

# PLANNING APPLICATION REPORT



**ITEM: 04**

**Application Number:** 12/01007/FUL

**Applicant:** Mr Mohamed El Mohamdi

**Description of Application:** Change of use from shop (A1) to takeaway (A5) including installation of extract flue to rear

**Type of Application:** Full Application

**Site Address:** 1 ROSEBERY ROAD PLYMOUTH

**Ward:** Sutton & Mount Gould

**Valid Date of Application:** 14/06/2012

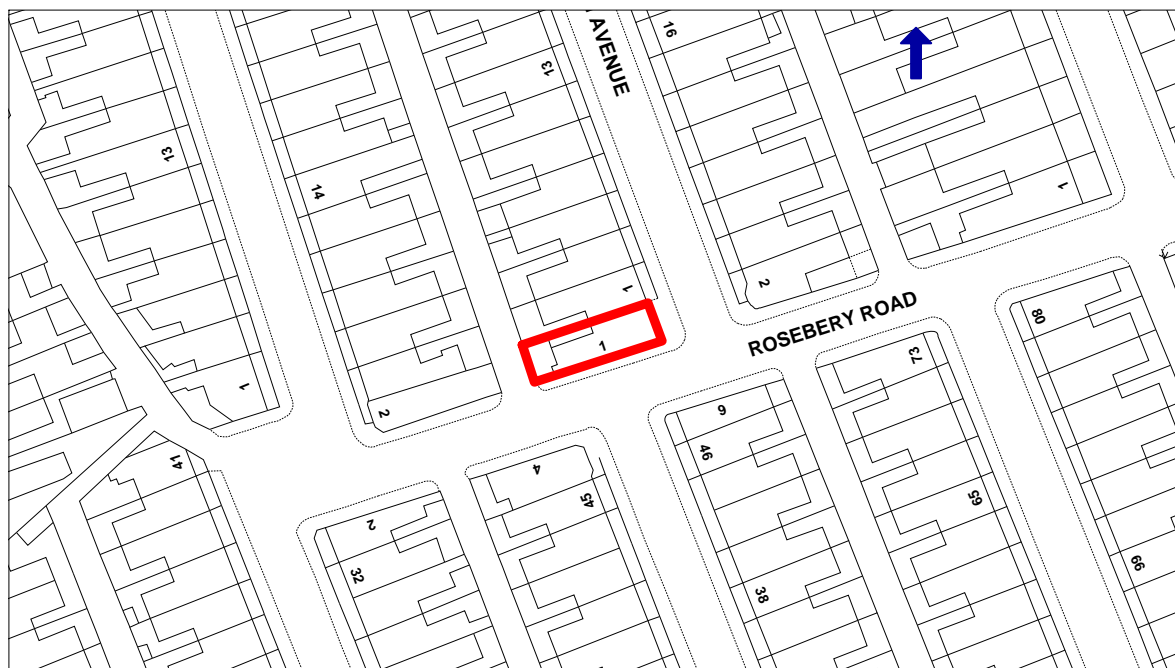
**8/13 Week Date:** **09/08/2012**

**Decision Category:** Member/PCC Employee

**Case Officer :** Simon Osborne

**Recommendation:** Refuse

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**This application is brought to committee because the agent is a Council employee.**

### **Site Description**

1 Rosebery Road is an end of terrace two storey property located on the corner of Rosebery Road and Lipson Avenue in the Lipson area of Plymouth. The ground floor is currently vacant but was previously in A1 use as a wine store. The property is served by an access lane at the rear.

### **Proposal Description**

The proposal is for the change of use from a shop (use class A1) to a hot food takeaway (A5) including the installation of an extract flue to the rear.

An accountant's statement is provided that states that the existing use has not been viable since 2008 because of the economic downturn.

### **Pre-Application Enquiry**

Pre-application advice was given on 29/07/11. Potential issues were raised including the impact of increased parking on the highway, potential impact on neighbouring properties in terms of noise and odour and the loss of the shop use. It was advised that these issues would have to be addressed for such an application to be supported.

### **Relevant Planning History**

74/01624/FUL - Extension and new shopfront – GRANTED

### **Consultation Responses**

Transport – Recommends refusal due to additional parking demands and the negative impact on the highway.

Public Protection Service – Recommend refusal due to lack of information on noise and odour generation.

### **Representations**

None at the time of preparing the report

### **Analysis**

This application turns upon the National Planning Policy Framework 2012, policies, CS05, CS22, CS28 and CS34 of the Plymouth Local Development Framework 2007 and Supplementary Planning Document 'Development Guidelines' 2010. It is considered that the primary planning considerations are acceptability of loss of shop use, impact of the proposal on the character and appearance of the area, impact on the amenities of neighbours, highway issues, and public protection issues, as discussed below.

### **CHARACTER OF THE AREA AND LOSS OF SHOP**

The property is situated in a predominantly residential area and does not lie within a Local District Centre and therefore there is no direct planning policy regarding the loss of a shop. It is considered that the loss of a shop in this location, in relatively

close proximity to the Salisbury Road Local Centre, would not be detrimental to the needs of local residents.

With regard to visual amenity, the only external alterations are the installation of a 500mm diameter stainless steel extract flue within the rear courtyard and this is not considered to have an adverse impact on the character and visual appearance of the area.

#### AMENITY OF NEIGHBOURS AND PUBLIC PROTECTION ISSUES

Residential premises adjoin the property and there appear to be residential flats above. The Council's Public Protection Service recommend refusal based on the lack of information. The plans should include details of methods to reduce any noise caused by the operation of the ventilation system. The noise emanating from equipment ( $L_{AeqT}$ ) should not exceed the background noise level ( $L_{A90}$ ) by more than 5dB, including the character/tonalities of the noise, at anytime as measured at the façade of the nearest residential property. A noise impact survey is required to establish current background levels and the likely impact on noise the equipment will make to these levels.

Public Protection Service also has some reservations about the effectiveness of the filtration in controlling odour from food sources, based on previous experience. Filtration is not always effective against natural odours such as those from heavily spiced or fragrant cooking. The effectiveness of the filters performance is also reliant in part on the efficacy of the cleaning, servicing and filter replacement programme. It recommends that more information regarding the filtration system and its maintenance is required. Without the evidence to suggest otherwise it is considered that the proposal is likely to have an adverse impact on neighbouring residential properties in terms of odour and noise contrary to policy CS22 of the Core Strategy

#### HIGHWAY/TRANSPORT CONSIDERATIONS

Highways and Transport service is recommending refusal. It considers that it is likely that the proposal could potentially attract pass by car trips during the evening when the demand for on street car parking on adjacent residential streets is likely to exceed the supply. Also by their nature hot food take aways tend to encourage inappropriate parking given the short time frame which customers expect to spend at such developments. It is therefore considered that the proposal would have a negative impact on the surrounding highway network and amenity of the residents in that area. The proposal is therefore contrary to CS34 and CS28 of the Core Strategy.

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**

N/A

## **Equalities & Diversities issues**

No further issues

## **Local Finance Considerations**

None

## **Conclusions**

It is considered that the proposal would result in an unacceptable impact on the highway contrary to policy CS28 of the Core Strategy. The proposal is also likely to have an unreasonable impact on neighbouring properties in terms of noise and odour contrary to policies CS22 and CS34. It is therefore recommended that the application be refused. Effect on residential amenity may become a second reason for refusal.

## **Recommendation**

In respect of the application dated **14/06/2012** and the submitted drawings Site Location Plan, 02, 03, 04, 05, 06, Extraction Details (Sirius), Extraction and Drainage Supporting Documentation (1 Sheet), Letter from H M Williams dated 06/06/12, and accompanying Design and Access Statement, it is recommended to: **Refuse**

## **Reasons for Refusal**

### **IMPACT ON HIGHWAY AND AMENITY**

(1) The Local Planning Authority considers that the proposed use is likely to generate high levels of demand for on-street parking and generate significant amounts of traffic, giving rise to conditions likely to cause:

- (a) Damage to amenity;
- (b) Prejudice to public safety and convenience;
- (c) Interference with the free flow of traffic on the highway

This is contrary to Policies CS28 and CS34 of the adopted City of Plymouth Local Development Framework Core Strategy adopted April 2007

### **ODOUR AND NOISE**

(2) The Local Planning Authority considers that no adequate evidence has been provided to show that the proposed ventilation system will reduce odour and noise levels to an acceptable level. The proposal is therefore likely to have an adverse impact on neighbouring residential properties in terms of odour and noise contrary to policies CS22 and CS34 of the adopted City of Plymouth Local Development Framework Core Strategy adopted April 2007

## **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

CS34 - Planning Application Consideration

CS22 - Pollution

CS05 - Development of Existing Sites

SPDI - Development Guidelines

NPPF - National Planning Policy Framework March 2012