

# Planning and Rights of Way Panel

Tuesday, 21st June, 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 Coombs (Vice-Chair)  
Councillor Barnes-Andrews  
Councillor Claisse  
Councillor L Harris  
Councillor Hecks  
Councillor Mintoff

### Contacts

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Planning and Development Manager  
Samuel Fox  
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## PUBLIC INFORMATION

### **Role of the Planning and Rights of Way Panel**

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

### **Public Representations**

Procedure / Public Representations

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

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

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

**Use of Social Media:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

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

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

### **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 2016/17**

<b>2016</b>	
7 June	13 September
21 June	4 October
12 July	25 October
2 August	15 November
23 August	6 December

<b>2017</b>	
10 January	
21 February	
14 March	
4 April	
25 April	

## **CONDUCT OF MEETING**

### **Terms of Reference**

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

### **Business to be discussed**

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

### **Rules of Procedure**

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

### **Quorum**

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

## **DISCLOSURE OF INTERESTS**

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

### **DISCLOSABLE PECUNIARY INTERESTS**

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

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

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

- (iii) Any contract which is made between you / your spouse etc (or a body in which 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 for 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 40 WESTRIDGE ROAD TREE PRESERVATION ORDER T2-636**

(Pages 1 - 26)

Report of Head of Service detailing reasons for wishing to protect trees in public view by the confirmation of a Tree Preservation Order T2-636

## **CONSIDERATION OF PLANNING APPLICATIONS**

### **5 PLANNING APPLICATION - 16/00256/FUL - 8-9 PREMIER PARADE**

(Pages 27 - 40)

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

### **6 PLANNING APPLICATION- 16/00738/FUL - 1G AND 1H JANSON ROAD**

(Pages 41 - 56)

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

### **7 PLANNING APPLICATION- 16/00629/FUL - 195 MIDANBURY LANE**

(Pages 57 - 66)

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

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# Agenda Item 4

<b>DECISION-MAKER:</b>	PLANNING RIGHTS OF WAY PANEL		
<b>SUBJECT:</b>	OBJECTION TO TREE PRESERVATION ORDER AT 40, WESTRDIGE ROAD, PORTSWOOD.		
<b>DATE OF DECISION:</b>	21 JUNE 2016		
<b>REPORT OF:</b>	HEAD OF TRANSACTIONS AND UNIVERSAL SERVICES		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	Sarah Kiss	<b>Tel:</b> 023 8083 3620
	<b>E-mail:</b>	sarah.kiss@southampton.gov.uk	
<b>Director</b>	<b>Name:</b>	Mitch Sanders	<b>Tel:</b> 023 8083 3005
	<b>E-mail:</b>	Mitch.Sanders@southampton.gov.uk	

<b>STATEMENT OF CONFIDENTIALITY</b>	
None	
<b>BRIEF SUMMARY</b>	
<p>A Tree Preservation Order (TPO) was placed on a group of trees on the site of 40, Westridge Road in response to the owner submitting a planning application to redevelop the site. The trees are highly visible from the public car park, from adjacent properties and from Tennyson Road to the south. The Order originally covered a group of trees, excluding laurel, along the north western boundary to a public tarmac car park. The order was later varied to cover only two trees of better quality once removal of the laurel hedge revealed the trees no longer formed a cohesive group, and one tree was found to be in poor condition. The Order was made on 30<sup>th</sup> November 2015 and varied on the 21<sup>st</sup> March 2016 and is attached as Appendix 1. There is a publicly owned yew tree in the car park on the same visual boundary with 40 Westridge Road. Appendix 2 shows an aerial image of the location with a plan viewed as Appendix 3.</p>	
<b>RECOMMENDATIONS:</b>	
	(i) To confirm the Southampton (40, Westridge Road) Tree Preservation Order 2015 (Appendix 1) without further modification.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1.	The trees are valuable for public amenity, ecological benefit, visual screening and greening of the landscape. Particularly in a high vehicle use site such as a car park, trees help improve air quality and reduce the negative impacts of exhausts.
2.	Proposed development will increase the built and hard landscape of the area, reducing green infrastructure - albeit piecemeal – further reducing space to replace the canopy cover locally.

<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
3.	To not confirm this Order. This would not offer the legal protection which is considered prudent for the future reasonable retention and management of the trees.
<b>DETAIL (Including consultation carried out)</b>	
4.	The order was made and notified to 2 properties locally. One objection was received from the property owner's agent.
5.	Emails were exchanged with the site owner to clarify which trees were covered in the original group and advice was offered on how trees can be retained on construction sites and within developments using proven engineering solutions. A site visit was offered by the tree officer but not taken up.
6.	A report was received from the owner's agent objecting to the TPO (Appendix 4). The key objection is that the group includes trees of low quality and in close proximity to a dwelling. This was followed with several emails and phone calls to the agent.
7.	A site meeting was held with the agent on 15 <sup>th</sup> March 2016. The tree in close proximity can be managed by pruning which will not significantly alter the amenity value of the tree. One Poor quality tree was excluded. The visual amenity of T2 from Tennyson Road in particular was noted. As a result, the TPO was varied to cover only the two larger, better quality trees. The amended order was served on the 21 <sup>st</sup> March. This is felt to meet the objection to only include trees that are worthy of protection.
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
8.	Cost will be those associated with the administration of confirming the Order and administration of any subsequent applications made under the Order.
<b><u>Property/Other</u></b>	
9.	If the order is confirmed, compensation may be sought in respect of loss or damage caused or incurred in consequence of the refusal of any consent required under the TPO or of the grant of such consent which is subject to condition. However, no compensation will be payable for any loss of development or other value of the land, neither will it be payable for any loss or damage which was not reasonably foreseeable.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
10.	In accordance with the Constitution, the officer has delegated power to make, modify or vary, revoke and not confirm Tree Preservation Orders under Sections 198 and 201 of the Town and Country Planning Act 1990; and to confirm such orders except where valid objections are received. If objections are received then the Planning and Rights of Way Panel are the appropriate decision making panel to decide whether to confirm the order or not.



<b>Other Legal Implications:</b>	
11.	The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy their possessions but it can be justified under Article 1 of the First Protocol as being in the public interest (the amenity value of the trees, tree groups and woodlands) and subject to the conditions provided for by law (the Town and Country Planning Act 1990) and by the general principles of international law.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
12.	None

<b>KEY DECISION?</b>	No
<b>WARDS/COMMUNITIES AFFECTED:</b>	N/A

**SUPPORTING DOCUMENTATION**

<b>Appendices</b>	
1.	The Order: The Southampton (40, Westridge Road) Tree Preservation Order 2015
2.	Aerial image of the location of 40 Westridge Road, the car park and the trees as they were at the time of making the TPO
3.	Diagrammatic location plan
4.	The Objection in report format
5.	Email exchange prior to the objection in chronological order

<b>Documents In Members' Rooms</b>	
1.	None

<b>Equality Impact Assessment</b>	
Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out	No

<b>Privacy Impact Assessment</b>	
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.	No

<b>Other Background Documents</b>	
<b>Equality Impact Assessment and Other Background documents available for inspection at:</b>	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None

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### **Form of Tree Preservation Order**

#### **Town and Country Planning Act 1990**

#### **The Southampton (40 Westridge Road) Tree Preservation Order 2015**

Southampton City Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

#### **Citation**

1. This Order may be cited as The Southampton (40 Westridge Road) Tree Preservation Order 2015

#### **Interpretation**

2.— (1) In this Order “the authority” means the Southampton City Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

#### **Effect**

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 30th November 2015

Signed on behalf of the SOUTHAMPTON CITY COUNCIL



Authorised by the Council to sign in that behalf

This Order was modified by Southampton City Council

On the Schedule G1 - 3 x Acer – in rear garden along western boundary to car park

Has been **amended** to:

T1 – 1 x Acer – in rear garden of 40 Westridge Road on northern corner

T2 – 1 x Acer – to western boundary of 40 Westridge Road adjacent public car park

This plan and schedule have been **amended** on 21 March 2016

Signed on behalf of the SOUTHAMPTON CITY COUNCIL



Authorised by the Council to sign in that behalf

**SCHEDULE 1A - Amended**

**The Southampton (40 Westridge Road) Tree Preservation Order 2015**

**Individual Trees  
(encircled black on the map)**

<b>No on Map</b>	<b>Description</b>	<b>Situation</b>
T1	Acer	in rear garden of 40 Westridge Road on northern corner
T2	Acer	to western boundary of 40 Westridge Road adjacent public car park

**Groups of trees  
(within a broken black line on the map)**

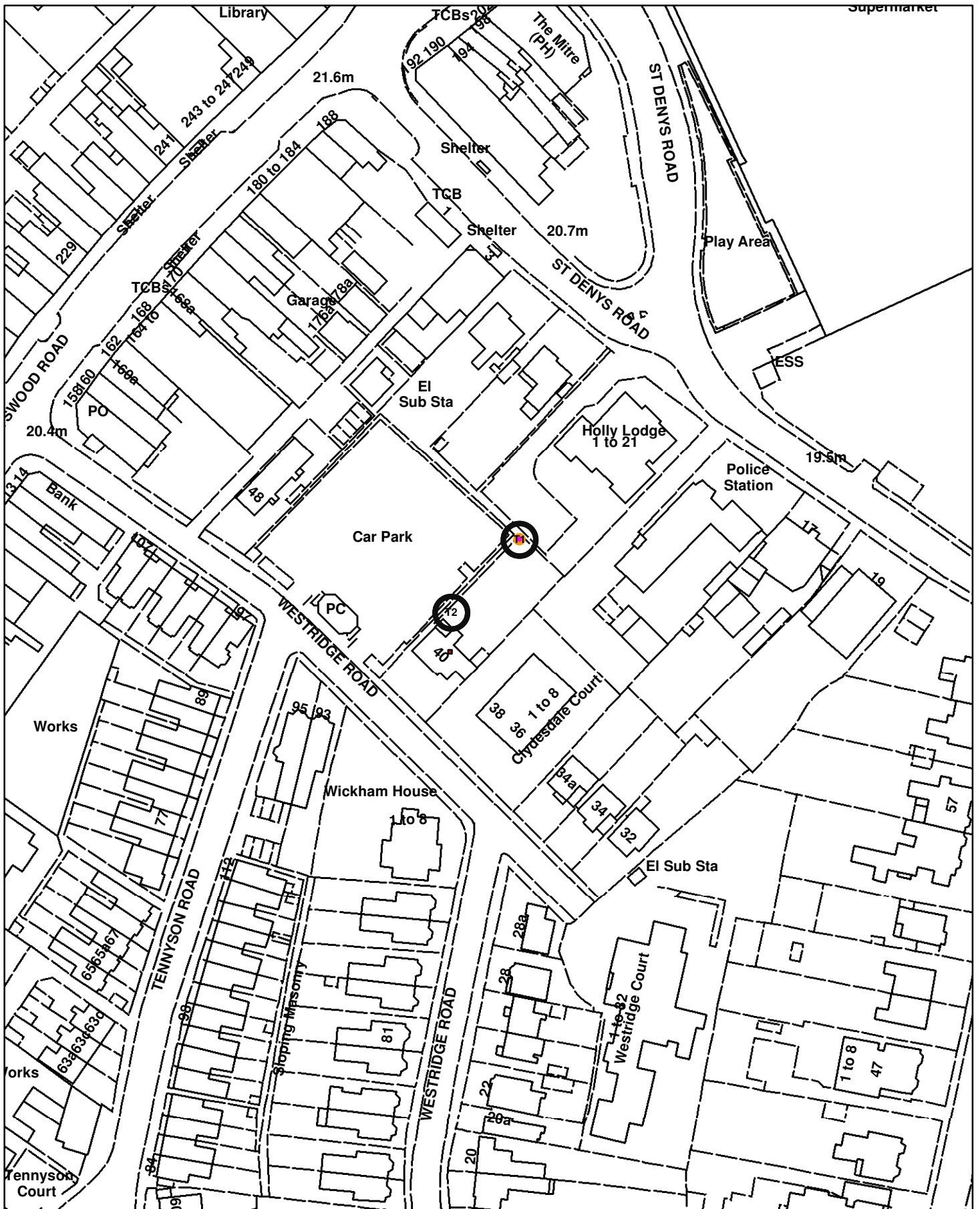
<b>No on Map</b>	<b>Description</b>	<b>Situation</b>
	NONE	

**Woodlands  
(within a continuous black line on the map)**






<b>No on Map</b>	<b>Description</b>	<b>Situation</b>
	NONE	

**Trees Specified by Reference to an Area  
(within a dotted black line on the map)**

<b>No on Map</b>	<b>Description</b>	<b>Situation</b>
	NONE	



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- Key**
-  Individual Trees
  -  Group
  -  Woodland
  -  Area
  -  Not TPO'd

The Southampton (40, Westridge Road) Tree Preservation Order 2015 (Amended)	
TPO Ref: T2 - 636	Department: Trees team
Drawn: SK	Page 8
Scale: 1:1,250	



Mitch Sanders  
 Acting Service Director  
 Transactions and Universal Services  
 Southampton City Council  
 Southampton SO14 7LY

**SCHEDULE 1**

**The Southampton (40 Westridge Road) Tree Preservation Order 2015**

**Individual Trees  
(encircled black on the map)**

<b>No on Map</b>	<b>Description</b>	<b>Situation</b>
	None	

**Groups of trees  
(within a broken black line on the map)**

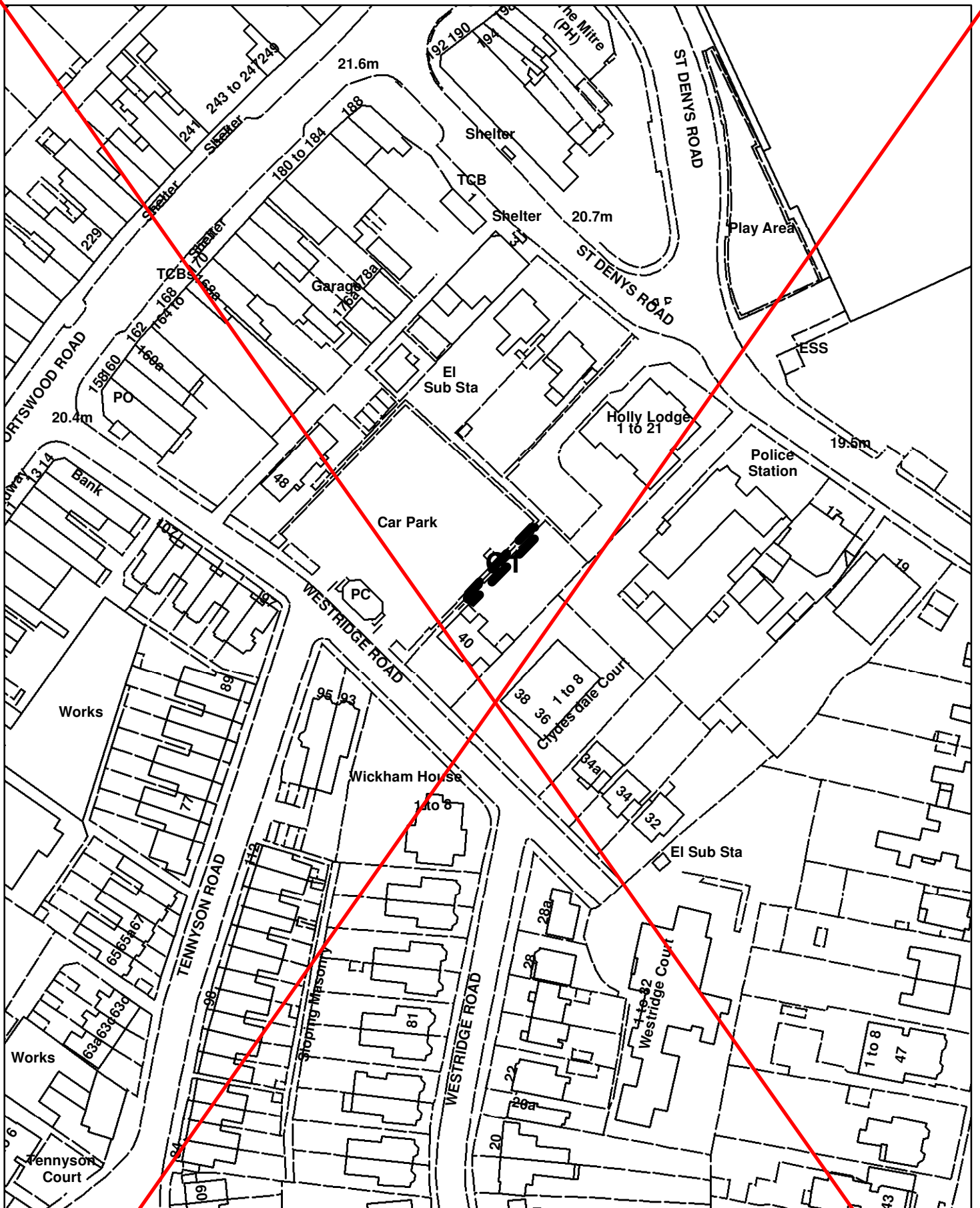
<b>No on Map</b>	<b>Description</b>	<b>Situation</b>
G1	3 x Acer	in rear garden along western boundary to car park

**Woodlands  
(within a continuous black line on the map)**






<b>No on Map</b>	<b>Description</b>	<b>Situation</b>
	None	

**Trees Specified by Reference to an Area  
(within a dotted black line on the map)**

<b>No on Map</b>	<b>Description</b>	<b>Situation</b>
	None	



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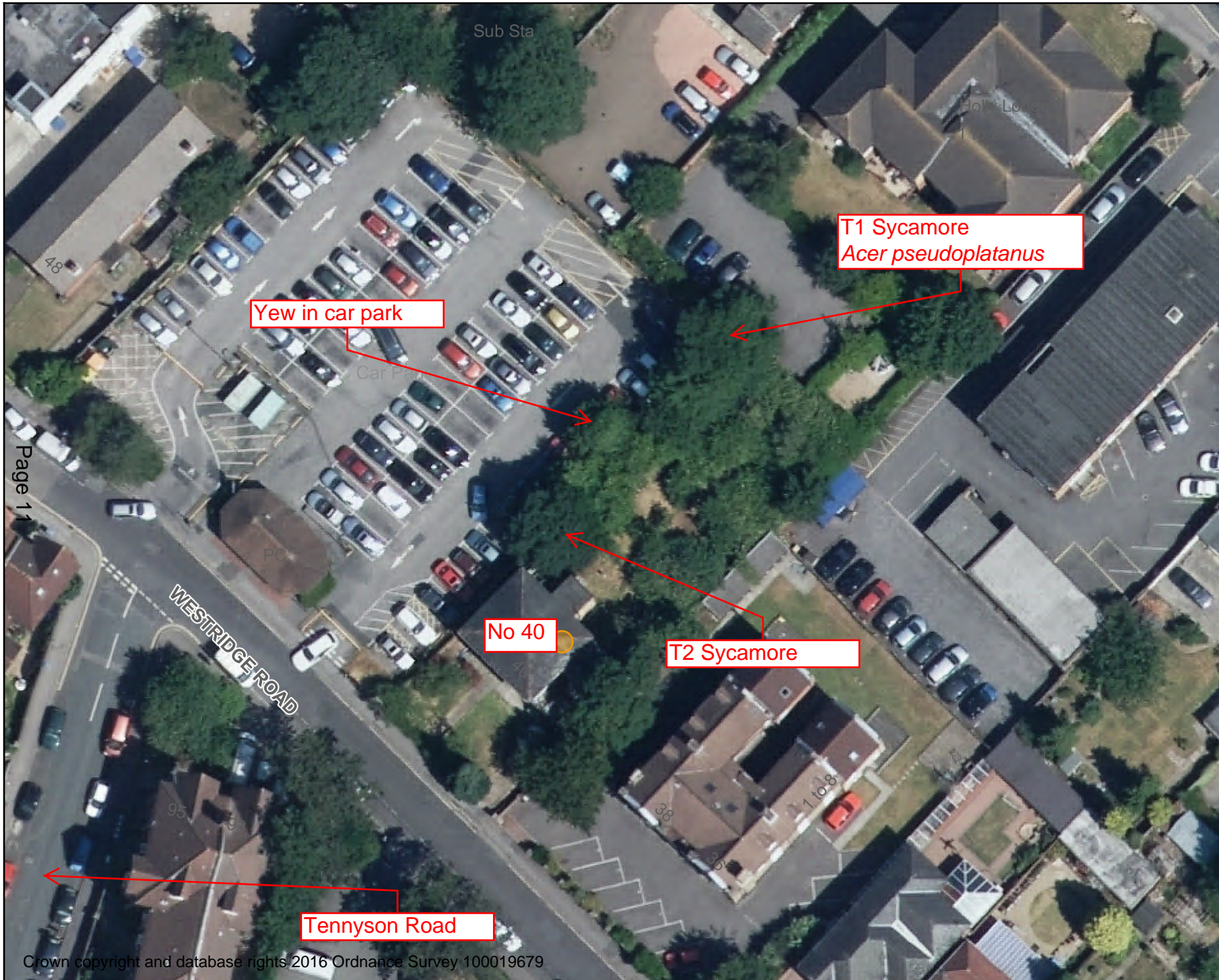
- Key
-  Individual Trees
  -  Group
  -  Woodland
  -  Area
  -  Not TPO'd

The Southampton (40 Westridge Road) Tree Preservation Order 2015	
TPO Ref: T2-636	Department: Trees team
Drawn: SK Page 10	Scale: 1:1,250



Jon Dyer-Slade  
 Head of City Services  
 Place Directorate  
 Southampton City Council  
 3rd Floor One Guildhall Square  
 Southampton SO14 7FP



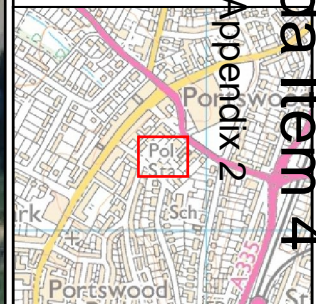


40 Westridge Road

Aerial shot 2015 from SoMap prior to laurel removal

Aerial photo 2013

0 5 10m  
Printed 02-06-2016



Agenda Item 4

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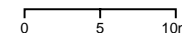
# 40 Westridge Road

Plan view showing TPO trees in blue and SCC trees in green

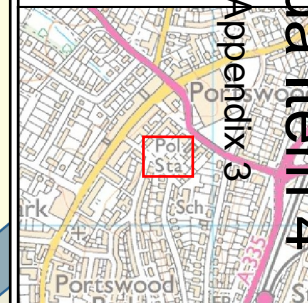
Trees



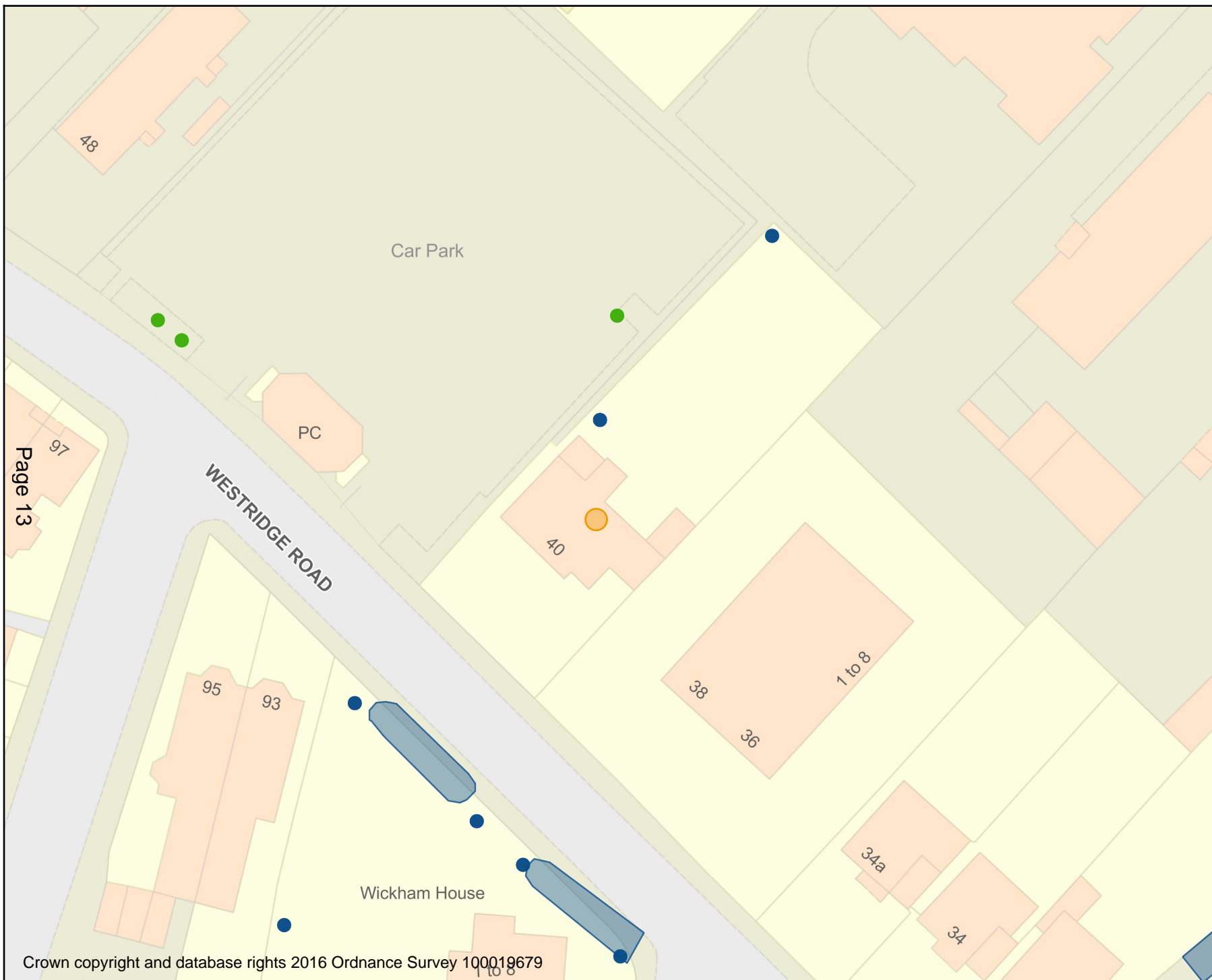
TPOs



Printed 02-06-2016



Agenda Item 4  
Appendix 3



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Julian Jenkinson

40 Westridge Road,  
Southampton

Arboricultural Report TPO Objection  
The Southampton (40 Westridge  
Road) Tree Preservation Order  
2015) (T2-636)

**James Fuller Arboriculture**  
...your complete arboricultural consultancy

54 Arundel Drive,  
Fareham,  
Hampshire,  
PO16 7NS

## Arboricultural Report to Tree Preservation Order (Ref The Southampton (40 Westridge Road) Tree Preservation Order 2015) (T2-636)

Client:	Site:
Julian Jenkinson	40 Westridge Road, Southampton
Arboricultural Consultant:	
James Fuller <i>FdSc.Arb, BTEC Nat.Dip Arb, TechArborA</i>	
Date:	
December 2015	

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#### Appendices

JF1      Qualifications and Experience

## 1.0 INTRODUCTION

- 1.1 Southampton City Council made a provisional Tree Preservation Order (TPO) (Ref The Southampton (40 Westridge Road) Tree Preservation Order 2015) (T2-636) on the 26<sup>th</sup> November 2015.
- 1.2 James Fuller Arboriculture has been instructed by Julian Jenkinson (owner of 40 Westridge Road) to undertake a site visit and assess the trees included within the Tree Preservation Order.
- 1.3 I have been provided with a part copy of the relevant Provisional Tree Preservation Order, which was made, then signed on behalf of Southampton City Council. The Order is in respect of 1 (one) group of trees. The TPO plan provided by Southampton City Council shows a blue outline for the group.

## 2.0 CLIENT'S BRIEF

- 2.1 To undertake an assessment of the Tree Preservation Order (TPO) and a site appraisal in order to formulate an opinion on the trees and the TPO.
- 2.2 A Tree Evaluation Method for Preservation Orders (TEMPO) was also used to assess the suitability of trees for a TPO. TEMPO was designed by Julian Forbes-Laird, a practising, qualified independent Arboricultural Consultant, as "a systematic assessment tool for TPO suitability". TEMPO considers the condition, retention span, relative public visibility and expediency assessment of a tree. Once the TEMPO assessment has been carried out, a tree will be given a numerical value of between 0–16+, which then defines if the TPO is merited or not. TEMPO is a widely accepted system, used by a large number of Local Authorities to assess trees being considered for a TPO.
- 2.3 To prepare if I felt it supportable, a formal objection to the Provisional Order (based on the above, and the documentation/information provided to me).

## 3.0 DESCRIPTION OF THE SITE

- 3.1 The site is located on the northeast side of Westridge Road, directly south of the car park. The site is currently occupied with a large detached, run down dwelling, which will require future works with detached dilapidated out buildings in the garden. The site is heavily overgrown and lacking of any management.

### 3.2 **Photograph 1:** A view of the dwelling from the southwest



## 4.0 OBSERVATIONS

- 4.1 The 3 (three) trees included within the Provisional Tree Preservation Order (TPO) are Common Sycamore – *Acer pseudoplatanus*. Common Sycamore are non-native trees and are commonly referred to as weeds due to their ability to establish new trees from seed with ease.
- 4.2 The 3 (three) trees have been protected as a group under the TPO. This provides some confusion, as the trees do not have any merit as a group due to their being a significant distance between trees 1 and 2 and 3.
- 4.3 The TPO plan is ambiguous, as it does not set out the exact location of the trees within the group.
- 4.4 The Provisional Tree Preservation Order has been made by Southampton City Council. There seems to be some contradiction within the Tree Preservation Order as to when the order was made, signed and the timescale for objection. The Tree Preservation Order was made on the 26<sup>th</sup> November 2015 and would continue for a further 6 months or until it is confirmed by the council. The 28 day objection period is detailed within the regulation 3 notice, to end on the 24<sup>th</sup> December 2015. However, the provisional TPO wasn't signed until the 30<sup>th</sup> November 2015. Therefore, we should have until the 28<sup>th</sup> December to submit our objection.
- 4.5 Southampton City Council provide the following reason as to why the TPO has been made detailing that "*Without legal protection the long term retention of these trees is uncertain. It was considered that these significant trees should be protected as their loss would have a detrimental impact on the amenity of the area and the enjoyment by the public. The council has surveyed these trees and considers them worthy of protection under a Tree Preservation Order.* Southampton City Council refer to the trees as 'significant', yet use a group TPO to protect the trees and don't specify their location, there is doubt over which 3 trees are protected.



- 4.6 The Provisional Tree Preservation Order includes trees of poor condition and trees growing in close proximity to a dwelling, and therefore the Order is not expedient in the interests of amenity. The 3 (three) trees included within the group TPO, which had to be identified on a separate plan provided by Southampton City Council are not considered to merit a Tree Preservation Order.

## 5.0 OBJECTIONS TO TREE PRESERVATION ORDERS

- 5.1 Group Tree Preservation Order (TPO) (Ref The Southampton (40 Westridge Road) Tree Preservation Order 2015) (T2-636)

We object to the Tree Preservation Order being placed on this group of trees as it includes trees of low quality and trees in close proximity to a dwelling.

**Tree 1** – as identified in the photo below, grows in close proximity to the northern corner of 40 Westridge Road. The branches from this tree are almost touching the building and would need to be pruned clear of the building to allow for any maintenance to be carried out. This tree is a multi-stemmed, semi-mature, Common Sycamore with the ability to put on significant future growth. This tree would be under significant future pressure to be pruned or removed due to its proximity to the existing dwelling. The Tree Preservation Order (TPO) is not sustainable as this tree will be under pressure to be pruned or removed and would cause increased workloads for Southampton City Councils Tree Team if the TPO is confirmed.

This tree didn't make it to the end of the TEMPO assessment as it scored a 0 in Part 1 (b). This was down to the fact that the tree will clearly outgrow its context and therefore does not merit a TPO.

**Photograph 2:** A view of Tree 1 from the west



**Tree 2** – as identified in the photo below, is a heavily suppressed, multi-stemmed, semi-mature, Common Sycamore. Tree 3 suppresses tree 2. It is an accepted arboricultural technique to remove a lower quality tree to improve the growth of a better quality tree. Therefore an application to remove Tree 2 could not be refused and this makes the TPO on this tree indefensible.

This tree didn't make it to the end of the TEMPO assessment as it scored a 0 in Part 1 (b). This was down to the fact that the tree is negating the potential of a neighbouring tree of better quality.

**Photograph 3:** A view of Trees 2 and 3 from the west



## 6.0 CONCLUSION

- 6.1 We object to the Tree Preservation Order (TPO) (Ref The Southampton (40 Westridge Road) Tree Preservation Order 2015) (T2-636) as it includes 2 (two) trees that do not merit a TPO.
- 6.2 The objection to the Provisional Tree Preservation Order being confirmed relates to 2 (two) trees within 1 (one) group of trees as identified by Southampton City Council.
- 6.3 In consideration of the foregoing information, we ask that the Tree Preservation Order (TPO) (Ref The Southampton (40 Westridge Road) Tree Preservation Order 2015) (T2-636), is modified to include only those trees that merit a TPO.

## 7.0 BIBLIOGRAPHY

- Julian Forbes-Laird BA(Hons), MICFor, MEWI, M.Arbor.A, Dip.Arb.(RFS)  
Tree Evaluation Method for Preservation Orders (TEMPO)







## Qualifications of James Fuller

James Fuller, has over 8 years experience within the field of Arboriculture and has attained a Foundation Degree in Arboriculture (FDSc Arb.) and a BTEC National Diploma in Forestry & Arboriculture (BTEC Nat.Dip. Forestry & Arb.).

James is also a Technical Member of the Arboricultural Association (TechArborA) and has successfully completed the Professional Tree Inspector's, Capital Asset Value for Amenity Trees (CAVAT), Quantified Tree Risk Assessment (QTRA) and Visual Tree Assessment (VTA) Courses.

James previously worked as an Arboricultural Consultant, providing professional advice in relation to trees for one of the leading arboricultural consultancy practices in the country. As part of this role James was instrumental in providing clients with advice from the initial Tree Survey through to site completion and sign off.

James has experience of working on a variety of sites throughout the UK, from individual Visual Tree Assessments (VTA) to large development sites (BS5837: 2012) with 1'000s of trees.

James is now building an ever-growing portfolio of private clients whilst providing consultancy advice to local arboricultural companies and their clients.

# Agenda Item 4

## Appendix 5

Letters and emails exchanged in respect of the 40, Westridge Road Tree preservation Order between the tree officer and the landowner or their agent.

From Planning to owner 02.12.15:

Dear xxxxxxxxxxxx,

I hope you're well.

I've just been informed by the City Council's Trees team that notice has been served on this property informing you as the owner that a number of trees have been protected under a new Tree Preservation Order (TPO). This TPO covers 3 Sycamore trees along the boundary of the site with the Council owned car park. These are within the boundary of your property. For your information, there is already a Yew tree which is owned by the City Council adjacent to this boundary and located in the car park itself.

My colleague has attached this notice to the front door of the property so you should get this next time you visit.

This is likely to affect any future development proposals and so I shall be in touch with Gary Bradford to advise him of this. As a result of this TPO, any works to these trees will require consent from the City Council.

For more information on the TPO, please contact the Trees team.

Kind Regards.

Xxxxxxxx name of planning officer xxxxxxxxxxxxxxxx

Senior Planning Officer

Development Control

**Southampton City Council**

(023) 8083 2603

From owner to tree team 03.12.15

Hello

ref your new 40 westridge road tree preservation order. I own 40 westridge and the plan you have provided is 1:1250 and does not identify the position of the specific trees (just a line on the boundary). There are no circles for the individual trees?

Please can you confirm it is only 3 Acers and give there positions on the boundary ie how many metres they are along the boundary. I have significant concern that these trees may be damaged if I cannot identify them from the current information given.

Look forward to your reply

Xxxx owner's name xxxxx

From tree officer to owner 04.12.15

Dear Mr xxx,

Thank you for your email.

The three Acers are the larger trees a viewed from the car park next door to the west.

Please see attached aerial shot which I hope will help identify them.

The TPO does not necessarily mean that you cannot work near them, just that you need to use appropriate methods. The TPO does not seek to be unnecessarily obstructive – the trees have been TPO'd because they provide screening and greening for the public that use the car park. I could only see the trees from this side, so it may be that it looks different from within your property. If you are still unsure which trees are protected, please contact us again and if necessary arrange a site visit when I can access the plot.

You may decide to apply (through the planning process) to work around or apply to remove trees that present very considerable constraints to your proposals: the TPO is a mechanism by which we seek to maintain overall amenity and canopy cover in the longer term. It may be possible to accommodate the trees by using appropriate engineering techniques or construction methods or using the space near them for driveways/parking which can usually be constructed without damage to the trees. A qualified arboriculturist will be able to advise you on this.

In accordance with Southampton City policy, any trees lost (whether protected or not) through the planning process will need to be replaced on a 2 for 1 basis: usually we would look for these to be accommodated within the curtilage of the development site, but if this is impossible for any reason a commuted sum can be paid to have them planted elsewhere (preferably nearby) by the city and we will take on ownership & management.

The planning application will need to provide information about the trees on site or offsite that can be affected by development (in this case, potentially the yew in the car park, perhaps your neighbours' gardens) and this is usually done in accordance with BS 5837: Trees in relation to

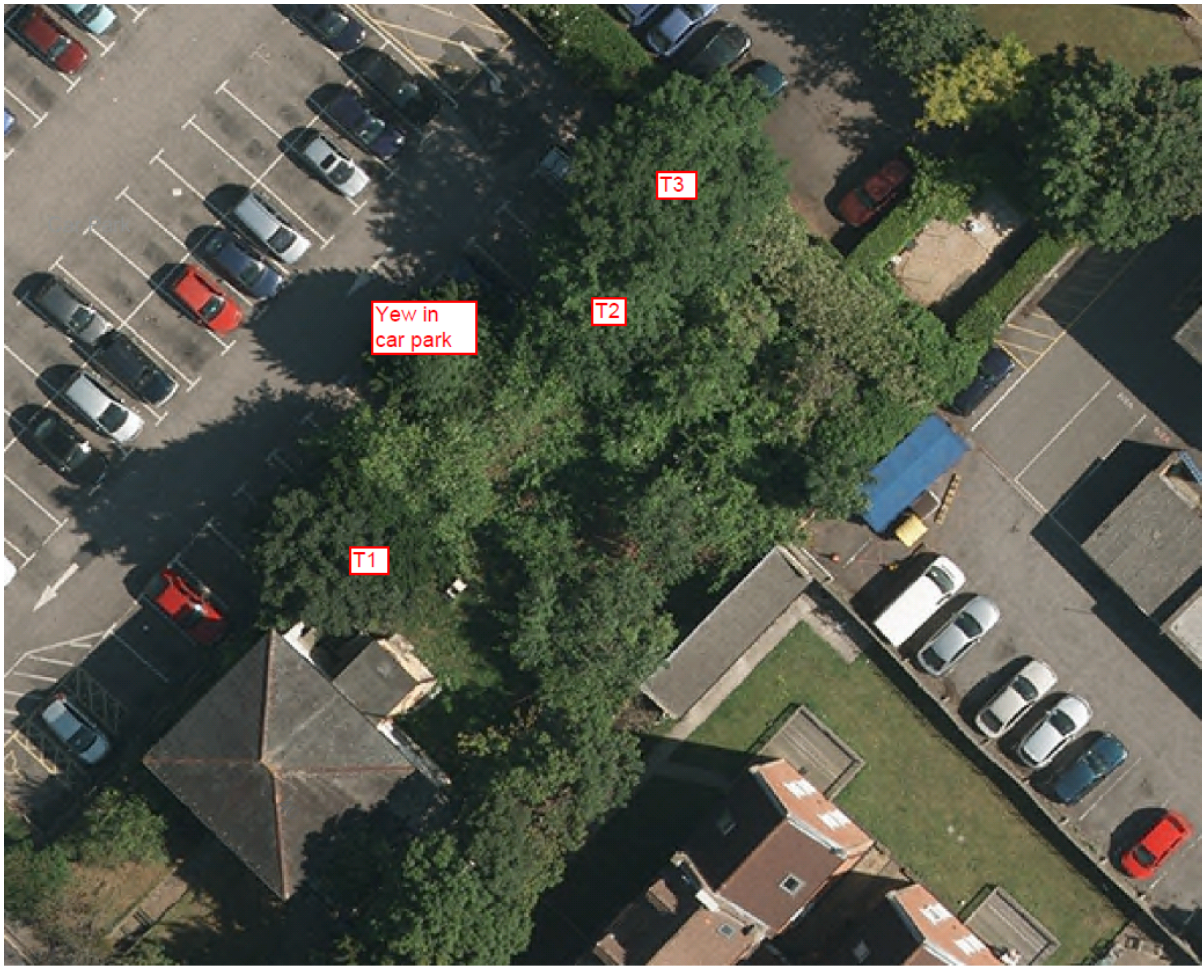
demolition, design & construction. Again, a qualified arboriculturist will be able to advise what may be needed.

I hope this answers any queries you had.

Regards,

[tree officer]

Attached PDF of areas identifying trees;



From owner to tree team 07.12.15

That is great I can identify them from that.

Thanks

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The objection was received.

Further emails and phone calls setting up a meeting were exchanged resulting in the site meeting of the 15<sup>th</sup> March 2016

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# Agenda Item 5

**Planning, Transport & Sustainability Division  
Planning and Rights of Way Panel 21/06/2016  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 8 - 9 Premier Parade, Forest Hills Drive, Southampton, SO18 2GA.			
<b>Proposed development:</b> Change of use of ground floor from Retail (Class A1) to a Restaurant/Hot Food Takeaway (Class A3/A5) with external extraction flue.			
<b>Application number</b>	16/00256/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Laura Grimason	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	27/06/2016	<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 Ivan White Cllr David Fuller Cllr John Inglis

<b>Applicant:</b> Mr Ahmed Hussain Akhmed	<b>Agent:</b> LG Planning Ltd
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<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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<b>Community Infrastructure Levy Liable</b>	<b>Not applicable</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, SDP10 and SDP16 of the City of Southampton Local Plan Review (Amended 2015) and CS3, CS13 and CS19 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Appeal decision for 06/01317/FUL

## Recommendation in Full

### Conditionally approve

#### 1.0 **The site and its context**

- 1.1 This application relates to the ground floor of units 8 and 9 Premier Parade. These units are located within a wider terrace of 5 units within Premier Parade, a small, un-designated shopping area positioned between Kingsfold Avenue and Forest Hills Drive. In total, Premier Parade has 11 units which are used for retail and commercial purposes at ground floor level with residential accommodation at first and second floor level. There is no vehicular access to the front of the site however there is a small parking court located to the rear and accessed from Kingsfold Avenue.

#### 2.0 **Proposal**

- 2.1 Permission is sought for the change of use of units 8 - 9 from retail (Class A1) to a restaurant / hot food takeaway (Class A3/A5).
- 2.2 External alterations are limited to the installation of an extraction flue to the rear elevation.

#### 3.0 **Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). 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 2006, an application (ref.06/01317/FUL) for a change of use from retail (Class A1) to takeaway (Class A5) was refused. The reasons for refusal were as follows:

##### Impact on residential amenity

The proposed change of use by introducing an hot food takeaway (Use Class A5) activity into a building with un-associated residential accommodation above would be unacceptable due to the disruption associated with such a use and accordingly harm the residential amenities of the surrounding occupiers. The proposal would therefore prove contrary to policies SDP1, SPD7 and RE17 of the City of Southampton Local Plan Review (Adopted Version March 2006).

An appeal against this decision was dismissed (ref.APP/D1780/A/06/2033010) meaning that in 2007, a takeaway was not acceptable in planning terms. A copy of the appeal decision is attached at **Appendix 2**. This permission was never implemented and has now lapsed.

## **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 and erecting a site notice (16/03/2016). At the time of writing the report **8** representations have been received from surrounding residents (1 in support and 7 objecting). The following is a summary of the points raised:

5.1.1 There are already a number of takeaways in Premier Parade and there is no need for another.

*Response: Premier Parade is an undesignated shopping area and as such, there are no policies within the Local Plan Review or Core Strategy which restrict the number of A5 uses in this location. The main use of the property would be as a restaurant within Class A3 with the A5 takeaway forming a secondary element. Whilst it is acknowledged that there are two existing takeaways in Premier Parade, it is not considered that this scheme would result in an excess of this type of use in this location. The proposed scheme would bring a vacant unit back into effective use, subsequently enhancing the vitality and viability of this longstanding shopping area. It is therefore, considered to be acceptable.*

5.1.2 Parking is an existing issue within the area with the existing car park full most evenings and parking for Premier Parade spilling out onto the surrounding residential roads. The proposed restaurant / takeaway would exacerbate this, detrimental to residential amenity.

*Response: The City Council's Highways Team have confirmed that the level of parking demand associated with the proposed A3 / A5 use would not be considerably different to that associated with an A1 use. As such, it is not considered that parking demand would be significantly altered from the current arrangement and highways safety / insufficient parking is not considered to be an issue.*

5.1.3 Odours from the existing takeaways provide unpleasant living conditions for existing residents. The proposed scheme would exacerbate this.

*Response: An extract flue would be sited to the rear of the property. The City Council's Environmental Health Team have been consulted on this scheme and have confirmed that the proposed use and associated extraction flue would not give rise to excessive noise or odours detrimental to the residential amenities of adjoining residential occupiers. A condition is recommended to secure the flue as agreed.*

5.1.4 The proposed scheme would result in additional noise (both from the use itself and the extraction flue), litter and vermin to the detriment of the residential amenities of neighbouring occupiers.

*Response: The City Council's Environmental Health Team have been consulted on this scheme and have confirmed that the proposed use and associated extraction flue would not give rise to excessive noise or odours detrimental to the residential amenities of adjoining residential occupiers. With regards to the use itself, hours of operation would be restricted to 09:00 and 23:00 daily. A planning condition will be imposed to secure this. Provided that the use is operated in accordance with this condition, the proposed use is not considered likely to result in the loss of amenity for adjoining residential occupiers.*

5.1.5 Inadequate consultation has been undertaken for this scheme.

*Response: The Council has exceeded the statutory requirements for consultation for this application. A site notice was posted on the 16th March 2013 with letters also being sent to the following properties:*

*10A Premier Parade*

*8A Premier Parade*

*7 Premier Parade*

*10 Premier Parade*

*9A Premier Parade*

*7A Premier Parade*

*Further letters were subsequently sent to the following properties to ensure that all neighbours were informed of the proposal:*

*Flat 1, Charles Court.*

*Flat 2, Charles Court.*

*Flat 3, Charles Court.*

*Adequate consultation has therefore, been undertaken for this scheme.*

5.1.6 The proposed extraction flue would have an unattractive appearance, detrimental to the visual amenities of the area.

*Response: The extract flue would be relatively modest in scale and would be sited appropriately to the rear to ensure that it would have only a limited impact on the wider streetscene.*

5.1.7 A previous proposal was refused.

5.1.9 *Response: A previous scheme sought permission for an A5 takeaway use (ref.06/01317/FUL). There was no A3 element proposed with this previous scheme. As this scheme seeks permission for an A3 / A5 use, it is considered that this scheme is materially different to the scheme previously refused. As the A5 element is secondary to the main use of the property as a restaurant, it is considered that this scheme is an improvement on that which was previously refused.*

## 5.2 Consultation Responses

### 5.2.1 SCC Highways: No objection.

The difference in highway impact between the existing and proposed use is considered to be negligible and therefore there will be no highway objections.

### 5.2.2 SCC Environmental Health (Pollution & Safety): No objection subject to conditions.

Following a site meeting with the Applicant, his agent and the extract ventilation engineer it has now been determined that the proposed scheme as illustrated in the original proposed plans is practicable as the leaseholder has given his written consent, subject to a legal agreement, for the extract ventilation to be routed externally along the facade of his property. The fan and filter system will be housed internally within the room with a flat roof above and due to the location of the proposed plant and equipment there are no concerns about noise nuisance. In light of this we can now support the proposed development and would recommend it is granted subject to the following conditions:

- No deliveries shall be taken in or dispatched from the premises outside the following times: 08.00hrs - 20.00hrs.
- Hours of Use - Food/Drink Establishments [Performance Condition]

The premises hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

Sunday - Thursday: 11.00 hours to 23.00 hours

Friday and Saturday: 11:00 hours to midnight

Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.

The details now for the extract ventilation system and the commercial refuse storage arrangements have now all been supplied by the Agent so conditions in relation to these issues are not considered necessary.

*Response: Conditions to control deliveries, restrict opening hours and secure details of refuse management are proposed.*

## **6.0 Planning Consideration Key Issues**

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

- (a) The principle of development.
- (b) The impact in terms of residential amenity.
- (c) The impact in terms of highways safety.
- (d) The acceptability of the extract flue in terms of visual amenity.

## **6.2 Principle of Development**

6.2.1 The application site is located within Premier Parade, a small parade of 11 units. At present, this shopping area is undesignated. The units within Premier Parade are currently used in the following way:

- (1) Convenience store (A1).
- (2) Takeaway (A5).
- (3) Hairdressers (A1).
- (4) Takeaway (A5).
- (5) Mobility scooter shop (A1).
- (6) Building contractors office (B1).
- (7) Electrical contractors shop (A1).
- (8) Application site (A1).
- (9) Application site (A1).
- (10) Barber shop (A1).
- (11) Laundrette (A1).

Having regard to the current mix of uses, it is considered that an A3 / A5 use would be appropriate for this location. The A3 use would constitute the main use of the property and would effectively bring a vacant unit back into active use. This

is likely to enhance the vitality and viability of this retail area. Whilst it is acknowledged that there are two existing A5 uses, the A5 use in this case would be secondary to the main use of the property as a restaurant. It is not therefore, considered that this scheme would give rise to an excess of A5 uses in this location. Furthermore, as Premier Parade is undesignated, there are no restrictions in planning policy terms on the number of A5 uses in this location meaning that the Local Planning Authority has limited control over this at the current time.

- 6.2.1 Consideration must also be given to what could be done under permitted development. Class C of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, enables the change of use from A1 (retail) to A3 (restaurants / cafes) under permitted development through a simplified prior approval procedure. That is however, subject to the following criteria being met:
- (a) The cumulative floorspace of the property changing use should not exceed 150 sq m.
  - (b) The development should not result in more than 150 sq m changing under Class C.
  - (c) The land must not form part of a site of special scientific interest, safety hazard area or military explosives area.
  - (d) The site must not contain a scheduled ancient monument.
  - (e) The land is not a Listed Building or within the curtilage of a Listed Building.

The application site would satisfy the criteria listed above and so if the proposal was purely for an A3 restaurant, the applicant would be able to apply for the proposed use through the prior approval procedure as opposed to an application for planning permission. The inclusion of an additional A5 use does however, mean that full planning permission is required.

- 6.2.2 Having regard to the issues discussed above, it is considered that the principle of development is acceptable.

### 6.3 Residential Amenity

- 6.3.1 The closest residential properties to the application site are located at first and second floor level of Premier Parade, directly above the application site. The Environmental Health Team have been consulted on this scheme and have worked with the applicant to secure an acceptable scheme for extraction. This will comprise an extraction flue routed externally along the facade of the first floor property. Additional internal equipment would be sited within the ground floor restaurant. Officers are satisfied that the proposed extraction flue would be sited appropriately, ensuring that it would not be detrimental to residential amenity in terms of additional noise or odours associated with the proposed use.
- 6.3.2 Other residential properties located at 1 - 3 Charles Court and along Kingsfold Avenue are sited at an appropriate distance away from the site to ensure that no adverse impact in terms of residential amenity would occur.

6.3.3 The City Council's Environmental Health department have requested that a condition restricting the hours of operation is imposed to protect residential amenity. As a result, the proposed use would be restricted to operation within the following hours:

09:00 - 23:00 daily.

This is in accordance with the hours specified by the applicant.

6.3.4 Having regard to the above, the proposed scheme is not considered to have a significant impact in terms of residential amenity. The issues relating to noise and disturbance identified with the previous appeal have now been satisfied as the takeaway element is secondary to the main use of the property as a restaurant. Provided that the proposed A3 / A5 use is operated in accordance with the planning conditions which have been recommended, no loss of amenity is considered likely.

#### 6.4 Highways Safety

6.4.1 Whilst there is no parking specifically for the proposed use, Premier Parade does have access to a shared parking court to the rear, accessed from Kingsfold Avenue. This parade serves a local need and customers can walk easily to the site. Furthermore, for those that do drive, there are no parking restrictions along Kingsfold Avenue, Old Farm Drive or Forest Hills Drive. The City Council's Highways Team have been consulted on this scheme and have confirmed that the level of parking demand associated with the proposed A3 / A5 use would not be considerably different to that associated with an A1 use. As such, no objection has been raised and the scheme is considered to be acceptable in terms of highways safety and parking.

#### 6.5 Extraction Flue and Visual Amenity

6.5.1 The proposed extract flue would be relatively modest in comparison to the main building. It would be sited appropriately to the rear and would have a limited impact on the visual appearance of the wider streetscene. As such, it is considered to be acceptable in terms of visual amenity.

#### 7.0 Summary

7.1 The proposed scheme is policy compliant with issues relating to the principle of development, highways safety, transport, design and residential amenity being adequately addressed.

#### 8.0 Conclusion

8.1 The recommendation is 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), 4(f), 6(a)/(b).

**LAUGRI for 21/06/16 PROW Panel**

**PLANNING CONDITIONS**

**1. Full Permission Timing Condition (Performance)**

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

Reason:

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

**2. 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. Hours of Operation (Performance)**

Unless otherwise agreed in writing by the Local Planning Authority, the use hereby approved shall not operate outside the following hours at any time:

09:00 - 23:00 daily.

Reason:

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

**4. Extraction Equipment**

The extraction equipment hereby approved (as shown on drawing ref.002 and as detailed in the Design and Access Statement received 04/04/2016) shall be installed and fully operational prior to the commencement of the A3 / A5 use hereby permitted. The approved measures shall be retained thereafter for the lifetime of the development.

Reason:

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



## 5. APPROVAL CONDITION: A3 use

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order amending, revoking or re-enacting that Order, the principal use of the property shall be for purposes within Class A3 with the Class A5 use remaining ancillary at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason:

For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development in the interests of the amenities of the area.

## 6. Delivery times

No deliveries shall be taken in or dispatched from the premises outside the following times;

08.00- 20.00 daily.

Reason:

To protect the residential amenities of neighbouring occupiers.

## 7. 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. A litter bin shall be provided on the site within the customer area of the floor space and made available for use of patrons during trading hours. The approved 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.

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS3	Promoting Successful Places
CS13	Fundamentals of Design
CS19	Car & Cycle Parking

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

SDP1	Quality of Development
SDP7	Context
SDP10	Safety & Security
SDP16	Noise

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)

**APPEAL DECISION FOR 06/01317/FUL**

31517/06/01317/FUL

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**Appeal Decision**

Site visit made on 15 May 2007

**by Clive Kirkbride BA(Hons) DipTP MSc**

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

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

☎ 0117 372 6372  
email:enquiries@pins.gsi.gov.uk

**Date: 31 May 2007**

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**Appeal Ref: APP/D1780/A/06/2033010**  
**8/9 Premier Parade, Forest Hills Drive, Town Hill Park, near Bitterne, Southampton, Hampshire, SO18 2GA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Lally against the decision of Southampton City Council.
- The application Ref 06/01317/FUL, dated 24 August 2006, was refused by notice dated 24 October 2006.
- The development proposed is change of use from A1 retail to A5 hot food takeaway.

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**Decision**

1. The appeal is dismissed.

**Main Issue**

2. I consider this to be the effect of the proposal on the living conditions of nearby residents, with particular reference to noise and disturbance.

**Reasons**

3. The appeal premises comprise a vacant, double ground floor unit in a parade of 10 commercial premises with flats over. These premises are arranged in two, 3-storey blocks around a small pedestrian precinct. There is an adjoining parking court available for the exclusive use of customers, shop keepers and residents, and road side parking in the area is generally not restricted.
4. Premier Parade is not identified as a city, town, district or local centre where food and drink uses would be permitted under policy RE17 of the City of Southampton Local Plan Review. Consequently, the proposal should be considered on its merits and with regard to the local context. In this regard, I consider LP policies SDP1 and SDP7 to be most relevant.
5. The appeal site is situated in an otherwise wholly residential area with housing on all sides, including a 3-storey block of flats immediately to the front. There are 2 existing takeaways within the parade block adjoining the appeal premises, and representations from local residents indicate that these cause a variety of problems, including noise and disturbance from the coming and going of cars and customers.
6. In my view a third takeaway in the same location would exacerbate those problems and I note that the Council has resisted other takeaway proposals

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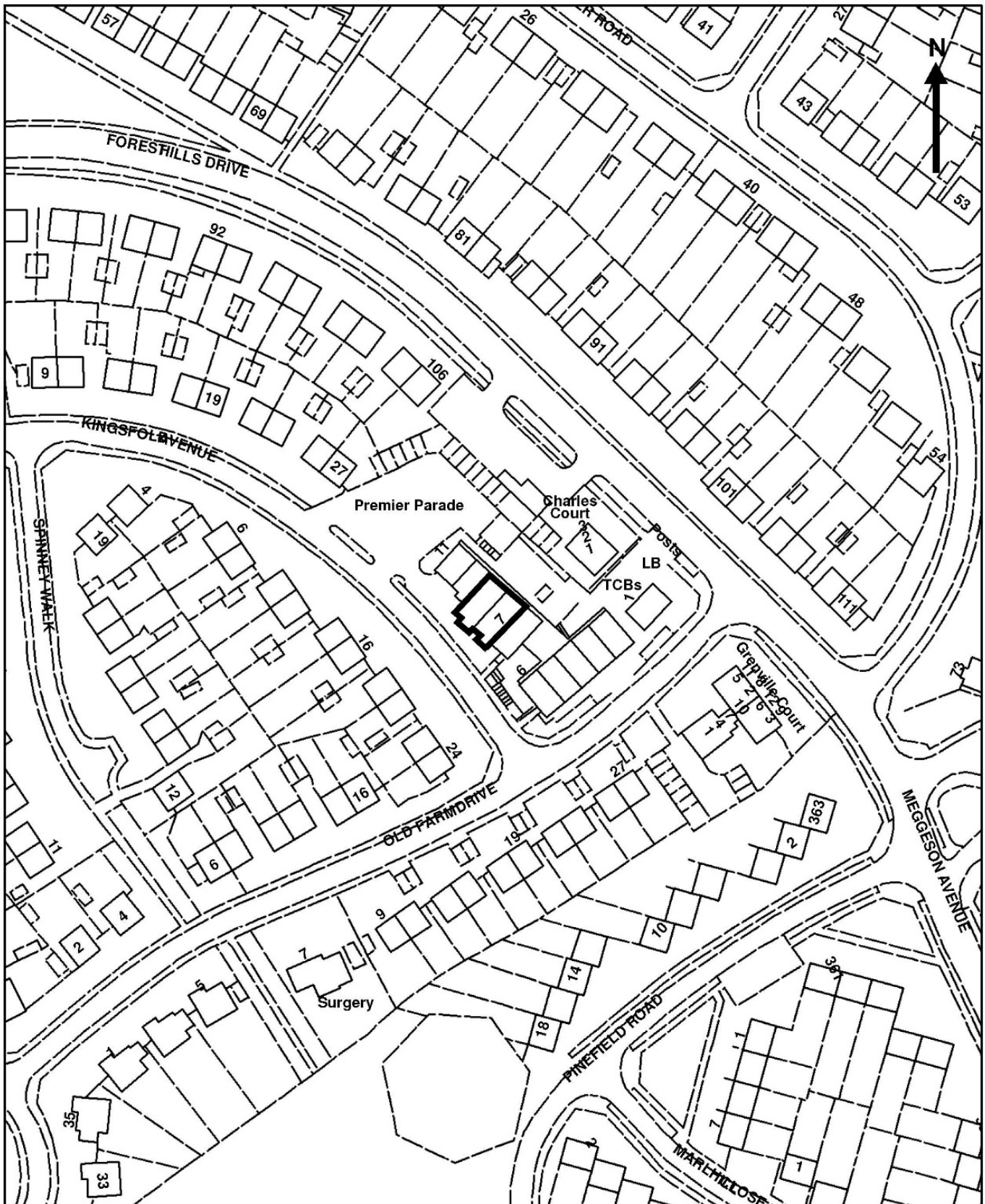
within this parade for similar reasons. Nor am I satisfied that the proposed shorter opening hours would be sufficient to mitigate the harm caused.

7. In my opinion, the additional noise and disturbance likely to be caused by the proposal during the day and early evening would have a cumulative and harmful effect on the living conditions of residents living in such close proximity to the appeal premises.
8. Therefore, and having also considered all the other matters raised, I conclude that the proposal would harm living conditions at nearby residential properties, especially the flats situated directly above the appeal premises, contrary to LP policies SDP1 and SDP7.

*C.S. Kirkbride*

INSPECTOR

# 16/00256/FUL



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# Agenda Item 6

**Planning, Transport & Sustainability Division  
Planning and Rights of Way Panel 21<sup>st</sup> June 2016  
Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 1G and 1H Janson Road			
<b>Proposed development:</b> Relief from conditions 4, 5 and 6 of planning permission 01/01003/FUL to allow conversion of garages for units 1G and 1H to provide additional living accommodation (resubmission 15/01469/FUL)			
<b>Application number</b>	16/00738/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>	29.06.2016	<b>Ward</b>	Shirley
<b>Reason for Panel Referral:</b>	5 or more letters of objections have been received	<b>Ward Councillors</b>	Cllr Hannah Coombs Cllr Satvir Kaur Cllr Mark Chaloner
<b>Called in by:</b>	n/a	<b>Reason:</b>	n/a

<b>Applicant:</b> Mr Amjad Dbss	<b>Agent:</b> Southern Planning Practice
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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. 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 CS18, CS19 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015) as supported by the guidance set out in the relevant sections of the HMO SPD (amended May 2016) and Parking Standards SPD (September 2011).

<b>Appendix attached</b>			
1	Relevant Policies	2	Details of application 15/01469/FUL
3	Appeal decision March 2016	4	Summary of cases

### Recommendation in Full

#### Conditionally approve

## **1.0 The site and its context**

- 1.1 The application site is located within the ward of Shirley. The site is located within the defined boundary of the Shirley Town Centre at the southern end of Janson Road close to the junction with Shirley Road. The two properties forming the application site form part of a group of 8 terraced townhouses. The townhouses are 3 storeys with an integral garage at ground floor and a small front forecourt where bins are normally stored. The depth of the forecourt to the edge of the pavement is not large enough to accommodate a parked vehicle.
- 1.2 The Council's records indicate that one of the properties is occupied as a C4 HMO (1G), whilst the other property is occupied as a family home. The properties themselves are built on a narrow plot leaving a small space at the rear for amenity space. The existing garages measure 5m by 2.7m, and can also be used for cycle parking.

## **2.0 Proposal**

- 2.1 This application seeks permission for the relief of conditions 4, 5, 6 of permission 01/01003/FUL. These conditions effectively control the retention of the garage parking spaces. The applicant is seeking to incorporate the garage spaces into the main living area of the dwellings by creating ground floor dining rooms. The conditions under permission 01/01003/FUL to be removed are as follows:

### **Condition 4 - Car Parking**

The car parking area shown on the approved drawing shall be laid out and surfaced before the use hereby permitted commences and shall thereafter be kept clear and maintained at all times for that purpose.

#### REASON

To prevent obstruction to traffic in neighbouring roads.

### **Condition 5 - On-site Parking/Access**

Before any dwelling unit hereby approved is occupied, both the on-site car parking and a proper vehicular access relating to it shall be provided to the satisfaction of the Local Planning Authority. The car parking shall thereafter be retained and not used for any trade, business or industrial use.

#### REASON

To ensure provision of vehicular access and car parking, to avoid congestion in the adjoining area and to protect the amenities of the area.

### **Condition 6 - Garages/Parking Spaces**

The garages and/or parking spaces shown on the approved plans shall only be used in connection with the dwelling units hereby approved and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

#### REASON

To ensure adequate on-site car parking provision for the approved dwelling units remains available for that purpose and to prevent parking on the adjoining highway.

- 2.2 The conversion will be facilitated through replacing the garage doors with new



bricked up façades with windows. An opening will be created beneath each front window cill to provide access to a secure internal cycle store, effectively creating a cupboard space. The applicant also intends to enclose the front forecourt with a suitable boundary treatment to create an area for bin storage and prevent any further parking which could obstruct the pavement. The details of the front enclosure has not been submitted with the application, however, this can be reserved by planning condition.

### **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 in **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.
- 3.3 Policy CS19 sets out the Council’s parking policies for residential development. The policy sets out that parking for all development must have regard to the Council’s maximum car parking and minimum cycle parking standards. The assessment of the parking provision is set out in the Council’s Parking Standards SPD. The level of parking provision is based on the accessibility to public transport and the scale and travel needs of the development. The SPD provides that less than the maximum provision is permissible, but that developers should demonstrate that a lower provision is sufficient.

### **4.0 Relevant Planning History**

- 4.1 The townhouses were first granted permission in 1999 (ref no. 99/00893/FUL) and then amended under permission 01/01003/FUL. There have been various applications to modify the townhouses including conversion of the garages into living accommodation, erection of conservatories, conversion into flats. A summary of the cases directly linked to the conversion of the garages has been set out in **Appendix 4**.
- 4.2 Section 2 of the report covers the background planning history to the townhouses in more detail. Directly related to this application, the proposal was previously refused by Officers in October 2015 (ref no. 15/01469/FUL – **see Appendix 2**). The reason being that there was no parking survey submitted to demonstrate whether there would be an sufficient capacity of kerbside parking in Janson Road and the surrounding streets to accommodate the parking spaces lost relative to the maximum parking standards.
- 4.3 An appeal was dismissed by the Inspectorate in March 2016 (**see Appendix 3**) following the refusal of application 15/01469/FUL. In summary, the Inspector ruled that the loss of the car parking provision would be acceptable, however, this was outweighed by the sustainability policy conflict related to the loss of cycle parking.

## **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, and erecting a site notice (11.05.2016). At the time of writing the report **5** representations have been received. The following is a summary of the points raised:

5.1.1 **Janson Road is already over-parked. The loss of the garage parking spaces will add further pressure to street parking in Janson Road. The increased demand in parking pressure will be in addition to developments in Janson Road, including Burlington Mansions and further residential developments.**

### Response

The Council's parking policies allow for lower provision of parking spaces below the maximum standard. The maximum standard being 2 spaces per dwelling (4+ bedrooms in a high accessibility area). The Inspector ruled in their decision that the parking survey (dating from 2014) used to support the application for the roof top extension at Burlington Mansions (ref no. 14/01588/FUL for 10 additional flats with no parking spaces) would also be valid to assess the capacity of on street parking for this application, given that it's age was not considered to be out of date, and the different nature of development that the survey applied to wouldn't make a material difference. The parking survey is appended to **Appendix 5**. The Inspector also ruled that the garage spaces are unlikely to be used for parking given their small dimensions (5 x 2.7m) in relation to the Council's currently adopted standard of at least 6 x 3m.

5.1.2 **Vehicles park outside the garages obstructing the pavement. This is made worse by bins being left outside partially blocking the pavement. In addition, this end of Janson Road is particularly dangerous due to the number of parked vehicles on double yellow lines, including large delivery vehicles.**

### Response

The Highway Officer has raised no concern with regards to the impact on highway safety. Further details of forecourt enclosures can be agreed by planning condition. The enclosures shall then be provided prior to the first use of the new living spaces. The enclosures would ensure that the front forecourts are not used for parking.

## **Consultation Responses**

5.2 **SCC Highways** - No objection subject to conditions.

Further details have been submitted regarding the cycle parking. The dimensions are acceptable and subject to a robust locking mechanism securing the access to them, there will be no highway objections.

It was also discussed that the front forecourt treatment was to be some kind of low enclosure to provide some security and screening for the bins to be placed. This will also help avoid informal parking on the forecourt area. The application is to be recommended approval subject to the above being addressed.

## **6.0 Planning Consideration Key Issues**

- 6.1 The key issues for consideration in the determination of this planning application are:
- Principle of Development;
  - Impact on the Character and Amenities and;
  - Impact on Parking and Highway Safety;

### **6.2 Principle of Development**

- 6.2.1 The principle of providing additional living accommodation within the properties is acceptable. This is subject to an assessment of the merits of the proposal as set out below.

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

- 6.3.1 The physical changes to the façade of the buildings are not considered to be out of character with their appearance. In addition, the provision of front forecourt enclosure and additional living space and cycle storage facilities would not be detrimental to the living conditions of the existing occupiers of the buildings.

### **6.4 Impact on Parking and Highway Safety**

- 6.4.1 The Highways Officer has not raised any concerns with regard to the impact on highway safety in terms of access and parking. The Council's parking policies would expect a maximum of 2 off street parking spaces in order to reduce car ownership levels and encourage the use of more sustainable transport. It would therefore be acceptable in policy terms not to have any off street parking at this property. However, the applicant should demonstrate that a lower provision is sufficient.
- 6.4.2 The applicant has not carried out their own parking survey to assess the availability of on-street parking, however, they have relied on a previous survey in relation to the development at Burlington Mansions. The Inspector ruled in their decision (**see Appendix 3**) that this survey is still valid and, therefore, gave significant weight to its findings which showed that there would be street parking capacity to accommodate the loss of parking at the townhouses. The Inspector also ruled that the garage spaces are unlikely to be used for parking given their small dimensions (5 x 2.7m) in relation to the Council's currently adopted standard of at least 6 x 3m.
- 6.4.3 As such, it is considered that the evidence relied upon by the applicant is sufficient to demonstrate that the additional demand for on street parking from loss of the garage parking spaces would not detrimentally affect the amenities of the residents who park within Janson Road and surrounding streets.

## **7.0 Summary**

- 7.1 In summary, the provision of no parking at these townhouses would not be

contrary to the Council's maximum parking standards, whilst the resulting demand for street parking within Janson Road and surrounding streets can be sufficiently accommodated without materially harming the amenity of the local residents.

## **8.0 Conclusion**

8.1 In conclusion, the proposed development is considered to accord with the Council's guidance and policies and, therefore, is recommended for approval subject to the conditions in the report.

### **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), 4(f), (qq), (vv), 6(a), (b)

### **SB for 21/06/16 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. Refuse & Recycling**

Prior to the commencement of development, details of storage for refuse and recycling to be provided with the frontage, 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.

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.

### **03. Front boundary enclosure**

Prior to the commencement of development, details of a low brick wall (to match the red brickwork of the existing dwelling as closely as possible) to enclose the front forecourt shall be submitted to and approved in writing by the Local Planning Authority. The enclosure shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved.

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

### **04. Cycle storage**

Prior to the first use of the living space hereby approved, the secure and covered storage for 1 bicycle per property, including the robust locking mechanism securing the door

access, fitting of concrete floors and locking lugs/form of securing of a bicycle, shall be provided in accordance with the approved plans and shall be thereafter retained as approved.

Reason:

To encourage cycling as an alternative form of transport.

#### **05. Reinstate dropped kerb**

Prior to the first occupation of the living space hereby approved, the existing dropped kerb access adjacent to the converted garages shall be stopped up and reinstated to a full height kerb.

Reason: In the interests of protecting highway safety.

#### **06. Retention of communal spaces**

The living space hereby approved shall not be used as a bedroom whilst the property 1G is in C4 use.

Reason: To ensure that a suitable communal facilities are provided for the residents.

#### **07. Permission 01/01003/FUL**

Other than as outlined in the other conditions set out in this decision notice, the development shall continue to be in accordance with the requirements of the conditions 3, 8, 10, 11 outlined under application 01/01003/FUL. Furthermore, the remainder of the other properties not pursuant to this variation of condition application shall continue to be in accordance with conditions 4, 5 and 6.

Reason: For the avoidance of doubt and to ensure compliance with the original planning permission.

#### **08. Approved Plans**

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

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

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

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  
SDP9 Scale, Massing and Appearance  
H4 Houses in Multiple Occupation

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)  
Parking Standards SPD (September 2011)  
Houses in Multiple Occupation SPD (May 2016)

Other Relevant Guidance

The National Planning Policy Framework (2012)

15/01469/FUL/7641



**DETERMINATION OF APPLICATION**

**TOWN AND COUNTRY PLANNING ACT 1990**

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

Southern Planning Practice Ltd  
Mr Ian Donohue  
Youngs Yard  
Churchfields  
Twyford  
Winchester  
SO21 1NN

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:** Relief from conditions 4, 5 and 6 of planning permission 01/01003/FUL to allow conversion of garages for units 1G and 1H to provide additional living accommodation

**Site Address:** 1G and 1H Janson Road, Southampton SO15 5TA

**Application No:** 15/01469/FUL

For the following reason(s):

**01.REASON FOR REFUSAL - Residential Amenity**

There is a lack of evidence submitted with the application through the assessment of kerbside parking capacity within the local area to determine whether there would be a detrimental impact on amenities of neighbouring occupiers from residents being inconvenienced not being able to park their vehicles in close walking distance to their properties. As such, the proposal would be contrary to saved policy SDP1(i) of the Local Plan Review (amended March 2015) and policy CS19 of the Southampton Core Strategy Development Plan Document (2015) as supported by the guidance set out in Council's adopted Parking Standards Supplementary Planning Document (September 2011).

**02.REFUSAL REASON - Cycle Storage**

The conversion of the garages to habitable accommodation would prevent its use for cycle storage and it is not clear how the cycle storage needs of the dwellings would be accommodated. This is particularly due to the absence of external access to the rear gardens of the dwellings and the small front curtilage of the dwelling which could not comfortably accommodate further storage without resulting in either a cluttered frontage, that would harm the character of the street, or unacceptably enclosing the window to the proposed new room. As such, there is a lack of information to demonstrate the cycle storage could be provided in accordance with policies SDP1 and H7 of the Southampton Local Plan Review 2015 or policies CS13 and CS19 of the Southampton Core Strategy 2015 as supported by the Parking Standards Supplementary Planning Document (2011) and the Residential Design Guide Supplementary Planning Document (2006).



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

12 October 2015

For any further enquiries please contact:  
**Stuart Brooks**

**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>
S/236/2/ID/001	Location Plan	18.08.2015	Refused
S/285/2/ID	Block Plan	18.08.2015	Refused
S/285/4/ID	Floor Plan	18.08.2015	Refused






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## Appeal Decision

Site visit made on 17 March 2016

by Phillip J G Ware BSc DipTP MRTPI

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

Decision date: 30 March 2016

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**Appeal Ref: APP/D1780/W/15/3139950**

**1G and 1H Janson Road, Southampton SO15 5TA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Amjad Dbss against the decision of Southampton City Council.
  - The application Ref 15/1469/FUL, dated 13 July 2015, was refused by notice dated 12 October 2015.
  - The application sought planning permission for an amendment to previous permission 99/00893/FUL to "redevelop the site into 8 dwellings without complying with conditions attached to planning permission Ref 01/01003/FUL, dated 6 July 2005".
  - The conditions in dispute are Nos. 4, 5 and 6 which state that:
    - 4. The car parking area shown on the approved drawing shall be laid out and surfaced before the use hereby permitted commences and shall thereafter be kept clear and maintained at all times for that purpose.
    - 5. Before any dwelling unit hereby approved is occupied, both the on-site car parking and a proper vehicular access relating to it shall be provided to the satisfaction of the Local Planning Authority. The car parking shall thereafter be retained and not used for any trade, business and industrial use.
    - 6. The garages and/or parking spaces shown on the approved plans shall only be used in connection with the dwelling units hereby approved and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.
  - The reasons given for the conditions are:
    - 4. To prevent obstruction to traffic in neighbouring roads.
    - 5. To ensure provision of vehicular access and car parking, to avoid congestion in the adjoining area and to protect the amenities of the area.
    - 6. To ensure adequate on-site car parking provision for the approved dwelling units remains available for that purpose and to prevent parking on the adjoining highway.
- 

### Procedural matter

1. As part of the appeal the appellant submitted a revised plan which was said to show a cycle storage area within the front façade and details of the front gardens. In fact the revised plan, as agreed at the site visit, does not show front gardens. I have considered whether to accept this revision, bearing in mind that appeals should normally deal with the scheme as decided by the Council. In this case the revision is an important one, as it seeks to address one of the Council's reasons for refusal, and introduces elevational changes. The Council has not addressed the implications of this revision, and to accept it at this stage in the process could prejudice the position of the authority. The

appeal has therefore proceeded on the basis of the plans as decided by the Council.

### **Decision**

2. The appeal is dismissed.

### **Main issues**

3. There are two main issues in this case:
  - The effect of the proposal on the living conditions of residents in the area, in relation to the reduction of on-site car parking.
  - Whether the loss of cycle storage would be harmful in the light of policies aimed at promoting sustainable means of transport.

### **Reasons**

#### *The reduction in on-site parking*

4. The appeal premises are the end two of a terrace of eight townhouses, which are close to the junction of Janson Road and Shirley Road. Each property has a small integral garage and a small forecourt area where the Council states that refuse bins are normally stored. One of the properties is said by the Council to be a House in Multiple Occupation (HMO), whilst the other is a single dwelling. At the time of my visit the garages appeared to be in use for domestic storage and a bicycle (in one case). This section of Janson Road, close to the junction, has double yellow line parking restrictions.
5. The policy context is provided by the Local Plan Review (amended 2015) (LP) and the Core Strategy (2015) (CS). LP policy SDP1 seeks to protect amenity and policy CS19 sets out maximum car parking and minimum cycle parking standards. This is supported by a Parking Standards Supplementary Planning Document (2011) (SPD). The National Planning Policy Framework (the Framework) allows local planning authorities to set local residential parking standards.
6. The maximum car parking provision as set out in the SPD for dwellings of this size is two spaces per unit, although the SPD states that the parking standards do not apply to HMOs. The standards provide that less than the maximum provision is permissible, but that developers should demonstrate that a lower provision is sufficient.
7. In this case, the Council has stated that there is lack of evidence of kerbside parking capacity, and the authority is concerned with the inconvenience to residents who would be unable to park close by their properties. The Council has stated that parking demand is known to be high in this area, although this has not been supported by evidence<sup>1</sup>.
8. The appellant has referred to a survey dating from 2014 (prepared in connection with a separate development) which showed available on-street spaces in the area. The authority is concerned with the age of that survey and noted that it related to a new build scheme rather than a proposal related to the loss of existing facilities. However there is nothing to suggest that the

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<sup>1</sup> There is no highway safety issue in this case

situation has changed significantly since 2014, and I fail to see how the validity of the survey would be affected by the nature of the proposal being considered at that time. I therefore give the survey significant weight.

9. In addition, I note that the garages are agreed to measure 5 x 2.7 metres, which is significantly less than the SPD standard of at least 6 x 3 metres. Bearing this in mind, and having inspected both garages on site, I consider that it is most unlikely that they would ever actually be used for car parking, as a garage of these limited dimensions would not be practical for any but the very smallest cars.
10. Overall, the Council's parking standards (which only appear to apply to one of the appeal premises) are expressed as maxima, and the appellant has produced a survey which shows on-street parking availability. There is no evidence from the Council on this matter. In addition, the garages themselves are of such a size as to raise considerable doubt as to whether they would ever be used for parking. There is no evidence that, if additional on-street parking were to occur, this would harm residential amenity. For these reasons the proposal would not harm the living conditions of residents in the area, and would not conflict with the policies and guidance summarised above.

*The loss of cycle storage*

11. As mentioned above, CS policy CS19 and the SPD set out a minimum cycle parking standard of one secure space per dwelling. The submitted plans show a cycle rack against the back wall of each garage. The CS explains that the policy and standard is aimed at reducing unnecessary car use by encouraging the use of bicycles. This is in line with the overall approach towards sustainability as set out in the Framework.
12. The proposed loss of the existing cycle storage facility therefore runs directly counter to the relevant policies related to sustainable transport. Although there might be visually acceptable methods of storing bicycles at the premises, there are none before me. The Council has commented on the visual effect of some of the potential options, but equally these do not fall to be considered as part of this appeal.
13. For that reason, the proposed loss of cycle storage would be harmful in the light of policies aimed at promoting sustainable means of transport.

*Other matter and conclusion*

14. I have considered the Council's argument that the current proposal would set a precedent for similar schemes along the rest of the terrace. Whilst each application and appeal must be treated on its individual merits, I can appreciate the Council's concern that approval of this proposal could be used in support of a similar scheme. However, especially in the absence of any evidence of any such intention, this is not sufficient to affect my conclusion on either of the main issues.
15. Overall, although I have concluded that the loss of the car parking provision would be acceptable, this is clearly outweighed by the policy conflict related to the loss of cycle parking. Bearing in mind the importance of sustainable transport provision in national and local policy, I consider the proposal is contrary to the development plan as a whole.

16. For the reasons given above I conclude that the appeal should be dismissed.

*P. J. G. Ware*

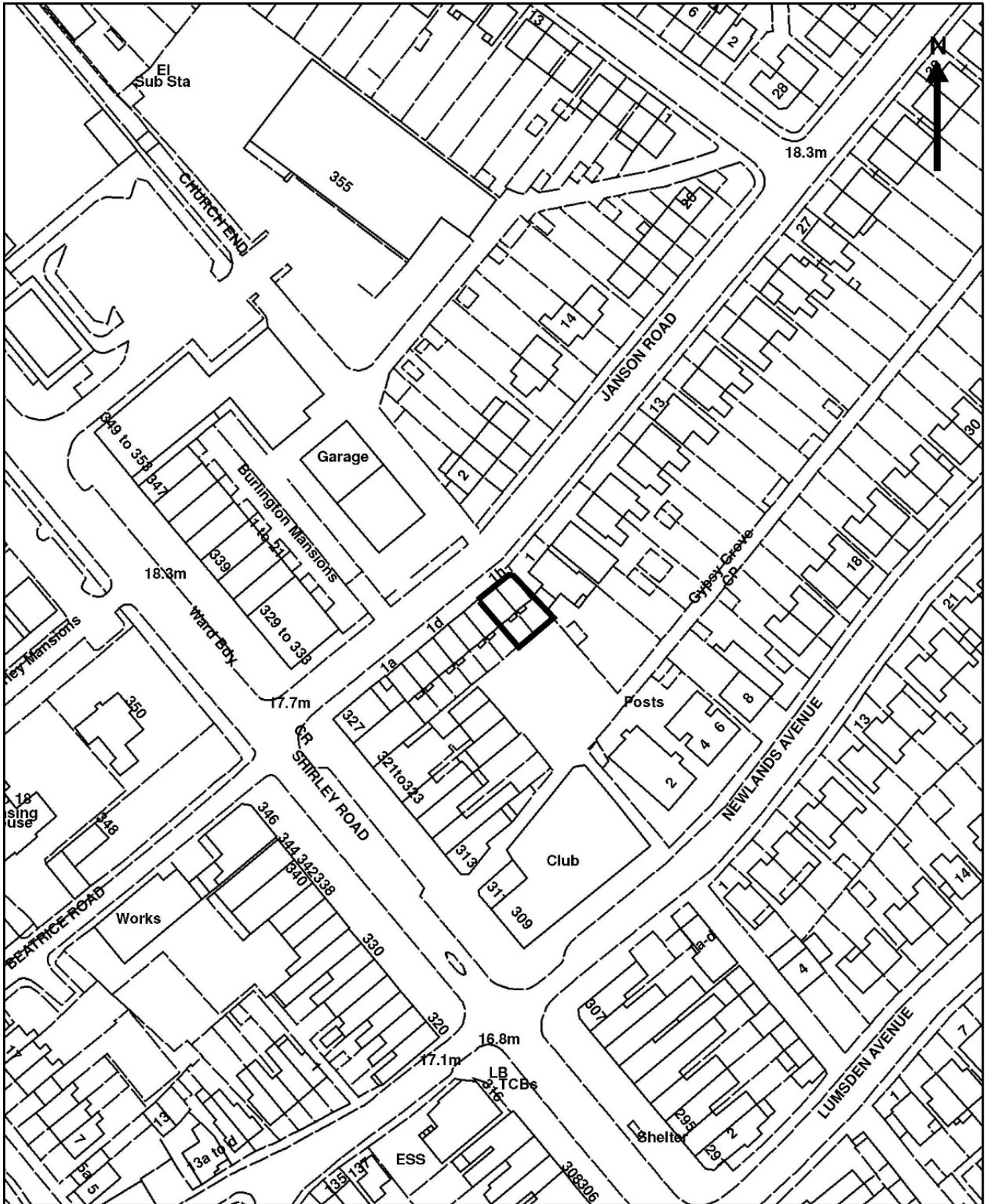
Inspector

**07/01965/VC** - The garages were first converted without planning permission in 2007. The applicant sought permission to convert the garages into living accommodation. This was refused on the grounds of highway safety and concerns with regards to vandalism of vehicles which would be parked on the street given its location near Shirley Road. At the time, there were highway safety concerns that on-street parking in front of the garages would cause interruption to the free flow of traffic given that there were no double yellow lines outside the townhouses to prevent on-street parking.

**08/01667/FUL** - Following a breach of planning control by partially converting the garages into living accommodation whilst retaining the garage doors, this application was refused as the same highway safety concerns still applied. The garages were subsequently converted back without any formal enforcement action being taken.

In 2009, it was found that there was a breach in planning control following the conversion of each separate townhouse into studio flats. Following the refusal of application 09/01133/FUL, the townhouses were converted back to single dwellings. Subsequent to this a number of the townhouses were then occupied as HMOs prior to the Article 4 direction coming into effect (introduced on March 23rd 2012 to remove permitted development rights to change from class C3 to C4 use). An enforcement notice was served in 2010 to remove the conservatories which was upheld at appeal. The conservatories were then granted permission following their reduction in size (ref no. 10/01301/FUL).

# 16/00738/FUL



Scale: 1:1,250

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**Planning, Transport & Sustainability Division  
 Planning and Rights of Way Panel 21<sup>st</sup> June 2016  
 Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 195 Midanbury Lane, Southampton			
<b>Proposed development:</b> Erection of a single storey side and rear extension (resubmission of 16/00177/FUL)			
<b>Application number</b>	16/00629/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>	14/06/2016	<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> GHD Partnership
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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 single 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

**Recommendation in Full**

**Conditionally approve**

## **1.0 Introduction**

- 1.1 The application proposes the erection of a single 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 and on the amenities of the host property in terms of an overdevelopment of the site.

## **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 close 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 and a detached outbuilding to the rear of the property; the conservatory will be demolished as part of these works.

## **3.0 Proposal**

- 3.1 The proposal is for a single storey side and rear extension to the north east elevation, wrapping around the rear.
- 3.2 The extension wraps around the building and would have a maximum width of 1.33m 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 flat roof with a height of 2.7m.
- 3.3 The rear aspect of the extension would be the same height as the side aspect and have a maximum depth of 5m from the original rear wall of the dwelling and would be built across the width of the host dwelling to the property boundary. It would replace the existing rear extension and would be constructed using facing brick and render to match the existing house.

## **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 SPD9(v) in terms of the impact on surrounding land use and local amenity.

4.6 These policies are supported by the guidance in the Council's approved Residential Design Guide (2006)

## **5.0 Relevant Planning History**

5.1 The relevant planning history is set out in detail in **Appendix 2**. There have been four 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 the impact of the extension on the street scene, on the 14<sup>th</sup> of December 2015.

5.3 Application ref:16/00177/FUL was refused at Planning Panel for two reasons. Firstly the two storey nature of the development making the extension appear over-bearing and oppressive to the detriment of the amenities of no.197 Midanbury Lane. Secondly that the proposals included a first floor bedroom with a side facing window which would *be obscure glazed that relied on light and outlook from the neighbouring property*. This was considered to be an inappropriate form of development as it would not allow for sufficient light and outlook to the proposed bedroom. The current proposals seek to address the latest reasons for refusal and have removed the first floor of accommodation.

5.4 There was also an enforcement enquiry at this site regarding a breach of planning control through the construction of an outbuilding in the rear garden. This breach was resolved and the enforcement case was closed on the 24<sup>th</sup> March 2016.

## **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**

The impact of the extension on the character of the area would be very limited as it would not be immediately visible in the street scene, being of single storey nature and being set back from the front of the property by 1.9m. It would therefore not be harmful to the character of the area.

### **6.1.2 Comment**

The proposed development would overlook neighbouring properties.

#### **Response**

The proposal includes a ground floor window to the side elevation which would face no.197 Midanbury Lane. It is considered that the 1.8m close panel fencing at the boundary of this site would sufficiently screen the neighbouring property from the view of this window. It should also be noted that ground floor windows

within the existing dwellings can be installed without the benefit of planning permission.

6.1.3 Comment

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

Response

The proposed extension would be single storey with a height of 2.7m, a single storey extension with a flat roof could be built up to 3m in height under permitted development criteria. Given the modest height of the extension it would not be considered to have an overbearing impact on the neighbouring properties. The application is therefore compliant with Local Plan Review Policy SDP1(i).

6.1.4 Comment

The proposals would result in an overdevelopment of the host property.

Response

The application proposes an extension with a depth of 5m extending out into the rear garden. It would retain around 50 sqm of usable amenity space within the rear garden, not including the recently built detached outbuilding. It is considered that this is a sufficient amount of garden space to serve a practical use to the property

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. Being single storey the extension is considered to be subservient in appearance and of an appropriate scale to integrate into the character of 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; and
- (ii) Impact on the amenities of local residents.

**7.2 Design Impact**

7.2.1 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. Development to the side of houses within the immediate street scene are limited to two small wooden outbuildings built up to the side of the host property.

7.2.2 The proposed extension would be of a single storey with a flat roof and a height of 2.7m. It would also benefit 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 retain the visual symmetry of the semi-detached pair and the visual continuity of the street scene.

- 7.2.3 The rear aspect of the extension would not be visible from publically accessible areas and is therefore not considered to have a harmful impact on the character of the area. The proposed flat roof design is considered suitable for a rear extension of this type in a suburban area, indeed there is a similar flat roof rear extension on the attached neighbouring property
- 7.2.4 It should be noted that the preceding application ref:16/00177/FUL for a similar scheme was not refused on the grounds that proposals would be out of character with the local area.
- 7.2.5 For these reasons officers are satisfied that the proposal meets the requirements of SDP7 and SDP9

### **7.3 Impact on the amenities of local residents**

- 7.3.1 As the proposed extension is of a single storey its impact in terms of outlook from and overshadowing of neighbouring properties is limited due to the modest height of the extension, and the presence of 1.8m close panel fences at both property boundaries which provide a degree of screening.
- 7.3.2 The extension would be built within 0.8m of the property boundary with no.197. The area between the two properties which would be impacted by this extension is a paved area which already has limited light due to the presence of the existing dwellinghouse at no.195, and it is not considered that the extension would contribute significantly to a harmful loss of light to this area due to its single storey nature. There are no habitable room windows on this side elevation of no.197 which would be impacted by the proposals. Therefore the amenities of no.197 are not considered to be unacceptably impacted.
- 7.3.4 The extension would only protrude 1.6m beyond the furthest rear elevation of an existing rear extension on the neighbouring property no.193. It would not breach the 45 degree outlook of any habitable room windows on this property, and as it would only extend a small distance beyond the furthest rear elevation, would be a single storey, and is located to the north of this neighbour, it would not have a harmful impact on the amenities of this adjoining neighbour.
- 7.3.5 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. As such, the proposal is judged to have an acceptable impact and 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 21/06/16 PROW Panel**

**PLANNING CONDITIONS**

**01. 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. 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.

**03. Restricted use of flat roof area (Performance Condition)**

The roof area of the extension hereby approved, which incorporates a flat roof surface, shall not be used as a balcony, terrace, roof garden or similar amenity area without the grant of further specific permission from the Local Planning Authority.

Reason: In order to protect the privacy of adjoining occupiers.

**04. 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.

**05. 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.

**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

Residential Design Guide (2006)

Other Relevant Guidance

The National Planning Policy Framework 2012

**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. Closed 24/03/2016.

**16/00177/FUL**

Erection of a part single-storey and part two-storey side and rear extension (revised scheme to 15/02113/FUL).  
Refused 15/04/2016.

**1. Unacceptable impact on amenity**

The proposed two-storey side extension, by means of its scale, massing and positioning directly adjacent to the boundary with the neighbouring property at no.197 Midanbury Lane, represents an unsympathetic and unneighbourly form of development that would harm the amenities of the neighbouring occupier. In particular, the extension would enclose southern boundary of the garden of no.197 Midanbury Lane, appearing over-bearing and oppressive

and reducing the quality of the adjoining garden space. The effect would be compounded due to the projection of the extension, further to the rear than the existing two-storey building line of the properties and the manner in which the extension would span almost the entire side boundary with no. 197. The proposal would, therefore, prove contrary to the following adopted development plan policies:

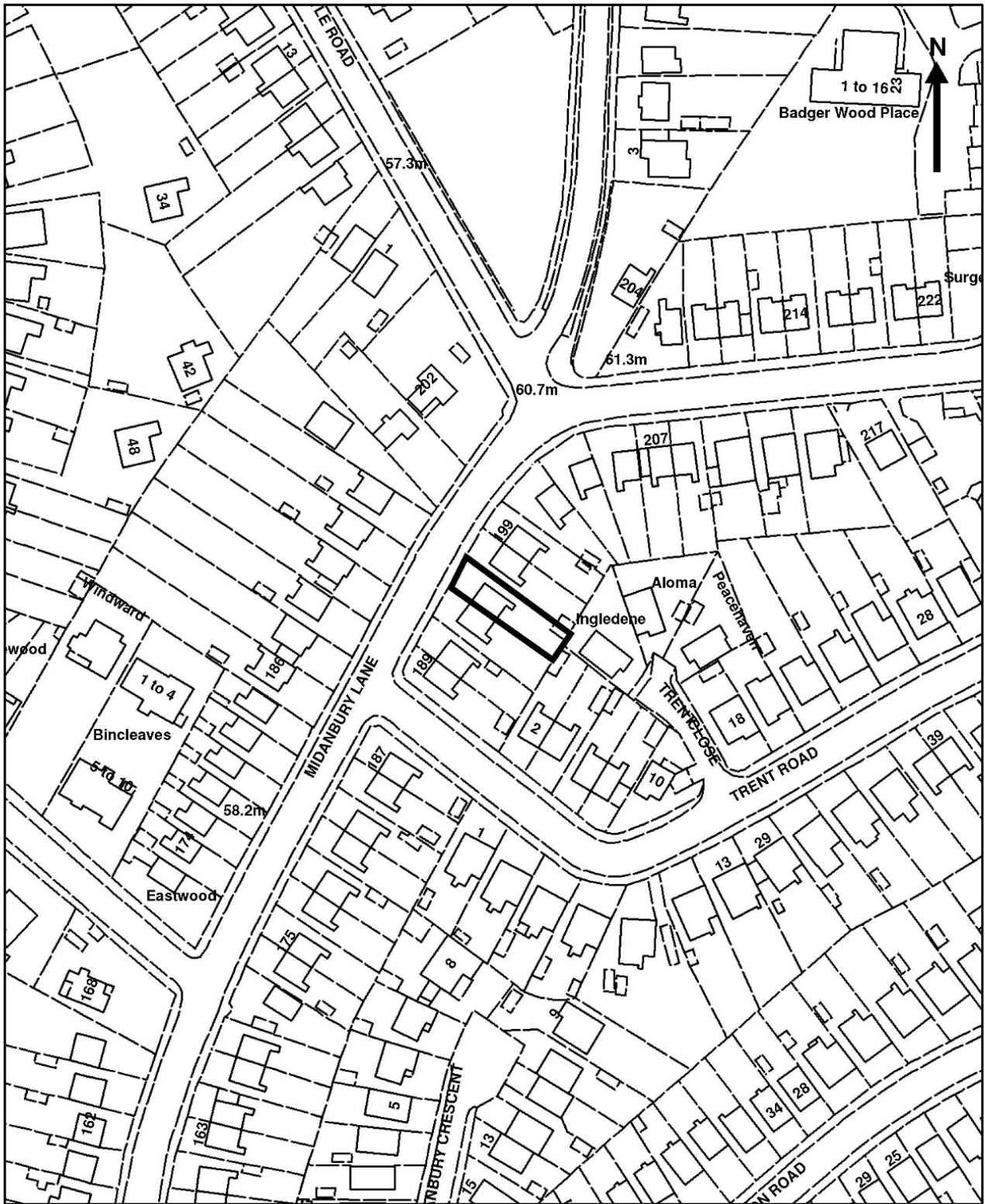
- Policy CS13 of the adopted Core Strategy (amended 2015) by not responding positively or integrating into the surroundings and that the scale of the development fails to 'place people first';
- Policy SDP1(i) of the City of Southampton Local Plan Review (amended 2015) by unacceptably affecting the amenity of the city's residents;
- Policy SDP9 (i) (v) by not respecting the site's surroundings in terms of the scale, massing and visual impact on local amenity and;
- The Residential Design Guide 2006 (adopted as a Supplementary Planning Document following full public consultation) with particular reference to paragraphs 2.2.1-2.2.2 which requires an appropriate gap to be maintained between extensions and neighbouring buildings and 2.2.18-2.2.19 and 2.2.21 which resists undue enclosure to garden space.

## 2. Poor Design

The proposal is designed with a new obscure-glazed bedroom window being positioned directly onto the boundary with no. 197 Midanbury Lane. Given the proximity to the neighbouring dwelling and the proposal for an obscure glazed window, this bedroom would not enjoy any outlook and have poor access to natural light. Furthermore, an alternative arrangement of a cleared glazed window would result in direct overlooking of the neighbouring property and a subsequent loss of privacy. In addition to this, relying on third party land for light and/or outlook is poor planning and could prove prejudicial to any future development of the neighbouring site. The proposed design would, therefore, result in a poor quality residential environment for occupiers of the application property and would fail to meet the Council's standards for high-quality residential design as set out by the following adopted development plan policies:

- Policy CS13 of the Southampton Core Strategy Development Plan Document (amended 2015) by not responding positively or integrating into the surroundings and that the scale of the development fails to 'place people first';
- Policy SDP1 (i) of the City of Southampton Local Plan Review (amended 2015) by unacceptably affecting the amenity of the city's residents;
- Policy SDP13 (iii) by failing to minimise the demand for resources;
- The Residential Design Guide 2006 (particularly section 2.2 which requires access to natural light and outlook from habitable room windows and separation between windows and boundaries with neighbouring properties to achieve this and to avoid overlooking).

# 16/00629/FUL



Scale: 1:1,250

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