

**Planning, Transport & Sustainability Division
 Planning and Rights of Way Panel 19 February 2013
 Planning Application Report of the Planning and Development Manager**

Application address: The Hub, 104-106 Bevois Valley Road			
Proposed development: Retention of a three-storey building and a five-storey building to provide 226 square metres of commercial floorspace (Class A3) and 43 student flats with associated parking and landscaping (retrospective application)			
Application number	12/01400/FUL	Application type	FUL
Case officer	Andy Amery	Public speaking time	15 minutes
Last date for determination:	10.12.2012	Ward	Bevois
Reason for Panel Referral:	Major planning application subject to objection	Ward Councillors	Cllr Burke Cllr Rayment Cllr Barnes-Andrews

Applicant: J Pitt And B Moon	Agent: Bnp Paribas Real Estate - Fao Nigel Pugsley
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Recommendation Summary	Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report
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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. This application proposes to upgrade the quality of the buildings and the site to that which was originally approved. The development continues to provide a mixed use scheme, comprising student accommodation and ground floor commercial activity complimenting the high accessibility location immediately adjacent to the Local Centre. As such, the development is acceptable taking into account the policies and proposals of the Development Plan. Notwithstanding the third-party objection to the proposal outlined in this report the impact of the development, in terms of location and adjacent authorised uses, visual and neighbouring amenity, highway safety and parking is considered to be acceptable. In reaching this conclusion, as to the acceptability of the development, particular account has also been taken of the original planning consent and the ability the application provides for ensuring the proposals are upgraded and completed to the standard originally intended. Other material considerations do not have sufficient weight to justify a refusal of the application. 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). In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004 planning permission should therefore be granted in accordance with the following policies:

City of Southampton Local Plan Review (March 2006) policies SDP1, SDP4, SDP5, SDP7, SDP8, SDP9, SDP10, SDP15, SDP16, CLT1, H2, H7, and City of Southampton Core Strategy (January 2010) policies CS3, CS4, CS6, CS13, CS18, CS19, CS20, and CS25 as supported by the relevant national planning guidance and the Council’s current supplementary planning guidance listed in the Panel report.

Appendix attached			
1	Development Plan Policies	2	Planning History

Recommendation in Full

1. Delegate to the Planning and Development Manager to grant planning permission subject to the completion of a S.106 Legal Agreement to secure:

- i. Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (March 2006), policies CS18 and CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
- ii. A financial contribution towards strategic transport projects for highway network improvements in the wider area as set out in the Local Transport Plan and appropriate SPG/D;
- iii. Financial contributions towards the relevant elements of public open space required by the development in line with policies CLT5, CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
Amenity Open Space (“open space”)
Playing Field;
- iv. In lieu of an affordable housing contribution an undertaking by the developer that only students in full time education be permitted to occupy the studio flats;
- v. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.

2. In the event that the legal agreement is not completed by 31 March 2013 the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

3. That the Planning and Development Manager be given delegated powers to vary relevant parts of the Section 106 agreement and to remove, vary or add conditions as necessary.

1. The site and its context

- 1.1 The site is located midway along the Bevois Valley corridor adjacent to the SoBar Public House and backing onto the Aldi retail store car park. It is commonly referred to as 'The Blue Boxes', the buildings themselves having been built out, albeit not fully in accordance with the originally approved plans.
- 1.2 The two buildings, the front unit at 3 storey and the rear unit at 5 storeys comprise a total of 43 individual student letting rooms/studio flats.
- 1.3 The rear 5 storey building is occupied and fully fitted out internally.
- 1.4 The front unit has an unfinished and never occupied commercial ground and lower ground floor A1 retail/A3 cafe use. The upper floors have been intermittently occupied as student flats.
- 1.5 The site remains unfinished. The surfacing for the vehicular access and parking areas has not been undertaken. The hard surfaced and landscaped raised 'courtyard' linking the two blocks and intended to provide external amenity space has been poorly implemented without regard to the approved plans. Elements of the ground floor front and side elevations have not been finished in accordance with the originally approved plans. None of the conditions imposed on the originally approved plans have been formally discharged.
- 1.6 The original developers went into liquidation soon after having only completed work on the buildings themselves to a level that enabled them to be cleared by building regulations. Since that time the site has been passed to the receivers to handle on behalf of creditors.
- 1.7 The original approval for the site was outline only. All matters other than landscaping were agreed. However, a reserved matters application for the landscaping should have been submitted within 3 years. The buildings were built within this time, but as the developer then went into liquidation without submitting an application for the landscaping or finishing off the other elements of the site, the original consent lapsed and the current buildings are therefore unauthorised.

2. Proposal

- 2.1 The current proposals seek to rectify the current situation by re-applying for the whole scheme again as a Full application. This includes; proper surfacing of the access road and parking areas; the

re-siting of the security gates along the access road to enable vehicles be clear the road/pavement when entering the site; lighting of the parking areas; re-configuring the central courtyard with appropriate surface treatments, landscaping and balustrades; amendments to the facade of the building including new fascia and soffit detail to the commercial unit; treating the south facing ground floor side elevation appropriately (currently untreated blockwork).

- 2.2 The application remains for 43 student units and a retail/cafe facility as previously approved.
- 2.3 The scale, height and massing of the scheme is unchanged.
- 2.4 The refuse and cycle storage areas have been provided but require to be made accessible for all occupiers.
- 2.5 There is a requirement to upgrade all windows fronting Bevois Valley Road to meet the originally required specification for noise attenuation purposes. The rooms on the front elevation facing Bevois Valley Road need to be upgraded with a mechanical ventilation system to enable occupants to receive cool air without having to open windows onto what is an Air Quality Management Area.

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 (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out in **Appendix 1**.
- 3.2 Major developments are expected to meet high sustainable construction standards in accordance with the City Council’s adopted and emerging policies. In accordance with adopted Core Strategy Policy CS20 and Local Plan “saved” Policy SDP13.
- 3.3 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.
- 3.4 The policies of the South East Plan, Southampton’s Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local

statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

4.0 Relevant Planning History

- 4.1 Outline Planning Consent 07/00203/Out was granted on 02.04.2008 for:

Redevelopment of the site. Demolition of the existing building and erection of a 3-storey building and a 5-storey building to provide 226 sq.m of commercial use (Class A3) and 43 student flats with associated parking. (Outline application seeking approval for layout, access, appearance and scale).

This followed an earlier outline consent 04/01654/OUT for Redevelopment of the site by the erection of 2 no. buildings comprising in total 64 sqm commercial (A2) use, 2 no. two bed flats and 31 bed spaces with shared facilities : Building 1 : mixed use development comprising 64sqm of A2 use and two self-contained flats above. Building 2 comprising 31 bed spaces of which 8 bedsits, 4 x 5 -bed 'cluster' flats and 1 x 3 bed 'cluster' flat . Outline Application for siting and means of access only.

- 4.2 At the time of the 2007 application the applicant was also the owner of the SoBar which according to the planning records at that time had an authorised A4 (Pub) Use.

The applicant sought a change of use of the basement of the former building on this site to a nightclub in 2003 - 03/00872/FUL: Change of use of basement to Nightclub (Use Class D2) and formation of new entrance. This application was refused on the following grounds.

01. The proposed change of use to create a nightclub within the basement is contrary to policy CLT15 of the City of Southampton Local Plan Review Revised Deposit Version (February 2003) which seeks to restrict the introduction of D2 uses where they are not within the defined district centre boundary.

02. The development would be likely to result in substantial harm to the amenities of the residents of the nearby dwellings by reason of the disturbance caused by activities generated by the use including noise from customers visiting the premises in close proximity to the neighbouring dwellings. As such the development would be contrary to Policies GP1 (v) and H7 of the City of Southampton Local Plan and policies CLT15 (iii) and SDP1 (i) of the City of Southampton Local Plan Review Revised Deposit Version (February 2003).

03. The development proposal fails to secure necessary contributions to support late night bus services to encourage sustainable forms of transport. The proposal is thereby contrary to policy GP 1(xii) and (xvi)

of the City of Southampton Local Plan 1991-2001 and policy SDP 3 and SDP2 of the City of Southampton Local Plan Review Revised Deposit Version (February 2003).

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, placing a press advertisement (27.09.2012) and erecting a site notice (20.09.2012). At the time of writing the report 1 representation had been received from the owner of the adjacent commercial unit.
- 5.2 The owner of the SoBar states that planning permission should not have been granted for residential units next to his facility as noise complaints have had a serious impact on his business.
- 5.3 Response
- 5.3.1 According to planning records the authorised use of the SoBar is a Public House. There are many examples of Public Houses across the city being located within residential areas or adjacent to residential properties. Reasonable operation and activity associated with these facilities do not normally give rise to complaints or act as a reason for not granting planning permission for residential schemes close to them.
- 5.3.2 At the time of the original application the SoBar was in the same ownership of the application site. It is a matter of record that the then managers of the SoBar wrote in to support the application for student accommodation as it would complement the business.
- 5.3.3 Since that time it would appear that original owner/applicant sold the student housing site and the SoBar separately.
- 5.3.4 The current owner has not applied for a change of use from A4 to D2 Use. Notwithstanding that, SoBar now advertises itself and appears to operate as a Nightclub rather than a public house. This is suggested by the hours of use identified at the entrance of the building and the phrase 'nightclub' used on the facade of the premises.
- 5.3.5 It is considered the location and mix of uses would be appropriate adjacent to an A4 use.
- 5.3.5 The current operation of the SoBar as a D2 use has therefore been passed to the Enforcement Team for further investigation.
- 5.4 **SCC Highways** - Support the opportunity to rectify the current problems and get a site with proper access, parking, cycle storage and refuse storage.

- 5.5 **SCC Housing** – No comments
- 5.6 **SCC Sustainability Team** –
- 5.7 **SCC Environmental Health (Pollution & Safety)** - Require the upgrading of windows in the front facing students rooms to be upgraded to a 10-12-6 specification rather than the 4-16-4 specification as installed. Require the originally conditioned mechanical ventilation to be installed and made available for use by occupiers of the rooms fronting Bevois Valley due to the Air Quality Management Area designation of this frontage.
- 5.8 **SCC Environmental Health (Food Safety)** – No Comments
- 5.9 **SCC Environmental Health (Contaminated Land)** - No comments.
- 5.10 **SCC Building Control** – The Buildings have been built to meet building regulations requirements.
- 5.11 **BAA** – Note to be added if cranes to be used on site.
- 5.12 **Hampshire Constabulary** – No comments
- 5.13 **Southern Water** – No objections raised.

6.0 Planning Consideration Key Issues

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

6.2 Principle of Development

The principle of development has already been established in approving the original scheme. The current proposal seek to regularise what has been built and upgrade the buildings and the site to the standard that should have been delivered if the originally approved scheme had been adhered to.

6.3 Impact of adjacent uses

The mix of uses proposed remains appropriate for the location. The apparently unauthorised establishment of a D2 use adjacent to the site should be dealt with through enforcement rather than being a ground for refusing the application. In any case, the EHO has confirmed that the window specification of 4-16-4 used for the flats in the rear block and 10-12-6 for the flats in the front block facing Bevois Valley Road is sufficient to safeguard residential amenity. It is understood that there has been one complaint about noise from an occupier of the student block about the adjacent use and that the occupier was then re-

housed.

6.4 Impact in the street scene

- 6.4.1 The deliberately bold and contemporary design has raised much comment. It is extremely unfortunate that the original developers failed to implement the scheme in accordance with the approved detailing and that the frontage, access, courtyard, landscaping and parking areas were all left in a sub-standard and unfinished condition.
- 6.4.2 The application provides an opportunity to re-instate and upgrade the building and the site to improve the visual quality of the wider street scene.
- 6.4.3 Conditions are suggested that the works be undertaken and completed within a definite timescale of 12 months. Whilst this may initially seem a relaxed time period it needs to be recognised that the site needs to be marketed and taken on by new owners before those works can be undertaken. The alternative is a complex enforcement process which could take many years given that there is currently no legal owner of the site to take enforcement action against.

7.0 Summary

- 7.1 The existing situation is highly regrettable and the site needs to be completed to the quality and standards expected when consent was originally given. The application provides an opportunity to re-impose conditions to regularise the development and deliver a scheme that offers an attractive residential environment for future occupiers and makes a positive contribution to the street scene.

8.0 Conclusion

The application is recommended for delegated approval to the Planning and Development Manager, subject to the completion of a Section 106 legal agreement as detailed above.

Local Government (Access to Information) Act 1985 **Documents used in the preparation of this report Background Papers**

1a-d, 2b-d, 3a, 4b, f, uu & vv, 6a, c, h, i, 7a, 8a, 9a-b

AA for 19.02.2013 PROW Panel

PLANNING CONDITIONS

01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works

The development works hereby permitted shall be fully implemented and completed in accordance with the approved plans, the requirements of the conditions set out below and any additional details approved as a requirement of the conditions below within 12 months (19 February 2014) 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 - Landscaping of raised Courtyard - Performance Condition

Within 3 months of the date of this permission a detailed landscaping and means of enclosure plan shall be submitted for approval by the Local Planning Authority including:

- (a) A detailed plan showing a scheme and programme of landscaping, specifying the numbers, types and species to be planted.
- (b) Details of the treatment to the boundaries of the site, including the balustrade to the raised courtyard and the access security gate.
- (c) Details of the hard surfaced treatment to the access road, parking areas , pedestrian paths and raised landscaped courtyard.

REASON

To ensure the proposed development is satisfactory as regards siting, access, design and appearance and in all other detailed respects.

03. APPROVAL CONDITION - Car Parking, Refuse Storage and Cycle Storage - Performance Condition

The approved car parking, refuse stores and cycle stores shall be fully laid out and made available for use by future occupiers as agreed with the Local Planning Authority and shall be retained and made available for that purpose at all times

REASON

To ensure appropriate facilities are made available for future occupiers.

04. APPROVAL CONDITION - Use of Commercial Premises - Performance Condition

The commercial premises shall only be used for the use specified in the description of development above and for no other purpose whatsoever, including any other purpose in the Schedule to the Town and Country Planning (Use Classes) Amendment Order 1991, (or in any equivalent

provision in any statutory instrument revoking or re-enacting that Order), Class A1 or A3.

REASON

To enable the Local Planning Authority to retain control over the development in the interests of the amenities of the area.

05. APPROVAL CONDITION - Hours of Operation for Commercial Unit - Performance Condition

Unless the Local Planning Authority agree in writing, the commercial premises to which this permission relates shall not be open for business outside the hours specified below

Monday to Sunday 08.00hrs - 23.00 hrs (8.00am to 11.00pm)

REASON

To protect the amenities of the occupiers of adjoining residential properties.

06. APPROVAL CONDITION - Visitor Cycles - Performance Condition

4 cycle stands shall be made available for visitors to the site in accordance with the plans to be submitted to and approved in writing by the Local Planning Authority. The cycle stands hereby approved shall thereafter be retained on site for that purpose.

REASON

To encourage cycling as a sustainable form of transport.

07. APPROVAL CONDITION - Mechanical Ventilation - Performance Condition

Full details of the mechanical ventilation system to be installed to serve the first and second floor flats in Block A which front onto Bevois Valley Road shall be submitted to and approved in writing by the Local Planning Authority within two months of the date of this permission (by 19 April 2013). The approved details shall be fully installed in full working order within 12 months of this consent (by 19 February 2014).

REASON

The site is located within an air quality management area and passive ventilation of the frontage units would not protect the future occupiers of the flats from fumes and odours and other emissions present in the location.

08. Approval Condition - Soundproofing - Performance Condition

The students rooms fronting onto Bevois Valley Road shall be upgraded so as to achieve soundproofing to a specification of 10-12-6. The remainder of the building shall be retained and maintained with a specification of 4-16-4 as built to attenuate transmission of noise between the residential and commercial elements of the building including adjacent uses and traffic noise.

REASON

In the interests of the amenities of the future occupiers of the flats.

09. APPROVAL CONDITION - Use of Courtyard - Performance Condition

The raised landscape courtyard shall be made available for use by occupiers of the flats and thereafter retained and maintained as the amenity space for those residents.

REASON

To ensure residents have an appropriate living environment with access to external space.

10. APPROVAL CONDITION - Lighting - Performance Condition

A detailed external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority for the access route, parking area and raised landscape courtyard within 2 months of the date of this consent (by 19 April 2013).

Reason:

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

11. APPROVAL CONDITION - Renewable Energy (Pre-Commencement Condition)

Full details of the renewable energy systems to be incorporated within the development shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of the date of this permission (19 April 2013).

REASON:

To reduce the impact of the development on climate change and finite energy resources and to comply with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

12. APPROVAL CONDITION - Fascia and Soffit Detail to commercial unit - Performance Condition

Notwithstanding the submitted details further details of the fascia and soffit detail including any recessed lighting shall be submitted to the Local Planning Authority for written approval at no less than 1:20 scale within 2 months of the date of this consent (by 19 April 2013).

REASON

To ensure the detailing of the front elevation is appropriate for the street scene.

13. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]

Confirmation that clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic was used for any infilling and landscaping on the site shall be submitted to the Local Planning Authority for approval.

Reason:

To ensure any imported materials were suitable and do not introduce any land contamination risks onto the development.

14. 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.

POLICY CONTEXT

Core Strategy - (January 2010)

CS4	Housing Delivery
CS6	Housing Density
CS6	Economic Growth
CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS25	The Delivery of Infrastructure and Developer Contributions

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP15	Air Quality
SDP16	Noise
CLT1	Location of Development
H1	Housing Supply
H2	Previously Developed Land
H3	Special Housing Need
H6	Housing Retention
H7	The Residential Environment
H13	New Student Accommodation
REI6	Local Centres
REI7	Food and Drink Uses (Classes A3, A4 and A5)
REI8	Shopfronts

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - August 2005 and amended November 2006)

Other Relevant Guidance

The National Planning Policy Framework 2012

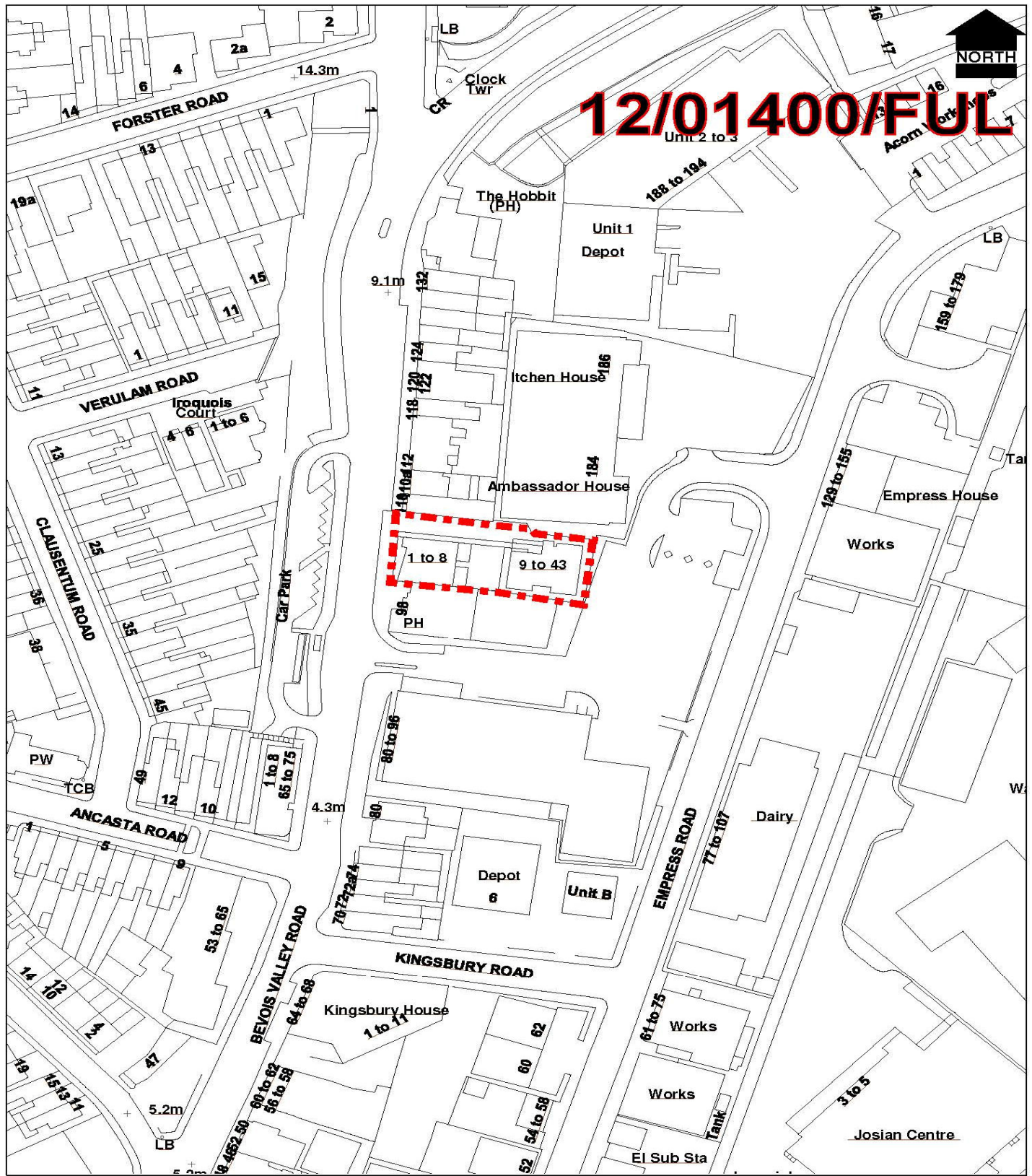
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04/01654/OUT.

Redevelopment of the site by the erection of 2 no. buildings comprising in total 64 sqm commercial (A2) use, 2 no. two bed flats and 31 bed spaces with shared facilities : Building 1 : mixed use development comprising 64sqm of A2 use and two self-contained flats above. Building 2 comprising 31 bed spaces of which 8 bedsits, 4 x 5 -bed 'cluster' flats and 1 x 3 bed 'cluster' flat . Outline Application for siting and means of access only.



12/01400/FUL

Scale : 1:1250

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