

**Planning, Transport & Sustainability Division
 Planning and Rights of Way Panel 23 July 2013
 Planning Application Report of the Planning and Development Manager**

Application address: 51 Redbridge Road			
Proposed development: Use of outbuilding as a Cafe (Use Class A3) (part retrospective).			
Application number	13/00749/FUL	Application type	FUL
Case officer	Jenna Turner	Public speaking time	5 minutes
Last date for determination:	13.06.13	Ward	Redbridge
Reason for Panel Referral:	Referred by the Planning and Development Manager	Ward Councillors	Cllr McEwing Cllr Whitbread Cllr Pope

Applicant: Miss Kym Mckenzie	Agent: None
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Recommendation Summary	Refuse and Enforce against the breach of planning control
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Reason for Refusal - Highway Safety

The proposed cafe use would not be served by a safe and convenient pedestrian and disabled user access to it, which given the nature of the adjacent highway, that serves an industrial estate, would represent a significant risk to the safety of the customers of the use. Furthermore, it is not clear that delivery vehicles could service the use without having a harmful impact on either highway safety or the convenience of the users of the adjoining highways. The proposal would therefore prove contrary to the provisions of policy CS13 (4, 8 & 9) of the Southampton Core Strategy Local Development Framework (January 2010) and saved policies SDP1 (i), SDP4 and SDP11 of the City of Southampton Local Plan Review (2006).

Appendix attached			
1	Development Plan Policies		

Recommendation in Full

1. Refuse planning permission for the development for the reason as outlined above.
2. Delegate to the Planning and Development Manager to proceed with enforcement proceedings to remove the cafe equipment from the building and to ensure the building is incidental to the main dwelling.

1. The site and its context

- 1.1 The application site comprises a two-storey, detached residential dwelling and its associated rear garden. The application property is one of four dwellings within an otherwise commercial area. Beyond the rear site boundary is the Millbrook and First Avenue Trading Estate, which is safeguarded for industrial and storage and

distribution uses.

- 1.2 Immediately adjacent to the rear boundary of the application property, a flat roof outbuilding has been constructed and fitted out to enable it to be used as a commercial cafe and kitchen. The cafe has not yet come into use.

2. Proposal

- 2.1 The application seeks planning permission for the cafe which has been constructed in the rear garden of 51 Redbridge Road. The cafe would be owned and operated by the occupant of 51 Redbridge Road and it is likely that other members of staff would also be employed. The requested hours of operation would be between 08:00 and 18:00 Mondays to Fridays. Customers would access the cafe from First Avenue, across highway verge to the eastern elevation of the building. No additional car parking spaces are proposed to serve the use.

3. 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.

4. Relevant Planning History

- 4.1 In 2007, planning permission was granted for a conservatory to the rear of the property (07/01881/FUL), other than this there have been no recent or relevant applications relating to the application site.
- 4.2 Also of relevance to this application are the recent approvals on the NXP site which lies to the west of 51 Redbridge Road. Applications 12/00975/OUT and 13/00206/REM granted permission for 8600 sq.m. of industrial/warehouse uses. A further application is being considered for highway improvements in the vicinity of the site 13/00800/FUL.

5. Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was also undertaken which included notifying adjoining and nearby landowners and erecting a site notice (23.05.13). At the time of writing the report **4** representations have been received from surrounding residents which includes two objections and two letters of support from the Ward Councillor McEwing and Alan Whitehead MP who consider that the cafe has been fitted out to a high standard and support the applicant's efforts to make a living. The following is a summary of the points raised:

5.2 ***The proposal involves taking access over third-party land, for which the applicant has no rights or entitlement from the landowner.***

5.3 **Response**

This is a civil matter and would need to be resolved outside of the planning process.

5.4 ***The highway works associated with the redevelopment of the NXP site includes works to the existing verge over which it is proposed the cafe would take access from. The application could therefore jeopardise the redevelopment of the NXP site.***

5.5 **Response**

These concerns are shared by the Highways Team and are discussed in more detail in the Considerations section below.

5.6 ***The proposal makes no allowances for car or cycle parking and would place pressure on limited on-street car parking availability. The surrounding area currently experiences car parking issues and this is documented by the Parking Services Team. The proposal would exacerbate this.***

5.7 **Response**

The provision of no car parking spaces is in accordance with the adopted maximum car parking standards. There is space on site to accommodate cycle storage and a condition could be used to secure this. It is likely that customers would have already parked at their place of work and walk to the cafe and the need for designated parking is therefore reduced. Whilst the Council would have no control if customers wanted to access the site by vehicle, there are parking restrictions adjacent to the site which would discourage this.

5.8 ***No details are provided to demonstrate how noise, odour and cooking smells will be mitigated.***

5.9 **Response**

A condition could be imposed to ensure details of suitable extraction equipment, complete with odour and noise mitigation, are provided and agreed before the cafe use started operating. The Environmental Health Team has raised no objection to this approach.

5.10 ***There are existing anti-social behaviour issues within the area and the proposal could exacerbate this.***

5.11 **Response**

It is proposed that the use would not operate within the evenings or overnight period when issues of anti-social behaviour are most likely to arise. A condition could be imposed to secure this.

5.12 **Consultation Responses**

5.13 **SCC Highways** - There is no provision for a safe pedestrian route to the cafe. Access would be taken from over highway verge and there are planned changes to the junction which would affect this. Also raise concerns regarding how delivery vehicles would service the site. Refusal is therefore recommended on highway

safety grounds.

- 5.14 **SCC Environmental Health** - No objection subject to conditions to limit the hours of operation and to secure adequate extraction equipment.

6. Planning Consideration Key Issues

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

- i. The principle of development;
- ii. Design and impact on the character of the area;
- iii. The impact on residential amenity and;
- iv. Parking and highways.

6.2 Principle of Development

- 6.2.1 Saved policy REI7 of the Local Plan supports the principle of food and drink uses within designated retail centres. The application site is not located within such a location and is not designated for any particular use. Therefore, the nature of the use needs to be carefully considered particularly in terms of the impact on residential amenity, highway safety and the benefits of providing an employment generating use.

6.3 Design and Impact on the character of the area

- 6.3.1 It is possible to construct ancillary outbuildings to dwellings, the same size as the application proposal, under permitted development. As such, it is not unusual to find a structure of this size and appearance within a residential garden. The materials used are sympathetic to the main house and in visual terms the structure is considered to be acceptable (and preferable to a standalone catering van). It is acknowledged that it is not usual to find a cafe use within the rear garden of a residential property, and as such, would not usually be acceptable in planning terms. This site, however, is located in an otherwise mainly industrial area and as such, it not considered to be necessarily harmful in character terms, providing it can be designed with a safe, independent access.

6.4 Impact on residential amenity

- 6.4.1 Whilst the site is neighboured by residential properties, given the location of the site between the heavily trafficked Redbridge Road and the industrial estate, it is not considered that the small-scale nature of the use would generate significant additional harm to residential amenity. Customers would enter the site from the eastern elevation of the building and would not enter the main garden of the property. This would assist in focusing the activity away from the adjacent residential gardens and accommodation. It is proposed that the cafe would operate between 08:00 and 18:00 which would also assist in minimising disturbance to the neighbouring residential properties. Planning conditions could be used to secure these aspects and to ensure that cooking odours and noise from extraction would not be harmful to residential amenity. Were the application to be supported a planning condition could also be used to make a planning permission personal to the occupant of the main house at 51 Redbridge Road. As such, Environmental Health has raised no objection to the application and on balance, the proposal is considered to be acceptable in this respect.

6.5 Parking and Highways

- 6.5.1 Given that it is intended that the use would mainly serve passing trade or local trade from the industrial estate, the provision of no dedicated car parking spaces to serve the use is acceptable and accords with the Council's adopted maximum car parking standards. There are parking restrictions adjacent to the site and Highways do not consider that the use would result in increased congestion on the adjacent carriageway.
- 6.5.2 It is proposed that customers of the cafe would access the building from across the highway verge to the east of the boundary of 51 Redbridge Road. There is no public footway between the site and the carriageway or pedestrian crossing facilities to the opposite side of the road. The highway to the rear of the site serves a large industrial estate and therefore accommodates a high volume of traffic, including a high proportion of HGV's. It is therefore considered that the absence of safe pedestrian and wheelchair route to the use would create a highway safety issue. In addition to this, there are planned changes to the road layout to support the intensification of use at the NXP site by HGV vehicles, which would further impede the safe access to this property.
- 6.5.3 Other options, which include access from Redbridge Road, have also been explored with the Highways Team but a solution that is acceptable in Highway safety terms has not been reached.
- 6.5.4 In addition to this, the site does not provide a safe or convenient location for delivery vehicles to service the café. The Council would have no control over the nature or size of delivery vehicles that would service the use and therefore consideration needs to be given to how potentially larger vehicles could be accommodated on the site. Having regard to the busy nature of Redbridge Road, servicing from the front of the property would not be supported from a safety point of view. The stopping of delivery vehicles to the rear of the site would also impact on the free flow of traffic within the industrial estate but also, given the location of the site on a bend, would create a highway safety issue.

7. Summary

- 7.1 Whilst, some aspects of the proposal are considered to be acceptable in planning terms, the inability to provide a safe access for customers of the use is considered to create a significant highway safety issue for which planning permission should be refused.

8. Enforcement

- 8.1 The property benefits from permitted development rights which enable the construction of outbuildings for use in association with the enjoyment of the house. The dimensions of the structure accord with what is permissible under permitted development and as such, subject to the removal of the equipment intended for use as a cafe, it is recommended that the structure itself can be retained for domestic use.

9. Conclusion

- 9.1 For the reason set out above, it is considered that the proposal would be harmful in highway safety terms and should, therefore, be refused planning permission.

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

[1. (a) (b) (c) (d), 2 (d) 5 6 (i) 7 (a)]

JT for 23/07/13 PROW Panel

POLICY CONTEXT

Core Strategy - (January 2010)

CS3	Promoting Successful Places
CS6	Economic Growth
CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility and Movement
SDP16	Noise
REI7	Food and Drink Uses (Classes A3, A4 and A5)

Supplementary Planning Guidance

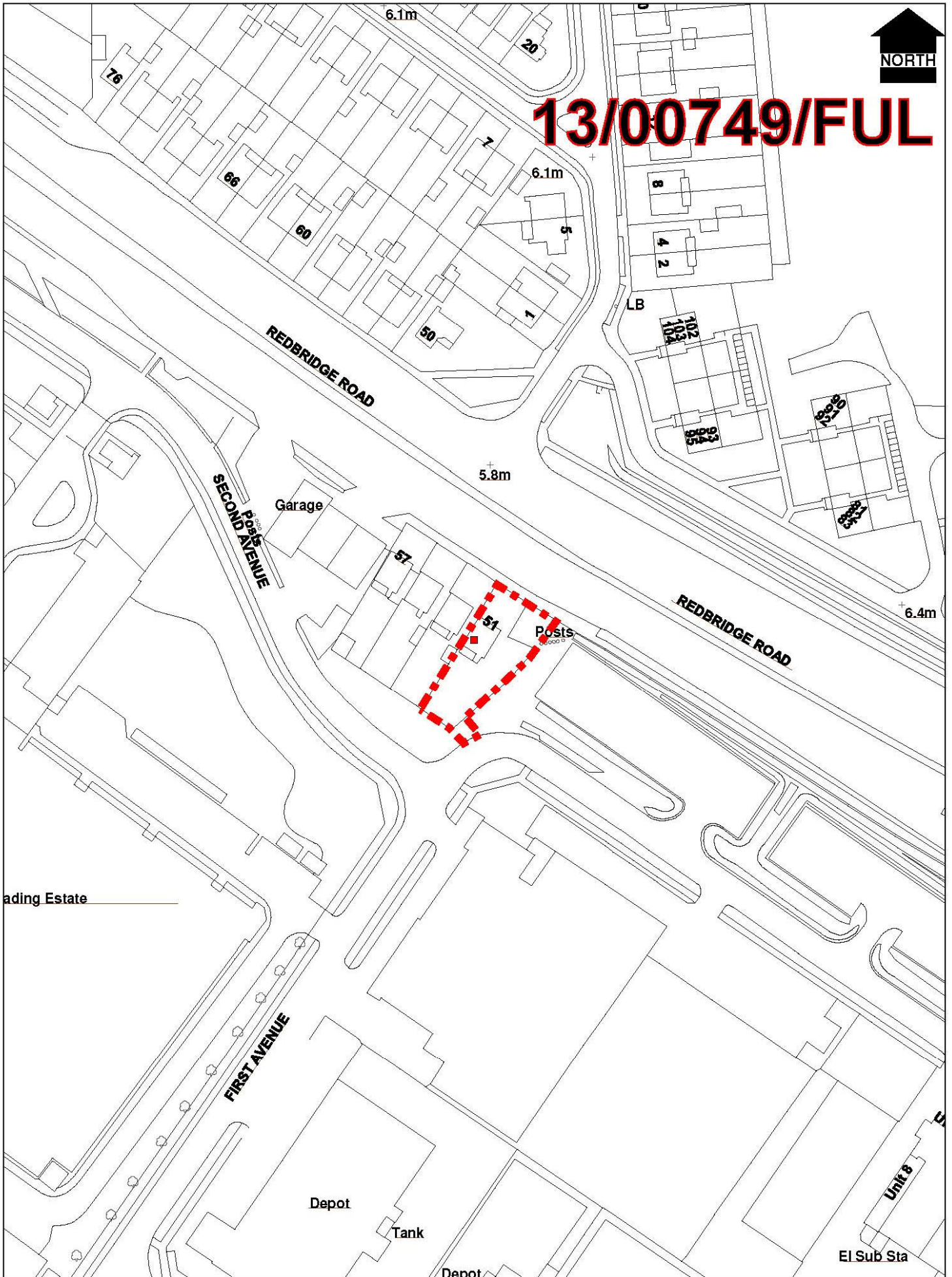
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework 2012



13/00749/FUL



Scale : 1:1250

Date : 10 July 2013

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