

Application Ref: 15/01402/FUL

Proposal: Change of use from B1 Industrial to Cash and Carry and Retail (A1) (retrospective) - re-submission

Site: 24 St Davids Square, Fengate, Peterborough, PE1 5QA
Applicant: Mrs Karolina Kiminiene

Agent: Mr N P Branston mrics, Branston Assoc.

Referred by: Councillor Johnson
Reason: There are other examples of retail development within the locality.
Site visit: 22.07.2015

Case officer: Miss Louise Lovegrove
Telephone No. 01733 454439
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Recommendation: **REFUSE**

1 Description of the site and surroundings and Summary of the proposal

Site and Surroundings

The application site comprises a small former employment (B1) unit of 207sqm located along the western boundary of St David's Square - an estate of mixed employment units of B1, B2 and B8 uses. The property is a mid-terraced unit within a row of 8 units, each with allocated parking to the front. There is a large double storey loading bay door, with separate pedestrian entrance. The site is located within the allocated Eastern General Employment Area. There are some surrounding units which contain ancillary A1 retail elements.

Proposal

The application seeks planning permission for the change of use of the unit to an A1 retail cash and carry. It should be noted that the change of use has already taken place and therefore the application is retrospective.

This application follows refusal of an identical application under application reference 15/00995/FUL earlier this year. This application was refused for the following reason:

R1 The Applicant has failed to demonstrate, through the submission of a detailed and robust assessment, that there are no more sequentially preferable sites within which the Class A1 retail development can be accommodated. In addition, the site is not located within close proximity to the community which it would serve, resulting in unsustainable need to travel to/from the retail unit by private car. As such, the development represents retail development within an inappropriate location which would result in unacceptable harm to the vitality and viability of identified District and Local Centres within the surrounding locality. The development is therefore contrary to paragraphs 24 and 27 of the National Planning Policy Framework (2012), Policy CS15 of the Peterborough Core Strategy DPD (2011) and Policy PP9 of the Peterborough Planning Policies DPD (2012).

2 Planning History

Reference	Proposal	Decision	Date
15/00995/FUL	Change of use from B1 Industrial to Cash and Carry and Retail (A1)	Refused	25/08/2015

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

National Planning Policy Framework (2012)

Section 2 - Retail Development Outside Town Centres

A sequential test should be applied to applications (except in relation to applications for small scale rural offices or other development). Proposals which fail the sequential test or would have an adverse impact should be refused.

Section 10 - Development and Flood Risk

New development should be planned to avoid increased vulnerability to the impacts of climate change. Inappropriate development in areas of flood risk should be avoided by directing it away from areas at higher risk. Where development is necessary it shall be made safe without increasing flood risk elsewhere. Applications should be supported as appropriate by a site-specific Flood Risk Assessment, a Sequential Test and, if required, the Exception Test.

Peterborough Core Strategy DPD (2011)

CS14 - Transport

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment Capital aspirations and development which would improve the quality of environments for residents.

CS15 - Retail

Development should accord with the Retail Strategy which seeks to promote the City Centre and where appropriate the district and local centres. The loss of village shops will only be accepted subject to certain conditions being met.

CS22 - Flood Risk

Development in Flood Zones 2 and 3 will only be permitted if specific criteria are met. Sustainable drainage systems should be used where appropriate.

Peterborough Planning Policies DPD (2012)

PP03 - Impacts of New Development

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

PP09 - Development for Retail and Leisure Uses

A sequential approach will be applied to retail and leisure development. Retail development outside Primary Shopping Areas or leisure development outside any centre will be refused unless the requirements of Policy CS15 of the Core Strategy have been satisfied or compliance with the sequential approach has been demonstrated.

PP12 - The Transport Implications of Development

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

PP13 - Parking Standards

Permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

4 Consultations/Representations

PCC Transport & Engineering Services (22.09.15)

No objections - The change of use requires approximately 11 additional parking spaces (above the previous lawful B1 use). Whilst at present there are 4 available spaces adjacent to the unit, there is available overflow parking which is not fully utilised. There is sufficient space within St David's Square to provide delivery vehicle turning.

Local Residents/Interested Parties

Initial consultations: 4

Total number of responses: 0

Total number of objections: 0

Total number in support: 0

No neighbour representations have been received.

Councillor Johnson

The people who have taken on the unit have spent a lot of money converting the building into a cash and carry. I am aware that they asked Councillor Iqbal to look into this for them and have not had a response from him. Can this decision be called in to the planning committee. I am aware that some of the other units on St David's Square are retail use as well. I know that no planning permission was needed in Parnwell centre when a retail unit was being turned into a house.

5 Assessment of the planning issues

The main considerations are:

- Principle of the change of use
- Parking and highway implications
- Flood risk

a) Principle of the change of use

With regards to the change of use that has taken place, the description submitted by the Applicant refers to the use of the site as a wholesale warehouse cash and carry, including A1 retail element. However, having visited the site and observed the goods on sale, Officers do not consider that this is an acceptable description. There was no evidence of wholesale goods being sold and the offer appeared to be more akin to a medium-sized supermarket. There was no evidence of bulk packs of goods and fruit/vegetables were able to be sold singly. As such, it is considered that the use is instead wholly A1 retail development and will be assessed as such.

As detailed within Section 1 above, the application site is located within an allocated General Employment Area (GEA). Policy SA11 of the Peterborough Site Allocations DPD (2011) states that employment uses falling within Classes B1, B2 and B8 are favoured within these localities and that is where employment development should be directed. Whilst the policy does not explicitly preclude other non-employment uses, due consideration must be given to their compatibility.

Policy CS15 of the Peterborough Core Strategy DPD (2011) and Policy PP9 of the Peterborough Planning Policies DPD (2012) are the policies contained within the adopted Local Plan which refer to new retail development and accordingly, must be applied in this instance. Both policies require that new retail development follows the sequential approach. In terms of the application site, this is located outside of any identified retail centres and as such, represents the least sequentially preferable location. Therefore, it is for the Applicant to demonstrate that the proposal accords with the sequential approach, by undertaking an assessment of all relevant retail centres in order to demonstrate that there are no facilities within these which are available or suitable.

It is noted that the application has been accompanied by a 'Sequential Search' however this document fails to adequately demonstrate compliance with the above policies. The document states that '...a physical search was made of the Fengate industrial area, for a suitable vacant property with A1 planning consent...' however this is an incorrect application of the sequential search as it fails to go through the more preferable levels of sequence for the location of retail development. In addition, the document states that 'A local centre shop would not meet the criteria required and would reduce the amount of A1 general shopping space in that area'. However no robust or detailed justification of this, through the form of a retail assessment, has been provided. Notwithstanding this, Officers disagree as from the evidence witnessed on site, the proposal is akin to a small convenience supermarket which would be most appropriate within the identified centres. Such uses are intended for retail centres as these are most appropriately located in close proximity to the community that they are intended to serve. In the present location, the proposal is poorly located for customers who have little or no option other than to drive to the site.

The Applicant's Agent and Councillor Johnson have raised the point that there are surrounding A1 retail uses within St David's Square which set a precedent for such a use being accepted. However, following review of the planning and enforcement histories of these sites, it is noted that many have been deemed to be ancillary to the approved and appropriate B1, B2 and B8 uses of the sites. Any units whereby A1 retail use has been carried out are therefore unauthorised and should not be seen as a precedent for the current unacceptable development subject to this application.

On this basis, the application has failed to demonstrate that there are no more sequentially preferable sites for the A1 retail unit to be located and the application site is poorly related to the community that it is intended to serve. Without adequate and robust justification, it must be considered that the proposal represents inappropriate development within an allocated GEA and which results in unacceptable harm to the viability and vitality of identified retail centres within the City. The proposal is therefore contrary to paragraphs 24 and 27 of the National Planning Policy Framework (2012), Policy CS15 of the Peterborough Core Strategy DPD (2011) and Policy PP9 of the Peterborough Planning Policies DPD (2012).

b) Parking and highway implications

The red line application boundary incorporates an area of communal car parking - available for use by all units within St David's Square - for use as overflow car parking. The Local Highway Authority (LHA) has advised that they are content with this arrangement and that there is ample available car parking within this area to serve the needs of the A1 retail unit.

With regards to the loading/unloading and turning of delivery vehicles serving the unit, St David's Square was initially designed to meet the needs of HGV turning and this can safely be undertaken within the site without detriment to the adjacent public highway network.

On this basis, the site provides adequate parking, turning, loading and unloading provision clear of the public highway and accordingly would not result in any danger to the safety of the highway network. The development is therefore in accordance with Policy CS14 of the Peterborough Core Strategy DPD (2011) and Policies PP12 and PP13 of the Peterborough Planning Policies DPD (2012).

c) Flood risk

The application site is located within Flood Zone 3 which has the highest risk of flooding. The previous use of the site (B1) falls under the 'less vulnerable' category, as does the change of use to A1 retail. Therefore, the National Planning Practice Guidance states that such uses are appropriate within this Flood Zone and further, the Environment Agency's standing advice states that there is no requirement for a sequential test to be applied.

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

7 Recommendation

The Director of Growth and Regeneration recommends that Planning Permission is **REFUSED** for the following reason:

- R 1 The Applicant has failed to demonstrate, through the submission of a detailed and robust assessment, that there are no more sequentially preferable sites within which the Class A1 retail development can be accommodated. In addition, the site is not located within close proximity to the community which it would serve, resulting in unsustainable need to travel to/from the retail unit by private car. As such, the development represents retail development within an inappropriate location which would result in unacceptable harm to the vitality and viability of identified District and Local Centres within the surrounding locality. The development is therefore contrary to paragraphs 24 and 27 of the National Planning Policy Framework (2012), Policy CS15 of the Peterborough Core Strategy DPD (2011) and Policy PP9 of the Peterborough Planning Policies DPD (2012).

Copies to Councillors: N Shabbir, J Johnson

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