

Planning, Transport & Sustainability Division
Planning and Rights of Way Panel (WEST) - 11 November 2014
Planning Application Report of the Planning and Development Manager

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| Application address: 27 King Edward Avenue SO16 4DN | | | |
| Proposed development: Change of use from a dwelling house (Class C3) to a 5-bed House In Multiple Occupation (HMO - Class C4) | | | |
| Application number | 14/01531/FUL | Application type | FUL |
| Case officer | Joanne Hall | Public speaking time | 5 minutes |
| Last date for determination: | 04/11/2014 | Ward | Millbrook |
| Reason for Panel Referral: | Request by Ward Member and five or more letters of objection have been received | Ward Councillors | Cllr Denness Cllr Galton Cllr Thorpe |

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| Applicant: Mr Adam White | Agent: N/A |
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| Recommendation Summary | Conditionally approve |
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| Community Infrastructure Levy Liable | No |
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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. 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. 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 and H4 of the City of Southampton Local Plan Review (March 2006) and CS13, CS16 and CS19 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

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| Appendix attached | | | |
| 1 | Development Plan Policies | 2 | HMO 40m Radius Survey Area |

Recommendation in Full

Conditionally approve

1. The site and its context

- 1.1 The application site consists of a semi-detached dwellinghouse over 3 storeys (including loft conversion) situated on the western side of King Edward Avenue.
- 1.2 The site is located close to the Shirley Town Centre, shops on Oakley Road, Regents Park Community School (Secondary School) and a variety of bus routes. The area is characterised by family houses with some flat conversions.

2. Proposal

- 2.1 The application seeks to change the use from a C3 family house to a C4 house in multiple occupation (HMO). In practice, this means applying for a flexible use between C3 and C4 in order to allow for the property to be let to both sharers and single households for a period of 10 years. On the 10 year date from determination, the permanent use would become that which it is used as on that date.
- 2.2 It is proposed that the site will accommodate up to 5 residents. The site is currently owner occupied by two brothers. It is proposed that they will continue to occupy the property and the other rooms will be rented out to tenants. This is in order to remain living within the area where they have been long standing residents close to their family home (Beulah Road).

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 There is no planning history for this property.

5. 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 (19/09/2014). At the time of writing the report **5 representations** have been received from surrounding residents. This includes a petition by residents containing **30 signatures**. The following is a summary of the points raised:

5.2 Negative impact on quality of life/effect on disabled person living next door.

Response: An objection was received accompanied by a doctor's note. Whilst it is understandable that such an issue is raised within an objection, personal circumstances cannot be the overriding consideration in determining a planning application against the other material planning considerations and interest of the wider public, in this case the need for this type of housing. It is recognised that objectors fear that their lives could be affected but this is not inevitable and similar issues could occur from other owner occupiers, families or other tenants outside of planning controls.

5.3 There has been no consultation from applicants

Response: Lack of contact with neighbours prior to submission is not a consideration in planning terms.

5.4 Parking issues

Response: The highways team have indicated that there would not be a safety issue. Some off-street parking has been provided and a parking survey requested to assess the impact on any potential overspill.

5.5 Refuse issues

Response: Details have not been provided within the application. However, this can be secured by condition so that, prior to use as an HMO, sufficient information is provided. It is therefore not considered reasonable to refuse the application on this basis.

5.6 Impact on the character of the area

Response: It is judged that the character of the area would not be significantly altered in this case due to the low level of HMOs within the area, maintaining a balance of households.

5.7 Overcrowding

Response: The private sector housing team have indicated that the space standards are adequate for 5 people. The Local Planning authority do not have minimum room size standards.

5.8 Noise and disturbance

Response: It is recognised that noise and disturbance may be a factor in HMO properties, it is not inevitable that this will occur. Such incidents can occur with other types of residents which the planning system cannot control. Any issues that do arise should be dealt with through the appropriate channels.

5.9 Loss of privacy

Response: As no physical works are proposed and the change in occupants is the only alteration, it is not judged that the overlooking situation would be any different from at present.

Consultation Responses

5.10 SCC Highways - The site is located within an area where there are no parking restrictions (apart from vehicular accesses). There does not appear to be any increase in floor space or bedrooms but should there be any potential parking

overspill, it will be more of an amenity issue rather than highway safety. This is due to the straight geometry of this section of King Edward Avenue and it is an existing situation and therefore I do not consider the possibility of one or two extra cars on the road will introduce any new safety concerns. It would be helpful to have a parking survey. I recommend approval subject to the following condition - Details of an enclosed, secure and lockable cycle store for 5 cycles (one for each bedroom/bedsit) to be submitted and agreed upon in writing by the local planning authority. Details must comply with SCC standards.

5.11 **SCC Housing** – Based on the plans provided and the proposed use as a 5 bedroom HMO we would have no objection. Should the number of occupants exceed 5, we would wish to ensure there are appropriate levels of amenities provided in the kitchen. The applicant should ensure that the SCC amenity standards are complied with and appropriate fire precautions are in place.

5.12 **Cllr Denness** – Requested the application to be decided by Panel.

6. Planning Consideration Key Issues

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

- the principle of the development;
- the impact on the character of the area;
- the residential amenity of nearby residents and;
- parking and highway safety.

6.2 Principle of Development

6.2.1 The application seeks to obtain C4 use of the property in order to allow the owner occupiers to rent out additional rooms within their property. The reason for this is to maintain living within the area of which they are long standing residents. The principle of an HMO use on this site needs to be assessed against the HMO SPD to determine whether there is already a concentration of such properties within the area. In combination with this, the impact of an HMO on the character and amenity of the area and its residents needs to be assessed. These issues are discussed below.

6.3 Character of the area

6.3.1 The area is characterised by mostly single family houses and is within a short distance to local amenities and public transport. The aim of the HMO SPD is to achieve a mix of households within the city in order to meet different housing needs. The demand for HMO housing is high within the city, mostly by young single people both students and professionals, those on low incomes and other groups. Whilst there is also a demand for family housing, there would be no net loss of a family house in this case as the property would still be capable of being used as such by means of a flexible C4/C3 permission. Policy CS16 defines a family unit as having at least 3 bedrooms with direct access to private useable amenity space for the sole use of the unit.

6.3.2 In order to avoid a high level of concentration within a particular area of the city,

the HMO SPD applies a threshold within a certain area (40m radius from front door of the property) to limit the amount of HMOs and to encourage an even distribution across the city. The threshold within the Millbrook ward is 20% in order to limit the negative impacts of HMO concentration on the character of the area and the local community.

- 6.3.3 An assessment has been made through visiting the street, reviewing the planning history of the area and the electoral role and investigating council tax and environmental health records. Based on this information, it appears that there is one other possible HMO (8 Beulah Road) within the 40m radius survey area (6%). With the introduction of a second HMO, the percentage would increase to 13%, below the maximum threshold of the HMO SPD of 20%.
- 6.3.4 Previous appeal decisions have addressed concerns relating to the impact of HMO's on the character of an area. However, these have related to quieter suburban areas. This area, close to a busy Town Centre, public transport routes and other public amenities is materially different from these areas previously protected by inspectors.
- 6.3.5 Overall, the tipping point of the amount of HMOs in an area which would lead to a harmful impact on the character of the area has not been exceeded. It is therefore judged that this area is capable of accommodating an additional HMO, providing much needed housing to the city, helping to spread the concentration more evenly whilst limiting the impact on the character of the area.

6.4 Residential amenity

- 6.4.1 There are no external works proposed which would have an impact on neighbouring residential amenities such as light, outlook and privacy. It is not judged that the occupation by individuals rather than a family will decrease privacy. However, there is the potential for increased comings and goings associated with multiple people living as separate households. Given that the area has a low number of HMO properties, this would have limited impact on the current arrangement for residents in the area.
- 6.4.2 Issues raised in relation to noise are recognised. Whilst concern and fear of the unknown behaviour of future residents is understandable, disturbance is not inevitable. The HMO SPD outlines the fact that at the time of writing of the SPD, only 0.5% of the HMO housing stock in the city had been subject to noise notices. Again, due to the limited amount of HMO's within the area, it is judged that this is not significant enough to warrant refusal of the application. The personal circumstances of the neighbouring occupier is recognised and supported by a doctor's note. However, as stated in section 5.1 personal circumstances cannot be the overriding consideration in determining a planning application against the other material planning considerations and interest of the wider public, in this case the need for this type of housing. It is recognised that objectors fear that their lives could be affected but this is not inevitable and similar issues could occur from other owner occupiers, families or tenants. Nonetheless, the occupancy of the property should be limited to 5 people in order to reduce the possible impact.
- 6.4.3 Whilst it is recognised that some HMO properties have issues with refuse bins being left out of the front of the property, it appears that within the area this is a common arrangement amongst residents. However, as an HMO property could

create more waste or have management issues, a condition can be added to ensure that refuse bins are not stored at the front with the exception of collection day.

6.4.4 No physical additions to the building are proposed which would limit the amenity space provision. The internal layout is conventional so would not impact light, outlook or privacy. The Private Sector Housing team are satisfied with the room sizes for 5 residents. The communal rooms should remain as such and not turned into bedrooms for the residential amenity for occupiers to be maintained. Cycle storage is required for the residents in order to meet policies SDP5 and CS19. The can be secured by condition so each resident has a storage space.

6.5 Parking and highway safety

6.5.1 The Highways team have indicated that there would be no safety issue as a result of the application. Parking would therefore be an amenity consideration rather than one of safety. Parking for 3 cars is provided on site. A parking survey has been requested in order to assess the availability of off-street parking within the area. The occupancy of the site can be restricted to 5 people to limit the amount of cars using the site.

6.5.2 The area is close to public transport links and local amenities in Oakley Road, Romsey Road and Shirley High Street and is close to Shirley Town Centre therefore reducing the need for a car. The site is within a high accessibility area for public transport as set out in the Parking Standards SPD with 20+ buses per hour.

7. Summary

7.1 Overall, it is judged that, based on the information available to the council at the time of writing, there is a limited number of HMO's within the area and therefore the creation of an additional HMO would not exceed the threshold of 20% in the area. On this basis, the application complies with the HMO SPD helping to provide a site for an important housing need whilst limiting the impact on the area due to the low level of HMOs in the area thereby creating a balance between households. The living environment would be satisfactory in planning terms for both neighbours and future occupiers of the property and therefore in accordance with local plan policies SDP1 and H4.

8. Conclusion

8.1 The application is recommended for approval subject to conditions.

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), 4. (f) (vv) (ww), 6. (c), 7. (a)

JOAHAL for 11/11/14 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 - 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.

03. APPROVAL CONDITION - C3/C4 dual use [Performance Condition]

The "dual C3 (dwellinghouse) and/or C4 (House in multiple occupation) use" hereby permitted shall, under Class E, Part 3, Schedule 2 of the Town and County Planning (General Permitted Development) Order 1995, be for a limited period of 10 years only from the date of this Decision Notice. That dwelling shall remain as the prevailing use at that time as hereby agreed in writing by the Local Planning Authority. For the avoidance of doubt, if a C4 use is instituted and subsequently reverts to C3 use and is in that use on 22 July 2024, planning permission will be required to convert to Class C4 use thereafter.

Reason:

In order to provide greater flexibility to the development and to clarify the lawful use hereby permitted and the specific criteria relating to this use.

04. APPROVAL CONDITION - Occupancy Restriction [Performance condition]

Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/653) or any Order amending, revoking or re-enacting that Order, no more than 5 individual residents shall at any time occupy the property whilst it is in use as a C4 dwelling house (house in multiple occupancy whereby the property is occupied by unrelated individuals who share basic amenities).

Reason:

In order that the Local Planning Authority may exercise further control in this locality given the surrounding context and character and to reduce the potential impact of the development.

05. APPROVAL CONDITION - Room restrictions [Performance Condition]

The ground floor rooms annotated on floor plans as the lounge, kitchen/diner and sitting room shall remain as communal space for the occupiers of the property throughout the occupation of the building and shall at no time be used as bedrooms unless otherwise agreed upon in writing by the Local Planning Authority.

Reason:

To maintain sufficient residential environment for occupiers and to ensure that there is not intensification of use.

06. APPROVAL CONDITION - Cycle storage facilities [Pre-Occupation Condition]

Prior to the first occupation of the site as an C4 dwelling, details of an enclosed, secure and lockable cycle store to conform to the Local Planning Authorities standards of one space per resident shall be provided and agreed upon in writing by the Local Planning Authority . Such parking and storage shall thereafter 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.

07. APPROVAL CONDITION - Refuse storage and collection [Performance Condition]

Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the buildings hereby approved.

Reason:

In the interest of visual amenity and for the safety and convenience of the users of the adjacent footway.

08. APPROVAL CONDITION - Refuse & Recycling [Pre-Commencement Condition]

Before the works commence details of facilities to be provided for the storage, removal and recycling of refuse from the premises shall be submitted to the Local Planning Authority and approved in writing. Such facilities as approved shall provide for a level approach and be permanently maintained and retained for that purpose.

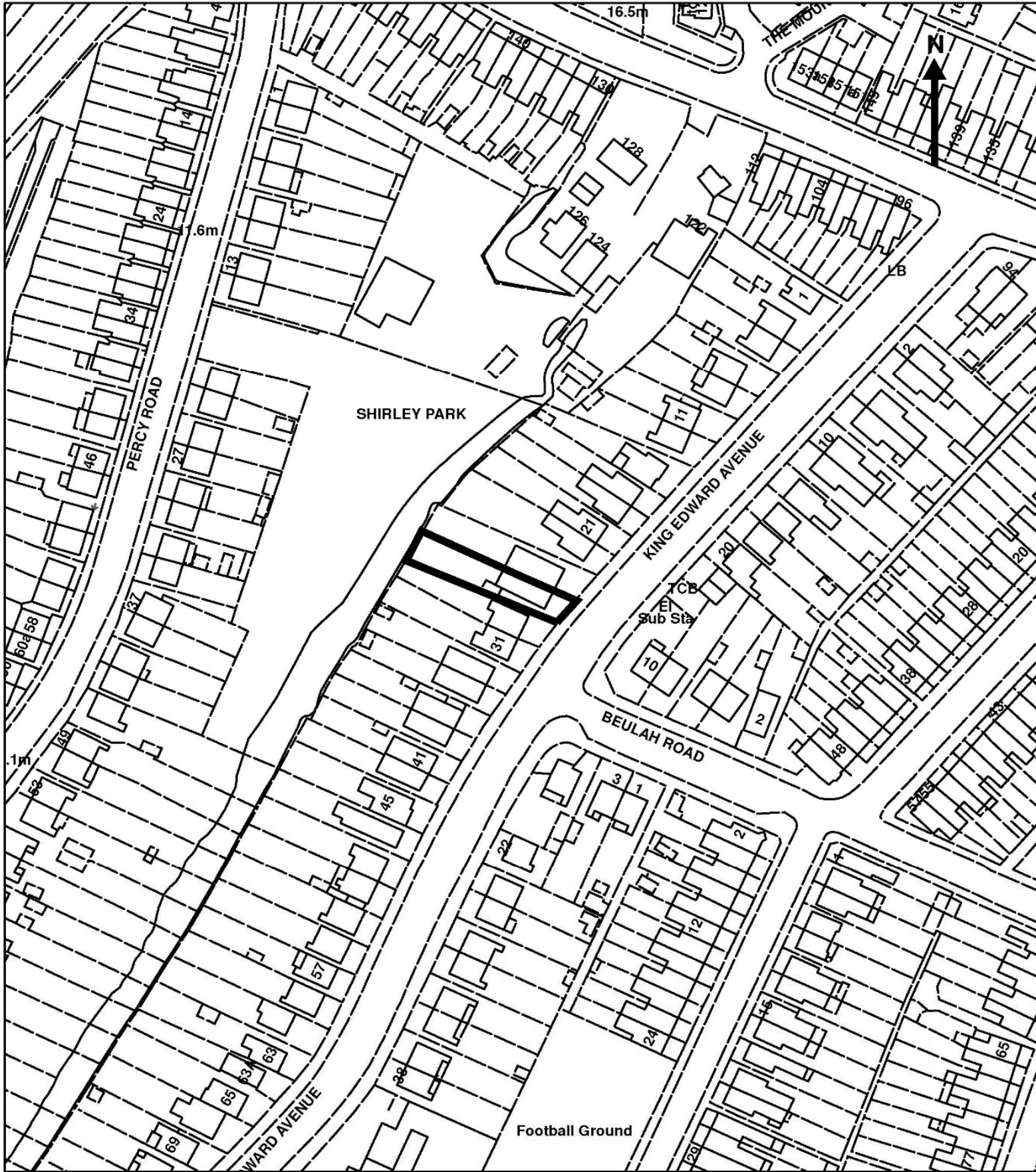
Reason:

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

Note to Applicant - Pre-Commencement and/or Pre-Occupation Conditions

Your attention is drawn to the pre-commencement and or pre-occupation 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.

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