

Planning and Rights of Way Panel

Tuesday, 27th August,
2024
at 4.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 and 4 - Civic
Centre

This meeting is open to the public

Members

Councillor Windle (Chair)
Councillor Greenhalgh (Vice-Chair)
Councillor Beaurain
Councillor Cox
Councillor Mrs Blatchford
Councillor G Lambert
Councillor Wood

Contacts

Democratic Support Officer
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Head of Transport and Planning
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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 2022-2030

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.

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

MOBILE TELEPHONES:- Please switch your mobile telephones or other IT 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.

Dates of Meetings: Municipal Year 2022/2023

2025	
4 June	25 June
9 July	6 August
27 August	17 September
8 October	12 November
10 December	

2025	
21 January	11 February
4 March	1 April
22 April	

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 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.

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 1 - 6)

To approve and sign as a correct record the Minutes of the meetings held on 9 July 2024 and to deal with any matters arising.

CONSIDERATION OF PLANNING APPLICATIONS

5 PLANNING APPLICATION - 24/00622/FUL, 25 BASSETT GREEN DRIVE (Pages 11 - 20)

Report of the Head of Transport and planning recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

6 PLANNING APPLICATION -24/00717/FUL, 84 MILTON ROAD (Pages 21 - 30)

Report of the Head of Transport and planning recommending that the recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

7 PLANNING APPLICATION - 24/00790/FUL,179 PORTSWOOD ROAD (Pages 31 - 52)

Report of the Head of Transport and planning recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

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PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 9 JULY 2024

Present: Councillors Windle (Chair), Greenhalgh (accept for agenda items 6 & 7) (Vice-Chair), Beaurain, Cox, Mrs Blatchford and G Lambert

Apologies: Councillor Wood

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

It was noted that following receipt of the temporary resignation of Councillor G Lambert from the Panel the Service Director Legal and Business Operations acting under delegated powers, had appointed Councillor Kenny to replace them for the purposes of this meeting. In addition the Panel noted the Apologies of Councillor Wood.

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

RESOLVED: that the minutes for the Panel meeting on 20 February, 12 March, 16 April and 4 June 2024 be approved and signed as a correct record.

9. **PLANNING APPLICATION - 24/00233/FUL - 34-35 HIGH STREET (DOLPHIN HOTEL)**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Change of use from an hotel (Class C1) to fully catered student accommodation (Sui Generis) with up to 99 bedrooms and associated spaces (no external/internal alterations)

Ros Cassy, Simon Reyneir and Norma Mackey (local residents/ objecting), Sarah Beauden (agent), John Steven (applicant), and Councillor Bogle (Ward Councillor) were present and with the consent of the Chair, addressed the meeting.

The presenting officer that the paragraph 7.3 of the report needed to amended and the following wording be added to it:

“When assessing the application, the Council has a duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses as set out in the NPPF. This needs to be weighed against public benefits that have been set out in section 6 of the report such bringing the site back into use and providing an element of public access. Overall, the Council has had regard to the above and has deemed the benefit outweighs the harm in this case.”

In addition the Presenting Officer explained that a number conditions would need to be amended and that recommendation 2 (ii) would also needed to amended as set out below. The Panel also requested that highways team be advised of the importance of discussing the design and location of any replacement bus shelter with the Historic

Environment team due to the sensitive location and the setting of this Grade II* listed building.

Upon being put to the vote the Panel confirmed the Habitats Regulation Assessment.

The Panel then considered the recommendations that the application be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report (as amended). Upon being put to the vote the recommendations (as amended) were unanimously carried.

RESOLVED

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to: the conditions in the report; any additional or amended conditions or planning obligations set out below; and the completion of a S.106 Legal Agreement to secure:
 - I. The completion of a S.106 Legal agreement to secure either the developer enters into an agreement with the Council under s.278 of the Highways Act to undertake a scheme of works or provides a financial contribution towards site specific transport contributions for highway improvements in the vicinity of the site, namely an enhanced bus shelter (**including real time information display**) to the front of the site to accommodate an increase in usage by students, in line with Policy SDP4 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 Developer Contributions SPD (April 2013);
 - II. The submission of plans for the cycle and refuse storage prior to planning permission being granted.
3. That authority be delegated to the Head of Transport and Planning be given delegated powers to add, vary and/or delete relevant parts of the Section 106 agreement and/or conditions as necessary.
4. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

Amended Conditions

3. **Student occupation restriction (Performance)**

Within term times, the development hereby approved shall only be occupied by persons on a course of higher education on a full-time basis at a University, Institute or other comparable educational establishment. Outside recognised University term times, occupation by non-students is acceptable but must be undertaken in a manner that does not harm the residential amenities of the existing occupiers in accordance with details that shall have been agreed in writing with the Local Planning Authority ahead of any occupation by non-students.

REASON: In the interests of ensuring that a mix of student and non-student occupants doesn't give rise to other residential amenity issues, to improve the

viability of the development in the interests of the ongoing longevity of the listed building, to maintain a tourist offer (if required) and to ensure that controlled public access to the building is maintained.

8. Hours of Use by General Public (Performance)

The ground floor areas open to the general public, agreed pursuant to condition 7 above,
shall not take place outside of the following hours:
Monday to Sunday 10:30 to 16:30

The first-floor areas open to the general public shall be pre-arranged visits, agreed pursuant to condition 7 above, and shall not take place outside the above times.

REASON: In the interests of residential amenity.

9 Student Management Plan (Pre-Occupation)

Before the development hereby approved first comes into occupation details of how the students will be managed (including an onsite management presence and catering facilities) on a day-to-day basis, including restrictions to prevent students parking in the blue line area set out in the approved location plan shall be submitted to and approved in writing by the Local Planning Authority. The agreed Plan shall be in place before the relevant site is first occupied and shall thereafter be implemented as approved.

REASON: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties and in the interests of highway safety.

17. Hours of work for Development Works (Performance)

All works relating to the implementation-of the development hereby granted shall only take place between the hours of:
Monday to Friday 08:00 to 18:00 hours
Saturdays 09:00 to 13:00 hours
And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

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

19. Window specification feasibility study (Pre-Commencement)

Prior to the commencement of the development hereby approved, a detailed feasibility study for the installation of secondary glazing only (and not double glazing or any other forms of insulation) to those existing windows fronting the High Street, and on the basis that the units would be installed without disrupting the integrity or opening mechanisms of the existing windows, and that they

would be fully reversible, shall be submitted to and approved in writing by the Local Planning Authority alongside the requisite application for Listed Building Consent (where required).

If the approved feasibility study demonstrates secondary glazing can be accommodated within the development, before the development first comes into occupation, the secondary glazing shall be completed in accordance with a specification and detailed plan (scale 1:20) to be first submitted to and approved in writing by the Local Planning Authority.

REASON: To protect the amenities of future occupiers and to protect the operation of existing businesses. The implementation of secondary glazing will enable the proposed change of use to mitigate against the impact of noise and other potential nuisances arising from existing development in line with the agent of change principle set out in the NPPF to protect local businesses.

10. **PLANNING APPLICATION - 24/00040/FUL - 20-22 QUEENS TERRACE (HAVELOCK)**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Erection of a 6th floor extension for 2 penthouses (2 x 2-bedroom)

Nail Kacey(local residents/ objecting), and Bob Hull (agent), were present and with the consent of the Chair, addressed the meeting. In addition the Panel noted that statements had been received from Lorraine Lakh, Phillip Drake, Dr Doherty , Radu-Daniel Voit and Maria Mihaela Gherda, circulated, read and posted online.

The presenting officer reported that paragraph 6.11 should have made reference to one bicycle and not two. The report paragraph needed 7.3 needed amending to and the following be added it:

“When assessing the application, the Council has a duty to ensure special attention is paid to the desirability of preserving or enhancing the character or appearance of that area as set out in the NPPF. No objection has been raised by the Council’s Historic Environment officer nor the previous Planning Inspector on this basis. This duty needs to be balanced against the benefits of the scheme and in this case the provision of two units outweighs the harm in this case.”

During the debate on the application for the 2 flats it was clear that the situation in regard to the buildings waste and cycle storage had never been satisfactorily resolved. Officers proposed that the recommendation be amended along with an additional condition should be added to address this matter, set out below.

Upon being put to the vote the Panel confirmed the Habitats Regulation Assessment.

The Panel then considered recommendations that authority be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report (as amended). Upon being put to the vote the recommendations, as amended, were carried unanimously.

RESOLVED

5. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
6. That authority be delegated to the Head of Transport and Planning to grant planning permission to the planning conditions recommended at the end of this report and the completion of a S.106 or S.111 Legal Agreement to secure
 - I. either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010; and
 - II. Receipt of satisfactory amended plans within one month of the Panel meeting date showing a revised communal cycle store to a metric scale showing useable Sheffield style hoops for use by all residents (existing and proposed). The approved cycle storage shall be implemented prior to the first occupation of the development hereby approved (if not before) and shall be retained for the lifetime of the development. In the event that the amended plan is not submitted delegation is given to refuse the application for not providing residents with an acceptable cycle storage solution to the detriment of promoting alternative modes of travel to the private car.
7. That the Head of Transport and Planning be given delegated powers to add, vary and/or delete relevant parts of the Section 111/106 agreement and/or conditions as necessary.
8. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

Additional Recommendation

Cycle parking (Performance Condition)

Before the development hereby approved first comes into occupation, the ground floor 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 for the lifetime of the development.

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

11. **PLANNING APPLICATION - 22/00122/FUL - 37 LONDON ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Continued implementation of planning permission 13/01284/FUL not in accordance with condition 3. Variation to condition 3 (hours of use) to vary the opening hours to 11:00 to

midnight (11:00 to 00:00 hours) Monday to Sunday - *Description amended to reduce extended hours from 03:00 am close to 00:00 midnight close.*

The Panel then considered recommendations that the application that authority be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report. Upon being put to the vote the recommendations were carried unanimously.

RESOLVED

1. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to the planning conditions recommended at the end of this report and the completion of a S.106 Legal Agreement to secure the provision of a financial contribution towards late night Community Safety Initiatives within the City Centre, having regard to the late night uses within the application proposal and in accordance with policy AP8 of the City Centre Action Plan as supported by the Planning Obligations SPD.
2. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 27th August

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
Approximate Start Time 4:00pm				
6	Alex L	CAP	5	24/00622/FUL, 25 Bassett Green Drive
Approximate Start Time 4:30pm				
7	Alex L	CAP	5	24/00717/FUL, 84 Milton road
Approximate Start Time 5:00pm				
8	SB	CAP	5	24/00790/FUL, 179 Portswood Road

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:

SB – Stuart Brooks
Alex L – Alex Lindfield

Southampton City Council - Planning and Rights of Way Panel

Report of Head of Transport & Planning

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
- (j) Bus Service Improvement Plan (BSIP) 2021.

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 27th August 2024
Planning Application Report of the Head of Transport and Planning

Application address: 25 Bassett Green Drive S016 3QF			
Proposed development: Erection of a single-storey rear extension with raised patio following demolition of existing extension, loft conversion and alterations to existing front and rear fenestrations.			
Application number:	24/00622/FUL	Application type:	FUL
Case officer:	Alex Lindfield	Public speaking time:	5 minutes
Last date for determination:	30.08.2024 (ETA)	Ward:	Bassett
Reason for Panel Referral:	This application has received 6 objections.	Ward Councillors:	Councillor Richard Blackman Councillor Sam Chapman Councillor Sarah Wood
Applicant: Mr & Mrs R Westbrook		Agent: MDT Design	

Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	Not applicable
Biodiversity Net Gain Applicable	Not applicable

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (revised 2023).

Appendix attached			
1	Planning Conditions	2	Development Plan Policies
3	Relevant Planning History		

Recommendation in Full

Conditionally Approve

1.0 The site and its context

- 1.1 The proposal is for the alteration to a detached Bungalow with attached garage located in Bassett Green Drive which contains other bungalows of a similar nature and in a mostly uniform style.

2.0 Proposal

- 2.1 This proposal seeks consent for the erection of a single-storey rear extension with raised patio following demolition of existing extension, and alterations to existing front and rear fenestrations. The proposed single storey extension will extend approximately 1.46m from the rear wall, 2.57m in height (from the raised patio) 4.38m from the ground level and 4.38m in width across the rear elevation.

3.0 Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (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 2023. Paragraph 225 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.

4.0 Relevant Planning History

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

5.0 Consultation Responses and Notification Representations

- 5.1 At the time of writing the report 6 representations have been received from surrounding residents. The following is a summary of the points raised:

5.2 The development represents poor design and is contrary to the Bassett Neighbourhood Plan

The design of the proposed extensions and alterations, and their assessment against the Bassett Neighbourhood Plan will be assessed in Section 6 below.

5.2.1 Impacts on noise and disturbance

The disturbance caused by the development will be temporary and where appropriate, conditions could be used to control construction hours and suppress dust and minimise working hours.

5.2.2 The proposal represents overdevelopment and is overbearing

The impact of the development on neighbour amenity will be assessed in Section 6 below.

5.2.3 Impact on parking and highways

The impact of the development on parking and highway safety will be assessed in Section 6 below.

Consultation Responses

5.3

Consultee	Comments
N/A	None received

6.0 Planning Consideration Key Issues

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

- The principle of development;
- Design and effect on character;
- Residential amenity; and
- Impact on parking and highway safety.

6.2 Preliminary matters

6.2.1 Since the original application was submitted amended plans have been received which have reduced the size of the proposed dormer windows to a total cubic content of 44.9m³, which comply with Schedule 2, Class B, of The Town and Country (General Permitted Development Order) 2015. The reference to dormer windows has now been removed from the description of this application and will not be assessed. Therefore, in this application the only elements that require assessment will be the single storey rear extension and alterations to rear and front fenestration.

6.3 Design and effect on character

6.3.1 The proposed rear extension will consist of a single storey rear extension would extend approximately 1.5m from the rear wall and would replace an existing extension of a similar size. The extension would comprise of a flat roof and would

measure 4.7m in height.

6.3.2 The alterations to the rear and front fenestration are positioned in the same place as the existing windows and are only slightly bigger in size, therefore although the change would be noticeable this would not cause significant harm to the character and appearance of the dwelling or the surrounding area. There have been concerns raised regarding the alteration of the bungalow to a two storey dwelling and therefore contrary to the Bassett Neighbourhood Plan, however the loft conversion is facilitated by the proposed dormer windows, which do not require planning permission, therefore the conversion of the bungalow does not represent a matter to prevent planning permission being granted.

6.3.3 The proposed single storey extension would be located to the rear of the dwelling and cannot be easily seen from the street scene. The proposed materials for the single storey rear extension would comprise of timber cladding, which would not exactly match the existing brick or render on the existing property, however the chosen materials are considered to relate appropriately and sympathetically with the existing property and would not conflict with the policies contained within the Bassett Neighbourhood Plan.

6.3.4 There have been other concerns raised that this proposal would be overdevelopment, however given that the replacement extension would be of similar dimensions to the existing, this would not be considered to be overbearing or disproportionate with the existing dwellinghouse. The alterations to the front and rear fenestration would be in the same position and would not result in substantial change to the appearance of the existing property in the street scene.

6.4 Impact on Residential Amenity

6.4.1 As the scale and size of the proposed single storey would be close in dimensions to the existing extension, the additional harm to levels of daylight enjoyed by neighbouring properties would be very minimal and not considered harmful. This is also the case to the outlook and privacy, whereby the replacement extension would not result in any significant harm to neighbouring amenity. The proposed alterations to the front and rear fenestration would replace existing windows and therefore the outlook would remain the same and the harm caused would be minimal.

6.4.2 Concerns have been raised that outlook towards neighbouring properties would increase as a result of the development. The separation distances between the proposed development and neighbouring buildings, along with the modest scale of the proposal, would ensure that the development would not result in a significant increase in overlooking, loss of light or outlook or overbearing impacts to neighbouring houses or gardens.

6.5 Impact on parking and highways

6.5.1 There have been concerns raised regarding the effect that this proposal will have on the highway and parking, however as the proposal is for a small scale single storey extension there would no requirements for addition parking. In addition, the property would continue to be used as a single family dwelling and any change to this would require planning permission.

7.0 Conclusion

7.1 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) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

Case Officer **Alex Lindfield** PROW Panel

PLANNING CONDITIONS

APPENDIX 1

1) Full Permission Timing (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).

2) Materials in accordance with submission (Performance)

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the building hereby permitted shall be in accordance with the submitted plans and information hereby approved.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

3) Approved Plans (Performance)

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.

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

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design

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

SDP1 Quality of Development

SDP7 Urban Design Context

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Parking Standards SPD (September 2011)

Bassett Neighbourhood Plan (July 2016)

Other Relevant Guidance

The National Planning Policy Framework (2019)

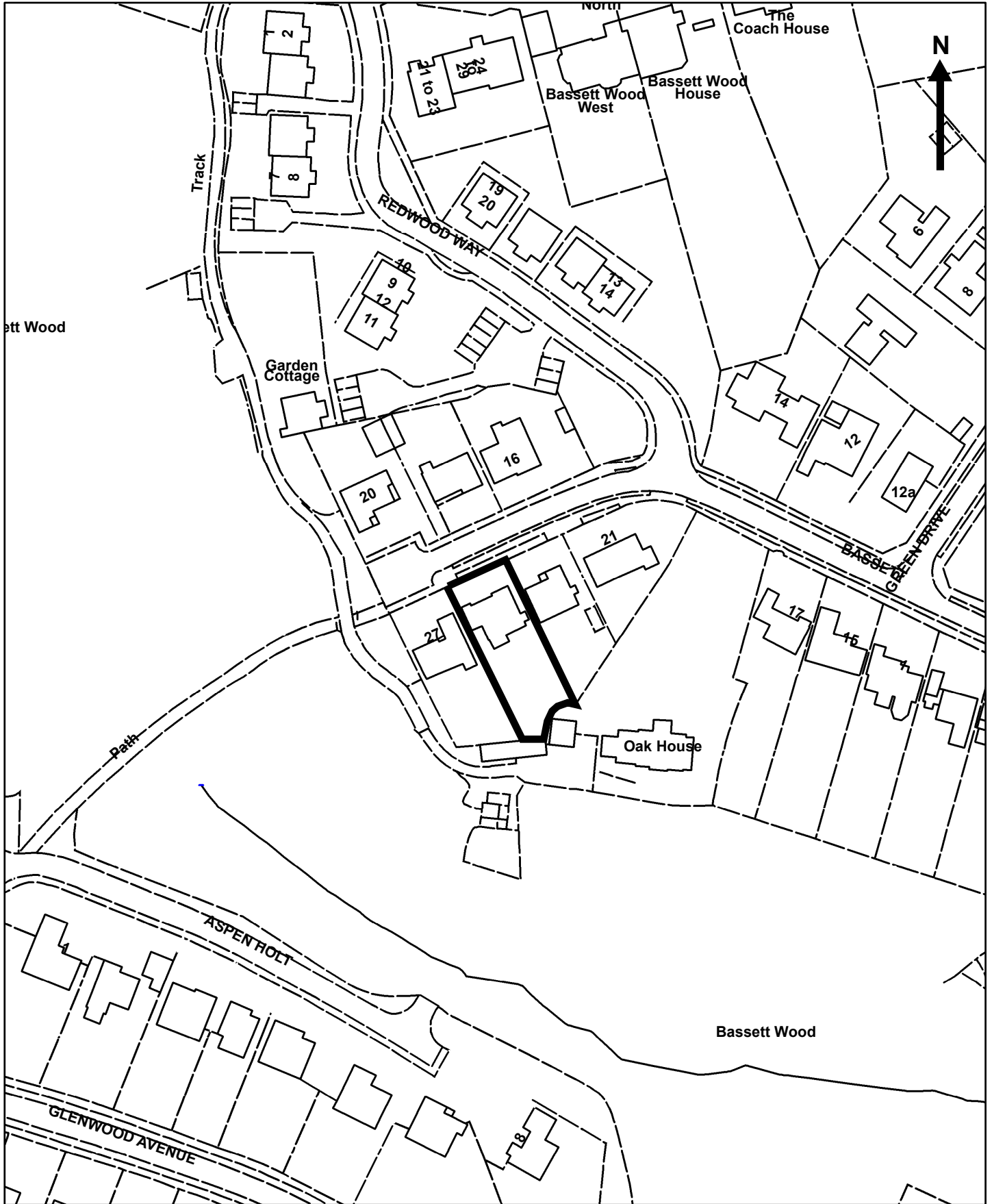
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Relevant Planning History

Case Ref	Proposal	Decision	Date
1180/27	ERECTION OF 3 BUNGALOWS AND GARAGES (Prev Ref - Plot 157 _ 158 B.W. Estate)	Conditionally Approved	04.07.1960
1180/27R2	ERECTION OF 3 BUNGALOWS AND GARAGES - DRAINAGE	Conditionally Approved	18.04.1961
24/00537/PLDC	Application for a lawful development certificate for a proposed single storey outbuilding		18.06.2024

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Agenda Item 5 24/00622/FUL



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**Planning and Rights of Way Panel 27th August 2024
Planning Application Report of the Head of Transport and Planning**

Application address: 84 Milton Road Southampton SO15 2HW			
Proposed development: Erection of a single-storey front extension (Part retrospective).			
Application number:	24/00717/FUL	Application type:	FUL
Case officer:	Alex Lindfield	Public speaking time:	5 minutes
Last date for determination:	30.08.2024 (ETA)	Ward:	Banister and Polygon
Reason for Panel Referral:	This application has received 6 objections.	Ward Councillors:	Councillor Pat Every Councillor Steve Leggett Councillor Vivienne Windle
Applicant: Mr Sahota		Agent: Sanders Design Services Ltd	

Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	Not applicable
Biodiversity Net Gain Applicable	Not applicable

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (revised 2023).

Appendix attached			
1	Planning Conditions	2	Development Plan Policies
3	Relevant Planning History		

Recommendation in Full

Conditionally Approve

1. The site and its context

1.1 84 Milton Road is a two-storey terraced dwelling located in a sub-urban area characterised by similar two-storey terraced properties. The property is also located in the proximity to Southampton City centre located in the Banister and Polygon Ward.

2.0 Proposal

2.1 This proposal relates to the erection of a front extension, which has partially been built and completed. There was an original application under 23/00375/FUL that was approved for a single storey front extension, however as this has not been built in accordance with the original plans. This application seeks to regularise the variation from the approved scheme. The front extension measures 2.420m from the front elevation, 3.567m in height and 4.265m in width.

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 2023. Paragraph 225 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 3** of this report.

5. Consultation Responses and Notification Representations

5.1 At the time of writing the report 6 representations have been received from surrounding residents. The following is a summary of the points raised:

5.2 Poor design and out of character

The impact of the development on the character and appearance of the area will be assessed in section 6 below.

5.3 Overshadowing

The impact of the development on neighbour amenity will be assessed in section 6 below.

5.4 **Reduction in front amenity space and front elevation**

The loss of front amenity space impact of the development on the character and appearance of the area will be assessed in section 6 below.

5.5 **Noise**

Noise related issues would not be significant given that this application relates to a front extension, with limited additional impact on residential amenity than previously considered.

Consultation Responses

5.4	Consultee	Comments
	N/A	None received

6.0 **Planning Consideration Key Issues**

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

- Design and effect on character
- Residential amenity
- Mitigation of direct local impacts

6.2 **Preliminary matters**

6.2.1 The proposals are for a single storey front extension which would have the following dimensions:

Depth: 2.19m
Height: 3.63m
Width: 4.2m.

A front extension was previously approved under application number 23/00375/FUL which was approved with the following dimensions:

Depth: 0.63m
Height 3.3m
Width: 4.06m

This application seeks to regularise the enlargement of the front extension.

6.3 Design and effect on character

6.3.1 Milton Road is a row of two storey terraced houses of varying styles mainly characterised by porches and front bay windows also with varying degrees of design and style. The porch structure that has been partially built projects further from the front elevation by approximately 1.5m, but is lower in height and not as wide. The difference in size is not of a significant amount, and it is the degree of additional harm associated with this increase that can only be assessed.

6.3.2 The principle of a front extension to this property has already been established through the previous, extant permission. Milton Road has many examples of different front extensions whether in the form of a bay window or similar front extension. An example found in the neighbouring dwelling at number 82 Milton Road has a similar design although does not extend the full width of the dwelling. This example does have a similar size in in depth extending out to a similar point to the front boundary. This is also the case at no 62 Milton Road where there is a front extension built to a similar depth with a similar size window the front elevation. Given the variation in design, size and scale in many dwellings on Milton Road the increased depth of the addition at no 84 Milton Road would not be out of character or harmful to the character and appearance of the overall street scene. Furthermore, the lean to design of the extension and its footprint and scale, would be proportionate with the existing property, and would not be inappropriate. On this basis the proposals are considered to be acceptable.

6.4. Residential amenity

6.4.1 With regards to residential amenity, due to the overall small scale of the front addition this would not cause harm to neighbouring amenity in regard to loss of light, overbearing or overshadowing. The dwelling that would have potential to be most affected by this structure would be 86 Milton Road, however due to the extension being to the front loss of light to this property would not be significant.

6.4.2 There have been concerns raised in regard to loss of privacy, however as the windows located on the front extension have the same outlook as the previous windows there would not be any change to outlook nor have any effect on the privacy of neighbouring dwellings.

6.5 Other Matters

6.5.1 There have also been concerns raised regarding the removal of the original front elevation and loss of amenity space to the front. A wider front addition was previously approved under the last application. This established a change to the front elevation and loss of the original flat front elevation. The resulting extension increases the depth of the extension and overall is still considered to be acceptable in design terms.

6.5.2 Concerns have also been raised that the extension results in a loss of front amenity space. As has been demonstrated on site, the front extension still allows for bin storage space within the front amenity area, therefore there would be no significant loss of amenity area to the existing occupiers.

7.0 Conclusion

7.1 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) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)
Case Officer **Alex Lindfield** PROW Panel

PLANNING CONDITIONS

APPENDIX 1

1) Approved Plans (Performance)

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.

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

2) Materials to match (Performance)

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the building hereby permitted shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those on the existing building.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design

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

SDP1 Quality of Development

SDP7 Urban Design Context

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2019)

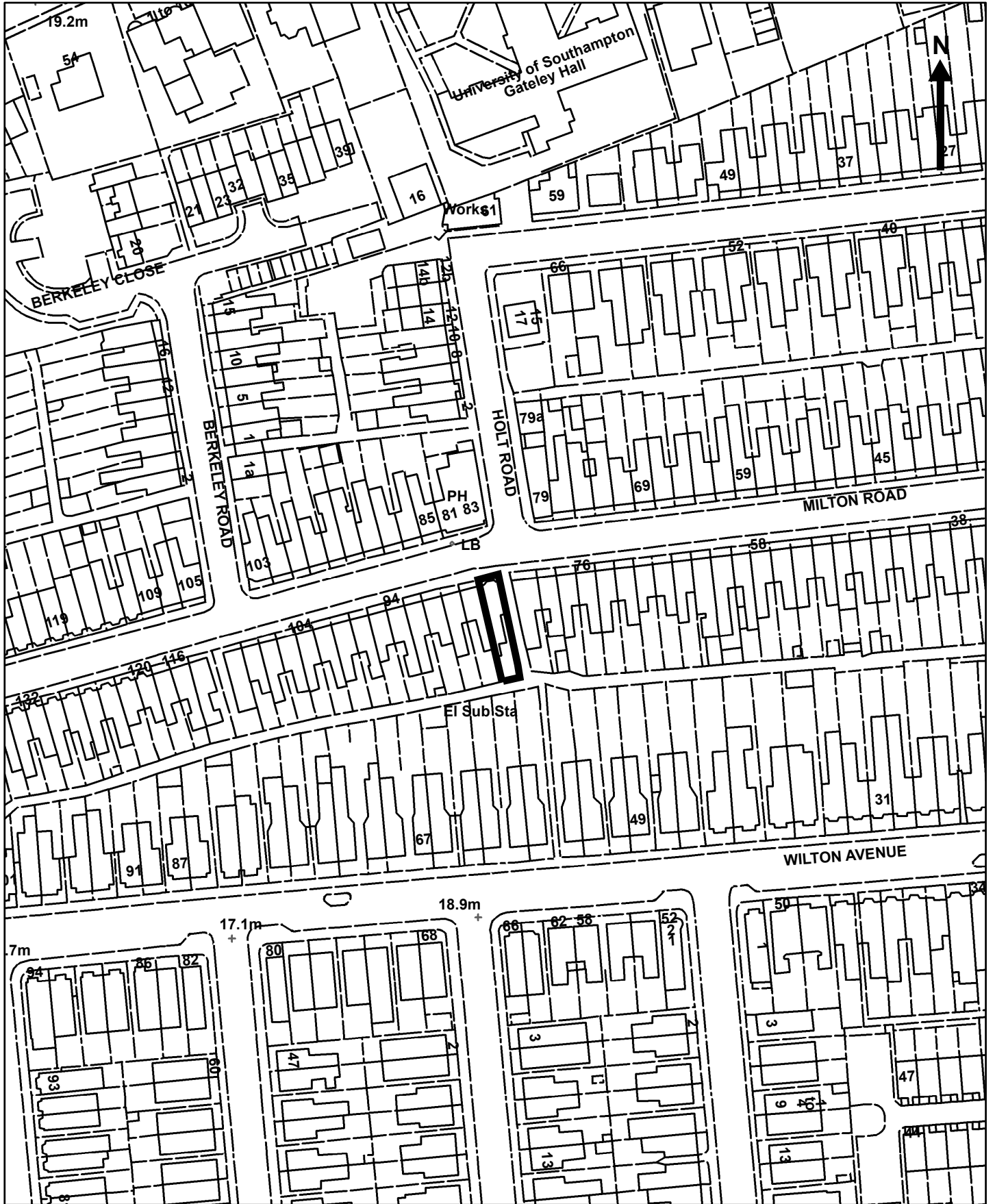
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Relevant Planning History

Case Ref	Proposal	Decision	Date
07/00423/FUL	Erection of a part two-storey and part single-storey rear extension.	Conditionally Approved	11.05.2007
10/00347/TIME	Application to extend the time limit for implementation of Planning Permission 07/00423/FUL (erection of a part two storey and part single storey rear extension)	Conditionally Approved	11.05.2010
14/01451/FUL	Erection of a part two storey, part single storey rear extension	Conditionally Approved	22.10.2014
18/00229/FUL	Erection of a part two storey, part single storey rear extension	Conditionally Approved	05.04.2018
23/00375/FUL	Erection of single storey front extension.	Conditionally Approved	15.05.2023

Agenda Item 6

24/00717/FUL



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Planning and Rights of Way Panel 27th August 2024
Planning Application Report of the Head of Transport and Planning

Application address: 197 Portswood Road Southampton SO17 2NF			
Proposed development: Erection of a single-storey rear extension to facilitate the use of the site for sale of hot food and drink and takeaway			
Application number:	24/00790/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	5 minutes
Last date for determination:	29.08.2024	Ward:	Portswood
Reason for Panel Referral:	Request by Ward Member	Ward Councillors:	Cllr Barbour Cllr Finn Cllr Savage
Referred to Panel by:	Cllr Finn & Savage	Reason:	Impacts on amenity and access
Applicant: HKSA Trading Ltd		Agent: B Heer	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	No
Biodiversity Net Gain Applicable	Not applicable

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (revised 2023). Policies –CS3, CS6, CS7, CS13, CS18, CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP16, CLT15, REI4, REI5, REI7 of the City of Southampton Local Plan Review (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Prior approval 24/00572/PA56
3	Appeal decision Varsity		

Recommendation in Full Conditionally approve

1. The site and its context

- 1.1 The site is located within the Portswood district centre which comprises a mix of commercial and retail uses including a number of food and drink businesses which operate in the late evening. There are residential uses located on upper floors along the Portswood centre. In wider area, there are residential neighbourhoods to the west, including residential properties in Russell Place, forming the Portswood Residents Gardens Conservation Area.
- 1.2 The site contains a 2 storey building with converted roofspace and comprises class E retail use on the ground floor with ancillary storage on the upper floors. The rear lane services the site and runs to the rear of the Portswood centre to Highfield Lane. The service lane is shared by other premises fronting Portswood Road. This lane is not adopted as a public highway and is privately maintained. The lane is mostly unmade and unlit with a small section of hardtop surface leading from the Portswood Road access to the south of the site.
- 1.3 The lane provides access to the car park of the Mencap centre (187a Portswood Road) adjacent to the rear of the site. Mencap centre provides a day service programme for people with learning disabilities.

2. Proposal

- 2.1 It is proposed to convert the retail unit into a mixed use restaurant and takeaway use serving hot food. Since the initial submission of the application, the applicant has agreed to reduce the closing hours from 03:00 to midnight, opening from 12:00pm (Monday to Sundays/Public Holidays). The proposal also would add a single storey rear extension with outside storage area, and extraction flue on the roof top of the extension.
- 2.2 The proposed rear extension would form a new residential linked to a pending prior approval application to convert the upper floors into 2 x 1 bed flats (ref no. 24/00572/PA56) under Schedule 2 Part 3 Class G of the General Permitted Development Order (**see Appendix 2**).
- 2.3 Although the proposed extension is necessary to create suitable bin storage for the proposed flats, the prior approval must be considered separately to this application.

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). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) was revised in 2023. Paragraph 225 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 As explained above, there is a pending prior approval application to convert the upper floors into 2 x 1 bed flats (ref no. 24/00572/PA56). The plans can be viewed in **Appendix 2**.

- 4.2 Nearby consented evening opening hours include the following:

Rio Piri Piri, 243 Portswood Road Ref: 21/01285/FUL
07:30am to 11:30pm every day

Portswood Piri Piri, 237 Portswood Road Ref: 13/00738/FUL
Monday to Saturday until 11:30pm
Sundays until 11:00pm

Xiongqi hot pot restaurant, 186-188 Portswood Road Ref: 14/00739/FUL
Monday to Saturday until 11:00pm
Sundays until 9:30pm

Burga, 170 Portswood Road Ref: 17/01414/FUL
Monday to Saturday until midnight
Sundays until 11:00pm

Sravs Kitchen restaurant, 162 Portswood Road Ref: 20/01690/FUL
Monday to Sunday until 11:00pm

Fu House restaurant, 160A Portswood Road Ref: 17/01014/FUL
Monday to Friday until 11:00pm
Sundays until 10:00pm

Land to rear of The Broadway, Portswood Road Ref: 19/01261/FUL
Monday to Sunday until 10:00pm
Food court including takeaway

TNB restaurant, 5 The Broadway, Portswood Road Ref: 18/02035/FUL
Tuesday to Sunday until 10:00pm

Pho Vietnam, 3 The Broadway, Portswood Road Ref: 14/01044/FUL
Monday to Sunday until 11:00pm

Smokeys, 114 - 116 Portswood Road Ref: 14/00284/FUL
Monday to Sunday until midnight

- 4.3 In 2008, the bar premises 'The Broadway' at 5-6 Portswood Centre (nee Varsity) was allowed by appeal to extend their closing hours until midnight (*see Appendix 3*).

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 19.07.2024. At the time of writing the report 6 objections have been received from surrounding residents, albeit 4 objectors live outside the ward. The others are representatives of the Mencap centre. The comments raised by the ward councillors are set out below. The following is a summary of the points raised:

- 5.2 ***The surfacing of the service lane is poorly maintained. The proposed development of a food outlet would increase the traffic using the lane, decrease the safe and convenient access for service users of the Mencap centre by delivery and servicing vehicles obstructing the lane and car park entrance, and worsen the condition of the lane surface. All too frequently, cars, delivery vans etc use the car park for turning or parking when the lane becomes blocked by other vehicles, so the car park gates are frequently locked to ensure safety. This causes delays for visitors. Delays caused by increased traffic could impact carers and taxis attempting to navigate the area efficiently, potentially deterring individuals from utilising Mencap services.***

Response

Any dispute over damage caused to the lane by the applicant during construction would be a civil matter, however, a Construction Management Plan will be secured via planning condition 6 to minimise obstruction to other users and damage to the service lane. The applicant is not solely responsible for the up keep of the private lane. It would therefore be unreasonable and disproportionate to require the lane to be resurfaced or repaired by the applicant. Traffic movements associated with the proposed food and drink use will not significantly increase along the service lane from staff and servicing vehicle trips, however, no enforceable controls can

be applied to how and when the private lane is used for servicing, deliveries, and unloading of goods by the applicant.

- 5.3 ***It is unclear from the application if the extension is to be used by the public, but if so, it is not very accessible due to the poor condition of the lane. If a senior citizen, or a person with a disability wished to access the extension they would find it very difficult to walk safely down the lane. There is no footpath, so a continual watch must be made for any delivery vehicles, cars, delivery bikes or e-scooters. The drivers of these vehicles are unlikely to be aware of the problems they can cause. There is no available parking for anyone unless by causing an obstruction. Food takeaways can cause a large amount of litter. The lane is already used for fly tipping. An increase in waste, particularly food waste could become a health hazard to anyone using the lane.***

Response

The premises at 197 Portswood Road will be accessed by customers from the front shop entrance and not the service lane. Refuse bins for the proposed use will be stored at the rear of the premises and collected from the service lane as per the existing business. There is no parking for staff and servicing vehicles on the site. A customer litter bin within the premises will be secured by condition 7. Fly-tipping is a criminal offence with significant penalties available to the courts when the perpetrators are identified, however, it is the responsibility of the landowner to remove rubbish on private land. That said, it should be assumed that the applicant will act in a reasonable manner when using the site and managing their waste.

- 5.4 ***Late night disturbance and nuisance from increased noise, anti-social behaviour, and cooking odours affecting local residents and littering. Led by high student population in local area, there is a large number of food outlets both for takeaway food and for consuming on site, in Portswood so another one seems to be unnecessary. Negative impact on vitality of Portswood centre with over proliferation of food and drink uses and decline/diversity of retail businesses, and unhealthy food options.***

Response

Policy RE14 of the Local Plan Review places no restriction for secondary retail frontage on the grounds of balance between shopping and other uses, whilst policy CLT15 accepts the principle of late night uses in Portswood district centre. However, the concentration of uses may impact on amenity justifying refusal of planning permission; in relation to food and drink uses, where policy RE17 applies. The Environmental Health team have raised no objection with regards to the impact of noise disturbance and cooking odours arising from the proposed use. The adverse health impact of the food menu options cannot be afforded significant weight in

this case. This is further assessed in section 6 of the report.

Consultation Responses

5.5

Consultee	Comments
Cllr Marie Finn	<p><u>Objection received 19.07.2024</u></p> <p>I am happy to see that they have changed their opening hours to end at midnight. I have no concern about there being an extension and a take away in itself.</p> <p>My objection comes from uncertainty about the effect of increased traffic and construction vehicles will have on the safety and convenience of access for the service users of the Mencap centre, especially pedestrians and in the winter when the surface conditions are worsened by rain and mud.</p> <p>If a solution can be found to this alleyway issue, I would withdraw the objection but as it stands, I request that it goes to planning committee for discussion and consideration.</p>
Cllr John Savage	<p>Objection. I would like to bring this application to panel.</p> <p>Reasons:</p> <ul style="list-style-type: none"> • The threat to worsening the condition of the road for other users. • Noise and disturbance • ASB at night in an area with lack of surveillance
Cllr Barbour	<p>It is a sad day that the hardware store which has enhanced our high street is being replaced by a food takeaway. Sadly not enough people supported this business and instead used Amazon and other online businesses and shops outside this area to get their hardware needs. The shop was looked at by D & G hardware who decided against buying it, this must have been in part due to the amount of trade the shop was doing. So we get another takeaway store proposed. I am sure the owners will negotiate with the local day centre to ensure the work does not impinge on the free movement of taxis delivering customers to Mencap. This can be stressed in the planning approval if this is given the green light. I note the takeaway will now close at midnight which is a sensible decision so locals who live above the shops are able to get some rest and quiet.</p>

Environmental Health	No objection due to the reduced hours now specified as midnight and design and specification for the kitchen ventilation system
Highways	No objection

6.0 Planning Consideration Key Issues

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

- The principle of development
- Design and effect on character
- Residential amenity
- Access and parking

6.2 Principle of Development

6.2.1 The application site is located within the Portswood district centre (policy REI5) and is designated as secondary retail frontage (policy REI4). Policy REI4 and REI5 of the Local Plan Review permits the use of the premises for Class A1 to A5 or other uses which offer a direct service to the public. Furthermore, the supporting text (paragraph 8.14 refers) of policy REI4 states that *'beyond the primary retail frontage there is no restriction on the grounds of balance between shopping and other uses. However, the concentration of uses may impact on amenity justifying refusal of planning permission; in relation to A3, A4 and A5 uses, Policy REI 7 applies'*. The supporting text (paragraph 8.22 refers) of policy REI5 states that *'although the city council takes the view that the primary role of the district centre is to offer a range of retailing facilities, their role extends beyond the purely shopping function. Diversity of use is required in order to sustain and enhance the district centres'*.

6.2.2 Policy CLT15 of the Local Plan permits proposals for restaurants and takeaways uses in town, district and local centres subject to compliance with policy REI7. Policy REI7 requires consideration of the amenity impacts of the proposed use from noise disturbance, odour and litter associated with the cooking processes, hours of use, and comings and goings. The assessment of these impacts is set out in the report below.

6.2.3 In September 2020, the Use Classes Order reclassified the use of hot food takeaways and restaurants into a Sui Generis and class E use respectively. Prior to this change, a hot food takeaway was classed as 'A5' use. There are no external shopfront changes proposed affecting the activeness of the Portswood Road frontage.

6.2.4 As such, the proposed change of use will not be contrary to the range of uses allowed under policies REI4 & REI5. Therefore, the principle of development would be acceptable.

6.3 Design and effect on character

6.3.1 The scale and design of the proposed single storey extension/servicing compound and rooftop extraction equipment will be a modest addition to the building (replacing an existing single storey rear element). This will be in keeping with the character and appearance of the back of buildings visible along the service lane. The compound will screen refuse bins. As such, the proposal will not adversely affect the visual amenity of the local area.

6.4 Residential amenity

6.4.1 The Portswood centre is made up of mix of commercial uses with food and drink businesses trading late at night. Portswood Road is a busy traffic route. This makes the centre a fairly noisy environment. There are residential neighbourhoods surrounding the centre and flats above shops.

6.4.2 With the reduction in the closing hours to midnight and the mitigation of cooking odours provided by the extraction equipment, the Environmental Health team have raised no objection to the impact from noise and odour issues. The midnight closing hours are on the upper limit of the range of hours permitted for food and drink premises within the Portswood centre. That said, the Varsity appeal decision allowed in 2008 (**see Appendix 3**) to extend closing hours till midnight for a drinking establishment, concluded that nearby residential properties would not be adversely affected by noise and disturbance from those leaving the premises late at night, in particular customers dispersing over a wide area would dilute the impact, and unacceptable levels of traffic related noise and disturbance would not be caused (paragraph 19 refers).

6.4.3 The above appeal decision established that a midnight closing time in this location would not be inappropriate or harmful to residential amenity. In addition, the examples listed in paragraph 4.2 of this report highlight that planning permission has been granted up to midnight for other food and drink premises in Portswood. On this basis the proposals to increase the opening time of the property to midnight would not result in significant additional noise and disturbance to neighbouring residents.

6.4.4 Depending on the outcome of this application, the noise disturbance impact on the prior approval flat conversion will be considered separately by officers under the pending application (ref no. 24/00572/PA56) within the scope of matters limited under permitted development (Schedule 2 Part 3 Class G).

6.4.5 As such, the scale and nature of the proposed use, including the impacts

of customers dispersing into surrounding neighbourhoods late at night, will not adversely affect residential amenity, whilst noise disturbance and nuisance from cooking odours can be adequately mitigated through conditions.

6.5 Access and parking

- 6.5.1 Customers will access the site from the shop entrance and not the service lane. Refuse bins for the proposed use will be stored at the rear in an enclosed compound and collected from the service lane as per the existing business. There is no on site parking for staff and servicing vehicles. No enforceable controls can be applied to how and when the private lane is used for servicing, deliveries, and unloading of goods by the applicant.
- 6.5.2 A service lane is poorly maintained and unlit route, which is mostly unmade with hardtop along the section from Portswood Road to the rear of the site. The service lane is privately maintained and historically serves rear access for premises along Portswood Road and waste collection, including the Mencap centre and a gated car park on the north-west side of the lane. The attendees have physical disabilities in addition to learning disabilities.
- 6.5.3 Traffic movements associated with the proposed use will not significantly increase along the service lane or Portswood Road from staff and servicing vehicles. Additional parking demand and trips to the site will be minimised by the highly accessible location for public transport and, therefore, will not adversely affect the local road network or pressure on street parking in the local area. The impact on safety and security of future occupiers accessing the proposed flats via the service lane is limited only to the '*arrangements required for the storage and management of domestic waste*' under the prior approval application.
- 6.5.4 Concerns have been raised about the negative impact of pedestrian safety on other users and further deterioration of the service lane from increased traffic and construction activities. This includes a negative impact on safe access of service users attending the Mencap centre which access their car park from the service lane just behind the site, and pedestrians navigating the unlit, unmade and uneven surfaced sections of the lane, especially during inclement weather.
- 6.5.5 The small scale build and demolition works will cause limited disruption to the users of the service lane in terms of the modest time to complete the build and number of contractors working on the project. Any dispute over damage caused to the lane by the applicant during construction would be a civil matter, however, to minimise obstruction and damage to the service

lane a Construction Management Plan will be secured via planning condition 6. This will seek to manage contractor parking, designated unloading area and route for site delivery vehicles, size of delivery vehicles, and storage of building materials and equipment/welfare facilities.

- 6.5.6 The applicant is not solely responsible for the up keep of the private lane and, therefore, it would be unreasonable and disproportionate to require the applicant to resurface or repair the route in connection with the application. As such, a planning condition will seek to manage potential damage to the service lane and safety of other users during construction, whilst the proposed use is not considered to adversely affect road safety for all users.

7. Summary

- 7.1 In summary, the proposal will not have a negative social and environmental effect on the local area, whilst reusing the premises as a food and drink use will have local economic benefits and sustain the vitality and viability of the Portswood centre. The local concerns raised about impacts on the service lane have been taken into account and addressed in the report.

8. Conclusion

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

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

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

SB for 27.08.24 PROW Panel

PLANNING CONDITIONS

1. Full Permission Timing (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).

2. Extract ventilation (Performance)

Prior to the commencement of use, the cooking extraction equipment shall be installed and made operational as approved and, thereafter, maintained and retained as approved for the lifetime of the development. The equipment shall be operated in accordance with the manufacturers' instructions to effectively control odours from any cooking process and noise and/or vibration generated by the extractor fan.

Reason: To protect the amenities of adjoining residential properties.

3. Hours of Use (Performance)

The food and drink 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 Sundays/Public Holidays 12.00 hours to 00.00 hours

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.

4. Materials in accordance with submission (Performance)

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the building hereby permitted shall be in accordance with the submitted plans and information hereby approved.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

5. Refuse & Recycling (Performance)

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

Reason: In the interest of visual amenity.

6. Construction Management Plan (Pre-Commencement)

Before any development works are commenced, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority which shall include details of:

- (a) parking of vehicles of site personnel, operatives and visitors;
- (b) loading and unloading of plant and materials, route for site deliveries along the service lane, and maximum size of delivery vehicles;
- (c) storage of plant and materials, including cement mixing and washings, used in constructing the development;
- (d) measures to be used for the suppression of dust and dirt throughout the course of construction;
- (e) details of construction vehicles wheel cleaning; and,

The approved Construction Management Plan shall be adhered to throughout the

development process unless agreed otherwise in writing by the local planning authority.

Reason: In the interest of health and safety, protecting the amenity of local land uses and to minimise obstruction and damage to the service lane, and the character of the area and highway safety.

7. Litter Bin (Performance)

Litter bin facilities shall be provided and made accessible for customers within the serving area of the premises prior to the first commencement of use and shall thereafter be retained for the lifetime of the use.

Reason: In the interests of visual amenity.

8. 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.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS3	Promoting Successful Places
CS6	Economic Growth
CS7	Safeguarding Employment Sites
CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
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)

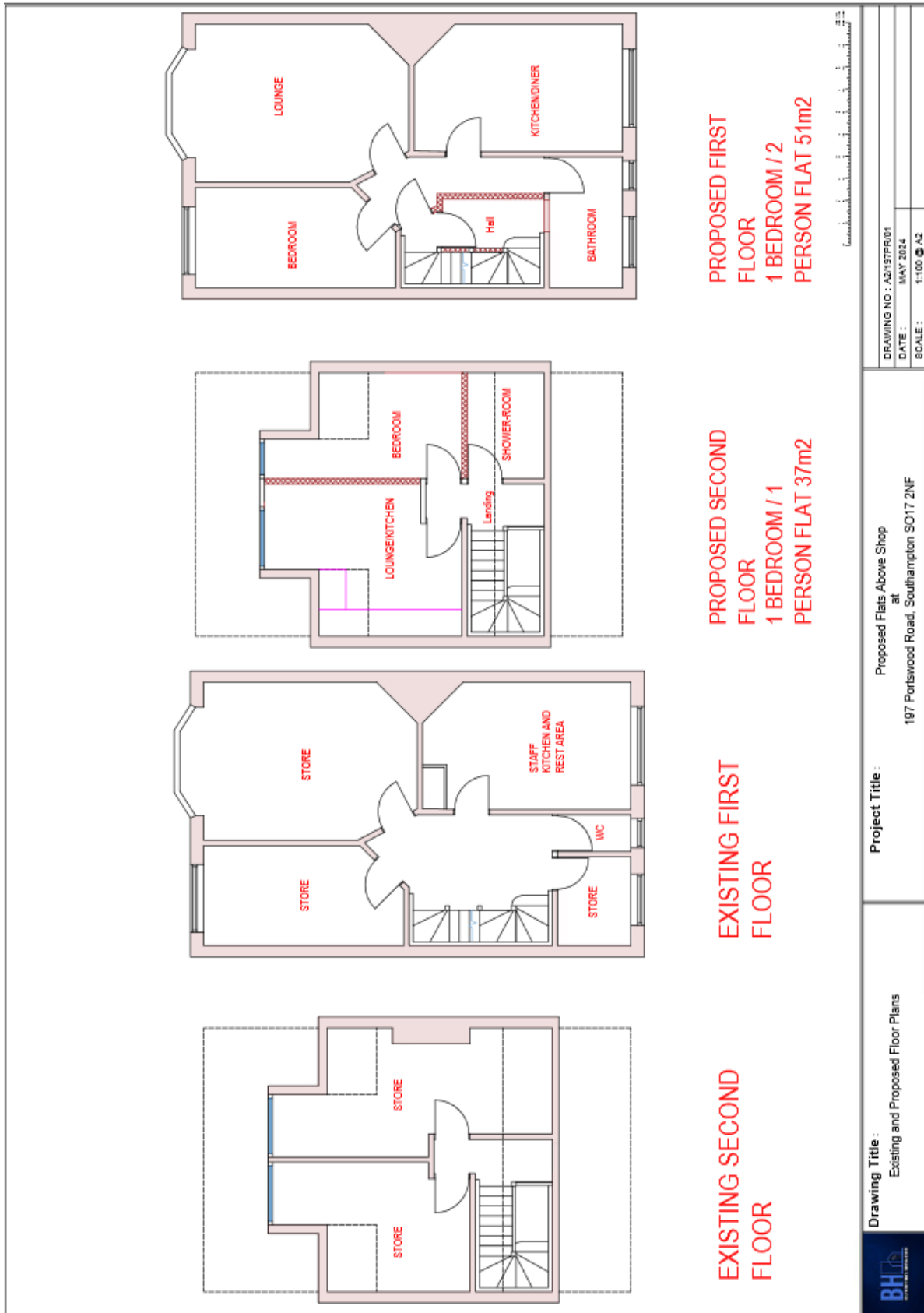
Supplementary Planning Guidance

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2023)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)





Appeal Decision

Hearing held on 21 October 2008

Site visit made on 21 October 2008

by **R J Marshall** LLB Dip TP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

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Decision date:
18 November 2008

Appeal Ref: APP/D1780/A/08/2073082

The Terminal, 5-6 Portswood Centre, Portswood Road, Southampton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Barracuda Group Ltd. against the decision of Southampton City Council.
- The application Ref 07/02055/VC/29854, dated 20 December 2007, was refused by notice dated 4 March 2008.
- The application was described as "Variation of condition 3 attached to permission no. 04/00210/FUL".
- Condition No. 03 states that:
"The use shall be restricted to the following hours:-
Monday to Saturday – 09.00am to 11.30pm
Sundays – 09.00am to 11.00pm
Outside of these hours the premises shall be closed to the public".
- The reason given for the condition is: "To safeguard the amenities of neighbouring properties and the area generally".

Decision

1. I allow the appeal and grant planning permission for an A4 drinking establishment including ancillary staff accommodation at first floor at the Varsity, 5-6 Portswood Centre, Portswood Road, Southampton in accordance with the application Ref 07/02055/VC/29854 dated 20 December 2007, without compliance with condition number 03 previously imposed on planning permission Ref 04/00210/FUL/26815 dated 14 June 2004 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition: *No customers shall be on the premises of the use hereby permitted outside the following times: Sundays to Saturdays 09.00 hrs to 00.00 hrs.*

Procedural matters

2. At the time the application the subject of this appeal was made the appeal premises was a public house known as The Terminal. It is now known as the Varsity.
3. The application before me should more accurately have been described as being for permission to develop land without complying with condition 03 subject to which planning permission 04/00210/FUL/2815 was granted. That permission was for "Change of use from retail (A1) to food and drink (A3)

including ancillary staff accommodation at first floor". Moreover, since the date of that decision changes to the Use Classes Order created a separate A4 drinking establishment use. A public house falls within that Use Class. The parties confirmed that if the appeal was allowed the new permission should refer to the appeal premises being an A4 use. I concur with that approach. My decision reflects this and the other matters to which I have referred above.

4. The appellant confirmed that on Mondays-Saturdays inclusive the appeal premises is operated on the basis of last orders being at 23.00 hrs with customers being required to vacate the premises by 23.30 hrs. Both parties read the disputed condition as requiring this.
 5. On the application forms the proposal before me was described simply in the terms set out in the bullet points of this decision. A letter accompanying the application said that it was proposed that the opening hours be extended as follows: Sundays to Saturdays 09.00 hrs to 00.00 hrs.
 6. In the discussion on conditions, towards the close of the hearing, the appellant said that a condition imposed on any new permission should be worded so as to enable drinks to be served up until 00.00 hrs and requiring customers to vacate the premises by 00.30 hrs. Strong objections to this were raised by the Council and local residents who said that this went beyond what they thought the appellant had been seeking. They had read the proposal as requiring the premises to be vacated by 00.00 hrs.
 7. The wording of the application and covering letter refers only to a change of hours. In the absence of any evidence to the contrary it was reasonable for the Council to have taken it that the suggested additional hours were sought on the basis of the same restriction that currently applies, that is that any drinking up time is included within the specified hours.
 8. Added weight is given to this being the appellant's intention when submitting the application by the fact that the Officers' report, recommending permission, carried a condition identically worded to the existing condition 03, but with the following hours referred to: Mondays to Sundays 09.00 to 00.00. At no time prior to the hearing did the appellant object to this or suggest that a differently worded condition should be imposed so as to allow drinking up time beyond 00.00 hrs.
 9. In additional support of this view is the acoustic report prepared for the appellant. This said that "The current trading hours of The Terminal are up to 23.30 hrs Mondays to Saturdays and 23.00 hrs on Sundays. We understand that the proposed extension of trading hours would be to midnight Monday to Sunday. All of the times given above include a 30 minute drinking up period subsequent to last orders".
 10. Having regard to the above I shall determine this appeal on the basis that the appellant was seeking to revise the opening hours of the premises so that customers would be required to vacate them by 00.00 hours. Any other approach would be contrary to a reasonable interpretation of the application and detrimental to those with an interest in the appeal.
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Main issue

11. The main issue in this appeal is the effect of the proposed development on those nearby, and in surrounding residential areas, through noise and disturbance.
12. As the site lies fairly close to the Portswood Residents' Gardens Conservation Area I shall also have regard to whether the proposal would preserve or enhance the character of this area.

Reasons

Effect on residents living conditions

13. The appeal site lies towards one end of the Portswood district centre. This is a fairly large shopping area that also contains a substantial bingo hall, restaurants, takeaways and public houses. The centre lies to either side of Portswood Road, a main road leading into Southampton city centre. The Varsity has quite a large floor area and can accommodate a large number of customers.
 14. The City of Southampton Local Plan Review (2006) encourages strengthening district centres and sustaining and enhancing them by allowing a diversity of uses (Policy REI 5). Within such centres A4 uses will be permitted (CLT 15). Explanatory text to this Policy says that where there would be an adverse impact on amenity, hours of opening will be conditioned. However, it also says that beyond the city centre, district centres are the venues most capable of accommodating night related activities. That being so I do not read this Policy as being as restrictive in principle on opening hours as local residents suggest. Other Local Plan Policies more generally seek to protect neighbours' living conditions.
 15. Given the characteristics of the district centre referred to above it is a fairly noisy environment. Noise and disturbance will in the main be concentrated within the centre. However, it is likely that some degree of noise and disturbance will radiate out into surrounding residential areas especially along the more major roads leading to and from the centre.
 16. There are residential flats above commercial properties in the district centre and houses adjoin a car park at the rear of the premises. However, residents in such areas are likely to expect a degree of noise and disturbance even into the late evenings. In this context, I see no harm in the slightly longer hours of opening sought by the appellant. I am of this view even if the opening hours of other public houses in the centre are as suggested by the Council.
 17. I now turn to the effect of proposal on residents in the wider area, including some in retirement accommodation, beyond the district centre. Residents, especially those in the Conservation Area to the north of the centre, have expressed concerns about the proposed extended opening hours. Their concern is primarily on the noise and disturbance that they say would occur at a later hour from those leaving the Varsity on foot.
 18. Local residents say that harm through noise and disturbance arises at present from those leaving the district centre in the evenings. However, this is largely anecdotal and there is no substantial evidence to link such noise and
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disturbance to those leaving the appeal premises. That said, I also place limited weight to the figures on pedestrian movements in the appellant's noise survey, given the restricted survey period.

19. Nevertheless, given the large number of residential streets in the area I consider that those leaving the appeal premises are likely to disperse over a wide area. This should substantially reduce the impact that they would have over the area as a whole through noise and disturbance. Nor is there any substantial evidence to support concerns that the use of the Varsity causes unacceptable levels of traffic related noise and disturbance that would be exacerbated by the extended hours.
20. A major concern of residents is that, unlike The Terminal, the Varsity is a student pub. I am in no doubt, given its name and the publicity material on it, that the pub appeals to the student market. However, students are likely to disperse from the appeal premises into the surrounding roads as widely as others would. For, although the main university campus is in a specific area some distance to the north-west of the district centre, students appear to be accommodated more broadly in the wider area. Nor is there any substantial evidence, that even without a permanent police presence in the area, students would create more noise and disturbance than others of a similar age.
21. In my view, allowing the appeal premises to open half an hour later than it currently does on Mondays to Saturdays, and an hour later on Sunday, would cause only a limited degree of additional noise and disturbance in surrounding residential streets. This would not be sufficient to cause unacceptable harm to living conditions. I see this as being quite different from the recently dismissed appeal where opening hours through to 01.30 hours were sought. Opening to that hour would have had a far more substantial impact on living conditions. The current proposal provides an acceptable balance between the need for satisfactory living conditions whilst ensuring an active and vibrant district centre.
22. The Council says that it has taken a consistent approach in refusing permission for extended opening hours on other premises in the vicinity. However, only one of the cases referred to is in Portswood Road and that involved extended opening hours much later than in the case before me. Moreover, turning to local concerns on precedent, planning permission in this case would not make it more difficult for the Council to resist harmful extensions to opening hours.
23. I conclude that the proposed development would cause no unacceptable harm to the living conditions of those nearby, and in surrounding residential areas, through noise and disturbance. It would conform therefore to the Local Plan Policies to which I have referred.

Effect on Conservation Area.

24. The Portswood Residents' Gardens Conservation Area comprises attractive low density housing enclosing 2 landscaped open spaces. A certain degree of tranquillity is part of the character of this area. However, for the reasons given above, the minor extension of opening hours proposed would not impact on this to an extent that would make the proposal contrary to the statutory requirement on the preservation or enhancement of the character of such areas. There is no substantial evidence to support a view that the proposed
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extended opening hours would result in any material increase in litter or graffiti in the Conservation Area.

Conditions

25. As I am minded to allow the appeal I have considered what conditions should be imposed in addition to those still subsisting and capable of taking effect.
26. To protect the living conditions of those nearby, and ensure that the permission accords with what was applied for, I shall require the premises to be vacated by customers by 00.00 hours. In so doing I note the appellant's reference to the fact that this would differ from the premises licence. However, this is justified given the differences between the planning and licensing regimes and to ensure that the new planning permission accords with what was sought.

Conclusion

27. For the reasons given above I conclude the appeal should succeed. I will grant a new planning permission without the disputed condition but substituting one other and retaining the relevant non-disputed conditions from the previous permission.

RJ Marshall

INSPECTOR

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Agenda Item 7

24/00790/FUL



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