

Planning, Transport & Sustainability Division
Planning and Rights of Way Panel 20 November 2012
Planning Application Report of the Planning and Development Manager

Application address: 30 St Anne's Road, Woolston			
Proposed development: A change of use from a residential care home (use class C2) to a hotel with ancillary manager's accommodation and parking (use class C1).			
Application number	12/01411/FUL	Application type	FUL
Case officer	Stephen Harrison	Public speaking time	5 minutes
Last date for determination:	28.11.2012	Ward	Woolston
Reason for Panel Referral:	Ward Councillor request and more than five letters of objection	Ward Councillors	Clr Williams Clr Cunio Clr Payne

Applicant: Mr Martin Millar	Agent: N/A
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Recommendation Summary	i) Refuse Planning Permission ii) Serve Stop Notice with Enforcement Notice
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01. Reason for Refusal – Character, Amenity & Anti-social behaviour

Whilst the principle of a small hotel use in this location may be acceptable the proposed use (as described by the applicant's planning statement, advertised on their website and observed on site) is not considered to represent either a typical C1 use or an acceptable use that is compatible with this residential area. In the opinion of the Local Planning Authority the building has been converted without planning permission into a mixed-use building comprising an indoor recreational club (being a use falling within use class D2 of the Town and Country Planning (Use Classes) Order 1987) with overnight accommodation. The introduction of this use and its potential for late night activity and disturbance has the potential to cause harm to the residential amenities and character of the area whilst failing to either *preserve or enhance* the established character of the St. Anne's Conservation Area. Furthermore, there is a considerable concern amongst many local residents based both on perception and actual events with a heightened fear of crime locally, and this will undoubtedly raise community tension. The result may lead to confrontation between the residents and the building occupants/visitors to the venue, and increases the potential for criminal acts and anti-social behaviour particularly against the building and its occupants/visitors. For this reason the planning application has been assessed as contrary to saved policies SDP1(i) (iii), SDP7 (i) (v), SDP10 (iii), SDP16(iii), HE1(i) as supported by the National Planning Policy Framework (2012 – particularly paragraph 69).

Informative

The proposed parking layout does not meet local design standards and appears to include land to the rear of the building that is located outside of the submitted 'red line' site plan. In the event that this application was to be determined favourably further details would have been secured through a planning condition.

Recommendation in Full

- i) Refusal the planning application 12/01411/FUL for the reasons set out in this report; and
- ii) Serve a Stop Notice and Planning Enforcement Notice to cease the use and revert the building back to the authorised use.

Planning Enforcement

If the above recommendation for refusal is supported by the Planning Panel it will also be necessary to consider planning enforcement action against the use as implemented and whether it is expedient to serve both a Stop Notice as well as an Enforcement Notice to ensure the use ceases shortly after the Notices can be served (a Stop Notice takes effect three days after it is served). It is considered that given the unacceptable impact on the residents from the use of the premises that the use should cease as soon as possible and that it is expedient to take action. In reaching this recommendation, the Council has assessed the impact on the business that is being run and the cost of taking action, but it is considered that the impact of the use is significant enough to warrant this action being taken. As such, the recommendation in full makes provision for officers to serve both a 'Stop Notice' to cease the use, and an Enforcement Notice to remedy the breach of planning control that has taken place. The applicant will be entitled to appeal the Council's decisions.

Appendix attached			
1	Details of Proposed Use	2.	Development Plan Policies
3	Relevant Planning History	4.	New Forest District Council Appeal Decision

1. The site and its context

- 1.1 The application site is found at 30 St Anne's Road (known locally as 'Milton House'). It is an attractive two storey building, with accommodation in the roofspace located at the junction of Temple Road with St Anne's Road in Woolston. The surrounding area is predominantly residential although there is a builder's yard opposite, a bowling club and a community hall in Temple Road, and a Conservative club and residential care home to the north.
- 1.2 The building was last used as a residential care home (use class C2). It has off-road surface parking to the frontage and a vehicle access also serves Temple Road.
- 1.3 The application site forms part of the St Anne's Road Conservation Area (CA), which also takes in 5 other properties south of the application site on the same side of the road. The CA Appraisal (2010) describes the street as 'a wide, tree-lined road leading from Portsmouth Road to the top of Obelisk Road. It is characterised by large detached mid to late Victorian properties on the east side of the road. Only number 28 is a late twentieth century infill' (paragraph 3.4.5.1 refers). It adds that 'the area is residential, however, out of six properties, only two remain as single family dwellings and three have been converted into flats' (paragraph 3.4.5.2 refers).
- 1.4 In 2010 Milton House was a NHS residential rehabilitation unit but was vacant prior to the commencement of the current use. The CA Appraisal (2010) confirms

that Milton House 'has been heavily altered to allow for its re-use as a NHS residential care home, which has had negative impact on the house, its curtilage and the conservation area' (paragraph 3.4.5.3 refers).

1.5 The area is defined as having 'low accessibility' to local facilities and public transport links.

2. Proposal

2.1 Planning permission is sought to convert the former residential care home (use class C2) to a hotel (use class C1). A copy of the applicant's statement of how the proposed hotel will be operated is attached at **Appendix 1**. No physical external changes are proposed.

2.2 It is the opinion of officers that the actual use (as described by the applicant's planning statement and observed on site by officers) is not a typical hotel. Instead, the building is in the process of being converted without planning permission into a mixed-use building comprising an indoor recreational club (being a use falling within use class D2 of the Town and Country Planning (Use Classes) Order 1987) with overnight accommodation. Whilst it is accepted that some guests will stay the night this club offers a range of activities for 'guests' wishing to partake in acts of a sexual nature and provides a number of themed rooms and bedrooms, including at least one room designed as a dungeon. It opened on Friday 28th September 2012 and it's this latter use that is considered to be the principal reason for people to visit the building.

2.3 The discrepancy between the proposed and actual use of the building is discussed in the 'Planning Considerations' section of this report.

2.4 It is unclear from the submission how much an overnight stay would cost, although on site the applicant suggested £35 per night would be a typical price. Guests can bring their own alcohol but the premises are not currently licensed to sell it. There is a kitchen located on the ground floor but no formal breakfast is provided for guests.

2.5 In terms of associated off-road parking the application form states that there will be 10 spaces. The supporting statement suggests, however, that there will be a maximum of 25 vehicles. The applicants have submitted a parking layout showing 8 parking spaces to the front, with a further 6 spaces accessed from Temple Road (ie. 14 spaces).

2.6 As the application site plan excludes the rear parking from the 'redline' it is recommended that only the frontage parking (8 spaces) is included. As such, it is likely that there will be an overspill of vehicles from this site onto local roads.

3.0 Relevant Planning Policy

3.1 Circular 03/05 entitled 'Changes of Use of Buildings and Land - The Town and Country Planning (Use Classes) Order 1987' explains that the C1 Hotel's use class 'includes not only hotels, but also motels, bed and breakfast premises, boarding and guest houses. These are premises which provide a room as temporary accommodation on a commercial, fee-paying basis, where meals can be provided but where residential care is not provided...' (paragraph 59 refers).

- 3.2 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 2**.
- 3.3 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. Having regard to paragraph 214 of the NPPF the local policies and saved policies listed in this report retain their full material weight for decision making purposes.
- 3.4 The NPPF adds that *‘the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Local planning authorities should create a shared vision with communities of the residential environment and facilities they wish to see. To support this, local planning authorities should aim to involve all sections of the community in the development of Local Plans and in planning decisions, and should facilitate neighbourhood planning. Planning policies and decisions, in turn, should aim to achieve places which promote... safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion...’* (Paragraph 69 refers).

4.0 Relevant Planning History

- 4.1 The planning history for this site is asset out at **Appendix 3** including:
- 4.2 1248/P11 Use of guest house as hotel - Refused 30.07.1963
The establishment of a hotel use on this site, which is within an essentially residential area, would be inappropriate, and would create a precedence for the establishment of a normal hotel use which would be unneighbourly.

5.0 Consultation Responses and Notification Representations

5.1 Third Party Comment

Following the receipt of the planning application a publicity exercise in line with department procedures was also undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (25.10.12) and erecting a site notice (25.10.12). At the time of writing the report **1 letter of support** and **158 objections** have been received from surrounding residents (including 110 pro-forma letters of objection).

- 5.2 The pro-forma letter objects for the following reasons:
- Potential late night disturbance from car movements and music;
 - Increased traffic with a corresponding increase in parking problems;
 - Inappropriate location for an additional commercial business;
 - Out of keeping with the general character of the neighbourhood;
 - This is not a hotel.
- 5.3 **Ward Cllr Williams** – Objection. Requests a Panel decision due to the use, its potential impact on parking and associated noise issues within a suburban area.
- 5.4 **Ward Councillor Payne** – Objection. Requests a Panel decision due to the

potential for late night disturbance from car movements and music; increased traffic; inappropriate location of an additional commercial premises; and, possible increase in parking problems in the local area.

5.5 In addition, a petition with **927 signatures** against the application has been received. The contributors have signed to say that *'this establishment is not at all appropriate in a residential area where a family community wishes to live in peace, security and harmony'*.

5.6 Planning related issues raised and addressed below include:

- The applicants have opened a sex club without planning permission;
- Actual and perceived fear of crime and antisocial behaviour with concerns also raised by elderly residents and by parents of young children;
- The business advertised is not a hotel and is not appropriate for this residential area;
- Not in keeping with the conservation area;
- Congestion and overspill parking into St Anne's Road and surrounding streets – as already occurs with the Conservative Club;
- Late night noise and disturbance with some advertised events scheduled until 2am;
- Loss of property value;
- If approved the signage for a 'sex hotel' would be offensive;
- Precedent for further inappropriate activity would be set if allowed.

5.7 Consultation Responses

Hampshire Constabulary – Objection raised. There is a considerable concern amongst many of the local residents based both on perception and actual events and this will undoubtedly raise community tension. The result may lead to confrontation between the residents and the building occupants/visitors to the venue, and increases the potential for criminal acts and anti social behaviour particularly against the building and it's occupants/visitors.

5.8 The location is in a predominantly residential area (including a care home) but also includes a social club and I believe a 'Brownies/Guides' meeting place. This road is also a potential route for pupils attending the local secondary school. Whether the residents and other users' fears are perceived or actual this proposed venue will have some effect on the amenity of the area. People may fear coming into contact with the occupants or visitors to the venue and may affect their use of the area at certain times of the day or night. There is evidence at similar locations that nearby houses have been mistaken for the venue or residents have been approached for directions or even having been propositioned for sexual favours.

5.9 I believe both these points are of sufficient concern to be classed as a material consideration within the planning process and also meet the need for them to be considered by the local authority under the terms of their obligation to Section 17 of the Crime and Disorder Act 1998.

5.10 *Note: as an update to these comments Hampshire Constabulary have confirmed that there are 4 recorded complaints/concerns since the opening weekend and it is evident that the complainants' fears are genuine (albeit only one is an actual event).*

- 5.11 **SCC Highways** – No highway safety objection raised. The highway network here can cope with additional traffic movements, particularly off peak movements. However, the car park layout as submitted is not clear and the measurements shown of isle width and parking space sizes do not accord with current standards. As a result the numbers of car parking spaces as shown will not be achievable, and is likely to result in parking on street. This in itself is again not so much a highway issue but an amenity one, as more cars on street leaving late at night will disturb more residents more frequently.
- 5.12 **SCC Environmental Health (Pollution & Safety)** – No objection. The Environmental Health Team's Out of Hours Service has monitored the site since it opened (usually for a half hour period each weekend) but has not witnessed any excessive occurrences of noise, overspill parking or anti-social behaviour.
- 5.13 **SCC Licensing** – The evidence available as to the activities at these premises clearly indicates that no licensing provisions are engaged, now or when the adoptive provisions on sexual entertainment venues comes into effect in August 2013. There is nothing in general law which would require licensing as a brothel, however, keeping a brothel or a disorderly house might constitute an offence under the Sexual Offences Act 1956, which would be a matter for the police.
- 5.14 **SCC Heritage** – Objection raised. The application site lies within the St Anne's Conservation Area, which was last reviewed in 2010. This is a sensitive part of the Conservation Area where negative change has already taken place. Any further changes need to address the negative aspects and provide positive improvements that enhance the character of the area.
- 5.15 Whilst the principle of a small hotel use in this location may be acceptable the proposed use is not an acceptable use that is compatible with this residential area. The building has been converted without planning permission into a mixed-use comprising an indoor recreational club. The introduction of this use and any associated late night activity and disturbance has the potential to cause harm to the residential amenities and character of the area whilst failing to either preserve or enhance the established character of the St. Anne's Conservation Area.
- 5.16 Additionally, it is likely that advertisements and signage will be required to support the use of the property. Signage can have a negative impact on the conservation area, and no application for advertisement consent has been received.

6.0 Planning Consideration Key Issues

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

- Principle of development
- Impact on the character of the area
- Impact on residential amenity and the fear of crime
- Highways and parking
- Planning Enforcement

6.2 Principle of development

It is not illegal to undertake a change of use without first obtaining planning permission. The planning system provides the mechanisms necessary to remedy any breach of planning control. In this instance the owners have made a planning

application. Following a site inspection it is evident that internal works have been undertaken at 30 St Anne's Road to convert the former residential care home into a mixed use D2 club with overnight accommodation.

- 6.3 The applicants, however, maintain that the principal use of the building is as a hotel and the planning application has been submitted on this basis. The Local Planning Authority has a duty to consider the merits of a proposed hotel alongside that of the operational mixed-use.
- 6.4 In generic land-use planning terms, despite the planning refusal for a hotel at this address in 1963, the principle of either a small hotel or a club is acceptable in planning terms. Indeed, there are two other 'clubs' operating within close proximity of the application site; namely, the replacement Woolston and Sholing Conservative Club (74 St Anne's Road) and the Woolston & District Bowling Club in Temple Road. For the purposes of planning control both clubs would have an authorised D2 use for assembly and leisure.
- 6.5 With regards to the proposed hotel use (use class C1) it is not uncommon to find 'themed' hotels or ones offering 'themed' nights. More traditional hotels are located throughout the city and it is also not uncommon or out of character to find a hotel or guest house located within a residential suburb as is the case proposed here. That said, following a site visit it is the opinion of officers that the principal use of the building, and the reason why people would visit the property, is not for overnight guest accommodation on offer but, instead, to partake in acts of a sexual nature as advertised on the applicant's website. Any overnight stay would be ancillary to this purpose. Interestingly, when the appeal Inspector considered similar proposals in the New Forest (see **Appendix 4**) he commented that 'arguments regarding the 'suitability' of the particular activities carried out at the premises have not formed part of the deliberations' (paragraph 19 refers).
- 6.6 As such, whilst the principle of both C1 and D2 land uses may be acceptable a detailed assessment of the impact of these uses on the character of the area, the amenities of local residents and highway safety requires further scrutiny in the context of the adopted development plan and any other 'material' considerations.
- 6.7 Impact on the character of the area
The character of the area is predominantly residential albeit there are 2 other clubs in close proximity and a builder's merchant opposite. The residential streets are generally quiet and the application site itself forms the northern boundary of the St. Anne's Road Conservation Area, which also takes in 5 other properties south of the application site on the same side of the road. Whilst the introduction of a hotel (or a club) need not interfere with this established character, the use described by the applicant in their statement (**Appendix 1**) and advertised on their website would, potentially, introduce late night activity and disturbance which would fail to preserve this established suburban character.
- 6.8 Impact on residential amenity and the fear of crime
Saved Policy SDP(1) of the adopted Local Plan Review (2010) states that 'planning permission will only be granted for development which does not unacceptably affect the health, safety and amenity of the city and its citizens'.
- 6.9 The pattern of use associated with a hotel is different to that of a club, where visitors are more likely to leave following an event than stay the evening at a club. Given the number of bedrooms on offer (7) and the range of events that take

place, reportedly until 2am at weekends, there is a potential from the current use for late night noise and disturbance as guests depart the premises. In the applicant's statement (see **Appendix 1**) they confirm that on the opening night of the 38 people that attended only 15 stayed. This activity, particularly later in the evening as visitors leave the premises, is at conflict with the otherwise quiet residential area where it would be reasonable to expect a degree of peace and tranquillity particularly during the early hours of the morning. Furthermore, the appeal Inspector from a similar New Forest proposal (see **Appendix 4**) gave weight to neighbour's 'broken sleep' as a material consideration (paragraph 24 refers) in his decision. Given that some overspill parking is likely to occur the disturbance is likely to be caused both on and off-site as visitors arrive and leave the premises.

- 6.10 Whilst public opposition to a proposal is not in itself a material consideration *per se* the many representations raised against this development are an indication that the public are fearful of the current/proposed use and this, along side the public safety concerns raised by Hampshire Constabulary, can be afforded significant weight in the planning process as a material consideration. The NPPF adds that *'the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Local planning authorities should create a shared vision with communities of the residential environment and facilities they wish to see. To support this, local planning authorities should aim to involve all sections of the community in the development of Local Plans and in planning decisions, and should facilitate neighbourhood planning. Planning policies and decisions, in turn, should aim to achieve places which promote... safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion...'* (Paragraph 69 refers). As such, the introduction of the proposed use, with an emphasis on partaking in acts of a sexual nature as advertised on the applicant's website cannot be supported due to the fear of crime that the use has attracted locally.
- 6.11 Highways and parking
To the front of the building there is an existing area of hard-standing that provides informal off-road parking for a number of vehicles. The submitted plans show 8 spaces to this frontage with a further 6 spaces to the rear, although these latter spaces are not shown within the submitted 'red line' site plan and their delivery as part of this planning application is therefore uncertain.
- 6.12 In terms of the Council's maximum parking standards the current standards were not written for this type of use. However, in an area of low accessibility such as this the current standard for a hotel (C1) is 1 space per bedroom. The maximum requirement for the proposed hotel is, therefore, 7 spaces which can be accommodated on the site's existing frontage. Residents are concerned that a significant overspill of vehicles will occur into neighbouring streets, but this has not been observed by officers since the use started, although visitors/guests have had the benefit of the rear parking area which may account for this.
- 6.13 Given that the applicant's statement (see **Appendix 1**) confirms that a maximum of 25 vehicles will be parked it is accepted that some overspill will occur from this site. However, the existing street has spare capacity for additional parking without causing a highway safety concern (as is also the case with the nearby Woolston and Sholing Conservative Club), notwithstanding the amenity issue that may arise as discussed above. There is no highway objection to this application.

6.14 Planning Enforcement

If the above recommendation for refusal is supported by the Planning Panel it will also be necessary to consider planning enforcement action against the use as implemented and whether it is expedient to serve both a Stop Notice as well as an Enforcement Notice to ensure the use ceases shortly after the Notices can be served (a Stop Notice takes effect three days after it is served). It is considered that given the unacceptable impact on the residents from the use of the premises that the use should cease as soon as possible and that it is expedient to take action. In reaching this recommendation, the Council has assessed the impact on the business that is being run and the cost of taking action, but it is considered that the impact of the use is significant enough to warrant this action being taken. As such, the recommendation in full makes provision for officers to serve both a 'Stop Notice' to cease the use, and an Enforcement Notice to remedy the breach of planning control that has taken place. The applicant will be entitled to appeal the Council's decisions.

7.0 Summary

7.1 Whilst the principle of a small hotel use in this location may be acceptable the proposed use (as described by the applicant's planning statement, observed on site and advertised on their website) is not considered to represent either a typical C1 use or an acceptable use that is compatible with this residential area. In the opinion of the Local Planning Authority the building has been converted without planning permission into a mixed-use comprising an indoor recreational club (use class D2) with overnight accommodation. The introduction of this use and its potential for late night activity and disturbance has the potential to cause harm to the residential amenities and character of the area whilst failing to either *preserve* or *enhance* the established character of the St. Anne's Conservation Area.

7.2 Furthermore, there is a considerable concern amongst many local residents based both on perception and actual events with a heightened fear of crime locally, and this will undoubtedly raise community tension. The result may lead to confrontation between the residents and the building occupants/visitors to the venue, and increases the potential for criminal acts and anti-social behaviour particularly against the building and its occupants/visitors.

7.3 The concerns raised by neighbours have been noted and are material to the Council's decision. With regards to off-site parking issue officers accept that the scheme will not provide sufficient on-site parking to accommodate the site's needs but that any overspill can be accommodated on the existing highway network without causing a highway safety concern. As such, whilst additional on-street parking may lead to an amenity issue (given the proposed late night entertainment on offer) there is not a highway objection *per se* to this planning application.

8.0 Conclusion

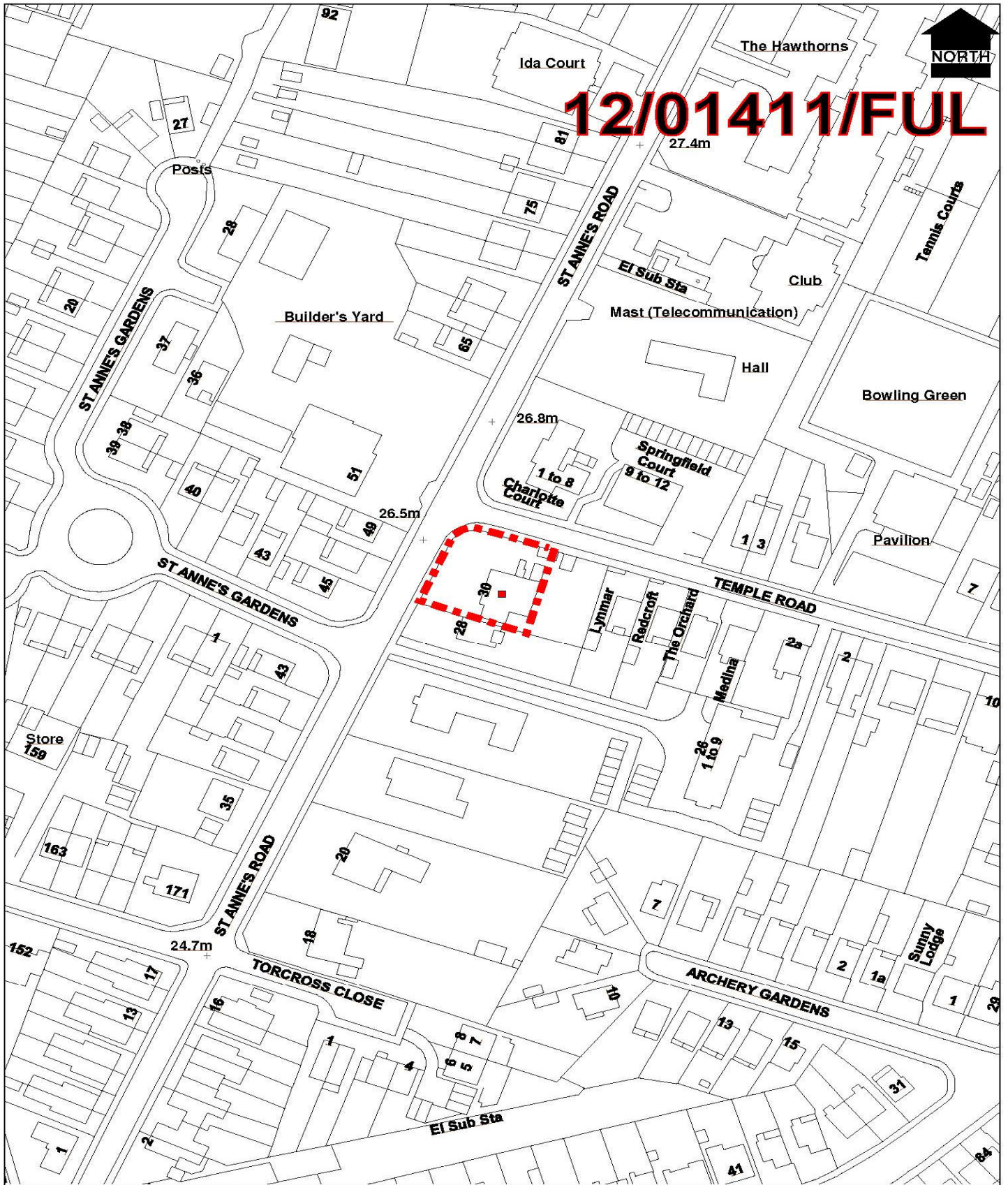
The planning application is recommended for refusal for the reason set out above.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1a-d, 2b&d, 4f, oo&vv, 6c&l, 7a, 9a&b

SH2 for 20/11/2012 PROW Panel



12/01411/FUL

Scale : 1:1250

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