



## DETERMINATION OF APPLICATION

### TOWN AND COUNTRY PLANNING ACT 1990

#### Town and Country Planning (General Development Procedure) Order 1995

Brian C. Banyard T/A  
 Brian C Banyard  
 4 Westmorland Way  
 Chandler's Ford  
 Eastleigh  
 Hampshire  
 SO53 2LA  
 United Kingdom

In pursuance of its powers under the above Act and Order, Southampton City Council as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

#### **FULL APPLICATION - REFUSAL**

**Proposal:** Part single storey and part two storey side and rear extension to existing dwelling.

**Site Address:** 23 Kitchener Road Southampton SO17 3SF

**Application No:** 12/01315/FUL

For the following reasons:

##### 01. Overdevelopment

The proposed development, by reason of its footprint and scale and massing in proportion to the original dwelling is considered to be an overdevelopment of the site out of character with the spatial arrangement of dwellings on surrounding plots contrary to Policy CS13 (1)/(11) of the City of Southampton Local Development Framework Core Strategy (January 2010), Policies SDP1 (i), SDP7 (iv)/(v) and SDP9 (i)/(v) of the City of Southampton Local Plan Review (March 2006) and paragraphs 2.3.1-2.3.2 of the Residential Design Guide [September 2006].

##### 02. Overlooking / loss of privacy

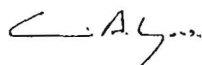
The additional first-floor bedroom window within the side elevation will lead to increased overlooking and loss of privacy to 25 Kitchener Road and will be harmful to the residential amenities of those occupiers, contrary to policy SDP1 (i), SDP7 (v), SDP9 (v) and H2 (iii) of the City of Southampton Local Plan Review (March 2006).

#### Notes to Applicant

1. The local planning authority has noted that the refused plan P-1205-1 has incorrectly been labelled 25 Kitchener Road, when it is clear for the submitted application form that the proposals relate to 23 Kitchener Road, which is the address the proposals have been

advertised and notified for.

2. The applicant has asserted that this property is in use as a Class C4 dwelling, yet the 'evidence' in the form of a note handed in at the Council's Gateway and various utility bills submitted to substantiate that is inconclusive and does not clearly show 3 unrelated persons living at this address on 22 March 2012. I.e. the date before an Article 4 (1) Order was brought into force, removing permitted development rights to move from Class C3 to Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) without the grant of planning permission. It will therefore be the intention of the local planning authority to issue a Planning Contravention Notice to those with an interest in the property and those currently residing there to clearly establish the authorised use of 23 Kitchener Road. If it appears to the local planning authority that unauthorised use for Class C4 purposes has commenced after 22 March 2012, the owner will be given an opportunity to seek to regularise that use by submission of a planning application. This would be determined on its merits having regard to the development plan for Southampton and in particular the adopted supplementary document on Houses in Multiple Occupation. If such an application were to be refused, the local planning authority would consider the expediency of taking formal enforcement action to return the property to Class C3 use.



**Chris Lyons**  
**Planning & Development Manager**

22 October 2012

For any further enquiries please contact:  
**Andrew Gregory**

**IMPORTANT NOTE TO APPLICANT**

This decision has been made in accordance with the submitted application details and supporting documents and in respect of the following plans and drawings.

<b>Drawing No:</b>	<b>Version:</b>	<b>Description:</b>	<b>Date Received:</b>	<b>Status:</b>
P-1205-1		General Plan	14.09.2012	Refused
P-1205-2		Existing Plans	14.09.2012	Refused

## NOTES

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, they may appeal to the Secretary of State for Communities and Local Government in accordance with Section 78 of the Town and Country Planning Act 1990, within the timescales set out below.

### **The Householder Appeals Service**

If this is a Householder application made on or after 6 April 2009 there are new appeal procedures and if the applicant subsequently wishes to register an appeal using the Householder Appeals Service, the procedure **must be started within 12 weeks from the date of the issue of this notice** and will be dealt with by electronic means only. For further information regarding this procedure please visit the following web site:

<http://www.planningportal.gov.uk/england/government/en/1115316504483.html>

### **The following appeals will be within scope:**

Appeals against refusals on householder applications which the Secretary of State has determined will proceed on the basis of written representations. This includes refusals of applications for planning permission, as well as refusals of any consent/agreement/approval required by or under a planning permission, development order or local development order.

### **The following appeals will not be within the scope of the Householder Appeal Service:**

- appeals against any grant of planning permission, consent, agreement or approval which is granted subject to conditions;
- appeals against a local planning authority's failure to determine a householder application (i.e. non-determination appeals);
- appeals against Listed Building Consent (LBC) applications or Conservation Area Consent (CAC) applications. (It should be noted that if a LBC / CAC application is related to a householder application which is refused and proceeds to appeal, the householder application will be within the scope of the Householder.

The following procedure should be used for **all other** appeals that are not included in the above procedure

1. Appeals can be submitted on line and **must be registered within six months of the date of this notice at [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)** or by a form available from the Planning Inspectorate, 3/15 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS2 9DJ. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not, however, required to entertain such an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority.
2. If permission to develop land is refused, whether by the Local Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Local Planning Authority a purchase notice requiring that the Authority purchase their interest in the land in accordance with Part IV of the Town and Country Planning Act 1990.
3. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
4. For those developments which are covered by the Disability Discrimination Act, the attention of developers is drawn to the relevant provisions of the Act and to the British Standard B300:2001 Design of buildings and their approaches to meet the needs of disabled people code of practice.
5. The applicant is recommended to retain this form with the title deeds of the property

Please address any correspondence in connection with this form, quoting the application No to: **Development Control Service, Southampton City Council, Civic Centre, SOUTHAMPTON, SO14 7LS**