

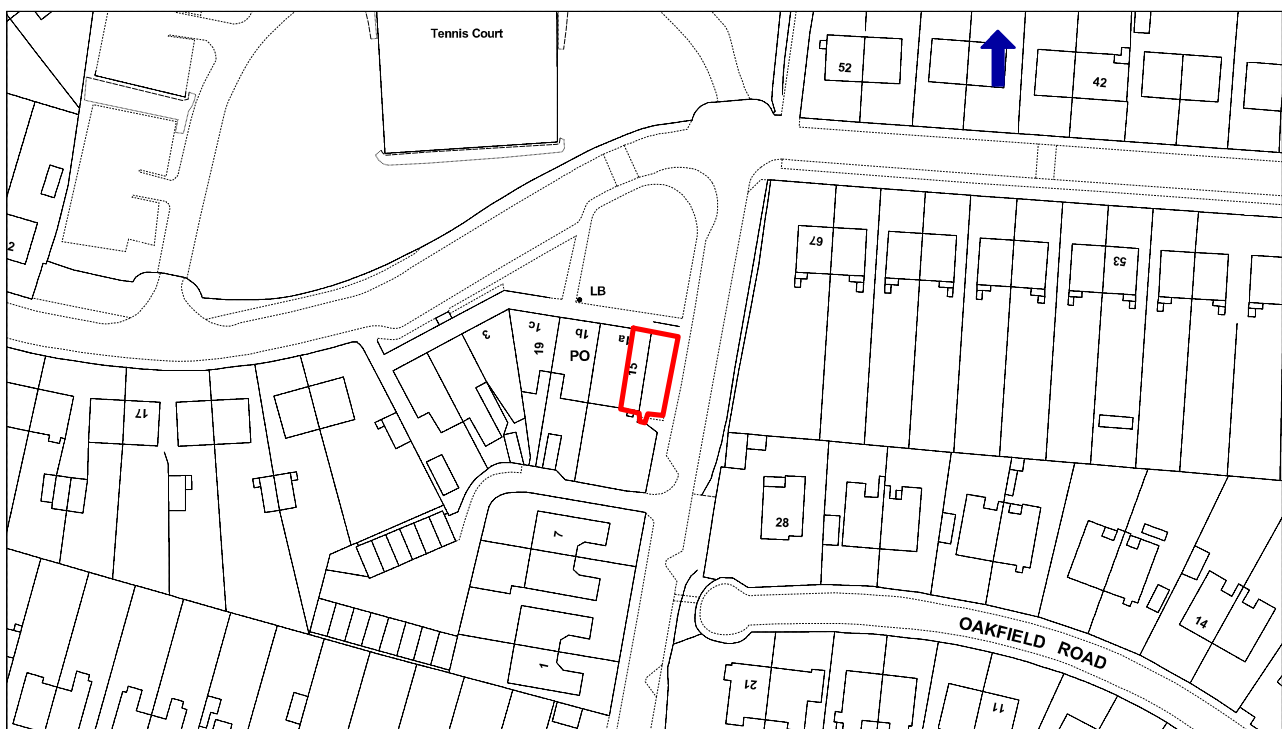
PLANNING APPLICATION REPORT



Application Number	15/01896/FUL	Item	07
Date Valid	15/10/2015	Ward	Plympton St Mary

Site Address	UNIT 1 SEYMOUR STORES, 1 SEYMOUR ROAD PLYMPTON PLYMOUTH		
Proposal	Change of use from A1 (shops) to A5 (hot food takeaway) and associated alterations		
Applicant	Marazion Developments Ltd		
Application Type	Full Application		
Target Date	10/12/2015	Committee Date	Planning Committee: 17 December 2015
Decision Category	Assistant Director of Development Referral		
Case Officer	Aidan Murray		
Recommendation	Refuse		

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This planning application has been referred to Planning Committee by the Assistant Director for Strategic Planning and Infrastructure because:

- There are finely balance policy/precedent issues
- There are public interest reasons for the matter to be determined by the Committee
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1. Description of site

1 Seymour Stores is an empty retail unit located directly opposite and within 400m of the entrance to Hele School in Plympton. The area is predominately residential with a small row of shops which include a hairdressers, bakery and Chinese take away. The row of shops is not classified as a local or district centre.

2. Proposal description

The proposal seeks to change the use from A1 (Retail) to A5 to create a hot food take away

3. Pre-application enquiry

None

4. Relevant planning history

15/02106/FUL – Change of use from Retail (A1) to a Physiotherapy Practice (D1 with ancillary B1 use) – Pending determination

15/00198/FUL - External alterations to provide new entrance in association with subdivision of the premises into 3 separate A1 units – Permitted

08/00782/ADV – Signage for ATM – Permitted

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07/02006/FUL – Change of use of premises from post office (A1) to a hot food takeaway (A5) including new shop front and ramped access with associated handrails- Permitted

07/02007/ADV – New externally illuminated fascia sign – Permitted

05/01162/ADV – Illuminated fascia sign – Permitted

05/01163/FUL – Replacement shop front and alterations to ramped access – Permitted

98/01189/FUL – Alterations to shop premises including provision of pedestrian ramp – Permitted

98/00490/FUL – Extension to Shop – Permitted

98/00087/FUL – Extension to Shop – Refused

96/00110/FUL – Change of Use and Conversion of First Floor Flat into Two Self-contained Flats – Permitted

95/00695/FUL – Side extension at first floor level above existing store - Permitted

94/00005/FUL – Extension to shop to provide store – Permitted

84/00800/FUL- 3 Seymour Road – Change of use from shop to hot food takeaway – Refused (Permitted on appeal)

5. Consultation responses

Local Highway Authority – No Objections

Public Health – have raised serious concerns relating to the Hot Food Takeaway being located in such close proximity to the school as well as having concerns over the odour and noise of the proposal.

Economic Development Department – No objections

6. Representations

No Letters of Representation have been received for this application.

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.

The development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One was approved by the City Council in September 2015. The Plan, which incorporates draft development plan policy, has been prepared following a consultation process. As such it is a material consideration for the purposes of planning decisions.

The policies contained in National Planning Policy Framework (the Framework) and guidance in National Planning Practice Guidance (NPPG) are also material considerations which should be taken into account in the determination of planning applications. Due weight should be given to relevant policies in existing and emerging plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The Framework provides that the weight to be given to an emerging draft plan is also to be determined according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given). The Plymouth Plan is at a relatively early stage of preparation.
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given).

At the heart of the Framework is a presumption in favour of sustainable development. In the context of planning applications, this means approving development proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits;
- or

- Specific policies in the Framework indicate development should be restricted.

Members should be aware that the Plymouth Plan has introduced a new approach to tackling strategic citywide issues through the development of an innovative of a single citywide plan. This includes working with the Health and Wellbeing Board and the Office of Public Health to identify and respond to public health issues and concerns.

One such issue is healthy weight and childhood obesity is identified as a key public health issue by Thrive Plymouth. The Council has developed a citywide strategy to tackle this issue and in order to address the objectives identified under Strategic Objective 4 of the Plymouth Plan. Policy 8 of the Plymouth Plan uses land use planning powers to restrict new A5 takeaways opening within 400m of a secondary school. This policy is designed to help regulate the food environment around schools and support the wider objectives of the Plymouth Plan.

Members are advised that this innovative approach to tackling citywide public health issues has not been independently examined and therefore the full weight of the development plan cannot be relied on. Nonetheless this policy has been based on a collaborative evidence base with the Office of Public Health and officers are confident that this policy is robust, justified, and proportionate and will be effective. Furthermore this approach aligns with similar approaches adopted by other Council's across the Country including the London Borough of Waltham Forest and St Helen's Council. It is also noted that the paragraph 69 of the NPPF clearly identifies a role for the planning system in creating healthy, inclusive communities.

Officers are therefore confident that the Council have a defensible position should a planning appeal be lodged, although members should take into consideration that the Plymouth Plan has not progressed through Public Examination to adoption.

8. Analysis

1. This application has been considered in the context of the NPPF 2012, the Plymouth Plan, the Local Development Framework Core Strategy 2007 and other material policy documents as set out in Section 7. The main policies which are to be considered here are Strategy Objective 4 Delivering a Healthy City - Policy 8 (Addressing health inequalities and supporting healthy lifestyles) of the Plymouth Plan as well as CS22 (Pollution) CS28 (Local Transport Considerations) CS34 (Planning Application Considerations) of the Local Development Framework.

Noise and Nuisance

2. The control and prevention of odour and noise pollution is given high priority due to the negative impact it can have on human health, quality of life and the natural environment. The potential for odour nuisance to be caused to local residents from a premises of this type located in a residential area is very high given this type of application and it would be expected that a very high level odour neutralisation to be installed at the premises. The Public Protection Service has suggested a condition which would mitigate the concerns raised. It suggests a condition which relates to the installation of ventilation machinery which would control the release of odours into the residential area.

3. In order to ensure noise nuisance from deliveries is not caused to local residents, the Public Protection Service has suggested a condition to restrict these times which would be added to the granting of any subsequent granting of permission.
4. Officers feel that with these conditions, odour controls, noise and delivery noise concerns would be in place which would make the application compliant with CS22 (Pollution)

Local Highway Authority

5. The local highway authority have no objections to the proposal given that on street parking is available close by and considers to be sufficient capacity exists within the local streets to accommodate the associated parking demand. Further there is a parking layby in Seymour Road, and a loading bay in Dingle Road, providing parking capacity that is intended to serve the local shops. The proposal is therefore compliant with CS28 (Local Transport Considerations)

Economic Development

6. The Economic Development Department have expressed their support for this application given it will create jobs and see an empty unit being put to good use.

Health and Wellbeing

7. Members should be aware that the Plymouth Plan has introduced a new approach to tackling strategic citywide issues through the development of an innovative of a single citywide plan. This includes working with the Health and Wellbeing Board and the Office of Public Health to identify and respond to public health issues and concerns. Therefore the main concern in relation to this application is the Policy within the Plymouth Plan which relates to restricting new A5 takeaways opening within 400m of a secondary school. (Policy 8 of Strategic Objective 4) and this needs to be weighed against the support being expressed by the Economic Development Department regarding job creation and reuse of an empty shop.
8. An integral part of the plan is to identify, respond to, and address health and wellbeing issues that Plymouth is facing. In this regard the Office for Public Health and the Health and Wellbeing Board has developed Thrive Plymouth, a coordinated strategy which seeks to improve the health and wellbeing of the community of Plymouth. Thrive Plymouth identifies 4 lifestyle behaviours that result in 4 diseases and illnesses that result in 54% of premature deaths in the City.
9. One of these behaviours/lifestyle choices is diet, as poor diet is a contributing component of chronic disease. This is particularly prevalent in children and young people, evidenced through the Plymouth Report 2014 which identified that nearly 25% of children having excess weight or being obese.
10. Strategic Objective 4 of the Plymouth Plan; (Delivering a healthy city), has amongst other objectives, the ambition of: creating environments which address the wider determinates of health; delivering the best health, wellbeing, and social outcomes for children, young people and families; and building strong and safe communities with health promoting natural and built environments.

11. In responding to this Strategic Objective 4 Policy 8 of the Plymouth Plan has been developed. This policy seeks to regulate and control the food environment around secondary schools through restricting new A5 takeaways from opening. This policy contributes to the wider Council strategy of promoting healthy eating and education in schools, as part of the Healthy Child Quality Mark.
12. This application seeks planning permission for a new A5 takeaway that will be located within 400m of the entrance to Hele's School. This will provide a choice of hot food to be consumed off of the premises. Takeaway foods are typically high in saturated fats, sugars and carbohydrates. This could potentially undermine the coordinated strategy the Council has invested in across the City in tackling the childhood obesity through providing the opportunity to consume a diet that can be harmful to health and wellbeing of the community.
13. Therefore Officers have concluded that this application through introducing a new A5 takeaway within 400m of Hele's Secondary School would be contrary to Policy 8 of the emerging Plymouth Plan.

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

This application is not liable for CIL

11. Planning Obligations

None

12. Equalities and Diversities

Disabled access to the shop is accessed from a ramp to the front of the property

13. Conclusions

Officers have taken account of the S38(6) of the Planning and Compulsory Purchase Act 2004 as well as the Plymouth Plan and concluded that the proposal does not accord with policy and national guidance and specifically Strategic Objective 4 (Delivering a healthy city) Policy 8 (addressing health inequalities and supporting healthy lifestyles) as well as section 8 para 69 of the NPPF which requires new development to promote healthy living and wellbeing and is therefore recommended for refusal.

13. Recommendation

In respect of the application dated **15/10/2015** and the submitted drawings ,it is recommended to:
Refuse

14. Reasons

REFUSAL: LOCATION TO SECONDARY EDUCATION PROVIDERS

(1) The Local Planning Authority considers the proposed Hot Food Takeaway (Use Class A5) given its location to Hele's school is contrary to Policy 8 of the Plymouth Plan which addresses health inequalities and supporting health lifestyles and in particular seeks to protect the food environment within a 400metre radius of providers of secondary education. The proposal is also considered to be contrary to the National Planning Policy Framework 2012 - Paragraph 69, with regard to creating healthy communities.

Informatives

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

(1) 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).

INFORMATIVE: REFUSAL (NO NEGOTIATION)

(2) In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. This includes the offer of pre-application discussions to resolve issues of concern to the Council prior to formal submission of a planning application. However in this case the proposal is not sustainable development for the reasons set out and the Council was unable to identify a way of securing a development that improves the economic, social and environmental conditions of the area.

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 (b) relevant Government Policy Statements and Government Circulars, were taken into account in determining this application:

NPPF - National Planning Policy Framework March 2012

PP8 - Addressing health inequalities and supporting healthy lifestyles