

GLOUCESTER CITY COUNCIL

COMMITTEE : **PLANNING**

DATE : **7TH APRIL 2015**

ADDRESS/LOCATION : **UNITS 3 AND 4 EASTERN AVENUE,
GLOUCESTER**

APPLICATION NO. & WARD : **15/00133/FUL
BARNWOOD**

APPLICANT : **THREADNEEDLE PROPERTY
INVESTMENTS**

PROPOSAL : **REVISED HYBRID PLANNING APPLICATION
FOR THE VARIATION OF CONDITIONS 7
AND 8 OF PLANNING PERMISSION
53102/01/OUT TO ENABLE THE
RECONFIGURATION OF UNITS 3 AND 4
AND TO EXTEND THE RANGE OF GOODS
CAPABLE OF BEING SOLD FROM THE
RESULTANT UNITS, ALONG WITH THE
PROVISION OF A 185.8 SQUARE METRE
MEZZANINE FLOOR FOR NON TRADING
PURPOSES WITHIN RECONFIGURED UNIT
4.**

REPORT BY **JOANN MENEAUD**

**NO. OF APPENDICES/
OBJECTIONS** : **1. SITE LOCATION PLAN**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 This application relates to two units on the Eastern Avenue Retail Park – unit 3, currently vacant but formerly occupied by Allied Carpets and unit 4 currently occupied by Harveys. The units are set between Currys and Carpetright.
- 1.2 In November 2014 planning permission (14/00316/FUL) was granted for the reconfiguration of Units 3 and 4, the installation of a new mezzanine floor within unit 4 including restrictions on the goods that could be sold from the units.
- 1.3 This application is a revised proposal to the November permission, proposing amended floor areas to the two units, the provision of a larger mezzanine floor within unit 4 and again applying restrictive conditions upon the range of goods that can be sold from the units. The proposed works are to facilitate the

occupation of Unit 4 by Iceland, there is no prospective occupier for unit 3 at the moment.

2.0 RELEVANT PLANNING HISTORY

2.1 53102/01/OUT Outline permission for Class A.1 (non-food) retail development comprising 5713 square metres [61,500 sq.ft gross] with all matters reserved.

Non determination appeal submitted and appeal allowed on 16.09.1994
This permission was implemented.

94/05211/REM Approval of Reserved Matters for the erection of building comprising 4 no. Class A1 (non-food) retail units
Granted 16.02.1995 (Permission was not implemented).

95/00016/REM Approval of Reserved Matters for Erection of building comprising of 5 no. Class A1 (non-food) retail units.
Granted 16.02.1995

11/00774/FUL Amalgamation of Units 3 & 4 including external works and alteration to car parking. Permitted 28.7.2011.

11/01324/LAW Units 3 and 4 Certificate of lawfulness for unrestricted retail sale of goods within Class A1. Non determination appeal submitted but withdrawn

12/00672/LAW Use of units 3 and 4 for unrestricted retail sales. Lawful Development Certificate granted 27th July 2012

14/00316/FUL - Hybrid planning application for the variation of conditions 7 and 8 of planning permission 53102/01/out to enable the reconfiguration of unit 3 (1279sqm) and unit 4 (459sqm), removal of mezzanine within unit 4 and to extend the goods to be sold from the resultant units, together with the provision of a new 57.6 sqm mezzanine floor for non trading purposes within reconfigured unit 4 (total of 516sqm). Permitted 3rd November 2014

3.0 PLANNING POLICIES

3.1 The statutory development plan for Gloucester remains the 1983 City of Gloucester Local Plan. Regard is also had to the policies contained within the 2002 Revised Deposit Draft Local Plan which was subject to two comprehensive periods of public consultation and adopted by the Council for development control purposes. The National Planning Policy Framework has been published and is also a material consideration.

3.2 For the purposes of making decisions, the National Planning Policy Framework sets out that policies in a Local Plan should not be considered out of date where they were adopted prior to the publication of the National Planning Policy Framework. In these circumstances due weight should be

given to relevant policies in existing plans according to their degree of consistency with the National Planning Policy Framework.

3.3 The policies within the 2002 Local Plan remain therefore a material consideration where they are consistent with the National Planning Policy Framework.

3.4 From the Second Stage Deposit Plan the following policies are relevant:

Policy BE21 – Safeguarding of amenity

Policy TR31 – Road safety

Policy S4a – new retail development outside designated centres

3.5 In terms of the emerging local plan, the Council has prepared a Joint Core Strategy with Cheltenham and Tewkesbury Councils and published its Submission Document which was submitted to the Planning Inspectorate in November 2014. Policies in the Joint Core Strategy have been prepared in the context of the NPPF and are a material consideration. The weight to be attached to them is limited by the fact that the Plan has not yet been the subject of independent scrutiny and do not have development plan status. In addition to the Joint Core Strategy, the Council is preparing its local City Plan which is taking forward the policy framework contained within the City Council's Local Development Framework Documents which reached Preferred Options stage in 2006.

3.6 Upon adoption, the Joint Core Strategy and City Plan will provide a revised planning policy framework for the Council. In the interim period, weight can be attached to relevant policies in the emerging plans according to

- The stage of preparation of the emerging plan
- The extent to which there are unresolved objections to relevant policies; and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the National Planning Policy Framework

3.7 All policies can be viewed at the relevant website address:- Gloucester Local Plan policies – www.gloucester.gov.uk/planning; Gloucestershire Structure Plan policies – www.gloucestershire.gov.uk/index.cfm?articleid=2112 and Department of Community and Local Government planning policies - www.communities.gov.uk/planningandbuilding/planning/.

4.0 PUBLICITY AND REPRESENTATIONS

4.1 The application has been advertised with a site notice and individual letters have been sent to neighbouring properties. No comments have been received.

4.2 The full content of all correspondence on this application can be inspected online via the Councils website at the following link or at the reception, Herbert Warehouse, The Docks, Gloucester, prior to the Committee meeting.

<http://glcstrplnng12.co.uk/onlineapplications/applicationDetails.do?activeTab=externalDocuments&keyVal=NIXNAAHMC0000>

5.0 OFFICER OPINION

5.1 In November last year permission was granted for the reconfiguration of the two units together with the application of the conditions restricting the goods that could be sold from them. A copy of the report from the November committee can be read at the following link:

<http://democracy.gloucester.gov.uk/documents/g5472/Public%20reports%20pack%2007th-Oct-2014%2018.00%20Planning%20Committee.pdf?T=10>

5.2 This application is a revised proposal to the November permission, proposing amended floor areas to the two units, the provision of a larger mezzanine floor within unit 4 and again applying restrictive conditions upon the range of goods that can be sold from the units. The proposed works are to facilitate the occupation of Unit 4 by Iceland, there is no prospective occupier for unit 3 at the moment. These changes are required as Iceland require a larger store than previously permitted.

5.4 In making a comparison between what has been approved and what is now proposed:

- Unit 3 was to be increased from 929 to 1279sqm.
An increase from 929 to 1119 sqm is now proposed
- Unit 4 was to be reduced from 929 to 579 at ground floor with 459 sqm used for retail floor sales area. The existing mezzanine in unit 4 was to be removed and a new mezzanine of 57 square metres was to be installed.
A reduction from 929 to 743sqm is now proposed together with a new mezzanine of 185sqm. As previously proposed the new mezzanine would not be used for trading purposes but solely for storage and staff related purposes.

5.5 Under the November permission the following goods were permitted to be sold:

Unit 3;

- Carpets
- Furniture
- Electrical goods
- DIY maintenance and improvement for the home, garden and car.
- Household goods
- Home furnishings
- Health and beauty products

- Toys and games
- Baby products
- Seasonal products (including Christmas decorations)
- Ancillary ambient food and drink products (up to 30% of floor area)

Unit 4

- Carpets
- Furniture
- Electrical goods
- DIY maintenance and improvement for the home, garden and car.
- Food for the consumption off the premises

This application does not propose any changes to the range of goods that can be sold from the units, as previously permitted and as detailed above.

- 5.6 Essentially the changes proposed within this application relate to the position of the internal wall subdividing the two units and the installation of a larger mezzanine floor within unit 4 to serve the proposed Iceland store. The use of the proposed mezzanine will again be restricted to use for storage and staff facilities.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

As set down within national and local policies the main consideration with this application for retail development, is an assessment of the proposal upon the vitality and viability of the city centre. My consideration of the earlier application looked in detail at issues relating to the requirement for a sequential test for retail proposals in out of centre locations and the lawful development certificate that allows unrestricted retail sales from the units. I concluded that the proposal to subdivide the units and re-instate the previously applied bulky goods conditions, albeit with a widened range of goods, would be less harmful to the city centre than an unrestricted A1 use.

As with the previous application, the lawful development certificate has to be given significant weight in the assessment of the application and it warrants a different approach to other applications seeking to vary bulky goods conditions at other premises. The works now proposed are considered to be a minor change to the November permission and taking into account the provisions within that earlier permission, I consider that these proposals are acceptable and would not have an adverse impact upon the vitality and viability of the city centre.

Human Rights

- 5.7 In compiling this recommendation we have given full consideration to all aspects of the Human Rights Act 1998 in relation to the applicant and/or the occupiers of any affected properties. In particular, regard has been had to

Article 8 of the ECHR (Right to respect for private and family life, home and correspondence) and the requirement to ensure that any interference with the right in this Article is both in accordance with the law and proportionate. A balance needs to be drawn between the right to develop and use land buildings in accordance with planning permission and the rights under Article 8 of adjacent occupiers. On assessing the issues raised by the application no particular matters, other than those referred to in this report, warrant any different action to that recommended.

6.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER

6.1 That planning permission is granted with the following conditions to be applied:

Condition 1

The development hereby permitted shall be carried out strictly in accordance with the submitted details and drawings (drawing numbers to be inserted) and any other conditions attached to this permission.

Reason: To ensure the development is carried out in accordance with the accordance with the approved plans and in accordance with policies contained within Second Deposit City of Gloucester Local Plan (2002).

Condition 2

The retail unit 3 as detailed on the proposed plan (drawing number to be inserted) shall be used only for the sale of

- Carpets
- Furniture
- Electrical goods
- DIY maintenance and improvement for the home, garden and car.
- Household goods
- Home furnishings
- Health and beauty products
- Toys and games
- Baby products
- Seasonal products (including Christmas decorations)
- Ancillary ambient food and drink products (up to 30% of floor area)

and any other goods ancillary to those permitted uses and for no other purpose without the prior permission of the City Council.

Reason

To define the terms of the permission, in accordance with the submitted details, and to protect the vitality and viability of the City Centre in accordance with the principles of Policy S4a of the City of Gloucester Second Deposit Local Plan 2002 and the principles of the National Planning Policy Framework.

Condition 3

The retail unit 4 as detailed on the proposed plan (drawing number to be inserted) shall be used only for the sale of

- Carpets
- Furniture
- Electrical goods
- DIY maintenance and improvement for the home, garden and car.
- Food for the consumption off the premises

and any other goods ancillary to those permitted uses and for no other purpose without the prior permission of the City Council.

Reason

To define the terms of the permission, in accordance with the submitted details, and to protect the vitality and viability of the City Centre in accordance with the principles of Policy S4a of the City of Gloucester Second Deposit Local Plan 2002 and the principles of the National Planning Policy Framework.

Condition 4

With the exception of the works hereby granted to unit 4 as detailed on the submitted plan (drawing number to be inserted), no works to provide subdivision or create further units of less than 929 square metres gross floor area shall be undertaken without the prior permission of the Local Planning Authority.

Reason

To enable control over any future sub-division of the units in order to protect the vitality and viability of the City Centre in accordance with the principles Policy S4a of the City of Gloucester Second Deposit Local Plan 2002 and the principles of the National Planning Policy Framework.

Condition 5

The proposed mezzanine floor to be installed within unit 4 as detailed on the submitted drawing (drawing number to be inserted) shall not be used for retail sales but shall be used solely for storage and ancillary accommodation.

Reason

To enable control over any future alterations and/or increased floor space to the units in order to protect the vitality and viability of the City Centre in accordance with the principles Policy S4a of the City of Gloucester Second Deposit Local Plan 2002 and the principles of the National Planning Policy Framework.

Condition 6

No mezzanine floors shall be created within the buildings as shown on drawing 8969 01 revision c site location plan dated June 11, other than the

mezzanine floor as detailed on the submitted plan (drawing number to be inserted) without the prior permission of the Local Planning Authority.

Reason

To enable control over any potential increase in floor area in order to protect the vitality and viability of the City Centre in accordance with Policy S4a of the City of Gloucester Second Deposit Local Plan 2002 and the principles of the National Planning Policy Framework.

Decision:

Notes:

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Person to contact: Joann Meneaud
(Tel: 396787)

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15/00133/FUL

Units 3 - 4
Eastern Avenue Retail Park
Eastern Avenue
Gloucester
GL4 3EA

Planning Committee

