

**Planning, Transport & Sustainability Division**  
**Planning and Rights of Way Panel 21/06/2016**  
**Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 8 - 9 Premier Parade, Forest Hills Drive, Southampton, SO18 2GA.			
<b>Proposed development:</b> Change of use of ground floor from Retail (Class A1) to a Restaurant/Hot Food Takeaway (Class A3/A5) with external extraction flue.			
<b>Application number</b>	16/00256/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Laura Grimason	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	27/06/2016	<b>Ward</b>	Bitterne Park
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received.	<b>Ward Councillors</b>	Cllr Ivan White Cllr David Fuller Cllr John Inglis

<b>Applicant:</b> Mr Ahmed Hussain Akhmed	<b>Agent:</b> LG Planning Ltd
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<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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<b>Community Infrastructure Levy Liable</b>	<b>Not applicable</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. 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, SDP10 and SDP16 of the City of Southampton Local Plan Review (Amended 2015) and CS3, CS13 and CS19 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Appeal decision for 06/01317/FUL

## Recommendation in Full

### Conditionally approve

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

- 1.1 This application relates to the ground floor of units 8 and 9 Premier Parade. These units are located within a wider terrace of 5 units within Premier Parade, a small, un-designated shopping area positioned between Kingsfold Avenue and Forest Hills Drive. In total, Premier Parade has 11 units which are used for retail and commercial purposes at ground floor level with residential accommodation at first and second floor level. There is no vehicular access to the front of the site however there is a small parking court located to the rear and accessed from Kingsfold Avenue.

#### 2.0 **Proposal**

- 2.1 Permission is sought for the change of use of units 8 - 9 from retail (Class A1) to a restaurant / hot food takeaway (Class A3/A5).
- 2.2 External alterations are limited to the installation of an extraction flue to the rear elevation.

#### 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 (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). 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 In 2006, an application (ref.06/01317/FUL) for a change of use from retail (Class A1) to takeaway (Class A5) was refused. The reasons for refusal were as follows:

##### Impact on residential amenity

The proposed change of use by introducing an hot food takeaway (Use Class A5) activity into a building with un-associated residential accommodation above would be unacceptable due to the disruption associated with such a use and accordingly harm the residential amenities of the surrounding occupiers. The proposal would therefore prove contrary to policies SDP1, SPD7 and RE17 of the City of Southampton Local Plan Review (Adopted Version March 2006).

An appeal against this decision was dismissed (ref.APP/D1780/A/06/2033010) meaning that in 2007, a takeaway was not acceptable in planning terms. A copy of the appeal decision is attached at **Appendix 2**. This permission was never implemented and has now lapsed.

## **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 (16/03/2016). At the time of writing the report **8** representations have been received from surrounding residents (1 in support and 7 objecting). The following is a summary of the points raised:

5.1.1 There are already a number of takeaways in Premier Parade and there is no need for another.

*Response: Premier Parade is an undesignated shopping area and as such, there are no policies within the Local Plan Review or Core Strategy which restrict the number of A5 uses in this location. The main use of the property would be as a restaurant within Class A3 with the A5 takeaway forming a secondary element. Whilst it is acknowledged that there are two existing takeaways in Premier Parade, it is not considered that this scheme would result in an excess of this type of use in this location. The proposed scheme would bring a vacant unit back into effective use, subsequently enhancing the vitality and viability of this longstanding shopping area. It is therefore, considered to be acceptable.*

5.1.2 Parking is an existing issue within the area with the existing car park full most evenings and parking for Premier Parade spilling out onto the surrounding residential roads. The proposed restaurant / takeaway would exacerbate this, detrimental to residential amenity.

*Response: The City Council's Highways Team have confirmed that the level of parking demand associated with the proposed A3 / A5 use would not be considerably different to that associated with an A1 use. As such, it is not considered that parking demand would be significantly altered from the current arrangement and highways safety / insufficient parking is not considered to be an issue.*

5.1.3 Odours from the existing takeaways provide unpleasant living conditions for existing residents. The proposed scheme would exacerbate this.

*Response: An extract flue would be sited to the rear of the property. The City Council's Environmental Health Team have been consulted on this scheme and have confirmed that the proposed use and associated extraction flue would not give rise to excessive noise or odours detrimental to the residential amenities of adjoining residential occupiers. A condition is recommended to secure the flue as agreed.*

5.1.4 The proposed scheme would result in additional noise (both from the use itself and the extraction flue), litter and vermin to the detriment of the residential amenities of neighbouring occupiers.

*Response: The City Council's Environmental Health Team have been consulted on this scheme and have confirmed that the proposed use and associated extraction flue would not give rise to excessive noise or odours detrimental to the residential amenities of adjoining residential occupiers. With regards to the use itself, hours of operation would be restricted to 09:00 and 23:00 daily. A planning condition will be imposed to secure this. Provided that the use is operated in accordance with this condition, the proposed use is not considered likely to result in the loss of amenity for adjoining residential occupiers.*

5.1.5 Inadequate consultation has been undertaken for this scheme.

*Response: The Council has exceeded the statutory requirements for consultation for this application. A site notice was posted on the 16th March 2013 with letters also being sent to the following properties:*

*10A Premier Parade*

*8A Premier Parade*

*7 Premier Parade*

*10 Premier Parade*

*9A Premier Parade*

*7A Premier Parade*

*Further letters were subsequently sent to the following properties to ensure that all neighbours were informed of the proposal:*

*Flat 1, Charles Court.*

*Flat 2, Charles Court.*

*Flat 3, Charles Court.*

*Adequate consultation has therefore, been undertaken for this scheme.*

5.1.6 The proposed extraction flue would have an unattractive appearance, detrimental to the visual amenities of the area.

*Response: The extract flue would be relatively modest in scale and would be sited appropriately to the rear to ensure that it would have only a limited impact on the wider streetscene.*

5.1.7 A previous proposal was refused.

5.1.9 *Response: A previous scheme sought permission for an A5 takeaway use (ref.06/01317/FUL). There was no A3 element proposed with this previous scheme. As this scheme seeks permission for an A3 / A5 use, it is considered that this scheme is materially different to the scheme previously refused. As the A5 element is secondary to the main use of the property as a restaurant, it is considered that this scheme is an improvement on that which was previously refused.*

## 5.2 Consultation Responses

### 5.2.1 SCC Highways: No objection.

The difference in highway impact between the existing and proposed use is considered to be negligible and therefore there will be no highway objections.

### 5.2.2 SCC Environmental Health (Pollution & Safety): No objection subject to conditions.

Following a site meeting with the Applicant, his agent and the extract ventilation engineer it has now been determined that the proposed scheme as illustrated in the original proposed plans is practicable as the leaseholder has given his written consent, subject to a legal agreement, for the extract ventilation to be routed externally along the facade of his property. The fan and filter system will be housed internally within the room with a flat roof above and due to the location of the proposed plant and equipment there are no concerns about noise nuisance. In light of this we can now support the proposed development and would recommend it is granted subject to the following conditions:

- No deliveries shall be taken in or dispatched from the premises outside the following times: 08.00hrs - 20.00hrs.
- Hours of Use - Food/Drink Establishments [Performance Condition]

The premises hereby permitted shall not operate (meaning that customers shall not be present on the premises, no preparation, sale or delivery of food or drink for consumption on or off the premises) outside the following hours:

Sunday - Thursday: 11.00 hours to 23.00 hours

Friday and Saturday: 11:00 hours to midnight

Unless otherwise agreed in writing by the Local Planning Authority. A notice to this effect shall be displayed at all times on the premises so as to be visible from the outside.

The details now for the extract ventilation system and the commercial refuse storage arrangements have now all been supplied by the Agent so conditions in relation to these issues are not considered necessary.

*Response: Conditions to control deliveries, restrict opening hours and secure details of refuse management are proposed.*

## **6.0 Planning Consideration Key Issues**

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

- (a) The principle of development.
- (b) The impact in terms of residential amenity.
- (c) The impact in terms of highways safety.
- (d) The acceptability of the extract flue in terms of visual amenity.

## **6.2 Principle of Development**

6.2.1 The application site is located within Premier Parade, a small parade of 11 units. At present, this shopping area is undesignated. The units within Premier Parade are currently used in the following way:

- (1) Convenience store (A1).
- (2) Takeaway (A5).
- (3) Hairdressers (A1).
- (4) Takeaway (A5).
- (5) Mobility scooter shop (A1).
- (6) Building contractors office (B1).
- (7) Electrical contractors shop (A1).
- (8) Application site (A1).
- (9) Application site (A1).
- (10) Barber shop (A1).
- (11) Laundrette (A1).

Having regard to the current mix of uses, it is considered that an A3 / A5 use would be appropriate for this location. The A3 use would constitute the main use of the property and would effectively bring a vacant unit back into active use. This

is likely to enhance the vitality and viability of this retail area. Whilst it is acknowledged that there are two existing A5 uses, the A5 use in this case would be secondary to the main use of the property as a restaurant. It is not therefore, considered that this scheme would give rise to an excess of A5 uses in this location. Furthermore, as Premier Parade is undesignated, there are no restrictions in planning policy terms on the number of A5 uses in this location meaning that the Local Planning Authority has limited control over this at the current time.

- 6.2.1 Consideration must also be given to what could be done under permitted development. Class C of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, enables the change of use from A1 (retail) to A3 (restaurants / cafes) under permitted development through a simplified prior approval procedure. That is however, subject to the following criteria being met:
- (a) The cumulative floorspace of the property changing use should not exceed 150 sq m.
  - (b) The development should not result in more than 150 sq m changing under Class C.
  - (c) The land must not form part of a site of special scientific interest, safety hazard area or military explosives area.
  - (d) The site must not contain a scheduled ancient monument.
  - (e) The land is not a Listed Building or within the curtilage of a Listed Building.

The application site would satisfy the criteria listed above and so if the proposal was purely for an A3 restaurant, the applicant would be able to apply for the proposed use through the prior approval procedure as opposed to an application for planning permission. The inclusion of an additional A5 use does however, mean that full planning permission is required.

- 6.2.2 Having regard to the issues discussed above, it is considered that the principle of development is acceptable.

### 6.3 Residential Amenity

- 6.3.1 The closest residential properties to the application site are located at first and second floor level of Premier Parade, directly above the application site. The Environmental Health Team have been consulted on this scheme and have worked with the applicant to secure an acceptable scheme for extraction. This will comprise an extraction flue routed externally along the facade of the first floor property. Additional internal equipment would be sited within the ground floor restaurant. Officers are satisfied that the proposed extraction flue would be sited appropriately, ensuring that it would not be detrimental to residential amenity in terms of additional noise or odours associated with the proposed use.
- 6.3.2 Other residential properties located at 1 - 3 Charles Court and along Kingsfold Avenue are sited at an appropriate distance away from the site to ensure that no adverse impact in terms of residential amenity would occur.

- 6.3.3 The City Council's Environmental Health department have requested that a condition restricting the hours of operation is imposed to protect residential amenity. As a result, the proposed use would be restricted to operation within the following hours:

09:00 - 23:00 daily.

This is in accordance with the hours specified by the applicant.

- 6.3.4 Having regard to the above, the proposed scheme is not considered to have a significant impact in terms of residential amenity. The issues relating to noise and disturbance identified with the previous appeal have now been satisfied as the takeaway element is secondary to the main use of the property as a restaurant. Provided that the proposed A3 / A5 use is operated in accordance with the planning conditions which have been recommended, no loss of amenity is considered likely.

#### 6.4 Highways Safety

- 6.4.1 Whilst there is no parking specifically for the proposed use, Premier Parade does have access to a shared parking court to the rear, accessed from Kingsfold Avenue. This parade serves a local need and customers can walk easily to the site. Furthermore, for those that do drive, there are no parking restrictions along Kingsfold Avenue, Old Farm Drive or Forest Hills Drive. The City Council's Highways Team have been consulted on this scheme and have confirmed that the level of parking demand associated with the proposed A3 / A5 use would not be considerably different to that associated with an A1 use. As such, no objection has been raised and the scheme is considered to be acceptable in terms of highways safety and parking.

#### 6.5 Extraction Flue and Visual Amenity

- 6.5.1 The proposed extract flue would be relatively modest in comparison to the main building. It would be sited appropriately to the rear and would have a limited impact on the visual appearance of the wider streetscene. As such, it is considered to be acceptable in terms of visual amenity.

#### 7.0 Summary

- 7.1 The proposed scheme is policy compliant with issues relating to the principle of development, highways safety, transport, design and residential amenity being adequately addressed.

#### 8.0 Conclusion

- 8.1 The recommendation is for conditional approval.

**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), 6(a)/(b).

**LAUGRI for 21/06/16 PROW Panel**

**PLANNING CONDITIONS**

**1. Full Permission Timing Condition (Performance)**

The development hereby permitted shall begin no 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).

**2. 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.

**3. Hours of Operation (Performance)**

Unless otherwise agreed in writing by the Local Planning Authority, the use hereby approved shall not operate outside the following hours at any time:

09:00 - 23:00 daily.

Reason:

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

**4. Extraction Equipment**

The extraction equipment hereby approved (as shown on drawing ref.002 and as detailed in the Design and Access Statement received 04/04/2016) shall be installed and fully operational prior to the commencement of the A3 / A5 use hereby permitted. The approved measures shall be retained thereafter for the lifetime of the development.

Reason:

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



## 5. APPROVAL CONDITION: A3 use

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order amending, revoking or re-enacting that Order, the principal use of the property shall be for purposes within Class A3 with the Class A5 use remaining ancillary at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason:

For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development in the interests of the amenities of the area.

## 6. Delivery times

No deliveries shall be taken in or dispatched from the premises outside the following times;

08.00- 20.00 daily.

Reason:

To protect the residential amenities of neighbouring occupiers.

## 7. Refuse & Recycling (Pre-Commencement)

Prior to the commencement of development, details of storage for refuse and recycling, together with the access to it, shall be submitted to and approved in writing by the Local Planning Authority. A litter bin shall be provided on the site within the customer area of the floor space and made available for use of patrons during trading hours. The approved storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the development hereby approved.

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.

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS3	Promoting Successful Places
CS13	Fundamentals of Design
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP7	Context
SDP10	Safety & Security
SDP16	Noise

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2012)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

**APPEAL DECISION FOR 06/01317/FUL**

31517/06/01317/FUL



## Appeal Decision

Site visit made on 15 May 2007

by **Clive Kirkbride** BA(Hons) DipTP MSc

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
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Date: 31 May 2007

**Appeal Ref: APP/D1780/A/06/2033010**  
**8/9 Premier Parade, Forest Hills Drive, Town Hill Park, near Bitterne,**  
**Southampton, Hampshire, SO18 2GA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Lally against the decision of Southampton City Council.
- The application Ref 06/01317/FUL, dated 24 August 2006, was refused by notice dated 24 October 2006.
- The development proposed is change of use from A1 retail to A5 hot food takeaway.

### Decision

1. The appeal is dismissed.

### Main Issue

2. I consider this to be the effect of the proposal on the living conditions of nearby residents, with particular reference to noise and disturbance.

### Reasons

3. The appeal premises comprise a vacant, double ground floor unit in a parade of 10 commercial premises with flats over. These premises are arranged in two, 3-storey blocks around a small pedestrian precinct. There is an adjoining parking court available for the exclusive use of customers, shop keepers and residents, and road side parking in the area is generally not restricted.
4. Premier Parade is not identified as a city, town, district or local centre where food and drink uses would be permitted under policy RE17 of the City of Southampton Local Plan Review. Consequently, the proposal should be considered on its merits and with regard to the local context. In this regard, I consider LP policies SDP1 and SDP7 to be most relevant.
5. The appeal site is situated in an otherwise wholly residential area with housing on all sides, including a 3-storey block of flats immediately to the front. There are 2 existing takeaways within the parade block adjoining the appeal premises, and representations from local residents indicate that these cause a variety of problems, including noise and disturbance from the coming and going of cars and customers.
6. In my view a third takeaway in the same location would exacerbate those problems and I note that the Council has resisted other takeaway proposals

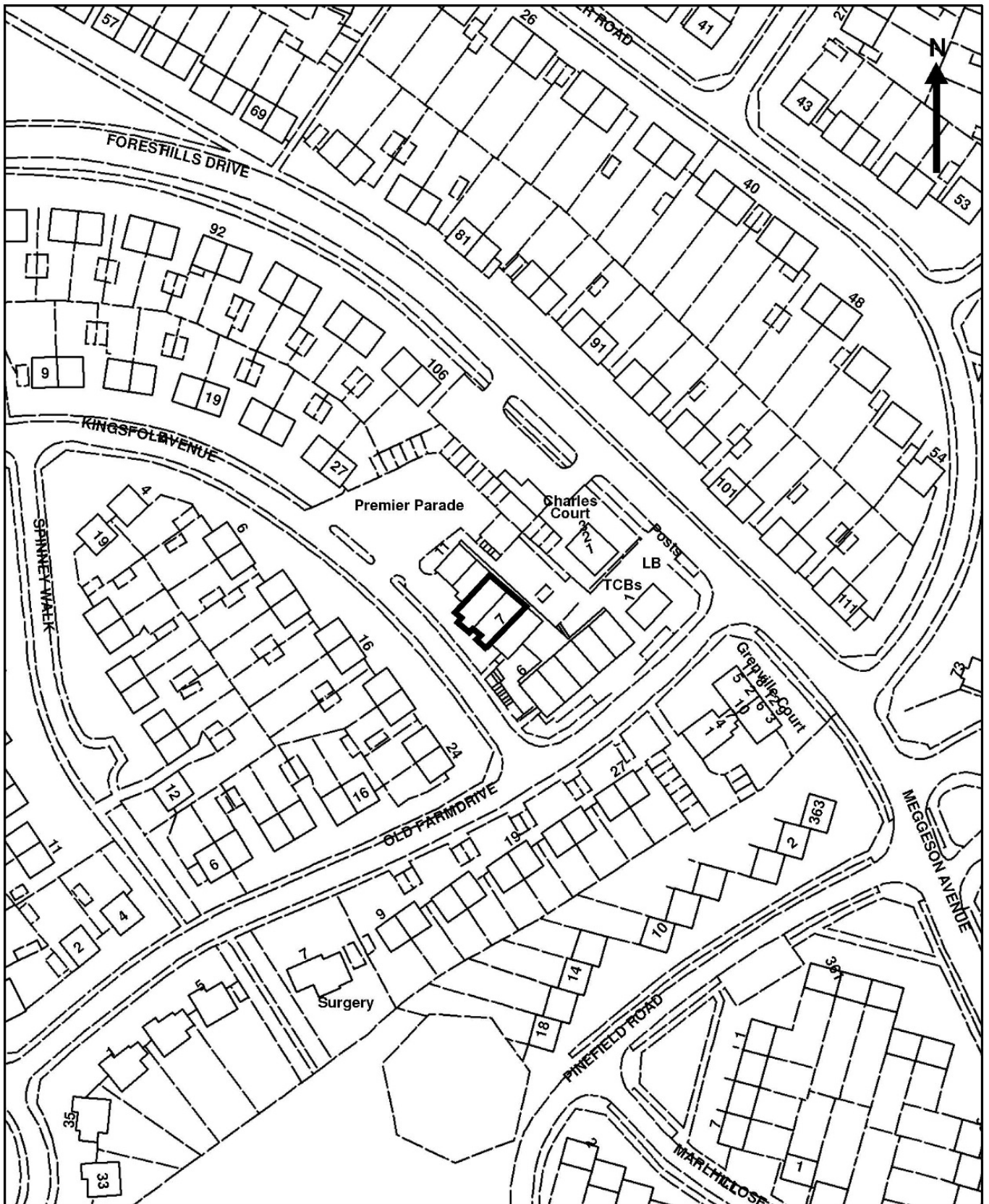
within this parade for similar reasons. Nor am I satisfied that the proposed shorter opening hours would be sufficient to mitigate the harm caused.

7. In my opinion, the additional noise and disturbance likely to be caused by the proposal during the day and early evening would have a cumulative and harmful effect on the living conditions of residents living in such close proximity to the appeal premises.
8. Therefore, and having also considered all the other matters raised, I conclude that the proposal would harm living conditions at nearby residential properties, especially the flats situated directly above the appeal premises, contrary to LP policies SDP1 and SDP7.

*C.S. Kirkbride*

INSPECTOR

# 16/00256/FUL



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