

## Delegated Officer Report - 08/10/2014

<b>App.No:</b> 141134 (PPP)	<b>Decision Due Date:</b> 30 October 2014	<b>Ward:</b> Hampden Park
<b>Officer:</b> Sally Simpson	<b>Site visit date:</b> 12 September 2014	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 17 October 2014 <b>Neighbour Con Expiry:</b> 17 October 2014 <b>Weekly list Expiry:</b> 30 September 2014 <b>Press Notice(s):</b> N/a		
<b>Over 8/13 week reason:</b> Within time		
<b>Location:</b> 37 Mountfield Road, Eastbourne		
<b>Proposal:</b> Proposed change of use from Class A1 (retail) to Class A3(restaurant/café) and Class A5 (hot food takeaway) (AMENDED PLAN RECEIVED).		
<b>Applicant:</b> Mr N Ceylan		
<b>Recommendation:</b> Approve, subject to conditions		

**Planning Status:** Retail unit, currently empty, with a residential flat above with tenant.

### Constraints:

**Public Sewer** SEWER, OPERATIONAL, PUBLIC, FOUL

### Archaeological Notification Area

prehistoric wetlands Consult [county.archaeology@eastsussex.gov.uk](mailto:county.archaeology@eastsussex.gov.uk)

### Willingdon Levels Catchment Area

28/05/2009 00:00:00

### Eastbourne Core Strategy Policies

Eastbourne Core Strategy Local Plan 2006-2027

C7 Hampden Park Neighbourhood Policy

D4 Shopping

B1 Spatial Development Strategy

B2 Creating Sustainable Neighbourhoods

**Borough Plan Policies**

Eastbourne Borough Plan 2001-2011

UHT1 Design

UHT4 Visual Amenity

HO20 Residential Amenity

TR11 Parking

**Environment Agency Flood Zones**

Flood Zone 2 Tidal Models

Flood Zone 3 Tidal Models

**Environment Agency Flood Defences**

Areas Benefiting from Defences

**Relevant Planning Policies:**

National Planning Policy Framework 2012

Paragraphs 6, 7, 11, 12, 13, 14, 17, 19, 21, 58, 60, 61, 64, 65, 66, 203 & 206

**Site Description:**

Hampden Park is the largest neighbourhood in the town with a population of approximately 11,700. There is a wide range of residential properties, services and facilities with good access to a range of shops, community facilities, schools and open spaces.

The community consider that the neighbourhood suffers from poor design and the public realm is not as well looked after as it could be, especially in the shopping centres and that the neighbourhood is not pedestrian or cycle friendly.

The application site is located on a large corner plot, fronting Mountfield Road and with the side elevation on Lottbridge Drive. The existing A1 unit is on the ground floor, which is vacant and the first floor is currently in use as a residential flat.

**Relevant Planning History:**

EB/1978/0437

Single storey rear extension, formation of footway crossing access to Lottbridge Drive.

Approved Conditional

1978-10-17

**Proposed development:**

The applicant is seeking planning permission to change the current use from A1 (retail) to Class A3 (restaurant/café) and Class A5 (hot food take away).

The proposed restaurant would have the capacity for seating 40 customers and the hours of proposed use for the take away and restaurant are as follows:

A3 use

Monday to Friday: 11.00 – 00.00

Saturday: 11.00 – 00.00

Sunday & Bank Holidays: 13.00 – 00.00

A5 use

Monday to Friday: 13.00 – 00.00

Saturday: 11.00 – 00.00

Sunday & Bank Holidays: 13.00 – 23:00

An extraction unit will be erected to disperse odours created from the kitchen. It is intended to mount these with anti-vibration fixings to the external fabric of the building in close proximity to the flat. The height of the proposed unit will measure 4.14 metres with the width of the base being 0.79m which will taper to a width of 0.51m. The extraction unit will benefit from a carbon filter, pre –filter together with an odour neutralising unit.

**Consultations:**Internal:

Specialist Advisor (Environmental Health): No objection, subject to conditions requiring details of extraction type and a condition that relates to the rating level of noise.

Specialist Advisor (Planning Policy): No objection as the site is not located within a designated shopping area, the loss of an A1 unit is deemed to be acceptable in principle.

External:

Highways: Awaiting comments from highways at the time of writing this report. Any comments received will be verbally reported at Committee.

Neighbour Representations:

11 Objections, 2 request to speak at Committee and a petition with approx. 150 signatures have been received and cover the following points:

- There are already 11 take-aways in Hampden Park

- There are no parking facilities in the very busy area.
- Opening hours encourage youths to gather, may encourage anti-social behaviour
- Issue of noise and litter
- Loss of privacy
- The positioning of the flue (outside window of flat above). Too close to residential properties
- Opening hours
- Already enough of the same type that could cause others to close
- This area, in particular is a hot spot for rats and vermin caused by rubbish. another outlet would add to this.
- Constant smell from café on roundabout or the curry house round the corner. By adding that extraction system to the back you will just add to the unwanted aromas.
- Would be better in another area that needs take aways.
- Do you not think we have enough food outlets in Hampden Park. A variety of shops would be good.

Further comments on the amended plans have been received from the tenant:

- Its worse than it was before
- The smaller window will give reduced light and opening of window with the extraction duct cause mould.
- The extraction duct will restrict access to my flat as my son is still in a buggy.
- Access to flat unsafe, especially in the dark
- Opening hours until midnight – there will be increased noise
- Cooking smells and the noise of the fans

It is important to note that on receipt of an amended plan there was a re-consultation period for which the deadline for comments was 17 October 2014. Any additional comments received by this deadline will be verbally reported at Planning Committee.

### **Appraisal:**

The main considerations in determining this application relate to the acceptability of the change of use from A1 (retail) to Class A3 (restaurant/café) and Class A5 (hot food take away), visual amenity and the impact on surrounding residential amenity.

### Change of Use

Policy D4 of the Eastbourne Core Strategy states that development of the Town Centre's role as the primary comparison shopping destination within Eastbourne and its rural hinterland will be promoted by protecting units, particularly in the primary and secondary shopping frontages of district, local and neighbourhood centres.

There is no objection in principle to this change of use from A1 (retail) to A3 (restaurant) and A5 (hot food take-away) in this mixed area of commercial and some residential, provided it would be designed to a high standard, respect the established character of the area and would not have an adverse effect on the amenity, the character of a area and is in accordance with policies of the Core Strategy 2013, and saved policies of the Borough Plan 2007 and the National Planning Policy Framework (2012).

The application site, previously a computer repair/retail unit has been empty for some time. A change of use would regenerate this unit and create a number of opportunities for employment.

Paragraph 17 of the NPPF states that LPA's should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs and promote mixed use developments.

Paragraph 18 of the NPPF states that the Government is committed to securing economic growth in order to create jobs and prosperity.

Paragraph 19 pf the NPPF states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

The existing retail unit is not located within a designated shopping area and is not protected by any shopping policy. The unit is located at the end of a shopping parade on the corner with a busy roundabout junction. The proposal would bring a vacant retail unit back into use to the benefit of the local economy and the vitality of the area.

#### Amenity Impact

Policy HO20 of the Eastbourne Local Plan requires new development proposals to respect residential amenity.

Policy B2 of the Eastbourne Core Strategy seeks to protect the residential and environmental amenity of existing and future residents.

A number of objections have been received from local residents concerning potential noise, litter, cooking smells and the cumulative impact of take-aways in the local vicinity.

Given the low number of units within the immediate local area and along the north side of the shopping parade, it is considered that the proposed use would not result in a cumulative impact of A3/A5 take-away restaurants in the area. The

application site is located at the end of a local shopping parade within a mixed use area on the corner of a heavily trafficked roundabout junction. The siting for the proposed use is therefore appropriate to the area.

With regards smells, a flue extraction system is proposed to be attached to the north side elevation and terminates above the flat roof of the building. The nearest residential properties are located approximately 13.8 metres to the west and north west. It is considered that any odours from the extraction system would be dispersed up and over the flat roof of the building. A condition is recommended requiring further detail of the specification and noise levels associated with the proposed extraction equipment.

With regards potential noise and any associated anti-social behaviour, there is no evidence that would suggest that the proposed use would create any additional noise within the local area or anti-social behaviour. The main potential noise impact would be on the occupier of the first floor flat, particularly in the evening hours. A condition is recommended requiring details of soundproofing between the ground and first floor flat and details of the flue extraction noise levels prior to the commencement of the use. The proposed hours of use are from 11.00 until midnight. It is considered, however, given the proximity to surrounding residential occupiers to the north and residents above the premises on the first floor that the use be limited until 23.00 hours.

Any litter caused by customers of the proposed use can only be controlled in part by the applicant through the provision of a bin outside the premises to encourage litter reduction and conditioned as such. Resultant litter, however, is a social problem and cannot be directly attributed to a particular use or activity.

As such, it is considered that the proposed use would not result in any significant harm to surrounding residential amenity and would accord with Policy HO20 of the Eastbourne Local Plan and Policy B2 of the Eastbourne Core Strategy.

#### Design issues:

Policy UHT1 of the Eastbourne Local Plan states that proposals will be required to harmonise with the appearance and character of the local area and be appropriate in scale, form, materials (preferably locally sourced), setting, alignment and layout.

Policy B2 of the Eastbourne Core Strategy seeks to create an attractive, safe and clean built environment with a sense of place that is distinctive and reflects local character.

The main consideration for this proposal has been the location of the extraction unit. In plans originally submitted it was to be located externally in a highly visible position outside the flat above the unit. It was to be located on the corner outside the larger window on the North elevation. This was considered to be

inappropriate as it would be highly visible from the East elevation which was considered to have a negative impact on the character of the area and the street scene in particular. Following discussion with the applicant's agent, an amended plan has been submitted to relocate the extraction unit. The flue is to be relocated with the extraction filtration systems being installed within the building beneath the stairs that access the flat above. The stairs will be adjusted to allow the extraction ducting to be located behind.

The amended plans now shows the extraction unit relocated to the western side of the north elevation with a revised layout of the stairway and decking to accommodate this alteration and allow access to the residential flat above. The other alteration to accommodate this change is to reduce the opening of the flat window beside which the extraction unit will run. This is considered to have a minimal impact for the tenant as the window is to a bathroom rather than any habitable room and the altered window has a top opener for ventilation.

This has reduced the visual impact of the extraction unit and is considered to comply with UHT1 in that it harmonises with the appearance and character of the local environment and respects local distinctiveness. It complies with UHT4 in that there is now no significant erosion of local distinctiveness or a negative effect on the visual amenity. The proposal complies with policy H03 in that the residential unit, located above, is to be retained as such.

The location of the commercial bin is considered to be inappropriate as it would be highly visible on the Eastern elevation. A condition is recommended requiring details of the bin storage and location prior to commencement.

#### Impacts on highway network or access:

Policy TR11 of the Eastbourne Local plan states that new development must comply with approved maximum car parking standards as set out in the East Sussex County Council Highways SPG parking standards.

The proposal has not provided any details of parking facilities for customers and staff. However, it is considered that there is sufficient parking at the local shops that service the Hydneye as well as on street parking in Lottbridge Drove. There are double yellow lines restricting parking close to the application site itself. The site is also adequately served by public transport. Hampden Park station is within a short walk and there are a number of bus stops in the immediate area which provide access to the site.

As such the proposal is considered to comply with policy TR11 of the Eastbourne Local Plan.

#### **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.

**Conclusion:**

The proposed change of use is recommended for approval, subject to conditions as it is considered to have minimal impact in terms of visual and neighbour amenity and therefore complies with UHT1, UHT4, HO2, HO20 of the Eastbourne Borough Plan (Saved Policies) and B1, B2, C7 & D4 of the Eastbourne Core Strategy Local Plan (2013 - 2026) and the guidance outlined within the National Planning Policy Framework (2012).

**Recommendation:** Approve, subject to the following conditions

**Conditions:**

1. Time Limit
2. Approved Plans
3. Restriction of use of premises to A3/A5
4. Opening Hours
5. Waste & Recycling Facilities (++)
6. Details of the extraction unit (++)
7. Rating levels of extraction to comply with British Standards
8. Soundproofing between floors (++)

Informative:

- 1) Discharge of Conditions (5), (6) and (8).

**Appeal:**

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