

## Item No. 5.2

### Planning and EP Committee 9 June 2020

**Application Ref:** 19/01875/FUL

**Proposal:** Change of use from post office and flat to residential

**Site:** 30 High Street, Eye, Peterborough, PE6 7UU  
**Applicant:** Mr And Mrs Mahendra Patel

**Agent:** Mr John Hartley, J J & J Hartley

**Referred by:** Councillor Simons  
**Reason:** Sufficient evidence has been submitted to demonstrate that the business use is not viable

**Site visit:** 19.01.2020

**Case officer:** Mr Jack Gandy  
**Telephone No.** 01733 452595  
**E-Mail:** jack.gandy@peterborough.gov.uk

**Recommendation:** **REFUSE**

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

##### **Site and Surroundings**

The application site comprises a two storey detached building with a Class A1 retail unit at ground floor (formerly also housing a Post Office which has since closed) and residential use at first floor. There are canopies above the large shop windows to the principal elevation, and external roller shutters to these and the entrance door. There is a second entrance door serving the rear store area and residential unit at first floor, located set back from the principal elevation to the west.

The site is located within the identified Local Centre for the village of Eye, and also within the Eye Conservation Area. The property adjacent (No.28 to the east) is subject to protection by way of an Article 4 Direction, and there are surrounding Listed Buildings.

The surrounding area is predominantly residential in character, albeit there is a commercial premises to the east, and the Leeds Hall directly opposite.

##### **Proposal**

The application seeks planning permission to change the use of the site from mixed retail and residential to a single residential dwellinghouse. The proposal also includes associated external changes including removal of the existing shopfronts and canopies, insertion of 2no. smaller windows and a personnel door to the principal elevation, and bricking up to make good the principal elevation.

For the avoidance of doubt, during the consideration of an earlier application (identical to this, reference 19/01337/FUL which was withdrawn by the Applicant), the Post Office ceased operating, however the retail unit remains in operation.

## **2 Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
19/01337/FUL	Change of use from post office and flat to residential only	Withdrawn by Applicant	12/12/2019
18/01758/FUL	Security shutters to two windows and front door (retrospective)	Permitted	04/12/2018

## **3 Planning Policy**

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

### **Planning (Listed Building and Conservation Areas) Act 1990**

#### **Section 72 - General duty as respects conservation areas in exercise of planning functions.**

The Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area or its setting, or any features of special architectural or historic interest which it possesses.

### **National Planning Policy Framework (2019)**

#### **Paragraph 192 - Proposals affecting heritage assets**

In determining applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

### **Peterborough Local Plan 2016 to 2036 (2019)**

#### **LP02 - The Settle Hierarchy and the Countryside**

The location/scale of new development should accord with the settlement hierarchy. Proposals within village envelopes will be supported in principle, subject to them being of an appropriate scale. Development in the open countryside will be permitted only where key criteria are met.

#### **LP12 - Retail and Other Town Centre Uses**

Development should accord with the Retail Strategy which seeks to promote the City Centre and where appropriate district and local centres. Retail development will be supported within the primary shopping area. Non retail uses in the primary shopping area will only be supported where the vitality and viability of the centre is not harmed. Only retail proposals within a designated centre, of an appropriate scale, will be supported. A sequential approach will be applied to retail and leisure development outside of designated centres.

The loss of village shops will only be accepted subject to certain conditions being met. New shops or extensions will be supported in connection with planned growth and where it would create a more sustainable community subject to amenity and environmental considerations provided it is of an appropriate scale.

#### **LP13 - Transport**

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) 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.

LP13c) Parking Standards - Permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

#### **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**

LP17a) 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.

LP17b) Amenity of Future Occupiers - Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

#### **LP19 - The Historic Environment**

Development should protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value.

Unless it is explicitly demonstrated that a proposal meets the tests of the NPPF permission will only be granted for development affecting a designated heritage asset where the impact would not lead to substantial loss or harm. Where a proposal would result in less than substantial harm this harm will be weighed against the public benefit.

Proposals which fail to preserve or enhance the setting of a designated heritage asset will not be supported.

## **4 Consultations/Representations**

#### **PCC Peterborough Highways Services (09.01.20)**

No objections - Historically the building consisted of two separate dwellings. There is ample space to the rear of the site to accommodate the parking and turning requirements of one single dwelling. It is the view of the Local Highway Authority that the proposed change of use shall have no material impact upon the adjacent public highway.

#### **PCC Pollution Team (29.01.20)**

No objections - The property is located on a busy high street and as such there is the potential for noise disturbance. The adjacent takeaway, community hall, MOT testing station and shops have the potential to cause noise disturbance from patrons, plant noise, deliveries and bin collections. Odour from the adjacent takeaway is also a possibility.

It is noted that the property is located in an area where there are a number of residential properties and as such this property is at no greater risk from noise disturbance than others in the area. Additionally the type of noise in the locality would be difficult to control and is part of living in a high street location.

#### **PCC Conservation Officer (27.01.20)**

No objection - From a heritage consideration there is no substantial objection. There is some concern that the change of use will result in a detracting impact on the vitality of the village high street and as such the Eye Conservation Area. The property is particularly prominent within the conservation area and visible in the setting of listed buildings as such, detailing for the external changes should be secured by condition to ensure a sympathetic finish within the CA.

## **PCC Waste Management**

No comments received.

## **Eye Parish Council (17.01.20)**

No comments.

## **Local Residents/Interested Parties**

Initial consultations: 8

Total number of responses: 1

Total number of objections: 0

Total number in support: 1

**Councillor Simons** has expressed his support for the proposal, advising that he considers the shop is no longer viable as a Post Office (with Post Offices creating less income needing to be incorporated into larger general stores) with the new Co-op store and Eye store in direct competition as a general store within close proximity. Believe that the applicants have sufficient information to prove the store is not viable. In addition, the applicants have unsuccessfully tried to sell the Post Office as a going concern, with evidence to prove this. Although the Councillor would welcome a Post Office in one of the larger units.

## **5 Assessment of the planning issues**

The main considerations are:

- Principle of development
- Design and impact to the character and appearance of the site and the surrounding Eye Conservation Area
- Neighbour amenity
- Highway safety and parking provision
- Future occupant amenity

### **a) Principle of development**

As detailed in Section 1 above, the site previously hosted a Post Office. During consideration of the previous, withdrawn application, Officers considered the Post office to be a 'community facility' for consideration against the provisions of Policy LP30 of the adopted Local Plan. However, as the Post Office has now closed (which did not require the benefit of planning permission) and only the Class A1 retail use remains, it is instead the provisions of Policy LP12 that must be considered.

The application site is located within the designated Eye Local Centre, and within such Local Centres, the entire area is designated as the Primary Shopping Area. Policy LP12 states:

*'Within the Primary Shopping Frontage (PSF) of the District Centres or within Local Centres, planning permission for any non-A1 use at ground floor level will only be granted if the development would maintain or enhance the vitality and viability of the centre and appearance of the frontage.'*

It goes on to further state:

*'Every effort will be made to prevent the loss of an existing village shop which sustains a village community, by permitting additional uses which would help to improve its financial viability. The loss of an existing village shop will only be permitted if provision to replace the facility is made or it can be demonstrated that the present use is no longer viable.'*

Turning first to the matter of the vitality/viability of the centre and appearance of the frontage, the proposed residential use would not maintain or preserve the retail/town centre use offering within the village, or maintain a retail frontage within the Primary Shopping Area (PSA). Whilst it is

acknowledged that there is a relatively sizeable supermarket within the village, there are relatively few main town centre uses within the identified Local Centre and the proposal has not demonstrated that the loss proposed would not harm the offering within the village.

Notwithstanding this, the policy does permit the loss of an existing village shop subject to either: re-provision of the facility; or upon demonstration that the present use is no longer viable. The Applicant has submitted confidential, commercially sensitive, supporting financial information with the application, the contents of which are included within the exempt annex attached to this report. In addition, they have provided marketing information to demonstrate that the property has been marketed since March 2017, with two different sales agents.

Whilst Officers acknowledge that the incomes derived by the Applicants are not considerable, and that the net profit from the business has declined since 2017 by approximately 25%, the gross profit and Post Office income has been relatively consistent over 2017 and 2018, only declining in the year to end of January 2019. Furthermore, no information of accounts prior to 2017, the time at which the Applicants chose to sell the business, has been provided to demonstrate whether there has been a significant decline caused by the opening of the Co-Operative supermarket (in April 2016). Further, the Post Office income was relatively considerable compared to the other retail income, yet the Applicant's chose to retire from offering this service and therefore reduce the income derived from the application site.

With regards to the information submitted in terms of marketing the site/business for sale, the site/business has been marketed since 2017 with 2no. agents, neither of whom are local to the Peterborough area. For a period of 12 months from March 2017 the site was marketed on a leasehold basis, then thereafter on a freehold basis. The Applicant has confirmed that in March 2019, a sale was agreed however this fell through, with no reasons given as to why.

Whilst Officers are sympathetic to the situation of the Applicants, it is not considered that sufficient information has been presented to enable a conclusion to be reached that the business is not viable in the long-term. Further, insufficient marketing of the site/business has taken place and interest has been shown, as evidenced by the Applicant's in so far as a sale having been agreed. Accordingly, it is not considered that the proposal meets with the requirements of Policy LP12 in terms of permitting the loss of the retail unit in the village.

On the basis of the above, the principle of development is unacceptable and contrary to Policy LP12 of the Peterborough Local Plan (2019).

## **b) Design and impact to the character and appearance of the site and the surrounding Eye Conservation Area**

As detailed in Section 1 above, the application site is located within the Eye Conservation Area (CA). Under Section 72 (1) of the Planning (Listed Buildings and Conservation Area) Act 1990 (as amended), special regard is placed on the desirability of preserving Conservation Areas. This is further reinforced through both national and local planning policies, which attach great weight to the need to preserve designated heritage assets.

Although located within the CA, the City Council's Conservation Officer does not consider the application site to be a building of significant architectural merit, a view shared by Officers. However, its front elevation is prominent along the High Street and as such, due consideration must be given to the impact any proposal may have upon the appearance and setting of the heritage assets.

The proposal to change the use of the site also includes external changes to the principal elevation through the removal of the existing shop front/windows/canopies and the installation of 2no. windows and a door. The Conservation Officer considers that, overall, the indicative arrangement of the windows and doors proposed is positive and would represent an improvement compared to the existing frontage of the site. However, the proposal is lacking in detail with regards to the

brick/mortar, cills, lintels, windows and doors to be used. It is essential that all of the above are of a suitable match and quality, to ensure that no harm results to the character of the streetscene or CA. Such details could reasonably be secured by condition in the event that permission were granted.

Further to the external changes, the Conservation Officer has also raised concern that the proposed change of use would result in a detracting impact upon the vitality of the village high street and as such, the Eye Conservation Area. Notwithstanding the position as set out in part (a) above, Officers do not consider that significant undue harm would result to the CA in the event that the shop were lost to a residential use. The proposal would ensure that an active, albeit residential, frontage was maintained within the streetscene which is considered sufficient to preserve the setting of the CA.

In light of the above, the proposal is considered to be in accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Area) Act 1990 (as amended) and Policies LP16 and LP19 of the Peterborough Local Plan (2019).

### **c) Neighbour amenity**

There are no extensions or enlargements proposed. As such, it is not considered that there would be additional overbearing or shadowing impacts that would adversely impact upon the amenity of surrounding neighbours.

The proposed ground floor windows would serve the dining and living rooms of the proposed residential unit, and would face towards Leeds Hall and No. 39 High Street. There is approximately 17.5 metres between the front elevations of the application site and No. 39 High Street and it is noted that the existing shopfront currently has windows that face towards this neighbour. It is not considered therefore that the proposal would alter this relationship or result in unacceptable loss of privacy to the residential properties opposite.

In addition, the proposed change of use would result in a far less intensive use of the application site, with residential comings and goings which would be far less frequent than the current retail shop. As such, the proposal would, to some degree, result in less noise and general disturbance to surrounding residential dwellings.

On the basis of the above, the proposal is considered to be in accordance with Policy LP17 of the Peterborough Local Plan (2019).

### **d) Highway safety and parking provision**

The existing uses of the application site are currently served by an on-site garage and driveway, with access onto the High Street. Although the existing access arrangement is awkward given the zebra crossing to the front of the site, the Local Highway Authority (LHA) has advised that there is sufficient space to the rear of site to allow for two parking spaces and turning. Accordingly, the proposed residential use would be able to achieve the required minimum parking provision of 2no. spaces on-site.

Notwithstanding the above, Officers acknowledge that the proposed use as a single dwellinghouse would be less intensive in terms of parking demand than the existing retail unit with residential flat above which would place less pressure upon the public highway in terms of on-street parking provision.

In light of the above, the proposal is considered to be in accordance with Policy LP13 of the Peterborough Local Plan (2019).

## **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 Executive Director of Place and Economy recommends that Planning Permission is **REFUSED** for the following reason:

- R1      Insufficient information has been presented to enable a conclusion to be reached that the existing retail business is not viable currently or in the long-term. Furthermore, insufficient marketing of the site/business has taken place and interest has been shown such that it cannot be concluded that the business is not viable for sale to another party. Accordingly, it is not considered that the proposal meets with the requirements of Policy LP12 in terms of permitting the loss of the retail unit in the village of Eye.

Copies to Councillors Allen, Brown and Simons.

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