

PLANNING APPLICATION REPORT



ITEM: 02

Application Number: I1/02000/FUL

Applicant: Mr Mohamed El Mohamdi

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

Type of Application: Full Application

Site Address: 67A EBRINGTON STREET PLYMOUTH

Ward: St Peter & The Waterfront

Valid Date of Application: 13/12/2011

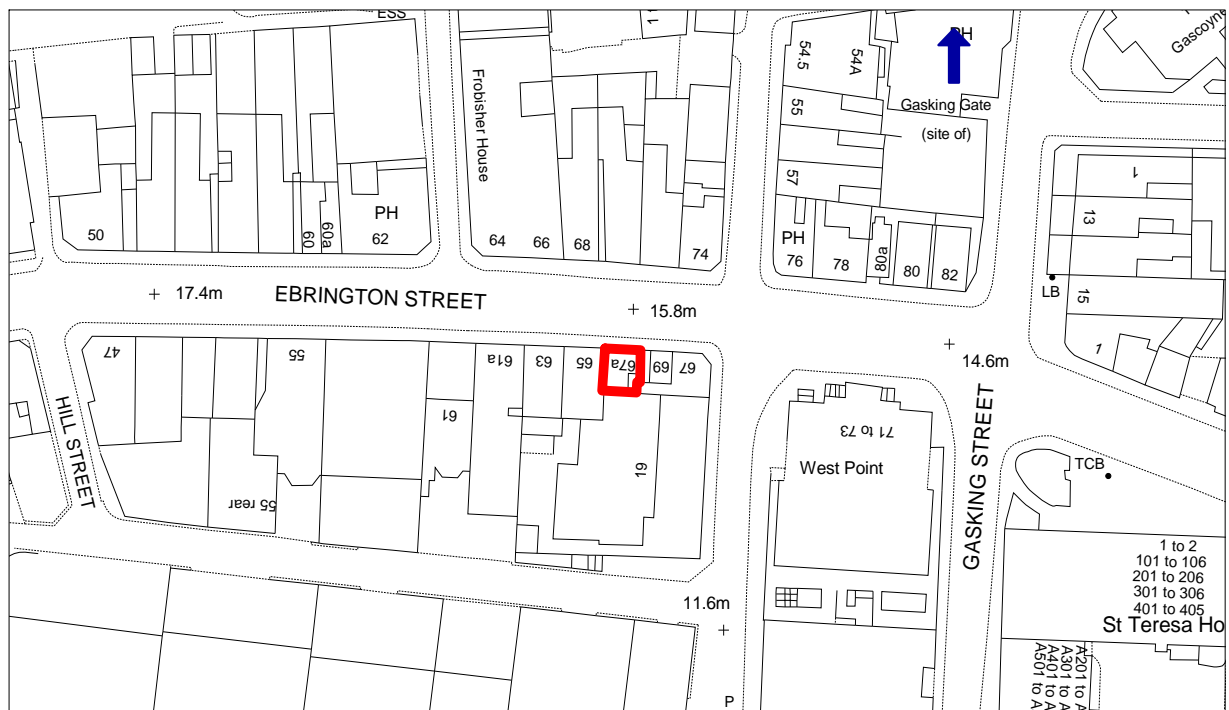
8/13 Week Date: **07/02/2012**

Decision Category: Member/PCC Employee

Case Officer : Olivia Wilson

Recommendation: Grant Conditionally

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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.

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.

Proposal Description

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

Pre-application Enquiry

Pre-application advice was sought for this application (MI/266/PRE). The Council advised that the general principle of change of use is likely to be acceptable but that the application should demonstrate that there would be no harmful impacts on neighbours in terms of cooking odours or noise.

Relevant Planning History

11/01598/FUL – Change of use from shop (A1) to Indian take-away (A5), (ground and first floors) and installation of flue at rear - withdrawn

Consultation Responses

Environmental Protection notes that the proposed ventilation flue will be raised to roof ridge height within the rear courtyard. It considers that the ventilation system is acceptable in terms of odour control, however the noise from the ventilation system has not been specified in the application. It requests that a noise survey is carried out before the installation of the above agreed system. This could be covered by a condition.

The Highways Authority 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

No letters of representation have been received for this application.

Analysis

The application is considered having regard to local and national policies and guidance, as well as taking account (with appropriate weight attached) of the Draft National Planning Policy Framework.

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 Class A1 (retail) use, 2 are A2 (financial and professional services), 3 are A3 (cafes and restaurants), 3 are A4 (drinking establishments) and seven are A5 (hot food take-aways). There are 5 vacant A1 (retail) units.

Officers consider that while the loss of another A1 retail unit to Class A5 is regrettable, 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.

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 which is to be welcomed as the shop front still retains its traditional character, 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 roof ridge height. Officers consider that this would not be visible from the street and therefore could not be said to impact detrimentally 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 Supplementary Planning Document 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 a take-away. Details are provided which state that a Sirius integrated emission control extract system will be installed that will remove grease and odour using high performance equipment. The Design and Access Statement states that the extract fan will have a maximum volume of 65 dba.

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 at first floor level. The flue will be installed on the rear elevation, terminating at ridge height.

The elevation on which the flue will be installed forms part of an enclosed courtyard. This means that the flue will not be visible from any point on Ebrington or North Street. On one side of the courtyard there are two windows that belong to the application property. On the opposite side is a window at 2nd floor level that it is understood belongs to a flat above 67 Ebrington Street. Officers consider that this property will not be subject to detrimental odour as the flue terminates above this window at roof ridge height, and adequate odour abatement measures are proposed. It is proposed to include a noise condition to ensure that any noise from the ventilation and extract equipment does not cause a nuisance to this property. Officers consider that no other properties would be affected by noise.

The hours of operation for the take-away are stated to be 5pm to 11pm Mondays to Saturdays and 5pm to 10pm on Sundays and Bank Holidays. It will therefore be operating outside normal shopping hours in the evenings, but not late into the night.

Officers consider that sufficient details are provided to be satisfied that it is unlikely that the use will be detrimental to the amenity of neighbouring properties, subject to a condition on noise.

Highway considerations

There is no off-street parking associated with this application. However, the Highways Authority has no objection to the application as it is in a sustainable location and easily accessible from the City Centre on foot and by 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 that the proposed change of use will not have an unacceptable impact on the character of the local centre, the conservation area, or highways, and will not be detrimental to the amenity of neighbours on noise or odour grounds, it is recommended to conditionally approve this application.

Recommendation

In respect of the application dated **13/12/2011** and the submitted drawings Site location plan, Block plan, 3/2011/07/03 Existing plans and elevations, 3/2011/07/04 Proposed plans and elevations, extract and ventilation details, and accompanying design and access statement, it is recommended to: **Grant Conditionally**

Conditions

DEVELOPMENT TO COMMENCE WITHIN 3 YEARS

(1) 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.

APPROVED PLANS

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan, Block plan, 3/2011/07/03 Existing plans and elevations, 3/2011/07/04 Proposed plans and elevations, extract and ventilation details.

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

VENTILATION SYSTEM

(3) The odour control measures specified in the application shall be installed and maintained in accordance with DW/172 HVCA specification for kitchen ventilation systems.

Reason:

To safeguard the amenity of the occupiers of adjoining properties and to comply with policy CS22 of Plymouth City Council's Local Development Framework adopted Core Strategy 2007 (2006 - 2021).

NOISE IMPACT SURVEY

(4) The use hereby approved shall not commence until a noise impact survey to establish current background noise levels and the likely impact on noise that the equipment will make to these levels has been submitted to and approved in writing by the Local Planning Authority. The noise emanating from equipment (LAeqT) should not exceed the background noise level (LA90) by more than 5dB, including the character/tonalities of the noise, at anytime as measured at the façade of the nearest residential property.

Reason:

To protect the amenity of residents from noise disturbance in accordance with Policies CS34 and CS22 of the Plymouth Local Development Framework Core Strategy (2006 - 2021) 2007.

OPENING HOURS

(5) The use hereby permitted shall not be open to customers outside the following times: 17:00 to 23:00 hours Mondays to Saturdays inclusive and 17:00 to 22:00 hours on Sundays and Bank or Public Holidays.

Reason:

To protect the residential and 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 Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

INFORMATIVE: ODOUR

(1) With regard to condition 3, a copy of the specification can be bought from www.hvca.org.uk and the DEFRA Jan 2005 Guidance on control of odour from commercial premises; which can be obtained online from DEFRA.

INFORMATIVE: DRAINAGE

(2) Please refer to the Building Regulations Approved Document H requirement for drainage in commercial hot food premises to be fitted with a grease separator.

INFORMATIVE: RUBBISH COLLECTION

(3) In order to comply with EC Regulation 852/2004 Annex II Chapter 1 and 2 before collection, refuse associated with the takeaway/restaurant should be stored in lidded pest resistant containers. If necessary for the purposes of preventing pests being encouraged into the area the takeaway shall arrange a daily refuse collection.

INFORMATIVE: KITCHEN DESIGN

(4) In order to comply with EC Regulation 852/2004 Annex II Chapter 1 and 2 the kitchen installed in the premises shall include the provision of adequate numbers of wash hand basins, sinks with hot and cold water and adequate drainage provision. Plans for the design of the kitchen should be forwarded to the Council's Public Protection Service for comment before work begins, as failure to meet the requirements of the legislation may be costly to correct at a later stage.

INFORMATIVE: LAND QUALITY

(5) The Council's Environmental Protection Officer (Land Quality), Public Protection Service, advises that the site is adjacent to an area of historical industrial activity and there is the possibility of contamination of the site as a result. It is therefore recommended that appropriate assessments and site investigations are carried out and, depending on the results, appropriate measures put into place to remediate any contamination affecting the proposed development.

INFORMATIVE: CONTROLLED PARKING ZONE

(6) The applicant is advised that the property is located within a Controlled Parking Zone and therefore not eligible for a parking permit.

INFORMATIVE: FASCIA SIGN

(7) The applicant is advised that the installation of a fascia sign may require advertisement consent. Please contact the Planning Service on Tel. 304366 for advice on advertisement regulations if further information is required.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: impact of the proposed change of use on the local centre, impact on the character of the Conservation Area, impact on the amenity of neighbours and highway considerations, 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 (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

CS28 - Local Transport Consideration

CS34 - Planning Application Consideration

CS22 - Pollution

CS11 - Change of Use in District/Local Centres

SPDI - Development Guidelines

NPPF - Draft National Planning Policy Framework 2011