

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

Application address: 253-253A Portswood Road, Southampton			
Proposed development: Retention of a single storey rear extension and associated air conditioning units.			
Application number	14/01941/FUL	Application type	FUL
Case officer	Laura Grimason	Public speaking time	5 minutes
Last date for determination:	15/01/2015	Ward	Portswood
Reason for Panel Referral:	Request by Ward Member and 5 or more letters of objection have been received	Ward Councillors	Cllr Paul O'Neil Cllr Matthew Claisse Cllr Linda Norris
Referred to panel by:	Cllr Claisse	Reason:	Impacts on character and residential amenity

Applicant: Mr Tony Luongo	Agent: Les Weymes Planning Consultancy
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Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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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 extension and associated air conditioning equipment are not considered to cause material harm to residential amenity, highways safety or the character and amenity of the Portswood Residents' Gardens Conservation Area. 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, SDP16, HE1 and REI5 of the City of Southampton Local Plan Review (March 2015) and CS13 and CS14 of the Local Development Framework Core Strategy Development Plan Document Partial Review (March 2015); as supported by the Portswood Residents Gardens Conservation Area Appraisal and Management Plan.

Appendix attached			
1	Development Plan Policies	2	Planning History
3	Appeal decision 13/01206/FUL		

Recommendation in Full

Conditionally approve

1.0 Introduction

1.1 This application has been submitted concurrently with planning application 14/01981/FUL which seeks planning permission to vary condition 4 of planning permission 13/01745/FUL to allow the restaurant/cafe premises to open between 0700 hours and midnight on any day.

2.0 The site and its context

- 2.1 The site is located within the Portswood District Shopping Centre which is predominantly characterised by a range of commercial uses, including food and drink premises. The site is bounded by a service track to the rear which runs alongside the rear gardens of the residential properties in Abbots Way. The boundary of the Portswood Residents Gardens Conservation Area follows the rear edge of the gardens of these properties.
- 2.2 The application site itself contains a two-storey building split into two commercial premises at ground floor, comprising a Use Class A3 ice cream parlour (subject of this application) and a Use Class A2 professional use. Permission has been previously granted to convert the first floor into two small HMO (class C4) units (4 bedrooms).

3.0 Proposal

- 3.1 Permission is sought for the retention of a single storey rear extension and associated air conditioning units.
- 3.2 The extension is located to the rear of the property, facing onto the access road serving the properties along Portswood Road. The rear gardens of the residential properties along Abbots Way are located on the opposite side of this access road. The proposed extension projects outwards from the rear elevation of the property by approximately 3.8m. It measures approximately 7.4m in width and has a flat roof.
- 3.3 The 2 air conditioning units are located to the rear elevation of the main property and the side elevation of the rear extension. There is also a louvered section of the rear elevation of the extension serving compressor units for the freezers within the extension.
- 3.4 A separate application (ref.14/01981/FUL) on the site, to vary condition 4 of planning permission 13/01745/FUL to allow the restaurant/cafe premises to open between 07:00 hours and midnight on any day, is also being considered.

4.0 Relevant Planning Policy

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (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**.
- 4.2 Saved policy RE15 (District Centres) requires development to be in scale with the District Centre and should maintain, and where possible enhance its vitality and viability. Saved policy SDP1(i) seeks to protect the amenity of local residents, whilst policy SDP16 will not permit noise generating development if it would cause an unacceptable level of noise impact to nearby sensitive noise uses. Policy SDP7 (Context) and SDP9 (Scale, Massing, and Appearance) allows development which will not harm the character and appearance of the local area, and the building design in terms of scale and massing should be high quality which respects the surrounding area. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design.
- 4.3 Saved policy HE1 (New Development in Conservation Areas) states that where development is adjacent to a conservation area, it will only be permitted where the character or appearance of the area is preserved or enhanced. The Portswood Residents' Gardens Conservation Area Appraisal and Management Plan (PRGCA) sets out a strategy for preserving and enhancing the conservation area.
- 4.4 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.

5.0 Relevant Planning History

- 5.1 The relevant planning history is set out in **Appendix 2**. In summary, an application was refused in 2013 (ref no. 13/00228/FUL) for the conversion of the building into small HMO (class C4) accommodation on the upper floors and subdivision of the ground floor A1 retail unit into 2 separate units for A3 and A2 use.
- 5.2 In a subsequent application (13/01206/FUL - February 2014), an entrance door was provided for the upper floor HMOs off Portswood High Street. This application was refused by the Planning Committee and then allowed at appeal (ref no. APP/D1780/A/13/2208545). The decision notice and plans are appended to **Appendix 3**. The application was refused due to specific concerns regarding the quality of the residential environment in terms of layout and access. A Planning Inspector subsequently concluded at appeal that the quality of the residential environment and servicing of the HMO accommodation was adequate.
- 5.3 During determination of the appeal, separate applications were approved to convert the ground floor into the A3 and A2 uses which was previously refused as part of the mixed use scheme.
- 5.4 When the conversion works started to take place, the applicant decided to build a

secure and covered bin and cycle store covering the small courtyard area next to the rear track. This is the structure which is being considered under this application.

6.0 Consultation Responses and Notification Representations

6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (10/12/2014). At the time of writing the report **10** representations have been received from surrounding residents, Councillor Claisse, the Planning group for the Portswood Residents Gardens Conservation Group and Highfield Residents Association. The following is a summary of the points raised:

6.2 Comment

The proposal is likely to be at odds with the tranquil setting of the Portswood Residents Gardens Conservation Area.

Response

The extension is considered to be of an appropriate scale in this location and does not have a significant impact on the character or appearance of the Portswood Residents Gardens Conservation Area. Its location to the rear of the property ensures that it is not overly visible from the wider street scene. There is a distinctive physical and visual separation between the buildings forming part of Portswood District Centre and the Portswood Residents Gardens Conservation Area. As such, it is considered that the character and appearance of the conservation area would not be materially harmed by the proposal.

6.3 Comment

The extension is excessive in scale and represents overdevelopment of the site.

Response

Portswood District Centre has a dense, commercial character, and most commercial plots are almost or entirely developed with buildings, extensions and storage. The degree of site coverage is not, therefore, out-of-character. The extension has a single-storey scale and its positioning to the rear of the property ensures that it is tucked away from the street scene and only visible when walking along the rear access road. There is sufficient space to the rear of the property to accommodate the extension without projecting outwards into the rear access road. As such, the extension is not considered to constitute overdevelopment of the site and provides much needed space for the ancillary equipment for the ground floor ice cream parlour.

6.4 Comment

The air conditioning units and horizontal ventilation slats within the rear elevation of the extension would result in additional noise, disturbance and odours which are likely to be detrimental to the residential amenities of adjoining occupiers.

Response

The applicant has submitted a detailed noise report outlining a number of recommendations which will be implemented to mitigate the impact of noise arising from the air conditioning units on the residential amenities of adjoining occupiers. The City Council's Environmental Health team are satisfied that if

these recommendations are followed, the air conditioning units are not likely to be detrimental to residential amenity. As such, a suitably worded condition will be used to ensure the required measures are implemented (see condition 2, below).

6.5 Comment

The extension is to be used in association with the ground floor ice cream parlour, removing any space for the cycle and refuse storage associated within the first floor residential units.

Response

A site visit confirmed that an area within the extension is used for the storage of refuse which is associated within the ground floor use, whilst bins for the first floor use are kept outside the rear entrance door. There is sufficient space to the rear to accommodate this without causing nuisance to occupiers or vehicles using the rear entrance. There is also sufficient space to accommodate internal cycle storage and a condition is suggested to secure this (see condition 4, below). Furthermore, this is not visible from the wider street scene. As such, it is considered that sufficient refuse storage is provided on site.

6.6 Comment

The primary front access for the upper floor units has still not been implemented. This is located within the front of the lettings agency and can only be used when this is in operation. Outside of the hours of operation of the lettings agency, residents are required to use the unsafe access to the rear. This is unacceptable.

Response

This application relates solely to the rear extension and associated air conditioning units. The provision of a front entrance to the upper floor flats does not form a material planning consideration in this instance, however, this matter has been passed to the department's Enforcement Team for resolution.

6.7 Comment

On site lighting cause disturbance to the properties along Abbots Way as they shine into the rear gardens.

Response

A suitably worded condition has been imposed to ensure that all lighting on site accords with the Institute of Lighting Professionals Guidance for the Reduction of Obtrusive Light. This will minimise the impact of any lighting on nearby residential dwellings.

6.8 Comment

Construction works previously undertaken at the property have been excessively noisy.

Response

This is not a material planning consideration in this instance. Members of the public are advised to contact the City Council's Environmental Health team if they are concerned about noise and disturbance related to construction works at the property.

6.9 Comment

The rainwater pipe attached to the extension overhangs the boundary with the adjoining property at 255 Portswood Road. Furthermore, this does not run into a soakaway and is likely to increase flooding in this location.

Response

The rainwater pipe is fixed to an existing wall which does not form part of this application. As such, this does not form a material consideration in this instance and is a private legal matter between the two property owners.

6.10 Comment

The rear extension originally approved was intended to accommodate refuse and cycle storage. The one which has been built is significantly larger and accommodates equipment associated with the ice cream parlour. There is insufficient room for refuse and cycle storage.

Response

A site visit confirmed that an area within the extension is used for the storage of refuse which appears to be associated within the ground floor use whilst bins for the first floor use are kept outside the rear entrance door. There is sufficient space to the rear to accommodate this without causing nuisance to occupiers or vehicles using the rear entrance. As such, it is considered that sufficient refuse storage is provided on site. Furthermore, the extension is of a size which would be able to accommodate cycle storage if required. A condition is suggested to secure this.

6.11 Comment

The ice cream parlour is currently opening till midnight. The approved hours required operation to cease after 9 o'clock in the evening.

Response

A separate application (ref.14/01981/FUL) has been submitted seeking permission for the hours of operation for the ice cream parlour to be extended to midnight. This issue will be considered in full in this separate application.

7.0 Consultation Responses

7.1 **SCC Environmental Health (Pollution & Safety)** – No objection subject to conditions to secure the implementation of the mitigation measures set out in the submitted Noise Report. A condition should also be imposed with respect to external lighting.

8.0 Planning Consideration Key Issues

8.1 The determining issues for this scheme relate to:

- (i) Impact on residential amenity;
- (ii) Visual appearance and impact on the character of the area and;
- (iii) Impact on highway safety

8.2 (i) Impact on residential amenity

8.2.1 The commercial uses within Portswood High Street have historically co-existed with the residential communities nearby. The rear of the site backs onto the rear gardens of the residential properties within Abbots Way separated by a service

track. The appeal decision raised no significant concern with regards to this relationship. The rear gardens of these properties back onto the rear service road for the units along Portswood Road. The rear elevations of these properties are located between 16m and 23m from this rear access road.

- 8.2.2 As a result of the appeal decision (ref. APP/D1780/A/13/2208545), two small HMOs have been established at first floor level above the ground floor ice cream parlour and lettings agency. The structure subject to this application provides storage space to serve the uses already approved and it is considered to be preferable for storage to be enclosed within a purpose built structure than open-air.
- 8.2.3 The main issue with regards to residential amenity relates to the impact of the air conditioning equipment at the site in terms of additional, noise and odours that may arise from their operation. The applicant has submitted a noise report (External Plant Noise Assessment (ref.SA-3779) produced by Sound Advice Acoustics Ltd. and dated 21st May 2015) to assess the impact of the air conditioning equipment.
- 8.2.4 External noise levels were recorded over a 3 day period (the 1st to the 3rd May 2015). Two time periods were analysed; daytime between 07:00 and 23:00 and night time between 23:00 and 07:00. It can therefore, be concluded that the noise report covers a full 24 hour period as required by the Environmental Health team.
- 8.2.5 The submitted noise report outlines a series of recommendations which should be implemented in order to minimise noise levels arising from the operation of the air conditioning equipment at the rear of the property and to protect the residential amenities of neighbouring occupiers.
- 8.2.6 The first recommendation requires the 3 air conditioning units to be relocated to the roof of the extension and contained within a suitable acoustic enclosure. Such an enclosure should be manufactured using acoustic panels and should also meet the ventilation requirements of the air conditioning units according to their manufacturer's specification. The panels which should be used for this enclosure are as follows:
- (a) 100mm thick acoustic panels manufactured from galvanised mild steel with a mineral wool infill of 100mm thick 45kg/m³.
 - (b) An inner face comprising perforated mild steel with a maximum open area of 30%.
 - (c) The enclosure should be sealed to the roof to ensure an absorptive inner face is in place.
- 8.2.7 The acoustic enclosure would only need to be large enough to accommodate the units themselves and so it is considered that an appropriately worded planning condition could secure this.
- 8.2.8 The second recommendation relates to the louvres within the extension which provide ventilation for the internal air compressor units serving the ground floor ice cream parlour. This states that the existing louvres should be upgraded with acoustic ventilation louvres to achieve the minimum static insertion loss levels as outlined on page 17 of the report.

8.2.9 The City Council's Environmental Health department have been consulted on the submitted noise report and are satisfied that if the recommendations outlined above (and on page 17 of the submitted noise report) are implemented, no loss of amenity will occur for neighbouring occupiers. A condition is, therefore, suggested to secure these measures (see condition 2, below).

8.2.10 An additional condition relating to external lighting will also be implemented to protect the residential amenities of residential occupiers.

8.2.11 With regards to the impact of the extension itself, this is not located in close proximity to any windows serving habitable rooms at the adjoining properties. Furthermore, an acceptable separation distance (between 16m and 23m) would remain between the extension and the rear elevations of the properties along Abbotts Way to ensure that no loss of light, loss of outlook or overbearing impact would occur.

8.3 (ii) Visual appearance and impact on the character of the area

8.3.1 The extension is located to the rear of the property and can only be seen from the rear access road serving the rear of the properties along Portswood Road. It has been constructed using materials which are appropriate in relation to the recipient property and the rear of the wider terrace and is an appropriate scale for this location. The extension is not visible from Portswood Road and is not subsequently, considered to have a significant impact on the wider street scene. That said, the scale, massing and appearance are considered to reflect the commercial nature of the surrounds. Having regard to both the retention of an acceptable separation distance between the extension and the properties along Abbotts Way and the presence of substantial boundary treatments serving the rear gardens of these nearby residential properties, it is not considered that the extension is detrimental to the character or appearance of the Portswood Residents Gardens Conservation Area.

8.4 (iii) Impact on highways safety

8.4.1 The Highway Officer has raised no concerns that the proposal would adversely affect highway safety.

9.0 Summary

9.1 In summary, the extension and associated air conditioning equipment are not considered to be detrimental to residential amenity, highways safety or the character and appearance of the Portswood Residents Gardens Conservation Area.

10.0 Conclusion

10.1 As such, the proposal is judged to have an acceptable impact and can therefore, be supported.

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

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

L.G for 14/07/15 PROW Panel

PLANNING CONDITIONS

1. 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.

2. APPROVAL CONDITION: Noise Recommendations

Within a period of 6 months from the date of planning permission, details of the measures outlined on page 17 of the approved 'External Plant Noise Assessment' report (ref.SA-3779 and dated 21st May 2015) shall be implemented in accordance with details to be submitted to and approved by the Local Planning Authority in writing. More specifically, these measures shall comprise:

(1) The relocation of the 3 existing air conditioning units to the roof of the extension. These should be contained within an acoustic enclosure comprising:

- a) 100mm thick acoustic panels manufactured from galvanised mild steel with a mineral wool infill of 100mm thick 45kg/m³.
- b) An inner face comprising perforated mild steel with a maximum open area of 30%.
- c) The enclosure should be sealed to the roof to ensure an absorptive inner face is in place.

(2) Upgrading the existing louvres with acoustic ventilation louvres to achieve the minimum static insertion loss levels as outlined on page 17 of the report.

The scheme shall be implemented as approved and retained thereafter unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To protect the residential amenities of neighbouring occupiers.

3. APPROVAL CONDITION - Lighting

Within a period of 6 months from the date of planning permission, on-site external lighting shall be installed in accordance with details to be submitted to and approved by the Local Planning Authority in writing. The scheme must demonstrate compliance with the Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light 2005. The installation must be maintained in accordance with the agreed written scheme.

Reason:

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

4. APPROVAL CONDITION - Cycle and Refuse Storage

Within a period of 6 months from the date of this permission, arrangements for the storage of refuse and cycles for both the commercial use and the first floor residential use shall be implemented, in accordance with a scheme to be submitted to and approved by the Local Planning Authority in writing. The storage shall thereafter be retained as approved.

Reason:

To ensure a satisfactory form of development and, in the interests of the visual and residential amenity of the area.