

Application Ref: 21/01448/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- Resubmission

Site: 35 Westgate, Peterborough, PE1 1PZ
Applicant: Gujjar Investments Ltd
Agent: Barmach Ltd

Case officer: Mr M A Thomson
Telephone No. 01733 4501733 453478
E-Mail: matt.thomson@peterborough.gov.uk

Recommendation: **GRANT** subject to 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 30 mph 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.

Pre-Ambles

Earlier this year planning permission was sought under App Ref: 20/01070/FUL for the '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 '

This application was recommended for approval by Officers, subject to conditions. Further to

lengthy debate, Members of the Planning and Environmental Protection Committee resolved to recommend refusal for the following reason:

R1 The proposed taxi booking office, which would bring additional people into the area late at night, would result in the potential for crime and anti-social behaviour in the vicinity of Westgate and thereby would not comprise a positive contribution to the character of the area. The proposal would be contrary to Policies LP16 and LP17 of the Peterborough Local Plan (2019).

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 - Resubmission'.

The proposed shop front alterations comprise the installation of 3x new pedestrian openings serving a Cab Booking Office, retail units and the upper floors, as well as the installation of transom 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.

This resubmission has been accompanied by a Design and Access Statement, which commits to the following security measures:

- Security Marshals to be onsite Friday & Saturday 11pm till 4am
- Increased seating space within the taxi office
- Disability access and seating areas
- Disability double door access
- Online CCTV cameras to be positioned outside and inside
- Digital booking system

These measures have been put forward by the Applicant to try and address the previous reason for refusal.

2 Planning History

Reference	Proposal	Decision	Date
20/01070/FUL	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	Refused	05/07/2021
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 (2021)

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.

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

Police Architectural Liaison Officer (PALO) (20.10.21 and 14.21.12)

No objection – Further to reviewing the Constabulary crime and incident systems covering Westgate for the last 12 months, the following crime and anti-social behaviour incidents were recorded in that period whereby Westgate was stated as the incident location.

Crime

The following crime types are the most relevant to night-time economy and people gathering:

56 x violent crime (17 with injury and 39 without injury)

7 x Robbery (1 of these showed A2B Taxis as the location)

39 x public order (2 of these showed A2B Taxis as the location)

11 x criminal damage

Anti-social behaviour (ASB):

62 x ASB incidents recorded – 12 of these show A2B Taxis as the location, and are mostly recorded as 'Rowdy nuisance' calls.

However, with both the crime and ASB incidents, while the stated location is Westgate, the majority of these happened either in Queensgate or at the bus station, many of which emanating from licenced premises or other locations around the City Centre. This is the same for A2B Taxis –

when checking the text of the messages the caller is reporting an incident where they happen to be outside this location, not reporting an incident relating to A2B Taxis,

In relation to the overall application, the PALO is in favour of the shops being re-invigorated. This would not only bring more people, activity and natural surveillance to the area it is good for the location and City Centre. Empty shops tend to attract behaviour like graffiti, which gives the impression that an area is a little rundown and promotes the "Broken Windows" theory.

In relation to the proposed Private Hire taxi booking office, being directly adjacent to a Hackney Carriage taxi rank, these ranks are for hackney carriages to wait and lawfully ply for hire. If the private hire drivers park nearby and wait for or collect customers here it is likely to provoke disputes or ASB incidents. (As noted by the licensing officer)

It is noted within the Applicants supporting document and proposed operating procedure, which states that customers would book a cab, and then via an 'app' be advised that the cab will notify them when they are parked in a local loading bay, when they should then walk to meet the cab. The Local Authority Enforcement office have apparently agreed to this procedure. My concern here is that although the loading bays are in restricted streets they are often full with unlawfully parked vehicles, which is difficult to enforce.

If the Local Planning Authority are minded to grant the application, the following is recommended in relation to the taxi office:

- The operating procedure is a management condition for all drivers to strictly comply with.
- There is some seating in the taxi office for customers waiting for a cab, this will reduce the possibility of incidents outside the office.
- Staff are protected by a security screen.
- Consider a planning condition to ensure that there is CCTV both inside and outside the office for the safety of staff, customers and the general public. This should comply with BS 7958:2015 (CCTV Management & Operation) and GDPR and should be monitored, fully compliant and registered with the Information Commissioners Office, store images for 30 days with sufficient trained staff to operate the system and download evidential images when required.
- Consider a planning condition to grant for a trial period of no longer than 12 months to monitor compliance with the Operating Procedure and crime and incident data.

PCC Peterborough Highways Services

No objection - No. 35 Westgate, is located within the City Core area of Peterborough City Centre, therefore on-site parking facilities would not be required as employees and visitors for the retail units, restaurant and taxi office would 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, for the avoidance of doubt, the LHA would request that a temporary 2 year planning consent is granted to the taxi office. This would allow the situation to be reviewed and to ascertain the impact, if any, upon the nearby public highway.

PCC Pollution Team

No objection - The section within the noise assessment that relates to the provision of plant associated with the restaurant is accepted. All ventilation of steam and cooking fumes to the atmosphere should be suitably filtered to avoid nuisance from smell, grease, or smoke to persons in neighbouring or nearby properties. Whilst the location of the discharge point is noted and accepted, no details have been provided of the type of restaurant. Details of the nature and location of such filtration equipment should be conditioned.

PCC Conservation Officer

No objection - There are 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, 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.

PCC Licensing Team

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 existing tensions between the private hire and hackney carriage trade in the area.

The supporting information submitted with the proposal that relates to the operation of the taxi cab office has been noted. It is not reasonably conceivable that private hire vehicles associated with the cab office will only be present in the locality when collecting/dropping off passengers in the existing loading bays. In practice, it is virtually certain that a taxi cab office in this location 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 granted in its current form, it is likely that this will result in an unsustainable regulatory burden on the Authority.

If the proposal is to be granted, then it should be granted subject to conditions that would prohibit private hire vehicles from stopping in the locality of 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 19/01137/FUL.

Local Residents/Interested Parties

Initial consultations: 49
Total number of responses: 70
Total number of objections: 64
Total number in support: 3

69x letters of representation have been received from 35 addresses raising the following **objections**:

- Westgate carries a variety of vehicular traffic, including buses and delivery vehicles;
- Westgate already has two taxi-ranks 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 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; private vehicles often park in loading bays therefore parking is otherwise limited on Westgate;
- 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;
- Taxi drivers have stepped up during Covid by continuing to deliver this service, despite the impact the pandemic has had on the industry;
- 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;
- We are trying to become a cleaner and greener City;
- Our hackney carriage ranks are being given away;
- Due to a lack of parking, taxis will load/unload passengers within the road, which would cause a highway safety hazard;
- Wheel chair users rely heavily on Hackney Cabs due to their improved accessibility; this proposal would displace Hackney Cabs and affect this much sought after service;
- Due to issues of anti-social behaviour and crime, there are concerns for the safety of drivers;
- Private Hire already have an App, therefore why do they need a taxi office in the centre of town?;
- Hackney Carriages rely on ranks to get business;
- If this is permitted, the Council would be putting members of the public at risk due to a lack of car parking;
- There is a lack of pay and display parking spaces within the City Centre, therefore private vehicles park in loading bays and taxi ranks;

4x letters of **support** have been received raising the following:

- Support the application as during 7am to 9am and 2pm to 4pm we struggle to get a hackney taxi outside Westgate;
- Good to have taxi company round corner for me cheap price taxi value for money; and
- Good to have;
- Competition and additional shops/amenities in the City is positive;
- The town centre has become dilapidated and neglected. Can't get a hackney carriage at all for many hours in the evening or night time. No safe waiting area for my disabled mother looking for a taxi;
- A minicab office is much needed to provide a safe, warm and manned waiting area that is lit up; and
- Hackney carriages are not available for most of the time and are old, polluted vehicles.

3x letters of **comments** have also been received. One letter was left blank, two were neither for or against the proposal, stating the following:

- Good and bad ... can do with a decent clean taxi company; and
- It's good to have a reasonable fair price taxi at clean cars fixed fare black cabs are expensive and not very clean.

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

I have considered the application and the new reasons given by the Applicant and would like the decision referred to committee. I am not satisfied that the proposed marshals would be able to control any trouble outside the taxi office, therefore law and order would be issue.

Peakirk Parish Council

Object - I come into the city quite often and feel that there is a very good taxi service in place. By putting a minicab office in a highly congested area will add further misery for shoppers.

Parking is a real nightmare along that part of the city at the best of times.

We need to look at ways to limit the number of vehicles coming into the city and improve air quality.

All companies are app based and I don't really see the point of them having to operate from the centre of town.

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 Part 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 of 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 7 no. units are proposed 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 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 proposed 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 (2021) and Policy LP19 of the Local Plan, 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 are 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 previous application proposed to introduce external roller shutters to the central recessed communal doorway, however, this feature is no longer proposed. The introduction of external roller shutters is only permitted in exceptional circumstances, whereby the provisions of Policy LP18 are met. The introduction of such features 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 note to Applicant shall be attached, reminding the Applicant, Agent or Successor in Title that the installation of such would require planning permission in its own right.

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 securing 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

As noted above, the Police and Architectural Liaison Officer (PALO) was consulted as part of the previous application, where it was noted that there were issues of crime pre-Covid lockdown, specifically robbery with violent incidents and shoplifting, and that the proposed development would result in additional customers within the vicinity. However, the PALO previously concluded that there were no objections to the proposal, subject to the introduction of security measures for the Taxi Office which could reasonably be secured by condition to protect staff and customers.

The PALO has been re-consulted as part of this application, where it has been confirmed that due to a lower Police presence within the City Centre during lockdown, and Police resources being focussed on dealing with Covid matters, crime and anti-social behaviour (ASB) have increased significantly within the City Centre.

Police records have shown that, during the previous 12x months, there has been:

- 56 x violent crime (17 with injury and 39 without injury);
- 7x Robbery (1 of these showed A2B Taxis as the location);
- 39 x public order (2 of these showed A2B Taxis as the location);
- 11x criminal damage; and
- 62x ASB incidents, 12x of these show A2B Taxis as the location, and are mostly recorded as 'Rowdy nuisance' calls.

The PALO has, however, correctly reviewed each incident and noted that whilst a number of matters are reported adjacent to A2B Taxi's, this is because the person making the call is within the vicinity of the address, and the issues of crime and ASB are not necessarily associated with the address, or indeed its land use.

The PALO has confirmed that this part of the City requires Police attention in dealing with ASB during the day and evening, and it is not considered moving a door to serve the taxi office would mitigate ASB in its own right. However, subject to conditions which would secure internal and external security measures, including security staff, as well as a 1 year temporary consent, which would allow opportunity for Officers and the Police to ensure the conditions work, the PALO have raised no objections to the proposal.

Officers have always accepted that the proposed taxi office has the potential to generate late night/early morning issues of anti-social behaviour (ASB) whilst customers wait for their taxi. As part of this resubmission, the Agent has suggested a number of security measures including the hiring of security staff and the provision of CCTV, specific details of which could reasonably be secured by planning condition(s). Being consistent with the previous application, but taking into consideration the increase in crime within this section of the City further to lockdown, it is considered reasonable to attach a condition limiting the taxi office to a single year, which would enable sufficient time for the use to operate and for assessment of the crime/ASB risk to be better established. If matters of crime and ASB transpired to be a significant problem, where there was sufficient evidence to reflect this, Officers would not seek to support the renewal of the permission and at the end of the one year period, the permission would expire and the use would be required to cease (reverting back to a Class E use as existing).

The PALO sought a planning condition be attached with respect to Private Hire taxi drivers signing up to a management condition, for example not waiting in loading areas or the Hackney Carriage rank, however, this is covered by separate legislation, and such a condition would not meet the conditions Test, as set out under Paragraph 56 of the NPPF (2021). As such, this condition shall not be attached in this instance.

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

92(b) of the NPPF (2021).

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 could operate without resulting in an adverse highway safety hazard. At the end of the 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 of the view that a one year temporary consent would achieve the same ability to assess the impact.

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 highway 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 56 of the NPPF (2021), 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, Officers are unable to say for certain that the proposed filtration equipment would be sufficient to protect neighbouring occupiers from smell, grease or smoke. A pre-occupation condition has been requested, requesting confirmation of the type of restaurant to 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. However, the restaurant use is not considered to require the planning permission, therefore a pre-occupation condition would not be reasonable given the 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 raised within letters of representation, however, have not been addressed above:

- 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 legally 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 proposed uses would result in noise and pollution, particularly to neighbouring flats;

Officer Response: For the reasons and conditions set out above, the proposal would not have an unacceptably adverse impact on the amenity of 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;

Officer Response: The external changes are considered to be a betterment by the Councils

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 carry out their conditions. 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.

- There is a lack of pay and display parking spaces within the City Centre, therefore private vehicles park in loading bays and taxi ranks;

Officer Response: private vehicles should abide by the Highway code, which is enforced under separate legislation and does not prejudice the granting of planning permission.

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 congregation of non-retail or non-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 LP47 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 Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and 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);
- There are no Highway safety concerns and parking can be accommodated on site, 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 (Proposed Floor Plans)
- 005 (Proposed Elevations)

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

C 3 No later than 7 calendar days following commencement of the taxi call office use hereby permitted, the Applicant (or their Successor's in Title) shall provide written notification to the Local Planning Authority of the date of commencement. The taxi office use shall cease no later than one calendar year following the date of commencement and thereafter the use shall revert to any use within Class E of Part A of Schedule 2 of The Town and Country Planning (Use Classes) Order 1985 (or any Order revoking and re-enacting that Order with or without modification).

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.

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 Prior to the first use of the taxi call office hereby permitted details of security measures to be implemented, including internal and external CCTV, shall be submitted to and approved to the Local Planning Authority. The measures shall include use of Security Marshals on Thursday, Friday and Saturday nights between the hours of 21:30 and 04:00. Thereafter, the approved security measures shall be installed/implemented 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 7 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).

Copies to: Councillors Hussain Mahboob, Iqbal Amjad and Jamil Mohammed

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