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## Appeal Decision

Site visit made on 28 January 2022

by **David Reed BSc DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 February 2022

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**Appeal Ref: APP/J0540/W/21/3280958**

**35 Westgate, Peterborough PE1 1PZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Billal, Gujjar Investments Ltd against the decision of Peterborough City Council.
  - The application Ref 20/01070/FUL, dated 30 July 2020, was refused by notice dated 5 July 2021.
  - The development proposed is the subdivision of ground floor retail shop and associated alterations to form six 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.
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### Decision

1. The appeal is allowed and permission is granted for the subdivision of ground floor retail shop and associated alterations to form six 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 at 35 Westgate, Peterborough PE1 1PZ in accordance with the terms of the application, Ref 20/01070/FUL, dated 30 July 2020, subject to the attached schedule of conditions.

### Application for costs

2. An application for costs was made by Mr M Billal, Gujjar Investments Ltd against Peterborough City Council. This application is the subject of a separate Decision.

### Main Issue

3. The main issue is whether the taxi cab office element of the proposal would result in the potential for crime and anti-social behaviour late at night.

### Reasons

#### *Crime and anti-social behaviour*

4. The proposal is for the subdivision of the existing three storey vacant shop unit into a taxi cab office and six retail units on the ground floor and a restaurant on the second floor. The first floor would remain vacant. The building lies on the southern side of Westgate, a busy two-way street in the core of the city centre, within the Primary Shopping Area and the City Centre Conservation Area (CA).
5. The Council confirm that the previous use of the building falls within Class E – Commercial, Business & Service – and consequently the subdivision of the ground floor into six retail units and the change of use of the second floor to a

restaurant do not require planning permission. However, the use of one of the ground floor units as a taxi cab office, a sui generis use, requires permission. It is understood this would be used by a private hire taxi company.

6. The presence of the taxi cab office would result in some customers being in the area late at night while they wait for their private hire taxi to arrive. This has the potential to generate anti-social behaviour issues in an area which has seen incidents of robbery, violence and shoplifting. However, the Police and Architectural Liaison Officer raises no objection to the proposal (subject to a condition requiring various security measures) having reviewed the frequency of incidents in the 2019-20 period. There were 9 recorded incidents in 2019 and 7 in 2020 which is said to be low. In addition, a two-year temporary permission is proposed which would enable the anti-social behaviour situation to be reviewed at the end of that time.
7. For these reasons the taxi cab office element of the proposal would not result in undue levels of crime and anti-social behaviour late at night, subject to a review at the end of a two-year temporary permission period. The proposal therefore complies with Policies LP16(h) and LP17 of the Peterborough Local Plan 2019 which seek to minimise crime and anti-social behaviour.

#### *Other matters*

8. There are concerns that the private hire taxi cab office would be detrimental to the hackney carriage taxi trade in the area due to increased competition, but this is not a matter controlled by planning legislation. There is a taxi rank immediately outside the premises for hackney cabs but this can be enforced for that purpose. Customers would be able to board a private hire taxi in the parking bays, loading bays or on double yellow lines further along Westgate. Whilst possibly causing congestion, a two-year temporary permission would also allow this situation to be reviewed. The taxi office would generate footfall during the day and maintain an active street frontage. The alterations to the front elevation of the building would be a visual improvement which would enhance the City Centre CA. Roller Shutters are not justified in this location but this can be controlled by condition.
9. The Council has proposed eight conditions should the appeal be allowed and these are agreed by the appellant. They have been assessed against the relevant tests, making minor amendments as necessary. In addition to the standard time limit for implementation, conditions are necessary to define the approved plans and the location of the taxi office in the interests of certainty. Further conditions are necessary to limit permission to two years to enable a review to take place after that period, to control the external materials and preclude roller shutters to ensure a satisfactory appearance, to ensure security measures are provided to limit crime/anti-social behaviour and to control the external flue to limit noise and pollution.

#### **Conclusion**

10. Having regard to the above the appeal should be allowed.

*David Reed*

INSPECTOR

### **Schedule of conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
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)
3. The taxi office use hereby permitted shall cease and the unit revert 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 two 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 seven days from the commencement taking place.
4. The taxi office use hereby permitted shall only take place within the area shown for such use on drawing number 004 Revision F.
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.
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.
7. Prior to the first use of the taxi office hereby permitted, details of security measures, including internal and external CCTV, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved security measures shall be installed prior to first use of the taxi office and maintained as such throughout the lifetime of the permission.
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.

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