

Planning and Rights of Way Panel

Tuesday, 2nd August,
2022

at 4.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 and 4 - Civic
Centre

This meeting is open to the public

Members

Councillor Coombs (Chair)
Councillor Savage (Vice-Chair)
Councillor Blatchford
Councillor Magee
Councillor J Payne
Councillor Prior
Councillor Windle

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PUBLIC INFORMATION

ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL

The Panel deals with various planning and rights of way functions. It determines planning applications and is consulted on proposals for the draft development plan.

PUBLIC REPRESENTATIONS

Procedure / Public Representations

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

Southampton: Corporate Plan 2020-2025 sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time

Dates of Meetings: Municipal Year 2022/2023

2022	
24 May	20 September
21 June	11 October
12 July	1 November
2 August	22 November
23 August	13 December

SMOKING POLICY – The Council operates a no-smoking policy in all civic buildings

MOBILE TELEPHONES:- Please switch your mobile telephones to silent whilst in the meeting

USE OF SOCIAL MEDIA:- The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

FIRE PROCEDURE – In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

ACCESS – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

2023	
24 January	18 April 29
21 February	
14 March	

CONDUCT OF MEETING

TERMS OF REFERENCE

The terms of reference of the Planning and Rights of Way Panel are contained in Part 3 (Schedule 2) of the Council's Constitution

BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council, and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
 - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
 - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

OTHER INTERESTS

A Member must regard himself or herself as having an 'Other Interest' in any membership of, or occupation of a position of general control or management in:

- Any body to which they have been appointed or nominated by Southampton City Council
- Any public authority or body exercising functions of a public nature
- Any body directed to charitable purposes
- Any body whose principal purpose includes the influence of public opinion or policy

PRINCIPLES OF DECISION MAKING

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability, and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

1 **APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

2 **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

3 **STATEMENT FROM THE CHAIR**

4 **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 6)

To approve and sign as a correct record the Minutes of the meetings held on 12 July 2022, and to deal with any matters arising.

CONSIDERATION OF PLANNING APPLICATIONS

5 **22/00761/FUL 37-39 OXFORD STREET** (Pages 11 - 50)

Report of the Head of Green City & Infrastructure recommending that the Panel refuse planning permission in respect of an application for a proposed development at the above address.

6 **22/00721/R3CFL KINGSCLERE AVENUE** (Pages 51 - 66)

Report of the Head of Green City & Infrastructure recommending that conditional authority be granted in respect of an application for a proposed development at the above address, attached.

7 **22/00399/FUL 59 BURGESS ROAD** (Pages 67 - 82)

Report of the Head of Green City & Infrastructure recommending that conditional authority be granted in respect of an application for a proposed development at the above address, attached.

8 **22/00531/FUL 59 BURGESS ROAD** (Pages 83 - 100)

Report of the Head of Green City & Infrastructure recommending that conditional authority be granted in respect of an application for a proposed development at the above address, attached.

9 **22/00668/FUL 5 COTSWOLD ROAD** (Pages 101 - 112)

Report of the Head of Green City & Infrastructure recommending that conditional authority be granted in respect of an application for a proposed development at the above address, attached.

10 **22/00340/FUL 1 GAINSFORD ROAD** (Pages 113 - 124)

Report of the Head of Green City & Infrastructure recommending that conditional authority be granted in respect of an application for a proposed development at the above address, attached.

Monday, 25 July 2022

Director – Legal and Business Services

PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 12 JULY 2022

Present: Councillors Coombs (Chair), Savage (Vice-Chair), Blatchford, Magee, Prior and Windle

Apologies: Councillor J Payne

9. **APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

The apologies of Councillor J Payne were noted.

10. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED: that “Mrs James Jameson” was to be corrected to “Mrs Jane Jameson”.

RESOLVED: that following the correction, the minutes for the Panel meeting on 24 May 2022 be approved and signed as a correct record.

11. **22/00540/FUL ST JUDE'S CHURCH**

The Panel considered the report of the Head of Green City & Infrastructure recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Change of Use from place of worship (Class F1(f)) to day nursery (Class E(f)) with external alterations including changes to fenestration, recladding and associated means of enclosure to form outdoor play space.

Father Ovidiu, Romanian Honorary Consul in Winchester, David Fletcher (Vice Chair, ‘Save St. Jude’s’), Dave Griffiths (Local resident), were present and with the consent of the Chair, addressed the meeting. Additionally, the Panel noted statements received, circulated, and posted online from local and non-local residents.

The Planning Officer confirmed that following an application for the premises to be considered a Community Asset, it was determined on 5 April 2022 as unsuitable.

The Panel then considered the recommendation to delegate authority to the Head of Planning and Economic Development to grant planning permission. Upon being put to the vote the recommendation was carried unanimously.

RESOLVED that planning permission be approved subject to the conditions set out within the report and the additional or amended conditions as set out below:

1. **Amended Conditions (By Officer)**

10. Parent and Staff travel and pick up Management

Prior to first use of the development hereby approved a 'Parent and Staff travel and pick up Management Plan' shall be submitted and approved by the Council, including areas on site for waiting parents, queue management and split session times, measures to encourage sustainable modes of travel and signage to encourage no 'idling'. The management plan shall be adhered to at all times and reviewed regularly.

Reason: In the interests of highway safety and appropriate on site management.

12. **22/00193/FUL 1A BUGLE STREET**

The Panel considered the report of the Head of Green City & Infrastructure recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Change of use of existing offices (use class B1) to form mixed use event spaces and wedding venue (sui generis) and 7 no. hotel guest bedrooms (use class C1), including management plan (Resubmission 20/01716/FUL).

The presenting officer reported a change to recommendation and amended conditions, as set out below. It was also noted that an additional condition relating to the commencement of the development was also required, as set out below.

Ron Williamson (Local resident), David Livermore (Spectrum Access Group) and Bob Camping (Applicant) attended the meeting and with consent of the Chair addressed the meeting.

The panel then considered the revised recommendation to delegate to the Head of Green City & Infrastructure to undertake and approve the Habitats Regulations Assessment and then to grant planning permission subject to the conditions as set out below.

RECORDED VOTE to grant planning permission.

FOR: Councillors Blatchford, Coombs, Magee, Prior
AGAINST: Councillors Savage and Windle

2. Additional Conditions

06. Noise mitigation

The implementation of this planning permission shall be carried out strictly in accordance with the method of works and mitigation measures detailed in the recommendations section of the submitted Noise Impact Assessment; produced by 24 Acoustics, Technical Report: R8887-1 Rev 2, dated 6th May 2022, including soundproofing of the basement and first floor function room, the provision of in-house sound systems with limiters and the other recommendations contained in Section 5 of the report.

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

Note to applicant: The implementation of the noise mitigation measures will require Listed Building Consent. Listed Building Consent should be obtained prior to carrying out these mitigation works.

10. Approval Condition

Archaeological structure-recording [Performance Condition]

The developer will secure the implementation and completion of a programme of archaeological structure-recording prior to and during alterations in accordance with a written scheme of investigation, which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the recording of the listed building is initiated at an appropriate point in development procedure, and that the archaeological recording is completed (including reporting and archiving).

[Archaeological performance conditions need to be discharged at the appropriate time. Such conditions are exempted from the deemed discharge process. See Town and Country Planning (Development Management Procedure) (England) Order 2015 (Schedule 6 – Deemed Discharge: Exemptions): <http://www.legislation.gov.uk/ukxi/2015/595/schedule/6/made.>]

13. 20/00495/FUL SPITFIRE QUAY & 19/01702/FUL SPITFIRE QUAY

The Panel considered the report of the Head of Green City & Infrastructure recommending delegated authority be granted in respect of an applications for a proposed developments at the above address.

1. 20/00495/FUL Installation of a 2 bay vehicle loading dock (Retrospective).
2. 19/01702/FUL Erection of extension to the west elevation (known as south extension) (retrospective).

Mr Donaghue (Siva agent) was present and with the consent of the Chair, addressed the meeting.

Officers provided an update to Panel Members that the council had received one additional representation from Shaun Tew at Tew and Brothers, which had been shared with councillors prior to the meeting, as detailed below.

The Panel then considered the recommendations to delegate authority to the Head of Green City & Infrastructure to grant planning permission. Upon being put to the vote recommendations for both applications were carried unanimously.

RESOLVED that planning permission be approved subject to the conditions set out within the report and the amended conditions as noted below.

2. Additional / Amended Conditions:

Amend condition 2 of both permissions as following:

2. Operations Management Plan, (Performance Condition)

Within 6 months of the date of this permission the 'Siva Group Operations Management Plan', dated 13/08/2021, shall be fully implemented. Thereafter the approved Operations Management Plan (or as formally amended by the approval of a subsequent planning application) shall be implemented in full throughout the lifetime of the development.

In particular:

- At no time shall the vehicle loading and unloading spaces/areas (including space for 6 Heavy Good Vehicles [HGVs] within the warehouse forecourt/servicing area; or the HGV turning area identified in appendix 6) be used for storage purposes and at all times shall remain clear and available for vehicle manoeuvring, loading and unloading purposes as indicated.
- All vehicle movement around the site shall be managed in accordance with approved Operations Management Plan by Siva Staff.
- The one-way system and space reserved for queueing HGVs will be retained and not be used for any storage purposes.
- Only one vehicle (forklift truck or HGV) will access the rear of Spitfire House via Quayside Road at any one time *before exiting in a forward gear*.
- Whilst operational the warehouse facility/automated storage system and bridge link, rather than forklift trucks, will be used to transfer goods over Quayside Road between the warehouse site and Spitfire House.
- Following the bridge link and warehouse becoming operational forklift trucks shall not be used to transfer goods over Quayside Road between the warehouse site and Spitfire House unless there is a total or partial shutdown of the warehouse facility/automated storage system or bridge link; in such an event fork lift trucks may be used to move goods between Spitfire House and the warehouse for a temporary period only and must be agreed in writing as soon as practically possible, with the Local Planning Authority.
- Lights, visible to highway users approaching the junction of Quayside Road and Hazel Road, will flash when gates into the warehouse forecourt area are opening and vehicles are departing.
- *Loading bay number 1 shall not be used from 06:30 to 20:00 Monday to Friday. Loading bay number 2 shall not be used from 06:30 to 20:00 Monday to Friday and from 06:30 to 13:30 on Saturday mornings to avoid obstruction of Quayside Road during times of the day/week when Quayside Road is at its busiest.*

Reason: In the interests of highway safety, to improve the efficiency of the highway network on Hazel and Quayside Roads, to ensure access to nearby businesses is not unreasonably disrupted.

3. Updates.

Additional representations

1 x representation from Phil Aust on behalf of Day Group, Spitfire Garage and Tew Brothers. Objection can be removed provided condition 2 of both applications, is agreed (copied above).

14. **22/00125/FUL 93-99 BELGRAVE RD**

The Panel considered the report of the Head of Green City & Infrastructure, recommending that conditional planning permission be granted in respect of an application for a proposed development at the above address.

Use of part of portacabin for hot food takeaway (retrospective).

David Jobbins (Director of Luken Beck) was present and with the consent of the Chair, addressed the meeting.

Cllr Savage noted that the officer's report referred to his representation as an objection but clarified that he was not objecting but wished to ensure further scrutiny took place around food safety. Both Cllr Savage & Cllr Coombs made a statement around food hygiene and public health. The Planning Officer clarified that food safety was addressed under separate legislation.

Officers provided an update to members that amended plans had been received and noted the removal of condition 3 following amendments to paragraphs 2.2, 6.7, 6.13, 6.17.

The Panel then considered the recommendation to grant conditional planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE

FOR: Councillors Blatchford, Coombs, Magee, Prior, Windle.
AGAINST: Councillor Savage

RESOLVED that planning permission be approved subject to the conditions set out within the report and any additional or amended conditions set out above.

15. **21/00574/FUL - 126 HILLSIDE AVENUE**

The Panel considered the report of the Head of Green City & Infrastructure recommending that conditional planning permission be granted in respect of an application for a proposed development at the above address.

Erection of a single-storey front and side extension following demolition of existing garage and first floor extension to create a two-storey four-bedroom dwelling.

A statement was received from Mr and Mrs Snart (local residents) objecting to the application, which was circulated to councillors and published online ahead of the meeting.

The Panel then considered the recommendation to grant conditional planning permission. Upon being put to the vote the recommendation was carried unanimously.

RESOLVED that planning permission be approved subject to the conditions set out within the report.

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INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 2nd August 2022

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
4:00pm				
5	SB	REF	5	22/00761/FUL 37-39 Oxford Street
4:45pm				
6	RS	CAP	5	22/00721/R3CFL Land adj. 187-195 & 207-234 Kingsclere Avenue
5:15pm				
7	RS	CAP	5	22/00399/FUL 59 Burgess Road
8	RS	CAP	5	22/00531/FUL 59 Burgess Road
6pm				
9	TB	CAP	5	22/00668/FUL 5 Cotswold Road
6:45pm				
10	CC	CAP	5	22/00340/FUL 1 Gainsford Road

PSA – Public Speaking Allowance (mins); CAP - Approve with Conditions: DEL - Delegate to Officers: PER - Approve without Conditions: REF – Refusal: TCON – Temporary Consent: NOBJ – No objection

Case Officers:

SB – Stuart Brooks

RS – Rob Sims

TB – Tom Barnett

CC – Connor Chalmers

Southampton City Council - Planning and Rights of Way Panel

Report of Service Lead – Planning, Infrastructure & Development

Local Government (Access to Information) Act 1985

Index of Documents referred to in the preparation of reports on Planning Applications:

Background Papers

1. **Documents specifically related to the application**
 - (a) Application forms, plans, supporting documents, reports and covering letters
 - (b) Relevant planning history
 - (c) Response to consultation requests
 - (d) Representations made by interested parties

2. **Statutory Plans**
 - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Plan (Adopted 2013)
 - (b) Amended City of Southampton Local Plan Review (Adopted March 2015)
 - (c) Connected Southampton 2040 Transport Strategy (LTP4) adopted 2019.
 - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
 - (e) Adopted City Centre Action Plan (2015)
 - (f) Community Infrastructure Levy Charging Schedule (2013)
 - (g) Bassett Neighbourhood Plan (Adopted 2016)

3. **Statutory Plans in Preparation**

4. **Policies and Briefs published and adopted by Southampton City Council**
 - (a) Old Town Development Strategy (2004)
 - (b) Public Art Strategy
 - (c) North South Spine Strategy (2004)
 - (d) Southampton City Centre Development Design Guide (2004)
 - (e) Streetscape Manual (2005)
 - (f) Residential Design Guide (2006)
 - (g) Developer Contributions SPD (September 2013)
 - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
 - (i) Women in the Planned Environment (1994)
 - (j) Advertisement Control Brief and Strategy (1991)
 - (k) Biodiversity Action Plan (2009)
 - (l) Economic Development Strategy (1996)
 - (m) Test Lane (1984)

- (n) Itchen Valley Strategy (1993)
- (o) Portswood Residents' Gardens Conservation Area Character Appraisal (1999)
- (p) Land between Aldermoor Road and Worston Road Development Brief Character Appraisal(1997)
- (q) The Bevois Corridor Urban Design Framework (1998)
- (r) Southampton City Centre Urban Design Strategy (2000)
- (s) St Mary's Place Development Brief (2001)
- (t) Ascupart Street Development Brief (2001)
- (u) Woolston Riverside Development Brief (2004)
- (v) West Quay Phase 3 Development Brief (2001)
- (w) Northern Above Bar Development Brief (2002)
- (x) Design Guidance for the Uplands Estate (Highfield) Conservation Area (1993)
- (y) Design Guidance for the Ethelburt Avenue (Bassett Green Estate) Conservation Area (1993)
- (z) Canute Road Conservation Area Character Appraisal (1996)
- (aa) The Avenue Conservation Area Character Appraisal (2013)
- (bb) St James Road Conservation Area Character Appraisal (1996)
- (cc) Banister Park Character Appraisal (1991)*
- (dd) Bassett Avenue Character Appraisal (1982)*
- (ee) Howard Road Character Appraisal (1991) *
- (ff) Lower Freemantle Character Appraisal (1981) *
- (gg) Mid Freemantle Character Appraisal (1982)*
- (hh) Westridge Road Character Appraisal (1989) *
- (ii) Westwood Park Character Appraisal (1981) *
- (jj) Cranbury Place Character Appraisal (1988) *
- (kk) Carlton Crescent Character Appraisal (1988) *
- (ll) Old Town Conservation Area Character Appraisal (1974) *
- (mm) Oxford Street Conservation Area Character Appraisal (1982) *
- (nn) Bassett Green Village Character Appraisal (1987)
- (oo) Old Woolston and St Annes Road Character Appraisal (1988)
- (pp) Northam Road Area Improvement Strategy (1987)*
- (qq) Houses in Multiple Occupation (revised 2016)
- (rr) Vyse Lane/ 58 French Street (1990)*
- (ss) Tauntons College Highfield Road Development Guidelines (1993)*
- (tt) Old Woolston Development Control Brief (1974)*
- (uu) City Centre Characterisation Appraisal (2009)
- (vv) Parking standards (2011)

* NB – Policies in these documents superseded by the Residential Design Guide (September 2006, page 10), albeit character appraisal sections still to be had regard to.

5. Documents relating to Highways and Traffic

- (a) Hampshire C.C. - Movement and Access in Residential Areas
- (b) Hampshire C.C. - Safety Audit Handbook
- (c) Cycling Strategy – Cycling Southampton 2017-2027
- (d) Southampton C.C. - Access for All (March 1995)

- (e) Institute of Highways and Transportation - Transport in the Urban Environment
- (f) I.H.T. - Traffic Impact Assessment Guidelines
- (g) Freight Transport Association - Design for deliveries
- (h) Department for Transport (DfT) and Highways England various technical notes
- (i) CIHT's Manual for Streets and Manual for Streets 2

6. Government Policy Planning Advice

- (a) National Planning Policy Framework (February 2019)
- (b) National Planning Policy Guidance Suite

7. Other Published Documents

- (a) Planning for Daylight and Sunlight - DOE
- (b) Coast and Countryside Conservation Policy - HCC
- (c) The influence of trees on house foundations in clay soils - BREDK
- (d) Survey and Analysis - Landscape and Development HCC
- (e) Root Damage to Trees - siting of dwellings and special precautions – Practice Note 3 NHDC
- (f) Shopping Policies in South Hampshire - HCC
- (g) Buildings at Risk Register SCC (1998)
- (h) Southampton City Safety Audit (1998)
- (i) Urban Capacity Study 2005 – 2011 (March 2006)
- (j) Strategic Housing Land Availability Assessment (March 2013)

**Planning and Rights of Way Panel 2nd August 2022
Planning Application Report of the Head of Green City & Infrastructure**

Application address: 37-39 Oxford Street, Southampton			
Proposed development: Change of use of the existing building from restaurant (Use Class E) to drinking establishment/restaurant (Sui Generis) with associated external alterations to the façade and erection of a 3rd floor with roof terrace bar			
Application number:	22/00761/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	5 minutes
Last date for determination:	15.07.2022	Ward:	Bargate
Reason for Panel Referral:	Five or more letters of support have been received contrary to the officer recommendation. Five or more objections have also been received.	Ward Councillors:	Cllr Bogle Cllr Noon Cllr Paffey
Referred to Panel by:	n/a	Reason:	n/a
Applicant: Mrs Jafari		Agent: Kode Architecture	

Recommendation Summary	Refuse
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Community Infrastructure Levy Liable	Yes (if approved)
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Appendix attached			
1	Development Plan Policies	2	Refusal Medbar, 50 Oxford Street
3	Premises License		

Recommendation in Full

Refuse

1. Reason for Refusal: Impact on Public Safety

The proposed bar and restaurant use by reason of its nature and capacity would lead to an intensification of premises in the area led by wet trade which would adversely harm community safety and lead to noise disturbance to local residents. The Police have raised concerns with the cumulative impact from the proliferation of such night time uses leading to public nuisance and crime incidents in the Oxford Street area. It is, therefore, considered that this proposal would be contrary to saved policies SDP1(i), SDP16 and CLT15 of the Local Plan Review (March 2015 amended) and policy AP8 of the City Centre Action Plan (March 2015 amended) as supported by the relevant crime and safety objectives of the NPPF (2021).

2. Reason for Refusal: Noise Disturbance

The significant level of noise disturbance associated with the intensity, scale and nature of the proposed restaurant and bar use and the associated use of the roof terrace bar is considered to adversely affect the amenity of nearby residents. There is a lack of noise assessment submitted to fully assess the noise impact, and the effectiveness of potential options available for mitigation measures, although it is likely given the close-knit arrangement of buildings in Oxford St that the existing amenity enjoyed by neighbours will be harmed as a consequence of public use of the proposed roof terrace (even with planning conditions restricting hours). This would be contrary to saved policies SDP1(i), SDP16 and REI7 of the Local Plan Review (March 2015 amended) as supported by the relevant amenity objectives of the NPPF (2021).

3. Reason for Refusal: S106 contributions not secured

In the absence of a completed Section 106 legal agreement to support the development the application fails to mitigate against its wider direct impacts in the following areas and is, therefore, contrary to Policy CS25 of the adopted LDF Core Strategy (2015):

- a) Late Night Community Safety Contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013) as supported by Policy AP8 of the adopted City Centre Action Plan (2015).
- b) CCTV contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013) as supported by Policy AP8 of the adopted City Centre Action Plan (2015).

1. The site and its context

- 1.1 The site comprises a 3-storey building on the southern side of Oxford Street which is located within the Oxford Street Conservation Area. The building itself is vacant (former Kuti's restaurant). Oxford Street is designated as an evening zone as it contains a concentration of night time food and drink uses. There are residential uses nearby including adjoining flats above no. 40 (Max's Bar and Brasserie), whilst there are flats to the rear in Queens Terrace and flats on the opposite side of Oxford Street (no. 33, 34 & 36) and the mews properties leading off into John Street and Latimer Street.

2. Proposal

- 2.1 Planning permission is sought to change the use of the existing restaurant to operate as a mix of drinking establishment and restaurant. A roof terrace bar is also proposed on the extended third floor at the front overlooking Oxford Street, with seating capacity outside shown initially for 34 patrons and 53sqm bar area with bi-fold opening doors linking with the outdoor terrace. The existing front openings in the parapet façade at the roof terrace level will be filled in with fixed glazing and louvres. The existing extraction flue to the rear will be extended vertically taking account of the upward extension.
- 2.2 The applicant has since agreed to amend the proposed opening hours of the premises to close at midnight. The roof terrace will operate under the same

hours as the premises.

3. 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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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 The Council will use its planning and licensing functions to promote a night time economy with a range of activities that contribute to a vibrant city centre whilst minimising potential disturbance to nearby residential areas. The permitted closing hours guidance of midnight closing in policy AP8 is subject to meeting other policies, particularly those to protect residential amenity.
- 3.4 Paragraph 4.70 indicates:- There are however challenges in managing people using night clubs, bars and pubs at night in order to reduce the noise and disruption to people living in and close to the city centre (to address potentially negative impacts on health and increased crime raised in the Sustainability Appraisal SA/SEA).

The Sustainability Appraisal SA/SEA (background evidence supporting the CCAP) indicates:- There are uncertain effects on health (improve the health and well-being of the population and reduce inequalities in health) as there is potential for noise disturbance to residents and it should be ensured that this is kept to a minimum. In addition, crime associated with late night uses, possibly connected to the consumption of alcohol should be considered. It is felt that planning conditions may be utilised to reduce and restrict harmful effects from late night uses.

- 3.5 The governments planning practise guidance in relation to town centre uses states:- Evening and night time activities have the potential to increase economic activity within town centres and provide additional employment opportunities. They can allow town centres to diversify and help develop their unique brand and offer services beyond retail. In fostering such activities, local authorities will also need to consider and address any wider impacts in relation to crime, noise and security (Paragraph: 001 Reference ID: 2b-001-20190722).
- 3.6 With regards to assessing noise impact for night time uses, the practise guidance states:- some commercial developments including restaurants, hot

food takeaways, night clubs and public houses can have particular impacts, not least because activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the noise that may be made by customers in the vicinity (Paragraph: 006 Reference ID: 30-006-20190722).

4. Relevant Planning History

- 4.1 There is no relevant planning history for this site. It should be noted that an application for a roof terrace bar was refused last year by the planning panel at 50 Oxford Street (Medbar). The details of this application are set out in **Appendix 2** of this report for comparison. The original planning permission granted for the restaurant in 1993 (ref no. 930769/E) imposed hours of use to operate till 09:00 to 00:30 Monday to Saturday and 10:00 to 22:30 Sundays.

5. 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, placing a press advertisement **17.06.2022** and erecting a site notice **10.06.2022**. At the time of writing the report **21** representations (6 objections and 14 support) have been received from surrounding residents with an objection from ward Cllr Bogle. The following is a summary of the points raised:

Comments in SUPPORT

- 5.2 ***The proposal would revitalise the local economy and street scene/conservation area by bringing a vacant unit back into use. Well designed and respects the conservation area. The proposed use will be appropriate for an entertainment area and complement the mix of uses and vibrancy/atmosphere of Oxford Street.***

Response

The importance of supporting the night time economy in the interests of creating a vibrant city centre is recognised, and form a material consideration in the Panel's deliberations. However, the adverse impacts in relation to crime and disturbance given the nature and capacity of the venue are considered to outweigh the economic and social benefits of the change of use and greater weight has been afforded the comments from the Police.

- 5.3 ***The applicant manages a vibrant premises on the corner of Oxford Street and Latimer Street.***

Response

The merits of the application should be judged on the planning and land use impacts of the site itself. The business could be sold and relet many times following a consent as the permission runs with the land.

- 5.4 ***The roof terrace will not cause noise disturbance. The majority of the premises have outdoor terraces at the front with opening hours beyond midnight.***

Response

Officers, supported by the Environmental Health team, consider that it is likely there will be undue noise disturbance caused by the higher level outdoor terrace, whilst there is a lack of noise assessment submitted to fully assess the impact of the proposed use.

Comments in OBJECTION

- 5.5 ***Local residents and businesses were not properly notified about the application. The site notice was removed during the consultation period.***

Response

The Council has exceeded its statutory duty in publicly consulting immediate neighbours and posting a site notice nearby the site for public viewing. Only one means of notification is legally required – either letter or site notice. The removal of the site notice is outside of the Council's control. The Council also advertised the application in the local newspaper. The Panel is free to determine the application.

- 5.6 ***The upward extension is out of character with the local area.***

Response

The Conservation Officer considers that the extension would not adversely harm the historic setting and character of the local area, whilst the set back of the upward extension from the front wall minimises its over-dominance in appearance in relation to the host building.

- 5.7 ***Noise disturbance impact to local residents from the roof terrace bar use and noise disturbance through the party wall to the occupants of Royal Mail House. With the potential for more intensive use of the premises, which could attract patron numbers in excess of all other Oxford Street establishments, there will be a greater disturbance impact to local residents from the dispersal at closing time.***

Response

The Council's Environmental Health team consider there is likely to be undue noise disturbance caused by the higher level outdoor terrace, whilst there is a lack of noise assessment submitted to fully assess the impact of the proposed use.

- 5.8 ***The two-metre parapet referred to would not remove the dangers of items being thrown over; alcohol consumption can promote irresponsible behaviour.***

Response

Such concerns relate to premises management and the planning system has to make decisions based on reasonable behaviour.

- 5.9 ***The business will imbalance the impact between supporting the established night time economy and protecting the amenity of local residents.***

Response

Agreed. The negative amenity and public nuisance impact will outweigh the positive benefits to the night time economy.

Consultation Responses

5.10

Consultee	Comments
<p>SCC Licensing</p>	<p>Objection I am the licensing manager for Southampton City Council and have been in this role for ten years, prior to this I was a police officer for thirty years, the majority of which was served covering Southampton Central which includes Oxford Street. I retired from the police as an Inspector and had responsibility for the city centre area and licensing for the south west of Hampshire.</p> <p>Oxford Street at the Eastern end has a good number of food led venues which are complimented by some bars that are more wet led. The western half and surrounding roads are predominantly residential including the Salvation Army hostel. There have been a few noise related complaints over the years but generally the mix of use has worked well. In recent years we have seen a decrease in food being the lead at venues, instead some have become wet led venues with loud music. This is changing the environment in the street. The police have also noticed an increase in crime and disorder, so much so the area has a dedicated patrol on evenings when they resource the night time economy.</p> <p>Another premises moving away from food to wet led is, in my opinion, likely to significantly change the atmosphere of the street, particularly at weekends. This change is likely to involve loud music emanating from premises disturbing the more traditional venues offering outdoor dining and increase in alcohol related nuisance and crime.</p>
<p>Hampshire Constabulary</p>	<p>Objection In relation to the proposed planning changes afoot I have had the opportunity to look into crime data for the area of Oxford St & Terminus Terrace area only thus far. I could extend the search wider but for the time being I am satisfied that they give a good picture of what is going on in the area. The figures created will only cover what the Police call NTE offences, these are collected from the following criteria:</p> <ol style="list-style-type: none"> 1. Crimes occurring between 1900-0700 daily Any 2 of the following 4: 2. Link to Licensed Premises 3. Drugs or Alcohol Related

	<p>4. A relevant crime or ASB 5. Known NTE location</p> <p>2018 – 60 incidents 2019 – 82 incidents 2020 – 30 incidents – (Covid) 2021 – 78 incidents – (Covid – trading July to December) 2022 – 71 incidents until 07/07/22</p> <p>These are not linked to any particular licensed premises but encompass the area stated above. What is interesting is clearly the figure is on the increase and this as after the opening of a number of premises such as One Oxford, Tropic, Pam Pam Pizza, Mail Room, OX47, Rita’s etc. etc. Allowing the change of use to increase wet trade in the area will have a detrimental effect on the area, we have already seen large scale disorder in the street during the latter part of last summer that included throwing of tables and chairs, hardly the behaviour expected from the European restaurant culture the street is trying to portray itself as.</p>
Environmental Health	<p>Objection.</p> <p>The impact of noise disturbance including party wall transfer and the use of the roof terrace bar is likely to lead to undue noise disturbance to nearby residents. There is a lack of noise assessment submitted with the application to demonstrate how the noise impact of the premises can be adequately mitigate and managed.</p>
Ward Cllr Bogle	<p>Objection</p> <p>I welcome this long-vacant building coming back into use but am concerned about the addition of another drinking-led establishment in Oxford Street (wet-led seems to be the licensing term) that might put more pressure on very scarce police resources. I object to the creation of a roof-top bar and extension as am concerned about noise impact to residents nearby. If a roof-top terrace bar is permitted, it would need to be strictly limited in terms of hours of opening. (10pm latest - similar to Revolution for example). Oxford Street is a lovely street with a positive mix of uses - I would prefer this remained as a restaurant with a bar rather than a bar as is a very large space that could change the character of the local night time economy.</p>

City of Southampton Society	<p>Objection</p> <p>We approve of the proposed changes to the front of the building and, in so far as it cannot be seen from street level, we do not object to the construction of additional facilities on the roof. However we are concerned about use of the roof space as an open-air bar in view of the potential of noise nuisance. We are mindful that on Friday and Saturday evenings the volume of noise generated by the existing bars and restaurants in Oxford Street is significant, even at mid-night. We are also concerned that objects (or people) could fall from the roof top onto the pavement/tables below. Prior to giving our approval we would require a technical noise assessment confirming that any noise generated at roof level would not spread further than noise generated at ground level. Should planning permission be granted we would require a condition that strict control is maintained to ensure that closing times, possibly at an earlier level, are respected and that customers vacate the premises in a timely manner.</p>
Sustainability (Flood Risk)	<p>Part of the site is located in Environment Agency Flood Zone 2 for medium flood risk. Over the lifetime of the development (by 2075) the site moves into Flood Zone 3, land classified as having a greater than 0.5% chance of flooding in any given year. In line with the National Planning Policy Framework, any development application located within Flood Zone 2 or 3 should be accompanied by a site-specific Flood Risk Assessment, which does not seem to be included with this application. The proposed change of use (from a restaurant to a 'drinking establishment/ restaurant') changes the vulnerability classification of the site from 'less vulnerable' to 'more vulnerable'. Further information is required (a Flood Risk Assessment and Flood Plan) for the applicant to illustrate how the development will be made safe for its lifetime and for the planning authority to determine this application. I would recommend applying an objection to the application until additional information is submitted and approved by the Lead Local Flood Authority.</p> <p><u><i>Officer Response</i></u></p> <p><i>It is not considered that the change of use will significantly increase vulnerability and safety of the users from flood risk and these concerns have not led to a further reason for refusal</i></p>
Conservation Officer	No objection

6.0 Planning Consideration Key Issues

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

- The principle of development;
- Design and effect on character and heritage;
- Residential amenity and community safety and;
- Mitigation of direct local impacts.

6.2 Principle of Development

6.2.1 The application site is located within an area designated as an evening zone. Therefore, the scheme needs to be considered against Policy AP8 of the City Centre Action Plan which seeks to control the location and hours of late night venues in order to promote a vibrant night time economy whilst minimising disturbance on nearby residents. Policy AP8 permits a latest opening time of midnight for late night venues within Oxford Street. The proposed bar/restaurant use seeks opening hours until midnight.

6.2.2 However, the presumption in favour of such development also relies on the proposal satisfying other policies, '*particularly those to protect residential amenity and retail areas*'. The creation of any new bars should not be to the detriment of the amenities of any neighbouring residential uses for example by causing undue noise and disturbance.

6.2.3 The proposal would also need comply with the requirements of saved policy REI7 of the Local Plan Review. This policy relates to new food or drink uses. Whilst promoting such uses within the city the policy also seeks to protect the amenities of neighbouring residential uses from undue noise or other forms of nuisance from food and drink uses.

6.2.4 Furthermore, saved Policy SDP1(i) of the Local Plan Review states, amongst other things, that planning permission will only be granted for development which does not unacceptably affect the health, safety and amenity of the city and its citizens.

6.2.5 Core Strategy Policy CS13 requires development to 'respond positively and integrate with its local surroundings' and 'impact positively on health, safety and amenity of the city and its citizens'.

6.2.6 Whilst the principle of the use and rooftop development with the conservation area can be supported, it is considered that the detailed proposals will result in harm to existing residential amenity and safety, which cannot be mitigated for the reasons set out later in this report.

6.2.7 As stated above the proposal is located within an evening zone. As such similar mixed restaurant and bar uses are present within the vicinity. Policy AP8 of the City Centre Action Plan does permit such uses within this area up to an opening time of midnight. Despite the objections from SCC licencing and the Police regarding the growing culture and imbalance of 'wet' led premises

in Oxford Street, the night time economy policy does not distinguish between the type of entertainment use it permits. So whilst Oxford Street is more associated with a restaurant and dining culture, late night entertainment uses such as bars of this scale wouldn't be uncharacteristic of the evening zone policy. Such uses are predominately located at street level rather than the upper floors or rooftops. It does not restrict such uses to the ground floor only, however, the policy does seek to preserve the amenity of neighbouring occupiers that will be discussed later in this report. So whilst the principle of a new bar is accepted the impacts arising need further consideration.

6.3 Design and effect on character and heritage

6.3.1 The application site is located with the Oxford Street Conservation Area nearby other heritage assets including grade II listed buildings. The statutory tests for the proposal, as set out in section 72 (Conservation Areas) of the Planning (Listed Building and Conservation Areas) Act 1990, are: whether the proposal would preserve or enhance the character or appearance of the Conservation Area. The NPPF requires the proposal to be assessed in terms of the impact on the significance of the building having regard to:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and;
- The desirability of new development making a positive contribution to local character and distinctiveness.

6.3.2 In accordance with para 189 of the NPPF, an assessment of the significance of the nearby heritage assets is set out in the Council's Conservation Area Appraisal. With respect to the Oxford Street Conservation Area Appraisal (OSCAA) the main aim is as follows; 'Designation of the Oxford Street Conservation Area does not prevent change from taking place. Rather it helps to manage change in a way that enhances the area, and ensures that new development does not harm, overwhelm or destroy the special qualities found within it, by giving additional controls over the demolition of buildings, minor developments and the loss of trees.'

6.3.3 Policy HE1 of the City of Southampton Local Plan Review states permission will only be granted if the proposal meets the following; (i) must 'preserve or enhance' the character and appearance of the conservation area, having regard to the Conservation Area Character Appraisal where available.

6.3.4 The Conservation Officer considers that the existing property is currently vacant and is a modern building of no historic merit and contributes little to the overall character or appearance of Oxford Street Conservation Area. Consequently, refreshing the external facade would improve upon the existing arrangement whilst setting the position of the proposed roof top bar back into the plot and behind the interceding rooflines of the neighbouring buildings would ensure that this element would be relatively hidden from the public realm, especially from ground floor level. Similarly, the installation would not adversely impact, nor dominate, the setting of the adjacent listed buildings.

6.3.5 As such, the change of use proposals would be considered to have a neutral impact on the physical characteristics of the street scene, and the setting of the nearby listed buildings, and would preserve the character or appearance of this part of the conservation area.

6.4 Residential amenity and community safety

6.4.1 The applicant is seeking a mixed use, with the introduction of a bar use so that customers need not attend the premises purely for dining. Following an amendment by the applicant the premises and the roof terrace will operate until midnight. The applicant has said it would work with the Council to accept an earlier closing hour for the roof terrace, however, as explained below there are fundamental amenity concerns regardless of the hours of use. The vicinity of Oxford Street is unique as an evening zone in the sense that the night time uses are nestled amongst a residential community, so the Council has to carefully consider the amenity impact of the use with regards to its nature and capacity of the venue. As it can be seen from the comments made by SCC Licensing and Police, there is a greater potential for adverse impact to community safety from public nuisance and disorder issues associated with a 'wet' led premises. There particular concerns are this is likely to significantly change the atmosphere of the street, particularly at weekends. This change is likely to involve loud music emanating from premises disturbing the more traditional venues offering outdoor dining and increase in alcohol related nuisance and crime. The police have also noticed an increase in crime and disorder, so much so the area has a dedicated patrol on evenings when they resource the night time economy. The Police have commented that there has been an increasing trend of crime offences within Oxford Street area in past 4 years as further wet trade businesses have started trading.

6.4.2 The SCC licensing team granted a variation to the existing Kuti's license earlier this year in March. The applicant (same as this application) requested removal of the condition restricting the alcohol only to served at tables. The license would have to be subsequently amended to include the use of the proposed roof terrace. A copy of the license can be found in **Appendix 3**. The capacity of the patrons is not controlled by the license. As an everyday comparison, the SCC Licensing manager recently witnessed Mailrooms with approximately 250 patrons sitting down, so there is greater capacity at the application site for patrons to crowd inside, over 3 floors (including the roof terrace – albeit 1 floor is restricted for office use associated with the business), who are no longer bound by the premises license to be served alcohol at the restaurant table. It is should be noted that the issuing of the current premises license does not give less weight to their community safety objection which is backed up by the Police concerns with regards to the cumulative impact associated with public nuisance and crime from the proliferation of wet led uses in the Oxford Street area. The legislative functions of planning and licensing have different remits, so the planning assessment is entitled to assess the wider and cumulative impacts from a over-concentration of land uses.

- 6.4.3 This site-specific impact can be mitigated to an extent by Section 106 financial contributions secured by the applicant towards measures to improve community safety and CCTV, however, the Police and SCC licensing have identified a cumulative impact associated with a wet use of this scale and nature and, therefore, introducing this type of use would be harmful to community safety in the local area based on the evidence for the greater potential for public nuisance.
- 6.4.4 Turning to the SCC Environmental Health concerns regarding noise disturbance associated with the change of use to a wet led entertainment venue and creation of the roof terrace bar, it is considered that the noise impact from the proposed roof terrace bar on the newly extended floor and the internal party wall noise transfer on lower floors is likely to adversely affect the residential amenity of nearby occupiers. The closest residential properties are the neighbouring flats at 40 Oxford Street, with flats opposite the street as well and residential properties in Latimer Street and John Street. There will be element of dining associated with the business as well as drinking and entertainment use, however, once a mixed use is granted there are limited planning controls to prevent the land use becoming pre-dominantly a bar and entertainment venue.
- 6.4.5 Given the local context, the local residents and business users in the Oxford Street area will typically experience ambient background noise from the existing restaurant and bar premises and nearby road traffic during the day and night time, however, the introduction of the proposed use should avoid subjecting existing residents and occupiers to further noise disturbance above those current levels. The roof terrace bar can accommodate a large gathering of patrons and the open bi-fold doors would allow the noise of amplified music to spill out across the street at high level. It is noted that there are mitigation and management options such as to limit music volume and fill in the façade openings with glazing and louvres on the Oxford Street frontage, however, there is a lack of noise assessment submitted to enable the noise impact to be fully assessed with regards to the overall capacity and scale of the roof terrace bar use and to evaluate the effectiveness the of mitigation measures options available. Closing the roof terrace any earlier in the evening would not be sufficient in itself to alleviate the adverse harm caused by noise disturbance affecting nearby residents especially including the occupants of the flats immediately next doors at 40 Oxford Street. This view is consistent with the refusal of the roof terrace at Medbar 50 Oxford Street (**see Appendix 2**). Whilst residents can choose to buy into living in a noisy night time city centre environment like the Oxford Street area, the Council has a duty to safeguard their amenity from additional noise disturbance. The applicant has agreed to adjust the closing time to midnight to minimise the disturbance caused by patrons dispersing after closing time in accordance with policy AP8, however, this does not mitigate the other noise and community safety issues.
- 6.4.6 As such, the significant level of noise disturbance associated with the intensity, scale and nature of the proposed restaurant and bar use and the associated use of the roof terrace bar is considered to adversely affect the amenity of

nearby residents. This would be contrary to the objectives of saved policies SDP1(i), SDP16 and REI7 of the Local Plan Review to safeguard amenity of the local residents.

6.4.7 The vertical massing of the additional storey will not project any further the rear wall of the main building and the existing flue will be shortened on the same alignment. As such, the outlook and light of existing occupiers will not be adversely affected. There will be no overlooking from the extension at the rear towards Queens Terrace, whilst it is proposed to use infill louvres to screen overlooking from the roof terrace across Oxford Street.

6.5 Mitigation of direct local impacts

6.5.1 As this application sits within the city centre and is opening past 10pm and the proposal would lead to a change of use and intensification of patrons, it triggers the Late Night Community Safety Facilities obligation, which will likely attract a financial contribution to contribute to community safety measures, such as Late Night Bus, CCTV, street cleansing etc.

6.5.2 In order to secure these monies a Section 106 Agreement (S106) is required, which will include the above obligation and a private CCTV System obligation.

6.5.3 The applicant has indicated that they will be willing to enter into a legal agreement to secure the necessary contributions, however, as the application is recommended for refusal this will not be possible (unless the Panel determine that the scheme warrants planning permission).

7. Summary

7.1 In summary, the Panel are being asked to consider the impacts of changing a restaurant use to a mixed use including late night drinking. The negative impacts identified to amenity and safety of the Oxford Street area will significantly outweigh the positive benefits to support the night time economy and the vibrancy of Oxford Street in bringing the vacant building back into use and increasing the range of entertainment facilities. Whilst the proposed external changes are acceptable from a design perspective, they facilitate a use that is not supported for the reasons set out in this report.

8. Conclusion

8.1 It is recommended that planning permission should not be granted for the reasons set out above.

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) (e) (f) (g) 4. (g) (mm) 6. (a) (b)

Stuart Brooks for 02.08.22 PROW Panel

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS1 City Centre Approach

CS3 Promoting Successful Places

CS13 Fundamentals of Design

CS14 Historic Environment

CS25 The Delivery of Infrastructure and Developer Contribution

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

SDP1 Quality of Development

SDP4 Development Access

SDP10 Safety & Security

SDP11 Accessibility & Movement

SDP16 Noise

CLT 15 Night time uses

HE1 New Development in Conservation Areas

HE2 Demolition in Conservation Areas

REI7 Food and Drink Uses (Classes A3, A4 and A5)

City Centre Action Plan - March 2015

AP8 The Night time economy

AP16 Design

Supplementary Planning Guidance

Planning Obligations (Adopted - September 2013)

Other Relevant Guidance

The National Planning Policy Framework (2021)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)



DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (Development Management Procedure) (England) Order 2015

Knight Architectural Design
Mr Ian Knight
7 Coldeast Way
Sarisbury Green
Southampton
SO31 7AT

In pursuance of its powers under the above Act and Order, Southampton City Council as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

FULL APPLICATION - REFUSAL

Proposal: **Erection of a roof top bar - description amended following validation**

Site Address: **50 Oxford Street, Southampton, SO14 3DP**

Application No: **20/00947/FUL**

For the following reason(s):

01.The proposed development, by way of its night time use, shared access arrangements with residential properties and open and exposed position on upper floors, would be detrimental to the amenities of neighbouring properties (including residents within the same building) by reason of noise, safety and disturbance. The proposal would therefore be contrary to 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) as supported by Policy AP8 of the adopted City Centre Action Plan (2015) and the guidance contained within the National Planning Policy Framework 2021.

02.In the absence of a completed Section 106 legal agreement to support the development the application fails to mitigate against its wider direct impacts in the following areas and is, therefore, contrary to Policy CS25 of the adopted LDF Core Strategy (2015):

- i. Late Night Community Safety Contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013) as supported by Policy AP8 of the adopted City Centre Action Plan (2015)
- ii. CCTV contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013) as supported by Policy AP8 of the adopted City Centre Action Plan (2015)

Paul Barton
Interim Head of Planning & Economic Development

13 September 2021

For any further enquiries please contact:
Mark Taylor

Planning and Rights of Way Panel 22 June 2021
Planning Application Report of the Head of Planning & Economic Development

Application address: 50 Oxford Street, Southampton			
Proposed development: Erection of a roof top bar – description amended following validation			
Application number:	20/00947/FUL	Application type:	Full
Case officer:	Mark Taylor	Public speaking time:	5 minutes
Last date for determination:	14.09.2020	Ward:	Bargate
Reason for Panel Referral:	Five or more letters contrary to the Officers recommendation have been received.	Ward Councillors:	Cllr S Bogle Cllr J Noon Cllr Dr D Paffey
Applicant: Mr Fred Panj		Agent: Knight Architectural Design	

Recommendation Summary	Refuse
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Community Infrastructure Levy Liable	No
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Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

1.Reason for Refusal - Noise and disturbance

The proposed development, by way of its night time use, shared access arrangements with residential properties and open and exposed position on upper floors, would be detrimental to the amenities of neighbouring properties (including residents within the same building) by reason of noise, safety and disturbance. The proposal would therefore be contrary to 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) as supported by Policy AP8 of the adopted City Centre Action Plan (2015) and the guidance contained within the National Planning Policy Framework 2019.

2.Reason for Refusal - Lack of Section 106 to secure planning obligations.

In the absence of a completed Section 106 legal agreement to support the development the application fails to mitigate against its wider direct impacts in the following areas and is, therefore, contrary to Policy CS25 of the adopted LDF Core Strategy (2015):

- i. Late Night Community Safety Contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013) as supported by Policy AP8 of the adopted City Centre Action Plan (2015)
- ii. CCTV contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning

1. The site and its context

- 1.1 The application site comprises a large three storey building, on the corner of Latimer Road and Oxford Street. At ground floor and first floor the building currently operates a bar/restaurant use (sui generis) known as the Medbar. At part of the first floor, and whole of the second floor, the building is in a residential use.
- 1.2 The application site is located within the Oxford Street Conservation Area. The application building is not a Listed or a Locally Listed Building. However, to the west is the locally listed building The Booth Centre (Salvation Army). Furthermore, the properties to the north and east of the site are either locally listed or listed buildings.
- 1.3 The application site is located within an area designated as an evening zone. As such City Centre Action Plan Policy AP8 applies. This policy will be referred to later in the report.
- 1.4 The application building is not of any particular architectural merit. The ground floor is largely glazed with a number of access points onto the public highways of Latimer Road and Oxford Street. The upper floor elevations are largely rendered with the elevations broken up with windows of a uniform design and spacing. There is an existing timber structure on the roof top used for storage.

2. Proposal

- 2.1 The proposal seeks to erect a roof top bar creating a third floor to the building. The roof top bar that will operate independently of the bar/restaurant uses that currently exist on the lower floors and is proposed to open at midday and close at 11pm (7 days). The proposed bar will be accessed via the existing stairwell on the southern side of the building that serves the existing residential accommodation
- 2.2 The proposed bar area will be a rectangular building located on the western side of the roof top. The roof form is of a single pitch increasing in height from the western side elevation to the centre of the existing roof. The proposed roof will overhang the proposed bar area however the external seating to the eastern side of the rooftop will be uncovered.
- 2.3 Balustrading around the seating area will be 1.1m high glazing. The proposed bar will be enclosed in black cedar cladding with grey UPVC bi-fold doors along the eastern elevation facing the roof terrace.
- 2.4 No toilets facilities are provided on the rooftop area. There is a single toilet facility for customers located within the communal stairwell at the southern end of the property at third floor.
- 2.5 The proposal and its description have been revised during the application. Initially the proposal included a revised fume extraction system for the bar/restaurant that operates on the lower floors. However, following discussions

with SCC Environmental Health Officers the extraction equipment has now been removed from the proposal.

3. 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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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. Relevant Planning History

4.1 A schedule of the relevant planning history for the site is set out in **Appendix 2** of this report.

5. 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 on the 21st August 2020. A press notice was printed 7th August 2020. At the time of that consultation the application included details of extraction equipment serving the lower floors. The extraction equipment has since been removed from the proposal, as such any comment associated with extraction equipment are not included below.

5.2 Following receipt of amended plans and an amendment to the applications description a further round of consultation on the proposal was undertaken. In total 29 representations were received. 16 In support of the development, and 13 objecting to the proposal.

5.3 The following is a summary of the points raised:

Comments in Support

It would be a great addition to Oxford Street. Revitalizing the area, Oxford Street is renowned for its great atmosphere, dining, drinking and entertainment.

Already at least 4 businesses closed in the last 5 years (Cargo, former Casa Brasil, Prezzo or Chimichanga just to name a few)

This is a fresh idea for Oxford Street which will be great for the community.

The unique business plan will create new job opportunities and it will help the economy in the city.

The proposal will result in additional footfall.

The idea of implementing a rooftop bar as it brings a different atmosphere to the area. No business is currently doing this so it'd be a good look for the area.

This wouldn't be a massive concern when it comes to noise issues with neighbours because having a new terrace could mean that they'll be shutting as early as 10pm. Whereas most of the bars and restaurants have an alfresco dining which means they shut as late as 12-1AM which raises concerns when it comes to the local residents.

The Government are pushing businesses to utilise as much outdoor area as possible, the Roof Top Bar will be perfect for this and the future.

The application is within a 'NIGHT TIME ECONOMY ZONE', I don't understand why residents are complaining about Impact of Noise.

The plans show how it will be monitored as they will have security in place to control the people and venue and no music will be played.

Response

The support for the proposed roof top bar and terrace is noted. The application site is located within an area designated as an evening zone, however this designation also requires compliance with other policies including those that wish to protect neighbour amenity.

Comments in opposition

The proposal will reduce the quality of life of the large residential community in the Oxford Street area.

A roof bar will generate intrusive noise. The flats within 50 Oxford Street would be sandwiched between the two bars.

The rooftop bar will generate noise disturbance not only at the ground floor of Latimer and Oxford streets but also at a higher floor/level (Music, people chatting and screaming). This will most likely disturb more residents.

Response

This impact of the proposal on the amenity or neighbouring residential properties forms part of the material consideration for the application below.

Would the roof bar/terrace be run as an independent enterprise to the ground floor premises.

Response

The proposed roof top bar and terrace is proposed to be independent of the similar use on the lower floors of 50 Oxford Street.

There's a mismatch between the application, which requests a license until 11, and informal discussions during consultation with the new director, who indicated that the period between 10 and 2 was the most profitable part of operation under the previous regime.

Response

The proposal to be considered has a proposed closing time of 11pm. Should the application be successful this could be secured by condition. Any extension of these hours would then require a further application to amend the hours of opening. The granting of a premises license with different hours operation would not override/replace the planning condition.

Previous planning consents identified the roof space as an amenity for residents of the flats; a roof bar would be an unjustifiable loss of this designated communal area.

Response

Previous planning consents have secured a section of the southern side of the existing flat roof to serve as a communal amenity space for the residential units within 50 Oxford Street. There is no evidence to suggest that the area has ever been used for such a provision. It is also noted that the timber storage shed (consent 15/00351/FUL) is located in the area previously designated as amenity area.

There is already loud noise that can be heard from the existing bar when it is operating. This includes people arriving and leaving the premises up to 2am.

Response

Neighbour amenity forms part of the material considerations of the application below. However, it is important to note that the proposal is not an extension of the existing med bar, but an independent unit with a proposed closing time of 11pm.

They have identified bedroom and living room windows within Havelock Chambers as “staircase windows to neighbouring apartment block”. There will actually be a bedroom window within 3 metres of the proposed bar area. There will also be bedrooms and living rooms directly above the bar area.

Response

The points raised with regard to the proximity of windows serving habitable rooms within Havelock Chambers are noted. Neighbouring amenity forms part of the material considerations for the application below.

The proposal will invade the privacy of the clients of the Booth Centre

Response

The privacy amenity of the neighbouring residential properties forms part of the materials consideration of the application below. However, it is noted that the proposed bar structure does not contain any windows facing into the neighbouring Booth Centre. Planning conditions can be applied that prevents windows being inserted at a later date.

5.4 Consultation Responses

5.5 Cllr S Bogle

I object to the opening of a rooftop terrace bar due to impact of noise on neighbouring residents.

5.6 SCC Environmental Health Officer – Objection

It is not believed that there can be appropriate or sufficient mitigation of the noise likely to be produced from voices and bar activities including disposal of glass bottles. As a result neighbours, particularly residential, would be disturbed unduly.

Residential units lie immediately adjacent, opposite and in some cases above the application site. Even taking into account an earlier terminal hour for the terrace to the rest of the premises a roof terrace is not deemed appropriate in this location. Not only is noise a consideration, but also overlooking to adjacent properties.

Access to the terrace will be via use of a communal stair way shared with the residential accommodation on the second floor situated between the restaurant and the roof terrace. Whilst this accommodation is used by staff there may be minimal problem, but unless there is an existing condition stating that the accommodation only be used for staff this arrangement would be unacceptable to occupants of the second floor.

Cleaning and servicing of the terrace will need to be completed after closing or prior to opening thereby extending the period of use for the terrace. It is likely that the applicant will wish to play 'background music', but this would not be acceptable to Environmental Health. Any music will encourage raising of voices and hence an increase in the overall noise level. There is also the potential for the volume to be increased above a background level, i.e., that at which a conversation can be held without raising the voice, resulting in disturbance. The potential for noise disturbance/nuisance needs to be planned out rather than dealt with as an ongoing issue during permitted use of the terrace. Decorative planters and other miscellaneous items would need to be firmly secured to avoid them being displaced over the parapet.

5.7 Designing Out Crime (Police) Officer – Objection

The design and access statement advises that access to the roof top bar will be via the communal staircase. This staircase currently serves the residential apartments on the second floor. The effect of this development will be to allow members of the public unrestricted access to the communal areas of this building

during the bar's opening hours (currently proposed as midday to 11pm 7 days a week), this significantly increases the opportunities for crime and disorder. To reduce the opportunities for crime and disorder, access to the proposed roof top bar must be completely separate to that used by residents to access their apartments.

The premises is within a residential area. The proposal is to create a roof top bar. Roof top bars can lead to complaints of: items being thrown from the building and noise from the residents of other nearby dwellings. The proposal does not show how this type of incident is to be mitigated. We would be concerned if consent were given without any mitigation in place.

Given the above Hampshire Constabulary cannot support this application

5.8 **SCC Built Heritage – No Objection**

The revisions have reduced the length of the rooftop unit and have shifted the building and the glazing barrier south to create more of a gap between the new structure and the buildings edge, and in doing so, would reduce the impact on the neighbouring building and the buildings prominence in the views to the proposed structure from the streetscene below.

As such, although there may be issues with the use of the roof as a roof top bar in terms of access and noise, the physical characteristics of the proposals would be considered to have a neutral impact on the character and appearance of this part of this part of the conservation area and the neighbouring building, and for these reasons it would be difficult to sustain a refusal of the scheme from a conservation perspective on this occasion.

5.9 **SCC Urban Design – No objection**

I support and endorse the views expressed by the Conservation Officer

5.10 **City of Southampton Society – Objection**

We see no justification in omitting the installation of an extended extraction system which was included in the original application and on this basis would recommend that the application be declined. Many local residents have objected on the grounds of noise, especially late at night. We would now like to add our support to these residents and recommend that the application be refused on the grounds of 'The Impact of Noise' and 'Late night Disturbance'.

6.0 **Planning Consideration Key Issues**

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

- The principle of development;
- Design and effect on character and the setting;
- Residential amenity; and
- Late night uses and mitigation

6.2 **Principle of Development**

6.2.1 The application site is located within an area designated as an evening zone. Therefore Policy AP8 of the City Centre Action Plan applies. This policy actively

seeks to promote the night time economy within certain areas of the City. Policy AP8 permits an opening hour for such uses as that proposed of up to midnight with the Oxford Street area. The proposed opening hours are Midday to 11pm.

- 6.2.2 However, the presumption in favour of such development also relies on the proposal satisfying other policies, *'particularly those to protect residential amenity and retail areas'*. The creation of any new bars should not be to the detriment of the amenities of any neighbouring residential uses for example by causing undue noise and disturbance.
- 6.2.3 The proposal would also need comply with the requirements of saved policy REI7 of the Local Plan Review (as amended 2015). This policy relates to new food or drink uses. Whilst promoting such uses within the city the policy also seeks to protect the amenities of neighbouring residential uses from undue noise or other forms of nuisance from food and drink uses.
- 6.2.4 Furthermore, saved Policy SDP 1 of the City of Southampton Local Plan Review states, amongst other things, that planning permission will only be granted for development which does not unacceptably affect the health, safety and amenity of the city and its citizens.
- 6.2.5 Core Strategy Policy CS13 requires development to 'respond positively and integrate with its local surroundings' and 'impact positively on health, safety and amenity of the city and its citizens'.
- 6.2.6 Whilst the principle of the use and rooftop development with the conservation area can be supported, it is considered that the detailed proposals will result in harm to existing residential amenity and safety, which cannot be mitigated for the reasons set out later in this report.

6.3 Design and effect on character

- 6.3.1 Paragraph 124 of the National Planning Policy Framework confirms that good design is a key aspect of sustainable development and indivisible from good planning and paragraph. Paragraph 127 seeks to ensure that developments function well and add to the overall quality of an area and ensure a high-standard of amenity for existing and future users. It leads onto say that development should be *'sympathetic to local character and history, including the surrounding built environment and landscape setting'*.
- 6.3.2 The application site is located with the Oxford Street Conservation Area. Directly to the west of the application site is the Booth Centre (a locally listed building).
- 6.3.3 The statutory tests for the proposal, as set out in section 72 (Conservation Areas) of the Planning (Listed Building and Conservation Areas) Act 1990, are: whether the proposal would preserve or enhance the character or appearance of the Conservation Area. The NPPF requires the proposal to be assessed in terms of the impact on the significance of the building having regard to:
- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and;
- The desirability of new development making a positive contribution to local character and distinctiveness.

- 6.3.4 In accordance with para 189 of the NPPF, an assessment of the significance of the nearby heritage assets is set out in the Council's Conservation Area Appraisal. With respect to the Oxford Street Conservation Area Appraisal (OSCAA) the main aim is as follows; 'Designation of the Oxford Street Conservation Area does not prevent change from taking place. Rather it helps to manage change in a way that enhances the area, and ensures that new development does not harm, overwhelm or destroy the special qualities found within it, by giving additional controls over the demolition of buildings, minor developments and the loss of trees.'
- 6.3.5 Policy HE1 of the City of Southampton Local Plan Review states permission will only be granted if the proposal meets the following; (i) must preserve or enhance the character and appearance of the conservation area, having regard to the Conservation Area Character Appraisal where available;
- 6.3.6 The existing property is a modern building of limited architectural merit. It contributes very little to the significance of the Conservation Area as a heritage asset. The new timber clad unit would be sited on the western side of the roof and it would be set-in from the property edges. It would also be similar in design and appearance to the existing timber-clad unit already located on the roof top. On this basis the proposed materials do not give rise to any concern, however appropriate materials can be secured by condition if the application were successful.
- 6.3.7 During the consideration of the application the position of the north elevation of the bar has been set back a greater distance from the existing north and west parapet walls. This amendment reduces the prominence of the additional structure when viewed from the public realm within Oxford Street below. It also allows views to be retained of the upper level windows on the eastern face of the adjacent locally listed building The Booth Centre, which is recognised as a distinctive building in the conservation area with a strong design style, palette of materials, and high gabled roofscape.
- 6.3.8 Limited detail has been provided with regard to the proposed glass balustrades. Whilst these features are not likely to be considered intrusive an appropriate design would need to be secured. Such design details could be secured by a planning condition in order to ensure that the units would be fully transparent and non-reflective.
- 6.3.9 The roof terrace could also be expected to require external lighting. No details of any external lighting are included as part of the proposal. However, a lighting scheme could be secured by condition. Any advertising or signage would be the subject of a separate planning application.
- 6.3.10 As stated above the proposal is located within an evening zone. As such similar sui generis uses are present within the vicinity. However, such uses are predominately located at street level rather than the upper floors or rooftops. Policy

AP8 of the core strategy does permit such uses within this area up to an opening time of midnight. It does not restrict such uses to the ground floor only. However, the policy does seek to preserve the amenity of neighbouring occupiers that will be discussed later in this report.

6.3.11 As such, the revised design, with a greater set back from the Oxford Street elevation is considered appropriate, retaining views of the neighbouring locally listed building, and subject to planning conditions preserving the character of the Oxford Street Conservation Area.

6.4 Residential amenity

6.4.1 The neighbouring properties to the application site (Havelock Chambers and the Booth Centre) contain residential accommodation on the upper floors. The existing building is also mixed use with some residential.

6.4.2 Policy AP8 relates to evening zones and late night hubs. This site falls within that zone. The policy AP8 identifies evening zones which contain a concentration of existing pubs, bars and nightclubs but are generally either within or close to residential areas. Proposals for new uses with Oxford Street which require planning permission, and are otherwise acceptable, will be subject to restricted opening times of midnight. While Policy AP8 encourages new uses associated with the night time economy within these evening zones it does state that *'this is subject to meeting other policies, particularly those to protect residential amenity and retail areas'*

6.4.3 Policy RE17 relates to a number of uses including Food and Drink uses including restaurants, public houses, and wine bars. The policy does advise that such uses *'have their place in the community and can add to vitality of shopping centres.'* But the policy also advises that *'there is the potential for significant nuisance that warrants the refusal of permission. The potential for noise from the premises is cited as one of those reasons.'*

6.4.4 In this instance the proposed bar will be located in an elevated position on the rooftop of 50 Oxford Street. This is a location that departs significantly from existing food and drink uses which are located on the lower floors of Oxford Street. Aside from comprising of available space, there is no specific justification for requiring an upper floor location for this use, especially where there is identifiable harm.

6.4.5 Criteria II of policy RE17 states that *'any adverse impact on the amenities of neighbouring residential premises by reason of noise and disturbance within the premises can be prevented by the installation of sound attenuation measures by appropriate conditions'*. It is noted that the bar structure has been positioned between the residential accommodation of the Booth Centre and the customer terrace. Given the open nature of this terrace and the proximity of neighbouring residential accommodation there is significant concern that the proposal would result in a level of noise and disturbance that would be considered detrimental to the amenities of the occupiers of those residential units and those of the neighbouring residential properties to the south within Havelock Chambers. In addition the open nature of the roof terrace there is limited opportunity for sound attenuation measures to be secured by condition to overcome those concerns.

Neighbouring residential units to the next to and above would not be screened from the noise and disturbance from the bar and roof terrace.

- 6.4.6 Furthermore, the proposed bar will be accessed via a communal staircase. This staircase will be shared by the occupants of the flats at 50 Oxford Street and the patrons of the roof terrace. This staircase would also be the only route available to the roof top for deliveries and transporting of waste to the ground floor level. It is noted that the proposal advises that door staff and security will be present on site to manage these areas, It is also noted that additional doors are to be sited adjacent to the stairwell to act as a further physical barrier, and to mitigate noise disruption. However the proposal will require patrons to access the roof terrace via a shared internal staircase which is likely to result in an increase in noise and disturbance to the occupiers of the existing residential units within 50 Oxford Street. This would result in undue and significant harm to the amenities of the existing occupiers of the neighbouring residential properties.
- 6.4.7 With regard to the privacy amenity of the neighbouring occupiers given the bar area does not contain any openings on the west elevation, and screens views from the customer terrace the proposal is not considered to result in any harmful overlooking into the Booth Centre.
- 6.4.8 Whilst there are windows serving habitable accommodation on the north elevation of Havelock Chambers it is noted that previous consents have designated this area adjacent to Havelock Chambers and appropriate for use as a residential amenity area. Given the separation provided by the highways of Latimer Street and Oxford Street the proposal is not considered to result in any materially harmful overlooking to the properties to the north, east or south.
- 6.4.9 Due to the proposals shared access with the existing residential properties of 50 Oxford Street and the elevated position, and relatively open nature of the roof top bar and customer terrace, the proposal is considered to be to the detriment to the amenities of neighbouring properties by reason of noise, and disturbance caused as patrons enter leave the premises and make use of the roof terrace. Objections are also noted from SCC Environmental Health and Hampshire Constabulary, which should be afforded significant weight in the Panel's deliberations. The proposal would thereby prove contrary to and conflict with 'saved' policies SDP1, SDP16 and REI7 of the City of Southampton Local Plan Review (amended 2015) as supported by Policy AP8 of the adopted City Centre Action Plan (2015) and the guidance contained within the National Planning Policy Framework 2019.

6.5 Late Night Community Safety Facilities Obligation

- 6.5.1 As this application sits within the city centre and is opening past 10pm it triggers the Late Night Community Safety Facilities obligation, which will likely attract a financial contribution to contribute to community safety measures, such as Late Night Bus, CCTV, street cleansing etc.
- 6.5.2 In order to secure these monies a Section 106 Agreement (S106) is required, which will include the above obligation, a private CCTV System obligation and a Highway Condition Survey obligation. (It is also important to note that the applicant is liable for the Council's legal fees in relation to the S106 and also the S106 Monitoring Charge).

6.5.3 Whilst the applicant has verbally indicated that they may be willing to reduce the opening hours to 10pm this has not been confirmed in writing following requests. Furthermore No s106 agreement has been secured as part of the proposal. The lack of 106 Agreement forms a reason for refusal.

7. Summary

7.1 In terms of its scale, siting and visual appearance the proposed bar structure is considered to be acceptable. Similarly, the principle of additional late night uses in Oxford Street is supported. However, due to the proximity of the neighbouring habitable accommodation of Havelock Chambers and the Booth Centre, alongside existing residential on site, and the open nature of the proposed roof terrace, the proposal will be to the detriment of the amenity of those properties through the increase in noise and disturbance .

7.2 Furthermore, although it is noted that occupants of the flats beneath 50 Oxford Street have written in support of the proposal, the design of the shared access via the communal staircase is not appropriate and is likely to result in noise and disturbance to the occupiers of those residential properties (both now and subsequent occupants) and patrons enter and exit the premises. It is also noted that the Designing Out Crime (Police) Officer considers the communal stairwell to give rise to potential crime and disorder.

7.3 A section 106 Agreement for the Late Night Community Safety Facilities obligation has not been secured, but could be in the event of a refusal and subsequent appeal

8. Conclusion

8.1 It is recommended that planning permission be refused.

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) (e) (f) (g) 4. (g) (mm) 6. (a) (b)

MT for 22/06/21 PROW Panel

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS1 City Centre Approach
CS3 Promoting Successful Places
CS13 Fundamentals of Design
CS14 Historic Environment
CS25 The Delivery of Infrastructure and Developer Contribution

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

SDP1 Quality of Development
SDP4 Development Access
SDP10 Safety & Security
SDP11 Accessibility & Movement
SDP16 Noise
HE1 New Development in Conservation Areas
HE2 Demolition in Conservation Areas
HE4 Local List
REI7 Food and Drink Uses (Classes A3, A4 and A5)

City Centre Action Plan - March 2015

AP 8 The Night time economy
AP 16 Design

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)
Planning Obligations (Adopted - September 2013)

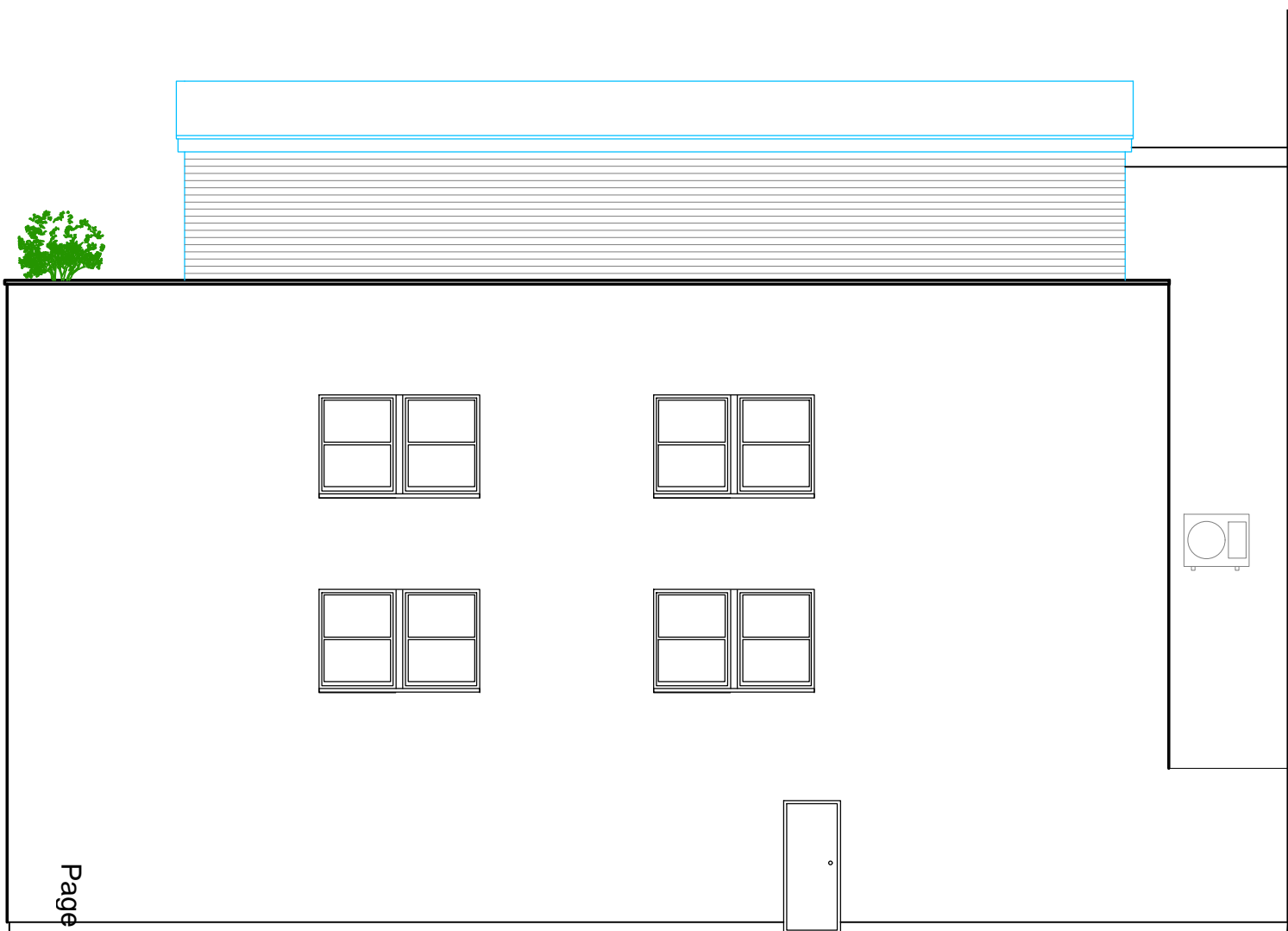
Other Relevant Guidance

The National Planning Policy Framework (2019)
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

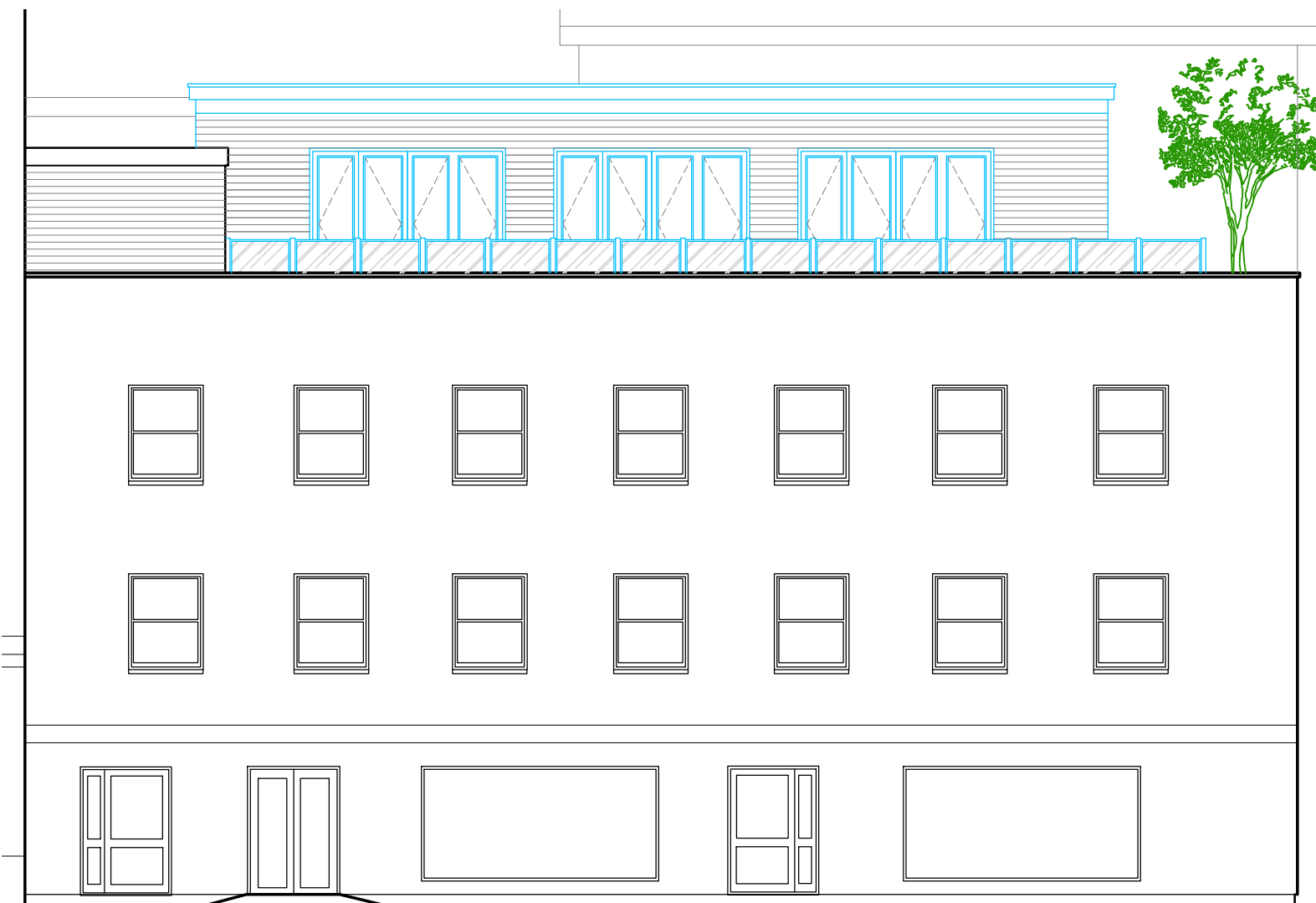
Relevant Planning History

Case Ref:	Proposal:	Decision:	Date:
99/01219/FUL	Change of use of ground floor to A3 (restaurant), external alterations and provision of 7.5m high extract flue.	Application Refused	04.01.2000
990118/E	Change of use of ground floor from offices to Retail (class a1)	Conditionally Approved	17.05.1999
03/01460/FUL	Redevelopment of the site by the erection of a 7 storey building comprising of restaurant (Use Class A3) at ground and basement levels with 9 no. residential units above.	Conditionally Approved	26.07.2004
03/01464/CAC	Demolition of existing office building.	Conditionally Approved	24.02.2005
05/00021/FUL	Erection of a seven storey building to comprise a restaurant/bar (A3 Use Class) at ground and first floor levels with 7 x 2 bedroom flats above, following the demolition of existing office building	Conditionally Approved	05.10.2005
05/00022/CAC	Demolition of the existing three storey office building	Conditionally Approved	05.10.2005
06/00859/FUL	Erection of a seven-storey building to provide Restaurant and Cafe and Drinking Establishment uses (Use Class A3 and A4) at ground and first floor level with 13 flats above (2 studios, 9 x one bedroom flats, 2 x two bedroom flats) following demolition of the existing office building.	Conditionally Approved	06.09.2006
11/01022/FUL	Change of use of ground floor and part of first floor to create restaurant (Class A3/A4) and conversion of part of first floor and second floor to 4 x one bed flats with residential roof	Conditionally Approved	11.10.2011

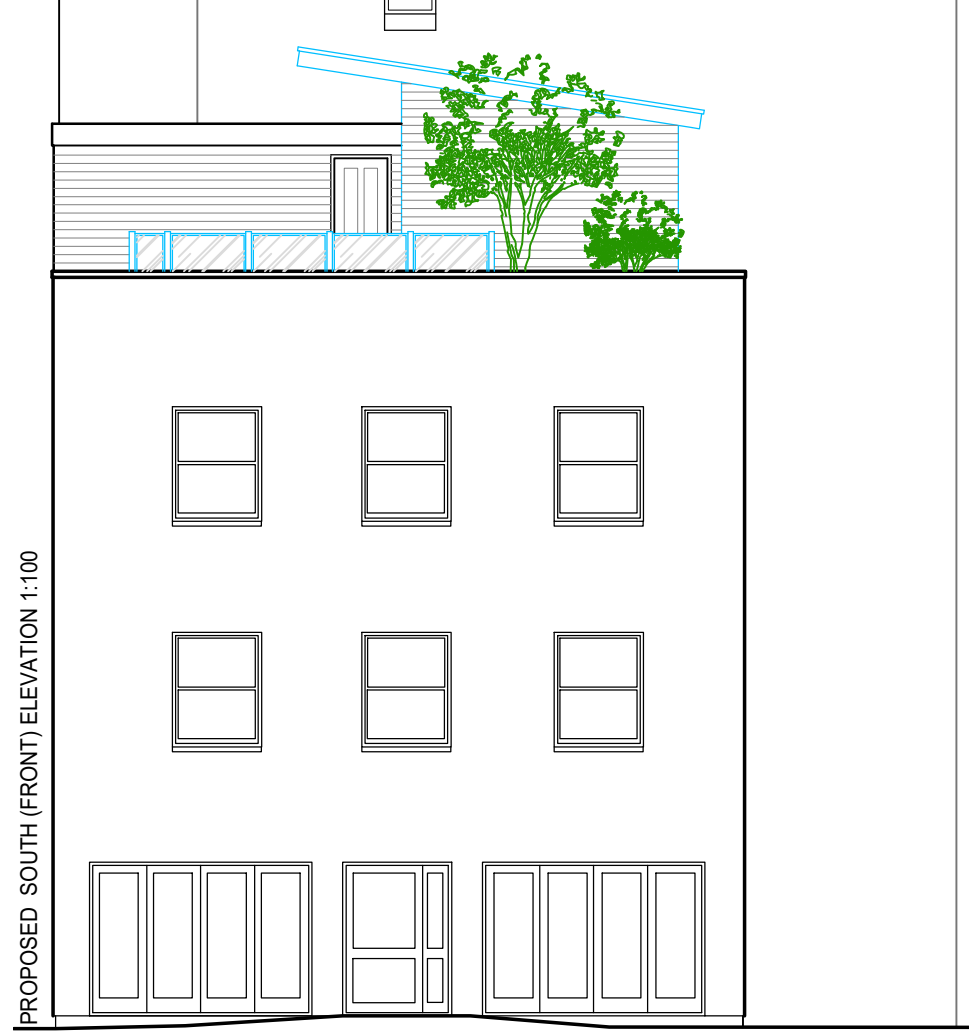
	terrace and associated storage		
13/00410/MMA	Minor material amendment sought to planning permission ref 11/01022/FUL to reduce the number of residential units from 4x 1-bed to 3x 1-bed flats	Conditionally Approved	05.08.2013
13/00724/ADV	Installation of 2 x internally illuminated fascia signs, 1 x externally illuminated projecting sign and 4 x internally illuminated menu/poster cases.	Split Decision for Advert	27.06.2013
13/01286/ADV	Installation of 2 x externally-illuminated fascia signs	Conditionally Approved	18.09.2013
15/00351/FUL	Erection of timber storage shed and entrance feature on roof terrace (retrospective)	Conditionally Approved	28.08.2015
16/00625/ADV	Erection Of 1 X Internally Illuminated Fascia Signs And 2 Non-Illuminated Banner Signs	Conditionally Approved	24.06.2016



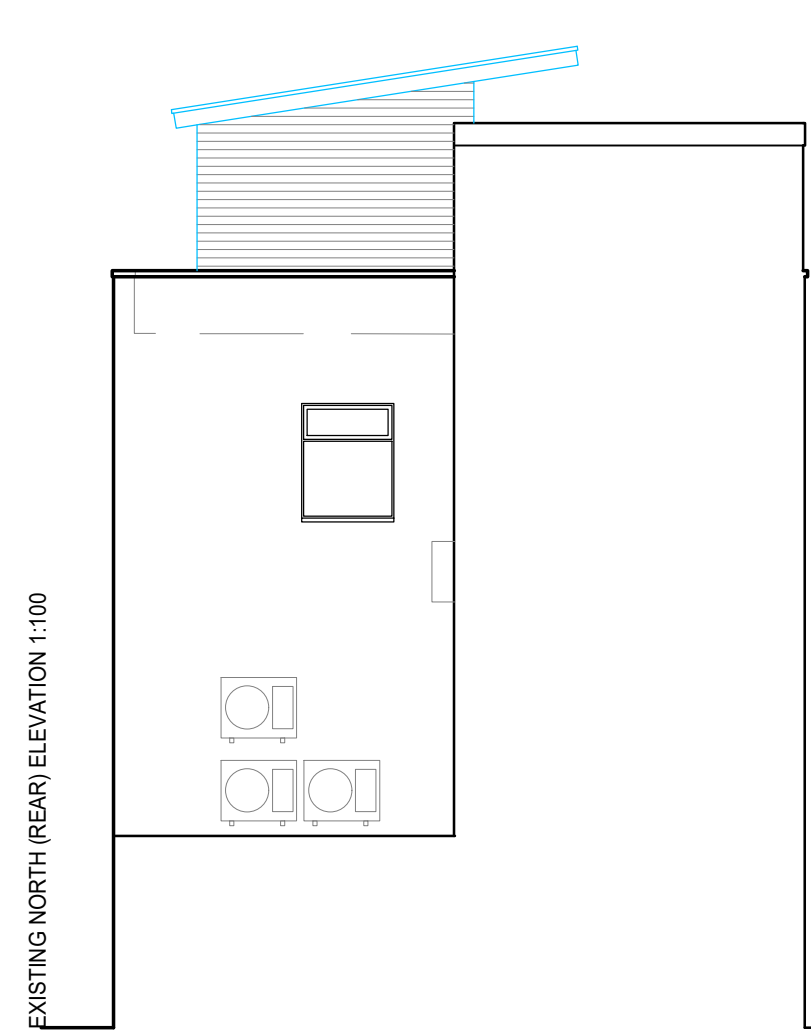
PROPOSED WEST (SIDE) ELEVATION 1:100



PROPOSED EAST (SIDE) ELEVATION 1:100



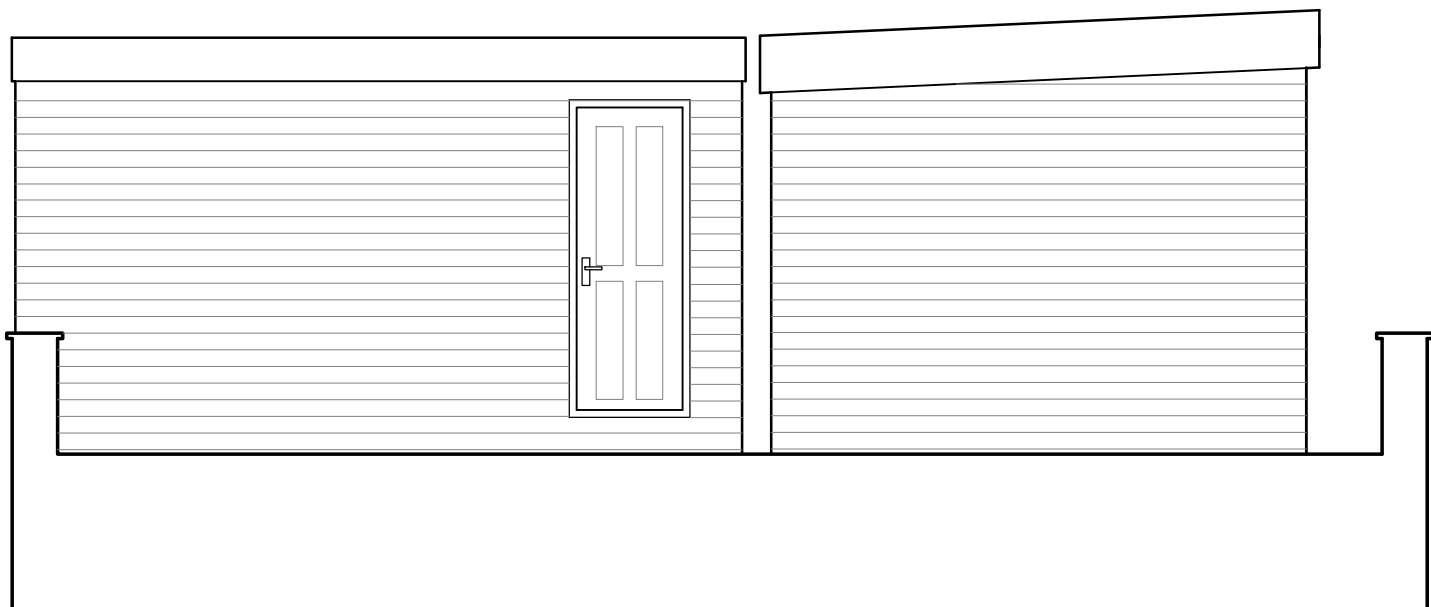
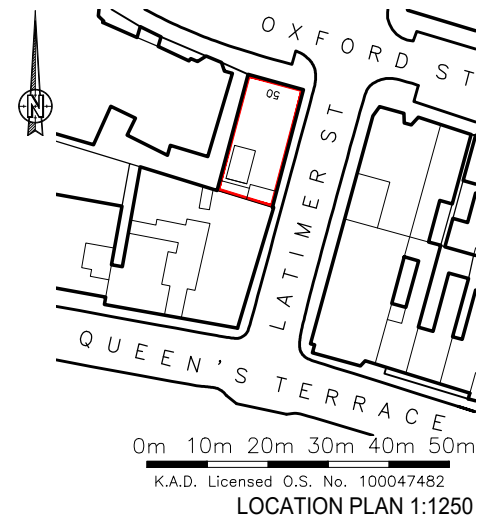
PROPOSED SOUTH (FRONT) ELEVATION 1:100



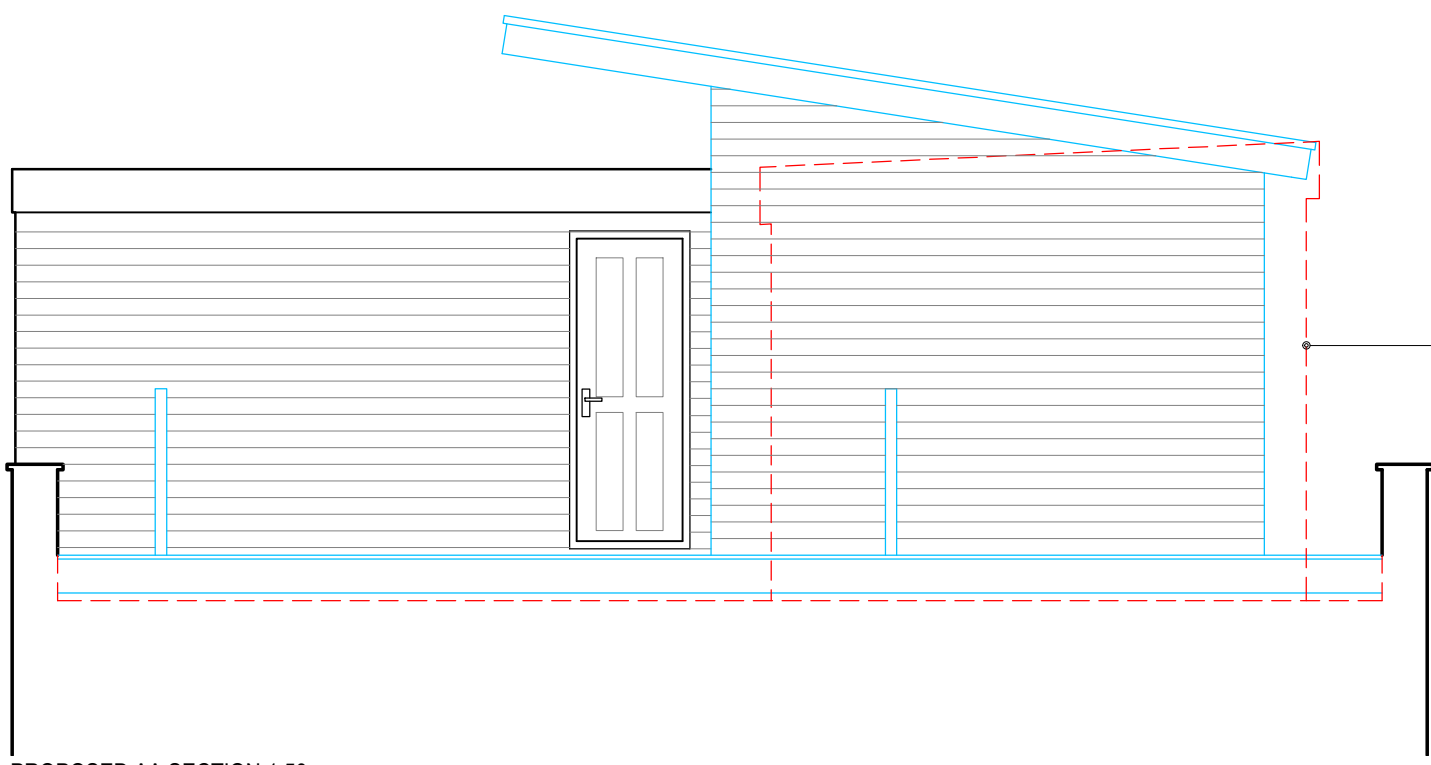
EXISTING NORTH (REAR) ELEVATION 1:100



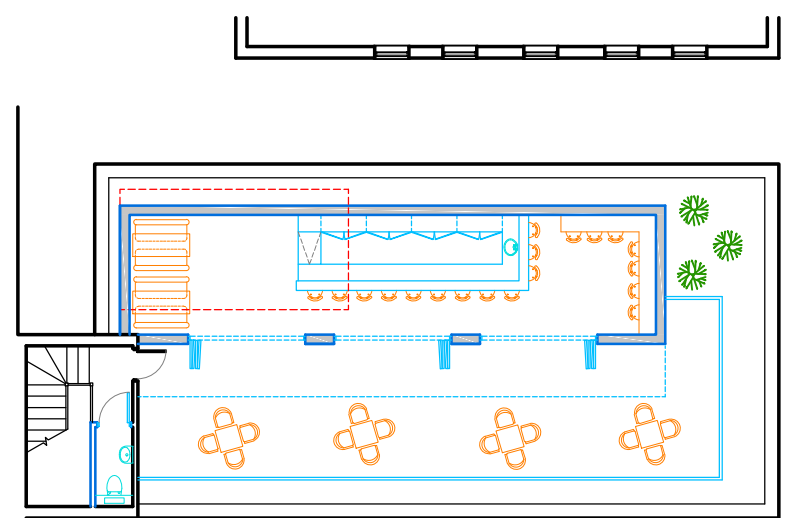
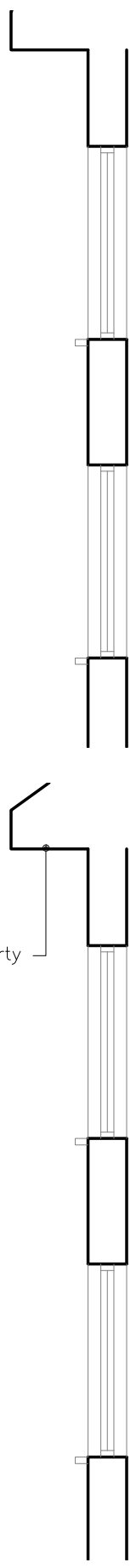
Rev	Revision	By	Date
<p>KAD NIGHT ARCHITECTURAL DESIGN</p> <p><small>K.A.D. Ltd Unit 7 First Floor The Quarterdeck Floor Slant PO6 4TP M: 07801 346479 T: 01489 660194 E: ian@k-a-d.co.uk W: www.k-a-d.co.uk</small></p>			
Client			
MR F. PANJ			
Project			
50 OXFORD STREET SOUTHAMPTON			
Drawing			
PROPOSED ELEVATIONS			
Scale		Date	
1:100@A3		MAR 2021	
Project no.	Sequential	Bldg/Floor	Detail
KAD	03	A	PP
		Rev	
		C	



EXISTING AA SECTION 1:50



PROPOSED AA SECTION 1:50



PROPOSED ROOF TOP 1:200

--- FORMER BUILDING AND FLOOR LEVEL

Rev	Revision	By	Date
<p>KNIGHT AARCHITECTURAL DESIGN</p> <p><small>K.A.D. Ltd Unit 7 First Floor The Quarterdeck Floor 4TP M: 07801 346479 T: 01489 660194 E: ian@k-a-d.co.uk W: www.k-a-d.co.uk</small></p>			
Client MR F. PANJ			
Project 50 OXFORD STREET SOUTHAMPTON			
Drawing EXISTING AND PROPOSED SECTIONS			
Scale 1:50@A3		Date MAR 2021	
Project no.	Sequential	Bldg/Floor	Detail
KAD	04	A	EX/PP
			Rev
			C



Schedule 12
Part A
Premises Licence

Regulation 33,34

Premises licence number 2022/00588/01SPRM

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description,

Kuti's Brasserie
39 Oxford Street
Southampton
SO14 3DP

Telephone number

Where the licence is time limited the dates
Not applicable

Licensable activities authorised by the licence
Recorded music
Provision of late night refreshment
Supply by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Recorded music	
Monday	10:00 - 00:30
Tuesday	10:00 - 00:30
Wednesday	10:00 - 00:30
Thursday	10:00 - 00:30
Friday	10:00 - 00:30
Saturday	10:00 - 00:30
Sunday	12:00 - 00:00
Provision of late night refreshment	
Monday	23:00 - 00:30
Tuesday	23:00 - 00:30
Wednesday	23:00 - 00:30
Thursday	23:00 - 00:30
Friday	23:00 - 00:30
Saturday	23:00 - 00:30
Sunday	23:00 - 00:00
Supply by retail of alcohol	
Monday	10:00 - 00:00
Tuesday	10:00 - 00:00
Wednesday	10:00 - 00:00
Thursday	10:00 - 00:00
Friday	10:00 - 00:00
Saturday	10:00 - 00:00
Sunday	12:00 - 23:30

The opening hours of the premises

Monday 10:00 - 00:30
Tuesday 10:00 - 00:30
Wednesday 10:00 - 00:30
Thursday 10:00 - 00:30
Friday 10:00 - 00:30
Saturday 10:00 - 00:30
Sunday 12:00 - 00:00

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Jafari Commercial Ltd.
130 Bournemouth Road
Chandler's Ford
Eastleigh
Hampshire
SO53 3AL

[Redacted]

Registered number of holder, for example company number, charity number (where applicable)

12696902

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Craig Alastair John Williams

[Redacted]

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number: 2018/03302/02SPEN
Licensing Authority: Southampton City Council

This premises licence is issued by Southampton City Council as licensing authority under part 3 of the Licensing Act 2003 and regulations made thereunder

Dated this 8th day of March 2022;

[Redacted Signature]

Licensing Manager

Southampton & Eastleigh Licensing Partnership
Civic Centre
Southampton
SO14 7LY

Annex 1 – Mandatory Conditions

- 1 No supply of alcohol shall be made under the premises licence:
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor for the premises does not hold a personal licence or his personal licence is suspended.
- 2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
- 4
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 5 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 6 The responsible person must ensure that
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Annex 2 – Conditions consistent with the operating Schedule

1 Alcohol may be sold or supplied:

- (1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10:00 to 00:00
- (2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12:00 to 23:30
- (3) On Christmas Day: 12:00 to 23:30;
- (4) On New Year's Eve, except on a Sunday, 10:00. to 00:00
- (5) On New Year's Eve on a Sunday, 12:00 to 23:30.
- (6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

The above restrictions do not prohibit:

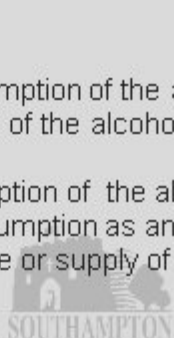
- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the premises;

2 EMBEDDED CONDITIONS FROM CHILDREN AND YOUNG PERSONS ACT 1933

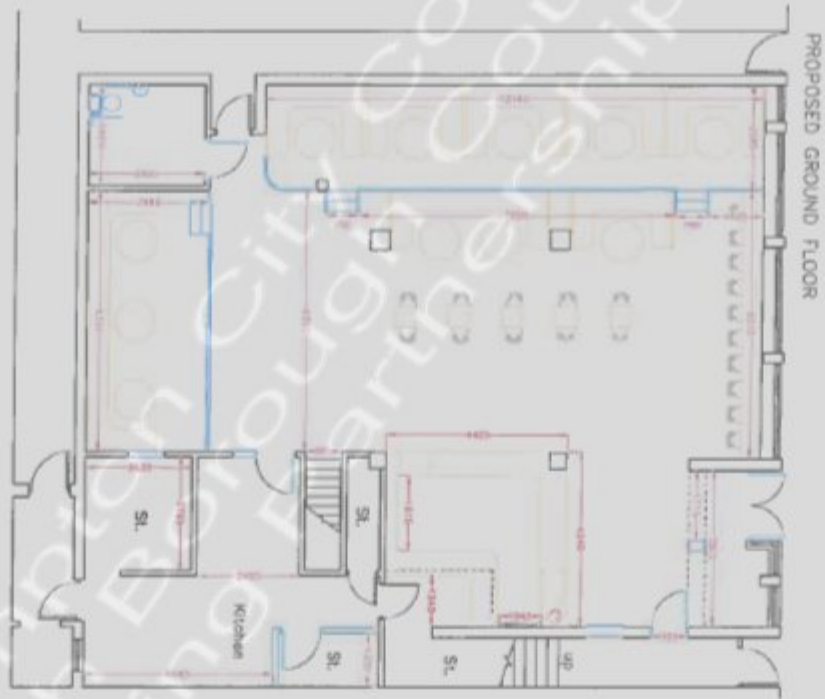
It is a condition of your licence that you comply with the extant provisions of the Children and Young Persons Act 1933, as amended.

Annex 3 – Conditions attached after a hearing by the licensing authority

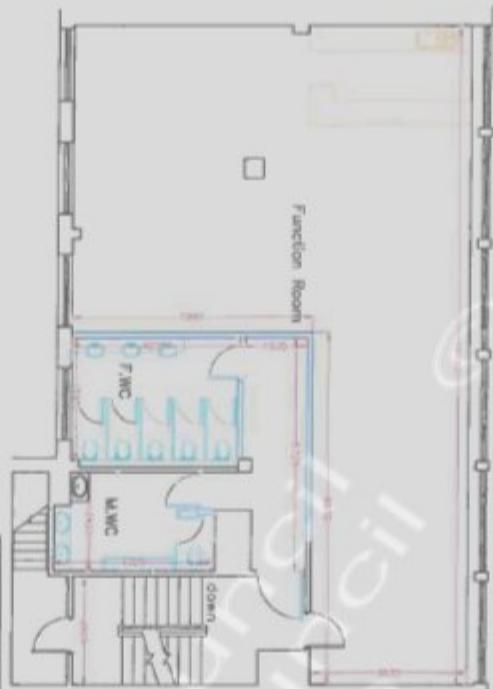
1 None



Annex 4 – Plans



PROPOSED GROUND FLOOR



PROPOSED FIRST FLOOR

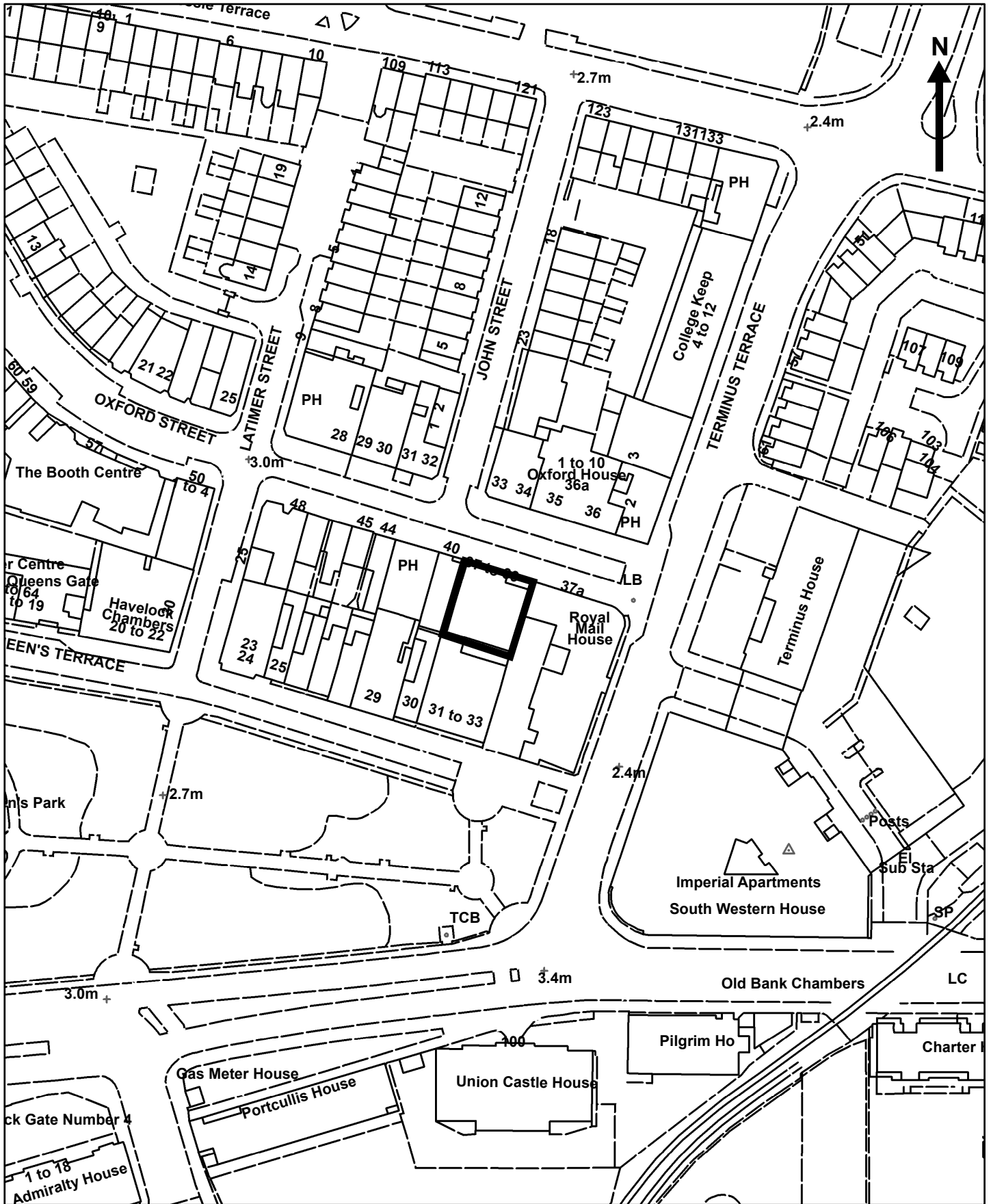
		ADDITIONAL INFORMATION: 1. THIS DRAWING IS THE PROPERTY OF KAD 2. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED 3. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF KAD.	
DRAWN BY: FRED PANU			
PROJECT: 37-39 OXFORD STREET, SOUTHAMPTON, SO14 5DP			
TITLE: PROPOSED GROUND & FIRST			
DATE: 1-11-2022		DATE: JAN 2022	
CONTACT: 1-1100@KAD			
NO.	REVISION	DATE	BY
KAD	03	A	PGF
			B

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Agenda Item 5 22/00761/FUL

Appendix 3



Scale: 1:1,250

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Planning and Rights of Way Panel 2nd August 2022
Planning Application Report of the Head of Green City & Infrastructure

Application address: Land adjacent 187 - 195 and 207 - 234 Kingsclere Avenue, Southampton			
Proposed development: Change of use of open space and verge to 22 parking spaces facilitated by Grassblock paving (departure from local plan)			
Application number:	22/00721/R3CFL	Application type:	FUL
Case officer:	Rob Sims	Public speaking time:	5 minutes
Last date for determination:	28.06.2022	Ward:	Woolston
Reason for Panel Referral:	Departure from the Development Plan and three or more letters of objection have been received	Ward Councillors:	Cllr R Stead Cllr S Blatchford Cllr W Payne
Applicant: Southampton City Council		Agent: Balfour Beatty	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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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 39-42 and 46 of the National Planning Policy Framework (2021).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

Conditionally approve

1.	<u>The site and its context</u>
1.1	The application site comprises of three separate parcels of land located along Kingsclere Avenue. The first site (Site 1) comprises of rectangular parcel of land outside 187-195 Kingsclere Avenue, which lies on the junction with Crookham Road and Kingsclere Avenue. The second site (Site 2) lies outside properties 207-215 Kingsclere Avenue towards a bend in the road. The third site (Site 3) makes use of open space on an existing parking area outside 208-234 Kingsclere Avenue, opposite the second site.
1.2	The site has been identified as part of the Council's 1000 car parking spaces project. The area has been highlighted for having extensive car parking issues and poor quality open space.
2.	<u>Proposal</u>
2.1	Planning permission is sought to redevelop the parcels of land to form 22 car new parking spaces, with infrastructure for electric vehicle charging. Site 1 would create 6 parking spaces with a dropped kerb provided to the south on to Kingsclere Avenue. Site 2 would create 7 parking spaces on to Kingsclere Avenue. Site 3 would create 9 parking spaces. The proposed plans would use grassblock for the surfacing, rather than tarmac, enabling grass to grow through. New kerbs will be installed between the carriageway and the footpath and additional landscaping is proposed.
3.	<u>Relevant Planning Policy</u>
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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at Appendix 1 .
3.2	The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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.	<u>Relevant Planning History</u>
4.1	A schedule of the relevant planning history for the site is set out in Appendix 2 of this report.
5.	<u>Consultation Responses and Notification Representations</u>
5.1	Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying

	<p>adjoining and nearby landowners, placing a press advertisement 27th May 2022 and erecting a site notice 10th May 2022. At the time of writing the report 4 representations have been received from surrounding residents. The following is a summary of the points raised:</p>							
5.2	<p>There are 14 Houses in this location and 15 spaces in the existing 2 car parks serving the area. In addition to this, over half of the houses have their own driveways. We DO NOT need an expansion in carparking spaces of this magnitude in this area. The plans would work much better if the spaces backed into Crookham Road or Kingsclere then we would still have access to our drives & there would be additional spaces. Currently only one house would benefit from these plans</p> <p><u>Response</u> In terms of need, the schemes have been identified via consultation with officers and councillors. Then as part of site visits by the Council's highways partner, Balfour, they have identified areas where additional parking can be added and also identified areas where people are already parking on the verges. This is one of those sites.</p>							
5.3	<p>This is a busy corner, with low visibility for drivers and pedestrians and already a safety hazard. this especially when school has finished for the day and the area is an abundance with school children waiting for the bus / lifts.</p> <p><u>Response</u> Impact on parking and highway safety will be addressed in Section 6 below</p>							
5.4	<p>This is fairly-well maintained, the grass is in good condition and there are very rarely cars parked on the grass.</p> <p><u>Response</u> Impact on the character and appearance of the area will be addressed in Section 6 below</p>							
	<p><u>Consultation Responses</u></p>							
5.4	<table border="1"> <thead> <tr> <th colspan="2">Consultee</th> <th>Comments</th> </tr> </thead> <tbody> <tr> <td>Lindsay Ecology</td> <td>McCulloch -</td> <td> <p>The proposed development will result in the permanent loss of the amenity grassland and compensation in the form of improvements to other areas of verge or amenity grassland should be provided.</p> <p>The frequency of vehicle movements is likely to prevent grass from growing within the grass block and it cannot therefore be considered to provide adequate mitigation for the loss of the grassland. Instead, I would</p> </td> </tr> </tbody> </table>	Consultee		Comments	Lindsay Ecology	McCulloch -	<p>The proposed development will result in the permanent loss of the amenity grassland and compensation in the form of improvements to other areas of verge or amenity grassland should be provided.</p> <p>The frequency of vehicle movements is likely to prevent grass from growing within the grass block and it cannot therefore be considered to provide adequate mitigation for the loss of the grassland. Instead, I would</p>	
Consultee		Comments						
Lindsay Ecology	McCulloch -	<p>The proposed development will result in the permanent loss of the amenity grassland and compensation in the form of improvements to other areas of verge or amenity grassland should be provided.</p> <p>The frequency of vehicle movements is likely to prevent grass from growing within the grass block and it cannot therefore be considered to provide adequate mitigation for the loss of the grassland. Instead, I would</p>						

		<p>expect to see the introduction of an equivalent area of wildflower grassland and rain gardens elsewhere in the locality. This would also deliver biodiversity enhancements which are required under policy CS22 Promoting Biodiversity and Protecting Habitats.</p> <p>If planning permission is granted, I would like a condition to secure an Ecological Mitigation Statement (Pre-Commencement)</p> <p><u>Applicant response 07/07/2022</u> <i>As previously agreed the Project will work in parallel with the ecologist to look at the overall net loss of green space across the entire Estates Parking scheme. We will then look at areas where wild flower meadows can be planted covering an equivalent area to mitigate against any loss and aim to provide a net gain in biodiversity. Just to confirm this relates to the following schemes:</i></p> <ul style="list-style-type: none"> - <i>Bramshott Road</i> - <i>Foxcott Close</i> - <i>Kingsclere Avenue</i> - <i>Leckford Close</i> - <i>Vanguard Road</i>
Highways Development Management		<p>Area 3 (east of Kingsclere Road - x9 spaces) - There are no highway safety concerns with adding spaces to the existing layout. However, there does appear to be a lack of an assessment on the need for new parking spaces on the eastern side of Kingsclere Ave. I count 14 properties at this site. There are already 15 parking spaces provided on this side, with 5/6 properties also benefiting from off road private driveways.</p> <p>Area 2 (west of Kingsclere Road - x7 spaces) - This location is on a bend in the carriageway opposite a bus stop. However, visibility is clear for vehicles approaching from the south on the side of the carriageway where the spaces are proposed. There is also clearance space between the carriageway and the spaces to allow for emerging vehicles to be visible before exiting on the carriageway.</p>

		<p>Area 1 (jct with Crookham Road x6 spaces) - Space is available on site for vehicles to reverse and exit the parking spaces in a forward gear. Despite being close to the junction, visibility is clear on approach from the south to see vehicles emerging from the proposed spaces, and for vehicles emerging to see oncoming traffic along the carriageway.</p> <p>In summary, no major concerns or objections, but an assessment of the need for the 9x spaces in Area 1 (east of Kingsclere Road) would be welcome. Has there been any parking surveys to determine excess parking in this area, that the new spaces are designed to address?</p> <p>Applicant Response: <i>With regards to the comments around parking surveys the schemes have been identified via consultation with officers and Councillors. Then as part of site visits by Balfour they have identified areas where additional parking can be added and also identified areas where people are already parking on the verges.</i></p>
	Trees & Open Spaces	<p>The proposal has no impact to trees; therefore, I have no objection on arboricultural grounds.</p> <p>Currently the area is just an open grassed area with no distinct features, therefore as part of the design I would request that tree planting be included as part of the proposal to soften the design.</p>
	Archaeology	<p>The application site is in Local Area of Archaeological Potential 16 (The Rest of Southampton), as defined in the Southampton Local Plan and Core Strategy. LAAP 16 covers parts of the city defined as an area of archaeological potential about which little is known at present. For this site, this is due to a lack of formal archaeological fieldwork in the immediate area.</p> <p>Late 19th and early 20th century historic maps show the application site within fields</p>

		<p>that were part of Weston Park, attached to the Weston Grove Estate, located between Weston Lane and Westwood. The maps do not show any quarries. The housing estate was built after WWII. No archaeological work took place during construction of the estate. The application site consists of grassed areas that may not have been disturbed during construction works, in which case any archaeological remains could survive well, if present.</p> <p>Archaeological remains, if present on the site, would be non-designated heritage assets under the National Planning Policy Framework. (Further information about the archaeological potential/heritage assets of the area is available on the Southampton Historic Environment Record.)</p> <p>PROPOSED DEVELOPMENT & ARCHAEOLOGICAL MITIGATION</p> <p>The proposed development involves the construction of grass block car parking. According to the plans, this will involve excavation of up to a depth of 273mm (for grass blocks), with deeper holes for kerbs. There will also be some landscaping.</p> <p>The excavation for the grass blocks is relatively shallow. However, any potential archaeological deposits may lie fairly close to the surface here, below topsoil. The proposal would threaten to damage those deposits. An archaeological investigation will be needed to mitigate this damage, to take the form of a watching brief on the groundworks with provision to excavate if archaeological deposits are uncovered.</p> <p>If planning consent is granted for the site, I recommend conditions be attached</p>
6.0	<u>Planning Consideration Key Issues</u>	
6.1	<p>The key considerations in the determination of this planning application are:</p> <ul style="list-style-type: none"> - The principle of development; - Design and effect on character 	

	<ul style="list-style-type: none"> - Residential amenity - Parking highways and transport; and; - Mitigation of direct local impacts - Planning Balance / Summary
6.2	<u>Principle of Development</u>
6.2.1	<p>Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (section 38 (6) of the Planning and Compulsory Purchase Act 2004). The development plan for the area is the City of Southampton Local Plan Review (2015), and the Local Development Framework Core Strategy Development Plan Document (2015). The National Planning Policy Framework (NPPF) constitutes national policy to which the Local Planning Authority (LPA) must have regard. The NPPF does not change the statutory status of the development plan as the starting point for decision making but is a material consideration in any determination.</p>
6.2.2	<p>Policy CS21 (Protecting and Enhancing Open Space) of the adopted Core Strategy states that:</p> <p><i>The Council will <u>retain the quantity</u> and improve the quality and accessibility of the city's diverse and multi – functional open spaces and help deliver new open space both within and beyond the city to meet the needs of all age groups through:</i></p> <ol style="list-style-type: none"> 1. <i>Protecting and enhancing key open spaces including Southampton Common, central, district and local parks;</i> 2. <i>Replacing or reconfiguring other open spaces in order to achieve wider community benefits such as improving the quality of open space, or providing a more even distribution across the city;</i> 3. <i>Safeguarding and, when opportunities arise, extending the green grid (see Policy 22);</i> 4. <i>Seeking developer contributions to provide high quality, accessible open spaces</i> <p>The proposals to provide 22 parking spaces would be directly contrary to the aims of Policy CS21 as they result in the loss of open space and does not deliver new open space. A further Planning balance is then needed.</p>
6.2.3	<p>In accordance with section 38 (6) development proposals that are considered to be in conflict with the Development Plan should be refused, unless material considerations outweigh the perceived conflict. In this instance the proposals seek to deliver off road parking spaces for existing residents in order to address the current issues with on road and verge parking. These spaces aim to provide relief to those issues. In addition, the applicant has stated their intention to replant wildflower areas, provide additional landscaping around the site, as shown on the landscaping plan as well as other parts of the estate in order to improve the quality of open spaces and to provide the infrastructure</p>

	for electric vehicle charging. These 'benefits' amount to a material consideration, which seek to outweigh the conflict with the Policy CS21 and will be considered within the Planning Balance/Mitigation section below.
6.3	<u>Design and effect on character</u>
6.3.1	The area comprises of a mixture of two storey terraced and semi dwellings. The site area is split into three separate locations – one area at the junction with Kingsclere Avenue and Crookham Road; the second area is located further north on the western corner of Kingsclere Avenue as it turns 90 degrees west; and the third area is located on the eastern side of the bend which would back on to and face existing parking spaces outside of No. 214-234 Kingsclere Avenue.
6.3.2	Immediately outside of these sites are limited laybys and on street parking. The open space around the dwellings provides pockets of open space that help to soften the appearance of the existing street scene. The proposals would develop these grass areas that lies outside of these dwellings and would provide dedicated parking bays. These changes would change the character of the area from open space to a formal parking area and would also result in the loss of visual amenity through developing on a existing open space. This loss of open space has sought to be overcome through enhanced landscaping around on the retained open space around the parking areas. Site 1 in particular has been used for informal parking, which has churned up the open space outside the properties. Furthermore with site 2 and 3 there is evidence of cars parking over this open space in an informal manner. The formal parking proposed under this scheme is considered to represent an improvement to this unsightly issue, albeit it would reduced the size of the open space area. The loss of visual amenity will be considered below against the perceived benefits of the application as a whole.
6.4	<u>Residential amenity</u>
6.4.1	In general, there are both positive and negative impacts on residential amenity. In terms of the positives, resident's amenity is currently affected visually and practically by antisocial parking, which causes harms to the open space and grass verges/open space and indiscriminate parking behaviour. The introduction of the proposed plans would prevent further damage from being made by providing more spaces which would reduce inappropriate parking behaviour. They are designed to avoid blocking driveways and existing dropped kerbs. In addition, the spaces would provide dedicated and safer (unallocated) parking spaces for existing residents, which is a benefit to residential amenity.
6.4.2	Any increase from noise and disturbance from the use of the bays would be short lived through the use of the parking bays and would not result in significant harm to neighbour amenity. Therefore, whilst the neighbours would experience some loss of amenity, this impact would not be significant or justify

	a reason for refusal, especially when considering the material benefits of the proposals. As such, the residential amenity is concluded to be acceptable, and the improvements outweigh the minor loss of amenity for some residents.
6.5	<u>Parking highways and transport</u>
6.5.1	The proposal provides parking in an area identified with existing parking issues. The provision of off-road parking spaces, would represent an improvement to existing highway conditions as the road does not benefit from a Traffic Regulation Order. The layout of the car parking area and its spaces meets the standards set out in the Parking Standards SPD and provides suitable access width and clear sight lines either side of the entrance/exit, which would ensure there would be minimal conflict with other vehicles and pedestrians. On this basis Highways officers do not object to the proposed plans.
6.5.2	The proposals also represent an opportunity to provide the infrastructure for electric vehicle charging for each space. Provision for this infrastructure will be safeguarded through the size and depth of the parking bays and will be secured through conditions.
6.6	<u>Mitigation of direct local impacts</u>
6.6.1	In order compensate for the loss of open space and associated impact on Biodiversity, the applicant has agreed with the Biodiversity Team that this scheme, and others coming forward, will contribute towards the implementation of a wildflower planting around the verges of the site and wider area as well as additional landscaping directly around all three sites, as shown on the submitted landscape plan. This will ensure that the scheme mitigates against the loss of habitat from this particular area and provides an overall enhancement to the quality of biodiversity habitat across the wider area, and provides further tree planting. This mitigation will be secured through a suitably worded planning condition.
6.6.2	In terms of flood prevention, the proposals result in the loss of grass, which currently offers a permeable area for the drainage of surface water. The current policy position in respect of flood risk is that new development should seek to replicate the current greenfield rates. The proposals would use a grasscrete base for the parking areas, which comprises of concrete grids, allowing surface water to seep through the grid into the soil below. The type of grasscrete to be used demonstrates that the surface water run off would replicate 90% of greenfield run off rates, which would be supplemented with a 'type 3 subbase' would enable surface water to infiltrate into the ground without creating additional surface run off. Whilst the Council's Flood Risk Team have not commented on the application, this is an acceptable type of surfacing to absorb excess surface water and has been accepted by the Council on other sites. On this basis the proposed details are appropriate, and

	a condition will be imposed securing the development in line with these agreed details.
7.	<u>Summary</u>
7.1	The loss of open space / amenity land is directly contrary to Policy CS21 of the adopted Core Strategy, and is therefore in conflict with the Development Plan. However, the application to provide residents with additional off road parking spaces for residents would deliver a number of benefits to the local area which constitute notable material considerations, which together, outweigh the conflict with the development plan, including the loss of visual amenity and minor loss of amenity to neighbouring residents. These include the provision of off-site parking spaces to address current issues with verge parking and on road congestion. In addition the application would deliver landscape and biodiversity improvements, and specific infrastructure for EV charging. On this basis these material benefits are considered to outweigh the conflict with the Development Plan and the application can be supported in the round.
8.	<u>Conclusion</u>
8.1	It is recommended that planning permission be granted subject to conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

Case Officer **Rob Sims** PROW Panel 02/08/2022

PLANNING CONDITIONS:

1. Full permission timing (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 (Performance)

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. Materials as specified and to match (Performance Condition)

The materials and finishes to be used for the grassblock, hardstanding and drainage goods in the construction of the development hereby permitted, shall be as specified on the approved plans. Where there are no materials specified on the approved plans, the materials shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those in the existing street scene.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

4. No lighting (Performance condition)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2021 as amended or any Order amending, revoking or re-enacting that Order, at no time shall lighting of any type be added without separate planning permission or the relevant licenses ahead of undertaking a permitted development change. No lighting infrastructure shall be added as part of this scheme.

Reason: In order that the Local Planning Authority may exercise further control in this locality given the specific circumstances of the application site and in the interests of the comprehensive development with regard to the amenities of the surrounding area.

5. 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.

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

6. Electric Vehicle Spaces

Prior to the development hereby approved first coming into use provision of infrastructure for the installation of charging facilities for electric vehicles shall be provided in accordance with the details hereby approved.

Reason: In the interest of reducing emissions from private vehicles and improving the city's air quality.

7. Landscape and Ecological Mitigation Implementation

The development shall be carried in accordance with the approved Soft Landscaping Plan, drawing number SCC/CS/LP04, dated 29/06/2022, received 13/07/2022. The agreed mitigation measures shall be thereafter retained as approved.

Reason: To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity and in the interests of visual amenity.

8. Parking (Performance)

The parking and access shall be provided in accordance with the plans hereby approved before the development first comes into occupation/use and thereafter retained as approved for the lifetime of the development.

Reason: To prevent obstruction to traffic in neighbouring roads and in the interests of highway safety.

9. Surface Water Drainage

The surface drainage details, grasscrete and sub-base shown on approved drawing 21/AH/M/002/700/01 REV E, received 18/05/2022, shall be installed in accordance with the agreed details and thereafter maintained in perpetuity.

Reason: To ensure satisfactory drainage provision for the area.

10. Archaeological watching brief investigation [Pre-Commencement Condition]

No ground disturbance shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.

Reason: To ensure that the archaeological investigation is initiated at an appropriate point in development procedure.

11. Archaeological watching brief work programme [Performance Condition]

The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.

Reason: To ensure that the archaeological investigation is completed.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS21	Protecting and Enhancing Open Space
CS22	Promoting Biodiversity and Protecting Habitats
CS23	Flood Risk

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

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP13	Resource Conservation
SDP14	Renewable Energy
SDP15	Air Quality
SDP16	Noise
SDP17	Lighting

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)
Planning Obligations (Adopted - September 2013)
Parking Standards SPD (September 2011)

Other Relevant Guidance

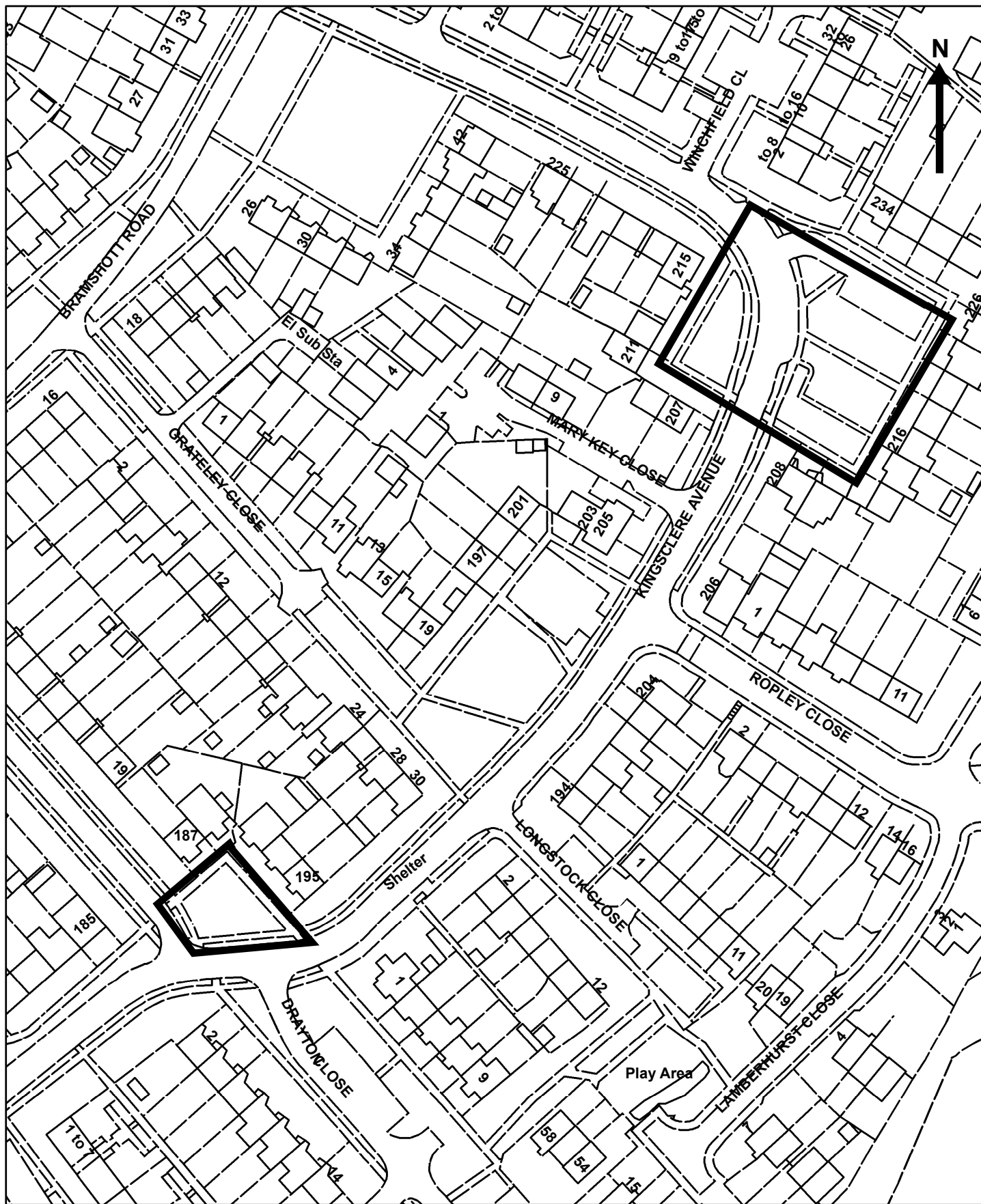
The National Planning Policy Framework (2021)

Relevant Planning History

Case Ref	Proposal	Decision	Date
1014/GGGG/187	DETAILED LAYOUT	Grant	24.03.1953

Agenda Item 6
22/00721/R3CFL

Appendix



Scale: 1:1,250

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Planning and Rights of Way Panel 2nd August 2022
Planning Application Report of the Head of Green City and Infrastructure

Application address: 59 Burgess Road, Southampton			
Proposed development: Retention of "As Built" rear Retaining Wall and erection of additional fencing to the rear boundary treatment			
Application number:	22/00399/FUL	Application type:	FUL
Case officer:	Rob Sims	Public speaking time:	5 minutes
Last date for determination:	10.05.2022	Ward:	Bassett
Reason for Panel Referral:	Five or more letters of objection have been received and referral by Cllr Hannides	Ward Councillors:	Cllr L Harris Cllr R Blackman Cllr J Hannides
Referred to Panel by:	Cllr Hannides	Reason:	In light of the unsafe, unstable and unsightly wall already in situ, it is evident the concerns expressed to the Planning (and enforcement) Officers to date, have substance and I support their requests for this application to be rejected.
Applicant: Mr & Mrs Akbar		Agent: Toldfield Architects Ltd	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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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 39-42 and 46 of the National Planning Policy Framework (2019). Policy – CS13 and CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP5, SDP7, SDP9, SDP21 and SDP23 of the City of Southampton Local Plan Review (Amended 2015). Policies – BAS1 and BAS4 of the Bassett Neighbourhood Development Plan (2016), as supported by the relevant guidance set out in the Residential Design Guide SPD (2006) and Parking Standards SPD (2011).

Appendix attached

1	Development Plan Policies	2	Relevant Planning History
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Recommendation in Full

Conditionally approve

1. The site and its context

1.1 The application site contains a semi-detached, two storey family dwelling house. The property is located in a residential area with predominantly detached and semi-detached dwelling houses and a suburban character that is located just north of the northern end of Southampton Common. A change of level occurs with neighbours to the north meaning that this land sits on lower ground.

2. Proposal

2.1 Extensions and alterations to the dwelling were considered at Planning Panel in November 2019 under application 19/01530/FUL, which approved the ‘Erection of a part single storey, part first floor rear extension and 2.4m high retaining wall.’ The extensions to the dwelling have not been implemented and amendments to those alterations are the subject of another application being considered by the Planning Panel under application 22/00531/FUL.

2.2 The retaining wall approved under 19/01530/FUL was varied under application 20/00631/FUL to revise the drainage strategy. As the wall has been built with the revised drainage scheme, this permission is considered to be extant. However, the wall has not been built in accordance with the approved plans for permission 20/00631/FUL and this has led to significant local anxiety and a live planning enforcement case. This application seeks approval for the retention of the ‘as built’ retaining wall, as well as the erection of additional 1.5m high fencing to the rear boundary.

2.3 Over recent months the retaining wall has been added to, and there is currently additional fencing that does not benefit from planning permission. The unauthorised fencing in situ is not part of this application, and the recommendation seeks to secure its removal leading to a possible breach of condition if this is not undertaken.

3. 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) and the City Centre Action Plan (adopted 2015). Policies BAS1 and BAS4 of the Bassett Neighbourhood Development Plan (2016), as supported by the relevant guidance set out in the Residential Design Guide SPD (2006), are also material to this case. The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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. Relevant Planning History

- 4.1 A schedule of the relevant planning history for the site is set out in **Appendix 2** of this report. The most relevant planning history is the previously mentioned full application (20/00631/FUL) approved on the 5th November 2020 by the Planning and Rights of Way Panel. The wall has not been constructed fully in accordance with the approved plans hence the need for this new application to assess the as built development.

5. 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 by erecting a site notice on 15/04/2022. At the time of writing the report **8 representations** have been received from surrounding residents. The following is a summary of the points raised:
- 5.2 The applicant has appropriated land belonging to someone else. It is clearly shown on Land Registry plans. The submission of the certificate confirms that the applicant acknowledges that they have built significantly beyond their boundary line with neither consent from us nor with planning consent for that.

Response

In order to clarify concerns with regards to encroachment, officers requested that a Land Registry Plan was overlayed on the ‘as built’ plans in order to ascertain whether the retaining wall was built within the confines of the applicants legal boundary. Whilst it is understood that there is disagreement on land ownership issues, the plans show that the wall encroaches over the land registry boundary. Having established encroachment, appropriate Notice was served under Article 13 of the Town and Country Planning (Development Management Procedure

Order) 2015 by the applicant on the owner of the land. The applicant has therefore discharged their duty in respect of the validation of this application. This does not mean that the Planning Department endorse the action of the applicant, but means that the application is valid and can be assessed.

- 5.3 The development have not been built in accordance with previously approved plans:
1. The foundations for the retaining wall are inadequate and not as instructed.
 2. There are no reinforcement bars. This seriously compromises the strength of the wall and therefore risks land slippage to the rear of the property. This would affect retaining walls to side of my house.
 3. Concrete infill was specified. This has not happened.
 4. There is no backfill in place. This has already caused flooding to neighbouring properties.
 5. The drainage holes aren't as described in plans.

Response

The above points are noted. It is the combination of the above points as well as the deviation from the approved plans that has necessitated the submission of this revised application. The current drawings reflect what has been built (with the exception of the additional unauthorised fencing).

- 5.4 The fence on the top of the very rough block wall is shown to you as 1.5 metres. It is a total eyesore, visible from my property and clearly much higher. Again this is misleading and inaccurate.

Response

The impact of the additional fence on neighbour and visual amenity will be considered below

- 5.5 Concerned looking at the plans there is mention of making the garden building bigger. Development was turned down for building in the garden, it was changed to a garden building which now is to be made bigger? I already have a view of a large orange sail type structure that spoils my view.

Response

The 'solar glass house' building shown on the proposed plans is not for consideration under this application. No elevational details of this building have been provided, however it is likely that permitted development rights for this building would be utilised and therefore no planning permission would be required.

- 5.6 Why has the Council allowed the receipt of a retrospective planning application? During construction of the wall, the applicant's failed to comply with amenable working hours and undertook noisy operations

Response

This application seeks to regularise the 'as built' retaining wall which

has not been built in accordance with the approved plans. Concerns regarding working hour breaches are noted, however the wall has now been built and no further building works would take place to the wall if this application is approved.

- 5.7 There does not appear to be any new engineering calculations submitted with the application to substantiate that the revised specification is in any way adequate for the task, and the empirical and photographic evidence would suggest that the wall was not even built to the reduced specification detailed in this retrospective application. We were greatly concerned that the required proprietary shoring system was never employed and consequently there was great risk to those working on the wall and to the stability of the garden at ASL.

Response

This application seeks to regularise the ‘as built’ retaining wall which has not been built in accordance with the approved plans. A retaining wall does not require Building Regulations approved and the stability of the wall is unlikely to be investigated by our Building Control team as a dangerous structure unless they represent a risk to the public. As the wall is located in the rear garden of a private residence, the risk to the public would be minimised. Issues with the strength of the wall and shoring up the rear boundary are therefore civil matters between the applicant and the neighbouring properties.

Consultation Responses

5.4

Consultee	Comments
Old Bassett Residents Association	<p>Summarised:</p> <p>The plans of the “as built” development submitted in this application are demonstrably false. In no way do they accurately represent the actual, “as built” development. In no way do they conform to the structural calculations referenced in the plans.</p> <p>The size of the built footings plate is not as claimed on the plans, and required by the structural calculations referenced in the plans, but, at best, half that size.</p> <p>The rebar reinforcement pattern is not as stated on the plans, or as required by the structural calculations referenced in the plans, there is no continuity between footings and upstand.</p> <p>The rebar reinforcement number / spacing is not as required by the structural calculations referenced in the plans. It is, at best, 2/3 the required amount (even if it was tied together, which it is not).</p>

The grade of concrete required by the structural calculations referenced in the plans has not been used.

The width of the concrete backfill on the stated plans and required by the structural calculations referenced in the plans has not been used.

The volume of the intended backfill area providing soakaway drainage is not as stated on the plans.

The compacted porous backfill stated on the plans, and required by the applicant's drainage consultant has not been used.

The number of weepholes installed in the wall is not as stated on the plans and required by the applicant's drainage consultant. The result of the above is appallingly-shoddy, cost-cutting construction that has resulted in a retaining wall which is vastly weaker than is required by the structural calculations referenced in the plans.

The failure to implement the drainage system approved under 20-00631-FUL has caused significant flooding issues on neighbouring properties with significant, ongoing adverse effects on resident amenity.

Beyond this:

The boundary claimed by the applicant on the submitted plans does not represent the actual boundary shown on Land Registry Title Plans (the arbiter of this matter), it extends beyond the curtilage.

The built development has been built beyond the boundary shown in the submitted plans, extending further beyond the curtilage

The quality of this boundary is utterly terrible

Concreting the entire front garden and diverting surface run off to a foul sewer is contrary to building regulations and the adopted residential design guide.

Throughout this development there has been a complete failure to comply with the site working conditions submitted by the applicant: frequent (sometimes daily) bonfires to dispose of concrete bags and pallets, working all hours, weekends and bank holidays (even in the middle of the night to erect fencing on a neighbour's land).

	<p>We note that certain pieces of text on the submitted plans have been redacted by council. We have the pre redaction version which we will not repeat here but will have no hesitation in informing Panel about (this application having already been called in) as it speaks volumes about the accuracy and honesty of the entire submitted documents</p>
Cllr John Hannides	<p>Residents, including The Old Bassett Residents Association, have raised serious concern about the nature of what has occurred in relation to the erection of a boundary wall at 59 Burgess Road.</p> <p>In light of the unsafe, unstable and unsightly wall already in situ, it is evident the concerns expressed to the Planning (and enforcement) Officers to date, have substance and I support their requests for this application to be rejected.</p> <p>In the event you are minded to approve this application, I request it is referred to the Planning Panel for determination.</p>
Sustainability (Flood Risk)	No comments from Flood Risk Management
Southern Water	<p>Southern Water have no objection to the above proposal.</p> <p>Please see the attached extract from Southern Water records showing the approximate position of our existing foul sewers within the development site.</p> <ul style="list-style-type: none"> - The gravity foul sewers requires a clearance of 3 metres on either side of the gravity sewer to protect it from construction works and to allow for future maintenance access. - No new development or tree planting should be carried out within 3 metres of the external edge of the public gravity sewer without consent from Southern Water. - No soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of public or adoptable gravity sewers. - All existing infrastructure should be protected during the course of construction works. <p>Please refer to: southernwater.co.uk/media/3011/stand-off-distances.pdf</p> <p>It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.</p>

Land Stability John Simpkins	I have reviewed the application as requested. I do not have any comments.

6.0 Planning Consideration Key Issues

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

1. Development on Neighbouring Land
2. Design and effect on character;
3. Residential amenity;
4. Other Matters

6.2 Development on Neighbouring Land

6.2.1 Following the approval of the original application 19/01530/FUL in 2019 for the retaining wall and extensions, the construction of the retaining wall has been a source of neighbour complaints and understandable anxiety.

6.2.2 In particular, concerns were raised that the wall had been constructed on third party land. It is understood that there is an ongoing boundary dispute between the applicants and their neighbours, which is a private matter to resolve using landowner rights. On the two previous applications, the applicant has maintained that the wall has been built on their own land therefore the correct planning procedures had been followed. Now that the wall has been built (incorrectly) this has resulted in the need for it to be regularised under this application.

6.2.3 The Council can determine whether the correct process under the Development Management Procedure Order (DMPO) 2015 has been followed. Officers requested the applicant provided an overlay of the land registry plan against the position of the as built wall. This has shown that the wall falls (partly) outside of the lines shown on the land registry plan. Whilst there can be inaccuracies with land registry plans, officers sought Legal advice to ascertain whether the applicant should 'serve notice' on the owners of the land which has been deemed to be encroached. The advice was that a notice should be served under Articles 13 and 14 of the DMPO 2015 and 21 days should be given for comment. This notice was served on 23rd June 2022 and one comment from the affected neighbour has been received and documented in this report. As such the Panel is being asked to consider a valid application and whether or not the wall sits on the applicant's land is a matter for the landowners to resolve, and the Panel are free to make a decision.

6.2.2 Land ownership is not a material planning consideration. The only requirement is that the applicant serve notice and sign the appropriate certificate as set out in articles 13 and 14 of the DMPO. Whilst it appears that part of the retaining wall has been built on third party land and has understandably been raised significant concern by neighbouring properties, this would not constitute a reason to refuse the planning application. Reasons for refusal must identify material harm; and encroachment on to neighbouring land would not constitute material planning harm in this instance. Therefore, the key considerations of this application are the impacts of the as built wall on the character and appearance of the area and neighbour amenity.

6.3 Design and effect on character

6.3.1 The retaining wall to the rear of the site is not visible from the public road, but is visible from neighbouring properties. The wall at 2.4m is constructed of blockwork with a course of coping stones to the top edge. The boundary wall is typical of the boundary treatments within the area and whilst being higher at 2.4m than the standard 2.0m high boundaries – permissible as ‘permitted development’ - would not result in a development out of keeping or harmful to the character of the area. The addition of 1.5m fencing on top of the north eastern boundary wall is proposed to replace an existing unauthorised orange screen (which is not supported). Whilst the fencing would be added to the existing 2.4m high wall and 1.8m high fence and create a high boundary screen on this boundary, this being located to the rear of the site and the rear of neighbouring gardens would not result in significant impacts on the visual amenity of the area. On this basis the retention of the retaining wall and additional fencing is considered to be acceptable in this instance.

6.4 Residential amenity

6.4.1 The retaining wall is positioned along the rear boundary of the application site and the rear boundaries of neighbouring properties at Burgess Gardens and Pointout Close. The retained wall measures 2.4m in height, which was approved under the previous applications. The north eastern corner of the wall would encroach over neighbouring land however it would not result in direct loss of light or outlook from this neighbouring land or from neighbouring properties due to 45m distance between the wall and the rear elevations of the Pointout Close properties. Whilst additional screening at 1.5m high is proposed on top of the 2.4m high wall and 1.8m fence along this boundary, the distance of this boundary from neighbouring properties would not result in any loss of light or outlook or overbearing impacts to neighbouring gardens. There is a shed located at the rear of No. 27 Pointout Close which would block views of the additional fencing. Therefore it is not considered that the retention of the wall and additional fencing would result in significant loss of neighbour amenity in terms of loss of light and outlook and overbearing impacts. Therefore, there is no significant loss of neighbour amenity resulting from the retention of the wall and the approval of replacement fencing in this location. The recommendation seeks to secure the removal of the unauthorised fence

as part of these works.

6.5 Other Matters

- 6.5.1 The Old Bassett Residents Association make reference to a number of other points which require a response as following:

Structural Stability of the Wall

Third parties and the Residents Association have been rightly vocal during the course of the build and the associated applications that the wall has not been built with the required rebars, toe and heel downstand and, therefore, suggest that it does not have the required structural support. When designing the wall, the applicants obtained recommendations from a structural engineer and this design was incorporated in the planning application to show the external dimensions and appearance of the wall. Planning considerations are primarily related to the external appearance of the wall as opposed to scrutinising the appropriateness of the structural calculations and structural integrity of the wall. Structural calculations would usually be subject to Building Regulations approval, however a retaining wall does not require such approval in this instance. Building Control colleagues do sometimes investigate 'dangerous structures' however in this instance there is no visible sign that the wall would collapse or represent a risk to the public. Therefore the liability for strength of the wall and associated risks lies with the applicant and any dispute in this regard is a civil matter between the applicant and third parties.

Drainage Strategy

Concerns have been raised by third parties that the drainage strategy for the wall has been undermined by the as built retaining wall, which doesn't comply with the previously agreed strategy. The drainage strategy for the wall is to use 'weep holes' which would combine with permeable material at the back of the wall to allow water to permeate and seep through the weep holes. This strategy has largely been implemented albeit the as built wall has weep holes at 1.3m apart as opposed to 1.0m originally recommended. Further clarification from the applicant's Drainage Consultant has been obtained, which has confirmed that this minor deviation would not affect the drainage strategy or affect surface water dispersal. On this basis this minor deviation is considered to be acceptable.

Porous Surfacing and Surface Water Drainage – front of property

Permeable block paving was originally approved on plan number 19062-TA-P-A-P08 Revision A Site Plan 26.09.2019 under application 19/01530/FUL. However this was not included on the list of approved plans carried forward in planning permission 20/00631/FUL, therefore the Council cannot insist on that block paving being provided. In any case the existing hardstanding is concrete and the proposed plans show a concrete surface to be retained. Therefore planning permission is not required to retain this existing concrete treatment

for the driveway.

7. Summary

7.1 Notwithstanding that the 'as built' retaining wall appears to have been partially constructed on third party land, the wall itself and additional boundary fencing does not cause harm to the amenity of neighbouring residents and the design of the extensions and retaining wall would not appear out of character with the host dwelling. On this basis there are no clear planning grounds to refuse this application as no significant harm can be identified in regards to its design or impact on neighbour amenity.

8. Conclusion

8.1 It is recommended that planning permission be granted subject to conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

Case Officer **Rob Sims** PROW Panel 02.08.2022

PLANNING CONDITIONS to include:

01. Approved Plans

The development hereby shall be maintained in accordance with the approved plans listed in the schedule attached below.

Reason: For the avoidance of doubt and in the interests of proper planning.

02. Unauthorised fencing

Within one month from the date of this decision, the unauthorised orange screen located on the northern boundary with No. 27 Pointout Close shall be taken down and removed from the site.

Reason: In the interests of neighbour and visual amenity.

Note to Applicant:

This planning permission does not convey the right for the development to encroach over, under or on land, which is not within your ownership, without the consent of the landowner.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design

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

SDP1 Quality of Development

SDP5 Parking

SDP7 Urban Design Context

SDP9 Scale, Massing & Appearance

Bassett Neighbourhood Development Plan – (Adopted 2016)

BAS1 New Development

BAS4 Character and Design

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Parking Standards SPD (September 2011)

Bassett Neighbourhood Plan (July 2016)

Other Relevant Guidance

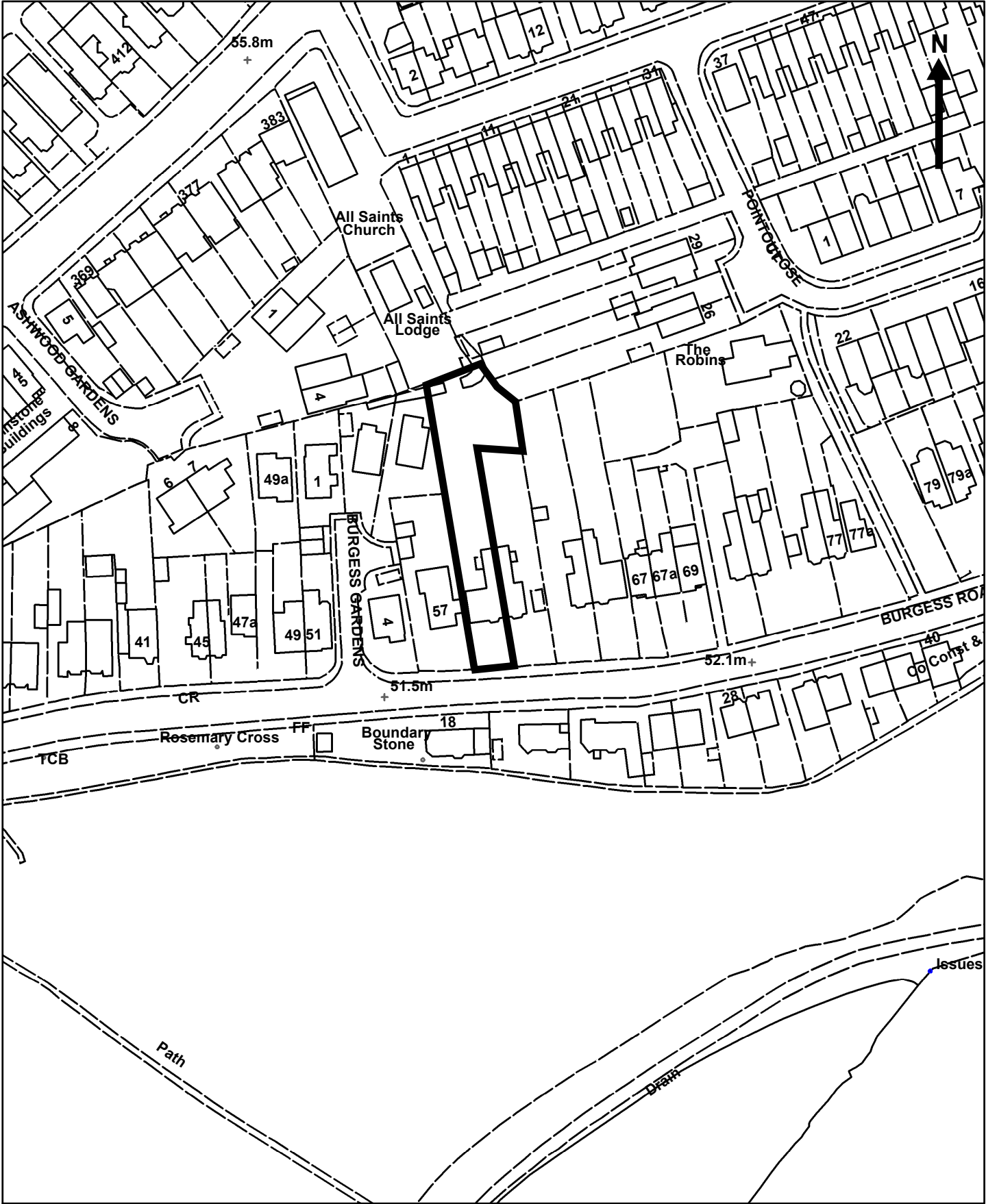
The National Planning Policy Framework (2021)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Relevant Planning History

Case Ref	Proposal	Decision	Date
M19/1661	ERECTION OF A TWO STOREY SIDE EXTENSION	Conditionally Approved	14.05.1985
18/00749/FUL	Erection of a two-bedroom bungalow with associated bin and refuse storage. Alterations to existing dwelling and narrowing of its width to facilitate vehicular access to rear.	Application Refused	20.08.2018
19/01530/FUL	Erection of a part single storey, part first floor rear extension and 2.4m high retaining wall	Conditionally Approved	14.11.2019
20/00206/DIS	Application for approval of details reserved by conditions, 4 (construction method statement), 5 (materials - retaining wall), 6 (replacement planting scheme) and 8 (implementation timetable - retaining wall) of planning permission ref 19/01530/FUL for a rear extension and retaining wall	No Objection	02.11.2020
20/00631/FUL	Application for variation of condition 3 (Drainage - retaining wall) of planning permission ref 19/01530/FUL to alter the proposed drainage system.	Conditionally Approved	05.11.2020
22/00531/FUL	Erection of a part single storey, part first floor rear extension with roof alterations to facilitate loft conversion (amendments to LPA ref: 19/01530/FUL)		

22/00399/FUL



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**Planning and Rights of Way Panel 2nd August 2022
Planning Application Report of the Head of Green City & Infrastructure**

Application address: 59 Burgess Road, Southampton			
Proposed development: Erection of a part single storey, part first floor rear extension with roof alterations to facilitate loft conversion (amendments to LPA ref: 19/01530/FUL)			
Application number:	22/00531/FUL	Application type:	FUL
Case officer:	Rob Sims	Public speaking time:	5 minutes
Last date for determination:	01.06.2022	Ward:	Bassett
Reason for Panel Referral:	Referred by the Head of Green City & Infrastructure due to wider public interest	Ward Councillors:	Cllr L Harris Cllr R Blackman Cllr J Hannides
Referred to Panel by:	N/A	Reason:	N/A
Applicant: Mr & Mrs Akbar		Agent: Toldfield Architects Ltd	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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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 39-42 and 46 of the National Planning Policy Framework (2019). Policy – CS13 and CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP5, SDP7, SDP9, SDP21 and SDP23 of the City of Southampton Local Plan Review (Amended 2015). Policies – BAS1 and BAS4 of the Bassett Neighbourhood Development Plan (2016), as supported by the relevant guidance set out in the Residential Design Guide SPD (2006) and Parking Standards SPD (2011).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

Conditionally approve

1.	<u>The site and its context</u>
1.1	The application site contains a semi-detached, two storey family dwelling house. The property is located in a residential area with predominantly detached and semi-detached dwelling houses and a suburban character that is located just north of the northern end of Southampton Common.
1.2	The dwelling sits within a large garden plot with large front driveway, fronting onto the busy route of Burgess Road. The driveway provides parking for at least 3 cars. <i>At the rear boundary of the rear garden there is a retaining wall, which is the subject of application 22/00399/FUL which is also being considered at this Planning and Public Rights of Way Panel.</i>
2.	<u>Proposal</u>
2.1	Extensions and alterations to the dwelling were considered at Planning Panel in November 2019 under application 19/01530/FUL, which approved the <i>'Erection of a part single storey, part first floor rear extension and 2.4m high retaining wall.'</i> The extensions to the dwelling have not been implemented, however the retaining wall at the rear has been implemented, albeit not in accordance with the approved plans, hence the consideration under separate application 22/00399/FUL for the 'as built' retaining wall.
2.2	This application seeks to amend the alterations approved in 2019 by adding roof additions to create a loft conversion. The approved first floor rear extension would not be amended. The approved single storey rear extension would be slightly increased in width by 1.02m.
2.3	The proposed roof additions comprise of an 'L shape' flat roof dormer sited on the rear elevation. The dormers would be served by a 'sunsquare' rooflight, and would not have windows within their elevations. The dormers would have timber treated material on the elevations. Two rooflights would be added to the front roofslope. These additions would facilitate a loft conversion to create a 'home office', although this space could be used for any use incidental to the main dwelling.
3.	<u>Relevant Planning Policy</u>
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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at Appendix 1 .
3.2	Saved Policy SDP1 (Quality of development) of the Local Plan Review seeks development that would not unacceptably affect the health, safety and

	amenity of the city and its citizens. Policies SDP7 (Context) and SDP9 (Scale, massing and appearance) of the Local Plan Review, policy CS13 (Fundamentals of Design) of the Core Strategy, and policies BAS1 (New Development) and BAS4 (Character and Design) of the Bassett Neighbourhood Plan, assesses the development against the principles of good design and seek development which respects the character and appearance of the local area. These policies are supplemented by design guidance and standards set out in the Residential Design Guide SPD, which seeks high quality housing, maintaining the character and amenity of the local area.
3.3	The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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.	<u>Relevant Planning History</u>
4.1	A schedule of the relevant planning history for the site is set out in Appendix 2 of this report. The most relevant planning history is the previously mentioned full application (19/01530/FUL) approved on the 13 th of November 2019 by the Planning and Rights of Way Panel for the Erection of a part single storey, part first floor rear extension and 2.4m high retaining wall. The previously approved extensions can still be implemented and are material to the Council's assessment of this application. The retention of the 'as built' retaining wall is the subject of application 22/00399/FUL and is not for consideration as part of this scheme.
5.	<u>Consultation Responses and Notification Representations</u>
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. At the time of writing the report 4 <u>representations</u> have been received from surrounding residents. The following is a summary of the points raised:
5.2	The reconfiguration on the first floor and further floor in the roof to accommodate a dormer for an office would overlook neighbouring properties. The dormer, although containing no windows, would be overbearing and visually invasive. From Burgess Gardens the impact of this invasive enormous dormer would have a detrimental impact on the street view, unsightly and unbalanced. It is not in keeping with the area and would be visually very dominant. <u>Response</u> The impact of the dormer addition and rooflight on neighbour amenity will be considered in Section 6 below.

5.3	<p>A structure for office/leisure use of the previously agreed 20m squared footprint is acceptable, providing that it is not a dwelling, and no utilities (water, sewage etc) are included. It would have an unacceptable impact on the character and amenity of the local area overall, as well as our personal enjoyment of our property.</p> <p><u>Response</u> The ‘solar glass house’ building shown on the proposed plans is <u>not</u> for consideration under this application. No elevational details of this building have been provided, however it is likely that permitted development rights for this building would be utilised and, therefore, no planning permission would be required.</p>
5.4	<p>Disappointed that the Council has verified yet another planning application from applicants, who have shown a total disregard for the Council and their neighbours in previous applications, and still have a number of outstanding issues from previous poor-quality work, that is not approved, and of which, the Council may yet have to enforce removal, and alteration.</p> <p><u>Response</u> Whilst the frustration of the local community to the manner in which the applicants are developing their site is noted, and forms part of a separate enforcement investigation, it should also be noted that this application is not retrospective as the previously approved extensions have not been implemented. The Council cannot refuse to validate a planning application which has not previous been considered and determined. The applicant has submitted a separate planning application to regularise the ‘as built’ retaining wall.</p>
5.5	<p>The layout plan, existing site plan and proposed site plan are riddled with drawing mistakes, including redrawn boundaries, walls out of place, walls of incorrect materials, and non-approved items, as the front drive and solar glass house included. Whether you approve the loft conversion or not, the application contains multiple errors, such as encroachment into many neighbours' properties, and also additions, which cannot be ignored or passed at the same time.</p> <p><u>Response</u> The issue of encroachment relates to the planning application for the retaining wall and not the proposed roof works. The boundary plan referenced by the objector has been updated with a land registry plan to show potential encroachment, however this does not relate to this application.</p>

<u>Consultation Responses</u>	
5.4	Consultee Comments
	<p>Old Bassett Residents Association</p> <p>These comments are submitted on behalf of Old Bassett Resident's Association. We object to this application because it represents yet more development and enlargement of the property and represents over development of questionable design. We request that the following observations be considered by the case officer in assessing this application.</p> <p>(1) The application relates to an original 2 up, 2 down Victorian semi-detached house which has already undergone multiple and substantial extensions:</p> <ul style="list-style-type: none"> - early probable single storey rear extension (it doesn't match #61, the other semi). - 2 storey side extension, front to back of original 2 storey property (M19/1661/22463 (1985)). - conversion of garage in 2 storey side extension to "guest room" with toilet and kitchenette (effectively a self-contained, internal annexe). - conservatory. Beyond this existing extension, which already represents a near doubling of size compared to the original property. - there is in-date planning consent for considerable extra 1 and 2 storey rear extensions, first issued under 19/01530/FUL and then under those documents from 19/01530/FUL that were carried forward to 20-00631-FUL (application for variation of conditions on 19/01530/FUL). - under 19/01530/FUL, but not shown in any of the plans carried forward to 20/00631/FUL, the applicant received approval for a reasonably large (4m x 5m), single aspect garden room. Under 22/00399/FUL (another application, currently under consideration and referred to Planning Panel), the applicant has substituted a massive 11m x 7m, dual aspect structure of unspecified appearance, internal layout, features or use. 20/00531/FUL (this application) now seeks yet further significant expansion of the property with a large roof extension which requires raising the roof line at the rear by 600mm. We consider this plethora of overlapping planning applications to represent significant overdevelopment of the site. <p>The Bassett Neighbourhood Development Plan calls for retention of a diverse range of property sizes and the continued extension of existing properties is resulting in a lack of the smaller houses so desperately needed by those seeking to get onto the property ladder. Ultimately this is</p>

	<p>unsustainable and the applicant has already benefited from multiple extensions.</p> <p>(2) For the avoidance of doubt, the description of the development on the portal as "amendments to LPA ref: 19/01530/FUL" is incorrect. 19/01530/FUL is no longer a valid application. As a result of the applicant having placed weep holes in the rear retaining wall (as sought under 20/00631/FUL), as opposed to the soakaways specified under 19/01530/FUL, Council has confirmed that it considers that the applicant has undertaken development according to the approved documents for variation of conditions document 20/00631/FUL which included some, but not all, of the documents approved under 19/01530/FUL, and therefore 19/01530/FUL is no longer, in itself, an approved planning application.</p> <p>(3) We acknowledge that the impact of the proposed roof extension on the street scene would be minimal (2 velux type windows) if built according to the plans.</p> <p>(4) According to submitted plan 190602 TA P A P04, the existing property has, on the first floor 4 bedrooms, a toilet/no basin(!), a toilet/shower/basin and a bath/basin. Under the current approval (20/00631/FUL - 190602 T A P A P09), the applicant has permission to convert current bedroom 3 into (1) a bath/shower/toilet/basin and (2) a toilet/basin shower and to remove the existing toilet/no basin, toilet/shower/basin and bath/basin and merge the space to create an enlarged bedroom 3. This represented an improvement on the existing by placing a basin with each toilet.</p> <p>This application proposes something significantly different in terms of rearrangement of the first floor space (190602 TA P A P14), which is not mentioned anywhere in the application, namely to convert bedroom 4 to a bathroom with toilet/basin/shower/bath and to convert and remove the existing toilet/no basin, toilet/shower/basin and bath/basin and merge the space to create an enlarged bedroom 4.</p> <p>We submit that this unremarked change represents poor design and inadequate provision of bathroom facilities compared to the current approval shown in 20/00631/FUL - 190602 T A P A P09, and therefore request that this change be refused.</p> <p>(5) We note that the application form falsely claims that none of the proposed development has yet started. It claims the front drive to be tarmac and proposes concrete. That</p>
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development has already taken place and is part of retrospective application 22/00399/FUL. We objected to this under hardstanding under 22/00399/FUL and repeat the objection here because, irrespective of Southern Water not objecting to 22/00399/FUL:

(1) use of non porous hardstanding is contrary to the City's adopted residential design guide.

(2) surface water should be managed within the curtilage, not discharged into the sewer system.

(3) the discharge of surface water to a foul sewer (a) is contrary to Building Regs H and (b) does not represent sustainable development, it overloads local sewer systems to the detriment of residential amenity, making it someone else's problem. Other local residents have commented on increased flooding in the area over the past few years. Council should be promoting sustainable development, not the laziest, cheapest option for applicants.

(6) We repeat our previously advised concerns that #59 and #61 share a common chimney stack and that #61 has already removed the chimney breast on the ground floor (190602 TA P A P14 LHS), leaving the stack above without apparent support, creating lateral tension and increasing the loading on #61's footings. This application proposes to also remove the chimney breast on the first floor (190602 TA P A P14 RHS vs 190602 TA P A P04 RHS) whilst retaining the stack in the roof space and above the roof, apparently unsupported and increasing stresses on #61's stack and footings (190602 TA P A P06). Whilst these structural concerns might not be direct planning matters, the potential consequences of structural collapse could prove fatal to occupants in either property. This is a party wall and therefore the Party Wall etc. Act 1996 applies. For the sake of due diligence, we therefore we request that, if Council is minded to approve this application, that it imposes a condition that the applicant shall obtain a formal legal agreement under the Party Wall etc. Act 1996 with the owners of #61 and provide Council with a copy of said agreement to approve prior to any works being permitted to start. In the absence of agreement development should not be allowed to start.

(7) The application seeks to add an extra 600 mm of brickwork to the existing separating wall top (with #61) to the rear in order to provide headroom in the roof conversion. This will add significant extra weight loading onto an already unbalanced and stressed original Victorian dividing wall and footings. Again, this is a party wall and therefore the Party Wall etc. Act 1996 applies. For the sake

	<p>of due diligence, we therefore we request that, if Council is minded to approve this application, that it imposes a condition that the applicant shall obtain a formal legal agreement under the Party Wall etc. Act 1996 with the owners of #61 and provide Council with a copy of said agreement to approve prior to any works being permitted to start. In the absence of agreement development should not be allowed to start.</p> <p>(8) No design and access statement has been provided with this application to address issues like sound and thermal insulation. This roof space will get very hot in summer and there seems to be no potential for air circulation unless the roof lights are of a opening design, which is not stated.</p> <p>(9) In terms of basic design, creation of a separate landing for the attic room seems a pointless waste of space, why not open the stairs straight into an enlarged room space? This is poor design.</p> <p>(10) Given that:</p> <p>(a) Council has admitted that it approved the wrong documents in the discharge of conditions for 20/00631/FUL, and thus failed to secure proper conditions to protect neighbourhood amenity under 20/00631/FUL</p> <p>(b) when building the rear retaining wall at this property there was repeated, significant and blatant breach of both the site safety (site shoring, site fencing etc.) documents and work conditions / environment protection documents (bonfires, hours of work, weekend work, bank holiday work etc.) which the applicant had submitted.</p> <p>if Council is minded to approve this application, we request that it imposes a condition requiring the applicant to submit fresh sets of site safety and environmental / work conditions for approval by Council before any work can commence. Further, we request that the approved conditions be placed on the portal so that any further breaches can be identified and reported.</p> <p>In summary, we believe that, on top of the existing extensions and already approved, but not yet started, extensions, this application represents over development of poor design and request that it be refused. We appreciate that more limited roof conversion could be undertaken under PDR.</p>
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		<p>Officer comment These detail comments are noted and the Planning Department continues to work with all affected parties. Not all the matters raised are Planning specific and those considerations that are materials to this planning application are addressed later in this report.</p>
	SCC Ecology	I have no objection to the proposed development.
	Trees & Open Spaces	No objections
6.0	<u>Planning Consideration Key Issues</u>	
6.1	<p>The key issues for consideration in the determination of this planning application are:</p> <ul style="list-style-type: none"> - Design and effect on character; - Residential amenity; - Parking highways and transport; and - Other matters raised locally 	
6.2	<u>Design and effect on character</u>	
6.2.1	<p>Despite the lengthy and contentious planning history to this property the proposals are for the erection of a part single storey and part first floor rear extension and insertion of a rear dormer window and two front rooflights to facilitate a loft conversion.</p>	
6.2.2	<p>The proposed first floor extension has previously been approved under application 19/01530/FUL and would not have materially different impacts to those previously approved. Similarly, whilst the single storey rear extension would be 1.02m wider than previously approved, this would not result in a significantly more harmful addition in terms of size, scale and design. Therefore these elements are considered to be appropriate and acceptable.</p>	
6.2.3	<p>The proposed dormer comprises of an L Shape that would straddle the main roof and the existing two storey rear addition. The dormer would be set lower in height than the main roof and inside of the roof edge and therefore would appear as modest and proportionate additions to the existing property and would not be visible from the public road. The generous proportions of the application site and host dwelling are large enough to accommodate the proposed extensions without them appearing as an overdevelopment of the property. Whilst the dormer does not contain any windows in the elevation, and this affects its design, this is to avoid potential overlooking and loss of privacy to neighbours. The dormers would be served with a 'rooflight' which would not be visible in the public realm. On this basis the proposed dormers are considered to be acceptable and sympathetic additions to the existing property. Likewise the proposed front rooflights would not visually harm the</p>	

	character and appearance of the existing property or street scene.
6.3	<u>Residential amenity</u>
6.3.1	The proposed single storey and first floor extension have previously been approved under application 19/01530/FUL and the slightly larger single storey extension would not have materially harmful impacts on neighbour amenity than those previously approved. The proposed dormers would be sited on the rear elevation, however they do not contain any windows in their elevations would not result in an increase in overlooking, or overshadowing to neighbouring properties and would not appear overbearing to neighbouring properties.
6.3.2	<p>The potential impact of construction noise on neighbouring residents can be mitigated by way of a condition restricting the permitted working hours. Furthermore a 'Construction Environment Management Plan' and 'Construction Management Plan' showing a site set up arrangement during construction have been approved under applications 20/00206/DIS and 20/00631/FUL which included the following measures to be implemented during the construction works to minimise the impact of noise, vibration, dust and odour on neighbouring properties and their occupants.</p> <p>Noisy operations will be restricted to the hours of 0800-1800 Monday to Friday and 0900-1300 Saturday.</p> <ul style="list-style-type: none"> • Plant and equipment will comply with EU noise emission limits. • Compressors and pneumatic tools will be fitted with silencers or mufflers. • Plant will be located away from sensitive receptors where possible. • Plant will be regularly serviced to maintain noise efficient performance. • Deliveries will be made during normal working hours, 8:00–18:00 Monday to Friday and 0900-1300 on Saturdays. • Vehicles will be prohibited from waiting with their engines running • All vehicles carrying granular / dusty materials shall be sheeted to prevent particle migration. • All drilling, cutting and grinding operations will be dampened down to prevent dust with on-site hose pipe. • All stock piles to be sealed or covered and located downwind from sensitive receptors where possible. • No fires will be permitted • No radios or other audio broadcasting equipment to be permitted on site. • No lorry shall leave the site until its wheels are sufficiently clean to prevent mud being carried onto the highway. <p>Compliance with this statement would ensure deliveries of materials, storage of materials and control of dust would be controlled and avoid adverse impacts on neighbouring properties in terms of noise and disturbance.</p>

6.3.3	On the above basis, the proposals would not result in harm to the occupiers of neighbouring properties, subject to compliance with conditions securing details of the proposed materials and a construction method statement and construction hours. The application, therefore, complies with saved Local Plan Policy SDP1(i).
6.4	<u>Parking highways and transport</u>
6.4.1	There is no change to the amount, or arrangement of the existing parking on the front driveway. The provision of 3 parking spaces for a dwelling with 4 or more bedrooms would meet our maximum standards in the Parking Standards SPD.
6.5	<u>Other Matters</u>
6.5.1	<p>The Old Bassett Residents Association make reference to a number of other points, some of which require a response as follows:</p> <p><i>Reference to 19/01530/FUL is incorrect as it is no longer, in itself, an approved planning application.</i></p> <p>As application 19/01530/FUL included the retaining wall in its original description, and the drainage scheme for the wall was subsequently amended and approved under Planning application 20/00631/FUL as a variation of condition application (with no changes to the extensions to the property), it is considered that application 20/00631/FUL has been implemented, albeit not in accordance with the approved plans (hence the need for application 22/00399/FUL. As this application relates to amendments to the extensions to the property and does not include reference to the retaining wall, it is appropriate to reference the proposed works as an amendment to application 19/01530/FUL as that permission remains extant for works relating to the extensions. This does not affect the above assessment.</p> <p><i>Internal floor plan is inaccurate and impractical</i></p> <p>The proposed internal layout does not have direct impacts on the external appearance of the extensions, especially at first floor level where the external appearance remains the same. Therefore the practicality of the internal floor layout is not a planning consideration of this application.</p> <p><i>Porous Surfacing and Surface Water Drainage</i></p> <p>Permeable block paving was originally approved on plan number 19062-TA-P-A-P08 Revision A Site Plan 26.09.2019 under application 19/01530/FUL. However this was not included on the list of approved plans carried forward in planning permission 20/00631/FUL, therefore the Council cannot insist on that block paving being provided. In any case the existing hardstanding is concrete and the proposed plans show a concrete surface to be retained. Therefore planning permission is not required to retain this existing concrete treatment.</p>

	<p><i>Requirement to engage with Party Wall Act Agreement for various works</i></p> <p>A party wall act agreement is a private matter for the applicant and neighbouring properties to enter. An informative can be added to remind the applicant to enter in this agreement when carrying out works.</p>
7.	<u>Summary</u>
7.1	The proposed extensions to an existing dwelling would not cause harm to the amenity of neighbouring residents, and the design of the extensions and alterations would not appear out of character with the host dwelling. Moreover, the site is large enough to accommodate the proposals, and the existing parking would not be compromised.
8.	<u>Conclusion</u>
8.1	It is recommended that planning permission be granted subject to conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

Case Officer **Rob Sims** PROW Panel 02/08/2022

PLANNING CONDITIONS

01. Full Permission Timing Condition (Performance)

The development hereby permitted shall begin no later than 14th November 2022.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. 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.

03. Construction Environment Management Plan

The development hereby approved shall be carried out in accordance with approved Construction Management Plan submitted and approved under application 20/00206/DIS Ref: 19602, Date: 16.07.2020 and in accordance with the Construction Environment Management Plan received 12/06/2020 and approved under application 20/00631/FUL and no variation shall be made without prior written consent of the Local Planning Authority.

Reason: To protect the amenity of neighbouring residents.

04. Obscure Glazing (Performance Condition)

All windows in the side elevations, located at first floor level and above of the hereby approved development, shall be obscurely glazed and fixed shut up to a height of 1.7 metres from the internal floor level before the development is first occupied. The windows shall be thereafter retained in this manner.

Reason: To protect the amenity and privacy of the adjoining property.

05. Materials as specified and to match (Performance Condition)

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof relating specifically to the construction of the extensions to the main dwelling hereby permitted, shall be as specified on the approved plans. Where there is no materials specification on the approved plans, the materials shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those on the existing building.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

06. 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.

Party Wall Informative:

These works may require approval under the Party Wall Act. Further details can be obtained from the Council's Building Control Service.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design

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

SDP1 Quality of Development

SDP5 Parking

SDP7 Urban Design Context

SDP9 Scale, Massing & Appearance

Bassett Neighbourhood Development Plan – (Adopted 2016)

BAS1 New Development

BAS4 Character and Design

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - September 2013)

Parking Standards SPD (September 2011)

Bassett Neighbourhood Plan (July 2016)

Other Relevant Guidance

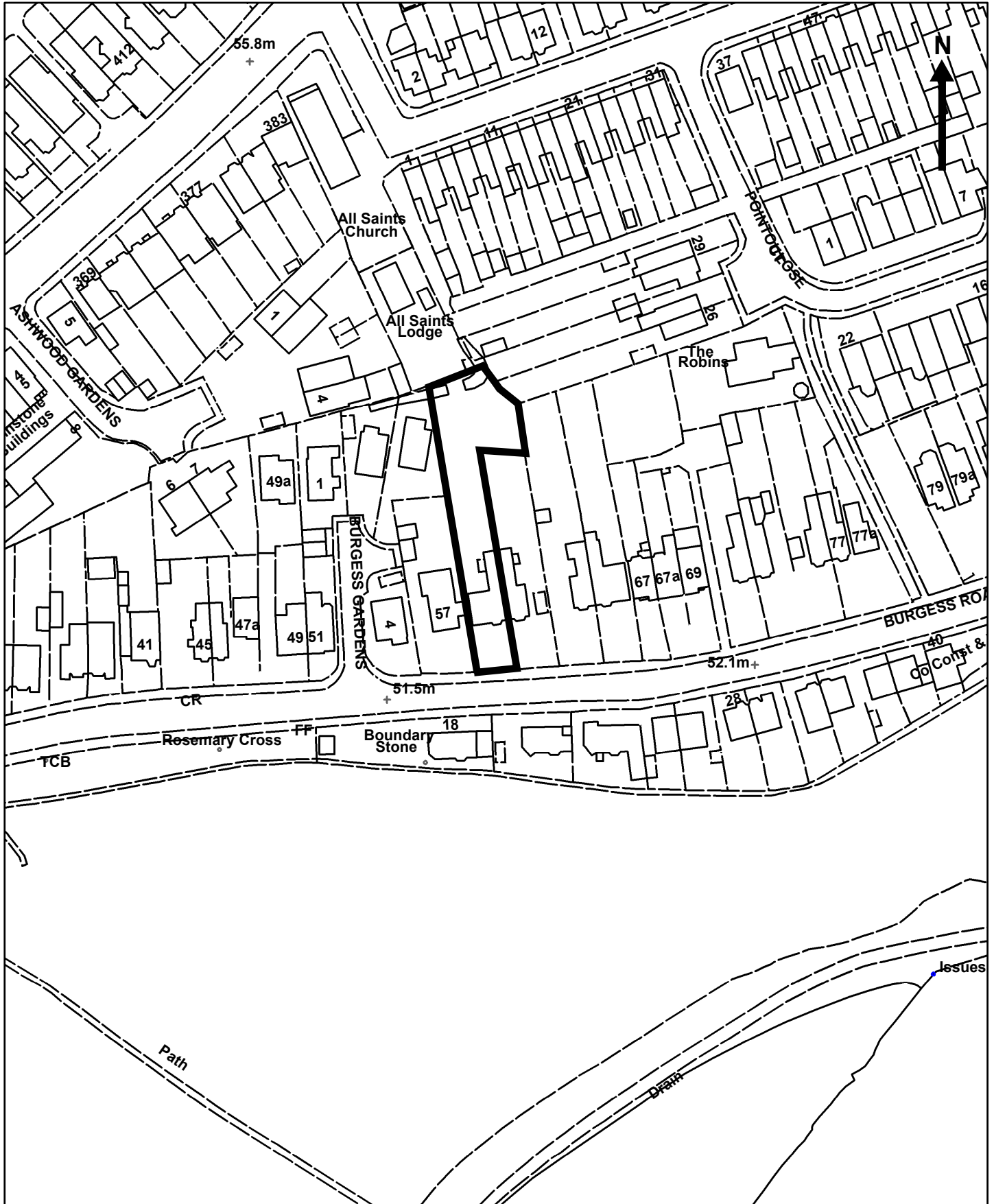
The National Planning Policy Framework (2021)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Relevant Planning History

Case Ref	Proposal	Decision	Date
M19/1661	ERECTION OF A TWO STOREY SIDE EXTENSION	Conditionally Approved	14.05.1985
18/00749/FUL	Erection of a two-bedroom bungalow with associated bin and refuse storage. Alterations to existing dwelling and narrowing of its width to facilitate vehicular access to rear.	Application Refused	20.08.2018
19/01530/FUL	Erection of a part single storey, part first floor rear extension and 2.4m high retaining wall	Conditionally Approved	14.11.2019
20/00206/DIS	Application for approval of details reserved by conditions, 4 (construction method statement), 5 (materials - retaining wall), 6 (replacement planting scheme) and 8 (implementation timetable - retaining wall) of planning permission ref 19/01530/FUL for a rear extension and retaining wall	No Objection	02.11.2020
20/00631/FUL	Application for variation of condition 3 (Drainage - retaining wall) of planning permission ref 19/01530/FUL to alter the proposed drainage system.	Conditionally Approved	05.11.2020
22/00399/FUL	Retention of "As Built" rear Retaining Wall and erection of additional fencing to the rear boundary treatment		
22/00531/FUL	Erection of a part single storey, part first floor rear extension with roof alterations to facilitate loft conversion (amendments to LPA ref: 19/01530/FUL)		

22/00531/FUL



Scale: 1:1,250

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**Planning and Rights of Way Panel 2nd August 2022
Planning Application Report of the Head of Green City & Infrastructure**

Application address: 5 Cotswold Road, Southampton			
Proposed development: Erection of a single storey rear extension (Retrospective)			
Application number:	22/00668/FUL	Application type:	FUL
Case officer:	Tom Barnett	Public speaking time:	5 Minutes
Last date for determination:	28.06.2022	Ward:	Millbrook
Reason for Panel Referral:	Request by Ward Member	Ward Councillors:	Cllr Graham Galton Cllr Jeremy Moulton Cllr David Furnell
Referred to Panel by:	Cllr David Furnell	Reason:	The proposal would have detrimental impact on Number 3 Cotswold Road.
Applicant: Kernan Charles		Agent: Revite	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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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 39-42 and 46 of the National Planning Policy Framework (2021).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

Conditionally approve

1.	<u>The site and its context</u>
1.1	The application site consists of a two-storey terraced dwelling, which is located within a sub-urban area part of the city. The dwelling is one of the central terraced properties, which is characterised by similar two-storey terraced dwellings which are set back from the road of Cotswold Road.
1.2	The application property shares boundaries with two immediate neighbouring properties. This includes neighbouring dwellings 3 and 7 Cotswold Road where the properties are both separated by timber fencing.
2.	<u>Proposal</u>
2.1	The proposal is for the erection of a single storey rear extension. The extension has partially been constructed and, therefore, these works are retrospective. The extension has a depth of 4.55 metres, a width of 5.45 metres and is 3.0 metres high with a flat roof. The proposal would leave an approximate gap of 1.06 metres with the neighbouring boundary of 3 Cotswold Road.
2.2	The original plans have been amended during the course of the application to more accurately reflect what was being built out on site. Initially the extension was shown to be built further towards the boundary with No. 3. However, the extension was actually being built closer to the boundary with No. 7 instead. Amended plans were requested to amend this inaccuracy and a second round of consultation was conducted on this basis.
2.3	An earlier application was granted for a Proposed Lawful Development Certificate. The purpose of this application was to confirm that a different extension would have been Permitted Development (PD). The applicant has decided not to pursue this scheme and the current proposals are not PD and require planning permission.
3.	<u>Relevant Planning Policy</u>
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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at Appendix 1 .
3.2	The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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.	<u>Relevant Planning History</u>
4.1	A schedule of the relevant planning history for the site is set out in Appendix 2 of this report.
4.2	The proposal had a Proposed Lawful Development Certificate (21/01290/PLDC) approved in 2021 for a rear extension, this has not been implemented. The dimensions of that proposal had a depth of 3 metres, maximum height of 3.310 metres, eaves height of 3 metres and a width of 6.5 metres.
5.	<u>Consultation Responses and Notification Representations</u>
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. At the time of writing the report 3 representations ; including 1 letter of objection, 1 support and 1 Panel referral from a ward councillor have been received. The following is a summary of the points raised:
5.2	The 1 letter of SUPPORT was received from an immediate neighbour at 7 Cotswold Road. Their comments are provided/summarised below: <i>The extension has not been a problem, love that the garden is now being looked after and sorted out. The fencing and brick wall along our left side of the garden was very broken down and old and now thanks to the garden work, this is now a beautiful brick wall which compliments both gardens. The height of the extension makes no difference to the sun entering our garden or any issues creating shade. The old brick wall for the shed previously was much longer in width than what is now in place now, which probably helps to bring more visual space into our garden. No damage has been caused to our garden our house.</i>
5.3	The following is a summary of the OBJECTION raised by a neighbour:
5.3.1	Initial Comment: <i>The plans provided are inaccurate and exceed the legal dimensions. The construction is causing damage to walls inside the house, doors and windows in the house are now difficult to shut. The plans submitted do not show the location of the bathroom with the developer not planning to use official plans. The developer has been told to stop all the works while the plans are being submitted, however this has been ignored and the works have carried on.</i>
5.3.2	Further comments by the same neighbour after new plans submitted: <i>The new plans block sunlight going into my downstairs room as well as my</i>

5.3.3	<p><i>garden permanently. This would devalue my property and plans are not accurate with the works in place, the works may not be what is show on the plans. Damage to the house still remains/being caused. The scaffolding is still up which may have more additional things being added to the roof.</i></p> <p>Officer Response: The plans have been amended to reflect the ‘as built’ external works. The impacts of the development on residential amenity in terms of loss of light and outlook will be considered in section 6 below. Internal damage to neighbouring properties resulting from building works is not a material planning consideration, but may be resolvable as a civil matter or through the Party Wall Act.</p>					
	<p><u>Consultation Response</u></p>					
5.4	<table border="1"> <thead> <tr> <th data-bbox="288 853 711 891">Consultee</th> <th data-bbox="711 853 1382 891">Comments</th> </tr> </thead> <tbody> <tr> <td data-bbox="288 891 711 1227"> Cllr Furnell Inc. Panel referral </td> <td data-bbox="711 891 1382 1227"> <i>I would like to oppose the application at 5 Cotswold Rd so that the plans come before the full planning committee. The reasons for doing this is it will have a detrimental impact on neighbours at number 3 and the work done has been in contravention of the first application and massively exceeds what the developer originally applied for at the property</i> </td> </tr> </tbody> </table>	Consultee	Comments	Cllr Furnell Inc. Panel referral	<i>I would like to oppose the application at 5 Cotswold Rd so that the plans come before the full planning committee. The reasons for doing this is it will have a detrimental impact on neighbours at number 3 and the work done has been in contravention of the first application and massively exceeds what the developer originally applied for at the property</i>	
Consultee	Comments					
Cllr Furnell Inc. Panel referral	<i>I would like to oppose the application at 5 Cotswold Rd so that the plans come before the full planning committee. The reasons for doing this is it will have a detrimental impact on neighbours at number 3 and the work done has been in contravention of the first application and massively exceeds what the developer originally applied for at the property</i>					
6.0	<p><u>Planning Consideration Key Issues</u></p>					
6.1	<p>The proposed single storey rear extension exceeds 3.0m in depth and therefore planning permission is required. The key issues for consideration in the determination of this planning application are:</p> <ul style="list-style-type: none"> - Residential amenity; and - Design and effect on character. 					
6.2	<p><u>Residential amenity</u></p> <p>6.2.1 The application site is bordered by two immediate neighbours No. 3 and 7 Cotswold Road. 7 Cotswold Road is situated on the southern boundary of the application site and this neighbour has written to support the scheme. The depth of the extension would interrupt a 45 degree line taken from the midpoint of this neighbour. However, given the moderate height of the proposal; being 3 metres in height and the orientation of the proposal to the north of the neighbouring property, the proposal would not cause a significant loss of light or shade to this property to warrant a refusal on these grounds.</p>					

6.2.2	The other immediate neighbour at 3 Cotswold Road is located on the northern boundary and this neighbour has raised an objection. The proposal has been assessed against section 2.2.11 – 2.2.13 of the approved Residential Design Guide SPD in respect of outlook and the 45-degree test has been applied. The permitted development fallback has also been considered.
6.2.3	The 45-degree test has also been taken from the midpoint of closest habitable room for this neighbour. The test shows that the extension would breach the 45 degree line from this neighbouring window, which indicates that some loss of light and outlook would occur. However the extension is located approximately 1.06m from the shared boundary with No. 3, with a walkway/side access being located between the extension and this common boundary. This break helps to mitigate the impact of the development on this neighbour. In addition, the height of the flat roof extension would be approximately 1 metre higher than the existing boundary fence. The applicant has also provided an elevational '45 degree illustration which shows that the a 45 degree line taken from the top of the extension down to the ground would not be impeded by the neighbouring patio doors. This indicates that the height of the extension, coupled with the separation distance between the extension and the neighbouring window/doors would mitigate significant impacts of loss of light and outlook on No 3. Officers do not consider that these impacts would warrant a refusal based on these grounds.
6.2.4	It is not considered that that proposed extension would result in significant overbearing, overlooking or overshadowing impacts on the amenities of nearby occupiers, nor would it harm the amenity of the occupiers of the host dwelling. On this basis the proposal is considered acceptable when assessed against saved Local Plan policy SDP1(i) and the relevant sections of the approved RDG.
6.3	<u>Design and effect on character</u>
6.3.1	The proposal would not cause any detrimental impact to the street scene given that the proposal is situated to the rear of the property. A rear extension of this scale is common and would not be significantly out of character for a residential dwelling. A useable garden is retained.
6.3.2	The materials used will match the existing dwelling with matching brick work, GRP roofing with clay tiles and UPVC doors and windows. On this basis, the proposals are considered to be acceptable and would comply with the requirements of the relevant Development Plan policies listed above, and guidance contained within Section 12 of the NPPF.
7.	<u>Summary</u>
7.1	Overall, the application considered to be acceptable in terms of its siting, size

	and design and would not result in significant impacts on neighbour amenity to warrant a refusal of planning permission, whilst noting the objection from the neighbour at No.3.
8.	<u>Conclusion</u>
8.1	It is recommended that planning permission should be granted subject to conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)

Case Officer **Tom Barnett** PROW Panel 02.08.2022

PLANNING CONDITIONS

Condition 1 - Approved Plans (Performance)

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.

Reason: For the avoidance of doubt and in the interests of proper planning

Condition 2 - Materials to match (Performance)

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the building hereby permitted shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those on the existing building.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design
CS19 Car & Cycle Parking

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

SDP1 Quality of Development
SDP5 Parking
SDP7 Urban Design Context
SDP9 Scale, Massing & Appearance

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2021)

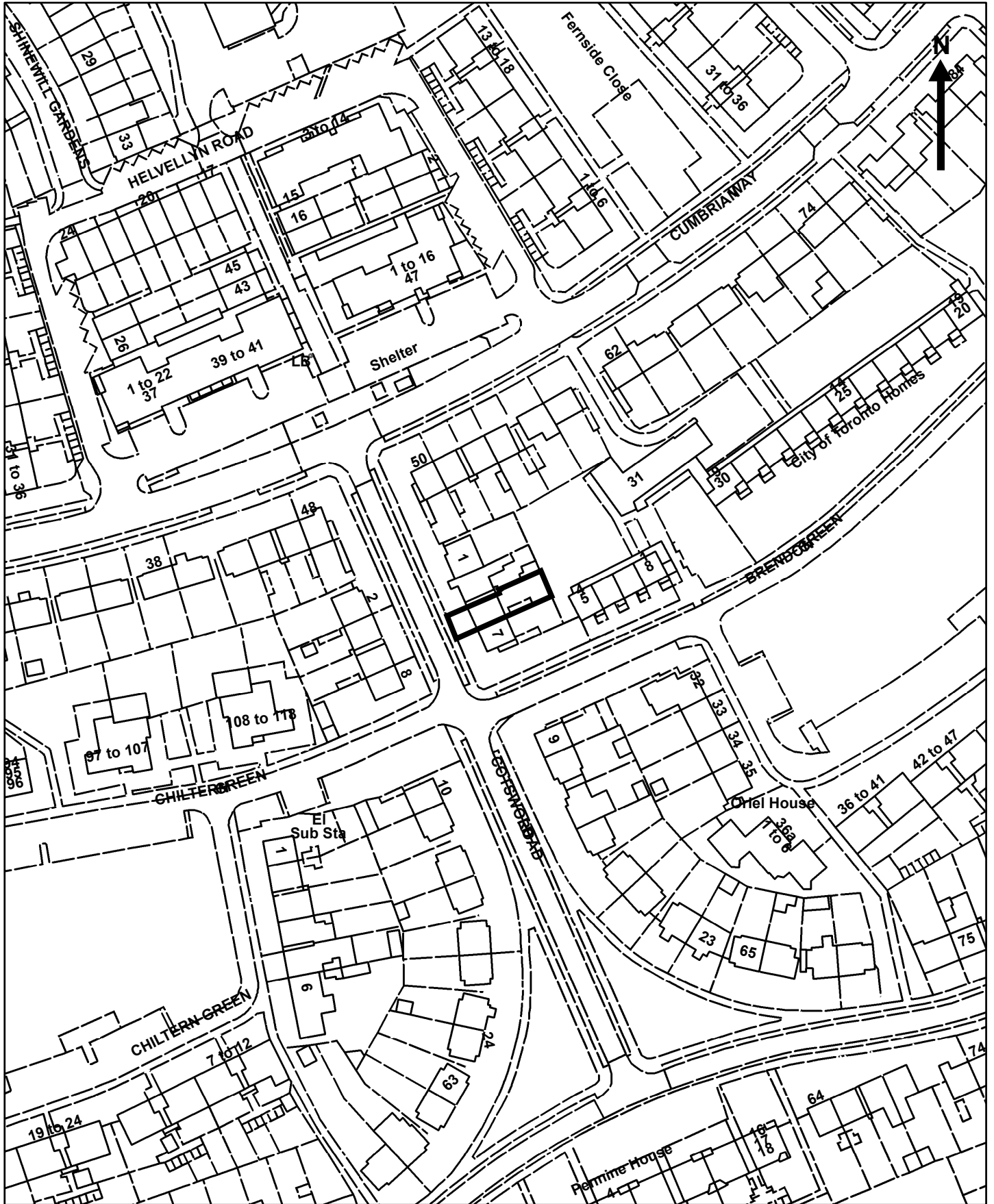
Relevant Planning History

Case Ref	Proposal	Decision	Date
21/01290/PLDC	Application for a lawful development certificate for a proposed erection of a single-storey rear extension	Grant	01.10.2021

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Agenda Item 9

22/00668/FUL



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**Planning and Rights of Way Panel 2nd August 2022
Planning Application Report of the Head of Green City & Infrastructure**

Application address: 1 Gainsford Road, Southampton			
Proposed development: Erection of a log cabin in rear garden (Retrospective).			
Application number:	22/00340/FUL	Application type:	FUL
Case officer:	Connor Chalmers	Public speaking time:	5 minutes
Last date for determination:	31.05.2022 (EOT 05.08.2022)	Ward:	Peartree
Reason for Panel Referral:	Request by Ward Member	Ward Councillors :	Alex Houghton Eamonn Keogh Joshua Payne
Referred to Panel by:	Councillor Eamonn Keogh	Reason:	Responding to neighbour concerns
Applicant: Miss Cheryl Strugnell		Agent: N/A	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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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 39-42 and 46 of the National Planning Policy Framework (2021).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

Conditionally approve

1.	<u>The site and its context</u>
1.1	The application site contains a large two-storey semi-detached family dwelling house with a shared front driveway. The property is located in a residential area characterised by large, detached and semi-detached dwelling houses in an urban setting.
1.2	The property shares front and rear boundaries with neighbouring properties at 1a Gainsford Road and 3 Gainsford Road. The front boundary with 1a Gainsford Road contains a shared driveway installed when the property at 1a was constructed in 2009. The rear of the property shares boundaries with the properties at 1a and 3 where they are separated by fencing. Due to the nature of the properties on this street being located on a hill, each property sits at a slightly higher elevation than the property located to the South-West of the property in question.
1.3	Historically, this property benefitted from a large side and rear garden, however, in 2009 a planning application was approved for the construction of a new detached property in this space which would later become 1a Gainsford Road, resulting in the remaining garden space being split between the two properties.
2.	<u>Proposal</u>
2.1	The proposal is for the retention of a single storey log cabin located in the rear garden of the property. The log cabin measures approximately 2.98m high, with eaves at 2.6m. The width of the building is 3.0m and length is 3.0m. The building is set off the boundary with its neighbours. The applicant's submission explains that they believed the building to be 'Permitted Development', which it isn't.
3.	<u>Relevant Planning Policy</u>
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) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at Appendix 1 .
3.2	Saved Policy SDP1 (Quality of development) of the Local Plan Review seeks development that would not unacceptably affect the health, safety and amenity of the city and its citizens. Policies SDP7 (Context) and SDP9 (Scale, massing and appearance) of the Local Plan Review, and policy CS13 (Fundamentals of Design) of the Core Strategy, assesses the development against the principles of good design and seek development which respects the character and appearance of the local area. These policies are supplemented by design

	guidance and standards set out in the Residential Design Guide SPD, which seeks high quality housing, maintaining the character and amenity of the local area.
4.	<u>Relevant Planning History</u>
4.1	A schedule of the relevant planning history for the site is set out in Appendix 2 of this report.
5.	<u>Consultation Responses and Notification Representations</u>
5.1	<p>Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners. At the time of writing the report 2 representations have been received from surrounding residents, with 1 letter in support and 1 letter objecting. The application has also been referred to Planning Panel by Ward Cllr Keogh.</p> <p>The following is a summary of the OBJECTIONS raised:</p>
5.2	<p>Loss of residential amenity in the form of right to privacy. The proposal results in overlooking from the frontage of the development into neighbouring habitable windows, namely the first-floor kitchen window and second floor bedroom window.</p> <p><u>Response</u> The impact of the log cabin on existing privacy amenities at neighbouring properties will be considered in Section 6 below.</p>
5.3	<p>Concerns of potential for excessive additional noise generated by visiting clients at the application site.</p> <p><u>Response</u> The potential for additional excessive noise came as a result of the outbuilding being briefly used as part of the applicant's home business. The applicant has since put an end to this usage upon being informed that the outbuilding could not be used for this purpose without planning consent. A condition will also be imposed to restrict the use of the building to incidental purposes only and no business related activities, other than a home office or other low-key uses.</p>
5.4	<p>Impact on street parking</p> <p><u>Response</u> Impact on parking behaviour will be considered in Section 6 below, however, the subject of the application relates to a log cabin for incidental use only. Therefore, there is no additional Planning requirement for either on or off-site parking.</p>
5.5	<p>Concern that the proposal would result in the provision of an undesirable precedent that would encourage similar and harmful development.</p> <p><u>Response</u></p>

5.6	<p>Any potential future developments at the property may require planning permission (if not built to permitted development tolerances) and, therefore, subject to the same local and national planning policies that have been applied in this instance.</p> <p>The neighbour in SUPPORT commented that they have a similar building in their back garden of a greater size and height and all neighbours have some form of outbuilding, larger than a standard shed and of varying heights and sizes, in their gardens. They can categorically state that the applicant generates no more noise from this building than any other user of their garden in the area. If the applicant is running a business, it is, in their opinion, nothing more than ancillary to the occupation of the property as a residential building and is certainly not causing any loss of amenity or increased noise.</p>	
	<p><u>Consultation Responses</u></p>	
5.6	<p>Consultee</p> <p>Cllr Eamonn Keogh Inc. Panel referral</p>	<p>Comments</p> <p>I understand the applicant isn't raising the height of all the fence panels and therefore I would request the application go to Panel.</p> <p><i>Officer response</i> <i>The applicant has offered to erect additional screening that can be secured by condition but it isn't necessary in Planning terms to insist that the fence along the entire boundary is replaced.</i></p>
6.0	<p><u>Planning Consideration Key Issues</u></p>	
6.1	<p>The key issues for consideration in the determination of this planning application are:</p> <ol style="list-style-type: none"> 1. Impact on neighbouring residents and; 2. Impact on the character and appearance of the local area; and 3. Impact on parking 	
6.2	<p><u>Residential amenity</u></p>	
6.2.1	<p>The application site is bordered by No.1a Gainsford Road to the South-East and No.3 to the North-East. The outbuilding is sited to the rear within 2.0 metres of the northern boundary with No.3. The outbuilding measures 0.48 metres above the 2.5 metre height limit for rear garden outbuildings under Permitted Development, resulting in this planning application. It should be noted as well that the physical building itself comes under this height limit, measuring 2.38 metres in height. However, the additional height comes from the rear of the garden where the proposal is situated being on uneven ground resulting in the need for the structure to be raised by 0.6 metres to be level.</p>	

6.2.2	<p>The proposed development would have little effect on the amenities regarding sunlight and daylight received by neighbouring properties, and their outlook, due to the development being sufficiently distanced from both properties. The key loss of amenity that effects this proposal is based on privacy concerns regarding the potential for over/inter-looking into neighbouring properties set at a lower elevation to the proposal. Notwithstanding that a slightly lower building could be erected under permitted development and result in the same concerns regarding loss of privacy from the building, the applicant has offered to erect boundary screening between No's 1 and 1a at the relevant points. An additional 0.5 metres would be added to the first two fence panels directly adjacent to the properties due to the remaining panels being sufficiently high enough to prevent overlooking. This would ensure that direct views from the outbuilding towards the rear elevation of No. 1a would be impeded and avoid concerns with regards to loss of privacy. Furthermore it is understood that this approach would be acceptable to the neighbouring properties which would negate loss of light and outlook concerns from the addition of extra screening on this boundary. This screening would be secured through a suitably worded planning condition and would mitigate concerns with regards to loss of privacy. Therefore, subject to compliance with this condition, the proposal is considered acceptable when assessed against saved Local Plan policy SDP1(i) and the relevant sections of the approved RDG.</p>
6.2.3	<p>The Panel will note that such outbuildings can be used for 'home working' without the need for planning permission.</p>
6.3	<p><u>Design and effect on character</u></p>
6.3.1	<p>The application proposes a moderately sized rear outbuilding on a property with a large garden space leaving sufficiently more than 50% of the curtilage of the property unaffected by development. This proposal is not an uncommon sight in this area with many neighbouring properties having similarly sized or larger rear outbuildings including neighbouring No.3 and the property at No.59 Bryanston Road which has a rear garden sitting adjacent to No's 1 & 1a with a large outbuilding also overlooking both properties. The proposal itself is also considered to be of an acceptable design reflecting the character of the local area. As such, the outbuilding is considered to be a proportionate addition to the existing property and would not be harmful to the pattern of development locally or to the character and appearance of the area. On this basis, the proposals are considered to be acceptable and would comply with the requirements of the relevant Development Plan policies listed above, and guidance contained within Section 12 of the NPPF.</p>
6.4	<p><u>Parking highways and transport</u></p>
6.4.1	<p>The local third-party objection made direct reference to the issues of parking on Gainsford Road. This application only relates to the retention of a log cabin</p>

	in the rear garden. This proposal does not increase the number of habitable rooms on the property, and does not generate additional on-site parking demand. As such the proposals themselves do not directly impact on street parking behaviour.
7.	<u>Summary</u>
7.1	In summary, these retrospective proposals for an outbuilding would integrate well with both the character of the property and the surrounding area. In addition, this proposal will not have a negative impact for neighbouring properties if the proposed additional condition is met, and the proposals would comply with the relevant Development Plan policies.
8.	<u>Conclusion</u>
8.1	It is recommended that planning permission be granted subject to the conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (e) (f) (g) 4.(f) (g) (vv) 6. (a) (b) 7. (a)
Case Officer **Connor Chalmers** PROW Panel 02.08.2022

PLANNING CONDITIONS to include:

01. Materials in accordance with submission (Performance)

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the building hereby permitted shall be in accordance with the submitted plans and information hereby approved.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

02. Approved Plans

The development hereby permitted shall be carried out and retained 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.

03. Incidental Use Only (Performance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking, re-enacting or modifying that Order) the building hereby permitted shall be used only for purposes incidental to the enjoyment of the dwelling house and for no other purpose.

Reason: To maintain planning control in the interests of amenity of the site.

04. Screening

Within one month from the date of this permission, an additional 0.5m high privacy screen shall be installed above the existing fence between the boundary with No.1a and No.1 over the first two fence panels nearest the properties. Once installed, the privacy screen shall thereafter be retained and maintained as such at all times.

Reason: In order to protect neighbour amenity from loss of privacy and overlooking

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design

CS19 Car & Cycle Parking

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

SDP1 Quality of Development

SDP5 Parking

SDP7 Urban Design Context

SDP9 Scale, Massing & Appearance

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Parking Standards SPD (September 2011)

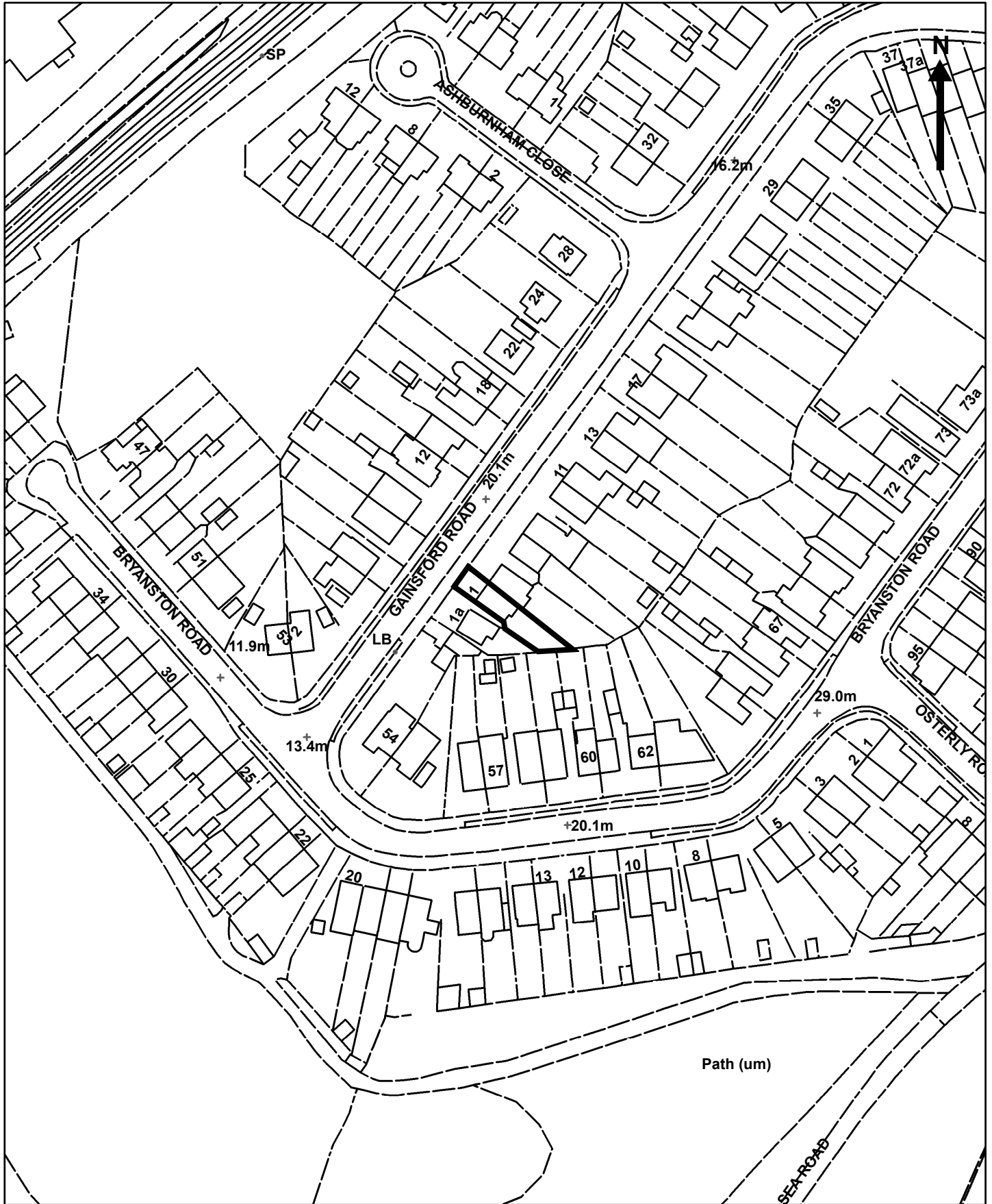
Other Relevant Guidance

The National Planning Policy Framework (2021)

Relevant Planning History

Case Ref	Proposal	Decision	Date
02/00909/FUL	Erection of a two storey side extension and rear conservatory.	Conditionally Approved	12.08.2002
1551/E23	SINGLE STOREY SIDE EXTENSION	Conditionally Approved	30.01.1979
07/01521/FUL	Demolition of existing side extension and the erection of a new No.3 bed two storey detached dwelling.	Conditionally Approved	13.11.2007

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