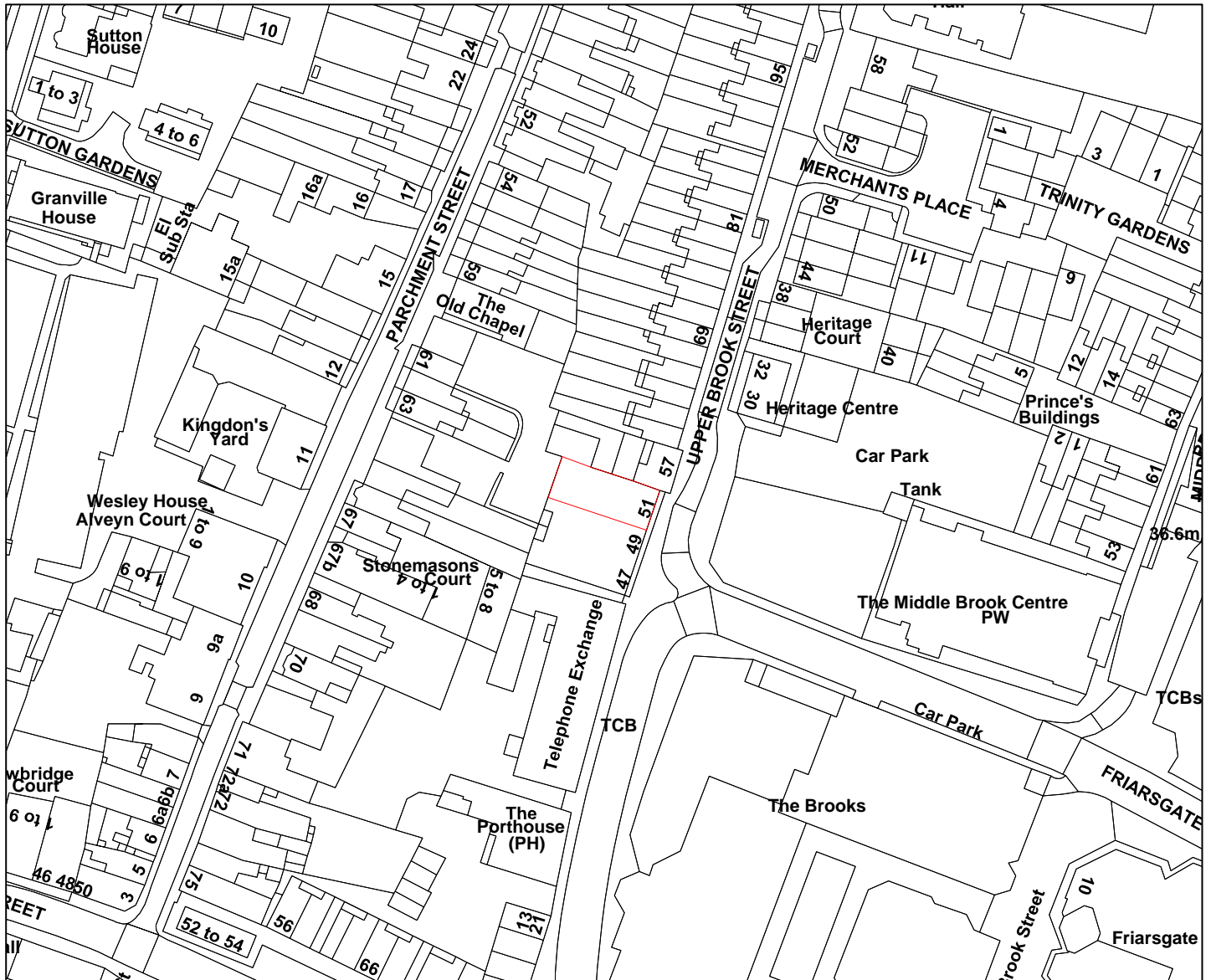


# 51 Upper Brook Street, Winchester

11/00609/FUL



**Legend**

Scale:



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<b>Organisation</b>	Winchester City Council
<b>Department</b>	Development Services
<b>Comments</b>	
<b>Date</b>	20 May 2011
<b>SLA Number</b>	00018301

WINCHESTER CITY COUNCIL  
DEVELOPMENT CONTROL COMMITTEE AGENDA 16 June 2011

**Item No:** 2  
**Case No:** 11/00609/FUL / W00948/10  
**Proposal Description:** Change of use from A1 (retail) to allow the premises to be used within classes A3 (restaurant / cafe) or A5 (hot food take away) of the Town & Country Planning (Use Classes) Order 1987 (as amended)  
**Address:** 51 Upper Brook Street Winchester Hampshire SO23 8DG  
**Parish, or Ward if within Winchester City:** St Bartholomew  
**Applicants Name:** Mrs Lesley Cranham  
**Case Officer:** Mr Simon Avery  
**Date Valid:** 21 March 2011  
**Recommendation:** Application Permitted

### General Comments

This application is reported to Committee because of the number of objections received.

### Site Description

This premises is located on the north side of Upper Brook Street. To the south it adjoins premises occupied by KFC and Dominos pizza. To the west are residential properties on Parchment Street. To the east is an open car park, while to the south east is the Brooks Shopping Centre. Upper Brook Street to the north, beyond the application site which is presently occupied by the Just for Fun shop, is made up of terraced residential properties. There is a service yard to the rear of the premises which has access onto Parchment Street.

### Proposal

- As per Proposal Description

### Relevant Planning History

**85/00119/OLD:** Erection of blinds to shop front - Refused - 10/04/1985

**87/00157/OLD:** Replace existing shop front fascia and removal of existing canopy - Permitted - 09/09/1987

**89/00141/OLD:** Display of fascia and window signs - Permitted - 11/09/1989

**00/01739/FUL:** Installation of one pair of glazed doors to shopfront of unit 3 to match existing unit 2 - Permitted - 27/10/2000

**00/02208/AVC:** Non-illuminated fascia sign - Refused - 06/12/2000

### Consultations

#### Consultations

##### Highway Engineer

This proposal does not contain any significant highway issues and is unlikely to impact on highway safety.

WINCHESTER CITY COUNCIL  
DEVELOPMENT CONTROL COMMITTEE AGENDA 16 June 2011

Environmental Protection

There are concerns with regards to the potential for odour and noise nuisance, but there is no objection to this application, given its city centre location and neighbouring A3/5 uses. It is impossible to tell at this stage what type of cuisine would be offered. However some types of cooking can be very odorous. Whilst odours cannot be completely removed, a high specification of extraction would be expected to minimise odour to the lowest practicable level.

**Representations:**

City of Winchester Trust

It is hoped the neighbourhood won't have to cope with yet more litter if the eventual use is as a takeaway.

Neighbour Representation

7 letters of objection:

- Highway safety - nowhere for deliveries as the premises is next to 2 other fast food outlets.
- Accumulation of rubbish/litter.
- Noise from customers and staff.
- Odour and pollution impact.
- Concern about hot food take away deliveries to customers in the evening hours.
- Impact on residential amenity of Parchment Street.
- Proliferation of fast food premises.

**Relevant Planning Policy:**

South East Plan 2009

- CC6, BE6

Winchester District Local Plan Review

- DP3, DP11, HE4, SF1, SF2, SF3

National Planning Policy Guidance/Statements:

- PPS1, PPS4, PPS5

**Planning Considerations**

- Principle of development
- Impact on character of area and neighbouring property

Principle of development

Policies SF1 to SF3 of the local plan allow the development of restaurants, cafes and hot food takeaway uses within Winchester. The issues to be considered in more detail are whether the proposed uses are acceptable in terms of their impact on the character of the area and upon neighbouring property.

Impact on character of area and neighbouring property

The proposal would allow the premises to be used as a restaurant, café or hot food takeaway premises. This would be in keeping with the adjoining premises which are currently occupied by Dominos Pizza and KFC. Given its location and the neighbouring uses it is not considered that an additional restaurant or takeaway would be unduly harmful to the character of the area or to residential amenity. The hours of opening sought by the applicant are 1100 hours to 2300 hours. Given the opening hours

WINCHESTER CITY COUNCIL  
DEVELOPMENT CONTROL COMMITTEE AGENDA 16 June 2011

recommended for approval for the neighbouring site at Dominos Pizza (10/02996/FUL) and the existing opening hours at KFC, this is considered to be acceptable.

The site also benefits from access to the yard at the rear which is shared with the other takeaway premises. Mindful that this may result in vehicle movements to the rear along Parchment Street, a condition is attached (condition 3) which also restricts deliveries to and from the rear of the site after 2100 hours, which is in line with the restriction proposed for Dominos Pizza. Deliveries to the front of the site are restricted to 2300 hours. Customers and staff will be able to use the public car park opposite the site. Details of means of the extraction of fumes and a full acoustic report are also required by condition (conditions 4 and 5) to ensure there are no noise and odour problems arising from the use. There are no proposals at this point to alter the shopfront and if this is necessary at some future point it is likely that it will require separate consent.

With these restrictive conditions it is considered that the proposed uses are acceptable in this location.

#### Other Matters

Accumulation of rubbish/litter left on the streets by customers is not directly a planning consideration and such anti-social behaviour is addressed through other legislation. Condition 6 requires details to be submitted in regard to the storage and disposal of waste produced on the premises itself.

As this site is outside the primary shopping area for Winchester, there is no restriction in Policy terms on the number of fast food premises.

#### **Recommendation**

Approval subject to the following condition(s):

#### **Conditions/Reasons**

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

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

2 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2006, the premises shall be used only for the purposes of a Restaurant or Cafe (A3 Use Class) or as a Hot Food Takeaway shop (A5 Use Class) and for no other purpose.

Reason: To restrict the use of the premises in the interests of highway safety and local amenity.

3 The uses hereby permitted shall only be open to customers between 1100 hours and 2300 hours. No deliveries to customers shall take place after 2300 hours from the front of the premises and after 2100 hours from the rear of the premises. Deliveries to the front of the premises shall not be received after 2300 hours and no deliveries shall be made to the rear of the premises unless otherwise agreed in writing by the Local Planning Authority.

WINCHESTER CITY COUNCIL  
DEVELOPMENT CONTROL COMMITTEE AGENDA 16 June 2011

Reason: To protect the amenities of the occupiers of surrounding properties.

4 Details of the means of extraction of fumes from the premises shall be submitted to and approved in writing by the Local Planning Authority and shall be installed before the use hereby permitted is commenced, and thereafter maintained and operated in accordance with the approved details.

Reason: In the interests of the amenities of the adjoining properties.

5 A full acoustic report to assess the noise from air conditioning, extract ventilation and refrigeration plant shall be submitted to and approved by the Local Planning Authority in writing before the development commences. Any works which form part of the noise protection recommendations shall be completed before any dwelling is occupied unless an alternative period is agreed in writing by the Local Planning Authority. Such noise protection measures shall thereafter be maintained and operated in accordance with the approved scheme.

Reason: To ensure that neighbouring residents are not disturbed by noise.

6 Details of the provision to be made for the storage and disposal of refuse from the premises shall be submitted to, and approved in writing by the Local Planning Authority before the development hereby permitted is commenced. This provision shall be fully implemented in accordance with the approved details before the premises are occupied.

Reason: In the interests of the amenities of the locality.

### **Informatives**

1. This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

2. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Winchester District Local Plan Review 2006: DP3, DP11, HE4, SF1, SF2, SF3

South East Plan 2009: CC6, BE6