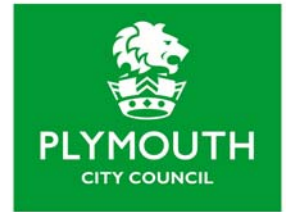


PLANNING APPLICATION REPORT



ITEM: 01

Application Number: 11/01598/FUL

Applicant: Mr Mohamed El Mohamdi

Description of Application: Change of use from shop (A1) to indian take-away (A5), (ground and first floors) and installation of flue at rear

Type of Application: Full Application

Site Address: 67 EBRINGTON STREET PLYMOUTH

Ward: St Peter & The Waterfront

Valid Date of Application: 30/09/2011

8/13 Week Date: **25/11/2011**

Decision Category: Member/PCC Employee

Case Officer : Olivia Wilson

Recommendation: Refuse

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OFFICER'S REPORT

This application is being reported to the Planning Committee because the agent is an employee of Plymouth City Council.

Site Description

67a Ebrington Street is a vacant shop unit in the Ebrington Street Conservation Area and the Ebrington Street local shopping centre.

Proposal Description

Change of use from shop (A1) to Indian take-away (A5) (ground and first floors) and installation of flue at rear.

Relevant Planning History

None

Consultation Responses

Public protection objects to the application on the grounds that insufficient details of ventilation equipment have been submitted in order to assess the impact on amenity of noise and odours, and the flue is an insufficient height to effectively disperse odours.

Transport has no objection but recommends an informative to state that the unit is within a Controlled Parking Zone and therefore not eligible for a parking permit.

Representations

None

Analysis

Ebrington Street is a busy commuter route and rat-run for commuters from the east of the city.

The current shop unit is located near the corner of Ebrington Street and North Street on the south frontage and is identified in the draft Shopping Centres SPD as part of the primary frontage. On one side is a Subway sandwich shop and on the other a barbers shop and a pizza take-away that was approved in 2007 (07/01041/ful). On the opposite corner of the street is a Chinese take-away. The shop unit is currently vacant. It has a traditional shop front and therefore contributes to the character of the Conservation Area.

The key considerations with this application are: the impact of the proposed change of use on the local centre, the impact on the character of the Conservation Area, the impact of the proposed use on the amenity of neighbouring properties and highway considerations.

Impact of the proposed change of use on the local centre

Policy CS11 states that change of use will be permitted where the primary function of the centre is maintained, the proposed use is complementary to the retailing function, it would not result in a harmful over-concentration of non A1 retail uses within a frontage and the development helps people meet their day to day needs.

Paragraph 7.45 of the Core Strategy states that over-concentration of non-A1 units within individual frontages can harm vitality and viability and that a balanced spread of uses is more appropriate.

In the shopping centre as a whole the 2011 shopping centre survey found that out of 45 units, 25 are currently in A1 use, 2 are A2, 3 are A3, 3 are A4 and 7 are A5. There are 5 vacant A1 units.

It is considered that while the loss of another A1 unit to A5 is regrettable in that it would mean a total of 14 units in some sort of food and drink use which is almost a third of total units in the centre, there is still a predominance of A1 uses and therefore the proposed use could not be refused on the basis of detriment to the retail character of the centre. There is also concern that a cluster of A5 uses is developing at this end of the street, but again it is not considered detrimental enough to refuse in this instance.

Impact on the character of the Conservation Area

The Ebrington Street Conservation Area Management Plan 2008 states that the street maintains a robust sense of lively commercial activity. The conversion of a vacant unit into a take-away could be argued to contribute to this commercial activity. There are no proposed changes to the shop front, although an informative can be added to note that advertisement consent may be required for the fascia sign. It is proposed to install a flue on the rear elevation from the first floor up to about ½ m from roof ridge height. This would not be visible from the street and therefore could not be said to impact on the character of the Conservation Area.

Impact on the amenity of neighbours

Policy CS22 of the Core Strategy states that development proposals will be refused which cause unacceptable noise, nuisance or light pollution. The Development Guidelines SPD adds further (para. 3.2.2) that the Council will take a cautious approach to food and drink applications, particularly in residential areas and when opening times extend beyond normal shop hours. It goes on to state that the following information should be supplied with planning applications: details of noise levels, location of noise-generating equipment, intended hours of operation and, if applicable, sound insulation measures.

Several properties along Ebrington Street are in residential use, creating a successful mixed use neighbourhood. No 65 Ebrington Street which adjoins the proposal site has 2 flats, there are flats to the rear of the site at 19 North Street and there are flats opposite at 68, 70 and 74 Ebrington Street. The presence of residential uses so close to the application site makes the issues of noise, odours and disturbance of particular importance.

The application states that the use will be an Indian Take-away which is a type of cooking that creates strong odours. Details are provided which state that a Britannia kitchen extract system will be installed that will remove grease. The extracted air will then pass through a UV reaction chamber where intense UVC light breaks down remaining organic matter so that the air that is discharged is clean. It states that if the discharge point is at a low level then excess ozone that it emitted with the air

may cause a nuisance and an ozone destruction unit may be required. No information is provided about noise levels.

The plans show that the equipment will be installed in the kitchen at first floor level, with the cooker, fryer and extract equipment at the rear. The flue will be installed on the rear elevation, terminating just below ridge height. The food will be served on the ground floor. The layout suggests that the majority of the odour and noise arising will affect No. 19 North Street. The hours of operation are stated to be 5 to 11pm weekdays and 5 to 12 on Saturdays and 5 to 12 on Sundays, 5 – 10 on Bank Holidays. It will therefore be operating outside normal shopping hours in the evenings and late into the night.

Public protection has raised concerns that the level of information provided is insufficient to judge whether odour and noise would give rise to complaints from residents or not. It also is of the opinion that the proposed flue would be of insufficient height to disperse any odour adequately without causing nuisance.

It is considered that, given the proximity to residential properties, the lack of detail in the information provided, and the type of take-away proposed, there is a strong likelihood of nuisance arising and that the information provided is insufficient in order to assess whether there will be a detrimental impact on neighbours.

Highway considerations

There is no off-street parking associated with this application. However, Transport has no objection to the application as it is in a sustainable location and easily accessible from the city centre on foot and public transport.

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.

Section 106 Obligations

None

Equalities & Diversities issues

None

Conclusions

On the grounds of insufficient information provided to assess the impact of the proposal on residential amenity it is recommended to refuse this application.

Recommendation

In respect of the application dated **30/09/2011** and the submitted drawings Site location plan, 02 Block plan, 3/2011/07 03 Existing plans and elevations, 3/2011/07 04 proposed plans and elevations, Design and Access Statement, ventilation details, it is recommended to: **Refuse**

Reasons for Refusal

INSUFFICIENT INFORMATION

(1) The local planning authority considers that insufficient information on noise and ventilation details has been provided to be able to assess the impact of the proposed use on residential amenity in terms of noise and odour nuisance. The application is therefore considered to be contrary to Policy CS22 of Plymouth's Local Development Framework Core Strategy (2006 - 2021) adopted 2007 .

INFORMATIVE - CORRECTIONS TO APPLICATION

(1) The applicant is advised that the application address is 67a Ebrington Street. Any resubmission of this application should show the side door to the property on the floor plans.

Relevant Policies

The following (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 (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, were taken into account in determining this application:

CS28 - Local Transport Consideration

CS22 - Pollution

CS11 - Change of Use in District/Local Centres

SPDI - Development Guidelines

NPPF – Draft National Planning Policy Framework 2011