

Planning, Transport & Sustainability Division
Planning and Rights of Way (West) Panel 3rd May 2016
Planning Application Report of the Planning and Development Manager

Application address: 16-22 The Polygon			
Proposed development: Application for variation of condition 2 (opening hours) of planning permission ref 920959/2644/e to allow opening hours of 10:00am -12:00 midnight Monday - Saturday and 10:00am - 11:00pm on Sundays			
Application number	16/00189/FUL	Application type	FUL
Case officer	John Fanning	Public speaking time	5 minutes
Last date for determination:	01.04.2016	Ward	Bargate
Reason for Panel Referral:	Request by Ward Member	Ward Councillors	Cllr Bogle Cllr Noon Cllr Tucker
Referred to Panel by:	Cllr Noon	Reason:	Proposal will result in increased disturbance and traffic late at night
Applicant: Talking Heads (Southampton) Ltd		Agent:	

Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	Not applicable
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Reason for granting Planning 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, SDP16, CLT15, REI7 of the City of Southampton Local Plan Review (Amended 2015); CS1, CS13 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Site history

Recommendation in Full

Conditionally approve

1. The site and its context

- 1.1 The application site lies just outside of the defined city centre and is occupied by a large building which has historically been used as a private members club and a live entertainment venue for non-members.
- 1.2 The main building is set back from properties on both sides, with a side access on one side leading to an open informal parking area to the rear. The surrounding uses are primarily a mix of guest houses and other residential uses.

2. Proposal

- 2.1 The site has operated as a private members club since approval of planning application 1603/C4 in 1981. More recent applications have re-imposed the previous hours of operation for the private members club in addition to granting temporary periods as a non-members venue. The site can currently operate as a private members club from 8AM-11PM Sun-Thur and 8AM-midnight. The current application proposes the variation of the conditions attached to planning application 920959/E (the most recent consent for which permanent hours of operation for the use as a private members venue were imposed).
- 2.2 The current application seeks to amend this consent to allow hours of operation from 10AM and an additional hour until midnight on Monday to Thursday:

10:00 - 00:00 Mon-Sat
10:00 - 23:00 Sun

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th 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. Relevant Planning History

- 4.1 The site has a complex planning history, with a number of applications having been submitted to extend and alter the building, in addition to a number of applications relation to the use as a members club and live entertainment venue.
- 4.2 The main relevant applications have been laid out in section 2, with a full planning history attached in **Appendix 2**.

5. Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (16.02.2016). At the time of writing the report 3 representations have been received from surrounding residents (2 from the same address). The following is a summary of the points raised:

- 5.2
- Unclear about relationship between licensing hours of operation and planning hours of operation

Response: The licensing and planning systems are two separate regulatory processes and the assessments made as part of these considerations are subject to different criteria (which can lead to differences in authorised hours of operation between planning and licensing). In order to operate lawfully the premises must comply with all the relevant regulatory constraints imposed under both licensing and planning.

- 5.3
- Later hours will cause additional disturbance and traffic late at night, causing disturbance to neighbouring residential occupiers

Response: This is discussed in more detail below.

5.4 Consultation Responses

5.4.1 **SCC Highways** - No objection.

5.4.2 **SCC Environmental Health** –

They have visited the premises and discussed the management of the site with the occupiers. Noise attenuation has been installed and is considered to attenuate sound sufficient with checks having been carried out. Bottles/bins will not be emptied at night and a dispersal policy will be written to ensure that the terminal hour will be the closing time (without additional time to clear the premises). Any loading and unloading of equipment should take place prior to midnight. Door staff will be employed to help control noise outside premises - due to the long foyer and front bar it is not considered there will be a need for patrons to queue on the street. The external smoking area should be limited to use until 23:00 hours. Noise from the event room is unlikely to be problematic as it is protected by other rooms, foyers with two sets of doors set far enough apart for one to close before the second is opened.

While the nature of the proposed use will generate a certain amount of noise and activity, it is considered that the imposition of suitable conditions will sufficiently mitigate the potential impacts of the proposal.

5.4.3 **Cllr Tucker** – Did not object or support proposal but requested additional clarification on sound proofing measures.

5.4.4 **Cllr Noon** – Objects to proposal on grounds that additional noise and late night activity will have a harmful impact on the amenities of neighbouring residential occupiers.

6. Planning Consideration Key Issues

- 6.1 The application proposes a change of use of the existing hours of operation of the property to operate from 10AM until midnight 6 days a week (Mon-Sat) and 10AM-11PM on Sundays. The site can currently operate as a private members club from 8AM-11PM Sun-Thur and 8AM-midnight, with previous consents for use as a live entertainment venue for non-members operating to similar hours (albeit on a temporary basis).
- 6.2 The site could continue to operate the proposed use under the existing consent with the hours of use for the private members club. Previous temporary consents for use as a non-members club have expired, however it is noted that there is no formal barrier to membership being granted to patrons on entry, so in practise it is not felt that the use as a authorised use as a private members club is a significant material consideration in the assessment of the scheme. As such, it is considered that the main impact would be associated with the addition 1 hour of opening from 11pm until midnight on Monday to Thursdays.
- 6.3 While the site does not lie within the defined city centre, it is situated immediately adjacent to the boundary. Given this immediately proximity to the main city centre it is considered that a number of the nearby policy allocations have relevance in considering the impacts of the proposal. The site shares a boundary with the defined Cultural Quarter late night zone, for which the City Centre Action Plan suggests the latest opening time of 1am. The site also lies in close proximity to the Bedford Place/London Road late night zone and associated transport facilities. Furthermore, the Council's policies recognise that night-time uses play an important part in the city's economy.
- 6.4 Notwithstanding the above, the application site is situated on The Polygon, which is set somewhat away from the main late night areas and the surrounding properties typically being residential. As such, the proposal needs to ensure that the amenities of these adjoining neighbouring properties is adequately safeguarded as part of any application.
- 6.5 The majority of concerns raised by local residents focus on the potential increase in later night activity from people entering, leaving and congregating at the venue later into the night. Broadly speaking, given the highly accessible nature of the premises and proximity to the city centre, it is not felt that the increase of 1 additional hour until midnight as proposed by the application will represent such a significant increase when compared to the existing situation so as to justify refusing the application on this basis.
- 6.6 With reference to the comments made by the Environmental Health team (section 5.6 of this report) it is considered that the potentially harmful impacts caused by the proposal can be mitigated through the use of conditions controlling the development. On this basis, it is considered that the impacts on neighbouring residential properties would be sufficiently mitigated. A condition requiring a management plan is recommended to give a greater degree of control over the existing and proposed impacts of the site.

7. Summary

- 7.1 While the development will result in additional activity associated with the site, it is felt that the potentially harmful impacts can be sufficiently mitigated through the use of conditions.

8. Conclusion

- 8.1 For the reasons discussed above, the application is recommended for conditional approval.

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

1(a)(b)(c)(d), 2(b)(d), 3(a), 6(a)(b)

JF for 3/5/16 PROW Panel

PLANNING CONDITIONS

1. Hours of Use (Performance)

The use hereby approved shall not operate outside the following hours:

Monday to Saturday - 10:00-00:00 (10AM to midnight)

Sunday - 10:00-23:00 (10AM to 11PM)

Notwithstanding the above, the use of the external areas of the site as a smoking area associated with the use hereby approved shall not operate outside of the following hours:

Monday-Sunday - 10:00-23:00 (10AM-11PM)

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

2. Servicing hours (Performance)

No loading/unloading or other servicing of the premises (including emptying bottles/bins) shall take place outside of the following times:

Monday-Sunday - 08:00-00:00 (8AM-midnight)

Reason: To protect the amenities of neighbouring occupiers.

3. Management Plan (Performance)

Within 2 months of the date of this decision a document shall be submitted in writing for agreement with the Local Planning Authority outlining how the property will be managed to reduce the impact on neighbouring residential occupiers. Once agreed, the site shall operate in accordance with the details of this plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of protecting the amenity of neighbouring residents.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS1 City Centre Approach
CS13 Fundamentals of Design

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

SDP1 Quality of Development
SDP16 Noise
CLT15 Night Time Uses in Town, District and Local Centres
REI7 Food and Drink Uses (Classes A3, A4 and A5)

City Centre Action Plan - March 2015

AP 8 The Night time economy

Other Relevant Guidance

The National Planning Policy Framework (2012)

Relevant Planning History

12/00364/FUL, Replacement of southern boundary wall/fence (affects setting of a listed building)
Conditionally Approved, 22.01.2013

06/01362/FUL, Conversion of roof space and the installation of dormer windows to both sides of the roof slopes
Conditionally Approved, 07.11.2006

06/00569/FUL, Erection of first and second floor front extension and installation of two dormer windows to rear roofspace.
Refused, 11.08.2006

05/00713/FUL, Erection of first floor extension.
Conditionally Approved, 07.10.2005

99/00726/FUL, Construction of first floor extension and conversion of part to fitness suite/health centre
Conditionally Approved, 15.08.2000

941465/E, Extension of operating hours to allow the use of the premises to cease at 1AM on Friday and Saturday evenings 11pm on Sundays and midnight Monday-Thursdays inclusive
Refused, 19.04.1995

941464/EX, Relief from Condition 1 of planning permission 931207/2644/EX - Continued use of premises as a live entertainment venue for non-members
Refused, 31.03.1995

931207/EX, Relief from Condition 6 of planning permission 920959/2644/E - continued use of premises as a live entertainment venue for non-members
Conditionally Approved, 28.06.1994

Condition 2

Unless the Local Planning Authority agree otherwise in writing, the premises to which these premises relate shall not operate as a non-members live entertainment venue outside the hours specific below:

*1800 hrs Sunday to 2300 hrs Sunday
1800 hrs Monday to 2300 hrs Monday
1800 hrs Tuesday to 2300 hrs Tuesday
1800 hrs Wednesday to 2300 hrs Wednesday
1800 hrs Thursday to 2300 hrs Thursday
1800 hrs Friday to Midnight Friday
1800 hrs Saturday to Midnight Saturday*

931093/EX, Relief from condition 2 of planning permission 920959/2644/E - to change the opening hours of both the private club and non members live entertainment venue

Refused, 30.06.1994
Appeal Dismissed, 06.06.1995

920959/E, The use of part of the premises as a public music and dance venue with the continued use as a private members social club
Conditionally Approved, 23.10.1992
Appeal Dismissed (with regard to relief from Condition 6), 06.06.1995

Condition 2

Unless the Local Planning Authority agree otherwise in writing the premises to which this permission relates shall not be open for business outside the hours specified below:

Private Members Club:

*8.00 am to 11.00 pm Sunday to Thursday inclusive
8.00 am to 12 midnight Friday and Saturday*

Non-Member live entertainment venue:

*6.00 pm to 11pm Sunday to Thursday inclusive
6.00 pm to 12 midnight Friday to Saturday*

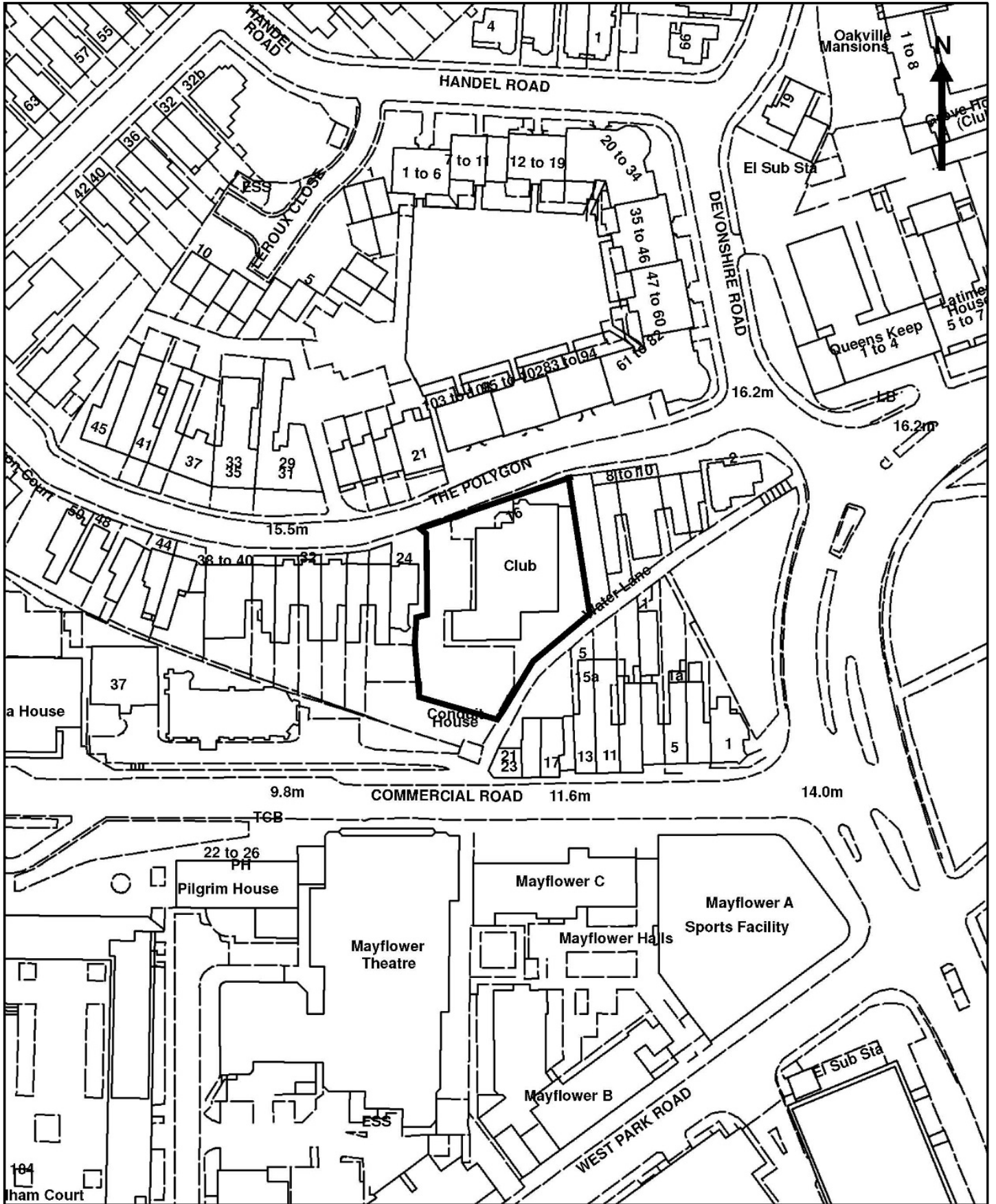
M15/1645, Variation of condition 2 of 16043/C4 to allow use of premises to 2am each day of the week
Refused, 04.06.1984

1603/C4, Use as private members social club
Conditionally Approved, 03.09.1981

Condition 2

The use of the premises shall cease at midnight on Friday and Saturday evenings, and at 11.00 pm Sunday to Thursday inclusive, unless otherwise agreed in writing by the Local Planning Authority.

16/00189/FUL



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