

**Planning, Transport & Sustainability Division  
 Planning and Rights of Way Panel (West) 14th July 2015  
 Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 383 Shirley Road, SO15 3JD			
<b>Proposed development:</b> Change of use of the ground floor from financial and professional services (Class A2) to drinking establishment (Class A4).			
<b>Application number</b>	15/00770/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Mathew Pidgeon	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	23/06/2015	<b>Ward</b>	Shirley
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received.	<b>Ward Councillors</b>	Cllr Kaur Cllr Coombs Cllr Chaloner
<b>Referred in by:</b>	N/A	<b>Reason:</b>	N/A

<b>Applicant:</b> Mr Rai	<b>Agent:</b> N/A
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<b>Recommendation Summary</b>	<b>Conditionally Approve</b>
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<b>Community Infrastructure Levy Liable</b>	<b>No</b>
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**Reason for Granting Planning Permission**

The proposed drinking establishment is considered to be a compatible use within the Shirley Town Centre location and will add to its vitality and viability. Due to the modest nature of the proposal it is not considered that undue noise and disturbance will result and therefore the proposal will not significantly harm the amenity of the area or the residential amenity enjoyed by the occupiers of neighbouring dwellings. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP16, CLT15, REI4 and REI7 of the City of Southampton Local Plan Review (as amended 2015) and CS3 and of the Local Development Framework Core Strategy Development Plan Document (as amended 2015).

<b>Appendix attached</b>	
1	Development Plan Policies

## **Recommendation in Full: Conditionally approve**

### **1 The site and its context**

- 1.1 383 Shirley Road forms the southern end of a three storey terrace of buildings. At ground floor the building is divided into 15 separate small scale shop units which offer a range of commercial services. The terrace is within Shirley Town Centre which contains mainly Class 'A' Uses on the ground floor of properties with residential units above. The ground floor was vacated by a firm of Estate Agents approximately 2 years ago. The shop unit was then open and trading as a retail unit, operated by the owner of the building, selling budget tyres and audio systems for cars during 2014 and has been closed to customers and used principally as a store by the owner of the building since the start of 2015. Residential accommodation is located on the upper floors of the application site. There is a separate door to the first floor accommodation positioned to the front of the building accessed from Shirley Road. To the south east of the site is a large car show room which includes a vehicle display area. Further to the south east is a drive through fast food restaurant. To the rear of the site is a service road that is accessed from Church End which is a single lane road that divides the site from residential properties to the north east.
- 1.2 On the opposite side of Shirley Road are residential properties that occupy the former Hendy Ford car sales site (Selby Place). Selby Place is a development of new 2, 3 and 4-storey buildings providing a total of 96 dwellings. There is a flatted block to the front which has four storeys and to the rear there is a mix of houses and smaller flatted blocks. Parking is provided within the development which is accessed from Shirley Road only. Either side of Selby Place are two public houses (The Brass Monkey and The Brightwater Inn).
- 1.3 Restricted parking is available on Shirley Road in front of the site whereby non parking permit holders can park for an hour with no same day return. Shirley Road is a very sustainable location, it is highly accessible by public transport. The surrounding streets are generally narrow with unrestricted on-street car parking.

### **2 Proposal**

- 2.1 The application seeks a change of use of the ground floor from financial and professional services (Class A2) to a drinking establishment (Class A4). The development includes only very minor internal alterations to provide wash room facilities. External seating is proposed to the rear where a sheltered area will be provided (8 seats indicated). The internal floor area for the drinking establishment is approximately 61 square metres, although the bar area itself would measure approximately 43 square metres, 20 seats are indicated inside (not including potential seating at the bar).

- 2.2 Drinks are to be sold on site between the hours of 12:00 - 22:00 Monday to Sunday. The outside drinking area, to the rear, will also close at 22:00. Half an hour drinking up time will be allowed and the premises will be closed to the public from 22:30.
- 2.3 Beer will be cooled using a cooling unit and cask jackets fitted with water piping. Bottled beer will be cooled in a conventional bottle fridge. The beer cooling system consists of a floor standing cooler with built in ventilation that does not need to be extracted to an exterior wall as it is a self-contained unit. Therefore plant equipment or machinery does not form part of this application.
- 2.4 No food is proposed to be cooked on site, some food will be offered which will need to be heated however an oven will be used to achieve this and therefore there is no need for an extraction system to manage cooking odours. Bottles will be stored internally and only moved outside for collection purposes. Deliveries will take place outside of peak traffic hours and to the rear of the building. The applicant intends to install four CCTV cameras in the interests of safety and security. The applicant is also committed to participate in the Drinkaware, Think 21 and Pub Watch schemes. Southampton City Council will be instructed as trade waste collector. The applicant does not intend to apply for a live music licence and there is no intention to play amplified music that will be audible at the nearest noise sensitive property. Lighting proposed to the rear will be turned off at 22:00. Cycle storage provision is proposed to be provided for both employees and patrons.
- 2.5 383 Shirley Road will be serviced to the rear. The rear track road is not wide enough to accommodate full-size waste collection trucks due to the lack of turning space. Southampton City Council provides a commercial waste collection service to the rear of the units using a slightly smaller collection vehicle than the standard vehicle used.
- 2.6 Due to the nature of the business, a micro pub selling a limited range of specialist cask ales and bottled craft beer, the applicant will not be receiving deliveries of any branded beers or any other supplies from major breweries who deliver via large Dray Trucks. The maximum projected incoming deliveries per week constitute 8 x nine gallon casks/kegs and 20 cases of bottled drinks. The intention is to stock a variety of specialist ales from local microbreweries, as such large deliveries of a variety of drink products will not be possible due to the number of destinations that the produce will be coming from. The intention is to collect individual casks/kegs from the various selected breweries and to import them directly to the rear of 383 Shirley Road using the applicants own vehicle (currently a Ford Transit van) via the aforementioned Church End and the service road. Bottled beers will also be collected from suppliers in the same manner from local wholesalers.

### **3 Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

- 3.2 The National Planning Policy Framework (NPPF) came into force on 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 Relevant Planning History**

- 4.1 In 2007 planning permission was approved for the change of use of the ground floor of the building from retail (use class A1) to financial & professional services (use class A2) (07/01585/FUL).
- 4.2 In 2012 planning permission was granted for a part first and second floor rear extension to facilitate change of use from a 5 bed HMO to one 4 bed flat and one 2 bed flat with ancillary bike and bin storage (12/01748/FUL).

#### **5 Consultation Responses and Notification Representations**

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (30/04/2015). At the time of writing the report **40** representations have been received from surrounding residents. **5 letters raise objection** to the proposal and **35 letters have been received in support**. The following is a summary of the points raised:

- 5.2 Supporters raise the following:

- Shirley would benefit from a micro pub given that it would offer a different type of drinking establishment to those which currently exist nearby.
- The micro pub will supplement the customers enjoyment of their community.
- There are few establishments of this nature in the local area.
- Establishments of this nature contribute positively to the character of the area.
- The city council have invested in the improvement of the public realm of Shirley Road in recent years seeking to attract businesses to improve and maintain the vitality and viability of the High Street. The proposed use will contribute towards this aim.
- Car parking is unlikely to be a problem caused by the micro pub given that most customers will walk to the site.
- Customers who do drive to the site are unlikely to have a problem parking on Shirley Road as customers are most likely to visit the site outside of the hours of operation of most nearby businesses, especially those on the same terrace row.
- An outlet for sale of real ales will benefit local suppliers and breweries.
- Shirley High Street would benefit from having more specialist traders.
- The replacement of a retail unit selling car tyres with the microbrewery is supported for reasons of community benefit and improvement to the character of the area.
- The Butchers Hook has been successful in Bitterne Park, something similar in Shirley would be fantastic.
- The arrival and popularity of Santo Lounge has proven that there is considerable demand for a range of drinking establishments in Shirley.

**RESPONSE:** From reading the letters of support it is clear that there is a strong feeling in the local community that there is scope for a business of this nature in the Town Centre. Many of the letters have been received from members of the public who currently work near to 383 Shirley Road and thus have an interest in supporting other nearby businesses that will increase footfall within the area, all of which will help maintain and improve the vitality and viability of the town centre which Local Plan Policies also seek to achieve.

5.3 Objectors raise the following:

- 5.4
- Concerns regarding car parking.

**RESPONSE:** Additional parking pressure is considered unlikely to be significantly harmful. It is unlikely that many private vehicle trips will be generated by the premises due to the nature of the use and the small scale of the shop unit. The primary customer base is also expected to be members of the public residing within the local neighbourhood, many of which are expected to walk to the site.

- 5.5
- Noise/anti-social behaviour. Objectors living opposite in Selby Place, point out that there are already two pubs either side of the Selby Place development, both of which have led to disturbance at night time and include fights having been witnessed; caused by patrons leaving each of the premises.

**RESPONSE:** The drinking establishment would be of small scale due to the size of the building. Seating at the rear of the site could give rise to noise however the hours of operation are limited so that noise would not be generated late at night or early in the morning. The site is located within Shirley Town Centre within which policy REI4 of the Adopted Local Plan permits A4 uses. Separate legislation is used to control noise disturbance and it is the Environmental Health Teams responsibility to monitor and control harmful noise impacts. Should the manager of the micro pub allow excessive noise disturbance to occur the Councils licensing team will have the opportunity to revoke the sale of alcohol licence. Planning conditions can be used to control opening hours and when the outside space can be used. In addition the Hampshire Crime Prevention Advisor has been consulted and no objection has been raised; potential for crime and disorder has been considered.

- 5.6
- One of the objectors considers that there are already sufficient numbers of public houses in the local area (7 within 600 yards of the site) and another pub in this location is considered to be bad for local businesses.

**RESPONSE:** The designation of the site as a secondary retail frontage under local plan policy REI 4 allows drinking establishments (A4 use) and there is no restriction to the number of A4 units within the defined area. Planning decisions based on land use should not be burdened by commercial considerations which is for the market to determine.

### **Consultation Responses**

5.7 **SCC Highways** - No objection, apply recommended conditions.

5.8 **SCC Historic Environment** - No objection.

- 5.9 **SCC Environmental Health** - Due to residential properties above this development, control of noise from the drinking establishment is required. Closing time to be no later than 23:00. If plant equipment is required an acoustic report will be needed to prevent harm. RESPONSE: Closing time will be 22:30 with no alcohol being served after 22:00 and the outside areas also being closed after 20:00. Plant equipment is not required for the development.
- 5.10 **Hampshire Constabulary** – There is nothing in terms of crime and disorder for the Police to object to. Although each one of these A4 change of use developments is viewed individually, similar developments are not currently shown to be a problem. The location is a busy area with a number of A4 drinking establishments nearby and the size of the premises and the proposed opening hours of 1200 - 2200 would not appear to substantially increase any potential problems. If permitted, the Police licensing team will review any subsequent licence application and make comment as appropriate.

## **6 Planning Consideration Key Issues**

- 6.1 The key issues for consideration in the determination of this planning application are:
- Principle of development.
  - Impact on local character.
  - Impact on neighbouring and local amenity (noise, disturbance and visual impact).
  - Highways, parking and servicing.
- 6.2 Principle of Development
- 6.3 The proposed site is a good location for such a facility in order to serve the local community due to the commercial nature of this section of Shirley Road which is characterised by ground floor shops of various uses as well as residential properties on upper floors. Local Plan policies support the proposal. Policy RE14 deals with areas of secondary retail frontage of which this area is one and supports A1, A2, A3, A4 and A5 uses; and uses that offer a direct service to the public. Furthermore the proposal includes an active frontage.
- 6.4 Policy RE17 (Food and Drink Uses [Classes A3, A4 and A5]) identifies that proposals involving food and drink uses (including A4 uses) are permitted in Shirley Town Centre. The policy identifies that conditions should be imposed to prevent generation of undue noise and other forms of nuisance from arising. Where possible conditions should be added to enable development to come forward so that national and local planning policy aims of creating sustainable economic growth can be achieved. Policy RE17 confirms that A4 uses have their place in a community and add vitality to shopping centres; and goes on to say that when determining applications of this nature the Council must have regard to evidence of any adverse effect from existing uses nearby. Five local residents have opposed the scheme on the basis of the impact of other nearby drinking establishments however there are other material considerations that also need to be considered, an important consideration relevant to this point is lack of an objection having been received from Hampshire Constabulary. The impact on amenity is discussed below; policy RE17 does not oppose the principle of the development.

- 6.5 Policy CS3 (town, district and local centres, community hubs and community facilities) seeks to ensure that development will maintain the health of the centre, improve the street scene and successfully integrate with local facilities. The shop unit is currently not occupied. Having a small scale drinking establishment which sells local craft ales and simple bar food will help lift the appearance of the unit, promote activity in the Town Centre and introduce a different type of drinking establishment to those that currently exist within the Town Centre. This complies with CS3 which identifies that local centres should capitalise on opportunities for enhancement.
- 6.6 The council seeks to encourage small local businesses wherever possible and it is clear from the National Planning Policy Framework that planning decisions should give weight to the economic benefit of development. The unit at present is not open to the public however goods are displayed inside and should passing members of the public wish to purchase any of the products there is a phone number on the window for them to call. Replacement of the current business with one that is regularly open to the public will help achieve compliance with the NPPF. The proposal complies with the NPPF, the adopted Core Strategy and the Local Plan review and therefore the principle of the scheme is accepted
- 6.7 Impact on local character
- There is no change proposed to the shopfront therefore the visual impact on the character of the shopfront will be nil. By granting permission the activity associated with the premises is likely to increase, this will contribute positively to the character of the area.
- 6.8 Impact on neighbouring and local amenity (noise, disturbance and visual impact).
- One of the main planning issues raised by objectors to the scheme is the potential impact on neighbouring properties with regard to noise. The Council acknowledge that there is potential for customers to sit outside to the rear although at present there is no intention to provide seating to the front; thus those customers, whilst being outside, will generate activity and some noise. The impact is likely to be greatest when the weather is fine and more customers choose to sit outside. Customers also have the potential to create noise and disturbance when they travel to and from the premises, an impact that objectors living in Selby Place have raised as a concern.
- 6.9 It is appreciated that general activity associated with customers sitting outside can have an impact on neighbours. However provided customers behave reasonably it is considered that the impact would not seriously affect residential amenity. It is worthwhile noting that the Environmental Health Team have not opposed the development on noise grounds, nor have the police.
- 6.10 As the site is within a town centre, background noise is expected to be higher than in wholly residential areas where no other uses are located. There are also other evening uses located within the town centre which generate activity and it's noted that some of those uses stay open later than the proposed opening hours of the micro pub.

- 6.12 Another mitigating factor is the small scale nature of the use which is unlikely to accommodate large numbers of customers on a regular basis each night of the week. During periods of poor and cold weather customers are also less likely to sit outside further reducing the potential for significant harm.
- 6.13 The assessment has also taken account of the controls that are available to the Council which aim to prevent significant impact to neighbours. These controls include limiting the hours of operation and the control of noise generating uses through environmental health legislation as well as the management of licensing agreements as managed by the environmental health and the police licensing teams. In this particular case the applicant has agreed to close the outside seating area at 22:00. Last orders will also be at 22:00 with patrons having to leave the site by 22:30.
- 6.14 Highways, parking and servicing
- 6.15 The site is easily reachable by public transport and given the location and intended use of the building as a drinking establishment it is reasonable to expect most customers to arrive on foot, by public transport or by taxi. Restricted parking is available on Shirley Road in front of the site. Non parking permit holders can park for an hour provided that they do not return again on the same day. Whilst it is acknowledged that the business may lead to some parking pressure within areas close to the development the impact is not judged to be significantly harmful or sufficient to justify refusal.
- 6.16 Highways Development Management have also confirmed that there are no associated highways safety concerns with the scheme. The location is highly accessible by public transport and the proposed delivery and servicing arrangements are supported as being appropriate and acceptable in terms of highways impact.

## **7 Summary**

- 7.1 From the consultation exercise it is clear that there has been a large amount of public interest associated with the proposal. It is also fairly rare for the Council to receive so many letters of support, however that said there have also been objections raised which need due consideration. A careful assessment of the points raised by the objectors and supporters, as well as other material considerations discussed above, have led to a recommendation to support the scheme with conditions to control the development where needed in the interests of local amenity.

## **8 Conclusion**

- 8.1 Taking account of the physical circumstances of the proposal in terms of the size of the commercial unit, its location, available controls over the development (hours of operation, Environmental Health and licensing), reasonable behaviour from customers and responsible management it is considered that significant harm to neighbouring occupants is not likely to occur and with the imposition of relevant planning conditions the scheme can be supported.



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

1a, b, c, d, 2 b, d, 7 a, b, 9 a, b.

**MP3 for 14/07/2015 PROW Panel**

**PLANNING CONDITIONS**

1. 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).

2. 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.

3. APPROVAL CONDITION - Lighting [Performance Condition]

Any permanent external lighting of the external area shall be turned off after 22.00 on any day.

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

4. APPROVAL CONDITION, Control of amplified equipment - [Performance Condition]

At no time shall sound amplifying equipment or acoustic instruments be used or installed which would generate noise audible from the boundary of the nearest residential property to the building hereby approved unless otherwise agreed in writing with local Planning Authority.

REASON: To protect the amenities of the occupiers of nearby residential properties.

5. APPROVAL CONDITION - Hours of Operation (drinks). [Performance Condition]

The A4 'drinking establishment' to which this permission relates shall only operate in accordance with the following hours:

Customers will only be permitted on the premises between the hours of 12:00 - 22:30 on any day.

Customers will only be permitted to use the outside drinking area to the rear between the hours of 12:00 - 22:00 on any day.

REASON: To protect the amenities of the occupiers of nearby residential properties.

#### 6. APPROVAL CONDITION - CCTV system [Pre-occupation condition]

Before the first occupation of the development details of a scheme for a CCTV system to cover the inside and outside areas of the establishment shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be fully installed and operational prior to the approved use of the development first commencing. It shall be maintained in working order and operated at all times when the premises is open.

Recorded images shall be held for a 1 month period after being made on a daily basis for use by the Police as required.

Reason: In the interests of crime reduction and customer/staff safety.

#### 7. APPROVAL CONDITION, Servicing [Performance Condition]

Unless otherwise agreed in writing the development hereby approved will be carried out in full accordance with the Servicing Management Plan titled Overdraft Craft Ale Bar – 383 Shirley Road SO15 3JD, Servicing / Traffic Management Plan, as received by the Local Planning Authority 18/06/2015.

Reason: To protect the amenities and privacy of occupiers of the adjoining property.

#### 8. APPROVAL CONDITION, Deliveries [Performance Condition]

No deliveries shall take place associated with the A4 drinking establishment use between the hours of 8:00-9:30, 16:00-18:00 and 20:00-08:00 on any day and in accordance with the Servicing Management Plan titled Overdraft Craft Ale Bar – 383 Shirley Road SO15 3JD, Servicing / Traffic Management Plan as received by the Local Planning Authority 18/06/2015.

Reason: To reduce congestion on the public highway and in the interests of residential amenity.

#### 9. APPROVAL CONDITION, Glass Storage [Performance Condition]

Except for on bin collection day no storage of glass (for recycling purposes) shall take place outside of the building. Glass collection shall also not take place between the hours of 20:00 and 9:00.

Reason: To protect the amenities of occupiers of the adjoining property.

**POLICY CONTEXT**

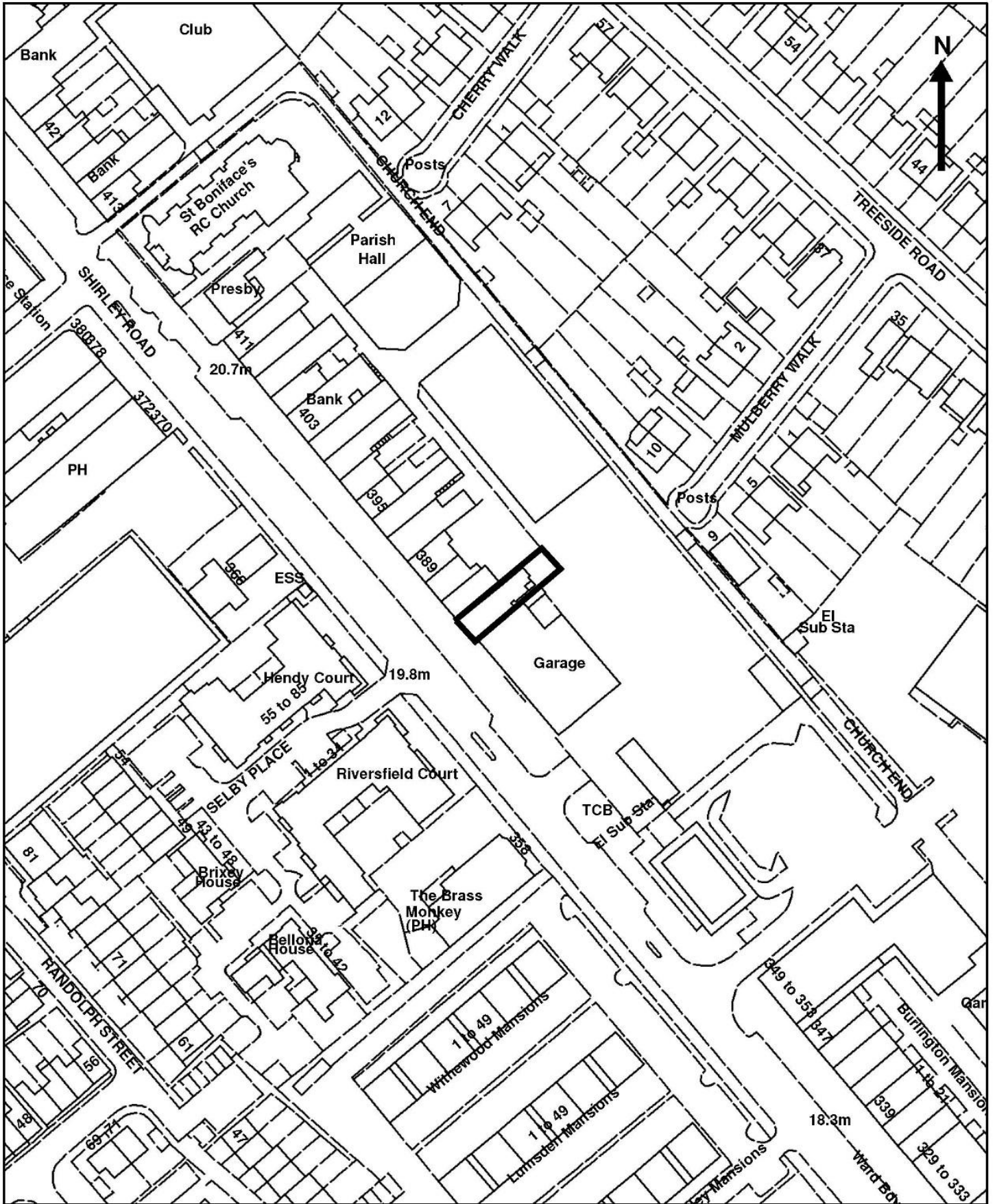
Core Strategy - (January 2010)

CS3	Town district and local centres, community hubs and community facilities
CS19	Car & Cycle Parking
CS24	Access to Jobs

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP10	Safety & Security
SDP16	Noise
SDP17	Lighting
CLT15	Night Time Uses in Town, District and Local Centres
REI4	Secondary Retail Frontages
REI7	Food and Drink Uses (Classes A3, A4 and A5)
REI8	Shopfronts

# 15/00770/FUL



Scale: 1:1,250

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