cllr D Paffey |
| <b>Referred to Panel by:</b>                                                                                                                                                                                                                                            | N/A                                                  | <b>Reason:</b>               | N/A                                          |
| <b>Applicant:</b> Gin and Bars and Restaurants Southampton Limited, Mr Anthony Ferreira                                                                                                                                                                                 |                                                      | <b>Agent:</b> N/A            |                                              |

|                               |                                         |
|-------------------------------|-----------------------------------------|
| <b>Recommendation Summary</b> | <b>Vary &amp; 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 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).

|                          |                                  |   |                                    |
|--------------------------|----------------------------------|---|------------------------------------|
| <b>Appendix attached</b> |                                  |   |                                    |
| 1                        | Development Plan Policies        | 2 | Relevant Planning History          |
| 3                        | Decision Notice for 13/00593/FUL | 4 | Premises Licence 2021/01665/01SPRN |

## Recommendation in Full

- i) Refuse application request for the following extended hour to 2pm on Fridays and Saturdays as contrary to CCAP Policy AP8 and the reasons set out in this report including concerns around precedent:

|                       |                           |
|-----------------------|---------------------------|
| Sunday – Wednesday    | 07:00am to 12:00am        |
| Thursdays             | 07:00am to 01:00am        |
| Fridays and Saturdays | 07:00am to <b>02:00am</b> |

and

- ii) Conditionally approve application but with amended reduced hours that enable the premises to trade in line with CCAP Policy AP8 whilst the applicant considers an appeal in respect of their required hours:

|                     |                    |
|---------------------|--------------------|
| Sunday – Wednesday  | 07:00am to 12:00am |
| Thursday - Saturday | 07:00am to 01:00am |

### 1. The site and its context

- 1.1 The application site comprises a central ground floor commercial unit within the large purpose-built, mixed-use building at the corner of Above Bar Street and Guildhall Place, which forms one of a pair of buildings referred to as the Arts Complex. The plot lies within the Civic Centre / Guildhall Square designated evening zone within the City Centre boundary. The previous tenant, Neighbourhood bar and restaurant, vacated the unit in 2019 and a new lease has been taken up by the Applicant, intending to open as Gin and Olive Bar and Restaurant.
- 1.2 The application unit has commercial units to either side at ground floor: John Hansard Gallery to the North, and a further bar and restaurant unit to the South (formerly The Stable). First floor level, immediately above the application unit, comprises further gallery space for John Hansard Gallery and offices and studios for City Eye.
- 1.3 From second floor level and above, the building comprises residential flats which have a dedicated ground floor entrance from the rear of the building and a sunken central communal roof garden at second floor.
- 1.4 The original permission for the Arts Complex was granted on 27<sup>th</sup> August 2013 under reference 13/00593/FUL (copy attached as **Appendix 3**), which included the following condition restricting the opening hours of the food and drink uses:
- 1.5 *Condition 21 - Hours of Use - food/drink establishments*  
*The food and drink uses / drinking establishments 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 hours of 0700 to midnight on any day.*  
*Reason: To protect the amenities of the occupiers of existing nearby residential properties.*



## 2. Proposal

2.1 This application seeks planning permission to vary condition 21 of the original permission 13/00593/FUL in relation to Unit 5 only, to extend the permitted night-time opening hours until 1am on Thursdays and until 2am on Fridays and Saturdays. This is intended to bring the planning permission in line with the night-time opening hours of the recently granted premises licence ref: 2021/01665/01SPRN (a copy of which is attached as **Appendix 4**).

2.2 The Premises Licence granted opening hours as follows (with all licensable activities to cease 30 minutes before closing times):

|                       |                    |
|-----------------------|--------------------|
| Sunday – Wednesday    | 10:00am to 12:00am |
| Thursdays             | 10:00am to 01:00am |
| Fridays and Saturdays | 10:00am to 02:00am |

2.3 The application form under this current planning application originally requested night-time opening until 2:30am each day. Following discussion, the proposed opening hours were amended to match the terminal hours of the Premises Licence and the hours requested by the Applicant are now as follows:

|                       |                    |
|-----------------------|--------------------|
| Sunday – Wednesday    | 07:00am to 12:00am |
| Thursdays             | 07:00am to 01:00am |
| Fridays and Saturdays | 07:00am to 02:00am |

2.4 The requested amended hours include additional notes regarding Bank Holidays, New Year's Eve and days affected by Greenwich Meantime changes, as granted by the premises licence:

*The day preceding a bank holiday an additional hour will be added to the closing time. New Years Eve the permitted hours are extended until the permitted hours of the following day. On the morning which Greenwich Mean Time changes to British Summer Time an additional hour will be added to the closing time.*

2.5 A full round of public re-consultation was carried out following receipt of the amended hours and new description.

2.6 Following further review of existing planning consents within the Cultural Quarter, and in light of the more limited scope of considerations under the Premises Licensing application process, Officers are now recommending a further reduction to the proposed terminal hour on Fridays and Saturdays, to finish at 1:00am. This would ensure that the hours do not conflict with the requirements of policy AP8 of the City Centre Action Plan. The officer-recommended condition for opening hours has therefore set the following hours:

Sunday – Wednesday      07:00am to 12:00am  
Thursday - Saturday      07:00am to 01:00am

### **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 The most relevant and recent application relating to the premises was the original planning permission for the Arts Complex granted in 2013 under reference 13/00593/FUL, which included Condition 21 restricting opening hours, as outlined further above.

4.3 Since that original permission, an application for a non-material amendment to vary Condition 21 relating to the trading hours for Tapas Barcelona within the northern block of the Arts Complex (now operating as Grumpy Monkey) was granted under reference 17/00228/NMA on 16.03.2017. The effect of this permission was to extend the evening opening hours of that unit until 1am from Monday through to Saturday.

4.4 An application to vary the permitted opening hours of Turtle Bay, opposite the application site, was also granted permission in 2017 under reference 17/01103/FUL. This permission had the effect of extending the opening hours of Turtle Bay until 12:30am Sunday to Thursday and 1am Friday to Saturday.

4.5 The applicant has been granted a premises licence by the Council’s Licensing Committee for the proposed opening hours under reference: 2021/01665/01SPRN. Prior to this, they applied for a premises licence for later opening hours of 2am Sunday to Thursday and 4am Friday – Saturday under ref: 2021/00928/01SPRN. This earlier application was withdrawn due to objections.

## **5. Consultation Responses and Notification Representations**

5.1 Following the receipt of the planning application, publicity exercises in line with department procedures were undertaken which included notifying adjoining and nearby landowners, erecting a site notice on 20.07.2021 and 20.10.2021, and an advert in the Hampshire Independent on 22.10.2021. At the time of writing this report, **7 representations** have been received from surrounding residents (one of which is a second comment from the same person). The following is a summary of the points raised:

5.2 Objection to further extension of the proposed opening hours beyond those granted by the recent premises license. Request that the opening hours proposed under this planning application mirror the granted licensing hours.

### **Response**

**Agreed. The application has since been amended in line with these comments. The Applicant is now requesting night-time opening hours to mirror those granted by the premises license, although officers are recommending a further reduction to no later than 1am.**

5.3 Objection to proposed amended hours is sustained, even when matched to the licencing hours. The Licensing committee did not take full consideration of the planning permission or building constraints.

### **Response**

**Officers have assessed this application on its own merits below and have suggested a further reduction in the proposed opening hours to no later than 1am in the recommended conditions, in line with policy AP8. It is also noted that the Environmental Health Officer has no objection to the proposed amended hours or those applied by officers, subject to suitable conditions to mitigate potential adverse impacts.**

5.4 Whilst not happy with the weekend opening hours, commenters recognise that it is a compromise in city living.

### **Response**

**The Council also recognise there is a delicate balance to be struck on City Centre sites that were designed as mixed-use buildings. This is discussed in more detail in Section 6 below.**

- 5.5 The noise and disturbance caused by customers leaving at 2:30am on any day of the week would be significantly harmful to residents, affecting sleep and quality of life for residents above. WHO data suggests there is potential harm from background noise above 30dB. The Applicant stated during the licensing committee meeting that the sound system would be limited to 110dB which is excessive. Additional sound from customers cannot be controlled. The soundproofing of 1m thick concrete ceiling is not sufficient, due to vibration noise transfer.

**Response**

The proposed hours have since been amended by the Applicant and officers are recommending a further reduction, in line with policy AP8. The impact of noise and disturbance on local residents is discussed further below in Section 6. The original development was built in accordance with recommendations from a Noise Impact Assessment, which assessed potential noise impacts on residential flats from second floor and above. It is also noted that noise nuisance can be controlled by way of Environmental Health legislation and the Council's Environmental Health Officer has no objection to the amended hours subject to suitable conditions, one of which refers to using appropriate speaker mounts to reduce vibration.

- 5.6 The kitchens do not appear sufficient to feed the proposed numbers. The Applicant wants night club hours together with the noise and disturbance this entails. This is a drinking establishment, rather than a restaurant, which the original planning permission sought to limit to no more than 2x A4 drinking establishment uses.

**Response**

This is correct in that the original planning permission 13/00593/FUL allows for food and drink uses here, but included a condition to limit the number of Class A4 drinking establishments to no more than 2 (Condition 22 of the original permission). Whilst the proposed use of the unit is not under consideration in this application, Officers note that the level of food service provided is sufficient to satisfy the Council that the proposed use would not fall within the former Use Class A4. If the level of food provision changes, then this would be investigated further by the Council's Planning Enforcement team. The impact on residential amenity from the opening hours is a material consideration, which will be discussed below in Section 6.

- 5.7 The application states the later hours are in line with other restaurants and bars in the immediate vicinity. This is not true, for example The Stable immediately next door closes at 10pm weeknights and 11pm Friday – Saturday.

**Response**

**The original permission for the building currently allows for future occupiers of neighbouring Unit 6, formerly The Stable, to open until 12am every day. The night-time opening hours of surrounding uses have been considered in Section 6 below.**

#### **5.8 Consultation Responses**

##### **Cllr Bogle**

Objection. This is not in line with the overall policy on late-night opening in this area (close to a cumulative impact area for licensing purposes) and will directly impact on the residents above and behind on Park Walk.

##### **Response**

**The Licensing Cumulative Impact Area and impact on residential neighbours are discussed in Section 6 below.**

#### **5.9 Environmental Health**

Updated comments following amended hours:

The reduced hours mean there is less time for potential disturbance and evidently in the early hours. The revised hours are an improvement and I think for a city centre are reasonable. The key will be in their management of the business as to minimise disturbance from music, impact and voices. If they keep doors and windows closed except for access and egress and they ensure that any speakers are mounted such that they are separated by buffers from the structure and keep music at a level that it is not audible at nuisance level in the nearest noise sensitive premises that should suffice. Management of any queues, smokers and persons leaving also needs to be included in their management plan. Bottles and other refuse need to be emptied with doors to the bins store closed if safe to do so or be left until the next day.

Original comments:

Environmental Health believe that these hours are excessive due to the site location adjacent to residential premises. Despite this site being in the city centre the potential for noise nuisance from specific business activities needs to be minimised. This needs to include not only during operating hours, but also servicing of the business for e.g., deliveries. If the application is granted conditions are recommended for restriction on hours for deliveries and other servicing; noise not to be audible at nuisance level at the boundary of the nearest noise sensitive premises; no bottles or glass to be disposed of externally between 21.00 and 09.00 hours.

##### **Response**

**The suggested conditions have been included with the recommended conditions at the end of this report.**

## 5.10 **Crime Prevention Design Consultant**

No further comments to make with reference to crime prevention.

## 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;

### 6.2 **Principle of Development**

6.2.1 The application site is positioned within the Cultural Quarter, within a designated evening zone in the City Centre. Policy AP8 of the City Centre Action Plan sets a latest opening time of 1am for this evening zone, which encompasses the Civic Centre area, Cultural Quarter and Guildhall Square, in recognition of its location within the Cumulative Impact Policy Area for licensing applications. Exceptions may be considered within the Cultural Quarter itself, however this is subject to appropriate assessment of the impact of the proposed hours on residential amenity.

6.2.2 The Licensing committee assessed an application for later opening hours (the same as currently proposed, including until 2am Fridays and Saturdays) and found that the hours were acceptable (premises license application ref: 2021/01665/01SPRN). This Licensing application underwent public consultation with a public hearing, but considers different issues to Planning and can run independently meaning that some premises will have conflicting Planning & Licensing approvals with enforcement possible through the relevant legislation that imposed the restrictions..

6.2.3 Notwithstanding this, this current planning application for extension to the current opening hours has been assessed on its own merits in terms of material planning considerations and in accordance with policy AP8. Whilst we recognise that the Premises Licence granted opening hours of up to 2:00am on Fridays and Saturdays, the planning system gives more significant weight to consideration of potential impacts on residential amenity than the licensing application procedure.

6.2.4 Policy REI7 of the Local Plan considers the approval of food and drink uses in city, town, district and local centres. Whilst the use of this unit is not currently under consideration, as the use was granted permission under the original 2013 permission, it is noted that policy REI7 does seek appropriate planning conditions to prevent undue nuisance from noise or other sources, including the installation of noise attenuation measures to protect the amenity of neighbouring residents.

6.2.5 The original 2013 planning permission for the Arts Complex ref. 13/00593/FUL considered the impact on residential flats further above and

noise attenuation measures from the Environmental Noise Assessment were incorporated into the development design. Considering this, along with the officer-recommended reduction in proposed hours to no later than 1am, and the additional conditions suggested by the Council's Environmental Health Officer above, officers find that the amended hours proposed can be sufficiently mitigated through suitable conditions, in compliance with policies REI7 and AP8.

### 6.3 Design and effect on character

6.3.1 Policy AP8 establishes that evening uses opening until 1am are acceptable in this designated evening zone, subject to any adverse impact on the amenities of neighbouring residential premises by reason of noise and disturbance being considered. If the proposed extended opening hours are limited to no later than 1am, in line with policy AP8, and subject to further conditions as recommended at the end of this report, the proposal would not cause harm to the character and visual appearance of the area, subject to further mitigation and assessment below.

### 6.4 Residential amenity

6.4.1 It is acknowledged that the later operation of the premises may contribute to noise disturbance (both during operations and as patrons disperse later into the morning), which is a concern for neighbouring residents, however it is also noted that policy REI7 advocates the use of planning conditions and sound insulation measures in these instances, in order to protect the amenity of local residents. The Council's Environmental Health Officer considers the amended hours reasonable for this City Centre location and have raised no objection to the amended hours, subject to suitable conditions to minimise the potential for noise nuisance. Officers also recommend reducing the proposed opening hours to no later than 1am on Fridays and Saturdays. Suggested conditions include the requirement of a management plan; restrictions on deliveries, servicing and glass disposal; anti-vibration mountings for speakers, and limitation of noise so as not to be audible at nuisance level at the boundary of the nearest noise sensitive premises.

6.4.2 The original planning consent for the Arts Complex in 2013 (ref: 13/00593/FUL) took consideration of the noise impacts on the residential uses within the scheme. The approved Environmental Noise Assessment under that permission found the location of residential uses at second floor and above was appropriate in this City Centre location and recommended that standard double glazing be fitted to residential windows. The Applicant's statement includes a letter from the building management company Platinum Property Solutions which confirms that residential units facing Guildhall Square have actually been fitted with triple glazing to improve acoustic insulation, and we note the intervening floor of offices and gallery space at first floor, forming a further buffer between the ground floor units and the nearest residential units at second floor.

6.4.3 It is noted that AP8 and the Licensing Cumulative Impact Policy provide an exception for licences granted within the Cultural Quarter, allowing for applications for extended hours to be assessed on their own merits, however the intention of this is to support late night uses falling within the definition of cultural uses. It is not intended for food and drink uses. A more detailed review of opening hours and planning consents granted within the immediate area show that opening hours until 2am on Fridays and Saturdays, contrary to policy AP8, cannot be justified. A reduction in the hours to no later than 1am on Fridays and Saturdays is instead recommended. This would then be comparable to other late-opening bar/restaurants within the area including:

- Turtle Bay, 1 Guildhall Square  
(directly opposite the application site – 1am consented by ref: 17/01103/FUL)  
Sunday to Wednesday 11:30pm  
Thursdays 12:30am  
Fridays and Saturdays 1am
- Grumpy Monkey 144 Above Bar Street, Arts Complex North Block  
(35m North of the application site – 1am consented by ref: 17/00228/NMA)  
Sunday to Thursday 11pm  
Fridays and Saturdays 1am
- The Scholars Arms 166 Above Bar Street  
(73m North of the application site)  
Sunday – Thursday 11pm  
Fridays and Saturdays 1am
- O'Neills 130-132 Above Bar Street  
(25m to the South of the application site)  
Sunday to Monday 11pm  
Tuesday to Thursday 12am  
Fridays and Saturdays 1am
- Switch night club 127 Above Bar Street  
(50m to the South of the application site)  
Mondays, Tuesdays and Fridays 4am  
Saturdays 5am
- Revolucion de Cuba 123-125 Above Bar Street  
(100m to the South of the application site)  
Monday to Sunday 1am

6.4.4 The imposition of the recommended conditions including the reduction in hours to no later than 1am, would seek to mitigate noise and disturbance concerns from neighbouring 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.

6.4.5 The granted premises licence includes various conditions that the applicant must adhere to in order to comply with their licence. A copy of the premises licence is included at **Appendix 4**. These conditions include limiting the broadcast of music to inside the venue only; CCTV of public areas; a dispersal policy to remind customers to leave the premises quietly and music turned down in volume 30 minutes before closing; and regular cleaning of the pavement to prevent litter. In addition, the conditions include no emptying of bottles of glass outside between 9pm and 9am, closure of doors and windows during live music performances and limiting the sound level so that it is not audible at nuisance levels at the nearest noise sensitive property.

6.4.6 Subject to compliance with the recommended conditions to mitigate the concerns of neighbouring occupiers in terms of noise and disturbance, and subject to the officer-recommended reduction in hours to no later than 1am, the following opening hours are considered to be acceptable, meeting the requirements of saved Policy SDP1(i) in that they would not 'unacceptably affect the health, safety and amenity of the city and its citizens.':

Sunday – Wednesday 07:00am to 12:00am  
Thursday - Saturdays 07:00am to 01:00am

6.4.7 Finally, the Panel will note that if the applicants preferred hours were agreed it is entirely possible that other units in the Cultural Quarter will use this decision as a precedent against Policy AP8 and this could have cumulative impacts. On this basis the compromise is recommended as set out in the two part recommendation.

## 7. **Summary**

7.1 Subject to conditions to control the opening hours of the premises and further conditions including the requirement of a management plan; restrictions on deliveries, servicing and glass disposal; anti-vibration mountings for speakers, and limitation of noise so as not to be audible at nuisance level at the boundary of the nearest noise sensitive premises, the proposed hours would not give rise to further material harm in terms of noise and disturbance to neighbouring occupiers and the proposal 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) (f) 4.(f) (g) 6. (a) (b) 7. (a)

**Anna Coombes** PROW Panel 23/11/2021

## **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) – AMENDED HOURS

The development hereby approved shall not operate and no deliveries shall be received outside the following hours:

Sunday – Wednesday 07:00am to 12:00am

Thursday - Saturday 07:00am to 01:00am

The day preceding a bank holiday an additional hour will be added to the closing time. New Years Eve the permitted hours are extended until the permitted hours of the following day. On the morning which Greenwich Mean Time changes to British Summer Time an additional hour will be added to the closing time.

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

### 04. Management Plan

Within one month of the date of this consent, a management plan that includes details of management measures to control potential sources of noise and disturbance, shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall be implemented in accordance with the agreed details within one month of the details being approved and thereafter operated in accordance with the details approved.

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

### 05. Deliveries, servicing, and glass disposal.

No deliveries, servicing or external glass bottle disposal shall take place between the hours of 9:00pm and 09:00am (21:00 – 09:00).

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

06. Outdoor seating and external doors and windows

Use of the outdoor seating areas shall cease after 11:00pm (23:00) and all external doors and windows to the premises shall be kept shut from 11:00pm (23:00) onwards, except for access and egress to the premises.

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

07. Anti-vibration mountings

Prior to their first operation, all speakers or sound amplification equipment within the unit shall be fitted with anti-vibration mountings or anti-vibration pads to minimise the transfer of sound vibration.

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

08. External noise

Noise from the development hereby approved shall be controlled by the operators so as not to be audible at nuisance level at the boundary of the nearest noise sensitive premises.

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

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

|      |                        |
|------|------------------------|
| CS1  | City Centre Approach   |
| CS6  | Economic Growth        |
| CS13 | Fundamentals of Design |

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

|       |                                             |
|-------|---------------------------------------------|
| SDP1  | Quality of Development                      |
| SDP10 | Safety & Security                           |
| SDP11 | Accessibility & Movement                    |
| SDP16 | Noise                                       |
| REI7  | Food and Drink Uses (Classes A3, A4 and A5) |

City Centre Action Plan – (Adopted March 2015)

|      |                                  |
|------|----------------------------------|
| AP5  | Supporting existing retail areas |
| AP8  | The night-time economy           |
| AP16 | Design                           |

Supplementary Planning Guidance

Developer Contributions SPD (April 2013)

Other Relevant Guidance

The National Planning Policy Framework (2021)

**Application 21/01027/FUL**  
**APPENDIX 2**

**Relevant Planning History**

There is an extensive planning history for this site, so only the most recent and relevant records have been included below:

| <b>Case Ref</b> | <b>Proposal</b>                                                                                                                                                                                                                                                                                                                                                                                           | <b>Decision</b>        | <b>Date</b> |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-------------|
| 07/01686/FUL    | Redevelopment of the site. Demolition of the existing building and erection of new buildings ranging in height from 9-storeys to 18-storeys to provide new arts facilities, a new commercial unit (Class A1/A3) and 282 flats (46 studios, 106 x 1 bedroom, 126 x 2 bedroom and 4 x 3 bedroom flats) with associated parking and formation of a new street between Guildhall Square and East/Andrews Park | Withdrawn              | 07.09.2011  |
| 11/01074/FUL    | Erection of two buildings, one of which would be up to 10-storeys in height, to provide an arts complex incorporating two auditoria, gallery space etc; ground floor retail/restaurant/cafe/drinking establishments (Classes A1/A3/A4) and 29 flats (7 x one-bedroom, 15 x two-bedroom and 7 x three-bedroom) with underground parking of 33 spaces.                                                      | Conditionally Approved | 11.10.2012  |
| 11/01997/ADV    | Installation of 20m x 10m externally illuminated advertisement (temp 12 months)                                                                                                                                                                                                                                                                                                                           | Conditionally Approved | 07.02.2012  |
| 11/02008/ADV    | Installation of 5.25m tall pole mounted non illuminated sign.                                                                                                                                                                                                                                                                                                                                             | Conditionally Approved | 20.02.2012  |
| 12/01886/NMA    | Application for non-material amendment to planning permission 11/01074/FUL for amendments to window mullions, introduction of copping detail to terracotta, removal of CHP chimneys, change material south building lift overrun, increased plant louvres and car lift amended, change of material auditorium roofs.                                                                                      | Withdrawn              | 01.07.2013  |
| 13/00593/FUL    | Erection of two buildings, one of which would be up to 10-storeys in height, to provide an arts complex incorporating two auditoria, gallery space; ground floor retail/restaurant/cafe/drinking establishments (Classes A1/A3/A4) and 38 flats (5 x one-bedroom, 28 x two-bedroom and 5 x three-bedroom) with underground parking of 31 spaces. The development                                          | Conditionally Approved | 27.08.2013  |

|              |                                                                                                                                                                          |                        |            |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------|
|              | proposes the formation of a new street between Above Bar Street and Park Walk.                                                                                           |                        |            |
| 13/01547/DIS | Discharge of conditions 4 (archaeological investigation) and 9 (land contamination) of permission ref: 13/00593/FUL.                                                     | No Objection           | 12.11.2013 |
| 13/01596/DIS | Application for discharge of condition 13 (Construction Environment Management Plan) of permission ref: 13/00593/FUL.                                                    | No Objection           | 19.12.2013 |
| 13/01765/DIS | Application for approval of details reserved by condition 27 (protection of drainage apparatus) of permission ref: 13/00593/FUL.                                         | No Objection           | 03.01.2014 |
| 13/01827/DIS | Application for approval of details reserved by condition 14 (Foul and surface water drainage) of permission ref: 13/00593/FUL.                                          | No Objection           | 03.01.2014 |
| 13/01966/DIS | Application for approval of details reserved by Condition 2 (details of building materials to be used) of permission ref: 13/00593/FUL                                   | No Objection           | 08.01.2014 |
| 14/00027/DIS | Application for approval of details reserved by Condition 19 (Safety & Security) of permission ref: 13/00593/FUL.                                                        | No Objection           | 24.04.2014 |
| 14/00107/DIS | Application for approval of details reserved by Condition 25 (Details of Roof Top Services) of permission ref: 13/00593/FUL.                                             | No Objection           | 24.04.2014 |
| 14/00546/DIS | Application for approval of details reserved by Condition 05 (Archaeological Work Programme) of 13/00593/FUL                                                             | No Objection           | 06.01.2015 |
| 14/00623/DIS | Application for approval of details reserved by Condition 20 (Green Roof) of permission ref: 13/00593/FUL.                                                               | No Objection           | 28.08.2014 |
| 15/00816/FUL | Installation of new external seating area to front of building (submitted in conjunction with 15/00817/ADV)                                                              | Conditionally Approved | 02.07.2015 |
| 15/00817/ADV | Advertisement application for Installation of internally illuminated fascia sign, projecting sign and free standing menu totem sign (in conjunction with 15/00816/FUL)   | Conditionally Approved | 02.07.2015 |
| 15/01106/DIS | Application for approval of details reserved by Condition 24 (Details of lighting) of permission ref: 13/00593/FUL.                                                      | No Objection           | 16.07.2015 |
| 15/01419/FUL | Installation of 4 condenser units and plant equipment on roof                                                                                                            | Conditionally Approved | 10.09.2015 |
| 15/01515/DIS | Application for approval of details reserved by conditions 3 (Landscaping lighting and means of enclosure) and 26 (Public Realm Details) of permission ref: 13/00593/FUL | No Objection           | 29.03.2016 |
| 15/01556/ADV | Installation of 2 x internally illuminated fascia signs                                                                                                                  | Conditionally Approved | 07.09.2015 |

|                       |                                                                                                                                                                                                                                      |                        |            |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------|
| 15/01722/AD<br>V      | Internally illuminated fascia sign, and internally illuminated projecting sign.                                                                                                                                                      | Conditionally Approved | 19.10.2015 |
| 15/01804/AD<br>V      | Installation of 1x non-illuminated projecting sign, 1x internally illuminated menu case, 3x externally illuminated hanging signs and 1x non-illuminated entrance sign                                                                | Conditionally Approved | 20.10.2015 |
| 15/01954/AD<br>V      | Internally illuminated fascia sign, and internally illuminated projecting sign                                                                                                                                                       | Conditionally Approved | 02.11.2015 |
| 15/02474/AD<br>V      | Installation of 3x internally illuminated and 1x non illuminated signs, comprising 2x fascia signs, 1x projecting sign and 1x menu                                                                                                   | Conditionally Approved | 16.02.2016 |
| 16/00094/NM<br>A      | Non material amendment sought to planning permission ref 13/00593/FUL for a reduction in length of building at roof level, adjacent to Frog and Parrot public house                                                                  | No Objection           | 04.02.2016 |
| 16/00176/AD<br>V      | Installation of replacement fascia sign and a banner sign.                                                                                                                                                                           | Split decision         | 11.04.2016 |
| 16/00861/NM<br>A      | Non material amendment sought to planning permission 13/00593/FUL for relocation of short stay cycle parking.                                                                                                                        | No Objection           | 13.06.2016 |
| 17/00228/NM<br>A      | Non Material amendment sought to vary the approved trading hours for Tapas Barcelona approved under 13/00593/FUL (Condition 21) from 7am to Midnight to 7am - 1am (Mon-Sat) and 7am - Midnight (Sunday).                             | No Objection           | 16.03.2017 |
| 17/00496/DIS          | Application for approval of details reserved by condition 8 (sustainability statement) of permission ref 13/00593/FUL                                                                                                                | No Objection           | 20.06.2017 |
| 17/00743/DIS          | Application for approval of details reserved by conditions 3 (landscaping, lighting and means of enclosure), 17 (layout of car parking/servicing), 26 (public realm details) and 28 (approved plans) of permission ref: 13/00593/FUL | No Objection           | 22.06.2017 |
| 17/01195/DIS          | Application for approval of details reserved by conditions 7 (BREEAM Standards), 10 (Uncontaminated Soils and Fills), and 15 (Drainage) of permission ref: 13/00593/FUL                                                              | No Objection           | 22.08.2017 |
| 2021/00928/0<br>1SPRN | Premises Licence application:<br>Sunday – Thursday 10:00am – 2:00am<br>Friday – Saturday 10:00am – 4:00am<br>(All services inside to cease 30 mins before closing time)                                                              | Withdrawn              | 26.05.2021 |
| 2021/01665/0<br>1SPRN | Premises Licence application:<br>Sunday – Wednesday: 10:00am – 12:00am                                                                                                                                                               | Granted                | 29.07.2021 |

|                                                                                       |                                                                                                                                                                                                                                     |  |  |
|---------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
|                                                                                       | Thursday: 10:00am – 1:00am<br>Friday – Saturday: 10:00am – 2:00am<br><i>(All services inside to cease 30 mins before closing time)</i>                                                                                              |  |  |
| The following application for a nearby premises is also relevant to this application: |                                                                                                                                                                                                                                     |  |  |
| 17/01103/FU<br>L                                                                      | Turtle Bay<br>Application for variation of condition 16 (hours of use) of permission ref 08/00474/FUL (as it relates to unit 1 only) to extend trading hours to 09:00 - 00:30 Sunday - Thursday and 09:00 - 01:00 Friday - Saturday |  |  |





**DETERMINATION OF APPLICATION**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**Town and Country Planning**  
**(Development Management Procedure) (England) Order 2010**

Savills  
 Mr Charles Collins  
 2 Charlotte Place  
 Southampton  
 SO14 0TB

In pursuance of its powers under the above Act and Regulations, Southampton City Council, as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

**FULL APPLICATION - CONDITIONAL APPROVAL**

**Proposal:**                    **Erection of two buildings, one of which would be up to 10-storeys in height, to provide an arts complex incorporating two auditoria, gallery space; ground floor retail/restaurant/cafe/drinking establishments (Classes A1/A3/A4) and 38 flats (5 x one-bedroom, 28 x two-bedroom and 5 x three-bedroom) with underground parking of 31 spaces. The development proposes the formation of a new street between Above Bar Street and Park Walk.**

**Site Address:**            **Land between 136-166 Above Bar Street, Southampton**

**Application No:**        **13/00593/FUL**

Subject to the following conditions.

**01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works**

The development works 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 - Details of Building Materials to be Used [Pre-Commencement Condition]**

Notwithstanding the information shown on the approved drawings and application form no development, apart from site preparation and foundation works, shall be carried out unless and until a written schedule of external materials and finishes has been submitted to and approved in writing by the Local Planning Authority. Development shall be implemented only in accordance with the agreed details. These shall include full details of the manufacturers, types and colours of the external materials to be used for external walls, windows, doors and the roof of the proposed buildings. It is the Local Planning Authority's practice to review all such materials on site. The developer should have regard to the context of the site in terms

of surrounding building materials and should be able to demonstrate why such materials have been chosen and why alternatives were discounted. If necessary this should include presenting alternatives on site.

Reason:

To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality.

#### 03. APPROVAL CONDITION - Landscaping, Lighting & Means of Enclosure Detailed Plan [Pre-Commencement Condition]

Notwithstanding the submitted details before the commencement of any site works, apart from site preparation and foundation works, a detailed landscaping scheme and implementation timetable shall be submitted, which includes:

- i. proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle pedestrian access and circulations areas, hard surfacing materials, structures and ancillary objects (refuse bins, lighting columns etc.);
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. details of any proposed boundary treatment, including retaining walls; and
- iv. a landscape management scheme.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

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

Reason:

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

#### 04. APPROVAL CONDITION - Archaeological Investigation [Pre-Commencement Condition]

No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the archaeological investigation is initiated at an appropriate point in development procedure.

#### 05. APPROVAL CONDITION - Archaeological Work Programme [Performance Condition]

The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the archaeological investigation is completed.

## 06. APPROVAL CONDITION - BREEAM Standards (Arts Complex) - Completion Stage

Written documentary evidence demonstrating that the arts complex has achieved at minimum an overall rating of 'Very Good' against the BREEAM standard shall be submitted to the Local Planning Authority and verified in writing within six months of the occupation of the arts complex hereby approved, unless an otherwise agreed timeframe is agreed in writing by the LPA. The evidence shall take the form of a post construction assessment and certificate as issued by a qualified BREEAM certification body.

## REASON:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

## 07. APPROVAL CONDITION - BREEAM Standards (Commercial Units) - Completion Stage

Written documentary evidence demonstrating that the ground floor commercial units (Classes A1-A5) has achieved at minimum an overall rating of 'Very Good' against the BREEAM standard shall be submitted to the Local Planning Authority and verified in writing within six months of the occupation of the commercial units hereby approved, unless an otherwise agreed timeframe is agreed in writing by the LPA. The evidence shall take the form of a post construction assessment and certificate as issued by a qualified BREEAM certification body.

## REASON:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

## 08. APPROVAL CONDITION - Sustainability Statement Implementation [Pre-Occupation Condition]

Prior to the first occupation of the development hereby granted consent, the approved sustainability measures as specified in the Hoare Lee Energy and Sustainability Statement Addendum dated April 2013 shall be implemented. Written documentary evidence proving that the development has achieved the Code for Sustainable Homes measures set out in the statement in the form of post construction assessment and certificate as issued by a legitimate Code for Sustainable Homes certification body, shall be submitted to the Local Planning Authority for its approval.

## Reason:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

## 09. APPROVAL CONDITION- Land Contamination Investigation and Remediation [Pre-Commencement &amp; Occupation Condition]

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A desk top study including;
  - historical and current sources of land contamination
  - results of a walk-over survey identifying any evidence of land contamination
  - identification of the potential contaminants associated with the above

an initial conceptual site model of the site indicating sources, pathways and receptors  
a qualitative assessment of the likely risks  
any requirements for exploratory investigations.

2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed.

3. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

On completion of the works set out in (3) a verification report shall be submitted to the Local Planning Authority confirming the remediation actions that have been undertaken in accordance with the approved scheme of remediation and setting out any measures for maintenance, further monitoring, reporting and arrangements for contingency action. The verification report shall be approved by the Local Planning Authority prior to the occupation or operational use of any stage of the development.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason:

To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment and where required remediation of the site is to an appropriate standard.

#### 10. APPROVAL CONDITION - Use of Uncontaminated Soils and Fill [Performance Condition]

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by documentation to validate their quality and be submitted to the Local Planning Authority for approval prior to the occupancy of the site.

Reason:

To ensure imported materials are suitable and do not introduce any land contamination risks onto the development.

#### 11. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority.

Any changes to the agreed remediation actions will require the express written consent of the Local Planning Authority.

Reason:

To ensure any land contamination not previously identified is assessed and remediated so as not to present any significant risks to human health or, the wider environment.

#### 12. APPROVAL CONDITION - Wheel Cleaning Facilities [Pre-Use Condition]

During the period of the preparation of the site, excavation for foundations or services and the construction of the development, wheel cleaning facilities shall be available on the site and no lorry shall leave the site until its wheels are sufficiently clean to prevent mud being carried onto the highway.

Reason:

In the interests of highway safety.

13. APPROVAL CONDITION - Construction Environment Management Plan (Pre-Commencement Condition)

Prior to the commencement of any development a written construction environment management plan shall be submitted to and approved by the LPA. The plan shall contain method statements and site specific plans to prevent or minimise impacts from noise, vibration, dust and odour for all operations, as well as proposals to monitor these measures at the site boundary to ensure emissions are minimised beyond the site boundary. All specified measures shall be available and implemented during any processes for which those measures are required.

Reason:

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

14. APPROVAL CONDITION - Foul and Surface Water Drainage (Pre-Commencement Condition)

No development shall commence until details of the proposed means of foul and surface water sewerage disposal has been submitted to, and approved by, the Local Planning Authority in consultation with Southern Water. The development shall be carried out in accordance with these approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason

In order that the Local Planning Authority may be satisfied that the development would not increase the risk of flooding in the area.

15. APPROVAL CONDITION - Drainage Arrangements (Pre-Occupation Condition)

The ground floor commercial units hereby approved shall not be occupied until details of a scheme to intercept grease in the drainage serving the food preparation and dish-washing areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposals for regular emptying and disposal of the grease by a registered contractor to a licensed waste facility. The approved scheme shall be implemented prior to the first operation of the commercial units to which the scheme relates and retained thereafter.

REASON

To ensure satisfactory drainage provision is made for the development.

16. APPROVAL CONDITION - Refuse Facilities (Pre-Occupation Condition)

The refuse storage facilities, which shall include recycling facilities, as shown on the approved drawings shall be provided before the use to which the facility relates has been provided. The storage areas shall be retained thereafter.

REASON

To ensure suitable refuse and recycling facilities are provided and in the interests of visual amenity.

17. APPROVAL CONDITION - Layout of Car Parking/Serviceing (Pre-Occupation Condition)

The whole of the car parking, cycle storage and servicing facilities shown on the approved plans shall be laid out and made available before the use of the building to which these



facilities relate commences and thereafter retained solely for the use of the occupants and visitors to the site and for no other purpose.

**REASON**

To ensure adequate on-site parking and servicing facilities and to avoid congestion in the adjoining highway.

**18. APPROVAL CONDITION - Details of Visitor Cycle Parking (Pre-Occupation Condition)**

The development hereby approved shall not be first occupied until visitor cycle facilities have been provided in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

**REASON**

To ensure satisfactory provision of cycle facilities for visitors to the site.

**19. APPROVAL CONDITION - Safety and Security Measures (Pre-development condition)**

No development shall commence, apart from site preparation and foundation works, until a scheme of safety and security measures has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall subsequently be implemented in accordance with the scheme before the development is first occupied unless otherwise approved in writing by the Local Planning Authority.

**REASON**

In the interests of safety and security and crime prevention.

**20. APPROVAL CONDITION - Green Roof (Pre-Commencement Condition)**

A detailed specification for the green roof must be submitted and agreed in writing with the Local Planning Authority prior to the commencement of the development, apart from site preparation and foundation works. The green roof to the approved specification must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained and maintained thereafter.

**Reason:**

To reduce flood risk and manage surface water run off in accordance with core strategy policy CS20 (Tackling and Adapting to Climate Change) and CS23 (Flood risk), combat the effects of climate change through mitigating the heat island effect in accordance with policy CS20, enhance energy efficiency through improved insulation in accordance with core strategy policy CS20, promote biodiversity in accordance with core strategy policy CS22 (Promoting Biodiversity and Protecting Habitats), contribute to a high quality environment and 'greening the city' in accordance with core strategy policy CS13 (Design Fundamentals), and improve air quality in accordance with saved Local Plan policy SDP13.

**21. APPROVAL CONDITION - Hours of Use - food/drink establishments [Performance Condition]**

The food and drink uses / drinking establishments 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 hours of 0700 to midnight on any day.

**Reason:**

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

## 22. APPROVAL CONDITION - Limit on Class A4 Uses (Performance Condition)

No more than two of the commercial units as shown on the approved plans shall be used for Class A4 (drinking establishments) without a further grant of planning permission.

### REASON

To ensure a satisfactory mix of uses are provided in accordance with the Council's policies to promote this area as a Cultural Quarter.

## 23. APPROVAL CONDITION - No Pile Driving for Foundations [Performance Condition]

No percussion or impact driven piling activities shall take place for pre-works, foundations, or as any part of the development.

### Reason:

In the interests of securing the stability of the site and adjacent land in order to protect the amenities of occupiers of nearby properties.

## 24. APPROVAL CONDITION - Details of Lighting (Pre-Occupation Condition)

The development shall not be first occupied until details of external lighting to the buildings and external areas of the development have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with these approved details before the development is first occupied unless otherwise agreed in writing by the Local Planning Authority.

### REASON

In the interests of ensuring a satisfactory appearance to the development and the safety and security of the area.

## 25. APPROVAL CONDITION - Details of Roof Top Services (Pre-Commencement Condition)

No development shall commence, apart from site preparation and foundation works, until detailed design of the roof top services, including ventilation measures to the ground floor commercial units, has been submitted to and approved in writing by the Local Planning Authority. The works shall subsequently be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

### REASON

To ensure satisfactory treatment of this important part of the building in this sensitive location.

## 26. APPROVAL CONDITION - Public Realm Details (Pre-Occupation Condition)

The development hereby approved shall not be occupied until details of the treatment to the public realm surrounding the buildings has been submitted to and approved in writing by the Local Planning Authority. These details shall include surface treatment, seating and any means of enclosure together with details of measures to control deliveries to the premises. The approved measures shall subsequently be implemented unless otherwise agreed in writing by the Local Planning Authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent amending order, no gates, walls, fences or other means of enclosure shall be installed on the new link street between the northern and southern buildings without the prior approval of the Local Planning Authority.

### REASON

To ensure satisfactory treatment of this important area of public space.

27. APPROVAL CONDITION - Protection of Drainage Apparatus (Pre-Commencement Condition)

No development shall commence until details of the proposed measures to protect the existing public sewers and water apparatus has been submitted to, and approved by, the Local Planning Authority in consultation with Southern Water. The development shall be carried out in accordance with these approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure the drainage infrastructure is adequately protected as required by Southern Water.

28. APPROVAL CONDITION - 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.

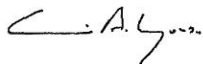
Reason:

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

Reason for Granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The Local Planning Authority is satisfied that the proposed buildings would not have a detrimental impact on the setting of adjoining listed buildings or the adjoining park of historic interest. The application proposes a new arts complex within the cultural quarter of the city and offers significant economic and regeneration benefits. The application constitutes a Departure from the Development Plan due to the failure to meet the BREEAM Excellent standard required by Core Strategy Policy CS20. However, this issue has been weighed in the balance with other material considerations. The impact of the development in terms of transport, design and neighbour amenity issues is considered to be acceptable. 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 planning permission should therefore be granted.

Policies - SDP1, SDP5, SDP7, SDP8, SDP9, SDP10, SDP11, SDP13, HE3, HE5, HE6, CLT1, CLT5, CLT6, H1, H2, H7, REI7 and MSA5 of the City of Southampton Local Plan Review (March 2006) and CS1, CS3, CS4, CS5, CS6, CS13, CS14, CS15, CS16, CS18, CS19, CS21 and CS25 of the Local Development Framework Core Strategy Development Plan Document (January 2010).



**Chris Lyons**  
**Planning & Development Manager**



27 August 2013

If you have any further enquiries please contact:  
**Richard Plume**



**IMPORTANT NOTE TO APPLICANT**

This decision has been made in accordance with the submitted application details and supporting documents and the development should be implemented in respect of the following plans and drawings.

| <b>Drawing No:</b> | <b>Version:</b> | <b>Description:</b> | <b>Date Received:</b> | <b>Status:</b> |
|--------------------|-----------------|---------------------|-----------------------|----------------|
| 1732-02-DR-0001    | P01             | Location Plan       | 25.04.2013            | Approved       |
| 1732-02-DR-0002    | P01             | Site Plan           | 25.04.2013            | Approved       |
| 1732-02-DR-0109    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0110    | P02             | Floor Plan          | 06.06.2013            | Approved       |
| 1732-02-DR-0111    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0112    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0113    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0114    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0115    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0116    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0117    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0118    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0119    | P01             | Floor Plan          | 25.04.2013            | Approved       |
| 1732-02-DR-0120    | P01             | Roof Plan           | 25.04.2013            | Approved       |
| 1732-02-DR-0130    | P01             | Other Plans         | 25.04.2013            | Approved       |
| 1732-02-DR-0401    | P01             | Sections            | 25.04.2013            | Approved       |
| 1732-02-DR-0402    | P01             | Sections            | 25.04.2013            | Approved       |
| 1732-02-DR-0601    | P02             | Elevational Plan    | 06.06.2013            | Approved       |
| 1732-02-DR-0602    | P01             | Elevational Plan    | 25.04.2013            | Approved       |
| 1732-02-DR-0603    | P01             | Elevational Plan    | 25.04.2013            | Approved       |
| 1732-02-DR-0604    | P01             | Elevational Plan    | 25.04.2013            | Approved       |
| 1732-02-DR-1601    | P01             | Other Plans         | 25.04.2013            | Approved       |

**NOTES**

1. This permission relates to Planning Control only. Approval under the Building Regulations may also be required and should you be in any doubt about this, please contact Building Control Services, Tel. 023 8083 2558. Any other necessary consent must be obtained from the appropriate authority. Special attention is drawn to the fact that this permission does not relate to the display of advertisements and separate consent is required under the Town and Country Planning (Control of Advertisements) England Regulations 2007. Development affecting buildings of special Architectural or Historical interest is also subject of separate Listed Building Consent. Any queries should be made to Development Control Service as indicated below.
2. This permission has been granted on the basis of all the information submitted by the applicant shown on the plans accompanying the application. Any material misstatement or wrong information may invalidate the permission.
3. If the applicant is aggrieved by the decision of the Local Planning Authority to approve the proposed development, subject to conditions, they may appeal to the Secretary of State for Communities and Local Government, in accordance with Section 78 of the Town and Country Planning Act 1990, within six months of the date of decision. Appeals can be submitted on line [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by a form available from the Planning Inspectorate, 3/15 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS2 9DJ. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been granted other than subject to the conditions imposed by it having regard to the statutory requirements, to the provisions of the Development Order and to any directions given under that Order.
4. If permission to develop land is granted subject to conditions, whether by the Local Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Council a purchase notice requiring the Council to purchase their interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990.
5. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
6. Attention is drawn to the provisions of Section 12 of the Hampshire Act 1983 relating to access for the Fire Brigade, and you are advised to contact Building Control Services as set out in Note 1.
7. For those developments which are covered by the Disability Discrimination Act, the attention of developers is drawn to the relevant provisions of the Act and to the British Standard B300:2001 Design of buildings and their approaches to meet the needs of disabled people code of practice.
8. The applicant is recommended to retain this form with the title deeds of the property.
9. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012)  
Please address any correspondence in connection with this form quoting the application number to: **Development Control Service, Southampton City Council, Civic Centre SOUTHAMPTON. SO14 7LS**



**SOUTHAMPTON**  
CITY COUNCIL

**Schedule 12**  
**Part A**  
**Premises Licence**

Regulation 33,34

**Premises licence number** 2021/01665/01SPRN

**Part 1 – Premises details**

**Postal address of premises, or if none, ordnance survey map reference or description,**

**Gin and Olive**  
140 Above Bar Street  
Southampton  
SO14 7DU

**Telephone number**

**Where the licence is time limited the dates**

Not applicable

**Licensable activities authorised by the licence**

Films  
Live music  
Recorded music  
Provision of late night refreshment  
Supply by retail of alcohol

**The times the licence authorises the carrying out of licensable activities**

Films

|           |               |
|-----------|---------------|
| Monday    | 10:00 - 23:30 |
| Tuesday   | 10:00 - 23:30 |
| Wednesday | 10:00 - 23:30 |
| Thursday  | 10:00 - 00:30 |
| Friday    | 10:00 - 01:30 |
| Saturday  | 10:00 - 01:30 |
| Sunday    | 10:00 - 23:30 |

Live music

|           |               |
|-----------|---------------|
| Monday    | 10:00 - 23:30 |
| Tuesday   | 10:00 - 23:30 |
| Wednesday | 10:00 - 23:30 |
| Thursday  | 10:00 - 00:30 |
| Friday    | 10:00 - 01:30 |
| Saturday  | 10:00 - 01:30 |
| Sunday    | 10:00 - 23:30 |

Recorded music

|           |               |
|-----------|---------------|
| Monday    | 10:00 - 23:30 |
| Tuesday   | 10:00 - 23:30 |
| Wednesday | 10:00 - 23:30 |
| Thursday  | 10:00 - 00:30 |
| Friday    | 10:00 - 01:30 |
| Saturday  | 10:00 - 01:30 |
| Sunday    | 10:00 - 23:30 |

Provision of late night refreshment

|           |               |
|-----------|---------------|
| Monday    | 23:00 - 23:30 |
| Tuesday   | 23:00 - 23:30 |
| Wednesday | 23:00 - 23:30 |
| Thursday  | 23:00 - 00:30 |
| Friday    | 23:00 - 01:30 |
| Saturday  | 23:00 - 01:30 |
| Sunday    | 23:00 - 23:30 |



Supply by retail of alcohol

|           |               |
|-----------|---------------|
| Monday    | 10:00 - 23:30 |
| Tuesday   | 10:00 - 23:30 |
| Wednesday | 10:00 - 23:30 |
| Thursday  | 10:00 - 00:30 |
| Friday    | 10:00 - 01:30 |
| Saturday  | 10:00 - 01:30 |
| Sunday    | 10:00 - 23:30 |



The opening hours of the premises

LICENSING

|           |               |
|-----------|---------------|
| Monday    | 10:00 - 00:00 |
| Tuesday   | 10:00 - 00:00 |
| Wednesday | 10:00 - 00:00 |
| Thursday  | 10:00 - 01:00 |
| Friday    | 10:00 - 02:00 |
| Saturday  | 10:00 - 02:00 |
| Sunday    | 10:00 - 00:00 |



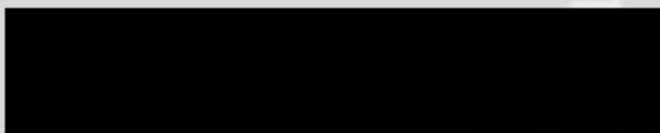
Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption both on and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Gin and Olive Bars and Restaurants Southampton Ltd.  
17 Albert Road  
Southsea  
Hampshire  
PO5 2SE



**Registered number of holder, for example company number, charity number (where applicable)**

12630687

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Ruth Wallis

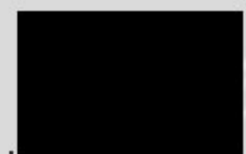


**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

Licence Number: 15/03960/LAPERS  
Licensing Authority: Portsmouth City Council

This premises licence is issued by Southampton City Council as licensing authority under part 3 of the Licensing Act 2003 and regulations made thereunder

Dated this 28th day of July 2021;



**Licensing Manager**  
Southampton & Eastleigh Licensing Partnership  
PO Box 1767  
Southampton  
SO18 9LA





## Annex 1 – Mandatory Conditions

- 1 No supply of alcohol shall be made under the premises licence:
  - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor for the premises does not hold a personal licence or his personal licence is suspended.
  
- 2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
  
- 3 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
  
- 4 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
  
- 5 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.
  
- 6 The responsible person must ensure that
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

7 1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition set out in paragraph 1 —

(a) 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) 'permitted price' is the price found by applying the formula —

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence —

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ('the first day') would be different from the permitted price on the next day ('the second day') as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

8 The admission of children to films exhibited at the licensed premises is restricted in accordance with section 20 of the Licensing Act 2003.

9 Where any condition of this licence requires that, at specified times, one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority, unless the Private Security Industry Act 2001 does not require them to be so licensed.

## **Annex 2 – Conditions consistent with the operating Schedule**

1 The exhibition of film and performance of live and recorded music are limited to indoors only.

### **2 CCTV**

A colour recording CCTV system that captures images from the main public areas must be fully operational whilst licensable activities are taking place. The system should be able to copy with all levels of illumination. The recording equipment shall be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and to maintain the integrity of the system. The system shall be served at twelve monthly intervals and maintained to a standard that is acceptable to the Police Licensing Team. The system clock shall be checked regularly for accuracy taking account of GMT and BST. Digital systems shall have sufficient storage capacity for 28 days evidential quality recordings (minimum 4 frames per second).

The images produced shall be date and time stamped.

A notice shall be displayed at the entrance to the premises advising that CCTV is in operation. An additional recording CCTV camera shall be installed and fully operational whilst the venue is open to the public to cover the area immediately outside the front of the premises.

It is important that the Police are able to access data from the systems quickly and easily and therefore provision shall be made that at all times a person is in attendance who is nominated by the data controller who has access to the secure area who is able to operate the equipment. All operators shall

receive training from the installer when equipment is installed and that this is cascaded down to new members of nominated staff.

There shall be a simple operator's manual available to assist in replaying and exporting data and staff shall be able to produce images to the Police/Responsible Authorities for the purposes of the prevention and detection of crime, as long as the request is lawful and complies with GDPR.

In the event of a technical failure of the CCTV equipment, the premises licence holder or DPS shall notify the Police Licensing Team within 24 hours.

The Premises Licence Holder will ensure that a CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document ([www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)) regarding installation of CCTV is provided at the premises.

#### SIA Numbers

Security Industry Authority (SIA) registered security staff will be on duty at the premises at a ratio of 2 door supervisors for the first 200 customers then 1 per 100 customers thereafter from 21:00 to 30 minutes after closure on Friday and Saturday evenings, Sundays preceding a bank holiday and New Year's Eve.

In addition, the duty manager should make a dynamic risk assessment of the premises circumstances at the time based on customers or the type of function at the venue and the number of SIA Door Supervisors increased where circumstances dictate. These assessments are to be documented in the Incident Book. The premises licence holder shall ensure that a minimum of 2 security staff are on duty at the entrance door to manage and check people for age, behaviour and intoxication before entering the venue.

#### Body Worn Video (BWV)

At times when SIA staff are on duty at least one member of SIA staff who shall be positioned at the main entrance of the venue shall wear and operate body worn video (BWV). The device will be owned, operated and maintained by the premises licence holder. The equipment shall be maintained, and the images will be made available as soon as practicable but at least within 48 hours to the Police on request, as long as the request is lawful with regards to data protection legislation.

The equipment shall record high definition colour images and be able to capture sound, specifically conversation. The equipment shall be able to operate in all levels of illumination, images shall be time/date stamped.

The BWV shall be of a similar specification to those currently utilised by Hampshire Constabulary and as such shall be of sufficient quality to produce evidential data. There shall be sufficient number of devices or batteries at the venue to ensure that the devices are able to operate continually.

Where the equipment fails the Police Licensing Team shall be notified immediately in writing or by email as soon as is practicable and the defect rectified within 14 days of the failure. Data obtained on the BWV shall be downloaded as soon as practicable and be retained at the venue for at least 28 days.

#### Staff Training

Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.

All staff will receive refresher training ever six months as a minimum and records are to be kept of this refresher training which should be signed and dated by the member of staff who received that training. All training records will be made immediately available for inspection by Hampshire Constabulary and any Responsible Authority upon request. Training records will be kept for a minimum period of two years. Training records will be kept on the licensed premises to which they relate to.

#### Age Verification

The premises licence holder shall ensure that a system is in place to ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises, shall produce acceptable means of identification and age confirmation. Acceptable identification shall be a passport, photo driving licence or PASS accredited photo ID. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.



### Incident Book

An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to Police for inspection upon request. Any incidents that include physical altercation or disorder, physical ejection, injury, ID seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known). Should there be any physical interaction by members of staff and the public the entry will include what physical action occurred between each party. The entry shall be timed, dated and signed by the author.

If the member of staff creating the entry has difficulties reading or writing, then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry.

At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred the duty manager will de-brief door staff at the close of business. Should there be no incidents then this will be recorded at the close of business in the incident book. This record will be retained for 12 months.

### Refusal Book

A written log or electronic record shall be kept of all refusals including refusals to sell alcohol. The premises licence holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the licensee or DPS.

The refusals log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any responsible authority.

The record of each refusal will be retained for 12 months.

### Toilet Checks

The premises licence holder shall ensure that frequent toilet checks are carried out and records kept of these to prevent drug misuse and other offences that are known to occur in toilets.

### External Lighting

A trough light shall be erected at the front of the building (Above Bar Street) to provide additional lighting to the entrance/exit.

### Drugs and Weapons

The premises will operate a no tolerance drugs and weapons policy which includes recording any searches carried out, seizing any drugs or weapons and informing the Police of such search and seizures and a notice will be placed at the entrance to inform customers of the policy.

### Glass and Bottles

A bar back will be employed to be responsible for the frequent collection of empty glasses and bottles.

### Dispersal Policy

Customer to be given 30 minutes to finish drinks and they will be reminded to leave the premises quietly.

### Southampton Go

The premises shall join Southampton Go to assist with sharing information with others in the local area, being aware of local events and provides access to local radio networks.

### Fire Safety

A fire risk assessment and evacuation plan are to be in place for the premises. The capacity for the building will be set by the fire assessment.

There are two entrances and exits to the front of the building onto Above Bar Street and one rear fire escape on to Park Walk. Customers will only use the main entrance to the front of the building to control occupancy of the building.

Staff are to be trained on the fire evacuation policy and notices showing the route and evacuation point to be displayed in the premises.

Fire Alarms, Emergency Lighting and Fire Extinguishers are to be regularly tested and maintained.

Weekly fire alarm tests are to be carried out by the Manager and recorded in the Fire Safety book which is kept at the premises.

#### Accident and Incident Reporting

All accidents and incidents are to be reported to the Manager and recorded in the accident or incident log book which will be kept in the manager's office.

Additional accident book for the kitchen to be located in the kitchen.

#### First Aid

Managers to be first aid trained to ensure there is always at least one member of staff on site who is first aid trained.

#### Duty of Care Policy

The staff will be trained on the effect of alcohol, the signs to look out for when someone is intoxicated or taken drugs and the duty of care including the Ask Angela scheme.

#### Dispersal

Notice reminding customers to leave the premises quietly will be displayed in the premises by the exit. Music to be turned down during the final 30 minutes drinking up time before the premises closes to encourage a winding down before customers leave.

#### Litter

When customers are seated outside staff will clear away plates and glasses regularly and there will be a designated smoking area with ash trays provided.

The pavement outside the premises will be regularly cleaned and swept to avoid litter.

#### Admittance of Children

No children (under 18 years) will be admitted after 21:00 hours. Before 21:00 hours any children (under 18 years) must be accompanied by an adult.

#### Challenge 25

All staff to be trained on Challenge 25, the importance of checking ID and notices placed in the premises to inform customers of the policy. On days which the door staff are working they will assist with verifying the age of customers. Any refusals due to age will be recorded in the refusal log book which will be located behind each bar.

3 The final time for entry to the premises shall be 01:00 hours.

#### 4 NON STANDARD TIMINGS

The day preceding a Bank Holiday one hour will be added to the terminal hour of any activities and to the closing time for the premises.

In respect of New Years Eve the permitted hours shall continue from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.

On the morning the Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00.

5 No admittance of children after 21:00 hours, before 21:00 hours children only admitted when accompanied by an adult.

### **Annex 3 – Conditions attached after a hearing by the licensing authority**

1 The hours of operation of the premises and this includes all licensable activities shall not exceed the times set by the Planning permission relevant to each part of the premises.

Within a period of 3 calendar months from the first date of opening to paying customers, any Designated Premises Supervisor (DPS) for the premises shall not be a DPS for any other premises at the same time.

No emptying of bottles or glass outside is permitted between 21:00 and 09:00 hours.

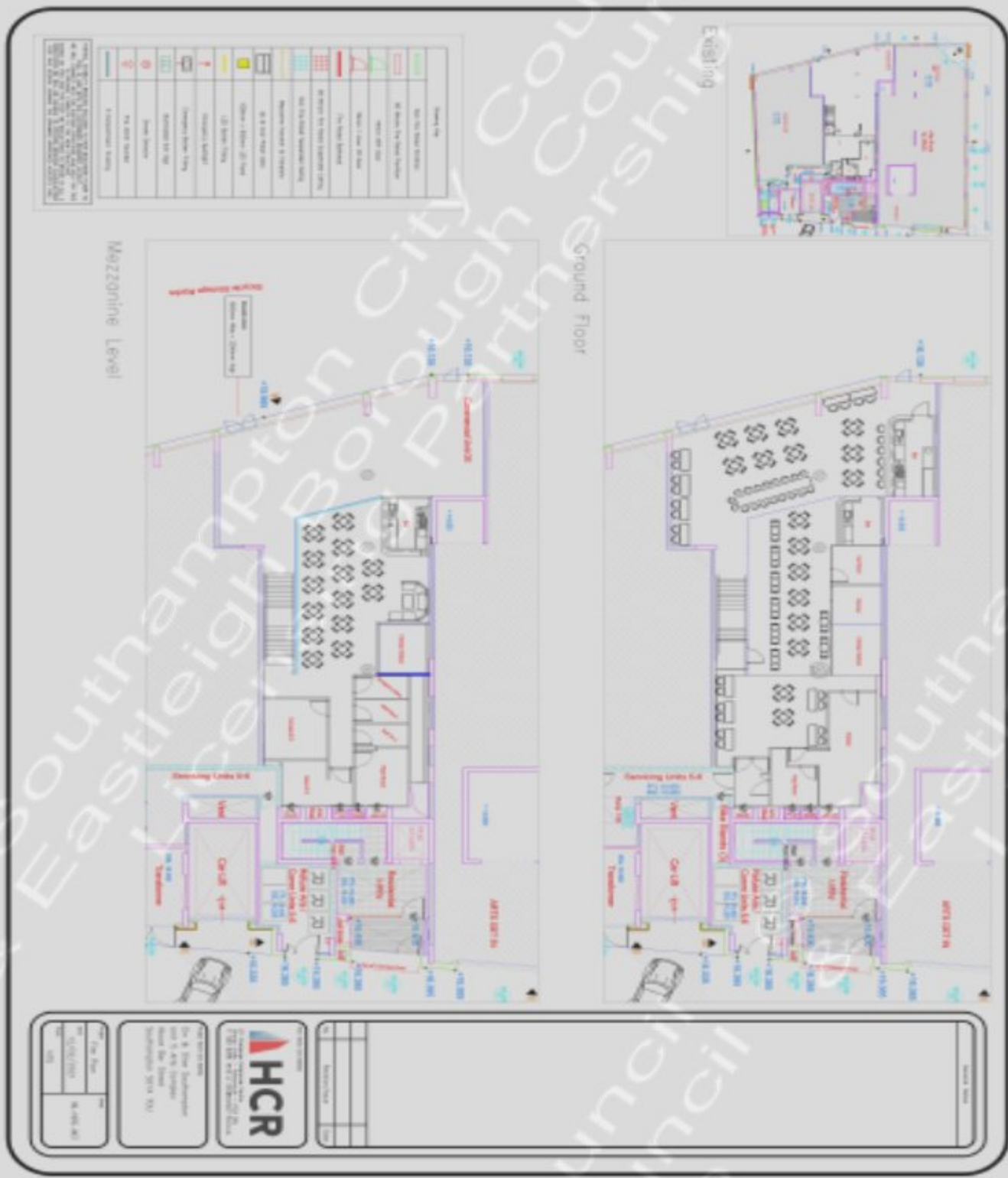
The external doors and windows are to be closed during live music performances, except for access and egress.

The sound level will be such that the level of music is not audible at nuisance levels at the boundary of the nearest noise sensitive property at any time.

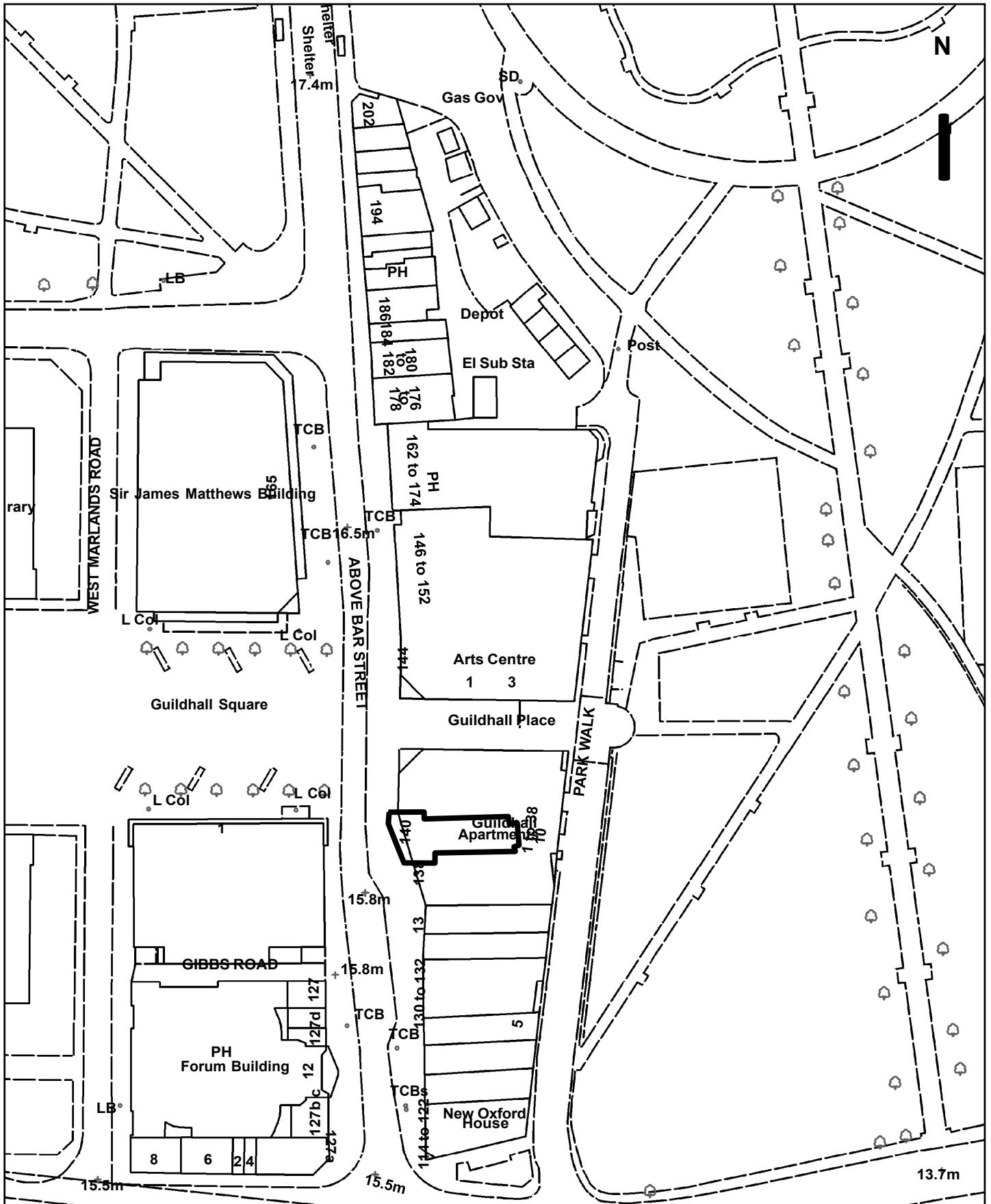
The 'Ask Angela' policy is to be in place and staff trained accordingly.



Annex 4 – Plans



Plan not reproduced to scale.



Scale: 1:1,250

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**Planning and Rights of Way Panel 23<sup>rd</sup> November 2021**  
**Planning Application Report of the Head of Planning & Economic Development**

|                                                                                                                                                                                                                                              |                                                      |                                                        |                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|--------------------------------------------------------|---------------------------------------------------|
| <b>Application address:</b> 243 Portswood Road Southampton SO17 2NG                                                                                                                                                                          |                                                      |                                                        |                                                   |
| <b>Proposed development:</b> 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) |                                                      |                                                        |                                                   |
| <b>Application number:</b>                                                                                                                                                                                                                   | 21/01285/FUL                                         | <b>Application type:</b>                               | FUL                                               |
| <b>Case officer:</b>                                                                                                                                                                                                                         | Anna Coombes                                         | <b>Public speaking time:</b>                           | 5 minutes                                         |
| <b>Last date for determination:</b>                                                                                                                                                                                                          | Extension of time:<br>30 <sup>th</sup> November 2021 | <b>Ward:</b>                                           | Portswood                                         |
| <b>Reason for Panel Referral:</b>                                                                                                                                                                                                            | Five or more letters of objection have been received | <b>Ward Councillors:</b>                               | Cllr L Mitchell<br>Cllr G Cooper<br>Cllr J Savage |
| <b>Referred to Panel by:</b>                                                                                                                                                                                                                 | N/A                                                  | <b>Reason:</b>                                         | N/A                                               |
| <b>Applicant:</b><br>Mr Sheraz Ahmed                                                                                                                                                                                                         |                                                      | <b>Agent:</b> Mr Richard Bentley, Alexander Associates |                                                   |

|                               |                              |
|-------------------------------|------------------------------|
| <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 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).

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

Anna Coombes PROW Panel 23/11/2021

## **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. 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

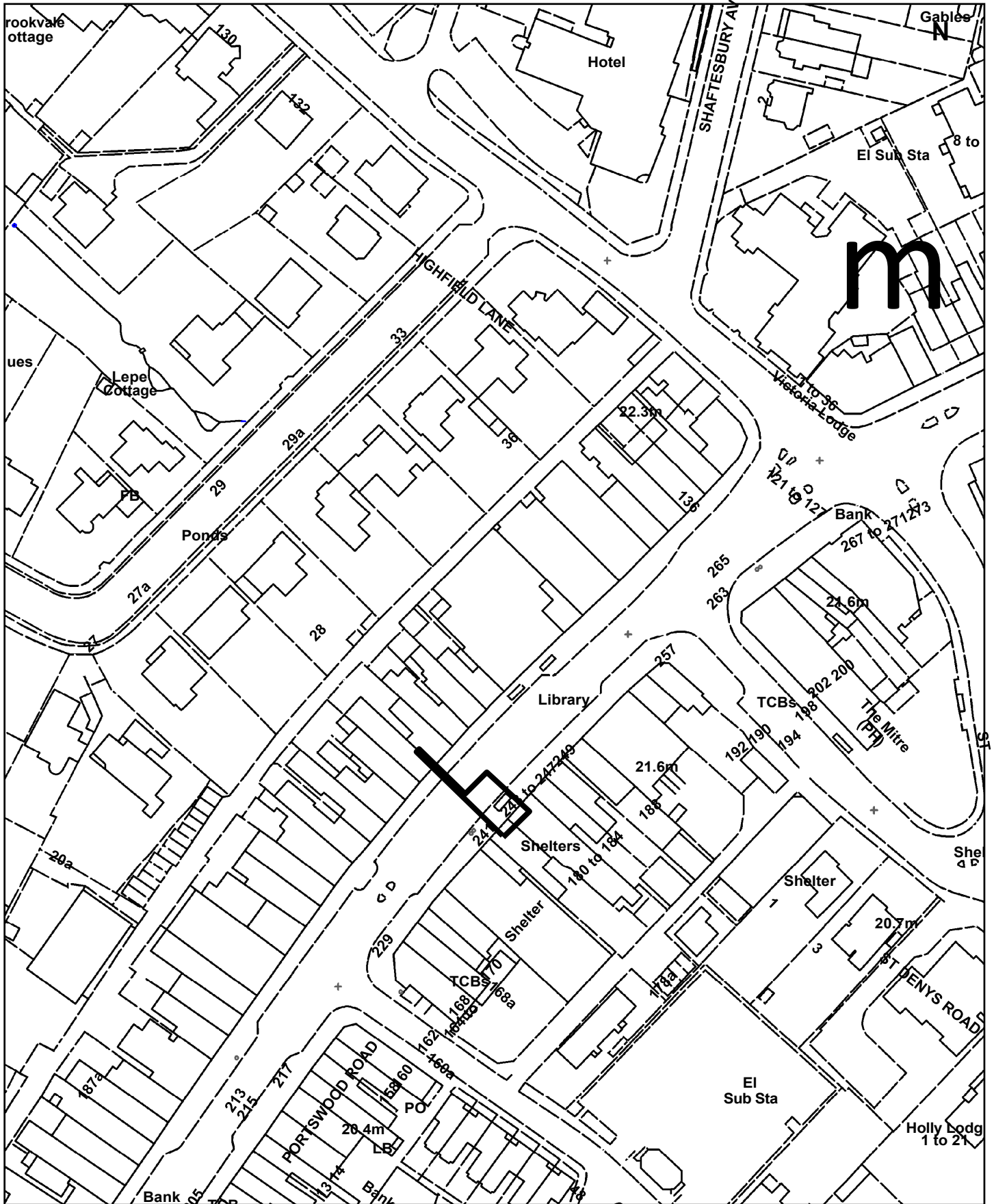
The National Planning Policy Framework (2021)

**Relevant Planning History**

| <b>Case Ref:</b> | <b>Proposal:</b>                                                                                                      | <b>Decision:</b>       | <b>Date:</b> |
|------------------|-----------------------------------------------------------------------------------------------------------------------|------------------------|--------------|
| 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<br>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 |
|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------|



Bank 201 203 205 TCB

The Broadway 11

107

Car Park

**Scale:** 1:1,250

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# Agenda Item 7

|                               |                                           |                                                                                              |                           |
|-------------------------------|-------------------------------------------|----------------------------------------------------------------------------------------------|---------------------------|
| <b>DECISION-MAKER:</b>        | <b>PLANNING AND RIGHTS OF WAY PANEL</b>   |                                                                                              |                           |
| <b>SUBJECT:</b>               | <b>DEVELOPMENT MANAGEMENT PERFORMANCE</b> |                                                                                              |                           |
| <b>DATE OF DECISION:</b>      | <b>23 NOVEMBER 2021</b>                   |                                                                                              |                           |
| <b>REPORT OF:</b>             | <b>SERVICE MANAGER - DEVELOPMENT</b>      |                                                                                              |                           |
| <b><u>CONTACT DETAILS</u></b> |                                           |                                                                                              |                           |
| <b>AUTHOR:</b>                | <b>Name:</b>                              | <b>Stephen Harrison</b>                                                                      | <b>Tel:</b> 023 8083 4330 |
|                               | <b>E-mail:</b>                            | <a href="mailto:stephen.harrison@southampton.gov.uk">stephen.harrison@southampton.gov.uk</a> |                           |
| <b>Service Lead</b>           | <b>Name:</b>                              | <b>Paul Barton</b>                                                                           | <b>Tel:</b> 023 8083 2044 |
|                               | <b>E-mail:</b>                            | <a href="mailto:paul.barton@southampton.gov.uk">paul.barton@southampton.gov.uk</a>           |                           |

|                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>STATEMENT OF CONFIDENTIALITY</b>                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                    |
| None                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                    |
| <b>BRIEF SUMMARY</b>                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                    |
| The Council's Overview and Scrutiny Committee requested that key planning metrics are provided to the Planning Panel on a regular basis. The following information is therefore provided to the Panel in response to this request. The report covers the last quarter. |                                                                                                                                                                                                                                                                                                                    |
| <b>RECOMMENDATIONS:</b>                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                    |
| (i)                                                                                                                                                                                                                                                                    | That the Panel considers and notes the Development Management key metrics as set out in the paper and provides feedback (if necessary).                                                                                                                                                                            |
| <b>REASONS FOR REPORT RECOMMENDATIONS</b>                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                    |
| 1.                                                                                                                                                                                                                                                                     | To ensure that the Panel has a greater understanding of the performance of Development Management. The nationally set target for performance is as follows: <ul style="list-style-type: none"> <li>• 60% of Majors determined within 13/16 weeks</li> <li>• 70% of Non-Majors determined within 8 weeks</li> </ul> |
| <b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                    |
| 2.                                                                                                                                                                                                                                                                     | None.                                                                                                                                                                                                                                                                                                              |
| <b>DETAIL (Including consultation carried out)</b>                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                    |
| 3.                                                                                                                                                                                                                                                                     | The following table sets out the performance against the key planning metrics.                                                                                                                                                                                                                                     |

| <b>MINORS AND OTHERS Q1</b>   | <b>Apr 21</b> | <b>May 21</b> | <b>June 21</b> | <b>QTR 1</b>  |
|-------------------------------|---------------|---------------|----------------|---------------|
| Total Minors/Others Decisions | 92            | 82            | 81             | 255           |
| <b>TOTAL RESULT</b>           | <b>95.65%</b> | <b>97.56%</b> | <b>96.59%</b>  | <b>96.47%</b> |
| Out of time                   | 4             | 2             | 3              | 9             |
|                               |               |               |                |               |
| <b>MAJORS</b>                 |               |               |                |               |
| Total Majors Decisions        | 1             | 3             | 1              | 5             |
| <b>TOTAL RESULT</b>           | <b>100%</b>   | <b>100%</b>   | <b>100%</b>    | <b>100%</b>   |
| Out of time                   | 0             | 0             | 0              | 0             |

| <b>MINORS AND OTHERS Q2</b>   | <b>Jul-21</b> | <b>Aug-21</b> | <b>Sep-21</b> | <b>QTR 2</b>  |
|-------------------------------|---------------|---------------|---------------|---------------|
| Total Minors/Others Decisions | 91            | 73            | 81            | 245           |
| <b>TOTAL RESULT</b>           | <b>94.51%</b> | <b>93.15%</b> | <b>96.30%</b> | <b>94.69%</b> |
| Out of time                   | 5             | 5             | 3             | 13            |
|                               |               |               |               |               |
| <b>MAJORS</b>                 |               |               |               |               |
| Total Majors Decisions        | 5             | 1             | 1             | 7             |
| <b>TOTAL RESULT</b>           | <b>100%</b>   | <b>100%</b>   | <b>100%</b>   | <b>100%</b>   |
| Out of time                   | 0             | 0             | 0             | 0             |

| <b>RESOURCE IMPLICATIONS</b>                                        |                 |
|---------------------------------------------------------------------|-----------------|
| <b><u>Capital/Revenue</u></b>                                       |                 |
| 4.                                                                  | None.           |
| <b><u>Property/Other</u></b>                                        |                 |
| 5.                                                                  | None.           |
| <b>LEGAL IMPLICATIONS</b>                                           |                 |
| <b><u>Statutory power to undertake proposals in the report:</u></b> |                 |
| 6.                                                                  | Not applicable. |
| <b><u>Other Legal Implications:</u></b>                             |                 |
| 7.                                                                  | Not applicable. |
| <b>RISK MANAGEMENT IMPLICATIONS</b>                                 |                 |
| 8.                                                                  | Not applicable. |
| <b>POLICY FRAMEWORK IMPLICATIONS</b>                                |                 |
| 9.                                                                  | Not applicable. |

|                                                                                                                             |                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>KEY DECISION?</b>                                                                                                        | <b>No</b>                                                                                                                                         |
| <b>WARDS/COMMUNITIES AFFECTED:</b>                                                                                          | <b>All</b>                                                                                                                                        |
| <u>SUPPORTING DOCUMENTATION</u>                                                                                             |                                                                                                                                                   |
| <b>Appendices</b>                                                                                                           |                                                                                                                                                   |
| 1.                                                                                                                          | None                                                                                                                                              |
| <b>Documents In Members' Rooms</b>                                                                                          |                                                                                                                                                   |
| 1.                                                                                                                          | None.                                                                                                                                             |
| <b>Equality Impact Assessment</b>                                                                                           |                                                                                                                                                   |
| <b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b> | <b>No</b>                                                                                                                                         |
| <b>Data Protection Impact Assessment</b>                                                                                    |                                                                                                                                                   |
| <b>Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.</b>      | <b>No</b>                                                                                                                                         |
| <b>Other Background Documents</b>                                                                                           |                                                                                                                                                   |
| <b>Other Background documents available for inspection at:</b>                                                              |                                                                                                                                                   |
| <b>Title of Background Paper(s)</b>                                                                                         | <b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b> |
| 1.                                                                                                                          | None                                                                                                                                              |

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