

Planning, Transport & Sustainability Division 18/02/2014
Planning and Rights of Way Panel
Planning Application Report of the Planning and Development Manager

Application address: Land between 7 and 9 Darlington Gardens			
Proposed development: Variation of Condition 4 of Planning Permission Reference 11/01872/FUL to remove the personal restriction of the use of the garage.			
Application number	13/02010/FUL	Application type	FUL
Case officer	Mathew Pidgeon	Public speaking time	5 minutes
Last date for determination:	25.02.2014	Ward	Shirley
Reason for Panel Referral:	Referred by the Planning and Development Manager due to wider public interest.	Ward Councillors	Cllr Mead Cllr Kaur Cllr Chaloner

Applicant: Mr A Jerrard	Agent: Southern Planning Practice Ltd
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Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	No
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Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations as set out in the report to Planning Panel on 18th February 2014 have been considered and are not judged to have sufficient weight to justify a refusal of the application. In planning terms the restriction of the personal consent is not necessary, reasonable or relevant to planning given the circumstances of the case, material harm will not result provided that the remaining conditions are adhered to. 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, SDP5, SDP7, 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).

Appendix attached	
1	Development Plan Policies
2	Decision notice, 11/01872/FUL

1.0 The site and its context

- 1.1 The area is characterised by detached and semi-detached dwelling houses of two storey scale. The spaces between the houses form part of the character of the street. Some of the spaces between the properties are occupied by domestic scale garages.
- 1.2 The site is now dominated by a larger than average sized garage and hard surfacing to the front. The doors to the garage are also taller than the other garage doors in the street so that the garage can accommodate larger than average sized domestic vehicles including a camper van (as was the intended purpose).

2.0 Proposal

- 2.1 Planning permission was granted in February 2012 for the replacement and enlargement of the existing detached garage on land between 7 and 9 Darlington Gardens. At that time the Applicant agreed to the addition of condition 4 which sought to ensure that the garage use would be personal to the applicant and not include any trade or business activities including storage of commercial vehicles.
- 2.2 Prior to the submission of the planning application that was approved in 2012, the Council had detailed discussions with the applicant during which it was clearly stated by the applicant that the garage needed to be able to accommodate a transit van or similar sized vehicle. After lengthy negotiation the Planning Department supported the scheme with the addition of a number of conditions which the Applicant had agreed to. The previously approved decision notice is attached as **Appendix 2**.
- 2.3 Planning permission is now being sought for the removal of the personal restriction. It should be noted that the restriction to prevent trade and/or any business activities taking place will remain. In addition the restriction prevents the storage of commercial vehicles.

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.

4.0 Relevant Planning History

- 4.1 11/01872/FUL - Replacement and enlargement of existing detached garage to include raising and alteration of roof and extension to rear – Conditionally Approved.
- 4.2 13/01328/FUL - Single storey rear extension to existing garage (Resubmission of 12/01789/FUL) - Conditionally Approved.

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 and erecting a site notice (14/01/2014). At the time of writing the report **6** letters of representation including one petition, which has **36** signatories, has been received from surrounding residents. The following is a summary of the points raised:
 - 5.2 Concern that the garage will be used for other purposes than was originally granted. Commercial activity will increase noise and disturbance.
 - 5.3 Concerns are also raised with regard to the appearance of the garage at present given the metal fencing placed to the front.
 - 5.4 Signage on the front of the garage states that there are hazardous substances within the garage, if so the garage is not being used for domestic storage purposes.
 - 5.5 A generator is used within the garage and causes a noise nuisance to the neighbours.
 - 5.6 **RESPONSE:** The concerns raised by the neighbours go beyond the planning merits of the scheme. The restriction placed on the original permission that prevents the garage being used for any commercial/business operations will remain and the Council's Planning Enforcement Team has relevant powers to take action if a breach of the condition occurs. The Planning Enforcement Team has been notified of the signage and metal fencing on the site. The use of the generator on the site and storage of hazardous materials can be managed by separate legislation (environmental health, noise) if appropriate.

6.0 Planning Consideration Key Issues

- 6.1 The application will need to be judged on the acceptability of the condition in planning terms. Circular 11/95 relating to planning conditions states that there are occasions where it is proposed exceptionally to grant permission for the use of a building or land for some purpose which would not normally be allowed at the site, simply because there are strong compassionate or other personal grounds for doing so. The assessment therefore needs to determine whether or not the use of the garage (for storage of domestic vehicles and no commercial/trade operations) should be restricted to the applicant or not.

- 6.2 The Council must accept and judge the application at face value and not assume that the applicant will use or lease the garage for a use that is not permitted.
- 6.3 The Council have been informed that the personal circumstances of the applicant have changed in that he would like the garage to be used by individuals other than himself for the storage of personal vehicles and equipment.
- 6.4 It is considered that the personal consent can be lifted as there is no justification to retain the personal requirement. The design of the garage is appropriate to this suburban location and it is irrelevant who owns the vehicles parked there in planning terms. Concerns raised regarding an intensified use can be mitigated by re-imposing the restrictions as set out in condition three below. The important restriction to retain is the restriction to prevent any commercial operation/trade from occurring from within the garage. This also includes storage of commercial vehicles.

7.0 Conclusion

- 7.1 The planning merits in removing the personal restriction is accepted and therefore the condition can be varied accordingly. The Application is supported.

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

1 (a), (b), (c), (d), 2 (b), (d), 6 (c), 7 (a), 9 (a) and (b)

MP3 for 18/02/2014 PROW Panel

PLANNING CONDITIONS

01. 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

02. APPROVAL CONDITION - Restriction of operation, [Performance Condition].

The garage hereby approved shall not be used other than for the storage of personal vehicles and equipment with no association to business/commercial activity. At no time shall any business, commercial or residential use take place within or from the building.

Reason

To allow the local planning authority to control the specific nature of the use and to ensure that the operation is acceptable within the residential setting/area to which it relates.

03. APPROVAL CONDITION - Approved Plans.

The development hereby permitted shall be carried out and retained thereafter 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.

POLICY CONTEXT

Core Strategy - (January 2010)

CS13 Fundamentals of Design
CS19 Car and Cycle parking

City of Southampton Local Plan Review – (March 2006)

SDP1 Quality of Development
SDP5 Parking
SDP7 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



DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

**Town and Country Planning
(Development Management Procedure) (England) Order 2010**

Mr Peter Gale
8 Brook Road
Bitterne
Southampton
SO18 6BA

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

FULL APPLICATION - CONDITIONAL APPROVAL

Proposal: Replacement and enlargement of existing detached garage to include raising and alteration of roof and extension to rear

Site Address: Land between 7 and 9 Darlington Gardens Southampton Hampshire SO15 5HH

Application No: 11/01872/FUL

Subject to the following 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 - 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

03.APPROVAL CONDITION - Details of building materials to be used [Pre-Commencement Condition]

Notwithstanding the information shown on the approved drawings and application form no development works shall be carried out unless and until a written schedule of external materials and finishes has been submitted to and approved in writing by the Local Planning Authority. Development shall be implemented only in accordance with the agreed details. These shall include full details of the manufacturers, types and colours of the external materials to be used for external walls, doors and the roof of the proposed building. It is the Local Planning Authority's practice to review all such materials on site. The developer should have regard to the context of the site in terms of surrounding building materials and should be able to demonstrate why such materials have been chosen and why alternatives were discounted. If necessary this should include presenting alternatives on site.

Reason:

To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality.

04.APPROVAL CONDITION - Restriction of operation, [Performance Condition].

Unless otherwise agreed in writing with the Local Planning Authority the garage hereby approved shall only be used by Mr Alain Jerrard and by no other person for the storage of personal vehicles and equipment with no association to business/commercial activity. At no time shall any business, commercial or residential use take place within or from the building.

Reason

To allow the local planning authority to control the specific nature of the use and to ensure that the operation is acceptable within the residential setting/area to which it relates.

05.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.

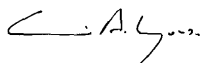
Reason:

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

00.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 surrounding character and amenity have been considered and are not judged to have sufficient weight to justify a refusal of the application. 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 and SDP9 of the City of Southampton Local Plan Review (March 2006) and CS13 of the Local Development Framework Core Strategy Development Plan Document (January 2010).



Chris Lyons
Planning & Development Manager

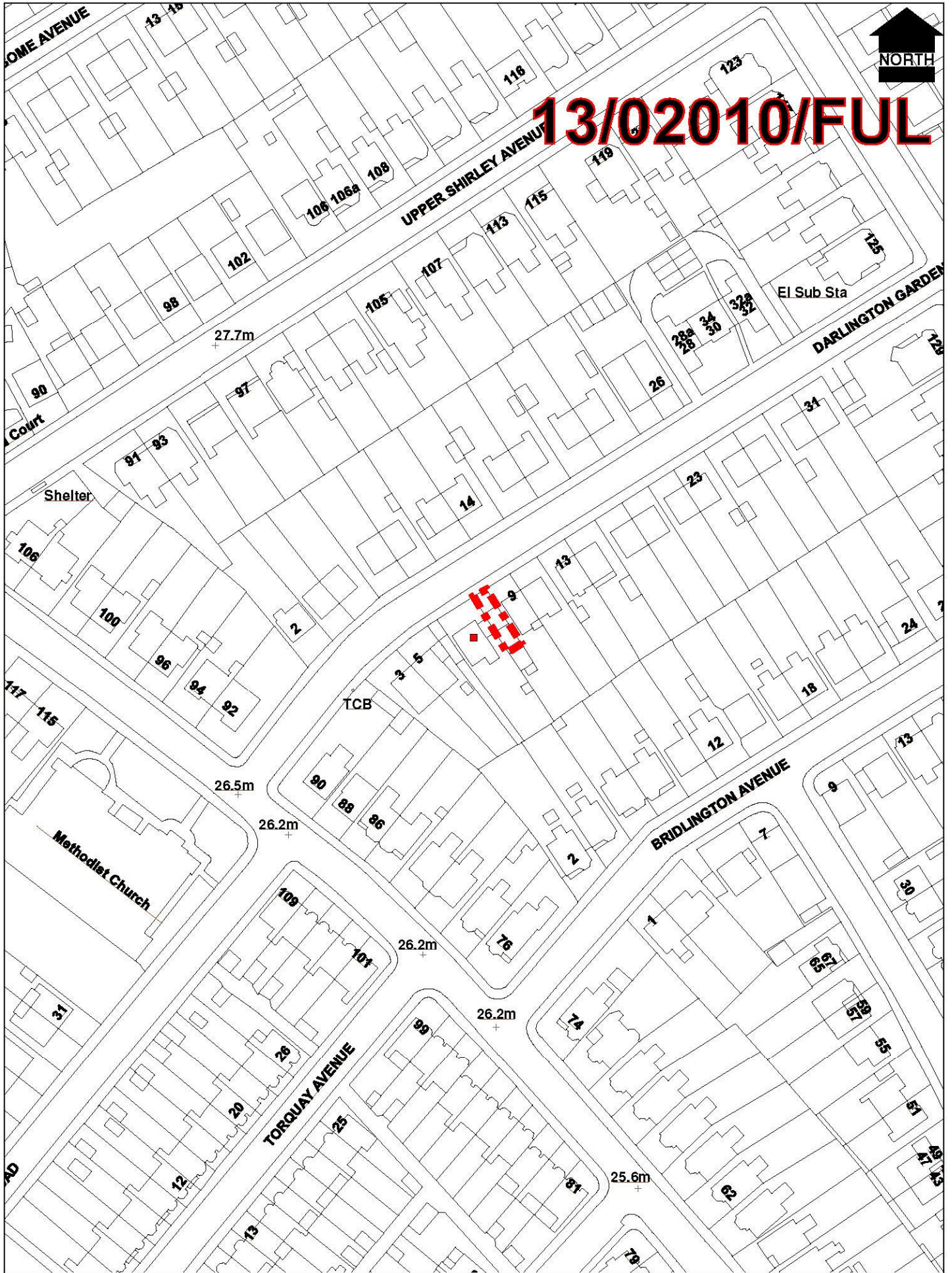
6 February 2012

If you have any further enquiries please contact:
Mathew Pidgeon

IMPORTANT NOTE TO APPLICANT

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

Drawing No:	Version :	Description:	Date Received:	Status:
03		Floor Plan	23.11.2011	Approved
01		Elevational Plan	23.11.2011	Approved
SKT 01		Other Plans	19.01.2012	Approved
02A		Elevational Plan	19.01.2012	Approved



13/02010/FUL

Scale : 1:1250

Date :04 February 2014

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