

# Planning and Rights of Way Panel (WEST) - Prior to 18.05.16

Tuesday, 22nd March, 2016  
at 6.00 pm

## **PLEASE NOTE TIME OF MEETING**

Conference Room 3 and 4 - Civic  
Centre

This meeting is open to the public

### **Members**

Councillor Denness (Chair)  
Councillor Lloyd (Vice-Chair)  
Councillor Claisse  
Councillor L Harris  
Councillor Mintoff

### **Contacts**

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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:** -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.

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

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting

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

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

### **Southampton City Council's Priorities**

- Jobs for local people
- Prevention and early intervention
- Protecting vulnerable people
- Affordable housing
- Services for all
- City pride
- A sustainable Council

**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 2015/16**

<b>Planning and Rights of Way - EAST</b>	
<b>2015</b>	<b>2016</b>
23 June 2015	19 January 2016
4 August	1 March
15 September	12 April
27 October	
8 December	

<b>Planning and Rights of Way - WEST</b>	
<b>2015</b>	<b>2016</b>
2 June 2015	9 February 2016
14 July	22 March
25 August	3 May
6 October	
17 November	
22 December	

## **CONDUCT OF MEETING**

### **Terms of Reference**

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

### **Business to be discussed**

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

### **Rules of Procedure**

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

### **Quorum**

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

## **DISCLOSURE OF INTERESTS**

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

### **DISCLOSABLE PECUNIARY INTERESTS**

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

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

- (iv) Any beneficial interest in land which is within the area of Southampton.

- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **Other Interests**

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

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **Principles of Decision Making**

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

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

In exercising discretion, the decision maker must:

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

## AGENDA

Agendas and papers are available via the Council's Website

### 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 meeting held on 9 February 2016 and to deal with any matters arising, attached.

## CONSIDERATION OF PLANNING APPLICATIONS

### 5 KING GEORGE PH, OAKLEY ROAD, SO16 4LJ 15/02331/OUT (Pages 11 - 34)

Report of the Planning and Development Manager recommending delegated authority be granted in respect of an application for a proposed development at the above address, attached.

### 6 5 THE PARKWAY 15/02017/FUL (Pages 35 - 52)

Report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above address, attached.

### 7 LAND ADJACENT TO CHAMBERLAYNE LEISURE CENTRE, WESTON LANE 16/00100/FUL (Pages 53 - 70)

Report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above address, attached.

### 8 195 MIDANBURY LANE 16/00177/FUL (Pages 71 - 88)

Report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above

address, attached.

Monday, 14 March 2016

SERVICE DIRECTOR, LEGAL AND GOVERNANCE

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PLANNING AND RIGHTS OF WAY PANEL (WEST)  
MINUTES OF THE MEETING HELD ON 9 FEBRUARY 2016

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Present: Councillors Denness (Chair), Lloyd (Vice-Chair), Claisse (Except Minute Number 45), L Harris and Mintoff

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

**RESOLVED:** that the minutes for the Panel meeting 22 December 2015 be approved and signed as a correct record.

44. **5 THE PARKWAY, SO16 3ZN 15/02017/FUL**

The Panel considered the report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above address.

Change of use from a 6 bedroom House in Multiple Occupation (Class C4) to a 7 bedroom House in Multiple Occupation (Class Sui Generis) no external alterations.

Jean Wawman (local residents/ objecting), was present and with the consent of the Chair, addressed the meeting.

The Panel discussed the ability of the residents and future residents to apply for parking permits within the area. Panel sought clarification whether the change of use would still entitle residents to apply for permits or whether it would preclude them.

**RESOLVED** that decision on the application be deferred to future meeting.

45. **237 PORTSWOOD ROAD, SO17 2NG 15/02216/FUL**

The Panel considered the report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above address.

Variation of Condition 2 of planning permission ref. 13/00738/FUL (hot food takeaway) for increased hours of operation to 07:30 - midnight Monday to Sundays and Public Holidays (description amended - reduction of opening times to midnight).

Richard Buckle, Adrian Vinson (local residents/ objecting), and Councillor Claisse (ward councillors/objecting) were present and with the consent of the Chair, addressed the meeting.

On being put to the vote the officer recommendation to grant planning permission subject to the conditions outlined in the report was not carried. A further motion to refuse planning permission was proposed by Councillor Harris and seconded by Councillor Lloyd was put to the vote.

RECORDED VOTE to refuse planning permission  
FOR: Councillors L Harris and Lloyd  
AGAINST: Councillor Denness  
ABSTAIN: Councillor Mintoff

**RESOLVED** that conditional planning permission be refused for the reasons set out below:

**REASON FOR REFUSAL - Late night disturbance**

The proposed extension to opening hours would result in an extended late night use, which is situated in a location where there are nearby residential properties. As such, the intensification of use into the late hours would cause detriment to the residential amenities of neighbours by reason of noise and disturbance as patrons leave the premises and disperse into the surrounding residential areas, in particular, those within the adjacent Portswood Residents Garden Conservation Area. Furthermore, the incremental increase of late night uses within the area, would result in a cumulative adverse effect on the amenities of nearby residents in terms of noise and disturbance, gradually eroding the quiet suburban nature of nearby residential areas. The proposal would thereby prove contrary to policies SDP1(i), SDP7(v), CLT15 and REI7 of the City of Southampton Local Plan Review (amended March 2015).

**NOTE:** Councillor Claisse declared an interest in the above application and after making his representation, left the meeting before the determination.

46. **149-153 WEST END ROAD, SO18 6PJ 15/02378/FUL**

The Panel considered the report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above address.

Application for variation of condition 6 (relating to hours of work) of planning permission 00/01104/FUL to extend the trading hours of the petrol filling station from 06:30 - 23:30 hours to 06:00 - 00:00 hours.

Michael Adams, Brian Bedwell (local residents/ objecting) and Roddy Macleod (agent) were present and with the consent of the Chair, addressed the meeting.

On being put to the vote the officer recommendation to grant planning permission subject to the conditions outlined in the report was not carried. A further motion to refuse planning permission was proposed by Councillor Harris and seconded by Councillor Lloyd was put to the vote.

RECORDED VOTE to refuse planning permission

FOR: Councillors Claisse, L Harris, Lloyd and Mintoff

ABSTAIN: Councillor Denness

**RESOLVED** that conditional planning permission be refused for the reason set out below:

**REASON FOR REFUSAL - Late night and early morning disturbance**

The proposed extension of hours of the petrol filling station and retail unit in the early morning and late night would harm the amenities of the neighbouring residents due to the intensification of the activities associated with the use, particularly the comings and goings of patrons and staff operating the retail unit. A late night and early morning use is considered to be inappropriate within this predominantly residential suburban area given that it is not a major route leading into the City. The proposal would therefore



prove contrary to saved policies SDP1(i) and SDP7 (v) of the Local Plan Review (March 2015 amended).

47. **45 LODGE ROAD, SO14 6RL 15/02348/FUL**

The Panel considered the report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above address.

Change of use of ground floor from shop (use class A1) to hot food takeaway (use class A5) with a proposed extraction flue at the rear of the building (proposed operating hours of 16:00-23:30 daily).

Ahmad Azimi (applicant) was present and with the consent of the Chair, addressed the meeting.

**RESOLVED** that planning permission be granted subject to the conditions listed in the report.

48. **133 BASSETT AVENUE, SO16 7EP 16/00022/FUL**

The Panel considered the report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above address.

Erection of a single storey outbuilding (Part retrospective).

Clive Clifford (local resident/objecting), was present and with the consent of the Chair, addressed the meeting.

During the presentation the planning officer detailed an amendment to condition 3 of the report that would prevent the use of the outbuilding as a residential annex.

On being put to the vote the officer recommendation to grant planning permission subject to the conditions outlined in the report was not carried. A further motion to refuse planning permission was proposed by Councillor Harris and seconded by Councillor Claisse was put to the vote.

RECORDED VOTE to refuse planning permission

FOR: Councillor Denness,

AGAINST: Councillor Claisse, L Harris, Lloyd and Mintoff

**RESOLVED** that conditional planning permission be refused for the reasons set out below:

REASON FOR REFUSAL - Unacceptable impact on amenity

The proposed detached outbuilding, by means of its scale, massing and proximity to the boundary with the neighbouring flatted development in Providence Park, represents an unsympathetic and un-neighbourly form of development, harming the amenity of neighbouring occupiers. In particular, the outbuilding would enclose the garden space for these flats and would appear overbearing when viewed from ground floor habitable room windows and erode the amenity that the garden space currently provides. The proposal is thereby contrary to saved policies SDP1(i), SDP7(i)(iii)(iv) and SDP9(i)(v) of

the adopted City of Southampton Local Plan Review (March 2006) and CS13 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010), and as supported by the Residential Design Guide Supplementary Planning Document 2006.

**Note:** Members instructed the Planning and Development Manager that Enforcement Action be taken to remedy the breach of planning control.

49. **101 REDBRIDGE ROAD, SO15 0ND 15/02137/FUL**

The Panel considered the report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above address.

Subdivision of existing unit into 3 retail units and the installation of 3 new shopfronts and the arrangement of existing car parking area to provide a loading bay.

Denise Wyatt (local resident/objecting), Gary Young (agent and architect), and Councillor Pope (Ward Councillor/objecting) were present and with the consent of the Chair, addressed the meeting.

**RESOLVED** that planning permission be granted subject to the conditions in the report and the amended / additional conditions set out below.

**Additional condition:**

Parking layout

The parking layout with associated loading area hereby approved shall be implemented in accordance with the submitted details (as identified in Drawing Number HYA 15044 (P) 102) prior to the first use of the subdivided retail frontage. The parking layout shall be retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of highways safety.

50. **TEST PLAYING FIELDS, LOWER BROWNHILL ROAD, SO16 6BP 15/01267/FUL**

The Panel considered the report of the Planning and Development Manager recommending conditional approval be granted in respect of an application for a proposed development at the above address.

Variation of condition 10 of planning permission ref 09/00191/FUL to allow the use of a public address system.

Denise Wyatt (local resident/ objecting), Martin Nailor (agent), Dennis Priestly (applicant), and Councillor Pope (Ward Councillor/objecting) were present and with the consent of the Chair, addressed the meeting.

The Panel were advised that the details of the application had changed since the publication of the report. It was noted that the number of proposed speakers had been reduced from 8 to 2. The Panel requested to the hours of operation for the public address system be amended.

**RESOLVED** that authority to grant planning permission be approved subject to the conditions in the report and the amended / additional conditions set out below.

### **Additional Conditions**

#### **34. APPROVAL CONDITION: Number of Speakers**

Unless otherwise agreed in writing, the PA system hereby approved shall comprise a maximum of 2 horn speakers positioned along the north western boundary of the pitch in accordance with the email dated 09/02/2016. Any additional speakers shall only be provided in accordance with a further noise specification, to be first submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect the residential amenities of nearby occupiers.

### **Amended Conditions**

#### **2. APPROVAL CONDITION - Approved Plans (Performance)**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below as amended by the email dated 09/02/2016 and implemented in accordance with the Community Use Agreement and Sports Development Plan adopted through the S106 agreement for 09/00191/FUL unless otherwise agreed in writing with the Local Planning Authority.

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

**7. APPROVAL CONDITION - Hours of operation (Public Address system)  
(Performance)**

Unless otherwise agreed in writing by the Local Planning Authority, the Public Address system hereby approved shall not be operated outside of the hours specified below:

Monday to Friday

12:00 hours to 22.00 hours (12:00 noon to 10.00pm)

Saturday

12:00 hours to 22.00 hours (12:00 noon to 10.00pm)

Sunday and Public Holidays

12:00 hours to 18.00 hours (12:00 noon to 6.00pm)

Reason: In the interests of the residential amenities of neighbouring occupiers.

**PLANNING AND RIGHTS OF WAY PANEL (WEST)  
INDEX OF PLANNING APPLICATIONS FOR DECISION**

**DATE: 22 March 2016 - 6pm**

**Conference Rooms 3 and 4, 1st Floor, Civic Centre**

<b>Main Agenda Item Number</b>	<b>Officer</b>	<b>Recommendation</b>	<b>PSA</b>	<b>Application Number / Site Address</b>
5	LG	DEL	5	15/02331/OUT King George PH, Oakley Road, SO16 4LJ
6	SB	CAP	5	15/02017/FUL 5 The Parkway
7	KA/JT	CAP	5	16/00100/FUL Land adjacent to Chamberlayne Leisure Centre, Weston Lane
8	KA/JT	CAP	5	16/00177/FUL 195 Midanbury Lane

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

Delete as applicable:

LG – Laura Grimason  
SB – Stuart Brooks  
KA – Kieran Amery  
JT – Jenna Turner

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

### Report of Planning & Development Manager

#### 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) Local Transport Plan 2006 – 2011 (June 2006)
  - (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)
  
3. Statutory Plans in Preparation
  - (a) Emerging Bassett Neighbourhood Plan (Post Examination) (2015)
  
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 (1997)
- (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 (2012)
- (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) Southampton C.C. - Cycling Plan (June 2000)
- (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) DETR Traffic Advisory Leaflets (various)

6. Government Policy Planning Advice

- (a) National Planning Policy Framework (27.3.2012)
- (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)



# Agenda Item 5

**Planning, Transport & Sustainability Division  
Planning and Rights of Way Panel (WEST) - 22nd March 2016  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> King George PH, Oakley Road, SO16 4LJ.			
<b>Proposed development:</b> Redevelopment of the site. Erection of 5 x 3 bed houses with associated parking and cycle / refuse Storage. (Outline application seeking approval for access, appearance, layout and scale) (Resubmission).			
<b>Application number</b>	15/02331/OUT	<b>Application type</b>	OUT
<b>Case officer</b>	Laura Grimason	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	25/03/2016 (extended)	<b>Ward</b>	Millbrook.
<b>Reason for Panel Referral:</b>	Request by Ward Member	<b>Ward Councillors</b>	Cllr Galton Cllr Denness Cllr Furnell
<b>Referred by:</b>	Cllr Galton	<b>Reason:</b>	Highways safety. Insufficient parking. Poor design. Out of character with the surrounding area.
<b>Applicant:</b>	Witchampton Developments Ltd	<b>Agent:</b>	Tony Oldfield Architects Ltd

<b>Recommendation Summary</b>	<b>Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report.</b>
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<b>Community Infrastructure Levy Liable</b>	Yes
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### Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations as set out in the report to the Planning and Rights of Way Panel on the 17th November 2015 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 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, H1 and H7 of the City of Southampton Local Plan Review (Amended 2015) and CS4, CS5,

**Appendix attached**

1 Development Plan Policies

2 Panel minutes for 15/01551/OUT

**Recommendation in Full**

Delegate to the Planning and Development Manager to grant planning permission subject to securing a contribution to the Solent Disturbance Mitigation Project. In the event that a contribution is not received, a delegation to refuse planning permission is also sought.

**1.0 The site and its context**

- 1.1 This application relates to the King George public house which occupies a prominent plot of land at the junction of Oakley Road and King George Avenue. There is one residential dwelling located above and associated with the ground floor use in addition to a single storey garage to the side of the property fronting Oakley Road. The site area for this plot is approximately 900 sq m.
- 1.2 At present, there is vehicular parking for 10 cars immediately to the front of the property within a large front forecourt. A large dropped kerb spanning from Oakley Road to King George Avenue provides access to these spaces.
- 1.3 Site levels slope upwards in an easterly direction from the road frontage. As a result, properties to the rear along Prince of Wales Avenue are set at a higher level than the application site.
- 1.4 The site is located within a predominantly residential area characterised by pairs of two storey, semi-detached dwellings. There are however, a number of commercial uses immediately adjacent to the site along Oakley Road.

**2.0 Proposal**

- 2.1 Permission is sought for the redevelopment of the site by the demolition of the existing building and the construction of 5 x 3 bed houses with associated parking and cycle/refuse storage. This is an outline application seeking approval for Access, Appearance, Layout and Scale. Landscaping is reserved for a later date.
- 2.2 This scheme amends a previously refused scheme (ref.15/01551/OUT). This revised scheme proposed 5 additional dwellings compared to the 6 which were proposed previously. The same number of parking spaces (7) would be provided as before. Further detail on the previous scheme and its reasons for refusal are outlined in section 4.0.
- 2.3 The proposed units would be arranged in 2 semi-detached pairs and a detached dwelling adjacent to no.94 Oakley Road. Each property would have a footprint of approximately 113 sq m and would be three storeys in height (accommodation at second floor level would be provided within the roofspace). Each unit would have an entrance within the front elevation with bin storage provided within an enclosed area adjacent to this.
- 2.4 Each unit would have a private rear garden. Garden sizes for the proposed

units range from 47 sq m to 75 sq m.

2.5 Seven car parking spaces would be provided to the front of the proposed dwellings. These would be laid out at a 90 degree angle to the front elevation of the proposed units. A new 0.6m high boundary wall would be constructed along the front boundary of the site. 2 trees would be planted within the front forecourt.

2.6 The site is not located within a Conservation Area.

### **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). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy 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 In 2015, an application (ref.15/01551/OUT) for the redevelopment of this site was refused at the Planning and Rights of Way meeting on the 17<sup>th</sup> November 2015. A copy of the panel minutes are attached at Appendix 2. This sought permission for the erection of 6 x 3 bed houses with associated parking and cycle/refuse storage (outline application seeking approval for Access, Appearance, Layout and Scale). The reasons for the refusal of this scheme were as follows:

#### **1. REFUSAL REASON - Loss of community facility**

The redevelopment proposal would result in the loss of the existing King George Public House. No evidence has been submitted to demonstrate that the pub is no longer viable and that it would not be viable as a community building for alternative community use. Furthermore, no evidence has been provided to demonstrate that the other community facilities which are available in the surrounding are adequate to meet existing need. This proposal is therefore, contrary to paragraph 70 of the National Planning Policy Framework (March 2012) and policy CS3 of the adopted City of Southampton Local Development Framework Core Strategy Partial Review (March 2015).

#### **2. REASON FOR REFUSAL: Inappropriate Design**

The proposed design would fail to establish a high quality, context sensitive development in this location. Specifically, this would be by reason of:

(a) The design of the proposed roof terraces to the front elevation which would become the dominant feature of the development contrary to the prevailing character of the surrounding area.

(b) The failure to incorporate any architectural features which are characteristic of the local area in the proposed design resulting in a bland appearance that would fail to relate appropriately with the character of the surrounding area.

(c) An excessive amount of site coverage by buildings and hard standing resulting in an overdevelopment which does not respond to existing spatial characteristics including building to plot ratios resulting in a cramped form of development.

The proposed development would have a poor quality design which would be out of keeping with the character of the surrounding area. As such the development would be contrary to Policies SDP7 (ii) (iv), SDP8 (i) and (v), SDP9 (i) and (iv) of the adopted City of Southampton Local Plan Review (March 2015); policy CS13 of the adopted Local Development Framework Core Strategy Development Plan Document (Revised 2015); and paragraphs 3.7.8, 3.9.1, 3.9.2, 3.9.5, 3.9.6, 3.10.2, 3.10.4, 3.10.6, 3.10.7, 3.10.12, 3.10.13, 3.10.14, 3.10.16 and 3.10.17 of the adopted Residential Design Guide SPD (September 2006).

### **3. REFUSAL REASON - Lack of Section 106 agreement**

In the absence of a Section 106 agreement the development fails to mitigate its impact in the following areas:

(a) Contributions towards site specific transport improvements in the vicinity of the site in line with Policy SDP4 of the adopted Amended Local Plan Review (2015); Policies CS18 and CS25 of the adopted amended Local Development Framework Core Strategy Development Plan Document (2015); and the adopted Developer Contributions Supplementary Planning Document (April 2013).

(b) Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.

(c) Provision of affordable housing in line with Policy CS25 of the adopted amended Local Development Framework Core Strategy Development Plan Document (2015) and the Developer Contributions Supplementary Planning Document (April 2013).

(d) A scheme of mitigation or financial contribution towards the Solent Disturbance Mitigation Project (SDMP) in accordance with The Conservation of Habitats and Species Regulations 2010 (as amended) and policy CS22 of the adopted amended Local Development Framework Core Strategy Development Plan Document (2015).

### **4. REASON FOR REFUSAL - Impact on residential amenity.**

Based on the information submitted, it has not been adequately demonstrated that the development would not have a harmful impact on the amenities of nearby residential occupiers through increased competition for on-street car parking. The submitted survey fails to take into account existing points of access to off-road car parking and failed to assess the situation at the start

and end of the school day in relation to nearby schools. As such, it is not clear the level of car parking proposed is sufficient to serve the development, particularly since significantly less spaces would be provided than the Council's maximum adopted standards. The development would, therefore, be contrary to the provisions of Policy SDP1 of the City of Southampton Local Plan Review (2015), Policy CS19 of the Southampton Core Strategy Development Plan Document (2015) and the adopted Parking Standards Supplementary Planning Document (2011).

4.2 This previous scheme was taken to the Planning and Rights of Way Panel (West) on the 17th November with reasons 1 - 3 as outlined in paragraph 4.1. The Panel resolved to add reason 4 during the meeting.

4.3 The current scheme seeks to address these previous concerns.

## **5.0 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, placing a press advertisement (enter date) and erecting a site notice (enter date). At the time of writing the report **4** representations have been received from surrounding residents. An objection and panel referral request has also been received from Ward Councillor Galton. The following is a summary of the points raised:

5.1.1 The proposed development would increase parking in an area which is already subject to significant parking stress.

*Response: According to the Parking Standards SPD, a maximum parking requirement of 10 spaces would be required for this development. 7 spaces have been proposed and 2 car parking surveys have been submitted to examine the availability of on road parking in the surrounding area. These parking surveys follow the Lambeth model and guidance produced by the City Council's Highways Team. They give a clear insight into the parking availability within the surrounding area and demonstrate capacity for any overspill. The first survey (undertaken on the 30th July 2015) indicates that there were 65 spaces available whilst the second (undertaken on the 30th January 2016) indicates that 61 spaces were available. The application site is located approximately 725m from Shirley Town Centre and approximately 275m from the large Tesco superstore located to the north of Oakley Road and to the west of Teboura Way. As such, it is considered that the site benefits from good access to local services and public transport facilities and the level of parking proposed is acceptable.*

5.1.2 The submitted parking surveys are inaccurate.

*Response: The parking survey previously submitted for the refused scheme has been updated in response to concerns raised by the Planning and Rights of Way Panel. The previous survey showed spaces where driveways were not served by dropped kerbs. An additional parking survey has been undertaken. It is now considered that this parking survey is accurate and up to date. As such, the parking surveys which have been submitted for this scheme provide an accurate representation of the parking situation in the surrounding area and demonstrate that capacity is available to accommodate the additional 3*

*parking spaces.*

- 5.1.3 The proposed scheme would be detrimental to highways safety. The proposed landscaping would reduce visibility for vehicles moving out of the site onto King George Avenue and Oakley Road. It would result in an increase in the number of collisions in this location.

*Response: The City Council's Highways department have raised no objection in terms of highways safety. There is an existing continuous dropped kerb around the perimeter of the site along both King Georges Avenue and Oakley Road. As a result, at the current time, vehicles are able to drive or reverse onto the highway at any time to utilise the existing parking spaces on the front forecourt. This is considered to be a poor arrangement. The proposed scheme would improve this arrangement by providing turning room on site and establishing formal access and egress points for use by future occupiers.*

- 5.1.4 The proposed dwellings would overlook the rear garden of the property located to the rear at no.103 Prince of Wales Avenue.

*Response: Paragraph 2.2.4 of the Residential Design Guide outlines minimum distances which should be retained between 2 / 3 storey housing and other 3 storey housing as is the case with this development. In this instance, a minimum distance of 21m should be retained. Where there are differences in site levels, this separation distance should be increased by 2m for every 1m rise in ground level. The submitted information indicates that site levels increase by approximately 3.2m from the north western boundary along King George Avenue to the south eastern boundary of the site. As such, the minimum separation distance increases to 27m. No.103 Prince of Wales Avenue is located approximately 38m away from the rear boundary of the application site. This separation distance greatly exceeds the minimum separation distance and is acceptable. The separation distances with nearer neighbours are also acceptable and were not previously sited as a reason for refusal. Further discussion on the impact of the scheme on the residential amenities of other neighbours is discussed later in the report.*

- 5.1.5 The proposed design is at odds with the character of the surrounding area.

*Response: The design of the scheme has been amended in response to the previous reason for refusal. The reduction of 1 unit and the subsequent creation of 2 x semi-detached pairs of dwellings and 1 detached unit is considered to establish a context of sensitive development, in keeping with the layout of residential properties within the surrounding area. The scheme now incorporates bay windows and chimneys, features which are characteristic of the surrounding area. Defined front entrances have been proposed and additional trees provided. Furthermore, this scheme does not include the roof terraces previously proposed. The design has been significantly improved and is now considered to be acceptable. It is considered that the previous reason for refusal relating to design has, therefore, been overcome.*

- 5.1.6 The proposed scheme would overdevelop the site.

*Response: The proposed density level at 53 dph is considered to be acceptable in this location in accordance with Core Strategy policy CS5. The reduction of 1 unit compared to the previous scheme makes it possible to*

*retain adequate spaces between the proposed units. There is sufficient space available on site to provide the required bin and cycle storage, car parking and amenity space and it is not considered that the proposed scheme would constitute an overdevelopment of the site. The previous scheme for 6 units was not refused for being an overdevelopment.*

## **5.2 Consultation Responses**

### **5.2.1 SCC Highways – No objection**

The proposed development is of a near identical design and nature to the previous scheme (15/01551/OUT) with the exception of the reduction by one unit.

In terms of highway impact, this proposal will negate one unit's worth of trips and parking demand from the previous application and therefore the previous comments (prior to the panel meeting) are still applicable and appropriate.

The only additional comment to make is that there is a new parking survey conducted during school term times. The new survey has been conducted in accordance with the Lambeth methodology and the results suggests that there should be sufficient capacity to accommodate any potential overspill. Furthermore, the scheme is considered to benefit from a generous level of parking for a site located so close to a district centre and benefits from ample public amenities (such as shops, health care etc.) and is right by a bus stop and a near a busy bus corridor.

Along with the previous comments (below), the application is considered to be acceptable with the same recommendation and conditions being applied (below):

*The principle of the redevelopment of this site in the manner shown is acceptable. The existing public house has a continuous dropped kerb around the site perimeter resulting in vehicles being able to drive/reverse onto or off of the forecourt in an uncontrolled manner. The development offer 2 parking courts to serve the 6 dwellings, both providing the opportunity to turn on site, so that vehicles can enter and leave the site in a forward gear over defined access points....*

*Conditions should be imposed requiring details as follows:*

*1. Sight lines at this location require careful consideration at this junction, and sight lines will need to be shown on detailed plans indicating forward visibility sight lines for users of the two new accesses, but also users of the adjacent junction.*

*2. Details of materials to be used on the driveways and the method of prevention of surface water from running out from the site onto the highway will be required. Alterations to the kerb alignment will be required and will require licencing from Balfour Beatty to do this.*

*3. Details of the cycle and bin storage will need to be agreed, and the location of the collection point for the bins on collection day. Glass recycling must be catered for.*

#### 5.2.2 **SCC Heritage - No objection.**

Any archaeological remains are likely to have been removed by the significant level reduction associated with the former use as a Public House.

No archaeological conditions will be required.

#### 5.2.3 **SCC Sustainability Team – No objection subject to conditions.**

A 4x array of 250w Solar Panels will be provided on the south facing roof pitch of each property to contribute too and reduce the developments energy use, thus enabling the scheme to incorporate green sustainable technologies. These have been shown on the plans.

A sustainable drainage system shall be utilised within the proposed scheme to control surface water run-off and reduce the effects of localised flooding through the use of permeable block paving and a soakaway systems to collect larger volumes of water runoff.

If the case officer is minded to approve the application, conditions are recommended in order to ensure compliance with policy CS20.

#### 5.2.4 **SCC Ecology – No objection subject to conditions.**

The application site consists of two buildings, hardstanding, bare ground and a small area of overgrown lawn.

The buildings are in good condition and an ecological survey accompanying the planning application confirms that there is negligible potential for bat roosts. The garden area at the rear doesn't contain any significant vegetation and as a consequence there are unlikely to be any impacts on nesting birds, foraging bats or other local wildlife.

The ecology report includes recommendations for simple biodiversity enhancements which should be implemented.

#### 5.2.5 **SCC Environmental Health (Pollution & Safety) - No objection.**

No objection subject to conditions relating to bonfires, hours of work for demolition and clearance, dust suppression for demolition and the provision of a construction environment management plan.

#### 5.2.6 **SCC Environmental Health (Contaminated Land) - No objection subject to conditions.**

This department considers the proposed land use as being sensitive to the affects of land contamination.

Records maintained by SCC - Regulatory Services do not indicate that any potentially contaminating land uses have existed on or, in the vicinity of the subject site. However, these records are not authoritative and reference to them alone is not sufficient to confidently determine the presence of any risk. In view of the sensitive nature of the proposal a more thorough assessment of the potential land contamination hazards would be prudent



Therefore, to ensure compliance with Para 121 of the National Planning Policy Framework - March 2012 and policies SDP1 and SDP22 of the City of Southampton Local Plan Review (adopted version, March 2006) this department would recommend that the site be assessed for land contamination risks and, where appropriate, remediated to ensure the long term safety of the site.

#### 5.2.7 **CIL Officer – No objection.**

The development will become CIL liable at reserved matters stage at a rate of £70 per sq m on the Gross Internal Area of the new development.

#### 5.2.8 **Southern Water – No objection subject to informatives.**

### **6.0 Planning Consideration Key Issues**

6.1 Whilst seeking to consider whether or not this scheme has addressed the previous reasons for refusal, the key issues for consideration in the determination of this planning application are:

- (a) The principle of development;
- (b) The quality of residential environment for future occupiers;
- (c) Design;
- (d) Effect on residential amenity;
- (e) Highways safety, car and cycle parking and;
- (f) Planning obligations and mitigation.

#### 6.2 Principle of Development

6.2.1 Core Strategy Policy CS4 (Housing Delivery) suggests that: 'An additional 16,000 homes will be provided within the City of Southampton between 2006 and 2026. This proposal would make good use of previously developed land within a predominantly residential area to provide 4 much needed additional homes (there is an existing residential flat above the Public House) and is, therefore, considered to be acceptable in principle subject to other considerations relating to the loss of a community facility.

6.2.2 Core Strategy Policy CS5 (Housing Density) outlines density levels for new residential development which will be acceptable in different parts of the city. This property is located within an area of moderate accessibility (Band 3) to Public Transport where densities of between 50 and 100 dph would be considered acceptable in principle. As such, the proposed density of 53 dph is considered to be appropriate and in line with Core Strategy policy CS5.

6.2.3 Paragraph 70 of the National Planning Policy Framework confirms that: 'To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: Guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community's ability to meet its day to day needs'.

6.2.4 Core Strategy Policy CS3 states that: 'Proposals that result in the loss of a community facility throughout the city will not be supported if it is viable for the commercial, public or community sector to operate it and if there is no similar

or replacement facility in the same neighbourhood'. Public houses are classed as community uses by the NPPF and so policy CS3 applies for this scheme.

6.2.5 This application is accompanied by a Marketing Report for the King George Public House produced by Savills (UK) Limited and dated December 2015. This document indicates the following:

(a) Savills were instructed to market the property on the 15th January 2015. The property has been marketed for a total of 11 months.

(b) Sales particulars were produced by Savills.

(c) The property was advertised on [www.propertylink.estatesgazette.com](http://www.propertylink.estatesgazette.com) and [www.savills.com/leisure](http://www.savills.com/leisure).

(d) The property was included on Savills' monthly Licensed Leisure Property list which is emailed to more than 1500 pub operators / applicants on a monthly basis.

(e) A for sale sign was also displayed at the property.

(f) There was limited interest from public house, restaurant or cafe operators during the marketing period.

(g) There was no interest from commercial uses or members of the general public to create and administer an alternative community facility.

(h) A total of 5 formal offers were received from developers and speculators.

(i) An offer from the applicant was received and the sale was completed in June 2015. The applicant instructed Savills to continue marketing the property.

(j) There are 5 alternative public houses within 500m of the application site. The majority of these are close to Shirley High Street. Specifically, these are: (1) The Regents Park, Regents Park Road; (2) The Salisbury Arms, Shirley Road; (3) The Park Inn, Shirley Park Road; (4) Shirley Hotel, Shirley Road; and (5) Brick Layers Arms, Wimpson Lane.

6.2.6 It is considered that an appropriate period of marketing has been undertaken for the site with limited interest from anyone wanting to continue the use of the property as a public house. Having regard to the information which has been provided, it is considered that this scheme is compliant with Core Strategy policy CS3 and the previous reason for refusal on this matter has been addressed.

### 6.3 Quality of Residential Environment

6.3.1 The proposed units would be of an adequate size to provide a high quality standard of residential accommodation for future occupiers. Habitable room windows (serving bedrooms, living and dining areas) within all of the proposed units would benefit from sufficient access to light and outlook and all units would benefit from good levels of privacy.

6.3.2 The Residential Design Guide outlines minimum standards for amenity areas within the city. For semi-detached properties, a minimum of 70 sq m of amenity space should be provided for use by future occupiers. For detached properties, a minimum of 90 sq m should be provided. Gardens for the proposed units range in size from 47 sq m to 75 sq m. It is acknowledged that the proposed garden sizes are smaller than the sizes recommended in the Residential Design Guide. They are also smaller in nature than those found on this side of King George Avenue and Prince of Wales Avenue. The proposed gardens are, however, considered to be usable and would provide adequate

space for sitting / playing out, hanging out washing etc. Furthermore, the site is located in close proximity to Cedar Lodge Park (approximately 215m away) and so future residents would have access to alternative amenity space if required. Whilst the amenity space proposed is lower than the guidance suggests, this would not outweigh the need for additional family homes within the city.

6.3.3 It is considered that the proposed units would provide a high quality of residential accommodation for future occupiers.

#### 6.4 Design

6.4.1 The previous scheme was refused on design grounds as detailed above. As such, a material consideration for this scheme relates to whether this previous reason for refusal has been addressed.

6.4.2 The application site occupies a prominent location at the junction of King Georges Avenue and Oakley Road. Both King George Avenue and Oakley Road are characterised by pairs of two storey, characterful 1930s semi-detached dwellings. Properties in the surrounding area have distinguishing features including; two storey projecting bay windows, decorative gables and porch canopies. They are predominantly of brick construction with hipped side roofslopes. A number of properties have front gardens whilst some have front driveways providing off road parking for residents.

6.4.3 The design of the proposed scheme has been amended in response to the previous reason for refusal. The number of units proposed has been reduced from 6 to 5, reducing the built form of the development and retaining additional space between the proposed units, more in keeping with the surrounding area where gaps have been retained between properties. Furthermore, the proposed arrangement of 2 x semi-detached pairs adjacent to no.214 King George Avenue would effectively continue the existing pattern of development along this residential road which is characterised by pairs of semi-detached dwellings. The siting of a detached dwelling adjacent to no.94 Oakley Road is also considered to be acceptable. This amended scheme is considered to be an improvement on the terraced scheme which was previously refused. The proposed units would satisfactorily address this prominent corner plot, following the existing line of development and retaining an appropriate set back from the front boundary of the plot.

6.4.4 The following additional amendments have been made in response to comments from the Local Planning Authority following input from its design officer:

(a) The addition of chimneys.

(b) The planting of 2 trees within the front forecourt.

(c) The use of red brick to match neighbouring dwellings along King George Avenue.

6.4.5 Paragraph 3.7.8 of the Residential Design Guide suggests that: 'The proposed development should be similar in scale, massing, position on the plot, vertical and horizontal rhythm and a high quality of architectural detailing that is harmonious with existing adjacent development'. Paragraph 3.10.2 of the Residential Design Guide continues: 'New development should respond to the

character and context of its site and establish a high quality 21<sup>st</sup> century contemporary architecture that makes appropriate reference to the local vernacular architecture'. This amended scheme incorporates a number of features which are characteristic of the surrounding area. Modern projecting bay windows and chimneys have been added and the type of brick proposed has been amended to ensure that the materials which are used to construct the proposed dwellings are in keeping with the surrounding area. Defined front entrances have also been established with a front door for each unit facing the front forecourt. This is considered to be an improvement on the previous scheme where recessed front entrances were proposed. Overall, it is considered that the proposed scheme would provide additional visual interest to the wider streetscene, creating a new feature of interest in this prominent corner location.

6.4.6 The provision of additional trees on site would effectively break up the front forecourt. This is however, subject to additional details of landscaping to be provided through the reserved matters submission.

6.4.7 It is considered that this scheme proposes an appropriate design which is context sensitive and which satisfactorily addresses the previous reason for refusal.

## 6.5 Residential Amenity

6.5.1 Site levels increase in an easterly direction from Oakley Road and as a result, the residential properties to the rear along Prince of Wales Avenue are located at a higher level than the application site. Paragraph 2.2.4 of the Residential Design Guide outlines minimum distances which should be retained between 2 / 3 storey housing and other 3 storey housing as is the case with this development. In this instance, a minimum distance of 21m should be retained. Where there are differences in site levels, this separation distance should be increased by 2m for every 1m rise in ground level. The submitted information indicates that site levels increase by approximately 3.2m from the north western boundary along King George Avenue to the south eastern boundary of the site. As such, the minimum separation distance increases to 27m.

6.5.2 Separation distances ranging from 24 to 28 would be retained between habitable room windows within the rear of the proposed units and those within the rear of the units located at 111 – 117 Prince of Wales Avenue. The Residential Design Guide advises that the City Council can apply these standards flexibly depending on the context of the surrounding area. Given that it is the properties to the rear that are located at a higher level than the application site, it is not considered that this would give rise to a loss of amenity for these neighbouring residential properties. Specifically, it is not considered that any overlooking, loss of light or overbearing impact would occur. The separation distances that have been proposed are therefore, considered to be acceptable.

6.5.3 The nearest residential dwelling to the application site along King Georges Avenue is located at no.214. It is the side elevation of this property which faces the application site. At first floor level, there is an obscure glazed window within the side elevation of this property whilst the windows at ground floor level are obscured by the existing boundary fence and do not therefore, benefit from a good outlook or access to light. These windows appear to be

secondary to primary windows within the rear elevation looking out into the rear garden and with an easterly orientation. As the proposed terrace of dwellings would only exceed the depth of this neighbouring property by approximately 2, it is not considered that the proposal would have an overbearing impact on the residential amenities of its occupiers.

6.5.4 The nearest residential dwelling to the application site along Oakley Road is the first floor flat above the ground floor commercial use at no.94. There is one obscure glazed window within the side elevation of this property. As this is obscure glazed, it does not benefit from good outlook or access to light at the current time. Having regard to this and the retention of a separation distance of approximately 3m, no further loss of light or outlook is considered likely to occur as a result of this proposal.

6.5.5 This scheme is therefore, considered to respect existing amenity in terms of privacy, overlooking, overshadowing and outlook and satisfies the Local Plan Review SDP1(i) in doing so.

## 6.6 Highways Safety, Car and Cycle Parking

6.6.1 A key consideration for this scheme is whether this previous parking reason for refusal has been sufficiently addressed.

6.6.2 The City Council's Highways team have raised no objection to the scheme in terms of highways safety. There is an existing continuous dropped kerb around the perimeter of the site along both King Georges Avenue and Oakley Road. As a result, at the current time, vehicles are able to drive or reverse onto the highway at any time to utilise the existing parking spaces on the front forecourt. This is considered to be a poor and unsafe arrangement. The level of trips associated with a public house is also greater than those associated with the proposed residential use. The proposed scheme would improve this arrangement by providing turning room on site and establishing formal access and egress points for use by future occupiers. A condition securing sightlines would however be imposed.

6.6.3 According to the Parking Standards SPD, a maximum parking requirement of 10 spaces would be required for this development. 7 spaces have been proposed and 2 car parking surveys have been submitted to examine the availability of on road parking in the surrounding area.

6.6.4 The first car parking survey was submitted for the previous scheme. This did however, include spaces where there are driveways which are not served by a dropped kerb. In response to concerns by the Planning and Rights of Way Panel and the resulting reason for refusal, this survey has been amended to remove spaces immediately outside driveways which are not served by a dropped kerb. This survey was undertaken at 01:00 on Thursday 30<sup>th</sup> July 2015 and indicates the following:

(a) A total number of 219 on road parking spaces were identified in the study area.

(b) 65 spaces were available at the time of the survey.

6.6.5 The second car parking survey was undertaken at 23:30 on Saturday 30<sup>th</sup> January 2016. This indicates the following:

(a) A total number of 219 on road parking spaces were identified in the study area.

(b) 61 spaces were available at the time of the survey.

6.6.6 The submitted parking surveys are considered to be in accordance with both the Lambeth Model and recent guidance produced by the City Council's Highways Team. Both surveys indicate that adequate parking is available on surrounding residential roads to supplement the 7 parking spaces which have been proposed. Both surveys were undertaken at times when the greatest number of residents are likely to be at home.

6.6.7 According to the Parking Standards SPD, a total of 5 parking spaces is acceptable. The submitted documents indicate that 10 cycle parking spaces would be provided within a secure cycle store in the rear garden of each unit. This would provide the required amount of cycle parking. A condition could be imposed to secure further details of this in order to ensure that the cycle parking provided is in accordance with the standards in the Parking Standards SPD.

6.6.8 With regards to refuse storage, the submitted plans indicate that space for 2 bins would be provided within a bin storage area to the front of each dwelling, adjacent to the front entrance. Space for glass storage would also be required and this could be addressed through a planning condition. Further details of refuse storage facilities would be secured by planning condition is a recommendation for conditional approval was made.

6.6.9 In light of the issues discussed above, it is considered that sufficient information has been provided to overcome the previous reason for refusal relating to parking pressure.

#### 6.7 Solent Disturbance Mitigation Project (SDMP)

6.7.1 This scheme no longer triggers a full S106 agreement or the provision of affordable housing as a net gain of 4 units is now proposed. However, the Conservation of Habitats and Species Regulations 2010 (as amended) provides statutory protection for designated sites, known collectively as Natura 2000, including Special Areas of Conservation (SAC) and Special Protection Areas (SPA). This legislation requires competent authorities, in this case the Local Planning Authority, to ensure that plans or projects, either on their own or in combination with other plans or projects, do not result in adverse effects on these designated sites. The Solent coastline supports a number of Natura 2000 sites including the Solent and Southampton Water SPA, designated principally for birds, and the Solent Maritime SAC, designated principally for habitats. Research undertaken across south Hampshire has indicated that current levels of recreational activity are having significant adverse effects on certain bird species for which the sites are designated. A mitigation scheme, known as the Solent Disturbance Mitigation Project (SDMP), requiring a financial contribution of £174 per unit has been adopted. The money collected from this project will be used to fund measures designed to reduce the impacts of recreational activity. A contribution towards the SDMP has not yet been received and as such, the recommendation for this scheme is to delegate authority to grant permission upon receipt of the required amount. Once this has been received, the application will have complied with the

requirements of the SDMP and the Conservation of Habitats and Species Regulations 2010 (as amended).

## **7.0 Summary**

7.1 In light of the issues discussed in this report, it is considered that this proposal has adequately addressed the previous reasons for refusal relating to (a) The loss of a community facility; (b) design; and (c) insufficient information to address the impact of additional parking pressure associated with the development. The additional reason for refusal relating to the lack of a section 106 agreement has also been addressed as the amended scheme only results in an increase of 4 dwellings and does not therefore, trigger the requirement of a section 106 agreement. All material considerations have been satisfied and the proposed scheme is considered acceptable.

## **8.0 Conclusion**

8.1 The application is recommended for delegated authority to grant conditional approval upon receipt of a contribution to the Solent Disturbance Mitigation Project (SDMP).

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

#### **Documents used in the preparation of this report Background Papers**

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(f), 4(g), 4(vv), 7(a), 9(a) and 9(b).

#### **LAUGRI for 22/03/2016 PROW Panel**

### **PLANNING CONDITIONS**

#### **1. APPROVAL CONDITION: Outline Permission Timing Condition (Performance)**

Outline Planning Permission for the principle of the development proposed and the following matters sought for consideration, namely the layout of buildings and other external ancillary areas, the means of access (vehicular and pedestrian) into the site and the buildings, the appearance and design of the structure, the scale, massing and bulk of the structure, and the landscaping (both hard, soft and including enclosure details) of the site is approved subject to the following:

(i) Written approval of the details of the following awaited reserved matters shall be obtained from the Local Planning Authority prior to any works taking place on the site:

- The landscaping of the site specifying both the hard, soft treatments and means of enclosures and including tree planting to the frontage.

(ii) An application for the approval of the outstanding reserved matters shall be made in writing to the Local Planning Authority before the expiration of three years from the date of this Outline Permission

(iii) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last application of the reserved matters to be approved.

Reason:

To enable the Local Planning Authority to control the development in detail and to comply with Section 91 and Section 92 of the Town and Country Planning Act 1990 (as amended).

## **2. APPROVAL CONDITION: Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

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

## **3. APPROVAL CONDITION: Details of building materials to be used (Pre-Commencement Condition)**

Notwithstanding the information shown on the approved drawings and application form, with the exception of site clearance, demolition and preparation works, no development works shall be carried out until a written schedule of external materials and finishes, including samples and sample panels where necessary, has been submitted to and approved in writing by the Local Planning Authority. These shall include full details of the manufacturer's composition, types and colours of the external materials to be used for external walls, windows, doors, rainwater goods, and the roof of the proposed buildings. It is the Local Planning Authority's practice to review all such materials on site. The developer should have regard to the context of the site in terms of surrounding building materials and should be able to demonstrate why such materials have been chosen and why alternatives were discounted. If necessary this should include presenting alternatives on site. Development shall be implemented only in accordance with the agreed details.

Reason:

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

## **4. APPROVAL CONDITION: Cycle storage facilities (Pre-Commencement Condition)**

Before the development hereby approved first comes into occupation, secure and covered storage for bicycles shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The storage shall be thereafter retained as approved.

Reason:

To encourage cycling as an alternative form of transport.

## **5. APPROVAL CONDITION: Refuse & Recycling (Pre-Commencement)**

Prior to the commencement of development, details of storage for refuse and recycling, together with the access to it, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the development hereby 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.

## **6. APPROVAL CONDITION: Sightlines specification (Pre-Commencement)**

Adequate sightlines shall be provided before the use of the building hereby approved commences. The approved sightlines shall be maintained and kept clear at all times.



Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 no fences, walls or other means of enclosure shall be erected above a height of 0.6m above ground level within the sight line splays.

Reason:

To provide safe access to the development and to prevent congestion on the highway.

#### **7. APPROVAL CONDITION: Surfacing details**

Before the development hereby approved commences, details of (a) materials to be used for the surfacing of the front forecourt; (b) measures to prevent surface water from running out from the site onto the highway; and (c) alterations to the kerb alignment shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details which shall be retained thereafter.

Reason:

In the interests of highways safety.

#### **8. APPROVAL CONDITION: Energy & Water (Pre-Commencement)**

Before the development commences, written documentary evidence demonstrating that the development will achieve at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of a design stage SAP calculations and a water efficiency calculator shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA.

Reason:

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

#### **9. APPROVAL CONDITION: Energy & Water (performance condition)**

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of final SAP calculations and water efficiency calculator and detailed documentary evidence confirming that the water appliances/fittings have been installed as specified shall be submitted to the Local Planning Authority for its approval.

Reason:

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

#### **10. APPROVAL CONDITION: Sustainable Drainage Systems [Pre-Commencement Condition]**

Prior to the commencement of development a specification for the proposed sustainable drainage system shall be submitted to the Local Planning Authority. A sustainable drainage system to the approved specification must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and

retained thereafter. In the development hereby granted consent, peak run-off rates and annual volumes of run-off shall be no greater than the previous conditions for the site.

Reason:

To conserve valuable water resources, in compliance with and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) and to prevent an increase in surface run-off and reduce flood risk.

**11. APPROVAL CONDITION: Ecological Mitigation Statement (Pre-Commencement)**

Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, as set out in the Phase 1 Ecological Survey (dated: July 2015 and produced by D.V.Leach. M.C.I.E.E.M) which unless otherwise agreed in writing by the Local Planning Authority, shall be implemented in accordance with the programme before any demolition work or site clearance takes place.

Reason:

To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity.

**12. APPROVAL CONDITION: Bonfires (Performance Condition)**

No bonfires are to be allowed on site during the period of demolition, clearance and construction.

Reason:

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

**13. APPROVAL CONDITION: Hours of work for Demolition / Clearance / Construction (Performance)**

All works relating to the demolition, clearance and construction 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.

**14. APPROVAL CONDITION: Demolition - Dust Suppression (Pre-Commencement)**

Measures to provide satisfactory suppression of dust during the demolition works to be carried out on the site shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The agreed suppression methodology shall then be implemented during the demolition period.

Reason:

To protect the amenities of users of the surrounding area.

### **15. APPROVAL CONDITION: Demolition and Construction Management Plan (Pre-Commencement)**

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Plan for the development. The Construction Management Plan shall include details of:

- (a) parking of vehicles of site personnel, operatives and visitors;
- (b) loading and unloading of plant and materials;
- (c) storage of plant and materials, including cement mixing and washings, used in constructing the development;
- (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;
- (e) measures to be used for the suppression of dust and dirt throughout the course of construction;
- (f) details of construction vehicles wheel cleaning; and,
- (g) details of how noise emanating from the site during construction will be mitigated. 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, neighbouring residents, the character of the area and highway safety.

### **16. APPROVAL CONDITION: Land Contamination investigation and remediation (Pre-Commencement & Occupation)**

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

1. A desk top study including;
  - historical and current sources of land contamination
  - results of a walk-over survey identifying any evidence of land contamination
  - identification of the potential contaminants associated with the above
  - an initial conceptual site model of the site indicating sources, pathways and receptors
  - a qualitative assessment of the likely risks
  - any requirements for exploratory investigations.
2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed.
3. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

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

Reason:

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

**17. APPROVAL CONDITION: Use of uncontaminated soils and fill (Performance)**

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

Reason:

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

**18. APPROVAL CONDITION: Unsuspected Contamination (Performance)**

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified, no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority. Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority. The development shall proceed in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason:

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

**19. APPROVAL CONDITION: Allocated Parking (Pre-Occupation)**

Prior to occupation, the parking spaces and access to them hereby approved shall be fully marked out and retained thereafter unless otherwise agreed in writing by the Local Planning Authority. No more than 1 parking space per flat shall be allocated and they shall be retained for use by the residents of the development and their visitors only. The approved parking shall be used in accordance with the development hereby approved.

Reason:

To prevent obstruction to traffic in neighbouring roads and in the interests of highway safety.

**20. APPROVAL CONDITION: Residential - Permitted Development Restriction (Performance Condition)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order amending, revoking or re-enacting that Order, no building or structures within Schedule 2, Part 1, Classes as listed below shall be erected or carried out to any dwelling house hereby permitted without the prior written consent of the Local Planning Authority:

Class A (enlargement of a dwelling house), including a garage or extensions,

Class B (roof alteration),

Class C (other alteration to the roof),

Class E (curtilage structures), including a garage, shed, greenhouse, etc.,

Class F (hard surface area)

Reason:

In order that the Local Planning Authority may exercise further control in this locality as the gardens are below existing guidance and in the interests of the comprehensive development and visual amenities of the area.

## Application 15/02331/OUT

### POLICY CONTEXT

Core Strategy - (as amended 2015)

CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
H1	Housing Supply
H7	The Residential Environment

Supplementary Planning Guidance  
Residential Design Guide (Approved - September 2006)  
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2012)  
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

**15/01551/OUT – Planning & Rights of Way panel - Minutes**

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

Redevelopment of the site. Erection of 6x 3-Bed Houses With Associated Parking And Cycle/Refuse Storage (Outline Application Seeking Approval For Access, Appearance, Layout And Scale)

Councillor Galton and Councillor Furnell (ward councillors / objecting) and Adi Paplambu (architect) were present and with the consent of the Chair, addressed the meeting.

At the request of the Panel, officers amended the reasons for refusal to include an additional reason concerning the Impact on residential amenity that the development would have.

RESOLVED to refuse planning application for the reasons set out in the report and the additional reason set out below.

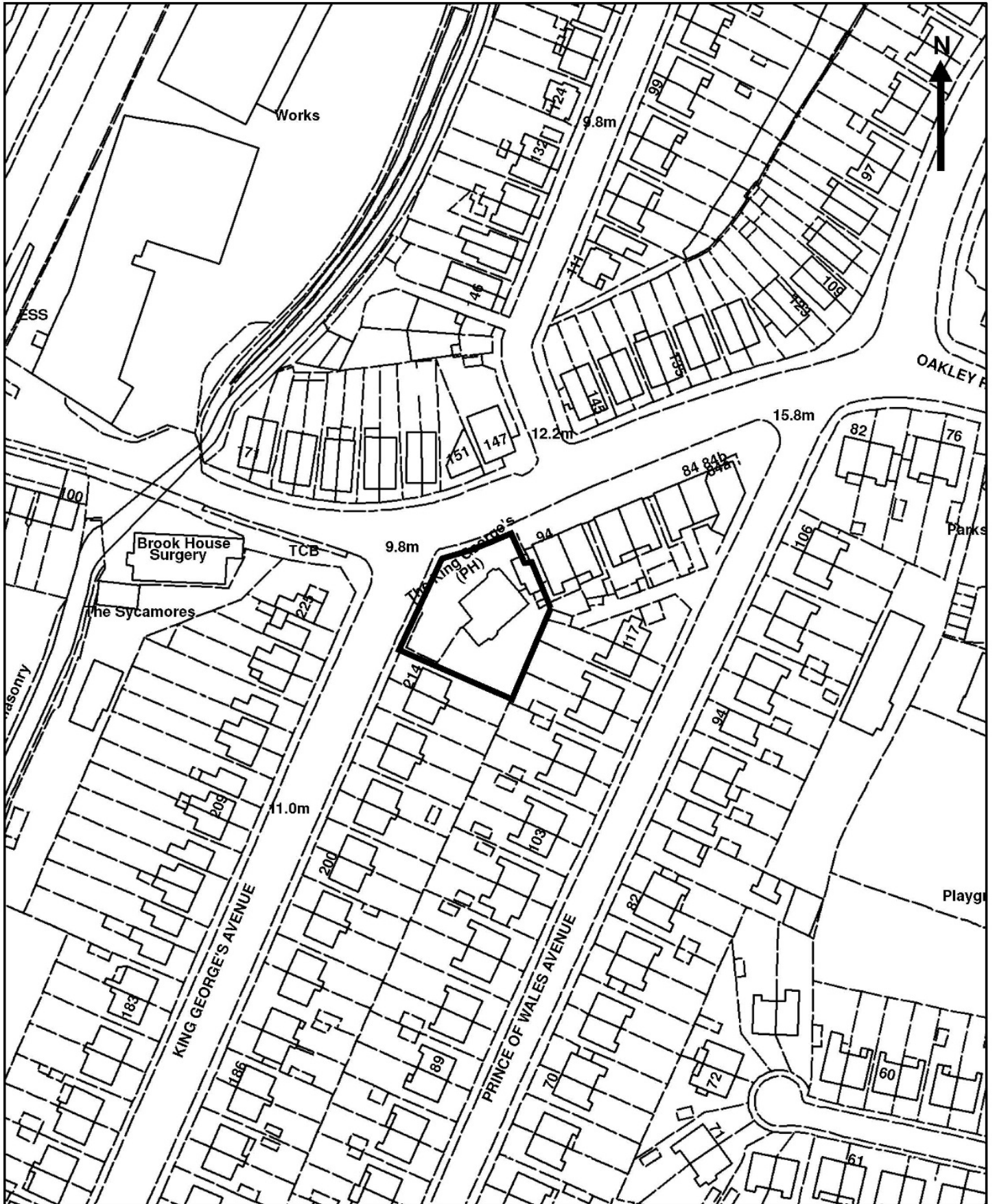
Additional reason for refusal

**4. REASON FOR REFUSAL - Impact on residential amenity.**

Based on the information submitted, it has not been adequately demonstrated that the development would not have a harmful impact on the amenities of nearby residential occupiers through increased competition for on-street car parking. The submitted survey fails to take into account existing points of access to off-road car parking and failed to assess the situation at the start and end of the school day in relation to nearby schools. As such, it is not clear the level of car parking proposed is sufficient to serve the development, particularly since significantly less spaces would be provided than the Council's maximum adopted standards. The development would, therefore, be contrary to the provisions of Policy SDP1 of the City of Southampton Local Plan Review (2015), Policy CS19 of the Southampton Core Strategy Development Plan Document (2015) and the adopted Parking Standards Supplementary Planning Document (2011).



# 15/02331/OUT



Scale: 1:1,250

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# Agenda Item 6

**Planning, Transport & Sustainability Division  
Planning and Rights of Way (West) Panel 22 March 2016  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 5 The Parkway			
<b>Proposed development:</b> Change of use from a 6 bedroom House in Multiple Occupation (Class C4) to a 7 bedroom House in Multiple Occupation (Class Sui Generis) no external alterations			
<b>Application number</b>	15/02017/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Stuart Brooks	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	15.02.2016	<b>Ward</b>	Bassett
<b>Reason for Panel Referral:</b>	Request by Ward Member	<b>Ward Councillors</b>	Cllr Harris Cllr Harris Cllr Hannides
<b>Referred by:</b>	Cllr Beryl Harris	<b>Reason:</b>	Parking Out of Character Residential amenity
<b>Applicant:</b> (Redacted)		<b>Agent:</b> N/A	

<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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### Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012). Policies - SDP1, SDP7, SDP9, H4 of the City of Southampton Local Plan Review (Amended 2015) and CS13, CS16 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

<b>Appendix attached</b>			
1	Relevant Policies	2	Parking Survey
3	PINS advice note	4	Appeal decision

### Recommendation in Full

#### Conditionally approve

#### 1.0 Introduction and update

- 1.1 The Panel agreed a motion to defer a decision on this application at the previous West panel meeting on 9<sup>th</sup> February. The reason was for the Highway Officer to clarify whether the occupants would be eligible for parking permits following the

grant of planning permission. Subsequently, the Highways team has confirmed that the occupants would still be eligible for maximum of 2 permits if permission was granted to change the use from a small to large HMO. This is given that the planning use of the property would remain as a HMO (classed as a dwellinghouse by planning guidance issued by the Secretary of State regardless that it is a large HMO), with the only physical changes being that the number of bedrooms will increase through reconfiguring the ground floor internal layout to make better use of the property.

- 1.2 Family Homes are defined by Policy CS16 of the adopted Core Strategy as 'dwellings of three or more bedrooms with direct access to useable private amenity space'. Whilst HMOs fall within separate Use Classes to family dwellings, they can still be considered as dwellinghouses in planning terms. The Planning Inspectorate issued a guidance note which confirms that C4 uses are dwellinghouses (albeit in a separate use class) and therefore benefit from permitted development rights (see attached to **Appendix 3**). Since this note was produced, decisions issued by the Planning Inspectorate have confirmed that the same holds true for Sui Generis HMOs (see attached **Appendix 4**).
- 1.3 As such, providing HMO's contain 3 or more bedrooms and have direct access to sufficient private amenity space, they meet the Council's adopted definition of a family dwelling and therefore the change of use between classes C3 (single-family dwellinghouse), C4 (small HMO) and sui generis HMO's does not result in a loss of a family dwelling.
- 1.4 It is also important to note that Policy CS16 and the HMO SPD confirm that the provision of HMOs meet an identified housing need.
- 1.5 The Council's Local Development Framework has changed since the application was previously considered. Firstly, the proposed changes to the HMO SPD are currently going through public consultation (until 29<sup>th</sup> March 2016), however, the proposed changes are not considered to have a material bearing on the determination of this application as the new policy guidance would not directly relate to this proposal. The threshold policy approach for HMOs would remain the same for Bassett.
- 1.6 Secondly, the Bassett Neighbourhood Plan (BNP) was passed at the referendum for the Plan held on 25<sup>th</sup> February 2016. This now holds significant weight in deciding planning applications within Bassett given its examination and public consultation status. As outlined by policies BAS1 and BAS 6 of the Plan, the proposal will comply with the overarching objectives to prevent the net loss of family housing and retain the characteristic type of family housing in Bassett (as outlined by Officer's policy advice above). The proposal would not undermine the maintenance of the balanced and mixed local community, as no new HMOs are being created that would change the current concentration of HMO dwellings within the Ward and the mix of households in the local area. Officers are satisfied that the applicant has demonstrated that the proposal would not further impact on the existing parking facilities within the local area in accordance with policy BAS 7.
- 1.7 Following questions raised by members at the previous panel meeting, about the relevance of the HMO licensing standards with regards to the room size standards and the requirements for safety and fire precaution measures for the

occupiers under separate regulations, this is further clarified in paragraph 6.7 of the report.

- 1.8 Following this update, the Officer's recommendation to conditionally approve the application remains the same as before.

## **2.0 The site and its context**

- 2.1 This application site lies within the ward of Bassett. The surrounding area is predominantly characterised by residential properties in a mixed style within a suburban and verdant setting.
- 2.2 The existing property is a detached two-storey dwelling (6 bedrooms) with parking to the front. The property has been established as a HMO before March 2012 (prior to the introduction of the Article 4 direction to remove C3 to C4 permitted development rights). Existing communal facilities comprise kitchen/dining room to the ground floor and shared bathrooms to the first floor. The occupiers also have access to a large private garden at the rear.

## **3.0 Proposal**

- 3.1 It is proposed to increase the number of bedrooms from 6 to 7 by reconfiguring the internal layout. Bedroom 2, on the ground floor, will be divided into two smaller rooms, and the communal space will be enlarged by reducing the size of bedroom 1 and providing a lounge. In effect, this will change the use from a C4 HMO (up to 6 occupiers) to a large HMO for up to 7 persons.

## **4.0 Relevant Planning Policy**

- 4.1 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 in **Appendix 1**.
- 4.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy 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.
- 4.3 The Houses in Multiple Occupation SPD was adopted in March 2012. It provides supplementary planning guidance for policy H4 and policy CS16 in terms of assessing the impact of HMOs on the character and amenity, mix and balance of households of the local area. The SPD sets a maximum threshold of 10% for the total number of HMOs in the ward of Bassett (where it is not proposed to change the threshold level as part of the proposed changes under the draft HMO SPD currently being consulted on by the Council). It is important to be aware that as the property is already being occupied legitimately as a C4 HMO and was established as a small HMO before 23<sup>rd</sup> March 2012. The threshold does not apply in this case.

- 4.4 There will be no increase in the concentration of HMO dwellings within the assessment area (section 6.7 of the SPD refers). With particular regard to the increase in occupation of the existing C4 HMO by 1 person to a large HMO, the planning application is assessed against policy H4 and CS16 in terms of balancing the need for multiple occupancy housing against the impact on the amenity and character of the local area.
- 4.5 Also of relevance is the draft Bassett Neighbourhood Plan (passed by referendum 25<sup>th</sup> February 2016) which confirms that proposals should not result in an over-concentration of HMO dwellings in any one area of the Ward, to an extent that would change the character of the area or undermine the maintenance of a balanced and mixed community in terms of dwellings. The Officer's policy advice in section 1 of the report explains how the application would serve the objectives of the Plan (BNP).

## **5.0 Relevant Planning History**

- 5.1 There is no relevant history.

## **6.0 Consultation Responses and Notification Representations**

- 6.1 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 (06.11.2015). At the time of writing the report **4** representations (including from 2 Ward Cllrs) have been received from surrounding residents (UPDATE – No further representations received since the previous panel meeting). The following is a summary of the points raised:
- 6.1.1 **Overcrowding of the property by increasing the occupiers to 7 persons. The size of the communal kitchen and lounge fall below the minimum room size standards set out in the HMO SPD and HMO licensing.**

### Response

Currently the ground floor communal facilities comprise a kitchen/diner and small utility area (14 sq.m in area). The application will create a larger communal living space in addition to the existing kitchen/diner. The overall size of the communal space available for the occupiers would be 24sqm. The room space standards (set out in Appendix 1 of the HMO SPD) states that the dining/kitchen room should provide an area of 19.5sqm and 16.5sqm for the communal living room.

- 6.1.2 It is considered that an additional 1 person would not represent overcrowding of the property. The proposal represents better communal living space by reconfiguring the ground floor layout. The new layout would provide suitable access to outlook and light for the bedrooms and shared living space in terms of planning standards. The occupiers will benefit from the improved communal space.
- 6.1.3 Notwithstanding the shortfall of room size standards, this would be separately considered under the statutory legislative requirements of the HMO license. Following clarification from the Environmental Health team, it was advised that the room space standards are not always strictly applied, where Environmental Health Officers would normally apply a level of flexibility, where appropriate, in their assessment depending on the nature of each property. As such, the

applicant has amended the ground floor plans in accordance with the Environmental Health Officer's advice, so the floor area of bedroom 1 is reduced (overall 6.6sqm) to increase the size of the lounge (overall 13sqm) to better meet the room size standards. It should be noted that it is not the planning system's role to make judgements on the requirements of other legislation, especially where the Environmental Health Officer has advised accordingly.

6.1.4 As such, the concern of overcrowding from the shortfall in communal space against the room space standards for 7 persons would not hold sufficient weight on its own to warrant a reason to refuse this application.

6.1.5 **Increasing the number of HMO occupiers would nullify the intention of the HMO policy to limit the spread of HMO concentrations in this area.**

Response

The threshold policy in the HMO SPD is intended to maintain the mix and balance of transient and owner occupied households within the community by limiting the spread and concentration of new HMO dwellings. There would be no material change in the proportion of households through adding 1 person to an existing household. As such, the proposal would meet the policy objective of limiting the spread and concentration of HMOs within the local area.

6.1.6 **Increased late night disturbance.**

Response

The SCC Environmental Health team have powers to enforce against any disturbance considered to be a statutory nuisance. No noise complaints have been received regarding the existing HMO use and an immediate neighbour has stated that the landlord has ensured that their tenants are well behaved. It does not follow that occupiers of a HMO are always noisier than that of a family.

6.1.7 **Increase of pressure on on-street parking demand resulting in less parking available for local residents.**

Response

There is one car parking space to the front of the property. The HMO SPD permits a maximum of 3 car parking spaces for a 7-bedroom HMO and confirms, at paragraph 7.3, that the provision of less spaces is permissible subject to it being demonstrated that the level of car parking proposed is sufficient. The applicant has, therefore, carried out a detailed parking survey within a 200m radius of the site (using the Lambeth Model as recommended by the SCC Highways team) on Friday 15th (06:00 and 22:00 hours) and Saturday 16th January (06:00 and 22:00 hours) (see **Appendix 2**). The survey has demonstrated sufficient capacity for further on-street parking within close walking distance of the site. Furthermore, the property is within 800 metres of the main university campus which provides excellent bus links to the city centre. As such, it is not considered that the increase in occupancy by 1 person would have a significant effect on the on-street car parking availability in the area.

6.1.8 **The installation of the boiler flue does not comply with Gas safe regulations as there should be a 1m gap between the adjacent property**

Response

This is not a relevant planning consideration as it is covered under separate statutory legislation. The applicant will be made aware of this issue through an informative note.

- 6.1.9 **Notwithstanding the cultural orientation of the tenants, the Landlord has a good relationship with the neighbour and has successfully ensured that his tenants have not caused any noise disturbance**
- 6.1.10 **Cllr Beryl Harris** – Out of character with the area. Detrimental impact on the existing residents amenities.
- 6.1.11 **Cllr Hannides** – This is a completely inappropriate use for this dwelling in view of the character of the area. Making it larger will serve to exacerbate the problem and I, therefore, object.

### **Consultation Responses**

- 6.2 **SCC Highways** - No objection

#### Comments

The site is situated within an area where there are no parking restrictions. Depending on the current demand for on-street parking, any overspill can create a harmful impact to the amenity of the local residents. It is always difficult to judge or predict the impact of such a small-scale development (in this case, one additional bedroom) but looking towards the worst-case scenario, there would be one additional vehicle on the road.

- 6.3 I can suggest a parking survey (in the form of the Lambeth model) to be conducted to see what the current level of demand is and whether on-street parking has reached capacity or not. As the development does not affect the highway in terms of access or layout, there are no highway safety concerns. I will however request a cycle parking space to be provided as HMO's are more akin to individual living and should be treated as separate living units.

- 6.4 Officer Response

A parking survey has been carried out and is provided as **Appendix 1** of this report.

- 6.5 **SCC Environmental Health (Pollution & Safety)** - No objection

#### Comments

This property will require a licence as an HMO. Room sizes must comply with SCC standard for HMOs and fire precautions to comply with Lacors fire safety guidance. With this fire safety guidance in mind the current proposed layout to the ground floor will not comply, as the ground floor front left bedroom will be classed as an inner room, and to overcome this the door to this room should be moved to open from the protected stair well, rather than from the kitchen.

- 6.6 Officer Response

Following clarification of the initial comments made, the Environmental Health Officer advised that the room space standards are not always strictly applied. In this case, they are satisfied to apply flexibility to the standards, suggesting that bedroom 1 should be reduced to increase the size of the lounge to better meet the room size standards.

6.7 The room sizes and fire precautions/safety measures are separately consented under the HMO licensing regime by the Environmental Health team. The amended plans have now addressed the Environmental Health Officer's concerns. It is not uncommon for planning permission to be granted by the Local Planning Authority where the applicant has to apply for approval under other separate consents for their development e.g. Building Regulations

## **7.0 Planning Consideration Key Issues**

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

- Principle of Development;
- Impact on the Character and Amenities;
- Impact on Parking and Highway Safety and;
- Standard of Living Conditions.

### **7.2 Principle of Development**

7.2.1 The property is occupied as a small HMO (class C4) under permitted development rights that existed prior to 23rd March 2012 and, therefore, HMO use did not originally require planning permission. To demonstrate that the property was occupied on 23<sup>rd</sup> March 2012 (effective date of Article 4 direction) the applicant has provided a copy of a signed tenancy agreement (11 month period) dated 15th October 2011 showing that 5 tenants occupied the property. Council Tax records corroborate this information.

7.2.2 The 10% HMO threshold applicable to the Bassett Ward is not applicable in this case, as the property is already established as a small HMO (on 23<sup>rd</sup> March 2012) and there will be no increase to the concentration of HMO dwellings (section 6.7 of the HMO SPD refers) within the local area. The provision of an additional bedroom would meet a need for this type of accommodation set out in Policy CS16 of the Core Strategy. The principle of development is, therefore, acceptable as a 6 person HMO use has already been established. This is subject to whether the intensification of use by 1 person would cause any material harm with respect to the key planning issues below.

### **7.3 Impact on the Character and Amenities**

7.3.1 The proposal is considered to meet the policy objective of the HMO SPD by limiting the spread and concentration of HMOs within the area, as there would be no resulting change to the mix and balance of dwellings within the local community. Notwithstanding this, the records held by the Council's licensing team indicate that whilst there is a mix of HMO and single-family dwellings within the vicinity of the site, the locality is not over-saturated by HMO uses. As such, it is not considered that the proposed 1 additional occupant would have a significant or harmful effect on the intensity of HMO occupation within the area.

7.3.2 The large size of existing bedrooms 1 and 2 lend to the reconfiguration of the ground floor layout in a more efficient manner and provide better communal facilities for the occupiers as a result. The property itself is considered comfortably large enough to accommodate 7 persons and benefits from a private garden of over 170 sq.m, which exceeds the Council's amenity space standards

for detached properties (90 sq.m). The site is also large enough to comfortably accommodate the storage needs of the use. As such, the addition of one occupant is not considered to result in an over-intensive use of the site. Whilst the detached spacing from the neighbouring properties would ensure that the comings and goings of the additional person would not adversely harm the amenities of the neighbouring occupiers.

7.3.3 The local residents' concerns are noted with regards to the overcrowding of the site. The access to light and outlook serving the communal rooms is acceptable in planning terms of the living standards under the Residential Design Guide and, therefore, the overcrowding concern (shortfall of the SCC Housing Standards) could not provide sufficient weight alone to warrant refusal of the application. In addition, it is considered that the improved communal facilities would be a significant benefit to the occupiers and condition 5 would ensure the communal spaces are provided and retained for this purpose. Furthermore, the garden space provided for occupiers would be adequate in terms of its functional quality and quantity.

#### 7.4 Impact on Parking and Highway Safety

7.4.1 The Highways Officer has not raised any concerns with regards to the impact on highway safety in terms of access and parking. They have commented that the local concerns with regards to on-street parking pressure is an issue of amenity rather than highway safety and therefore officers would have to independently assess this impact. There would be a requirement to provide secure and covered cycle parking storage (1 space per resident) within the rear garden and this can be secured by condition.

7.4.2 The Parking Standards SPD refers to research that shows 1 vehicle is typically owned per household in Southampton. It is acknowledged that occupiers of multiple occupancy dwellings are more likely to own vehicles for individual use, however, the close proximity of the site to the University would encourage student occupiers to use more sustainable and healthy methods of travel such as cycling and walking. Furthermore, the university campus also benefits from excellent bus links to the city centre.

7.4.3 The site lies within an area of standard accessibility to public transport under the Parking Standards SPD. The Parkway and part of Copperfield Road is covered by Residents Parking Permit Zones 9 (Glen Eyre - 1<sup>st</sup> October to 31<sup>st</sup> May on weekdays) and 10 (Flowers Estate - all year throughout on weekdays) which restricts street parking during the day to resident permit holders only. The parking standards for a 7 bedroom HMO (set out in the HMO SPD) requires the maximum of 3 spaces. The driveway of the property already provides 1 parking space. The Parking Standards SPD states that provision of less than the maximum parking standards is permissible however, it is required for developers to demonstrate that the capacity of street parking would be sufficient to make up this shortfall.



7.4.4 The applicant carried out a detailed parking survey within a 200m radius of the site (using the Lambeth Model as recommended by the SCC Highways team) on Friday 15th (06.00 and 22.00 hours) and Saturday 16th January (06.00 and 22.00 hours). The survey showed that there was sufficient capacity for additional on-street parking in the nearby streets. A copy of the survey has been attached to **Appendix 2**.

7.4.6 In summary, the following available capacity was (as illustrated on the survey map):

Friday 15th January

06.00 hours - 49/67 spaces (73% capacity)

22.00 hours - 42/67 spaces (63% capacity)

Saturday 16th January

06.00 hours - 49/67 spaces (73% capacity)

22.00 hours - 49/67 spaces (73% capacity)

7.4.7 As such, the increase in occupancy by 1 person is considered to be acceptable in terms of potential on-street car parking generation.

## **8.0 Summary**

8.1 In summary, the impact from the intensification of the HMO by 1 person would not cause harm to the character and amenity of the area with respect to the balance of households and parking pressure, and highway safety of the local area. It should be noted that the Council's HMO licensing regime in this ward is intended to help address the negative amenity impacts associated with HMOs. The improvement of the existing HMO stock also contributes towards meeting an identified housing need in the city for low income and transient households.

## **9.0 Conclusion**

9.1 In conclusion, the proposed development is considered to accord with the Council's guidance and policies and, therefore, is recommended for approval.

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

#### **Documents used in the preparation of this report Background Papers**

1(a), (b), (c), (d), 2(d), 3(a), 4(f), (qq), (vv), 6(a), (b), 7(a)

### **SB for 22/03/16 PROW Panel**

## **PLANNING CONDITIONS**

### **01. Full Permission Timing Condition**

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

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

### **02. Number of occupiers**

The number of occupiers at the property in connection with the change of use hereby permitted shall not exceed 7 persons.

Reason:

In the interests of protecting the residential amenity of local residents from intensification of use and define the consent for avoidance of doubt.

### **03. Refuse storage and collection**

Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the buildings hereby approved.

Reason:

In the interest of visual amenity and for the safety and convenience of the users of the adjacent footway.

### **04. Cycle storage**

Before the development hereby approved first comes into occupation, secure and covered storage for 7 bicycles (with cycle stands) shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The storage shall be thereafter retained as approved.

Reason:

To encourage cycling as an alternative form of transport.

### **05. Retention of communal spaces**

Prior to the first occupation of bedroom 7 hereby approved, the improved ground floor communal facilities, namely the lounge area, shall be provided in accordance with the plans hereby approved. The communal rooms shall thereafter be retained for that purposes.

Reason:

In the interests of the living conditions of the occupiers.

### **07. 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.

**Informative note:** The applicant should be aware of their duties under the gas safe regulations in terms of venting the gas boiler.

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking

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

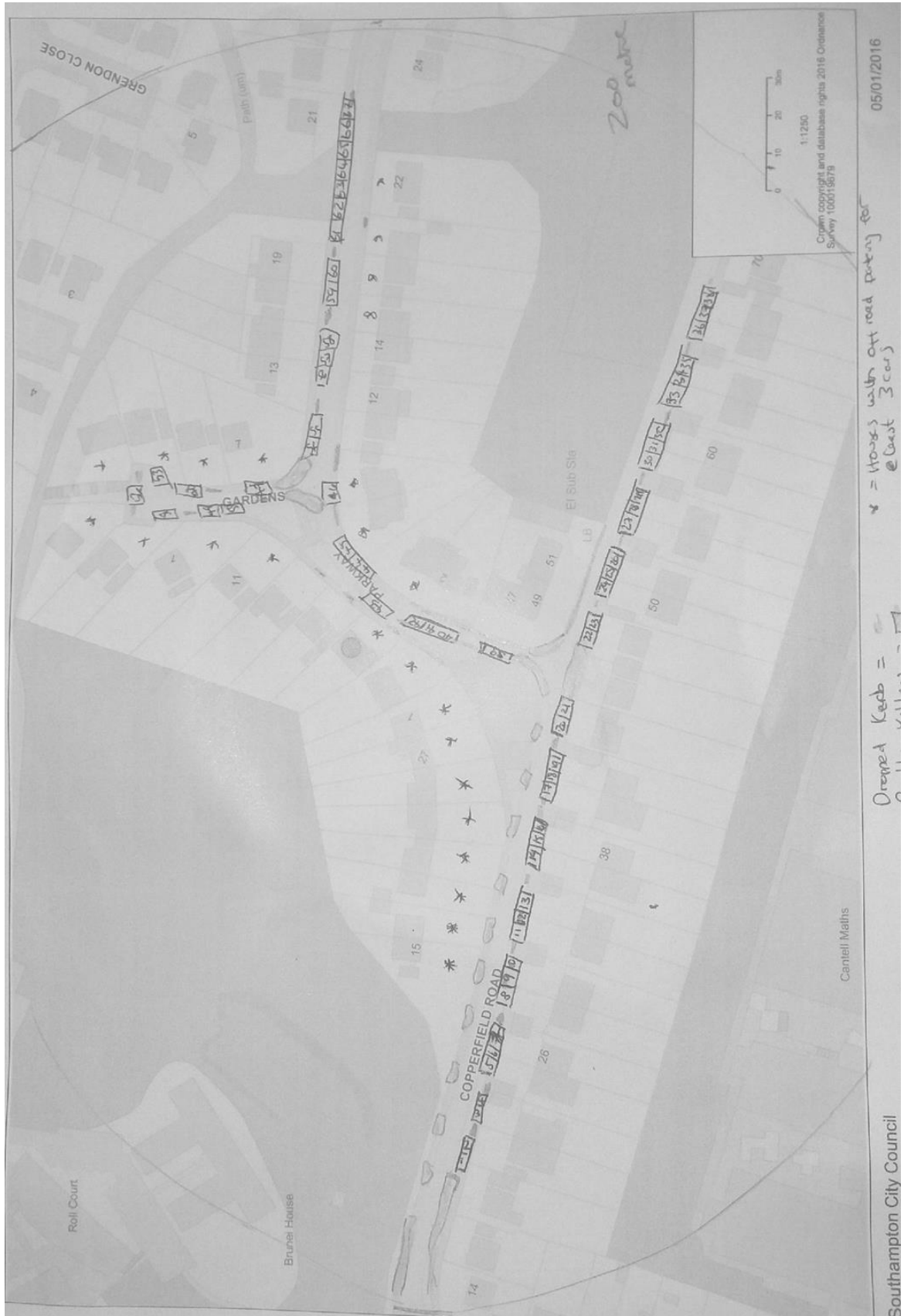
SDP1	Quality of Development
SDP5	Parking
SDP7	Urban Design Context
H4	Houses in Multiple Occupation

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Parking Standards SPD (September 2011)  
Houses in Multiple Occupation SPD (March 2012)  
Emerging Bassett Neighbourhood Plan (Post Examination 2015)

Other Relevant Guidance

The National Planning Policy Framework (2012)





Advice produced by the Planning Inspectorate for use by its Inspectors – 15 January 2014

## Houses in Multiple Occupation (HMOs) and Permitted Development Rights

1. The Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GDPO) Schedule 2 Part 1 Class A grants certain permitted development rights to dwellinghouses.
2. Houses in Multiple Occupation, including those which fall within Class C4 can benefit from the permitted development rights granted to dwellinghouses by the GDPO. Class C4 use is defined as use of a dwellinghouse by not more than six residents as a "house in multiple occupation".<sup>1</sup>
3. The test for whether a property is eligible to use the permitted development right is whether it can be considered a "dwellinghouse" within the context of the GDPO. This will depend on the facts of the case.
4. Case law<sup>2</sup> has established that the distinctive characteristic of a "dwelling house" is its ability to afford to those who use it the facilities required for day-to-day private domestic existence. Whether a building is or is not a dwelling-house is a question of fact.
5. For the purposes of the GDPO a "dwellinghouse" does not include a building containing one or more flats, or a flat contained within such a building.

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<sup>1</sup> Town and Country Planning (Use Classes) Order 1987 (as amended)

<sup>2</sup> *Gravesham Borough Council v The Secretary of State for the Environment and Michael W O'Brien* (1982) 47 P&CR 142 [1983] JPL 307



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## Appeal Decision

Site visit made on 3 June 2015

by **Simon Hand MA**

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

Decision date: 8 June 2015

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**Appeal Ref: APP/F0114/X/15/3005007**

**36 Dafford Street, Bath, BA1 6SW**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Johann Gulotti against the decision of Bath & North East Somerset Council.
  - The application Ref 14/05221/CLPU, dated 12 November 2014, was refused by notice dated 7 January 2015.
  - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
  - The proposed development for which a certificate of lawful use or development is sought is replacement of existing timber sash windows with double glazed windows to match.
- 

### Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing proposed operation which is considered to be lawful.

### Main Issue

2. Whether a sui generis House in Multiple Occupation (HMO) is a dwelling?

### Reasons

3. The proposal is to replace the existing windows in No 36 Dafford St with double glazed windows of a similar design but in uPVC. As the building is not listed such a change would usually be permitted development under Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995. However the Council consider that it is not a dwellinghouse and so no rights conferred by Class A apply.
4. The building is used as a HMO with 10 bedrooms. There is no dispute that it does not fall within Class C4 of the Use Classes Order (1987). This class refers to "*Use of a dwellinghouse by not more than six residents as a "house in multiple occupation"*". The use is therefore sui generis, that is it does not fall within any specific class of the UCO.
5. However the UCO has an application that is limited to determining what material changes of use can be made without the need for planning permission. Thus a change can be made from C3 to C4 as that is allowed by the Town and Country Planning (General Permitted Development) (England) Order 2015. But

a change cannot be made from C4 to a 10 bed HMO as the latter is *sui generis*, and so such a change would require planning permission. That is not the same as saying that a 10 bed HMO cannot, by definition, be a dwelling. That is a matter of fact and degree in each case.

6. I have been referred to advice produced by the Planning Inspectorate which says that "Houses in Multiple Occupation, *including* those which fall within Class C4 *can* benefit from permitted development rights granted to dwellinghouses by the GPDO". I have italicised the key words in that sentence which agree with the situation I have outlined above. The advice goes on to say that case law has established the distinctive characteristic of a dwellinghouse is "its ability to afford those who use it the facilities required for day to day private domestic existence". The relevant case is *Gravesham BC v SSE and M W O'Brien (1982) 47 P&CR 142 [1983]*.
7. The appellant has provided a description of the use of the HMO, floor plans and a copy of a sample tenancy agreement. It seems the building is occupied by 10 people in private bedrooms, sharing a number of bathrooms and a large communal kitchen/dining/living room, with a separate utility for laundry purposes. They pay all the bills communally. In the absence of any evidence to the contrary it would seem this building is occupied as if it were a large house with 10 people living in it. In this case I consider it is a dwellinghouse and so does benefit from permitted development rights.
8. The Council say that DCLG have clarified the issue by saying, and they quote, "with regards to HMOs which are considered *sui generis* the position in respect of permitted development rights under Part 1 of the GPDO has not been affected by the recent legislation". I am unclear as to what this somewhat gnomic pronouncement means, but I am unaware of any advice issued by DCLG to this effect which I note is not found in the PPG or NPPF. In any event it does not affect the situation in law regarding the status of HMOs as dwellinghouses or not, which remains a matter of fact and degree in each case.

*Simon Hand*

Inspector



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## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2010: ARTICLE 35

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**IT IS HEREBY CERTIFIED** that on 12 November 2014 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason: They are permitted development by virtue of Class A, of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 because the property is a dwellinghouse.

Signed

*Simon Hand*

Inspector

Date: 08.06.2015

Reference: **APP/F0114/X/15/3005007**

### *First Schedule*

Replacement of existing timber sash windows with double glazed windows to match.

### *Second Schedule*

Land at 36 Dafford Street, Bath, BA1 6SW



## NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Scale: 1:1,250

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# Agenda Item 7

**Planning, Transport & Sustainability Division  
Planning and Rights of Way Panel (WEST) - 22 March 2016  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> Land adjacent Chamberlayne Leisure Centre, Weston Lane.			
<b>Proposed development:</b> Replacement of 11.8m high telecoms pole, equipment cabinet and meter pillar.			
<b>Application number</b>	16/00100/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Kieran Amery	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	22.03.2016	<b>Ward</b>	Woolston
<b>Reason for Panel Referral:</b>	More than 5 letters of objection have been received, together with an objection from Cllr Payne.	<b>Ward Councillors</b>	Cllr Chamberlain Cllr Hammond Cllr Payne

<b>Applicant:</b> CTIL and Vodafone Ltd	<b>Agent:</b> Daily International
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<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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## Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below.

Considering the existing situation at the site the proposed replacement telecoms mast and cabinet are not considered to be harmful to the character of the area or the visual amenities of the nearby residential properties. 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 has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012). Policies - SDP1, SDP16, of the City of Southampton Local Plan Review (March 2006) and CS13, CS14, CS18, CS19 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Planning History
3	Appeal decision (11/01094/TCC)		

## Recommendation in Full

### Conditionally approve

## **1.0 Introduction**

- 1.1 The application proposes the replacement of an 11.8m tall telecommunications mast and ancillary radio equipment housing cabinet, with a new telecommunications pole of the same height and a larger ancillary equipment cabinet.

Objections have been received regarding the visual impact of the fence and the potential impact of the equipment on public safety. The justification of the proposed works have also been brought into question.

## **2.0 The site and its context**

- 2.1 The site is adjacent to a public footway along Weston Lane and grounds belonging to Chamberlayne Leisure Centre. There is a residential property (no.138 Weston Lane) within 3m of the proposed telecommunications pole.
- 2.2 There is an existing telecommunications pole of the same height on the site, there is also an existing cabinet shell in this area.
- 2.3 The local area is characterised by two storey housing and open space, including the car park of Chamberlayne Leisure Centre.

## **3.0 Proposal**

- 3.1 The proposal is for the replacement of an 11.8m tall telecoms mast with a new telecoms mast of the same size, as well as a replacement cabinet shell of a larger size than the existing.
- 3.2 The replacement telecoms mast would be roughly 1.5m further to the South West (and thereby closer to no.138) than the existing mast. The proposed mast would have a width of 0.32m and the top aspect containing the antenna would be 0.35m wide. The mast would be designed to resemble a telegraph pole in order to blend in better with the residential street scene. It would be a dark brown colour.
- 3.3 The proposed replacement cabinet shell would be 1.94m tall, 1.3m wide and would sit near to the north east of the front access way to no. 138 Weston Lane. There is an existing cabinet on site which is 1.6m wide and 1.3m tall.
- 3.4 Under permitted development criteria as set out in Schedule 2, Part 14, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, a replacement mast at this site could be achieved with a maximum height of 15m and a maximum width of 0.27m. The proposed mast would therefore only require planning permission because the width would exceed the width of the existing mast by more than a third and because it would be located 1.8m further to the south west of the existing mast to be removed.

## **4.0 Relevant Planning Policy**

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these

proposals are set out at **Appendix 1**.

- 4.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy 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.
- 4.3 Paragraph 42 of the NPPF states that advanced, high quality communications infrastructure is essential for sustainable economic growth and that the development of communications networks also plays a vital role in enhancing the provision of local community facilities and services. Paragraph 43 states that local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband. They should aim to keep the numbers of radio and telecommunications masts and the sites for such installations to a minimum consistent with the efficient operation of the network. Existing masts, buildings and other structures should be used, unless the need for a new site has been justified.
- 4.4 Saved policy SDP1(i) seeks to protect the amenity of local residents and states that planning permission will only be granted for development which does not have an unacceptable affect the health, safety and amenity of the city and its citizens.
- 4.5 Saved policy TI5(i) states that proposals for telecommunications equipment and public utility infrastructure will be permitted if the design of the installation, including its height, materials, colour, and use of screening respects the character and appearance of the locality. Saved policy TI5(ii) states that wherever practical existing sites should be utilised. TI(iii) states that technical requirements or constraints need to be demonstrated to outweigh any adverse environmental impact.

## **5.0 Relevant Planning History**

- 5.1 The relevant planning history is set out in detail in **Appendix 2**.
- 5.2 There have been numerous applications for telecommunications equipment at this site. Two applications were refused prior to application ref:11/01094/TCC which was refused by the LPA but approved at appeal on the 6<sup>th</sup> of March 2011. This application was for the existing telecommunications equipment at the site. A copy of this appeal decision is attached in **Appendix 3**.
- 5.3 An application (ref:14/00463/TCC) was made for a replacement 15m monopole which was refused on the 25<sup>th</sup> of April 2014. The application was refused because it was considered that the proposed mast would be visually dominant in the area.

## **Consultation Responses and Notification Representations**

## 6.0

6.1 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 (02.02.2016 and 05/02/2016). At the time of writing the report **eight** representations have been received, seven from surrounding residents including one from the occupier of no.138 Weston Lane, four from no.170 Weston Lane and one from councillor Warwick Payne. A summary of the material considerations raised by these objections is set out below.

### 6.1.1 Comment

The proposed mast is not in-keeping with the surrounding area, it is unsightly and would damage the visual amenities of the area.

### Response

The site already has a telecoms mast of the same height. The increased width of the structure is minimal and unlikely to make the mast more visually prominent in the street scene to an acceptable level. The replica telegraph pole design would help the mast integrate into the mostly residential street scene. Given the existing situation with a mast already present, it is unlikely that the replacement mast would contribute significantly to a harmful impact on the character of the area. It should be noted that a mast up to 15m in height could be achieved under permitted development.

It is also noted that there are a number of lamp posts and a wooden telegraph pole within the street scene which the proposed monopole is designed to resemble.

### 6.1.2 Comment

The proposed development will allow for further development of the site beyond that which would be suitable for the area.

### Response

No further development of the site has been proposed other than that proposed within the application. Any further applications made under under Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 would be subject to the prior approval of the Local Planning Authority (LPA). The proposed works would therefore not result in any unsuitable development.

### 6.1.3 Comment

There has been a suggested conflict of interest regarding the reasons for the application being made. It is assumed that the application is made for the financial benefit of SCC.

### Response

The application has been made by CTIL and Vodafone Ltd, for the benefit of this company. There is no such conflict of interest and it should also be noted that prior to the Planning Inspectorate's decision to overturn the LPA's refusal of application ref: 11/01094/TCC, development of telecommunications equipment at this site was resisted (see **Appendix 2**).

6.1.4 Comment

An increase of 4m to the height of the mast would make the structure too tall for the area, to the detriment of visual amenity.

Response

The proposed replacement monopole would be 11.8m tall, which is the same height of the existing monopole. It is assumed that there has been some confusion with application ref: 14/00463/TCC which proposed a replacement 15m monopole at this site and was refused on the 25th of April 2014 for reasons set out above.

6.1.5 Comment

The proposed development is not justified.

Response

Details submitted in conjunction with the application provide a background to the requirements of the proposed works. Vodafone Ltd has entered into an agreement with Telefonica UK Ltd in which the two companies will share basic network infrastructure. The proposed development will allow for an upgrade of the existing base station to accommodate the needs of both companies without the need for a new base station or additional mast. The site was selected through a site selection process which identifies areas where insufficient signal level exists. There is also reference made to increased data transfer meaning upgrades to base stations are required. It should be noted that mobile phone technology cannot operate without base stations.

6.1.6 Comment

The radio waves produced by this base station will be harmful to public health, thereby making the development harmful to the safety and amenity of the public. There is particular concern regarding the impacts of radiation on pacemakers and on the potential for the radiation to cause leukaemia.

Response

Paragraph 45 of the NPPF states that applications for telecommunications development for an addition to an existing mast or base station should be supported by a statement that self certifies that the cumulative exposure, when operational, will not exceed International Commission on non-ionising radiation protection guidelines

A declaration of conformity with ICNIRP public exposure guidelines was submitted with that application confirming that the proposed works at this site would be in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionising Radiation (as expressed in the EU council recommendation of 12 July 1999).

These guidelines ensure that the public are not exposed to electromagnetic fields beyond 300GHz. Information submitted supporting this application states that Vodafone and Telefonica use radio frequencies to transmit and receive calls at 900 MHz or 1800 MHz for 2G whilst 3G uses frequencies within the 2100MHz range. The highest frequencies will be used by 4G, within the range of 800MHz and 2600MHz. The highest frequency considered to have no adverse biological effects is over one hundred and fifteen times this highest utilized frequency. As



such the health concerns regarding the proposals are satisfied.

It should also be noted that the environmental health department have raised no objections to the proposed works.

## **6.2 Consultation Responses**

6.2.1 **Environmental Health** - We have no objections to make concerning this proposal.

6.2.2 **Highways Development Management** – I would like to see revised plans showing the pole mounted closer to the back edge of the footway closer to the wall, and the cabinet should be shown with the door opening from the other side so that when maintenance is being carried out there is no obstruction to the footway.

**Response** – The proposed cabinet is permitted development, following discussions with the application no further amendments have been sought for reasons set out below.

## **7.0 Planning Consideration Key Issues**

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

- (i) Impact on public safety;
- (ii) Impact on the character of the area;
- (iii) Impact on highways safety;
- (iv) Impact on the amenities of nearby residents.

### **7.2 (i) Impact on public safety**

7.2.1 A declaration of conformity with ICNIRP public exposure guidelines was submitted with the application confirming that the proposed works at this site would be in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionising Radiation (as expressed in the EU council recommendation of 12 July 1999).

7.2.2 The response to paragraph 6.1.6 provides evidence that the proposed development would not result in an unacceptable impact on the health and safety of the city and its citizens and accord with saved policy SDP1(i).

### **7.3 (ii) Impact on the character of the area**

7.3.1 The site is in a predominantly residential area with nearby playing fields and open space which forms part of Chamberlayne Leisure Centre. Previous applications for telecoms equipment have been refused due to the associated mast being deemed to be visually intrusive and out of character with the area. No applications for telecoms development have been approved at this site under delegated powers for this reason (planning history set out in **Appendix 2**).

7.3.2 However the existing 11.8m monopole and cabinet at the site, allowed at appeal, have set a precedent in the area and are significant material considerations in this case. The existing situation with telecommunications equipment on site must be considered when evaluating the impact of the proposals on the character of



the area in terms of whether their impact would be significantly more harmful than the existing monopole and cabinet.

7.3.3 It is preferable that the proposed mast would not exceed the height of the existing mast. The increased width of the structure from 0.2m to 0.32m is unlikely to make the mast more visually prominent in the street scene, however the adoption of a replica telegraph pole design would help the mast integrate into the mostly residential street scene. It is also noted, as in the case with most streets, that there are a number of lampposts and a wooden telegraph pole within the street scene which the proposed monopole is designed to resemble.

7.3.4 Given the existing situation with a mast of the same height already present on the site, it is not considered that the replacement mast would contribute to a harmful impact on the character of the area.

#### 7.4 (iii) Impact on highways safety

7.4.1 The primary impact of the proposals on highways safety would be an obstruction of the footway which the equipment would occupy. Despite its larger diameter the proposed monopole would not result in a serious obstruction compared to the existing situation. This is because it would be situated the same distance from the edge of the footway as the existing monopole, allowing for around 1.7m of unobstructed footway.

7.4.2 The proposed cabinet would be located in a position where it would cause limited obstruction to the footway. The door of this cabinet when opened would leave a width of 1m unobstructed when fully open. However, it is noted that this door will only be open when the electronic communications equipment ancillary to the proposed monopole is being worked on by an engineer. This is likely to occur only for a short time, a few times a year. It is also noted that the proposed cabinet could be achieved under a "part 14 notification" which is a notification of intent to carry out works permitted under Schedule 2, Part 14, of the Town and Country Planning (General Permitted Development) (England) Order 2015. As such the cabinet could be installed without the benefit of planning permission.

#### 7.5 (iv) Impact on the amenities of nearby residents

7.5.1 The only property that is likely to be impacted by these proposals would be no.138 Weston Lane which the proposed monopole would sit within 3.2m of and the proposed cabinet would sit adjacent to. Given the nature of the development there would be very little overshadowing impact on this property as it would not result in a substantial loss of daylight or sunlight to a habitable room or private amenity area for a majority of the day.

7.5.2 The monopole would not cause any significant overbearing impact on the property despite its height, given that it is set back from the boundary by 3.2m, would not be more than 0.32m thick, and because there are existing features on the street (a telegraph pole, lampposts, and the existing mast) which are of similar form and do not result in any significant harm to residential amenity.

7.5.3 It should also be noted that the mast would only be immediately visible from the front and northern side elevations of the property and would therefore not have a significant impact on the private amenity space in the property's rear garden.

## **8.0 Summary**

8.1 The proposals are not considered to have an adverse impact on public health, the amenities of nearby properties or on highway safety. The proposals are considered in-keeping with the character of the area given the presence of existing telecommunications equipment.

## **9.0 Conclusion**

9.1 As such, the proposal is judged to have an acceptable impact and, therefore, can be supported for conditional approval.

### **Local Government (Access to Information) Act 1985** **Documents used in the preparation of this report Background Papers**

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(vv), 7(a), 9(a), 9(b)

### **KA for 22/03/16 PROW Panel**

### **PLANNING CONDITIONS**

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

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

Reason:

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

#### **02. APPROVAL CONDITION – Approved Materials**

The development hereby permitted shall be constructed using materials as specified in the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

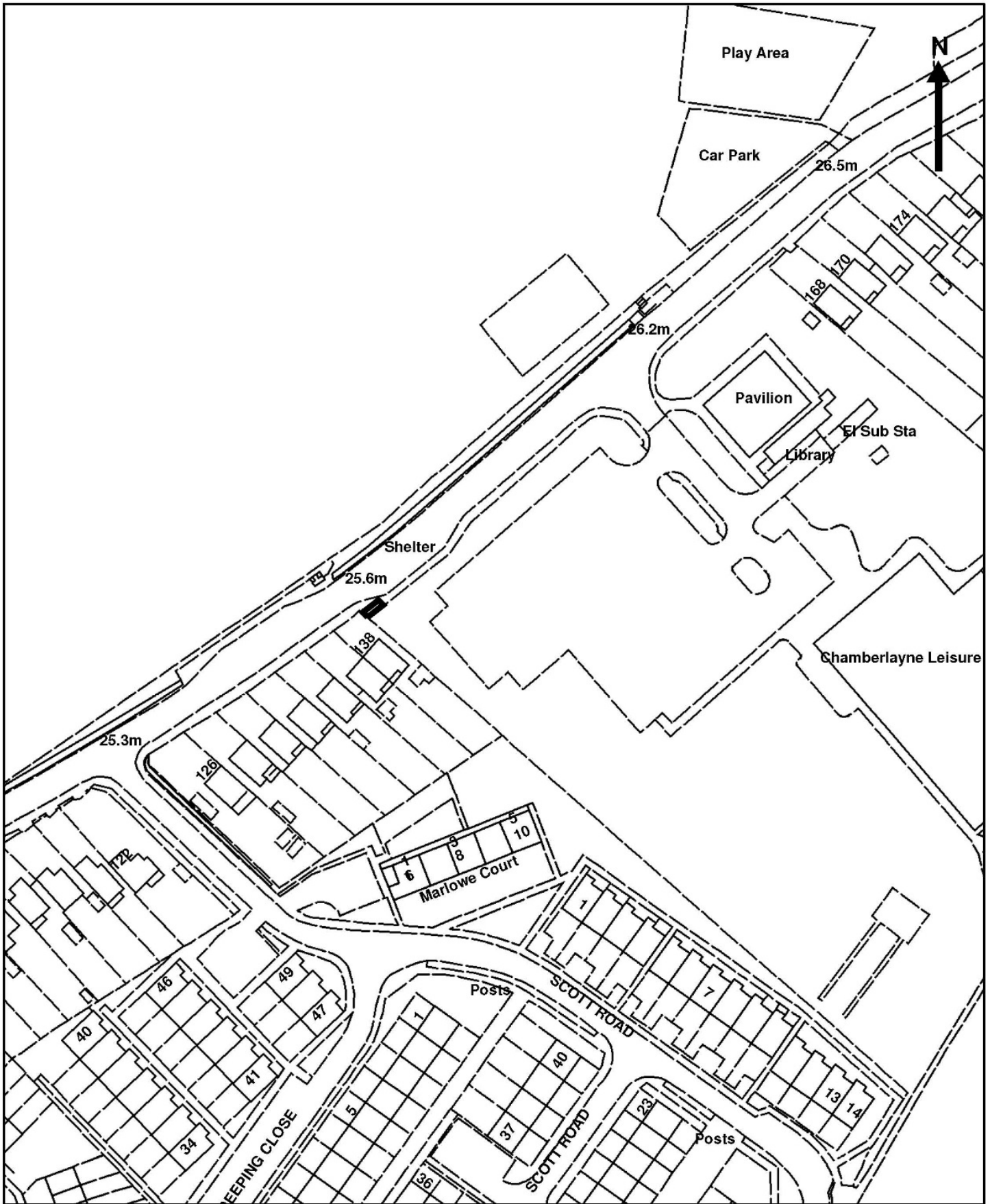
For the avoidance of doubt and in the interests of proper planning.

#### **03. APPROVAL CONDITION - Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority. For the avoidance of doubt the works shown on the plans in connection with application 14/01941/FUL do not form part of this approval.

Reason:

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



Scale: 1:1,250

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**Application** 16/00100/FUL

## **POLICY CONTEXT**

Core Strategy - (January 2010)

CS13            Fundamentals of Design

City of Southampton Local Plan Review – (March 2006)

SDP1            Quality of Development

SDP7            Urban Design Context

SDP9            Scale, Massing and Appearance

TI5              Development related to telecommunications

Supplementary Planning Guidance

None.

Other Relevant Guidance

The National Planning Policy Framework 2012

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**Application** 16/00100/FUL

### **Relevant Planning History**

05/01577/TCC – Siting of a 10m high telecommunications pole with 3x sectoral antenna affixed to the top.

Refused: 11/01/2006

Reason for Refusal – Inconclusive radiation data

The greatest RF intensity from the proposed cell falls on the adjacent open spaces and recreation grounds which are regularly used by local schools for sports facilities. The siting of the equipment is therefore contrary to recommendations set out in paragraphs 1.42 and 6.68 of the government commissioned Stewart Report (2000), Guidance set out in PPG8 Telecommunications) 2001, does not provide the clarity of information sought by an Inspector under Appeal decision reference

APP/D1780/A/02/1102761 (dated 26 February 2003) and is contrary to the following policies of the Development Plan:-

Policy TC1 of the Hampshire County Structure Plan Review 2000; and,  
Policy TI6 City of Southampton Local Plan Revised Deposit Version (as proposed to be modified) 2005.

Reason for Refusal – Adverse Visual Impact

The siting and appearance of the pole and associated equipment will be detrimental to the visual amenities of the area and particularly the adjacent open space and would be an unneighbourly form of development by dominating the outlook to No. 138 Weston Lane. As such the development would be contrary to the following policies of the Development Plan:-

Policy TC1 of the Hampshire County Structure Plan Review 2000;

Policies GP1(i) and ENV3 (iii) of the City of Southampton Local Plan (1991-2001) 1995; and,

Policy TI6 City of Southampton Local Plan Revised Deposit Version (as proposed to be modified) 2005.

09/01280/TCC - Installation of a replacement pole and additional cabinet.

Refused: 15/01/2010

Reason for Refusal – Visual Impact

The proposed telecommunications mast is considered to be a visually intrusive structure within this predominantly residential location and would have a harmful impact on the street scene. This is having particular regard to the additional massing of the mast at the top which would result in mast appearing incongruous within suburban, residential context. The proposal would therefore prove contrary to the provisions of policies SDP1 (ii), SDP7 (iv)/(v), SDP9 (ii)/(iv)/(v) and TI5 (i)/(iii) of the City of Southampton Local Plan (March 2006).

11/01094/TCC – Prior approval sought for replacement telecommunications equipment, an 11.8m high monopole and a replacement radio equipment cabinet.

Refused: 10/08/2011

The proposed telecommunications mast is considered to be a visually intrusive structure within this predominantly residential location and would have a harmful impact on the street scene. This is having particular regard to the additional massing of the mast at the top which would result in mast appearing incongruous within suburban, residential context. The proposal would therefore prove contrary to the provisions of policies SDP1 (ii), SDP7 (iv)/(v), SDP9 (ii)/(iv)/(v) and TI5 (i)/(iii) of the City of Southampton Local Plan (March 2006) and CS13 (4)/(11) of the Local Development Framework Core Strategy (January 2010).

Granted at Appeal: 06/03/2011

12/00455/DIS: Application for approval of details reserved by condition 3 (Paint details) of planning permission ref 11/01094/TCC. No objection.

The submitted paint details (Fir Green, RAL 6009 for the equipment cabinet and Signal Grey, RAL 7004 for the telecommunications pole) are considered to be acceptable. Full compliance will be achieved following the completion of the works in accordance with the approved details.

14/00463/TCC: Prior approval sought for the siting and appearance of replacement telecommunications equipment comprising of a 15m high monopole, exchange of existing cabinet and installation of a second cabinet.

Refused: 25/04/2014

Reason for Refusal – Siting and appearance

The proposed telecommunications mast is considered to be a visually intrusive structure within this predominantly residential location and would have a harmful impact on the street scene. This is having particular regard to the additional massing of the mast at the top which would result in mast appearing incongruous within suburban, residential context. The proposal would therefore prove contrary to the provisions of policies SDP1(i), SDP7(i)(iii)(iv), SDP9(i)(ii)(v) and TI5(i)(iii) of the City of Southampton Local Plan (March 2006) and CS13 and CS18 of the Local Development Framework Core Strategy (January 2010).





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## Appeal Decision

Site visit made on 20 February 2012

**by David Hogger BA MSc MRTPI MCIHT**

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

**Decision date: 6 March 2012**

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**Appeal Ref: APP/D1780/A/11/2165207**

**Land at Weston Lane, Weston, Southampton SO19 9QJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by Vodafone Limited against the decision of Southampton City Council.
  - The application Ref 11/01094/TCC, dated 30 June 2011, was refused by notice dated 23 August 2011.
  - The development proposed is the removal of the existing 11.4m high monopole and its replacement with a new 11.8m high monopole supporting three Vodafone antennas and three O2 antennas, a replacement radio equipment cabinet and development ancillary thereto.
- 

### Decision

1. The appeal is allowed and approval is granted under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the removal of the existing 11.4m high monopole and its replacement with a new 11.8m high monopole supporting three Vodafone antennas and three O2 antennas, a replacement radio equipment cabinet and development ancillary thereto, on land at Weston Lane, Weston, Southampton SO19 9QJ in accordance with the terms of the application, Ref 11/01094/TCC, dated 30 June 2011, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than five years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 47159\_3/001C; 47159\_3/002C; 47159\_3/003C; 47159\_3/004C; 47159\_3/005C; and 47159\_3/006C.
  - 3) No development shall take place until details of the paint finish of the external surfaces of the telecommunications pole and the equipment cabinet have been submitted to and approved in writing by the local planning authority. The pole and cabinet shall be painted in accordance with the approved details and retained in that condition.

### Main Issue

2. The main issue is the effect of the proposed replacement monopole and associated equipment on the character and appearance of the locality.

## Reasons

3. Although the existing monopole is clearly visible in the street scene there are several other forms of pole nearby, including street lights, telegraph poles and poles in the adjacent Leisure Centre car park which hold floodlights and CCTV cameras. The location of the monopole is close to residential properties but it is not directly overlooked by them. The Inspector who determined the appeal in relation to the existing mast (Ref: APP/D1780/A/06/2008233) concluded that the installation would have an 'insignificant impact on the character and appearance of the area' and I agree. The principle of a mast at this location has therefore been established and the issue is whether the larger size of the replacement mast and ancillary equipment would be visually harmful.
4. The overall height of the proposed mast would be about 0.5m higher than the existing one and the diameter of the pole would be the same. The Council state that the additional height would appear negligible and I agree. The most significant element in visual terms would be the introduction of a larger shroud at the top of the mast. This would have a diameter of 490mm as compared to 300mm on the existing mast and would be 3.2m long as compared to 1.4m.
5. Although larger than the existing shroud I consider that the proposed shroud would not appear unduly dominant or incongruous in this setting, as I describe it above. The increase in size is not sufficient to cause significant harm to the character of the area. The requirements of saved policies SDP1, SDP7, SDP9 and TI5 of the City of Southampton Local Plan Review and policy CS13 of the Core Strategy, which seek to ensure that development would integrate with and respect the character and appearance of the locality, would be met.
6. Although not matters on which my decision has turned, my conclusion on the main issue is strengthened by three other factors. Firstly the proposal would result in mast sharing, which is encouraged by the Council and would be in accord with the advice in Planning Policy Guidance 8: Telecommunications (PPG8), which also states that the growth of new and existing telecommunications systems should be encouraged. Secondly a number of alternative sites were assessed by the appellant but found to be unsatisfactory and the Council has not challenged the conclusions of the appellant on this assessment. And thirdly the need for improved coverage has been demonstrated by the appellant and this also has not been challenged by the Council.

## Other Matters

7. Local residents express concerns regarding the potential health risks associated with telecommunications masts, including the potential consequences for cardiac pacemakers. However, the appellant has demonstrated that the proposal complies with the ICNIRP<sup>1</sup> Guidelines - the maximum predicted emission level being 0.14% of the ICNIRP guideline. No evidence has been submitted that would lead me to a different conclusion.
8. I have taken into account the Draft National Planning Policy Framework but because of its current status I only afford it little weight.

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<sup>1</sup> International Commission on Non-Ionising Radiation Protection

### **Conditions and Conclusion**

9. The Council suggests two conditions – the standard three year time condition and a condition requiring the development to be undertaken in accordance with the approved plans and the schedule of materials. In terms of the time condition a period of five years is imposed by the GPDO and there is no justification for departing from it.
10. With regard to appearance the appellant has stated that a condition requiring details of the colour of the pole and equipment cabinet would be acceptable and the Council has confirmed that it would support such a condition. The plans indicate that the cabinet would be 'fir green' but the pole is just referred to as galvanised. For the avoidance of doubt I consider such a condition to be necessary and would meet the requirements of Circular 11/95: The Use of Conditions in Planning Permissions. In terms of other equipment a schedule of technical information is set out in plan 47159\_3/006C. All three conditions meet the requirements of Circular 11/95 and I impose them (as amended) for the avoidance of doubt.
11. For the reasons given above and having considered all other matters raised, the appeal should be allowed.

*David Hogger*

Inspector

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# Agenda Item 8

**Planning, Transport & Sustainability Division  
Planning and Rights of Way Panel (WEST) 22 March 2016  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 195 Midanbury Lane			
<b>Proposed development:</b> Erection of a part single-storey and part two-storey side and rear extension (revised scheme to 15/02113/FUL).			
<b>Application number</b>	16/00177/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Kieran Amery	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	07/04/2016	<b>Ward</b>	Bitterne Park
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received.	<b>Ward Councillors</b>	Cllr White Cllr Fuller Cllr Inglis

<b>Applicant:</b> Mr & Mrs James Brady	<b>Agent:</b> Mrs Debby Osman
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<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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## Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below.

The proposed two storey side and rear extension would not be detrimental to the character of the local area or the amenities of local residents. The proposal would not be considered harmful to highway safety. 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 has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012). Policies - SDP1, SDP7, and SDP9 of the City of Southampton Local Plan Review (March 2006) and CS13, CS14, CS18, CS19 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Planning History
3	Decision notice for 15/02113/FUL		

## Recommendation in Full

### Conditionally approve

## **1.0 Introduction**

- 1.1 The application proposes the erection of a part single storey part two-storey side and rear extension to a semi-detached two storey dwelling.
- 1.2 Objections have been received regarding the impact of the proposed extension on the character of the host property and the local area, as well as the impact on the amenities of neighbouring properties in terms of overlooking and overbearing.

## **2.0 The site and its context**

- 2.1 The site is a two storey semi-detached family dwelling house within a residential area characterised by similar family dwellings.
- 2.2 There is a 1.8m closed panel wooden fence which acts as boundary treatment to the sides and rear of the property. There is also a small 2m deep existing rear extension with a conservatory on the host property.
- 2.3 To the rear of the property is Trent Close which is characterised mostly by bungalows with unusual plot shapes. The property shares its rear boundary with one of these bungalows “Ingledene” which is 16m away from the rear wall of the host dwelling.

## **3.0 Proposal**

- 3.1 The proposal is for a part two storey, part single storey, side and rear extension to the north east elevation, wrapping around the rear.
- 3.2 The proposed two storey extension would wrap around the building and would have a maximum width of 1.82m at two storeys from the side elevation, and would be set back from the front elevation of the property (not including a porch and bay window) by 1.9m. It would have a maximum height of 6.2m (0.6m below the ridge height of the host dwelling) and an eaves height of 4.5m. The proposals also include a first floor window to the side elevation which would serve a bedroom, this would be obscure glazed.
- 3.3 The single storey rear extension would have a maximum depth of 3.4m and a width equal to that of the host dwelling house. It would replace the existing rear extension. It would feature a sloped roof design and have a maximum height of 3m and an eaves height of 2m.

## **4.0 Relevant Planning Policy**

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 1**.
- 4.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy 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.

- 4.3 Saved policy SDP1 (i) states that planning permission will only be granted for development which does not unacceptably affect the health, safety and amenity of the city and its citizens.
- 4.4 Saved policy SDP7(iii) supports proposals which would respect the existing layout of buildings within the streetscape. SDP7 (iv) supports proposals which respect the scale, density and proportion of existing buildings and SDP7 (v) supports development which would integrate into the Local community.
- 4.5 Saved policy SDP9 (i) states that proposals should respect their surroundings in terms of scale massing and visual impact, SDP9 (iii) states that proposals should respect their surroundings in terms of the quality and use of materials, SDP9 (iv) that proposals should respect their surroundings in terms of architectural detailing, and SDP9(v) in terms of the impact on surrounding land use and local amenity.

## **5.0 Relevant Planning History**

- 5.1 The relevant planning history is set out in detail in **Appendix 2**. There have been three previous applications for two storey side and rear extensions at this property. The first was refused in February 2006 on character and appearance related issues. The second was a revision of this application which was approved in April 2006. However this extension was never constructed.
- 5.2 Application ref:15/02113/FUL was refused due to character and appearance related reasons with regards to the impact of the extension on the street scene, on the 14<sup>th</sup> of December 2015. The current application is the first revision of this scheme. The decision notice is attached in **Appendix 3**. The current proposals seek to address the latest reason for refusal.
- 5.3 There is also currently an enforcement enquiry open at this site regarding an outbuilding in the rear garden.

## **6.0 Consultation Responses and Notification Representations**

- 6.1 Following the receipt of the planning application, a publicity exercise in line with department procedures was undertaken. At the time of writing the report **five** representations had been received from surrounding residents. A summary of the material considerations raised by these objections is set out below.

### **6.1.1 Comment**

The proposals will adversely affect the character and appearance of the local area.

### **Response**

It is noted that there are no two storey side extensions existing within the immediate street scene. However this does not mean that one could not be constructed that does not impact adversely on the character of the area. The proposed extension benefits from a setback of 1.9m from the front elevation of the property, and 2.7m from the front of the front porch. This sets the extension

away from the street scene and retains the appearance of the principal elevation of the dwelling.

The roof height would also be slightly lower than the existing dwelling and it would be constructed with materials to match. The proposed extension is therefore not considered to be intrusive on the street scene and would not detract from the character of the area. This subservience addresses the previous concerns and follows the guidance of the Residential Design Guide.

#### 6.1.2 Comment

The proposed development would overlook neighbouring properties.

#### Response

The proposals do include two first floor windows, one would be on the side elevation and one to the rear. The window to the side elevation would be partially obscure glazed.

The proposed rear window would have a view of the bungalow “Ingledene” on Trent Close which would be partially screened from view by the presence of an existing outbuilding at the boundary and by the boundary fence. It is also noted that this property is overlooked by first floor windows on other properties.

This being considered it is unlikely that the proposed windows will contribute significantly to a harmful loss of privacy given the existing situation. This is explained in further detail in the planning considerations section of this report.

The previously proposed extensions were found to be acceptable in this regard and a loss of privacy was not previously used as a reason for refusal.

#### 6.1.3 Comment

The proposed extension would cause overshadowing and have an overbearing impact on neighbouring properties.

#### Response

The only property which would be impacted by the proposals in terms of light and outlook would be no.197 where there would be a loss of light to this side area at no.197. This is not the most usable area of the garden and light to this area is already restricted by the existing dwellinghouse at no.195. It is noted that the garden of no.197 benefits from a large amount of amenity space which would not be impacted by the application.

There are no windows serving habitable rooms on the elevation facing the proposed extension which would have their light or outlook reduced by the proposals. The application is therefore compliant with Local Plan Review Policy SDP1(i).

#### 6.1.4 Comment

The proposals would result in an intensification of use which would result in increased parking pressure in the area to the detriment of local amenity.

#### Response

The proposal would result in the net increase of one bedroom on the property resulting in a total of four bedrooms in total. The front driveway for this property



allows for one off-street parking space and there is on-street parking available in the local area. The addition of one bedroom is not considered to result in a significant increase in parking pressure. Previous reasons for refusal have not cited this as an issue with the extension.

#### 6.1.5 Comment

The proposed works are out of scale with the host property.

#### Response

The proposed extension benefits from a setback of 1.9m from the front elevation of the property, and 2.7m from the front of the front porch. This sets the extension away from the street scene and retains the appearance of the principal elevation of the dwelling. The roof height would also be slightly lower than the existing dwelling. For these reasons the extension is considered to be subservient in appearance with an appropriate scale to integrate into the host dwelling.

### **7.0 Planning Consideration Key Issues**

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

- (i) Design impact on the character and appearance of the host property and local area.
- (ii) Impact on the amenities of local residents;

7.2 (i) Design impact on the character and appearance of the host property and local area.

7.2.1 The preceding application ref:15/02113/FUL was refused because its two-storey height, width and lack of appreciable set-back from the front elevation of the property would result in an elongated appearance to the front elevation of the property that would erode the symmetry and balance of the semi-detached pair. Furthermore, the loss of space to the side of the property would also disrupt the regular spacing prevalent within the street. As such the proposal was considered to appear out-of-keeping with the comparatively uniform character of this part of Midanbury Lane. Plans of this earlier scheme will form part of the presentation to panel.

7.2.2 This section of Midanbury Lane is characterised by two storey family dwelling houses, with detached houses to the north west of the road and semi-detached to the south east. It is noted that there are no two storey side extensions existing within the immediate street scene on the south eastern side of the road where the application site is located.

7.2.3 It is also noted that there is an existing two storey side extension at no.190 Midanbury Lane which has much less of a set back from the principal elevation than the proposed extension. Though this extension can be seen in detail from the street it does benefit from a 10m setback from the footway and the topography of the local area means that this property is lower than the public footway, this helps to detach the existing extension from the street scene and so its presence does not set a dominant precedent.

7.2.4 The proposed extension has been designed to address the concerns with the

preceding application and has been designed in a way that would not impact adversely on the character of the area by limiting the visual presence of the extension in the street scene. The proposed extension benefits from a setback of 1.9m from the front elevation of the property, and 2.7m from the front of the front porch. This sets the extension away from the street scene and retains the appearance of the principal elevation of the dwelling. For this reason the extension would, for the most part, retain the visual symmetry of the semi-detached pair.

7.2.5 The roof height would also be slightly lower than the existing dwelling and it would be constructed with materials to match. The proposed extension is therefore not considered to be intrusive on the street scene and would not detract from the character of the area. The earlier reason for refusal is considered to have been overcome.

7.3 (ii) Impact on the amenities of local residents

7.3.1 The two storey extensions have the potential for any first floor windows to overlook habitable rooms in neighbouring properties to the detriment of the amenity of the occupiers. The proposals do include two first floor windows, one would be on the side elevation and one to the rear. The window to the side elevation would be partially obscure glazed up to 1.7m from the finished floor level of the bedroom and un-opening in order to allow for some privacy to the neighbouring property. There is one other window on the first floor of the side elevation of no.197 Midanbury Lane which would be faced by this side elevation. This window appears to serve a hallway and is therefore not a habitable room. The side area of no.197 which would be overlooked by this window is garden space but it is also noted that the garden of no.197 benefits from a large amount of amenity space which would not be impacted by the application. A majority of the garden of no.197, including the most useable amenity space, are not considered to be unacceptably impacted.

7.3.2 The proposed rear facing window would be closer to the neighbouring property no.197 than the existing window at this elevation by 1m. The window would not result in any additional loss of privacy to the area considering the existing situation. This is partly due to the fact that the private area is safeguarded by the projection of the first floor extension.

7.3.3 The proposed rear window would have a view towards the bungalow "Ingledene" on Trent Close. Although the window would not directly face any windows serving habitable rooms on this neighbouring property, it would face a set of double doors which would be around 18m away as well as a paved garden area. Due to the single storey nature of the property, these doors would be partially screened from view by the presence of an existing outbuilding at the boundary and by the boundary fence at this spot. Paragraph 2.2.9 of the Residential Design Guide states that fencing and the positioning of ancillary outbuildings can be used as means of mitigating intrusive overlooking, and that such instances shall be considered on their own individual merits. In this instance the boundary fence and outbuilding would disrupt the direct view from the proposed rear window to the double doors in question and the relationship is acceptable.

7.3.4 It is also noted that existing first floor rear windows of adjoining neighbours to the rear of Ingledene do have views of this property. This being considered it is

unlikely that the proposed window will contribute significantly to a loss of privacy given the existing situation.

- 7.3.5 The only property which would be impacted by the proposals in terms of light and outlook would be no.197. The proposed extension would be built up to within 30cm of the property boundary at first floor level meaning there would be a loss of light to this side area at no.197. The area is paved and is already restricted by the original structure of no.195.
- 7.3.6 The garden of no.197 benefits from a large amount of amenity space which would not be impacted by the application. A majority of the garden including the most useable amenity space, would still have access to a good amount of sunlight and daylight for a majority of the day. Therefore the amenities of no.197 are not considered to be unacceptably impacted.
- 7.3.7 The extension would not extend beyond the furthest rear elevation of the kitchen of no.197 at first floor level, therefore not impacting on the light and outlook of any rear windows. There are no windows serving habitable rooms on the elevation facing the proposed extension which would have their light or outlook reduced by the proposals.
- 7.3.8 Following this assessment and a site visit, officers are satisfied that the application meets the requirements of SDP1(i).

## **8.0 Summary**

- 8.1 In summary the proposed extension would not result in a detrimental impact on neighbouring amenity and would not result in any harm to the character and appearance of the host property or local area.

## **9.0 Conclusion**

- 9.1 As such, the proposal is judged to have an acceptable impact and, being in accordance with the saved development plan policies as set out in item 4, it can be supported for conditional approval.

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

#### **Documents used in the preparation of this report Background Papers**

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(vv), 7(a), 9(a), 9(b)

**KA for 22/03/16 PROW Panel**

### **PLANNING CONDITIONS**

#### **01. APPROVAL CONDITION - Full Permission Timing Condition**

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

Reason:

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

**02. APPROVAL CONDITION – Side window obscure glazed**

The proposed first floor window to the side elevation of the extension hereby permitted shall be un-opening and obscure glazed up to a height of 1.7m from the internal finished floor level of the host room, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To protect the privacy of the adjoining neighbouring property.

**03. APPROVAL CONDITION - Materials to match**

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.

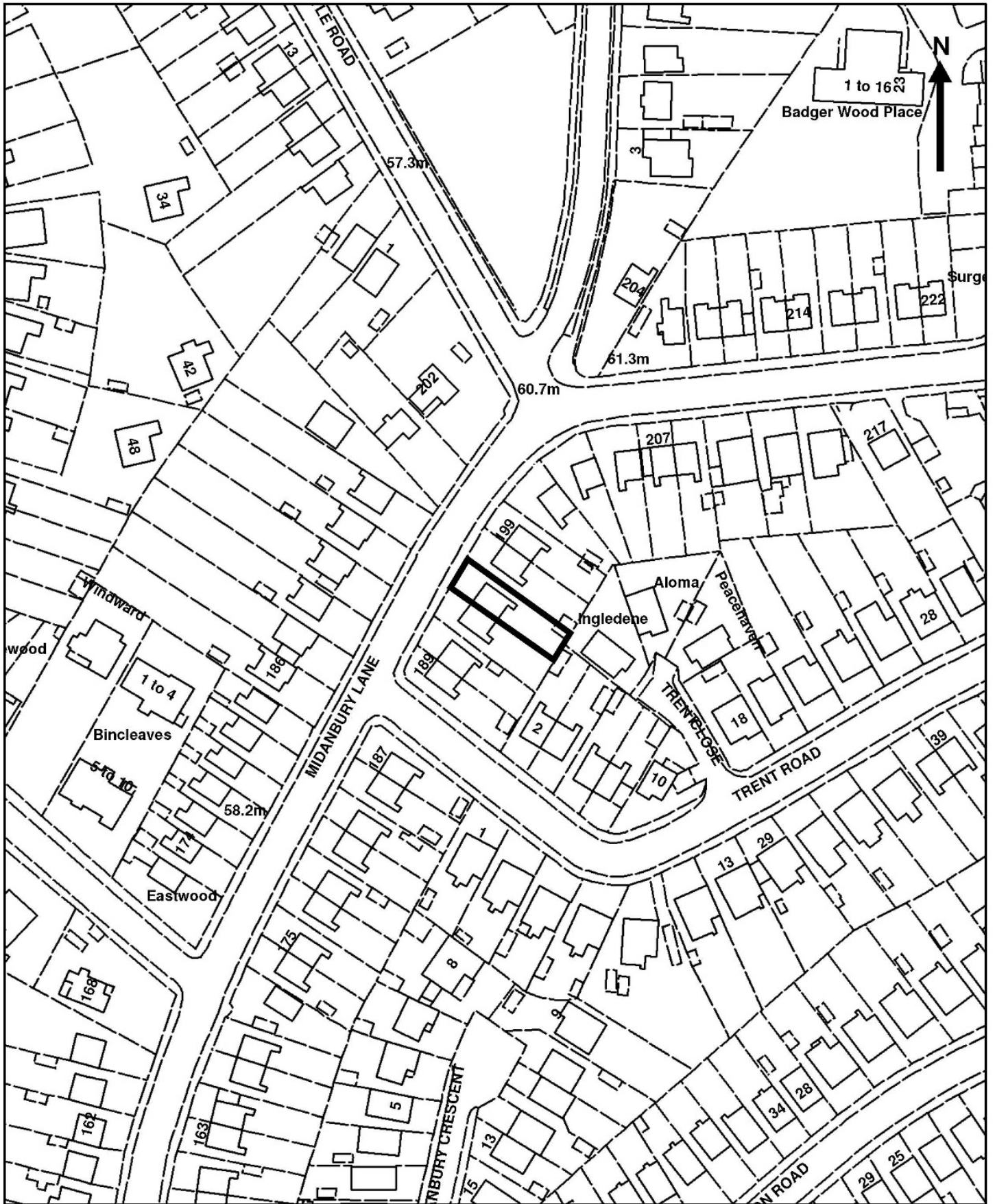
**04. APPROVAL CONDITION - Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority. For the avoidance of doubt the works shown on the plans in connection with application 14/01941/FUL do not form part of this approval.

Reason:

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

# 16/00177/FUL



Scale: 1:1,250

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**Application 16/00177/FUL**

**POLICY CONTEXT**

Core Strategy - (January 2010)

CS13          Fundamentals of Design

City of Southampton Local Plan Review – (March 2006)

SDP1          Quality of Development  
SDP7          Urban Design Context  
SDP9          Scale, Massing and Appearance

Supplementary Planning Guidance

None.

Other Relevant Guidance

The National Planning Policy Framework 2012

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### Application 16/00177/FUL

#### Relevant Planning History

**05/01831/FUL** - Erection of part 1 / part 2 storey side and rear extension. Refused 10/02/2006.

REASON FOR REFUSAL – Impact on character and appearance

:

The design and appearance of the proposed two-storey side extension, particularly in relation to the creation of a gable end to the side elevation would lead to a loss of symmetry between the two semi-detached properties to the detriment of the character and design of the host property and would introduce a discordant feature within the street scene which is characterised by hipped roof forms, contrary to the provision of policy GP1 of the City of Southampton Local Plan 1991-2001 and policies SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review Proposed Modifications to the Revised Deposit Version June 2005.

**06/00328/FUL** - Erection of a two-storey side extension and a single-storey rear extension. Conditionally approved 19/04/2006.

**15/02113/FUL** - Erection of a part single-storey and part two-storey side and rear extension. Refused 14/12/2015

REASON FOR REFUSAL - Impact on character and appearance

The proposed extension by reason of its two-storey height, width and lack of appreciable set-back from the front elevation of the property would result in an elongated appearance to the front elevation of the property that would erode the symmetry and balance of the semi-detached pair. Furthermore, the loss of space to the side of the property would also disrupt the regular spacing prevalent within the street. As such the proposal would appear out-of-keeping with the comparatively uniform character of this part of Midanbury Lane and prove contrary to policies SDP1, SDP7, and SDP9 of the adopted City of Southampton Local Plan Review (2015) and CS13 of the adopted Local Development Framework Core Strategy Development Plan Document (2015) with particular reference to section 2.3 of the Residential Design Guide Supplementary Planning Document (2006).

**16/00069/ENUDEV** - Enforcement Enquiry regarding rear garden outbuilding. Opened 07/03/2016.





## DETERMINATION OF APPLICATION

### TOWN AND COUNTRY PLANNING ACT 1990

#### Town and Country Planning (Development Management Procedure) (England) Order 2015

GHD Partnership (Eastleigh) Ltd - FAO Mrs Debby Osman  
2 Pirelli Way  
Eastleigh  
SO50 5GF

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

#### FULL APPLICATION - REFUSAL

**Proposal:**                    **Erection of a part single-storey and part two-storey side and rear extension.**

**Site Address:**            **195 Midanbury Lane, Southampton SO18 4GW**

**Application No:**        **15/02113/FUL**

For the following reason(s):

01.REASON FOR REFUSAL - Impact on character and appearance

The proposed extension by reason of its two-storey height, width and lack of appreciable set-back from the front elevation of the property would result in an elongated appearance to the front elevation of the property that would erode the symmetry and balance of the semi-detached pair. Furthermore, the loss of space to the side of the property would also disrupt the regular spacing prevalent within the street. As such the proposal would appear out-of-keeping with the comparatively uniform character of this part of Midanbury Lane and prove contrary to policies SDP1, SDP7, and SDP9 of the adopted City of Southampton Local Plan Review (2015) and CS13 of the adopted Local Development Framework Core Strategy Development Plan Document (2015) with particular reference to section 2.3 of the Residential Design Guide Supplementary Planning Document (2006).

**Samuel Fox**  
**Planning & Development Manager** 

14 December 2015

For any further enquiries please contact:  
**Kieran Amery**

**IMPORTANT NOTE TO APPLICANT**

This decision has been made in accordance with the submitted application details and supporting documents and in respect of the following plans and drawings:

<b>Drawing No:</b>	<b>Description:</b>	<b>Date Received:</b>	<b>Status:</b>
100047474	Location Plan	23.10.2015	Refused
100047474	Block Plan	23.10.2015	Refused
S01	Existing Plans	23.10.2015	Refused
D01	Proposed Plans	23.10.2015	Refused

## NOTES

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, they may appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

### **The Householder and Minor Commercial Appeals Service**

If this is a Householder or Minor Commercial application there is a new appeal procedure and if the applicant subsequently wishes to register an appeal using the Householder or Minor Commercial Appeals Service, the procedure must be started within **12 weeks** from the date of the issue of this notice and will be dealt with by electronic means only. For further information regarding this procedure please visit the following web site: <https://www.gov.uk/government/organisations/planning-inspectorate>

### **The following appeals will be within scope:**

Appeals against refusals on householder or minor commercial applications which the Secretary of State has determined will proceed on the basis of written representations. This includes refusals of applications for planning permission, as well as refusals of any consent/agreement/approval required by or under a planning permission, development order or local development order as per The Town and Country Planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013.

### **The following appeals will not be within the scope of the Householder Appeal Service:**

- appeals against any grant of planning permission, consent, agreement or approval which is granted subject to conditions;
- appeals against a local planning authority's failure to determine a householder application (i.e. non-determination appeals);
- appeals against Listed Building Consent (LBC) applications. (It should be noted that if a LBC application is related to a householder application which is refused and proceeds to appeal, the householder application will be within the scope of the Householder.

The following procedure should be used for **all other** appeals that are not included in the above procedure

1. Appeals **must be registered within six months of the date of this notice** and be made using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or do it online at <https://acp.planninginspectorate.gov.uk/>
2. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
3. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
4. If permission to develop land is refused, whether by the Local Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Local Planning Authority a purchase notice requiring that the Authority purchase their interest in the land in accordance with Part IV of the Town and Country Planning Act 1990.
5. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
6. For those developments which are covered by the Disability Discrimination Act, the attention of developers is drawn to the relevant provisions of the Act and to the British Standard B300:2001 Design of buildings and their approaches to meet the needs of disabled people code of practice.
7. The applicant is recommended to retain this form with the title deeds of the property.
8. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Please address any correspondence in connection with this form quoting the application number to:  
**Development Management, Southampton City Council, Lower Ground Floor, Civic Centre,  
SOUTHAMPTON, SO14 7LS.**