

Southampton City Planning & Sustainability
Planning and Rights of Way Panel meeting 21 August 2012
Planning Application Report of the Planning and Development Manager

Application address: Carlton House, Carlton Place			
Proposed development: Change of use from offices to student residential accommodation (16 flats comprising 64 bedspaces) with alterations to the elevations - existing ground floor bars to remain.			
Application number	12/00520/FUL	Application type	FUL
Case officer	Steve Lawrence	Public speaking time	15 minutes
Last date for determination:	30.7.2012	Ward	Bevois
Reason for Panel Referral:	Departure from Development Plan	Ward Councillors	Cllr Burke Cllr Barnes-Andrews Cllr Rayment

Applicant: Valfex Ltd	Agent: Luken Beck Ltd
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Recommendation Summary	Delegate to the Planning and Development Manager to grant conditional planning permission subject to the criteria listed in this report, and upon no further representations having been received as a result of formally advertising the proposals as a departure from the City of Southampton Development Plan.
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Appendix attached			
1	Development Plan Policies	2	Appeal decision related to 08/01775/FUL

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 and clauses in the associated planning legal agreement have been applied in order to satisfy these matters. The development will enhance the character and appearance of the surrounding Carlton Crescent Conservation Area and preserve the setting of adjacent Listed Buildings. Whereas the proposals depart from Policy RE15 of the Local Plan Review and CS7 of the Core Strategy, the applicant has attempted to market this outdated office accommodation without success and given the degree of vacancy of office space generally in the city at this time, it is considered acceptable to allow an exception to RE15 and CS7 in this case. It is also noted that in the emerging City Centre Action Plan, Carlton Place properties are proposed to be removed from the aforementioned office safeguarding zoning. 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.

City of Southampton Local Plan Review (March 2006):-
SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13,
SDP16, SDP17, SDP21, SDP22, HE1, HE3, HE6, CLT5, H1, H2, H5, H7, H13 and MSA1

City of Southampton Core Strategy (January 2010):-
CS1, CS4, CS5, CS7, CS13, CS14, CS16, CS18, CS19, CS20, CS22 and CS25.

Recommendation in Full

Delegate to the Planning and Development Manager, that subject to no written representations being received by 5 pm. on 24.8.2012 against the proposals as a result of advertising the proposals as a departure from the Development Plan for Southampton, to grant planning permission subject to:-

1. the completion of a S.106 Legal Agreement to secure:
 - (i) In lieu of an affordable housing contribution an undertaking by the developer that only students in full time education be permitted to occupy the flats;
 - (ii) Management plan for moving students into and out of the building at the beginning and end of the academic year;
 - (iii) Installation of the 'box in a box' acoustic solution, provision for independent testing to verify the predicted noise levels to be achieved and no first occupation until such levels have been verified, with retention of said insulation works thereafter;
 - (iv) Owner undertakes to use powers under Landlord and Tenant Act to prosecute owners of either Seymours or Level 1 bars (or any other occupier) – in accordance with the submitted unilateral undertakings from each of those businesses and their successors in title - in the event that complaints are received about noise disturbance, where it can be substantiated that noise limiting levels in the bars sound amplification systems are exceeding the agreed levels. Such levels to be verified and equipment made secure from tampering before the first residential occupation of the building.
 - (v) Financial contributions towards the relevant elements of public open space required by the development in line with policies CLT5, of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) - Amenity Open Space ("open space");
 - (vi) Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (March 2006), policies CS18 and CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
 - (vii) Contribution toward public realm improvements;
 - (viii) Highways condition survey.
2. That the Planning and Development Manager be given delegated powers to vary relevant parts of the Section 106 agreement and to remove, vary or add conditions as necessary.

3. In the event that the legal agreement is not completed by 21 October 2012 the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

1.0 The site and its context

- 1.1 The existing building sits on the corner of Southampton Street and Carlton Place. It is four storeys high and in use as two bars and a small area of vacant office on the ground floor and vacant offices on 3 floors above.
- 1.2 It comprises a concrete frame with elevations of part brick, part panelled with metal framed double glazed windows. It has a dated appearance and is of no particular architectural merit. The City Centre Characterisation Study does not specifically mention this building, which is served by a car parking area (9 spaces) accessed from Carlton Place. The access also supports private parking to the rear of Carlton Crescent properties. The building partly oversails this car park. A free-standing, brick-faced, tiled roof, bin store sits by the entrance to the parking area.
- 1.3 The building is located within the city centre and is within the Carlton Crescent Conservation Area. The Cricketers pub lies to the west on the opposite side of Southampton Street, as is a Territorial Army building (former riding school) which is Grade II Listed. A covered way leading to parking for offices in Carlton Crescent, overtopped by hostel accommodation abuts to the north. Avondale House (also Grade II Listed) abuts to the east, containing another pub, with flats over. Commercial ground floor uses with flats over lie opposite to the south.
- 1.4 The site also lies within the defined 'night time zone' that is a mixture of late evening commercial uses and residential accommodation/flats, where midnight closing is advised by an informal officer briefing note with respect to Southampton's night time economy, when new late night use proposals come forward.
- 1.5 The site is in a very sustainable location with a range of town centre shops, services and facilities within walking distance, and regular buses running to both universities within the city. It is also within walking distance of the central station.

2.0 Proposal

- 2.1 The proposal involves refurbishing and extending the building at 3rd floor level to create bedrooms, bathrooms, kitchen and communal spaces within 16 flats, one on the ground floor and 5 flats on the first, second and third floors. Each flat has 4 bedrooms, 2 bathrooms and communal kitchen/seating areas.
- 2.2 A 'box in a box' acoustic solution is proposed to isolate the residential accommodation from the commercial uses at ground floor, such that 25 dB (A) can be achieved in bedrooms. This representing a 15 dB(A) improvement on the 'unmodified' building level of 40 dB(A). Unilateral undertakings have also been submitted by operators of the commercial uses, whereby the Landlord of the building would enforce under the Landlord & Tenant Act the commercial operators' requirement to keep noise from music limited to a level that the 40 dB (A) would always be achieved in the 'unmodified' building.

- 2.3 Some partial demolition is proposed at ground floor at the rear to create a small external common amenity space, part of which will undersail the building and be landscaped. This will include demolition of the existing free-standing bin store and its replacement by another, where the building is to be extended within the current undercroft.
- 2.4 A new entrance will be formed to the upper accommodation, with the existing entrance retained as a fire escape exit from the building.
- 2.5 The exterior of the building will also be refurbished and new windows and finishes employed to give the building a modern residential appearance, and an internal acoustic entrance lobby to the splayed entrance to Seymours Bar. (Originally proposed brise soleil to window openings have been deleted following objection from Historic Environment Team).
- 2.6 3 No. parking spaces will be retained for staff of the existing Seymours and Level 1 bars.
- 2.7 An amended ground floor layout plan has been submitted addressing Highways DM concerns about refuse store doors and adequate quantum of secure bike storage.

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 (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 2**. The site is located within the defined city centre, a defined ‘night-time zone’ and the Carlton Crescent Conservation Area. Policy RE115 states that there should be no net loss of office accommodation in this part of the city centre, supported by Policy CS7 of the Core Strategy. The proposals therefore represent a departure from the Development Plan. Although a favourable resolution would not need to be referred to the Secretary of State, the Planning and Development Manager does not have delegated powers to determine such applications.
- 3.2 The policies of the South East Plan, Southampton’s Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.
- 3.3 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. Having regard to paragraph 214 of the NPPF the local policies and saved policies listed in this report retain their full material weight for decision making purposes.
- 3.4 Major developments are expected to meet high sustainable construction standards in accordance with adopted Core Strategy Policy CS20 and Local Plan “saved” Policy SDP13.

4.0 Relevant Planning History

- 4.1 **1339/P21 R1** (CAP-11.02.1969) - Allowed for the construction of Carlton House – Erection of workshop, store, showrooms and offices.
- 4.2 **M29/1661** (CAP- 23.04.1985) - Change of use of part of ground floor from office to Wine Bar fronting Southampton Street. This became Seymours Bar: had previously been 'The Rock Garden' restaurant under earlier permission 1572/M40 granted 7.10.1980. Neither permission has any planning condition limiting hours of opening.
- 4.3 **901244/E** – (CAP - 21.11.1990) - Erection of single storey extension at third floor level.
- 4.4 **960756/E** – (CAP - 26.03.1997) – Replace existing windows with folding door and erection of canopy on Carlton Place elevation of Seymours Wine Bar. No restrictive conditions imposed as to folding doors.
- 4.5 **06/01338/FUL** - (CAP - 1.12.2006) – External alterations to the building including enhancement to existing facade, new access gates, railing, removal of bin store, upgrading existing car park and replacing existing footpath. This was implemented.
- 4.6 **07/01319/FUL** - (CAP - 1.07.2008) – Change of use from A1 (retail) to A4 (drinking establishment). This became Level 1: Hours 08.00-00.00 daily conditioned. Condition 3 required the submission of a soundproofing scheme. This has never been submitted.
Current case officer has written to proprietor to offer options and to query nature of use now being operated, which appears to now be a mixture of bar within Class A4 and dance club within Class D2. CLT14 says that D2 uses will not be supported in the late night zones. Entertainment licence granted by SCC also states closing times beyond planning permission granted.
- 4.7 **08/01775/FUL** sought to extend the midnight closing to 02.00, but was refused, then dismissed at Appeal 11.12.2009. **Appendix 2** reproduces that decision.
- 4.8 **08/01776/FUL** sought to physically extend the Level 1 bar into the undercroft. This was given permission, but was not implemented and now lapsed. This again imposed midnight closing daily.
- 4.9 **10/00045/FUL** Change of use of ground floor from office to bar and shopfront. Refused. 9.3.10. This is the element of ground floor offices, immediately north of Seymours, fronting Southampton Street, which now forms part of the submitted application accommodation.
- 4.10 **11/00669/FUL** - Change of use form offices to student residential accommodation (16 flats/64 bedrooms) existing ground floor bars to remain. (Withdrawn 11.7.11).

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 also undertaken which included notifying adjoining

and nearby landowners, placing a press advertisement (31.05.12 – and 3.08.2012) and erecting a site notice (24.05.12). At the time of writing the report **1 representation** had been received, but has subsequently been withdrawn in writing from the manager of adjoining residential accommodation.

5.2 **Consultee Comments**

5.2.1 **SCC Pollution and Safety Team** - An agreement to limit noise levels in the bars such that a level of 40 dB(A) is not exceeded in the unmodified building is inadequate because:

- Once the building is modified, compliance with the '40 dB(A) in the unmodified building' cannot be checked.
- It is essential that noise limits are specified in octave bands (63Hz and 125Hz). Not only dB(A).

5.2.2 Provided that the stated noise limits (25 dB(A) and NR25) are not exceeded in the flats then it is unlikely that the Council could substantiate the existence of a statutory nuisance. However, this is not really the appropriate test: the planning system would generally seek to ensure that noise levels in dwellings were lower than those that would be assessed as being a statutory nuisance. It is agreed that 'bass thump', if limited to the levels proposed (NR20) would be unlikely to awake a sleeping person. However, 'bass thump' is likely to be audible at these levels and could prevent an annoyed person going to sleep.

5.2.3 The legal agreements between the landlord and the tenants, *in their current form*, do not ensure that low-frequency noise levels will be restricted to defined limits.

5.2.4 It is recommended that permission can only be granted for this development if the following safeguards can be provided via clauses to an enforceable legal agreement. Adequate safeguards need to be put in place in respect of items (A) and (B) below. It depends on whether there is a means of ensuring that the detailed information (such as the numerical values of the limiting sound levels in the bars, and the specification of the sound limiters) being provided to the Council, and that the Council has the means of accepting or rejecting the landlord/tenant legal agreements, before the planning permission is granted/issued.

5.2.5 (A) A S.106 clause should be imposed requiring that the airborne sound insulation (sound level difference) between either bar and any habitable room is not less than the values presented in Table 2 (line 16) on page 25 of the Sandy Brown Associates Report dated 5 April 2012. This performance is to be demonstrated by a test carried out in general accordance with BS EN ISO 140 Part 4: 1998 by a qualified consultant approved by the Council. The test shall include measurements of sound insulation in the 63Hz octave band. No flat shall be occupied until compliance with the stated sound insulation values has been demonstrated to the satisfaction of the Council.

5.2.6 (B) The council needs to be satisfied that:

(i) The sound levels in the bars will at all times be limited to such levels as are required to limit noise levels in any habitable room in the flats (on ground, first or

higher floors) to a level not exceeding 25 dB LAeq, 5minute and the octave-band levels defined by the Noise Rating (NR) 20 curve (again expressed in terms of Leq,5 minute levels). The Council needs to be informed what these limiting levels are, to enable them to be monitored at any future date. It is essential that noise limits in the bars are defined in terms of levels in octave bands (including the 63Hz band) - (a limit in dB(A) only is of no value since the controlling factor will be the low-frequency noise (bass 'thump'. Currently, the Council has not been formally notified of these limiting noise levels)- ; and,

(ii) The noise-limiting devices incorporated in the music systems are or will be of a type capable of limiting sound levels in octave bands, including the 63 Hz band. The applicant's acoustic consultant has informed the council that as far as he knows the limiter in 'Level 1' is a simple dB(A) limiter which does not meet this requirement. The Council needs detailed information on the types and serial numbers of the noise limiters installed or to be installed. The Council also needs to be assured that the settings on the noise limiters cannot be accessed or tampered with except by a nominated individual (who shall be named) and that the limiter settings as referred to in (B)(i) will be retained at all times.

- 5.2.7 **SCC Housing Enabling Team** – No requirement for affordable housing if restricted to student occupancy through legal agreement.
- 5.2.8 **SCC Highways DM Team** – No objection, but moving in and out of students at the beginning and end of each academic year will need to be controlled by a management plan, to be agreed prior to first occupation, under planning legal agreement.
- 5.2.9 **SCC Ecology** - Minimal opportunities for bat access and consequently the probability of bat roosts being present is low. In addition, there is a lack of suitable foraging habitat in close proximity to the building. No objection.
- 5.2.10 **SCC Heritage Conservation** – No objection subject to removal of brise soleil (amended plans submitted to this effect). Conditions recommended to investigate archaeology.
- 5.2.11 **SCC Sustainability** - The current submission does not use the building regulations as a baseline to provide the % reduction through fabric as required. A standard energy conservation condition is recommended. As it is a conversion rather than a new build, code for sustainable homes is not required.
- 5.2.12 **Southern Water** – Public water main and sewer cross the site: construction must be set off the line of these to protect them. Informative to this nature encouraging developer to speak with SW to be put on decision. Pre-commencement condition suggested regarding details of drainage.

6.0 Planning Consideration Key Issues

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

1. Loss of 1660 sq.m of office accommodation, contrary to Local Plan Review (LPR) Policy RE115 and Core Strategy (CS) Policy CS7 and whether the provision of further student accommodation is justified under LPR Policy H13.

2. Whether it is appropriate to position residential accommodation over existing loud noise sources (LPR Policies SDP1 (i) and SDP16) and whether suitable living conditions/safe and uncontaminated living environment can be created generally in the way of supporting amenities such as bin storage, cycle storage and amenity space, having regard to the proposed density of use (LPR Policies SDP1 (i)/(iii), SDP5, SDP7, SDP10, SDP11, SDP17, CLT5 and CS Policies CS1, CS5, CS13, CS16 and CS19 as well as the relevant Residential Design Guide principles).

3. Whether the travel demands of the new residential occupants (and existing commercial occupiers of the building) are adequately met or suitable infrastructure contributions secured to mitigate for the impact (CS Policies CS18/CS25). Also Mitigating highways impact when students would move into and out of the proposed accommodation, being as only metered pay and display parking is available in Southampton Street.

4. Physical and visual impact of the works of extension/alteration/demolition upon the character and appearance of the Carlton Crescent Conservation Area (LPR Policies SDP1 (i), SDP7, SDP9, HE1, HE2, HE3, HE6 and MSA1 (v) and CS Policy CS14).

5. Mitigating for climate change and improving biodiversity.

6. Ensuring adequate water supply and capacity in public sewerage to serve the development.

6.1 Principle of Development

6.1.1 The applicant has tried to market these tired and outdated offices. The report by King Sturge concludes that this type of office accommodation is not favoured, not least because it does not enjoy supporting car parking, compared to modern out of centre office campus developments located off the M3 and M27. Sufficient evidence has been submitted to show the marketing of the development site since 2009 for office use.

6.1.2 Whereas such employment land would normally be safeguarded under the Development Plan, the NPPF now suggests that where evidence is brought forward to show the property has been marketed without success, a local planning authority can consider alternative use, especially where this would meet unmet housing need. There is a demand for accommodation of this type, which will also help to take pressure of established family housing areas in terms of pressure for HMO use. Within the Emerging City Centre Action Plan, the office safeguarding covering the application site is also proposed to be 'shrunk' to just cover Carlton Crescent.

6.2 Achieving a satisfactory living environment for occupiers of the flats

6.2.1 This issue had led to the withdrawal of application 11/00669/FUL. Several meetings have been held with the applicant and his agents, both pre and post submission of this revised application. No planning conditions were ever imposed on Seymours or Level 1 to limit the amount of noise emanating from those premises. Only Level 1 has a planning condition restricting hours of opening. It is understood that some noise mitigation measures have been secured through the

entertainment licences granted to each establishment.

- 6.2.2 The applicant has submitted a detailed acoustic report, which ultimately recommends that a 'box within a box' acoustic solution will provide an acceptable noise environment in all proposed habitable accommodation. Two examples of where such a strategy has been employed are given – Manchester and Croydon. Whilst these are not strictly or precisely comparable to the circumstances of this site and the noisy uses in each case have in some cases gone out of business, so not now operating, enquiries with those respective council's have not revealed subsequent noise complaints from those living/sleeping over/adjacent to those noise sources.
- 6.2.3 A package of mitigation is put forward and ultimately this will be delivered via the legal agreement to be signed by the applicant. Where delivered and verified through testing, the council's independent noise consultant has concluded that a satisfactory residential noise environment could be created, which would be unlikely to result in statutory noise nuisances being able to be substantiated. In particular, low frequency noise or what has been referred to as the 'bass thump' of amplified music, would be unlikely to wake a person from sleep.
- 6.2.4 The site is located within a recognised late night zone where such activity and movement of patrons around the area is already prevalent and part of the area's noise character.
- 6.2.5 Following consultation with the Crime Prevention Officer during the previous application, access to the building is now obtained from Carlton Place to the south-east of the building. This leads via a secure route to a new access to the rear of the building. This area, partially covered by the overhang of the existing building also provides access to bins, (with a separate access for collection purposes), post boxes and a manager's store. The emergency exit from the bar area is kept separate. These amendments are considered to address the crime prevention officer's previous concerns.
- 6.2.6 Level 1 bar is required to close at midnight daily under its planning consent. Whilst Seymours is not so controlled under planning legislation, its public entertainment licence provides for 02.30 closing on Thursday to Saturday, with 01.30 closing on Monday to Wednesday and 01.00 closing on Sundays.
- 6.2.7 The freeholder of the building has also exerted his powers under the Landlord and Tenant Act so as to have required the proprietors to have made unilateral undertakings under S.106 of the Planning Act to undertake to limit the amplified noise emanating from their premises to the extent that no more than 40 dB (A) be able to be measured in the unmodified building. The council's external noise consultant has observed that the limiting levels at source also need to be specified and not be able to be tampered with, so as to make the undertakings enforceable. This will be secured through the legal agreement to be signed by the Applicant. The applicant will also give a firmer undertaking to enforce the matter under the Landlord and Tenant Act, in addition to any planning enforcement the council would be able to take, should a breach of that level be proven.
- 6.2.8 Finally, the applicant has stated through his solicitor in writing that he is prepared to fit the entire 'box within a box' solution and to not allow any residential

occupation until the predicted levels have been verified with the council.

- 6.2.9 Under the above circumstances, it is concluded that it would be possible to create an acceptable residential noise environment to allow these normally incompatible land uses to sit 'cheek by jowl'.
- 6.2.10 Suitable and safe access to the residential accommodation is to be provided. Secure cycle storage is to be provided. A small, common private amenity space will be created and whilst this does not comply with the 20 sq.m/flat standard of the Residential Design Guide, city parks are close by and occupiers will have use of the recreational facilities provided by their university.
- 6.2.11 The density of the use is considered appropriate for this highly accessible city centre location and the outlook and natural light that will be achieved to habitable rooms is considered acceptable.
- 6.3 Meeting travel demands and ensuring congestion does not occur when students move in and out of the accommodation
- 6.3.1 The office accommodation would have originally created a demand for some 83 spaces at 1 space per 20 sq.m, so conversion to residential should lessen the potential number of trips being attracted to the site. The Local Plan Review does not prescribe a car parking ratio for this type of accommodation, albeit a ratio of one space per five cluster flats has been applied in other local planning authorities.
- 6.3.2 General needs flats of this size could provide a maximum of 13 car parking spaces in this City Centre location, which is not covered by the council's Parking SPD. In the event, the applicant is not proposing any car parking for the flats, but rather has reduced on-site parking to 3 cars, those serving the staff requirements of the 2 bars. Amended plans have been submitted showing 32 secure and covered bicycle parking spaces for the flats and some visitor bicycle parking too. Highways DM are satisfied with this level of provision.
- 6.3.3 The site is in the city centre with good access to public transport and a whole range of day to day amenities including the city parks. On that basis, a zero car parking solution for the flats – whose occupancy will be restricted to students by the S.106 – is acceptable. This agreement will also need to agree a management plan for when students move in and out of the building, to avoid congestion on the adjoining highway network. A condition is recommended to ensure the three parking spaces are available on moving in/out days as part of any strategy agreed in the planning legal agreement.
- 6.4 Visual impact within the Conservation Area and setting of adjacent Listed Buildings
- 6.4.1 The physical alterations to be undertaken have been reviewed by the Historic Environment Team. It is proposed that 3 colours of render will be used; grey, off-white and white, and windows will be grey. These alterations are considered appropriate to give the building a more residential appearance and are considered to have a positive impact on the character and appearance of the Conservation Area. Details/samples of materials will need to be agreed under a condition though. The removal of the current undercroft area will help to make the building

more secure and lessen potential for crime to occur in the area. The incorporation of the third floor roof terrace into the internal building floorspace is acceptable and continues the roof form established under permission 901244/E. Where partial demolition is proposed, reinstatement of exposed elevations will be made good with a simple rendered treatment.

6.5 Mitigating for climate change and improving biodiversity

6.5.1 The existing building currently:-

- Is heated via wall mounted fan convectors fed from wall hung gas fired boilers (2 per each floor). It has been estimated that the efficiency of the existing heating system does not exceed 80%,
- Has a hot water generated via local electric water heaters located on each floor,
- Uses lighting provided via a combination of compact fluorescent and T8 lamps,
- Is served via a number of local air conditioning units which provide comfort cooling to various areas of the building, and
- Uses energy from office equipment.

6.5.2 To comply with the current Building Regulation Part L28, it is proposed to improve the existing building fabric and also improve the efficiency of the proposed mechanical and electrical services. The proposed heating method for the new student accommodation is high efficiency condensing wall hung boilers (1 No, per Student Flat). It is proposed to use new low energy lighting.

6.5.3 The total estimated CO₂ emission for the existing office building has been calculated to be 67.24 kg CO₂ /m²/annum. The total estimated CO₂ emission for the proposed students accommodation building has been calculated to be 52.81 kg CO₂ /m²/annum.

6.5.4 A condition will be imposed to require energy efficient measures. The creation of the small landscaped common amenity space and landscaped strip to Southampton Street will enhance biodiversity on the site, also secured by conditions.

6.6 Ensuring adequate water supply and capacity in public sewerage to serve the development

6.6.1 Southern Water have not queried the capacity of public drainage to accommodate this refurbishment of the building

7.0 Conclusion

7.1 With the safeguards provided under the S.106 and planning conditions, the development is considered to be acceptable

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

1a-d, 2b-d, 3a, 4f, g, i, k, l, r, kk, uu, 5 (e), 6a, c, f, g, 7a, 8a, h, j and 9a-b

PLANNING CONDITIONS for 12/00520/FUL

01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works/Change of use

The development works and change of use hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason:

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

02. APPROVAL CONDITION - Approved plans

The development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority. In particular, where partial demolition is proposed to create the common amenity space, elevations shall be fully made good as detailed.

Reason:

To protect the character and appearance of the Carlton Crescent Conservation Area and the setting of adjacent Listed Buildings and for the avoidance of doubt and in the interests of proper planning.

03. APPROVAL CONDITION - Details of building materials to be used [Pre-Commencement Condition]

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

Reason:

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

04. PERFORMANCE CONDITION - Common amenity space and circulation areas

Before any of the flats hereby approved are first occupied, the common amenity space and circulation spaces shall be formed and made available for use by occupiers of the flats. In particular, the part of the site occupied by built form which is to be demolished relative to the private amenity space to be formed at the rear of the site shall be cleared, the exposed ground and compacted sub-soil cross ripped and clean topsoil imported to form the approved amenity space. Once provided, those facilities shall be maintained at all times thereafter.

Reason:

To provide a private amenity space for the occupiers of the flats and to ensure adequate and secure pedestrian access to the development and to ensure the exposed ground is properly aerated to successfully support soft planting.

05. APPROVAL CONDITION - Landscaping & lighting detailed plan [Pre-Commencement Condition]

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

- i. hard surfacing materials;
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants,
- iii. a landscape management scheme; and
- iv. external lighting to be provided to the common amenity space and covered internal circulation areas, including the secure bicycle storage point

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

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

Reason:

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

06. PERFORMANCE CONDITION - Car parking

The three car parking spaces shown on the approved site layout plan shall be surfaced and marked out prior to the first occupation of any of the flats hereby approved. Whereas the applicant has stated these spaces will serve the retained commercial uses at ground floor, provision shall be made to use these spaces to assist in the moving in and out of possessions belonging to students occupying the approved flats at the beginning and end of the academic year, as part of any management scheme to be agreed under the planning legal agreement signed in connection with this planning permission. Once provided, those parking spaces shall be retained for that purpose and shall not be used as an external storage area associated with the retained commercial uses.

Reason:

In the interests of highway safety and to secure a well planned development, so as to protect the character and appearance of the Carlton Crescent Conservation Area.

07. PERFORMANCE CONDITION - Acoustic lobby

Before any of the flats are first occupied, the internal acoustic lobby proposed for Seymours Bar shall be fully fitted out. Once so installed, that acoustic lobby shall be retained at all times thereafter.

Reason:

To secure a package noise reduction measures to protect the amenities of occupiers of the proposed flats and the character of the Carlton Crescent Conservation Area in general.

08. PERFORMANCE CONDITION - Refuse and secure bicycle parking facilities

Before any of the flats are first occupied, the facilities shown on the approved plan relating to the storage/disposal/recycling of refuse and the securing parking of bicycles shall be fully implemented and made available for use. Once so provided - whether serving the residential or commercial elements of Carlton House - those facilities shall be retained at all times thereafter for those purposes. This shall include a minimum of 32 bicycle parking spaces to serve the flats and two cycle stands to serve those visiting the building generally.

Reason:

In the interests of amenity and to promote sustainable forms of travel.

09. APPROVAL CONDITION - Archaeological investigation [Pre-Commencement Condition]

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

Reason:

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

10. APPROVAL CONDITION - Archaeological work programme [Performance Condition]

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

Reason:

To ensure that the archaeological investigation is completed.

11. PRE-COMMENCEMENT CONDITION - Drainage

Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved by the local planning authority in writing. Once approved, the works shall be carried out in full accordance with the agreed details.

Reason:

In the interests of amenity and public health.

12. APPROVAL CONDITION - Sustainability statement implementation [Pre-Occupation Condition]

Prior to the first occupation of the development hereby granted consent, the approved sustainability measures shall be implemented unless otherwise agreed in writing by the Local Planning Authority.

Reason

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

13. APPROVAL CONDITION - Energy (Pre-Commencement Condition)

Notwithstanding the submission of the report reference J2110304/2AIOI/Energy prepared by Henderson Green limited and dated April 2011, further written documentary evidence demonstrating that the development will at minimum achieve a 20% reduction in CO₂ emissions [as required in core strategy policy CS20] over part L of the Building Regulations shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted. Technologies that meet the agreed specifications must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter.

REASON:

To reduce the impact of the development on climate change and finite energy resources and to comply with adopted policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

14. APPROVAL CONDITION - Hours of work for Demolition / Clearance / Construction [Performance Condition]

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 hours to 18:00 hours (8.00am to 6.00pm)

Saturdays 09:00 hours to 13:00 hours (9.00am to 1.00pm)

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.

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

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

Reason:

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

16. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been

identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority. Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority. Any changes to the agreed remediation actions will require the express written consent of the Local Planning Authority.

Reason:

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

17. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]

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

Reason:

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

Note to Applicant

This application has been inspected by Southern Water. Its comments dated 6 June 2012 are attached. Please contact Southern Water on 01962 858 688 to discuss this project and Southern Water's requirements, further before commencing works on site.

Relevant Development Plan Policy

The application needs to be assessed in the light of the following local planning policies:

City of Southampton Local Plan Review - Adopted Version March 2006

Major Sites and Areas

MSA 1 City Centre Design

Sustainable Development Principles

SDP1 (Quality of Development)
SDP4 (Development Access)
SDP5 (Parking)
SDP6 (Urban Design Principles)
SDP7 (Context)
SDP8 (Urban form and Public Space)
SDP9 (Scale, Massing and Appearance)
SDP10 (Safety and security)
SDP11 (Accessibility and movement)
SDP12 (Biodiversity and landscape)
SDP13 (Resource Conservation)
SDP16 (Noise)
SDP17 (Lighting)
SDP21 (Water quality and drainage)
SDP22 (Contaminated land)
HE1 (Development in Conservation Areas)
HE2 (Demolition in Conservation Areas)
HE3 (Development affecting the setting of Listed Buildings)
HE6 (Archeological Remains)
CLT5 (Open space in new residential developments)
(NB CLT6 not applicable as S.106 will limit occupation to students in full time education only)
CLT14 (only insofar as may be an enforcement issue with current use of part of the site)
H1 (Housing supply)
H2 (Previously developed land)
H5 (Conversion to residential use)
H7 (Residential environment)
H13 (New student accommodation)
RE15 (Safeguarding office accommodation)
MSA1 (City centre design)

Core Strategy - (January 2010)

CS1 (City centre approach)
CS4 (Housing delivery)
CS5 (Housing density)
CS7 (Safeguarding employment sites)
CS13 (Fundamentals of Design)
CS14 (Historic environment)
CS15 (Affordable housing)

CS16 (Housing mix and type)
CS18 (Transport: reduce-manage-invest)
CS19 (Car and cycle parking)
CS20 (Climate change)
CS22 (Promoting biodiversity)
CS25 (Infrastructure contributions)


Supplementary Planning Guidance

Residential Design Guide (18 Sep 2006)
City Centre Urban Design Strategy
Development Design Guide
City Centre Characterization Study
Draft City Centre Action Plan (Policy No.2)
Carlton Crescent Conservation Area Guidelines
Informal Officer briefing note on the night time economy
Planning Obligations (August 2005 and amended November 2006)

Other Relevant Guidance

Central Government Guidance and Advice

NPPF (2012)

	<h2 style="text-align: center;">Appeal Decision</h2> <p style="text-align: center;">Site visit made on 26 November 2009</p> <p style="text-align: center;">by D G Hollis BA DipTP MRTPI</p> <p style="text-align: center;">an Inspector appointed by the Secretary of State for Communities and Local Government</p>	<p>The Planning Inspectorate 4/13 Eagle Wing Temple Quay House 1 The Square Temple Quay Bristol BS2 6PN</p> <p>☎ 0117 373 6372 email: enquire@opa.osi.gov.uk</p> <p>Decision date: 11 December 2009</p>
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Appeal Ref: APP/D1780/A/09/2109322

Level One, Carlton House, Carlton Place, Southampton SO15 2DZ

- 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 Viper Leisure Limited against the decision of Southampton City Council.
- The application Ref 08/01775/FUL, dated 19 December 2008, was refused by notice dated 16 February 2009.
- The development proposed is "variation of condition 2 of 07/01319/FUL to allow extended opening hours for the ground floor bar on Fridays and Saturdays from 8am to 2am (the following day)".

Decision

1. For the reasons given below, I dismiss the appeal.

Main issue

2. Having visited the site and locality, and taken account of the written representations, I consider the main issue in this appeal to be whether the proposed extension to opening hours would cause significant detriment to the living environment of local residents.

Reasons

3. From my visit to the locality, as well as the submitted statements, I am aware that the immediate area to the appeal property consists of a mix of commercial uses, as well as residential properties. A short distance away there are significant areas of housing. The appeal premises are within the Carlton Crescent Conservation Area; they are also in an area designated as a late night zone and as such are subject to Policy CLT14 – Night Time Economy, and the Council's Guidelines for opening hours.
4. When considering Policy CLT14, the Local Plan Inspector recorded that residents of North of the Park Area (alternatively known as London Road (Bedford Place) area), in which the appeal premises are located, complained of late night noise, anti-social behaviour, vandalism and litter and attributed that to drinking establishments and late opening takeaway uses. Residents were said to oppose any more night clubs and that Policy CLT14 would satisfy their objections. However, the Inspector did mention that the strategy would only apply to new proposals and any change would happen gradually.
5. The Council's Guidelines state that they are not to be taken as hard and fast rules and each case should be judged on its merits. But, the Council is

attempting to set some form of limitation on opening hours for such establishments throughout Southampton; in particular, it is suggested the London Road (Bedford Place) area should only have opening hours extending to midnight. To this end, the Council claim they have been consistent in their decisions and that has been supported by three appeal decisions in London Road, 16/17 Carlton Place and 28 Carlton Place. However, one appeal at 24 Carlton Place was allowed and the premises are able to open until 2am. In that case, the Council suggest they did not submit a statement to explain the issues and cumulative effects of increased opening hours. Those circumstances seem to be noted in the Inspector's decision letter where he refers to not having details to support the Council's assertions or a study of opening hours.

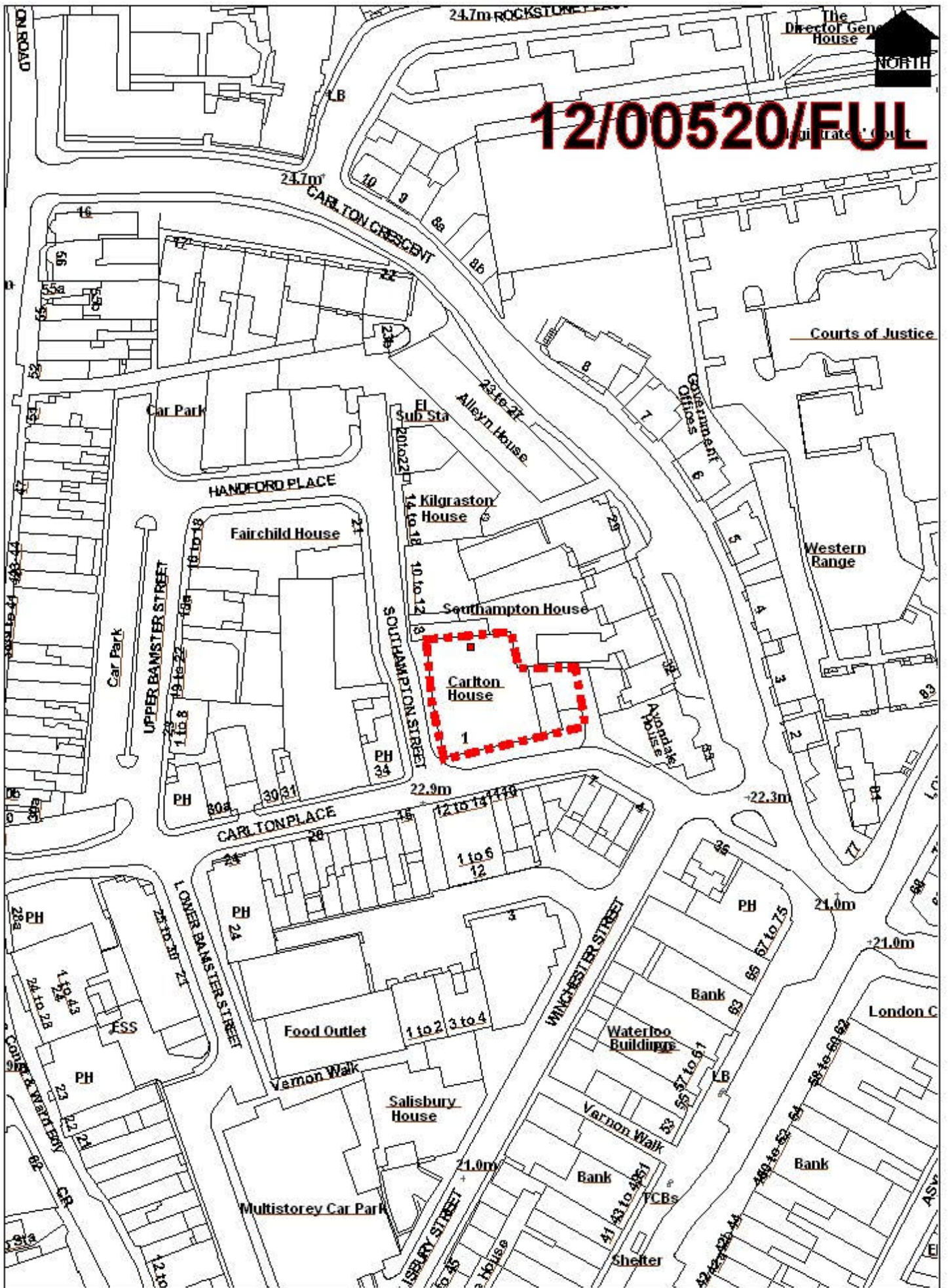
6. In view of all of these circumstances, I can understand the concerns of residents in the immediate and wider areas to protect their living environment, particularly from noise and disturbance in the early hours of the morning. Whilst I have only received objections from one person, the correspondence does indicate to me that there has been considerable concern expressed by residents locally, as well as from local Councillors and Mr John Denham MP. Furthermore, in paragraph 5.14.8 of the Local Plan Report, the Inspector expressed great sympathy for residents in respect of anti-social behaviour from persons returning home late at night. In the following paragraph, it was said that the Council's initiatives were a step in the right direction and there should be an improvement in the wellbeing of persons living nearby.
7. It therefore seems to me that there needs to be a reasonable balance between the activities of the various commercial uses in the area and a proper living environment for residents. I have noted the various measures taken locally in order to mitigate anti-social behaviour, but in my view, the measures mentioned by the appellant are unlikely to overcome any noise or disturbance from persons walking home through areas containing housing in the early hours of the morning. I also acknowledge the considerable efforts of the appellant in managing various premises in a responsible manner. But again, the appellant would have little control over noise or disturbance from customers outside or near to the appeal premises.
8. From the submitted statements and my own observations, it is clear that there are a number of night-time uses in the area that may historically have longer opening hours than the appeal property; other premises are said to be operating in breach of their planning conditions. Clearly, in respect of the latter examples, I would have thought that the Council should consider enforcement action in appropriate cases. The former cases will of course take longer to resolve and although Premises Licences are considered under other legislation, it would be open for the Committee of the Council dealing with such matters to consider the effects of opening hours.
9. Of course, as the appellant correctly points out, instances of noise or disturbance cannot be attributed directly to the appeal property and the way the business is operated. But what concerns me is the cumulative impact of an intensification of late night uses in this locality from an extension of opening hours. In the case of the current appeal, it is requested that opening hours are extended to 2am on the following day on Fridays and Saturdays. I note that the Inspector in the appeal at 24 Carlton Place considered any noise or disturbance problems would be a collective issue and that the opening hours of

that property would be no worse due to the concentration of such activities in this part of the City. But in my opinion, what is likely to happen by permitting further late night opening hours, would be an intensification of the problems and disturbance from commercial uses and the likely and subsequent cumulative effect upon residents, particularly at a time of the day when residents should be able to expect a period of quiet and rest.

10. The appellant claims that due to the existence of many other premises in the area already opening to 2am, the present proposal would make little difference to alleged "harmful disturbance". I disagree. Should the current appeal premises, as well as those that the Council and other Inspectors have resisted in having later opening times, be permitted to open to 2am, I consider such circumstances would create a significant cumulative disturbance to local residents at a time when many people are trying to sleep. To my mind, the Council is correct in trying to limit opening hours in circumstances where residential uses are either intermingled or near to areas designated as late night zones in order to achieve a reasonable balance between the commercial activities in the area and a proper living environment for residents. It is my conclusion that in that way it may be possible to achieve a reasonable harmony between the various uses.
11. Government planning policy also seeks to secure a better quality of life for the community as a whole and that planning decisions should be based on the potential impacts of proposed developments upon the urban environment in both cumulative and long-term circumstances. For the reasons I have given, I am not satisfied that the additional opening hours proposed would avoid a cumulative and significantly detrimental effect upon the living environment of local residents. As far as the question of the conservation area is concerned, bearing in mind that I have found the cumulative effects of the opening hours of various commercial uses and the proposed development would be significantly detrimental to the living environment of local people, I also consider the proposed development would fail to preserve the character of the locality.
12. I have taken into account all other matters raised in the written representations, but none was sufficient to outweigh the conclusions I have reached.

D G Hollis

Inspector



12/00520/FUL

Scale : 1:1250

Date : 09 August 2012

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