

Planning and Rights of Way Panel

Tuesday, 21st September 2010
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 Fitzhenry (Chair)
Councillor Jones (Vice-Chair)
Councillor Letts
Councillor Mead
Councillor Osmond
Councillor Slade
Councillor Thomas

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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 2010/11

2010	2011
25 May 2010	18 January 2011
22 June	15 February
20 July	15 March
17 August	12 April
31 August	
28 September	
26 October	
23 November	
21 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

CONSIDERATION OF PLANNING APPLICATIONS

ITEMS TO BE HEARD BETWEEN 9:30 AM TO 10:30 AM

4 LAND REAR OF 3 - 6 SEYMOUR ROAD - 10/00277/FUL

Report of the Head of Planning and Sustainability recommending conditional approval be granted in respect of an application for a proposed development at the above address, attached.

ITEMS TO BE HEARD BETWEEN 10:30 AM TO 11:30 AM

5 9 THE TRIANGLE, COBDEN AVENUE - 10/00606/FUL

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

ITEMS TO BE HEARD BETWEEN 11:30 AM TO 12:30 PM

6 34 NORTHCOTE ROAD - 10/00743/FUL

Report of the Head of Planning and Sustainability recommending conditional approval be granted in respect of an application for a proposed development at the above address, attached.

MAIN AGENDA ITEMS

7 PLANNING PERFORMANCE AGREEMENTS AND PRE-APPLICATION CHARGING

Report of the Head of Planning and Sustainability detailing changes to how the City Council will provide pre-application planning advice through the use of Planning Performance Agreements, attached.

Monday, 13 September 2010

SOLICITOR TO THE COUNCIL

Agenda Annex

INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 21 SEPTEMBER 2010

PLEASE NOTE: THE PANEL, SHOULD IT BE REQUIRED, WILL BREAK FOR LUNCH

Agenda Item Number	Officer	Recommendation	Type	PSA	Application Number / Site Address
<u>BETWEEN 9.30 AM AND 10:15AM</u>					
4	AG/SL	CAP	Q13	5	10/00277/FUL/ Land rear of 3 - 6 Seymour Road
<u>BETWEEN 10.15 AM AND 11.00 AM</u>					
5	SB	REF	Q20	5	10/00606/FUL/9 The Triangle Cobden Avenue
<u>BETWEEN 11.00 AM AND 11.45 AM</u>					
6	AA	CAP	Q20	5	10/00743/FUL/34 Northcote Road
Main Agenda reports					
7	Planning Performance Agreements and Pre-Application Charging - SH				

Abbreviations:

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

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

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) City of Southampton Local Development Framework – Core Strategy
 - (b) City of Southampton Local Plan Review (Adopted March 2006) saved policies
 - (c) Local Transport Plan 2006 – 2011 (June 2006)
 - (d) Hampshire County Structure Plan 1996-2011 (review) - the Joint Structure Plan for the counties of Hampshire, Portsmouth and Southampton 2000.
 - (e) Hampshire, Portsmouth and Southampton Minerals and Waste Local Plan 1998.

3. Statutory Plans in Preparation

4. Policies and Briefs published and adopted by Southampton City Council
 - (a) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
 - (c) Women in the Planned Environment (1994)
 - (d) Advertisement Control Brief and Strategy (1991)
 - (e) Nature Conservation Strategy (1992)
 - (g) Economic Development Strategy (1996)
 - (h) Banister Park (1991)
 - (i) Bassett Avenue (1982)
 - (k) Howard Road (1991)
 - (l) Lower Freemantle (1981)
 - (m) Mid Freemantle (1982)
 - (n) Westridge Road (1989)
 - (o) Westwood Park (1981)
 - (p) Test Lane (1984)
 - (q) Northam Road Area Improvement Strategy (1987)
 - (r) Houses in Multiple Occupation (1990)
 - (s) Residential Standards (1989)
 - (u) Vyse Lane/58 French Street (1990)
 - (v) Tauntons College Development Guidelines (1993)
 - (w) Old Woolston Development Control Brief (1974)
 - (x) Cranbury Place (1988)
 - (y) Carlton Crescent (1988)
 - (z) Old Town (1974)

 - (aa) Oxford Street (1982)
 - (ab) The Avenue (1988)
 - (ac) Bassett Green Village (1987)

- (ad) Old Woolston and St Annes Road (1988)
- (ae) Itchen Valley (1993)
- (af) Itchen Valley Strategy (1993)
- (ai) Portswood Residents' Gardens Conservation Area Character Appraisal (1999)
- (ak) Land between Aldermoor Road and Worston Road Development Brief (1997)
- (al) The Bevois Corridor Urban Design Framework (1998)
- (am) Southampton City Centre Urban Design Strategy (2000)
- (an) St Mary's Place Development Brief (2001)
- (ao) Ascupart Street Development Brief (2001)
- (ap) Design Guidance for the Uplands Estate (Highfield) Conservation Area 1993
- (aq) Design Guidance for the Ethelburt Avenue (Bassett Green Estate) Conservation Area (1993)
- (ar) Canute Road Conservation Area Character Appraisal (1996)
- (as) The Avenue Conservation Area Character Appraisal (1997)
- (at) St James Road Conservation Area Character Appraisal (1996)
- (au) Old Town Development Strategy (2004)

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 | 1/97 |
| (b) | Planning Controls over Hazardous Uses | 11/92 |
| (c) | The Use of conditions in planning permissions | 11/95 |
| (d) | Planning out Crime | 5/94 |
| (e) | Environmental Impact Assessment | 2/99 |
| (f) | Development and Flood Risk | 30/92 |
| (g) | Planning Controls over Demolition | 10/95 |
| (h) | Planning and Affordable Housing | 6/98 |
| (i) | Planning and the Historic Environment | 14/97 |
| (j) | Prevention of Dereliction through the Planning System | 2/98 |
| (k) | Air Quality and Land Use Planning | 10/97 |
| (l) | Town and Country Planning General Regulations | 19/92 |
| (m) | Planning and Affordable Housing | 6/98 |

7. Government Policy Planning Advice

- (a) PPS1 Delivering Sustainable Development (February 2005)
- (b) PPG2 Green Belts (January 1995 - Amended March 2001)
- (c) PPS3 Housing (November 2006)
- (d) PPG4 Industrial, Commercial Development and Small Firms (November 1992)
- PPG5 Simplified Planning Zones (November 1992)
- (e) PPS6 Planning for Town Centres (March 2005)
- PPS7 Sustainable Development in Rural Areas (August 2004)
- (f) PPG8 Telecommunications (August 2001)
- (g) PPS9 Biodiversity and Geological Conservation (August 2005)
- (h) PPS10 Planning for Sustainable Waste Management (July 2005)
- (i) PPS11 Regional Spatial Strategies (September 2004)
- (j) PPS12 Local Development Frameworks (September 2004)
- (k) PPG13 Transport (March 2001)
- (l) PPG14 Development on Unstable Land (1990)
- (m) PPG15 Planning and the Historic Environment (September 1994)
- (n) PPG16 Archaeology and Planning (November 1990)
- (o) PPG17 Planning for Open Space, Sport and Recreation (July 2002)
- (p) PPG18 Enforcing Planning Control (December 1991)
- (q) PPG19 Outdoor Advertising Control (March 1992)
- (r) PPG20 Coastal Planning (September 1992)
- (s) PPG21 Tourism (1992)
- (t) PPS22 Renewable Energy (August 2004)
- (u) PPS23 Planning and Pollution Control (November 2004)
- (v) PPG24 Planning and Noise (September 1994)
- (w) PPG25 Development and Flood Risk (July 2001)
- (x) Regional Planning Guidance for the South East (July 2004)

8. 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
- (h) Buildings at Risk Register SCC (1998)
- (i) Southampton City Safety Audit (1998)
- (j) Urban Capacity Study 2005 – 2001 (March 2006)

9. Other Statutes

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

Partially Revised: 29.01.2010

Agenda Item 4

Southampton City Planning & Sustainability
Planning and Rights of Way Panel meeting - 21 September 2010
Planning Application Report of the Planning and Development Manager

Application address: Land rear of 3 - 6 Seymour Road			
Proposed development: Erection of an additional 2 x 2-storey, 4-bed detached houses with associated detached double garage and cycle/refuse storage and replacement house type to house on Plot 1, previously approved under ref 99/01407/FUL			
Application number	10/00277/FUL	Application type	Full
Case officer	Andrew Gregory	Public speaking time	5 minutes

Applicant: Seymour (Southampton) Ltd	Agent: Pro Vision Planning & Design
Recommendation Summary	Grant planning permission subject to conditions

Reason for Panel Consideration

The proposal involves development on land which is not previously developed and raises similar issues to development on garden land. Therefore in light of the recent changes to PPS3 it is considered that the panel should be directly involved in the determination of this application.

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Overall the scheme is acceptable and the level of development proposed will not result in an adverse impact on the amenities enjoyed by surrounding occupiers or to the character and appearance of the area. A suitable balance has been achieved between securing additional housing, parking, on-site amenity space and landscaping, whilst ensuring that existing residential amenity is protected. 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, H1, H2 and H7 of the City of Southampton Local Plan Review - Adopted March 2006 policies CS4, CS5, CS13, CS16, CS19, CS20 of the Local Development Framework Core Strategy (January 2010); National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport) are also relevant to the determination of this planning application.

Appendices attached			
1	Development Plan Policies	2	Appeal decision 9.3.2005

Recommendation in Full

Conditionally approve

1. The site and its context

1.1 The application site (0.125 hectares) is located in a zone of low accessibility. It comprises land which is not considered previously developed. It does not form private residential gardens and is not occupied by any buildings (see PPS3 definition). The planning history of the site is unclear however applicant indicates that the land was originally set aside for private tennis courts and may have been used for private horticultural use (but is not a formal allotment).

1.2 The land is situated on land to the rear of 3-6 Seymour Road and adjacent to undeveloped land to the rear of 6-9 Seymour Road which has planning approval for 5 houses (allowed on appeal in 2005). The site is accessed between 6 and 7 Seymour Road.

1.3 The surrounding area is predominantly residential in nature. The site is framed by semi-detached dwellings within Seymour Road and by houses and flats within Winchester Road. The site is reasonably level and is enclosed by mature planting, close boarded fencing and a brick outbuilding at the rear of 300 Winchester Road. Malvern Business Centre abuts the northern boundary.

2. Proposal

2.1 The application proposes the erection of 2 no. two-storey four-bedroom detached houses to the rear of 3-6 Seymour Road. The proposal has been designed to link into the adjacent approval for 5 houses but could come forward independently, because the long access drive between 6-7 Seymour Road has been incorporated into the application. The proposed dwellings have been identified as plots 6 and 7 and have a layout, scale and design which reflect the approved scheme.

2.2 A single-storey double garage and 2 no. surface car parking spaces are shown to the front of the proposed dwellings providing a total of 4 spaces. The proposed dwellings have landscaped front gardens with 9-10 metre length private rear gardens.

3.0 Relevant planning policy

3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at ***Appendix 1***.

3.2 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.

3.3 PPS3 Housing (2010): On June 9th 2010 private residential gardens were excluded from the definition of Previously Developed Land (PDL) in the Government’s Planning Policy Statement on Housing (PPS3). Also, the requirement to achieve a minimum density of at least 30 dwellings per hectare was removed.

3.4 The revised PPS3 maintains that the priority for development should be PDL (Paragraph 36 refers).

3.5 The adopted Core Strategy (in Policy CS4 Housing Delivery) indicates that 16,300 additional homes will be provided over the plan period, with 5,750 homes to be provided on allocated and identified sites between April 2009 and March 2014. The figures demonstrate that the city has a housing supply from identified sites sufficient to meet requirements until

and beyond 2018/19, without reliance on windfall sites. The change to the definition of PDL, and the Council's current predicted supply, means that the principle of development will now be an issue for new windfall proposals for housing units to be built entirely on private residential gardens (often termed "garden grab").

3.6 That said, the revised PPS3 maintains that the planning system should provide "a flexible, responsive supply of land that is managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate" (Paragraph 10 refers). The national annual target that "at least 60 per cent of new housing should be provided on previously developed land" remains, suggesting that residential development can still take place on other land subject to the local circumstances of each site involved.

3.7 It is the view of the Council's Planning Policy Team that the recent changes to PPS3, along with the removal of the national indicative minimum density standards, are not intended to stop all development on private residential gardens. Instead it allows Councils greater powers to resist such development where there is a demonstrable harm *inter alia* to the character and appearance of an area. The judgement as to whether such proposals are acceptable will need to consider, amongst other factors:

- the loss of private residential garden land;
- the contribution the land currently makes to the character of the area;
- the impact on the defined character of the area; and,
- the contribution that the scheme makes to meeting housing need.

3.8 The revised PPS3 maintains that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted (Paragraph 13 refers).

4.0 Relevant planning history

4.1 99/01407/FUL (Allowed on appeal 9.03.2005) for:- Five 4 bed dwellings, detached garages and new vehicular access at land to the rear of 5-9 Seymour road (amended plans).

4.2 Please note that all the pre-commencement conditions have been discharged. Limited works have taken place to the site access, which represent commencement of development in accordance with section 56 of the Town and Country Planning Act 1990.

4.3 The appeal decision relating to land at the rear of 5-9 Seymour Road is attached as **Appendix 2**.

5.0 Consultation responses and notification representations

5.1 A consultation exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice. At the time of writing the report 24 representations had been received which can be summarised as follows:

5.1.1 The principle of the development

- **The Council originally refused the application for 5 houses as backland development which is out of character with the surrounding area**

- **7 dwellings is materially different to the 5 houses approved by the planning inspector**
- **This is the wrong development for this locality**
- **The density is out of keeping with the area.**

Response – This application relates to 2 additional houses on land outside of the appeal site (except the access). The decision was overturned by the Planning Inspectorate, which is now a material consideration in the assessment of this application. The appeal decision is appended to this report and sets out why the layout for 5 houses would not be out of keeping (see paragraphs 15-21 of **Appendix 2**). The proposed development respects the layout approved at appeal (this scheme can be implemented and thus informs the future character of the area). Discounting the access drive, the site has a density of 42 dph. This density falls within the density parameters for a low accessibility area of 35-50 dph. This density level accords with policy. The intensification from 5 to 7 houses does not conflict with policy nor does it create any new significant highway safety, ecology or noise concerns.

5.1.2 Highways matters

- **Intensification of traffic within Seymour Rd and adjoining roads.**
- **Parking displacement**
- **Car dominated development**
- **The intensification of use will make the access unfit for purpose**

Response – The level of parking accords with the Councils Maximum standards. The approach into the development has been allowed by the appeal decision. The additional parking for this proposal is proposed to be positioned in the western corner and will not dominate the approach into the development. There is no evidence to suggest that any displacement will prejudice highway safety (no objection raised by HDC).

5.1.3 Infrastructure matters

- **Increased surface water run-off**

Response – This will be dealt with by on-site and surface water drainage to be agreed at building control stage. Sustainability requirements to achieve code level 3 will also inform the approach to tackling surface water run-off.

- **Increase demand for local services**

Response - This is not a stand alone reason for refusal, particularly as local services can be upgraded to cope with increased demand.

5.1.4 Ecology matters

- **Loss of wildlife habitat**

Response - No objection raised by the Councils ecologist.

5.1.5 Other matters

- **Restrictive covenants would prevent vehicular access to the rear of 5-9**

Response - This is a separate legal matter and does not prevent the local planning authority from reaching a decision on this application.

5.2 SCC Highways - No highway objection subject to the attached planning conditions. The application site lies within an area defined as having “low” accessibility to public transport and services. The development is not considered to compromise highway safety. The provision of 4 spaces, 2 per dwelling, to serve the proposed level of development accords with the Council’s maximum parking standards.

5.3 Ecology - No objection providing the conclusions of the reptile survey are incorporated and appropriate mitigation for habitat loss is provided. Ecological mitigation and enhancement measures will be required through condition.

5.4 Pollution & Safety – No objection raised subject to a conditions restricting hours of work, no bonfires and the submission of a construction environment management plan which contains statements and site specific plans to prevent or minimise impact from noise, vibration, dust and odour for all operations.

5.5 Environment Agency – Unable to make a full response to this application.

5.6 Southern Water – No objection raised subject to conditions requiring details of the measures to be undertaken to protect the public sewer and details of the proposed means of foul and surface water sewerage disposal. In addition, an informative is required in relation to connection to the public sewer.

6.0 Planning Consideration Key Issues

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

- i. The principle of development;
- ii. Design, density & impact on established character;
- iii. Residential amenity;
- iv. The quality of residential environment for future occupants; and,
- i. Whether the travel demands of the development can be met.

6.2 Principle of development

6.2.1 The proposed development of 2 houses is acceptable in principle and accords with policies contained within the development plan and central government’s wishes to promote sustainable and efficient use of land for housing development providing that the character of an area is not compromised. The level of development of 42 dwellings per hectare (dph) fits within the density parameters for the site (of between 35 and 50dph). The provision of genuine family housing is welcomed and fulfils the requirements of policy CS16 of the Core Strategy. Precedent has been set by the adjacent approval for 5 houses and this proposal would acceptably tie into that development.

6.2.2 The proposal seeks to introduce two additional houses on land which not considered previously developed. PPS3 advocates the efficient use of land for housing delivery and advises that at least 60% of new housing nationwide should be on previously developed land. With the recent changes to the status of garden land there is clearly an increased

focus on delivering the majority of new housing on previously developed land but national and local planning policy does not prevent the delivery of housing on undeveloped land, where appropriate. Consideration must be given to making the best use of land, impact on the character and appearance of the area and the promotion of development in sustainable locations to reduce the pressure for development on green field sites and protected open spaces.

6.2.3 This proposed site is framed by existing residential plots and land which has approval for 5 new houses. If this land was left undeveloped it could become closed off and would potentially become under used. This proposal provides the opportunity to make efficient and sustainable use of the site to provide additional market housing. The proposal has been designed to integrate into the approved scheme for 5 houses.

6.2.4 The existing unallocated private open space does not make a significant contribution to the character of the area and its development is considered acceptable when considered on balance with the future layout of buildings and gardens in this area and the opportunity to deliver additional family housing.

6.2.5 Whilst the City has a 5 year land supply this does not prevent unallocated windfall sites coming forward subject to local character not being harmed.

6.3 Design, density & impact on established character

6.3.1 The design and access statement identifies measures to be taken into account when maintaining the character of the area and achieving high standards of design. The proposed design, layout and scale of development is not considered to be adversely harmful to the surrounding pattern of development.

6.3.2 The proposal has taken into account the previous reason for refusal by amending the roof design to provide a barn-hip roof, this provides an improved reference to the established properties over a fully gabled roof, and a barn-hip provides a better scale and massing than a fully hipped roof in this two-storey street scene. The introduction of modest dormer windows will not detract from the appearance of the street scene.

6.3.3 The character of the area will not be compromised. The plot sub-division provides sufficient plot sizes for the existing and proposed dwellings which meet and exceed the standards within the Residential Design Guide in terms of building separation, privacy distances and garden sizes (10m length).

6.4 Residential amenity

6.4.1 The design and access statement identifies measures to be taken into account when maintaining residential amenity. The proposed design, layout and scale of development is not considered to be adversely harmful to the surrounding pattern of development, having had regard to the adjacent approval for 5 houses.

6.4.2 The surrounding area includes a mix of two-storey housing and larger flatted developments. The design and scale of the proposed houses has sought to respect the 5 houses approved on the adjacent plot and also the established houses within the area. The scheme has also taken on board the Planning Inspector's comments in terms of reducing the bulk and massing of the end unit by introducing skilling's to lower the eaves height to protect the amenities of occupiers of 298 Winchester Road.

6.5 Quality of residential environment

6.5.1 All new residential development is expected to provide prospective residents with a good living environment. The internal layout is compatible with modern living standards. All habitable rooms will receive adequate outlook, ventilation and day lighting.

6.5.2 Each property is provided with approximately 56 square metres of private usable amenity space per dwelling which accords with the layout approved at appeal for 5 houses. The size of these gardens are smaller than the recommended garden sizes advocated for detached houses within the Residential Design Guide of 90 square metres. However, on balance with housing delivery, this shortfall is acceptable given the gardens remain acceptable in terms of quality and usability.

6.5 Whether the travel demands of the development can be met

6.5.1 The application site is within an area, which is defined as a “low” accessibility zone in the Adopted Local Plan. The level of parking provision proposed needs to be assessed against the maximum parking standards set out in the adopted Local Plan. The development proposes 4 car parking spaces, which accords with the Council’s maximum parking standards. The level of parking provision and access arrangement will not prejudice highway safety.

7.0 Summary

7.1 Overall the scheme is acceptable and the level of development proposed will not result in an adverse impact on the amenities enjoyed by surrounding occupiers or to the character and appearance of the area. The proposal is consistent with adopted local planning policies. A suitable balance has been achieved between securing additional housing, parking, on-site amenity space and landscaping, whilst ensuring that existing residential amenity is protected.

8.0 Conclusion

8.1 By securing the matters set out in the recommendations section of this report, the proposal would be acceptable. The application is therefore recommended for delegated approval to the Planning and Development Manager.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1(a), 1(b), 1(c), 3(a), 4(s), 6(a), 6(c), 6(f), 6(h), 7(c), 8(a), 9(a), 9(b), 2(c),
LDF Core Strategy and saved policies from Local Plan (Review)

AG 11.08.10 for 21.09.10 PROW Panel

CONDITIONS for 10/00277/FUL

01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works

The development works hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. APPROVAL CONDITION: Facing materials

Unless otherwise agreed in correspondence by the Local Planning Authority the external materials and finishes of the development hereby approved shall match those agreed in the discharge of condition 06 of appeal decision APP/D1780/A/04/1150191, namely:

Facing bricks - Westminster red stock

Roof tiles - Plain concrete Redland Farmhouse red

Reason: To secure a satisfactory form of development.

03. 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.

04. APPROVAL CONDITION - Preserving and enhancing biodiversity [Pre-Commencement Condition]

The development shall be carried out strictly in accordance with the recommendations of the Reptile Survey Report by Hampshire Ecological Services dated June 2010.

Furthermore prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, which unless otherwise agreed in correspondence by the Local Planning Authority shall be implemented in accordance with the programme before any demolition work or site clearance takes place.

Reason

To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity.

05. APPROVAL CONDITION - Landscaping detailed plan [Pre-Commencement Condition]

Before the commencement of any site works a detailed landscaping scheme and implementation timetable, which clearly indicates the numbers, planting densities, types,

planting size and species of trees and shrubs to be planted, and treatment of hard surfaced areas, shall be submitted to and approved in writing by the Local Planning Authority.

The landscaping scheme shall specify all trees to be retained and to be lost and shall provide an accurate tree survey with full justification for the retention of trees or their loss. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise) to ensure a suitable environment is provided on the site.

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 scheme 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.

06. APPROVAL CONDITION – Boundary Treatment [Pre-Occupation Condition]

Before occupation of the development hereby approved, details of the design and specifications of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed boundary enclosure details shall be subsequently erected prior to the occupation of any of the units provided under this permission and such boundary treatment shall thereafter be retained and maintained to the boundaries of the site.

REASON:

In the interests of the visual amenities of the area and to protect the amenities and privacy of the occupiers of adjoining property.

07. APPROVAL CONDITION - Residential - Permitted Development Restriction [Permanent Condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), or any Order amending, revoking or re-enacting that Order, no building or structures within Schedule 2, Part 1, Classes as listed below shall be erected or carried out to any dwelling house hereby permitted without the prior written consent of the Local Planning Authority:

- Class A (enlargement of a dwelling house), including a garage or extensions,
- Class B (roof alteration),
- Class C (other alteration to the roof),
- Class E (curtilage structures), including a garage, shed, greenhouse, etc.,

REASON:

In order that the Local Planning Authority may exercise further control in this locality given the small private garden and amenity areas provided as part of this development in the interests of the comprehensive development and visual amenities of the area.

08. APPROVAL CONDITION - No other windows or doors other than approved
[Permanent Condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order amending, revoking or re-enacting that Order), no windows, doors or other openings including roof windows or dormer windows other than those expressly authorised by this permission shall be inserted in the development hereby permitted without the prior written consent of the Local Planning Authority.

REASON:

To protect the amenities of the adjoining residential properties.

09. APPROVAL CONDITION - Bonfires [Performance Condition]

No bonfires are to be allowed on site during the period of demolition, clearance and construction.

Reason:

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

10. APPROVAL CONDITION - Construction Environment Management Plan (Pre-Commencement Condition)

Prior to the commencement of any development a written construction environment management plan shall be submitted to and approved by the LPA. The plan shall contain method statements and site specific plans to prevent or minimise impacts from noise, vibration, dust and odour for all operations, as well as proposals to monitor these measures at the site boundary to ensure emissions are minimised beyond the site boundary. During the period of the preparation of the site, excavation for foundations or services and the construction of the development, wheel cleaning facilities shall be available on the site and no lorry shall leave the site until its wheels are sufficiently clean to prevent mud being carried onto the highway. All specified measures shall be available and implemented during any processes for which those measures are required.

Reason:

To protect the amenities of the occupiers of existing nearby properties and in the interests of highway safety.

11. 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 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 certificate as issued by a qualified 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).

12. APPROVAL CONDITION - Surface / foul water drainage [Pre-commencement Condition]

No development approved by this permission shall commence until a scheme for the disposal of foul water and surface water drainage have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied unless and until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority and subsequently implemented and maintained for use for the life of the development.

Reason:

To ensure satisfactory drainage provision for the area.

13. APPROVAL CONDITION - Public Sewer protection [Performance Condition]

The developer must advise the Local Planning Authority of the measures which will be undertaken to protect the public sewers, prior to the commencement of the development.

Reason:

In order to safeguard the public sewer.

14. PERFORMANCE/PRE-OCCUPATION CONDITION – Access and parking

Prior to the start of construction of the buildings hereby approved, the kerb and footway alterations to provide the visibility splays at the entrance to Seymour Road shall be completed in accordance with the plans approved by the Inspector under the Appeal decision APP/D1780/A/04/1150191, dated 9 March 2005. Neither dwelling shall be occupied until the access, turning area and parking/garaging associated with each dwelling have been provided. Thereafter, at all times, the turning areas, parking and garaging shall be kept free of obstruction and available for use for those purposes.

Reason:

To ensure that satisfactory access and parking/manoeuvring space is provided and maintained to serve the development.

15. APPROVAL CONDITION - Garage use

The garages hereby approved shall be made available and used at all times for the parking of domestic vehicles related to the residential use of the dwelling house and associated ancillary storage relating and incidental to the enjoyment of the occupation of the dwelling house. At no time shall the garage be used for the parking of commercial vehicles or used for any trade, business; manufacturing or industrial purposes whatsoever and shall not be incorporated into the house as part of the domestic living accommodation.

REASON: To prevent car parking displacement into the access drive and surrounding streets in the interest of highway safety.

16. APPROVAL CONDITION - Waste Management Plan [Pre-Occupation Condition]

A waste management plan containing full details of measures to reduce the wastage of materials and promote the recycling of materials during the construction process and in the subsequent use and operation of the development shall be submitted and agreed in writing with the Local Planning Authority prior to the first occupation of the development hereby granted consent. The plan will contain measures to promote the reuse, segregation and composting of wastes produced on site.

Reason:

To ensure that resource consumption is minimised and opportunities for recycling are maximised on site and to comply with policy SDP13 (viii) of the City of Southampton Local (2006).

Note to Applicant:

Southern Water – Public Sewerage - Informative

A formal application for connection to the public sewerage is required in order to service this development. Please contact Southern Water's Network Development Team (Wastewater) based in Otterbourne or www.southernwater.co.uk.

POLICY CONTEXT

LDF Core Strategy - Planning Southampton to 2026 – Adopted January 2010

The LDF Core Strategy now forms part of adopted development plan against which this application should be determined. The following policies are relevant:

CS4	Housing Delivery
CS5	Housing Density
CS13	Fundamentals of Design
CS16	Housing Mix and Type
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS22	Promoting Biodiversity and Protecting Habitats
CS25	The Delivery of Infrastructure and Developer Contributions

City of Southampton Local Plan Review (March 2006)

Whilst there are no site-specific policies relating to this site, the plan contains general policies applicable to this development. This application needs to be assessed in the light of the following “saved” policies:

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Safety & Security
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
H1	Housing Supply
H2	Previously Developed Land
H7	The Residential Environment

Supplementary Planning Guidance

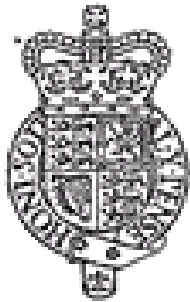
The following SPD/G also forms a material consideration in the determination of this planning application:

Residential Design Guide (Approved - September 2006)

Other Relevant Guidance

PPS1	Delivering Sustainable Development (2004)
PPS3	Housing (June 2010)
PG13	Transport (2001)

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Appeal Decision

10 MAR 2005

APPENDIX 2
(10/00277/FUL)

Hearing held on 16 February 2005

by Edward Hitchings BSc MRICS MRTPI

an Inspector appointed by the First Secretary of State

 10/00277/FUL
 0117 372 6332
 e-mail: appeals@cityofsouthampton.gov.uk
 inspectors@cityofsouthampton.gov.uk
 Date
 9 MAR 2005

Appeal Ref: APP/D1780/A/04/1150191
Land rear of 5 to 9 Seymour Road, Southampton, SO16 6RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Glenshire Homes Ltd against the decision of Southampton City Council.
- The application (Ref.99/01407/FUL/28259), dated 16 December 1999, was refused by notice dated 20 April 2004.
- The development originally proposed was 4 2-storey houses (4 bedroom) and garages.

Summary of Decision: The appeal is allowed and planning permission granted, subject to conditions set out in the Formal Decision below.

Procedural Matters

1. The application was originally submitted in outline for 4 2-storey detached houses and garages, but was changed to a detailed submission for 5 dwellings in May 2000. Amended plans (ref.nos.2000/06/02/01A, SO/Hs/300A, 884/02A and 884/03B) were submitted on 11 March 2004. I shall determine this appeal accordingly.
2. The second and third grounds of refusal referred to the lack of any commitment to secure the provision of affordable housing and measures to address the need for sustainable travel, contrary to Policies H2 and GP1 of the adopted Southampton Local Plan and similar policies in the emerging Local Plan Review. At the beginning of the hearing, the appellant submitted a unilateral undertaking, dated 16 February 2005, under Section 106 of the Town and Country Planning Act 1990. Upon the grant of planning permission, a financial contribution of £9000 (index linked) would be made to fund measures to encourage the use of alternative modes of transport to the private car, and, prior to the occupation of no more than 4 of the proposed dwellings, No.7 Seymour Road would be disposed of to a registered social landlord for use as affordable housing. The Council confirmed that this undertaking satisfies the relevant policies and is sufficient to overcome these 2 grounds of refusal.

Main Issues

3. I consider the remaining main issues in this appeal to be:
 - (a) the effect on the character and appearance of the mainly residential area within which the site lies, in the light of current planning policies;
 - (b) the effect on the living conditions of adjoining residents by reason of the buildings being oppressive and over-dominant to adjoining gardens, by overlooking and loss of privacy, by loss of light to gardens, and by excessive noise and disturbance.

Decision



Planning Policy

4. The development plan includes the Hampshire County Structure Plan 1996-2011 (Review) adopted in March 2000 (SP) and the City of Southampton Local Plan (LP) adopted in January 1996. SP Policy H5 emphasises the importance of allocating for housing, land that is vacant, under-used, derelict or released from its former uses, subject to specific criteria, including public transport availability and respect for the character of the surrounding area. SP Policy UB3 requires all development to be appropriate in design, scale, layout and density to its surroundings and to contribute to the quality of the built environment. SP Policy T1 seeks full and effective use of land in built-up areas that are well served by public transport.
5. LP Policy GP1 sets out a number of detailed criteria to be met by development, including being appropriate and sympathetic to adjoining buildings and spaces, conserving and enhancing wildlife and landscape, avoiding conflict with adjoining uses, and making adequate provision for access for the users of all forms of transport. Similarly LP Policy H12 lists matters of importance for new residential development, including that design, layout and scale should be in character with the immediate surroundings, the amenities of adjoining uses should be protected, and service infrastructure provided.
6. The emerging City of Southampton Local Plan Review (RLP) has reached the stage where the Inspector's Report has been received, but the City Council has yet to decide its formal response. In these circumstances, Policies SDPI, SDP 4 and H3 that are not subject to proposals for alteration carry substantial weight. The other policies are subject to a greater degree of uncertainty, but as the Inspector's recommendations reflect up-to-date national guidance, these also carry significant weight.
7. The aim of RLP Policy SDP 1 is to protect health, safety and amenity; to respect and improve the quality of the built and natural environment; and to contribute, where appropriate, to a complementary mix of uses. Priorities for development access are set by Policy SDP 4 in the descending order of; pedestrians and disabled people, cyclists, public transport and private transport. Policy SDP 2 seeks to ensure that development provides for integration and connection for all modes of transport. The Inspector's Report suggests that the written justification for this policy should include the point that parking should be provided at as low a level as possible, having regard to the needs of development. The report recasts Policy SDP 7, together with SDP 9, so as to preclude development that would cause material harm to the character and/or appearance of an area, and to ensure that building design is of high quality. In general, proposals should respect their surroundings, be compatible with natural and man-made features that contribute to the quality of the local environment, and respect the existing layout, scale, density and proportion of existing buildings. Policy SDP 11 seeks an attractive network of public routes and spaces for pedestrians, cyclists and vehicles, and adequate access for all pedestrians.
8. RLP Policy H3 requires maximum use to be made of derelict, vacant and underused land for residential development, subject to certain provisos. The most relevant to this appeal are that the land does not make a valuable contribution to the character or amenity of the area, would not have significantly detrimental effect on the amenity of adjoining occupiers, and does not support significant wildlife/nature conservation interest. The draft plan now defines "significant" as sites meeting criteria for "Sites of Importance for Nature Conservation" or sites supporting habitats or species identified in bio-diversity action

plans. Policy H 10 sets a number of criteria to ensure the highest standards of quality and design for residential development, including ensuring that designs and layouts contribute to a distinctive environment, enhance urban form and local character, take account of local character and amenity, and promote security.

9. The Council has published supplementary planning guidance "Residential Standards Development Control Brief". This gives advice on distances between buildings to ensure privacy, and on garden sizes and landscaping. As I have no evidence that this document has been subject to review following public consultation, I am able to afford it only limited weight in accordance with PPS12¹.
10. National guidance in PPG3² urges local planning authorities to give priority to re-using previously-developed land within urban areas for housing, in preference to the development of greenfield sites. Designs and layouts should make efficient use of land without compromising the quality of the environment. The inefficient use of land, which it defines as less than 30 dwellings per hectare net, should be avoided. National policy in PPS1³ emphasises the importance of high quality and inclusive design that is appropriate to its context and takes opportunities to improve the character and quality of an area. It should be integrated into the existing urban form and natural and built environments, respond to the local context, create or reinforce local distinctiveness and be visually attractive.
11. The objectives of national guidance in PPG13⁴ are to integrate planning and transport at all levels, including promoting more sustainable transport choices and reducing the need to travel, especially by car. The guidance stresses the importance of more direct, safe and secure walking routes, including to schools, and of ensuring that the personal security concerns of pedestrians are addressed. Other relevant national guidance is included in PPG9 Nature Conservation, PPG24 Planning and Noise, Design Bulletin 32 - "Residential Roads and Footpaths", and its companion guide "Places, Streets and Movement".

Reasons

12. Fundamental to my consideration of both the main issues is the application of RLP Policy H 3 (previously-developed land). This emerging policy is at a stage where it carries substantial weight as it is up-to-date and in accordance with current national guidance. Prior to site clearance by the appellant several years ago, my understanding is that the site was garden land associated with the frontage housing development. After excluding this site, the surrounding houses would retain generous private rear gardens. Although its current overgrown condition is attributable to its recent history, I believe that it is reasonable to regard it as underused land. There is no doubt in my mind that the site qualifies as previously-developed land in accordance with the definition in PPG3.
13. I fully appreciate that most, if not all, the residents surrounding this site would much prefer this whole backland area to remain undeveloped, and be re-used for gardens or as a wildlife refuge. There is no doubt that the open character of the interior is a very pleasant

¹ Planning Policy Statement 12: Local Development Frameworks (2004) paragraph 5.22

² Planning Policy Guidance Note 3: Housing (March 2000)

³ Planning Policy Statement 1: Delivering Sustainable Development ODPM 2005

⁴ Planning Policy Guidance Note 13: Transport (March 2001)

feature of the area that is appreciated by its residents. However, judged against current national policy, this low density housing block does represent an inefficient use of housing land. It lies in an area accessible to local services and public transport, although the latter is limited in frequency. Both national and local policy imply that, in principle, there is a strong imperative for more efficient use of previously-developed land of this type to meet housing needs.

14. I note that the appellant assesses the density of the development at 26.3 dwellings per hectare (dpa) (5 houses on 0.19 hectare), which would be just below the minimum of 30 dpa recommended in PPG3. However, taking into account that this is a small site and the amount of it devoted to the access, I consider that the proposal represents reasonably efficient use of land in accordance with PPG3.
15. Any development of this site would result in some change to the existing character of the area and in some impacts on local residents that would be unwelcome to them. However, implementation of the relevant policies, designed to provide more housing within existing urban areas, necessarily implies more intensive use of many sites of this type. It follows that objections to such a development have to demonstrate significant harm to local character and/or to the living conditions of local residents.

Character and Appearance

16. The block of land between Seymour, Malvern and Winchester Roads is in residential use; apart from a public house on the Malvern/ Winchester Roads corner, a low single storey business centre building at the rear of the pub car park, and a bed and breakfast business in Winchester Road. The housing is generally 2-storeys in height and almost equally divided between detached and semi-detached dwellings, on plots that are deep rather than wide. The relatively narrow plot widths allow only limited glimpses between buildings from the surrounding roads into rear gardens and the central part of the block. House styles show considerable variety in detailing and materials.
17. The Council's statement argues that, because backland development is not a characteristic of the area, this form of development would be out of keeping. At the hearing, the Council clarified that it was opposed to the form of backland development proposed, rather than to the principle of this type of development.
18. The proposal is for 5 closely spaced detached houses in a straight line parallel with the 2 long sides of this housing block. The houses are all based on a similar 4-bedroom plan with variations in the use of hipped and gabled elements and materials. The roofs of the 3 central houses would be half-hipped with a ridge height of about 9 metres. The 2 end houses would be fully hipped with a ridge height of about 8¼ metres with long side roofs down to ground floor ceiling level to reduce the impact on adjoining gardens. The only direct evidence of the comparative above ground ridge heights of the surrounding housing is the height of the ridge of No.6, at 8.6 metres above ground level (appellant's survey drawing). Generally, I estimate that the ridge height of the central houses would be similar to that of the taller houses on the street frontages. I have taken into account that architectural drawings of roofs tend to give an exaggerated impression of height, compared with ground level views of buildings. This is because of the effect on perspective of roofs sloping away from the viewer.
19. Aside from the fact that this development would be in the interior of the block, in house type, orientation and design, I consider that it would not conflict in any significant way from the character of the surrounding development. Although it would be clearly visible

from many surrounding houses and gardens, there would be no substantial impact on the limited public views from the surrounding roads. Certainly the houses would be clearly visible from Seymour Road through the new access, and from Malvern Road, across the pub car park and the roof of the business centre. However, I do not believe that the proposed houses would cause any significant overall harm to the character and appearance of the neighbourhood.

20. The scheme includes 3 substantial garage buildings. I saw nothing similar to these in the immediate vicinity, with the possible exception of the long business centre block. However, these are single storey buildings with hipped roofs, set amongst 2-storey houses, so that their visual impact on the area as a whole would be very limited.
21. I conclude that the proposal would not be detrimental to the character and appearance of the mainly residential area. Therefore, in this respect, the proposal complies with the development plan, in particular SP Policies H5 & UB3 and LP Policy GP1 & H12, with emerging RLP Policies SDP 7, SDP 9, H 3 & H 10, and with national policy and guidance in PPG3 and PPS1.

Living Conditions of Local Residents

22. The new houses would be set more than 35 metres from the rear of houses in both Malvern and Seymour Roads. Even allowing for the fact that the houses would be at a slightly higher level than houses in Malvern Road, I consider that this distance would be more than adequate to ensure mutual privacy. The line of buildings would have a generally southeast to northwest orientation. In my view, this orientation, together with the distance to adjoining housing and gardens and the deep side roofs to the end houses, would avoid any undue loss of daylight or sunlight to adjoining houses and gardens.
23. A particular concern for the Council is that the height and size of the garages would be oppressive and over-dominant, as seen from adjoining houses and gardens. The garage eaves heights are all about 2.5 metres. This can be compared with the normal permitted development rights for garden fences of up to 2 metres, and for buildings with a flat roof of up to 3 metres. The ridge heights vary slightly with a maximum height of about 4.7 metres, compared with a maximum ridge height for a permitted development structure of 4 metres. However, these buildings all have fully hipped roofs sloping away from the site boundaries, so that, above eaves height, the roofs would have little effect on daylight and sunlight reaching adjacent gardens.
24. Measured along the mutual property boundaries, the closest distance from the adjoining Seymour Road houses to the garage buildings would be about 14 metres. This would be in excess of the 12.5 metres that the Council's supplementary guidance sets as the minimum distance for a blank 2-storey wall from a rear elevation with habitable room windows. The impact of the garages in adjoining gardens would be considerably less than this.
25. Nevertheless, I have considered carefully the cumulative effects of these garage buildings on adjacent rear gardens. I have a particular concern about the effect on the living conditions of the occupiers of No.8 Seymour Road. Half of the rear garden of this property would be between 2 garage buildings, one about 14 metres in length and the other about 5 metres. In my judgment, the combination of these garages on both sides of the garden would be unduly oppressive and unneighbourly. More than half the length of the larger garage building, the part closest to No.8, would provide a triple garage for the

existing house No.7 Seymour Road. As was noted at the hearing, this is the house that would now be allocated, for affordable accommodation. The nature of this accommodation and the requirement for parking provision remains to be resolved. On behalf of the appellant company, no objection was raised to excluding this triple garage from the proposal. This is a matter that could be dealt with by a planning condition that could also ensure that the remaining garage for No.3 is redesigned with a fully hipped roof.

26. A particular concern for the occupiers of No.6 Seymour Road, which would apply similarly to future occupiers of No.7, is the effect on their living conditions of noise and disturbance from the new access between these 2 houses. Housing is a noise sensitive use and there is no doubt that some additional noise would be generated at the side and to the rear of these properties as a result of this scheme. The appellant commissioned a professional acoustic report. This concluded that there would be only a small increase of 2-3dBA in the likely noise levels and that the small number of vehicle movements at night is unlikely to cause disturbance. I see no reason to disagree with this assessment. The length of new driveway is only about 50 metres between right angled junctions. Therefore, I would expect vehicle speeds to be slow and consequently to result in little engine and other noise. The proposed brick walls on both sides of the access should further limit the noise to the adjoining houses.

27. However, the design of the drive includes provision for a speed cushion. I see no necessity for this as a speed reduction measure within such a short length. To my mind, it would be likely to result in unnecessary suspension and other vehicular noise and may well generate some irritating headlight flicker effects, both for adjoining residents and those at the end of the drive. My concern in this respect could be overcome by a condition requiring its deletion from the scheme.

28. I conclude that, subject to the conditions referred to in paragraphs 25 & 27 above, the proposed building would not be detrimental to the living conditions of adjoining residents by reason of the buildings being oppressive and over-dominant to adjoining gardens, by overlooking and loss of privacy, by loss of light to gardens, and by excessive noise and disturbance. Therefore, in this respect, the scheme would comply with the development plan, in particular, LP Policies GP1 & H12, and with emerging RLP Policy SDP 1.

Other Matters

29. Local residents raised a number of other concerns about the design of this scheme. The access is designed as a shared driveway to serve 6 houses. The Council has raised no objection to the width or design of the access. This includes visibility splays at the entrance to meet the current national standards of Places, Streets and Movement. This publication was prepared to reverse the tendency for roads to dominate housing areas. It emphasises the need for a flexible interpretation of Design Bulletin 32 and a move away from overly prescriptive standards. I consider that the proposed design would be entirely adequate to meet the limited traffic, cycling and pedestrian requirements of this small site.

30. I have considered the concern expressed that the existing drive to No.6 Seymour Road enters the bellmouth of the new access. I agree that as a general guide, DB32 indicates that "no driveways should enter the bellmouth of a junction". However, this is a junction that would serve only 6 houses. I do not consider that this arrangement would give rise to any significant conflict or highway hazard in this case.

31. It is unfortunate that, prior to the hearing, the internal comments of the Council's officer responsible for the impact on wildlife had not been made available. These comments were prepared 5 years ago following the clearance of vegetation from the site by the developer. The view expressed was that the loss of the site to wildlife was regrettable, but, following clearance, it was difficult to prove that it was a critical component of the ecology of the area. The cumulative effect of the loss of a wildlife corridor area was raised and the suggestion made that this should be considered in the review of the Local Plan. Landscaping works and the provision of swift nesting and bat boxes were recommended.
32. In the absence of any objection on wildlife grounds from the Council, I must assume that, despite these earlier views, the site does not fall within the categories of sites that "support significant wildlife/nature conservation interest", in accordance with the definition of emerging RLP Policy H3. Nevertheless, I noted that an adjoining resident had highlighted the possibility that the site may now host one or more protected species. The earlier internal memorandum also draws attention to the possibility of such species temporarily disrupting works, and if so, to the need for specialist advice and liaison with the responsible statutory bodies to agree mitigation/translocation measures. On the evidence available, I consider that the interests of all parties would be best served by a condition requiring the developer to commission an up-to-date wildlife survey with recommendations for mitigation measures.
33. The Council confirmed that parking provision on the site meets their current standards for an area of low accessibility as defined in the emerging RLP. I see no reason to disagree with the Council's conclusion, and consider that the garages would provide adequate space for secure cycle parking.
34. There is concern that trees and hedges in adjoining gardens would be damaged by building foundation works. On site, one of the appellant's representatives explained that the garages would be built on a raft type foundation that would limit the need for excavation works close to boundaries. During my site visit, I did not identify any significant off-site trees that I consider would be adversely affected by the proposed works.
35. Whilst I agree that the new access would make it easier for criminals to penetrate into this central area, in my view this disadvantage would be balanced by the improved visual supervision from the new houses. The new walls to the driveway, and a condition covering the fencing of the site, should also help to provide overall security for the site and adjoining houses and gardens. I consider that garden sizes would be adequate. There is no evidence that water-run off and foul sewerage pose special difficulties.

Conclusion

36. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Conditions

37. I have considered the imposition of conditions in the light of the 6 tests and other advice of Circular 11/95³, in addition to the statutory time limit. The Council and a resident had suggested some conditions, and others have arisen as a result of my consideration of the issues. For the reasons given in paragraphs 25 and 27 above, I shall impose conditions

³ Department of the Environment Circular 11/95: The Use of Conditions in Planning Permissions

modifying the proposal to exclude the garage for No.7 Seymour Road and the speed cushion. During the continuation of the hearing on site, it was agreed that a condition requiring the submission of floor levels is necessary to ensure that the buildings have a close relationship to actual ground levels. Arising from my conclusions on wildlife considerations and to ensure that statutory obligations under wildlife legislation are fulfilled, a condition is necessary requiring an up-to-date wildlife survey, any necessary mitigating measures and implementation.

38. As no details are given in the application, materials and boundary treatment conditions are necessary to ensure that the scheme is internally cohesive and harmonises with the surroundings. I believe that a requirement for subsequent retention of the boundary treatment would be unduly restrictive. It could unreasonably prevent adjoining owners from agreeing changes that might better suit their needs. Sufficient landscaping details have been submitted to describe the proposed scheme. However, a condition is required covering submission of a landscaping timetable, implementation of the scheme and replacement of failures.
39. A wheel cleaning condition is necessary to prevent traffic hazards caused by the deposit of mud on the public highway. As the site is close to houses, a working hours condition is necessary to ensure reasonable peace and quiet for local residents outside normal working hours. Having heard the contrasting views of both the appellant and residents, I have concluded that the hours suggested by the Council represent a reasonable compromise.
40. National advice is that there is a presumption against the removal of the freedom to exercise permitted development rights. For this reason, I shall modify the Council's suggested condition to exclude only front extensions, that might detract from the main public face of the scheme, and alterations to sides of the houses at each end to ensure that privacy and light for adjoining gardens is not compromised.
41. For reasons of highway safety, during the construction of the scheme and subsequently, a condition is essential to ensure that the proposed improvements at the entrance from Seymour Road are carried out at an early stage. A further condition is required to ensure that provision of parking and garaging proceeds in conjunction with the houses, so that unnecessary parking on the public highway is avoided. The parking provision proposed is at the maximum permitted by the Council's current policies. Both to ensure that this maximum is not exceeded and that the landscaped area in front of the houses is retained, a condition preventing the creation of further parking areas is necessary.
42. I have decided not to impose a number of conditions that were discussed during the hearing. Whilst I appreciate the need for satisfactory arrangements for the storage and recycling of refuse, I consider that, as these are detached houses, this is best left to the discretion of individual occupiers. I am also concerned that a planning condition would not be sufficiently flexible to adapt to subsequent changes in household recycling arrangements. Bearing in mind that all permissions must be implemented in accordance with the approved plans, I consider that a strict implementation condition is only justified where precise implementation is essential, for example, in cases in a conservation area where design details are particularly critical.
43. Specific provision for bicycle storage is unnecessary as all the new houses have garages that could be used for this purpose. I have carefully considered the need for a requirement for the road to be built to adoptable standards, but this does not appear to meet the

required test for a condition of being "relevant to the ^{SUIP}development to be permitted". Whilst I appreciate that local residents are keen to avoid Seymour Road being cluttered by contractors' vehicles, a condition restricting parking outside the site on the public highway would not be valid. For their own convenience I would expect contractors to make efficient use of space within the site. A condition preventing burning on site is unnecessary as the main parties confirmed that this would be illegal.

44. I have considered a restriction on any commercial use of the new buildings. I believe that any commercial use causing a nuisance to local residents would not be ancillary to the permitted dwellinghouse use, and would need a separate permission. A planning condition requiring control of the nature of imported fill material is unnecessary, because the deposit of waste material is subject to other legal controls.

Formal Decision

45. I allow the appeal and grant planning permission for 5 2-storey houses (4 bedroom) and garages at Land rear of 5 to 9 Seymour Road, Southampton, SO16 6RH, in accordance with the terms of the application No.99/01407/FUL/28259, dated 16 December 1999 as amended on 12 May 2000, and amended plans ref.nos.2000/06/02/01A, SO/Hs/300A, 884/02A and 884/03B received on 11 March 2004, subject to the following conditions:

1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision;

2) Notwithstanding the details shown on the submitted plans, the permission hereby granted shall exclude the proposed garaging provision to serve No.7 Seymour Road. Prior to the start of any works to implement this permission, revised details of the garage for Plot 3, showing a fully hipped roof, shall be submitted to and approved in writing by the local planning authority. This building shall be constructed only in accordance with these approved revised details;

3) Notwithstanding the details shown on the submitted plans, no speed cushion shall be installed at any time on the shared access driveway;

4) Prior to the start of any works to implement this permission, details of final finished floor levels and finished ground levels in relation to a fixed datum shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details;

5) Prior to the start of any works to implement this permission, a survey and report to assess the current use of the site by wildlife, including protected species, and to advise of any necessary measures and programme for mitigation and /or translocation, shall be submitted to and approved in writing by the local planning authority. Any necessary measures shall be carried out as approved and in accordance with the approved programme;

6) Before development is commenced, details and colours of external materials and finishes, and, where so required by the local planning authority, samples of such materials and finishes, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details;

7) No development shall take place until details of fencing, walling or other boundary treatment have been submitted to and approved in writing by the local planning

authority. The dwellings hereby permitted shall not be occupied until the fencing, walling or other boundary treatment have been completed in accordance with the approved details;

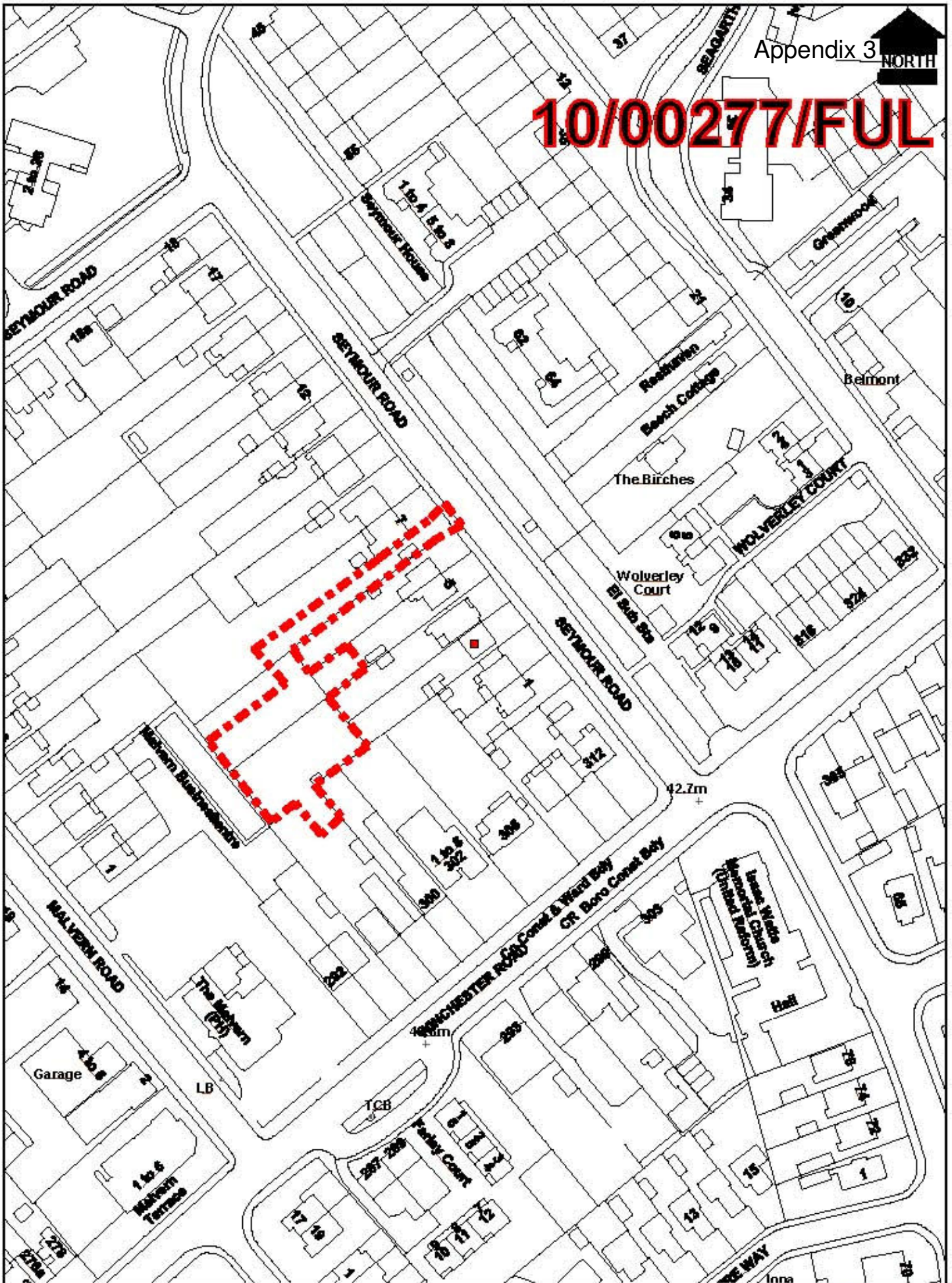
- X
- 8) No development shall take place until a programme for the implementation of the submitted landscaping scheme, related to the programme of building development, has been submitted to and approved in writing by the local planning authority. The submitted landscaping scheme shall be implemented in accordance with the approved details and implementation programme. Any plants or trees, including those retained as part of the scheme, which, within five years from the date of first occupation of the last dwelling unit on the site to be occupied, die, or become in the opinion of the local planning authority seriously diseased or damaged or are removed, shall be replaced during the next planting season following their demise with specimens of a similar size and species unless agreed otherwise in writing by the local planning authority;
- 9) During the period of the preparation of the site, excavation for foundations or services, and the construction of the development, wheel cleaning facilities shall be available on the site and no vehicle shall leave the site until its wheels have been cleared sufficiently to prevent mud being carried on to the public highway;
- 10) No works of ground preparation, excavation or construction, shall be undertaken on Sundays or Public Holidays. On other days no work, except for internal works that are inaudible outside the buildings, shall be undertaken outside of the following hours:
0800 to 1800 hours Mondays to Fridays inclusive
0900 to 1300 hours on Saturdays.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no works within Schedule 2 Part 1 Classes A, B or C for the enlargement, improvement or other alterations to the dwellings hereby permitted, shall be undertaken to the walls or roofs on the front (northeast) elevation of the 5 new houses, to the southeast side wall and roof of the house on Plot 1, or to the northwest side wall and roof of the house on Plot No.5;
- X
- 12) Prior to the start of construction of the buildings hereby approved, the kerb and footway alterations to provide the visibility splays at the entrance to Seymour Road shall be completed in accordance with the approved plans;
- 13) Until the access, turning area, parking and garaging necessary for and associated with each individual dwelling have been completed in accordance with the approved plans, that dwelling shall not be occupied. Thereafter, at all times the turning areas, parking and garaging shall be kept free of obstruction and available for use for these purposes;
- 14) Outside the areas allocated for parking on the approved plans, no additional parking area shall be formed or used.

Edward Ditching

INSPECTOR



10/00277/FUL



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Date : 16 August 2010

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Agenda Item 5

Southampton City Planning & Sustainability
Planning and Rights of Way Panel meeting - 21 September 2010
Planning Application Report of the Planning and Development Manager

Application address: 9 The Triangle, Cobden Avenue, Southampton			
Proposed development: Change of use from A1 (Shops) to mixed use A3 (Sandwich/Coffee Bar) and use of forecourt as external dining area			
Application number	10/00606/FUL	Application type	FULL
Case officer	Stuart Brooks	Public speaking time	5

Applicant: Mr Gary Plested	Agent: Mr Ian Knight
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Recommendation Summary	Refuse
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Reason for Refusal

The proposed refuse management strategy to facilitate the change of use to class A3 would result in the storage of wheelie bin within front curtilage of the premises which forms a prominent part of the public realm, representing an unsightly and visually obtrusive feature within the street scene and the character of the building's shopfront which is considered to be a heritage asset of local importance. As such the proposal would be materially harmful to visual amenity and therefore contrary to "saved" Policies SDP1 and REI6 of the City of Southampton Local Plan Review (March 2006) and Policy CS3 and CS13 of the Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by policy HE7 of PPS5 - Planning for the Historic Environment (March 2010).

Appendix attached			
1	Development Plan Policies	2	SCC Policy Team retail survey 2009

Recommendation in Full

Refusal.

1.0 The site and its context

1.1 This application site consists of a single retail unit (0.01 ha site area) with a basement area and no external service area in its curtilage that forming a terrace of buildings from 1 to 2 storey in height as part of the Bitterne Triangle Local Centre fronting along Cobden Avenue.

1.2 The application site is currently occupied by "Food to Suite". The property has a large open glazed shopfront retaining many original architectural features and details dating back to the beginning of the 20th century which is considered as a heritage asset of local importance due to its historic character and appearance. The space immediately to the front of the premises between the public pavement is a private forecourt in the ownership of the applicant.

1.2 The existing units in the Local Centre are mainly occupied by a range of uses which provide day to day service to local people such as a convenience store, bakery, cafe/restaurant, take away, laundrette, second hand shop, florist.

2.0 Proposal

2.1 Planning permission is sought to change the use of the premises from the current A1 sandwich shop use to mixed A3 café, offering light hot and cold food and beverages prepared at the premises (with no external venting of cooking fumes) such as sandwiches, cooked breakfast, Panini's, jacket potato, and salad. It was originally proposed in the description of development to include a mixed A5 hot food takeaway use, but this has been agreed with the applicant to be omitted from the description. There is the opportunity for the customer to pre-order food by phone for collection, however, the nature of the proposed use is more akin to A3 café given the cooking processes involved and type of food on offer.

2.2 The applicant intends to provide external outdoor seating and rope rail on posts under 1 metre high within the private front forecourt of the premises. The provision of seating within the private forecourt for customers to stay and eat on premises does not require the benefit of planning permission under an authorised A3 café use subject to these features not being permanent or fixed. The applicant has amended the planning application to remove the original proposed external decking. There are no changes proposed to the external appearance of the building. The refuse management strategy involves the storage of bins on the front private forecourt.

3.0 Relevant Planning Policy

3.1 The Development Plan for Southampton currently the "saved" policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 A3 and A5 Food and Drink uses are permitted within Local Centres by the Council's Local Plan policies providing that their role continues serving the daily needs of local population. Proposals involving food and drink uses will be permitted in local centres providing that any adverse impact on neighbouring occupiers from noise disturbance, cooking smells and litter can be appropriately controlled in the view of the Local Planning Authority. In accordance with adopted Core Strategy Policy CS3 (Town, District and Local Centres) and Local Plan "saved" Policy RE16 (Local centres) and RE17 (Food and drink uses).

3.3 Under government guidance Policy HE7 of PPS5 - Planning for the Historic Environment (March 2010) the Local Planning Authority should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. Policy SDP7 (Context) and CS13 (Fundamentals of design) seeks to assess whether a development will cause material harm to the character and/or appearance of an area in context with the quality of the local environment such as visual characteristics.

4.0 Relevant Planning History

09/00468/ENCOU Allegation that use of new shop falls within A3 and not A1.

Note: The Enforcement case was closed as it was considered that the nature of the use at the time classed as A1 use.

5.0 Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was also undertaken which included notifying adjoining and nearby landowners, and erecting a site notice (17.06.10). At the time of writing the report 10 representations have been received from surrounding residents. A summary of these comments are set out below.

5.2 Increase in traffic and parking demand generated resulting in congestion and lack of parking for regular shoppers due to increase in customers added to the impact from customers accessing the existing businesses operating in the local area. In particular, this will increase visitors illegally parking and affecting safety of other road users close to the main junction with Whitworth Road and Cobden Avenue.

Response

The Highway Officer has raised no objection to the impact from the proposed use on highway safety. The additional trips associated with this type of day time use serving local needs will not significantly change and, therefore, not pose an extra demand on traffic and local street parking. There are enforceable parking restrictions in place to the front of the premises which allows 'no waiting at any time' to prevent unsafe parking.

5.3 There is no access to refuse storage for commercial waste, and insufficient litter bins to dispose of customer waste outside the establishment and in the local area which will attract vermin and pose public health problems.

Response

The applicant has proposed a refuse management strategy to permanently store bins on the front forecourt of the premises which is supported by Environmental Health Officer but has an impact on the visual amenities of the area.

5.4 The number of food and drink businesses has reached a capacity to sufficiently cater for the local population. The Local Centre requires a range of uses to maintain its viability and vitality. Further A3/A5 uses would reduce the number visitors attracted to shopping in the local area for day to day needs, and are more likely to then visit larger district centres such as Bitterne Precinct and Portswood Road for these needs. An additional A3/A5 use would harm the vitality and viability of similar food and drink businesses operating in the local area that have made large investments imposed with strict non daytime license rules, causing them to close down with a negative affect to the local community.

Response

The occupation of the unit with the café use providing an active frontage and table/seating to the forecourt will contribute to the vitality of the local centre. The control of hours can be restricted by the Council as seen fit under separate licensing laws.

5.5 The external decking and barrier is out of character with the period design and style of the building frontage, and the structure is at risk of theft.

Response

This element of the application has been removed and, therefore, is not being considered under this application. The Conservation Officer has raised no objection to the impact on the appearance and character of the building from the addition of tables and chairs and rope rail on posts (under 1 metre high) to the front forecourt. This will not require planning permission in connection with an authorised A3 use providing they are removed and stored inside at night time on a daily basis.

5.6 The Council have advised in the past that no more food and drink uses would be permitted in the local area. The increase in these businesses has changed the character of Bitterne Park.

Response

The Council should consider each planning application on its own individual merits, and there is no policy presumption against the principle of introducing the proposed A3/A5 use in Bitterne Triangle Local Centre. There are no planning policy grounds to restrict further food uses in this Local Centre.

5.7 The retail unit is too small for food preparation which will pose a health risk, and the provision of dining seating would require toilet facilities with disabled access.

Response

This is a licensing matter to be considered under statutory legislation separate from the planning system. The Environmental Health Food Safety Team has raised no objection to the introduction of A3/A5 use subject to providing adequate refuse storage facilities.

5.8 **SCC Highways** - No objection raised to the impact from the proposed use on highway safety.

5.9 **SCC Environmental Health Food Safety** – No objection raised, subject to implementing the proposed refuse management strategy, and submitting further details to control of hours of operation, and provision of adequate extraction and ventilation equipment to control cooking fumes.

It should be noted that the hours of operation as intended by the applicant will be only permitted Monday to Sunday 0730 to 1630 hours. The cooking processes involved do not require the venting and extraction of cooking smells.

5.10 **SCC Policy Team** - No objection raised in principle, as A3 and A5 Food and Drink uses are permitted within Local Centres by the Council's Local Plan policies **providing that their role continues serving the daily needs of local population, and the loss of shops and services must be balanced against the harm to the level of shopping service provided**, in accordance with adopted Core Strategy Policy CS3 and Local Plan "saved" Policy REI6. Proposals involving food and drink uses will be permitted in local centres providing that any adverse impact on neighbouring occupiers from noise disturbance, cooking smells and litter can be appropriately controlled in the view of the Local Planning Authority in accordance with" Policy SDP1 and REI7. Results from a Retail Survey of Bitterne Triangle Local Centre carried out in 2009 have been provided.

5.11 **SCC Heritage Conservation Team** – Objection raised to the original intention to install the permanent decking to the forecourt which was considered to detract from the character and appearance of the historically important façade, however, no objection is raised to the revised proposal to use of tables and chairs and rope rail on posts on a daily basis. The decking element of the application has been removed and, therefore, is not being considered under this application.

6.0 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. Maintain the Role of Local Centre;
- iii. Amenity of Neighbouring Occupiers;

- iv. Highways and Parking;
- v. Design, and Impact on Established Character;

6.2 Principle of Development

6.2.1 The application seeks to change the use of the premises from class A1 sandwich shop to provide a mainly A3 café use. The description of development has been advertised to include class A5 hot food takeaway, however, the nature of the business activities and cooking processes involved are not typical of this use. This proposal should be assessed, principally, against “saved” Local Plan Review Policy REI6 as supported by Core Strategy Policy CS3 which permits a range of uses including A3 (café/restaurant) and A5 (hot food takeaway).

6.2.2 The Local Plan Review under policy REI6 seeks to maintain and, where possible, enhance their role of serving the daily needs of the local population of the Bitterne Park Triangle Local Centre. The loss of shops and services will therefore be resisted, and such proposals will be judged against the harm to the level of shopping service which might occur. The proposal is consistent with these aspirations.

6.2.3 The day time hours of business, level of seating for customers to stay on premises, and type of cooking processes involved is consistent with the requirements of Local Plan Review “saved” Policy SDP1 and REI7 to prevent adverse loss of amenity to neighbouring occupiers.

6.2.4 The principle of redevelopment is, therefore, accepted by the current development plan policies listed above.

6.3 Maintain the Role of Local Centre

6.3.1 “Saved” policy REI6 of the Local Plan Review seeks a mix of uses to create a range of local services including A3 and A5 food and drink uses as supported by policy CS3 of the Core Strategy. Due to the type of cooking processes involved and the day time hours of operations, the nature of use is more akin to café that caters for the daily needs of local people rather than a typical hot food takeaway as per the description of development.

6.3.2 Following the concerns raised by local traders with regards to proportion of food and drink uses within the Bitterne Triangle local centre, figures are stated below from *SCC Policy Team Retail Survey carried out in 2009* (results summarised for ground floor units in **appendix 2**). The provision of units and competition between local traders is decided by the actions of free market and consumer choice. A class A3 and A5 unit can be reverted to A1 use without planning permission under permitted development rights.

6.3.3 The retail survey shows the local centre at the time was composed of **total 31 commercial ground floor units**, of which **3 - vacant, 19 - A1/A2 retail, 2 – A3 café, 6 - A5 hot food takeaway, 1 – D1 health care**. The proportion of total ground units in retail and food and drink use is **61% and 26%**. This balance of food and drink uses with high proportion of retail/professional and financial services is not considered to be excessive to harm the level of shopping service catering for local day to day needs. This would suggest that the viability of the local centre as recent as 2009 is acceptable. **An up to date survey of the current proportion and composition uses within the local centre will provided at the Panel meeting.**

6.3.4 In the times of the national economic climate, the occupation of the unit with a day time café use and table/seating to the forecourt will provide an active commercial frontage contributing to the vitality of the local centre.

6.4 Amenity of Neighbouring Occupiers

6.4.1 The Environmental Health Food Safety Team have raised no objection, subject to adequate provision of refuse storage facilities for waste management and collection on the premises, control of hours of operation, and provision of adequate extraction and ventilation equipment to control cooking fumes. The applicant has offered to install extraction equipment.

6.4.2 A waste management plan has identified that the A3/A5 use will store refuse in a wheelie bin outside the premises on the private forecourt. The Environmental Health Officer has raised no objection to this arrangement however, storing of refuse bins to the site frontage is not ideal in visual terms and would detract from the character of the area.

6.4.3 The hot and cold food on offer and cooking processes involved do not currently require the venting and extraction of cooking smells, however, the applicant has offered to install this equipment. The hours of operation will be only permitted Monday to Sunday 0730 to 1630 hours. The nature of the predominantly café use will therefore not result in an adverse impact on neighbouring occupiers from noise disturbance, cooking smells and litter to be appropriately controlled by conditions.

6.5 Highways and Parking

6.5.1 The Council's Highways Officer has raised no objection to the proposal subject that all furniture equipment and boundary rails associated with the external area does not encroach or overhang the public highway. The additional traffic associated with this type of day time use serving local needs compared to retail shop will not significantly change and, therefore, current level of street parking is sufficient in capacity. There are enforceable parking restrictions in place to the front of the premises which allows 'no waiting at any time'. Car parking is at a premium in this area but additional on-road parking has been created in the past 2-3 years on Bond Road and Cobden Bridge in response to local concerns. Reasonable use of these facilities by customers and for deliveries will not prejudice highway safety.

6.6 Design, and Impact on Established Character

6.6.1 There are no external changes proposed to the external appearance of the building, as the external decking element of the application is no longer part of the application. The addition of tables and chairs and rope rail on posts (under 1 metre high) to the front forecourt will not require planning permission under an authorised A3 use providing they are removed and stored inside at night time on a daily basis, creating an active frontage with tables and chairs in the private forecourt to serve customers during the day time maintaining commercial activity and open shopfront.

6.6.2 The Conservation Officer has advised that the building is recognised by the Historic Conservation Team as a heritage asset of local importance. The council is seeking to maintain the quality of the public realm. The property does not benefit from an external service area unlike most other commercial premises in the local area, and is further constrained by lack of internal storage due to the footprint and layout of the business. The proposed refuse management strategy to facilitate the change of use to class A3 would result in the storage of wheelie bin within front curtilage of the premises which forms a prominent part of the public realm, representing an uncharacteristic and visually obtrusive addition to the wider street scene and the historic appearance and character of the building's shopfront which is considered to be a heritage asset of local importance.

6.6.3 As such the proposal would be materially harmful to visual amenity and therefore contrary to “saved” Policies SDP1 and REI6 of the City of Southampton Local Plan Review (March 2006) and Policy CS3 and CS13 of the Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by policy HE7 of PPS5 - Planning for the Historic Environment (March 2010).

7.0 Summary

7.1 The principle of a change of use of the current A1 sandwich shop use is acceptable and this would contribute to the viability of the local centre and street activity during the daytime without an adverse impact on public amenity and highway safety. However, whilst all these elements of the application are acceptable, the method of refuse management to facilitate the change of use is not a suitable arrangement which will detract the quality of the visual character of the local area.

8.0 Conclusion

8.1 This application should be refused for failure to provide appropriate refuse storage facilities.

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 (c), 2 (e), 5 (e), 6(c), 7 (a), 7(v), 7 (x), 9(a), 9 (b)

SB for 20.07.10 PROW Panel

Reason for Refusal

The proposed refuse management strategy to facilitate the change of use to class A3 would result in the storage of wheelie bin within front curtilage of the premises which forms a prominent part of the public realm, representing an unsightly and visually obtrusive feature within the street scene and the character of the building's shopfront which is considered to be a heritage asset of local importance. As such the proposal would be materially harmful to visual amenity and therefore contrary to “saved” Policies SDP1 and REI6 of the City of Southampton Local Plan Review (March 2006) and Policy CS3 and CS13 of the Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by policy HE7 of PPS5 - Planning for the Historic Environment (March 2010).

POLICY CONTEXT

Core Strategy - (January 2010)

CS3	Town, District and Local Centres, Community Hubs and Community Facilities
CS13	Fundamentals of Design
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
REI6	Local Centres
REI7	Food and Drink Uses

Other Relevant Guidance

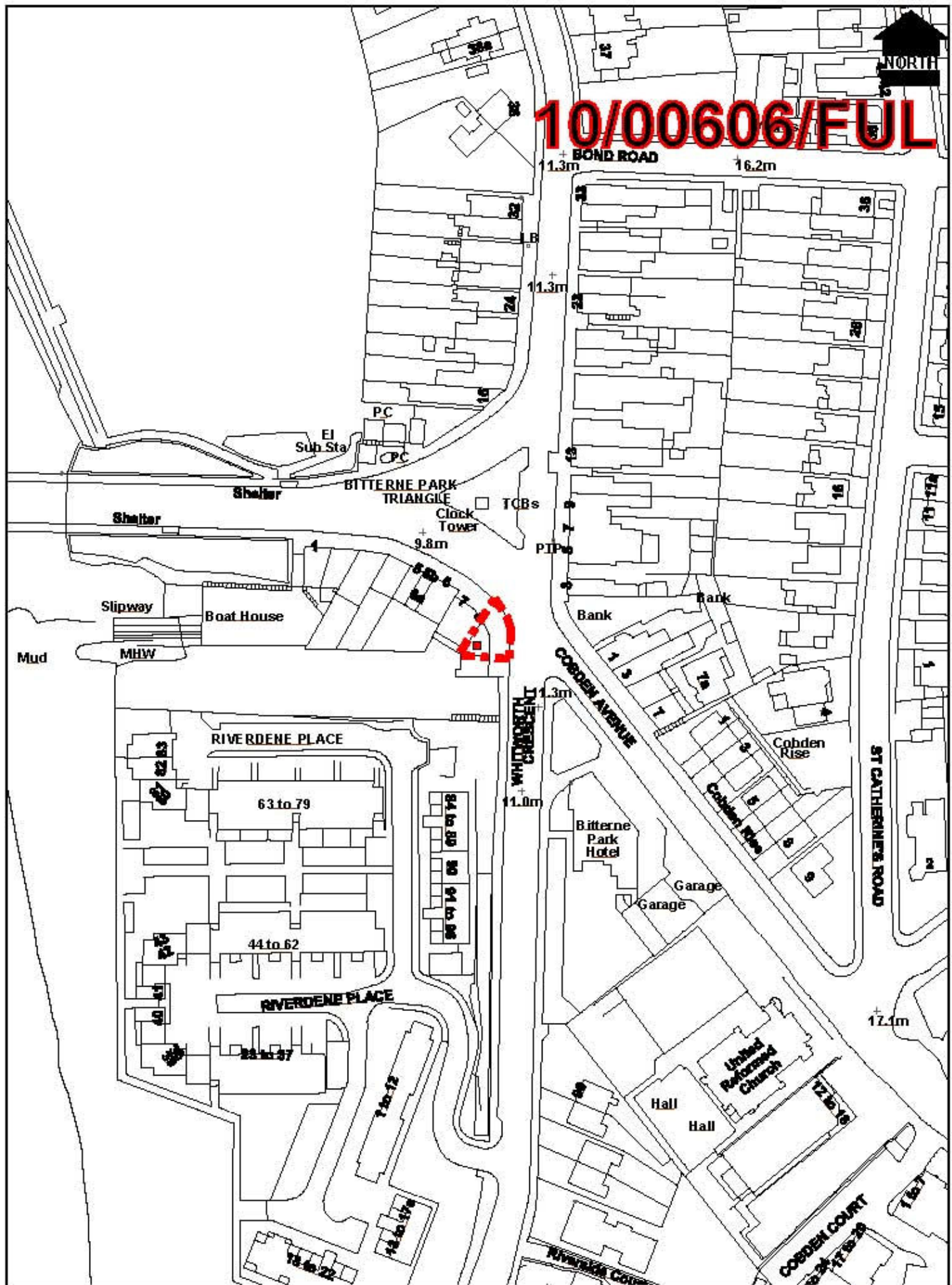
PPS1	Delivering Sustainable Development (2004)
PPG24	Planning & Noise (2004)

SCC Policy Team Retail Survey Bitterne Triangle local centre (6/1/09)

A1	Charity shop
A1	Tans & Massage
A1	Flowers
A1	Gallery
A1	Tattoo
A1	Polish Cornershop
A1	Persian rug shop
A1	Barber
A1	Kitchen show room
A1	Picture framing & art shop
A1	Newsagent
A1	Funeral parlour
A1	Butcher
A1	Baker
A1	Pet shop
A1	Piano shop
A1	Second hand clothing
A2	Estate Agents
A2	Betting shop - Coral
19	Total A1/A2
A3	Café
A3	Café/deli
A5	Takeaway - Chinese
A5	Takeaway - fish n chips
A5	Takeaway - fish n chips
A5	Takeaway - Chinese
A5	Takeaway - Chinese
A5	Indian Takeaway
8	Total A3/A5
D1	Podiatrist
1	Total D1
3	Total Empty Units
31	Total units

NORTH

10/00606/FUL



Scale : 1:1250

Date : 16 August 2010

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Agenda Item 6

Southampton City Planning & Sustainability
Planning and Rights of Way Panel meeting - 21 September 2010
Planning Application Report of the Planning and Development Manager

Application address: 34 Northcote Road, Southampton			
Proposed development: Change of use from a 3-bed house (Class C3) to a 4-bed house in multiple occupation, HMO (Class C4)			
Application number	10/00743/FUL	Application type	Change of Use
Case officer	Mat Pidgeon	Public speaking time	5 minutes

Applicant: Mr Damion Theobald	Agent: N/A
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Recommendation Summary	Grant planning permission.
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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 character of the area, the potential intensification of occupation and the amenities of nearby occupiers have been considered and are not judged to have sufficient weight to justify a refusal of the application. 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, SDP7 and H4 of the City of Southampton Local Plan Review (March 2006); and CS16 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

Appendix attached			
1	Development Plan Policies		

Recommendation in Full

Grant planning permission

1. The site and its context

1.1 The application site comprises a Class C3, mid-terraced dwelling house positioned approximately midway along Northcote Road. The surrounding area is predominantly residential in character and supports both traditionally owner occupied family residential dwellings along with private rented accommodation.

2. Proposal

2.1 The owner of number 34 wishes to change the use of the property from a C3 dwelling house to a C4 dwelling house. Usually a C4 use would allow the property to be occupied by between 3 and 6 unrelated occupants however the applicant is happy for the maximum number of residents to be restricted to 4. There are no proposals to extend the dwelling. The applicant states within the supporting documents that there are at present three bedrooms in the property however upon visiting the site a single bed was noted within the roof space which is intended for storage purposes only. The applicant states that the roof space would not be used as a bedroom if the scheme is supported, instead the additional bedroom (taking the total to 4) would be positioned in the room located at the front of the property and at ground floor level.

3.0 Relevant Planning Policy

3.1 The Development Plan for Southampton currently comprises the South-East Plan: Regional Spatial Strategy (May 2009), the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 Policy CS16 of the Core Strategy resists the loss of family dwelling houses and seeks to control houses in multiple occupancy, particularly those properties which provide accommodation for students.

3.3 Paragraph 5.2.11 prevents the loss of family dwelling houses on redevelopment / conversion sites where planning permission is required. This means that CS16 opposes proposals which seek to change the physical layout of family dwelling houses so they no longer have the potential to be used as family dwelling houses without further physical alterations, i.e. it prevents the demolition or conversion of family dwelling houses into bedsits or flats where a family sized unit is not provided. Therefore Policy CS16 would restrict the conversion of a 3 bedroom (or larger) C3 dwelling to smaller flats and/or bedsits but does not prevent a change to C4 shared houses.

3.4 Paragraph 5.2.12 explains that *‘where planning permission is required the acceptability of a proposal to convert a building to a House in Multiple Occupation (HMO) will be assessed by balancing the contribution that such a*

conversion will make to meeting housing demand against the potential harm to the character and amenity of an area and the suitability of the property concerned. Further information is contained in Policy H4 of the adopted Local Plan Review.”

3.5 Planning permission is currently required for a change of use to a C4 dwelling house due to a change in the Use Classes Order (adding class C4) which took effect on 6th April 2010, however the government have indicated that from October 2010 this is unlikely to be the case. However, at the present time a change of use from a C3 Use to a C4 use is required and the criteria of Policy H4 are those, which applications of this type should be assessed. Valid considerations associated with C4 use include level of activity, parking and impact on the character of the area.

3.6 Policy H4 requires the LPA to balance the contribution a development could make to meet housing demand against the harm to the character and amenity of the area. In particular the assessment must take account of the amenities of the residents of nearby properties, the character and amenity of the surrounding area and the adequacy of the amenity space which is provided.

4.0 Relevant Planning History

None.

5.0 Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and by erecting a site notice (08/07/2010). At the time of writing the report 8 representations have been received from surrounding residents. The following observations/comments were made:

- Parking pressure.
- Family homes should be retained for families.
- Contrary to PPS3, CS16 and H4.
- The site is within an area likely to be an area of restraint.
- The increase in size and occupancy would be inappropriate to the area which is largely made up of smaller houses intended for family and starter homes.
- Out of character with the rest of the area.
- Overdevelopment of the site, increased burden on local infrastructure

RESPONSE

These planning considerations are responded to in detail in section 6 of the report - Planning Considerations.

5.2 **SCC Highways Development Control** – No objection to the proposal.

5.3 SCC Planning Policy – No objection to the proposal. It is stated that:

'The application for a change of use from a dwelling house (C3) to a house in multiple occupation (C4) is acceptable and is not contrary to adopted policies. CS16 refers to no net loss of family homes where a site can accommodate a mix of residential units. A family home is defined as being a dwelling with three or more bedrooms with access to useable private amenity space. The policy can only prevent a loss of a family home if redevelopment or conversion takes place (physical works undertaken) to convert an existing house into self contained units (as explained in Para 5.2.11 of the Core Strategy).

The proposal will not result in physical work; therefore the shell of the house will physically remain as a family home.

Policy H4 discusses proposals for the conversion of dwellings or other buildings into houses in multiple occupation and indicates that they will be assessed on the balance between the contribution the development could make to meeting housing demand, against the harm to the character and amenity of the area which might occur.

In this circumstance planning policy find the application acceptable'.

6.0 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. character and amenity of the surrounding area; and
- iii. the adequacy of the amenity space provided.

6.2 Given that the scheme would not change the physical structure of the property or prevent it from being used as a family dwelling house in the future; and given the current policy status, the principal of the change of use is acceptable subject to the criteria of policy H4.

6.3 The council are yet to carry out further research to consider whether other forms of control, such as areas of restraint and/or the setting of HMO thresholds, would be suitable for the area or not, in which case little weight should be attributed to this consideration.

6.4 The impact on the character and amenity of the area has been assessed whilst carrying out a site visit. The character of the area is formed by both C3 and

C4 dwelling houses. The current balance between C3 and C4 dwelling houses in Northcote Road is continuing to be monitored with help from other council departments reviewing the electoral register and council tax records, the results of which will be verbally presented to panel.

6.5 The judgement as to the acceptability of the proposals whilst planning permission is still required falls upon the criteria of Policy H4. It is recognised that there is the potential for a greater level of activity to take place at the property and in the local area as a result of a C4 dwelling house in comparison to a C3 dwelling house. The activity is likely to include increased movement by residents, additional vehicular parking, additional refuse and noise as occupants would not be residing within the property as a family unit living together in a traditional sense. Whether the additional activity is harmful is, however, more difficult to prove particularly if a limitation on the number of occupiers is set at 4 persons. As previously stated the change of use would not be considered out of character and/or context with the surroundings as there are already C4 dwelling in the neighbourhood. Whilst there is potential for some additional Impact on the amenities of existing residents it would be very difficult to quantify and unlikely to be harmful in itself should future occupiers behave reasonably. Unreasonable behaviour by occupiers resulting in statutory nuisance would be dealt with by other legislation.

6.6 With regard to parking, the property is within a high accessibility area. The need for the use of a car in this location is reduced and this is reflected in the adopted parking standards in the development plan. There are no objections to the proposals on highway grounds.

6.7 The determination should also take into account the positive roll that C4 dwelling houses bring to the city and residents of the city. C4 uses do not only provide student accommodation. Southampton benefits from three hospitals with several thousand employees, two universities and a large commercial and retail base. It is also surrounded by a relatively expensive hinterland including Winchester and the New Forest. This has the effect of drawing many young professionals into the city to seek accommodation and C4 dwelling houses provide an important role in the supply of affordable residential units for a broad range of individuals making up a significant proportion of Southampton's community and economy.

6.8 Many of the representations object to the proposal on the grounds that there would be an overdevelopment of the site, in-sufficient amenity space and unacceptable parking pressure would be caused. In response it should be noted that whilst the property remains a C3 dwelling there is no reason why the same number of individuals could not live at the property and who could also own the same number of vehicles as those associated with a C4 dwelling house. The proposal is for a maximum number of four residents (as agreed with the applicant) and the amenity space is considered adequate given the context of

other private gardens in the area. Overdevelopment tends to refer to the scale/footprint of new development and is therefore not a consideration in this case, due to the fact that there are to be no physical changes or additions to the dwelling. The scheme is not considered out of context and for the reasons discussed above it is not considered reasonable to object to the scheme on the potential effect on surrounding residential amenity.

7.0 Conclusion

7.1 This application has been assessed as being acceptable to residential amenity and its local residential context. The application is recommended for approval.

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(c), 2(e), 4 (r), 4(s), 6(c), 7(a), 7 (c), 9(a), 9(b).

MP for 21.09.10 PROW Panel

PLANNING CONDITIONS Application 10/00743/FUL

01. APPROVAL CONDITION - Full Permission Timing Condition - change of use

The use hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990(as amended).

02. APPROVAL CONDITION - Residential Restriction

Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/653) or any Order amending, revoking or re-enacting that Order, no more than 4 residents shall at anytime occupy the property whilst it is in use as a C4 dwelling house (House in multiple occupancy whereby the property is occupied by unrelated individuals who share basic amenities).

Reason:

In order that the Local Planning Authority may exercise further control in this locality given the scale of the property and surrounding context; and character.

POLICY CONTEXT

City of Southampton Local Plan Review – (March 2006)

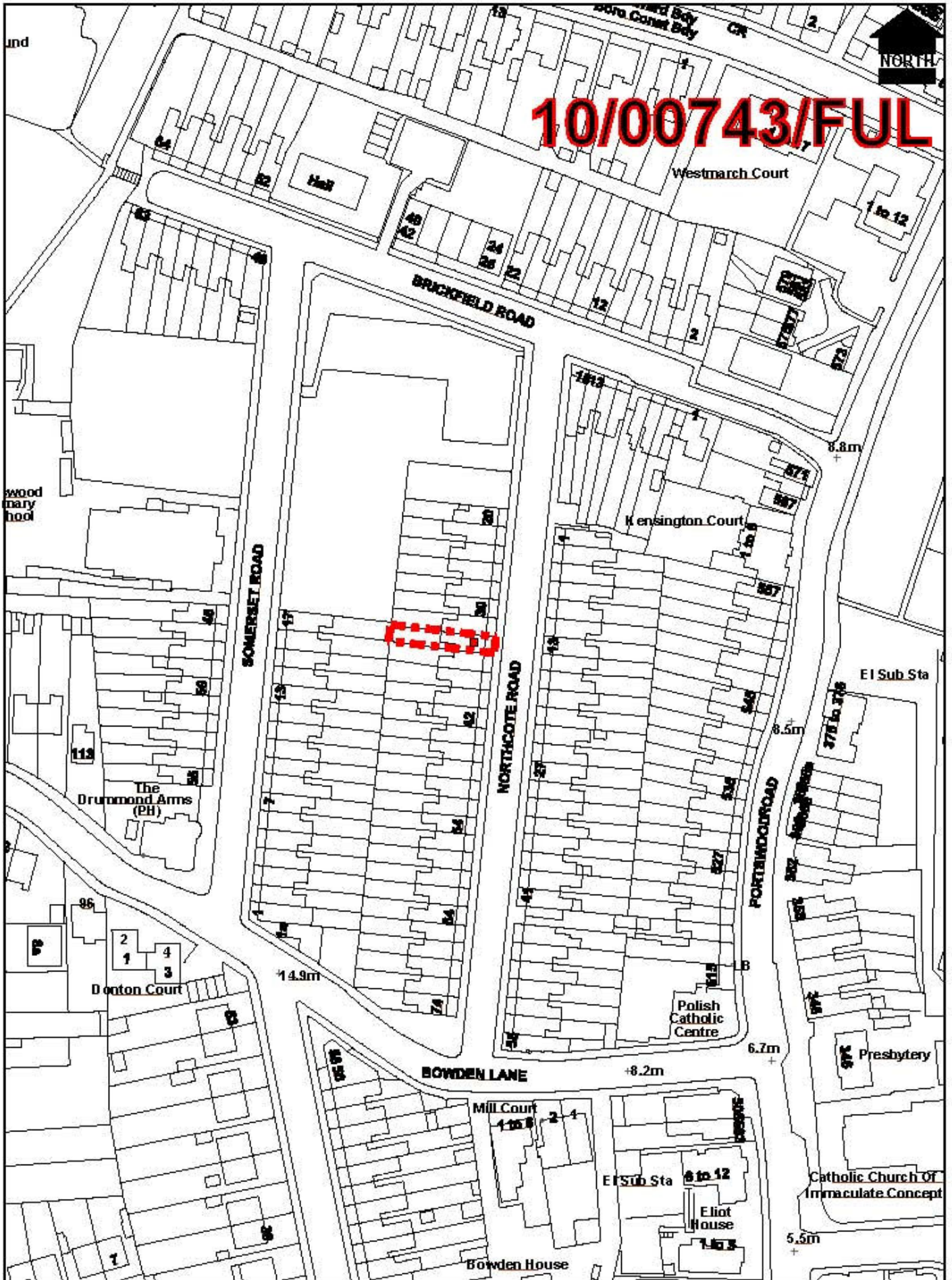
SDP1	Quality of Development
SDP7	Context
H4	Houses in Multiple Occupation

Local Development Framework Core Strategy Development Plan Document (January 2010).

CS16	Housing Delivery
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Other Relevant Guidance

PPS1	Delivering Sustainable Development (2004)
PPS4	Housing



10/00743/FUL

Scale : 1:1250

Date : 16 August 2010

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Agenda Item 7

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL		
SUBJECT:	PLANNING PERFORMANCE AGREEMENTS AND PRE-APPLICATION CHARGING		
DATE OF DECISION:	21 SEPTEMBER 2010		
REPORT OF:	HEAD OF PLANNING AND SUSTAINABILITY		
AUTHOR:	Name:	STEPHEN HARRISON	Tel: 023 8083 4330
	E-mail:	stephen.harrison@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

N/A

SUMMARY

Following the Local Government Act 2003 and Circular Guidance, many local authorities, including the City Council, have introduced fee charges for pre-application planning advice. This is usually coupled with the introduction of a more formalised service and protocols, backed by written reports of any meeting(s) and advice provided.

At Full Council in July 2009, the concept of introducing charges to recover costs for planning pre-application advice from the City Council was agreed. In November 2009, Cabinet agreed to the introduction of an improved, chargeable pre-application advice scheme for the Southampton City Council Planning Authority.

The Council commenced its pre-application charging system on 6th April 2010 following a briefing to the Planning Panel in March.

This report explains the role that Planning Performance Agreements (PPA) will have in delivering this service, and makes suggestions as to how the Planning Panel will be involved at the pre-application stage. This builds on the recent Member training undertaken on 12th July 2010.

RECOMMENDATIONS:

- (i) The Panel note the content of the report; and
- (ii) The Panel agree that the PPA guidance note at Appendix 1 is approved for use as part of the Council's pre-application service and added to the Council's website.

REASONS FOR REPORT RECOMMENDATIONS

- 1 To provide information to the Planning and Rights of Way Panel of the changes to how the City Council will provide pre-application planning advice through the use of Planning Performance Agreements.

CONSULTATION

- 2 Individual meetings have been held with internal consultees, including the Development Management Team and City Development Team.
- 3 The Overview and Scrutiny Management Committee considered the Cabinet report proposals at its meeting in November 2009.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4 Not to implement Planning Performance Agreements

The option to continue with the previous pre-application advice service, free of charge, was considered and rejected. National guidance advocates that an improved and more consistent, formal approach to the early stages of engagement and negotiation should be implemented. This would involve additional resources and a more formal pre-application advice service, requiring additional staff time, which can be recovered through the introduction of fees. It will not be compulsory for applicants to enter into a PPA.

DETAIL

5 It has been agreed that the City Council will charge for its pre-application planning advice. As part of this approach the Council will also promote the use of Planning Performance Agreements for larger schemes.

6 The PPA embraces the planning process from pre-application advice, through to the submission and determination of a planning application by the Council's Planning and Rights of Way Panel, and builds in a review process to ensure that realistic targets are set and achieved. Further details are provided in the guidance note attached to this report at Appendix 1.

7 In return for entering into a PPA, applicants will be rewarded with:

- increased certainty of process, timescales and issues to be addressed;
- input from relevant officers and the elected decision makers;
- the avoidance of abortive work;
- the earliest possible indications and negotiations of planning obligations;
- the opportunity to resolve issues prior to the application submission; and,
- an aftercare programme following a decision with assistance with planning conditions.

8 As part of the PPA process detailed in the attached guidance note, it is proposed that applicants will have the opportunity to present their schemes to the Planning and Rights of Way Panel and the Architect's Panel as part of the pre-application stage.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

9 None

Revenue

10 It was previously estimated that the level of resource for the provision of free pre-application advice was £40,000 per annum. The total resource cost of providing the pre-application advice, under the enhanced scheme, will depend on the level of demand for the service. However, based on the assumed demand the total cost is estimated at £74,000 per annum.

11 As far as possible, the additional resources for an enhanced service would be redirected from work on planning applications, allowing costs to be met from existing budgets. However, there may be a need to increase overall Development Management resources to deal with the additional service requests in due course.

- 12 The estimates are subject to the uncertainties of current market conditions. Cabinet have given delegated authority to allow adjustments to fees annually, for any deficit or surplus, within a period of up to 3 years.

Other

- 13 None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

- 14 Best Value authorities have the power to charge for discretionary services. Under section 111 (1) of the Local Government Act 1972, the Council has the power to do anything reasonably incidental to its express powers. Thus the provision of pre application advice will be incidental to the statutory duty to provide planning services.
- 15 Section 93 of the Local Government Act 2003 allows an authority, relying on subsidiary powers, to charge but the recipient of the discretionary service must have agreed to its provision and to pay for it.
- 16 Circular guidance entitled 'General power for best value authorities to charge for discretionary services – guidance on the power in the Local Government Act 2003' makes it clear that Authorities when exercising this power are under a duty to secure that, taking one year with another, the income from charges do not exceed the costs of provision of the service. The circular advises that charges may be set differentially, so that different people are charged different amounts. Further, authorities are not required to charge for discretionary service and may provide them for free if they so decide.

Other Legal Implications:

- 17 None

POLICY FRAMEWORK IMPLICATIONS

- 18 The proposal to charge for pre-application advice (including the use of PPAs), whilst improving the level of service provided, is set out within the broad business plan objective to 'Improve Development Control Performance' as set out in the Corporate Improvement Plan 2009/10.

SUPPORTING DOCUMENTATION

Appendices

1.	Proposed Planning Performance Agreements Guidance Note
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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)

1.	None	
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Background documents available for inspection at: N/A

FORWARD PLAN No: N/A

KEY DECISION?

N/A

WARDS/COMMUNITIES AFFECTED:	All
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Appendix 1 - GUIDANCE NOTE

SOUTHAMPTON CITY COUNCIL PLANNING PERFORMANCE AGREEMENTS

INTRODUCTION

The City Council has adopted a development management approach to the facilitation of development and sustainable growth across Southampton. Council resources have been allocated to ensure that all users of the planning system are given clear and concise guidance that reflects the current planning guidance and policies, with an emphasis on ensuring that those seeking pre-application advice can do so easily.

WHY USE A PLANNING PERFORMANCE AGREEMENT?

Since April 2010 a formal chargeable service for pre-application planning advice has been operating with officers making accompanied site visits (where requested) and producing a written report of their findings. The Council recognises that this approach can be adapted to facilitate larger developments, typically of 100 or more dwellings and/or 10,000sq.m of commercial floorspace and encourages applicants to enter into a Planning Performance Agreement (PPA)

A PPA is a collaborative project management process for the more complex type of developments. This process seeks to secure an early agreement between the parties as to the type of development within a defined programme with a greater likelihood of a favourable decision and a successful development.

The agreement embraces the planning process from pre-application advice, through to the submission and determination of a planning application by the Council's Planning and Rights of Way Panel, and builds in a review process to ensure that realistic targets are set and achieved.

Pre-application dialogue between applicants and the City Council is a major component of the PPA process. As part of the Council's adopted pre-application charging system a planning fee is associated with an agreed PPA. In return for entering into a PPA applicants will be rewarded with:

- increased certainty of process, timescales and issues to be addressed;
- input from relevant officers and the elected decision makers;
- the avoidance of abortive work;
- the earliest possible indications and negotiations of planning obligations;
- the opportunity to resolve issues prior to the application submission; and,
- an aftercare programme following a decision with assistance with planning conditions.

SIMPLIFIED PRE-APPLICATION DISCUSSIONS

Whilst the Council can offer a more complex form of PPA to suit the applicants' needs¹ the key stages of our simplified PPA approach can be summarised as follows:

Contact	Initial contact made to either the City Development Team or the Planning and Development Manager
Definition	The definition of the project proposal and the completion of the attached Agreement which shall include the "Project Plan" for delivery and a payment schedule
Implementation	Implementation of the Project Plan with ongoing review
Submission	Application Submission, Determination and Pre-Construction Sign Off

THE COUNCIL'S STRUCTURE & PROJECT TEAM APPROACH

The Council is committed to co-ordinated cross-departmental working involving internal and external stakeholders, the community and elected Councillors. An approach to the City Council concerning a large scale or complex development project will initially be through either the Planning Department or the City Development Team.

For large strategic projects an officers' Steering Group will be established which will be chaired by the Planning Case Officer ("The Project Manager") in close consultation with the Planning and Development Manager. This group will involve officers from other departments as necessary.

For those projects affecting high profile City Centre sites and/or those projects with a Council interest, as landowner, it is likely that the City Development Team will co-ordinate the initial contact and assign their own Project Manager, with resources being offered by the Planning and Development Manager as required. Once the parameters of the scheme have been identified the Planning Case Officer will then manage the process through to the submission and determination of the planning application.

¹ In line with the approach recommended by the Advisory Team for Large Applications (ATLAS) in their guidance note entitled "Implementing Planning Performance Agreements" (2008).

Either way, the make up of the Council's Steering Group will be determined according to the needs of the project and in accordance with the terms of the agreed PPA.

The Chair of this Steering Group will be responsible for the project's management alongside the applicant's project team, whilst ensuring corporate delivery within agreed timescales and the continual communication to Council Members and the wider community. All members of the Steering Group will work on behalf of the Council in the wider public interest and to secure a well designed, sustainable and inclusive scheme that delivers the objectives of the Council's Local Development Framework and other relevant policy documents and material considerations.

As part of the pre-application dialogue at least one meeting identified as part of the PPA process will be chaired by the Council's Planning Agreements Officer. This meeting will coordinate the responses of those departments and stakeholders affected by any development proposals whose direct impacts may otherwise be mitigated against through the S.106 process². An early understanding of any likely S.106 package assists both parties in reaching a viable proposal that is deliverable, and this meeting is pivotal to a successful PPA.

A further meeting with the Planning Case Officer may also be sought to discuss the documents that should be submitted to enable the application to be validated against the current local and national 1APP requirements.

Throughout the PPA process officers will express their own professional opinions which will form guidance for the applicant. The guidance will not bind officers to a final recommendation, nor the Planning & Rights of Way Panel's determination of the planning application, and does not override the requirement for a formal planning application to be determined without prejudice and within the statutory requirements of current planning legislation. The PPA will, however, form a material consideration in the officer's consideration of any related planning application and the Council will endeavour to ensure that the same Steering Group remains in place throughout the PPA process.

EXTERNAL STAKEHOLDER INPUT

Other stakeholders from partner organisations are likely to be required to provide a timely response to the project at various stages. Partners in this context may include statutory agencies such as the Environment Agency, or neighbouring authorities where a proposal could have a cross-boundary impact. The Council's team will aim to secure adequate and timely

² As detailed in the Council's adopted S.106 Planning Obligations SPG (2006) as may be amended.

consultation with partner organisations as the project proceeds and will facilitate participation by partner organisations in the project plan.

COMMUNITY ENGAGEMENT

Promoters of large scale developments, whether or not the subject of a PPA, will be expected to carry out pre-application consultation with the local community, in accordance with the Council's adopted Statement of Community involvement. The Council's team will offer guidance to the applicant in the preparation of an appropriate consultation strategy and assist the applicant in reaching relevant people and groups. The onus for public engagement will, however, rest with the applicant in the first instance. The results of such engagement, and how the design of any proposals has altered, should be set out in a Statement of Community Involvement that is submitted by the applicant with their planning application.

THE PLANNING AND RIGHTS OF WAY PANEL

Decisions on planning applications for large scale, complex and politically sensitive developments will be made by elected councillors serving on the Council's "Planning and Rights of Way Panel". Accordingly it is appropriate for councillors to be involved in the PPA process.

The appointed chair of the Council's Project Steering Group will, in agreement with the applicant, facilitate the engagement of the Panel, affected ward councillors and other councillors as appropriate. In most cases this will take the form of a pre-arranged short presentation by the applicant followed by a question and answer session. The appropriate Panel meeting for this presentation will be agreed as part of the PPA programme and should normally follow a robust public engagement exercise.

This approach will allow councillors to develop an understanding of the issues and raise their own queries and concerns. Councillors shall, however, ensure that their decision making function is in line with the Council's adopted rules concerning probity and not compromised, and will not express views about the overall planning merits of any case or engage privately with the applicant.

COUNCIL EXPECTATIONS OF THE APPLICANT

The Council will expect the applicant to approach any proposal in an open, collaborative and creative manner and will offer the same courtesy in return.

The applicant will be expected to employ staff and/or consultants with sound expertise in delivering sustainable communities. All projects will be delivered through a robust project management process and, as with the Council's Project Steering Group, applicants will be expected to use best endeavours to meet the agreed timetables.

It is, perhaps, unrealistic to expect all potential planning related issues and material considerations to be raised and resolved as part of the PPA process. In those cases where the parties cannot agree on all elements of a project this will be clearly stated in the Council's written response with further guidance on appropriate actions for either party.

PRE-APPLICATION CHARGING

The current charging system explains that the fee for applications with a PPA will be levied at 10% of the final full planning application fee, with a schedule for payments to be agreed as part of the PPA³. The fees will be calculated on a not-for-profit basis.

THE PLANNING PERFORMANCE AGREEMENT

PROJECT DESCRIPTION

To secure collaborative working between Southampton City Council and the applicant on planning proposals for the redevelopment of:

The site and a brief outline of the proposals to be added here

PARTIES TO THE AGREEMENT

This agreement is made on *date to be added here* between Southampton City Council as Local Planning Authority & the Applicant

Project Manager & Contact Telephone Number: *details to be added here*

Applicant Details & Contact Telephone Number: *details to be added here*

³ For instance, a scheme for 100 dwellings attracts a planning application fee of £21,565 with an additional PPA cost of £2,157. A commercial scheme for 10,000sq.m attracts a planning application fee of £24,965 with an additional PPA cost of £2,497 (at the April 2010 fee rate).

PLANNING PERFORMANCE AGREEMENT DRAFT PROGRAMME FOR DELIVERY

Stage	The Project Plan Draft Key Milestones – delete as applicable	Dates to be Agreed (Provisional)	Payment Schedule
Pre-Application	Initial Contact		
	Agreement Signature & Programme		
	Topic Meeting Dates	(to be agreed)	
	EIA Screening		
	EIA Scoping		
	S.106 Planning Agreements Officer		
	Community Engagement	(to be agreed)	
	Presentation to the Planning Panel		
	Formal SCC Pre-Application Response		
	Application	Planning Application Submission	
Consultation & Notification			
Feedback & Scheme Amendment			
Planning Panel Determination			
Completion of S.106 Legal Agreement			
Target Decision			
Post Decision	Implementation Programme		
	Pre-Commencement Conditions		

In signing this PPA Agreement both parties agree to enter into formal pre-application discussions for the above project and, unless otherwise agreed in writing, will confirm a final programme for its delivery within 28 days.

The Council's planning fee for the project will be levied at no more than 10% of the final full planning fee for any formal planning application that follows the formal pre-application discussions for this site, and will be payable in accordance with an agreed payment schedule.

Signed and dated on behalf of Southampton City Council

.....

Signed and dated on behalf of the Applicant

.....

TERMS OF REFERENCE

APPLICATION SUBMISSIONS

No planning application will be submitted “prematurely” during the agreed period for pre-application negotiations without the prior agreement of the Council. If the applicant submits an application outside the terms agreed below then the Council may determine the application without further negotiation or consideration of amended plans. Where the pre-application process has been successfully concluded or, in the event of an agreed outcome not being reached through the negotiation, the applicant may then submit an application.

As part of the Agreement both parties shall agree a provisional date for the submission and determination of the application (which can be beyond the normal 13/16 week target date) and will agree a timetable for further dialogue during consideration of the scheme. In the event that officer’s are minded to recommend a refusal of the application, despite the completion of the PPA procedure, they will offer the applicant the opportunity to formally withdraw the application before doing so.

DISPUTES PROCEDURE

The Council will work to resolve any disputes amicably, but recognises that most major development proposals will give rise to a wide range of planning issues. Accordingly, the Council acknowledges that in order to properly assess the associated range of complex planning issues the planning application may not be capable of being determined within the 13/16 week statutory period. An alternative timescale may be agreed with the applicant.

In the event of the parties not agreeing on any matter at the regular project meetings the project managers will meet together and seek to resolve differences. In the event of no resolution a special meeting of the Project Steering Group can be called by either party and this meeting shall take place within 15 working days of the request being received. If required, outstanding matters can be escalated for a resolution.

If either party shall commit any breach of its obligations under this Agreement and shall not remedy the breach within 10 working days of written notice from the other party to do so, then the other party may notify the party in breach that it wishes to terminate this Agreement and the Agreement shall be terminated immediately. No penalty fees will apply, although it is unlikely that any fees paid shall be refunded.

It remains open for the applicant team to appeal against any decision or non determination at any stage following the 13/16 statutory target date, and for the Council to determine the application where the Agreement has not been followed correctly. Nothing in this PPA shall restrict the City Council from properly exercising its role as the Local Planning Authority. Nothing in this PPA fetters the Council’s statutory powers to grant or refuse planning permission

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