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& Development Consultancy

Transport and Planning,  
Southampton City Council  
Civic Centre,  
Southampton,  
S014 7LY

My reference:

Your reference:

**For the attention of the Members of the Planning and Rights of Way Panel**

2<sup>nd</sup> June 2023

Dear Councillors,

**Town and Country Planning Act 1990**  
**382 Winchester Road Southampton SO16 7DH**  
**Application reference: 23/00079/FUL**  
**Item 2 - Planning and Rights of Way Panel Meeting of Tuesday 6<sup>th</sup> June 2023**

I write on behalf of the applicant, Sabre Commercial Investments Ltd, in respect of these proposals, which are due to be considered by the Planning and Rights of Way Panel on the 6<sup>th</sup> of June.

**Priority Key-Worker Housing Need**

The proposals would meet a priority local housing need, which has been identified by the City Council.

This application provides an opportunity to bring forward significant investment into this under-utilised site through the creation of a high-quality apart-hotel that will meet local demand. This includes staff, visitors and students working at the nearby Southampton General Hospital as well as the University who require short-term lets. NHS workers are an identified demographic requiring flexible accommodation which the proposals would provide meeting an unmet need in the north of the City. As a consequence, the proposed development would also help to support local businesses as a result of the additional number of occupants proposed.

The proposals would significantly enhance the street scene, lending a strong contemporary visual presence at this junction that would compliment the existing building forms locally. The proposed number of rooms would also bring in significant additional demand to the area that would help to support the local service economy.

However, your Officers are now recommending refusal for the following reasons:

1. Traffic and highways impacts
2. Impact upon residential amenity to Nirvana Place
3. S106 Contributions

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## Traffic and Highways

The NPPF sets out very clearly and definitively the standard that must be established for a development proposal to be refused on highways grounds:

*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe [emphasis added]*

The Council's officers have failed to prove either of the above to the required standard.

Firstly, the Council's highways engineers have commented as follows; references in brackets relate to the Committee report:

1. Compared to the existing office use, the proposed use would not significantly increase parking or congestion (5.13).
2. Site specific highways works, including potential road safety and mitigation measures, could be addressed through a s106 obligation (5.13).
3. Refuse collection could be addressed through a planning condition (5.13).
4. The proposed car spaces in the basement would be acceptable in terms of their dimensions and manoeuvring in and out of spaces (5.14).
5. Adequate cycle parking would be provided (5.14).
6. The parking methodology is consistent with good practice and has been agreed with the Council's highways engineers (5.15).
7. There would be no harm to highway safety arising from the scheme (5.16).

Secondly, parking and trip generation data (TRICS) in respect of comparable commercial uses indicate on average a lower highways impact for the proposed C1 apart-hotel use compared to the existing Class E office use; hence the similar overall impact of the scheme,

Thirdly, as comprehensively assessed in the applicant's Transport Statement, a private vehicle is not considered necessary for day to day living. It is considered that the site is well situated for access by walking, cycling and public transport and is not within a 'low accessibility' area as stated by officers.

Fourthly, in highways terms, the application will deliver the following benefits or improvements:

- Highways safety would be significantly improved:
  - ⇒ Formalising the parking layout for 9 spaces and on-site turning space thus maintaining sufficient manoeuvring space.
  - ⇒ Widening of the footway on Hill Lane, which could be secured by legal agreement, which would provide a better pedestrian and cycle environment along a shared path as well as providing more space for servicing, resulting in less obstruction to both footway and carriageway.
- EV charging infrastructure for all on-site spaces, e-scooter docking and ample cycle parking.
- Any potential overspill, which we believe would be marginal, can be easily accommodated off-site without affecting the need for Sports Centre car parking.
- Improvement to the onsite parking layout.

In the face of such a robust case, strongly supported by several parking surveys over time conducted by the applicant, the planning officer's objections, which seek to set to one side the support of the Council's own highways engineers, cannot be reconciled with the evidence.

The position taken by officers is virtually entirely based on an appeal decision relating to another site in Romsey Road for a much larger hotel, roughly three times the size of this proposal, which is located in an entirely different location.

The Romsey Road appeal was dismissed on a number of grounds that can be clearly distinguished from the current case and would thus significantly undermine its weight as a basis for refusal in this case:

1. The Romsey Road site is located nearly 2 miles away and the characteristics of the neighbouring roads, where there are several narrower streets and more cul-de-sacs, are very different to the current case and its surroundings.
2. More affected cul-de-sacs in the appeal case would contribute to more turning of vehicles and more potential disturbance to neighbours.
3. None of the surrounding streets in the application case are private roads, but are instead all publicly adopted highways.
4. No overnight parking assessment was provided, whereas the applicant has undertaken one in this case.
5. The application scheme shows an occupancy within 200 metres of at least 140 spaces. In the appeal scheme, there were only 12 available spaces. There was no parking capacity within 200 metres in the appeal scheme.
6. It was the combination of these factors that led the Inspector in that appeal to give more weight to the amenity impact on residents.

If the current application is therefore refused on this basis, then this would be clearly vulnerable to challenge on appeal and may also give rise to an application for costs against the Council for unreasonable basis of appeal/ lack of evidence to support its case in this respect.

Lastly, notwithstanding the officer's comments on the Sport Centre car park in the draft reasons for refusal, the applicant specifically surveyed the availability of spaces overnight within 500 metres excluding this public car park. Parking stress was 73%, **excluding** the public car park. Therefore, once again, the suggested reason for refusal lacks any evidence of material weight and would further expose a refusal on this basis to challenge at appeal and a related costs application.

### **Neighbouring amenity**

The officers have raised three main matters in this respect: privacy, overshadowing and outlook from the rear of Nirvana Place.

In respect of privacy, officers already state at paragraph 5.22 that the proposal to use louvers to windows proposed in the development would overcome concerns relating to privacy, and they admit that this could be secured by way of planning condition.

In paragraph 6.27 of the Committee report, officers refer to the BRE Sunlight and Daylight results. This assessment constitutes guidance only and not a rule. The target in respect of the proportion of the garden to Nirvana Place that should receive 2 hours of direct sunlight is 50%. The development would still allow at least 43% of the garden to receive 2 hours direct sunlight. This is a minor shortfall to the guidance. However, it does not itself constitute a failure against the wording of local development plan policy, which provides no reference to the BRE Guidance, has not been shown that it would result in harm to the "health, safety or amenity" of neighbours and, when balanced against the highways benefits, local key worker housing need, and the design merits of the proposal as otherwise supported by officers, is not a sound reason for refusal.

The proposed profile of the building from the rear of Nirvana Place would be broken and not a continuous block, introducing varied and staggered profiles that would respect the amenity and outlook of neighbours from the rear. The proposed building would follow established building lines around the frontage and the overall design of the development is supported by officers.

### **Section 106 Contributions**

The officers set out in the Committee Report a number of possible obligations under s106 in respect of this scheme.

Officers have suggested that a proposed obligation under s106 could be imposed in relation to the proposed use in respect of restricting the nature of the use and restrictions on the time occupancy. Any such restrictions are more appropriately imposed by way of planning conditions, not planning obligations, as they relate to the use of the land within the red line area of the application. The terms of any such restrictions are required by caselaw and national planning policy to not unreasonably constrain the proposed use and should be sufficiently precise and reasonable in all other respects.

If the Council is minded to approve this application, then the proposed user restriction should be a matter for planning conditions, not planning obligations, and should instead refer to a 'scheme' to be discussed and agreed between the applicant and the Head of Transport and Planning. This is also consistent with comparable appeal decisions for Apart Hotels.

This application has been strongly supported by a significant number of other parties and, although the concerns of others is also noted, these concerns, especially in respect of privacy, highways and parking, and sunlight and daylight are either capable of being mitigated by s106 obligations or through conditions and are not supported by sufficient evidence.

This scheme would deliver much-needed key worker housing in the area, such as to the NHS, which would also then support the local economy. At a time of pressure on our public services and on local businesses, this scheme would provide a much-needed boost and its impact on the local community can be easily and adequately mitigated through enforceable conditions and obligations on the applicant.

I trust that this letter helps to set out clearly the applicant's position in respect of this item in advance of next week's Planning and Rights of Way Panel meeting.

Yours faithfully,

**David Kemp BSc(Hons) MRICS Barrister\***

Director

DRK Planning Ltd

(\*non-practising member)