



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY
SOUTHAMPTON CITY COUNCIL
TOWN AND COUNTY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

Served by: Southampton City Council

To: Mr N Holmes, Quayside Architects, 141 Burgess Road, Southampton SO16 7AA

1 THIS NOTICE is served by the Council because it appears to them that there may have been a breach of planning control, within section 171A(1) of the above Act, at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or who is carrying out operations in, on, over or under the land or is using it for any purpose. The Council require you, in exercise of their powers under section 171C(2) and (3), so far as you are able, to provide certain information about interest in, and activities on, the land.

2 THE LAND TO WHICH THE NOTICE RELATES

Land at 141 Burgess Road, Southampton SO16 7AA, shown edged red on the attached plan.

3 THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission the use of the land appears to have changed from residential use (Use Class C3) to a mixed use of residential and business use (Use Classes C3 / B1).

4 WHAT YOU ARE REQUIRED TO DO

Provide in writing, the following information:-

- 1) Your full name;
- 2) The nature of your interest in the land;
- 3) The full name and address, where applicable of:
 - (a) The freeholder of the premises;
 - (b) The lessee of the premises;
 - (c) The mortgagee of the premises; and
 - (d) Any other person with an interest in the premises, and the nature of that interest;
- 4) The purpose for which the land is being used;
- 5) The date when that use began;
- 6) Confirmation of the number of visitors, including customers, that attend the site each week;
- 7) Confirmation of the number of employees that attend the site each week;
- 8) The number of days each week that the site is in use (including weekends);
- 9) Confirmation of the hours of business operation of the site;
- 10) The number of employees' cars using the site each week;

- 11) The number of visitors' cars using the site each week;
- 12) Details of the provision for business rubbish/waste collection;
- 13) Confirmation of the total number of rooms on the ground floor;
- 14) Confirmation of the number of those rooms used for:
 - (a) Business use; and
 - (b) Residential use;
- 15) Confirmation of the total number of rooms on the first floor; and
- 16) Confirmation of the number of those rooms used for:
 - (a) Business use; and
 - (b) Residential use.
- 17) Details of the names and home addresses of those employed at 141 Burgess Road;
- 18) Of those employed at 141 Burgess Road, details of those who use the property as a place of residence;
- 19) Details of those who are on the electoral register for 141 Burgess Road;
- 20) Details of anyone who permanently resides at 141 Burgess Road;
- 21) Details of how frequently during the week main daily meals (breakfast, lunch and evening dinner) are prepared and consumed at this address;
- 22) Description of how any part of the building is used residentially and confirmation as to whether this is separate from or in conjunction with the business being operated from 141 Burgess Road;
- 23) Details of the number of those working at 141 Burgess Road who travel to it in private motor vehicles;
- 24) Details of where private motor vehicles, associated with those working at 141 Burgess Road, are parked;
- 25) Details of where any displaced workers' private motor vehicles will be parked, if the rear part of the site is developed residentially;
- 26) The nature of the business operated from 141 Burgess Road;
- 27) A detailed list of all associated equipment used in connection with the business;
- 28) Details of any adjustments that have been made to the property to make it compliant with the Disability Discrimination Act 1995, either in terms of persons working at 141 Burgess Road or those visiting 141 Burgess Road;
- 29) Details of the rateable value of 141 Burgess Road;
- 30) Confirmation as to whether you have ever applied for and currently have in your possession any residents' parking permits; and
- 31) A site survey carried out on 4.4.08 revealed one bedroom containing a bed made up for use with a duvet on top. Please confirm whether this room is used regularly as a bedroom (i.e. How many nights of the week?).

The time within which the information must be provided: twenty-one (21) days, beginning with the day on which this notice is served on you

5 OPPORTUNITY TO MAKE REPRESENTATIONS IN RESPONSE TO NOTICE

If you wish to make an offer to apply for planning permission, or to refrain from carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council, or representatives of the Council, will consider them at a mutually agreed date, time and place, where you will be able to make any such offer or representations in person at that time and place.

6 WARNING

It is an offence to fail, without reasonable excuse, to comply with any requirements of this notice within twenty-one days beginning with the day on which it was served on you. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following conviction will constitute a further offence. It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular. The maximum penalty on conviction of this offence is a fine of £5,000.

7 ADDITIONAL INFORMATION

If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

If the Council serve a stop notice under section 183 of the 1990 Act, section 186(5)(b) of the 1990 Act provides that, should you otherwise become entitled (under section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have been avoided, had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.

Dated: 16 April 2008

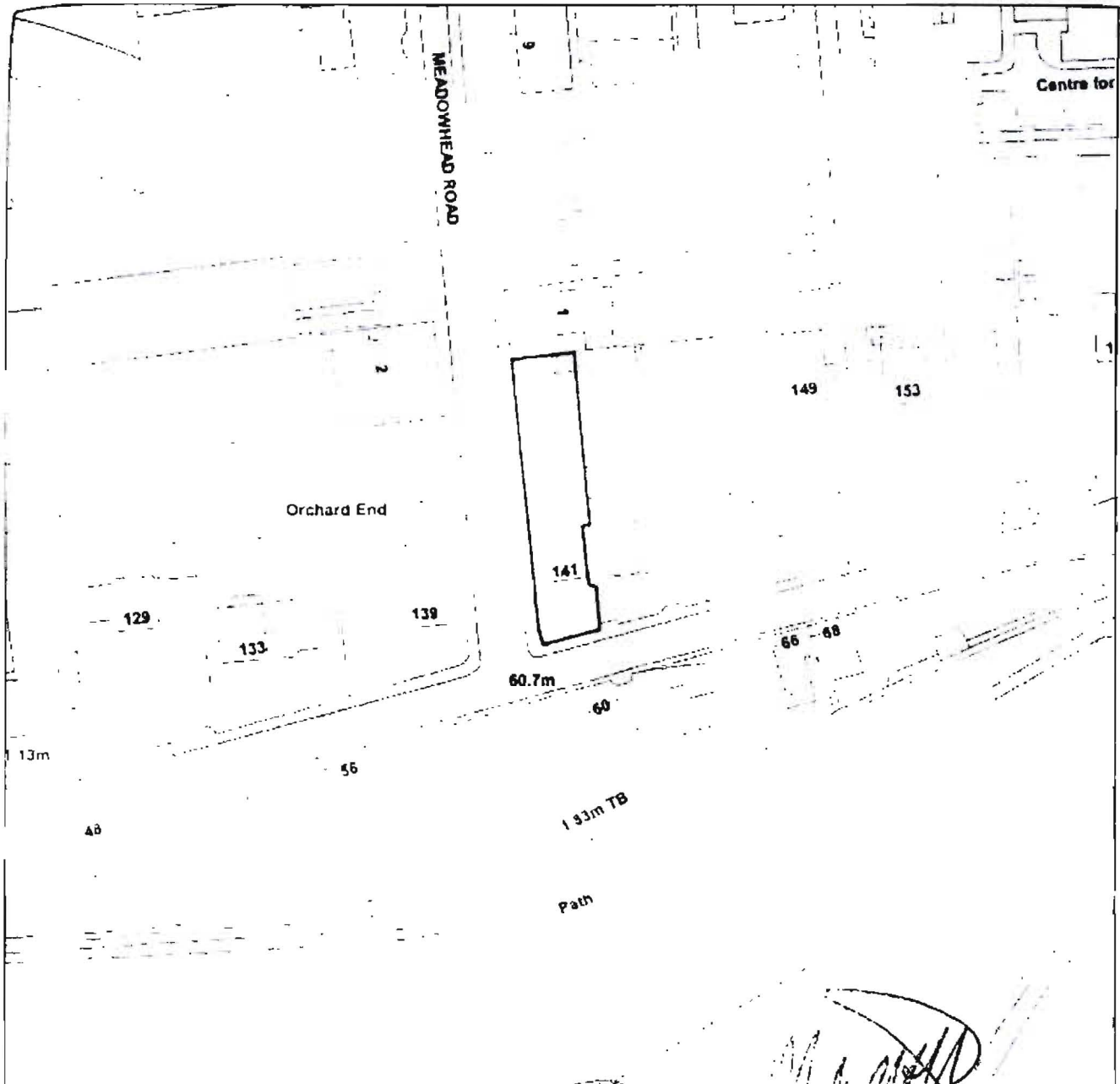


Mark Heath
Solicitor to the Council
Southampton City Council
Southbrook Rise
4-8 Millbrook Road East
Southampton
SO15 1YG

Signed.....

Jurgess Road, Southampton

06/00075/EN-UUR



Scale : 1:1000

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Organisation	Not Set
Department	Not Set
Comments	
Date	11 April 2008
SLA Number	Not Set



Mr S Lawrence
 Planning Officer
 Southampton City Council
 Planning and Sustainability
 Civic Centre
 Southampton SO14 7LS

7 MAY 2008

Our Ref: NH/CB/698

02 May 2008

Dear Sir

141 BURGESS ROAD

We are in receipt of the Council's PCN notice dated 16 April 2008 and Mr Lawrence's letter of 23 April 2008. We have taken advice on the scope of the PCN questions and note that whilst the questions asked on a PCN are not restricted they must reasonably relate to the objective of ascertaining the nature of the operations carried out on the land and to inform the decision on whether it is expedient to take enforcement action. To that end a number of questions including 12, 17, 21, 27, 25, 28, 29, 30 and 31 are not necessary. It is noteworthy that these unnecessary intrusive questions were not included in the Council's February 2007 PCN. Mr Lawrence's reason for question 25 is

"displaced parking following any residential subdivision of the site is very pertinent to the complaint that has been made"

ie. Not pertinent to establishing the land use or whether it is expedient to enforce. To enforce against some possible future action would be unreasonable

Notwithstanding this advice however we are minded to answer all of the questions having regard for the objectives of a PCN and to avoid any unreasonable speculation. We respond as follows -

1. Neil Holmes
2. Director Quayside Architects Ltd and QA+Developments Ltd. Part owner with spouse of land to the rear of 141 Burgess Road.
3. Freeholder. QA+Developments Ltd 141 Burgess Road SO16 7AA
 - (b) No leasee. Property occupied by QA+Developments Ltd, Quayside Architects Ltd and Madison Property
 - (c) Mortgagee QA+Developments Ltd
 - (d) Mrs BCF Homes part owner and to the rear of 141 Burgess Road
4. Office use for Quayside Architects, QA+Developments Ltd and Madison Property (Note Max Holmes is a director of QA&D Ltd and Madison Property Developments Ltd)
5. 01 March 2006
6. Less than 8 per week on average
7. 3 full time 3 part time. 3 of 6 employees are family members.
8. Office days 5 per week, weekend use sporadic and short duration

Quayside Architects Ltd
 The Priory, 141 Burgess Road, Basset, Southampton SO16 7AA
 Tel 0845 055 1135 fax 0845 055 1136 e mail mail@quaysidearchitects.com
 Registered Architects & Directors Neil Holmes, Simon Reid

ST/2
 - 7 MAY 2008

9. Office hours flexible say 9 - 6 pm - We do not keep timesheets
If weekends say 10am - 1pm
10. Cars maximum 5-6 at any one time normally 3-4. If six only for short term (1-2hr)
11. Visitors cars up to 8 (sporadic) each week, probably less than 5 average per week over a year
12. No "business" waste (paper in recycle bin) normal household waste, less waste than a household at present
13. 2 rooms plus kitchen and hallway
14. 2 rooms business, kitchen and hallway office/residential
15. 4 rooms and bathroom
16. 3 vacant/residential, 1 room storage
17. Neil and Barbara Holmes Chancellors Ford
Max Holmes Southampton
Simon Reid Littleton
Chris Bauich Netley Abbey
Richard Wood Boldre
18. None of those employed use the property as a primary permanent residence. Family members use the accommodation from time to time.
19. None
20. None
21. Average 3 persons prepare/eat meals 4 days per week usually lunch, breakfast from time to time. Some lunch at weekends
22. First floor is occasionally used for residential purposes (ref 18). Any residential use has been by family members and as such it may be considered to be "in conjunction"
23. All employees travel to work by car. From time to time some use of cycles and motor cycles.
24. Six parking spaces on site. Car parking on Meadowhead from time to time for limited periods (1-2 hr)
25. Parking requirement would reduce. Consented dwelling plans have shown two spaces to the rear of 141. Thus six spaces would remain on site.
26. Principally architects and planning consultants also property development (B1(a) office use) as is readily apparent from officers inspections to date.
27. Computers (4) printers (3) Typical B1(a) equipment
B1(a) office use is compatible with a residential environment and by definition does not cause harm to amenity by way of noise, vibration, fumes or dust
28. None
29. Ground floor business rate first floor residential rate (our letter of 23 February 2007 refers)

113
- 7 MAY 2008

30. We have never applied for or used residents parking permits. We have two expired books from the previous tenants not used in two years - an indication of the limited use of on street parking.
31. Refer to 18 above

We would welcome the opportunity to make representations following sight of any officer report which arises from this PCN. It is not clear at this time what alleged harm has triggered the PCN. If it is merely one complainant objecting to "three or four" cars on the premises, the Council is acting as agent for a vexatious complainant. It is our understanding that our neighbours at 139 and 143 Burgess Road have confirmed no harm to their amenity. We are not content that this current action appears to be driven by one vigilante neighbour. The LPA has a duty to administer planning matters in the public interest in accordance with its Adopted Policies, Central Government Advice and Planning Law. We trust that officer's report will recognise that fact.

Having regard for the advice of para 24 of Annex 3 or Circular 8/93 the Development Control Officer's recommendation for application 06/00325/FUL, the lack of action following the Council's February 2007 PCN, we reasonably presume that our use is one which ought to be granted consent.

By letters of 05 and 13 September 2006 we requested clarification of the harm alleged by members when refusing application 06/00325/FUL. No clarification has been received to date. We have no doubt that uninformed members of the public and local councillors object to the principle of our office use without a planning consent. If however there is no harm to amenity or breach of planning policy (the council's inability to identify harm suggests that there is no harm) there is no basis for enforcement and no sustainable objection to the status quo (our letter of 16 October 2007 refers). We would expect officers to concur with this view and inform members of the public and local councillors accordingly.

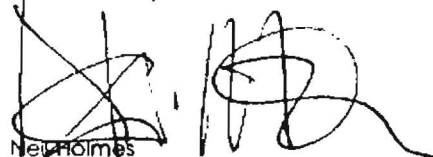
If however the LPA is minded to grant consent we will give due consideration as to whether it is expedient to re-apply for consent.

For the avoidance of doubt in respect of the creation of a dropped kerb. If the owner of 141 created a dropped kerb citing Part 2 Class B in conjunction with Part 1 Class F entitlement, what legal authority (if any) informed the LPA view that unauthorised use has removed these entitlements?

Having regard for the planning history is it not likely that any application for a dropped kerb and paving to the rear of 141 would be granted? If the LPA is minded to grant consent for a live work unit and is concerned with displaced parking, your report will have to address this issue.

We reiterate our view however that the prospect of harm arising from development in the future is no basis for enforcement action in the present. We trust your report to committee will make this principle clear.

Yours faithfully



Neil Holmes
Quayside Architects