

# **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.

Web: <http://www.portsmouth.gov.uk>

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**36 - 38 PALMERSTON ROAD SOUTHSEA PO5 3QH**

**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 24m<sup>2</sup> 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.

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Assistant Director of Culture and City Development  
26<sup>th</sup> February 2018