

App.No: 171085 (PPP)	Decision Due Date: 29 November 2017	Ward: Devonshire
Officer: Luke Simpson	Site visit date:	Type: Planning Permission
Site Notice(s) Expiry date: 29 October 2017 Neighbour Con Expiry: 12 December 2017 Press Notice(s):		
Over 8/13 week reason: Committee Cycle		
Location: 143-145 Terminus Road, Eastbourne		
Proposal: Change of use of a vacant shop (A1) unit to a restaurant/takeaway (A3/A5)		
Applicant: Mr Jason Shepherd-Abdullah		
Recommendation: Grant Permission subject to conditions		

Executive Summary:

This application is reported to planning committee as it relates to a change of use within a key part of Eastbourne Town Centre and its support would be contrary to established Planning Policy

Proposal relates to the change of use of the ground floor of the former Post Office building to a restaurant takeaway.

It is considered that the loss of retail floorspace from this unit should be assessed against the pressures imposed upon town centres by the rise of internet shopping and also the potential positive changes that the Arndale extension will have upon the retail dynamics of the town. Against this background the proposals are considered to be acceptable and would help to add to the range of facilities within the town centre and thereby supporting the vitality and vibrancy of the town centre.

Planning Status:

The site is located within the Town Centre Primary Shopping Area, as defined within the Local Plan Proposals Map. It is not a listed building and does not fall within a Conservation Area, or a high flood risk area. The permitted use of the ground floor level of the building (to which this application applies) is for A1 (shop) use.

Relevant Planning Policies:

National Planning Policy Framework
Paragraph 23 Ensuring the vitality of town centres

Eastbourne Core Strategy Local Plan Policies 2013

C1 – Town Centre Neighbourhood Policy

D1 – Sustainable Development

D4 – Shopping

D10A - Design

Eastbourne Borough Plan Saved Policies 2007

HO20 – Residential Amenity

UHT1 – Design of New Development

UHT11 – Shopfront

TC6 – Town Centre Shopping Area

Eastbourne Town Centre Local Plan 2013

TC4 – Primary Retail Areas

Site Description:

This application relates to the ground floor of 143-145 Terminus Road (former Post Office; an end terrace property with a 3 storey element facing onto Terminus Road and a single storey element to the rear serviced by a private access along the eastern side of the building.

The unit is located within the Primary Shopping area and accordingly is amongst retail/commercial premises, including the adjacent Edinburgh Woollen Mill (to the west) and Blacks outdoor clothing shop to the south. The premises were last used as the town's central post office although it has been vacant for a number of months.

Relevant Planning History:

030131

Installation of replacement doors.

Approved unconditionally

25/04/2003

080461

Installation of ATM into Post Office shopfront

Approved unconditionally

24/09/2008

160965

1-3 Langney Road (Now Dominos) Application for change of use from a vacant Restaurant and Takeaway (Class A3/A5) to a Hot Food Takeaway with ancillary seating area (Class A 5) and associated external alterations - including a replacement shopfront and the installation of extraction and ventilation equipment.

Approved conditionally

20/10/2016

Proposed development:

Application proposes the change of use from vacant shop to restaurant takeaway.

The applicants have submitted a supporting statement outlining that if support the opening hours would be: 11AM to 11Pm every day and that the proposal would create 25 full time and 15 part time jobs.

Any change to the shopfront and advertisement would form the subject of additional applications.

Consultations:

Internal:

Specialist Advisor (Waste)

In the event that permission is granted for the proposed change of use, it has been requested that a condition is attached requiring adequate space to be allocated off the highway for the storage of waste receptacles.

Specialist Advisor (Environmental Health)

No comments received

Specialist Advisor (Planning Policy)

The proposal site is located within a Primary Retail Area. Policy TC4 of the Town Centre Local Plan states that A3 and A4 use will only be permitted at ground floor level within primary retail frontages and that no more than 25% of overall retail frontages should be in non-residential use. This threshold has already been exceeded and the proposal if granted permission would raise the premises in non-retail use to 32.91% (whole primary retail area). It is therefore considered that the proposal would be contrary to Policy TC4

External:**Police:**

The location falls within the centre of the late night economy of the town centre and therefore it experiences large amounts of footfall, noise, litter and acts of anti-social behaviour. The level of anti-social behaviour and crime is high compared to the rest of Sussex.

Whilst there is no objection, there are concerns that the presence of a restaurant/takeaway may result in people occupying the area until the early hours of the morning, which would impact upon policing resources. As such a number of conditions are recommended in relation to; CCTV, the closure of the alley to the side of the premises at night and the restriction of operational hours.

Fire Brigade

No comments received

Arndale Centre Manager

No comments received

Neighbour representations:

Two public representations have been received which both raise concerns over the impact of the proposed extended night time hours will have on the amenity of the occupiers of nearby residents.

Appraisal:Principle of development:

The site is located within Town Centre Neighbourhood, and within a Primary Retail Area (PRA) as defined within the Local Plan Map. It is therefore subject to consideration against Policies C1 (Town Centre Neighbourhood Policy) of the Eastbourne Core Strategy, TC6 (Town Centre Shopping Areas) of the Eastbourne Borough Plan and TC4 (Primary Retail Areas) of the Eastbourne Town Centre Local Plan.

The vision for the Town Centre Neighbourhood is to maintain its status as a sustainable centre by maximising its economic potential and attracting more visitors and local residents for shopping, work and recreation etc; and it is sought to strengthen its retail offering through the creation of new retail development and maintaining a diverse range of services and facilities.

The National Planning Policy Framework recognises that town centres are the heart of communities, and supports policies that protect their viability and vitality. Primary Retail Areas play a key role in promoting and achieving this viability and vitality by ensuring that retail continues to be maintained and enhanced to ensure it remains the predominant land use. Provision is allocated for a limited number of non-retail premises as it is recognised that a variety of services and facilities can contribute to the

overall vitality and viability of the retail area, however, Policy TC4 establishes criteria for alternative uses within primary retail frontages, including;

Use Classes A2, A3 and A4 will only be permitted at ground floor level within the primary retail frontages where:

- It would result in no more than 10% of the overall retail frontage in the Arndale Centre or 25% of the overall retail frontages in the remaining primary retail areas being in non-residential use;*
- No more than three consecutive shop units are in non-retail use; and*
- A ground floor shop front window is retained.*

Other non-retail uses will not be permitted within the Primary Retail Area.

Further to this, Table 1 of Policy TC6 of the Eastbourne Borough Plan establishes that within Primary Shopping Area (PSA) B (within which the site lies) no more than 25% of premises should be in non-retail use.

Focusing on Policy TC4, whilst the proposal would not result in more than three consecutive shop units in non-retail use, or result in the loss of a shop window, based on data from November 2017, it would result in 32.91% of premises within the wider Primary Retail Areas (as identified in Figure 3 of the Town Centre Local Plan) being in use for non-retail purposes (up from the current 31.48%) and 33.29% of premises within Primary Retail Area 2 (PRA2) (from 11 to 155 Terminus Road) being used for non-retail premises.

Notwithstanding the over provision of non A1 units within the Primary Retail Area, it is recognised that empty premises are detrimental to the vitality of the Town Centre, and given that this particular unit has been vacant for some time, the opportunity to bring it back into use should be given full consideration.

The applicant has argued that, given the existing over provision of non A1 units, and the below average rates of vacant premises within the Primary Retail Area, the loss of this premises for retail use would not make a significant difference to the overall retail provisions of the area.

Further to this it is argued that the new extension to the Arndale Shopping Centre, will have the potential to reprofile the retail footfall of the town centre and interest in property from this part of the Primary Shopping Centre as large businesses will look to migrate to the western side of the town centre, and therefore the provision of a restaurant would provide a better balance of uses for this part of town.

The Local Planning Authority accept that there may be a migration of some business and footfall towards the Arndale extension, which may take some of the attraction away from the eastern part of the Primary Retail Area. Bearing this in mind, it is considered that the provision of a branch of a well known international restaurant chain would provide a facility that would attract visitors to the town centre as well as local residents. Eastbourne has a substantial student population (many of which are international students) that will recognise the business that will be occupying the unit, and the fact that it will provide the opportunity to have a sit down meal will encourage people to stay in this part of the town centre for longer.

As a result, it is considered that the benefits that would arise from bringing the unit back into use, and providing a well known restaurant that will support the wider vitality and vibrancy of the town centre would outweigh the harm that will be created to the Primary Retail Area through the loss of a single A1 unit.

The proposed change of use in this case is therefore deemed to be acceptable in principle.

Impact of proposed development on amenity of adjoining occupiers and surrounding area:

The site falls within the centre of Eastbourne's late night economic and is within close proximity of the Cameo nightclub, Dominos Pizza takeaway (directly adjacent), The Best Kebab and Bills Restaurant. Two public representations have been received which raise concerns over the impact of the proposed use in terms of the creation of nighttime noise and nuisance, however, the hours of operation that the application seeks (between 11:00 hours and 23:00 hours) are similar to those other properties that already attract late night footfall. Therefore, the addition of a single restaurant, which would provide space to eat inside would be unlikely to have a significant impact in terms of new activity to the area.

Sussex Police have been consulted, and have raised some concerns that the proposed use would attract additional nighttime activity to the area, and may lead to intoxicated people hanging around the premises during the early hours, particularly at weekends, but no formal objections have been raised. It has been requested that a condition be attached to any permission requiring any alcohol to be served with food but this would be a matter for the licensing department, and alcoholic beverages are not an offering provided by KFC. Other recommended conditions include, ensuring adequate CCTV is provided, restricting operation to the submitted hours and ensuring that the gate to the rear courtyard of the premises is closed out of hours. The later of these conditions is not enforceable as the access to the rear courtyard is owned by the proprietors of the neighbouring No.1 Langney Road.

Overall it is considered that given the existing amount of premises within the area that are open until late at night, the provision of one additional restaurant would not introduce a significant amount of new noise or nuisance. Further to this, it is deemed that measures can be put in place through condition (such as the provision of CCTV) to discourage anti-social behaviour and crime.

Whilst not forming part of this application the applicants have demonstrated the location and appearance of the potential external flue. This location in broad terms is considered to acceptable with regard to noise and smell impacts and also in design terms.

The scheme is therefore deemed to be in accordance with Policy HO20 of the Eastbourne Borough Plan Saved Policies 2007.

Design issues:

The proposed change of use proposes minimal physical internal works, with limited external additions (flue). As a result the scheme will have a neutral effect on the character of the area, and would be in accordance with Policies UHT1 of the Eastbourne Borough Plan and D10A of the Eastbourne Core Strategy Local Plan.

Impacts on highway network or access:

Given that the premises currently has permission for A1 use, it is not anticipated that the new use would attract a significant increase in associated vehicle movements to the site. As a result it is not foreseen that the scheme would have a detrimental impact on the functioning of the local highway.

Other Issues:

No waste management details have been submitted, and the Council's Specialist Waste Advisor has requested that in the event of approval, this determination should be accompanied with a condition requiring adequate space to be provided for the storage of recepticals, conveniently located for pick up.

The premises has a waste receptacles area situated at the access to the courtyard so there are no concerns that there will be any waste storage issued.

Human Rights Implications:

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

Recommendation:

Approve Conditionally

Conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of permission.

Reason: To comply with Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2) You must implement this planning permission in accordance with the following plans approved by this permission:

- Site Location and Block Plan: 2715/G012
- Proposed Floor Plan: 2715-PL100 Revision A
- Proposed Elevations: 2715/PL211 Revision A

Reason: For the avoidance of doubt.

- 3) The use hereby approved shall not be open to members of the public outside of the following hours: 11:00 hours – 23:00 hours Monday to Sunday.

Reason: In the interest of the amenity of the occupiers of nearby residential accommodation, in accordance with Policy HO20 of the Eastbourne Borough Plan Saved Policies (2007).

- 4) Prior to the operation hereby permitted being brought into use, CCTV shall be installed at the premises that cover the inside of the restaurant as well as the areas immediate outside of the restaurant/bin enclosure/service road. The CCTV images shall be digital and shall be capable of being downloaded by trained staff working within the restaurant.

Reason: To mitigate against and to monitor anti-social behaviour and crime, and to comply with policy D1 of the Eastbourne Core Strategy Local Plan 2013.

INFORMATIVE:

The applicant is advised that the all external works (Shopfront/Flue/Advertisement) should for the subject of additional applications to the Local Planning Authority.

Appeal:

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.