

**Planning, Transport & Sustainability Division  
 Planning and Rights of Way Panel 30 September 2014  
 Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 13 Grosvenor Road, SO17 1RU			
<b>Proposed development:</b> Conversion of existing building into five flats (two x 3-bed, two x 2-bed and one x 1-bed) with associated parking and cycle/refuse storage.			
<b>Application number</b>	14/00999/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Anna Lee	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	07.08.2014	<b>Ward</b>	Portswood
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received	<b>Ward Councillors</b>	Cllr Claisse Cllr Norris Cllr O'Neill

<b>Applicant:</b> Mr H Singh	<b>Agent:</b> Concept Design & Planning
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<b>Recommendation Summary</b>	<b>Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report</b>
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<b>Community Infrastructure Levy Liable</b>	<b>Yes</b>
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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 and the conclusions made in the Planning Inspectorate's Appeal Decision (Local Planning Authority reference (12/01449/FUL). Other material considerations including the character of the area comments from interested third parties and highway safety issues 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. Having regard to the Appeal Decision 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, SDP4, SDP5, SDP7, SDP10, SDP11, SDP13, SDP16, H1 and H7 of the City of Southampton Local Plan Review (March 2006) and CS4, CS5, CS13, CS16, CS19, CS20, CS25 of the Local Development Framework Core Strategy Development Plan Document (January 2010)

<b>Appendix attached</b>			
1	Development Plan Policies	2	Planning History
3	Inspector's Decision	4	Barrister Opinion

## **Recommendation in Full**

1. Delegate to the Planning and Development Manager to grant planning permission subject to the completion of a S.106 Legal Agreement to secure:
  - i. An obligation to preclude future residents being issued with car parking permits.
2. In the event that the legal agreement is not completed within two months of the Planning and Rights of Way Panel decision, that the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.
3. That the Planning and Development Manager be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

### **1.0 Background**

- 1.1 The most recent application (LPA ref: 12/01449/FUL) for an identical development was refused under delegated powers in November 2012 due to the impact of the development on the amenity of neighbours and the character of the area. Officers felt that the creation of five flats would result in an unacceptable level and intensity of occupation and, together with the activity to and from the property, the proposal would likely harm the amenity of neighbours through noise and general disturbance, exacerbate on street parking difficulties and, in turn, the character of the area would be compromised. The application was refused on this basis.
- 1.2 The Refusal Notice was appealed and dismissed. In short, the Inspector disagreed with the Council but dismissed the appeal solely on the absence of an adequate parking survey as the applicant had failed to demonstrate that the surrounding roads could cater for the on street parking demand created by the five units. The Planning Inspector disagreed with the Council's reason for refusal relating to intensification of use, noise and character. Therefore, the consideration of this resubmission should focus upon whether or not the surrounding roads can cope with any potential on-street parking that could occur due to these additional units. As the application has not altered the Planning Inspector's decision is a significant material consideration in the determination of this current application. This decision was taken following the adoption of the Local Development Framework Core Strategy and is an up to date consideration.

## **2.0 The site and its context**

- 2.1 The building is a substantial detached property on the west side of the street between the junctions of Welbeck Avenue, to the north, and Grosvenor Gardens to the south. Dwellings have off-street parking, but few have on-site turning. There is very large garden to the rear and to the front is a hard surfaced forecourt sloping down from the front door to the street. This is capable of accommodating three cars safely.
- 2.2 Either side of the site are single family detached houses. A great part of the street is comprised of detached character properties, in use as single family houses, but elsewhere in the street there are semi-detached properties and some purpose built flats, such as: Richmond Gardens, Grosvenor Court, Dawtrey Court, Richmond Hall and Grosvenor Lodge, all south of the application site.
- 2.3 The site lies within a residents' parking permit zone.

## **3.0 Proposal**

- 3.1 The scheme seeks again to provide five Class C3 flats with an integral bicycle store at ground floor. No external changes are proposed. On the ground floor of the building, two three-bed units are proposed. Access to the front flats can be via the side elevation or the front. At first floor a further two flats are proposed which are both two-bed. Within the roof slope a two-bed unit is provided. All the units are accessed via the front door with direct access provided access to the rear garden area.
- 3.2 The rear-most flat on the ground floor would have three bedrooms and access to a dedicated area of garden with the remainder of the garden given over to serve the four other flats. The amenity space provided for all the units complies with policy.
- 3.3 Refuse storage is proposed to the rear and will be secured via a condition. Three car parking spaces are proposed within the existing driveway.

## **4.0 Relevant Planning Policy**

- 4.1 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**.
- 4.2 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.

## 5.0 Relevant Planning History

- 5.1 The full planning history can be found in **Appendix 2** of this report including the reasons for refusal associated with refusal 12/01449/FUL. The most recent and relevant application is set out below;

The authorised use of the site is a single dwelling as approved under permission 02/00482/FUL. This allowed for No. 11 and No.13 to be separate single dwelling houses, having previously been operating as a residential care home.

12/01449/FUL  
15.08.2013.

Appealed and dismissed

Conversion of existing building into 5 flats within Class C3 ( 2x3x- bed, 2x2 - bed, 1x1 - bed ), with associated cycle and refuse facilities and 3 car parking spaces. Inspector's Decision Notice can be found at **Appendix 3**.

## 6.0 Consultation Responses and Notification Representations

- 6.1 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 (15.07.2014). At the time of writing the report **20** representations including one petition with 53 signatures have been received from surrounding residents. Highfield Residents Association have objected and have included an Opinion (attached in full at **Appendix 4**) from a Barrister agreeing with their objection. The following is a summary of the points raised:

- 6.1.2 **The layout of the flats are not ideal family units as the linkages internally with each room and with the external space is not convenient. Amenity space would be insufficient to cater for stated intensity of occupation**  
Response

The Planning Inspector assessed (Decision Notice paragraph 19) the connection between the flats and the amenity space and stated that *'though this access would be lengthy it is not unreasonably so and the proposed layout does not suggest that access problems would arise'* and that there is an *'adequate quantum of amenity space'*. Whilst Policy CS16 and its no loss of family housing is triggered by the application it is considered that this policy is satisfied by the proposed layout.

- 6.1.3 **The proposal would result in a mini-student hall and the proposal results in an HMO.**  
Response

The scheme is for five flats and use of the units as an HMO would require a further planning permission.

- 6.1.4 **Over intensive use of the site, contrary to Council policy and NPPF, likely to harm amenities of neighbours through noise and general disturbance (alleged from previous occupiers and other properties in the street) and harm character of this part of the street predominantly made up of single family dwellings.**

Response

Due to the size of the property and that no external changes are proposed the Planning Inspector felt the proposal would not *'radically alter'* the character of the

area (Decision Notice paragraph 23). The Planning Inspector advised that no evidence had been submitted to indicate that more noise would be provided by these units than if it were a single family dwelling, so concluded the noise level and disturbance would be acceptable. As noise and disturbance can be controlled through other legislation it should not form a reason for refusal in this instance.

**6.1.5 The lack of a car parking survey carried out during term time.**

Response

The parking survey submitted was carried out during term time and indicates that parking spaces are available within the locality. Regardless of this the Applicant has agreed to enter into a S106 legal agreement to prevent the occupiers purchasing parking permits within neighbouring streets. See the Planning Considerations section of this report.

**6.1.6 Highway safety issues due to the number of proposed cars. Overspill parking likely from intensity of use which would inconvenience nearby residents.**

Response

The Applicant has agreed to enter into a S106 legal agreement to prevent the occupiers purchasing parking permits. Three parking spaces serve the five flats.

**6.1.7 Refuse storage would be unsightly.**

Response

A condition requiring refuse storage be enclosed is suggested and there is scope for an appropriate store as shown on the submitted plan. The condition would prevent unsightly storage.

**6.1.8 Precedent, which has been witnessed in nearby streets to have adversely eroded the family character of those streets and it is alleged affecting the viability of the Portswood primary school.**

Response

Every application is assessed on its own merits.

**6.1.9 The planning statements are misleading (rest home use having ended over 10 years ago) and that 15 bedrooms were created/ through sub-division by owner in property that formerly only had six bedrooms. It is considered that such sub-division works should be undone, which would then again make the property attractive to a large extended family/home working.**

Response

Officers can only assess applications that are before them.

**6.1.10 If to be consented, wish to see a condition restricting the use of the flat roof in order to prevent overlooking**

Response

A condition is suggested to prevent this.

**6.1.11 The forecourt is untidy and unsightly.**

Response

A condition requiring the three proposed car parking spaces be laid out prior to occupation will prevent the collection of large items within the driveway.

6.1.12 **The flats are small.**

Response

The Council does not have room standards but in this case the Planning Inspector (Decision Notice paragraph 18) felt that the units were not small and commented that the flats were a '*good size and layout*'.

6.2 **Consultation Responses**

6.3 **Highways Development Management – No objection Raised**

The submitted parking survey is slightly substandard due to some of the photos being very dark and hard to work out where exactly they have been taken along the street or even which street it is. However, some of the photos do show unique road features meaning the locations can be confirmed as stated.

6.4 The development could generate between an additional four to eight permits but the survey suggests that there is capacity to accommodate that. With the confirmation of the survey being conducted within term time, the parking survey is acceptable as it shows enough empty on-street spaces for this development and therefore the proposal would not have a harmful impact on highway grounds.

6.5 A Section 106 agreement to restrict the development from being eligible for parking permits would eliminate any possibility of additional parking on Grosvenor Road. The applicant has agreed to this so no objection is raised.

6.6 **Community Infrastructure Levy (CIL) –**

The development is CIL liable as there is a net gain of residential units.

6.7 **Sustainability** – No objection raised subject to a condition securing a 20% reduction in energy use.

7.0 **Planning Consideration Key Issues**

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

- Principle of Development
- Highway Issues
- Intensification, Density and Amenity
- Development mitigation

7.2 Principle of Development

The principle of converting the building and the formation of five flats is acceptable as agreed by the Planning Inspector. There is no net loss of a family dwelling unit as a three bed unit with a separate lounge, kitchen and private garden is re-provided. The proposal also provides the opportunity to increase the supply of much needed residential accommodation that will help the Council achieve the City's housing targets. Policy CS4 identifies the need for 16,300 new homes in the City between 2006 and 2026. The NPPF introduces a presumption in favour of sustainable housing development. The proposed residential density is 90 dwellings per hectare (dph) which accords with requirements of LDF Policy CS5.

7.2.1 The proposal provides two three-bedroom units at ground floor, one with direct access to private amenity space of at least 20 square metres and the other with access to shared amenity area. The scheme is therefore compliant with Policy CS16 (Housing mix and type).

### 7.3 Highway Issues

In this location the maximum parking standard for this is nine spaces for the proposed five units. Three spaces have been provided on site which complies with current standards. As set out in the Council's Parking Standard's SPD some level of off-street parking is expected, and the applicant must demonstrate that the amount of parking provided would be sufficient for the locale. The applicant has submitted a parking survey undertaken within term time that demonstrates that on-street spaces are available within the evening. Therefore, the proposal addresses the Planning Inspector's reason for dismissing the scheme previously. Highway Officer's agree that the surrounding roads could cater for the number of cars that could be associated with this development. For the avoidance of doubt the parking survey was carried out on 1<sup>st</sup> October 2013 at 8.30 pm, 9<sup>th</sup> January 2014 at 10 am and 10<sup>th</sup> January at 00.15 am. All times were within the University of Southampton's term time (26<sup>th</sup> September 2013 to 14<sup>th</sup> December 2013 and 6<sup>th</sup> January 2014 to 29<sup>th</sup> March 2014).

7.3.1 As the site lies within a Resident's Parking Zone, up to two parking permits could be issued to each property although the Council's stance is not to issue permits to new development completed after 2001. The Applicant has agreed to enter into a legal agreement preventing the units claiming parking permits.

7.3.2 Therefore, on the basis that permits are not going to be issued to these new units and as a car parking survey has been provided the proposal addresses the Inspector's previous concerns. As no harmful additional on-street parking will occur (regardless of the fact there is space) the scheme is now deemed to be acceptable in planning terms. No Highways objection has been raised to the proposal.

### 7.4 Intensification, Density and Amenity

In terms of the site's intensification, the Inspector disagreed with the Council's previous position that the proposal would be harmful in terms of noise and disturbance to the neighbouring properties. Comments from the residents, and the Barrister's Opinion, state that the assessment made by the Inspector in terms of the proposed intensification of the site was full of assumptions. However, the Inspector's thought process is clearly laid out in the Decision Notice and it would not be expedient to refuse a scheme once again on this basis. To do so without fresh evidence to support a reason for refusal could put the Council at risk of an award of costs should the applicant chose to appeal such a refusal.

7.4.1 The Inspector states that the layout of the all flats is suitable as the light and outlook received by all the units is acceptable. The connection to the amenity area, although a distance, was deemed fit and would suit families regardless of its remote nature. The character of the area is residential and the introduction of these new units would not detrimentally alter the general character of the area as the Inspector felt the size of the property could cater for the use. The same is true for the noise and disturbance as the Inspector felt no sufficient evidence was submitted to the contrary. In summary the Inspector assessed the application as being acceptable in these terms.

7.4.2 All other issues such as density and impact on neighbouring properties in terms of loss of privacy did not form a reason for refusal by the Council, was not considered harmful by the Planning Inspector and should not be introduced as a fresh reason for refusal in this case. The scale of development is appropriate and yields a density in line with current requirements at 90d.p.h (which accords with 50-100 dph guidance of CS5).

#### 7.5 Development mitigation

In order for the proposed development to prevent parking issues within the vicinity a legal agreement, preventing future occupiers of the proposed flats from purchasing parking permits, is being entered into. This addresses the Planning Inspector's concern that the Applicant failed to demonstrate the proposal would not have a wider impact on the surrounding roads. This legal agreement now results in a development that is appropriate for this location. In addition to the above the scheme now triggers the Community Infrastructure Levy (CIL) which will be collected upon implementation of any consent.

### 8.0 Summary

8.1 In summary, this proposal provides needed additional housing which adds to the local housing stock. A parking survey has been provided showing sufficient car parking space within the local roads for parking. In addition, as a legal agreement preventing parking permits is being secured, the Planning Inspector's concerns have been addressed in full. Therefore, as planning policy and site conditions have not altered the Planning Inspectorate's decision is key. The application is considered to have addressed the previous concerns and can be recommended favourably.

### 9.0 Conclusion

Giving the clear conclusions reached by the Planning Inspector (having assessed each point of the Council's original reasons for refusal) and the securing of a legal agreement preventing the issuing of parking permit to further occupiers; it would be unreasonable to formulate any recommendation other than for approval subject to appropriate conditions.

#### 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).

#### **ARL for 30/09/14 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 - Storage / Removal of Refuse Material [Pre-Occupation Condition]

Before the building is first occupied full details of facilities to be provided for the storage and removal of refuse from the premises together with the provision of suitable bins accessible with a level approach shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall include accommodation and the provision of separate bins for the separation of waste to enable recycling. The approved refuse and recycling storage shall be retained whilst the building is used for residential / commercial purposes.

### Reason:

In the interests of visual amenity, the amenities of future occupiers of the development and the amenities of occupiers of nearby properties.

## 03. APPROVAL CONDITION - Cycle storage facilities [Pre-Commencement Condition]

Adequate cycle storage facilities to conform to the Local Planning Authorities standards shall be submitted to and be approved in writing by the Local Planning Authority and be provided within the site before the development hereby permitted commences and such storage shall be permanently maintained for that purpose.

### Reason:

To prevent obstruction to traffic in neighbouring roads and to encourage cycling as an alternative form of transport.

## 04. APPROVAL CONDITION Parking and Access [pre-occupation condition]

Prior to the occupation of the development hereby approved the three parking spaces shown on the approved plan to a size of 5m by 2.4m for the development shall be clearly marked out and allocated on 1:1 basis. The parking spaces shall be retained in perpetuity for that purpose and not used for any commercial activity unless agreed otherwise in writing by the Local Planning Authority.

### Reason:

To ensure a satisfactory form of development

## 05. APPROVAL CONDITION - Retention of three bed unit [Performance Condition]

Notwithstanding the approved plans, the ground floor rear flat with access to a private rear garden shall unless agreed in writing by the Local Planning Authority remain a three bed unit.

### Reason:

To prevent the loss of a family dwelling as secured by policy CS16.

## 06. APPROVAL CONDITION - Restricted use of flat roof area [Performance Condition]

The roof area which incorporates a flat roof surface shall not be used as a balcony, terrace, roof garden or similar amenity area without the grant of further specific permission from the Local Planning authority.

Reason:

In order to protect the privacy of adjoining occupiers.

#### 07. APPROVAL CONDITION Energy (Pre-Occupation Condition)

Written documentary evidence demonstrating that the development will at minimum achieve a reduction in CO2 emissions of 20% over part L of the Building Regulations shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted. Technologies that meet the agreed specifications must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter.

Reason:

To reduce the impact of the development on climate change and finite energy resources and to comply with adopted policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

#### 08. APPROVAL CONDITION - Amenity Space Access [Pre-Occupation Condition]

The external amenity space serving the development hereby approved, and pedestrian access to it, shall be made available as a communal area prior to the first occupation of the development hereby permitted and shall be retained with access to it at all times for the use of the flat units.

Reason:

To ensure the provision of adequate amenity space in association with the approved flats.

#### 09. 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.

#### 10. APPROVAL CONDITION - Public Sewer protection [Performance Condition]

The developer must advise the Local Planning Authority (in consultation with Southern Water) of the measures which will be undertaken to protect the public sewers, prior to the commencement of the development.

Reason:

In order to safeguard the public sewer.

## 11. 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.

### Note to Applicant - Community Infrastructure Liability (Approval)

You are advised that the development appears liable to pay the Community Infrastructure Levy (CIL). Please ensure that you assume CIL liability prior to the commencement of the development (including any demolition works) otherwise a number of consequences could arise. For further information please refer to the CIL pages on the Council's website at: <http://www.southampton.gov.uk/s-environment/policy/community-infrastructure-levy-guidance.aspx> or contact the Council's CIL Officer.

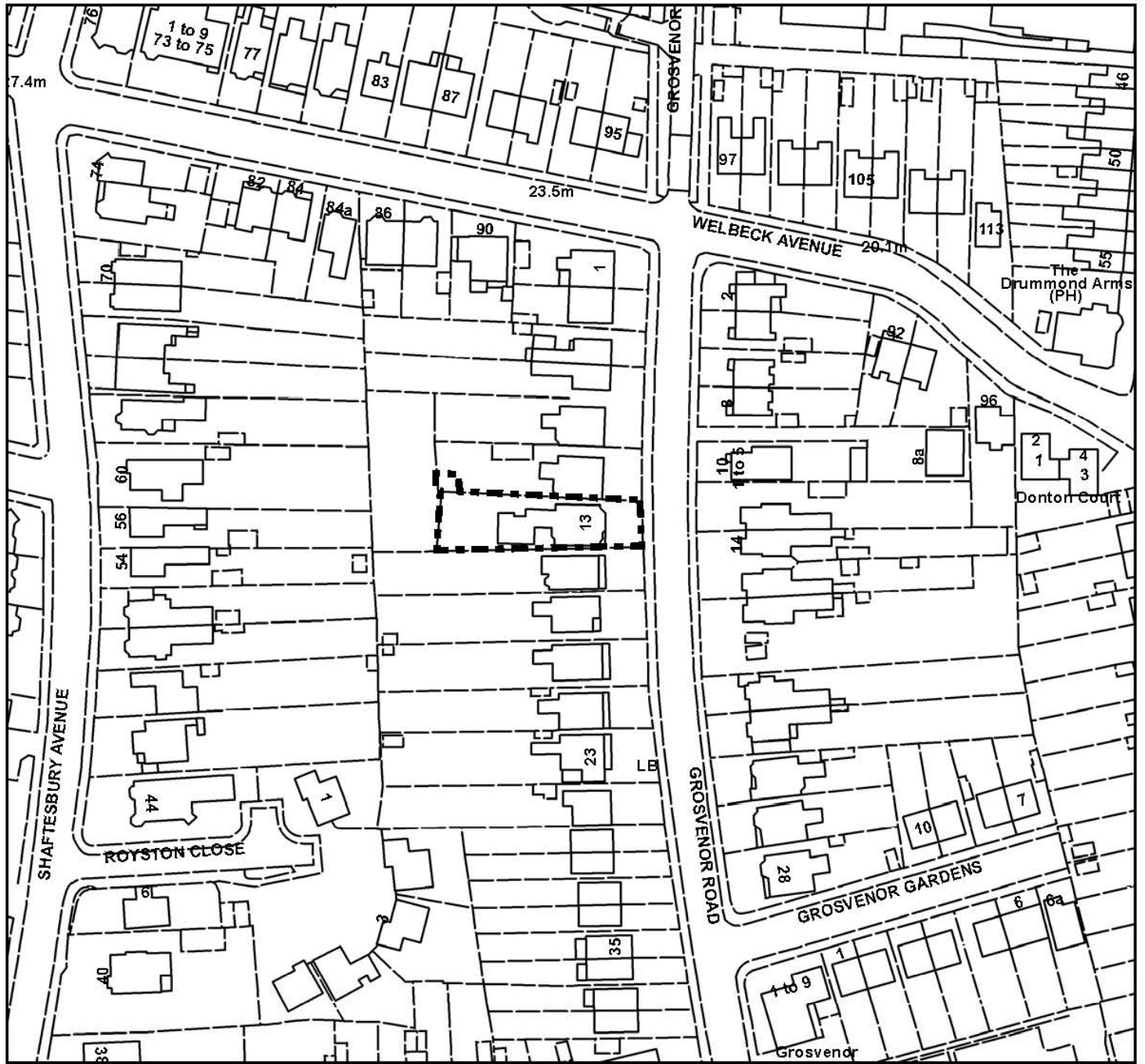
### Note to Applicant - Pre-Commencement Conditions

Your attention is drawn to the pre-commencement conditions above which require the full terms of the condition to be satisfied before development commences. In order to discharge these conditions you are advised that a formal application for condition discharge is required. You should allow approximately 8 weeks, following validation, for a decision to be made on such an application. If the Decision Notice includes a contaminated land condition you should contact the Council's Environmental Health Department, and allow sufficient time in the process to resolve any issues prior to the commencement of development. It is important that you note that if development commences without the conditions having been formally discharged by the Council in writing, any development taking place will be unauthorised in planning terms and this may invalidate the Planning Permission issued. Furthermore this may result in the Council taking enforcement action against the unauthorised development. If you are in any doubt please contact the Council's Development Management Service.

### Note to Applicant - Performance Conditions

Your attention is drawn to the performance conditions above which relate to the development approved in perpetuity. Such conditions are designed to run for the whole life of the development and are therefore not suitable to be sought for discharge. If you are in any doubt please contact the Council's Development Control Service.

# 14/00999/FUL



Scale: 1:1,250

