



NOTICE OF MEETING

PLANNING COMMITTEE

WEDNESDAY, 7 MARCH 2018 AT 1.00 PM

THE EXECUTIVE MEETING ROOM - THIRD FLOOR, THE GUILDHALL

Telephone enquiries to Lisa Gallacher, Local Democracy Officer 02392 834056

Email: lisa.gallacher@portsmouthcc.gov.uk

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

Planning Committee Members:

Councillors James Fleming (Chair), Scott Payter-Harris (Vice-Chair), Jennie Brent, Colin Galloway, Lee Hunt, Frank Jonas BEM, Hugh Mason, Gemma New, Steve Pitt and Gerald Vernon-Jackson CBE

Standing Deputies

Councillors Alicia Denny, Suzy Horton, Darren Sanders, Lynne Stagg, Luke Stubbs, David Tompkins, Steve Wemyss, Tom Wood and Rob Wood

(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

Representations by members of the public may be made on any item where a decision is going to be taken. The request needs to be made in writing to the relevant officer by 12 noon of the working day before the meeting, and must include the purpose of the representation (eg. for or against the recommendations). Email requests to planning.reps@portsmouthcc.gov.uk or telephone a member of the Technical Validation Team on 023 9283 4916.

AGENDA

- 1 Apologies**
- 2 Declaration of Members' Interests**
- 3 Minutes of the previous meeting - 7 February 2018 (Pages 3 - 14)**

RECOMMENDED that the minutes of the Planning Committee held on 7

February 2018 be agreed as a correct record and signed by the Chair.

- 4 Update on previous planning applications by the Assistant Director of City Development**
- 5 17/01916/PAMOD - Modification of legal agreement associated with planning permissions 16/00194/MMA in relation to student occupation obligations (Pages 15 - 18)**

Purpose

The Local Planning Authority is in receipt of an application to modify the legal agreement attached to extant planning permission 16/00194/MMA.

RECOMMENDED

That it be agreed to vary the Unilateral Undertaking to allow students to occupy the same student bedroom for consecutive academic years and retain the requirement for the length of occupancy per academic year to be no more than 51 weeks, and approve the amended Student Intake Management Plan.

PLANNING APPLICATION

- 6 17/02083/FUL - 36-38 Palmerston Road Southsea PO5 3QH (Pages 19 - 30)**

Change of use from retail (Class A1) to cafe/restaurant (Class A3), to include the installation of an extraction system; alterations to shop front; and external seating area.

Members of the public are permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting nor records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

Whilst every effort will be made to webcast this meeting, should technical or other difficulties occur, the meeting will continue without being webcast via the Council's website.

This meeting is webcast (videoed), viewable via the Council's livestream account at <https://livestream.com/accounts/14063785>

Agenda Item 3

PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 7 February 2018 at 1pm in the Guildhall.

These minutes should be read in conjunction with the agenda and associated papers for the meeting.

Present

Councillors Frank Jonas BEM (Vice-Chair)
 Jennie Brent
 Colin Galloway
 Lee Hunt
 Hugh Mason
 Gemma New
 Steve Pitt
 Gerald Vernon-Jackson CBE

Welcome

The chair welcomed members of the public and members to the meeting.

Guildhall, Fire Procedure

Councillor Jonas, explained to all present at the meeting the fire procedures including where to assemble and how to evacuate the building in case of a fire.

19. Apologies (AI 1)

Apologies were received from Councillor Fleming. Councillor Payter-Harris deputised for him.

20. Declaration of Members' Interests (AI 2)

Agenda Item 19 - 91 Powerscourt Road.

Councillor Pitt declared a prejudicial interest in agenda item as he will make a deputation. He will then leave the meeting.

Agenda Item 20 - Social Club, Unity Hall.

Councillor Vernon-Jackson declared a personal and prejudicial interest as he had extensive discussions about the application with the applicant. He will leave the meeting for that item.

21. Minutes of the previous meeting - 10 January 2018. (AI 3)

RESOLVED that the minutes of the meeting held on 10 January be agreed and signed by the Chair as a correct record.

22. Appeal against non-determination at 8 Pitcroft Road, North End, Portsmouth PO2 8BD. (AI 4)

The committee was asked to consider the report and state how it would have determined the application had it been able to make a decision.

The committee indicated that for the purposes of the appeal its position would be to support the officer's recommendation of refusal.

23. Update on previous applications by the Assistant Director of City Development. (AI 5)

The Queens Hotel.

The Assistant Director for City Development informed members that the Inspector had not yet confirmed that a valid appeal against non-determination had been submitted. Members wanted to ensure that officers had time to prepare a robust case for defending the decision.

RESOLVED that officers be instructed to defend the appeal.

Planning Applications.

Deputations are not minuted in full as these are recorded as part of the web-cast of this meeting which can be viewed here:

<https://livestream.com/accounts/14063785/Planning-07Feb2018>

24. 17/01638/TPO - Open Space Locksway Road, Southsea PO4 8HW. (AI 6)

The Planning Officer introduced the application.

Members' Questions.

In response to questions from members, the following points were clarified:

- The poplars shown in the photo in the presentation, as a suggested replacement species are 15-20 years old and are four times as tall as the trees that would be felled. It is not proposed that the lombardy poplars would be replaced with the same species as these are short-lived. The current one is 75 years old and decayed. The replacement species are a similar upright form and better quality species. This would ensure longevity in the landscape.
- The sycamores are 12-15m tall. The holm oaks are 15-18m tall and the Hawthorn and scrub are 4-6m.
- It is proposed that the sycamores be cut by 4m from the laterals. The reduction in height would not have a long lasting effect on life and longevity.
- The trees' health has been looked at.
- It is not known if there had been any reports of damage to houses by trees.
- The previous land owner neglected the site and it now needs managing.
- The committee could consider the trees separately.
- The lombardy poplar was significantly pollarded. More selective pruning is proposed to the other trees as part of ongoing maintenance regime.
- The hawthorns would not be cut back if they were in a field.

Members' Comments.

Members noted that:

- There is a perception that there is a war on trees
- There is no evidence that there is a need to cut the trees' crowns.
- As the poplar is decayed it would be sensible to replace it with the species of tree that was described to secure a tree-lined scene for future generations.
- The holm oaks and hawthorns should not be touched.
- The sycamores' height should be reduced.

RESOLVED that a split decision be made: conditional consent for the sycamores and Lombardy poplar; refusal of works to the hawthorns and holm oaks.

REASONS

- The holm oaks are evergreens and would provide some visual barrier to any development.
- It would not be viable to reduce the hawthorns to 1m high.

25. 17/02153/ PLAREG - 135 Langstone Road, Portsmouth PO3 6BT. (AI 7)

The Planning Officer introduced the application and added this supplementary information: As clarified at the committee site visit, the floor level of the extension is higher than the floor level of the conservatories of the neighbouring properties. This is due to the fact that the floor level was designed to match the existing internal floor level of the house.

Ms S Hannon, Mr R Chapman and Councillor Darren Sanders made deputations against the application.

Ms P Thomas-Taylor, the applicant made a deputation in support of the application.

Members' Questions.

In response to questions from members, the following points were clarified:

- There would be angled views from the extension's windows into the neighbouring garden. This would not be considered to be a significant concern.
- The extension is 1m higher than the neighbouring conservatories.
- The edge of the sloping roof may be slightly higher than the neighbouring conservatory.

Members' Comments.

Members commented that it was an overbearing, unneighbourly building in terms of mass, scale and overlooking of the adjacent homes. They also expressed concern about the potential loss of light in the early morning and evening and the possibility of residents stepping out of the window and using the area as a sun roof.

However, it was also noted that the rear of the building was not substantially higher and did not constitute substantial overlooking, despite the height of the floor being higher than the surrounding gardens.

RESOLVED that the application be granted subject to the conditions set out in the City Development Manager's report

26. 17/01640/HOU - 6 Second Avenue, Portsmouth PO6 1JS. (AI 8)

The Planning Officer introduced the report.

Mark Bryant made a deputation against the application.

Matt Hore, the applicant made a deputation in support of his application.

Members' Questions.

In response to questions, the following points were clarified:

- Number 8's side elevation is 5m and number 10's is about the same height. Both are of similar pitch and design.
- Each application is determined on its own merits.
- If the application were to be permitted, a condition could be added stipulating that frosted glass be used on the kitchen and bathroom windows.

Members' Comments.

Members noted that the property could have a new owner in six months' time or longer and the line could be extended to numbers 8 and 10.

RESOLVED that the application be refused for the reasons set out in the report.

27. 17/02104/FUL - Brunel House, 42 The Hard, Portsmouth PO1 3DS. (AI 9)

The Planning Officer introduced the application.

Stephen Hinsley, the agent made a deputation in support of his application.

Members' Questions.

In response to questions, the following points were clarified:

- It might not be considered reasonable to add a condition prohibiting the roof terrace being used after 23:00. The manager would be expected to ensure that there would be no harm to the neighbours in terms of loss of amenity due to the use of that space.
- The entrance would be orange and the rest of the building, predominately green.

Members' Comments.

Members were encouraged by the application and noted that tourists arriving would see this building as they arrive at the Hard Interchange. They felt that it would significantly improve the scene.

RESOLVED that the application be granted permission subject to the conditions set out in the City Development Manager's report.

28. 17/01686/FUL - 23-31 St Ronan's Road, Southsea PO4 0PP. (AI 10)

The Planning Officer introduced the report and added this supplementary information: An amended roof plan had been received, in line with the amended elevations and floorplans. The amended plan number is ROOF PLAN 23155/013 A. Condition 2 had been amended to include the updated roof plan reference number. The recommendation was unchanged.

Members' Questions.

There were no questions.

Members' Comments.

Members were pleased with the scheme and noted that it tidied up the street scene and increased capacity.

RESOVLED that the application be granted subject to the conditions set out in the report.

29. 17/01929/FUL - 5 Ophir Road, Portsmouth PO2 9EL. (AI 11)

The Planning Officer introduced the application and added this supplementary information: There is a requirement for a financial contribution of £181 to be secured to mitigate the impact of the development on the Solent Special Protection Area. As outlined in the report, the applicants have confirmed their willingness to meet this requirement, but the contribution has not yet been secured. The recommendation has therefore been amended to give delegated authority to the Assistant Director of City Development to grant permission subject to securing the mitigation, or refuse permission if the mitigation is not received.

Amended recommendations:

Recommendation A: That delegated authority be granted to the Assistant Director of City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £181 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

Recommendation B: That delegated authority be granted to the Assistant Director of City Development to refuse planning permission if the agreement referred to in Recommendation A has not been secured within three weeks of the date of the resolution pursuant to Recommendation A.

Lucy Fryer, the applicant and Emma Baker, the agent made deputations in support of the application.

Members' Questions.

In response to questions, the following points were clarified:

- The bins could be stored in either the rear garden or the front forecourt. The Planning Officer did not know which location would be used. The applicant explained that the bins would be of normal household size and be stored in the garden.
- The committee could add a condition requiring the applicant to submit details of the waste storage to the Planning Department for approval.

Members' Comments.

Members were encouraged by the look of the building but were concerned that having a large, communal bin in the forecourt would not look good. They were also not convinced that tenants would not be car owners.

RESOLVED that the application be granted permission subject to the conditions set out in the report and the following additional one:

Details of waste storage be submitted to the Planning Department for approval.

30. 17/01960/ FUL - 16 Stubbington Avenue, Portsmouth PO2 0HT. (AI 12)

The Planning Officer introduced the application and added that since the report was written, three additional representations received, raising the following concerns:

- Concern about increase in number of HMOs in the area;
- Increased parking problems.

Nicholas Atkins and Councillor Robert New made deputations against the application.

Emma Baker, the agent for the applicant said that she had nothing to add.

Members' Questions.

In response to questions, the following points were clarified:

- In the second bedroom on the ground floor, the only daylight comes from a skylight. However, it did not appear to be a dark room when the officers visited.
- The owner can use the property as a HMO already.
- There are now four tenants.
- The only natural light in the dining room is from a small strip of window above the door frame 50-70cm across.
- The bins can be stored in the two out buildings in the rear garden which has rear access.

Members' Comments.

Members noted that:

- The application meets the standards regarding size for this type of property.
- There is a council carpark nearby which is free after 6pm
- The owner could remove the two out buildings.
- There is a council carpark nearby which is free after 6pm.

DECISION

The application was granted subject to the conditions set out in the report and the following additional condition:

Details of the storage be submitted to the Planning Department for approval.

31. 17/02046/FUL - 2 Stubbington Avenue, Portsmouth PO2 0HS. (AI 13)

The Planning Officer introduced the application and added that since publication of the report, three letters of representation had been received from local residents. Their objections were summarised as follows:

- a) The area is already over populated;
- b) The growing number of HMOs in the area;
- c) Parking concerns; and
- d) Impact on the family character of the area.

These concerns were addressed within the report.

Members' Questions.

In response to questions, the following points were clarified:

- The property opposite is number 15.
- There are 26 properties within a 50m radius. Two HMOs would mean that there would be 7.69% of HMOs.
- There are flats on the left hand side of the road.

Members' Comments.

Members noted that this property would create more pressure on parking in the area and were disappointed that an off-street parking space was not proposed for the area where the conservatory used to be. A review of the SPD was suggested.

DECISION

The application was granted permission subject to the conditions set out in the report.

32. 17/01730/FUL - 58 Britannia Road North, Southsea PO5 1SL. (AI 14)

The Planning Officer introduced the report.

David Corkerton, the agent for the applicant made a deputation in favour of the application.

Members' Questions.

In response to questions, the following points were clarified:

- The ground floor lounge is used as a bedroom.
- The glazing on the door to the cellar is clear.
- The dormer extends over two independent addresses and is within permitted development rights. This can be beneficial as no leaves or rubbish can accumulate there and there is no risk of damp.
- Planning regulations do not set a minimum size for communal rooms.

Members' Comments.

Members noted that

- The policy is very clear that this is a HMO.
- There has been an intensification over a long period.
- The application fails to support the SPD regarding the need for a balanced community.
- There is insufficient light to the cellar.

DECISION

The application was refused for the reasons above and those set out in the report.

33. 17/02174/FUL - 51 Chichester Road, Portsmouth PO2 0AB. (AI 15)

The Planning Officer introduced the report and added that since the publication of the report, one letter of representation had been received from a local resident. Their objections can be summarised as follows:

- Work has already commenced;
- Visual and amenity impact of external alterations and additions to the rear of the property and at roof level;
- Impact on parking; and
- Over intensive use of the property.

All of these issues were addressed within the report.

Trevor Wilcock, the applicant and Emma Baker, the agent made deputations in support of his application.

Councillor Robert New made a deputation against the application.

Members' Questions.

There were no questions.

Members' Comments.

Members felt that there were no grounds to refuse this application which complies with the policy.

DECISION

The application was granted permission subject to the conditions set out in the report.

34. 17/02159/FUL - 155 Chichester Road, Portsmouth PO2 0AQ. (AI 16)

The Planning Officer introduced the report and added that since the publication of the report, three representations had been received objecting to the development on the grounds of:

- The development is excessive;
- Increased parking demand;
- Sui-Generis use does not sit well with local residents;
- Concerns regarding growing density of HMO's in the area and the effect on house prices;
- Impact on family nature of the area;
- Increased noise and disturbance;
- Increased rubbish;
- Increased anti-social behaviour and
- Accuracy of HMO database.

The recommendation was unchanged.

Alex Venables made a deputation in support of the application.

Councillor Robert New made a deputation against the application.

Members' Questions.

There were no questions.

Members' Comments.

Members felt that there were no grounds to refuse this application.

DECISION

The application was granted permission subject to the conditions set out in the report.

35. 17/01944/FUL - 91 Powerscourt Road, Portsmouth Po2 7JG. (AI 17)

The Planning Officer introduced the report.

Alex Venables made a deputation in favour of the application.

Councillor Steve Pitt and Councillor Robert New made deputations against the application.

Councillor Pitt then left the room for the rest of this item.

Members' Questions.

There were no questions.

Members' Comments.

Members felt that it was a good application but were disappointed that the shower was downstairs.

DECISION

The application was granted permission subject to the conditions set out in the report.

36. 17/02175/FUL - 54 Kensington Road, Portsmouth PO2 0EA. (AI 18)

The Planning Officer introduced the report and added that since the publication of the report, 24 representations had been received objecting to the development on the grounds of:

- The number of family houses is decreasing in comparison with HMO's;
- Granting permission would create a further imbalance;
- Number of HMOs in the city is higher than the national average;
- The number of HMOs in the city is in excess of student demand;
- Number of schools and parks nearby which are better suited for family use;
- Effect on the safety of neighbourhood;
- Threatens the strong sense of community;
- Contempt for the core strategy;
- Development would set a poor precedent;
- Negative impact on schools and health services in the area;
- Increased parking demand;
- Exacerbate existing problems in the area;
- Increased anti-social behaviour;
- Increased noise and disturbance;
- Increased rubbish;
- Development would result in overcrowding of area;
- Increased commercial vehicles;
- Increased disturbance as a result of construction works;
- Risk to road safety;
- Development would expose children to irresponsible people
- Density of HMOs in the area
- Accuracy of the HMO Database.

In addition to this a petition dated 06.02.2018 had been received with 42 signatures objecting to the proposed development.

It was also noted that the ground floor wc is 0.13m² undersize but given that there are additional facilities, this was considered acceptable.

Julie Richards and Councillor Robert New made deputations against the application.

Trevor Wilcock, the applicant and Emma Baker, the agent made deputations in support of the application.

The Chair advised the public that any traffic safety concerns should be reported to the council.

Members' Questions.

In response to questions, the following points were clarified:

- The bins could be stored in the forecourt and the bicycles in the garden and wheeled through the house.
- The statement of community involvement was agreed by the Cabinet Member for Planning, Regeneration and Development. There is legislation regarding notifying the community about planning applications. Local Authorities have a certain amount of discretion as to what they deem appropriate. For this application, neighbouring residents were informed and site notices were put up.
- Letters were sent to seven properties.

Members' Comments.

Members noted that:

- The 10% rule does not exist in other Local Authorities' planning policies. Members here added it to the council's SPD to help protect mixed and balanced communities.
- The stigma regarding HMOs will begin to subside eventually.
- They had no doubt that the statutory notices had been carried out.
- They expressed concern that bicycles would have to be wheeled through the house.

DECISION

The application was granted permission subject to the conditions set out in the report.

37. 17/02057/VOC - 38 Kent Road, Southsea PO5 3ET. (AI 19)

The Planning Officer introduced the report.

Members' Questions.

In response to questions, the following points were clarified:

- It is not known what form a development will be submitted on Tunbridge Street.
- The Highways Authority would have recommended planning permission for the Portland Hotel development if it had come forward with 16 parking spaces.
- In 2013 the Planning Inspector granted planning permission for the Tunbridge Street development that had five parking spaces. In 2017 the committee refused an application with four spaces.
- The application before the committee has 12 dwellings and the Highways Authority considers the 16 parking spaces are sufficient.
- The Parking Standards demand 17 spaces for the development on the Portland Hotel site for the 12 dwellings. However, the committee has flexibility to permit it given the close proximity of amenities.

Members' Comments.

Members were very concerned about the impact of the insufficient car parking spaces on this application particularly as it is in a oversubscribed residents parking zone and is next to a shopping district.

DECISION

The application was refused.

REASONS

The proposed development would fail to provide adequate off-road parking spaces in line with the requirements of the SPD which would exacerbate a significant parking shortfall in the KC zone that is already oversubscribed.

38. 17/02065/OUT - Social Club, Unity Hall, Coburg Street, Portsmouth. (AI 20)

The Planning Officer introduced the report.

Elliott Vials, agent for the applicant made a deputation in support of the application.

Members' Questions.

- The previous application included the garage count which is on council owned land. In the event that a legal agreement were not reached with the council regarding the properties over the garages, this application was submitted without that.
- There is a possibility that there would be two planning permissions both including Unity Hall and one with the garage count too.
- Apart from the area over the garages, the only differences to the application are a change of colour to blue rather than orange and as the end elevation is further away from the neighbouring property, more glazing and featured brickwork has been included to add interest.

Members' Comments.

Members welcomed the rejuvenation of the building, but wondered if it could have stayed the same colour as a nod to the building's previous use.

DECISION

The application was granted outline permission subject to a S106 planning agreement and the conditions set out in the report.

The meeting concluded at 6pm.

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Signed by the Chair of the meeting

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Agenda Item 5



Portsmouth
CITY COUNCIL

Agenda item:

Decision maker: Planning Committee

Subject: 17/01916/PAMOD - Modification of legal agreement associated with planning permissions 16/00194/MMA in relation to student occupation obligations

Report by: Assistant Director of Culture & City Development

Wards affected: Charles Dickens

Key decision (over £250k): No

1 Purpose

The Local Planning Authority is in receipt of an application to modify the legal agreement attached to extant planning permission 16/00194/MMA - the details of this application are shown below:

- **16/00194/MMA** - Application for minor material amendment to planning permission 15/00176/FUL in relation to construction of a new reception foyer after demolition of existing, installation of additional bedroom window in each level of the tower on the north elevation, amended fenestration to the annexe building and reduction in bed spaces from 262 to 242 - Permitted, May 2016
- **15/00176/FUL** - Change of use from offices (Class B1) to halls of residence (Class C1) at levels 6-18 of Europa House and the annexe building to form 262 study/bedrooms with communal facilities; external alterations of levels 6-18 of Europa House and the annexe building to include new windows and render - Permitted, June 2015

These permissions have been implemented and the building is in use as student accommodation. A legal agreement was completed in association with application 15/00176/FUL - this was subject to a Deed of Variation, dated 10th May 2016, to amend the legal agreement to relate to the scheme approved under application 16/00194/MMA.

This application also seeks permission to amend the details previously approved under Condition 7 of 16/00194/MMA, which states:

- a) The halls of residence hereby permitted shall not be occupied until a Student Intake Management Plan, setting out how the arrival and departure of students at the beginning and end of terms will be controlled in the absence of dedicated parking for drop offs/collections, has been submitted to and approved in writing with the Local Planning Authority.*

- b) The approved Student Intake Management Plan shall thereafter be implemented and maintained unless otherwise agreed in writing with the Local Planning Authority.*

As the application relates to amending a legal agreement this report is to seek the agreement of the Planning Committee to vary Clauses 1.1, 1.2 and 1.3 of Schedule 1 of the Unilateral Undertaking, dated 12th June 2016.

These clauses currently read as follows:

- 1.1 Not to use or permit or allow the use of any of the study bedrooms for any purpose other than as temporary residential accommodation for a Student for any period of Occupation of the same Study Bedroom exceeding fifty one (51) consecutive weeks*
- 1.2 Any Student who has occupied the same Study Bedroom for a period of fifty one (51) consecutive weeks shall be required to Vacate that Study Bedroom*
- 1.3 No Student shall be permitted to use any Study Bedroom which he had previously used and which he had Vacated during the preceding 52 (fifty two weeks*

2 Proposal

Europa House Student Halls of Residence secured its first permission in 2015. At that time it was considered that the best way forward to manage the student intake process was through a condition that specified student's intake being undertaken for each term, rather than each academic year.

Since 2015 it has been considered more appropriate to manage the student intake process through an agreed Student Intake Management Plan which can from time to time be amended and changed to respond to changing circumstances. The key issue for Europa House is that the application will align with other student halls, with intake being associated with once a year, rather than each term.

Sitting alongside this is the proposed modification to the wording of the existing UU to allow students use of the same study bedrooms following the first year of occupation. The applicants have stated that this is in response to students expressing a desire to 'rebook' the same study bedrooms for the following academic year. This would be subject to the proviso that there is a clean break in tenancy and the room in question would be vacated at the end of the 51-week period.

The Assured Shorthold Tenancies would terminate at the end of the 51-week period meaning that students would be required to vacate their rooms. When students return in the new academic year, a new 51-week tenancy agreement would be entered into.

In planning terms the proposed amendment is capable of support.

3 Representations

The Council's Private Sector Housing and Highways Officers have been consulted in respect of the proposed changes. Private Sector Housing have stated that they consider the proposed change to the legal agreement to allow students to occupy the same room in consecutive academic years to be a planning matter in terms of any potential change in the use of the building. As noted above, there is no proposed change of use - the building would remain a Student Halls of Residence. The proposed change to the legal agreement relates solely to the way in which the individual student rooms can be occupied, which is considered acceptable in planning terms.

It is not considered that the proposed amendment to the occupation of the student rooms would result in any increased likelihood of car ownership and therefore would not cause any adverse impact to the local highway network. .

The proposed amendment to the Student Intake Management Plan retains the requirement to schedule arrivals at a maximum of 1 per hour per parking space available and the Highway Office has confirmed no objection to the proposed amendments, subject to the retention the requirement that the arrivals schedule is provided to LPA annually, in advance of students taking up their accommodation, to assist with the auditing of compliance with the planning conditions and the Student Intake Management Plan. As such, the application is considered to be acceptable in highway terms.

4 Recommendation

It is therefore recommended that it agreed to vary the Unilateral Undertaking to allow students to occupy the same student bedroom for consecutive academic years and retain the requirement for the length of occupancy per academic year to be no more than 51 weeks, and approve the amended Student Intake Management Plan.

5 Equality impact assessment (EIA)

This report relates to an application to enter into a deed of variation for a scheme. As this is not a policy matter or decision there is no requirement for an equality impact assessment.

6 Legal services' comments

The City Solicitor is satisfied that it is within the City Council's powers to approve the recommendation as set out.

Duty to act reasonably

Section 106A of the Town and Country Planning Act 1990 provides that the City Council may agree, with the other parties, to a change in the terms of an agreement. Importantly, the Council is bound to consider the request and any decision made is susceptible to judicial review.

Accordingly, the Council is compelled to consider the request, whether the relevant obligation continues to serve a useful planning purpose and - if minded to refuse - to consider and to articulate the planning purpose to be served by such a refusal.

7 Finance comments

There are no finance implications.

Background list of documents: Section 100D of the Local Government Act 1972

Title of document	Location
Legal Agreements dated 16 th May 2016 and 12 th June 2015 Planning Obligations SPD (September 2008) National Planning Policy Framework (March 2012)	Planning Services

PLANNING COMMITTEE 7 MARCH 2018

**1 PM THE EXECUTIVE MEETING ROOM
FLOOR 3, GUILDHALL**

REPORT BY THE CITY DEVELOPMENT MANAGER ON PLANNING APPLICATIONS

ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

All applications have been included in the Weekly List of Applications, which is sent to City Councillors, Local Libraries, Citizen Advice Bureaux, Residents Associations, etc, and is available on request. All applications are subject to the City Councils neighbour notification and Deputation Schemes.

Applications, which need to be advertised under various statutory provisions, have also been advertised in the Public Notices Section of The News and site notices have been displayed. Each application has been considered against the provision of the Development Plan and due regard has been paid to their implications of crime and disorder. The individual report/schedule item highlights those matters that are considered relevant to the determination of the application

REPORTING OF CONSULTATIONS

The observations of Consultees (including Amenity Bodies) will be included in the City Development Manager's report if they have been received when the report is prepared. However, unless there are special circumstances their comments will only be reported VERBALLY if objections are raised to the proposals under consideration

APPLICATION DATES

The two dates shown at the top of each report schedule item are the applications registration date- 'RD' and the last date for determination (8 week date - 'LDD')

HUMAN RIGHTS ACT

The Human Rights Act 1998 requires that the Local Planning Authority to act consistently within the European Convention on Human Rights. Of particular relevant to the planning decisions are *Article 1 of the First Protocol- The right of the Enjoyment of Property*, and *Article 8- The Right for Respect for Home, Privacy and Family Life*. Whilst these rights are not unlimited, any interference with them must be sanctioned by law and go no further than necessary. In taking planning decisions, private interests must be weighed against the wider public interest and against any competing private interests Planning Officers have taken these considerations into account when making their recommendations and Members must equally have regard to Human Rights issues in determining planning applications and deciding whether to take enforcement action.

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CHANGE OF USE FROM RETAIL (CLASS A1) TO CAFE/RESTAURANT (CLASS A3), TO INCLUDE THE INSTALLATION OF AN EXTRACTION SYSTEM; ALTERATIONS TO SHOP FRONT; AND EXTERNAL SEATING AREA.

Application Submitted By:

D2 Planning Limited
FAO Miss Stacey Hartrey

On behalf of:

Loungers Limited
C/O Agent

RDD: 5th December 2017

LDD: 5th February 2018

SUMMARY OF MAIN ISSUES

This application is brought to the Planning Committee for determination following a deputation request from neighbouring residents, Lower Maisonette 18 Clarence Parade, 32 Stanley Street and Hamilton Court, Ashby Place and Councillor Symes.

The determining issues are:

- (a) whether the principle of a change of use is acceptable in this location;
- (b) the development would increase the risk of flooding at this site or in the surrounding area;
- (c) whether the design of any external alterations are appropriate in design terms to the recipient property and wider streetscene;
- (d) whether there would be a significant impact on residential amenity;
- (e) whether there would be an impact on the local highway/parking as a result of the change of use;
- (f) whether suitable provisions have been made in respect of refuse/recycling storage, and;
- (g) in addition to consideration of any other matters raised in representations.

Site and surroundings

This application relates to a three-storey terraced building, located to the west side of Palmerston Road North, close to its junction with Stanley Street. The ground and first floors comprise of a commercial unit, currently in A1 use as a retail shop (it is noted the commercial unit has been vacant since July 2017), with a service yard to the rear accessed from Tonbridge Street, and residential to the above second floor. The application relates specifically to ground and first floors which are accessed from Palmerston Road. Palmerston Road is characterised by shops, cafes and restaurants. Furthermore, the site is located within the Southsea Town Centre Area Plan (STCAAP) and is shown as being in the Primary Frontage and Principle Retail Area that comprises of commercial uses at ground floor level with a mix ancillary and residential accommodation above. The application site is neither a statutory nor locally listed building of architectural or historic interest. Whilst, it is noted the site is not located within a conservation area, it is situated adjacent to the 'Stanley Street' (No.1) and 'Owen's Southsea' (No.2) Conservation Areas. The site is located within an indicative area of flooding (Zone Three).

Proposal

Planning permission is sought for the change of use from retail (Class A1) to Cafe/Restaurant (Class A3), to include the installation of an extraction system; alterations to shop front; and external seating area.

Planning History

None of the planning history of the site is considered relevant to the determination of this application.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: STC11 (Shop Fronts), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS17 (Transport), PCS23 (Design and Conservation), STC2 (Southsea Town Centre), STC3 (Southsea Primary Frontage),

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk), PSC13 (A Greener Portsmouth), PCS17 (Transport) and PCS23 (Design and Conservation). The Parking Standards Supplementary Planning Document (SPD) and saved policy Southsea Town Centre Area Action Plan (adopted July 2007) would also be a material consideration in the determination of this application.

CONSULTATIONS

Contaminated Land Team

The site was a metal smiths (jewellery) adjacent to a boot makers, but given the ground works we do not require a survey for this proposed change.

Environmental Health

I write with regard to the above application for change of use from retail (Class A1) to Cafe/Restaurant (Class A3), to include the installation of an extraction system; alterations to shop front; and external seating area.

This consultation is with regard to the potential impact on neighbouring sensitive uses from the proposed use. This impact can occur through noise and odour.

The location of the application is in the middle of mixed commercial and residential use. The commercial use is largely A1 retail, with some A3 café's. Residential use is located both above the proposal site and on the opposite side of Palmerston Road.

A3 use has the potential to impact on the amenity of neighbouring uses through noise from plant, machinery, entertainment and customer noise and also odour from the cooking processes.

The application includes a kitchen extraction system at the rear of the premises which discharges adjacent to the residential use at 2nd floor. The proposed extraction system includes odour control in the form of carbon, fine filtration and UV. I have conducted a risk assessment based on the proposed odour control system and, in certain circumstances, it would be acceptable. I have significant concerns, however, over the use of the UV ozone unit. Ozone has the potential to cause irritation or damage to the respiratory tract, the lungs and the eyes and guidance states that extraction systems using ozone must discharge at high level. As previously mentioned, the efflux point is located next to residential use at 2nd floor level adjacent to a communal space which does not represent high level discharge. As such, the extraction system, as detailed in the application, is not acceptable.

It would be possible, however, to proceed through condition. Should you be minded to grant permission I recommend that the following condition be applied:

No cooking processes shall take place until equipment is installed to suppress and disperse odour and fumes emitted from cooking operations arising from this use. Prior to installation, details of the proposed equipment shall be submitted to the local planning authority for approval. Approved equipment shall then be installed and maintained in accordance with the manufacturer's recommendations.

Extraction systems also have the potential to cause noise disturbance to neighbouring sensitive uses. Since it has already been established that the extraction system in its currently proposed state is unacceptable, I won't comment at length but I would like to mention that the information presented is not sufficient to allow me to make a judgement. It is lacking in terms of an octave band spectrum for the proposed fans, insertion loss data in octave bands for the proposed silencers and a noise survey covering the hours of use for the extraction system. It may be possible to proceed through condition, however. Should you be minded to grant consent I recommend that the following condition be applied:

Prior to the installation of external plant or equipment, an assessment of noise from the operation of the plant or equipment shall be undertaken using the procedures within British Standard BS4142:2014 and a report submitted to the local authority for approval. Upon approval all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant or equipment shall be implemented.

There is also the potential for noise within the proposed A3 premises to affect the residents in the attached residential premises at 2nd/3rd floor level. No information has been provided as to the structure of the separating ceiling to the residential use above and I am currently waiting for clarification on this detail. I have received an email from Hux Norman proposing a suspended ceiling although it is not possible to ascertain whether this will be adequate without knowing what the primary structure is. Should more information not be forthcoming and should you be minded to grant consent I recommend that the following condition be applied:

Prior to the commencement of the change of use, a scheme for insulating the residential use at second floor against noise from the operation of the A3 use shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first use of the A3 premises and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved:

Second Floor Residential Premises: Noise criterion curve NC25 based on values of Leq(5mins).

The application is for hours of use as follows:

Sunday to Wednesday - 08:00-23:30

Thursday to Saturday - 08:00-00:30

Under the Southsea Town Council Area Action Plan, the southern, non-pedestrianised, end of Palmerston Road has been termed the 'Restaurant Quarter' whereas the pedestrianised end of Palmerston is described as the 'Main Retail Core'. As a result, the later opening (after 23:00 hours) restaurants and bars are located in the southern half of Palmerston Road and the latest opening premises in the pedestrianised area is 22:00 hours. The introduction of premises open until 00:30 hours would be a significant change to the area and introduce noise levels and disturbance to the location. A noise assessment in the pedestrianised area of Palmerston Rd revealed low levels of noise with very little pedestrian movement passing through or traffic noise, with the dominant noise source being a telephone kiosk. It is my view that to protect the amenity of neighbouring residential uses that the hours of use should be restricted to 23:00 hours.

Although separate from the planning process I would like to make you aware that other noise issues such as waste disposal and the opening of the front façade have been addressed through the Licensing regime. The applicant has accepted noise conditions limiting waste disposal between 21:00 hours and 08:00 hours and a condition that requires the sliding/folding doors to be closed by 21:00 hours.

Finally, there is also the potential for disturbance from deliveries, particularly as a result that the delivery area for 36-38 Palmerston Road is confined and reverberant in nature. As such, I recommend that the hours of delivery are controlled.

Highways Engineer

This application is for a change of use of existing retail unit (Class A1) to Café/Restaurant (A3 class). I have reviewed the documents submitted in support of the application and would make the following comment:

Palmerston Road is predominantly a shopping street with a mix of shops, cafes and bars. The proposal site is situated within a pedestrianised area that forms northern half of Palmerston Road. Palmerston Road is bisected by Osborne Road which forms part of a main bus route and also houses a Taxi rank as well as some on-street limited wait parking on Osborne Road and within the Southern half of Palmerston Road. Pay & Display parking is provided for visitors to the shops in nearby Ashby Place car park with capacity for 59 cars.

No traffic assessment has been submitted with the application however given the mix of retail and leisure uses in the area, I do not believe this proposal would result in a material impact upon the immediate or wider highway network.

Portsmouth City Council does not specify an expected standard for numbers of parking spaces for non-residential developments rather require developers make an assessment of the likely demand and provide for that. This application has made no parking assessment and there is no evidence that any parking will be made available primarily for this development. Current public parking areas are used primarily for retail visits during the day and for the bars/restaurants in the evenings. Demand often outstrips capacity on street both during the day and in the evenings however I am satisfied that the majority of trips to the proposed bar/restaurant will be diverted from other establishments and be linked to trips to other shops/services in the area and would otherwise be on the network already.

Part of the application suggests that an outside seating area is to be utilised on the highway (pedestrianised precinct), whilst I am comfortable with this in principle I have concerns that this would be in conflict to traders and visitors on market days. If a condition could be secured to prevent use of the seating area (or extended seating area as is deployed by other establishments locally) during the operating hours of the various regular markets held on Palmerston Road this would be welcomed.

As the application stands I would not wish to raise an objection on Highways grounds.

REPRESENTATIONS

Eight letters of representation have been received objecting on the following grounds:

- (a) late opening hours will impact on residential amenity;
- (b) No other premises will sell alcohol in the shopping precinct;
- (c) Pedestrians and residents will be affected by smoke linked to the external seating area;
- (d) Deliveries to the rear will cause safety issues and disturb residents;
- (e) Noise from bottles/waste collection;
- (f) Noise during the construction period;
- (g) Day to day noise linked to operation use;
- (h) Design and appearance of ventilation system;

- (i) Smells and odours from ventilation system;
- (j) Concern about lack of consultation to neighbours;
- (k) Increase in anti-social behaviour;
- (l) Would change the nature of the shopping precinct;
- (m) Too many food and drink establishments and not enough retail shops; and
- (n) The proposal is not policy compliant.

COMMENT

The determining issues are:

- (a) whether the principle of a change of use is acceptable in this location;
- (b) the development would increase the risk of flooding at this site or in the surrounding area;
- (c) whether the design of any external alterations are appropriate in design terms to the recipient property and wider streetscene;
- (d) whether there would be a significant impact on residential amenity;
- (e) whether there would be an impact on the local highway/parking as a result of the change of use; and,
- (f) whether suitable provisions have been made in respect of refuse/recycling storage; and,
- (g) other matters raised in representations.

Amended plans have been received (16.02.2018) for the current application following on from the advice of the Case Officer, which altered the appearance of the extraction system to the rear of the unit. The revised plans are considered to safeguard the amenity of occupiers of neighbouring properties, and to comply with policy PSC23 of the Portsmouth Plan.

Principle

As outlined in the Southsea Town Centre Area Action Plan (AAP) (adopted July 2007) the site falls within the Primary Frontage and Principle Retail Area on Palmerston Road. Policy STC2 in the AAP states at paragraph 5.10:

'Town centres should be the focus for new retail development along with other town centre uses in order to help centres survive and to enable people to only have to make one trip to satisfy many purposes. If shops and services are located in town centres then this should help to ensure that they are easily accessible, since such locations can be accessed by public transport, walking and cycling. Southsea Town Centre is one of Portsmouth's more important town centres and forms part of the Council's three-centre retail strategy. The aim is to ensure that Southsea Town Centre flourishes and continues to attract people to the area for shopping, leisure pursuits and business. A variety of uses should be encouraged in Southsea Town Centre, especially small independent businesses, to ensure that the centre is in use throughout the day and evenings thus helping to create a lively and safe centre. This means allowing for uses such as bars, cafés and restaurants, which are open in the evenings. Offices should also be encouraged to locate in the town centre as they can lead to an increase in the number of people in the centre and therefore an increase in customers for local shops and cafés'.

Following on, Policy STC3 in the AAP states at paragraph 5.11:

'On the Southsea Primary Frontage planning proposals for town centre uses (listed above in STC2), other than A1 Shops, will only be granted permission if at least 75% of the primary frontage would be in A1 use after the development is completed'.

The Council's records indicate that the current proportion of Class A1 shops uses in the primary frontage is 78% which would drop to 76% if the proposed change of use were to be granted. As the proportion of Class A1 shop uses would remain just above the 75% threshold set out in Policy STC3, it is considered that the proposed change of use is acceptable in principle, and in accordance with the aims of the AAP.

Flooding

Policy PCS12 of the Portsmouth Plan includes, amongst other things, its approach to tidal flood risk to ensure the safety of its existing and future residents and assets. The city is already home to thousands of people, businesses and property, and it is unrealistic to abandon the areas at risk of flooding. The city council believes that these areas must be made safe for the sake of existing properties and inhabitants, and this approach will also benefit potential development sites. Not doing so would severely limit the city's ability to realise the PUSH strategy for regenerating the city.

Portsmouth is at risk of flooding from a variety of sources. Flooding from the sea could potentially have the most catastrophic impact in Portsmouth, particularly if this is as a result of a breach in the flood defences.

As the application relates to the change of use from retail (Class A1) to Cafe/Restaurant (Class A3), to include the installation of an extraction system; alterations to shop front; and external seating area, there would be no increase to the building footprint or areas of hardstanding and is considered as a less vulnerable form of development.

To surmise, the change of use from Class A1 to Class A3 and the installation of a new shopfront and ventilation grills, is not considered to increase the risk of flooding at this site or in the immediate area and would meet the criteria of being minor development, in accordance with Policy PCS12 of the Portsmouth Plan.

Design

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework which requires that all new development: will be of an excellent architectural quality; will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; will establish a strong sense of place; will respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; relates well to the geography and history of Portsmouth and protects and enhances the city's historic townscape and its cultural and national heritage; and is visually attractive as a result of good architecture and appropriate landscaping.

On the front elevation, the existing shopfront would be set back by 2.2m, which would allow for a covered seating area providing an external 24m² seating area. Furthermore, the new shopfront would be replaced although its size in terms of height and width would remain unchanged. Noticeable changes would include more panelling to divide the glass. The shopfront would be formed with timber sliding/folding doors. It is considered that the proposed shopfront and alterations would be acceptable in design terms and would relate appropriately to the recipient building.

Alterations to the rear would include the installation of a louvered inlet and outlet installed within existing window openings. It is considered that on the rear elevation of the property, the inlet and outlet would not be visually obtrusive or incongruous.

Whilst, it is noted the site is not located within a conservation area, it is situated adjacent to the 'Stanley Street' (No1) and 'Owen's Southsea' (No.2) Conservation Areas. Paying careful regard to the significant historic character of the surrounding area, it is considered that given that the proposed development would be to a commercial building within a largely retail area, the proposed development would not appear obtrusive in relation to the recipient building or the wider street scene. It is considered therefore, that the proposal would maintain the setting of the conservation areas and would not detract from the setting of the adjoining heritage assets and would preserve the character and appearance of the conservation areas.

For the reason stated above, the external alterations are therefore considered to relate appropriately to the recipient property and wider area, in accordance with Policy PSC23 of the Portsmouth Plan.

Impact on residential amenity

Policy PCS23 of the Portsmouth Plan includes, amongst other things, that new development should ensure the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development.

A3 use has the potential to impact on the amenity of neighbouring uses through noise from plant, machinery, entertainment and customer noise and also odour from the cooking processes.

The section of Palmerston Road immediately surrounding the application site is not characterised by a concentration of other late night/early morning food and drink uses. There are existing residential premises located close to the site. This relationship would be such that residents of those properties would potentially be subject to noise and disturbance generated from the use for which permission is sought. However, it must be recognised that whilst this section of Palmerston Road is not characterised by late night uses, Palmerston Road as a whole does contain a significant number of such uses that gives rise to a level of activity during those hours where people are usually sleeping.

The Environmental Health team have raised a concern relating to the proposed extraction system and consider the proposed extraction system unacceptable. A condition has therefore been imposed to ensure that no cooking processes shall take place until equipment is installed to suppress and disperse odours and fumes emitted from cooking operation arising from this use. Furthermore, a condition relating to associated noise levels has been imposed in order to mitigate the noise disturbance caused by the extraction system.

The submitted details indicate premises would trade between 08:00 to 23:30 Sunday to Wednesday and 08:00 to 00:30 Thursday to Saturday. Under the Southsea Town Council Area Action Plan, the southern, non-pedestrianised, end of Palmerston Road has been termed the 'Restaurant Quarter' whereas the pedestrianised end of Palmerston is described as the 'Main Retail Core'. As a result, the later opening (after 23:00 hours) restaurants and bars are located in the southern half of Palmerston Road and the latest opening premises in the pedestrianised area is 22:00 hours. The introduction of premises open until 00:30 hours would be a significant change to the area and introduce noise levels and disturbance to the location. A noise assessment in the pedestrianised area of Palmerston Road revealed low levels of noise with very little pedestrian movement passing through or traffic noise, with the dominant noise source being a telephone kiosk. In order to mitigate the concern raised by the Environmental Health Team a condition has been imposed to restrict the hours of use between 08:00 to 23:00 (Sunday to Saturday).

There is also the potential for noise within the proposed A3 premises to affect the residents in the attached residential premises at 2nd/3rd floor level. No information has been provided as to the structure of the separating ceiling to the residential use above. The Environmental Health Team has therefore advised that a condition relating to sound insulation would be appropriate in order to protect the amenity of residential properties.

In addition, there is also the potential for disturbance from deliveries, particularly as a result that the delivery area for 36-38 Palmerston Road is confined and reverberant in nature. As such, The Environmental Health Team has advised that a condition should be imposed to control the hours of delivery, in accordance with Policy PSC23 of the Portsmouth Plan.

Highways/Parking

The Portsmouth Plan contains a policy on Transport (Policy PCS17), which sets out the council's aim to deliver a strategy that will reduce the need to travel and provide a sustainable and integrated transport network. This includes encouraging development in areas around public transport hubs and along corridors where there is good access not only to public transport but also goods and services; locating development where there is the potential to improve accessibility for all through walking, cycling and by public transport; setting local parking standards and requiring travel plans for major new residential and non-residential developments.

In addition, policy PCS23 (design and conservation) of the Portsmouth Plan also states that new development must well designed and highlights that car parking and cycle storage should be secure, well designed, integral to the overall scheme and convenient to users and accessible to all users. This Portsmouth Parking SPD provides further details on local parking standards and travel plans, and design considerations related to parking standards (including cycle parking).

Palmerston Road is predominantly a shopping street with a mix of shops, cafes and bars. The proposal site is situated within a pedestrianised area that forms northern half of Palmerston Road. Palmerston Road is bisected by Osborne Road which forms part of a main bus route and also houses a Taxi rank as well as some on-street limited wait parking on Osborne Road and within the Southern half of Palmerston Road. Pay & Display parking is provided for visitors to the shops in nearby Ashby Place car park with capacity for 59 cars.

No traffic assessment has been submitted with the application however given the mix of retail and leisure uses in the area, it is not considered that this proposal would result in a material impact upon the immediate or wider highway network.

A concern was raised by the Highways team relating to the proposed outside seating area. Whilst the principle of an external seating area is acceptable, concerns have been raised by the Highways Team that this would be in conflict to traders and visitors on market days. However, the submitted drawings indicate that the existing shopfront would be set back by 2.2m, and therefore, the proposed seating area would be within the existing footprint of the unit and not on the public footway. Furthermore, the agent has confirmed that the tables, chairs and barriers would be kept within the recessed area of the footprint of the unit (email dated: 24.01.2018).

Portsmouth City Council does not specify an expected standard for numbers of parking spaces for non-residential developments rather it requires developers make an assessment of the likely demand and provide for that. This application has made no parking assessment and there is no evidence that any parking will be made available primarily for this development. Current public parking areas are used primarily for retail visits during the day and for the bars/restaurants in the evenings. Demand often outstrips capacity on street both during the day and in the evenings however, the Highways Team are satisfied that the majority of trips to the proposed bar/restaurant will be diverted from other establishments and be linked to trips to other shops/services in the area and would otherwise be on the network already, in accordance with the aims and objectives of Policies PCS17 & PSC23 of the Portsmouth Plan and the Portsmouth Parking SPD.

Waste

The submitted plans indicate an area to the rear of the property that would be made available for the storage and collection of refuse. Whilst no specific details have been submitted, these matters could be controlled by suitably worded planning condition and would not form a sustainable reason for refusal in this instance.

Other matters raised in representations

- Neighbour consultation

Concerns have been raised regarding a lack of neighbour notification about the application. It is confirmed that letters were sent to the immediate adjoining properties and three site notices was displayed in accordance with the Council's consultation procedures.

Conclusion

For the reasons stated above, the proposed change of use, installation of an extraction system, external seating area and alterations to the shopfront are considered acceptable to the building and the wider area, in accordance with the aims and objectives of Policies PCS12, PSC13, PCS17 & PSC23 of the Portsmouth Plan, the Portsmouth Parking SPD and saved policy Southsea Town Centre Area Action Plan.

RECOMMENDATION Conditional Permission

Conditions

1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location plan (100022432); Proposed elevation (RP1082/3); Proposed elevations and plans (LNG3793/01F); Proposed sections (RP1082/2); and, proposed flood plans (RP1082/1).

3) The premises shall be closed and vacated by the public outside of the following hours of operation:

- Sunday to Saturday 08:00 to 23:00.

4) No cooking processes shall take place until equipment is installed to suppress and disperse odour and fumes emitted from cooking operations arising from this use. Prior to installation, details of the proposed equipment shall be submitted to the local planning authority for approval. Approved equipment shall then be installed and maintained in accordance with the manufacturer's recommendations.

5) Prior to the installation of plant or equipment, an assessment of noise from the operation of the plant or equipment shall be undertaken using the procedures within British Standard BS4142:2014 and a report submitted to the local authority for approval. Upon approval all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant or equipment shall be implemented.

6) Prior to the commencement of the change of use, a scheme for insulating the residential use at second floor against noise from the operation of the A3 use shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first use of the A3 premises and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved:

Second Floor Residential Premises: Noise criterion curve NC25 based on values of Leq(5mins).

7) Before the restaurant (Class A3) hereby permitted is first brought into use, refuse and recyclable materials storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing; and the approved facilities shall thereafter be retained for refuse/recyclable materials storage at all times.

8) No deliveries shall be carried out outside of the hours of 9:00am and 9:00pm Monday to Saturday and 10:00am and 6:00pm on Sundays and any recognised Bank or public holidays.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In the interests of protecting residential amenity from excessive noise and disturbance in accordance with policy PCS23 of the Portsmouth Plan.
- 4) To protect the amenities of occupiers of nearby properties in accordance with PCS23 of the Portsmouth Plan.
- 5) In the interests of protecting residential amenity from excessive noise and disturbance in accordance with policy PCS23 of the Portsmouth Plan.
- 6) In the interests of protecting residential amenity from excessive noise and disturbance in accordance with policy PCS23 of the Portsmouth Plan.
- 7) To ensure that adequate provision is made for the storage of refuse and recyclable materials, in accordance with policy PCS23 of the Portsmouth Plan.
- 8) To protect the amenities of the occupiers of neighbouring residential properties in accordance with policy PCS23 of the Portsmouth Plan.

PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the application process, and with the submission of amendments an acceptable proposal has been achieved.

Assistant Director of Culture and City Development
26th February 2018