

Planning and Rights of Way Panel 14th March 2017
Planning Application Report of the Service Lead - Infrastructure, Planning & Development

Application address: 267-271 Portswood Road, Southampton			
Proposed development: Change of use from bank (Class A2) to a restaurant/Cafe (Class A3) and installation of extraction flue.			
Application number	16/02101/FUL	Application type	FUL
Case officer	Andrew Gregory	Public speaking time	5 minutes
Last date for determination:	01.02.2017 (Extension of Time Agreement)	Ward	Portswood
Reason for Panel Referral:	5 or more objections have been received	Ward Councillors	Cllr O'Neill Cllr Claisse Cllr Savage

Applicant: Musker	Agent: Ellis and Partners
Recommendation Summary	Conditionally Approve
Community Infrastructure Levy Liable	No

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 as detailed in the report to the Planning & Rights of Way Panel on 14th March 2017 have been considered. The proposal will bring this vacant and prominent locally listed building back into use. Furthermore the site is located within Portswood District Centre where change of use to ground floor A3 restaurant use is policy compliant. The impacts of the scheme on the character of area and adjacent neighbouring properties 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 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). Accordingly the proposal complies with policies CS3, CS4 and CS19 of the Core Strategy (2015) saved policies SDP1, SDP4, SDP5, SDP7, SDP9, HE4, CLT15, REI5 and REI7 of the adopted City of Southampton Local Plan Review (Amended 2015), Parking Standards (2011) and the National Planning Policy Framework (2012).

Appendix attached			
1	Development Plan Policies	2	Permitted Hours of Nearby Premises

Recommendation in Full

Conditionally Approve

1.0 The site and its context

- 1.1 The application site comprises the vacant former Lloyds Bank Building, located at the corner of Portswood Road and Highfield Lane within the defined Portswood District Centre. The building is on the Council's list of locally important buildings of architectural or historic interest (the Local List) described as a prominent corner building and typical of its period (c1920). Pedestrian access into the building is taken from Portswood Road. The site does not have any on-site parking or dedicated servicing area for delivery vehicles, however rear external pedestrian access is available to a small rear yard area via the side passageway of 273 Portswood Road.
- 1.2 The surrounding area has a mixed commercial and residential character. The adjoining building to the north-east (273 Portswood Road) comprises a restaurant. The building on the opposite side of Highfield Lane comprises a restaurant / take-away and a supermarket, and food and drink establishments are located on the opposite side of Portswood Road. The neighbouring site to the rear comprises retirement flats (Victoria Lodge). Dwelling houses are also located to the north-east beyond 273 Portswood Road. Double yellow lines are in place outside the site, to prevent parking at the junction.

2.0 Proposal

- 2.1 The proposal seeks a change of use of the premises from planning use class A2 (Bank) to planning use class A3 (restaurant / café). No external alterations are proposed to the building, other than the installation of a kitchen extraction flue to the rear. The proposed restaurant layout locates the food preparation / kitchen area to the front of the building and an internal glass bottle storage area is incorporated within the building. Refuse bins are proposed to be stored in the rear yard area to be serviced by private collection.
- 2.2 The application does not propose any designated external dining or smoking areas. Any necessary signage will require separate advertisement consent. The applicants have confirmed they are seeking the following hours of use:
11am until 11pm, 7 days a week.

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 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.

3.3 Policy CS3 of the Core Strategy supports the role of District Centre in meeting the week to week needs of the local community. Saved policy REI5 (District Centres) sets out that ground floor A3 uses will be permitted in District Centre locations. Similarly, policy REI7 (Food and Drink Uses) permits A3 uses in District Centre locations providing that suitable conditions are used to control the impact on amenity to local residents from disturbance and nuisance caused by cooking odours and noise. Saved policy CLT15 of the Local Plan accepts the principle of night-time uses within District Centre Locations. There are no limits imposed through adopted policy on the maximum number of A3-A5 uses allowed within the District Centre.

3.4 Saved policy SDP1(i) seeks to protect the amenity of local residents, whilst policy SDP16 will not permit noise generating development if it would cause an unacceptable level of noise impact to nearby sensitive noise uses.

4.0 Relevant Planning History

4.1 There is a separate planning application pending on this site which seeks erection of additional two storeys above existing building to create 8 flats (6 x one bed and 2 x two bed) with ground floor alterations to facilitate access (ref 17/00005/FUL). This application remains under consideration and should officers be minded to recommend approval, the application will be referred to the Planning & Rights of Way Panel for determination because more than five representations have been received.

5.0 Consultation Responses and Notification Representations

5.1 The proposal would have an adverse impact on amenity of nearby residential properties from noise disturbance caused by patrons returning home as they walk through nearby residential streets.

Response

The surrounding area has a mixed residential and commercial character and a restaurant use is acceptable in principle within Portswood District Centre. The application proposes a closing time of 23:00 which is slightly earlier than the 12:00 closing that is typically considered to be acceptable within Portswood District Centre. Indeed, there are a number of late night premises in the local area, including food and drink uses, which operate until midnight, including premises that the Council has approved and those which have been approved by the Secretary of State at appeal (see appendix 2). Therefore, it is considered that allowing the premises to operate until 23:00 will not present any further material harm to the amenity of local residents. Whilst recognising the relationship between the District Centre and its residential neighbours.

5.2 There is already an over provision of food and drink outlets in the district centre.

Response

The Council's adopted Development Plan policies recognise that food and drink uses can play an important role in maintaining the vitality and viability of retail centres and as such, support them in this location. The adopted Development Plan policies do not set a limit for the number of non-retail uses or food and drink uses within the District Centre nor do they prevent clustering of food and drink establishments. Night-time uses are an integral part of city life but in recognition of the impacts that such uses can have on residential amenity, the Council's policies

guide them to City, Town and District Centre locations. Furthermore, it is considered that the nature of the use, as a restaurant, is less disruptive to residential amenity, than other late night uses within the vicinity of the site. The criteria of policy SDP7 are relevant and issues such as noise and odour impacts have been addressed.

5.3 Lack of car parking.

Response

The site does not have any dedicated parking. The District Centre is a sustainable location where car free development can be supported. The area is well served by regular bus services and is accessible to the local community. The existing bank use was also car free and any new use would face the same issue.

5.4 Impact of noise.

Response

No objection has been raised by the Council's Environmental Health Team in regards to noise impact. The building is of thick masonry construction and the food preparation area is located to the front of the building away from the party wall. The glass bottle storage area is located within the building to prevent noise nuisance within the rear yard area. There are multiple sets of doors at the rear of the building to prevent adverse noise breakout from the kitchen or restaurant when the rear door is opened to access the refuse store / rear yard area. A waste management plan submitted with the application indicates that refuse collection will take place after 9am in the morning.

The site is located within the District Centre where food and drink uses are supported in principle. There is existing background noise from neighbouring commercial uses and road traffic within the District Centre. A planning condition is recommended to ensure that any mechanical extraction equipment is acoustically treated to prevent adverse noise disturbance.

5.5 Impact of Odour

Response

Kitchen extraction equipment details will be reserved by condition to ensure that appropriate odour filtration measures are agreed with the Council's environmental health teams to prevent adverse odour nuisance.

5.6 Impact of deliveries and servicing on highway safety

Response

Refuse and food deliveries will be carried out via the side passageway next to 273 Portswood Road and not outside the main entrance into the building. Servicing from 273 Portswood Road is considered a sufficient distance away from the traffic controlled junction as not to cause harmful obstruction to the flow of traffic on Portswood Road and Highfield Lane. Furthermore the servicing arrangements will therefore be the same at the current arrangements for servicing the Thai Restaurant at 273 Portswood Road.

5.7 Adverse lighting impact

Response

External lighting details can be reserved by condition to ensure low level lighting is used within the rear yard area. The existing rear boundary wall will ensure there is

no adverse lighting impact from rear windows or low level lighting.

Consultation Responses

5.6 SCC Highways - No objection

No objection providing that deliveries and servicing takes place via the passageway to the side of 273 Portswood Road rather than immediately adjacent to the traffic controlled junction. Bins should be located in the dedicated store and not left on the public highway

5.7 SCC Heritage Conservation officer - No objection

The applicants should note that the building is Locally Listed (added to the List in 1998). It will be important that any signage is sympathetic to the host building, and should be externally illuminated in preference to internally illuminated.

5.8 SCC Environmental Health (Pollution & Safety) - No objection subject to the following recommendations/conditions;

A report on the specification and installation of the flue is required to ensure that it is appropriate for the type of business and that noise and odour nuisance is unlikely to be an issue. Also refuse arrangements need to be considered in terms of a secure, but accessible bin store that is large enough to contain sufficient bins and can be cleaned. Access to the store needs to be appropriate as to minimise bins being left on the pavement.

6.0 Planning Consideration Key Issues

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

- Principle of Development;
- Impact on residential amenity;
- Impact on the character of the area and;
- Impact on highway safety

6.3 Principle of Development

6.3.1 The principle of the A3 restaurant use in Portswood District Centre is supported by saved Local Plan policies REI4 (Secondary Retail Frontages) and REI5 (District Centres). The proposed development would bring this vacant locally listed building back into use and would therefore support the vitality and viability of the District Centre. Furthermore, saved policy CLT15 of the Local Plan supports night-time uses in Portswood District Centre. The principle of development is, therefore, acceptable.

6.4 Impact on residential amenity

6.4.1 The proposal is not considered to adversely harm the residential amenities of neighbouring occupiers. Victoria Lodge retirement accommodation occupies the adjoining site to the north-west. The proposal is not considered likely to generate harmful noise nuisance having regard to existing background noise levels from neighbouring commercial uses and traffic noise. The existing masonry building fabric and internal restaurant layout will mitigate against any impact by locating the kitchen and internal glass storage area to the front of the building and away from the party wall. For the avoidance of doubt a planning condition will be added to ensure that appropriate soundproofing is in place to prevent noise disturbance

through the party wall.

- 6.4.2 Environmental Health have no objection to the proposal subject to planning conditions to secure appropriate kitchen extraction equipment to prevent adverse odour and noise disturbance and also to secure appropriate refuse storage.
- 6.4.3 In terms of the proposed hours of use, it is considered the closing hours of 23:00 is appropriate within a District Centre location and it is noted that the application proposes lesser hours of operation than is typically considered to be acceptable in such locations (Appendix 2 refers).
- 6.4.4 Overall, a restaurant use is not considered to be overly disruptive to residential amenity when compared with other late night uses within the locality. The proposed closing hour of 23:00 would accord with other similar uses within the District Centre which have a midnight closing hour, and moreover, is considered to be an appropriate termination time within commercial centres of this nature. As such, it is considered that the proposed hours of operation would not adversely affect the amenity of local residents. The neighbouring Thai Restaurant is licensed until 00.30.

6.5 Impact on the character and appearance of the area

- 6.5.1 The proposal seeks retention and re-use of this prominent locally listed building without any external alterations and therefore the proposal will not adversely harm the character and appearance of the building or the visual amenities of the area. Bringing a vacant building back into use is to be encouraged in principle.

6.6 Impact on highway safety

- 6.6.1 No car parking is available to serve the unit however, the site is located on a main bus route and there are car parks available within the vicinity of the site. Furthermore, the nature of the District Centre is to meet the needs of the local community and so the provision of no car parking is considered to be acceptable. The rear of the site is accessed by pedestrians only via a passageway to the side of no. 273 Portswood Road and therefore servicing vehicles can wait a sufficient distance away from traffic controlled junction to prevent harmful obstruction to the flow of traffic on Portswood Road. Adequate bin storage provision is made to the rear which will be serviced by private collection with smaller refuse trucks.

7.0 Summary

- 7.1 The provision of a restaurant use within the Portswood District Centre is in accordance with the Council's adopted Development Plan policies. Furthermore, the proposal would bring a vacant locally listed building back into active use which would have a positive impact on the vitality and viability of the Centre. No external alterations are proposed other than a rear flue and therefore the change of use is considered to be in keeping with the site and surroundings and with the imposition of the conditions suggested below, the proposal would not have a harmful impact on residential amenity. A similar conclusion was recently reached when the panel considered application ref 14/01981/FUL at 253 Portswood Road and 15/01285/FUL at 225 Portswood Road.

8.0 Conclusion

8.1 The proposal is judged to have an acceptable impact and, therefore, can be supported 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) & (qq), 6(c)

AG for 14/03/2017 PROW Panel

PLANNING CONDITIONS to include:

01. 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).

02. Hours of Use (Performance)

The use hereby approved shall not operate outside the following hours:
Monday to Sunday 11am - 11pm

Reason: To achieve a balance between protecting the amenities of nearby occupiers and maintaining the vitality and viability of Portswood District Centre.

03. Extract Ventilation (Pre-Commencement)

No development shall take place until a written scheme for the control of noise, fumes and odours from extractor fans and other equipment have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and findings before the development first comes into occupation.

Reason: To protect the amenities of the occupiers of existing nearby properties.

04. Refuse & Recycling and Deliveries (Pre-Commencement)

Unless otherwise agreed in writing with the Local Planning Authority, the development shall be carried out in accordance with the Refuse Management Plan by Century Group dated 24.02.17. All refuse and delivery vehicles shall service the site adjacent to 273 Portswood Road and no servicing vehicles shall wait or park at the Portswood Road / Highfield Lane traffic light controlled junction.

The refuse storage shall be provided in accordance with the plans hereby approved 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.

05. Hours of work for Demolition / Clearance / Construction (Performance)

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 to 18:00 hours

Saturdays 09:00 to 13:00 hours

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.

06. APPROVAL CONDITION - External area to rear of building (Performance Condition)

Unless otherwise agreed in writing with the Local Planning Authority, the external area to the rear of the building shall only be used for rear access and refuse and cycle storage. The area shall not be used as an external dining or smoking area for customers.

Reason: In the interests of the residential amenities of neighbouring occupiers

07. External Lighting Scheme (Pre-Commencement)

Prior to the development hereby approved first coming into occupation, external lighting shall be implemented in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be thereafter retained as approved.

Reason: In the interest of residential amenity.

APPROVAL CONDITION – Soundproofing Measures (internal noise source) [Pre-Commencement Condition]

Prior to the commencement of the development hereby approved, an acoustic assessment shall be submitted and agreed in writing to the Local Planning Authority which assess the acoustic performance of the building in relation to the adjacent retirement flats within Victoria Lodge and provides details of any necessary soundproofing to mitigate any noise impact.

Any soundproofing measures shall be implemented before the use hereby approved commences and thereafter retained as approved.

Reason:

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

08. 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.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS3 Town, District and Local Centres
CS19 Car & Cycle Parking

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

SDP1 Quality of Development
SDP4 Development Access
SDP5 Parking
SDP7 Urban Design Context
SDP9 Scale, Massing & Appearance
SDP16 Noise
HE4 Local List
CLT15 Late night uses in Town, District and Local Centres
REI5 District Centre
REI7 Food and Drink Uses

Supplementary Planning Guidance

Parking Standards SPD (September 2011)

Other Relevant Guidance

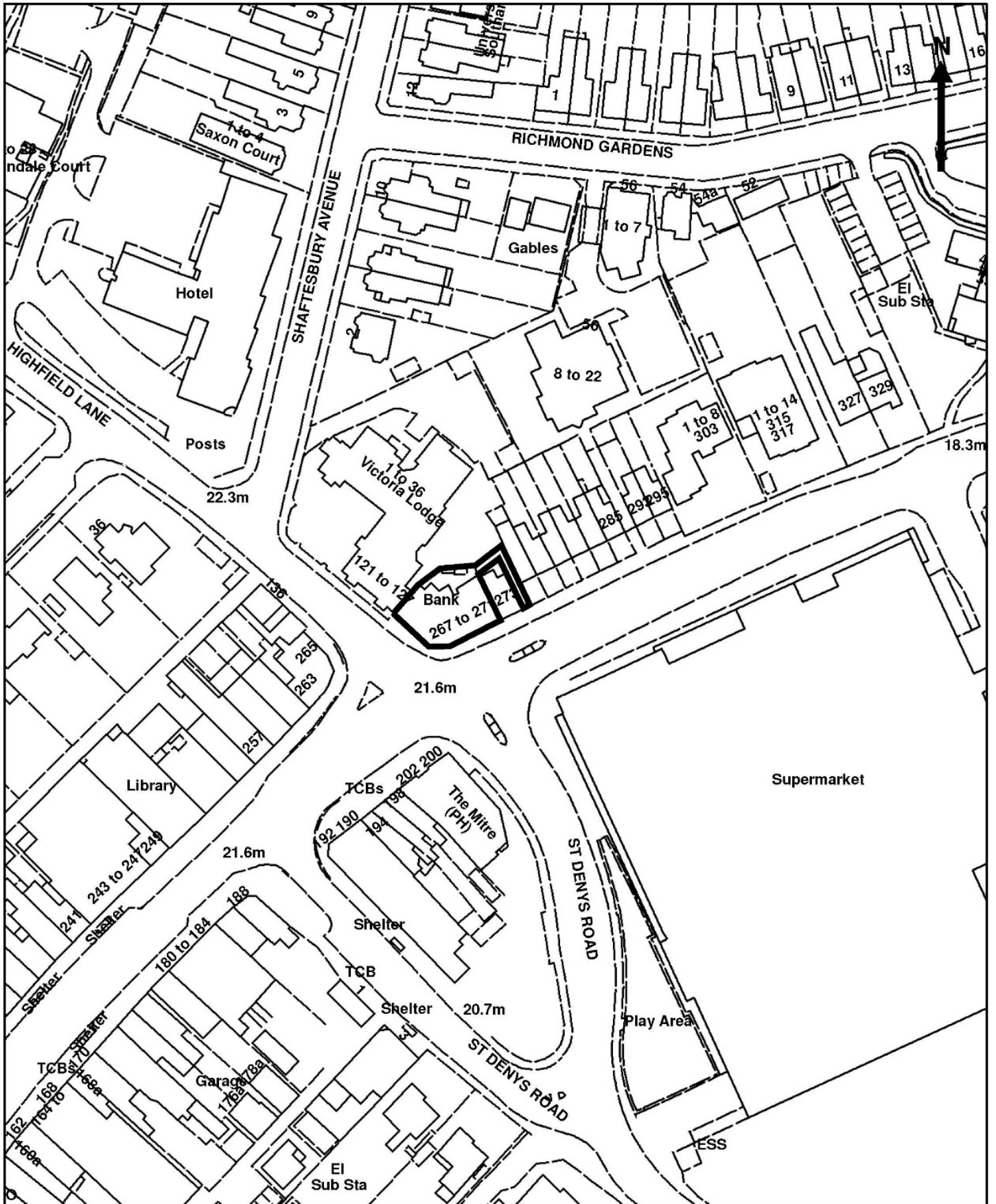
The National Planning Policy Framework (2012)

Table 1: Permitted Hours of Operation in Portswood

Address	Application Reference	Permitted Hours (Planning)
The Brook Inn	05/01220/VC	11:00 to 1:30 Monday to Thursday 11:00 to 2:30 Fridays & Saturdays 12:00 to 00:30 Sundays
Units 5-6 The Portswood Centre	07/02055/VC	09:00 to 00:00 daily
Unit 7 The Portswood Centre	09/01208/FUL 14/01355/FUL	08:00 to 1:00 Sundays to Thursdays 08:00 to 2:00 Fridays and Saturdays
29-31 Portswood Road	13/00796/FUL	11:00 to 00:00
104 Portswood Road	12/00785/FUL	09:00 to 00:00
160 Portswood Road	12/00618/FUL	07:00 to 00:00 daily
225 Portswood Road	15/01285/FUL	11:00 to 23:00 Monday to Sunday
253 Portswood Road	14/01981/FUL	07:00 to 00:00 daily
265 Portswood Road	99/01025/VC	Sundays until 00:00 Fridays and Saturdays until 01:00

Please also note that the Thai Restaurant at 273 Portswood Road is licensed until 00.30.

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Scale: 1:1,250

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