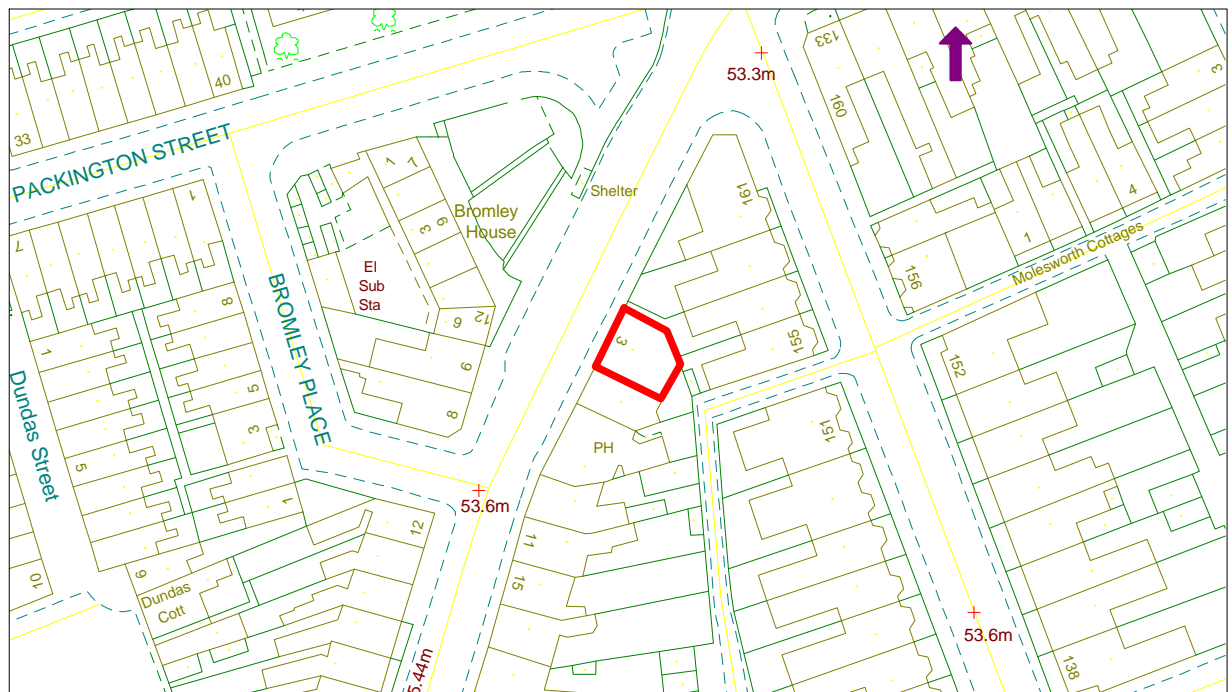


ITEM: 3

Application Number: 10/00961/FUL
Applicant: Mrs J Burrige
Description of Application: Retention of use of premises as office (Use Class A2) from previous use as shop (Use Class A1)
Type of Application: Full Application
Site Address: 3 DEVONPORT ROAD PLYMOUTH
Ward: Stoke
Valid Date of Application: 06/07/2010
8/13 Week Date: **31/08/2010**
Decision Category: Member Referral
Case Officer : Karen Gallacher
Recommendation: Grant
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OFFICERS REPORT

This application is being brought before committee as a result of a member referral from Councillor Mrs Dolan. Mrs Dolan is concern about the balance of A1 and office use in the shopping centre, a previous decision to refuse permission for A2 at the site, the retrospective nature of the application and the level of parking and refuse storage.

Site Description

The site is a unit within the Devonport Local Shopping Centre. The lawful use is A1, but it is currently occupied as an estate agents. It is within the shopping centre but not part of the prime frontage. It is the last shop on this section of Devonport Road, but there is one more shop on the corner with Molesworth Road. There is an adjacent shop at number 5 and 2 shops on the opposite site of the road.

Proposal Description

The proposal is a retrospective application to change the use of the shop and first floor to an A2 office use (estate agent)

Relevant Planning History

98/00324/FUL change of use to A3 refused due to car parking, impact on neighbours and insufficient detail to assess shopfront changes in conservation area.

There have been other similar refusals for A3 uses.

85/00250/FUL – change of use to A2 from shop – was recommended for approval, but overturned by planning committee and refused on grounds of inadequate parking and loss of retail.

Consultation Responses

Transport advise no consultation response required

Representations

There has been one letter of objection from the Stoke Village Traders Association. The objections are as follows:

- Loss of A1 would upset the balance of A1 uses
- It is believed that the property was not advertised for rent for A1 use.
- No pre application advice was sought.
- Hot Homes staff park illegally outside the unit and cause obstruction to the bus bay.

Analysis

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.

The main consideration is whether the loss of the shop unit would harm the shopping function of the local centre and whether there would be an impact on highway safety.

Loss of shop

In order to assess whether the loss of the shop is acceptable it is necessary to assess the application against policy CS11. This means looking at whether the proposal would maintain the primary function of the centre, provide a complimentary role for the centre, result in an over concentration of non A1 uses and whether it would help to meet the day to day needs of the community

Firstly therefore, does the proposal maintain the primary function of the centre? To maintain this role it is necessary to consider carefully all applications for a change of use from A1. The policy advises taking into account the unit's prominence, size and whether it is in the prime frontage to assess this issue. In this instance the property is in a peripheral location well outside the prime retail frontage and whilst it is larger than the average unit it is not considered to be prominent. Judged on these criteria it is not considered that the change of use would upset the function of the centre.

The proposed use as an estate agent, being an A2 use is one which is expected to be found in a shopping centre and as such provides a complimentary function and helps meet the day to day needs of the community.

Finally it is necessary to look at the concentration of A1 uses. The policy states that it is better to have non retail uses spread though out a centre. In this centre the spread of non A1 uses is reasonable and there is a good presence of A1 at this end of the centre. The proposal would not result in an over concentration of non A1 uses within the frontage as there is A1 use adjacent and on the corner of the road. In addition the concentration of A1 uses at this end of the centre is acceptable given that there are 2 on the opposite side of the road.

Having considered all the criteria, the proposal is not considered to conflict with policy CS11.

Highways

With regard to transport issues, the Highway Authority were consulted, but responded that no consultation response would be required. This is because the parking requirements for A2 uses are less than for A1 and there is a car park for the centre, which at the time of the case officer's site visit had free spaces. The proposal is not considered therefore to conflict with policy CS34 or CS28 in this respect.

Other issues raised by LOR and member referral

The applicant confirms that the unit was empty for 2 to 3 months, and that the applicant did not realise that permission was required for the new use. This has meant that there was no pre application enquiry or marketing of the site and the application has been considered on this basis, but is not considered to outweigh the above considerations and justify refusal of the application.

The letter of representation has been passed to the Highway Authority in order to highlight the alleged traffic infringements.

The member referral refers to permission having previously been refused for A2 on this site reference 85/00250. This application was recommended for approval and there was no objection from the highway authority or on policy grounds because of the peripheral location of the site. The application was refused by the committee on lack of parking and loss of retail. Since that time however the change of use to A3 was not resisted because of the loss of A1.

The member referral also expresses concern about the lack of refuse storage. The use by an estate agent is not considered to require any more refuse storage than was available to the shop. The applicant has confirmed that the only waste generated is paper waste, which is shredded and recycled and kept within the building.

These additional issues are not considered to be contrary to the policies of the core strategy and are not therefore considered to be sufficient justification to refuse the application.

Equalities & Diversities issues

There is no conflict with CS34 in this respect.

Section 106 Obligations

There is no Section 106 obligation in respect of this application.

Conclusions

The proposed office use is not considered to harm the retail function of the centre or be detrimental to highway safety. It is considered that there is no conflict with CS11 or CS28.

Recommendation

In respect of the application dated **06/07/2010** and the submitted drawings, **site plan** , it is recommended to: **Grant**

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: impact on the shopping centre and highway safety, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy, and (b) relevant Government Policy Statements and Government Circulars, as follows:

- CS28 - Local Transport Consideration
- CS34 - Planning Application Consideration
- CS11 - Change of Use in District/Local Centres