

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

|                                                                                                                                                        |                                                |                             |                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|-----------------------------|----------------------------------------|
| <b>Application address:</b><br>35-36 Oxford Street SO14 3DS                                                                                            |                                                |                             |                                        |
| <b>Proposed development:</b><br>Change of use of basement to private members club (Sui Generis Use Class) and external alterations to front elevation. |                                                |                             |                                        |
| <b>Application number</b>                                                                                                                              | 13/00922/FUL                                   | <b>Application type</b>     | FUL                                    |
| <b>Case officer</b>                                                                                                                                    | Andy Amery                                     | <b>Public speaking time</b> | 5 minutes                              |
| <b>Last date for determination:</b>                                                                                                                    | 08.08.2013                                     | <b>Ward</b>                 | Bargate                                |
| <b>Reason for Panel Referral:</b>                                                                                                                      | Referred by the Planning & Development Manager | <b>Ward Councillors</b>     | Cllr Bogle<br>Cllr Noon<br>Cllr Tucker |

|                                 |                         |
|---------------------------------|-------------------------|
| <b>Applicant:</b> Doveglade Ltd | <b>Agent:</b> Jb Design |
|---------------------------------|-------------------------|

|                                             |                              |
|---------------------------------------------|------------------------------|
| <b>Recommendation Summary</b>               | <b>Conditionally approve</b> |
| <b>Community Infrastructure Levy Liable</b> | <b>Not applicable</b>        |

**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations including the Conservation Area location of the site 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. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP7, SDP9, SDP16, HE1, REI7, REI8 and CLT14 of the City of Southampton Local Plan Review (March 2006) and CS3, CS13, CS14 and CS23 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

|                          |                           |  |  |
|--------------------------|---------------------------|--|--|
| <b>Appendix attached</b> |                           |  |  |
| 1                        | Development Plan Policies |  |  |
|                          |                           |  |  |

## **Recommendation in Full**

Conditionally approve

### **1.0 The site and its context**

- 1.1 The site is located at the eastern end of Oxford Street close to its junction with Terminus Terrace. The ground floor is currently operated as a restaurant with separate bar area. The upper floors have been converted to residential flats.
- 1.2 The site is within the Oxford Street Conservation Area and also within one of the City Centre Night Time Zones as defined by policy CLT14 of the City of Southampton Local Plan Review 2006.

### **2.0 Proposal**

- 2.1 The proposal seeks to re-invoke a consent originally granted in 1999 to utilise the basement area below the existing restaurant/bar (currently used for storage but otherwise unused and deteriorating) as a private members club (sui generis use).
- 2.2 Access to the club would be achieved by re-instating an original door opening along the Oxford Street frontage and forming a new staircase within the existing ground floor restaurant , via a sound and fireproof lobby, to the basement area.
- 2.3 Alterations are also likely to be required to the rear elevation (largely hidden from public view in John Street) to facilitate emergency exit, disabled access (via a stair lift) and refuse storage and collection. Full details of these alterations would be required prior to the use becoming operational.
- 2.4 The applicant has requested operating hours of 10am - 2.30am every day of the week including Sundays and recognised Public Holidays.
- 2.5 The current operating hours of the ground floor bar/restaurant are 10am -1am Monday to Saturday and Midday to 1am on Sundays.

### **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 27<sup>th</sup> 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.

#### **4.0 Relevant Planning History**

4.1 99/01055/FUL: Change of use of basements to private members club for food, drink dancing and musical entertainment.

Approved subject to Conditions.

4.2 This consent has since expired without implementation.

#### **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, placing a press advertisement on 21.06.2013 and erecting a site notice on 20.06.2013.

33 notification letters were sent out.

At the time of writing the report 0 representations had been received from surrounding residents.

1 representation has been received from a Councillor requesting that the hours of use intended to be imposed by officers on the basis of current and emerging policies be debated at Panel given the importance and quality of the location as part of Southampton's Night Time economy.

5.2 **SCC Highways** - No objections

5.3 **SCC Policy** – To comply with the Council's policies on the Night Time Economy and in particular the zone identified for Oxford Street a terminal hour of midnight should be imposed.

5.4 **SCC Sustainability Team** – No objections

5.5 **SCC Heritage** – No Objections

5.6 **SCC Environmental Health (Pollution & Safety):** No objections to the proposal provided that the proposed noise control measures outlined in the design and access statement are adhered to.

Should the planning application be approved then we would recommend the following conditions:- S030 - Working hours

5.7 **Hampshire Constabulary** – No comments received

5.8 **Southern Water** – No comments

5.9 **Environment Agency** - No comments received

## **6.0 Planning Consideration Key Issues**

- 6.1 The key issues for consideration in the determination of this planning application are:
- i. **Principle of development**
  - ii. **Character and Impact on Conservation Area**
  - iii. **Nature of the use**
  - iv. **Hours of use**

### **6.2 Principle of Development**

The principle of development is acceptable. Utilising the basement area will help maintain the fabric of the building and bring back into use an underused area of a building which will complement existing uses at ground floor. Other night time uses in the surrounding area add to the diversity and variety of the Oxford Street night-time economy.

### **6.3 Character and Impact on Conservation Area**

The proposed external alterations to the building include re-introducing an original access door onto Oxford Street and rationalising/improving the rear area in John Street. The alterations will not have a detrimental impact on the character of the Conservation Area but will maintain the high quality frontage of Oxford Street.

#### **6.3.1 Nature of the Use**

A private members club is part of a diverse night-time economy. By definition it is not a facility that is open to or welcomes non-members without prior agreement. Such facilities tend to be strictly managed through membership and rules which in combination with the suggested planning conditions relating to sound attenuation, sound amplification and surveillance systems mean that the facility is less likely to attract or be the cause of anti-social behaviour that can occasionally occur at venues that offer full public access to casual patrons.

#### **6.3.2 Hours of Use**

The applicant has highlighted that the existing bar and restaurant operate until 1am and that given the tight management rules on membership, access and behaviour the facility would not generate the type of activity or problems that should result in a restriction of opening hours.

The detailed work undertaken to inform policy decision making (The Local Development Framework City Centre Action Plan - The Nighttime Economy Background Paper August 2013) identifies that the terminal hour for uses within the Oxford Street Zone should be midnight. This is consistent with the previous background paper on the night-time economy which supported Policy CLT14 of the City of Southampton Local Plan Review 2006.

Unless other material planning considerations are judged to outweigh up to date policies, then those policies should be followed to ensure consistent decision making. Oxford Street has been allocated as a nighttime zone but due to the mix used nature of the area which includes flats the policy identifies that late night uses should be limited to midnight in order to safeguard amenity.

## **7.0 Summary**

7.1 The use of the basement area as a private members club is acceptable and will add to the vibrancy and diversity of what is an important and high quality part of Southampton's night-time economy. The external changes to the building maintain the character of the Conservation Area. The bringing back into use the basement area will benefit the building. The suggested conditions are required to ensure that the use operates in a manner which does not affect local amenity at hours when nearby residents should expect to enjoy quiet amenity without undue disturbance notwithstanding the city centre location.

## **8.0 Conclusion**

The scheme is recommended for approval for the reasons set out above subject to the conditions set out below.

### **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), 3 (a), 4 (d), 6 (c), 7 (a).

### **AA for 17/09/13 PROW Panel**

#### **PLANNING CONDITIONS**

01 APPROVAL CONDITION - Full Permission Timing Condition - Change of use

The use 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 - Extract Ventilation/Air Conditioning and other Plant and Equipment - Pre-Commencement Condition

Details of all external ventilation fans to compressors and acoustic shielding, ducting, flues or other plant, machinery or equipment used for the purposes of providing an adequate extract ventilation system or in connection with the provision of air conditioning shall be submitted to and approved by the Local Planning Authority before the development commences. No additional ventilation fans, ducting, flues, plant or machinery or other equipment shall be installed without the prior written consent of the Local Planning Authority.

REASON

The Authority wish to retain control over the ducting and flues to be installed externally in the interests of the visual amenities of the Conservation Area.

03. APPROVAL CONDITION - Hours of Use - Performance Condition

Unless the Local Planning Authority agree otherwise in writing, the premises to which this permission relates shall not be open for business outside the hours specified below:-

10.00 am to 12.00 am (midnight) Monday to Sunday including recognised Public Holidays.

REASON

To protect the amenities of the occupiers of nearby residential properties.

4. APPROVAL CONDITION - Sound Amplification systems - Performance Condition

No sound amplifying equipment which is audible outside the premises shall be installed in the basement area without the prior written consent of the Local Planning Authority.

REASON

To protect the amenities of the surrounding area.

5. APPROVAL CONDITION - Site Surveillance - Pre-occupation Condition

Before the use hereby permitted is implemented a detailed scheme for the surveillance of the site frontage including door access and outside customer waiting area shall be submitted to and agreed by the Local Planning Authority. The agreed scheme shall be in place and fully implemented to the satisfaction of the Local Planning Authority before the use hereby permitted is commenced.

REASON In the interests of public safety and security and to protect the amenities of the surrounding area.

6. APPROVAL CONDITION - Refuse Storage - Pre-occupation Condition

Full details of the facilities to be provided for the storage and removal of refuse, within the building, shall be submitted to the Local Planning Authority before the use of the basement first commences. No refuse storage shall take place along the Oxford Street frontage.

REASON To ensure refuse is stored inside the building within a properly designed store to the rear of the building in the interests of the visual amenities of the Conservations Area.

7. APPROVAL CONDITION - Sound Attenuation - Pre-occupation Condition

Before the use hereby approved commences, a detailed scheme for the soundproofing of the building including measures for ventilation, transmission of noise between other parts of the buildings and transmission of noise beyond the building shall be submitted to and approved by the Local Planning Authority. Such agreed scheme of soundproofing shall be fully implemented to the satisfaction of the Local Planning Authority before the basement area is first brought into use.

REASON To protect the amenities of the surrounding area.

8. APPROVAL CONDITION - Delivery Times - Performance Condition

No deliveries to the basement use shall take place or be dispatched from the site outside the hours of 8.00 am - 6.00 pm Monday to Saturday and at no time on Sundays, Bank or Public Holidays.

REASON To protect the amenities of the surrounding area

9. APPROVAL CONDITION - Approved Plans

The development hereby permitted, including the external alterations to the front elevation 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. Any additional external alterations required to be carried out to facilitate the development must be the subject of additional plans to be submitted and approved in writing by the Local Planning Authority prior to those works being undertaken.

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

**POLICY CONTEXT**

Core Strategy - (January 2010)

|      |                             |
|------|-----------------------------|
| CS1  | City Centre Approach        |
| CS3  | Promoting Successful Places |
| CS13 | Fundamentals of Design      |
| CS14 | Historic Environment        |
| CS23 | Flood Risk                  |

City of Southampton Local Plan Review – (March 2006)

|       |                                             |
|-------|---------------------------------------------|
| SDP1  | Quality of Development                      |
| SDP7  | Urban Design Context                        |
| SDP9  | Scale, Massing & Appearance                 |
| SDP16 | Noise                                       |
| HE1   | New Development in Conservation Areas       |
| CLT14 | City Centre Night Time Zones and Hubs       |
| REI7  | Food and Drink Uses (Classes A3, A4 and A5) |
| REI8  | Shopfronts                                  |

Other Relevant Guidance

The National Planning Policy Framework 2012

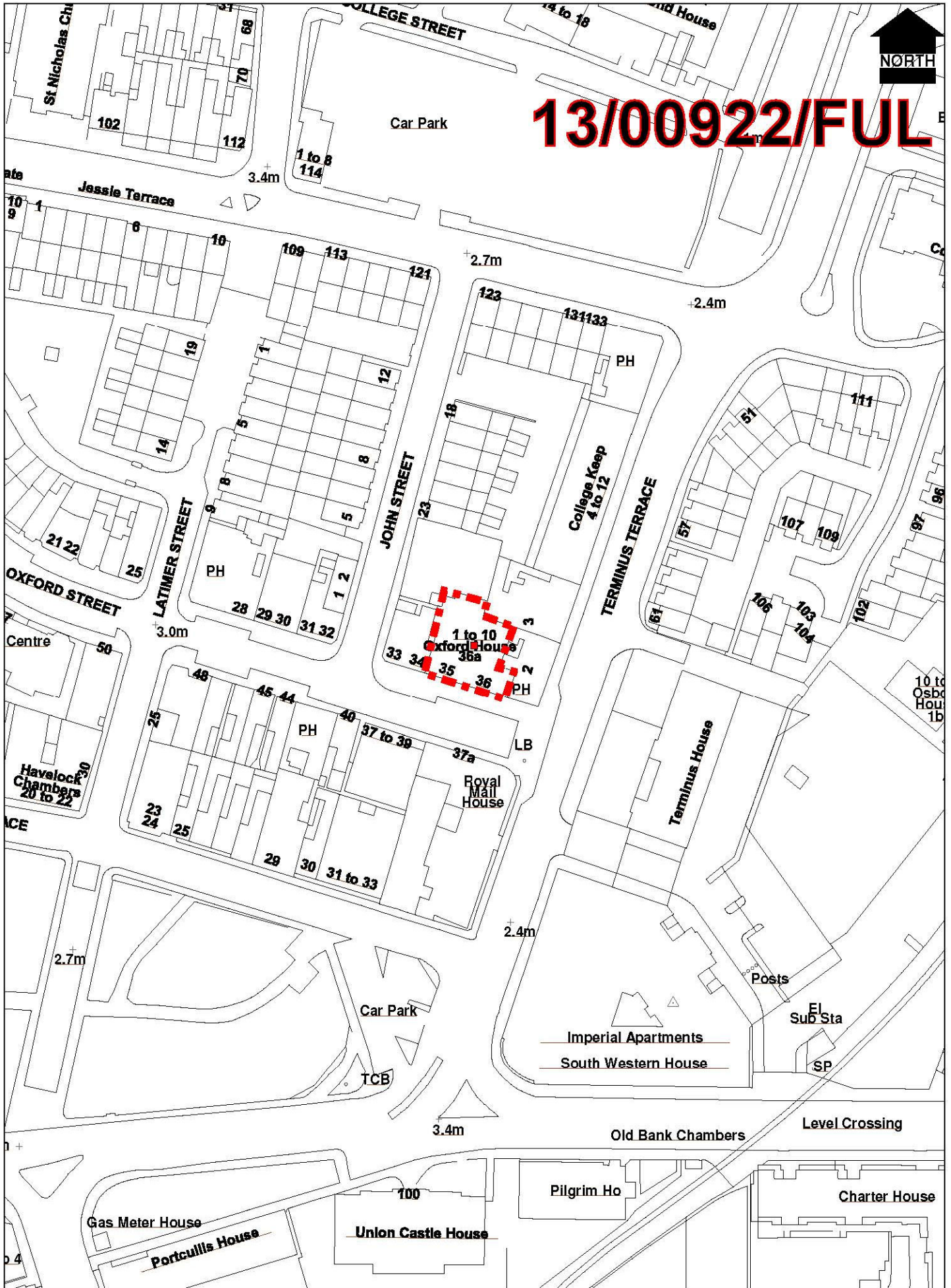
Emerging Policy Documents

Local Development Framework City Centre Action Plan - The Night Time Economy Background Paper August 2013 (Draft)





**13/00922/FUL**



Scale : 1:1250

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