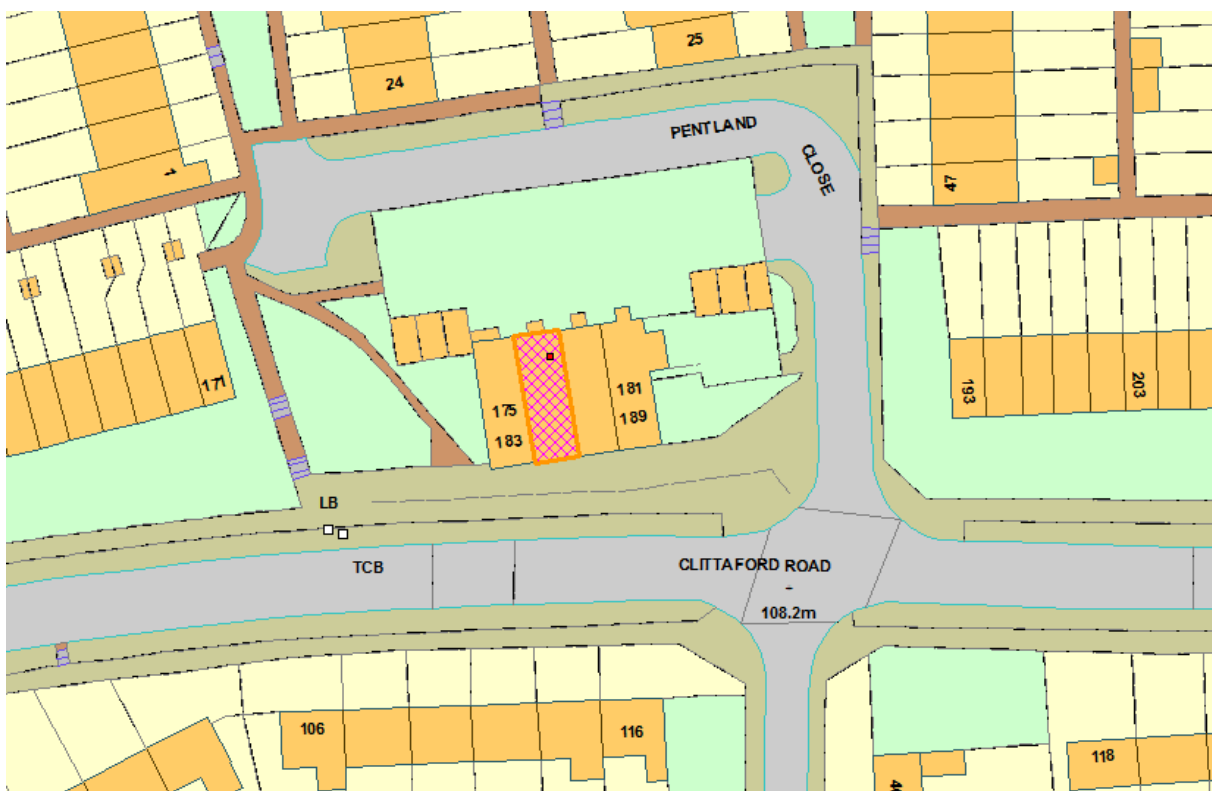


# PLANNING APPLICATION OFFICERS REPORT



<b>Application Number</b>	16/02084/FUL	<b>Item</b>	06
<b>Date Valid</b>	10.11.2016	<b>Ward</b>	SOUTHWAY

<b>Site Address</b>	177 Clittaford Road Plymouth PL6 6HX		
<b>Proposal</b>	Change of use from retail shop (Class A1) to hot food takeaway (Class A5)		
<b>Applicant</b>	Mrs Dahal		
<b>Application Type</b>	Full Application		
<b>Target Date</b>	<b>15.02.2017</b>	<b>Committee Date</b>	<b>09.03.2017</b>
<b>Extended Target Date</b>	<b>15.03.2017</b>		
<b>Decision Category</b>	Member referral		
<b>Case Officer</b>	Miss Amy Thompson		
<b>Recommendation</b>	Grant Conditionally		



This application has been referred to planning committee by Cllr Johnny Morris

### **1. Description of Site**

177 Clifford Road is a commercial unit located in the Southway area of the city. The unit is within a terrace of three retail units with residential flats above. These units are a Local Centre as set out in the Shopping Centres Supplementary Planning Document.

### **2. Proposal Description**

Change of use from retail shop (Class A1) to hot food takeaway (Class A5).

### **3. Pre-application enquiry**

None.

### **4. Relevant planning history**

None.

### **5. Consultation responses**

Public Protection- Consider the application acceptable subject to added conditions.

Public Health Service- Recommend refusal due to concerns that the proposal is contrary to the aims of the Plymouth Plan.

Local Highway Authority- No objection

Police Liaison Officer- No objection.

Economic Development Department- No objection.

### **6. Representations**

13 letters of representation received objecting to the application due to main concerns of;

- \* Impact on quality of life
- \* Parking
- \* Increase noise and disturbance
- \* Ventilation/ odours
- \* Groups of youths hanging around in the area/ anti-social behaviour
- \* Already have hot food outlets within walking distance
- \* No waiting or parking facilities made available
- \* Litter
- \* Extra traffic

### **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 comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the Core Strategy and other Plymouth Development Plan Documents as the statutory development plan for Plymouth once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

\* For Plymouth's current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). ?

\* For the JLP which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at an advanced stage having now been subject to a six-week period for representations, pursuant to Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations. It is also considered consistent with the policies of the Framework, as well as based on up to date evidence. It is therefore considered that the JLP's policies have the potential to carry significant weight within the planning decision if there are no substantive unresolved objections. However, the precise weight will need to be determined on a case by case basis, having regard to all of the material considerations as well as the nature and extent of any unresolved objections on the relevant plan policies. Other material considerations include the policies of the Framework itself, guidance in National Planning Practice Guidance (NPPG). Additionally, the following planning documents are also material considerations in the determination of the application:

\* Development Guidelines Supplementary Planning Document

\* Shopping Centres Supplementary Planning Document

## **8. Analysis**

1. This application has been considered in the context of the development plan, the approved Plymouth and South West Devon Local Plan, the Framework and other material policy documents as set out in Section 7. The application turns upon policies CS02 (Design), CS11 (Changes of Use in District and Local Centres), CS22 (Pollution), CS28 (Local Transport Considerations) and CS34 (Planning application considerations) of the Adopted Core Strategy of Plymouth's Local Development Framework 2006-2021 and Policy DEV6 (Hot food takeaways in Plymouth) and DEV18 (Protecting local shops and services) of the Joint Local Plan.

Loss of A1 Shopping Use.

2. The Shopping Centres Supplementary Planning Document (2012) when looking at the Clifford Road centre found that 'although the centre lacks character, the buildings are in good condition and the shop fronts are maintained to a good standard. The centre is limited in terms of the facilities it provides, however, the units appear to be performing well'

3. The Shopping Centres Supplementary Planning Document (2012) states that the following key issues should be used to inform future development regarding this centre:

- i. There are two remaining shops (A1) units within the centre which provide key local services. In order to maintain the predominance of A1 within the centre and provide services for the local community, these A1 uses should be retained.
- ii. Given the limited number of facilities within the centre, it may be appropriate to reconsider the role of Clittaford Road within the shopping hierarchy in the next Core Strategy Review.

4. Core Strategy Policy CS11 (Changes of Use in District and Local Centres) states that; Within District and Local Centres the change of use of ground floor retail premises (A1) will be permitted provided that:

1. The primary function of the centre is maintained.
2. The proposed use provides a complementary role to the retailing function of the centre.
3. It would not result in a harmful over concentration of non-A1 retail uses within a frontage or within the centre as a whole.
4. The development helps people meet their day-to-day needs within the local community.

5. The existing neighbouring uses either side of the application site are within A1 use. From looking at the history of the site and at the Shopping Centre Survey results in 2012 the unit was previously used as a Southway Information Centre. An information centre would have been a B1 (business) use class and not a A1 use class.

6. Policy DEV18 within the Joint Local Plan looks at protecting local shops and services. Part 5 of the policy in particular concentrates on proposal for hot food takeaways (Use Class A5) and states that these proposal will not be permitted where they result in:

- i. Unacceptable levels of noise, smell, litter, disturbance, or otherwise detrimental impacts to the role and function of the area or centre and residential amenity.
- ii. Unacceptable traffic and parking problems.
- iii. Detrimental impact on the character and appearance of the area.

7. Policy DEV18 looks at protecting local shops and services, and while this policy was not within the draft Plymouth Plan it is considered that policy 33 (safeguarding environmental quality, function and amenity) has similar aims to ensure that the development proposals protects residential amenity, provide sufficient parking provision and ensure safety of the highway network. It is therefore considered that moderate weight can be given to policy DEV18 when determining this application.

8. The Public Protection Service initially raised concerns regarding ventilation causing odour and or noise nuisance to the residential properties in the surrounding area. However since their initial comments further details have been provided about the proposed ventilation extraction system and now consider the application acceptable. A condition has been added to ensure that the ventilation system that has been proposed is used at this site and is operated and maintained in accordance with the manufacturer's instructions.

9. No objections have been raised by the Local Highway Authority. The Development Guidelines Supplementary Planning Document state that one car parking space should be provided per 5.5m<sup>2</sup> of floor space used by customers. The proposed area used by customers is approximately 7m<sup>2</sup> therefore one car parking space should to be provided. It is however noted that there is on –street parking spaces available within walking distance of the application site. With on-street parking provided to along Clittaford Road and parking is also provided to the rear of the property. It is therefore considered that the lack of one car parking space provided with the proposals is not considered a reason to refuse this application as sufficient parking is provided around the application site.

10. It is not considered that the proposal would result in a harmful over concentration on non-A1 uses. The application has previously been a non-A1 use and the existing neighbouring A1 uses are maintained, therefore complying within the objectives set out in the Shopping Centres SPD. Overall it is not felt that the addition of a A5 use would result in the centre losing its primary function as a retail centre.

#### Wellbeing

11. The approved Joint Local Plan has introduced a new approach to tackling strategic citywide issues through the development of an innovative citywide single plan. As part of the new plan the planning authority is working closely with the Office of the Director of Public Health.

12. Joint Local Plan Policy DEV6 (Hot food take aways in Plymouth) states that the Local Planning Authority will resist proposals that provide new hot food take aways within 400 metres of providers of secondary education to protect the schools food environment.

13. The proposed takeaway would not be within 400 metres of a secondary school. The closest secondary school is Notre Dame Roman Catholic School which is approximately 1000 metres away. While it is noted that the local planning authority has worked closely with the Public Health Service in formulating the emerging Plymouth Plan in prompting healthy living it is not considered that the proposed takeaway would be contrary to the aims of Policy DEV6 of the Joint Local Plan and is therefore considered acceptable.

14. Policy 13 (supporting healthy lifestyles) of the draft Plymouth Plan also aimed at refusing new hot food take away applications that are within 400m radius of schools. This policy is similar to the Joint Local Plan policy DEV6 and therefore moderate weight can be given to this policy when determining the application. It is considered that the proposal does not conflict with this policy.

15. The agent for the current application has stated that opening hours would be 10.00 until 22.00 each day. These opening hours are considered to be acceptable considering the neighbour convenience store opening hours of which is between 07.30 and 21.00hrs most days apart from Sunday which is 08.00 to 21.00hrs. A condition will be added to ensure that the opening hours are restricted between 10.00 and 22.00.

## Public Health Comments

16. Public Health have concerns about the proposal as it does not comply with the city's ambition to reduce health inequalities by providing a food environment where healthy choices are the easiest choices. They states that the Local Planning Authority should work towards "ensuring the development of a variety of food premises which enable residents to make healthy choices" They refer to the policy that that prevents the development of hot food takeaway premises within Plymouth and especially those close to schools. They acknowledge the proposed development is not within 400m of a school.

Other matters.

17. Within the letters of representation received a number of issues were raised regarding parking and also anti-social behaviour. Both the Local Highway Authority and Police Liaison Officer were consulted on with this application and both did not raise any objections to the proposal. It is considered adequate parking provision is provided around the application site.

Is the design acceptable?

18. No changes are proposed to the front of the property and it is therefore considered that the proposal would not have a detrimental impact on the appearance of the street scene.

19. An informative will be added to ensure that the applicant is made aware that if advert consent is required it should be obtained separately.

## **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**

None.

## **11. Planning Obligations**

Not applicable.

## **12. Equalities and Diversities**

None.

## **13. Conclusions**

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and found that the proposal accords with policy CS02, CS11, CS22, CS28 and CS34 of the Adopted Core Strategy of Plymouth's Local Development Framework 2006-2021 and Policy DEV6 (Hot food takeaways in Plymouth) and DEV18 (Protecting local shops and services) of the Joint Local Plan. Notwithstanding the objections from the Public Health

Service and the concerns raised by local residents, on balance, the proposal is considered acceptable and the application is recommended for conditional approval.

#### **14. Recommendation**

In respect of the application dated **10.11.2016** it is recommended to **Grant Conditionally**

#### **15. Conditions / Reasons**

The development hereby permitted shall be carried out in accordance with the following approved plans:

##### **1. CONDITION – APPROVED PLANS**

Site Location Plan SITE LOCATION PLAN Version:

Elevations - Existing 104/4 A Version: 1

Elevations - Proposed 104/3 A Version: 1

Floor Plans - Proposed 104/2 A Version: 1

Floor Plans - Existing 104/1 A Version: 1

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, and paragraphs 61-66 of the National Planning Policy Framework 2012.

##### **2) CONDITION: COMMENCE WITHIN 3 YEARS**

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.

##### **3) CONDITION: OPENING HOURS**

The use hereby permitted shall not be open to customers outside the following times:  
10.00 hours to 22.00 hours Mondays to Sunday

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, policy DEV18 of the The Plymouth and South West Devon Joint Local Plan and paragraph 123 of the National Planning Policy Framework

4) **CONDITION: VENTILATION SYSTEM**

The electrostatic precipitation ventilation extraction system is to be used in this premises and all equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

Reason: To protect the residential and general amenity of the area from noise and odour emanating from the operation of any mechanical extract ventilation system and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

**Informatives**

1) **INFORMATIVE: CONDITIONAL APPROVAL NEGOTIATIONS**

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 has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

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

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).

3) **INFORMATIVE: ADVERTISING**

Advertising is controlled under the Town and Country Planning (Control of Advertisements) Regulations 2007 and the applicants should obtain any necessary consent separately.