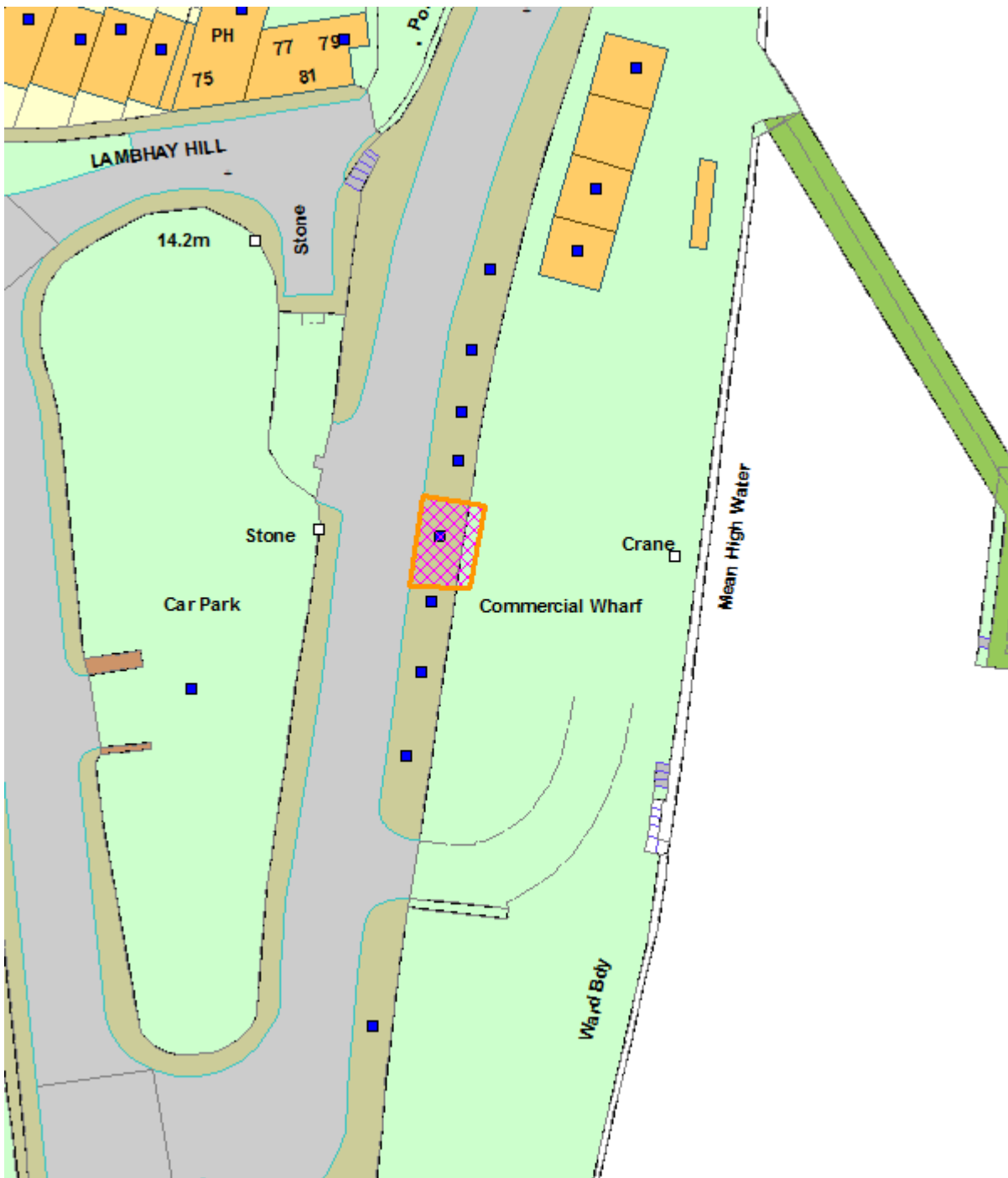


PLANNING APPLICATION OFFICERS REPORT



Application Number	21/00082/FUL	Item	01
Date Valid	19.03.2021	Ward	ST PETER AND THE WATERFRONT
Site Address	10 Commercial Wharf Madeira Road Plymouth PL1 2NX		
Proposal	Change of use from boat store to Cafe/Restaurant (Class E), alterations to building and frontage inc. provision of external seating area		
Applicant	Miss Sophie Chiswell		
Application Type	Full Application		
Target Date	14.05.2021	Committee Date	23.06.2021
Extended Target Date	N/A		
Decision Category	PCC Employee		
Case Officer	Ms Abbey Edwards		
Recommendation	Grant Conditionally		



1. Description of Site

The application site is one of the archway boathouse units on Commercial Wharf, located south of the main Barbican shopping area. The property falls within the St Peter and the Waterfront ward of the city and the Barbican conservation area.

2. Proposal Description

This application is for a change of use of the boat shed to a café/restaurant (Use Class E).

Internally, a mezzanine level is proposed and a set of glass doors will be installed inside of the external timber doors. A customer seating area, worktops, bar counter and a toilet facility are proposed.

An external seating area comprising of tables, chairs and decorative furniture will be provided within the forecourt and this will be removed at the end of each day.

Proposed business signage is currently being assessed under advertisement application reference 21/00327/ADV.

Proposed opening hours are 0830 - 2200, Mondays - Sundays including Bank holidays.

3. Pre-application Enquiry

None.

4. Relevant Planning History

21/00327/ADV - Metal fabricated 'Rise and Grind' entrance signage - Pending consideration

This application relates to 9 Commercial Wharf:

21/00342/FUL- Refurbishment, addition of mezzanine floor and conversion of Boathouse unit (Class D1) and forecourt to form Jet Ski Safari base and retail shop (Sui Generis) - Grant Conditionally

This application relates to 14 Commercial Wharf:

19/00690/FUL- Change of use to cafe (Class A3) - Granted conditionally

This application relates only to 13 Commercial Wharf:

17/01012/FUL - Change of use from bike hire shop (Class A1) to food outlet (Class A3) - Granted conditionally

This application relates to both 13 and 14 Commercial Wharf:

13/01542/FUL - Proposed change of use from boat storage to bicycle hire facility, including external alterations and installation of railings to access ramp to Commercial Wharf - Granted conditionally

This application relates to units 2-4 Commercial Wharf

12/02244/FUL - Change of use of Unit 3 to Class A3 (restaurant/café) including internal openings to Unit 2, 4no. parasols, decking and associated heating and lighting - Granted conditionally

5. Consultation Responses

Local Highway Authority - No objection

Historic Environment Officer - No objection on the grounds that the external furniture is removed at the end of each day

Local Lead Flood Authority- No objection subject to condition requiring the property entrance to be at 4.81mAOD, or be able to provide protection to this level with approved flood boards or flood-proof doors.

Environment Agency- No comments received

Queens Harbour Master- No objection

Natural Infrastructure Team - No objection

Public Protection Service - No objection subject to conditions

Police Liaison Officer - No objection

6. Representations

None.

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as on March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

Other material considerations include the policies of the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and National Design Guidance. Additionally, the following planning documents are also material considerations in the determination of the application:

- Barbican Conservation Area Appraisal and Management Plan (2007)
- Plymouth and South West Devon Supplementary Planning Document (2020)

8. Analysis

8.1 This application has been considered in the context of the development plan, the Framework and other material policy documents as set out in Section 7.

Principle of Development

8.2 The application proposes to convert a vacant boathouse and forecourt into a café/restaurant (Use Class E). The proposal includes a main town centre use in an edge of centre location and as such, the application is supported by a sequential test as required by Policy DEVI6 of the Joint Local Plan.

8.3 The sequential test does not include a sequential search area/defined catchment area. Officers note that as a result of this, the sequential test does not consider the Barbican local centre. Whilst the sequential test concludes that cost is the key factor for not choosing a sequentially preferable site, this is not in itself a valid planning consideration. Because of this and due to the fact that the Barbican has not been considered, the proposal does not demonstrate compliance with the sequential test.

8.4 However, DEVI6.5 allows for limited development of main town centre uses, within Plymouth's core tourism areas, including the waterfront area. The property in question has a prominent waterside position within the iconic Barbican area of Plymouth and falls within one of Plymouth's core tourism areas. It is situated on Commercial Wharf, which lies beneath Commercial Road and helps link the Barbican to Plymouth Hoe. The premises are situated in the middle of a row of commercial premises which are occupied by various premises, including cafés, workshops and stores. As such, officers consider that the proposed use complies with Policy DEVI6 and the wider aspirations of Policy PLY20 (Managing and enhancing Plymouth's waterfront) and can be supported. Officer's recommend that the application is conditioned to café/restaurant only as other Class E uses would need to be assessed against policies of the Joint Local Plan, including Policy DEVI6.

Design and Conservation Area Impacts

8.5 Internal changes to the building include a new mezzanine floor, set of glass doors, worktop counters, customer seating area and a new WC to be provided. Externally, temporary furniture will

be placed within the forecourt and this will be removed at the end of each day. Business signage is also proposed and this is being assessed under advertisement application reference 21/00327/ADV. Officers consider the visual appearance of the unit would be in keeping with the existing commercial units within Commercial Wharf.

8.6 The site is within the Barbican Conservation Area and the Council's Historic Environment Officer was consulted on the application. The relevant officer raised no objection subject to a condition ensuring external temporary furniture is removed at the end of each day. This is to ensure the proposal preserves and enhances the conservation area, in line with Policy DEV21 of the Joint Local Plan and that the proposal does not degrade the appearance and character of the street scene.

8.7 The proposal is therefore considered to comply with Policy DEV20 and Policy DEV21 of the Joint Local Plan.

Amenity Impacts

8.8 The site is set away from any dwellings and is surrounded by other commercial units, including other cafes.

8.9 The Council's public protection service were consulted on the proposal and raised no objection subject to conditions. In terms of amenity a condition was recommended to ensure all waste is stored in closed lidded containers. This is considered appropriate to ensure seagulls or pests such as rats, mice etc. do not have easy access to any food sources and limit odours in the surrounding area.

8.10 The unit is small and no extraction units are proposed. In order to ensure the use is suitable the Public Protection Service recommended a condition restricting the equipment in the unit so that only small level cooking and heating of food can occur to prevent amenity impacts on the surrounding area.

8.11 In addition, the Public protection team have recommended conditions relating to drainage systems which provide effective means of grease removal to prevent blocked drains and sewers.

8.12 It is proposed to have hours of opening from 0830 to 2200 hours Monday to Sunday inclusive. A condition will be placed to restrict the opening hours to those set out above which officers consider to be in keeping with the neighbouring uses.

8.13 With the addition of the conditions as outlined above, the proposal is considered acceptable in terms of amenity and complies with Policies DEV1 and DEV2 of the Joint Local Plan.

Highway Considerations

8.14 The Local Highway Authority raised no objections to the proposal. The site is close to public car parks, on-street car parking and bus links that serve the Barbican and is part of a cluster of commercial units. There are not considered to be any significant highway impacts from the proposal in accordance with Policy DEV29.

Flood Risk

8.15 The site is located in Flood Zone 1 and considered at a low risk from tidal flooding. It is adjacent to a flood zone where future climate change may increase the risk of flooding to the site. Wave action in the vicinity of the site may also increase the risk of flooding to the site. A flood risk assessment was submitted with the application.

8.16 The Lead Local Flood Authority was consulted on the application and raised no objection to the proposal but have recommended that the ground floor is made flood resilient with the use of

waterproof walls and floors and power and communications connections located above the level of 4.81m AOD.

8.17 A condition will therefore be attached to the consent that requires the development to accord with the above requirements set out by the Local Lead Flood Authority. As such, the application is considered to comply with policy DEV35 (Managing flood risk and water quality impacts) of the JLP.

Other Issues

8.18 The building is owned by Plymouth City Council and approval of this application will result in a financial gain for the Council. However, this bears no impact on the determination of this application which officers consider to be compliant with national and local policy.

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

None.

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

13. Conclusions and Reasons for Decision

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 19.03.2021 it is recommended to Grant Conditionally.

15. Conditions / Reasons

The development hereby permitted shall be carried out in accordance with the following approved plans:

1 CONDITION: APPROVED PLANS

Elevation Plan First Floor (Proposed) 24022021 - received 24/02/21
External Plan (Proposed) 24022021 - received 24/02/21
Proposed Floor Plan (Ground Floor) 24022021 - received 24/02/21
Site Location Plan January 2021 - received 27/01/21
Proposed Floor Plan (External) 19032021 - received 19/03/21

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with the Plymouth & South West Devon Joint Local Plan 2014–2034 (2019).

2 CONDITION: COMMENCE WITHIN 3 YEARS

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

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

3 CONDITION: SPECIFIED USE RESTRICTION

Notwithstanding Paragraph 55(2) of the Town and Country Planning Act 1990 (or any order revoking and re-enacting that Order with or without modification), the premises hereby approved shall be used only for one of the following specified uses (as defined in the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification)) at all times and not for any other purposes (including other uses that fall within Use Class E of the Use Class Order).

- Restaurant or café

Notwithstanding the provisions of Article 3 and Parts 3 and 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no permitted development changes of use, including through the prior approval process and temporary uses, shall occur at any time, with the exception of the uses permitted within this condition.

Reason:

The application has been assessed on this basis, and the impact of alternative uses within Class E of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification) would need further consideration to ensure that the development would not impact on vitality and viability of local designated centres in accordance with Paragraph 55(2) of the Town and Country Planning Act 1990 and Policies DEVI6 and DEVI8 of the Plymouth and South West Devon Joint Local Plan 2019 and the National Planning Policy Framework 2019

4 CONDITION: HOURS OF OPENING

The use hereby permitted shall not be open to customers outside the following times: 08.30 hours to 22.00 hours Mondays to Sundays and Bank or Public Holidays.

Reason:

To protect the general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons arriving at and leaving the premises, and avoid conflict with Policy DEV2 of the Plymouth and South West Devon Joint Local Plan and the National Planning Policy Framework 2019.

5 CONDITION: GREASE SEPARATOR

The drainage in the food preparation area of the unit hereby approved shall be fitted with a grease separator in line with Building Regulations Approved Document H and prEN1825-1:2004, designed in accordance with prEN1825-2:2002, or other effective means of grease removal from waste water systems must be implemented.

Reason:

To protect the residential and general amenity from the risk of pollution from blocked drains and sewers and avoid conflict with Policies DEV2 and DEV35 of the Plymouth and South West Devon Joint Local Plan 2014-2034 and the National Planning Policy Framework 2019.

6 CONDITION: WASTE STORAGE

All food refuse generated at the premises shall be stored securely in closed lidded containers prior to collection.

Reason:

To protect the local operators and visitors from odours arising from decomposing food matter, and to reduce the potential for the attraction of pests such as rats, mice, ants, cockroaches and seagulls in accordance with Policy DEV2 of the Plymouth and South West Devon Joint Local Plan 2014-2034 and the National Planning Policy Framework 2019.

7 CONDITION: FOOD PREPARATION AREA

The food preparation area shall be restricted to a maximum combination of equipment to control odourous emissions and the potential for grease, smoke and condensation build up within the premises due to lack of adequate extraction. The maximum combination of equipment shall be: consisting of: one small convection oven, one hot plate, one domestic sized hob range (electric) and one Panini grill/toaster (or similar) for cooking / warming foods to control odourous emissions and the potential for grease, smoke and condensation build up within the premises. For the avoidance of doubt, no frying of food is permitted at the premises.

Reason:

The size and design of the kitchen area is only suitable for preparation of limited and simple types of food such as sandwiches and the preparation of small numbers of simple cooked meals. The condition will also protect the residential and general amenity of the area from odour emanating from cooking activity and to avoid conflicts with Policy DEV2 of the Plymouth and South West Devon Joint Local Plan 2014-2034.

8 CONDITION: EXTERNAL SEATING AREA

Any furniture placed within the forecourt shall be removed at the end of each day.

Reason: To ensure that the development does not detract from the visual appearance and character of the Barbican conservation area in accordance with Policies DEV20 and DEV21 of the Plymouth

and South West Devon Joint Local Plan 2014-2034 (2019) and the National Planning Policy Framework 2019.

9 CONDITION: FLOOD RESILIENT

The development hereby approved shall accord The Plymouth Local Flood Risk Management Strategy which requires the entrance to the property to be protected to a level of 4.81mAOD, or be able to provide protection to this level with approved flood boards or flood-proof doors. The ground floor shall be made flood resilient with the use of waterproof walls and floors and power and communications connections located above this level.

Reason:

To ensure that the flood protection measures detailed within the submitted details are put in place and to reduce the consequences of flooding to the proposed development and future occupants and to avoid conflict with Policy DEV35 of the Plymouth and South West Devon Joint Local Plan 2019 and the National Planning Policy Framework 2019

INFORMATIVES

1 INFORMATIVE: (£0 CIL LIABILITY) DEVELOPMENT DOES NOT ATTRACT A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, although not exempt from liability under the Community Infrastructure Levy Regulations 2010 (as amended), will not attract a levy payment, due to its size or nature, under our current charging schedule. The Levy is subject to change and you should check the current rates at the time planning permission first permits development (if applicable) see www.plymouth.gov.uk/cil for guidance.

Further information on CIL can be found on our website here:

[https://www.plymouth.gov.uk/planninganddevelopment/planningapplications/communityinfrastructur
elevy](https://www.plymouth.gov.uk/planninganddevelopment/planningapplications/communityinfrastructur/elevy)

More information and CIL Forms can be accessed via the Planning Portal:

https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/5

More detailed information on CIL including process flow charts, published by the Ministry of Housing, Local Communities and Government can also be found here:

<https://www.gov.uk/guidance/community-infrastructure-levy>

2 INFORMATIVE: CONDITIONAL APPROVAL (NO NEGOTIATION)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy Framework 2019, the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

3 INFORMATIVE: TOILET FACILITIES

The toilet and hand washing provision should meet the provisions laid down in Approved Document G and part 6.11 of BS 6465-1:2006 &

AI:2009 based on the number of seats provided. Additional and separate toilet and hand washing provision should be made for use by staff that is separate from the provision for customers. The applicant should consider the provision for staff facilities in line with the Workplace (Health, Safety and Welfare) Regulations 1992, Approved Code of Practice. Toilets should be separated from the seating area(s) and food preparation/storage room(s) by a ventilated intervening lobby(ies).

4 INFORMATIVE: EXTRACTION UNIT

No details of any extraction units were included within this application. Should extraction units be required in the future then a separate planning application and approval from the Local Planning Authority will be required.

5 INFORMATIVE: SIGNAGE

This application does not give consent to the proposed business signage or advertisements. Business signage is currently being assessed under subsequent advertisement application 21/00327/ADV.