

**Planning, Transport & Sustainability Division**  
**Planning and Rights of Way Panel 15.10.13**  
**Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 253 Portswood Road SO17 2NG			
<b>Proposed development:</b> Subdivision and conversion of existing ground floor from Class A1 (retail) to A2 (financial and professional services) and A3 (restaurants and cafes) use plus installation of two new shop fronts. Alterations to rear elevation to provide rear access enabling conversion of first floor to 2 x 4-bed residential units (Class C4 use) with communal facilities, refuse/cycle storage with access from rear track. Removal of rear metal stairway (resubmission of 13/00228/FUL).			
<b>Application number</b>	13/01206/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Andrew Gregory	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	25.09.2013	<b>Ward</b>	Portswood
<b>Reason for Panel Referral:</b>	Request by Ward Member and five or more letters of objection have been received	<b>Ward Councillors</b>	Cllr Adrian Vinson Cllr Matthew Claisse Cllr Linda Norris

<b>Applicant:</b> Mr Ms And R Ahmed and Singh	<b>Agent:</b> Les Weymes Planning Consultancy
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<b>Recommendation Summary</b>	Conditionally Approve
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<b>Community Infrastructure Levy Liable</b>	Yes, unless it can be demonstrated that lawful use of the building has occurred for a continuous period of at least 6 months within the last of 12 months.
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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 impact of the development, in terms of visual and neighbouring amenity, highway safety and parking is considered to be acceptable. In reaching this conclusion, on the acceptability of the development, particular account has been taken of the third party response to the scheme; the quality of the proposed development proposals; the need for shared housing and the potential reduction in demand for converting the City's existing family housing stock into shared housing. Furthermore this development addresses the previous reason for refusal ref 13/00228/FUL

by providing a living environment which is policy compliant, providing acceptable bin and cycle storage and by providing pedestrian access to the flats from Portswood Road.

Other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004 planning permission should therefore be granted in accordance with the following policies: City of Southampton Local Plan Review (March 2006) Policies SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP13, SDP15, CLT5, H2, H7 and REI5 of the City of Southampton Core Strategy (January 2010) Policies CS3, CS4, CS5, CS13, CS19, CS20 as supported by the relevant national planning guidance and the Council's current supplementary planning guidance listed in the Panel report.

<b>Appendix attached</b>			
1	Development Plan Policies	2	Decision notice 13/00228/FUL

## **Recommendation in Full**

### **Conditionally approve**

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

- 1.1 The application site comprises a two-storey unit located on the north-western side of Portswood High Street adjacent the library. The building is vacant and is authorised for A1 use with ancillary storage above. The site has no parking. There is an access track to the rear of the premises which runs off Highfield Lane.
- 1.2 The site is located within Portswood District Centre which generally comprises buildings with commercial use on the ground floor and a mix of residential, ancillary office or storage space on the upper floors. Residential use is located to the north.

#### **2.0 Proposal**

- 2.1 The proposal seeks to convert and sub-divide the existing ground floor retail unit into two commercial units; one A2 use (financial and professional services) and one A3 use (restaurants and cafe) with associated shop front alterations.
- 2.2 The upper floor is proposed to be converted into 2 no. 4-bed flats (likely C4 use) each with communal dining and cooking facilities. The bedrooms have either front or rear outlook and all with private bathrooms. The entrance into the proposed A2 unit has been designed with a lobby to provide primary access into the upper floor flats from the Portswood Road frontage. A secondary rear access is provided into a rear yard area accommodating refuse and cycle storage. Gated rear access is provided onto the rear service lane. The proposal has nil car parking.

#### **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**.

3.3 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 13/00228/FUL**

Planning permission for the Subdivision and conversion of existing ground floor from Class A1 (retail) to A2 (financial and professional services) and A3 (restaurants and cafes) use plus installation of two new shop fronts. Alterations to rear elevation to provide rear access enabling conversion of first floor to 2 x 4-bed residential units (Class C4 use) was refused on 23.05.2013

The application was refused for the following reasons:

- (i) The layout provided a poor residential environment by failing to achieve adequate levels of light, outlook and amenity space;
- (ii) Unsatisfactory bin and cycle storage provision
- (iii) Inadequate access to the flats via the rear service lane.

4.2 A copy of the decision notice is attached as Appendix 2. The previous decision notice supported the principle of HMO development in this location. Pre-application advice was given following the refusal which has informed this current submission.

#### **5.0 Consultation Responses and Notification Representations**

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (enter date) and erecting a site notice (enter date). At the time of writing the report **10** representations have been received from surrounding residents.

##### **5.2 Unsuitable location for residential accommodation**

*Officer Response - Residential use on the upper floors is policy compliant and represents a sustainable form of development. There are numerous existing examples of flats above shops within Portswood District Centre. Space above shops (A1 use) can be converted into 2 no. flats (C3 residential use) without needing planning permission. Policy RE15 actively encourages residential uses above commercial uses*

##### **5.3 The rear cutway provides unsafe and inadequate pedestrian access**

*Officer Response - Primary access to the flats is now provided from Portswood Road. Secondary rear access provides access to the bins and cycle store.*

##### **5.4 The accommodation remains cramped and constitutes an overdevelopment of the site. The absence of windows for the bathrooms and kitchens is unacceptable.**

*Officer Response - The Council does not have any planning policies requiring*

minimum room size standards. However the proposed bedrooms and communal areas exceed the minimum space standards as required under mandatory HMO licensing which ask for 10sqm per bedroom and 11.5sqm per dining/kitchen area. A recent appeal decision for 19 student cluster flats at 158-168A Portswood Road (LPA reference 12/01201/OUT) did not agree with the Council claim that such cluster flats would represent a crowded and poor living environment, particularly because no substantive evidence could be put forward to support such concerns. Bathrooms which are artificially ventilated and lit are commonplace within modern developments and are building regulations compliant.

- 5.5 *The building is constrained because of its depth and with no opportunity for windows in the side. Therefore the communal kitchen and dining areas have been provided with large sky lights. Residents will have genuine outlook from their bedrooms. The layout is seen as a compromise in order to bring the building back into use. Other than the provision of deep studio units other alternative residential layouts would not be able to achieve outlook to the middle of the building. This scheme is seen as an improvement on the previous refusal ref 13/00228/FUL because all bedrooms are now provided with genuine outlook.*
- 5.6 **It is unrealistic to assume there will be no cars - at the very least if the flats are occupied by students there will be arrivals and departures adding to congestion at this sensitive location**  
*Officer Response - This site is located within an area of high accessibility close to public transport and district centre amenities and the Council has maximum car parking standards. Nil parking schemes are common place within areas of high accessibility. Furthermore there are parking controls within Portswood Road to prevent harmful congestion occurring during peak collection/drop-off times.*
- 5.7 **Noise and odour from extractor fans serving the proposed A3 cafe use**  
*Officer Response - The Councils Environmental Health Team raise no objection. The proposed cafe seeks to use convection ovens and microwaves which do create odour and do not require extraction systems. In the event there is a need for extraction equipment then a condition will be added to ensure that adequate odour filtration and acoustic systems are in place to prevent harmful noise nuisance to nearby occupiers.*
- 5.8 **Concern regarding noise and disturbance arising from the proposed hours of use for the cafe of 7.00am to 9.00pm**  
*Officer Response - No objection raised by Environmental Health. The proposed hours are reasonable within a district centre having regard to the hours of use of nearby premises and existing background noise levels. The proposed cafe will not generate harmful noise nuisance to nearby occupiers having regard to separation distances and limited openings for noise breakout.*
- 5.9 **It should be stipulated that any deliveries should continue from Portswood Road and not from the unmade rear access which is narrow and would cause noise disturbance to neighbouring occupiers**  
*Officer Response - Given the limited number of deliveries required to service an A3 use of this size, such restriction would be unreasonable having regard to existing background noise levels and servicing arrangements for neighbouring units.*
- 5.10 **The windows to the rear directly overlook 32 and 34 Abbotts Way**  
*Officer Response - No harmful overlooking will occur by reason of the separation*

distance of 7m with Abbots Way, the mature planting along the boundary and back to back privacy distance of approximately 30m which far exceeds the minimum standard of 21m within the Councils Residential Design Guide. Overlooking was not previously raised as a reason for refusal and for this reason it should not be introduced now.

5.11 **Noise and disturbance arising from the proposed level of occupation**

*Officer Response - No substantive evidence could be provided to support this concern. Rooms at the rear are individual bedrooms and not communal areas. The first floor could be converted into habitable C3 residential accommodation without planning permission.*

5.12 **The proposal would create more HMOs in Portswood which already exceeds the 10% threshold within the HMO SPG**

*Officer Response - The HMO article 4 was brought in to manage the growth and distribution of HMOs and to reduce the pressure of suburban (family housing) areas. Meeting HMO demand within the district centre may reduce the pressure on suburban areas and may free up existing HMO stock to be converted back into family housing. Moreover locating HMOs in close proximity to late night uses and other amenities may reduce noise and disturbance associated with students walking back through suburban areas late at night.*

*The HMO SPG requires the threshold test to be undertaken on the basis of a 40m catchment not on the ward as a whole. Assumptions that Portswood already exceeds 10% HMOs does not mean that no new HMOs can be considered within the ward.*

5.13 **Overconcentration of cafes with Portswood District Centre**

*Officer Response - A3 cafes are supported within District Centres by policy RE15 and there are no policy requirements to restrict the number of A3 uses within the District Centre.*

*The proposal will help to bring a vacant unit back into use.*

5.2 **SCC Highways** - No objection subject to conditions to secure access to and provision of suitable bin and cycle storage. Primary pedestrian access from Portswood Road is welcomed. There is no vehicle parking associated with this site, but this is not unusual in a district centre such as this, and there is nearby public car parking which can be used. For 8 students, the arrival/departure at the beginning and end of term is unlikely to have any significant impact on the operation of this shopping street.

Servicing of the ground floor units is not specified, and in such a location, it is difficult to suggest that a specific type of servicing should take place, when the rear access is narrow and would be blocked by any service vehicle, and sight lines at both ends of the service road are poor for seeing pedestrians on the busy footways, and servicing from Portswood Road causes some traffic inconvenience. This is a retail centre, and historically has adapted to suit demands for servicing, which takes place over a relatively short period of time.

5.4 **SCC Sustainability Team** – No objection subject to condition requiring that the development will at minimum achieve a reduction of 20% CO2 emissions over part L of the Building Regulations. As required in core strategy policy CS20

5.6 **SCC Environmental Health (Pollution & Safety)** - No objection subject to conditions restricting the hours of construction and to ensure suitable glazing to soundproof the building from external traffic noise

5.7 **SCC Environmental Health (Food Safety)** – No objection. The supporting statement indicates that convection ovens and microwaves will be used in the kitchen which do not require extraction equipment. However a condition should be added in the event the cooking equipment changes and extraction equipment is needed, with details to be agreed.

5.8 **Southern Water** – No objection subject to an informative regarding connection to the public sewer.

## **6.0 Planning Consideration Key Issues**

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

- Principle of development
- Residential environment
- Impact on neighbouring residential amenities
- Highways Impact

### **6.2 Principle of Development**

6.21 The proposed conversion of the building to provide two commercial units at ground floor (Class A2 and A3) and 2no. 4-bed flats (C4 use class) above, is considered acceptable in principle and policy compliant.

6.22 Policy REI5 of the Local Plan and policy CS3 of the Core Strategy support mixed commercial use on the ground floor with residential on the upper floors within the District Centre. The proposal will bring the building back into use and represents an efficient and sustainable form of development according with Central Government wishes within the National Planning Policy Framework. There are no planning policies requiring minimum room sizes for flats in occupation or restricting the number of A2 and A3 uses within the District Centre.

6.23 The proposal addresses the previous reasons for refusal by providing a revised layout to the upper floor flats with improved outlook to bedrooms, by now providing adequate bin and bicycle storage and by providing primary pedestrian access to the flats from Portswood Road. Whilst it is disappointing the communal areas do not have outlook, on balance the scheme is acceptable having regard to the constraints of the site in terms of building depth and opportunity to bring the building back into use with sustainable residential development. Moreover the introduction of C4 flats in multiple occupation may reduce the need for shared housing and reduction in demand for converting family housing into shared housing within nearby suburban areas.

### **6.3.1 Residential Environment**

6.3.2 A balance needs to be struck between bringing the building forward for residential use and providing an acceptable residential environment for future occupiers. The building is deep and bound by buildings to the side and therefore the central part of the building can only be naturally lit by skylights.

The scheme is considered to address the previous reason for refusal by providing outlook to all bedroom spaces, with the central communal kitchen areas served by large skylights. The Council has no planning policies requiring minimum room sizes but the layout accords with standards required for mandatory HMO licensing. The study bedroom sizes are considered reasonable, averaging 20 square metres in area. It is accepted that no private amenity space can be provided for upper floor flats in the District Centre.

6.3.3 The ground floor A3 cafe use will not lead to harmful noise and odour nuisance. No objection has been raised by environmental health in relation to the proposed mixed use arrangement.

#### 6.3.4 Impact on Neighbouring Residential Amenities

6.3.5 The proposed development will not be harmful to neighbouring residential amenities. No objection has been raised by environmental health in respect of noise or odour relating to the proposed A3 use. Furthermore the ground floor commercial use will not give rise to harmful noise nuisance having regard to the proposed hours of use (7.00am to 9.00pm), existing background noise levels within the district centre and the size and layout of the cafe.

6.3.6 First floor residential accommodation is common place within the district centre and would be compatible with neighbouring uses. The rear facing windows comprise private bedrooms and not communal living spaces and are therefore unlikely to give rise to harmful noise nuisance.

6.3.7 The previous application was not refused for overlooking reasons and the proposed scheme will not generate harmful overlooking having regard to the separation distance from properties to the rear and mature planting along the boundary with Abbots Way; a 7m separation distance exists between the proposed windows and boundary with Abbots Way, and a 30m back to back privacy distance which far exceeds the minimum back to back distance of 21m as recommended within the Residential Design Guide SPG

#### 6.3.8 Highways Impact

6.3.9 Nil parking is acceptable in this district centre location and accords with the Council's maximum car parking standards. The site is well served by district centre amenities and regular bus services and is within walking distance of the University of Southampton. Parking controls exist within the area to prevent harmful displacement. Pedestrian access for the flats is now acceptable with primary access from Portswood Road. Acceptable bin and bike storage provision is made.

## 7.0 Summary

7.1 This proposal is considered to address the previous reasons for refusal ref 13/00228/FUL by providing a living environment which is policy compliant, providing acceptable bin and cycle storage and by providing safe pedestrian access to the flats from Portswood Road. No significant external changes are proposed and the development will have no adverse impact on the visual amenities of the area. The introduction of A2 and A3 use on the ground floor with residential above is policy compliant. The proposed first-floor flat represents a

sustainable form of development and a balance has been struck between bringing the building back into use and providing a reasonable living environment with outlook to all study bedrooms. Furthermore the District Centre is considered a suitable location for 2 no. C4 flats and may reduce the demand for shared housing within nearby suburban areas where there is greater need to provide balance with family housing

## **8.0 Conclusion**

8.1 On balance it is recommended the application be approved with conditions.

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

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(f), 4(g), 4(vv), 6(a), 6(c), 7(a), 8(a), 9(a), 9(b).

### **AG for 15/10/13 PROW Panel**

### **PLANNING CONDITIONS**

#### **01. APPROVAL CONDITION - Full Permission Timing Condition - Change of use**

The 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 - Materials to match [Performance Condition]**

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

Written documentary evidence demonstrating that the development will at minimum achieve a reduction in CO2 emissions of 20% [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).



04. 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.

Reason:

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

05. APPROVAL CONDITION - Glazing - soundproofing from external traffic noise [Pre-Commencement Condition]

Works pursuant to this permission shall not be commenced until a scheme for protecting the proposed flats and houses from traffic noise from Portswood Road has been submitted to and approved by the local planning authority in writing. Unless otherwise agreed in writing, that scheme shall specify either:- Outer pane of glass - 10mm

Air gap between panes - 12mm

Inner pane of glass - 6 mm

or, with secondary glazing with a -

Outer pane of glass - 6mm

Air gap between panes - 100mm

Inner pane of glass - 6.4 mm

There must be no trickle vents installed in any case. For ventilation purposes in all cases, provision of acoustically treated 'BBA' approved mechanically powered ventilation should be the preferred option. However, provision of acoustic trickle vents will be acceptable. Once approved, that glazing shall be installed before any of the flats are first occupied and thereafter retained at all times.

Reason:

In order to protect occupiers of the flats from traffic noise.

06. APPROVAL CONDITION - Extraction equipment

In the event that the cooking processes change for the A3 use hereby approved and extraction equipment is needed then a written scheme for the control of noise, fumes and odours from extractor fans and other equipment is submitted to and approved in writing by the Local Planning Authority. Details should be agreed prior to the installation of new extraction equipment. The development shall be implemented in accordance with the approved details and findings.

REASON: To safeguard the amenities of nearby occupiers

07. APPROVAL CONDITION - Hours of Use - A2 and A3 use [Performance Condition]

The ground floor A2 and A3 units hereby approved shall not operate outside the following hours:

Monday to Sunday 07.00am to 09.00pm

Reason:

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

08. APPROVAL CONDITION - Bin and bike storage

Prior to first occupation details of access by refuse collectors for bin collection shall be submitted and agreed in writing with the Local Planning Authority.

Access to the bin and bike storage shall be maintained at all times for both the approved commercial and residential uses hereby approved

Sheffield stand hoops to be provided within the cycle stores to ensure security of cycles prior to occupation, and doors must be secure.

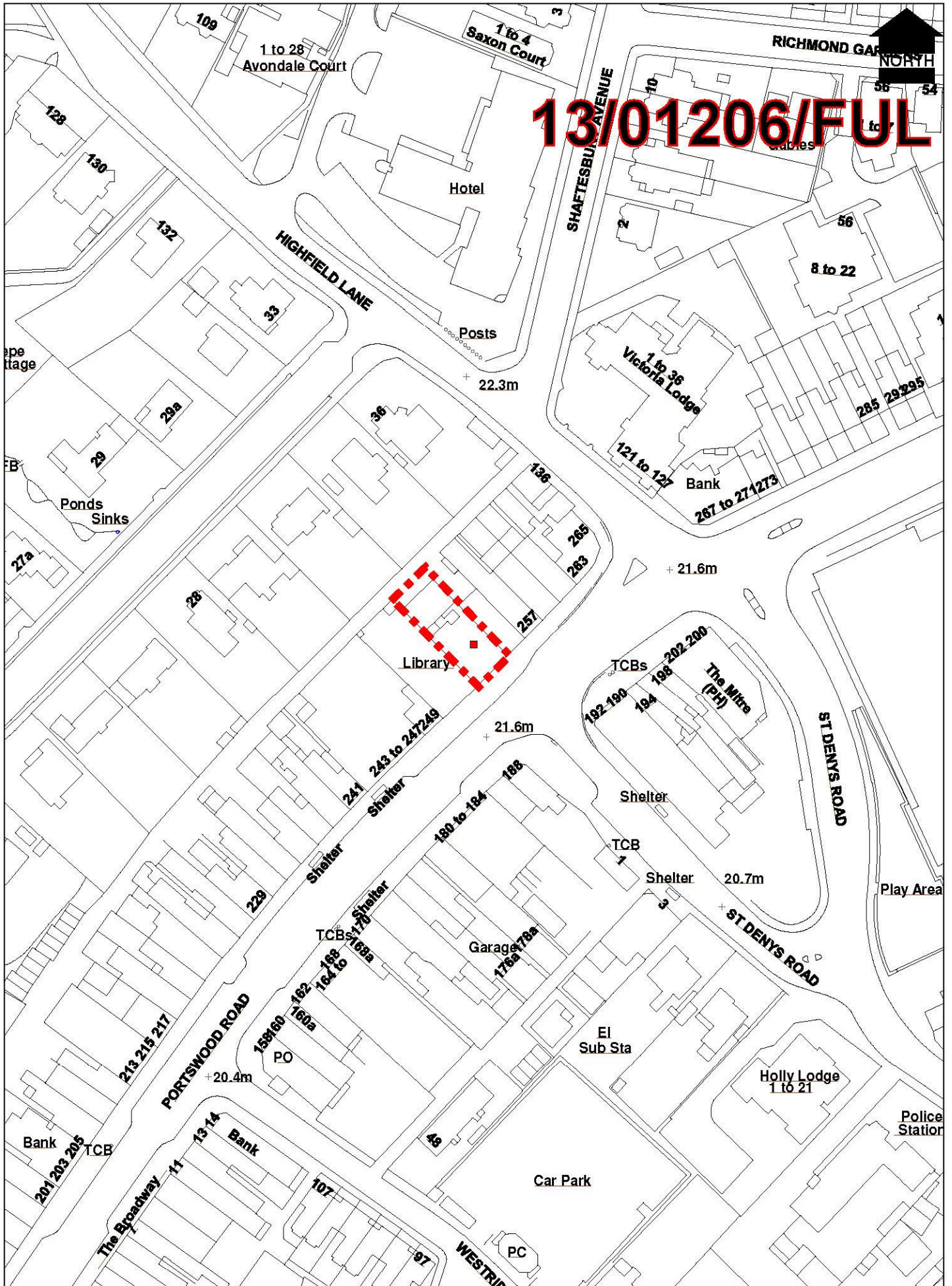
REASON: To secure a satisfactory form of development

09. 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.



Scale : 1:1250

Date :02 October 2013

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