

**Planning, Transport & Sustainability Division
 Planning and Rights of Way Panel 25 June 2013
 Planning Application Report of the Planning and Development Manager**

Application address: 20 Obelisk Road SO19 9BN			
Proposed development: Retrospective Change Of Use From Sandwich Shop (Class A1) To Cafe (Class A3)			
Application number	13/00581/FUL	Application type	FUL
Case officer	Stuart Brooks	Public speaking time	5 minutes
Last date for determination:	23.05.2013	Ward	Woolston
Reason for Panel Referral:	Referred by the Planning and Development Manager	Ward Councillors	Cllr Cunio Cllr Payne

Applicant: Mr Colin Gaylor	Agent: n/a
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Recommendation Summary	Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report
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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 regularisation of the cafe use is not considered to adversely affect the character and amenity of the local area, and highway safety, given the scale of the business in terms of opening hours and type of foods cooked, and its ancillary elements. 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, SDP5, SDP16 of the City of Southampton Local Plan Review (March 2006) and CS13, CS18, CS19 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

Appendix attached			
1	Development Plan Policies	2	Planning History
3	Plan from permission ref. no.1431/70R1	4	Decision notice 06/00497/FUL
5	Cafe menu		

Recommendation in Full

Delegate to the Planning and Development Manager to grant planning permission and that the Planning and Development Manager be given delegated powers to remove, vary or add conditions as necessary.

1.0 The site and its context

- 1.1 This application site is located in Woolston on the south side of Obelisk Road. The surrounding area mainly consists of 2 storey semi detached and detached dwellings in a residential street, with a group of commercial buildings to the west along Obelisk Road at no. 18 and further to the east at no. 129 as well as the 'Obelisk Pub'. The boundary of the Old Woolston 1 Conservation Area lies immediately to the west of the site.
- 1.2 The application site contains a 2 storey semi detached property with a cafe (class C3 use) on the ground floor, and flat above with its own separate access to the rear. There is evidence that the site has operated as a café for some time but no planning records to indicate this has been with the benefit of planning permission.

2.0 Proposal

- 2.1 Following an enforcement investigation, the applicant is seeking to regularise the use of the building as a café (A3 Use). A bin storage area has been added at the front of 20b Obelisk Road and is included within the red line of the application site. At the present time no commercial hot food cooking processes are carried out at the premises, such as deep fat frying or cooking spicy foods. Therefore at the present time there is no requirement or proposals for the installation of external ventilation equipment.
- 2.2 The proposed opening hours for the sale of food to customers and deliveries of food in connection with the café are as follows:

07.30 hrs - 1600 hrs Monday to Friday
09.00 hrs - 1500 hrs Saturday

The catering and buffet service, and takeaway/delivery of café food are ancillary parts of the business, where the primary use is class A3 café.

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 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 Saved policy SDP1 (Quality of development) of the Local Plan Review allows development, including a change of use, subject that it does not unacceptably affect the health, safety and amenity of the city and its citizens, where the use should have no adverse impact on the amenity on local residents from noise generation and cooking odours. Saved policy SDP16 (Noise) allows development,

providing it does not cause an undue noise disturbance to noise sensitive uses such as residential properties.

4.0 Relevant Planning History

- 4.1 The planning records (see **Appendix 2**) show that since 1974 the ground floor premises was established as a butchers (class A1 use). Without the need for planning permission, the premises was later converted into a sandwich shop within the A1 use class prior to becoming a café at the present date.

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, and erecting a site notice (18.04.2013). Amended plans have been received to alter the red line of the application site to include space for bin storage at the front of 20b Obelisk Road, where a further 14 day consultation period was carried out notifying the objectors (13.05.2013), and subsequently the other neighbour's originally consulted (6.6.2013).

At the time of writing the report **67** representations have been received from surrounding residents. This includes:

4 letters of objection from the same household and a request from a Ward Councillor to refer the application to panel.

62 letters of support.

Any additional representations made will be verbally reported to the panel meeting.

The concerns raised, which form valid planning considerations, have been set out below:

5.2 Comment

The proposed and existing ventilation extraction is not sufficient to mitigate the cooking odours.

Response

The Environmental Health Officer has commented that the current cooker hood filter is appropriate for the current usage. See **Appendix 5** for a copy of the cafe menu. External ventilation system with grease and carbon filters will only be required if there is any increase in the throughput and the types of foods, such as curries. To minimise the emission of cooking odours, the type of foods cooked and on sale are limited in accordance with the existing food menu, and no commercial cooking processes shall take place.

5.3 Comment

The opening hours are not appropriate in a residential area.

Response

The Environmental Health team have raised no objection. The hours are considered reasonable for a residential area, which are not late night or early

morning.

5.4 Comment

There has been an extension to the rear of the shop without planning permission earlier this year, which takes the space from the flat above.

Response

A plan from permission ref. no. 1431/70R1 (see **Appendix 3**) shows that this area was an extension to a shop in 1973.

5.5 Comment

Loss of amenity to occupiers of 57 Obelisk Road due to overlooking of their front garden from customers sitting in the front window and the pavement table and chairs.

Response

It is not considered that the front to front overlooking will harm the privacy of no. 57. The change of use of the pavement (within the applicant's ownership) for table and chairs (in connection with the A3 use) is not included in this application, as it is not incorporated in the red line of the application site.

5.6 Comment

A similar application (ref no. 06/00497/FUL) was refused in 2006 for a change of use from retail (use class A1) to restaurant (class A3) and hot food takeaway (class A5). The application was refused due to the impact on residential amenity, resulting from the noise disturbance as result of activities and traffic associated with customers (see **Appendix 4**).

Response

The Environmental Health Officer raised no objection to the impact on the amenity of local residents in terms of the hours of operation and small scale of the business. Although there is no record of the hours applied for in the refused application, this application is not applying for a late night takeaway use.

5.7 Comment

It is not clear whether Snack Shack is operating as a takeaway, as the business promotes burgers and deliveries. The additional hours of the buffet business will cause a noise disturbance to local residents and adjoining occupiers. There was a Sunday charity event, which was a noisy event where people spilled onto the adjacent street, and this use does not fall within the A3 cafe use.

Response

The business is predominantly serving customers eating in. The takeaway and delivery part of the business is a secondary, ancillary element to the primary use of the site as café. The buffet service is not classed as an A5 takeaway in terms of customers collecting cooked food orders, however, is classed as catering which is also an ancillary element. Therefore, the business type, if it continues to operate in its current manner, will not fall outside the A3 use class. A condition will be applied in connection with cooking odours to limit the type of foods cooked and on sale in accordance with the existing food menu.

5.8 Comment

A Sunday charity event was a noisy event where people spilled onto the streets,

and does not fall within the A3 class.

Response

This was a one off event and the applicant has confirmed that they will no longer hold charity events.

5.9 Comment

The expansion to the front driveway for refuse storage will be out of keeping in a residential area. The property owner has not given permission for this.

Response

The area will be set back off the street to ensure that the bin required is not obstructing the highway, the type of wheelie bin and its location is not out of keeping with the character of the residential area. This will regularise the bin storage and ensure it has its own space separate to the residence of no. 20b, which will be secured by condition following the extension of the application red line.

5.10 **SCC Highways** - No Objection.

5.11 **SCC Environmental Health (Food Safety)** – No objection.

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 amenity and character of the local area
- Impact on highway safety

6.2 Principle of Development

6.2.1 In principle, it is considered that the re-use of the commercial building (A1 use class) is acceptable subject to the imposition of conditions to safeguard local amenity. It should also be noted that under the permitted development rights recently introduced by the Government on 30th May 2013, the cafe can operate for a period of up to 2 years without planning permission, but then must revert back to its lawful use as a shop after that period. As the applicants wish to continue operating on a permanent basis planning permission is required.

6.3 Impact on the amenity and character of the local area

6.3.1 The surrounding area is predominantly residential with a small amount of commercial premises along Obelisk Road. A commercial premises is not uncommon in a residential street such as Obelisk Road, and the cafe replaces a previous shop use.

6.3.2 Given the small size of the cafe, the type of foods cooked, the proposed daytime hours, and including the ancillary buffet and takeaway elements, it is considered that this use will be appropriate in the residential area and will not adversely affect the amenity and character of the local area. Furthermore, the Environmental Health Officer has raised no concern with regards to the current business in terms of the food cooked and odours emitted, hours, and scale. A condition has been

applied to ensure that no commercial cooking processes shall take place, and only the foods shown on the existing menu (see **Appendix 5**) shall be cooked.

6.4 Impact on Highway Safety

6.4.1 The commercial waste bin is currently stored on the highway. The application site red line has been extended to incorporate the front area adjacent to the cafe within the front garden of no. 20b. The wall will be removed to allow the storage of the commercial waste bin with a direct and level access to the pavement, which will ensure there is no obstruction to the highway. A condition has been applied to ensure these works are carried out within 1 month of the decision. The Highway Officer has raised no objection to the impact on highway safety and, therefore, it is considered that there will be no adverse impact on highway safety.

7.0 Summary

7.1 In summary, the regularisation of the cafe use is not considered to adversely affect the character and amenity of the local area, and highway safety, given the scale of the business in terms of opening hours and type of foods cooked, and its ancillary elements.

8.0 Conclusion

8.1 In conclusion, the application is considered to have an acceptable impact and therefore is recommended for conditional approval.

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

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(vv), 6(c), 7(a), 9(a), 9(b).

SB for 25/06/13 PROW Panel

PLANNING CONDITIONS

01. APPROVAL CONDITION - Hours of Use [Performance Condition]

The A3 cafe use hereby permitted shall not operate (meaning that customers shall not be present on the premises sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

Monday to Friday 07.30 hours to 16.00 hours (7.30am to 4.00pm)

Saturday 09.00 hours to 15.00 hours (9.00am to 3.00pm)

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.

Reason:

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

02. APPROVAL CONDITION - Refuse storage and collection [Performance Condition]

Within 1 month of the date of this decision notice, adequate space for the refuse storage with direct and level access to the highway shall be provided to the front of 20b Obelisk Road within the red line of the application site. Unless otherwise agreed by the Local

Planning Authority, except for collection days only, no refuse shall be stored to the front of the building.

Reason:

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

03. APPROVAL CONDITION - Cooking of foods [Pre-Commencement Condition]

No commercial cooking processes shall take place on the premises hereby approved. Unless otherwise through the determination of a planning application, the cafe shall only cook the foods shown on the existing menu.

Reason:

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

04. APPROVAL CONDITION - Approved Plans

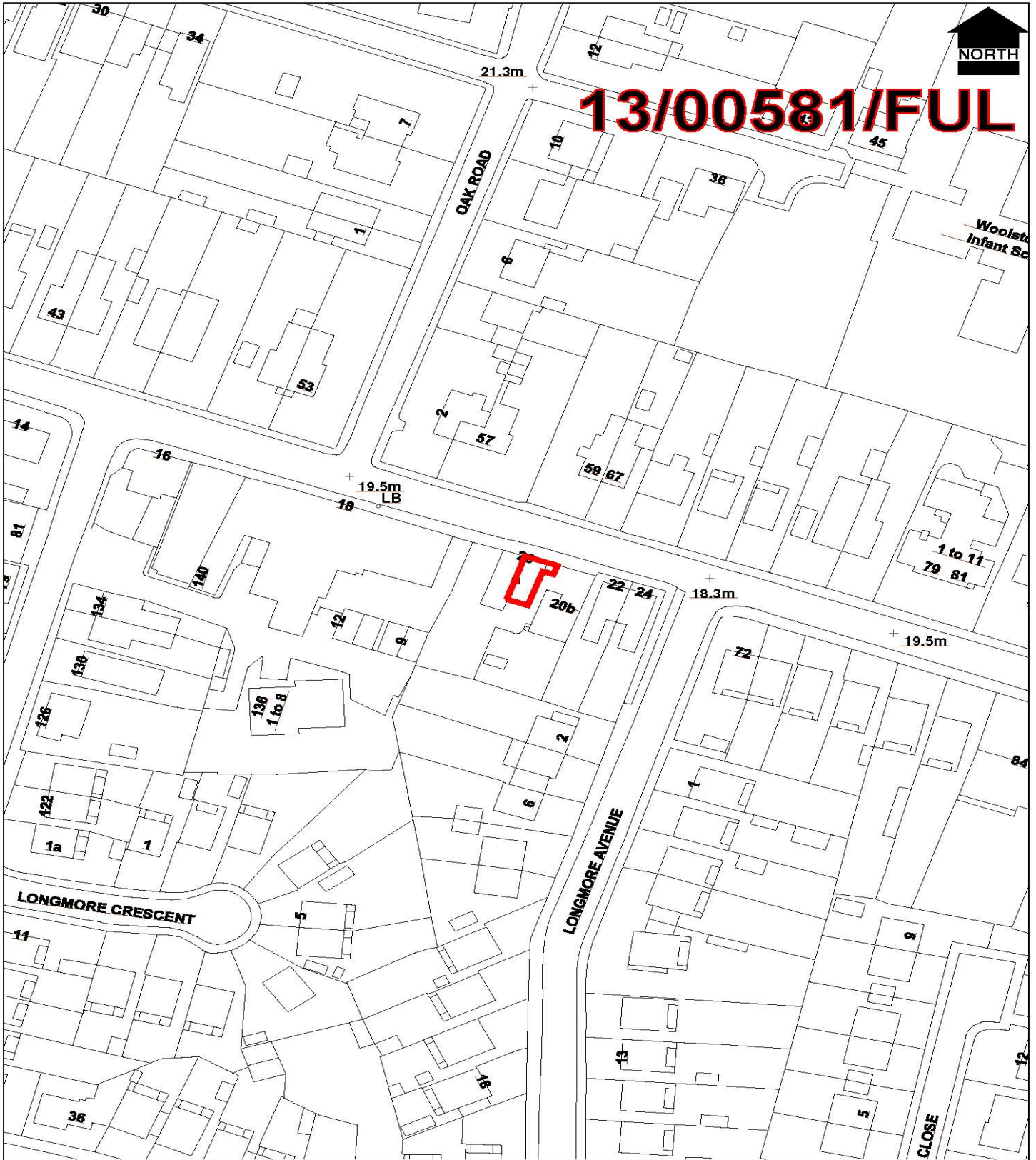
The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

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

Informative

The applicant should be aware that if the scale and nature of the ancillary elements of the business (buffet service and takeaway deliveries) intensify then they should contact the Planning Office for further advice, as this may require further planning permission.



Scale : 1:1000

Date : 13 June 2013

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