

Planning and Rights of Way Panel

Tuesday, 19th July, 2011
at 9.30 am

PLEASE NOTE TIME OF MEETING

Committee Rooms 1 and 2 - Civic
Centre

This meeting is open to the public

Members

Councillor Jones (Chair)
Councillor Claisse (Vice-Chair)
Councillor Mrs Blatchford
Councillor Cunio
Councillor L Harris
Councillor Osmond
Councillor Thomas

Contacts

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PUBLIC INFORMATION

Terms of Reference

The Panel deals with various planning and rights of way functions. It determines planning applications and is consulted on proposals for the draft development plan.

Public Representations

At the discretion of the Chair, members of the public may address the meeting about any report on the agenda for the meeting in which they have a relevant interest.

Members of the public in attendance at the meeting are advised of the process to be followed.

Southampton City Council's Six Priorities

- Providing good value, high quality services
- Getting the City working
- Investing in education and training
- Keeping people safe
- Keeping the City clean and green
- Looking after people

Smoking policy – The Council operates a no-smoking policy in all civic buildings

Mobile Telephones – Please turn off your mobile telephone whilst in the meeting.

Fire Procedure – In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: Municipal Year 2011/12

2011	2012
24 May 2011	17 January 2012
21 June	14 February
19 July	13 March
16 August	17 April
6 September	
27 September	
25 October	
22 November	
20 December	

CONDUCT OF MEETING

Terms of Reference

The terms of reference of the Planning and Rights of Way Panel are contained in Part 3 (Schedule 2) of the Council's Constitution

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

Quorum

The minimum number of appointed Members required to be in attendance to hold the meeting is three.

Disclosure of Interests

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "personal" or "prejudicial" interests they may have in relation to matters for consideration on this Agenda.

Personal Interests

A Member must regard himself or herself as having a personal interest in any matter:

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
 - any employment or business carried on by such person;
 - any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
 - any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

/Continued...

Prejudicial Interests

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are available via the Council's Website

1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

2 DISCLOSURE OF PERSONAL AND PREJUDICIAL INTERESTS

In accordance with the Local Government Act 2000, and the Council's Code of Conduct adopted on 16th May 2007, Members to disclose any personal or prejudicial interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Panel Administrator prior to the commencement of this meeting.

3 STATEMENT FROM THE CHAIR

4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

To approve and sign as a correct record the Minutes of the meeting held on 21st June 2011 and to deal with any matters arising, attached.

CONSIDERATION OF PLANNING APPLICATIONS

ITEMS TO BE HEARD BETWEEN 9:30 AM TO 11:15 AM

5 17 BEDFORD PLACE (PIZZA GOGO) 11/00936.FUL

Report of the Planning and Development Manager recommending approval be refused in respect of an application for a proposed development at the above address, attached.

6 9 BEDFORD PLACE (CHICKEN LAND) 11/00937/FUL

Report of the Planning and Development Manager recommending approval be refused in respect of an application for a proposed development at the above address, attached.

7 8 BEDFORD PLACE (J J S FISH AND CHIPS) 11/00938/FUL

Report of the Planning and Development Manager recommending approval be refused in respect of an application for a proposed development at the above address, attached.

8 3 BEDFORD PLACE (CASPIAN KEBAB) 11/00939/FUL

Report of the Planning and Development Manager recommending approval be refused in respect of an application for a proposed development at the above address, attached.

9 15 BEDFORD PLACE (TEDS FISH AND CHIPS) 11/00977/FUL

Report of the Planning and Development Manager recommending approval be refused in respect of an application for a proposed development at the above address, attached.

ITEMS TO BE HEARD BETWEEN 11:15 AM TO 12:00 PM

10 24-28 JOHN STREET 11/00021/OUT

Report of the Planning and Development Manager recommending delegated authority be granted in respect of an application for a proposed development at the above address, attached.

ITEMS TO BE HEARD BETWEEN 12:00 PM AND 1:00 PM

11 DILLONS SHEDS, OLD REDBRIDGE ROAD 11/00199/FUL

Report of the Planning and Development Manager recommending approval be refused in respect of an application for a proposed development at the above address, attached.

MAIN AGENDA ITEMS

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

Report of the Head of Neighbourhood Services, seeking approval for the removal of trees at the above site address, attached.

13 REMOVAL OF 2 TREES IN OXFORD STREET TO ALLOW HIGHWAY WORKS

Report of the Head of Neighbourhood Services, seeking approval for the removal of trees at the above site address, attached.

Monday, 11 July 2011

HEAD OF LEGAL AND DEMOCRATIC
SERVICES

PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 21 JUNE 2011

Present: Councillors Jones (Chair), Claisse (Vice-Chair), Mrs Blatchford, Cunio, L Harris, Osmond (Except Minute 13) and Thomas

12. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED that the Minutes of the Meeting held on 24th May 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.

13. **AREA HOUSING OFFICE, PARKVILLE ROAD 11/00204/FUL**

Redevelopment of the site. Demolition of the existing buildings and erection of a building ranging in height from 3-storeys to 15-storeys to provide student residential accommodation (53 cluster flats comprising a total of 348 rooms, 4 x 2-bedroom flats and 12 x 1-bedroom flats); a medical centre (Class D1 use), retail units (Class A1) and two units for community use or non-residential institution use (Class D1) or retail (A1) or food and drink use (A3) with associated landscaping, parking and site works, including the stopping up of existing highway.

Mr Lewis, Mr Kiddle, (Applicants), Mr Hopgood, Mr Spinney, Mr Dixon, Mr Piccinino (Local residents), Councillors Osmond, Turner and Vassiliou (Ward Councillors) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO DELEGATE AUTHORITY TO THE PLANNING AND DEVELOPMENT MANAGER TO GRANT CONDITIONAL PLANNING PERMISSION SUBJECT TO THE APPLICANT ENTERING INTO A SECTION 106 LEGAL AGREEMENT WAS CARRIED

RECORDED VOTE

FOR: Councillors Jones, Mrs Blatchford, Claisse, L Harris and Thomas

AGAINST: Councillor Cunio

RESOLVED that authority be delegated to the Planning and Development Manager to (i) negotiate/finalise the 'penalty clause' contribution and (ii) amend planning conditions before issue and grant conditional planning approval subject to:-

(a) Confirmation that draft Heads of Terms are acceptable to the applicant prior to the grant of planning permission, and receipt of an undertaking from the Head of Property and Procurement Services that the contract for the sale of Council owned land, the subject of this application, will be conditional upon Bouygues Development and any other landowner entering into a S.106 legal agreement with the Council, prior to the land transfer taking place, to provide the following planning obligations:

- i) An occupation restriction to ensure that all residents are in full time higher education and that the provider is a member of the Southampton Accreditation Scheme for Student Housing (SASSH) in accordance with Local Plan Policy H13(v);
- ii) The submission and implementation of a Student Drop Off/Collection Management Plan committing to an ongoing review of the site;
- iii) The scheme shall make a commencement within 6 months and achieve a shell and core finish within 36 months from the date of the planning permission so as to reflect the current viability assumptions made. In the event that this is not achieved a fresh viability appraisal shall be submitted with any uplift in value (up to an agreed sum) payable to the City Council;
- iv) A financial contribution and/or the implementation and maintenance of an agreed series of site specific transport and off-site landscaping works (including the proposed Stoneham Way service layby and Parkville Road Improvement Scheme with a minimum of 12 parking spaces) under S.278 of the Highways Act with implementation prior to first occupation in line with Policy SDP4 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS18 and CS25;
- v) The funding of Traffic Regulation Orders (TRO) required for the above measures to enable the development to be implemented;
- vi) A financial contribution and/or the implementation and maintenance of an agreed series of strategic transport projects for highway network improvements, including the potential for a new/revised UNlink bus route and bus stop serving the development with implementation prior to first occupation, in the wider area as set out in the Local Transport Plan and appropriate SPG/D;
- vii) The submission and implementation of a public parking management plan for those spaces along Parkville Road dedicated for public use;
- viii) A Student Car Ownership Restriction as part of any student contract of tenancy shall be agreed and imposed. No student shall be entitled to park on the land. Upon the offer of the place a clear written statement shall be given to the students detailing the implications for their tenancy in the event that they are found to have a car. All student contracts to include the agreed penalty clause wording to the effect that they shall not bring a car to Swaythling Ward whilst living at City Gateway and will be evicted if found to have done so. This will be enforced by the landowner upon receipt of valid evidence. In the event that evidence is provided by residents or the City Council that a resident has access to a car they will be given a warning followed by eviction in the event that the car is still available. In the event that no enforcement is taken by the landowner (to either the evidence provided or the eviction notice) within agreed timescales a breach of planning will have occurred and a financial penalty (to be set and agreed) will be payable to the City Council by the landowner. Reception area to have an up-to-date telephone number with information about when and where breaches can be reported to the freeholder.

- ix) A mechanism for replacing the existing community uses (both during and following the construction phase) in accordance with LDF Core Strategy Policy CS3;
- x) Financial contributions towards the relevant elements of public open space required by the development in line with Policy CLT5 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS21 and CS25;
- xi) The submission, approval and implementation of public art – possibly to include an art fence - that is consistent with the Council’s Public Art ‘Art People Places’ Strategy;
- xii) Submission and implementation within a specified timescale of a Travel Plan, including the provision of UNlink bus passes to all residents;
- xiii) Provision of on-site CCTV coverage and monitoring in line with Policy SDP10 of the City of Southampton Local Plan Review (March 2006) as supported by LDF Core Strategy policies CS13 and CS25;
- xiv) Submission and implementation of a TV Reception Study committing to a pre and post construction assessment with off-site mitigation where necessary;
- xv) Submission and implementation of a Training & Employment Management Plan committing to adopting local labour and employment initiatives (during and post construction) in line with LDF Core Strategy policies CS24 and CS25;
- xvi) A Site Waste Management Plan; and,
- xvii) Submission and implementation of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
- xviii) Agreement of construction vehicle routing.
- xix) Developer shall be responsible for the cost of checking of drawings and construction.

In the event that such an undertaking is not forthcoming within 3 months from the date of this decision that delegated authority be given to the Planning and Development Manager to refuse the application for failing to secure an appropriate mechanism for dealing with the S.106 legal agreement mitigation measures listed above.

(b) the conditions in the report and the amended conditions below:

11 Noise Mitigation and Attenuation

The approved development shall be implemented and completed only in accordance with the recommendations as set out in the applicant’s Noise Assessment dated 28th January 2011. Any mechanical acoustic ventilation fro noise issues from Thomas Lewis Way shall be ventilated from the roof. Notwithstanding these approved details,

unless otherwise agreed in writing by the Local Planning Authority, windows and ventilation systems shall be provided to achieve the sound reduction levels of:

37dB(A) for living rooms overlooking Stoneham Way
42dB(A) for bedrooms overlooking Stoneham Way
37dB(A) for living rooms overlooking Thomas Lewis Way
43dB(A) for bedrooms overlooking Thomas Lewis Way

REASON:

To protect occupants of the student accommodation from traffic and railway noise and to ensure that the amenity of existing residents is not unduly compromised during the implementation phase.

17 Landscaping

Notwithstanding the information submitted with the application (and detailed on the Terrafirma plan 1070-101H) no development shall take place (excluding the demolition and site preparation phase) until full details of both hard and soft landscaping for both the roof terraces, landscape buffers, all car parking and the ground floor courtyard area have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i. a detailed response to the Council's landscape design comments dated 19th April 2010;
- ii. proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas, hard surfacing materials, structures and ancillary objects (refuse bins etc);
- iii. external lighting (to include type and luminance);
- iv. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- v. a specification for the approved green/brown/biodiverse wall(s) and roof(s) forming the Thomas Lewis Way wing;
- vi. the provision of a 2 for 1 replacement of those trees to be lost (where practicable). The replacement trees shall be of a heavy standard size (12 - 14cm girth) as a minimum and will be planted within the site or at a place agreed in writing with the Local Planning Authority;
- vi. details of any proposed boundary treatment, including the "art fencing" to the south of the approved semi-public communal courtyard at ground floor level and the retained strip along the building's Thomas Lewis Way frontage; and
- vii. A landscaping management plan, including long term objectives, management responsibilities and maintenance schedules for the landscaped areas.

The hard and soft landscaping works shall be carried out in accordance with the details approved. The works shall be carried out before any of the development is occupied or in accordance with a timescale which has been agreed in writing with the local planning authority prior to the commencement of development.

If within a period of five years from the date of the planting of any tree or shrub, or any tree or shrub planted in replacement of it, it is removed, uprooted, destroyed, dies or becomes in any other way defective in the opinion of the local planning authority, another tree or shrub of the same species and size of that originally planted shall be

planted at the same place, unless the local planning authority gives its written consent to any variation.

REASON:

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990.

31 Bird Hazard Management Plan (BHMP) - BAA

Development shall not commence (excluding the demolition and site preparation phase) until a Bird Hazard Management Plan (BHMP) has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include details of the management of any flat or shallow pitched roof that may be attractive to nesting, roosting and loafing birds and include details for preventing birds from perching in the window reveals. The BHMP shall comply with BAA's Advice Note 8. The BHMP shall be implemented as approved upon completion of the roof and shall remain in force for the life of the development. No subsequent alterations to the BHMP are to take place unless first submitted to and approved in writing by the Local Planning Authority.

REASON:

It is necessary to manage the roofs in order to minimise its attractiveness to birds which could otherwise endanger the safe movement of aircraft and the operation of Southampton Airport – BAA comments dated 8th March 2011 refer.

REASONS FOR DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The proposed development has been revised to increase the level of on-site car parking and restrictions on student car ownership are deemed possible. In light of these changes the impact of the development, in terms of visual and neighbour amenity, highway safety and parking are considered to be acceptable for the reasons detailed in the report to the Council's Planning and Rights of Way Panel on 21st June 2011. Particular account has also been taken of the third party response to the scheme, the quality of the proposed redevelopment proposals, current market conditions and the overall viability of the scheme. 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, and application 11/00204/FUL should therefore be granted in accordance with the following policies:

City of Southampton Local Plan Review (March 2006) policies SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, SDP11, SDP12, SDP13,, SDP14, SDP15, SDP16, SDP17, SDP19, SDP22, NE7, HE1, CLT5, CLT7, H1, H2, H3, H7, H13, REI6 and TI2 and City of Southampton Core Strategy (January 2010) policies CS4, CS5, CS6, CS10, CS11, CS13, CS14, CS15, CS16, CS18, CS19, CS20, CS22, CS24 and CS25 as supported by the relevant national planning guidance and the Council's current supplementary planning guidance listed in the Panel report.

NOTE: Councillor Osmond declared an interest and withdrew from the meeting for the determination of this item.

14. **BOLDREWOOD CAMPUS, BASSETT CRESCENT EAST, UNIVERSITY OF SOUTHAMPTON 11/00499/FUL**

Erection of a decked car park to provide 165 car parking spaces together with the provision of a surface car park (168 spaces) for use in association with the approved uses of Block A of the Boldrewood campus redevelopment as approved under planning permission reference 08/01097/FUL, and/or in association with the Class D1 university use of the buildings and associated access roads and landscaping.

Mr Reay (Agent), Mrs Cowie, Mr Vashisht, Mr Carter, Mr Cowie (Local residents), Mr Moore, Mrs Wawman (East Bassett Residents Association) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDATION TO GRANT CONDITIONAL PLANNING PERMISSION WAS CARRIED.

RECORDED VOTE:

FOR: Councillors Jones, Mrs Blatchford, Claisse, Cunio, Osmond and Thomas
AGAINST: Councillor L Harris

RESOLVED that the conditional planning permission be granted subject to the conditions listed in the report and the amended conditions set out below.

16 Energy & Water Conservation

Notwithstanding the information submitted with the application, and prior to the commencement of construction works for Car Park 1 (excluding site preparation) hereby approved, the applicant shall submit for approval in writing by the Local Planning Authority, a scheme of measures outlining how the car park will:

- a) minimise its energy and water consumption;
- b) use energy and resources efficiently; and,
- c) safeguard and facilitate the future implementation and utilisation of a campus-wide centralised heating plant (CHP).

Development shall be carried out in accordance with the agreed details and verified in writing by the applicant prior to the first occupation of the development hereby approved.

REASON:

In the interests of maximising the site's contribution towards energy and water conservation.

19 BREEAM Standards – whole Condition to be deleted.

19 Archaeological Investigation

No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.

REASON

To ensure that the archaeological investigation is initiated at an appropriate point in development procedure.

20 Archaeological Work Programme

The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.

REASON

To ensure that the archaeological investigation is completed.

20 Approved Plans – amended to read Condition 21 (amend numbering to run concurrently).

REASONS FOR DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The principle of the proposed car park building, and the parking numbers associated with the Lloyds Register and University have already been established by earlier planning permissions. The scheme represents an improvement when compared with the parameters set at the outline stage, and the chosen contemporary design solution is fitting for the site and the recently approved Maritime Centre of Excellence, as detailed in the report to the Planning and Rights of Way Panel on 21st June 2011. 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.

Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, SDP14, SDP15, SDP16, SDP17, SDP22, NE6, L7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by policies CS6, CS11, CS13, CS18, CS19, CS20, CS22 of the adopted Local Development Framework Core Strategy (2010) and the Council's current adopted Supplementary Planning Guidance.

15. **36 TAMARISK GARDENS 11/00608/FUL**

Erection of a 2-bed bungalow with associated parking and cycle/refuse storage

Mr Wyles (Agent), Mrs Dicker and Mr Stratford (Local residents) were present and with the consent of the Chair, addressed the meeting.

UPON BEING PUT TO THE VOTE THE OFFICER RECOMMENDED TO GRANT CONDITIONAL PLANNING PERMISSION WAS CARRIED UNANIMOUSLY.

RESOLVED that conditional planning permission be granted subject to amended and additional conditions set out below:

Amended condition

11. Amenity space provision

Prior to any development taking place two things shall occur:-

- (1) The fence currently erected along the line on the attached plan marked a-b shall be taken down.
- (2) The garden area to be given over to the curtilage of 36 Tamarisk Gardens, shown cross-hatched on the attached plan, shall be fenced off from the proposed dwelling and made available to the occupiers of 36 Tamarisk Gardens . Once made available to occupiers of No 36 Tamarisk Gardens for use as part of their private garden, that land shall be retained within the curtilage of No. 36 Tamarisk Gardens at all times thereafter.

Prior to the first occupation of the dwelling hereby approved the amenity space shown to serve it on the site plan and the pedestrian access to it for the proposed dwelling shall be made prior to the first occupation of the new dwelling hereby approved and shall be retained all time times thereafter.

REASON:

To ensure the provision of adequate amenity space in association with the approved dwelling and the existing dwelling at 36 Tamarisk Gardens.

Additional Condition

17. Replacement Tree

The replacement tree for the TPO'd tree previously removed on health grounds shall be planted prior to the first occupation of the dwelling hereby approved.

REASON

In the interests of the visual amenity of the area.

REASONS FOR DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance as set on the attached sheet. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on the 21.06.11 do not have sufficient weight to justify a refusal of the application. The proposal has addressed the previous reasons for refusal and appeal decision and where appropriate planning conditions have been imposed to mitigate any harm identified. The proposal would be acceptable in character and design terms and not harm the amenities of the neighbouring occupiers. The parking and access arrangements are also acceptable. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted having account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS4, CS5, CS13, CS19, and CS20 and the Council’s current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport 2011) are also relevant to the determination of this planning application.

16. **PART OF THE FORMER NEW COLLEGE SITE, CARLTON ROAD / ARCHERS ROAD 11/00350/FUL**

Erection of two residential blocks, part three-storey's, part four-storey's in height to provide 47 dwellings (17 x one-bedroom 12 x two-bedroom and 18 x three-bedroom) with associated parking (30 spaces as amended including 2 for the disabled), access and landscaping.

Mr Reay (Agent), Mr O'Brien (Applicant) and Mr Mullins (Local resident) 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 WAS CARRIED UNANIMIOUSLY

RESOLVED that authority be delegated to the Planning and Development Manager to grant conditional planning approval subject to:-

- (a) The completion of a S.106 Legal Agreement to secure the following heads of terms:
 - i. Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site 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);
 - ii. A financial contribution towards 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);
 - iii. Financial contributions towards the relevant elements of public open space required by the development in line with polices CLT5, CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) regard to
 - Amenity Open Space ("open space");
 - Play Space and;
 - Playing Field.
 - iv. Provision of affordable housing in accordance with Policies CS15, CS16 & 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);
 - v. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer and;
 - vi. The provision of an expressly dedicated public right of way route between the western and eastern site boundaries.

- vii. A training and employment plan.

In the event that the legal agreement is not completed within two months the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

- (b) the conditions in the report and the amended conditions set out below:

Delete condition 10.

3 Landscaping, lighting and means of enclosure detailed plan

The details set out in drawing 3310-101 Rev A shall be fully implanted as part of the development hereby approved. Further details relating to the following matters shall be submitted before the commencement of any site works, including:

- i. means of enclosure including alterations and making good of existing boundary walls to be retained and measures to be installed at either end of the east – west cycle/pedestrian route between the approved northern and southern blocks to prevent motor-cyclists using that route, but still allow a person pushing a pram/child buggy to traverse that route;
- ii. hard surfacing materials, structures and ancillary objects (refuse bins, lighting columns etc.); and,
- iii. defensible planting to the ground floor private amenity space areas.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

The approved hard and soft landscaping scheme (including parking and any approved details for items i-iii above) for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

REASON:

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990.

5 Code for Sustainable Homes Residential Development

Written documentary evidence demonstrating that the development will achieve at minimum Level 3 of the Code for Sustainable Homes, including at least 15% in category Ene1 and at least 1 credit in Wat1 - (informed by the commitment to greywater recycling measures, of surface water run-off from the building and hard surfaced areas

within the site - set out in the applicant's design and access statement), shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted, unless an otherwise agreed timeframe is agreed in writing by the LPA. The evidence shall take the form of a post construction assessment and certificate as issued by a legitimate Code for Sustainable Homes certification body.

REASON:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) also having regard to the commitment to greywater recycling given in the applicant's design and access statement.

17 Amenity Space Access

The communal garden areas shown on the site plan, and pedestrian access to it, shall be made available as amenity space prior to the first occupation of the flats hereby permitted and shall be retained with access to it at all times for the use of all occupiers of the development. The private garden areas, balconies and roof terraces shown on the approved plans shall be provided before the first occupation of each relevant associated dwelling and thereafter retained at all times thereafter.

REASON:

To ensure the provision of adequate amenity space in association with the approved dwellings.

(N.B. re-numbered as 17 owing to deletion of Condition 10 set out in recommendation to the report – amend numbering to run concurrently).

REASONS FOR DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance as set on the attached sheet. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on the 21.06.11 do not have sufficient weight to justify a refusal of the application. The proposal has addressed the previous reasons for refusal and where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted having account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS4, CS5, CS13, CS19, and CS20 and the Council's current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport 2011) are also relevant to the determination of this planning application.

17. **1 GLEN EYRE ROAD 11/00706/FUL**

Erection of a single-storey rear extension and change of use from dwelling house (C3) to house of multiple occupation (sui-generis). Resubmission of planning application.

Dr Coleman (Applicant), Mr Cox and Mrs Wawman (East Bassett Residents Association) 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 WAS LOST.

RECORDED VOTE:

FOR: Councillors Jones and Mrs Blatchford
AGAINST: Councillors Claisse, Cunio, L Harris and Osmond
ABSTAINED: Councillor Thomas

A FURTHER MOTION PROPOSED BY COUNCILLOR CLAISSE AND SECONDED BY COUNCILLOR CUNIO "THAT THE APPLICATION BE REFUSED FOR THE FOLLOWING REASONS" WAS CARRIED

Reason for Refusal - Unacceptable Intensification of use

The change of use of the property from a 5 bedroom C4 house in multiple occupation to a 7 bedroom house in multiple occupation (HMO) will result in an unacceptable intensification in the use of the property. This would be to the detriment of the character of the area and the amenity of nearby residents by reason of increased additional general activity/noise/disturbance and taking into account the number of existing HMO's already in the area (cumulative impact). The proposal is therefore contrary Policies SDP1 (i), SDP7 (v) and H4 (i) and (ii) of the City of Southampton Local Plan Review (March 2006) and policy CS16 (3) of the Local Development Framework Core Strategy (January 2010).

RECORDED VOTE:

FOR: Councillors Cunio, Claisse and L Harris
AGAINST: Councillor Jones and Mrs Blatchford
ABSTAINED: Councillor Thomas

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

18. **ARRANGEMENTS FOR PRE-APPLICATION CONSULTATION FOR THE BIOMASS PLANT AT SOUTHAMPTON PORT**

The Panel considered the report of the Head of Planning and Sustainability seeking approval of the proposed arrangements for pre-application consultation, as set out in the revised draft Statement of Community Consultation and Community Consultation Strategy. (Copy of report circulated with the agenda and attached to the signed minutes).

Mr Galton (Local resident) was present and with the consent of the Chair, addressed the meeting.

RESOLVED that:

- (i) the proposed arrangements for pre-application consultation, as set out in the revised draft SoCC and CCS be agreed and reported to the IPC and Helius Energy as acceptable;
- (ii) that the following be included in the list of as part of the consultation process:
- The Inner Zone should include Redbridge and Shirley wards;
 - Solent University, SUSTRANS, Solent LEP, Hampshire Chamber of Commerce, to be added as stakeholders;
 - All City Councillors to receive an invite to the public meetings as part of the consultation process;
 - Name of Marchwood Ward Councillors to be checked;
 - Councillor Matthews is now Mayor of Southampton;
 - At least 2 weeks notice be given for any public event;
 - All exhibition venues to be fully accessible;
 - Exhibitions to focus on public safety issues;
 - Advertising to be at staggered times in the local press;
 - Events to be staggered over more than a 4 week period;
 - Consultation leaflets to be drafted in consultation with the No Southampton Biomass Group and City Council;
 - All invites and correspondence to provide the correct comment form or weblink to enable easy response.
- (iii) an appropriately scaled model of the existing site and the proposed scheme(s) be made available at each consultation event.

19. **68-70 AND 80-84 PORTSWOOD ROAD 11/00393/FUL**

Redevelopment of the site. Demolition of the existing buildings and erection of three x 4-storey buildings to provide 43 flats (18 x 1-bed, 22 x 2-bed and 3x 3-bed) and 9 x 3-storey houses (2 x 2-bed, 3 x 3-bed and 4 x 4-bed) with associated access, parking and landscaping.

Mr Edmond (Agent), Mr Stout (Local resident) and Councillor Vinson (Ward Councillor) 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 AGREEMENT, THE DETAILS OF WHICH TO BE AGREED BY OFFICERS, WAS CARRIED.

RECORDED VOTE

FOR: Councillors Jones, Claisse, Cunio, L Harris, Osmond and Thomas
ABSTAINED: Councillor Mrs Blatchford

RESOLVED that authority be delegated to the Planning and Development Manager to grant conditional planning approval subject to:-

- (a) The completion of a S.106 Legal Agreement to secure the following heads of terms:

- i. Financial contributions towards site specific highway improvements in the vicinity of the site in accordance with policies 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);
- ii. A financial contribution towards strategic transport 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);
- iii. Financial contributions towards the relevant elements of public open space required by the development in line with policies CLT5, CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) with regard to
 - Amenity Open Space (“open space”);
 - Play Space and;
 - Playing Field.
- iv. Provision of affordable housing in accordance with Policies CS15, CS16 & 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);
- v. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- vi. The submission of a lorry routeing plan including the timing and routes for construction traffic;
- vii. Submission and implementation of a Training and Employment Management Plan committing to adopting local labour and employment initiatives, in accordance with Policies CS24 & 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);
- viii. The restriction of parking permits for the surrounding streets for the future occupants of the development and;
- ix. The consultation and implementation of a Traffic Regulation Order to prevent parking in the new access road and adjacent to the site entrance to ensure a refuse vehicle can turn on site.
- x. Submission and implementation of a Waste Management Plan.

That the Planning and Development Manager be delegated powers to vary relevant parts of the Section 106 agreement and to add or vary conditions as necessary as a result of further negotiations with the applicant.

In the event that the legal agreement is not completed within two months the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

(b) the conditions in the report and the amended condition set out below:

3 Landscaping, lighting and means of enclosure detailed plan

Notwithstanding the submitted details before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted to and approved by the Local Planning Authority in writing, which includes:

- i. proposed finished ground levels or contours; means of enclosure; car parking layouts; other vehicle pedestrian access and circulations areas, hard surfacing materials, structures and ancillary objects (refuse bins, lighting columns etc.);
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate, including defensible planting/privacy screening to the ground floor private amenity space areas including to the rear elevation of 78 Portswood Road;
- iii. an accurate plot of all trees to be retained and to be lost. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise);
- iv. details of any proposed boundary treatment, including retaining walls; and
- v. a landscape management scheme.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

The approved hard and soft landscaping scheme (including parking) for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

REASON:

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990

REASONS FOR DECISIONS

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on 21.06.11 do not have sufficient weight to justify a refusal of the application. The proposal would be in keeping with the site and surrounding properties and would not have a harmful impact on the

amenities of the neighbouring properties. Where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted taking account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS4, CS5, CS13, CS16, CS19, and CS20 and the Council’s current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport 2011) are also relevant to the determination of this planning application.

20. **88-94 PORTSWOOD ROAD 11/00313/FUL**

Redevelopment of the site to provide 7 flats (1 x 3-bed, 1 x 4-bed and 5 x 5-bed) with 2 ground floor lettings agents (Use Class A2) and 2 x 5-bedroom houses in three and four storey buildings following demolition of the existing buildings. Residential units to be either use class C3 (single family dwelling) or use class C4 (House in Multiple Occupation).

Mr Edmond (Agent), Mr Stout (Local resident) and Councillor Vinson (Ward Councillor) 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 AGREEMENT, THE DETAILS OF WHICH TO BE AGREED BY OFFICERS, WAS CARRIED

RECORDED VOTE

FOR: Councillors Jones, Mrs Blatchford, Osmond and Thomas
AGAINST: Councillors Claisse, Cunio and L Harris

RESOLVED that authority be delegated to the Planning and Development Manager to grant planning approval subject to the completion of a S106 Legal Agreement, the details of which to be agreed by officers in light of the submitted viability appraisal:

- (a) The completion of a S.106 Legal Agreement to secure the following heads of terms:
 - i. Financial contributions towards site specific highway improvements in the vicinity of the site in accordance with policies 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);
 - ii. A financial contribution towards strategic transport 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);

- iii. Financial contributions towards the relevant elements of public open space required by the development in line with policies CLT5, CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) with regard to
 - Amenity Open Space (“open space”);
 - Play Space and;
 - Playing Field.
- iv. Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
- v. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- vi. The restriction of parking permits for the surrounding streets for the future occupants of the development.
- vii. Submission and implementation of a Waste Management Plan.

In the event that the legal agreement is not completed within two months the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

- (b) the conditions in the report and the amended and additional conditions set out below:

Amended Condition

4 Code for Sustainable Homes

Written documentary evidence demonstrating that the development will achieve at minimum Level 3 of the Code for Sustainable Homes, including at least 15% in category Ene1, shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted, unless an otherwise agreed timeframe is agreed in writing by the LPA. The evidence shall take the form of a post construction assessment and certificate as issued by a legitimate Code For Sustainable Homes certification body.

REASON:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

Additional Conditions

25 Access to Dwellings

The ramped pedestrian access to the dwellings to the rear of the site shall be provided in accordance with the plans hereby approved before the development first comes into

occupation. Before the development is first brought into occupation, the access path shall be lit, surfaced and secured in accordance with details to be submitted to the Local Planning and agreed in writing and retained in accordance with these details thereafter, unless otherwise agreed in writing.

REASON:

To provide a satisfactory residential environment

26 Privacy Screens

Prior to the development first coming into occupation, privacy screens to the upper level roof terraced shall be installed in accordance with details to be agreed by the Local Planning Authority in writing. The screens shall thereafter be retained as approved.

REASON:

In the interests of the privacy of the occupiers of the neighbouring mosque.

REASONS FOR DECISION

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on 21.06.11 do not have sufficient weight to justify a refusal of the application. The proposal would be in keeping with the site and surrounding properties and would not have a harmful impact on the amenities of the neighbouring properties. Where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted taking account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS4, CS5, CS13, CS16, CS19, and CS20 and the Council’s current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport 2011) are also relevant to the determination of this planning application.

Agenda Annex

INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 19 July 2011 - Committee Rooms 1 and 2

PLEASE NOTE: THE PANEL WILL BREAK FOR LUNCH

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
<u>BETWEEN 9.30 AM AND 11.15 AM</u>				
5	JT	REC 1 – REF REC 2 – Institute Enforcement proceedings	5	11/00936/FUL / 17 Bedford Place (Pizza Gogo)
6	JT	REC 1 – REF REC 2 – Institute Enforcement proceedings	5	11/00937/FUL / 9 Bedford Place (Chicken Land)
7	JT	REC 1 – REF REC 2 – Institute Enforcement proceedings	5	11/00938/FUL / 8 Bedford Place (J J S Fish and Chips)
8	JT	REC 1 – REF REC 2 – Institute Enforcement proceedings	5	11/00939/FUL / 3 Bedford Place (Caspian Kebab)
9	JT	REC 1 – REF REC 2 – Institute Enforcement proceedings	5	11/00977/FUL / 15 Bedford Place (Teds Fish and Chips)
<u>BETWEEN 11.15 AM AND 12.00 PM</u>				
10	AA	DEL	15	11/00021/OUT / 24 - 28 John Street
<u>BETWEEN 12.00 PM AND 13.00 PM</u>				
11	JT	REC 1 – REF REC 2 – Institute Enforcement proceedings	5	11/00199/FUL / Dillons Sheds, Old Redbridge Road
Main Agenda items – these likely to be taken after lunch, or may be taken during the meeting if no public speakers listed and time allows				

Abbreviations:

PSA – Public Speaking Allowance; CAP - Approve with Conditions: DEL - Delegate to Officers: PER - Approve without Conditions: REF – Refusal: TEMP – Temporary Consent REC – Recommendation

AA – Andrew Amery, AG - Andrew Gregory, ARL – Anna Lee, BG- Bryony Giles, JT - Jenna Turner, MP- Mathew Pidgeon, SH- Stephen Harrison, SL - Steve Lawrence, SB – Stuart Brooks, RP – Richard Plume

Southampton City Council - Planning and Rights of Way Panel

Report of Executive Director of Environment

Local Government (Access to Information) Act 1985

Index of Documents referred to in the preparation of reports on Planning

Applications:

Background Papers

1. **Documents specifically related to the application**
 - (a) Application forms, plans, supporting documents, reports and covering letters
 - (b) Relevant planning history
 - (c) Response to consultation requests
 - (d) Representations made by interested parties

2. **Statutory Plans**
 - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Core Strategy (Adopted 2007)
 - (b) City of Southampton Local Plan Review (Adopted March 2006)
saved policies
 - (c) Local Transport Plan 2006 – 2011 (June 2006)
 - (d) City of Southampton Local Development Framework – Core Strategy
(adopted January 2010)

3. **Statutory Plans in Preparation**
 - (a) City of Southampton Local Development Framework – City Centre Action Plan City Centre Action Plan Issues & Options Paper (2007)

4. **Policies and Briefs published and adopted by Southampton City Council**
 - (a) Old Town Development Strategy (2004)
 - (b) Public Art Strategy
 - (c) North South Spine Strategy (2004)
 - (d) Southampton City Centre Development Design Guide (2004)
 - (e) Streetscape Manual (2005)
 - (f) Residential Design Guide (2006)
 - (g) Provision of Community Infrastructure & Affordable Housing - Planning Obligation (2006)
 - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
 - (i) Women in the Planned Environment (1994)
 - (j) Advertisement Control Brief and Strategy (1991)
 - (k) Biodiversity Action Plan (2009)
 - (l) Economic Development Strategy (1996)
 - (m) Test Lane (1984)
 - (n) Itchen Valley Strategy (1993)
 - (o) Portswood Residents' Gardens Conservation Area Character Appraisal (1999)

- (p) Land between Alder Moor Road and Worston Road Development Brief Character Appraisal(1997)
- (q) The Bevois Corridor Urban Design Framework (1998)
- (r) Southampton City Centre Urban Design Strategy (2000)
- (s) St Mary's Place Development Brief (2001)
- (t) Ascupart Street Development Brief (2001)
- (u) Woolston Riverside Development Brief (2004)
- (v) West Quay Phase 3 Development Brief (2001)
- (w) Northern Above Bar Development Brief (2002)
- (x) Design Guidance for the Uplands Estate (Highfield) Conservation Area (1993)
- (y) Design Guidance for the Ethelbert Avenue (Bassett Green Estate) Conservation Area (1993)
- (z) Canute Road Conservation Area Character Appraisal (1996)
- (aa) The Avenue Conservation Area Character Appraisal (1997)
- (bb) St James Road Conservation Area Character Appraisal (1996)
- (cc) Banister Park Character Appraisal (1991)*
- (dd) Bassett Avenue Character Appraisal (1982)*
- (ee) Howard Road Character Appraisal (1991) *
- (ff) Lower Freemantle Character Appraisal (1981) *
- (gg) Mid Freemantle Character Appraisal (1982)*
- (hh) Westridge Road Character Appraisal (1989) *
- (ii) Westwood Park Character Appraisal (1981) *
- (jj) Cranbury Place Character Appraisal (1988) *
- (kk) Carlton Crescent Character Appraisal (1988) *
- (ll) Old Town Conservation Area Character Appraisal (1974) *
- (mm) Oxford Street Conservation Area Character Appraisal (1982) *
- (nn) Bassett Green Village Character Appraisal (1987)
- (oo) Old Woolston and St Annes Road Character Appraisal (1988)
- (pp) Northam Road Area Improvement Strategy (1987)*
- (qq) Houses in Multiple Occupation (1990)*
- (rr) Vyse Lane/ 58 French Street (1990)*
- (ss) Tauntons College Highfield Road Development Guidelines (1993)*
- (tt) Old Woolston Development Control Brief (1974)*
- (uu) City Centre Characterisation Appraisal (2009)

* NB – Policies in these documents superseded by the Residential Design Guide (September 2006, page 10), albeit character appraisal sections still to be had regard to.

5. Documents relating to Highways and Traffic

- (a) Hampshire C.C. - Movement and Access in Residential Areas
- (b) Hampshire C.C. - Safety Audit Handbook
- (c) Southampton C.C. - Cycling Plan (June 2000)
- (d) Southampton C.C. - Access for All (March 1995)
- (e) Institute of Highways and Transportation - Transport in the Urban Environment
- (f) I.H.T. - Traffic Impact Assessment Guidelines
- (g) Freight Transport Association - Design for deliveries
- (h) DETR Traffic Advisory Leaflets (various)

6. Planning related Government Circulars in most common use

- (a) Planning Obligations 05/05 (As adjusted by Community Infrastructure Levy Regulations 2010)
- (b) Planning controls for hazardous substances 04/00
- (c) The Use of conditions in planning permissions 11/95
- (d) Environmental Impact Assessment 2/99
- (e) Planning Controls over Demolition 10/95
- (f) Planning and Affordable Housing 6/98
- (g) Prevention of Dereliction through the Planning System 2/98
- (h) Air Quality and Land Use Planning 10/97
- (i) Town and Country Planning General Regulations 19/92

7. Government Policy Planning Advice

- (a) PPS1 Delivering Sustainable Development (February 2005)
- (b) Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1 (December 2007)
- (c) Planning Policy Statement: Eco-towns - Supplement to Planning Policy Statement 1 (July 2009)
- (d) PPG2 Green Belts (January 1995 - Amended March 2001)
- (e) PPS3 Housing (November 2006)
- (f) PPS4 Planning Policy Statement 4: Planning for Sustainable Economic Growth (December 2009)
- (g) PPS5 Planning Policy Statement 5: Planning for the Historic Environment (March 2010)
- (h) PPS7 Planning Policy Statement 7: Sustainable Development in Rural Areas (August 2004)
- (i) PPG8 Telecommunications (August 2001)
- (j) PPS9 Biodiversity and Geological Conservation (August 2005)
- (k) PPS10 Planning for Sustainable Waste Management (July 2005)
- (l) PPS11 Regional Spatial Strategies (September 2004 – amended January 2009)
- (m) PPS12 Local Spatial Planning (June 2008)
- (n) PPG13 Transport (January 2011)
- (o) PPG14 Development on Unstable Land (April 1990)
- (p) PPG17 Planning for Open Space, Sport and Recreation (July 2002)
- (q) PPG18 Enforcing Planning Control (December 1991)
- (r) PPG19 Outdoor Advertising Control (March 1992)
- (s) PPG20 Coastal Planning (September 1992)
- (t) PPS22 Renewable Energy (August 2004)
- (u) PPS23 Planning and Pollution Control (November 2004)
- (v) PPG24 Planning and Noise (October 1994)
- (w) PPS 25 Development and Flood Risk (December 2006)

8. Government Policy Planning Advice in Preparation

- (a) PPS Development and Coastal Change – Consultation Paper (July 2009)
- (b) Initial review of the implementation of PPS 25 Development and Flood Risk (June 2009)

9. Other Published Documents

- (a) Planning for Daylight and Sunlight - DOE
- (b) Coast and Countryside Conservation Policy - HCC
- (c) The influence of trees on house foundations in clay soils - BREDK
- (d) Survey and Analysis - Landscape and Development HCC
- (e) Root Damage to Trees - siting of dwellings and special precautions – Practice Note 3 NHDC
- (f) Shopping Policies in South Hampshire - HCC
- (g) Buildings at Risk Register SCC (1998)
- (h) Southampton City Safety Audit (1998)
- (i) Urban Capacity Study 2005 – 2011 (March 2006)
- (j) Strategic Housing Land Availability Assessment (March 2009)

10. Other Statutes

- a) Crime and Disorder Act 1998
- b) Human Rights Act 1998

Partially Revised: 6/01/11

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Agenda Item 5

**Southampton City Planning & Sustainability
Planning and Rights of Way Panel meeting 19th July 2011
Planning Application Report of the Planning and Development Manager**

Application address: 17 Bedford Place (Pizza Go Go), Southampton			
Proposed development: 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			
Application number	11/00936/FUL	Application type	FUL
Case officer	Jenna Turner	Public speaking time	5 minutes
Last date for determination:	27.07.2011	Ward	Bevois
Reason for Panel Referral:	Referred by the Planning & Development Manager	Ward Councillors	Cllr Barnes- Andrews Cllr Burke Cllr Rayment

Applicant: Mr Ajmal Waziry	Agent: RM Legal Solicitors LLP
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Recommendation Summary	1. Refuse 2. Delegate to the Planning & Development Manager to authorise the service of a Breach of Condition Notice
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Reason for refusal - 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.

Appendix attached			
1	Development Plan Policies	2	Planning History

Recommendation in Full:

- i. Refuse for the reason set out above
- ii. Serve a Breach of Condition Notice

1. Background

- 1.1 This application is one of five applications which have been submitted for the Bedford Place area all seeking to extend their current opening hours up to 04:00. These applications are listed as follows:
- 11/00938 – 8 Bedford Place (JJS Fish and Chips)
 - 11/00937/FUL – 9 Bedford Place (Chicken Land)
 - 11/00977/FUL – 15 Bedford Place
 - 11/00939/FUL – 3 Bedford Place (Caspian Kebab)
- 1.2 These applications are resubmissions of identical schemes refused planning permission late last year. The applications have been submitted following enforcement investigations which revealed that the premises in question are currently operating outside of their permitted opening hours.

2. The site and its context

- 2.1 The application site lies within a mixed use commercial and residential area on the edge of the city centre. The site is a two-storey, mid-terrace property located between a public house and a restaurant.
- 2.2 The immediate area is predominantly commercial in nature and includes a diverse range of evening and night-time activities. The site falls within a defined Night Time Zone.

3. Proposal

- 3.1 The Planning Enforcement Team have monitored the premises operating outside their permitted hours between 08:00 to 23:30pm under planning permission 940589/e. The applicant is seeking to regularise this breach in operating hours for 08:00 to 03:00 throughout the week.
- 3.2 The application is a resubmission of an application refused in 2010 (reference 10/01482/FUL) which sought the same extension to opening hours. In order to address the previous reason for refusal, the applicant has submitted a statement of support which sets out the reasoning behind the need to open until 4am seven days a week. Peak periods of trade are between 2am and 4am. The applicant is concerned that should he not be allowed to open during these hours, his business will be unviable. An observation report submitted in conjunction with the application notes the type and levels of activity between midnight and 4am on the 8th, 9th, 11th and 12th of March 2011.
- 3.3 A petition of support has also been submitted with the application.

4.0 Relevant Planning Policy

- 4.1 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

- 4.2 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**.
- 4.3 Policies generally seek to safeguard the amenity of the city and its citizens by ensuring an appropriate mix of uses that do not adversely impact on quality of life such as noise or visual disturbance. With particular relevance to this application, policy REI 7 of the adopted local plan requires appropriate planning conditions to be imposed to prevent the generation of any undue noise or other forms of nuisance directly arising from a proposed use A3, A4 and A5 use where such uses are permitted in city, town or district centres. This policy must be read in conjunction with CLT 14 of the adopted local plan. The site is indicated as a night time zone by saved policy CLT14 where the principle of A3 to A5 uses is acceptable.

5.0 Relevant Planning History

- 5.1 A summary of the relevant planning history is set out in **Appendix 2** to this report. The application site was granted planning permission for a take away in 1973 with permitted opening hours of 09:00 to 23:30. Apart from the application last year seeking to vary these hours which was refused planning permission (reference 10/01424/MMA), there have been no other relevant applications relating to the application site.
- 5.2 In the locality of the application site, the Local Planning Authority has consistently resisted applications to extend opening hours beyond 00:00, particularly since the adoption of the Local Plan Review in 2006. Many of the decisions to refuse extended opening hours have also been tested at appeal without success. A list of the relevant decisions in the vicinity of the site is also included in **Appendix 2**.

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 also undertaken which included notifying adjoining and nearby landowners. At the time of writing the report **7 representations** have been received from surrounding residents, the residents association and three local ward councillors.
- 6.2 Listed below is a summary of the issues raised by the objectors to the scheme:
- There are many problems of late night noise, littering and anti-social behaviour which is exacerbated by the opening hours of the takeaways.
 - The Bedford Place and Polygon area is spoiled by take-away litter and discarded food from take-aways.
 - Consent for the proposed opening hours would cause further harm to the amenities of the local area by reason of street noise, litter and anti-social behaviour such as urinating in the street.
 - A few nights of monitoring the area proves nothing compared to the experience of Polygon residents affected by disturbance and littering during the night over many years.

- This area has enough crime and disorder issues 5 out of 7 nights a week. The council should be enforcing not encouraging owners to open later. An objection is made under section 17 of the crime and disorder act.

6.3 **SCC Licensing** – No objection. Pizza Gogo holds a license which permits the provision of late night refreshment between 23.00 – 04.00 Monday to Sunday.

6.4 **SCC Food Safety** - Comments as per previous refused application. Opening until 4am is considered excessive. However, there have not been any complaints received with regards to noise and odour and as such no objection can be raised. It is however suggested that premises open no later than 2am Mon – Sat and midnight on Sundays.

6.5 **Hampshire Constabulary** – Object on the basis that the proposed extension of opening hours will exacerbate current issues of dispersal, anti-social behaviour and litter.

7.0 Planning Consideration Key Issues

7.1 The key issue for consideration in the determination of this planning application is the impact the proposed extension of hours would have on the residential amenity of nearby dwellings when considered in relation to existing late night uses and activity within the Bedford Place/London Road area. In particular, consideration must be given to the cumulative impact of all late night uses within the area being granted an extension to opening hours.

7.2 The adoption of policy CLT14 in the 2006 Local Plan Review and the publication of the council's unadopted night time economy briefing paper (which suggests the London Road (Bedford Place) area should only have opening hours extending to midnight) has strengthened the council's position when it comes to restricting late night activity within the Bedford place area.

7.3 Moreover, the Inspector's report into the Local Plan had regard to this issue with the creation of designated late night zones and hubs to distinguish between mid-late evening activity and late night activity such as nightclubs and to safeguard the amenities. The Bedford Place/London Rd area is designated as a late night zone and is supported by a policy briefing paper which advises a terminal hour of 12 midnight for new venues or VC's in this locality. The relevant policies of the local plan have been saved and as such remain a material planning consideration in the assessment of this application.

7.4 The Local Planning Authority is concerned that increasing the hours of operation of this take-away would exacerbate existing problems of activity on the streets during the early hours as people enjoying the late night uses within the Bedford Place area disperse into the surrounding residential streets. PPG24: Planning and Noise states that people have the right to expect quiet between the hours of 23:00 and 07:00. As such, it is considered that increasing the hours of this and other venues would have a harmful cumulative impact on existing residential amenities. The issue of cumulative impact is particularly pertinent given that five similar applications have been submitted simultaneously. Moreover, having regard to the planning history of the area and nature of uses in the locality, if permitted, the proposal could set an unwelcome precedent which would further exacerbate the issues of noise, anti-social behaviour and disturbance which is experienced in the locality.

- 7.5 Therefore, in order to prevent any further harm to nearby residential amenities, yet having regard to the night time economy, the LPA has taken a consistent approach in controlling hours of operation on new premises or applications for variation of condition; to date premises have been subject to a terminal hour of 11.30-12.00. This approach has been supported by the planning inspectorate with the dismissal of appeals seeking hours beyond 12 midnight (see 28 Carlton Place, 65-75 London Road, 16/17 Carlton Place and Carlton House, Carlton Place).
- 7.6 The concentration of A3, A4 and A5 uses in the Bedford Place / London Road area has grown over a considerable period of time. The growth of mid to late evening activity in this area has been problematic due to the noise and disturbance created by patrons leaving premises and dispersing through nearby residential areas. Many of these venues and take-aways are historic uses or operate with the benefit of old planning consents, which did not contain any reference to operating hours and pre-date the current planning policy framework.
- 7.7 The Police have expressed concern with regards to anti-social behaviour that occurs as a result of late night activity within the Bedford Place/London Road area through the week. Hampshire Constabulary has recently undertaken an analysis of the area which demonstrates that crime and anti-social behaviour is linked to the operating times of premises within the Bedford Place area. Police records show that the peak times for assault and damages caused within this area were between 2300 and 0400. The police consider that allowing take-away premises to extend their opening hours will encourage people to stay in the area for longer and will put additional strain on the police resources and exacerbate current issues of dispersal, anti-social behaviour and litter.
- 7.8 The applicant's observation report submitted in conjunction with the application noted that the majority of patrons were from local pubs and clubs in the area, and that the busiest hours of use were between 2am and 4am when people were leaving nearby pubs and clubs. In addition, it was noted that some people were specifically coming into Bedford Place at that time of day to use the takeaway facilities. Whilst some patrons left in taxis the majority dispersed through nearby streets. With regards to litter, the observation report found that whilst litter was an issue on the busiest nights, for the majority any litter discarded onto the streets nearby the takeaways was dealt with by a member of staff as and when possible.
- 7.9 The applicant argues that anti social behaviour which occurs in the area is a direct result of the pub and club uses not the takeaways. It is the intoxicated patrons who become disorderly, causing noise and litter nuisance.
- 7.10 It is appreciated that the instances of noise or disturbance cannot be attributed directly to the application site and the way the business is operated, and that the applicant (as part of the Business Crime Reduction Partnership (BCRP)) takes measures to improve the behaviour of customers and reduce crime and disorder in and around the city centre. It is evident from the observation report submitted that takeaways being open in the early hours of the morning does attract people to the area and/or encourages them to stay within the area for a greater amount of time, prolonging the time of dispersal in and around the nearby residential areas.
- 7.11 What is likely to happen by permitting further late night opening hours, would be an intensification of the problems and disturbance from commercial uses and the likely and subsequent cumulative effect upon residents, particularly at a time of day when residents should be able to expect a period of quiet and rest.

7.12 A reasonable balance between the commercial activities in the area, the viability of the applicant's business and a proper living environment for residents must therefore be achieved. It is considered that this balance can and should be achieved by limiting late night use in Bedford Place until midnight in accordance with policy CLT 14 of the adopted local plan review.

8.0 Conclusion

8.1 A cumulative impact of the issues raised from an intensification of late night uses in this locality from an extension of opening hours occurs. The council has been consistent in its decision making for opening hours within this area and this approach has been supported in recent appeal decisions.

8.2 Information submitted with the application fails to address the previous reason for refusal. There are no material planning considerations which would alter the local planning authorities view on this matter.

8.3 The application is recommended for refusal.

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(e), 6(c), 6(l), 7(a),7(c), 7(x), 10(a)]

JT for 19.07.2011 PROW Panel.

8. POLICY CONTEXT

9.1 Core Strategy - (January 2010)

9.1.1 CS1 City Centre Approach

9.2 City of Southampton Local Plan Review – (March 2006)

9.2.1 SDP1 Quality of Development

9.2.2 SDP 16 Noise

9.2.3 REI7 Food and Drink uses

9.2.4 CLT 14 City Centre and Night Time Zones and Hubs

9.3 Other Relevant Guidance

9.4.1 PPS1 Delivering Sustainable Development (February 2005)

9.4.2 PPG24 Planning and Noise (October 1994)

17 Bedford Place
10/01482/FUL

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 - 04.00 Monday – Sunday. Refused 16.12.10

940589/E

Change of use to hot food takeaway. Approved with conditions 13.10.94
The permitted hours of operation are 08:00 to 23:00 Monday to Thursday and 08:00 to 23:30 Fridays and Saturdays.

8 Bedford Place

1997. Ref: 971147/E – Change of use of ground floor from retail shop (class A1) to hot food takeaway (class A3). Approved with conditions.

10/01425/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 – Refuse - 14.12.2010.

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 – Pending Decision.

15 Bedford Place

10/01433/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 Saturdays and 8.00am to 12.00am Sundays – Ref. 16.12.2010.

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 Saturdays and 8.00am to 12.00am Sundays. (resubmission 10/01433/FUL) - Pending Decision.

18 Bedford Place

10/01405/FUL - Variation Of Condition 4 Of Planning Ref 1559/M12 To Extend Opening Hours Monday - Saturday 12Pm - 4Am, And Sundays 12Pm - 3Am. Ref. 08.12.2010

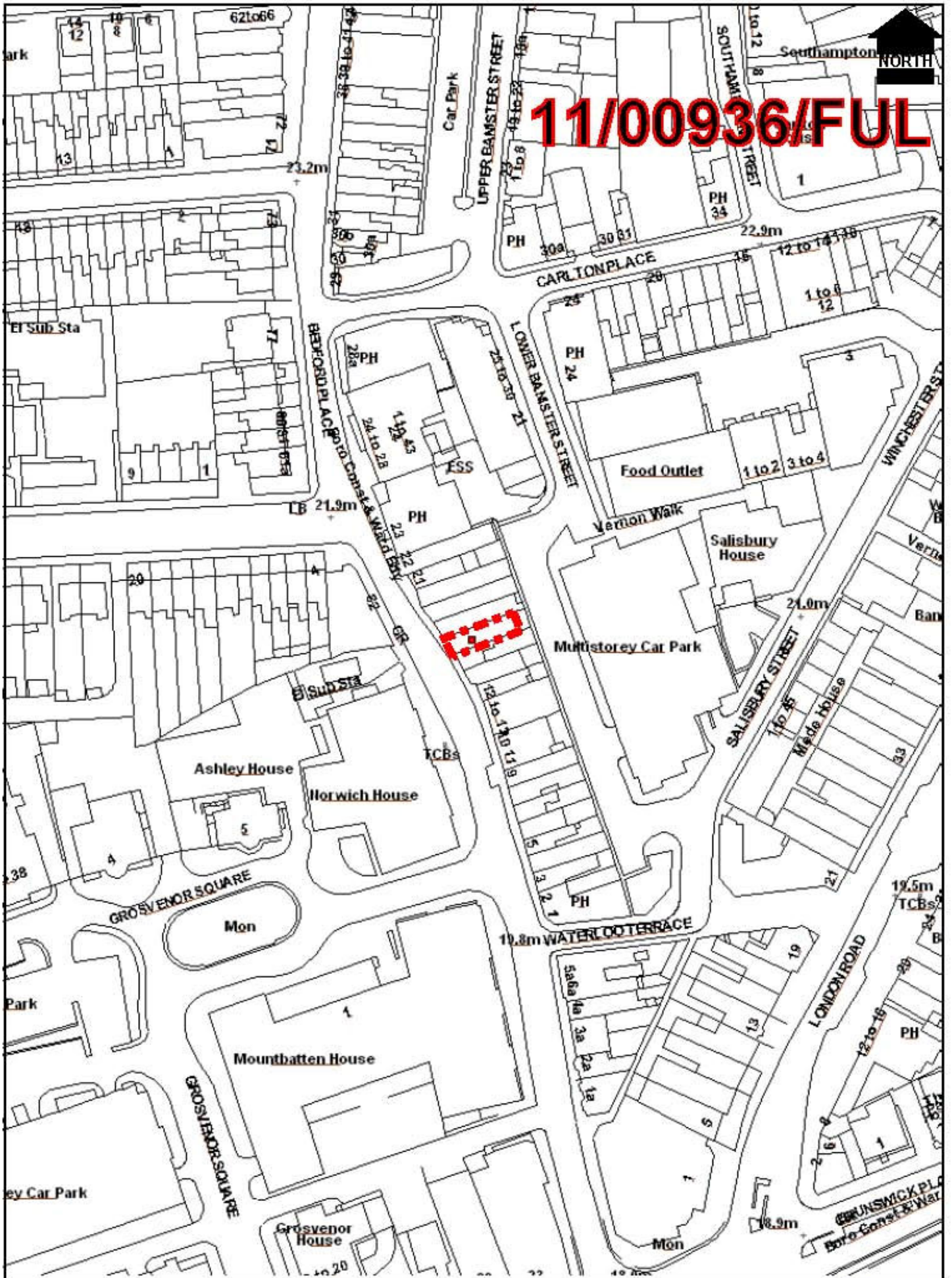
3 Bedford Place

10/01424/MMA - 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 – Object. 13.12.2010.

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) Pending Decision.

3 Winchester Street

10/01489/FUL - Variation of Condition 2 of planning permission 09/00636/FUL to allow opening of the ground floor A4 use between 8.00 - 1.00 on Fridays and Saturdays. REF - 21.12.2010



11/00936/FUL

Scale : 1:1250

Date : 06 July 2011

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Agenda Item 6

**Southampton City Planning and Sustainability
Planning and Rights of Way Panel meeting 19th July 2011
Planning Application Report of the Planning and Development Manager**

Application address: 9 Bedford Place (Chickenland), Southampton			
Proposed development: 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)			
Application number	11/00937/FUL	Application type	FUL
Case officer	Bryony Stala	Public speaking time	5 minutes
Last date for determination:	27.07.2011	Ward	Bevois
Reason for Panel Referral:	Referred by the Planning & Development Manager	Ward Councillors	Cllr Barnes-Andrews Cllr Burke Cllr Rayment

Applicant: Mr Ali Nouroozi	Agent: RM Legal Solicitors LLP
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Recommendation Summary	1. Refuse 2. Delegate to the Planning & Development Manager to authorise the service of a Breach of Condition Notice
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Reason for refusal

REFUSAL REASON - 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.

Appendix attached			
1	Development Plan Policies	2	Planning History

Recommendation in Full:

- i. Refuse for the reason set out above
- ii. Serve a Breach of Condition Notice

1.0 Background

- 1.1 This application is one of five applications which have been submitted for the Bedford Place area all seeking to extend their current opening hours until 04:00. These applications are listed as follows:

11/0939/FUL – 3 Bedford Place (Caspain Kebab)
11/00938/FUL – 8 Bedford Place (JJS Fish and Chips)
11/00977/FUL – 15 Bedford Place
11/00936/FUL – 17 Bedford Place (Pizza Gogo)

- 1.2 These applications are resubmissions of identical schemes refused planning permission late last year. The applications have been submitted following enforcement investigations which revealed that the premises in question are currently operating outside of their permitted opening hours.

2. The site and its context

- 2.1 The application site is formed of a take-away unit with residential above. It is located on the eastern side of Bedford Place with servicing taken from Lower Banister Street.
- 2.2 The immediate area is predominantly commercial in nature and includes a diverse range of evening and night-time activities. The site falls within a defined Night Time Zone.

3. Proposal

- 3.1 The Planning Enforcement Team have monitored the premises operating outside their permitted hours between 8am to 11.30pm under planning permission 981018/E granted in 1988. The applicant is seeking to vary condition 6 to regularise this breach in operating hours for 1200 (midday) to 4am the following day.
- 3.2 In 1999 the owner of 9 Bedford Place sought to vary the opening hours of the premises to 3am. The application was refused and subsequently dismissed at appeal. In his decision the Inspector noted that hot food take-aways generate their own custom in the late evenings and supported the council's view that people returning homes from leisure establishments in other parts of the city could well be attracted into Bedford Place by late opening hot food outlets. He recognised the increase in potential for noise, disturbance and other anti-social activities in neighbouring residential area and notes the importance in protecting the peace and quiet of local residents and preventing further disruption to the night time environment. It was concluded that the proposal would cause harm to the residential amenity of nearby and surrounding residents and should be refused.
- 3.3 A previous application 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 was submitted in October 2010 and refused by the local planning authority on 14.12.2010. In order to address the previous reason for refusal, the applicant has submitted a statement of support which sets out the reasoning behind the need to open until 4am seven days a week. Peak periods of trade are between 2am and 4am. The applicant is concerned that should he not be allowed to open during these hours, his business will be unviable. An observation report submitted in conjunction

with the application notes the type and levels of activity between midnight and 4am on the 8th, 9th, 11th and 12th of March 2011.

3.4 A petition of support has also been submitted with the application.

4.0 Relevant Planning Policy

- 4.1 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.
- 4.2 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**.
- 4.3 Policies generally seek to safeguard the amenity of the city and its citizens by ensuring an appropriate mix of uses that do not adversely impact on quality of life such as noise or visual disturbance. With particular relevance to this application, policy REI 7 of the adopted local plan requires appropriate planning conditions to be imposed to prevent the generation of any undue noise or other forms of nuisance directly arising from a proposed use A3, A4 and A5 use where such uses are permitted in city, town or district centres. This policy must be read in conjunction with CLT 14 of the adopted local plan. The site is indicated as a night time zone by saved policy CLT14 where the principle of A3 to A5 uses is acceptable.

5.0 Relevant Planning History

- 5.1 A summary of the relevant planning history is set out in **Appendix 2** to this report. The application site was granted planning permission for a take away in 1998 with permitted opening hours of 08:00 to 23:30. In 2009 an application to vary this condition to open until 3am was refused and subsequently refused at appeal. Apart from the application last year seeking to vary these hours which was refused planning permission (reference 10/01423/FUL), there have been no other relevant applications relating to the application site.
- 5.2 In the locality of the application site, the Local Planning Authority has consistently resisted applications to extend opening hours beyond 00:00, particularly since the adoption of the Local Plan Review in 2006. Many of the decisions to refuse extended opening hours have also been tested at appeal without success. A list of the relevant decisions in the vicinity of the site is also included in **Appendix 2**.

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 also undertaken which included notifying adjoining and nearby landowners. At the time of writing the report 8 representations have been received from surrounding residents, the residents association and three local ward councillors.

6.2 Listed below is a summary of the issues raised by the objectors to the scheme:

- There are many problems of late night noise, littering and anti-social behaviour which is exacerbated by the opening hours of the takeaways.
- The Bedford Place and Polygon area is spoiled by take-away litter and discarded food from take-aways.
- Consent for the proposed opening hours would cause further harm to the amenities of the local area by reason of street noise, litter and anti-social behaviour such as urinating in the street.
- A few nights of monitoring the area proves nothing compared to the experience of Polygon residents affected by disturbance and littering during the night over many years.
- This area has enough crime and disorder issues 5 out of 7 nights a week. The council should be enforcing not encouraging owners to open later. An objection is made under section 17 of the crime and disorder act.

6.3 **SCC Licensing** – No objection. Chickenland holds a license which permits the provision of late night refreshment between 23.00 – 04.00 Monday to Sunday.

6.4 **SCC Food Safety** - Comments as per previous refused application. Opening until 4am is considered excessive. However, there have not been any complaints received with regards to noise and odour and as such no objection can be raised. It is however suggested that premises open no later than 2am Mon – Sat and midnight on Sundays.

6.5 **Hampshire Constabulary** – Object on the basis that the proposed extension of opening hours will exacerbate current issues of dispersal, anti-social behaviour and litter.

7.0 Planning Consideration Key Issues

7.1 The key issue for consideration in the determination of this planning application is the impact the proposed extension of hours would have on the residential amenity of nearby dwellings when considered in relation to existing late night uses and activity within the Bedford Place/London Road area. In particular, consideration must be given to the cumulative impact of all late night uses within the area being granted an extension to opening hours.

7.2 The adoption of policy CLT14 in the 2006 Local Plan Review and the publication of the council's unadopted night time economy briefing paper (which suggests the London Road (Bedford Place) area should only have opening hours extending to midnight) has strengthened the council's position when it comes to restricting late night activity within the Bedford place area.

7.3 Moreover, the Inspector's report into the Local Plan had regard to this issue with the creation of designated late night zones and hubs to distinguish between mid-late evening activity and late night activity such as nightclubs and to safeguard the amenities. The Bedford Place/London Rd area is designated as a late night zone and is supported by a policy briefing paper which advises a terminal hour of 12 midnight for new venues or VC's in this locality. The relevant policies of the local plan have been saved and as such remain a material planning consideration in the assessment of this application.

- 7.4 The Local Planning Authority is concerned that increasing the hours of operation of this take-away would exacerbate existing problems of activity on the streets during the early hours as people enjoying the late night uses within the Bedford Place area disperse into the surrounding residential streets. PPG24: Planning and Noise states that people have the right to expect quiet between the hours of 23:00 and 07:00. As such, it is considered that increasing the hours of this and other venues would have a harmful cumulative impact on existing residential amenities. The issue of cumulative impact is particularly pertinent given that five similar applications have been submitted simultaneously. Moreover, having regard to the planning history of the area and nature of uses in the locality, if permitted, the proposal could set an unwelcome precedent which would further exacerbate the issues of noise, anti-social behaviour and disturbance which is experienced in the locality.
- 7.5 Therefore, in order to prevent any further harm to nearby residential amenities, yet having regard to the night time economy, the LPA has taken a consistent approach in controlling hours of operation on new premises or applications for variation of condition; to date premises have been subject to a terminal hour of 11.30-12.00. This approach has been supported by the planning inspectorate with the dismissal of appeals seeking hours beyond 12 midnight (see 28 Carlton Place, 65-75 London Road, 16/17 Carlton Place and Carlton House, Carlton Place).
- 7.6 The concentration of A3, A4 and A5 uses in the Bedford Place / London Road area has grown over a considerable period of time. The growth of mid to late evening activity in this area has been problematic due to the noise and disturbance created by patrons leaving premises and dispersing through nearby residential areas. Many of these venues and take-aways are historic uses or operate with the benefit of old planning consents which did not contain any reference to operating hours.
- 7.7 The Police have expressed concern with regards to anti-social behaviour that occurs as a result of late night activity within the Bedford Place/London Road area through the week. Police records show that the peak times for assault and damages caused within this area were between 2300 and 0400. The police consider that allowing take-away premises to extend their opening hours will encourage people to stay in the area for longer and will put additional strain on the police resources and exacerbate current issues of dispersal, anti-social behaviour and litter.
- 7.8 The applicant's observation report submitted in conjunction with the application noted that the majority of patrons were from local pubs and clubs in the area, and that the busiest hours of use were between 2am and 4am when people were leaving nearby pubs and clubs. In addition, it was noted that some people were specifically coming into Bedford Place at that time of day to use the takeaway facilities. Whilst some patrons left in taxi's the majority dispersed through nearby streets. With regards to litter, the observation report found that whilst litter was an issue on the busiest nights, for the majority any litter discarded onto the streets nearby the takeaways was dealt with by a member of staff as and when possible.
- 7.9 The applicant argues that anti social behaviour which occurs in the area is a direct result of the pub and club uses not the takeaways. It is the intoxicated patrons who become disorderly, causing noise and litter nuisance.
- 7.10 It is appreciated that the instances of noise or disturbance cannot be attributed directly to the application site and the way the business is operated, and that the applicant (as part of the Business Crime Reduction Partnership (BCRP)) takes measures to improve the behaviour of customers and reduce crime and disorder in

and around the city centre. It is evident from the observation report submitted that takeaways being open in the early hours of the morning does attract people to the area and/or encourages them to stay within the area for a greater amount of time, prolonging the time of dispersal in and around the nearby residential areas.

- 7.11 What is likely to happen by permitting further late night opening hours, would be an intensification of the problems and disturbance from commercial uses and the likely and subsequent cumulative effect upon residents, particularly at a time of day when residents should be able to expect a period of quiet and rest.
- 7.12 A reasonable balance between the commercial activities in the area, the viability of the applicant's business and a proper living environment for residents must therefore be achieved. It is considered that this balance can and should be achieved by limiting late night use in Bedford Place until midnight in accordance with policy CLT 14 of the adopted local plan review.

8.0 Conclusion

- 8.1 A cumulative impact of the issues raised from an intensification of late night uses in this locality from an extension of opening hours occurs. The council has been consistent in its decision making for opening hours within this area and this approach has been supported in recent appeal decisions.
- 8.2.1 Information submitted with the application fails to address the previous reason for refusal. There are no material planning considerations which would alter the local planning authorities view on this matter.
- 8.3 The application is recommended for refusal.

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(e), 6(c), 6(l), 7(a),7(c), 7(x), 10(a)]

BG for 19.07.2011 PROW Panel.

9. POLICY CONTEXT

9.1 Core Strategy - (January 2010)

9.1.1 CS1 City Centre Approach

9.2 City of Southampton Local Plan Review – (March 2006)

9.2 .1 SDP1 Quality of Development

9.2.2 SDP 16 Noise

9.2.3 REI7 Food and Drink uses

9.2.4 CLT 14 City Centre and Night Time Zones and Hubs

9.3 Other Relevant Guidance

9.4.1 PPS1 Delivering Sustainable Development (February 2005)

9.4.2 PPG24 Planning and Noise (October 1994)

8 Bedford Place

1997. Ref: 971147/E – Change of use of ground floor from retail shop (class A1) to hot food takeaway (class A3). Approved with conditions.

10/01425/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 – Refuse - 14.12.2010.

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 – Pending Decision.

15 Bedford Place

10/01433/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 Saturdays and 8.00am to 12.00am Sundays – Ref. 16.12.2010.

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 Saturdays and 8.00am to 12.00am Sundays. (resubmission 10/01433/FUL) - Pending Decision.

18 Bedford Place

10/01405/FUL - Variation Of Condition 4 Of Planning Ref 1559/M12 To Extend Opening Hours Monday - Saturday 12Pm - 4Am, And Sundays 12Pm - 3Am. Ref. 08.12.2010

3 Bedford Place

10/01424/MMA - 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 – Object. 13.12.2010.

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) Pending Decision.

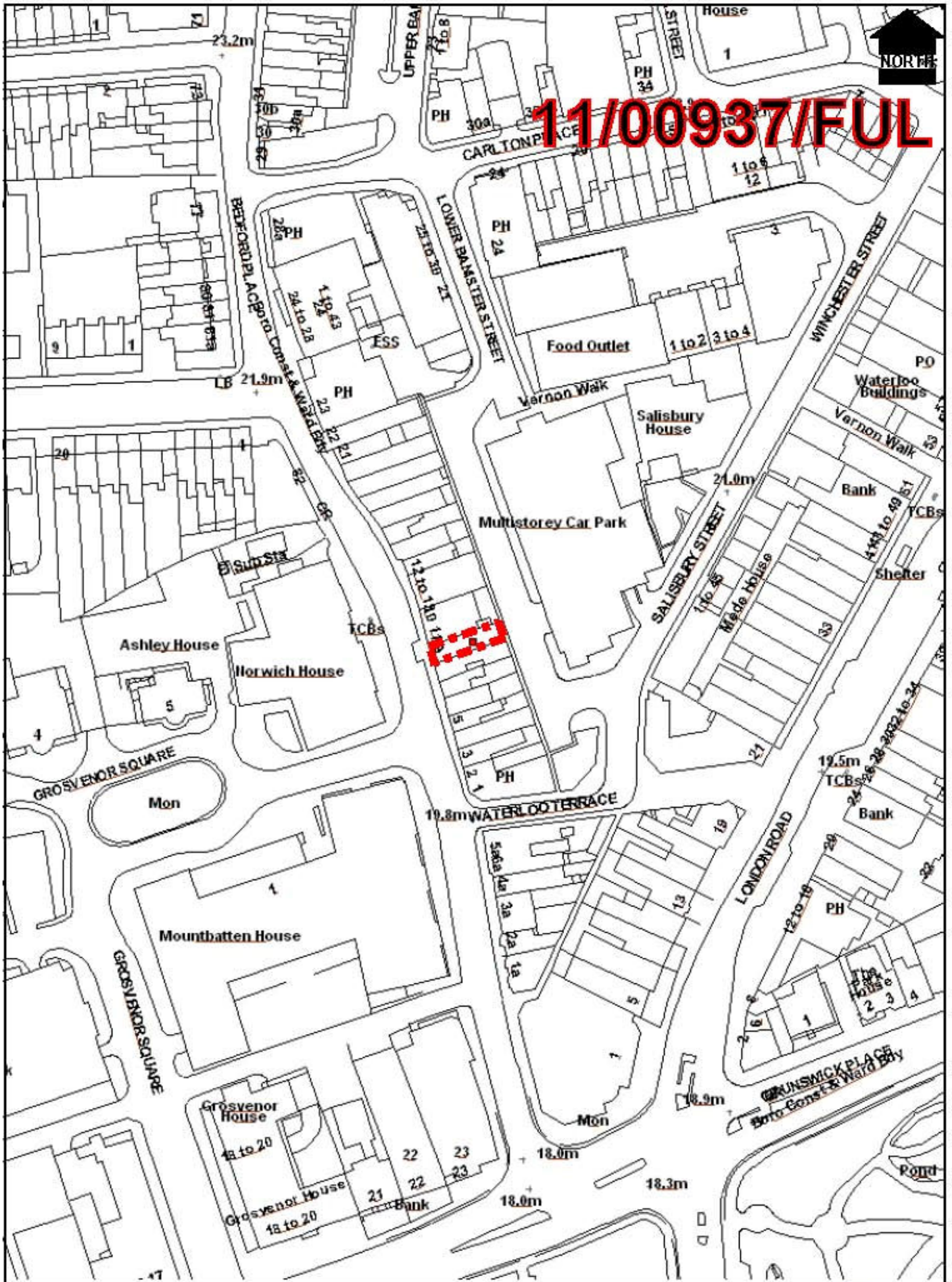
17 Bedford Place

10/01482/FUL - 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 - 04.00 Monday - Sunday –REF. 16.12.2010

11/00936/FUL - 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 - Pending Decision.

3 Winchester Street

10/01489/FUL - Variation of Condition 2 of planning permission 09/00636/FUL to allow opening of the ground floor A4 use between 8.00 - 1.00 on Fridays and Saturdays. REF - 21.12.2010



11/00937/FUL



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Date : 06 July 2011

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Agenda Item 7

**Southampton City Planning & Sustainability
Planning and Rights of Way Panel meeting 19th July 2011
Planning Application Report of the Planning and Development Manager**

Application address: 8 Bedford Place (J J S Fish and Chips), Southampton			
Proposed development: 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)			
Application number	11/00938/FUL	Application type	FUL
Case officer	Bryony Stala	Public speaking time	5 minutes
Last date for determination:	27 July 2011	Ward	Bevois
Reason for Panel Referral:	Referred by the Planning & Development Manager	Ward Councillors	Cllr Barnes-Andrews Cllr Burke Cllr Rayment

Applicant: Mrs Jahandokht Jafari	Agent: RM Legal Solicitors LLP
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Recommendation Summary	<ol style="list-style-type: none"> 1. Refuse 2. Delegate to the Planning & Development Manager to authorise the service of a Breach of Condition Notice
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Reason for refusal

REFUSAL REASON - 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.

Appendix attached			
1	Development Plan Policies	2	Planning History

Recommendation in Full:

- i. Refuse for the reason set out above
- ii. Serve a Breach of Condition Notice

1. Background

- 1.1 This application is one of five applications which have been submitted for the Bedford Place area all seeking to extend their current opening hours until 04:00. These applications are listed as follows:
11/00939/FUL – 3 Bedford Place (Caspain Kebab)
11/00937/FUL – 9 Bedford Place (Chicken Land)
11/00977/FUL – 15 Bedford Place
11/00936/FUL – 17 Bedford Place (Pizza Gogo)
- 1.2 These applications are resubmissions of identical schemes refused planning permission late last year. The applications have been submitted following enforcement investigations which revealed that the premises in question are currently operating outside of their permitted opening hours.

2. The site and its context

- 2.1 The application site is formed of a take-away unit with residential above. It is located on the eastern side of Bedford Place with servicing taken from Lower Banister Street.
- 2.2 The immediate area is predominantly commercial in nature and includes a diverse range of evening and night-time activities. The site falls within a defined Night Time Zone.

3. Proposal

- 3.1 The Planning Enforcement Team have monitored the premises operating outside their permitted hours between 8am to 11.00pm Monday to Thursday, 8.00am to 11.20pm Friday and Saturday and to be closed on Sundays and public holidays under planning permission 971147/E granted in 1997. The applicant is seeking to vary condition 2 to regularise this breach in operating hours for 1200 (midday) to 4am the following day for every day of the week.
- 3.2 A previous application 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 was submitted in November 2010 and refused by the local planning authority on 14.12.2010. In order to address the previous reason for refusal, the applicant has submitted a statement of support which sets out the reasoning behind the need to open until 4am seven days a week. Peak periods of trade are between 2am and 4am. The applicant is concerned that should he not be allowed to open during these hours, his business will be unviable. An observation report submitted in conjunction with the application notes the type and levels of activity between midnight and 4am on the 8th, 9th, 11th and 12th of March 2011.
- 3.3 A petition of support has also been submitted with the application.

4.0 Relevant Planning Policy

- 4.1 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add

particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

- 4.2 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**.
- 4.3 Policies generally seek to safeguard the amenity of the city and its citizens by ensuring an appropriate mix of uses that do not adversely impact on quality of life such as noise or visual disturbance. With particular relevance to this application, policy REI 7 of the adopted local plan requires appropriate planning conditions to be imposed to prevent the generation of any undue noise or other forms of nuisance directly arising from a proposed use A3, A4 and A5 use where such uses are permitted in city, town or district centres. This policy must be read in conjunction with CLT 14 of the adopted local plan. The site is indicated as a night time zone by saved policy CLT14 where the principle of A3 to A5 uses is acceptable.

5.0 Relevant Planning History

- 5.1 A summary of the relevant planning history is set out in **Appendix 2** to this report. The application site was granted planning permission for a take away in 1997 with permitted opening hours of 08:00 to 23:30. Apart from the application last year seeking to vary these hours which was refused planning permission (reference 10/01425/FUL), there have been no other relevant applications relating to the application site.
- 5.2 In the locality of the application site, the Local Planning Authority has consistently resisted applications to extend opening hours beyond 00:00, particularly since the adoption of the Local Plan Review in 2006. Many of the decisions to refuse extended opening hours have also been tested at appeal without success. A list of the relevant decisions in the vicinity of the site is also included in **Appendix 2**.

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 also undertaken which included notifying adjoining and nearby landowners. At the time of writing the report 7 representations have been received from surrounding residents, the residents association and three local ward Councillor.
- 6.2 Listed below is a summary of the issues raised by the objectors to the scheme:
- There are many problems of late night noise, littering and anti-social behaviour which is exacerbated by the opening hours of the takeaways.
 - The Bedford Place and Polygon area is spoiled by take-away litter and discarded from take-aways.
 - Consent for the proposed opening hours would cause further harm to the amenities of the local area by reason of street noise, litter and anti-social behaviour such as urinating in the street.

- A few nights of monitoring the area proves nothing compared to the experience of Polygon residents affected by disturbance and littering during the night over many years.
- This area has enough crime and disorder issues 5 out of 7 nights a week. The council should be enforcing not encouraging owners to open later. An objection is made under section 17 of the crime and disorder act.

6.3 **SCC Licensing** – No objection. JJ’s Fish and Chips holds a license which permits the provision of late night refreshment between 23.00 – 04.00 Monday to Sunday.

6.4 **SCC Food Safety** - Comments as per previous refused application. Opening until 4am is considered excessive. However, there have not been any complaints received with regards to noise and odour and as such no objection can be raised. It is however suggested that premises open no later than 2am Mon – Sat and midnight on Sundays.

6.5 **Hampshire Constabulary** – Object on the basis that the proposed extension of opening hours will exacerbate current issues of dispersal, anti-social behaviour and litter.

7.0 Planning Consideration Key Issues

7.1 The key issue for consideration in the determination of this planning application is the impact the proposed extension of hours would have on the residential amenity of nearby dwellings when considered in relation to existing late night uses and activity within the Bedford Place/London Road area. In particular, consideration must be given to the cumulative impact of all late night uses within the area being granted an extension to opening hours.

7.2 The adoption of policy CLT14 in the 2006 Local Plan Review and the publication of the council’s unadopted night time economy briefing paper (which suggests the London Road (Bedford Place) area should only have opening hours extending to midnight) has strengthened the council’s position when it comes to restricting late night activity within the Bedford place area.

7.3 Moreover, the Inspector’s report into the Local Plan had regard to this issue with the creation of designated late night zones and hubs to distinguish between mid-late evening activity and late night activity such as nightclubs and to safeguard the amenities. The Bedford Place/London Rd area is designated as a late night zone and is supported by a policy briefing paper which advises a terminal hour of 12 midnight for new venues or VC’s in this locality. The relevant policies of the local plan have been saved and as such remain a material planning consideration in the assessment of this application.

7.4 The Local Planning Authority is concerned that increasing the hours of operation of this take-away would exacerbate existing problems of activity on the streets during the early hours as people enjoying the late night uses within the Bedford Place area disperse into the surrounding residential streets. PPG24: Planning and Noise states that people have the right to expect quiet between the hours of 23:00 and 07:00. As such, it is considered that increasing the hours of this and other venues would have a harmful cumulative impact on existing residential amenities. The issue of cumulative impact is particularly pertinent given that five similar applications have been submitted simultaneously. Moreover, having regard to the planning history of the area and nature of uses in the locality, if permitted, the proposal could set an

unwelcome precedent which would further exacerbate the issues of noise, anti-social behaviour and disturbance which is experienced in the locality.

- 7.5 Therefore, in order to prevent any further harm to nearby residential amenities, yet having regard to the night time economy, the LPA has taken a consistent approach in controlling hours of operation on new premises or applications for variation of condition; to date premises have been subject to a terminal hour of 11.30-12.00. This approach has been supported by the planning inspectorate with the dismissal of appeals seeking hours beyond 12 midnight (see 28 Carlton Place, 65-75 London Road, 16/17 Carlton Place and Carlton House, Carlton Place).
- 7.6 The concentration of A3, A4 and A5 uses in the Bedford Place / London Road area has grown over a considerable period of time. The growth of mid to late evening activity in this area has been problematic due to the noise and disturbance created by patrons leaving premises and dispersing through nearby residential areas. Many of these venues and take-aways are historic uses or operate with the benefit of old planning consents which did not contain any reference to operating hours.
- 7.7 The Police have expressed concern with regards to anti-social behaviour that occurs as a result of late night activity within the Bedford Place/London Road area through the week. Police records show that the peak times for assault and damages caused within this area were between 2300 and 0400. The police consider that allowing take-away premises to extend their opening hours will encourage people to stay in the area for longer and will put additional strain on the police resources and exacerbate current issues of dispersal, anti-social behaviour and litter.
- 7.8 The applicant's observation report submitted in conjunction with the application noted that the majority of patrons were from local pubs and clubs in the area, and that the busiest hours of use were between 2am and 4am when people were leaving nearby pubs and clubs. In addition, it was noted that some people were specifically coming into Bedford Place at that time of day to use the takeaway facilities. Whilst some patrons left in taxi's the majority dispersed through nearby streets. With regards to litter, the observation report found that whilst litter was an issue on the busiest nights, for the majority any litter discarded onto the streets nearby the takeaways was dealt with by a member of staff as and when possible.
- 7.9 The applicant argues that anti social behaviour which occurs in the area is a direct result of the pub and club uses not the takeaways. It is the intoxicated patrons who become disorderly, causing noise and litter nuisance.
- 7.10 It is appreciated that the instances of noise or disturbance cannot be attributed directly to the application site and the way the business is operated, and that the applicant (as part of the Business Crime Reduction Partnership (BCRP) takes measures to improve the behaviour of customers and reduce crime and disorder in and around the city centre. It is evident from the observation report submitted that takeaways being open in the early hours of the morning does attract people to the area and/or encourages them to stay within the area for a greater amount of time, prolonging the time of dispersal in and around the nearby residential areas.
- 7.11 What is likely to happen by permitting further late night opening hours, would be an intensification of the problems and disturbance from commercial uses and the likely and subsequent cumulative effect upon residents, particularly at a time of day when residents should be able to expect a period of quiet and rest.

7.12 A reasonable balance between the commercial activities in the area, the viability of the applicant's business and a proper living environment for residents must therefore be achieved. It is considered that this balance can and should be achieved by limiting late night use in Bedford Place until midnight in accordance with policy CLT 14 of the adopted local plan review.

8.0 Conclusion

8.1 A cumulative impact of the issues raised from an intensification of late night uses in this locality from an extension of opening hours occurs. The council has been consistent in its decision making for opening hours within this area and this approach has been supported in recent appeal decisions.

8.2.1 Information submitted with the application fails to address the previous reason for refusal. There are no material planning considerations which would alter the local planning authorities view on this matter.

8.3 The application is recommended for refusal.

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(e), 6(c), 6(l), 7(a),7(c), 7(x), 10(a)]

BG for 19.07.2011 PROW Panel.

9. POLICY CONTEXT

9.1 Core Strategy - (January 2010)

9.1.1 CS1 City Centre Approach

9.2 City of Southampton Local Plan Review – (March 2006)

9.2 .1 SDP1 Quality of Development

9.2.2 SDP 16 Noise

9.2.3 REI7 Food and Drink uses

9.2.4 CLT 14 City Centre and Night Time Zones and Hubs

9.3 Other Relevant Guidance

9.4.1 PPS1 Delivering Sustainable Development (February 2005)

9.4.2 PPG24 Planning and Noise (October 1994)

15 Bedford Place

10/01433/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 Saturdays and 8.00am to 12.00am Sundays – Ref. 16.12.2010.

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 Saturdays and 8.00am to 12.00am Sundays. (resubmission 10/01433/FUL) - Pending Decision.

18 Bedford Place

10/01405/FUL - Variation Of Condition 4 Of Planning Ref 1559/M12 To Extend Opening Hours Monday - Saturday 12Pm - 4Am, And Sundays 12Pm - 3Am. Ref. 08.12.2010

3 Bedford Place

10/01424/MMA - 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 – Object. 13.12.2010.

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) Pending Decision.

9 Bedford Place

10/01423/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.REF. 14.12.2010

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) Pending Decision.

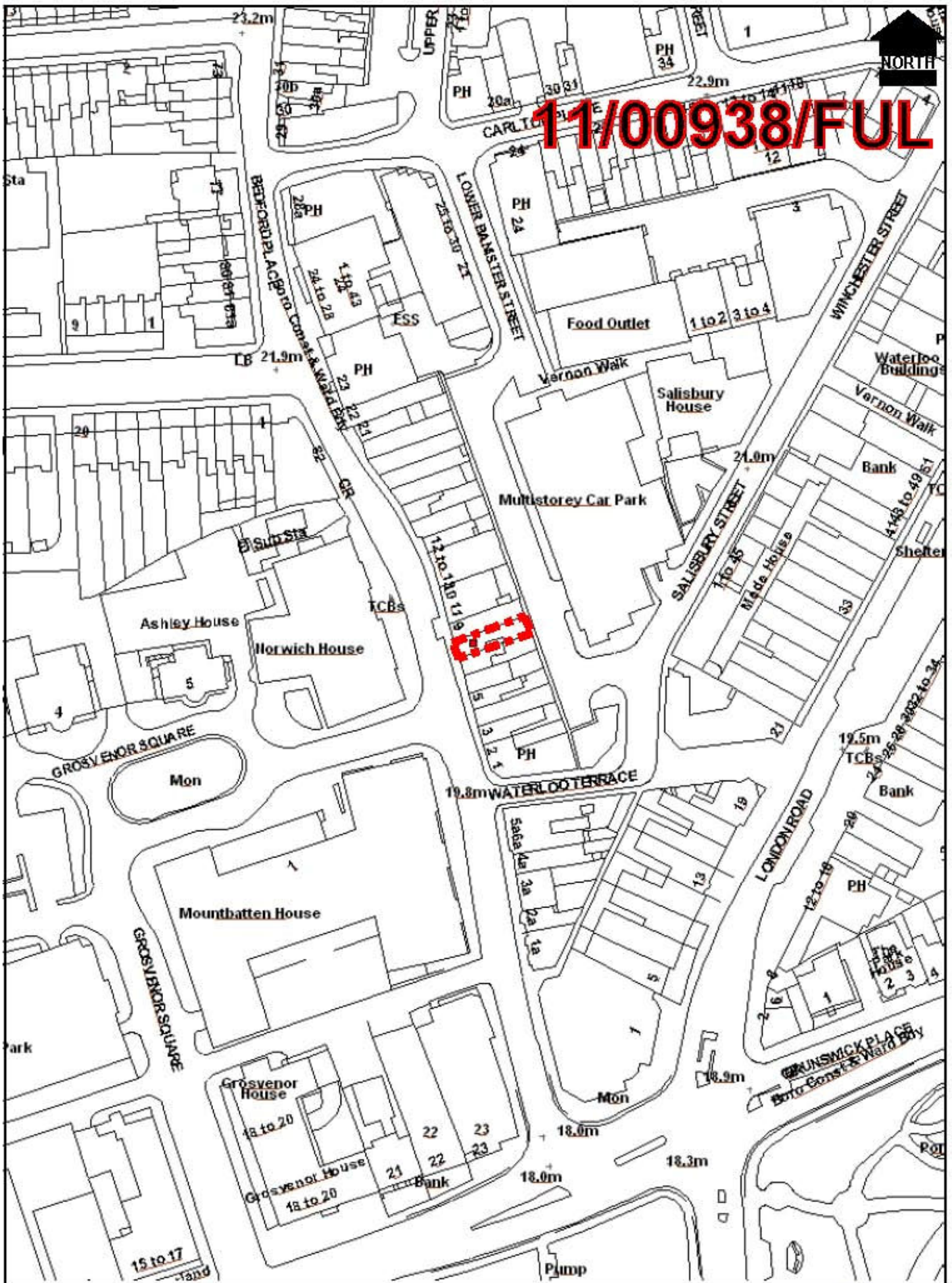
17 Bedford Place

10/01482/FUL - 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 - 04.00 Monday - Sunday –REF. 16.12.2010

11/00936/FUL - 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 - Pending Decision.

3 Winchester Street

10/01489/FUL - Variation of Condition 2 of planning permission 09/00636/FUL to allow opening of the ground floor A4 use between 8.00 - 1.00 on Fridays and Saturdays. REF - 21.12.2010



11/00938/FUL



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Date : 06 July 2011

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Agenda Item 8

**Southampton City Planning and Sustainability
Planning and Rights of Way Panel meeting 19th July 2011
Planning Application Report of the Planning and Development Manager**

Application address: 3 Bedford Place (Caspian Kebab), Southampton			
Proposed development: 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)			
Application number	11/00939/FUL	Application type	FUL
Case officer	Jenna Turner	Public speaking time	5 minutes
Last date for determination:	27.07.2011	Ward	Bevois
Reason for Panel Referral:	Referred by the Planning & Development Manager	Ward Councillors	Cllr Barnes-Andrews Cllr Burke Cllr Rayment

Applicant: Mr Ferydoun Panjganj	Agent: RM Legal Solicitors LLP
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Recommendation Summary	1. Refuse 2. Delegate to the Planning & Development Manager to authorise the service of an Enforcement Notice
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Reason for refusal

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) and as supported by the comments made to the application by Hampshire Constabulary.

Appendix attached			
1	Development Plan Policies	2	Planning History

Recommendation in Full:

- i. Refuse for the reason as set out above
- ii. Serve an Enforcement notice requiring the cessation of the unauthorised hours of opening.

1. Background

- 1.1 This application is one of five applications which have been submitted for the Bedford Place area all seeking to extend their current opening hours up to 04:00. These applications are listed as follows:

11/00938 – 8 Bedford Place (JJS Fish and Chips)
11/00937/FUL – 9 Bedford Place (Chicken Land)
11/00977/FUL – 15 Bedford Place
11/00936/FUL – 17 Bedford Place (Pizza Gogo)

- 1.2 These applications are resubmissions of identical schemes refused planning permission late last year. The applications have been submitted following enforcement investigations which revealed that the premises in question are currently operating outside of their permitted opening hours.

2. The site and its context

- 2.1 The application site lies within a mixed use commercial and residential area on the edge of the city centre. The site is a two-storey, mid-terrace property located between a public house and a restaurant.
- 2.2 The immediate area is predominantly commercial in nature and includes a diverse range of evening and night-time activities. The site falls within a defined Night Time Zone.

3. Proposal

- 3.1 The Planning Enforcement Team have monitored the premises operating outside their permitted hours between 9am to 11.30pm under planning permission 1463/P18. The applicant is seeking to regularise this breach in operating hours for 11:00 to 04:00.
- 3.2 The application is a resubmission of an application refused in 2010 (reference 10/01424/MMA) which sought the same extension to opening hours. In order to address the previous reason for refusal, the applicant has submitted a statement of support which sets out the reasoning behind the need to open until 4am seven days a week. Peak periods of trade are between 2am and 4am. The applicant is concerned that should he not be allowed to open during these hours, his business will be unviable. An observation report submitted in conjunction with the application notes the type and levels of activity between midnight and 4am on the 8th, 9th, 11th and 12th of March 2011.
- 3.3 A petition of support has also been submitted with the application.

4.0 Relevant Planning Policy

- 4.1 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application.

Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

- 4.2 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**.
- 4.3 Policies generally seek to safeguard the amenity of the city and its citizens by ensuring an appropriate mix of uses that do not adversely impact on quality of life such as noise or visual disturbance. With particular relevance to this application, policy REI 7 of the adopted local plan requires appropriate planning conditions to be imposed to prevent the generation of any undue noise or other forms of nuisance directly arising from a proposed use A3, A4 and A5 use where such uses are permitted in city, town or district centres. This policy must be read in conjunction with CLT 14 of the adopted local plan. The site is indicated as a night time zone by saved policy CLT14 where the principle of A3-A5 uses is accepted.

5.0 Relevant Planning History

- 5.1 A summary of the relevant planning history is set out in **Appendix 2** to this report. The application site was granted planning permission for a take away in 1973 with permitted opening hours of 09:00 to 23:30. Apart from the application last year seeking to vary these hours which was refused planning permission (reference 10/01424/MMA), there have been no other relevant applications relating to the application site.
- 5.2 In the locality of the application site, the Local Planning Authority has consistently resisted applications to extend opening hours beyond 00:00, particularly since the adoption of the Local Plan Review in 2006. Many of the decisions to refuse extended opening hours have also been tested at appeal without success. A list of the relevant decisions in the vicinity of the site is also included in **Appendix 2**.

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 also undertaken which included notifying adjoining and nearby landowners. At the time of writing the report **7 representations** have been received from surrounding residents, the residents association and three local ward councillors.
- 6.2 Listed below is a summary of the issues raised by the objectors to the scheme:
- There are many problems of late night noise, littering and anti-social behaviour which is exacerbated by the opening hours of the takeaways.
 - The Bedford Place and Polygon area is spoiled by take-away litter and discarded food from take-aways.
 - Consent for the proposed opening hours would cause further harm to the amenities of the local area by reason of street noise, litter and anti-social behaviour such as urinating in the street.
 - A few nights of monitoring the area proves nothing compared to the experience of Polygon residents affected by disturbance and littering during the night over many years.

- This area has enough crime and disorder issues 5 out of 7 nights a week. The council should be enforcing not encouraging owners to open later. An objection is made under section 17 of the crime and disorder act.

6.3 **SCC Licensing** – No objection. Caspian Kebab holds a license which permits the provision of late night refreshment between 23.00 – 04.00 Monday to Sunday.

6.4 **SCC Food Safety** - Comments as per previous refused application. Opening until 4am is considered excessive. However, there have not been any complaints received with regards to noise and odour and as such no objection can be raised. It is however suggested that premises open no later than 2am Mon – Sat and midnight on Sundays.

6.5 **Hampshire Constabulary** – Object on the basis that the proposed extension of opening hours will exacerbate current issues of dispersal, anti-social behaviour and litter.

7.0 Planning Consideration Key Issues

7.1 The key issue for consideration in the determination of this planning application is the impact the proposed extension of hours would have on the residential amenity of nearby dwellings when considered in relation to existing late night uses and activity within the Bedford Place/London Road area. In particular, consideration must be given to the cumulative impact of all late night uses within the area being granted an extension to opening hours.

7.2 The adoption of policy CLT14 in the 2006 Local Plan Review, and the publication of the council's unadopted night time economy briefing paper (which suggests the London Road (Bedford Place) area should only have opening hours extending to midnight) has strengthened the council's position when it comes to restricting late night activity within the Bedford place area.

7.3 Moreover, the Inspector's report into the Local Plan had regard to this issue with the creation of designated late night zones and hubs to distinguish between mid-late evening activity and late night activity such as nightclubs and to safeguard the amenities. The Bedford Place/London Rd area is designated as a late night zone and is supported by a policy briefing paper which advises a terminal hour of 12 midnight for new venues or VC's in this locality. The relevant policies of the local plan have been saved and as such remain a material planning consideration in the assessment of this application.

7.4 The Local Planning Authority is concerned that increasing the hours of operation of this take-away would exacerbate existing problems of activity on the streets during the early hours as people enjoying the late night uses within the Bedford Place area disperse into the surrounding residential streets. PPG24: Planning and Noise states that people have the right to expect quiet between the hours of 23:00 and 07:00. As such, it is considered that increasing the hours of this and other venues would have a harmful cumulative impact on existing residential amenities. The issue of cumulative impact is particularly pertinent given that five similar applications have been submitted simultaneously. Moreover, having regard to the planning history of the area and nature of uses in the locality, if permitted, the proposal could set an unwelcome precedent which would further exacerbate the issues of noise, anti-social behaviour and disturbance which is experienced in the locality.

- 7.5 Therefore, in order to prevent any further harm to nearby residential amenities, yet having regard to the night time economy, the LPA has taken a consistent approach in controlling hours of operation on new premises or applications for variation of condition; to date premises have been subject to a terminal hour of 11.30-12.00. This approach has been supported by the planning inspectorate with the dismissal of appeals seeking hours beyond 12 midnight (see 28 Carlton Place, 65-75 London Road, 16/17 Carlton Place and Carlton House, Carlton Place).
- 7.6 The concentration of A3, A4 and A5 uses in the Bedford Place / London Road area has grown over a considerable period of time. The growth of mid to late evening activity in this area has been problematic due to the noise and disturbance created by patrons leaving premises and dispersing through nearby residential areas. Many of these venues and take-aways are historic uses or operate with the benefit of old planning consents, which did not contain any reference to operating hours and pre-date the current planning policy framework.
- 7.7 The Police have expressed concern with regards to anti-social behaviour that occurs as a result of late night activity within the Bedford Place/London Road area through the week. Hampshire Constabulary has recently undertaken an analysis of the area which demonstrates that crime and anti-social behaviour is linked to the operating times of premises within the Bedford Place area. Police records show that the peak times for assault and damages caused within this area were between 2300 and 0400. The police consider that allowing take-away premises to extend their opening hours will encourage people to stay in the area for longer and will put additional strain on the police resources and exacerbate current issues of dispersal, anti-social behaviour and litter.
- 7.8 The applicant's observation report submitted in conjunction with the application noted that the majority of patrons were from local pubs and clubs in the area, and that the busiest hours of use were between 2am and 4am when people were leaving nearby pubs and clubs. In addition, it was noted that some people were specifically coming into Bedford Place at that time of day to use the takeaway facilities. Whilst some patrons left in taxis the majority dispersed through nearby streets. With regards to litter, the observation report found that whilst litter was an issue on the busiest nights, for the majority any litter discarded onto the streets nearby the takeaways was dealt with by a member of staff as and when possible.
- 7.9 The applicant argues that anti social behaviour which occurs in the area is a direct result of the pub and club uses not the takeaways. It is the intoxicated patrons who become disorderly, causing noise and litter nuisance.
- 7.10 It is appreciated that the instances of noise or disturbance cannot be attributed directly to the application site and the way the business is operated, and that the applicant (as part of the Business Crime Reduction Partnership (BCRP)) takes measures to improve the behaviour of customers and reduce crime and disorder in and around the city centre. It is evident from the observation report submitted that takeaways being open in the early hours of the morning does attract people to the area and/or encourages them to stay within the area for a greater amount of time, prolonging the time of dispersal in and around the nearby residential areas.
- 7.11 What is likely to happen by permitting further late night opening hours, would be an intensification of the problems and disturbance from commercial uses and the likely and subsequent cumulative effect upon residents, particularly at a time of day when residents should be able to expect a period of quiet and rest.

7.12 A reasonable balance between the commercial activities in the area, the viability of the applicant's business and a proper living environment for residents must therefore be achieved. It is considered that this balance can and should be achieved by limiting late night use in Bedford Place until midnight in accordance with policy CLT 14 of the adopted local plan review.

8.0 Conclusion

8.1 A cumulative impact of the issues raised from an intensification of late night uses in this locality from an extension of opening hours occurs. The council has been consistent in its decision making for opening hours within this area and this approach has been supported in recent appeal decisions.

8.2 Information submitted with the application fails to address the previous reason for refusal. There are no material planning considerations which would alter the local planning authorities view on this matter.

8.3 The application is recommended for refusal.

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(e), 6(c), 6(l), 7(a),7(c), 7(x), 10(a)]

JT for 19.07.2011 PROW Panel.

9.0 POLICY CONTEXT

9.1 Core Strategy - (January 2010)

9.1.1 CS1 City Centre Approach

9.2 City of Southampton Local Plan Review – (March 2006)

9.2.1 SDP1 Quality of Development

9.2.2 SDP 16 Noise

9.2.3 REI7 Food and Drink uses

9.2.4 CLT 14 City Centre and Night Time Zones and Hubs

9.3 Other Relevant Guidance

9.4.1 PPS1 Delivering Sustainable Development (February 2005)

9.4.2 PPG24: Planning and Noise (October 1994)

8 Bedford Place

1997. Ref: 971147/E – Change of use of ground floor from retail shop (class A1) to hot food takeaway (class A3). Approved with conditions.

10/01425/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 – Refuse - 14.12.2010.

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 – Pending Decision.

15 Bedford Place

10/01433/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 Saturdays and 8.00am to 12.00am Sundays – Ref. 16.12.2010.

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 Saturdays and 8.00am to 12.00am Sundays. (resubmission 10/01433/FUL) - Pending Decision.

18 Bedford Place

10/01405/FUL - Variation Of Condition 4 Of Planning Ref 1559/M12 To Extend Opening Hours Monday - Saturday 12Pm - 4Am, And Sundays 12Pm - 3Am. Ref. 08.12.2010

3 Bedford Place

10/01424/MMA - 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 – Object. 13.12.2010.

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) Pending Decision.

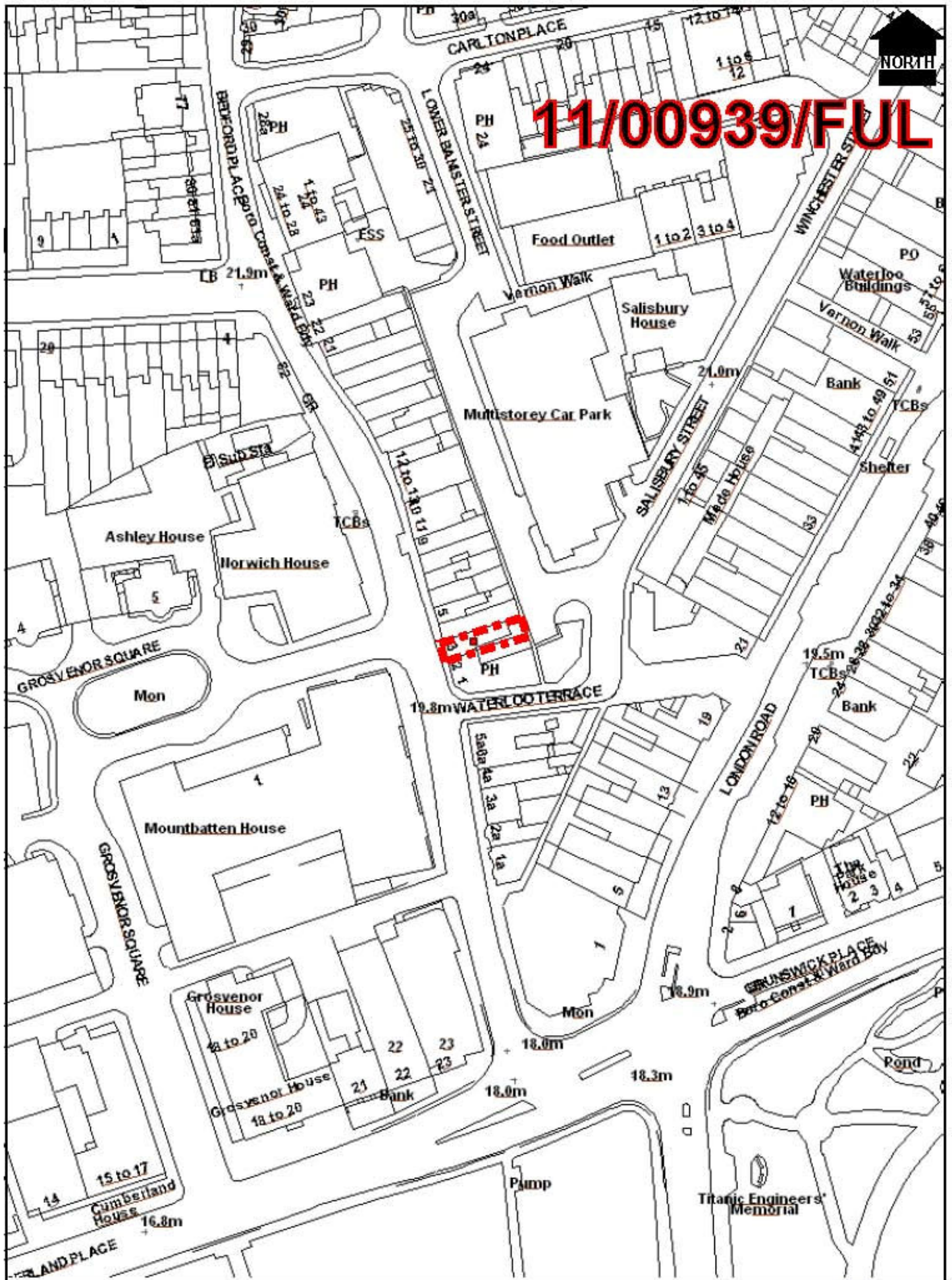
17 Bedford Place

10/01482/FUL - 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 - 04.00 Monday - Sunday –REF. 16.12.2010

11/00936/FUL - 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 - Pending Decision.

3 Winchester Street

10/01489/FUL - Variation of Condition 2 of planning permission 09/00636/FUL to allow opening of the ground floor A4 use between 8.00 - 1.00 on Fridays and Saturdays. REF - 21.12.2010



11/00939/FUL

NORTH

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Date : 06 July 2011

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Agenda Item 9

**Southampton City Planning & Sustainability
Planning and Rights of Way Panel meeting – 19 July 2011
Planning Application Report of the Planning and Development Manager**

Application address: 15 Bedford Place (Teds Fish and Chips), SO15 2DB			
Proposed development: Variation Of Condition 2 Of Planning Permission 1552/M5 to change opening hours from 8.00 To 1.00 hours to 0800 To 0300 Mon - Thurs, 0800 to 0400 Saturdays and 0800 to 12.00 Midnight Sundays. (Resubmission of planning application reference 10/01433/Ful)			
Application number	11/00977/FUL	Application type	FUL
Case officer	Mathew Pidgeon	Public speaking time	5 minutes
Last date for determination:	27.07.2011	Ward	Bevois
Reason for Panel Referral:	Referred to panel by the Planning and Development Manager	Ward Councillors	Cllr Burke Cllr Rayment Cllr Barnes-Andrews

Applicant: Mr Jamshid Bakhtiar	Agent: Rm Legal Solicitors Llp
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Recommendation Summary	1. Refuse 2. Delegate to the Planning & Development Manager to authorise the service of a Breach of Condition Notice
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Reason for Refusal

REFUSAL REASON - 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).

Appendix attached	
1	Development Plan Policies
2	Relevant Planning History (Surroundings):

Recommendation in Full

Recommendation in Full:

- i. Refuse for the reason set out above
- ii. Serve a Breach of Condition Notice

1.0 Background

- 1.1 This application is one of five applications which have been submitted for the Bedford Place area all seeking to extend their current opening hours up to 04:00. The other applications are listed as follows:

11/00939/Ful – 3 Bedford Place (Caspian Kebab)
11/00938/Ful – 8 Bedford Place (JJS Fish and Chips)
11/00937/FUL – 9 Bedford Place (Chicken Land)
11/00936/FUL – 17 Bedford Place (Pizza Gogo)

- 1.2 These applications are resubmissions of identical schemes refused planning permission late last year. The applications have been submitted following enforcement investigations which revealed that the premises in question are currently operating outside of their permitted opening hours.

2.0 The site and its context

- 2.1 The application site lies within a mixed use commercial and residential area on the edge of the city centre. The site is a two-storey, mid-terrace property.
- 2.2 The immediate area is predominantly commercial in nature and includes a diverse range of evening and night-time activities. The site falls within a defined Night Time Zone.

3.0 Proposal

- 3.1 The Planning Enforcement Team have monitored the premises operating outside their permitted hours allowed under planning permission 1552/M5 which was granted in 1979. The applicant is seeking to vary condition 2 to regularise this breach in operating hours for 8.00am to 3.00am Mon - Thurs, 8.00am to 4.00am Saturdays and 8.00am to 12.00am Sundays.
- 3.2 A previous application to change operating hours to 8.00am to 3.00am Mon - Thurs, 8.00am to 4.00am Saturdays and 8.00am to 12.00am Sundays was submitted in October 2010 and refused by the local planning authority on 16th December 2010. In order to address the previous reason for refusal, the applicant has submitted a statement of support which sets out the reasoning behind the need to open beyond 1am. Peak periods of trade are between 2am and 4am. The applicant is concerned that should he not be allowed to open during these hours, his business will be unviable. An observation report submitted in conjunction with the application notes the type and levels of activity between midnight and 4am on the 8th, 11th, 12th and 13th of March 2011.
- 3.3 A petition of support has also been submitted with the application.

4.0 Relevant Planning Policy

- 4.1 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not

considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

- 4.2 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**.
- 4.3 Policies generally seek to safeguard the amenity of the city and its citizens by ensuring an appropriate mix of uses that do not adversely impact on quality of life such as noise or visual disturbance. With particular relevance to this application, policy REI 7 of the adopted local plan requires appropriate planning conditions to be imposed to prevent the generation of any undue noise or other forms of nuisance directly arising from a proposed use A3, A4 and A5 use where such uses are permitted in city, town or district centres. This policy must be read in conjunction with CLT 14 of the adopted local plan. The site is indicated as a night time zone by saved policy CLT14.

5.0 Relevant Planning History

- 5.1 A summary of the relevant planning history is set out in **Appendix 2** to this report. The application site was granted planning permission for a take away in 1979 with permitted opening hours of 08:00 to 01:00. Since the original consent there have been two applications which have sought to extend the opening hours, both of which were refused.
- 5.2 In the locality of the application site, the Local Planning Authority has consistently resisted applications to extend opening hours beyond 00:00, particularly since the adoption of the Local Plan Review in 2006. Many of the decisions to refuse extended opening hours have also been tested at appeal without success. A list of the relevant decisions in the vicinity of the site is also included in **Appendix 2**.

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 also undertaken which included notifying adjoining and nearby landowners and erecting a site notice (23.06.2011). At the time of writing the report **3** representations had been received from surrounding residents.
- 6.2 It is noted that similar applications before Panel located on Bedford Place have received objections from nearby residents. It should also be noted that the LPA received 8 objections prior to the determination of the previously refused application (10/01433/Ful). A summary of the comments received are included below:
- The proposal would have a harmful impact on the surrounding area in terms of noise, disturbance and littering.
 - The dispersal of people from such late night uses through and to the surrounding residential areas results in anti-social behaviour. The proposal would therefore exacerbate matters for surrounding residents.

- 6.3 **SCC Licensing** – No objection. There is premises licence for this property which permits opening until 04:00.
- 6.4 **SCC Food Safety** - Comments as per previous refused application. Opening until 4am is considered excessive. However, there have not been any complaints received with regards to noise and odour and as such no objection can be raised. It is however suggested that premises open no later than 2am Mon – Sat and midnight on Sundays.
- 6.5 **SCC Food Safety** - Comments as per previous refused application. Opening until 4am is considered excessive. However, there have not been any complaints received with regards to noise and odour and as such no objection can be raised. It is however suggested that premises open no later than 2am Mon – Sat and midnight on Sundays
- 6.6 **Hampshire Constabulary** – Object on the basis that the proposed extension of opening hours will exacerbate current issues of dispersal, anti-social behaviour and litter.

7.0 Planning Consideration Key Issues

- 7.1 The key issue for consideration in the determination of this planning application is the impact the proposed extension of hours would have on the residential amenity of nearby dwellings when considered in relation to existing late night uses and activity within the Bedford Place/London Road area. In particular, consideration must be given to the cumulative impact of all late night uses within the area being granted an extension to opening hours.
- 7.2 The adoption of policy CLT14 in the 2006 Local Plan Review and the publication of the council's night time economy briefing paper (which suggests the London Road (Bedford Place) area should only have opening hours extending to midnight) has strengthened the council's position when it comes to restricting late night activity within the Bedford place area.
- 7.3 Moreover, the Inspector's report into the Local Plan had regard to this issue with the creation of designated late night zones and hubs to distinguish between mid-late evening activity and late night activity such as nightclubs and to safeguard the amenities. The Bedford Place/London Rd area is designated as a late night zone and is supported by a policy briefing paper which advises a terminal hour of 12 midnight for new venues or VC's in this locality. The relevant policies of the local plan have been saved and as such remain a material planning consideration in the assessment of this application.
- 7.4 The Local Planning Authority is concerned that increasing the hours of operation of this take-away would exacerbate existing problems of activity on the streets during the early hours as people enjoying the late night uses within the Bedford Place area disperse into the surrounding residential streets. PPG24: Planning and Noise states that people have the right to expect quiet between the hours of 23:00 and 07:00. As such, it is considered that increasing the hours of this and other venues would have a harmful cumulative impact on existing residential amenities. The issue of cumulative impact is particularly pertinent given that five similar applications have been submitted simultaneously. Moreover, having regard to the planning history of the area and nature of uses in the locality, if permitted, the proposal could set an

unwelcome precedent which would further exacerbate the issues of noise, anti-social behaviour and disturbance which is experienced in the locality.

- 7.5 Therefore, in order to prevent any further harm to nearby residential amenities, yet having regard to the night time economy, the LPA has taken a consistent approach in controlling hours of operation on new premises or applications for variation of condition; to date premises have been subject to a terminal hour of 11.30-12.00. This approach has been supported by the planning inspectorate with the dismissal of appeals seeking hours beyond 11.30-12 midnight (see 28 Carlton Place, 65-75 London Road, 16/17 Carlton Place and Carlton House, Carlton Place).
- 7.6 The concentration of A3, A4 and A5 uses in the Bedford Place / London Road area has grown over a considerable period of time. The growth of mid to late evening activity in this area has been problematic due to the noise and disturbance created by patrons leaving premises and dispersing through nearby residential areas. Many of these venues and take-aways are historic uses or operate with the benefit of old planning consents which did not contain any reference to operating hours and pre-date the current planning policy framework.
- 7.7 The police have expressed concern with regards to anti-social behaviour that occurs as a result of late night activity within the Bedford Place/London Road area through the week. Hampshire Constabulary has recently undertaken an analysis of the area which demonstrates that crime and anti-social behaviour is linked to the operating times of premises within the Bedford Place area. Police records show that the peak times for assault and damages caused within this area were between 2300 and 0400. The police consider that allowing take-away premises to extend their opening hours will encourage people to stay in the area for longer and will put additional strain on the police resources and exacerbate current issues of dispersal, anti-social behaviour and litter.
- 7.8 The observation report submitted in conjunction with the application noted that the majority of patrons were from local pubs and clubs in the area, and that the busiest hours of use were between 2am and 4am when people were leaving nearby pubs and clubs. In addition, it was noted that some people were specifically coming into Bedford Place at that time of day to use the takeaway facilities. Whilst some patrons left in taxis the majority dispersed through nearby streets. With regards to litter, the observation report found that whilst litter was an issue on the busiest nights, for the majority any litter discarded onto the streets nearby the takeaways was dealt with by a member of staff as and when possible.
- 7.9 The applicant argues that anti social behaviour which occurs in the area is a direct result of the pub and club uses not the takeaways. It is the intoxicated patrons who become disorderly, causing noise and little nuisance.
- 7.10 It is appreciated that the instances of noise or disturbance cannot be attributed directly to the application site and the way the business is operated, and that the applicant (as part of the Business Crime Reduction Partnership (BCRP) takes measures to improve the behaviour of customers and reduce crime and disorder in and around the city centre. It is evident from the observation report submitted that takeaways being open in the early hours of the morning does attract people to the area and/or encourages them to stay within the area for a greater amount of time, prolonging the time of dispersal in and around the nearby residential areas.

- 7.11 What is likely to happen by permitting further late night opening hours, would be an intensification of the problems and disturbance from commercial uses and the likely and subsequent cumulative effect upon residents, particularly at a time of day when residents should be able to expect a period of quiet and rest.
- 7.12 A reasonable balance between the commercial activities in the area and a proper living environment for residents must therefore be achieved. It is considered that this balance can and should be achieved by limiting late night use in Bedford Place until midnight in accordance with policy CLT 14 of the adopted local plan review.

8.0 Conclusion

- 8.1 A cumulative impact of the issues raised from an intensification of late night uses in this locality from an extension of opening hours occurs. The council has been consistent in its decision making for opening hours within this area and this approach has been supported in recent appeal decisions.
- 8.2 Information submitted with the application fails to address the previous reason for refusal. There are no material planning considerations which would alter the local planning authorities view on this matter.
- 8.3 The application is recommended for refusal.

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(e), 6(c), 6(l), 7(a),7(c), 7(x), 10(a)]

MP for 19.07.2011 PROW Panel.

POLICY CONTEXT

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP7	Urban Design Context
SDP16	Noise
CLT14	City Centre Night Time Zones and Hubs
CLT15	Night Time Uses in Town, District and Local Centres
REI4	Secondary Retail Frontages
REI7	Food and Drink Uses (Classes A3, A4 and A5)

Supplementary Planning Guidance

Planning Obligations (Adopted - August 2005 and amended November 2006)

Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)
PPG24 Planning and Noise (October 1994)

Relevant Planning History (Surroundings):

15 Bedford Place

1552/M5 - USE OF OFFICE PREMISES FOR TAKE-AWAY HOT FOOD - CAP - 13.03.1979. Condition 2 - No sales between 1am and 8am any day of the week.

09/01340/FUL - Variation of condition 2 of planning consent 5497/1552/M5 to allow sales to take place from the premises between the hours of 08.00 to 03.00 Mon - Thurs, 08.00 to 04.00 Fri and Sat, and 0900 to 02.00 Sundays - REF 09.03.2010

10/01433/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 Saturdays And 8.00Am To 12.00Am Sundays. – REF 16.12.2010

8 Bedford Place

10/01425/FUL

Refused 14.12.2010

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.

9 Bedford Place

10/01423/FUL

Refused 14.12.2010

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.

17 Bedford Place

10/01482/FUL

Refused 16.12.2010

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 - 04.00 Monday - Sunday.

18 Bedford Place

10/01405/FUL

Refused 08.12.2010

Variation of condition 4 of planning permission ref 1559/M12 to extend opening hours of the hot food take-away to Monday - Saturday 12pm - 4am, and Sundays 12pm - 3am.

29 Bedford Place

10/01731/FUL

Refused 28.01.2011

Implementation of planning permission reference 07/01737/VC not in accordance with condition 2 to allow bar/restaurant to open 08:00-01:00 hours Monday-Sunday morning and 10:00-01:00 Sunday to Monday morning

1 Carlton Place

08/01775/FUL

Refused 16.02.09 and Appeal Dismissed

Variation of condition 2 of Planning Consent 07/01319/FUL to allow extended opening hours for the ground floor bar on Friday and Saturday from 8am - 2 am (the following day).

28 Carlton Place and 29 Bedford Place

09/00291/FUL

Refused 11.05.09 and Appeal Dismissed

Implementation of planning permission reference 07/01737/VC not in accordance with Condition 2 to allow bar and restaurant to open 08:00 - 02:00 hours Monday-Sunday mornings and 10:00 - 00:30 hours Sundays to Monday mornings - description amended following validation

01/00626/VC

Refused 15.10.01

Relief from conditions 3,8 and 9 of permission 971002/7212/E, conditions 1 and 2 of permission 980459/7212/EX, condition 1 of permission T/APP/D1780/A/981011844/P7 to allow restaurant use in part of the ground floor

07/01737/VC

CAP 10.06.08

Variation of condition 02 of planning permission 01/00626 to allow extension of closing time from 11.30pm till midnight

09/00291/FUL

Refused 11.05.09 and Appeal Dismissed

Implementation of planning permission reference 07/01737/VC not in accordance with Condition 2 to allow bar and restaurant to open 08:00 - 02:00 hours Monday-Sunday mornings and 10:00 - 00:30 hours Sundays to Monday mornings - description amended following validation

33 Carlton Crescent (Avondale House)

05/01161/VC

Refused 07.10.05

Variation of condition 2 of previous planning permission Ref. 6163/970655/EX to change hours of operation to 08.00 - 12 midnight Mondays to Sundays

Triad House Lower Banister Street

09/01025/FUL

Refused 19.11.09

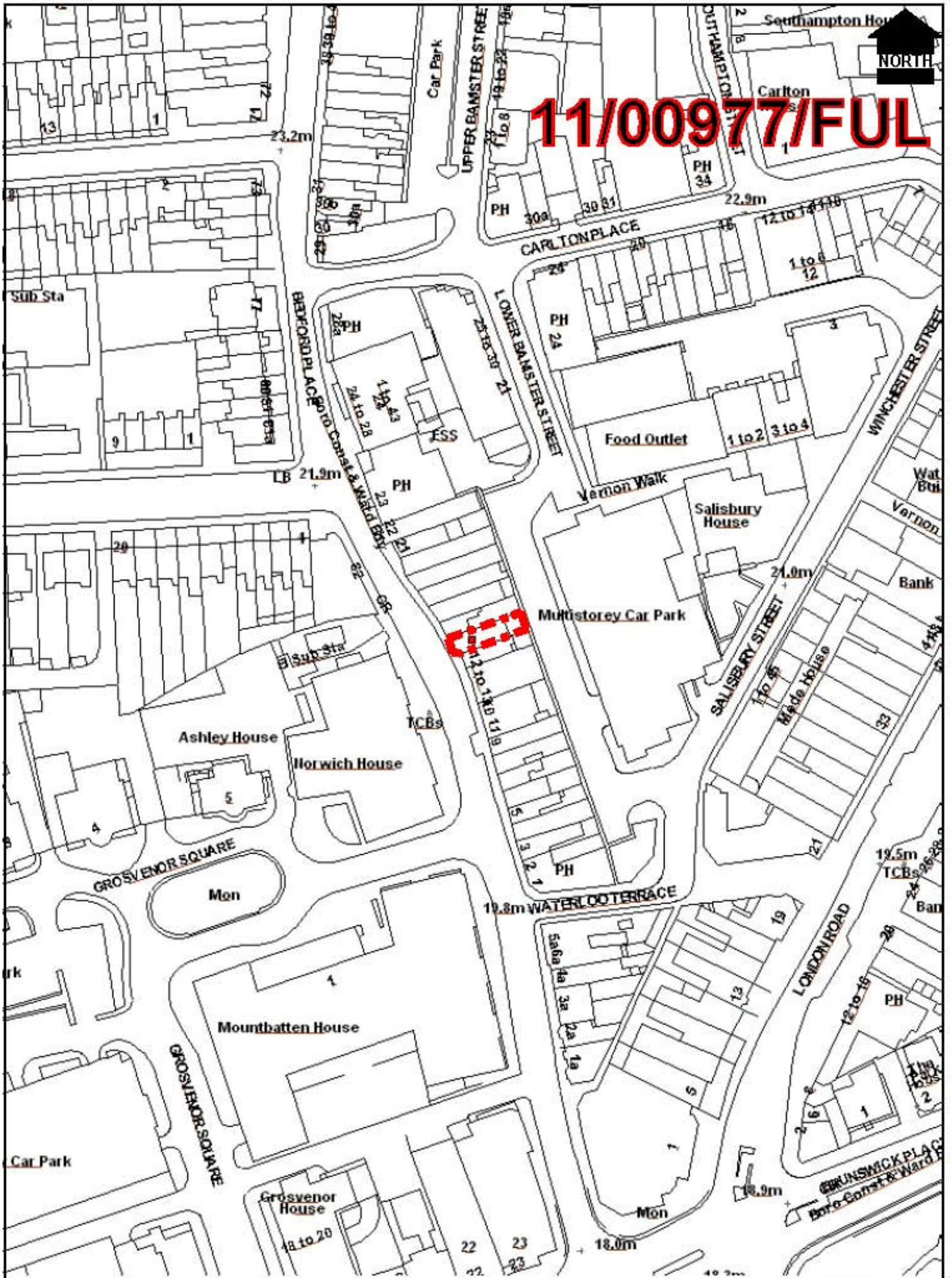
Variation of conditions 2 and 3 of permission 09/00336/FUL to extend the approved opening hours for both A3 and A4 use from 08.30 (8.30 am) until midnight (Monday - Sunday) to 08.30 (8.30 am) until 02.00 (2am) (Monday - Sunday)

65-75 London Road

04/00264/VC

Refused 07.04.04 and Appeal Dismissed

Extension to hours of opening of public house beyond 11.30pm Monday to Saturdays and 11pm on Sundays (variation of condition 10 of permission 99/00625/FUL)



Scale : 1:1250

Date : 06 July 2011

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Agenda Item 10

**Southampton City Planning & Sustainability
Planning and Rights of Way Panel meeting 19 July 2011
Planning Application Report of the Planning and Development Manager**

Application address: 24 - 28 John Street			
Proposed development: 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)			
Application number	11/00021/Out	Application type	Out
Case officer	Andy Amery	Public speaking time	15 minutes
Last date for determination:	04.07.2011	Ward	Bargate
Reason for Panel Referral:	Major application	Ward Councillors	Cllr Vinson Cllr Capozzoli Cllr Claisse
Applicant: Mr A Bajar		Agent: Concept Design & Planning	
Recommendation Summary	Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report		

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations including the contemporary design and its impact on the setting of the Conservation Area and the character of the street scene, the potential risk to future occupiers from flooding, the level of car parking, the number and layout of units, the amenity and privacy of adjacent occupiers and the provision of a commercial unit at ground floor level 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.

Policies - SDP1, SDP4, SDP5, SDP6, SDP7, SDP9, SDP10, H1, H2, H5, H7, HE1, HE2, HE6 and MSA1 of the City of Southampton Local Plan Review (March 2006) and CS1, CS4, CS5, CS13, CS14, CS15, CS16, CS19 and CS20 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

Appendix attached			
1	Development Plan Policies	2	Planning History

Recommendation in Full

Delegate to the Planning and Development Manager to grant planning permission subject to:

The completion of a S.106 Legal Agreement to secure the following heads of terms which are the subject of a viability assessment:

- i. Financial contributions towards site specific highway improvements in the vicinity of the site 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);
- ii. A financial contribution towards strategic transport 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);
- iii. Financial contributions towards the relevant elements of public open space required by the development in line with polices CLT5, CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) with regard to
 - Amenity Open Space (“open space”);
 - Play Space and;
 - Playing Field.
- iv. Provision of affordable housing in accordance with Policies CS15, CS16 & 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);
- v. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- vi. The restriction of parking permits for the surrounding streets for the future occupants of the development and;

That the Planning and Development Manager be delegated powers to vary relevant parts of the Section 106 agreement and to add or vary conditions as necessary as a result of the full appraisal of the viability assessment submitted by the applicant and any further negotiations with the applicant.

In the event that the legal agreement is not completed within two months the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of

the Section 106 Legal Agreement.

1. The site and its context

- 1.1 The application site comprises a surface car park and servicing area at the rear of Oxfords Restaurant and adjacent to residential houses in John Street. The upper floors above Oxfords Restaurant have been converted to residential use and one of the flats gains access across the site.
- 1.2 The site is located within John Street immediately adjacent to but not within the Oxford Street Conservation Area. John Street comprises relatively modern residential properties of three storey height in terraced form with integral garages. The site is located with Flood Risk Zone 3.

2. Proposal

- 2.1 The proposal seeks to provide a four storey building comprising 10 flats on the upper floors with an office on the ground floor. A separate entrance point is provided for the flats and an undercroft provides vehicular and pedestrian access to the servicing area at the rear which includes refuse storage, cycle storage and car parking for 4 cars.
- 2.2 The design is deliberately bold and contemporary but is of similar height and massing to previous structures that have been approved on the site. The upper floors step forward of the adjacent terrace of houses in John Street by 0.8m. The upper floor is recessed from the main façade by 1.3m. The building is 11.6m high compared to the 10.6m height of the terraced housing in John Street. However, the buildings fronting Oxford Street in the immediate vicinity of John Street have a similar proportion of three vertical storeys with a fourth storey set back from the façade.
- 2.3 The three bedroom flat on the upper floor would have access to a roof terrace. All other flats have good outlook and daylight to each of the habitable rooms. The site is within close proximity to all the facilities of Oxford Street, Queens Park and Ocean Village.
- 2.4 The ground floor office visually relates to the commercial activity at the junction of Oxford Street and John Street and is considered to complement the healthy mix of uses within this part of the city centre.

3. Relevant Planning Policy

- 3.1 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in

the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

- 3.2 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 site is not specifically allocated in the Development Plan. The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.3 Major developments are expected to meet high sustainable construction standards in accordance with the City Council’s adopted and emerging policies. In accordance with adopted Core Strategy Policy CS20 and Local Plan “saved” Policy SDP13.

4. Relevant Planning History

- 4.1 The site has been used as a surface car park for many years and was historically connected to Oxfords Restaurant in ownership terms with access and servicing arrangements still in place and intended to be retained. In 2002 an application was approved for a three storey building comprising two town houses and three flats on this part of the site. In 2005 an application for a 4 storey 47 bedroom hotel on the site was agreed by the then Planning Committee but as the s106 was not completed the decision was never issued. The details of these applications are included in **Appendix 2**.

5. Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was also undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (28.04.11) and erecting a site notice (24.03.11). At the time of writing the report **8** representations have been received from surrounding residents including a petition signed by the occupants of **8** residential properties in John Street. The following is a summary of the points raised:

- 5.2 ***The proposed design is totally out of character with the area and will have an adverse impact on the Character of the area.***

Response

The design is bold and contemporary but is considered to represent strong and good quality architecture of it’s time rather than attempting a pastiche of previous periods. It has been supported the Architects Panel and the Historic Environment Team. The design incorporates features characteristic of the area including the vertical bands to indentify plot widths, the verticality of the windows and the recessed upper floor. The success of the scheme will depend upon the quality of materials and detailing and conditions have been imposed to secure these.

- 5.3 ***The roof terrace which surrounds the upper floor will lead to overlooking and loss of privacy.***
Response
 A condition has been imposed requiring details of measures to allow access only to those areas of the roof terrace which would not give rise to overlooking and this has been brought to the attention of the applicant.
- 5.4 ***Insufficient parking to serve the units***
Response
 The site is located within the City Centre with immediate access to all facilities and services. In such locations the reliance on the car is reduced. The s106 seeks to restrict the ability of occupiers from receiving parking permits. 5 parking spaces are shown to be provided which is not objected to in this location and accords with the currently adopted standards for high accessibility locations.
- 5.5 ***The number of units will give rise to problems for refuse storage.***
Response
 The scheme provides adequate refuse storage for the flats and the commercial unit as well as retaining facilities for Oxfords restaurant. A condition has been imposed to secure specific details of the design and retention of the refuse stores.
- 5.6 ***The curved wall to the ground floor is wholly at odds with the design of buildings fronting John Street and Oxford Street.***
Response
 The curved wall gives a more spacious feel to the undercroft and allows sightlines for vehicles and pedestrians leaving the site rather than the undercroft appearing like a typical 'hole in the frontage'. The use of glazing and entrance doors within the curved wall allows greater activity in the street scene which is considered to be an advantage of the design solution.
- 5.7 **SCC Highways** - No objection. Suggests conditions to secure full details of cycle storage and convenient access to the cycle stores. In addition to this conditions are needed in relation to the lighting, ventilation and access to the refuse stores.
- 5.9 **SCC Housing** – No objection. Affordable housing should be provided on site and the target is for 2 dwellings to be provided.
- 5.10 **SCC Sustainability Team** – The development needs to achieve level 3 of the Code for Sustainable Homes and 15% carbon dioxide savings over the current Building Regulations.
- 5.11 **SCC Trees** – No comments. There are no trees on the site.
- 5.12 **SCC Environmental Health (Pollution & Safety)** - No objection. Suggests conditions to limit use of commercial unit to office use to safeguard amenity of occupiers above and in nearby existing houses.

- 5.13 **SCC Archaeology** –There is a potential for archaeology to survive on the site. A phased programme of archaeological works should be undertaken prior to development commencing. Three conditions are suggested.
- 5.14 **SCC Ecology** – No comments. The site has little ecological value
- 5.15 **Heritage Conservation** - In principle I support the application. The area would benefit greatly from moving away from the plethora of pastiche neo-Georgian buildings, and a high-quality modern intervention in the area would not only add interest, but would, if properly done, enhance the character of the Conservation Area.

The windows, which are shown as flush on the drawings, should be recessed by at least 50mm to give greater articulation to the elevations.

The renders are shown as tbc and white. In my view white renders rarely work in an urban environment, and the façade needs to be more subtle. Light colours in the range between RAL 7035 (Light Grey) and / or RAL 9001 (Cream) are more appropriate.

The quality of the material used, and the quality of the build-out are vital to the success of this scheme. Poor materials or poor attention to detail will lead to an average scheme that will detract from the rest off the Conservation Area. This includes details such as the design of the rainwater goods, which should in themselves be a of high quality (in a modern style, but not plastic), and should be located in such a way as not to detract from the building. Water run-off and the potential for staining / water damage to the elevations should also be considered at this stage, in order that the façades retain their character and appearance. Other services should also be designed to have minimum impact on the building (soil pipes, ventilation units etc).

The above is equally true of the setting of the building, and I would expect to see considerable thought going into the landscaping proposals (both hard and soft). A standard blacktop is probably not appropriate, and I would suggest that a natural or reconstituted stone would be better suited

- 5.16 **Southern Water** – No objection. Suggests a condition to secure measures to protect the public sewer during development and to secure details of the means of foul and surface water disposal.

6. **Planning Consideration Key Issues**

- 6.1 The key issues for consideration in the determination of this planning application are:
- i. The principle of development;

- ii. The design of the proposal together with the impact on the character of the area including the setting of the Conservation Area;
 - iii. The impact on the amenities of neighbours of the site;
 - iv. Flood Risk
 - v. Parking and highways
- 6.2 The application needs to be assessed in light of the key issues as listed above.

Principle of Development

- 6.3 The application site is previously developed land and has had the benefit of consents and resolutions to grant buildings of a similar scale and massing. The site would benefit from redevelopment in terms of the visual quality of the setting of the Conservation Area and a predominantly residential scheme is considered appropriate for this location.
- 6.4 This is a high density scheme (250 dwellings per hectare), Core Strategy Policy CS5 suggests that high densities (over 100 d.p.h.) should be limited to the most accessible areas, namely the city centre, A high density development is considered to be acceptable in this location as it would result in making efficient and effective use of previously developed land in a sustainable location as recommended in PPS 3 and local planning policies within a building of similar height and massing to that previously approved.

Character and Design

- 6.5 The design of the application has evolved to avoid repetition of pastiche schemes that have been used throughout the area. It is strong contemporary architecture that would have a significant visual presence in the street scene. The key to the successful delivery of a quality scheme will be attention to detailing and insistence on high quality materials. Conditions have been imposed to enable this level of quality to be delivered.

Residential Amenity

- 6.6 The projection of the upper floors forward of the houses in John Street by 0.8m will have an impact on the occupier of the adjacent house at 23 John Street causing some shadowing across the front elevation from late morning until early afternoon. This relationship is not considered to be harmful. Conditions are required to ensure access to the roof terrace is restricted to front and rear facing areas to prevent overlooking of the rear gardens of the houses in John Street. The buildings to the rear appear to be in residential use but the separation distance is no less than the current relationship with the houses in John Street or the previously approve schemes.

- 6.7 The occupiers of the upper floor three bedroom unit have access to amenity space on the roof terrace. All other flats have good outlook and daylight serving habitable rooms. The development makes provision for cycle and refuse storage which would be conveniently located in relation to the flats. A collection point would be provided, accessible by the refuse collection vehicle and a condition is suggested to secure a management plan for the removal of containers to and from the collection point.

Flood Risk

- 6.8 The site is located within Flood Zone 3 and is therefore at risk from flooding. Advice in PPS 25 is therefore applicable and generally advises against residential development in such location and also requires a sequential approach to be undertaken. The applicant has submitted a flood risk assessment. The applicant has identified that as the residential units are all at first floor and above these will not be directly affected by predicted flood levels. Means of access and exit are more difficult with predicted flood levels being at a height which are above those recommended by the Environment Agency as being safe. At the time of writing the report no comments had been received from the Environment Agency. Any comments received prior to the Panel meeting will be verbally reported.

Parking and Highways

- 6.9 The site continues to make provision for existing access rights to serve parking and servicing to existing occupiers. The level of parking proposed to serve the new flats (2 spaces) is considered acceptable to serve a development of this scale in a city centre location.

7. Summary

- 7.1 The proposed development would make good use of a the site to provide residential accommodation in this city centre location. The proposed contemporary design approach would make a positive contribution to the street scene and setting of the Conservation Area

8. Conclusion

- 8.1 Subject to the imposition of the suggested conditions attached to this report, the proposal would be acceptable. The application is therefore recommended for approval.

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

1 (a), (b), (c), (d), 2 (b), (c), (d), 4 (f), 6 (a), (c), (f), (i), 7 (a), (b), (e), (k), (m), (t)

AA for 19/07/11 PROW Panel

PLANNING CONDITIONS

01. APPROVAL CONDITION - Outline Permission Timing Condition

Outline Planning Permission for the principle of the development proposed and the following matters sought for consideration, namely the layout of buildings and other external ancillary areas, the means of access (vehicular and pedestrian) into the site and the buildings, the appearance and design of the structure, the scale and the massing and bulk of the structure is approved subject to the following:

(i) Written approval of the details of the following awaited reserved matters shall be obtained from the Local Planning Authority prior to any works taking place on the site:

the landscaping of the site specifying both the hard, soft treatments and means of enclosures.

(ii) An application for the approval of the outstanding reserved matters shall be made in writing to the Local Planning Authority before the expiration of three years from the date of this Outline Permission

(iii) The development hereby permitted shall be begun [either before the expiration of five years from the date of this Outline permission, or] before the expiration of two years from the date of approval of the last application of the reserved matters to be approved [whichever is the latter].

Reason:

To enable the Local Planning Authority to control the development in detail and to comply with Section 91 and Section 92 of the Town and Country Planning Act 1990 (as amended).

02. APPROVAL CONDITION - Additional Details Required Condition

Details of the following particulars of the proposed development in addition to the submission of Matters Reserved from the Outline Planning Permission hereby approved shall be submitted to and approved in writing by the Local Planning Authority (or on behalf of the Secretary of State for the Environment on appeal) :

(A) In addition to Reserved Matters for the appearance and design of the building(s) a detailed plan specifying the external materials, including colour finish, to be used on the building.

[B] Details of the treatment to the boundaries of the site, and all screen walls or fences within the proposed development including privacy screen details to be provided at rooftop level;

[C] Details at no less than 1:10 scale of any rainwater goods, vents or flues to be provided on the front elevation including colour finish and materials.

[D] Details at no less than 1:10 scale, including sections where necessary, of the detailing of all windows and doors including the depth of recesses and dimensions of frames and glazing bars including the horizontal panels to

windows on the front elevation, the depth of the recesses to the vertical bands and the design and method of fixing of the balustrades to the Juliet balconies on the rear elevation.

[E] Details of the materials to be used for the external hardsurfacing areas within the site.

(F) Full details of any enclosures to be provided for the refuse storage area and identification of collection points;

[G] Details of any external lighting.

[H] Detailed plans specifying the areas to be used for contractors vehicle parking and plant; storage of building materials, and any excavated material, huts and all working areas required for the construction of the development hereby permitted;

Reason:

To ensure the proposed development is undertaken to a standard appropriate for the sensitive location adjacent to the Conservation Area.

03. APPROVAL CONDITION - Change of Use - Scope and Limitation within same Class

Permission is hereby granted for the use of the building / premises / site as a [dance studio] within Use Class [D2] of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking, amending, or re-enacting that Order) and shall not be used for any other use within that Use Class.

Reason:

In recognition of the limited parking facilities available on the site and in order to avoid congestion on the adjoining highway for other forms of use within the same use class given the intended periods of use (after normal business hours) of the building within this commercial and industrial area.

04. APPROVAL CONDITION - Change of Use - Scope and Limitation within B1(a) Use Class

Unless otherwise agreed in writing by the Local Planning Authority the ground floor commercial unit shall only be used as an office within Use Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking, amending, or re-enacting that Order) and shall not be used for any other use within the B1 Use Classes.

Reason:

In recognition of the sensitive location of the site adjacent to a Conservation Area and close to residential properties.

05. APPROVAL CONDITION - Hours of Use - office use [Performance Condition]

Unless otherwise agreed in writing with the Local Planning Authority the office use or any subsequent use of the ground floor commercial unit that may be approved by the Local Planning Authority shall not operate outside the

following hours:

Monday to Sunday and recognised public holidays : 0700 hours to 24.00 hours (7.00am to 12.00 midnight)

Reason:

To protect the amenities of the occupiers of existing and proposed nearby residential properties including the flats above..

06. 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.

07. APPROVAL CONDITION - Archaeological investigation [Pre-Commencement Condition]

No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.

Reason:

To ensure that the archaeological investigation is initiated at an appropriate point in development procedure.

08. APPROVAL CONDITION - Archaeological work programme [Performance Condition]

The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.

Reason:

To ensure that the archaeological investigation is completed.

09. APPROVAL CONDITION - Archaeological damage-assessment [Pre-Commencement Condition]

No development shall take place within the site until the type and dimensions of all proposed groundworks have been submitted to and agreed by the Local planning Authority. The developer will restrict groundworks accordingly unless a variation is agreed in writing by the Local Planning Authority.

Reason:

To inform and update the assessment of the threat to the archaeological deposits.

10. APPROVAL CONDITION - Cycle and Refuse Storage - Pre-Occupation/Performance Condition

Prior to first occupation of any of the flats the refuse and cycle storage facilities shall be provided in accordance with additional details to be provided prior to first occupation of any of the flats. The approved details shall be thereafter retained and maintained for use by the occupiers of the flats.

The cycle store for the residents shall be shall be secure and have lighting which is activated when used.

The bin stores shall be constructed of brick under a suitable weatherproof roof, with adequate ventilation. The collection doors are to be of sturdy construction and hinged to open outwards with a minimum opening of 1.4m wide, and the lock system to comply with SCC standard lock requirements which utilises a fob. Six fobs to be provided to SCC refuse collection service.

Internal lighting to operate when doors are open, and a tap and wash down gulley to be provided, with suitable falls to the floor.

Any gates on route to access the bins are not to be lockable, unless they comply with SCC standard lock detail.

The gradient of the access path to the bin store shall not exceed 1:12 unless suitable anti-slip surfacing is used, and still shall not exceed 1:10.

REASON

To ensure appropriate facilities are provided to serve the development.

11. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority.

Any changes to the agreed remediation actions will require the express written

consent of the Local Planning Authority.

Reason:

To ensure any land contamination not previously identified is assessed and remediated so as not to present any significant risks to human health or, the wider environment.

12. APPROVAL CONDITION - Code for Sustainable Homes [Pre-Occupation Condition]

Written documentary evidence demonstrating that the development will achieve at minimum Level 3 of the Code for Sustainable Homes, including at least 15%] in category Ene1, shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted, unless an otherwise agreed timeframe is agreed in writing by the LPA. The evidence shall take the form of a post construction assessment and certificate as issued by a legitimate Code For Sustainable Homes certification body.

REASON:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

13. APPROVAL CONDITION - Drainage - Pre-Commencement Condition

No development shall commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority in Consultation with Southern Water.

REASON

To ensure appropriate drainage facilities are provided to serve the site.

14. APPROVAL CONDITION - Juliet Balconies to Rear Elevation - Performance Condition

The balustrade detail shown to the Juliet Balconies on the first and second floor elevations of the rear elevation shall be designed and fitted so as to prevent occupiers of those units from standing or sitting beyond the rear wall of the building and to enable the full height windows to open inwards only.

REASON

In the interests of the privacy of nearby occupiers.

15. 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.

Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations including the contemporary design and its impact on the setting of the Conservation Area and the character of the street scene, the potential risk to future occupiers from flooding, the level of car parking, the number and layout of units, the amenity and privacy of adjacent occupiers and the provision of a commercial unit at ground floor level 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.

Policies - SDP1, SDP4, SDP5, SDP6, SDP7, SDP8, SDP9, SDP10, H1, H2, H7, HE1 and HE6 of the City of Southampton Local Plan Review (March 2006) and CS1, CS4, CS5, CS13, CS14, CS15, CS16, CS19, CS20 and CS25 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

POLICY CONTEXT

Core Strategy - (January 2010)

CS1	City Centre Approach
CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS14	Historic Environment
CS15	Affordable Housing
CS16	Housing Mix and Type
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS25	The Delivery of Infrastructure and Developer Contributions

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment
HE1	New Development in Conservation Areas
HE6	Archaeological Remains

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - August 2005 and amended November 2006)

Other Relevant Guidance

PPS1 Delivering Sustainable Development (February 2005)

Planning Policy Statement: Planning and Climate Change - Supplement to
Planning Policy Statement 1 (December 2007)

PPS3 Housing (2010)

PPG13 Transport (2011)

PPS25 Development and Flood Risk (March 2010)

Relevant Planning History

02/00554/FUL Conversion of Oxford House to provide 11 flats (7 x 1 bedroom and 5 x 2 bedroom) and redevelopment of 25-28 John Street to provide 2 four storey three bedroom town houses and a four storey block comprising 3 x 2 bedroom flats.

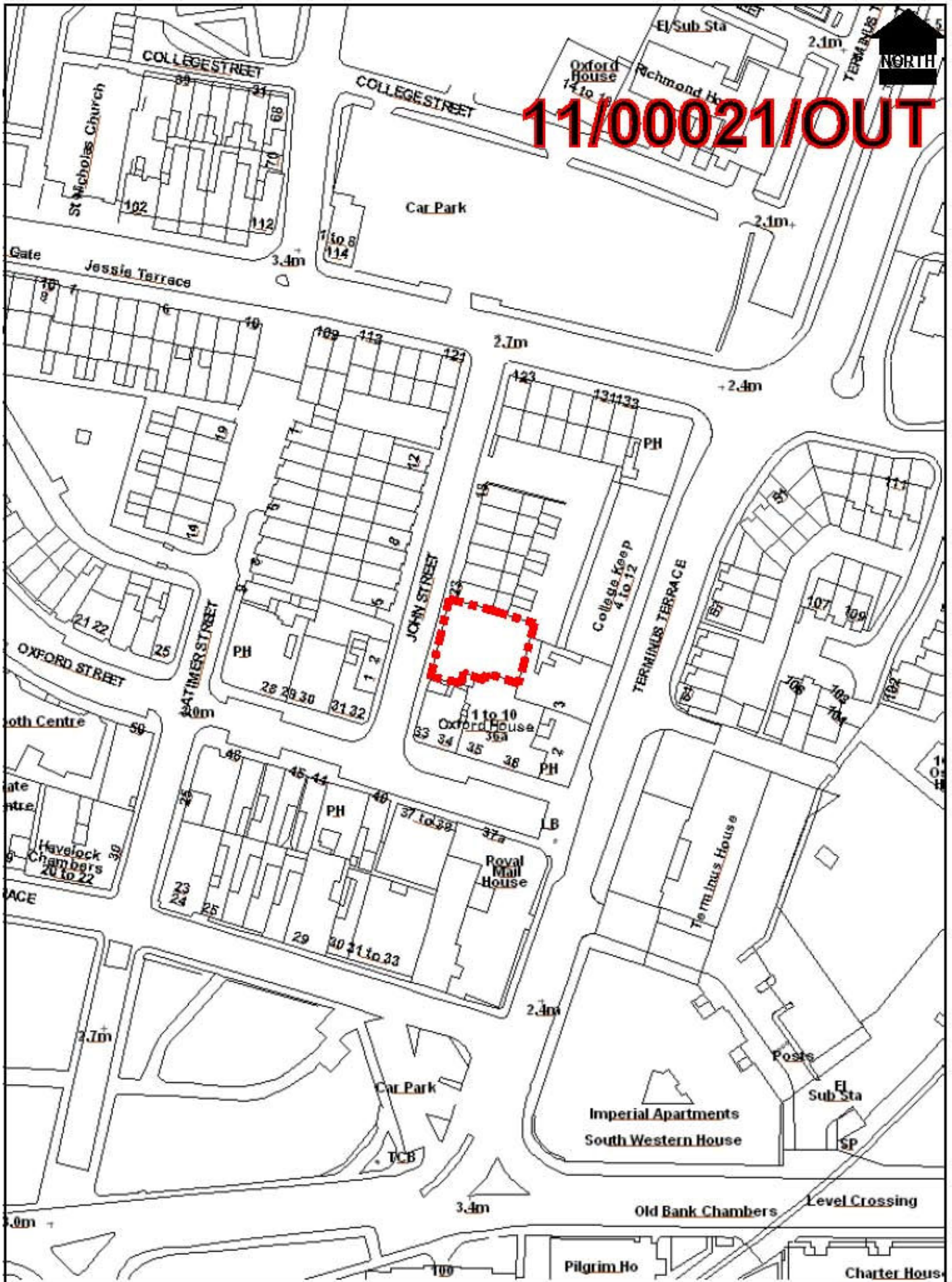
Date of Panel 30.09.2003 and referred back for amended plans 27.01.2004.

Application Approved 13.07.2005 following completion of s106.

05/01632/FUL Redevelopment of 22-28 John Street by the erection of a four-storey building and conversion of 1st, 2nd and 3rd floors of Oxford House to create a 47 bedroom hotel.

Date of Panel 18.07.2006

Application considered withdrawn following failure to complete s106 25.07.2008.



11/00021/OUT

Scale : 1:1250

Date : 06 July 2011

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Agenda Item 11

Southampton City Planning & Sustainability
Planning and Rights of Way Panel meeting 19th July 2011
Planning Application Report of the Planning and Development Manager

Application address: Dillons Garden Sheds Ltd, Old Redbridge Road			
Proposed development: 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.			
Application number	11/00199/FUL	Application type	FUL
Case officer	Jenna Turner	Public speaking time	5 minutes
Last date for determination:	07.06.11	Ward	Redbridge
Reason for Panel Referral:	Referred by the Planning and Development Manager	Ward Councillors	Cllr Holmes Cllr McEwing Cllr Pope
Applicant: Mr Rooker And Frost		Agent: Paris Smith Llp (Alan Sayle)	
Recommendation Summary	1. Refuse 2. Delegate to the Planning and Development Manager to authorise the service of an Enforcement Notice		

Reasons for Refusing Planning Permission

REFUSAL REASON – 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, 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).

REFUSAL REASON – 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).

Appendix attached			
1	Site plan of uses	2	Development Plan Policies
3	Planning History		

Recommendation in Full

1. That the application be refused for the two reasons set out above and;
2. Delegate to the Planning and Development Manager to serve an Enforcement Notice, requiring the cessation of the unauthorised uses of the former Dillons Shed site to cease with the exception of units 1, 4, 5 and 10. Should that unauthorised use not cease, that authority be given to prosecute such a breach of control via the Magistrates Court.

1. Background

- 1.1 Until 2009 the application site was used for the manufacture, storage and sales of garden sheds. This was a Sui Generis use which means the mixture of use did not fall comfortably into a specific Use Class and planning permission is therefore needed for any subsequent material change of use.
- 1.2 Following the site being vacated by Dillons Sheds Ltd, the site was then let out to five different businesses. Since these uses have not operated from the site for a period of 10 or more years, a lawful use certificate cannot be obtained. Following the receipt of complaints regarding the new uses operating from the site, the Council served a Planning Contravention Notice (26.02.10) on the site owners and on receipt of the response to the notice, invited a planning application to be submitted to regularise the new uses. This planning permission therefore seeks to regularise the existing uses operating from the site.

2. The site and its context

- 2.1 The application site is an irregular piece of land which is accessed from Old Redbridge Road. The Redbridge Road frontage is bounded by 2 metre high palisade fencing. The site itself contains two buildings, a single-storey pitched roof building adjacent to the north-east boundary, and a large single-storey warehouse building adjacent to the southern site boundary.
- 2.2 The companies which are currently operating from the site are diverse in nature and in planning terms are a mixture of Use Class B1 (offices), Use Class B2 (General Industrial) and Use Class B8 (Storage and Distribution).
- 2.3 To the north-west of the site lies the Redbridge Causeway flyover and adjacent to the southern site boundary is the main railway line, with the River Test beyond this. The site lies within flood zone 2. The site is also neighboured by residential properties and the surrounding area is predominantly residential in character.

3. Proposal

- 3.1 Retrospective planning permission is sought for the current uses which are operating from the site which are listed as follows:
 - Unit 1: Office accommodation for contractors (Use Class B1);
 - Unit 2: MOT testing and Vehicle Repairs (Use Class B2);

- Unit 3: TJM Recyclers for the sorting and storage of recyclable materials;
- Units 4 -5: Storage of site equipment
- Unit 6: Manufacturing and storage of acoustic panels (Use Class B2/B8);
- Unit 7 & 8: Storage of Scrap Metal (Use Class B8);
- Unit 9: JPS Scaffolding for the storage of scaffolding (Use Class B8) and;
- Unit 10: Storage of commercial vehicles.

The locations of the uses on the site are shown on the layout plan in **Appendix 1** of this report. Units 1 and 2 are contained within a single-storey building which lies to the north-east of the site. Unit 3 is located adjacent to the south-east corner of the site and includes a yard and an open-sided structure. Units 4 to 6 are contained within the large warehouse building adjacent to the southern boundary. The other storage uses take place in the open.

- 3.2 The application states that a total of 26 car parking spaces can be provided on site although these spaces are not formally laid out on site.
- 3.3 A total of 10 people are employed at the site and the hours of operation are 07:30 to 18:00 Monday to Friday and 07:30 to 13:00 on Saturdays.
- 3.4 The application also seeks retrospective planning permission for 3 metre high close boarded fencing which has been erected along the south-eastern site boundary which abuts Tate Court.
- 3.5 The proposal also involves the addition of a portakabin within the Unit 9 area.

4. Relevant Planning Policy

- 4.1 The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

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 2**. The site is not allocated for a specific use in the development plan but the Council's usual requirements in respect of protecting residential amenity and highway safety as required by policies SDP1, SDP16 and TI2 are directly relevant.

5. Relevant Planning History

- 5.1 The planning history of the site is set out at **Appendix 3**. The site has historically been used for commercial activities, although the exact planning uses are not clear, it is considered that general and light industrial type uses have operated from the site in the past.

6. Consultation Responses and Notification Representations

- 6.1 Following the receipt of the planning application a publicity exercise in line with

department procedures was also undertaken which included notifying adjoining and nearby landowners and erecting a site notice (18.04.11). At the time of writing the report 8 representations have been received from surrounding residents. The following is a summary of the points raised:

- 6.2 ***Unit 3 which is operated for the storage of recycled materials, also carries out the processing of the materials which creates noise and disturbance to the nearby residential properties and gardens.***

Response

It is clear from the site visits carried out by both the Planning and Environmental Health Team that the recycling company operating from unit 3 on the site also processes the recycled materials on site and is therefore operating as a waste transfer station. The activity associated with this takes place in the open and therefore is generating noise and disturbance to neighbouring residential properties.

- 6.3 ***The noise generated by the current users of the site is greatly in excess of the impact from the previous occupiers (Dillons Sheds).***

Response

Agree. This is discussed in more detail in the planning consideration section below.

- 6.4 ***The speed humps in Old Redbridge Road exacerbates the noise of vehicles as they travel to the site.***

Response

Agree in part. This is discussed in more detail in the Planning Consideration section below.

- 6.5 ***The business currently operates outside of the hours indicated in the planning application.***

Response

As the development is unauthorised, there are currently no planning controls over the hours of operation and if the recommendation to refuse is supported, the uses would need to be addressed through the appropriate enforcement channels.

- 6.6 ***The businesses are generating additional parking and storage of materials on the adjacent public highway which is causing highway safety issues***

Response

Agree. This is a symptom that the proposal represents an over-intensive use of the site.

- 6.7 ***The site is too small to accommodate the number of uses proposed and this disturbs residential neighbours.***

Response

Agree. It appears that the current portfolio of uses are too intensive for the site. This is discussed in more detail in the Planning Considerations section below.

- 6.8 ***The condition of the site has an adverse visual impact on the area.***

Response

The visual appearance of the site is reflective of its commercial nature and having regard to the historic commercial nature of the site, on balance is considered to be acceptable.

6.9 **Consultation Responses**

- 6.10 **SCC Highways** - Objects. The number of HGV trips associated with the site is significantly greater than the previous use. Old Redbridge Road being a traffic-calmed residential street is unsuitable for these vehicles and furthermore the proposal would result in increased pressure on nearby junctions, creating an increased risk of conflict.
- 6.11 **SCC Environmental Health (Pollution & Safety)** - Objects. Raises concerns with units 2, 3, 6 and 9 particularly in the absence of an acoustic report.
- 6.12 **Southern Water** - No objection. Suggests a note to applicant to advise of the application requirement for connection to the public sewerage system.

7.0 **Planning Consideration Key Issues**

- 7.1 The key issues for consideration in the determination of this planning application are:
- i. The principle of development;
 - ii. The impact on the character of the area;
 - iii. The impact on the amenities of neighbours of the site in terms of noise and disturbance and;
 - iv. Parking and highways.

7.2 **Principle of Development**

- 7.2.1 The site is not allocated for a specific use within the development plan; however the principle of retaining employment uses on this previously developed site which has been historically used for commercial purposes, is acceptable. Furthermore, the previous refusal of residential development on this site indicates that the site is not necessarily suitable for non-commercial use.
- 7.2.2 The site lies within an area of high flood risk; however, the proposed uses are not defined as 'sensitive' to a flood event. Furthermore, since no external changes or alterations are proposed the development would not increase the likelihood of a flood event occurring and the proposal accords with Core Strategy policy CS20.

7.3 **Character of the area**

- 7.3.1 The surrounding area is predominantly residential in nature and in visual terms, the proposed uses are not necessarily sympathetic to a residential environment. The proposed uses on the site involve open storage, a large amount of which is visible from Old Redbridge Road. However, the site has been historically used for commercial purposes and photographs on the planning file indicate that large areas of the site were also used for open storage. On balance therefore, it is considered from a character and appearance perspective, the retention of some form of commercial development is acceptable in principle.
- 7.3.2 The additional fencing which has been erected is not readily visible from public vantage points and goes some way in screening the site from its residential neighbours. As such, the proposed fencing is considered to be acceptable from a character and design perspective.

7.4 Residential Amenity

- 7.4.1 The proposed portakabin would be located away from boundaries with residential neighbours and as such would not have a significant impact on residential amenity. Whilst the 3 metre high fencing does create a sense of enclosure to the occupants of Tate Court beyond the south-eastern site boundary, this impact is considerably less than the shed which was previously located immediately adjacent to this boundary. As such, the fencing is considered acceptable from a residential amenity perspective.
- 7.4.2 The central issue in the consideration of the proposal's impact on residential amenity is whether the noise and activity associated with the proposed uses causes harm to the nearby residential occupiers. This impact needs to be balanced against the previous use of the site which involved the manufacture of sheds within the large warehouse building, the storage of sheds in the open yard areas and retail sales, which took place in the single storey building towards the front of the site. Based upon the letters of objection received and the officers' visits to the site, there is clearly variation in the degree of impact from the respective uses and so each use is discussed in turn below.
- 7.4.3 In addition to this however, the cumulative impact of the uses also needs to be taken into consideration. The site has been divided into a number of separate planning units which operate independently of each other. When compared with the previous single operator of the site, the site is therefore used more intensively. The site cannot therefore, be managed to locate activities where they could minimise disturbance to residential occupiers. For example, when used by Dillons Ltd, the manufacturing use, which is the potentially noisy element of the operation, was confined to the warehouse building. It is therefore, considered that the level of intensity associated with the proposal is excessive, and this is clear by the manner in which the activities of individual uses are spilling onto access and parking areas within the site leading to subsequent over-spill parking of vehicles onto the surrounding public highway land.
- 7.4.4 **Unit 1 Office accommodation**
This unit is used as offices which do not provide a direct service to the general public. It is considered that such a use does not generate undue noise and disturbance and would not therefore have a harmful impact on residential amenity.
- 7.4.5 **Unit 2 MOT testing and Vehicle Repairs**
The workshop bay associated with this unit lies in close proximity to the boundary with 49 Old Redbridge Lane which is a two-storey block of flats. This building has windows serving habitable rooms which directly face onto the application site and are within close proximity of the site boundary (between 2 and 4 metres). As such, this use has the potential to have a harmful impact on residential amenity. The application is not accompanied by a noise report to demonstrate that the use is acceptable from a noise perspective and in the absence of this information, and based on their own observations, Environmental Health officers are not satisfied that this use is acceptable.
- 7.4.6 **Unit 3 Storage and sorting of recyclable materials**
The use of Unit 3 is described by the applicants as a purely storage unit, however based upon observations on the site, it appears that the unit is being used to sort

recyclable materials (Sui Generis use). Whilst this unit includes a warehouse structure, this building is open sided and therefore does little to contain any noise that the use generates. This unit also abuts two boundaries with two blocks of flats at Tate Court.

- 7.4.7 Materials associated with this use are stored in skips in the open yard area. It was clear from the site visit that the activity associated with this use also appears to have grown beyond the confines of Unit 3 as shown on the submitted site plan, with storage also taking place on an area illustrated for six car parking spaces on the submitted drawings. The materials being stored and sorted here range from timber, building materials, electrical items and cardboard. The noise generated from this unit occurs as skips arrive and depart from the site and as materials are sorted at the site. As such, and particularly having regard to the proximity of the use to residential properties, this operation is considered to be harmful to amenity. In addition to this, the size and nature of vehicles associated with this use, together with the frequency of vehicle trips, is also considered to generate undue noise and disturbance to nearby occupants in Old Redbridge Lane.
- 7.4.8 **Unit 4 -5 Storage of site equipment**
This use takes place within the large warehouse building to the south of the site. Based upon the officers' site visit, this use does not currently appear to generate undue noise and disturbance to residential amenity and it is considered that had the recommendation been to approve, appropriate planning conditions could be imposed to prevent harm to residential amenity.
- 7.4.9 **Unit 6 Manufacturing of acoustic panels and sheet metal**
This use also takes place within the large warehouse building adjacent to the southern site boundary. Based upon observations on site, this use does not appear to generate significant levels of noise. Furthermore, the proposed use is similar to the previous Dillons Shed use which also carried out manufacturing operations within this building. Environmental Health officers have advised that the submission of an acoustic report is necessary to clearly demonstrate the acceptability of this use and that it is likely that had the recommendation been to approve, planning conditions could be used to limit disturbance to the occupiers of neighbouring residential properties.
- 7.4.10 **Unit 7 & 8 Storage of Scrap Metal**
These units provide open storage for scrapped vehicles. Based upon observations on site, it is clear that vehicles are not processed on the site and the act of storage itself, it not considered unduly harmful to residential amenity. Again, planning conditions could be used to control this use.
- 7.4.11 **Unit 9 Storage of scaffolding**
This unit involves the open storage of scaffolding within a yard bounded by 2 metre high palisade fencing. This yard can be secured outside of operating hours. Currently, a two-storey height portakabin is also sited within this unit. Again, the act of storage itself does not generate noise although Environmental Health Officers have advised there is a potential for a noise issue to arise as scaffolding is loaded and unloading.
- 7.4.12 **Unit 10 Storage of commercial vehicles**
This unit involves the open storage of commercial vans adjacent to the front site boundary. Again, this use is not considered to create undue noise and

disturbance to residential amenity.

7.5 Parking and Highways

7.5.1 In terms of parking, it is important to note that the parking spaces indicated on the plans are not formally laid out and form further storage areas. The only parking spaces which appear to be available on site are the four spaces which lie adjacent to the front site boundary, to the north of the office unit. As discussed above, this is symptomatic that the proposed development is an over-intensive use of the site. In addition to this, it is not clear from the submitted plans, or on site how HGV's would turn on site. Currently it appears that HGV's serving Unit 3 would have to reverse a distance of approximately 68 metres. This presents a highway safety issue on the site itself.

7.5.2 Whilst the submitted Transport Assessment indicates that the trip rates associated with the proposed uses are only marginally greater than those associated with the previous use, the nature of these trips are significantly different. In particular, the recycling company operating from Unit 3 involves a number of HGV movements on a daily basis, where as the previous use typically had smaller vehicle movements associated with it. The Highway officer has raised concern that the routes of the HGV traffic, as provided in the submitted Transport Assessment, are not acceptable for use by regular HGV traffic. In particular, the high level of on-street car parking and traffic calming measures within Old Redbridge Road and the associated pressure at nearby junctions is restrictive to HGV access and harmful in highway safety terms.

8.0 Summary

8.1 The office use operating from Unit 1, and the storage uses in Units 4, 5 and 10 are considered to be acceptable. Subject to the receipt of a satisfactory noise report with respect to units 2, 6, 7, 8 and 9 these uses may be able to be adequately controlled by planning conditions. If planning applications are submitted for these units which can resolve the noise issues satisfactorily then the enforcement action would not proceed against these units. However, the operations associated with Unit 3 are considered to be harmful to residential amenity and moreover, the overall intensity, noise, activity and vehicle activity associated with the site of the whole are considered to be harmful to residential amenity and highway safety.

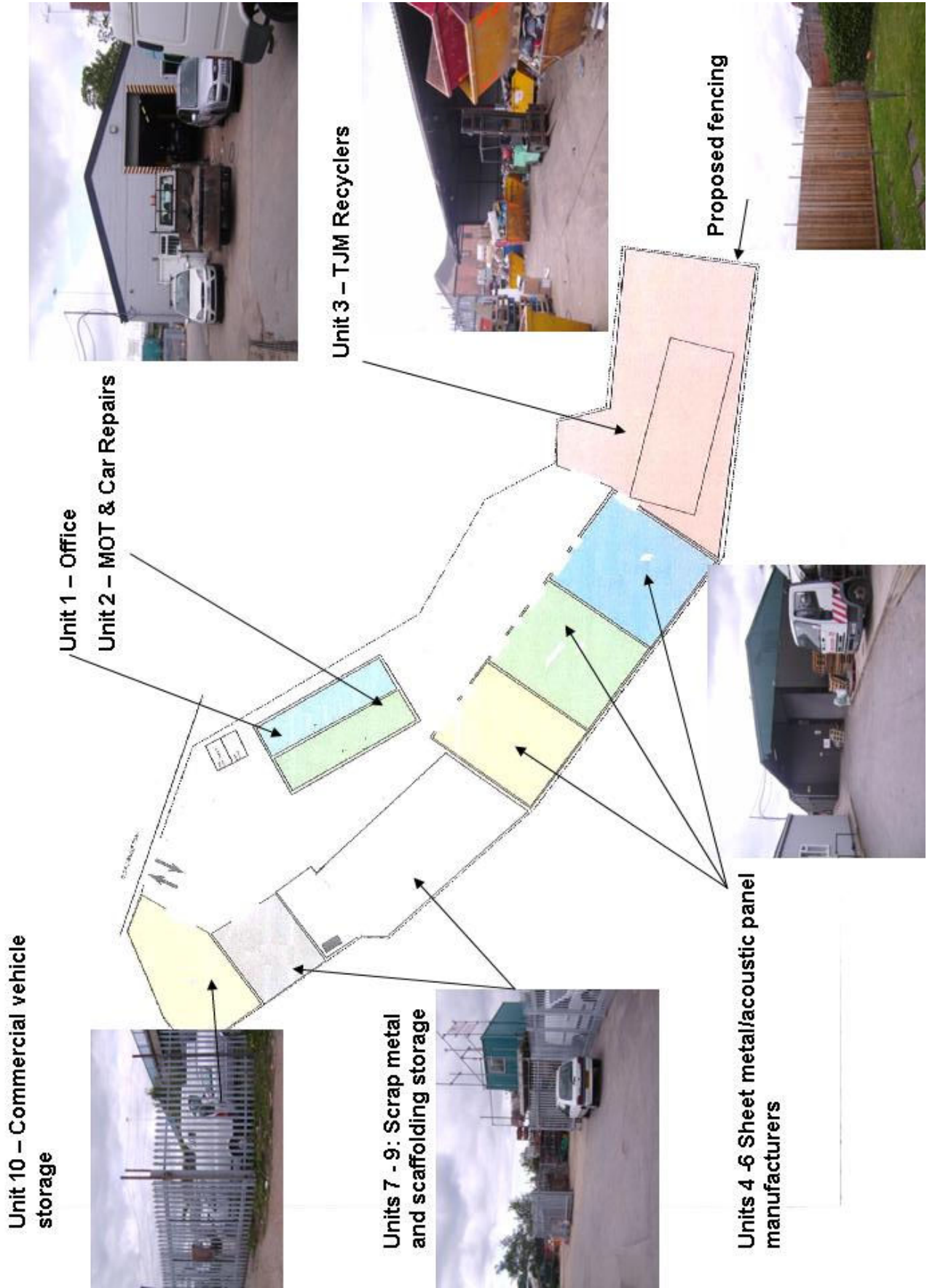
9.0 Conclusion

9.1 For the reasons set out above the application is recommended for refusal.

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

1. (a) (b) (c) (d), 2 (b) (c) (d), 7 (a) (v) (w)

JT for 19/07/11 PROW Panel



POLICY CONTEXT

Core Strategy - (January 2010)

CS6	Economic Growth
CS7	Safeguarding Employment Sites
CS13	Fundamentals of Design
CS19	Car & Cycle Parking
CS23	Flood Risk

City of Southampton Local Plan Review – (March 2006)

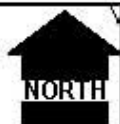
SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP16	Noise
TI2	Vehicular Access

Other Relevant Guidance

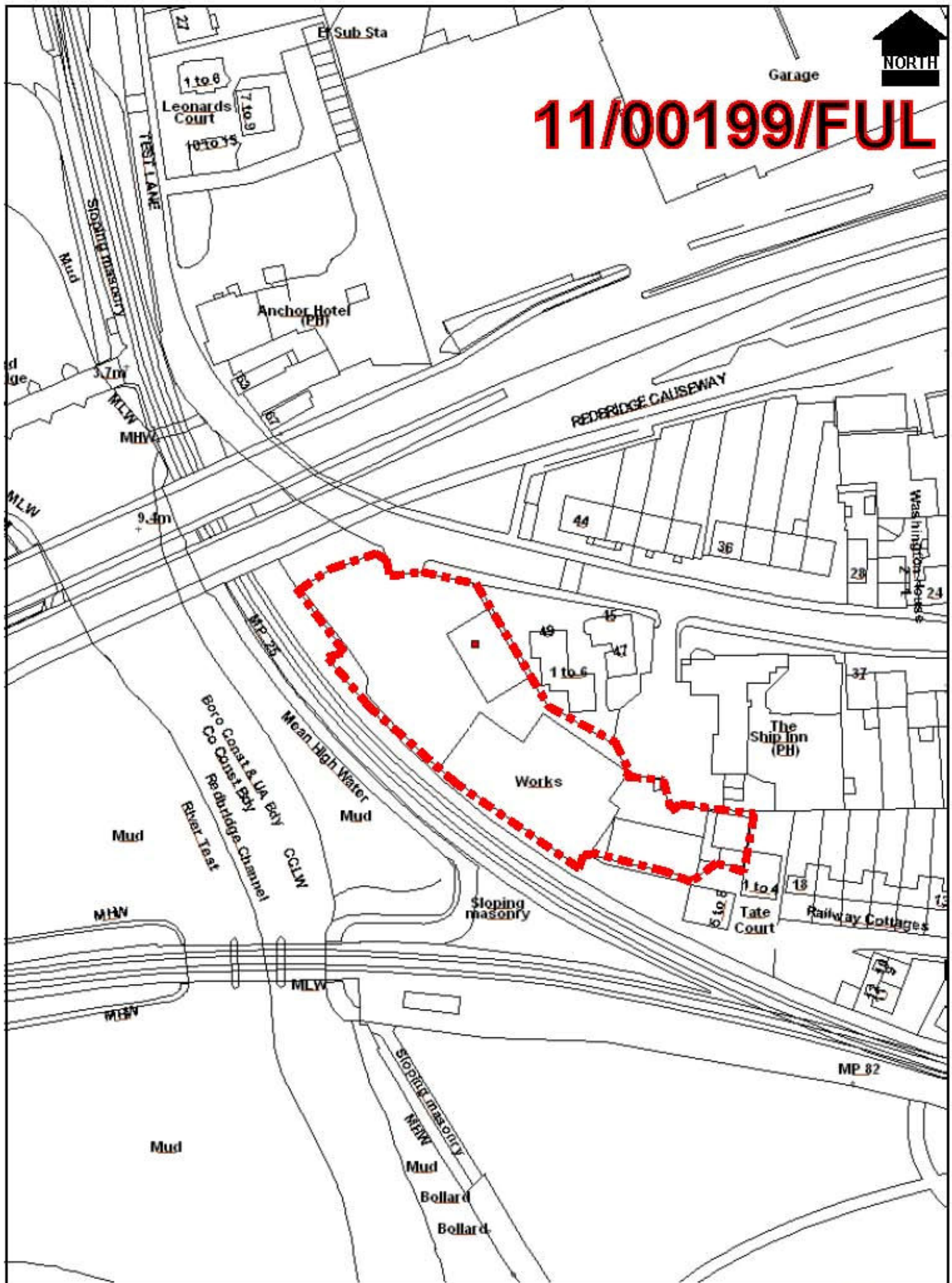
- PPS1 Delivering Sustainable Development (February 2005)
- PPS4 Planning Policy Statement 4: Planning for Sustainable Economic Growth (December 2009)
- PPG13 Transport (January 2011)
- PPG24 Planning and Noise (October 1994)
- PPS 25 Development and Flood Risk (December 2006)

Relevant Planning History

1247/P22 Rebuild factory	Conditionally Approved 09.07.63
1250/50 Workshop	Conditionally Approved 24.09.63
1296/75 Steel-framed storage building	Conditionally Approved 01.09.64
1289/P1 Extension of mill	Conditionally Approved 03.08.65
1464/P28 Covered area for timber store	Conditionally Approved 25.09.73
1496/W5 Replace workshop	Conditionally Approved 04.11.75
1537/W15 Two rail coaches on land between railway cottages and Tate Road, use as light industrial	Conditionally Approved 25.04.78
941477/W Alterations and repairs to existing buildings and retention of new chain link fencing and gates	Permitted 12.01.96
05/01543/FUL Proposed redevelopment of the site by the erection of four buildings (three-storey and five-storey) to provide 52 flats (44 x 2 bedroom, 8 x 1 bedroom) with associated parking and highway works following the demolition of the existing buildings.	Refused 30.01.06



11/00199/FUL



Scale : 1:1250

Date : 06 July 2011

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Agenda Item 12

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL		
SUBJECT:	REMOVAL OF 24 TREES ALONG THE WOODLAND EDGE TO THE REAR OF 54-82 CHERITON AVENUE TO FACILITATE DRAINAGE WORKS		
DATE OF DECISION:	19 JULY 2011		
REPORT OF:	HEAD OF NEIGHBOURHOOD SERVICES		
AUTHOR:	Name:	Mike Harris	Tel: 023 8083 3422
	E-mail:	Mike.p.harris@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
None.			

SUMMARY

Over recent years there has been a worsening problem with surface water run-off from Cheriton woodland into the rear gardens of 54-82 Cheriton Avenue. Remedial measures will require the replacement of an existing failed drainage system and the removal of up to 24 trees, along the western edge of the woodland, is necessary to allow these works to be completed.

RECOMMENDATIONS:

- (i) To allow the removal of twenty four trees along the western boundary of Cheriton woodland to enable the drainage works.
- (ii) For the proposed drainage works to be carried out to a method mutually approved by a local authority Senior Tree Office and Ecologist.

REASONS FOR REPORT RECOMMENDATIONS

1. An existing drain along the rear of the affected properties has failed, probably due to a combination of age and root infiltration.
2. Failure to remove the trees will not enable the works to be carried out with a high risk of the properties liable to flooding at certain times of the year.

CONSULTATION

3. Asset Management (Paul Howard – Projects Manager)

The residents of Cheriton Avenue whose property is directly affected by the flooding have been informed of all of the works that have been undertaken an extract of the last correspondence is printed below:

“We have recently completed a programme of works to relieve the immediate problems a number of residents were experiencing where surface water from the woods was cascading down the rear gardens.

The approach was twofold, to identify existing blockages by undertaking a CCTV survey and where we could we would clear the obstruction or if the drain was damaged we would carry out urgent repairs.

You may be aware that a number of your properties are protected by two

land drains, a large diameter primary drain that runs parallel to the rear garden fence on the wood side and a smaller one on the garden side of the fence.

We should say that we have had limited success with the primary drain whereas the work we carried out on the secondary drain has been more successful.

Capita our partners have recently carried out a topographical survey and are about to embark on a programme of drilling boreholes alongside the existing primary drain to ascertain the composition of the substrate.

Conversations will then follow with Southern Water before a suitable design is produced for the installation of a new primary drain to run alongside the existing.

We anticipate starting these works in the autumn once the nesting season has passed and we have undertaken a tendering exercise.”

4. Ecology (Andy Welch – Land Management Ecologist)

Comments on proposed drainage works along the boundary of Thornhill Park woods (north) with properties in Cheriton Avenue. Andy Welch
June 2011

The woods were identified as being important for nature conservation during survey works for the Nature Conservation Strategy for Southampton (1992). They are one of the areas included in the LAA targets for Open Spaces and are due to be considered for designation as a Site of Importance for Nature Conservation (SINC).

Soon after the initial survey I was involved in a meeting where the damp areas in adjacent gardens was discussed. Apart from damage to the woodland it was also thought to be unwise to set a precedent for works to stop seepage water reaching properties down hill from Council land (there are several other sites where complaints have been made).

The woods adjacent to Cheriton Avenue are characterised by the wet flushes that run in several places along the lower banks. It is considered to be important not to drain these and as such it is suggested that a membrane is used on the upslope side of the new drainage pipe. This will need to be deep enough to join with the underlying clay bed that forms the flush.

It is also suggested that the spoil from the new excavation is used to form two shallow bunds either side of the new pipe line to help protect the woodland and act as a storm surface water intercept. The existing materials dumped from adjacent gardens could be buried under the bunds thus avoiding potential damage and expense of removing it.

Access to the site for works should be from the path off of Blendworth Lane as near to the back of properties as is possible, avoiding damage to mature tree roots and the sensitive gravel banks. This access and the route of the new drain and bunds will then need to be maintained as a natural grassy woodland edge to facilitate future maintenance of the drain.

Due to the ecological sensitivity of the site it is not considered advisable to plant replacement trees for those removed. It is more appropriate to carry out woodland management to encourage the growth of existing natural regeneration.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

5. None provided.

DETAIL

6. Cheriton woodland is a mature woodland mainly of beech, oak, Silver birch, Sweet chestnut and sycamore. The land surface slopes north westwards towards Cheriton Avenue and this aspect together with a poorly draining clay subsoil results in significant water run-off into the rear gardens of the adjacent properties, a mixture of council and private houses.
7. According to local knowledge a drainage system was installed along the woodland edge, and a secondary system installed in the rear gardens of 58-82 Cheriton Avenue, in the early to mid 1970's, indicating that drainage problems have been a long-term issue. Recent investigations by Asset Management have found the original drainage system has failed through a combination of age and tree-root infiltration.
8. In recent years the problem with surface water run-off has worsened creating bog-like areas in some of the rear gardens of 18-82 Cheriton Avenue. The problem is significant enough for Cabinet to have approved funding for a project to replace the failed drainage system.
9. In the intervening years since the drainage system was installed a number of trees have established themselves along the route of the woodland drain. The installation of a new drainage system along the route of the old one will require the use of mechanical diggers for trench construction. In order for this to happen it is necessary to remove 24 young and semi-mature trees, comprised of Sweet chestnut (6no.), Silver birch (12no.), beech (5no.) and sycamore (1no.) that are currently growing directly on or very close to the drain.
10. The new system when installed will require future way-leave access for maintenance, thereby limiting the scope for replacement tree planting along this boundary. Also, the authority's ecologists have indicated that there is no need for any tree planting within the woodland but instead would rather see works carried out to improve natural regeneration..
11. The authority's ecologists have voiced concern that the existing waterlogged areas of woodland, which comprise a unique habitat within the woodland, will be adversely affected by the proposed works. They have suggested the design be modified to minimise adverse effects on the local woodland environment.

12 It is proposed that the works will take place this autumn.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

13. Approved on a Capita Programme Sharepoint Reference 1713

Revenue

14. None.

Property

15. None.

Other

16. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

17. In accordance with the Constitution any decision relating to council trees, unless delegated, will be determined by the Planning Panel.

Other Legal Implications:

18. Under the Forestry Act, the volume of timber to be removed requires a felling licence from the Forestry Commission.

POLICY FRAMEWORK IMPLICATIONS

19. None.

SUPPORTING DOCUMENTATION

Appendices

1	Location map.
2	Aerial photograph.
3	Site photographs.

Documents In Members' Rooms

1.	None.
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Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

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Background documents available for inspection at:

FORWARD PLAN No:

KEY DECISION?

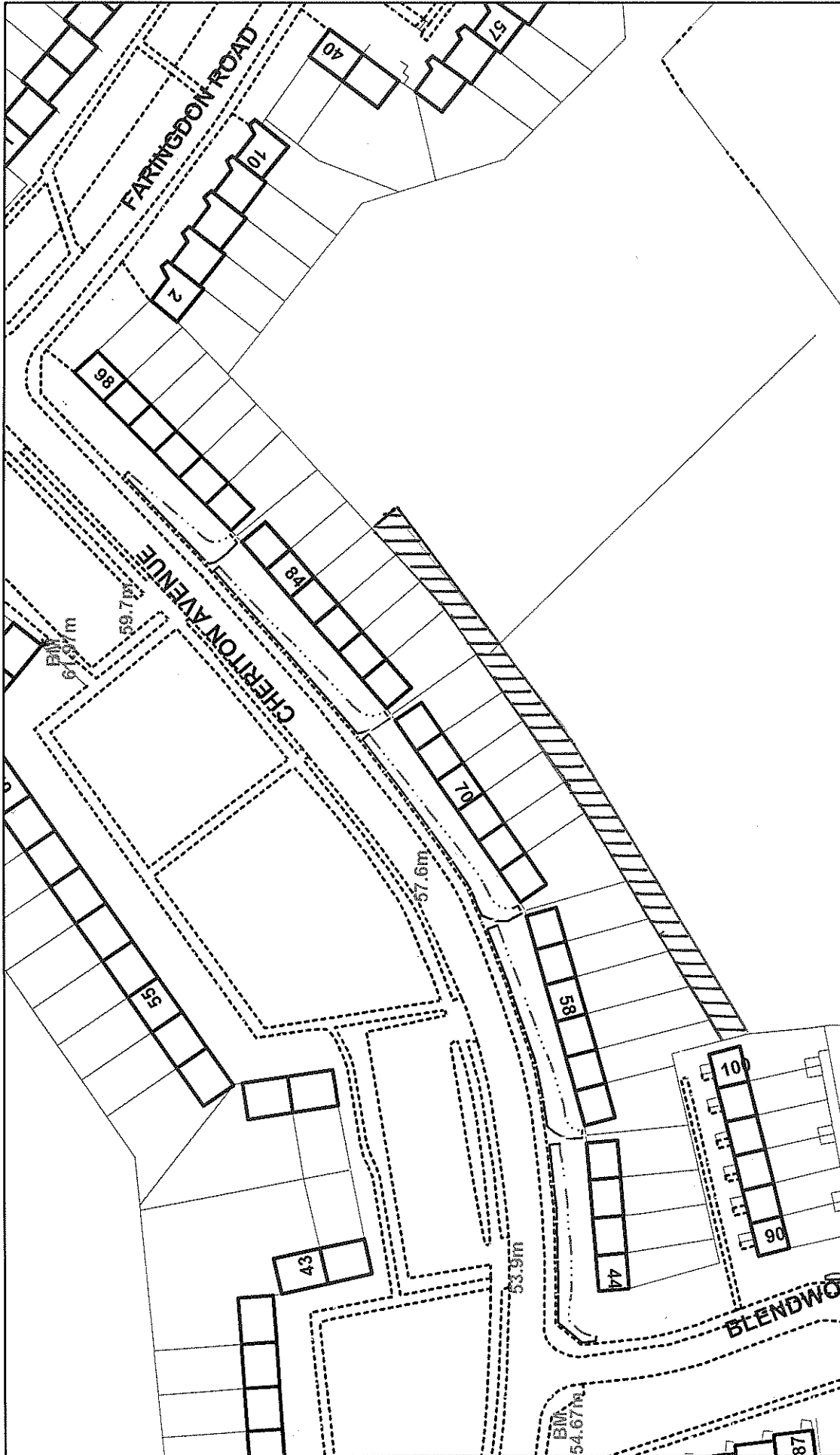
NO

WARDS/COMMUNITIES AFFECTED:

Harefield ward.

APPENDIX 1

Location of trees requiring removal to rear of 58-82 Cheriton Avenue



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APPENDIX 2

Aerial photograph of woodland to rear of 58-82 Cheriton Avenue



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View along rear boundary of 58-82 Cheriton Avenue.



View along rear boundary of 58-82 Cheriton Avenue.



CHERITON WOODLAND

View from Cheriton Avenue



Agenda Item 13

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL		
SUBJECT:	REMOVAL OF 2 TREES IN OXFORD STREET TO ALLOW HIGHWAY IMPROVEMENTS		
DATE OF DECISION:	19 JULY 2011		
REPORT OF:	HEAD OF NEIGHBOURHOOD SERVICES		
AUTHOR:	Name:	Mike Harris	Tel: 023 8083 3422
	E-mail:	Mike.p.harris@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
None.			

SUMMARY

The proposed highway improvement works on Oxford Street, between Terminus Terrace and Latimer Street, to a single level surface will require the removal of two highway trees. A minimum of five new semi-mature trees will be planted in replacement.

RECOMMENDATIONS:

- (i) To allow the removal of two trees to enable the highway improvement works.
- (ii) To provide five new trees. Replacement tree species, size and location to be agreed with a Senior Tree Officer.

REASONS FOR REPORT RECOMMENDATIONS

- 1 If the two trees are retained they would suffer serious damage to their roots during the works, which would compromise their health and stability.
- 2 The removal of the two trees and their replacement with five uniform species will result in a more coherent and pleasing design layout.

CONSULTATION

- 3 The comments of Murtaza Mahmood, the Balfour Beatty engineer in charge of this project, have been incorporated within this report.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 4 The safe retention of the two trees would require the existing pavement to be retained, thereby nullifying the objective of a single level surface.

DETAIL

- 5 Southampton City Council is now working in partnership with Balfour Beatty to deliver the highways service for the city. The new partnership will provide a more structured, coordinated and better managed approach to essential highway repairs and maintenance, and will deliver high quality, value for money planned improvements throughout the city.
One of the planned improvements is along Oxford Street, within the Oxford Street Conservation Area.
- 6 The improvement scheme will be carried out in a series of phases the first of which is due to start in October 2011. The initial phases, between Terminus Terrace and Latimer Street, will convert the current multi-level highway surfaces to a single-level shared surface.. Later phases will improve the

remaining section, which shall continue to have vehicular traffic.

- 7 The conversion process to a single level surface will require reduction in the levels of the footways, where the two trees are located, by up to 200mm. This reduction in levels will result in the severance of a significant proportion of the tree's roots rendering them more prone to wind-throw and infection by pathogens.
- 8 The two trees are a young 5 metre tall Chanticleer pear, outside The Olive Tree restaurant, and a semi-mature 8 metre tall Field maple, outside the Oxford Brasserie restaurant.

The Chanticleer pear was planted 5 years ago at the request of the then proprietor of the Olive Tree restaurant.

The Field maple was planted 15-20 years ago and has established well. Unfortunately, this is not an appropriate choice of species for planting close to properties due to its natural wide-spreading nature. There have been complaints by the Oxford Brasserie about the encroachment of the canopy and, as a result, the tree has been pruned twice to control its lateral spread.

- 9 It is intended that an additional three trees will be planted within the initial phases and an additional three trees planted in later phases, along the western section of Oxford Street, between Latimer Street and Bernard Street.

It would be beneficial if there could be some kind of continuity in all phases of construction works, i.e. the same species of tree

FINANCIAL/RESOURCE IMPLICATIONS

Capital

10 None.

Revenue

11 None.

Property

12 None.

Other

13 None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

- 14 In accordance with the Constitution any decision relating to council trees, unless delegated, will be determined by the Planning Panel.

Other Legal Implications:

- 15 Oxford Street lies within the Oxford Street Conservation Area and the removal of any trees is subject to the Town & Country Planning Act 1990. Under section 211 of this Act anyone proposing to cut down or carry out work on a tree in a conservation area is required to give the Local Planning Authority six

weeks' notice (a "section 211 notice").

POLICY FRAMEWORK IMPLICATIONS

16 None.

SUPPORTING DOCUMENTATION

Appendices

1	Location map.
2	Photograph of trees and proposed street scene.

Documents In Members' Rooms

1.	None.
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Background Documents

Title of Background Paper(s)

Relevant Paragraph of the
Access to Information
Procedure Rules / Schedule
12A allowing document to be
Exempt/Confidential (if
applicable)

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Background documents available for inspection at:

FORWARD PLAN No:

KEY DECISION?

NO

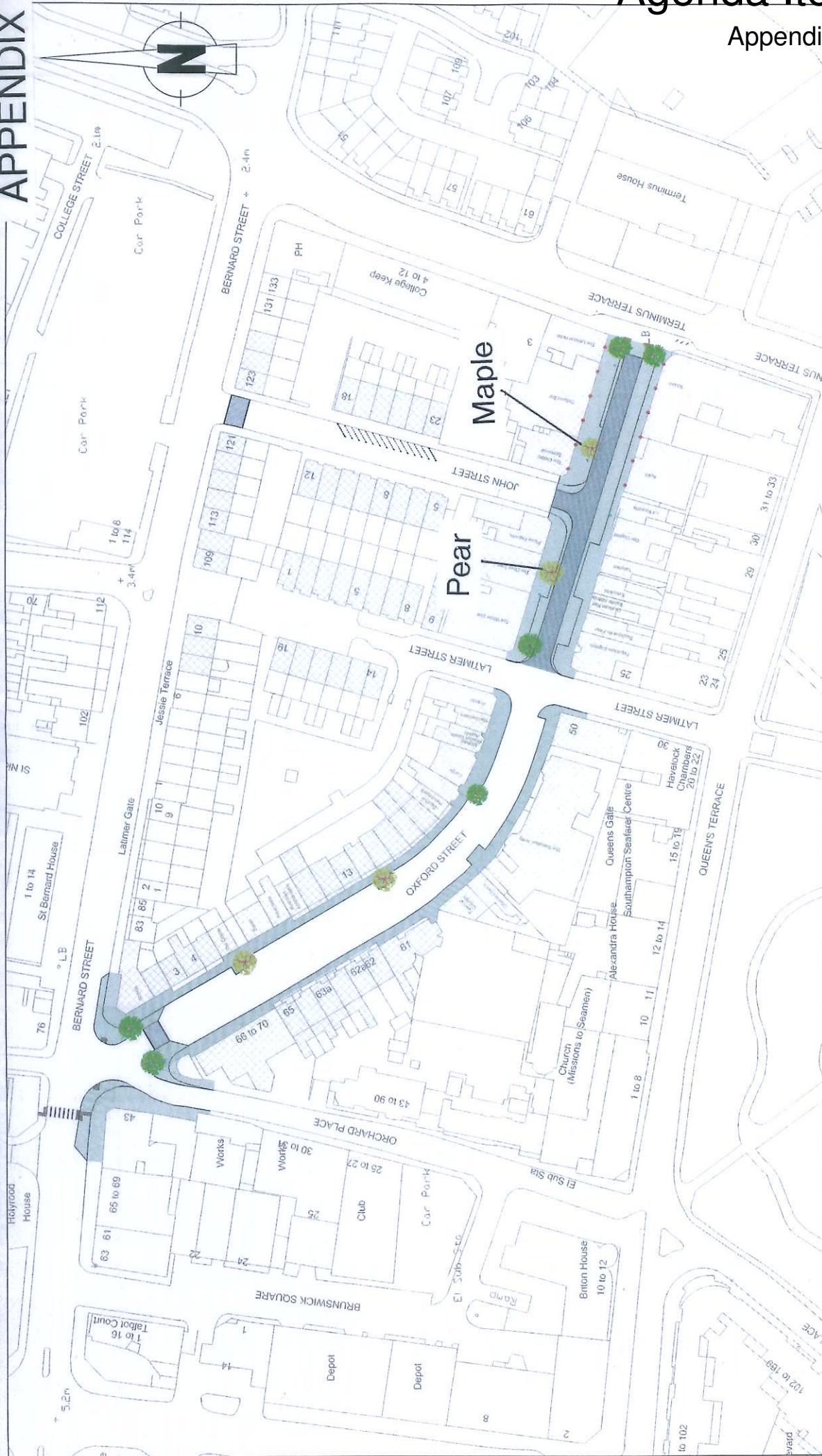
WARDS/COMMUNITIES AFFECTED:	Bargate
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OXFORD STREET IMPROVEMENTS

APPENDIX 1

Appendix 1



- Paving flags (Malvern Leemoor)
- Textured granite sets (Marshalls Mistral)
- Eyes on buildings for the provision of a blanket of small LEDs (subject to wayleave consent)
- New cycle stand
- Existing columns to be removed and new lantern to be wall-mounted (subject to wayleave consent)
- Existing parking to be retained
- New parking bays
- Existing Trees
- New trees to be planted
- Residential
- Commercial
- Entertainment

PROPOSED PLAN TO BE APPROVED. THESE PLANS ARE THE PROPERTY OF THE CONSULTANTS AND WILL BE RETURNED TO THEM UPON COMPLETION OF THE PROJECT. THE CONSULTANTS WILL NOT BE RESPONSIBLE FOR ANY DAMAGE TO THE ORIGINAL DRAWINGS OR ANY OTHER DOCUMENTS WHICH MAY BE USED IN CONNECTION WITH THE PROJECT.

Balour Beauty
Leam Place
Working in partnership

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Agenda Item 13

Appendix 2

Chanticleer pear - Oxford Street



Field maple –Oxford Street



Proposed street scene – looking towards Terminus Terrace.



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