

Planning, Transport & Sustainability Division
Planning and Rights of Way Panel 20/08/2013
Planning Application Report of the Planning and Development Manager

Application address: 9 Pointout Close SO16 7LS			
Proposed development: Relief From Condition 11 Of Planning Permission 871053/23553/W To Enable Conversion Of Garage To Living Accommodation (Retrospective) .			
Application number	12/01870/FUL	Application type	FUL
Case officer	Mathew Pidgeon	Public speaking time	5 minutes
Last date for determination:	01/02/2013	Ward	Bassett
Reason for Panel Referral:	Referred by the Planning & Development Manager due to wider public interest	Ward Councillors	Cllr Les Harris Cllr Beryl Harris Cllr John Hannides

Applicant: Mr Charles Glanville

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 removal of the integral car parking space in this part of Pointout Close is not detrimental to the overall character and amenity of the area surrounding the application site nor is the proposal contrary to parking standards. 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, SDP5, SDP7 and SDP9 of the City of Southampton Local Plan Review (March 2006) and CS13 and CS19 of the Local Development Framework Core Strategy Development Plan Document (January 2010); and the relevant sections of the Residential Design Guide Supplementary Planning Document (September 2006) and Parking Standards Supplementary Planning Document (September 2011)

Appendix attached	
1	Development Plan Policies

Recommendation in Full

Conditionally approve

1.0 Introduction and Background

- 1.1 As set out in section 4.0 below this planning application has been submitted following the decision of Southampton City Council to refuse planning permission for the change of use of the property from a C3 house (family dwelling house) to a C4 house (house of multiple occupation) (12/00705/FUL).
- 1.2 Following refusal of that application the Applicant has chosen to appeal the Councils decision. The Inspector has not yet determined the appeal however aims to do so by the 18th September.
- 1.3 This current scheme is identical to the item presented before the Planning Committee on 28th May 2013. On that date the Planning Committee chose not to determine the application until appeal against the Councils decision to refuse the application for the change of use from dwelling house (C3) to House of Multiple Occupation [C4] (12/00705/FUL) was determined by the Planning Inspector.
- 1.4 Subsequently the Applicant has submitted an appeal for non determination with respect to this current application. In order to defend the appeal the Local Planning Authority need to identify what the decision would have been if we had determined the application. Other than paragraphs 1.1, 4.4, 5.2, 5.3 and 6.6.2 that have been amended for clarity the remainder of this report effectively unchanged from the report previously used in support of the presentation to Planning Committee on 28th May 2013.

1.5 Site and Surrounds

- 1.6 The application is located in Pointout Close, accessed by car from Pointout Road but with separate pedestrian access to Burgess Road. The Close is part of the predominantly residential area located north of Burgess Road and south-east of Winchester Road. It is a modern cul-de-sac comprised of 22 three-storey town houses in semi-detached pairs and short sections of terrace. All 22 properties were originally designed with integral garages, **seven** of which have now been converted into living accommodation (including number 9).
- 1.7 The application site comprises a three storey dwelling located centrally within a short terrace of three dwellings. The proposal is retrospective as the applicant has converted the garage into a bedroom. Since the original construction of the building a conservatory has also been added to the rear. The information held by the Council suggests that the conservatory has been in existence for in excess of four years and if so is therefore immune from enforcement action

2.0 Proposal

- 2.1 The application seeks relief from condition 11 of the original planning permission. Condition 11 sought to safeguard the integral garage for parking purposes only. Relief from condition 11 will enable the conversion from the integral garage to residential accommodation to be lawful.

- 2.2 As the works have been implemented the assessment will also need to take account of the appearance of the new section of external wall and window which have replaced the garage door.

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 The Parking Standards Supplementary Planning Document (September 2011) is also very relevant to the assessment. The document sets out the Councils position on cycle and vehicular parking and supports various other aims of local and national policy.

4.0 Relevant Planning History

- 4.1 871053/W - 25 x 3 bed houses with integral garage in block of 3&4 terraces, 1 detached house and garage – Conditionally Approved.
- 4.2 Condition 11: Before any dwelling unit hereby approved is occupied, both the on-site car parking and a proper vehicle access relating to it shall be provided to the satisfaction of the Local Planning Authority. The car parking shall thereafter be retained and not used for any trade, business or industrial use.

Reason

To ensure provision of vehicle access and car parking, to avoid congestion in the adjoining area and to protect the amenities of the area.

- 4.3 Planning records show that planning permission has been granted for the conversion of integral garages at 3 and 19 Pointout Close to be converted to habitable accommodation.
- 4.4 At the time the Council granted permission for the conversion of the three garages at 3, 7 and 19 Pointout Close the Council’s parking standards were set at minimum levels; the retention of one off street parking space per property was not opposed.
- 4.5 12/00705/FUL - 9 Pointout Close - Change of use from dwelling house (C3) to House of Multiple Occupation (C4) - Refused, 31.08.2012.
- 4.6 Reason for refusal: The intensification of the use of the property and activity associated with it including the lack of a parking survey, means the use would be out of character with the local area and detrimental to the amenities of nearby

residents. The proposals are therefore contrary to saved policy H4 of the City of Southampton Local Plan Review 1996 and Policy CS16 of the Core Strategy 2010.

4.7 A planning appeal has been submitted against the above decision however at the time of writing this report to panel a decision had not been issued.

4.8 12/01540/ELDC - 9 Pointout Close - Application for a Lawful Development Certificate for the Existing Use of the property as a mixed C3/C4 use (mixed family dwelling house/house of multiple occupancy).

As of 23rd March 2012, there were 3 unrelated occupants on the property which would have changed the use of the property from a C3 use to a C4 use without the benefit of planning permission. However, the conversion of the garage to form a bedroom is in breach of planning permission 871053/23553/W (condition 11) and therefore is not immune from Enforcement action as the conversion has taken place within the last year. The authorised use of the property remains a C3 dwelling.

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 (13.12.2012). At the time of writing the report **11** letters of representation have been received. Of the 11 letters received two have been received from local ward Cllrs and one has been received from Pointout Residents Group. One of the letters received has two signatories.

5.2 Comment
Overdevelopment of the site/unlawful use as an HMO. Approval of this application will allow lawful use of the garage for accommodation leading to an over intensive use of the site.

5.3 Response

- The current use of the property is unauthorised.
- Section 4 above highlights the history of the site and clarifies that planning permission and a lawful development certificate, that both sought to authorise the use of the building as an HMO, have been refused.
- The owner of the property has submitted an appeal to the secretary of state in relation to the decision to refuse planning permission for the conversion. Should the appeal decision be published by the date of the Planning Panel meeting members will be updated accordingly.
- As such the current authorised use of the building is a family dwelling house, Officers are therefore required to consider the application with this in mind.
- By granting this permission the Council are not approving the use of the property as an HMO.

5.4 Comment
Noise.

- 5.5 Response
The Council must assess whether or not the removal of the garage and addition of a habitable room will alone lead to disturbance and nuisance, sufficient to substantiate a refusal. Given the lawful use of the property this is very unlikely. It is important to remember that it is the behaviour of the occupants of a dwelling house which is more likely to generate noise and disturbance to neighbouring residents than the level of occupancy itself within a property of this size. Furthermore there are other statutory powers more suitable to use to control noise than the planning system.
- 5.6 Comment
The conversion has been poorly carried out and is not in keeping with the property. Materials do not match the colour of those used on the host dwelling. There is no brick soldier course of contrasting colour under the sill of the window (as there is with all other windows, including those used for the windows of the other garage conversions, in the Close). The brick bonding style differs from the bonding of the main house. The specification of materials used has not been quoted.
- 5.7 Response
The garage door has been replaced by a window, bricks and mortar. The window frame and design has a similar appearance to the original windows which are in the front elevation of the dwelling. The brickwork and mortar used is similar to the existing however it is clear that they are not identical in colour or tone to the existing. The Local Planning Authority must determine whether or not the impact of the materials used; bonding style, lack of soldier course under the window and proportions of the window itself are sufficiently harmful to justify refusal of the application. This assessment is discussed below in section 6.0. The applicant's failure to quote the specification of the materials used does not prevent the determination of the application.
- 5.8 Comment
The materials used breach restrictive condition 2.
- 5.9 Response
It is assumed that the objector is referring to condition 2 of permission 871053/23553/W. The condition sought to ensure that details of the materials used for the construction of the buildings were passed to and approved by the Local Planning Authority prior to the commencement of construction. Future alterations to the dwelling houses within the Close are not required to comply with the original conditions applied when the development was first approved.
- 5.10 Comment
No precedent exists and the case should be judged on its own merits.
- 5.11 Response
The above statement is true. The Planning Department shall need to judge the case on its own merits. The decision must be made on the basis of the development plan and relevant policies and supplementary planning documents. Character and context of the area are allowed to be considered due to policy SDP7 (context).

- 5.12 Comment
The application seeks determination of two separate planning matters therefore two separate applications should have been submitted.
- 5.13 Response
There are no procedural reasons why the two elements to the scheme (relief from planning condition 11 and retrospective permission for the unlawful garage conversion) cannot be dealt with by the submission of a single planning application. This approach is not unusual.
- 5.14 Comment
Householder application is inadequate.
- 5.15 Response
A householder application is acceptable. The property has the lawful use as a family dwelling house. The Planning Panel should also note that a house of multiple occupation remains in residential use.
- 5.16 Comment
Impact on parking provision in the street.
- 5.17 Response
The Councils Parking Standards and relevant policies will be taken into account when assessing the application. It is noteworthy that the Council currently have maximum parking standards. Whilst parking pressure/congestion taken in isolation is not a material planning consideration the impact of parking pressure on residential amenities can be considered.
- 5.18 Comment
Sufficient communal space is not provided within the property.
- 5.19 Response
Room sizes and communal room positions are not relevant. The Housing Licensing Team may have standards to apply when assessing HMO licensing requests however those standards are not material to planning decisions. Notwithstanding the lack of room size standards for planning permissions the lawful use of the property is a family dwelling house and therefore there are no restrictions/standards for room sizes.
- 5.20 Comment
The application is retrospective.
- 5.21 Response
The applicant is entitled to submit a retrospective application. If the application is refused the garage will need to be reinstated. If this does not occur within an agreed timeframe enforcement action will proceed.
- 5.22 **SCC Highways** - The site currently benefits from off road parking on its forecourt. With our current parking standards being maximum, this proposal is in accordance with our policies. No objection is raised.

6.0 Planning Consideration Key Issues

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

- Principle of development.
- Quality of residential environment.
- Impact on neighbouring amenity.
- Loss of car parking space.
- Visual acceptability of the conversion.

6.2 Principle of Development.

6.2.1 The lawful use of the property is a family dwelling house and therefore for the purposes of the assessment the Council must disregard the current unlawful occupation of the building. The scheme should be judged accordingly and planning merit assessed.

6.2.2 There are no policies in the development plan which, in principle, prevent the conversion of integral garages to habitable accommodation.

6.3 Quality of residential environment.

6.3.1 The relevant policies and guidance set out in the development plan do not specify minimum room sizes. The room is served by a window to the front which will enable light to be received into the room and outlook to be achieved from the room. The quality of the residential environment created inside the room is judged to be acceptable.

6.4 Impact on neighbouring amenity.

6.4.1 The behaviour of individuals within a dwelling house cannot be controlled by the planning system. It cannot be substantiated that by enlarging a dwelling house by converting the integral garage harmful noise will be generated and unacceptable disturbance to neighbouring amenity caused.

6.4.2 The link between increased habitable accommodation in the property and noise is anecdotal and alone should not be used as a reason for refusal.

6.4.3 The Council has statutory powers under Environmental Health legislation to monitor and enforce against local nuisance including noise disturbance.

6.4.4 It is considered that there is no adverse impact on the residential amenity of local residents as a result of the garage conversion.

6.5 Loss of car parking space.

6.5.1 The condition applied to the site, as per the original permission, was applied due to the standards and policies relevant at that time. The Council currently have maximum parking standards.

6.5.2 At the time of the original consent, it was common practise for Council to impose minimum standards for car parking. The move towards encouraging alternative modes of transport and less reliance on the car in areas where alternatives and other services are available is enshrined by both local and national policies.

6.5.3 The information provided by an objector to the scheme demonstrates that prior to conversion the garage measured 3.38m x 2.8m which is fairly small compared to current standards (6m x 3m). The size of the garage would thereby limit the scope of cars capable of being stored within the garage.

6.5.4 There has also been no objection to the scheme raised by the Highways Team in relation to highways safety or reduced potential parking on the site.

6.6 Visual acceptability of the conversion.

6.6.1 The appearance of the site and local neighbourhood is not afforded special protection through being part of a Conservation Area, nor is the property or any of the nearby properties listed or locally listed. Accordingly the assessment with respect to the acceptability of the materials which have been used to form the outer wall of the property (replacing the garage door) will need to take this into account.

6.6.2 The removal of the garage door and formation of a brick wall with window inserted is not considered in principle to be harmful to the character of the dwelling or the surrounding area/streetscape. Planning permission has been granted for three of the existing seven garage conversions within the Close all of which were approved under delegated powers. There have also been no enforcement cases opened in relation to the other four conversions which do not benefit from planning permission. To undertake planning enforcement action the Council must consider a breach of planning control to be harmful and therefore it must be expedient to take such action. Whilst objectors are unhappy with the finish and quality of the external appearance of the wall it is not considered sufficiently harmful to the character and appearance of the area to justify refusal of the planning application.

7.0 Summary

7.1 The relief from condition 11 of planning permission 871053/W is deemed acceptable and does not have an unacceptable impact on the overall character of the area or amenity of local residents surrounding the application site.

8.0 Conclusion

8.1 In conclusion, the proposal is in accordance with the Council's current adopted guidance and policies and has an acceptable impact. As such the proposal is recommended for approval.

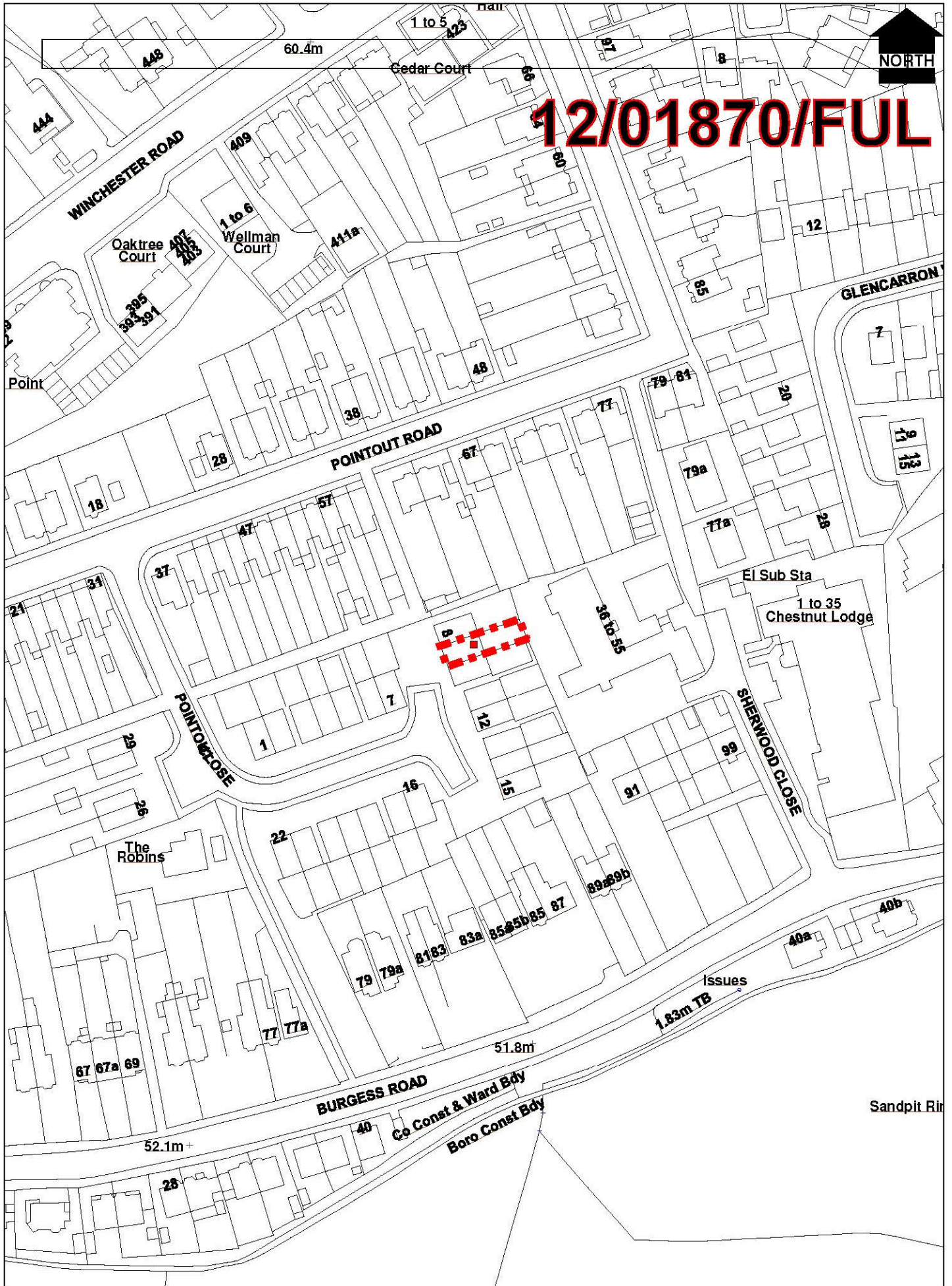
Local Government (Access to Information) Act 1985
Documents used in the preparation of this report Background Papers

1 (a), (b), (c), (d), 2 (b), (c), (d), 4 (f), 6 (c), 7 (a), 9 (a), 9 (b).

MP3 for 28/05/2013 PROW Panel

PLANNING CONDITIONS

None relevant.



12/01870/FUL

Scale : 1:1250

Date : 08 August 2013

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POLICY CONTEXT

Core Strategy - (January 2010)

CS13 Fundamentals of Design
CS19 Car & Cycle Parking

City of Southampton Local Plan Review – (March 2006)

SDP1 Quality of Development
SDP5 Parking
SDP7 Urban Design Context
SDP9 Scale, Massing & Appearance

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework 2012