

PLANNING APPLICATION OFFICERS REPORT



Application Number	19/00788/FUL	Item	02
Date Valid	28.05.2019	Ward	ST BUDEAUX
Site Address	2E Pemros Road Plymouth PL5 IND		
Proposal	Change of use to tattoo studio (Sui Generis) (retrospective)		
Applicant	Ms Andrea Glanville		
Application Type	Full Application		
Target Date	23.07.2019	Committee Date	18.07.2019
Extended Target Date	N/A		
Decision Category	Councillor Referral		
Case Officer	Mr Chris King		
Recommendation	Grant Conditionally		



This application has been referred to Planning Committee by Councillor Sally Haydon

1. Description of Site

2A Pemros Road has been split into three parts, two being commercial for Business Rates known as 2D & 2E and the Flat above being 2C. 2E Pemros Road, the application site, is a modest ground floor commercial space located in the St Budeaux Ward of the City. The premises occupies half the ground floor of the building, with the adjoining half of the building operating as a Legal Practice (Class A2). The first floor provides 1.no C3 dwelling.

2. Proposal Description

The application seeks retrospective planning permission for the Change of use from Class A2 (Financial and Professional Services) to Sui Generis, to be used specifically as a Tattoo Studio.

3. Pre-application Enquiry

No pre-application enquiry with respect to this application

4. Relevant Planning History

16/02341/ADV - New shopfront signage - Permitted

16/01895/FUL - Replacement shopfront - Permitted

05/01691/FUL - Change of use of ground floor from shop (Class A1) to offices (Class A2) - Permitted

5. Consultation Responses

Local Highway Authority - No Objections

Public Protection Service - No Objections to proposal and have not suggested or required any specific opening hours.

6. Representations

The Local Planning Authority has received 38 letters of representation. Of these, 15 support the application and 19 object to the application. The letters are summarised as follows, and the material and non-material planning matters have been separated for clarity:

Support - Material

- o Bringing an empty unit back into use which has seen so many changes in the past few years
- o Supports the economy and creates jobs
- o Unlikely to result in parking or traffic issues
- o Clustering of uses is not unusual
- o Small businesses should be encouraged
- o Doesn't result in loss of amenity

Support - Non Material

- o Well run, hygienic business
- o Unlikely to harm established business

Object - Material

- o Will result in a loss of amenity and increases rubbish in the street
- o Harmful to the character of the area
- o Will result in parking and traffic issues
- o Inappropriate unit for the use
- o Could adversely impact children on their way to and from school
- o Not enough demand

Object - Non-material

- o Unhygienic
- o Poorly run, unprofessional business
- o Staff and clients congregate in the street smoking
- o Not needed as there is a tattoo studio across the road

7. Relevant Policy Framework

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and by West Devon Borough Council and Plymouth City Council on March 26th 2019.

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. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption. This is set out in the Housing Position Statement conclusions in paragraphs 8.6 and 8.7. The three authorities have jointly notified the Ministry of Housing, Communities and Local Government of their choice to monitor at the whole plan level, and are currently awaiting a response from MHCLG regarding the Housing Delivery Test Measurement and its implications.

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

- o Retained Development Guidelines Supplementary Planning Document First Review (2013)
- o Retained Shopping Centres Supplementary Planning Document (2012)

8. Analysis

1. This application has been considered in the context of the development plan, the Framework and other material policy documents as set out in Section 7.

2. This application turns upon policies SPT1 (Delivering sustainable development), DEVI (Protecting health and amenity), DEVI6 (Providing retail and town centre uses in appropriate locations); DEVI8 (Protecting local shops and services); DEV20 (Place shaping and the quality of the built environment) and DEV29 (Specific provisions relating to transport) of the Plymouth and South West Devon Joint Local Plan.

3. The principle issues are considered to be the impact of the change of use towards the function and vitality of the St Budeaux District Centre, residential amenity and parking and highways demands.

Intentional Unauthorised Development

4. Since August 2015 national planning policy requires consideration to be given as to whether intentional unauthorised development has been carried out. The new policy applies to all relevant planning decisions made by Local Planning Authorities and Planning Inspectors. The policy has been introduced largely as a result of Government concerns about the harm caused by unauthorised developments in the Greenbelt, but applies equally elsewhere.

5. The policy does not indicate exactly how much weight should be afforded to this in relation to the weight to be given to other material planning considerations. Neither does the policy clarify exactly what evidence is required to demonstrate the unauthorised development has been carried out intentionally.

6. It is clearly highly undesirable for any development to take place before planning permission has been properly sought, and obtained, in any circumstances. However, it should be noted that this new policy only applies where unauthorised development has taken place with the full knowledge of the person(s) undertaking the work that it lacks the necessary consent. In reality, given the difficulties in interpreting these points, it is considered that little or no weight can be given to this

aspect, unless the Council has clearly indicated to the applicant that unauthorised development is being carried out, and that works have then continued beyond that point, or where there is some other compelling evidence that such work has intentionally been carried out.

7. Neither of these factors appear to apply in this case, and so it is considered that no weight should be afforded to this particular point in the determination of this application.

Principle of Development

8. The retained Shopping Centres Supplementary Planning Document (SPD) identifies the site as falling within the St Budeaux district centre but not within the primary shopping frontage. However, and following the review of the centres produced as part of the evidence base of the adopted Joint Local Plan, it no longer identifies the site as part of, or within the district centre. Given the change of the status of the site and the fact that the proposed use would attract people into the area in a way which isn't dissimilar to the previous A2 use, officers do not wish to raise any policy concerns regarding the change of use.

9. Whilst the proposed use may not be to everyone's taste it does not result in the loss of an A1, A2 or A3 use within the adjusted district centre boundary, instead providing a complimentary town centre use, which could enhance the wider area as encouraged by policy DEV18(3.3). A number of contrasting views on the acceptability of the use have been submitted to the Local Planning Authority for consideration however in essence there appears to be no solid or fundamental reason to suggest that the proposal will result in a detrimental impact to existing businesses or the vitality of the centre.

10. Therefore, and on balance the proposal is considered not to conflict with policies SPT1, DEV16 and DEV18, rather achieving the aims of the plan to boost the economy and create jobs in a sustainable location.

Residential Amenity

11. A number of concerns have been raised over residential amenity, suggesting that the proposed use will result in demonstrable harm to the area in terms of noise, nuisance and litter. There have been no formal complaints or reports to the Council of antisocial behaviour and upon the site visit officers did not observe anything untoward. There are a whole range of uses in the area, including another Tattoo studio which also has residential above and nearby. In officer's view, and subject to suitable hours of operation restricted by condition, the proposed use is unlikely to result in a loss of amenity.

Parking

12. Matters surrounding the parking and highway conditions have been raised, once again with varying views on the potential impact of the proposed use. The existing A2 use is not afforded a dedicated parking space like many of the commercial units in this area. The application does not, by virtue of the site constraints, propose to provide off street parking which is not considered a cause for concern by the Local Highway Authority.

13. In assessing the potential impacts of the use, it is important to consider the nature of the service being provided. Some uses, such as hot food takeaways or shops generate a high number of visits of varying lengths, in some cases, for very brief periods of time which leads to informal and unauthorised parking that can interfere with the free flow of traffic. In this case, it is anticipated that persons visiting the Tattoo studio are likely to spend longer amounts of time which reduces the risk or likelihood of unauthorised parking and the number of traffic movements, similar to the adjacent hair salon.

14. In any case, and notwithstanding these concerns, officers note that there are numerous measures in place such as double yellow lines and short term parking bays which will adequately enforce street parking. Finally, the application site is considered a highly sustainable location meaning customers have alternative means of accessing the site through a number of public transport modes.

15. The application property has an established business use and is located in the local shopping centre, where similarly many of the businesses are unable to offer any off-street car parking. Therefore in this case for all of the reasons given, the proposed 'Change of Use' would be expected to maintain the existing parking 'status quo'. Therefore, and without clear evidence that the proposal would result in a significant or demonstrable adverse impact on the highway, officers consider that the proposal will not conflict with policy DEV29.

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 to consider

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

13. Conclusions and Reasons for Decision

The proposed change of use would not adversely impact the character of the area, or harm the vitality of the adjacent St Budeaux District Centre. Furthermore, the proposed use is unlikely to result in a significant or demonstrable loss of amenity or highway safety. Therefore, having taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004, officers have concluded that the proposal accords with policy and national guidance and is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 28.05.2019 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

Floor Plan I5052019 - received 15/05/19
Site Location Plan I5052019 - received 15/05/19

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with the Plymouth & South West Devon Joint Local Plan 2014–2034 (2019).

2 CONDITION: WINDOW DISPLAY AND SIGNAGE

Within six months of the date of this permission a ground floor window display relating to the use of the site and/or the services provided shall be implemented in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be maintained at all times.

Reason:

To maintain the character and appearance of the street scene. in accordance with Policy DEV20 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and the National Planning Policy Framework 2019.

3 CONDITION: HOURS OF OPENING

The use hereby permitted shall not be open to customers outside the following times: 0900 hours to 1800 hours Mondays to 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 DEVI and DEV20 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and the National Planning Policy Framework 2019.

INFORMATIVES

1 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).

2 INFORMATIVE: CONDITIONAL APPROVAL (NO NEGOTIATION)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy

Framework 2019, the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

3 INFORMATIVE: ACTIVE WINDOW

For the purposes of condition 2 an active window is one where the activities within the property can be seen through a substantial proportion of the glazed area. It may also incorporate a subservient changeable display area to showcase the goods sold or services provided at the property.

4 INFORMATIVE: ADVERTISING

This permission does not give or imply any consent for advertising related to the business. Advertising is controlled under the Town and Country Planning (Control of Advertisements) Regulations 2007 and the applicants should obtain any necessary consent separately.

5 INFORMATIVE: NOTIFICATION OF APPEAL

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on <https://www.gov.uk/government/collections/casework-dealt-with-by-inquiries>.