

## Item No. 5.2

### Planning and EP Committee 23 July 2019

**Application Ref:** 19/00830/FUL

**Proposal:** Proposed external canopy and external wall lighting (part-retrospective)

**Site:** 62 Cromwell Road, Millfield, Peterborough, PE1 2EG

**Applicant:** Mr M Abouomar

**Agent:** Mr Iqbal

**Referred by:** Head of Development and Construction

**Reason:** Application site within the ownership of an elected Member

**Site visit:** 04.06.2019

**Case officer:** Mr Chris Mohtram

**Telephone No.** 01733 4501733 453410

**E-Mail:** chris.mohtram@peterborough.gov.uk

**Recommendation:** **GRANT** subject to conditions

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

### Site and surrounding area

The application site is a building of mixed use located within the Russell Street Local Centre, comprising a restaurant at ground floor with law chambers at first floor. The site is located in a prominent position, at intersection between Russell Street and Cromwell Road.

The surrounding area comprises a mixture of retail and residential uses, typical of the locality's Local Centres. Furthermore, the defined City Centre boundary abuts the site to the south.

A number of shopfront changes have been undertaken following the grant of planning permission reference 16/00439/FUL. It is noted that whilst this permission has been implemented, the development on-site has not accorded with the approved plans and a number of other unauthorised works have taken place including:

- Altered window and door arrangements to the front and side elevations;
- Application of black tiles to the front and side elevations;
- Installation of external security shutters to all ground floor windows and doors;
- Creation of a raised decking area within the forecourt along Cromwell Road; and
- Erection of railings around the forecourt area to Cromwell Road.

Planning applications are anticipated to regularise these unauthorised works however it should be noted that these have no bearing upon the determination of the current application.

### Proposal

The application seeks planning permission for the installation of a canopy structure to the front eastern elevation (on Cromwell Road) with external lighting to enable outdoor dining associated with the existing restaurant use at ground floor level. The canopy would enclose two large windows within the front elevation and would be set 2.6m above ground level with a forward projection of 3.6m. There would also be 3 spotlights along the eastern elevation, and 3 along the southern elevation.

The proposal has been amended from that which was originally submitted to reduce the overall size of the canopy. As initially submitted, the canopy structure would have been constructed on land within the boundary of the adopted public highway and as such, the proposal has been amended to remove this conflict. Furthermore, the scheme has been amended at the request of Officers to remove railings which were proposed at ground level and would have partially enclosed the entire outdoor seating area.

It should be noted that a canopy frame has already been constructed on the site albeit not completed, and not to the design as currently proposed. Therefore this application is part-retrospective.

## **2 Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
19/00833/ADV	Proposed 2 no. internally illuminated letter signs	Pending	
16/00439/FUL	Increased height of eaves to single storey rear element and replacement with flat roof, partially remove frontage to south elevation of rear element, installation of new shop fronts to south and east elevations and creation of enclosed bin store to the rear	Permitted	29/07/2016
11/00875/FUL	Change of use of first floor flat to professional services office (Retrospective)	Permitted	08/09/2011
07/01098/FUL	First floor rear extension to existing residential accommodation	Refused	25/09/2007
P0886/85/R	Single storey extension	Permitted	12/12/1985

## **3 Planning Policy**

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

### **Peterborough Core Strategy DPD (2011)**

#### **CS16 - Urban Design and the Public Realm**

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

### **Peterborough Planning Policies DPD (2012)**

#### **PP02 - Design Quality**

Permission will only be granted for development which makes a positive contribution to the built and natural environment; does not have a detrimental effect on the character of the area; is sufficiently robust to withstand/adapt to climate change; and is designed for longevity.

### **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.

### **PP11C - (c) Canopies**

Will only be acceptable on the ground floor of a shop, café, restaurant or public house and only if it can be installed without detracting from the character of the building or surrounding area.

### **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.

### **Peterborough Local Plan 2016 to 2036 (Submission)**

This document sets out the planning policies against which development will be assessed. It will bring together all the current Development Plan Documents into a single document. The plan has now been examined by the Inspector and found sound, subject to certain modifications. Subject to final approval by the Council's Cabinet in June 2019, it is anticipated that the Plan will be formally adopted on 24 July 2019. On this basis, the Plan can be afforded considerable weight at this time.

### **LP13 - Transport**

b) The Transport Implications of Development - Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

### **LP16 - Urban Design and the Public Realm**

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

### **LP17 - Amenity Provision**

a) Amenity of Existing Occupiers - 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.

### **LP18 - Shop Frontages, Security Shutters and Canopies**

a) Shop Frontages (including signage) - Permission will only be granted if the design is sympathetic, it would not harm the character and appearance of the street and advertisements are incorporated as an integral part of the design.

c) Canopies - Will only be acceptable on the ground floor of a shop, café, restaurant or public house and only if it can be installed without detracting from the character of the building or surrounding area.

### **Peterborough Shop Front Design Guidance SPD (2014) – Principle 3 'Blinds and Canopies'**

## **4 Consultations/Representations**

### **PCC Highway Services (27.06.19)**

No objections - Following amended plans submitted no objection subject to the imposition of conditions that: prevents the overhanging of any part of the structure (e.g. rainwater goods) onto the public highway; and ensures that no surface water from the canopy runs off onto the public highway. All surface water run-off must be collected and disposed of within the site.

## Local Residents/Interested Parties

Initial consultations: 14

Total number of responses: 0

Total number of objections: 0

Total number in support: 0

No neighbouring representations have been received from 14 neighbouring properties

## 5 Assessment of the planning issues

The main considerations are:

- Design and impact to the character and appearance of the site and the surrounding area
- Neighbour amenity
- Highway safety and parking provision

### a) Design and impact to the character and appearance of the site and the surrounding area

Turning first to the siting of the proposed canopy, this would be along the front eastern elevation to Cromwell Road and within the boundary of the identified Local Centre. The proposal would be readily visible from the surrounding street scene given its positioning. Whilst there are not a significant number of similar developments within the locality, there are other examples of external canopies to retail and commercial premises. Accordingly, it would not appear alien or incongruous within the streetscene.

With regards to its design, the City Council has an adopted Shop Front Design Guidance SPD (2014) which sets out specific design principles for new external canopies. The purpose of this design guide is to ensure that there is consistency in the appearance of shop frontages throughout the City and its publication followed from the erection of a number of poorly designed and harmful canopies across the City area.

In the main, the proposal would accord with the key principles of the design guide as it would:

- cover the width of the shop front fascia;
- be an integral part of the principal elevation to the application property;
- be of a style in keeping with the architectural detailing and proportions of the application property;
- extend only over the shop front and would remain clear of the separate pedestrian access to the first floor law chambers;
- be constructed of a metal frame with supported posts located into the ground finished in painted black;
- be free of any permanent side panels or shutters with open side elevations;
- be located way from any adjoining residential properties.

However, the proposal also differs from the adopted design guide as: it would have a depth greater than 3 metres; would be of almost flat roof design with no 35 degree pitch; and would have a roof covering of fabric not glass. It is considered that these variances from the design guide are not unacceptable as the overall composition of the canopy is considered to be appropriate. The finished design of the proposal would not be of poor quality, and would not appear incongruous within the streetscene. The finished appearance of the site would not be contrived or awkward and whilst the canopy would be of unique form, angled across at the immediate point of the crossroads, this would account for the angle of the building on which it would be sited. Accordingly, deviance from the adopted design guide in this instance would be appropriate.

To ensure that the canopy remains open, as required by the design guide and requested by Officers (who sought amendments) in the interests of visual amenity, a condition is required to remove 'permitted development' rights for the construction of boundary treatments along the shop frontage – such rights would normally permit boundaries up to 1m in height when adjacent to a public highway.

With regards to the external lighting proposed, this would consist of 3no. spot lights to each elevation which are considered minimal in scale and suitably placed, projecting towards the property and not out into the streetscene. Accordingly, no unacceptable degree of harm to the character of the locality would result.

In light of the above, the proposal would not result in unacceptable harm to the character or appearance of the surrounding area and is considered to be in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policies PP2 and PP11 of the Peterborough Planning Policies DPD (2012) and Policies LP16 and LP18 of the emerging Peterborough Local Plan (Draft) (2019).

#### **b) Neighbour amenity**

No.64 Cromwell Road is the only neighbouring residential property that adjoins the application site and is situated immediately to the north. The proposed canopy would project out by 3.3m and would remain open without enclosure, as to be secured by condition above. It would be separated from the adjacent residential property as the intervening entrance to the law chambers at first floor would remain uncovered. Accordingly, the proposal would be set a minimum of 1.2m from the neighbouring property. This relationship is considered sufficient to ensure that there would be no undue overbearing or overshadowing impacts to neighbouring occupants.

The proposed canopy would be used as an outdoor seating area for customers of the ground floor restaurant. It is acknowledged that this would bring about an intensification of noise and general disturbance outdoors that may give rise to harm to the amenities of neighbouring occupants. However, it is noted that the creation of an uncovered seating area could take place without the need for planning permission (as no 'development' would take place) and therefore only the impact that the proposed canopy/lighting would have can be considered as part of this application.

The proposed canopy/lighting would permit outside dining throughout more of the year than is currently possible either by virtue of dark evenings (during winter months) or inclement weather. At present, outside seating could only take place up to sunset during the summer which is at peak, approximately 9.30pm. Dining into the evenings throughout much of the year could pose unacceptable disturbance to occupants if no restrictions were imposed upon hours. As such, it is considered necessary to restrict the use of the outside seating area to no later than 9.00pm. This cut-off is considered reasonable and would ensure that the amenities of neighbouring occupants is preserved.

On the basis of the above, the proposal is considered to be in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policy PP3 of the Peterborough Planning Policies DPD (2012) and Policy LP17 of the emerging Peterborough Local Plan (Draft) (2019).

#### **c) Highway implications of proposal**

The Local Highway Authority (LHA) has raised no objections to the proposed development as amended, as the proposed canopy would no longer be sited within land designated as adopted public highway. The proposal would be set at the back edge of the public highway, and would preserve the forward visibility of the crossroads for drivers.

The canopy would stand at 2.6 metres above ground level, which is sufficient to ensure that it would not pose an impediment or danger to pedestrians. There would be no encroachment upon the public footway and therefore free flow of pedestrians etc. would be maintained. It is noted that the LHA has requested that a condition be imposed which prevents any encroachment of the structure, such as rainwater goods, onto the public highway however this is not considered necessary. The red line boundary of the application site does not include any public highway and therefore the proposal does not seek to encroach onto it. As such, imposing a condition to this effect would not be relevant and therefore would fail to meet one of the key tests for the imposition of conditions. Instead, an informative would be more appropriate to advise the Applicant that no encroachment is permitted.

It is also noted that the LHA has requested a condition be imposed to prevent any surface water run-off from running onto the public highway as this would pose a danger to users. The Applicant has submitted revised drawings to identify that run-off from the canopy will be dealt with on-site by way of soakaways however the LHA does not consider that this will be sufficient. Therefore, to ensure that surface water run-off is adequately managed such that it does not discharge onto the public highway, a condition is required.

With regards to parking, it is not considered that the proposal would unacceptably impact upon any parking to serve the shop, given that there is no existing parking provision and that there is no capacity to have on-site parking to the front or to the rear of No. 62 Cromwell Road owing to the limited forecourt area.

In light of the above, the proposal is considered to be in accordance with Policies PP12 and PP13 of the Peterborough Planning Policies DPD (2012) and Policy LP13 of the emerging Peterborough Local Plan (Draft) (2019).

## **6 Conclusions**

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- The character and appearance of the site and the surrounding area would not be unacceptably impacted upon by the proposed development, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policies PP2 and PP11 of the Peterborough Planning Policies DPD (2012) and Policies LP16 and LP18 of the Peterborough Local Plan (Draft) (2019);
- The proposal would not unacceptably impact upon the amenity of surrounding residents, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policy PP3 of the Peterborough Planning Policies DPD (2012) and Policy LP17 of the emerging Peterborough Local Plan (Draft) (2019); and
- The proposal would not result in unacceptable harm to the safety of the adjacent public highway and its users, in accordance with Policy PP12 of the Peterborough Planning Policies DPD (2012) and Policy LP13 of the emerging Peterborough Local Plan (Draft) (2019).

## **7 Recommendation**

The Director of Growth and Regeneration recommends that Planning Permission is **GRANTED** subject to the following conditions:

- C 1 No later than 6 weeks from the date of this decision notice, the unauthorised canopy in situ on the site shall be removed.

Reason: In the interests of the visual amenity of the surrounding area, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policies PP2 and PP11 of the Peterborough Planning Policies DPD (2012) and emerging Policies LP16 and LP18 of the Peterborough Local Plan (Draft) (2019).

- C 2 The development hereby permitted shall be carried out in accordance with the following plans:

- Location Plan and Block Plan 001 Revision B - Received 03.07.19
- Existing Elevations and Floor Plan 002 - Received 14.05.19
- Proposed Elevations and Floor Plan 003 Revision C - Received 04.07.19

Reason: For the avoidance of doubt and in the interests of proper planning.

- C 3 The materials to be used in the construction of the external surfaces of the canopy hereby permitted shall accord with the details shown on the submitted drawing 'Proposed Elevations and Floor Plan' 003 Revision C and the application form submitted on 02.07.19. For the avoidance of doubt, the frame to the canopy shall be steel finished in black and the roof shall comprise white fabric. The canopy shall be retained and maintained as such thereafter.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policies PP2 and PP11 of the Peterborough Planning Policies DPD (2012) and Policies LP16 and LP18 of the emerging Peterborough Local Plan (Draft) (2019).

- C 4 Notwithstanding the provisions of Part 2 Class A of Schedule 2 Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no boundary treatments or enclosures shall be erected forward of any elevation of the building known as No.62 Cromwell Road and the elevations of the canopy hereby permitted shall be kept open.

Reason: To ensure a satisfactory appearance within the surrounding area, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policies PP2 and PP11 of the Peterborough Planning Policies DPD (2012) and Policies LP16 and LP18 of the emerging Peterborough Local Plan (Draft) (2019) .

- C 5 Prior to installation of the fabric roof to the canopy hereby permitted, the surface water soakaways as shown on drawing 'Proposed Elevations and Floor Plan' 003 Revision C shall be constructed. All surface water run-off from the canopy hereby permitted shall be directed to these soakaways and none shall discharge onto the adjacent public highway.

Reason: In the interests of highway safety, in accordance with Policy PP12 of the Peterborough Planning Policies DPD (2012) and Policy LP13 of the emerging Peterborough Local Plan (Draft) (2019).

- C 6 The external seating area underneath the canopy hereby permitted and the spot lights hereby permitted shall not be used outside the hours of 08:00 to 21:00 on any day.

Reason: In order to preserve the amenities of neighbouring occupants, in accordance with Policy CS16 of the Peterborough Core Strategy DPD (2011), Policy PP3 of the Peterborough Planning Policies DPD (2012) and emerging Policy LP17 of the Peterborough Local Plan (Draft) (2019).

- C7 No later than six weeks from the date of this decision and prior to installation of the roof of the canopy hereby permitted, a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate how rainwater from the canopy roof will be disposed of. The disposal of water shall occur within the site and not outside. The drainage strategy shall be implemented in full prior to installation of the roof of the canopy.

Reason: Reason: In the interests of highway safety and ensure satisfactory drainage of the site, in accordance with Policy PP12 Peterborough Planning Policies DPD (2012) and emerging Policy LP13 of the Peterborough Local Plan (Draft) (2019).

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