

09/00996/FUL: CHANGE OF USE FROM A1 TO A3 AND A5 (RESTAURANT AND TAKE AWAY) AT 1 MIDGATE, PETERBOROUGH  
VALID: 15 OCTOBER 2009  
APPLICANT: PELICAN PARTNERS  
AGENT: DAVID SHAW  
REFERRED BY: CLLR SEATON  
REASON: TO FULLY ASSESS THE IMPACT UPON THE VITALITY AND VIABILITY OF THE CENTRAL RETAIL AREA  
DEPARTURE: NO  
  
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## **1 SUMMARY/OUTLINE OF THE MAIN ISSUES**

The application was deferred at the last Committee meeting (8<sup>th</sup> December 2009) as members wished to see how much of the floorspace was to be put to takeaway use. A floor plan has now been received.

The main considerations in deciding the proposal are:

- The impact on the retail offer of the Central Retail Area
- The impact on neighbouring properties
- The impact on the City Centre Conservation Area

The Head of Planning Services recommends that the application is **APPROVED**.

## **2 PLANNING POLICY**

In order to comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions must be taken in accordance with the development plan policies set out below, unless material considerations indicate otherwise.

### **Development Plan Policies**

Relevant policies are listed below with the key policies highlighted.

#### **The Peterborough Local Plan (First Replacement)**

**CC2 Non-Retail Uses in Primary Retail Frontages of the Central Retail Area** – Seeks approval for non A1 uses in primary retail frontages within the Central Retail Area, provided it does not reduce or further reduce the proportion of frontage in Class A1 to below 75%, result in three non-retail uses adjacent to one another, would not have an adverse impact on the amenities of occupiers of nearby properties and is of an appearance appropriate to the location within a retail centre.

**CBE3 Development affecting Conservation Areas** – Proposals for development which would affect a Conservation Area will be required to preserve or enhance the character and appearance of that area.

## **3 DESCRIPTION OF PROPOSAL**

The building is currently in use as a retail unit, within use class A1 (shops). Planning permission is sought for change of use to A3 (restaurant) with an element of A5 (hot food take-away). Following deferral by the Planning Committee on 8<sup>th</sup> December 2009, the applicant has subsequently submitted revised ground floor and first floor layout drawings and indicative 3D visual drawings.

## 4 DESCRIPTION OF SITE AND SURROUNDINGS

The application site is located within Midgate House on the junction of Midgate and Long Causeway within the City Centre. The Long Causeway frontage forms part of the Primary Retail Frontage for the Central Retail Area. The application property is of 1980s design and is situated on a prominent corner plot. There are a variety of retail and non-retail units in the surrounding area.

## 5 PLANNING HISTORY

Application Number	Description	Date	Decision
97/01278/ADV	Illuminated fascia and projecting sign	02.01.1998	PER
04/01485/FUL	Extension of shop fronts to pillars and change of use from A1 to A2 on unit 22	08.09.2004	WDN

## 6 CONSULTATIONS/REPRESENTATIONS

### INTERNAL

**Conservation Officer** – No objection to the proposal.

**Head of Transport and Engineering** – No Highways objection.

**Community Protection Officer** – General guidance has been issued regarding the type of filtration equipment that should be used, the flue and duct height and efflux velocity. No detailed comments can be provided without a formal submission of technical details.

### NEIGHBOURS

No representations have been received.

### COUNCILLORS

Councillor Seaton referred the item to committee as he is concerned about the proliferation of take-aways in the area and would like the committee to look at it in this light.

## 7 REASONING

### a) **Introduction**

Within the City Centre and particularly the Central Retail Area, there are a variety of retail and non-retail uses with several restaurants, cafes and drinking establishments. At present, there are a high proportion of units lying vacant within the surrounding locality.

### b) **The impact on the retail offer of the Central Retail Area**

The site occupies a prominent corner plot within the Central Retail Area and is currently operating as a retail unit. The present use of the site offers a low end retail offer and much of the frontage along Midgate is poorly utilised and inactive. However, the shop entrance and main frontage to the unit is located on Long Causeway which forms part of the Primary Retail Frontage. As such, Policy CC2 is of particular relevance. The policy clearly indicates that applications for non-retail uses will not be granted if it would reduce or further reduce the proportion of Class A1 use to below 75%, or result in more than three non-retail uses adjacent to one another. It is acknowledged that the proposal will fail part of this policy requirement by further reducing the level of retail provision within the Primary Frontage. However, the Policy also makes provision with regards to A3 uses (restaurants) which permits development if they would contribute to the quality of the City Centre and improve the overall offer.

There are existing non-retail uses within the City Centre and particularly restaurants, cafes and drinking establishments which already positively contribute towards the overall offer of the City Centre and increase the activity of the retail frontages. The proposal will introduce an active frontage to the area and will significantly improve the quality of this prominent unit.

In addition, there is wide concern throughout the City area in relation to the impact of take away units and their detrimental impact upon the vitality and viability of retail frontages. In this instance, the predominant use of the unit will be as a restaurant offering an ancillary take away service. The additional supporting drawings and 3D visuals clearly show that a significant proportion of the ground and first floor areas will be set aside for seating in association with the restaurant use. Within the Serpentine Green shopping centre, Hampton, there is an existing example of the type of unit proposed which has varying levels of trade throughout the day. It is expected that the take away element will mainly be from cold sandwiches during the daytime which would fall within an A1 use. However, the majority of customers are expected to remain within the unit to consume the food. As such, it is not considered that the proposal will harm the vitality or offer of the City Centre. Therefore, the proposal is in accordance with Policy CC22 of the Peterborough Local Plan (First Replacement).

**c) The impact on neighbouring properties**

Due to the nature of the proposed use, there will be a requirement for sufficient extraction of cooking fumes from the site. The applicant has not provided any detailed specification with regards to the proposal however it has been indicated that extraction will take place above first floor level to the rear of the site. It is expected that the applicant will provide the required detailed specification and this information will be presented to Members in the update report. However, if these details are not received in time, the issue can be adequately dealt with by condition. Notwithstanding the above, Officers consider that there is unlikely to be any detrimental impact as a result of such extraction.

With regards to the hours of operation of the site, no details have been provided by the applicant in relation to this. Given that the application site falls within the City Centre and that there are no residential units in the immediately surrounding area, it is considered that the appropriate opening hours for the restaurant/take away will be sufficiently dealt with by the City Council's Licensing Department. The provisions made in the Licensing Act 2003 require that hot food sales will require a license outside the hours of 5am to 11pm. It is considered that within this location, these restrictions are sufficient.

**d) The impact on the City Centre Conservation Area**

The application scheme does not propose any external alterations to the unit and the retail frontage will be retained. As such, the Council's Conservation Officer has not raised any objections. The proposed use is unlikely to cause any harm to the character or appearance of the City Centre Conservation Area.

## **8 CONCLUSIONS**

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

- The use as a restaurant with ancillary take away will not harm the retail offer of the Central Retail Area.
- There will be no detrimental impact on the amenities of neighbouring residential or retail properties.
- There will be no unacceptable impact on the character or appearance of the City Centre Conservation Area.

The proposed development is therefore in keeping with Policies CC2 and CBE3 of the Peterborough Local Plan (First Replacement).

The Head of Planning Services recommends that this application is **APPROVED** subject to the following conditions:

- C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**  
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
- C2 The floor area shown on drawing 3175-011 as being for seating and tables shall always be available for use by customers during the times that the use is selling food.**  
Reason: To ensure that the main use of the property is as a restaurant in order to protect and safeguard the vitality and viability of the Central Retail Area in accordance with policy CC2 of the Peterborough Local Plan (First Replacement).
- C3 Prior to the uses hereby approved commencing; full details of any filtration and/or extraction equipment to be installed shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the nature and location of filtration equipment to be used (including Sound Power Level data), the height of termination of the flue above the ridge height of adjacent buildings and the efflux velocity of air discharged from the ducting. Development shall be carried out in accordance with the approved details and implemented prior to the uses hereby approved commencing and shall be operational during the times that the use is operating.**  
Reason: In order to protect and safeguard the amenity of the area, in accordance with Planning Policy Statement (PPS23 Planning and Pollution Control), Planning Policy Guidance (PPG24 Planning and Noise), and Policy DA2 of the Peterborough Local Plan (First Replacement).

Copy to Councillors Hussain, Khan, Fazal