

Southampton City Planning & Sustainability
 Planning and Rights of Way Panel meeting 31st August 2010
 Planning Application Report of the Planning and Development Manager

Application address:
 9 The Triangle, Cobden Avenue, Southampton

Proposed development:
 Change of use from A1 (Shops) to mixed use A3 (Sandwich/Coffee Bar) and use of forecourt as external dining area

Application number	10/00606/FUL	Application type	FULL
Case officer	Stuart Brooks	Public speaking time	5

Applicant: Mr Gary Plested **Agent:** Mr Ian Knight

Recommendation Summary	Refuse
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Reason for Refusal

The proposed refuse management strategy to facilitate the change of use to class A3 would result in the storage of wheelie bin within front curtilage of the premises which forms a prominent part of the public realm, representing an unsightly and visually obtrusive feature within the street scene and the character of the building's shopfront which is considered to be a heritage asset of local importance. As such the proposal would be materially harmful to visual amenity and therefore contrary to "saved" Policies SDP1 and REI6 of the City of Southampton Local Plan Review (March 2006) and Policy CS3 and CS13 of the Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by policy HE7 of PPS5 - Planning for the Historic Environment (March 2010).

Appendix attached			
1	Development Plan Policies	2	SCC Policy Team retail survey 2009

Recommendation in Full

Refusal.

1.0 The site and its context

1.1 This application site consists of a single retail unit (0.01 ha site area) with a basement area and no external service area in its curtilage that forming a terrace of buildings from 1 to 2 storey in height as part of the Bitterne Triangle Local Centre fronting along Cobden Avenue.

1.2 The application site is currently occupied by "Food to Suite". The property has a large open glazed shopfront retaining many original architectural features and details dating back to the beginning of the 20th century which is considered as a heritage asset of local importance due to its historic character and appearance. The space immediately to the front of the premises between the public pavement is a private forecourt in the ownership of the applicant.

1.2 The existing units in the Local Centre are mainly occupied by a range of uses which provide day to day service to local people such as a convenience store, bakery, cafe/restaurant, take away, laundrette, second hand shop, florist.

2.0 Proposal

2.1 Planning permission is sought to change the use of the premises from the current A1 sandwich shop use to mixed A3 café, offering light hot and cold food and beverages prepared at the premises (with no external venting of cooking fumes) such as sandwiches, cooked breakfast, Panini's, jacket potato, and salad. It was originally proposed in the description of development to include a mixed A5 hot food takeaway use, but this has been agreed with the applicant to be omitted from the description. There is the opportunity for the customer to pre-order food by phone for collection, however, the nature of the proposed use is more akin to A3 café given the cooking processes involved and type of food on offer.

2.2 The applicant intends to provide external outdoor seating and rope rail on posts under 1 metre high within the private front forecourt of the premises. The provision of seating within the private forecourt for customers to stay and eat on premises does not require the benefit of planning permission under an authorised A3 café use subject to these features not being permanent or fixed. The applicant has amended the planning application to remove the original proposed external decking. There are no changes proposed to the external appearance of the building. The refuse management strategy involves the storage of bins on the front private forecourt.

3.0 Relevant Planning Policy

3.1 The Development Plan for Southampton currently 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 A3 and A5 Food and Drink uses are permitted within Local Centres by the Council's Local Plan policies providing that their role continues serving the daily needs of local population. Proposals involving food and drink uses will be permitted in local centres providing that any adverse impact on neighbouring occupiers from noise disturbance, cooking smells and litter can be appropriately controlled in the view of the Local Planning Authority. In accordance with adopted Core Strategy Policy CS3 (Town, District and Local Centres) and Local Plan "saved" Policy RE16 (Local centres) and RE17 (Food and drink uses).

3.3 Under government guidance Policy HE7 of PPS5 - Planning for the Historic Environment (March 2010) the Local Planning Authority should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. Policy SDP7 (Context) and CS13 (Fundamentals of design) seeks to assess whether a development will cause material harm to the character and/or appearance of an area in context with the quality of the local environment such as visual characteristics.

4.0 Relevant Planning History

09/00468/ENCOU Allegation that use of new shop falls within A3 and not A1.

Note: The Enforcement case was closed as it was considered that the nature of the use at the time classed as A1 use.

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 (17.06.10). At the time of writing the report 10 representations have been received from surrounding residents. A summary of these comments are set out below.

5.2 Increase in traffic and parking demand generated resulting in congestion and lack of parking for regular shoppers due to increase in customers added to the impact from customers accessing the existing businesses operating in the local area. In particular, this will increase visitors illegally parking and affecting safety of other road users close to the main junction with Whitworth Road and Cobden Avenue.

Response

The Highway Officer has raised no objection to the impact from the proposed use on highway safety. The additional trips associated with this type of day time use serving local needs will not significantly change and, therefore, not pose an extra demand on traffic and local street parking. There are enforceable parking restrictions in place to the front of the premises which allows 'no waiting at any time' to prevent unsafe parking.

5.3 There is no access to refuse storage for commercial waste, and insufficient litter bins to dispose of customer waste outside the establishment and in the local area which will attract vermin and pose public health problems.

Response

The applicant has proposed a refuse management strategy to permanently store bins on the front forecourt of the premises which is supported by Environmental Health Officer but has an impact on the visual amenities of the area.

5.4 The number of food and drink businesses has reached a capacity to sufficiently cater for the local population. The Local Centre requires a range of uses to maintain its viability and vitality. Further A3/A5 uses would reduce the number visitors attracted to shopping in the local area for day to day needs, and are more likely to then visit larger district centres such as Bitterne Precinct and Portswood Road for these needs. An additional A3/A5 use would harm the vitality and viability of similar food and drink businesses operating in the local area that have made large investments imposed with strict non daytime license rules, causing them to close down with a negative affect to the local community.

Response

The occupation of the unit with the café use providing an active frontage and table/seating to the forecourt will contribute to the vitality of the local centre. The control of hours can be restricted by the Council as seen fit under separate licensing laws.

5.5 The external decking and barrier is out of character with the period design and style of the building frontage, and the structure is at risk of theft.

Response

This element of the application has been removed and, therefore, is not being considered under this application. The Conservation Officer has raised no objection to the impact on the appearance and character of the building from the addition of tables and chairs and rope rail on posts (under 1 metre high) to the front forecourt. This will not require planning permission in connection with an authorised A3 use providing they are removed and stored inside at night time on a daily basis.

5.6 The Council have advised in the past that no more food and drink uses would be permitted in the local area. The increase in these businesses has changed the character of Bitterne Park.

Response

The Council should consider each planning application on its own individual merits, and there is no policy presumption against the principle of introducing the proposed A3/A5 use in Bitterne Triangle Local Centre. There are no planning policy grounds to restrict further food uses in this Local Centre.

5.7 The retail unit is too small for food preparation which will pose a health risk, and the provision of dining seating would require toilet facilities with disabled access.

Response

This is a licensing matter to be considered under statutory legislation separate from the planning system. The Environmental Health Food Safety Team has raised no objection to the introduction of A3/A5 use subject to providing adequate refuse storage facilities.

5.8 **SCC Highways** - No objection raised to the impact from the proposed use on highway safety.

5.9 **SCC Environmental Health Food Safety** – No objection raised, subject to implementing the proposed refuse management strategy, and submitting further details to control of hours of operation, and provision of adequate extraction and ventilation equipment to control cooking fumes.

It should be noted that the hours of operation as intended by the applicant will be only permitted Monday to Sunday 0730 to 1630 hours. The cooking processes involved do not require the venting and extraction of cooking smells.

5.10 **SCC Policy Team** - No objection raised in principle, as A3 and A5 Food and Drink uses are permitted within Local Centres by the Council's Local Plan policies **providing that their role continues serving the daily needs of local population, and the loss of shops and services must be balanced against the harm to the level of shopping service provided**, in accordance with adopted Core Strategy Policy CS3 and Local Plan "saved" Policy REI6. Proposals involving food and drink uses will be permitted in local centres providing that any adverse impact on neighbouring occupiers from noise disturbance, cooking smells and litter can be appropriately controlled in the view of the Local Planning Authority in accordance with" Policy SDP1 and REI7. Results from a Retail Survey of Bitterne Triangle Local Centre carried out in 2009 have been provided.

5.11 **SCC Heritage Conservation Team** – Objection raised to the original intention to install the permanent decking to the forecourt which was considered to detract from the character and appearance of the historically important façade, however, no objection is raised to the revised proposal to use of tables and chairs and rope rail on posts on a daily basis. The decking element of the application has been removed and, therefore, is not being considered under this application.

6.0 Planning Consideration Key Issues

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

- i. The principle of development;
- ii. Maintain the Role of Local Centre;
- iii. Amenity of Neighbouring Occupiers;

- iv. Highways and Parking;
- v. Design, and Impact on Established Character;

6.2 Principle of Development

6.2.1 The application seeks to change the use of the premises from class A1 sandwich shop to provide a mainly A3 café use. The description of development has been advertised to include class A5 hot food takeaway, however, the nature of the business activities and cooking processes involved are not typical of this use. This proposal should be assessed, principally, against “saved” Local Plan Review Policy REI6 as supported by Core Strategy Policy CS3 which permits a range of uses including A3 (café/restaurant) and A5 (hot food takeaway).

6.2.2 The Local Plan Review under policy REI6 seeks to maintain and, where possible, enhance their role of serving the daily needs of the local population of the Bitterne Park Triangle Local Centre. The loss of shops and services will therefore be resisted, and such proposals will be judged against the harm to the level of shopping service which might occur. The proposal is consistent with these aspirations.

6.2.3 The day time hours of business, level of seating for customers to stay on premises, and type of cooking processes involved is consistent with the requirements of Local Plan Review “saved” Policy SDP1 and REI7 to prevent adverse loss of amenity to neighbouring occupiers.

6.2.4 The principle of redevelopment is, therefore, accepted by the current development plan policies listed above.

6.3 Maintain the Role of Local Centre

6.3.1 “Saved” policy REI6 of the Local Plan Review seeks a mix of uses to create a range of local services including A3 and A5 food and drink uses as supported by policy CS3 of the Core Strategy. Due to the type of cooking processes involved and the day time hours of operations, the nature of use is more akin to café that caters for the daily needs of local people rather than a typical hot food takeaway as per the description of development.

6.3.2 Following the concerns raised by local traders with regards to proportion of food and drink uses within the Bitterne Triangle local centre, figures are stated below from *SCC Policy Team Retail Survey carried out in 2009* (results summarised for ground floor units in **appendix 2**). The provision of units and competition between local traders is decided by the actions of free market and consumer choice. A class A3 and A5 unit can be reverted to A1 use without planning permission under permitted development rights.

6.3.3 The retail survey shows the local centre at the time was composed of **total 31 commercial ground floor units**, of which **3 - vacant, 19 - A1/A2 retail, 2 – A3 café, 6 - A5 hot food takeaway, 1 – D1 health care**. The proportion of total ground units in retail and food and drink use is **61% and 26%**. This balance of food and drink uses with high proportion of retail/professional and financial services is not considered to be excessive to harm the level of shopping service catering for local day to day needs. This would suggest that the viability of the local centre as recent as 2009 is acceptable. **An up to date survey of the current proportion and composition uses within the local centre will provided at the Panel meeting.**

6.3.4 In the times of the national economic climate, the occupation of the unit with a day time café use and table/seating to the forecourt will provide an active commercial frontage contributing to the vitality of the local centre.

6.4 Amenity of Neighbouring Occupiers

6.4.1 The Environmental Health Food Safety Team have raised no objection, subject to adequate provision of refuse storage facilities for waste management and collection on the premises, control of hours of operation, and provision of adequate extraction and ventilation equipment to control cooking fumes. The applicant has offered to install extraction equipment.

6.4.2 A waste management plan has identified that the A3/A5 use will store refuse in a wheelie bin outside the premises on the private forecourt. The Environmental Health Officer has raised no objection to this arrangement however, storing of refuse bins to the site frontage is not ideal in visual terms and would detract from the character of the area.

6.4.3 The hot and cold food on offer and cooking processes involved do not currently require the venting and extraction of cooking smells, however, the applicant has offered to install this equipment. The hours of operation will be only permitted Monday to Sunday 0730 to 1630 hours. The nature of the predominantly café use will therefore not result in an adverse impact on neighbouring occupiers from noise disturbance, cooking smells and litter to be appropriately controlled by conditions.

6.5 Highways and Parking

6.5.1 The Council's Highways Officer has raised no objection to the proposal subject that all furniture equipment and boundary rails associated with the external area does not encroach or overhang the public highway. The additional traffic associated with this type of day time use serving local needs compared to retail shop will not significantly change and, therefore, current level of street parking is sufficient in capacity. There are enforceable parking restrictions in place to the front of the premises which allows 'no waiting at any time'. Car parking is at a premium in this area but additional on-road parking has been created in the past 2-3 years on Bond Road and Cobden Bridge in response to local concerns. Reasonable use of these facilities by customers and for deliveries will not prejudice highway safety.

6.6 Design, and Impact on Established Character

6.6.1 There are no external changes proposed to the external appearance of the building, as the external decking element of the application is no longer part of the application. The addition of tables and chairs and rope rail on posts (under 1 metre high) to the front forecourt will not require planning permission under an authorised A3 use providing they are removed and stored inside at night time on a daily basis, creating an active frontage with tables and chairs in the private forecourt to serve customers during the day time maintaining commercial activity and open shopfront.

6.6.2 The Conservation Officer has advised that the building is recognised by the Historic Conservation Team as a heritage asset of local importance. The council is seeking to maintain the quality of the public realm. The property does not benefit from an external service area unlike most other commercial premises in the local area, and is further constrained by lack of internal storage due to the footprint and layout of the business. The proposed refuse management strategy to facilitate the change of use to class A3 would result in the storage of wheelie bin within front curtilage of the premises which forms a prominent part of the public realm, representing an uncharacteristic and visually obtrusive addition to the wider street scene and the historic appearance and character of the building's shopfront which is considered to be a heritage asset of local importance.

6.6.3 As such the proposal would be materially harmful to visual amenity and therefore contrary to “saved” Policies SDP1 and REI6 of the City of Southampton Local Plan Review (March 2006) and Policy CS3 and CS13 of the Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by policy HE7 of PPS5 - Planning for the Historic Environment (March 2010).

7.0 Summary

7.1 The principle of a change of use of the current A1 sandwich shop use is acceptable and this would contribute to the viability of the local centre and street activity during the daytime without an adverse impact on public amenity and highway safety. However, whilst all these elements of the application are acceptable, the method of refuse management to facilitate the change of use is not a suitable arrangement which will detract the quality of the visual character of the local area.

8.0 Conclusion

8.1 This application should be refused for failure to provide appropriate refuse storage facilities.

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 (c), 2 (e), 5 (e), 6(c), 7 (a), 7(v), 7 (x), 9(a), 9 (b)

SB for 20.07.10 PROW Panel

Reason for Refusal

The proposed refuse management strategy to facilitate the change of use to class A3 would result in the storage of wheelie bin within front curtilage of the premises which forms a prominent part of the public realm, representing an unsightly and visually obtrusive feature within the street scene and the character of the building's shopfront which is considered to be a heritage asset of local importance. As such the proposal would be materially harmful to visual amenity and therefore contrary to “saved” Policies SDP1 and REI6 of the City of Southampton Local Plan Review (March 2006) and Policy CS3 and CS13 of the Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by policy HE7 of PPS5 - Planning for the Historic Environment (March 2010).

POLICY CONTEXT

Core Strategy - (January 2010)

CS3	Town, District and Local Centres, Community Hubs and Community Facilities
CS13	Fundamentals of Design
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (March 2006)

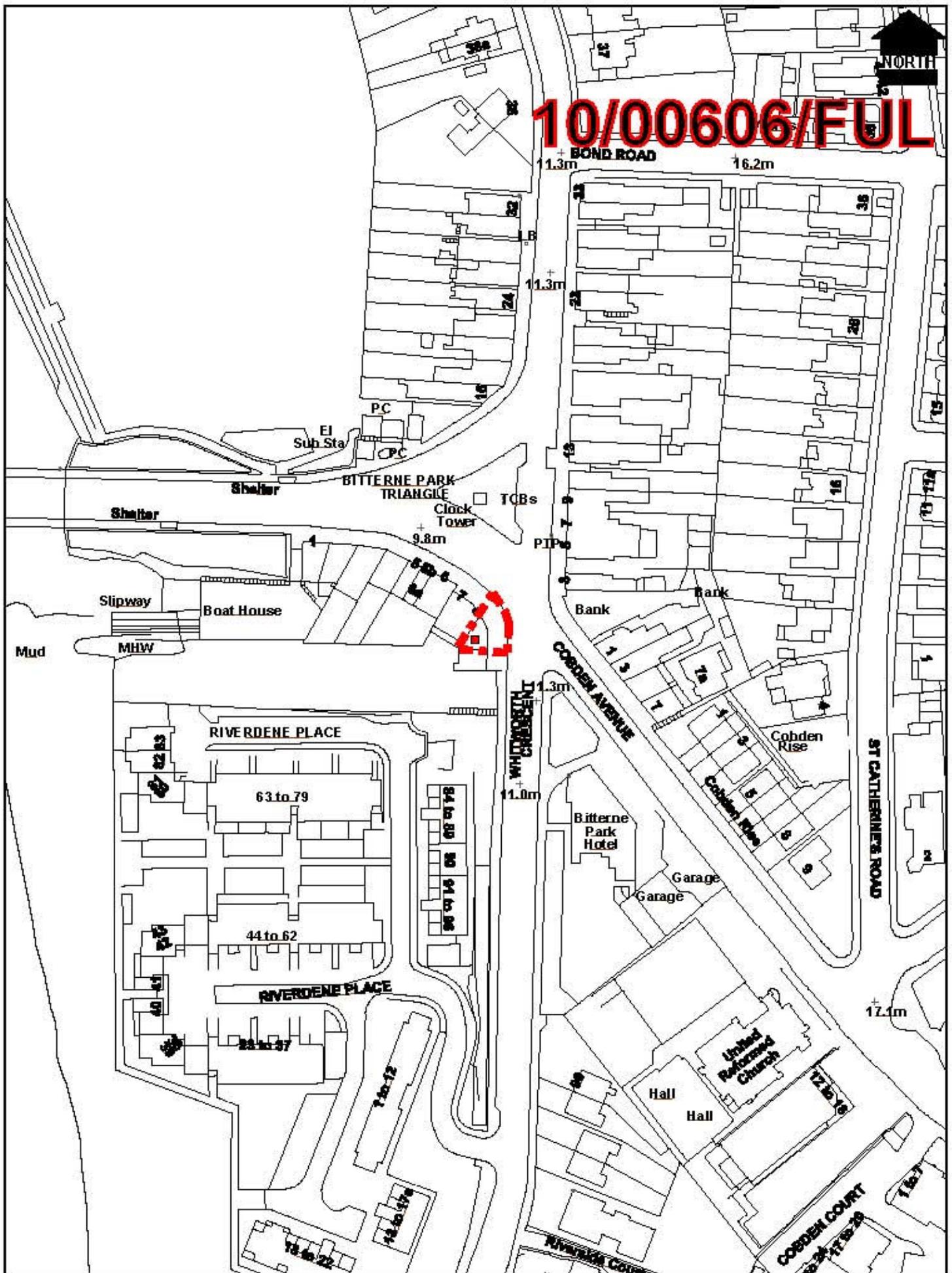
SDP1	Quality of Development
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
REI6	Local Centres
REI7	Food and Drink Uses

Other Relevant Guidance

PPS1	Delivering Sustainable Development (2004)
PPG24	Planning & Noise (2004)

SCC Policy Team Retail Survey Bitterne Triangle local centre (6/1/09)

A1	Charity shop
A1	Tans & Massage
A1	Flowers
A1	Gallery
A1	Tattoo
A1	Polish Cornershop
A1	Persian rug shop
A1	Barber
A1	Kitchen show room
A1	Picture framing & art shop
A1	Newsagent
A1	Funeral parlour
A1	Butcher
A1	Baker
A1	Pet shop
A1	Piano shop
A1	Second hand clothing
A2	Estate Agents
A2	Betting shop - Coral
19	Total A1/A2
A3	Café
A3	Café/deli
A5	Takeaway - Chinese
A5	Takeaway - fish n chips
A5	Takeaway - fish n chips
A5	Takeaway - Chinese
A5	Takeaway - Chinese
A5	Indian Takeaway
8	Total A3/A5
D1	Podiatrist
1	Total D1
3	Total Empty Units
31	Total units



Scale : 1:1250

Date : 16 August 2010

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