

PLANNING COMMITTEE

8 JANUARY 2014

2 PM COUNCIL CHAMBER,
2ND FLOOR, 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*, *Article 6- Right to a fair hearing* 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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287 New Road Portsmouth**Retrospective application for change of use from dwellinghouse to mixed use of dwellinghouse and dog boarding business****Application Submitted By:**

Ken & Karens Dog Services

RDD: 22nd October 2013**LDD:** 3rd January 2014**SITE, PROPOSAL AND RELEVANT PLANNING HISTORY**

The application site comprises the curtilage of number 287 New Road, a two-storey, mid-terraced dwelling located on the northern side of New Road between its junctions with Northgate Avenue and Copnor Road.

This application seeks retrospective planning permission for the use of part of the dwelling for dog boarding. The business has two elements, day time boarding (day care) and overnight boarding.

There is no planning history relevant to this application.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS23 (Design and Conservation).

The National Planning Policy Framework is relevant to the proposed development.

CONSULTATIONS**Environmental Health**

Public Protection are currently investigating complaints from three neighbouring properties in regard to noise associated with dogs barking. Following the results of noise surveys a Noise Abatement Notice was been issued in September. Following the period of compliance of the Notice noise complaints are still being received.

The noise level required to be considered a statutory nuisance is far above that which would have a significant harm to residential amenity. The constraints of the site (its size and construction) are such that it would be difficult and impractical to mitigate noise levels emanating from the property. The granting of permission would make future action against statutory noise nuisance more problematic. Consider the site is fundamentally unsuitable for an operation of this nature.

REPRESENTATIONS

17 objections have been received on the grounds of unacceptable noise and disturbance from dogs barking, inappropriate residential location for such a business, increased levels of dog mess in the area, increased demand for parking, potential risk to safety if dogs were to escape and loss of property value.

Representations in support of the application have been received from 2 local residents and from 18 customers of the business. A deputation request has also been received from Councillor Fazackarley.

The applicant has provided letters of support from 6 neighbours and 8 customers together with one that was later withdrawn by a neighbour who no longer wished to support the application.

COMMENT

The main issues to consider in the determination of this application are whether the use of the property for dog boarding is acceptable, whether it has an impact on the occupiers of neighbouring properties and whether it has any impact on highway safety.

The application site is a relatively modest two-storey terraced property in a predominantly residential area. It is clear from the comments of the Head of Public Protection and the serving of a Noise Abatement Notice that the operation of the dog boarding business has resulted in the generation of significantly intrusive levels of noise. Paragraph 109 of the National Planning Policy Framework states that "the planning system should contribute to and enhance the ... local environment by preventing both new and existing development from contributing to ... unacceptable levels of ... noise pollution". Paragraph 123 of the NPPF requires that "planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development". Policy PCS23 of the Portsmouth Plan seeks the: protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers". In this case it is considered that the application site, by reason of its size, form and location, is fundamentally unsuitable to be used for this commercial purpose as it results in a level of noise and disturbance that causes significant harm to the living conditions of neighbouring residents. It is considered that the harm associated with the operation of the dog boarding business is such that it could not be mitigated through the imposition of planning conditions. It is accepted that the operation of the dog boarding provides a service to its customers, however the benefits of its continued operation does not outweigh the substantial harm to amenity associated with its operation.

Whilst the operation of the business may result in increased traffic and demand for parking, this is not considered to result in any significant effect on the safety or convenience of the users of the local highway network.

Loss of property value is not a material planning consideration and the fouling of pavements is the subject of separate legislation outside of the planning system.

RECOMMENDATION I: Refuse Planning Permission

RECOMMENDATION II: Authority be given to pursue formal enforcement action to resolve the breach of planning control associated with the unauthorised use of the property

The reason for the recommendation is:

The use of the property for dog boarding gives rise to an unacceptable level of noise and disturbance to the detriment of the residential amenities of the occupiers of neighbouring properties. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework and to policy PCS23 of the Portsmouth Plan.

PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, the details of the application did not accord with pre-application advice and the application has been refused for the reasons outlined above.

Annesley House Queens Crescent Southsea**Installation of double access gates including construction of new gate pier and formation of dropped kerb to provide vehicular access (after removal of part of existing wall/pier)****Application Submitted By:**

Mr Charles Stunell

RDD: 24th October 2013**LDD:** 8th January 2014

This application has been brought to Committee at the request of Councillor Rob Wood

SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

The application site comprises the curtilage of Annesley House, a Grade II Listed Building located on the south-west corner of the junctions on Queens Crescent and Sussex Terrace in Southsea. The site lies within the Owen's Southsea Conservation Area. Annesley House is a detached villa designed by T.E Owen and built in 1844. The site was used as a School of Seamanship and Navigation and is currently a large single dwellinghouse.

This application seeks planning permission for the installation of double access gates including the construction of a new gate pier and formation of dropped kerb to provide vehicular access to Sussex Terrace following the removal of part of an existing wall/pier.

Planning permission and listed building consent (13/00095/FUL and 13/00096/LBC) were granted in April 2013 for the conversion and subdivision of the existing dwelling to form two dwellinghouses together with associated external and internal alterations. As initially submitted these applications included a new vehicular access to Sussex Terrace in a similar manner to that proposed as part of this application, however this was deleted from the proposal prior to the applications being determined.

A corresponding application for listed building consent (13/01183/LBC) appears elsewhere on this agenda.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS23 (Design and Conservation), PCS17 (Transport).

The National Planning Policy Framework is relevant to the proposed development along with the Owen's Southsea Conservation Area Guidelines.

CONSULTATIONS**Highways Engineer**

Sussex Terrace runs along the northern boundary of Annesley House and forms a link between Sussex Road to the west and Queens Terrace to the east. Sussex Terrace is an unclassified Road with an S-bend at its northern end. The carriageway widths vary at its junctions with Queens Terrace (3.21m) and Sussex Road (6.0m). The road is subject to a 20mph speed limit. Just to the west of the proposed access the road narrows down to 2.6m and acts as a single lane where only one car can access either direction at any one time. Although the traffic flows are generally low along of Sussex Terrace, both vehicular and pedestrian flows are particularly heightened during the peak morning and afternoon drop off and collection periods for nearby

schools. There may be occasions where vehicles may reverse or queue fronting the proposed access in order to give-way for those vehicles travelling in opposite direction.

There is no footway on the southern side of this narrow section of Sussex Terrace. Pedestrians will have to stack on the footpath fronting the proposed access to cross over to the opposite side.

The proposed access is approximately 2.8m wide. There is inadequate visibility to the north east for vehicles exiting the site due to the 1.8m high pier compounded by the gated doors opening inwards. The drivers exiting the site should have unhindered visibility splays up to the bend in this direction so that vehicles travelling south west can be seen, and to be seen by those drivers approaching the site. The maximum visibility that can be achieved is 2.0m to both directions. Although this measurement is considered adequate for drivers to see the pedestrians the inadequacy to see other vehicles is considered paramount.

RECOMMENDATION: The proposed location has insufficient frontage in a north- east direction to enable an access to be satisfactorily laid out incorporating necessary visibility splays which are essential in the interests of highway safety

REPRESENTATIONS

None received.

COMMENT

The main issues to be considered in the determination of this application are whether the proposed works would affect the special architectural or historic interest of the Listed Building and the character and appearance of the Owen's Southsea Conservation Area and whether the proposed access is acceptable in highway terms.

The Council's Conservation Area guidelines describe the area around Kent Road, Sussex Road and Queens Crescent as being "perhaps the best preserved parts of the CA and including several terraces, groups of houses and individual villas". The guidelines continue by stating that this area is a "less formal, picturesque development as in the grouping of Sussex Terrace, Annesley House and 30-34 Sussex Road with a narrow winding road bounded by walls and trees". The guidelines go on to describe development in Queen's Crescent as being closely grouped, giving relatively high density development with garden land around the edge creating the impression of spaciousness. The frontage of the site is largely open with the relatively low boundary wall allowing views into and across the site from Queens Crescent and Sussex Terrace. This open aspect is such that the site forms a prominent and important feature within the Owens Southsea Conservation Area.

The Conservation Area guidelines state that "the City Council will encourage the retention of existing boundary walls, gate pillars and gates and other means of enclosure and will encourage their restoration and reinstatement to match the original style for that property" and that "the City Council will discourage the removal/demolition/or unsympathetic alteration of existing walls and other means of enclosure which are of architectural or townscape value". The section of wall to which this application relates is of some age (with the exception of an infill section in a former pedestrian entrance) that makes a significant contribution to the character of this part of the Conservation Area. It is clear that historically there has been an opening in the wall onto Sussex Terrace and should be noted that vehicular openings have previously been allowed in this area (including at number 1 Sussex Terrace in 2004 and number 6 Sussex Terrace in 2011). The proposed replacement brick pillar and timber gates would be of an appropriate design which it is considered would be appropriate in heritage terms. It is therefore considered that the proposal would preserve the special architectural or historic interest of Annesley House and would preserve the character and appearance of the Owens Southsea Conservation Area.

Sussex Terrace runs along the northern boundary of the site and forms a link between Sussex Road to the west and Queens Terrace to the east .It is an unclassified road with an S-bend at its western end and is subject to a 20mph speed limit. The carriageway widths vary at its junctions

with Queens Terrace (3.2 metres) and Sussex Road (6.0 metres). Just to the west of the proposed access the road narrows down to 2.6 metres and effectively becomes single lane where only one car can travel in either direction at any one time. There is no footway on the southern side of this narrow section of Sussex Terrace. Although the traffic flows are generally low along of Sussex Terrace, both vehicular and pedestrian flows are particularly heightened during the peak morning and afternoon drop off and collection periods for nearby schools. There may be occasions where vehicles may reverse or queue fronting the proposed access in order to give-way for those vehicles travelling in opposite direction.

Visibility to the north-east of the proposed access would be restricted by both the proposed gate pillar and the proposed gate itself when in an open position. Beyond this the existing boundary wall is some 1.1 metres high (when measured from Sussex Terrace). It is therefore clear that the visibility of drivers leaving the site would be restricted. Whilst it is recognised that traffic along Sussex Terrace is relatively limited and that the width and bends in the road do limit the speed of vehicles, this road is often used as a route to and from nearby schools by both pedestrian and vehicular traffic. The drivers of any vehicles exiting the site should have unhindered visibility splays up to the bend to the north-east so that vehicles travelling from Queens Crescent can be seen as well as by drivers approaching the site. The maximum visibility that could be achieved is 2.0 metres in both directions. Whilst this could be considered adequate for drivers to see pedestrians, lack of driver-driver intervisibility is considered to represent a significant danger to users of the access and the adjacent highway.

Having regard to the relationship of the site to neighbouring properties, it is considered that the proposal would not give rise to any significant impact on the residential amenities of the occupiers of those properties.

RECOMMENDATION Refuse

The reason for the recommendation is:

The proposed access would, by reason of its location on a bend in the road, have inadequate driver-driver visibility to the north-east and as such be detrimental to the safety of users of the access and the adjacent carriageway.

PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, the details of the application did not accord with pre-application advice and the application has been refused for the reasons outlined above.

03 13/01183/LBC

WARD:St Jude

Annesley House Queens Crescent Southsea

External alterations to allow the installation of double access gates including construction of new gate pier and formation of dropped kerb to provide vehicular access (after removal of part of existing wall/pier)

Application Submitted By:
Mr Charles Stunell

RDD: 24th October 2013

LDD: 8th January 2014

This application has been brought to Committee at the request of Councillor Rob Wood.

SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

The application site comprises the curtilage of Annesley House, a Grade II Listed Building located on the south-west corner of the junctions on Queens Crescent and Sussex Terrace in Southsea. The site lies within the Owen's Southsea Conservation Area. Annesley House is a detached villa designed by T.E Owen and built in 1844. The site was used as a School of Seamanship and Navigation and is currently a large single dwellinghouse.

This application seeks listed building consent for the installation of double access gates including the construction of new a gate pier following the removal of part of an existing wall/pier.

Planning permission and listed building consent (13/00095/FUL and 13/00096/LBC) were granted in April 2013 for the conversion and subdivision of the existing dwelling to form two dwellinghouses together with associated external and internal alterations. As initially submitted these applications included a new vehicular access to Sussex Terrace in a similar manner to that proposed as part of this application, however this was deleted from the proposal prior to the applications being determined.

A corresponding application for planning permission (13/01182/HOU) appears elsewhere on this agenda.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:
PCS23 (Design and Conservation).

Paragraphs 126 to 141 of the National Planning Policy Framework are also relevant to this application along with the Owen's Southsea Conservation Area Guidelines.

CONSULTATIONS

The Portsmouth Society, The Victorian Society, The Georgian Group, Council For British Archaeology, SPAB, Ancient Monuments Society & Twentieth Century Society

No responses received.

REPRESENTATIONS

None received.

COMMENT

The main issue to be considered in the determination of this application is whether the proposed works would preserve the special architectural or historic interest of the grade II Listed Building.

The section of wall to which this application relates is of some age (with the exception of an infill section in a former pedestrian entrance) that makes a significant contribution to the setting of this Grade II Listed Building. It is clear that historically there has been an opening in the wall onto Sussex Terrace and should be noted that wider openings have previously been allowed in the walls of other Listed Buildings in the area (including at number 1 Sussex Terrace in 2004 and number 6 Sussex Terrace in 2011). The proposed replacement brick pillar and timber gates would be of an appropriate design which it is considered would be appropriate in heritage terms. It is therefore considered that the proposal would preserve the special architectural or historic interest of Annesley House.

RECOMMENDATION

Conditional Consent

Conditions

- 1) The development to which this consent relates shall be begun before the expiration of 3 years from the date of this consent.
- 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: Site Location Plan and 110.
- 3) The gate pillar hereby consented shall be constructed and the boundary wall made good through the re-use of salvaged bricks, with all pointing and brick bonding to match that of the existing wall.
- 4) The gates hereby consented shall be constructed of solid timber and be finished in a colour that shall previously be submitted to and agreed in writing by Local Planning Authority.

The reasons for the conditions are:

- 1) To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to prevent an accumulation of unimplemented consents.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To protect the special architectural or historic interest of the Listed Building in accordance with the aims and objectives of the National Planning Policy Framework and policy PCS23 of the Portsmouth Plan.
- 4) To protect the special architectural or historic interest of the Listed Building in accordance with the aims and objectives of the National Planning Policy Framework and policy PCS23 of the Portsmouth Plan.

PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

04 13/01179/FUL

WARD:St Jude

130-136 Elm Grove Southsea

Conversion of existing offices and health drop-in centre (D1) to form halls of residence within Class C1 (comprising 53 study bedrooms arranged as 13 cluster flats); alterations to external glazing and cladding, construction of cycle and bin stores with associated landscaping (resubmission of 13/00442/FUL)

Application Submitted By:

Willmore Iles Architects

On behalf of:

SAP No 1 Limited And SAP No 2 Limited

RDD: 23rd October 2013
LDD: 28th January 2014

SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

The application site, formerly known as Kingsway House, comprises a five-storey building located on the southern side of Elm Grove approximately 90 metres west of its junction with Victoria Road North/South. The site is currently vacant and was last occupied by the NHS as offices and a health/advice centre. The site is located within the secondary area of the Albert Road and Elm Grove District Centre and is adjacent to, but outside of, the northern boundary of the 'Owens Southsea' Conservation Area.

This application seeks planning permission for the change of use and conversion of the former offices and health drop-in centre to form a halls of residence within Class C1 comprising 53 study bedrooms arranged as 13 cluster flats, alterations to the exterior of the building and the construction of cycle and bin stores together with associated landscaping.

The most relevant element of the planning history of the site is application 13/00442/FUL for the conversion of the building to a student halls of residence which was recommended by officers for permission and refused by the Planning Committee in July 2013 for the following reasons:

1) The proposed conversion would, by reason of its over-intensive nature, give rise to an unacceptable level of noise and disturbance harmful to the residential amenities of the occupiers of neighbouring residential properties. Furthermore the proposed alterations to the building would fail to complement or enhance the appearance of existing building. The proposal is therefore contrary to policy PCS23 of the Portsmouth Plan.

2) The proposal fails to make adequate provision for the storage of cycles and refuse/recyclable storage contrary to policy PCS23 of the Portsmouth Plan.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:

PCS8 (District centres), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), PCS23 (Design and Conservation).

The National Planning Policy Framework is also of relevance to the proposed development.

CONSULTATIONS

Highways Engineer

The site fronts onto Elm Grove, approximately 80 metres from a signalised 4-way junction. On-street parking is severely limited and only available on one side of the road, in short sections. To the front of the site is a Pay & Display facility, which operates 7 days a week, 8am - 6pm. Further west, waiting is limited to 1 hour (No Return Within 1 Hour, Monday-Saturday 8am - 6pm). The area immediately north of Elm Grove has a residents' parking scheme, and properties on the south side of Elm Grove are not entitled to apply for permits. On-street parking south of Elm Grove is severely congested due to overspill parking from the parking scheme and multi-let / multiple occupancy properties that do not have off-road parking facilities.

It is stated in the Design and Access Statement that, within the Tenancy Agreement, students will agree neither to bring a car within 3 km of the site nor to join any local resident's schemes. Given the location of the development, close to local shops, amenities, bus routes and university, we do not consider that the proposal is likely to create significant highways issues, as the area creates natural self-regulation. The previous occupant had 14 car parking spaces for

employee use but for the proposed use there is no requirement for employee parking, reducing the demand for on street car parking by employees.

Suggest secure and weatherproof cycle parking be provided at a ratio of one space per two study bedrooms. Advise it would be preferable if refuse stores were located close to building entrance. Request further details regarding management of car parking spaces and end of term arrivals/departures.

Raise no objection subject to suitable cycle storage facilities, resiting of refuse and recyclables storage and further details of beginning/end of term arrangements.

Environmental Health

Raises no objection to proposed change of use on the basis that the proposed use cannot be inherently associated with noise, as the behaviour of individuals cannot be considered typical of a group falling within a particular tenure or demographic. Note that if any noise nuisance were to arise it could be addressed under Environmental Protection legislation. Also advises that four noise complaints have been received in regard to a similar property operated by the applicant on the opposite side of Elm Grove. One of these complaints has been substantiated and enforcement action is being pursued against the occupiers. The attempt to mitigate against any possible noise problems by introducing top-hung windows with a maximum opening depth of 150mm is noted, but the possible reduction has not been quantified. Whilst an improvement in noise attenuation may result from changing the window configuration, it is unlikely to be significant and that significant levels of attenuation could only be achieved by using non-opening windows and with a mechanical ventilation system which may create an undesirable living environment for future residents.

Recommend condition relating to insulation of proposed accommodation from external noise.

Contaminated Land Team

Recommends imposition of conditions relating to contaminated land.

REPRESENTATIONS

Objections have been received from nine local residents and from Councillor Fazackarley on the following grounds: a) increased noise and disturbance; b) increased demand for car parking; c) overlooking; d) development would change the character of the area; e) impact on setting of adjacent Conservation Area; f) previous reasons for refusal not addressed and changes token gestures; and g) students should be located close to city centre and campus.

COMMENT

The main issues to consider in the determination of this application are whether the proposed change of use is acceptable in principle, whether the alterations to the building are acceptable in design terms, whether the proposal would relate appropriately to neighbouring properties and whether the site is suitable for a car free development. Other matters to consider are whether the proposal would comply with policy requirements in respect of cycle parking and planning obligations. Particular regard should be had to whether this revised scheme has addressed and overcome the reasons for the refusal of the previous application.

The application site is located within the secondary frontage of the Albert Road and Elm Grove District Centre. Having regard to the location and layout of the existing building, it is considered that, in the absence of any demand for the commercial use of the property, its conversion to a residential use in the most appropriate alternative use. Policy PCS8 states that in such areas residential uses will be supported in principle. The proposed change of use to a specialist form of residential accommodation is therefore considered to remain acceptable in principle.

The previous application included alterations to the building by the recladding of the non-brick parts of the building and the installation of 'oriel' type windows to replace existing windows in the east facing elevation of the rear projection. In response the comments of the Committee and the reason for the refusal of the previous application, the 'oriel' windows have been removed from

the scheme and the metal cladding panels replaced with horizontal timber cladding. The proposed conversion would significantly reduce the level of glazing to the building with the revised pattern of fenestration forming a diamond pattern to break up the mass of the building. In design terms the proposed alterations are considered acceptable, such that they would improve the current tired appearance of the building and add both variety and interest to the contextual streetscene. Furthermore it is considered that the external alterations would not have any significant effect on the setting of the adjacent Conservation Area.

The proposal does not involve the extension of the building, however part of an existing undercroft area would be infilled to provide additional accommodation at ground floor level. The proposed conversion would re-use existing window openings albeit with a much reduced proportion of glazing to the main elevations. Internally the building would be arranged such that study bedroom windows would generally face to the front and rear with a limited number in the east facing side of the rear projection. The proposal also includes the reglazing of the building with top opening windows with restricted openings to minimize the breakout of noise from the building. Having regard to the lawful use of the building and the extent and location of existing windows, it is considered that the proposed use of the building would not give rise to an increase in overlooking that would cause significant and demonstrable harm to the living conditions of the occupiers of neighbouring properties. The proposed use of the building would likely be more intensive than the former commercial/medical use of the building, and as such could give rise to a greater potential for noise and disturbance. The comments from Public Protection note that the proposed use cannot be inherently associated with noise, as the behaviour of individuals cannot be considered typical of a group falling within a particular tenure or demographic. Accordingly they advise that if any noise nuisance were to arise it could be addressed under Environmental Protection legislation. Public Protection also note the attempt to mitigate against any possible noise problems by introducing top-hung windows with a maximum opening depth of 150mm, but note that the possible reduction has not been quantified (this is due to the building being vacant thereby prevent noise studies being carried out). They noted that whilst an improvement in noise attenuation may result from changing the window configuration, it is unlikely to be significant and that significant levels of attenuation could only be achieved by using non-opening windows and with a mechanical ventilation system. The use of fixed glazing is an option for this scheme, however it would be likely to result in an undesirable living environment for future residents and in the applicants view would affect the likely levels of occupation of the building. Having regard to the location of the site within a designated 'town centre' and the alterations made to the proposal, it is considered that the proposed specialist form of residential accommodation would not be likely to give rise to an increase in noise and general disturbance which would significantly affect the amenities of the occupiers of neighbouring properties.

The proposal includes the removal of four of the eight existing parking spaces from the rear of the site that are accessed via an undercroft from Elm Grove. The submitted drawings indicate that retained parking spaces would be for visitors and for any disabled future occupiers and not be made available to future occupiers. In appeal decisions for similar halls of residence development (e.g. at 151 Fawcett Road) Inspectors have taken the view that for such developments in accessible locations, dedicated off-road parking should be avoided to discourage car use and in light of a restriction to student occupation only would not have a significant effect on the on-street parking in the locality. However in this instance having regard to the presence of the existing car parking spaces and the lack of an appropriate alternative use of this space, it is considered appropriate for this area to be retained for parking and turning to allow the serving of the building, especially at the beginning and end of terms. It should be noted that future student occupiers of the building would not be eligible for parking permits in the nearby residents parking zones. Having regard to the location of the site within a designated town centre with good accessibility to public transport and within walking distance of the city centre campus it is considered that the proposal is acceptable in highway terms.

The submitted drawings indicate an increased provision for the storage of cycles at a ratio of up to 3 spaces per four study bedrooms. The applicant operates other similar halls of residences and has requested that flexibility be given to the level of cycle storage provision to prevent the

overprovision of facilities which would remain unused. It is considered that an initial provision of one space per two study bedrooms would be appropriate, and if monitoring reveals a demand for further facilities then they can be provided. It is considered that such an arrangement would address and overcome that part of the second reason for the refusal of the previous application.

The proposed facilities for the storage of refuse and recyclable materials, are the same as previously proposed, which had been established and agreed through discussions with the Council's Waste Management team. Notwithstanding the previous reason for refusal, the proposed facilities are considered acceptable and can be secured through the imposition of a suitably worded planning condition.

The applicant has offered to prepare and implement a Management Plan that would restrict occupiers of the premises having cars, managing movements at the beginning and end of terms and provide a mechanism for the management of any issues arising from the proposed use of the building.

Having regard to the provisions of policy PCS19 in respect of the provision of affordable housing and minimum space standards and the car parking issues discussed previously, it is considered that a Section 106 Agreement to restrict occupation to UoP students or others on a recognised full-time course of study is necessary to make the development acceptable in planning terms and would be both directly related to the development and be fairly and reasonably related in scale to the development.

RECOMMENDATION I: Subject to the applicant first entering into a Section 106 Agreement to restrict the occupation of the residential accommodation to UoP students or others on a full-time course of study and to secure the approval and implementation of a Management Plan, grant Conditional Permission

RECOMMENDATION II: That delegated authority be granted to the City Development Manager to refuse planning permission if the legal agreement has not been completed within three months of the date of the resolution.

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: 354-PL-SITE-001; 354-PL-SITE-004 Rev.C; 354-PL-GA-010 Rev.A; 354-PL-GA-011 Rev.A; 354-PL-GA-012 Rev.A; 354-PL-GA-013 RevA 354-PL-GA-014 Rev.A; 354-PL-GA-015; 354-PL-GA-110 Rev.A; 354-PL-GA-111 Rev.A; 354-PL-GA-112 Rev.A; 354-PL-GA-113 Rev.A; 354-PL-GA-210 Rev.A; and 354-PL-GA-211 Rev.A.
- 3) No development shall commence on site until a schedule of materials and finishes to be used for the external alterations to the building (including replacement doors and windows) has been submitted to and approved by the Local Planning Authority in writing. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development shall take place on site until details of the means of restricting the opening of external windows have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before first occupation of the development and thereafter be retained.

5) No development shall take place on site until a scheme for insulating the building against external noise (including if required the provision of a mechanical ventilation system) has been submitted to and approved in writing by the Local Planning Authority. The approved noise mitigation scheme shall be carried out before first occupation of the development and thereafter be retained.

6) Prior to the first occupation of the halls of residence hereby permitted, bicycle storage facilities shall be provided in accordance with a detailed scheme (to include monitoring of the use of the facilities) to be submitted to and approved by the Local Planning Authority in writing and those facilities shall thereafter be retained for the continued use by the occupants of the building for that purpose at all times.

7) Prior to the first occupation of the halls of residence hereby permitted, facilities for the storage of refuse and recyclable materials shall be provided in accordance with a detailed scheme to be submitted to and approved by the Local Planning Authority in writing, and those facilities shall thereafter be retained for the continued use by the occupants of the building for that purpose at all times.

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 the visual amenities of the area in accordance with policy PCS23 of the Portsmouth Plan.
- 4) To minimise the potential for noise breakout from the building in the interests of the residential amenities of the occupiers of neighbouring properties in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To ensure that acceptable noise levels within the halls of residence are not exceeded in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 6) To ensure that adequate provision is made for cyclists using the premises and to encourage the use of alternative modes of transport in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.
- 7) To ensure that waste from the building is stored in an appropriate manner in the interests of the amenities of the area in accordance with policy PCS23 of the Portsmouth Plan.

The reason for the recommendation is:

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 pre-application process to achieve an acceptable proposal without the need for further engagement.

05 13/01169/FUL

WARD:St Jude

39 Palmerston Road Southsea

Change of use from retail use (Class A1) to coffee shop (mixed use A1/A3); installation of new shopfront and outdoor seating area

Application Submitted By:

Boyer Planning Ltd

On behalf of:

Coffee#1 Ltd

RDD: 21st October 2013

LDD: 17th December 2013

SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

The application site comprises a vacant ground floor retail unit on the eastern side of the Palmerston Road Precinct. The site is located within the designated Primary shopping frontage of Southsea Town Centre.

Planning permission is sought for a change of use from shop (within Class A1) to coffee shop (mixed use within Classes A1 and A3) and the installation of a new shopfront. The application form and submitted drawings refer to the formation of an outdoor seating area, however this land falls outside of the application site. The proposed hours of use are 8am to 6pm Monday to Saturday and 9am to 5:30pm on Sundays and Bank/Public Holidays.

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 are: PCS17 (Transport) & PCS23 (Design and Conservation) and the relevant policies within the Southsea Town Centre Area Action Plan are: STC2 (Southsea Town Centre), STC3 (Southsea Primary Frontage) & STC11 (Shop Fronts).

CONSULTATIONS**Environmental Health**

No concerns, having regard to the specific use sought. Suggests conditions relating to noise from proposed condensers to rear.

REPRESENTATIONS

Nine objections have been received on the following grounds: a) impact on flower stall which operates to front of adjacent unit; b) no need for additional food/drink outlet too many already; c) external seating would obstruct pedestrian flows.

A petition of 259 signatures has been received in opposition to an additional coffee shop in Palmerston Road.

A petition of 415 signatures has been received opposing the application on the grounds of obstruction to pedestrians and existing flower stall.

COMMENT

The main issues to consider in the determination of this application are whether the proposed change of use is acceptable in principle, whether the alterations to the building are acceptable in design terms, whether the proposal would have any adverse impact on the occupiers of neighbouring properties and whether the proposal is acceptable in highway terms.

The application site is located within the primary retail frontage of Southsea Town Centre. Policy STC3 (Southsea Primary Frontage) of the Southsea Town Centre Area Action Plan states that 'in the Southsea Primary Frontage planning proposals for town centre uses, 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 over 82% which would drop to 81.5% if the proposed change of use were to be granted. As the proportion of Class A1 shop uses would remain well above the 75% threshold set out in Policy STC3, it is considered that the proposed change of use is acceptable in principle.

The proposed new shop front is considered acceptable in design terms such that it would complement the existing building and make a positive contribution to the wider streetscene. The proposed use does not involve the use of commercial cooking equipment and as such would not require an extraction system or associated sound and odour mitigation. Accordingly it is considered that the proposed use would be unlikely to affect the amenities of the occupiers of neighbouring premises subject to the imposition of conditions relating to limiting the type of cooking equipment to be used and mitigation of noise from the condensers to be installed at the rear of the building.

The external seating area shown on the submitted drawings would project approximately 2 metres to the front of the unit and would accommodate three tables in a similar manner to other external seating areas in the precinct. This element of the proposal falls outside of the scope of this planning application, with the placing of objects on the highway needing to be the subject of an amenity on the highway license. The issue of the external seating area being an obstruction to the highway and its relationship with the adjacent flower stall is not normally controlled under planning legislation but is dealt with by the licensing process.

Having regard to the town centre location of the site it is considered that the proposal would be unlikely to generate a demand for parking or servicing that could not be accommodated by existing town centre car parks and road network.

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: A-G/867-13 - P2 Rev.A A-G/867-13 - P3 Rev.A and A-G/867-13 - P4.
- 3) No cooking processes other than the preparation of hot beverages, the toasting of bread, or the heating of food in a microwave oven, domestic oven or domestic cooking device shall be carried out without the prior written approval of the Local Planning Authority.
- 4) If at any time a cooking process other those set out in Condition 3 is undertaken on the premises, an extract ventilation system incorporating measures to suppress noise, odours and fumes shall previously be installed in accordance with a detailed scheme that shall be submitted to and approved in writing by the Local Planning Authority. The approved extraction system shall be retained and operated in such a manner to effectively suppress the emissions of fumes, odour and noise.
- 5) No external fixed plant or equipment shall be installed until a scheme for the protection of neighbouring premises from noise generated by the plant or equipment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that the noise rating level expressed as an LAeq,T 1 metre from the facade of the nearest residential

property will be no greater than the measured background noise level expressed as an LA90, as defined in British Standard 4142. The approved mitigation measures shall be implemented prior to the plant or equipment being brought into use and thereafter maintained.

6) The use hereby permitted shall be closed to and vacated by customers between the hours of 22:00 and 08:00 the following day.

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) To protect the residential amenities of the occupiers of neighbouring premises in accordance with policy PCS23 of the Portsmouth Plan.
- 4) To protect the residential amenities of the occupiers of neighbouring premises in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To protect the residential amenities of the occupiers of neighbouring premises in accordance with policy PCS23 of the Portsmouth Plan.
- 6) To protect the residential amenities of the occupiers of neighbouring premises in accordance with policy PCS23 of the Portsmouth Plan.

The reason for the recommendation is:

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 pre-application process to achieve an acceptable proposal without the need for further engagement.

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City Development Manager
23rd December 2013