

**Planning, Transport & Sustainability Division
 Planning and Rights of Way Panel 25 June 2013
 Planning Application Report of the Planning and Development Manager**

Application address: 37 Church Lane SO17 1SY			
Proposed development: Erection Of A Part 2-Storey, Part Single Storey Rear Extension To Existing C4 HMO (House in Multiple Occupation)			
Application number	13/00610/FUL	Application type	FUL
Case officer	Stuart Brooks	Public speaking time	5 minutes
Last date for determination:	22.05.2013	Ward	Portswood
Reason for Panel Referral:	Request by Ward Member and five or more letters of objection have been received	Ward Councillors	Cllr Vinson Cllr Claisse Cllr Norris

Applicant: Dr Julian Jenkinson	Agent: Simpson Hilder Associates
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Recommendation Summary	Conditionally Approve
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The impact of the development, in terms of design and neighbouring amenity, highway safety and parking is considered to be acceptable. With the retention of the 2 additional habitable rooms as communal rooms, the occupancy will not increase and stay within class C4 and, therefore, will not materially affect the character of the local area in terms of the balance of households in the local community, and will not adversely affect the amenity of local residents by reason of additional activity, noise or other impact. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted.

Policies - SDP1, SDP7, SDP9, H4 of the City of Southampton Local Plan Review (March 2006) and CS13, CS16 of the Local Development Framework Core Strategy Development Plan Document (January 2010) a supported by the Houses in Multiple Occupation Supplementary Planning Document (March 2012).

Appendix attached			
1	Development Plan Policies		

Recommendation in Full

Conditionally Approve

1.0 The site and its context

- 1.1 The application site is located on the west side of Church Lane within Portswood ward. This is mainly a residential street comprised of large semi detached dwellings, set back from the street.
- 1.2 The site contains a 2 storey semi-detached dwelling, with side access for parking and modest sized rear garden. The property is established as a small HMO (class C4) with 6 occupants, and was occupied as such on 23rd March 2012 when the Article 4 direction for HMOs requiring planning permission became effective.

2.0 Proposal

- 2.1 It is proposed to erect a part 2-storey, part single storey rear extension to an existing C4 HMO (House Of Multiple Occupation), to reconfigure the living space maintaining 6 bedrooms and providing additional habitable rooms including dining room (ground floor) and study (first floor).
- 2.2 Amended plans have been received to clarify the size of the north elevation in relation to the neighbour's existing outbuilding at no. 39, and the north elevation of the single storey rear extension has been stepped off the common boundary by 500mm with no. 39 to ensure that the eaves and gutter overhang stays within the boundary.
- 2.3 Although the 2 additional habitable rooms are capable of being used as bedrooms, an increase in the occupancy above 6 people would be subject of separate planning application, requiring planning permission in its own right to change the use to a large HMO (sui generis) and, therefore, is not a relevant consideration for this application regardless if whether or not it is believed that the study and dining room will used as annotated.

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 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. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 Following the Article 4 direction coming into affect on March 23rd 2012, the conversion of a family house into a small HMO for up to 6 people requires planning permission.
- 3.4 The Houses in Multiple Occupation SPD was adopted in March 2012, which provides supplementary planning guidance for policy H4 and policy CS16 in terms of assessing the impact of HMOs on the character and amenity, mix and balance of households of the local area. The SPD sets a maximum threshold of 10% for

the total number of HMOs in the ward of Portswood. It is important to be aware that as the property is already being occupied legitimately as a C4 HMO and was established as a small HMO before 23rd March 2012, the threshold does not apply in this case. There will be no increase in the concentration of HMOs within the assessment area (section 6.7 of the SPD refers). As such only the physical development is relevant in the determination of this case.

4.0 Relevant Planning History

4.1 There is no relevant planning history.

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. Following the receipt of amended plans, a 14 day reconsultation has been carried out (29.5.2013). At the time of writing the report **23** letters of objection, including a referral by local Ward Councillor Vinson, have been received from surrounding residents. Any further comments will be verbally reported at the Panel meeting. The material planning issues raised have been summarised below:

5.1.1 Comment

The extension will be provide 2 additional habitable rooms increasing the occupancy to 8 people, which requires planning permission as a change of use to a large HMO. This will intensify the use leading to increased noise disturbance to surrounding and adjoining residents.

Response

See paragraph 2.3 and section 6.2 of the report.

5.1.2 Comment

No north elevation has been provided so it is not possible to assess the impact on no. 39. There will be a loss of light, privacy and outlook to the neighbouring properties, and break the 45 degree code and standard for separation distances.

Response

See paragraph 2.2 and section 6.3 of the report.

5.1.3 Comment

The 10% threshold has been exceeded so no further HMOs should be allowed. There is already a high concentration of HMOs, and has led to an unbalancing of the mix of family households.

Response

See paragraph 3.4 and section 6.2 of the report.

5.1.4 Comment

Overdevelopment and intensification of use. Will cause harm due to increased problems of noise, refuse, litter, and related problems associated with the lifestyles of unrelated tenants. In particular, the anti social behaviour associated with students.

Response

This is addressed in section 6.3 of the report.

5.1.5 Comment

There would be insufficient parking, and there is already insufficient parking for existing residents.

Response

There will be no further impact on highway safety as the number of occupants will not be increased.

5.1.6 Comment

The proposed extension will be out of keeping with character and appearance of the dwelling and surrounding area.

Response

See section 6.3 of the report.

5.1.7 Comment

Will set a precedent for future similar applications. Previous appeals for comparable proposals have been refused, including 6 Denbigh Gardens (ref no. 2182572), 5 Crofton Close (ref no. 2066223), 5 Crofton Close (ref no. 2034863), 1 Blenheim Gardens (ref no. 2156569), 14 Spring Crescent (ref no. 2176620), 13 Grosvenor Road (ref no. 2167641), 30 Glen Eyre Drive (ref no. 2185123), 53 Shaftesbury Avenue (ref no. 2177575).

Response

Each application should be assessed on its own individual merits. The cases cited are materially different in circumstances in terms of scale and nature of use, as this application is an extension to an established C4 HMO where the occupancy is not being increased and, therefore, do not set a material precedent to warrant refusal of this application.

The appeal decisions cited at 1 Blenheim Gardens (8 occupants) and 13 Grosvenor Road refer to the harm caused by change of use to a large HMO and, therefore, these cases are materially different in nature to this application. Similarly, the appeal decisions at 6 Denbigh Gardens and 30 Glen Eyre Road refer to the harm caused by a change of use from C3 family dwelling to a C4 HMO.

The appeal decision at 53 Shaftesbury Avenue refers to subdividing a large HMO into two small HMOs, which is materially different to the circumstances in this application, as an additional HMO was being created. Similarly, the appeal decision at 14 Spring Crescent considers the impacts from extending a large dwelling and subdividing it into 2x5 bed HMOs.

The appeal decision at 5 Crofton Close refers to the conversion of a garage into an additional bedroom, where the property was occupied as 7 students living as a family unit (class C3 use), which is equivalent to a large HMO unlike the application being considered.

5.1.8 Comment

Will encroach on the protected open space area for the conservation of wildlife to

the west of the rear garden of the property. Loss of garden area is out of character with the local area, and there will be less green space to absorb rainfall. There will be insufficient amenity space remaining for the residents.

Response

The site is separated (with a distance of 25m from the end of the garden) by the land of 2a Hilldown Road from the protected open space and, which ensures there is no adverse impact. The area of remaining private amenity space will be approximately 108 square metres with a length of 12 metres. This exceeds the minimum standard in the Council's Residential Design Guide for a semi-detached dwelling.

5.2 **SCC Highways** - No objection.

5.3 **SCC Private Housing** – No objection.

5.6 **SCC Environmental Health (Pollution & Safety)** - No objection, subject to construction hours condition and no bonfires.

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 and amenity of the surrounding area;
- Impact on highway safety;
- Standard of living conditions for future residents.

6.2 Principle of Development

6.2.1 The property has been occupied as a small HMO (class C4) prior to 23rd March 2012 (effective date of Article 4 direction). The applicant has provided as evidence, a 12 month signed tenancy agreement for 6 tenants from 1st July 2011 to 30th June 2012, and 6 tenants 1st July 2012 to 30th June 2013.

6.2.2 The 10% threshold applicable to this site which falls within the Portswood Ward does not apply, as the HMO is already established as a small HMO on 23rd March 2012 and there will be no increase in the concentration of HMOs.

6.2.3 Although the extension will provide 2 additional habitable rooms, the occupants will remain the same, where planning permission will be required to change the use of the small HMO to a large HMO. This will result in no intensification of use or material change of use of the property, which remain as a small HMO with no further occupants. Section 6.11 of the HMO SPD states that in these circumstances only the physical impact of the extension will be assessed.

6.3 Impact on the character and amenity of the surrounding area

6.3.1 No survey of existing HMOs in the surrounding area has been carried as the threshold limit does not apply. Within the class C4 HMO up to 6 unrelated occupants can live in a property without a material change of use occurring which does not require planning permission and, therefore, the Uses Classes Order classifies the difference between 3 to 6 occupants being no different in terms of

impact on amenity and character.

- 6.3.2 There will be no additional occupants. The ground and first floor communal spaces will be retained by condition to provide an acceptable residential environment. It is considered that the noise and activities associated with the existing occupation will be no different.
- 6.3.3 It is noted that the occupants are likely to be students, however, a HMO can be occupied by different groups other than students and, therefore, the planning assessment should not single out the behaviour or lifestyles of students. It is noted that complaints have been investigated by the Council about the behaviour of students in the local area, and this will be enforced under Environmental Health powers.
- 6.3.4 As the property is already established as a HMO, the existing concentration of HMOs and mix of households (permanent and transient) in the local community will not change, as well as not adding to the overall supply of HMOs.
- 6.3.5 The proposed extensions consist of a 4.3m deep single storey rear extension, which wraps around the side 3.6m, with a gap of 500mm between the common boundary of no. 39 to the north, 1.4 to 1m to no. 35 to the north, and 12.5m to 2a Hilldown Road to the east. The proposed first floor extension does not project beyond the existing rear building line or the existing 2 storey south elevation, with a gap of 3 to 3.5m to the common boundary of no. 35.
- 6.3.6 It is considered that the scale and massing of the proposed extension will be in keeping with the appearance and character of the dwelling, as it will appear subservient and proportional to the large semi detached property. The side element of the single and 2 storey extension is well set back from the front wall of the original dwelling (12m), and partially screened by the existing 2 storey wing.
- 6.3.7 The eaves height of the proposed rear extension will be 500mm taller and 1.7m longer than the existing outhouse to the rear of no. 39, where the eaves height (2.9m) is limited to the top of the neighbour's kitchen window, and the side wall set back 500mm from the common boundary. Although the depth of the extension breaks the 45 degree code taken from the ground floor rear kitchen/dining room window, there will be no adverse impact on the loss of light and outlook due to its limited eaves height (visible above a 2m high fence under permitted development) and set back, as well as the size of the neighbour's own outhouse.
- 6.3.8 The side patio area at no. 35 adjacent to the proposed single and 2 storey extension is to the south and, therefore, will not be overshadowed due to the orientation. It is considered that there is sufficient separation not to adversely affect their light and outlook. The standards for the spacing between properties in the Residential Design Guide refer to the relationship between a habitable room window and side (gable end) wall (12.5m) (paragraph 2.2.7 refers), and minimum back to back privacy distance of 21m (paragraph 2.2.4 refers).
- 6.3.9 These standards are not relevant to no. 35, and there is a sufficient gap with no. 2a to not significantly affect their outlook. The 21m privacy standard can not be adhered to due to the backland nature of no. 2a, however, the standards can be applied flexibly depending on the context of the site (paragraph 2.2.5 refers). There will be no direct overlooking, due to the ground floor windows of the

property at 2a Hilldown Road being screened and cill heights of the first floor rooflights and, therefore, no loss of privacy.

6.4 Impact on highway safety

6.4.1 The site lies within a residents parking zone with limited number of permits allocated per address. As this development does not affect the number of addresses on site, the level of permits allowed for on street parking is unchanged. There will be no additional occupants and, therefore, no further trips associated with the proposal. Therefore, it is considered that there will be no adverse impact on highway safety.

6.5 Standard of living conditions for future residents

6.5.1 The Council's Environmental Health Housing team have raised no objection to the standard of accommodation. It is considered that the proposed layout of accommodation will provide an acceptable residential environment in terms of access to outlook, light and privacy. The area of remaining amenity space will be approximately 108 square metres with a length of 12 metres. This exceeds the minimum standards in the Council's Residential Design Guide for a detached dwelling. The communal spaces, including the lounge, will be retained by condition.

7.0 Summary

7.1 In summary, given there is no increase in the number of occupiers or concentration of HMOs, the proposed extension will not materially affect the character of the local area in terms of the balance of households in the local community, and will not adversely affect the amenity of local residents or highway safety.

8.0 Conclusion

8.1 In conclusion, the proposal will be in accordance with the Council's current adopted guidance and policies and have acceptable impact. As such the proposal is recommended for conditional 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(b), 2(d), 4(f), 4(qq), 6(c), 7(a), 9(a), 9(b).

SB for 25/06/13 PROW Panel

PLANNING CONDITIONS

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 - Materials [Performance Condition]

The materials and finishes to be used in the construction of the extension hereby permitted shall be in accordance with the approved plans.

Reason:

To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

03. APPROVAL CONDITION - No other windows or doors other than approved [Performance 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.

04. APPROVAL CONDITION - Retention of communal spaces

The rooms labelled dining room, lounge, breakfast and kitchen on the ground floor and study on the first floor shall be made available for use by all of the occupants prior to first occupation of the extension hereby approved and, thereafter, shall be retained and available for communal purposes only to serve the HMO.

REASON

To ensure that a suitable communal facilities are provided for the residents.

05. APPROVAL CONDITION - Refuse storage and collection [Performance Condition]

Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the buildings hereby approved.

Reason:

In the interest of visual amenity and for the safety and convenience of the users of the adjacent footway.

06. APPROVAL CONDITION - Retention of the front boundary treatment

Unless otherwise agreed in writing by the Local Planning Authority, the existing front treatment shall be retained and no part shall be removed.

Reason:

In the interests of protecting the visual amenity of the local area.

07. 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.

08. APPROVAL CONDITION - Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

For the avoidance of doubt and in the interests of proper planning.

INFORMATIVE

It was agreed that an informative note would be added to the decision notice reminding the applicant that any intensification of the use beyond C4 would require planning permission.

POLICY CONTEXT

Core Strategy - (January 2010)

CS4 Housing Delivery
CS16 Housing Mix and Type

City of Southampton Local Plan Review – (March 2006)

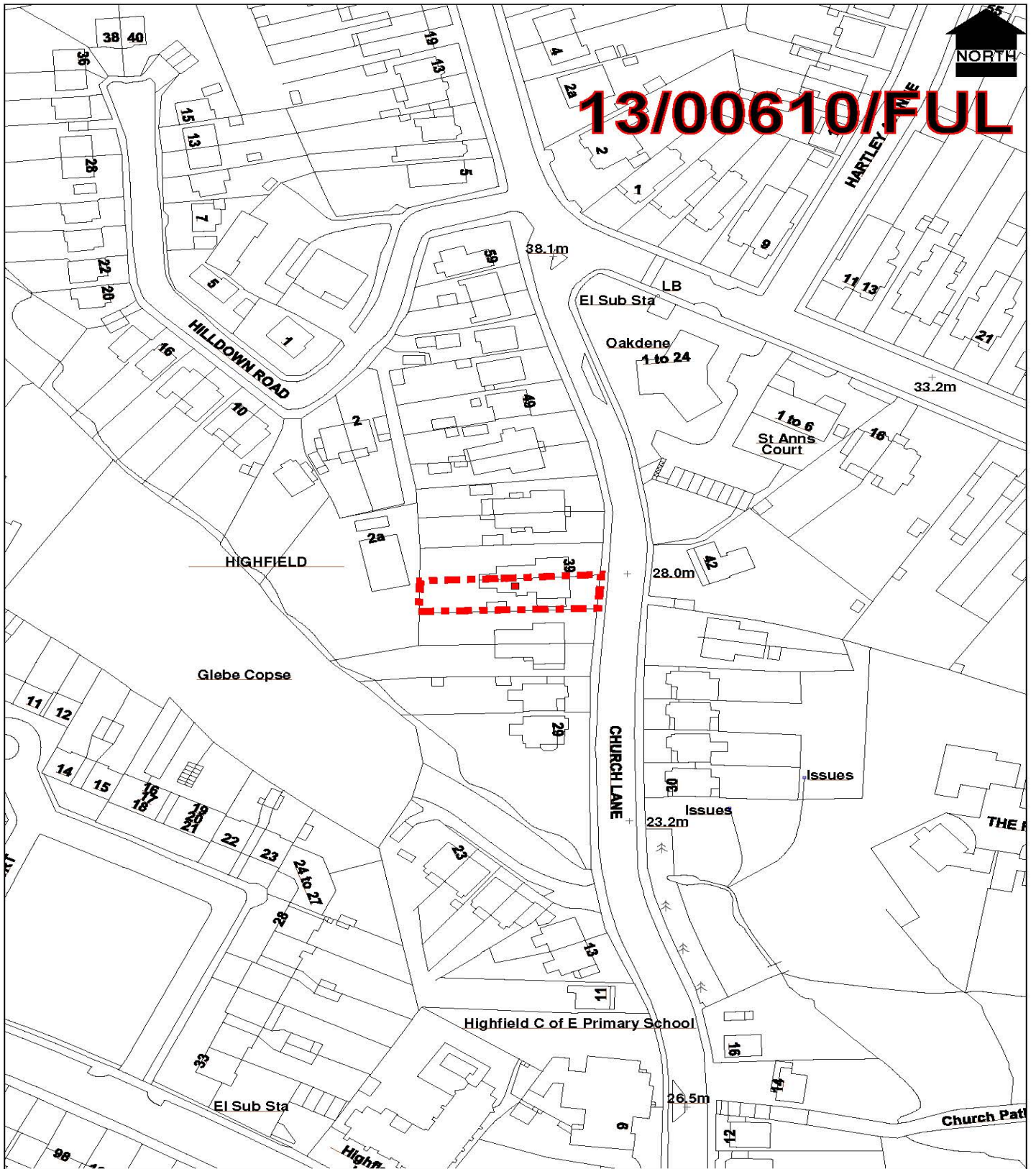
SDP1 Quality of Development
SDP7 Urban Design Context
SDP9 Scale, Massing & Appearance
H4 Houses in Multiple Occupation

Supplementary Planning Guidance

Houses in Multiple Occupation (Approved – March 2012)
Residential Design Guide (Approved - September 2006)
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework 2012



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