

# PLANNING APPLICATION OFFICERS REPORT



<b>Application Number</b>	22/00092/FUL	<b>Item</b>	02
<b>Date Valid</b>	28.02.2022	<b>Ward</b>	STOKE
<b>Site Address</b>	58 Devonport Road Plymouth PL3 4DF		
<b>Proposal</b>	Alterations to shopfront and removal of a Post Office mailbox inc. replacement glass panel (retrospective)		
<b>Applicant</b>	Mr Murat Kaya		
<b>Application Type</b>	Full Application		
<b>Target Date</b>	25.04.2022	<b>Committee Date</b>	23.06.2022
<b>Extended Target Date</b>	N/A		
<b>Decision Category</b>	Councillor Referral		
<b>Case Officer</b>	Miss Emily Godwin		
<b>Recommendation</b>	Grant Conditionally		



**This application has been referred to Planning Committee by Cllr Laing.**

### **1. Description of Site**

58 Devonport Road is a mid-terrace property consisting of a hot-food takeaway (Sui Generis) at ground floor with residential uses above. The surrounding area is mixed use in character, mainly comprising of commercial units at ground floor level with residential accommodation on upper floors. The site falls within the Stoke Conservation Area and the Stoke Village local centre.

### **2. Proposal Description**

The proposal is for alterations to shopfront and removal of a Post Office mailbox inc. replacement glass panel (retrospective).

### **3. Pre-application Enquiry**

None.

#### **4. Relevant Planning History**

19/00033/FUL - Change of use of 3-bed flat into two 1-bed flats (retrospective) (Refused)

19/01346/FUL - Change of use of 3-bed flat into 2x dwellings (1x 1-bed flat and 1x studio flat) (resubmission of application 19/00033/FUL) (Granted Conditionally)

20/01254/FUL - Change of use of the ground floor (Class A1) to a hot-food takeaway (Class A5) inc. installation of extractor duct to rear (Granted Conditionally)

21/01826/FUL - Replacement Shopfront (retrospective) (Application Returned)

#### **5. Consultation Responses**

Designing out Crime Officer - No objections to the proposal from a designing out crime, fear of crime and anti-social behaviour perspective.

Office for Nuclear Regulation - No comments on the application.

Historic Environment - No objections to the application,

#### **6. Representations**

The application has been referred to Planning Committee by Cllr Laing

16 Letters of representation were received objecting to the scheme, which drew upon concerns related to the removal of the post box as part of the shop front alterations: These concerns included:

- Detrimental impact of postbox removal on the community and local businesses
- Concerns that the postbox was of historic significance, and the works have an impact on the wider Stoke Conservation Area
- Setting a precedent for the removal of further community assets
- Isolation of residents
- Concerns of the nature of removal - without consideration of the due process

Letters of representation also raised concerns over the use of the property as a hot food takeaway, regarding the operation hours, litter, highways issues in relation to deliveries and the rear service lane, dangers to public safety, smell and noise, bin storage and attraction of pests as well as disorderly behaviour. Officers note that whilst these concerns have been raised, the change of use to a Hot Food Takeaway (Sui Generis) has already been approved at 58 Devonport Road as part of the approval 20/01254/FUL. As this application relates to alterations to the shopfront, officers are of the view that these works are minor in scale and themselves would therefore be unlikely to lead to any detrimental impact in relation to the above concerns raised.

#### **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), National Design Guidance, the scale and urgency of the climate change emergency, and Plymouth City Council's Declaration on Climate Emergency (March 2019) for a carbon neutral city by 2030. Additionally, the following planning documents are also material considerations in the determination of the application: The Plymouth and South West Devon Supplementary Planning Document (SPD) (2020).

## **8. Analysis**

8.1 This application has been considered in the context of the development plan, the Framework and other material considerations as set out in Section 7. The policies of most relevance to the consideration of this application are: DEV1 (Protecting health and amenity), DEV20 (Place shaping and the quality of the built environment) and DEV21 (Development affecting the historic environment). The key planning consideration is the impact on the character and appearance of the street and wider Conservation Area.

### **8.2 Principle of Development**

8.2.1 Joint Local Plan policies indicate that the proposal is acceptable in principle.

### **8.3 Negotiations Undertaken**

8.3.1 The original plans submitted were considered acceptable and the assessment has been based on the original plans.

### **8.4 Unauthorised removal of post box**

8.4.1 Officers are aware that the main concerns related to this application are regarding the loss of the post box, and the subsequent impacts of its removal from the application site on the local community. It is therefore important to note that the removal of the post box cannot be controlled by the Local Planning Authority, as it falls under Schedule 6 of the Postal Services Act, Royal Mail are able to undertake any works for the provision of the postal service including "(b) inspecting, maintaining, adjusting, repairing, altering or renewing such apparatus which has been so placed, changing its position or removing it."

8.4.2 To this end, any works to post boxes are therefore a separate process to the planning system, and as such the removal of the post box is not a material planning consideration. This means that any impacts as a result of its removal, such as those raised in the letters, cannot be used to provide weight in the determination of the planning application. Therefore, the removal of the post box and associated shop front alterations will be assessed according to the visual impact, impact on amenity and impact on the historic environment.

8.4.3 Furthermore, officers note that comments from the Historic Environment Officer recommended an informative be included for the relocation and/or retention of the post box (despite being out of use at the time of its removal). Officers reiterate that due to the statutory rights of Royal Mail, that the Local Planning Authority do not have control of development relating to post boxes and therefore are unable to enforce that the post box be re-located.

8.4.4 Correspondence with Royal Mail during the course of this application has confirmed that the post box was not in use at the time of its removal, and therefore would be required to be removed from the premises at 58 Devonport Road. Royal Mail contacted the Local Planning Authority, and were notified that planning permission was required for alterations to the shop front, which Royal Mail awaited prior to removing the post box themselves. Consent from the Local Planning Authority was not applied for, the works to the shopfront were undertaken without planning permission. It has however been confirmed by Royal Mail, and the applicant, that the post box has now been returned to Royal Mail.

8.4.5 It is understood by officers that whilst a replacement post box within Stoke Village was requested, Royal Mail declined this request due to there being 5 post boxes within 400m of the previous post box at 58 Devonport Road; this has led to an extension in the final plate time at the nearby box located at Penlee Gardens of 16:45.

## 8.5 Visual Impact

8.5.1 Officers have considered the visual impact of the shopfront alterations against the guidance in the SPD and consider it acceptable.

8.5.2 Guidance in the SPD requires shopfronts to contribute to the character and appearance of the streetscene and should be considered as part of the architectural composition of the building. Following a visit to the site, it was confirmed that the design of the shopfront has not been altered and the works consist of the like-for-like replacement of one glass panel. To this end, officers consider that these works are not out of keeping with the character of the streetscene as the appearance of the shopfront itself has remained the same.

8.5.3 Officers note that the removal of the post box, as part of these alterations is visible from the streetscene and has led to some loss of character for the local area. Whilst the owners of the site did remove this without consent, officers consider that Royal Mail do have permitted development rights, as aforementioned, to remove post boxes and a replacement glass panel would have been considered acceptable if the application had been submitted prior to the works taking place.

8.5.4 Furthermore, where the application site is located within the Stoke Village local centre, officers consider the surrounding area is characterised by similar ground floor uses where shopfronts mainly demonstrate similar designs and are an established feature within the streetscene. As such, the alterations to the existing shop front are considered to be in-keeping with the local pattern of development and therefore will not be detrimental to the overall character of the area.

8.5.5 Furthermore, the SPD requires shop front alterations to be finished with high quality materials and finishes which demonstrate the appropriateness to the character of the property and the surrounding area. Officers merit that the scheme uses the existing wooden framing and consider that as the works are in-keeping with the existing shopfront, they are found to be acceptable on the grounds of visual amenity.

8.5.6 Overall, officers find the works to accord with DEV20 of the Joint Local Plan.

## 8.6 Amenity

8.6.1 Policy DEV1 of the JLP sets out to ensure that new development provides for satisfactory daylight, sunlight, outlook, privacy and the protection from noise, vibration and odour disturbance. Officers consider that the works would not lead to any increase in adverse amenity for local residents, workers and visitors and is therefore considered to accord with DEV1.

## 8.7 Impact on the Historic Environment

8.7.1 As the site is located within the Stoke Conservation Area, any proposal must accord with DEV21 of the JLP. Officers have considered the impact on the historic environment and find it to be acceptable.

8.7.2 Concerns raised in submitted letters of representation highlight the historic significance of the shopfront. Concerns highlight that the box appeared to be of a Ludlow wall box style, and its removal has led to a loss of an historical asset within the Stoke Conservation Area.

8.7.3 To this end, consultation with Historic Environment Officers has noted that the postbox was unlikely to be of notable historic significance. As neither the post box, nor the property have been

considered as worthy of listing by Historic England, it is considered that the post box did not benefit from additional protection and therefore is not subject to being retained on the grounds of its historic significance.

8.7.4 In terms of the wider shopfront alterations, guidance in the SPD notes that high quality materials and finishes are required for all shop fronts. Their appropriateness to the character of the area and building and the visual relationship with the upper floor and adjacent buildings are all planning considerations. Historic Environment Officers have raised no concerns with the replacement window panel and consider it would preserve the character and appearance of the conservation area. Officers consider that as the existing window panes and materials are being retained that the works accord with DEV21 of the JLP.

## **8.8 Intentional Unauthorised Development**

8.8.1 Since August 2015 national planning policy requires consideration to be given as to whether intentional unauthorised development has been carried out. The new policy applies to all relevant planning decisions made by Local Planning Authorities and Planning Inspectors. The policy has been introduced largely as a result of Government concerns about the harm caused by unauthorised developments in the Greenbelt, but applies equally elsewhere.

8.8.2 The policy does not indicate exactly how much weight should be afforded to this in relation to the weight to be given to other material planning considerations. Neither does the policy clarify exactly what evidence is required to demonstrate the unauthorised development has been carried out intentionally.

8.8.3 It is clearly highly undesirable for any development to take place before planning permission has been properly sought, and obtained, in any circumstances. However, it should be noted that this new policy only applies where unauthorised development has taken place with the full knowledge of the person(s) undertaking the work that it lacks the necessary consent. In reality, given the difficulties in interpreting these points, it is considered that little or no weight can be given to this aspect, unless the Council has clearly indicated to the applicant that unauthorised development is being carried out, and that works have then continued beyond that point, or where there is some other compelling evidence that such work has intentionally been carried out.

8.8.4 Neither of these factors appear to apply in this case, and so it is considered that no weight should be afforded to this particular point in the determination of this application.

## **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 are not sought 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**

The shopfront alterations are considered to be appropriate for planning approval.

Officers have taken into account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal is in line with the policies as set out in the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019), the Plymouth and South West Devon Supplementary Planning Document (SPD) (2020), and the National Planning Policy Framework 2021.

Officers consider that for the reasons set out in the analysis section, the development does not lead to an adverse impact on the character or appearance of the area, have a significant harmful impact on neighbours, or negatively impact on the historic environment.

The development accords with policy and national guidance and is considered to comply with policies DEVI, DEV20 and DEV21 of the Joint Local Plan, the guidance contained within the Plymouth and SW Devon SPD and the NPPF.

The application is recommended for approval.

## **14. Recommendation**

In respect of the application dated 28.02.2022 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**

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.

## **INFORMATIVES**

### **1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION**

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

### **2 INFORMATIVE: UNCONDITIONAL APPROVAL (APART FROM TIME LIMIT AND APPROVED PLANS)**

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, the Council has worked in a positive and pro-active way and has granted planning permission.