PLANNING AND RIGHTS OF WAY PANEL MINUTES OF THE MEETING HELD ON 19 JULY 2011

<u>Present:</u> Councillors Jones (Chair), Claisse (Vice-Chair), Mrs Blatchford, Cunio,

L Harris, Osmond and Thomas

21. MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

RESOLVED that the Minutes of the Meeting held on 21st June 2011 be approved and signed as a correct record.

CONSIDERATION OF PLANNING APPLICATIONS

Copy of all reports circulated with the agenda and appended to the signed minutes.

22. <u>17 BEDFORD PLACE (PIZZA GOGO) 11/00936.FUL</u>

Variation of condition 8 of planning permission 940589/E to change operating hours from 8.00 - 23.00 Monday - Thursday and 8.00 - 23.30 Friday and Saturday to 8.00 - 03.00 Monday - Sunday (resubmission of planning application reference 10/01482/FUL).

Mr Rathore (Agent), Mr Nouroozi (Owner of 9 Bedford Place), Mrs Barter (Local resident), Mrs Badham and Sergeant Marshman (Police), Councillor Noon (Ward Councillor) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO REFUSE PLANNING PERMISSION AND DELEGATE AUTHORITY TO SERVE A BREACH OF CONDITION NOTICE WAS CARRIED

RECORDED VOTE

FOR: Councillors Jones, Mrs Blatchford, Claisse, Cunio,

L Harris, Osmond

ABSTAINED: Councillor Thomas

RESOLVED

- (i) that variation to planning permission be refused for the reasons set out below; and
- (ii) that authority be given for the Head of Legal and Democratic Services to serve a Breach of Condition notice.

REASONS FOR REFUSAL

1 - Harmful Intensification

The proposed extension to opening hours would result in an extended late night use, which is situated in a location where there are nearby residential properties. As such, it is considered that the intensification of use into the early hours of the morning would cause further detriment to the residential amenities of neighbours by reason of noise, litter and disturbance as patrons leave the premises and disperse into the surrounding residential areas. Furthermore, the proposal in conjunction with other similar

application proposals that would likely follow would set a precedent for late opening of other premises within the vicinity of the site would create a cumulative harmful impact on the residential amenity. The proposal would thereby prove contrary to the provisions of saved policies SDP1, SDP 16, REI7 and CLT 14 of the adopted City of Southampton Local Plan Review (2006) and policy CS1 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by the comments made to the application by Hampshire Constabulary.

2 - Impact on Crime and Disorder

The proposed extension to the opening hours encourages patrons of nearby nightclubs and drinking establishments to stay within the Bedford Place area for longer after they have left those premises and to also remain after the other uses have closed. This exacerbates the crime and disorder problems identified within this location and therefore proves contrary to the provisions of saved policies SDP1, REI7 and CLT14 of the City of Southampton Local Plan Review (adopted version 2006), policy CS1 of the Local Development Framework Core Strategy Development Plan Document and therefore also fails to meet the aims of the Crime and Disorder Act 1998, as evidenced by the comments made to the application by Hampshire Constabulary.

23. 9 BEDFORD PLACE (CHICKEN LAND) 11/00937/FUL

Variation of Condition 6 of planning permission 981018/E to change operating hours from 08.00 -23.30 hours to 12.00 - 04.00 hours Monday - Sunday (resubmission of planning application reference 10/01423/FUL)

Mr Rathore (Agent), Mr Nouroozi (Owner of 9 Bedford Place), Mrs Barter (Local resident), Mrs Badham and Sergeant Marshman (Police), Councillor Noon (Ward Councillor) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO REFUSE PLANNING PERMISSION AND DELEGATE AUTHORITY TO SERVE A BREACH OF CONDITION NOTICE WAS CARRIED

RECORDED VOTE

FOR: Councillors Jones, Mrs Blatchford, Claisse, Cunio,

L Harris, Osmond

ABSTAINED: Councillor Thomas

RESOLVED

- (i) that variation to planning permission be refused for the reasons set out below; and
- (ii) that authority be given for the Head of Legal and Democratic Services to serve a Breach of Condition notice.

REASONS FOR REFUSAL

1 - Harmful Intensification

The proposed extension to opening hours would result in an extended late night use, which is situated in a location where there are nearby residential properties. As such, it is considered that the intensification of use into the early hours of the morning would cause further detriment to the residential amenities of neighbours by reason of noise, litter and disturbance as patrons leave the premises and disperse into the surrounding

residential areas. Furthermore, the proposal in conjunction with other similar application proposals that would likely follow would set a precedent for late opening of other premises within the vicinity of the site would create a cumulative harmful impact on the residential amenity. The proposal would thereby prove contrary to the provisions of saved policies SDP1, SDP 16, REI7 and CLT 14 of the adopted City of Southampton Local Plan Review (2006) and policy CS1 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by the comments made to the application by Hampshire Constabulary.

2 - Impact on Crime and Disorder

The proposed extension to the opening hours encourages patrons of nearby nightclubs and drinking establishments to stay within the Bedford Place area for longer after they have left those premises and to also remain after the other uses have closed. This exacerbates the crime and disorder problems identified within this location and therefore proves contrary to the provisions of saved policies SDP1, REI7 and CLT14 of the City of Southampton Local Plan Review (adopted version 2006), policy CS1 of the Local Development Framework Core Strategy Development Plan Document and therefore also fails to meet the aims of the Crime and Disorder Act 1998, as evidenced by the comments made to the application by Hampshire Constabulary.

24. 8 BEDFORD PLACE (J J S FISH AND CHIPS) 11/00938/FUL

Variation of Condition 2 of planning permission 971147/E to change operating hours from 08.00 to 23.00 Monday - Thursdays and 8.00 to 23.30 Friday and Saturday to 11.00 - 04.00 hours Monday - Sunday (resubmission of planning application reference 10/01425/FUL)

Mr Rathore (Agent), Mr Nouroozi (Owner of 9 Bedford Place), Mrs Barter (Local resident), Mrs Badham and Sergeant Marshman (Police), Councillor Noon (Ward Councillor) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO REFUSE PLANNING PERMISSION AND DELEGATE AUTHORITY TO SERVE A BREACH OF CONDITION NOTICE WAS CARRIED

RECORDED VOTE

FOR: Councillors Jones, Mrs Blatchford, Claisse, Cunio,

L Harris, Osmond

ABSTAINED: Councillor Thomas

RESOLVED

- (i) that variation to planning permission be refused for the reasons set out below; and
- (ii) that authority be given for the Head of Legal and Democratic Services to serve a Breach of Condition notice.

REASONS FOR REFUSAL

1 - Harmful Intensification

The proposed extension to opening hours would result in an extended late night use, which is situated in a location where there are nearby residential properties. As such, it is considered that the intensification of use into the early hours of the morning would

cause further detriment to the residential amenities of neighbours by reason of noise, litter and disturbance as patrons leave the premises and disperse into the surrounding residential areas. Furthermore, the proposal in conjunction with other similar application proposals that would likely follow would set a precedent for late opening of other premises within the vicinity of the site would create a cumulative harmful impact on the residential amenity. The proposal would thereby prove contrary to the provisions of saved policies SDP1, SDP 16, REI7 and CLT 14 of the adopted City of Southampton Local Plan Review (2006) and policy CS1 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by the comments made to the application by Hampshire Constabulary.

2 - Impact on Crime and Disorder

The proposed extension to the opening hours encourages patrons of nearby nightclubs and drinking establishments to stay within the Bedford Place area for longer after they have left those premises and to also remain after the other uses have closed. This exacerbates the crime and disorder problems identified within this location and therefore proves contrary to the provisions of saved policies SDP1, REI7 and CLT14 of the City of Southampton Local Plan Review (adopted version 2006), policy CS1 of the Local Development Framework Core Strategy Development Plan Document and therefore also fails to meet the aims of the Crime and Disorder Act 1998, as evidenced by the comments made to the application by Hampshire Constabulary.

25. 3 BEDFORD PLACE (CASPIAN KEBAB) 11/00939/FUL

Minor Material Amendment to planning permission 1463/P18 (The use of an existing shop at 3 Bedford Place, as a shop for the sale of cooked food (with opening hours of 9.00 a.m. to 11.30 p.m.)) to alter the operating hours from 09.00 - 23.30 hours to 11.00 - 04.00 hours Monday to Sunday (resubmission of planning application reference 10/01424/MMA).

Mr Rathore (Agent), Mr Nouroozi (Owner of 9 Bedford Place), Mrs Barter (Local resident), Mrs Badham and Sergeant Marshman (Police), Councillor Noon (Ward Councillor) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO REFUSE PLANNING PERMISSION AND DELEGATE AUTHORITY TO SERVE AN ENFORCEMENT NOTICE WAS CARRIED

RECORDED VOTE

FOR: Councillors Jones, Mrs Blatchford, Claisse, Cunio,

L Harris, Osmond

ABSTAINED: Councillor Thomas

RESOLVED

- (i) that minor material amendment to planning permission be refused for the reasons set out below; and
- (ii) that authority be given for the Head of Legal and Democratic Services to serve a Breach of Condition notice.

REASONS FOR REFUSAL

1 - Harmful Intensification

The proposed extension to opening hours would result in an extended late night use, which is situated in a location where there are nearby residential properties. As such, it is considered that the intensification of use into the early hours of the morning would cause further detriment to the residential amenities of neighbours by reason of noise, litter and disturbance as patrons leave the premises and disperse into the surrounding residential areas. Furthermore, the proposal in conjunction with other similar application proposals that would likely follow would set a precedent for late opening of other premises within the vicinity of the site would create a cumulative harmful impact on the residential amenity. The proposal would thereby prove contrary to the provisions of saved policies SDP1, SDP 16, REI7 and CLT 14 of the adopted City of Southampton Local Plan Review (2006) and policy CS1 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by the comments made to the application by Hampshire Constabulary.

2 - Impact on Crime and Disorder

The proposed extension to the opening hours encourages patrons of nearby nightclubs and drinking establishments to stay within the Bedford Place area for longer after they have left those premises and to also remain after the other uses have closed. This exacerbates the crime and disorder problems identified within this location and therefore proves contrary to the provisions of saved policies SDP1, REI7 and CLT14 of the City of Southampton Local Plan Review (adopted version 2006), policy CS1 of the Local Development Framework Core Strategy Development Plan Document and therefore also fails to meet the aims of the Crime and Disorder Act 1998, as evidenced by the comments made to the application by Hampshire Constabulary.

26. 15 BEDFORD PLACE (TEDS FISH AND CHIPS) 11/00977/FUL

Variation of Condition 2 of planning permission 1552/M5 to allow opening times from 8.00am to 1.00am to 8.00am to 3.00am Mon - Thurs, 8.00am to 4.00am Fridays and Saturdays and 8.00am to 12.00am Sundays (resubmission of planning application reference 10/01433/FUL).

Mr Rathore (Agent), Mr Nouroozi (Owner of 9 Bedford Place), Mrs Barter (Local resident), Mrs Badham and Sergeant Marshman (Police), Councillor Noon (Ward Councillor) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO REFUSE PLANNING PERMISSION AND DELEGATE AUTHORITY TO SERVE A BREACH OF CONDITION NOTICE WAS CARRIED

RECORDED VOTE

FOR: Councillors Jones, Mrs Blatchford, Claisse, Cunio,

L Harris, Osmond

ABSTAINED: Councillor Thomas

RESOLVED

- that variation to planning permission be refused for the reasons set out below; and
- (ii) that authority be given for the Head of Legal and Democratic Services to serve a Breach of Condition notice.

REASONS FOR REFUSAL

1 - Harmful Intensification

The proposed extension to opening hours would result in an extended late night use, which is situated in a location where there are nearby residential properties. As such, it is considered that the intensification of use into the early hours of the morning would cause further detriment to the residential amenities of neighbours by reason of noise, litter and disturbance as patrons leave the premises and disperse into the surrounding residential areas. Furthermore, the proposal in conjunction with other similar application proposals that would likely follow would set a precedent for late opening of other premises within the vicinity of the site would create a cumulative harmful impact on the residential amenity. The proposal would thereby prove contrary to the provisions of saved policies SDP1, SDP 16, REI7 and CLT 14 of the adopted City of Southampton Local Plan Review (2006) and policy CS1 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010).

2 - Impact on Crime and Disorder

The proposed extension to the opening hours encourages patrons of nearby nightclubs and drinking establishments to stay within the Bedford Place area for longer after they have left those premises and to also remain after the other uses have closed. This exacerbates the crime and disorder problems identified within this location and therefore proves contrary to the provisions of saved policies SDP1, REI7 and CLT14 of the City of Southampton Local Plan Review (adopted version 2006), policy CS1 of the Local Development Framework Core Strategy Development Plan Document and therefore also fails to meet the aims of the Crime and Disorder Act 1998, as evidenced by the comments made to the application by Hampshire Constabulary.

27. **24-28 JOHN STREET 11/00021/OUT**

Re-development of the site to erect a 4-storey building containing 10 flats (3 studios, 4 x 1-bedroom, 2 x 2-bedroom, 1 x 3-bedroom units) and commercial unit on ground floor with associated parking, cycle and refuse store (outline application seeking approval of means of access, appearance, layout and scale).

Mr Wiles (Agent), Mr Townsend, Mrs Stockwell and Mr Barlow (Local Residents) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO GRANT PLANNING PERMISSION SUBJECT TO THE APPLICANT ENTERING INTO A SECTION 106 LEGAL AGREEMENT WAS LOST UNANIMOUSLY

A FURTHER MOTION PROPOSED BY COUNCILLOR JONES AND SECONDED BY COUNCILLOR MRS BLATCHFORD THAT THE APPLICATION BE REFUSED

THE MOTION THAT THE APPLICATION BE REFUSED WAS CARRIED UNANIMOUSLY FOR THE FOLLOWING REASONS

REASONS FOR REFUSAL

1 - The proposed contemporary design including the proportions of window openings, the proposed external materials and the step forward of existing houses in John Street would result in a development that would be out of character with the established pattern of development in John Street and would have a detrimental visual impact on the setting of the Oxford Street Conservation Area.

The proposals are therefore contrary to policies SDP1, SDP7, SDP9 and HE1 of the City of Southampton Local Plan Review 2006 and policies CS13 and CS14 of the Core Strategy 2010.

2 - The applicant has failed to provide sufficient information with regard to the measures to be put in place to ensure prior warning and safe evacuation of occupiers of the building in the event of a flood event (flood warning and evacuation plan) or measures to prevent flooding of the building (flood proofing) contrary to guidance set out in PPS25 (Development and Flood Risk) and policy CS23 of the Core Strategy 2010.

3 -Fails to secure S.106 provisions

The proposals fail to mitigate against their direct impacts or satisfy the provisions of policy CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010), the named saved policies from the Local Plan Review (March 2006) and the provisions of the Council's adopted Supplementary Planning Guidance on Planning Obligations (August 2005 as amended) in the following ways:-

- a) No mechanism is in place to secure the delivery of affordable housing as part of the scheme and, as such, the development is contrary to Policy H9 of the City of Southampton Local Plan Review Adopted Version March 2006 and Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) as supported by the adopted SPG relating to Planning Obligations (August 2005 as amended).
- b) Measures to satisfy the public open space requirements of the development have not been secured. As such the development is contrary to Policy CLT5 and CLT6 of the City of Southampton Local Plan Review (March 2006) and policies CS21 & CS25 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended).
- c) Measures to site specific transport works for highway improvements in the vicinity of the site that are directly necessary to making the scheme acceptable in highway terms in accordance with polices CS18, CS19 & CS25 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) have not been secured.
- d) Measures to support strategic transport projects for highway network improvements in the wider area in accordance with policies CS18 & CS25 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January

2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) have not been secured.

e) In the absence of a mechanism for securing a (pre and post construction) highway condition survey it is unlikely that the development will make appropriate repairs to the highway - caused during the construction phase - to the detriment of the visual appearance and usability of the local highway network.

RESOLVED that planning permission be refused for the reasons set out above.

28. <u>DILLONS SHEDS, OLD REDBRIDGE ROAD 11/00199/FUL</u>

Retrospective change of use from previous use for manufacture and sale of timber sheds to use for painting contractors premises, vehicle repair and MOT testing, storage of recycled materials, storage and manufacture of sheet metal acoustic panels, storage of scaffolding equipment, general open storage and car parking area, retention of 3m high fencing and proposed siting of portable building.

Mr Sayle (Agent) and Mrs Toner (Local resident) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO REFUSE RETROSPECTIVE CHANGE OF USE AND DELEGATE AUTHORITY TO SERVE AN ENFORCEMENT NOTICE (TO UNITS 1 AND 10 ONLY) WAS CARRIED UNANIMOUSLY

RESOLVED that retrospective planning permission for change of use of the premises be refused for the reasons set out below:

- (i) that Authority be delegated to the Head of Legal and Democratic Services to:
 - (a) Upon receipt of an adopted screen opinion from the Planning and Development Manager to serve an Enforcement Notice, requiring the cessation of the unauthorised use of Unit 3 of the former Dillons Shed site. Should the unauthorised use not cease, that authority be given to prosecute such a breach of control, via the Magistrates Court;
 - (b) Unless a valid planning application accompanied by a noise report is submitted to the Local Planning Authority within two months of the date of this decision, to serve Enforcement Notices, requiring the cessation of the unauthorised use at Units 2, 4, 5, 6, 7, 8, and 9 of the former Dillons Shed site. Should the unauthorised use not cease, that authority be given to prosecute such a breach of control, via the Magistrates Court; and
- (ii) that no enforcement action be taken in respect of the uses in Units 1 and 10 at the current levels of activity.

REASONS FOR REFUSAL

1- Impact on Residential Amenity

The proposed development by reason of the intensification of the use and level and type of activity (including associated HGV movements) creates noise and disturbance which is harmful to the amenities of occupiers of the neighbouring residential properties. This is having regard to the close physical relationship of the site to the

residential neighbours and the cumulative impact of the uses on residential amenity. In particular in the absence of a noise report to the contrary, units 2, 3, 4, 5, 6, 7, 8 and 9 shown on the submitted site plan are considered to represent an unneighbourly form of use for this location. As such, the proposal would prove contrary to the provisions of saved policies SDP1 and SDP16 of the City of Southampton Local Plan Review (adopted version March 2006).

2 -Highway Safety

The increase in HGV movements associated with the proposal would be harmful to the safety and convenience of the users of the adjacent highway. This is having regard to the residential nature of the surrounding streets and the traffic calming measures in place. The proposal would increase pressure on nearby junctions including the Redbridge roundabout and result in an increase risk of vehicle conflict. In addition to this, the proposal is not designed with adequate on-site turning for HGV which could lead to further harm to the safety and convenience of the users of the adjacent highway and within the site itself. As such the proposal is contrary to policies CS19 of the Southampton Local Development Framework Core Strategy Development Plan Document (January 2010) and saved policies SDP1, SDP4 and TI2 of the City of Southampton Local Plan Review (adopted version March 2006).

3 - Insufficient Information

In the absence of a noise report, the Local Planning Authority is not satisfied that the uses operating from units 2, 3, 4, 5, 6, 7, 8, and 9 do not cause harm to the amenities of the occupiers of the neighbouring residential properties through noise and disturbance. As such the proposal would prove contrary to the provisions of saved policies SDP1 and SDP16 if the City of Southampton Local Plan Review (adopted version March 2006).

29. REMOVAL OF 24 TREES ALONG THE WOODLAND EDGE TO THE REAR OF 54-82 CHERITON AVENUE TO FACILITATE DRAINAGE WORKS

The Panel considered the report of the Head of Neighbourhood Services in respect of an application for the removal of twenty four trees along the woodland edge to the rear of 54-82 Cheriton Avenue, to facilitate drainage works. (Copy of report circulated with the agenda and attached to the signed minutes).

RESOLVED that subject to a method statement being approved by the Senior Tree Officer and Ecologist that consent be given for the removal of twenty four trees along the western boundary of Cheriton woodland.

30. REMOVAL OF 2 TREES IN OXFORD STREET TO ALLOW HIGHWAY WORKS

The Panel considered the report of the Head of Neighbourhood Services in respect of an application for the removal of two trees on Oxford Street, between Terminus Terrace and Latimer Street, to enable the highway improvement works and to provide 5 new trees in the adjacent area. (Copy of report circulated with the agenda and attached to the signed minutes).

RESOLVED that subject to five new trees being planted in the adjacent area with authority being delegated to the Senior Tree Officer to approve the species, size and location of the replacement trees, consent be given for the removal of two trees on Oxford Street, between Terminus Terrace and Latimer Street.