

**Application Ref:** 20/01070/FUL

**Proposal:** Subdivision of ground floor retail shop and associated alterations to form 6x Class E(a) retail units and taxi cab office (sui generis), change of use of second floor to restaurant (Class E(b)) and associated external alterations

**Site:** 35 Westgate, Peterborough, PE1 1PZ,  
**Applicant:** Gujjar Investments Limited  
**Agent:** Mr Iqbal

**Referred by:** Councillor M Jamil  
**Reason:** Insufficient pick-up space for taxi customers; noise and fumes from taxis; no need for a further taxi office

**Case officer:** Mr M A Thomson  
**Telephone No.** 01733 4501733 453478  
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**Recommendation:** **GRANT** subject to relevant conditions

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

**Site Description**

The application site comprises a three storey terraced building situated within the core of the City Centre on the southern side of Westgate. The buildings along Westgate follow a strong building line, situated at the back edge of the footway, however, comprise a variety of building age, style and appearance.

The ground floor of the building comprises a fully glazed shop front with a recessed pedestrian entrance and large fascia, and the upper floors are concrete panel and pebble dash with comparatively small openings off-set from one another. The building has a large two storey flat roof extension to the rear, with a fire escape that leads to the rear delivery yard.

The building has historically been occupied as retail use at ground floor with offices/storage above (formerly Maplins), however, at the time of writing this report, the building is understood to be vacant.

To the immediate east is a former bank (33 Westgate) a locally listed building which has planning permission for retail and shop front alterations at ground floor (App Ref: 19/00192/FUL) and prior approval to change the use from office to residential on the upper floors (App Ref: 20/00080/PRIOR). To the west (37 Westgate) is a tattoo shop, with a delivery entrance beyond. Situated opposite is Beales Department Store.

This section of Westgate is subject to two-way traffic with a 30mph speed limit. There are double yellow lines on either side of the carriage way, and immediately in front of the application site there is a taxi rank capable of accommodating 4x Hackney Carriages.

The application site is situated within the City Centre Conservation Area, and is defined as being within a Primary Shopping Frontage.

**Proposal**

The Applicant seeks planning permission for 'Subdivision of ground floor retail shop and associated alterations to form 6x Class E(a) retail units and taxi cab office (sui generis), change of

use of second floor to restaurant (Class E(b)) and associated external alterations.”  
It is understood that the taxi cab office would be for the benefit of a private hire taxi company, and is discussed in further detail below.

The proposed shop front alterations comprise the installation of 4x new pedestrian openings serving a Cab Booking Office, retail units and the upper floors, as well as the installation of transoms and stall risers. A smooth white render finish is also proposed for the upper floors on the front elevation, facing Westgate, and the installation of an external extraction flue to the rear elevation.

When the application was originally submitted, it sought to extend the proposed restaurant on the top floor to form a shisha lounge and storage area. However, further to reviewing this element of the proposal, it was noted that No. 33 Westgate to the east had extant consent to convert the upper floors from office to residential, and this would have had an unacceptably adverse impact on these future occupiers. As such, the first floor extension, forming shisha lounge and storage has been omitted from the proposal.

## **2 Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
07/01871/ADV	Internally illuminated fascia sign, projecting sign and non-illuminated window graphics	Permitted	23/01/2008
03/01347/ADV	Replacement illuminated fascia sign	Permitted	06/11/2003
AD009/76	Illuminated projecting sign and illuminated fascia and entrance sign	Permitted	14/04/1976

## **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 (February 2019)**

Section 12 – Achieving well-designed places

Section 16 – Conserving and enhancing the historic environment

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

#### **LP06 - The City Centre - Overarching Strategy**

Promotes the enhancement of the city centre. Major new retail, culture and leisure developments will be encouraged. It is promoted as a location for new residential development and as a location for employment development including mixed use. Improvements to the public realm will be promoted and the historic environment protected.

#### **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.

LP13d) City Centre- All proposal must demonstrate that careful consideration has been given to prioritising pedestrian access, to improving access for those with mobility issues, to encouraging cyclists and to reducing the need for vehicles to access the area.

### **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) Part 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.

LP17b) Part B 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.

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

LP18 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.

LP18 b) External Shutters- Permission will only be granted where there is demonstrable need in terms of crime; the property is not listed or within a conservation area; the shutter is designed to a high standard and is perforated.

LP18 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.

### **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.

#### **LP46 - City Core Policy Area**

Part a General - Within the City Core the council will seek development of the highest quality which strengthens the area including the retail, leisure, tourism and civic focus. New development must improve the townscape and public realm, protect Cathedral views, preserve or enhance heritage assets, protect and enhance existing retail. Additional car parking will only be supported in exceptional circumstances.

### **Peterborough Shop Front Design Guidance SPD (2014)**

#### **4 Consultations/Representations**

##### **PCC Licensing Team (09.03.21)**

Object - The presence of a taxi cab office in this location would serve no identifiable benefit when considering that there is a well-established taxi rank located immediately opposite the premises and the junction with Park Road.

As relatively recent history has demonstrated, the private hire booking office (A2B Euro Cars) located at 62 Westgate had a detrimental impact on the ability of hackney carriages to effectively ply for hire from the taxi rank located in the locality of the bus station due to loss of trade. If the same were to happen to the taxi rank located opposite the proposed site, the effect would likely be that the hackney carriage trade would migrate to the already congested ranks on Broadway with the potential for this to result in issues relating to congestion and traffic flow. Furthermore, and as a consequence, should the proposal be granted in its current form, this would doubtless serve to heighten tensions between the private hire and hackney carriage trade in the area.

At present there is no information provided regarding parking provision for private hire vehicles. It is reasonable to assume that should a taxi cab office be situated at this location then this will generate an increase in private hire traffic in the locality with private hire vehicles parking, waiting, idling etc. between fares; affecting overall traffic flow and negatively impacting the air quality in an area of heavy pedestrian footfall.

If the proposal is to be granted, then it should be granted subject to conditions that would prohibit private hire vehicles from stopping at the site and prohibit members of the public from entering the site for the purposes of booking a taxi. Such conditions are proportionate and necessary and have been adopted previously when considering proposals for change of use from B1 to a 24-hour taxi booking office in a busy commercial/retail area of the city - as was the case with 2 Alma Road (App Ref: 19/01137/FUL).

##### **PCC Peterborough Highways Services (29.04.21)**

No objection - No. 35 Westgate is located within the City Core area of Peterborough City Centre therefore on-site parking facilities shall not be required as employees and visitors for the retail units, restaurant and taxi office shall have easy access to the site via public transport and a range of public car parks and cycle parking facilities nearby.

The supporting evidence states that customers book a taxi at the booking office and wait along Westgate for the taxi to arrive. It has been confirmed by PCC's Parking Enforcement Team that it is permissible for customers to board and alight a private hire taxi cab in the loading bays and on the double yellow lines along Westgate.

If the LPA are minded to approve the proposals, the LHA would request that a temporary 2 year planning consent is granted. This shall allow the situation to be reviewed and to ascertain the

impact, if any, upon the nearby public highway.

A planning condition is also sought, securing details of any temporary facilities during construction.

**Police Architectural Liaison Officer (PALO) (26.02.21)**

No objection - Further to reviewing Police incidents and crimes between January to December 2019 and 2020 (pre-Covid lockdown), within the vicinity of the application site, incidents were low with 9 recorded in 2019 and 7 in 2020. Of slight concern, is that that this area does attract robbery with violence incidents and shoplifting, which has been confirmed following discussions with the local policing team. Notwithstanding this, this Office is supportive of the proposed plans, however, would ask that security measures for the taxi cab office are secured by condition to protect staff and customers, as Officers do see issues of offences outside taxi cab offices late at night/early morning.

**PCC Pollution Team (14.04.21)**

No objection - The submitted noise assessment and the plant associated with the proposed restaurant are noted however, as the type of restaurant has not been confirmed, Officers cannot say for certain that the proposed filtration equipment would be sufficient to protect neighbouring occupiers from smell, grease or smoke. As such, a pre-occupation condition is requested, which shall confirm the type of restaurant and ensure matters of smell, grease and smoke are satisfactorily mitigated, and that the plant meets the noise criteria in the acoustic report.

**PCC Conservation Officer (17.02.21)**

No objection – There no objections to the shop front alterations as these are considered to be an overall betterment when considering what is currently in place, and conform to the Peterborough Shop Front Guidance (2014). However, the proposed roller shutters would not accord with the Peterborough Shop Front Guidance. There is no objection to the replacement windows, providing that these utilise aluminium frames, or the use of render, providing details of which shall be secured by condition.

**Local Residents/Interested Parties**

Initial consultations: 7

Total number of responses: 41

Total number of objections: 41

Total number in support: 0

41x letters of representation have been received from 30 addresses raising the following concerns:

- There is no need for a shisha bar or restaurant
- The proposed uses would result in noise and pollution, particularly to neighbouring flats
- The shop front does not need to be altered; the proposed changes would look very odd and out of place, especially with the introduction of roller shutters
- 6x retail units at ground floor would could pose a fire and safety risk
- Westgate carries a variety of vehicular traffic, including buses and delivery vehicles
- Westgate already has two taxi-tanks and a taxi office
- The proposed taxi office would be right next to the Hackney Carriage parking area
- The proposed taxi office would result in Anti-social behaviour, between drivers and especially at late hours
- The proposed taxi office would result in private hire vehicles touting for illegal taxi business
- The proposal would increase movement of cars, congestion and pollution in the City Centre
- There is no dedicated parking for the proposed taxi-office, and there are insufficient disabled parking bays within the City Centre
- There are highway safety concerns during pick-up and drop-off of customers
- There is no need for a taxi office in this location, there is a taxi rank right outside
- Competition between businesses and division between drivers

- There are already other taxi offices in the area
- There are historic issues which have been reported to the Council, however these have not been resolved and are on-going
- If the application is permitted, will PCC guarantee that the Taxi Office would abide by all conditions and enforce traffic flow, anti-social behaviour and illegal trade
- A Section 106 legal agreement should be used to prevent vehicles from privately picking up from outside the office

**Councillor Jamil** has asked that the application be referred to Planning Committee, on the following grounds:

'I am doing so on the grounds of not being satisfied that there would be adequate pick up points for the mini cabs, the extra noise and fume pollution from additional cars being brought in to the city centre to lick up passengers, there is also a Hackney rank just outside the proposed venue and a further taxi office around a 100 yards away.'

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

The main considerations are:

- Fall-back position
- Principle of development
- Design, layout and the heritage matters
- Crime
- Access, parking and highway implications
- Neighbour amenity
- Future occupier amenity

### **a) Fall-back Position**

As detailed in Section 1 above, the application site is presently vacant but was formerly in use as a retail unit at ground floor and offices/storage to the upper floors. Further to changes to the Town and Country Planning (Use Classes) Order 1987 (as amended) (hereinafter called the UCO), the following use classes have been re-defined and are now known as:

Class A1 (retail) = Class E(a)

Class A3 (restaurant) = Class E(b)

Class B1 (offices) = Class E(g)

As such, the entire existing planning unit is currently considered to be within a lawful use of Class E of Pat A of Schedule 2 of the UCO. Section 55(2) of the Town and Country Planning Act 1990 (as amended) clearly states that any change of use within the same use class is not to be taken as constituting development, and therefore planning permission is not required. As such, it is possible for the current building to change to any use within Class E without the need for planning permission.

In addition, Section 55 of the Act states that the subdivision of existing units is only taken to constitute development requiring planning permission where this relates to subdivision of a building (including any part it) used as a dwellinghouse for use as 2 or more separate dwelling houses. As such, subdivision of a commercial premises does not, in itself, require the benefit of planning permission.

The above constitutes the 'fall-back' position and is a material consideration in the determination of the current application.

### **b) Principle of development**

The application site is situated within the identified City Core policy area, the Primary Shopping Area (PSA) and a Primary Shopping Frontage (PSF).

### Taxi Office and Retail Units

As detailed in part (a) above, the subdivision of the existing premises does not require the benefit of planning permission. Therefore, whilst 7no. units are to be created on the ground floor of the premises, which represents a significant intensification of the use of the site, this in itself does not require planning permission and therefore could not reasonably be resisted as part of this application.

Similarly, the retail use proposed falls within Class E of the UCO and that is the current lawful use of the site. This therefore does not represent a material change of use for which planning permission is required.

However, the proposed taxi office use which is proposed within part of the ground floor of the site, does not fall within any defined use classes and is therefore sui generis. This element of the proposal does constitute a material change of use for which permission is required.

As the application site is situated on a Primary Shopping Frontage (PSF), Policy LP12 is engaged. This policy advises that the overall strategy is to promote the vitality and viability of the retail centre, with retail and restaurant uses acceptable in principle. It also allows for non-retail/restaurant uses within PSFs provided that certain criteria are met - namely, that a window display is maintained, that the proposal would be likely to maintain or increase footfall along the frontage, and that the proposed use would not result in a concentration of non-retail/restaurant uses.

The proposal includes the provision of a new shop front which, as discussed in detail below, is considered to represent an improvement in terms of the overall design of the building from the existing. An active display window would therefore be maintained.

Turning to the mix of uses, when assessing this section of Westgate, to the immediate west is a Tattoo Parlour (sui generis use) and to the immediate east is a former bank which has planning permission for retail at ground floor and residential above, with a number of retail units beyond to the east. On this basis, it is considered that the large majority of units within the PSF are within retail use and therefore there would be no concentration of non-retail/restaurant uses as a result of the change of use of part of the street frontage to a Taxi Office.

Finally, consideration must be given to whether the proposed use would be likely to maintain or increase footfall along the frontage. From the information provided by the Council's Licensing Team, it is evidence that existing Taxi Offices generate regular footfall throughout the day and night. There is no reason to believe that the current proposal would differ from this experience and therefore the proposal would maintain footfall along the frontage.

It is noted that considerable concern has been expressed with regards to the potential conflict between Hackney Carriage and Private Hire drivers in terms of competition. In addition, the Council's Licensing Team and Councillor Jamil have advised that there is adequate provision by virtue of an existing call office at No.63 Westgate such that the proposal is not necessary. These views are noted, however, competition is not a planning matter, and is not something that can legally be considered in the determination of this application. Further, there are no specific planning policies which preclude the use proposed, and as set out above, it is considered that the proposal accords with the policies in place to protect retail frontages.

### Restaurant

The scheme also proposes a restaurant use at second floor. There are no policies within the Local Plan which dictate the use of upper floors in the City Core, which specifically require them to be used as incidental storage, office or residential uses. As such, the use of the second floor as a restaurant use would also go towards diversifying the range of uses within the City Centre. That said, given the range of permitted changes under Class E and that subdivision of a commercial premises does not constitute 'development' requiring planning permission, the use proposed does not require the benefit of planning permission.

As such, the proposal would not have an adverse impact on the primary shopping frontage, and the development would go towards bringing forward a diverse range of uses within the City Centre. On this basis, the proposal accords with Policy LP6, LP12 and LP46 of the Peterborough Local Plan (2019).

### **c) Design, Layout and the Heritage Matters**

To facilitate development, alterations to the shop front, as well as the upper levels, are proposed.

The application site is located within the designated City Centre Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that special regard be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. This is further reinforced through the National Planning Policy Framework (2019) which states that great weight should be given to the conservation of heritage assets.

Significance is one of the guiding principles in relation to assessing the impact of proposals upon the historic environment, and is defined in the NPPF as 'the value of a heritage asset to this and future generations because of its heritage interest'. Such interest may be archaeological, architectural, artistic or historic, and it may derive not only from a heritage asset's physical presence, but also from its setting.

With regards to the proposed shop front, this is considered to be an overall betterment compared to the existing in situ. The final detailing in terms of materials to yet to be confirmed (and can be secured by condition) but the overall composition includes many of the traditional features of shop fronts in the City Centre - transoms, stall risers and console brackets - which are actively promoted within the Peterborough Shop Front Guidance SPD (2014). It is considered that this element of the proposal would result in an enhancement to the appearance of the property's frontage and therefore the appearance of this part of the Conservation Area, a view shared by the Council's Conservation Officer.

The proposed shop front design does include the provision of external roller shutters to the central recessed communal doorway, albeit no details as to the design of these have been provided. The introduction of external roller shutters is only permitted in exceptional circumstances, whereby the provisions of Policy LP18 are met. This is discussed in more detail below, however it is not considered that the current proposal meets with this policy requirement and therefore, the shutters are not accepted in this instance. Their introduction would result in the creation of an oppressive and 'dead' frontage to one of the key streets within the City Core, and would result in unjustified harm to the appearance of the Conservation Area. For the avoidance of doubt, a condition shall be imposed which explicitly prevents their installation as part of this proposal.

The proposal also includes replacement of the existing upper floor windows. There is no objection to the replacement of these windows, providing that these utilise aluminium frames, details of which shall be secured by condition. With regards to the proposed flue, this would be sited to the rear-most area of the building and would project marginally above the existing ridge height. It would be sited within an area which is relatively hidden from the main views of the streetscene and Conservation Area, and would have little and no negative impact upon the locality in visual terms.

Finally, the scheme also proposes to utilise a white render finish to the upper floors of the front elevation of the building. It is noted that this elevation currently utilises a pebbledash fenestration, which is atypical with the era of construction of the building. However, this is not considered suitable for a Conservation Area and the existing building appears tired, and out of keeping with the historic core of the city centre. Whilst there are no objections to the use of a smooth render, the Conservation Officer has advised that a white render would result a striking appearance on the street scene which would also result in some degree of harm to the appearance of the Conservation Area and should therefore be avoided. To overcome this concern, a condition is recommended, requiring that the render match the adjacent locally listed building (former bank), which is an off-white, almost sand coloured render. Such a condition would ensure that the final



finish represents an improvement upon the existing appearance without resulting in harm in itself to the appearance and visual amenity of the streetscene and wider area.

Subject to conditions being appended with respect to no roller shutters, as well as details of render and openings to be submitted, the proposal would preserve the setting and significance of the Conservation Area, and would not have an unacceptably adverse impact on the character or appearance of the host building or immediate street scene, and the proposal would accord with Policies LP16, LP18 and LP19 of the Peterborough Local Plan (2019) and the Peterborough Shop Front Design Guidance SPD (2014).

#### **d) Crime**

The Police and Architectural Liaison Officer has been consulted as part of the application given the proposed Taxi Office use. They have raised no objections to the proposal but have highlighted matters which should be considered.

Further to reviewing Police incidents and crimes between January to December 2019 and the same period in 2020 (prior to the pandemic lockdown), within the vicinity of the application site, incidents of crime were low (9 recorded in 2019 and 7 in 2020). However, the Police have advised that of some concern, is the type of crime that this area attracts - principally robbery with violence incidents and shoplifting. There is the potential that the introduction of the proposed Taxi Office could result in more customers within the vicinity of the area which are at risk from robbery. Furthermore, such offices can at night-time, result in the generation of offences and anti-social behaviour.

Notwithstanding this, the Police have raised no objections to the proposed use subject to the introduction of security measures for the Taxi Office which could reasonably be secured by condition to protect staff and customers.

Taking the above into account, it is considered that whilst the site has potential to generate late night/early morning issues of anti-social behaviour (ASB), whilst customers wait for their taxi, there is nothing to suggest that the development would form a site that would result in unacceptable levels of ASB. To ensure that this is the case, Officers are recommending a two year temporary permission be granted. This would enable sufficient time for the use to operate and for assessment of the crime/ASB risk to be better established. Subject to conditions being attached which would secure security measures for the taxi cab office and a temporary consent, the proposal would go toward mitigating crime and ASB, and the proposal would accord with Policy LP16 of the Peterborough Local Plan (2019) and Paragraph 91(b) of the NPPF (2019).

Turning to the proposed roller shutters, Policy LP18 requires that there must be a proven crime need before their introduction will be supported, alongside evidence that other less obtrusive alternative measures have first been used and found to be ineffective. There has been insufficient evidence of sustained crime provided by either the Applicant or Police to justify external roller shutters on this site, nor has evidence that other alternative measures have been tried been provided. As such, the proposed roller shutters are unacceptable in principle. As set out above, a condition shall be appended advising these do not form part of the proposal, for the avoidance of any doubt.

Officers are conscious that letters of representation have raised concerns of conflict between Hackney Carriage and Private Hire drivers. However as stated above, competition is not a planning matter, and is not something that can be considered in the determination of this application. Any matters of conflict of this nature should be directed to the Police.

#### **e) Access, Parking and Highway Implications**

The application site is situated within the City Core, served by a range of public transport means. Under the Council's adopted parking policy, the provision of on-site parking in this area is not necessary and therefore, the development is not required to provide dedicated off-street parking spaces for staff or customers.

Turning first to the proposed Class E uses (retail units and restaurant), the fall-back position is such that these uses do not require the benefit of planning permission and nor does the subdivision of the unit to create smaller Class E units. Therefore, in planning-terms, whilst it is accepted that the proposal could result in an intensification of the use of the site, a refusal on this basis could not be sustained at appeal given the fall-back position. Furthermore, as the site is located within the City Centre which is readily accessible by public car parks and sustainable methods of travel, and such uses are prevalent within the area, it would not be reasonable to resist the proposal on the basis of these uses.

Turning to the proposed Taxi Office use, the Applicant has advised that members of the public would be able to walk to the proposed book a private hire taxi in the office, or alternatively using the Autocab App. It is understood this provides an alert as to when and where the taxi is due to arrive, therefore customers would be on the street waiting to be picked up. It is understood that customers could currently use the Autocab App, and be picked up from Westgate irrespective of the presence of an office.

It has been confirmed by the Council's Parking Enforcement team that it would be permissible for the boarding and alighting of taxis to legally take place either within loading bays, bays dedicated to on-street parking, or on double yellow lines, all of which are present along Westgate. This is however subject to the driver in question undertaking a period of observation, i.e. ensuring that there was no loading taking place within the loading bay.

The Council's Parking Enforcement team has raised the question as to where the private hire vehicles would wait in anticipation of picking up from Westgate, as there is concern that there would be temptation for taxis to idle illegally within the vicinity of the site. This concern is noted however, taxi vehicles could be situated anywhere within the City when they receive a call for collection and where a taxi may wait is the responsibility of the driver, who would be bound by the Highway Code and subject to regular review of their license. In any event, it is not considered that the presence of a call office would, in itself, attract vehicles to idle nearby awaiting a fare. However, to ensure that no undue impact to the safety of the surrounding public highway results from vehicles awaiting fares and regularly picking up/alighting customers, the LHA has request a two year temporary consent. This would enable sufficient time to demonstrate that the business can operate without resulting in an adverse highway safety hazard. At the end of two year temporary period, a fresh planning application would need to be submitted. If the Local Planning Authority and Council's Parking Enforcement team were in receipt of reasonable and upheld complaints, this may mean a permanent permission would be resisted.

Officers are aware that immediately in front of the application site is a Hackney Carriage taxi rank, and letters of representation have raised serious concerns with regards to the potential for private hire vehicles to park in this area, potentially taking business illegally. These concerns are noted however, it is understood from the Council's Parking Enforcement team that private hire vehicles are not permitted to park in these spaces, and the enforcement of such would be down to the Parking Enforcement team and the Police, which is a matter separate to the Planning process. Accordingly, as this matter is covered by alternative legislation, and does not in itself pose a direct highways safety danger, this is not a matter that can be considered in the determination of this application.

The Local Highway Authority have sought a condition be attached with respect to securing details of temporary facilities to facilitate construction works and ensure that no deposits are made onto the public highway. However, were the undertakers to obstruct the public highway, they would need to apply for a licence from the Highway Authority. As this matter is covered by separate legislation, an informative shall be attached and a condition is not considered necessary.

Further, it is noted that the Council's Licensing team have objected to the proposal, requesting that if the proposal is to be granted, a condition be imposed that would prohibit private hire vehicles

from stopping at the site and prohibit members of the public from entering the site for the purposes of booking a taxi, as was the case with 2 Alma Road (App Ref: 19/01137/FUL).

It should be highlighted that each case is considered on its individual planning merits. The example referred to at 2 Alma Road was situated within Millfield District Centre, on the corner of Alma Road and Lincoln Road, whereby conditions were appended stating members of the public could not enter the site to book taxis, nor could customers be picked up or dropped off. A further condition stated that no taxis shall visit the site at any time. However, further to reviewing the Design and Access Statement which accompanied this application, the proposed development was explicitly for a satellite taxi office only, and stated that there would be no pickups or drop offs from the location. As such, the conditions used at Alma Road reflected what was sought by the Applicant.

Planning conditions must meet the tests set out under Paragraph 55 of the NPPF (2019), which states, 'planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects'. The application site is situated within the City Centre, where there is no requirement for the development to provide dedicated off-street parking for staff as it is considered to be a sustainable location, served by a variety of public transport means. Further, the proposed booking office would be situated within a Primary Shopping Frontage and Officers would not wish to sterilise such a frontage by prohibiting members of the public from being able to enter the site particularly so given there is no overriding highway safety reason to do so. As such, it is not considered the conditions used at Alma Road would be reasonable or enforceable in this instance. That said, Officers have suggested a two year temporary condition, which will allow relevant bodies (the Local Highway Authority, Licensing and the Police) to monitor the use, and if at the end of this period there has been legitimate complaints, which have been upheld, a permanent permission may not be granted.

Letters of representation have also highlighted that Westgate carries a variety of vehicular traffic, including buses and delivery vehicles, and the proposal would increase movement of cars, congestion and pollution in the City Centre. For the reasons set out above, it is understood private hire vehicles may board and alight passengers on double yellow lines if it safe to do so. The onus is on the driver of the vehicle, who will be bound by the Highway Code. Officers are mindful that this operation could take place currently, however, a temporary consent has been recommended to ensure the development would not result in an adverse highway safety hazard.

Taking the above into account, and subject to the conditions set out above, it is not considered that the proposal would result in a sever or unacceptable impact upon the surrounding public highway network and as such, the proposal is in accordance with Policy LP13 of the Peterborough Local Plan (2019).

#### **f) Neighbour Amenity**

The application has been accompanied by a Noise Assessment (Acoustic Associates, SS/J3551/17868-1, February 2021), as well as manufacturer details of the proposed extraction equipment which would serve the proposed restaurant. Officers are conscious that this report refers to a Shisha bar, however for the avoidance of any doubt, this no longer forms part of the proposal.

The Council's Pollution Control Officer has raised no objections to the proposal, noting the submitted noise assessment and the plant associated with the proposed restaurant. However, as the type of restaurant has not been confirmed, The Officer cannot say for certain that the proposed filtration equipment would be sufficient to protect neighbouring occupiers from smell, grease or smoke. As such, a pre-occupation condition has been requested, which requires that the type of restaurant be provided alongside details of the extraction equipment to ensure that matters of smell, grease and smoke are satisfactorily mitigated, and that the plant meets the noise criteria in the acoustic report. This is noted, however the restaurant use does not require the benefit of planning permission and therefore, a pre-occupation condition is not considered to be reasonable given this fall-back position. In the event that the restaurant use began without the correct filtration

equipment, this matter would be dealt with by other statutory nuisance legislation. However, a condition to secure the details of the extraction equipment prior to their installation would be considered reasonable and directly related to the development which requires permission (i.e. the flue itself).

Such a condition is considered to be reasonable and necessary to ensure no harm results to neighbouring residential occupants. Officers are mindful that the adjoining building has prior approval for office to residential conversion (reference 20/00080/PRIOR), and this is extant until 2023. Therefore, there is the strong likelihood that sensitive residential receptors will be in close proximity to the proposed flue.

Subject to this condition, the development would not result in unacceptably adverse levels of noise or disturbance to neighbouring occupiers, nor would it result in adverse levels of smells, odour or smoke, and the proposal would accord with Policy LP17 of the Peterborough Local Plan (2019).

#### **g) Future Occupier Amenity**

The taxi office, the front ground floor retail unit, three of the retail units on the west elevation and restaurant would be afforded satisfactory levels of natural light and outlook. Officers are mindful, however, that 2 of the ground floor retail units would not be afforded any outlook and would be wholly reliant on artificial light. Given that the ground floor historically has been used as retail, where, given the depth of the building, there was a reliance on natural light, this relationship is accepted in this instance. For this reason, the proposal would accord with Policy LP17 of the Peterborough Local Plan (2019).

#### **h) Other Matters**

The following matters were also raised within letters of representation:

##### Competition and Conflict

Officer Response: Letters of representation, including comments raised by the Councils Licensing team, have raised concerns of competition and potential conflict between Hackney Carriage and Private Hire drivers, advising that there already exists a taxi office and two taxi ranks on Westgate and the Private Hire Office would be situated directly in front of a Taxi Rank. However, competition between businesses is not a material planning consideration, and cannot be considered. Any conflict should be directed to the Police.

##### There is no need for a shisha bar or restaurant

Officer Response: This no longer forms part of the proposal.

##### The shop front does not need to be altered; the proposed changes would look very odd and out of place, especially with the introduction of roller shutters

Officer Response: The external changes are considered to be a betterment by the Council's Conservation Officer. For the reasons and conditions set out above, the proposal would enhance the setting and significance of the Conservation Area.

##### 6x retail units at ground floor would could pose a fire and safety risk;

Officer Response: This is a matter for building regulations, and is separate to the planning process.

##### There is no dedicated parking for the proposed taxi-office, and there are insufficient disabled parking bays within the City Centre

Officer Response: As noted above, it is understood Private hire may board and alight passengers on double yellow lines if it is safe to do so. The lack of disabled parking bays should be directed to the portfolio holder for the City Centre. As the site is situated within the City Core, the development is not required to provide dedicated off-street car parking.

##### There are historic issues which have been reported to the Council, however these have not been resolved and are on-going

Officer Response: On-going and historic issues such as this are the responsibility of the relevant

department within the Council, and does not prejudice the granting of planning permission.

*If the application is permitted, will PCC guarantee that the Taxi Office would abide by all conditions and enforce traffic flow, anti-social behaviour and illegal trade*

Officer Response: It is the responsibility of the landowner to abide by any conditions imposed however in the event that a future occupier were in breach of a condition on the planning decision notice, this would need to be directed to the council's Planning Enforcement team.

*A Section 106 legal agreement should be used to prevent vehicles from privately picking up from outside the office*

Officer Response: It is understood that Private Hire Vehicles are not allowed to pick up, drop off or wait within a taxi rank, and this is covered under separate legislation. This therefore cannot be duplicated through the planning system.

## **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 proposed change of use would go towards providing a diverse range of uses within the City Centre, and would not result in a concentration of non-retail/restaurant uses. The proposal would therefore preserve the vitality and viability of the City Centre and Primary Shopping Frontage, and the proposal would accord with Policies LP6, LP12 and LP46 of the Peterborough Local Plan (2019);
- The proposed external alterations would enhance the setting and significance of the Conservation Area and adjacent locally listed building, and would not harm the character or appearance of the host building or immediate area, and would accord with Policies LP16, LP18 and LP19 of the Peterborough Local Plan (2019);
- The proposed uses and external alterations would not have an unacceptable harmful impact to neighbouring amenity, and would provide satisfactory amenity for future occupiers, in accordance with Policy LP17 of the Peterborough Local Plan (2019); and
- The proposal would not result in an unacceptable impact to the safety of the surrounding public highway network, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

## **7 Recommendation**

The case officer recommends that Planning Permission is **GRANTED** subject to the following conditions:

- C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

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

- 001 Rev A (Location Plan and Proposed Block Plan)
- 002 (Existing Floor Plans)
- 003 (Existing Elevations)
- 004 Rev F (Proposed Floor Plans)
- 005 Rev E (Proposed Elevations)

Reason: To clarify the approved details and to ensure the development accords with the reasoning and justification for granting approval.

- C 3 The taxi office use hereby permitted shall cease and the unit reverted to a use falling within Class E of Part A of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order with or without amendment) no later than 2 years from the date that it is commenced.  
The developer or their successors in Title shall notify the Local Planning Authority in writing of the date of commencement of the taxi office use no later than 7 days from the commencement taking place.

Reason: To enable a period of assessment as to the highway and crime/anti-social behaviour impacts of the taxi office use to ensure no unacceptable harm arises, in accordance with Policies LP13, LP16 and LP17 of the Peterborough Local Plan (2019).

- C 4 The taxi call office use hereby permitted shall only take place within the area shown for such use on drawing number 004 Revision F.

Reason: In order to preserve the vitality and viability of the Primary Retail Frontage and ensure the development accords with the reasoning and justification for granting approval, in accordance with Policies LP6, LP12 and LP46 of the Peterborough Local Plan (2019).

- C 5 Prior to their use, details of the following external materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority:

- Render to the upper floors;
- Windows to the upper floors; and
- Shopfront at ground floor level.

The details submitted for approval shall include the name of the manufacturer, the product type, colour (using BS4800) and reference number.

The development shall not be carried out except in accordance with the approved details.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policies LP16 and LP19 of the Peterborough Local Plan (2019).

- C 6 Notwithstanding the submitted plans, the roller shutters as shown on Drawing 004 Rev F (Proposed Floor Plan) do not form part of this permission.

Reason: There has been insufficient evidence of sustained criminal activity against the property in question to demonstrate a need for the use of roller shutters, in accordance with Policies LP16 and LP18 of the Peterborough Local Plan (2019).

- C 7 Prior to the first use of the taxi call office hereby permitted, details of security measures, including any internal and external CCTV, shall be submitted to and approved to the Local Planning Authority. Thereafter, the approved security measures shall be installed prior to first use of the taxi call office and maintained as such throughout the lifetime of the permission.

Reason: In the interest of preventing crime and anti-social behaviour, in accordance with Policy LP16 of the Peterborough Local Plan (2019).

C 8 Prior to the installation of the external flue hereby permitted, details of the extraction equipment to be used shall be submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include the relevant manufacturer's details and demonstrate accordance with the noise criteria set out within the submitted 'Environmental noise assessment' (Acoustic Associates, reference SS/J3551/17868-1). Thereafter, the flue shall be installed in accordance with the approved details and maintained as such in perpetuity.

Reason: In the interest of protecting neighbour amenity, in accordance with Policy LP17 of the Peterborough Local Plan (2019)

Copy to Councillors: Mahboob Hussain, Amjad Iqbal, Mohammed Jamil

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