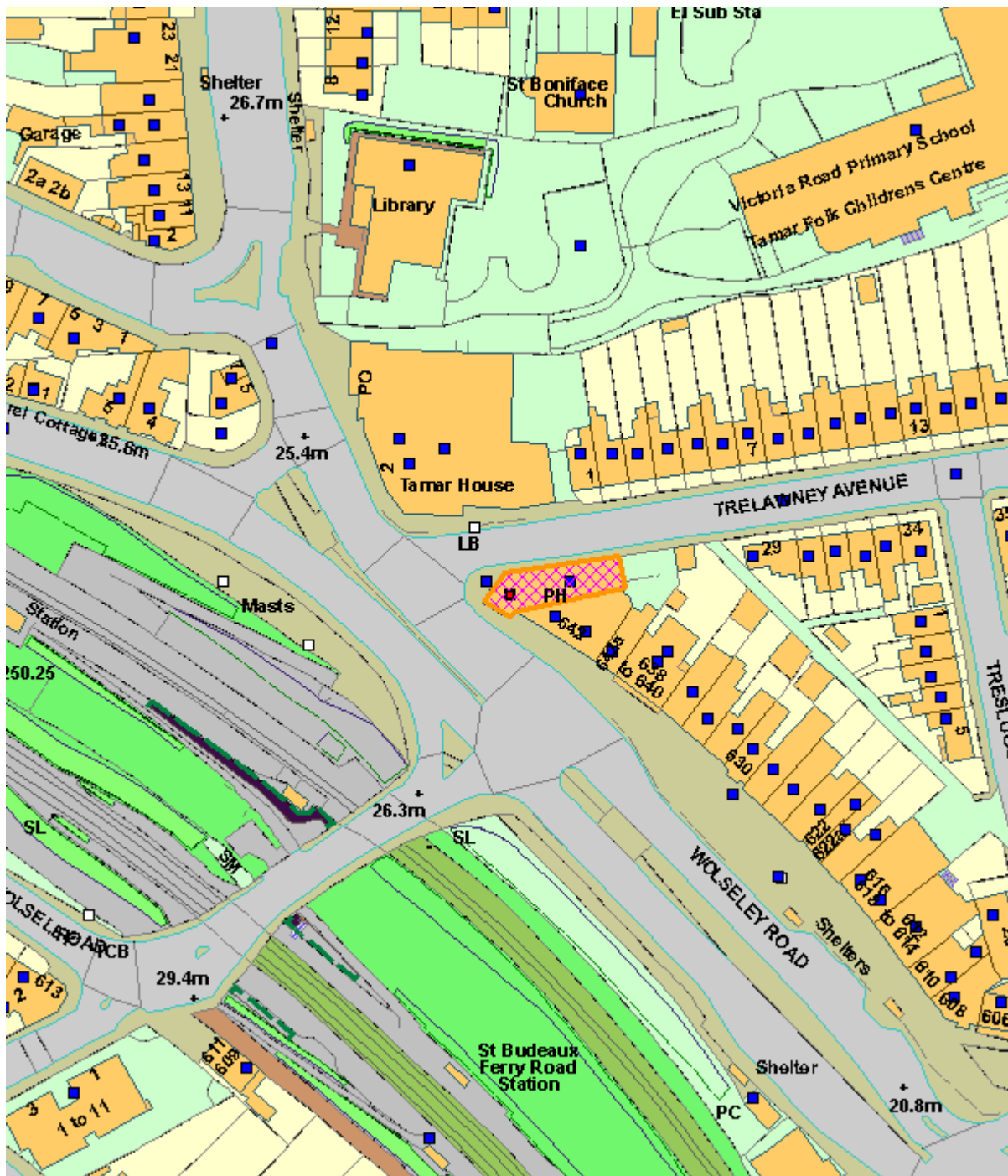


PLANNING APPLICATION OFFICERS REPORT



Application Number	19/00644/FUL	Item	03
Date Valid	14.05.2019	Ward	ST BUDEAUX
Site Address	646 Wolseley Road Plymouth PL5 ITE		
Proposal	Change of use of retail unit (Class A2) to restaurant/cafe (Class A3)		
Applicant	Mrs Johanne Honey		
Application Type	Full Application		
Target Date	09.07.2019	Committee Date	18.07.2019
Extended Target Date	N/A		
Decision Category	Councillor Referral		
Case Officer	Mr Jon Fox		
Recommendation	Grant Conditionally		



This application has been referred to the Planning Committee by Councillor George Wheeler and by Councillor Sally Haydon.

1. Description of Site

The site comprises an irregular shaped, flat roofed, single storey building situated on the corner of Wolseley Road and Trelawney Avenue. The site is within the St. Budeaux District Centre, although not within the primary or secondary shopping frontages.

2. Proposal Description

The description of development has been changed to: Change of use of retail unit (Class A2) to restaurant/cafe (Class A3). The change of description (deleting the A5 use) has been advertised by the posting of new site notices on the 2nd of July, for 10 days, which means that the consultation period expires on the 12th of July.

Originally the description read: Change of use of retail unit (Class A2) to restaurant/cafe and hot takeaway (Class A3/A5).

Approximately 60% of the floor area is taken up with seating for 36 customers. The remainder of the floor area comprises a servery and WC. The servery includes glass covered units, a hob/extraction unit and sink.

3. Pre-application Enquiry

None.

4. Relevant Planning History

19/00649/ADV - External signage proposals for cafe. Pending decision.

12/00456/FUL - Change of use, conversion and alteration of unit 1 to café (Class A3) and hot food takeaway (Class A5), including installation of extract flue enclosed by proposed chimney. Granted conditionally.

11/02027/FUL - Variation of condition 19 of planning permission 11/00729 to allow the A5 use to open between 10:00 and 00:00 Mondays to Saturdays inclusive and 10:00 and 23:00 on Sundays, and Bank Holidays. Granted conditionally.

11/01805/FUL - Change of use, conversion and alteration of unit 1 to café (Class A3) and hot food takeaway (Class A5). Refused.

11/01010/FUL - New shop front (Unit 4 - hot food takeaway). Granted conditionally.

11/00729/FUL - Change of use, conversion and alteration of public house to form three commercial units (1x A2 'financial and professional services', 1x solarium - 'sui generis' and 1 x A5 'hot food takeaway') and three self contained flats at first floor. Granted conditionally.

10/01969/FUL - 1 x A5 'Hot Food Takeaway') and three self contained flats at first floor. Granted conditionally.

10/01351/FUL - Change of use, conversion and alteration of public house to form four commercial units (2 x A4 - 'drinking establishment'; 1 x A3 - 'Restaurants and cafes' and 1 x A5 - 'Hot food takeaway') and three self contained flats at first floor. Refused.

5. Consultation Responses

Local Highway Authority (HA)

The HA would object to the A5 element of the proposals, on the basis that this is a mixed use and if granted permission the A5 part could, in the future, become a more significant traffic generator thereby leading to disruptive and hazardous short term parking. The HA would not object to an A3 use with ancillary A5 type use, on the basis that the A5 element would always be subservient and therefore unlikely to lead to parking and highway problems.

Public Protection Service (PPS)

The PPS are concerned that takeaway food is generally unhealthy and that given the deprivation in the area, and the high rates of obesity, including among children in the ward, the use is inappropriate. PPS are aware that policy DEV6 of the JLP (which seeks to prevent such uses in close proximity to secondary schools) does not apply as the site is only within 400m of two primary schools and three pre-schools. However, PPS are of the view that proximity to primary schools should also be taken into account. There is concern, too, at the number of similar uses in the shopping centre and the

potential for noise associated with the comings and goings from a takeaway as well as noise from associated plant.

However, the main issue relates to the domestic style catering appliances and extract that would be provided at the premises. The design of the premises and lack of suitable extraction systems make the premises unsuitable for A5 hot food takeaway use. The operation as such will likely result in odour complaints and may cause a work environment unconducive to the health of employees. There is also potential for heat, smoke, grease and condensation build-up to damage the structure of the building over time as no suitable systems for the withdrawal of products from combustion are proposed.

PPS is not opposed to the application with respect to a restricted use of the proposed A3 restaurant/café, but an A5 Hot food Takeaway use is not supported.

Police Architectural Liaison Officer (PALO)

From a designing out crime perspective the Devon and Cornwall Police have no comments to make with regards to this application. However, given the location of the site, if this application is to include a full takeaway service, the PALO foresees issues with regards to parking and highway obstruction with customers potentially arriving by vehicle. Outside of the premises is a bus lane and neighbouring streets have parking and yellow line restrictions. Failure to comply with these restrictions will place a further burden on the enforcement agencies who will have to deal with indiscriminate parking and breaches of traffic regulations. Therefore from an enforcement perspective, the PALO would suggest this application be restricted to a café / restaurant only use which should alleviate these concerns.

6. Representations

Eight letters were received, which raise objections on the grounds of:

1. There are too many food outlets on the Square, which affect business and the balance of retail food outlets to shops.
2. Parking problems; inconsiderate and dangerous parking.
3. Litter and vermin problems.
4. Food smells and poor extraction facilities.
5. Nuisance to adjoining residential properties. No hours of operation are given.
6. Impact on public health.
7. St. Budeaux needs more retail outlets for local needs.
8. The take-away element is also small scale and the implication is that it will not cause inconvenience. However, if A5 usage is granted, that will then apply until the designation is changed. If this operation ends, a new operator could develop the take-away element without any limit.
9. Impact on two primary schools and the main Sure Start (Early Years) centre within 50 yards of the site.
10. There is no information on when deliveries will take place.

The change of description (deleting the A5 use) has been advertised by the posting of new site notices on the 2nd of July. So far seven further public comments have been received, which support the application for the following reasons:

1. The proposals will bring a vacant premises back into use.
2. The café would be welcome in the area.
3. The café will be producing healthy and vegan options.
4. It will not affect other cafes and takeaways in the area.
5. Parking will not be an issue.
6. The extraction system and refuse will not be issues.

There is also a petition of 251 signatories against the proposals.

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: Development Guidelines Supplementary Planning Document and Shopping Centres Supplementary Planning Document (2012).

8.0 Analysis

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. This application turns upon policies SPT1 (Delivering sustainable development), DEV1 (Protecting health and amenity), DEV16 (Providing retail and town centre uses in appropriate locations); DEV18 (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. 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.

8.1 Principle of Development

8.1.1 There have been numerous objections to the A5 takeaway element of the proposed change of use, based on traffic and perceived amenity issues. The applicant's agent has been approached about these concerns and objections, and has agreed to remove the A5 element from the proposals.

8.1.2 The key consideration of this application is the loss of the A2 unit within a district centre and the introduction of an additional A3 unit. DEV18 is a policy to protect local shops and services, an A3 use is deemed a complementary use to a district centre which helps to support the centres vitality and viability and brings in needed footfall. The planning application site in question is not part of a primary or secondary frontage and is within the wider centre where a broad range of uses which contribute to the vitality of the area are considered acceptable, including A3. While officers acknowledge there is a high proportion of food outlets in the St. Budeaux shopping area, it is

considered that the now proposed A3 use would complement the existing centre, in accordance with policy DEV18 (Protecting local shops and services) of the JLP.

8.1.3 Officers note that consent has previously been approved for A3 and A5 use on this unit however this permission was never implemented.

8.2 Amenity

8.2.1 The removal of the hot food takeaway element would reduce the negative impacts of traffic and potential fumes. However, there remain concerns regarding the adequacy of any extraction/ventilation system on the basis that in time a more intensive type of cooking might take over, which in turn could give rise to odour problems. The potential of improving the ventilation system is constrained by the lack of a suitable wall or roof face that is sufficiently clear of neighbours' windows or public views. While it is technically possible to install equipment, which could handle a more intensive cooking type, it is considered more appropriate to limit the type of cooking facility to that which can be handled by the relatively simple extraction equipment currently proposed. This can be achieved by imposing the condition recommended by PPS. Consequently officers consider the proposals now accord with policies DEV1 and DEV2 of the JLP.

8.3 Other Impacts

8.3.1 The removal of the A5 element would negate any serious short term parking concerns associated with the use of the building. The Local Highway Authority are not opposed to a cafe/restaurant use.

8.3.2 Suitable refuse facilities will be provided within an alcove on the Trelawney Avenue frontage.

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

The proposed change of use is not liable for contributions under the Community Infrastructure Levy.

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

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal for A3 use only would provide a complementary use to the

shopping centre without harming residential amenity, in accordance with JLP policy and national guidance and is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 14.05.2019 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**

Proposed Elevations 18-30-21 Rev B received 14/05/19
Block plan 18-30-02 - received 24/04/19
Site Location plan 18-30-01 - received 24/04/19
Proposed ground floor plans 18-30-20 - received 24/04/19

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: 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: COOKING FACILITIES**

The limited space and availability of suitable extraction systems requires food production activity to be limited to the handling of ready to eat/ processed foods only. The provision of no more than the following equipment is permitted: One small convection oven for the reheating and baking-off of precooked/part baked foods, and one Panini grill/toaster (or similar) for warming foods.

Reason:

The size and design of the kitchen area is only suitable for preparation of limited and simple types of food such as sandwiches and the preparation of small numbers of simple cooked meals. The condition is also proposed to protect the residential and general amenity of the area from odour emanating from cooking activity and to avoid conflict with Policy DEV2 of the Plymouth and South West Devon Joint Local Plan (2014-2034) and the National Planning Policy Framework.

4 **CONDITION: HOURS OF OPENING**

The use hereby permitted shall not be open to customers outside the following times: 08.00 hours to 19.00 hours Mondays to Saturdays inclusive and 10.00 hours to 18.30 hours on Sundays and Bank Holidays 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 DEV1 and DEV2 of the Plymouth and South West Devon Joint Local Plan and the National Planning Policy Framework 2019.

5 CONDITION: DELIVERIES

Goods deliveries and refuse collections are restricted to the following times: -

Monday to Saturday No deliveries or refuse collection between 6pm and 8am; Sundays and Bank Holidays no deliveries or refuse collection.

Reason:

To protect the residential and general amenity of the area from noise emanating from delivery and waste collection activities and avoid conflict with Policies DEV1 and DEV2 of the Plymouth and South West Devon Joint Local Plan and the National Planning Policy Framework.

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 (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 with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

3 INFORMATIVE: FOOD WASTE

All food waste generated at the premises prior to collection should be stored securely in closed lidded containers.

4 INFORMATIVE: FOOD SAFETY ADVICE

The plans for the kitchen do not show suitable facilities that would be expected from open food handling activities such as separate designated wash hand basin and separate food and equipment wash sinks. The scale and design of the kitchen as established within the plans will limit the scope of activities that can hygienically be undertaken. The Public Protection Service would strongly recommend that the applicant seek advice from the local food authority to help ensure compliance with relevant food law.

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>.