

GLOUCESTER CITY COUNCIL

COMMITTEE : **PLANNING**

DATE : **1st MARCH 2016**

ADDRESS/LOCATION : **126 TREDWORTH ROAD, GLOUCESTER**

APPLICATION NO. & WARD : **15/00797/COU
MORELAND**

EXPIRY DATE : **2nd MARCH 2016**

APPLICANT : **MR SHAUKAT PATEL**

PROPOSAL : **PROPOSED CHANGE OF USE FROM
FLORIST TO TAKEAWAY AND
CONSTRUCTION OF EXTRACT FLUE**

REPORT BY : **FIONA RISTIC**

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

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application site is located to the west of Tredworth Road near the junction with St. Aldwyn Road. The property is a two storey semi-detached unit that is currently vacant. The unit was previously a flower shop which closed on 1/1/12 due to a lack of business. The existing florist takes up 124 and 126 Tredworth Road, but this proposal plans to subdivide the unit into two. The first floor is split into a number of flats accessed via a metal staircase to the rear of number 124 Tredworth Road. This would be unchanged with the proposal.
- 1.2 There is a recent permission for number 124 Tredworth Road to change the use to a Launderette (sui generis). This application is for 126 Tredworth Road and proposes to change the use from a florist to a takeaway. There would also be the construction of an extract flue. The applicant has supplied details of the proposed extract system. The proposed takeaway would operate from 11:00 to 23:00 seven days per week. There is no off street parking at the site. The layout of the building would be the takeaway seating area and a store at the front with the food preparation and cold store at the rear with another store area at the rear. This would have access to the yard behind the launderette which would contain the refuse store.

2.0 RELEVANT PLANNING HISTORY

39316(P/271/54):- CHANGE OF USE FRONT ROOM OF HOUSE TO POST OFFICE – APPROVED – 21/09/54
39316(AP/8/55):- ADVERT HOARDING – REFUSED – 25/01/55

39316(P/408/58):- SHOP FRONT – APPROVED – 18/11/58
 39316(P/231/63):- EXT TO EXISTING STOCKROOM – APPROVED – 23/05/63
 39316/01:- COU OF PART OF RESIDENTIAL TO EXTENSION TO RETAIL SHOP – APPROVED – 11/12/84
 39316(44335/03):- (NOS 124+126)SINGLE STOREY EXTENSION AT REAR – ALLOWED – 24/04/90
 44335/01:- INST OF NEW SHOPFRONT & EREC OF EXT FIRE ESCAPE AT REAR – ALLOWED- 17/11/87
 44335/03:- (NOS 124+126)SINGLE STOREY EXTENSION AT REAR – ALLOWED – 24/04/90
 39316(44335/04):- EXTENSION AT FIRST FLOOR AT REAR – GRANTED – 04/09/90
 90/00321/FUL-Extension at first floor at rear to extend flat. – AGREED – 05/09/90

124 Tredworth Road - 15/00795/FUL - Proposed change of use from Florists (A1) to Launderette (sui generis) – granted – 06/11/15

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 1983 and the 2002 Local Plan remain therefore a material consideration where they are consistent with the National Planning Policy Framework.
- 3.4 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 on 20th November 2014. Policies in the Submission 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 does 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.

3.5 On 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
- Relevant policies from the City of Gloucester Second Deposit Local Plan (2002) are:
- BE.21 – Safeguarding Amenity
BE.6 – Access for all
BE.11 – Shopfronts, shutters and signs
TR.9 – Parking standards
S.15 – Shopping parades and single shops
TR.31- Road Safety

3.6 All policies can be viewed at the relevant website address:- Gloucester Local Plan policies – www.gloucester.gov.uk/planning; and Department of Community and Local Government planning policies - www.communities.gov.uk/planningandbuilding/planning/.

4.0 CONSULTATIONS

4.1 *Highways*

The proposed hot food take-away is on the site of an existing A1 unit previously used as a florist. A TRICS analysis of hot-food takeaways illustrates an estimated trip generation based on the floorspace of 344 daily two-way vehicle trips compared to 415 trips for an A1 retail convenience store use that would not require planning permission and therefore a decrease in potential daily vehicles on the network. In terms of am peak hour trips as the proposed take-away opening hours of 11am are after the am typical network peak period from 8-9am this would again illustrate a potential decrease in impact compared to the existing A1 use generating 24 am peak hour two-way vehicle trips from 8-9am. Regarding pm peak hour trips the take-away could generate a minimal increase in two-way trips of 42 two-way trips compared to 41 two-way trips for the A1 use during the typical network peak period from 5-6pm which would be negligible.

4.2 There have been objections raised of the impact of increased traffic and parking resulting from the proposed development. However as illustrated above potential traffic impact would be not be significantly greater than an A1 convenience store which could be established on site without planning permission. In addition as the site is within walking distance of the significant local residential area it is expected that a large proportion of trips will be by foot using established footways and therefore sustainably located in an inner city area of existing local shops and amenities and on a regular city bus service route.

- 4.3 There is no parking provided for the proposed unit although as stated above the potential vehicle trip generation would be overall no greater than for a permitted A1 convenience store. There are however existing parking restrictions immediately adjacent due to the site being located adjacent a signal controlled junction to prevent unsafe parking. It should be noted that although there may be concerns regarding customer calling traffic parking immediately adjacent the site on parking restrictions, if this occurred it would be an enforcement and not a planning matter. On-street parking is available further along roads from the junction nearby although this is noted as per objections to be limited in availability at certain times during the day. The applicant has submitted supporting parking survey information illustrating available on-street parking space nearby during a Thursday, Friday and Saturday lunchtime and evening. It is noted that these surveys do not provide the dates these surveys were carried out or times. However the TRICS analysis illustrates peak two-way vehicle trips as being 12pm-1pm and 6pm-7pm which could fall within the time of these surveys and illustrate on-street parking spaces available for calling vehicle traffic. In terms of servicing and staff vehicle trips these would occur as existing on-street and would again not be expected to be significantly greater than that expected for an A1 convenience store.
- 4.4 Regarding parking it should be noted there are no minimum or maximum parking requirements within current planning policy as part of the National Planning Policy Framework and although there may be a short term on-street parking demand at certain times of day this would not significantly change the existing traffic generated by the A1 unit or the existing on-street parking situation. In accordance with paragraph 32 of the Framework, development should only be refused where the residual impacts of the development are severe. There is illustrated to be no significant increase in potential vehicle trips generated, associated impact on the existing parking situation or safe and adequate access, located such that the opportunities for sustainable transport modes can be taken up. Therefore in conclusion I find no severe impact created by the proposed takeaway to warrant refusal and recommend no objection.
- 4.5 *Environmental Health*- No objections subject to the following conditions being attached –
1. Restriction of hours during construction
 2. Submission of noise assessment
 3. Extraction flues minimum of 1m above the roof's eaves
 4. Maintenance of Extraction Equipment
 5. Odour Neutralisation Equipment
 6. Restriction on hours of opening
 7. Restriction on hours of delivery
 8. Scheme of refuse storage and recycling
- 4.6 *Policy* – No comments received

5.0 **PUBLICITY AND REPRESENTATIONS**

5.1 A site notice was erected and forty one neighbouring properties were consulted. **8 letters of objection have been received with the following points –**

1. *Object to lack of parking* – very concerned about parking allocations in St. Aldwyn Road which for 80% to 90% days there is no parking and parking has been allocated outside my building at night so how do I access out of hours. One resident stated that they often have to park in Highworth Road as there is no parking places in the evening in St. Aldwyn Road. One neighbour responded to the Highway Engineers comments stating that it is not easy for visitors to the area to find somewhere to park. He rents the shop at 122 Tredworth Road and people find it difficult to park. Tredworth Road is treated like a race track. Additional parking problems to an already busy area. Where will the commercial vehicles unload deliveries if it is surrounded by double yellow lines on a busy crossroads
2. *Noise* – late night opening. It may create a gathering place for people to congregate
3. *Smell* – cooking and extract flue. The position of the extraction unit/chimney is very close to my property noise/smell and pollution issues I am concerned and also obvious litter concern issues. How much noise does the extractor make and will it smell. The extractor is positioned close to the forecourt of St. Aldwyn Garage could cause noise and smell issues.
4. The property is opposite a bus top on a crossroads which is a poor location
5. There are other takeaways in the area
6. *Pests* - Concerned about smell and pests from waste bins and possible health and safety faults with storage of refuse from the takeaway.
7. *Possible shop* - Try to make it a shop that will do some good for the community and the area
8. *Devaluation* - Possible devaluation of all properties in the immediate area due to unsociable working times
9. *Litter* -Additional litter adding to a problem which already exists
10. *Fire hazard* - if anything went wrong in the future (situated by a garage with an oil storage tank under)
11. *Parking* – has a disabled son and there are plans for a parking space outside their house. There are already parking problems on St. Aldwyn Road. Also concerned her son would be kept awake with the noise and anti-social behaviour. There are also plans to keep food waste next to my garden where the children play, this will result in odours and rats and mice. The children's bedrooms back onto this property.

LETTER OF SUPPORT

1 comment from Cllr Patel with the following points – No objection to the above application for the following reasons –

- Proposed change of use is highly unlikely to increase any risk of flooding in the area
- Proposed applications are highly unlikely to result in any increase in crime and/or anti- social problems

- 2 new businesses at this prime location will be both a positive and beneficial asset to the local community and area.
- The ground floor building has lain empty and derelict for several years and has become an eyesore.
- I am aware that the property owner has been unsuccessful for several years in trying to let the shop
- The vast majority of customers will be local residents who live within walking distance of this property, and would therefore walk to the shop.
- There is usually sufficient on road parking spaces available on Hatherley Rd, St. Aldwyn Road and other nearby roads.
- The proposed opening hours should not significantly impact neighbouring residents.
- I have received many positive comments from local residents about the proposed applications.

- 5.2 The full content of all correspondence on this application can be inspected at the Herbert Warehouse reception, The Docks, Gloucester, prior to the Committee meeting.

<http://planningdocs.gloucester.gov.uk/default.aspx?custref=15/00797/COU>

6.0 **OFFICER OPINION**

- 6.1 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.

- 6.2 It is considered that the main planning issues with regard to this application are:

- Loss of retail unit
- Highway safety
- Neighbouring residential Amenity
- Extract flue and smells

6.3 **Loss of retail unit**

The application site is one of three retail units on the corner of Tredworth Road and St. Aldwyn's Road. The small group is not big enough to be regarded as a local centre but does provide an important service to local people. The Local Planning Authority therefore seeks to restrict the change of use of corner shops and shops in shopping parades with policy S.15.

Under policy S.15 ('Shopping Parades and Single Shops') of the Gloucester Second Stage Deposit Local Plan (2002), the change of use of shops outside designated centres will only be permitted where:

1. *The property is vacant and the developer is able to demonstrate that the property has been marketed unsuccessfully for a reasonable period of time, or*

2. *The new development is a dwelling, or*
3. *The new development would enhance the role of a shopping parade.*

6.4 Dealing with the first criteria, the applicant has stated that the property has been vacant since 1/1/12. The application states that the properties have not been formally marketed, but the owner has been informally marketing the property since September 2012 in the local community and also a 'To Let' sign in the window. There has been no genuine interest in this location. Criteria 2 is not relevant as it refers to conversion to a dwelling.

6.5 The applicant has also given evidence under criteria 3 to support that there are a diverse range of retail uses in close proximity to the site. The closest takeaway is 350m away from the application site. There is also a 'typical' corner shop that serves the local community on the opposite side of Tredworth Road. As the unit is opposite an existing convenience store this is likely to hinder the timely occupation of this unit by a retailer. Regard also has to be given to the NPPF which seeks to encourage regeneration and economic development. The application would allow for the building to be brought back into beneficial use and would create full-time jobs. In addition it would result in a visual improvement to the property which has significantly deteriorated since it became vacant. I consider these benefits sufficiently outweigh the requirements of criteria 1 of policy S.15 for the property to be formally marketed and bringing the unit back into use would enhance the area in accordance with criteria 3.

6.6 Highways Safety and Parking

There have been some neighbour objections regarding the lack of parking in the area. The Highways Engineer has seen the comments and produced a detailed highways response. The main issue to consider is that the potential traffic impact would not be significantly greater than an A1 convenience store which could be established at the site without planning permission. In addition as the site is within walking distance of the significant local residential area it is expected that a large proportion of trips would be by foot and the site is on a regular city bus service route. It is therefore concluded that no severe highway impact is likely to be created by the proposal and the proposal is not contrary to policy TR.31.

6.7 Neighbouring amenity

There are residential flats above the unit and dwelling houses to the rear in St..Aldwyn Road so the amenity of the neighbouring occupiers must be considered in terms of noise, location of refuse and smells. Environmental Health have assessed the application and in terms of noise have no objection subject to restrictions on the hours of opening and deliveries in the interests of the amenity of the neighbours. The adjoining neighbour had concerns about refuse storage and possible smells and pests, in terms of refuse the applicant has shown an area for the storage of refuse at the rear of the building which will be enclosed by timber fencing. A condition could be attached to any permission asking for more details of this which would be assessed by Environmental Health. Regarding the neighbour's concerns about smells, the applicant has submitted extract flue details which have been assessed by

Environmental Health. These details are concerned to be acceptable and the suggested conditions by Environmental Health will ensure the equipment is installed and in full working order whilst the use operates from the premises. There is also a condition recommended for the submission of a noise assessment prior to the first use to ensure that the noise levels do not harm the amenity of the neighbouring occupiers. With the suggested conditions it is not considered that the proposal would significantly harm the amenity of the neighbouring properties and is therefore in accordance with policy BE.21 of the Gloucester City Council Second Deposit Local Plan.

7.0 CONCLUSION/REASON FOR APPROVAL

- 7.1 It is therefore considered that in terms of retail the proposal is in accordance with criteria 3 of policy S.15. The Highways Engineer has assessed the proposal and there would be no severe highway impact and with the suggested conditions the proposal would not significantly harm the amenity of the neighbouring properties. For the reasons cited above, the proposed change of use is considered to be acceptable and is in accordance with policies BE.21, S.15, BE.11 and TR.31 and it is recommended that planning permission is granted subject to conditions

8.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER

Condition 1

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

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition 2

The development hereby permitted shall be carried out in accordance with the application form, and drawing numbers 1220/01, 1220/05, 1220/07, 1220/11, 1220/12, 1220/13 received by the Local Planning Authority on 26th June 2015 and the supporting statement received 11th September 2015, extract details received 21st December 2015 and drawing number 1220/03 rev B received by the Local Planning Authority on 5th January 2015 and any other conditions attached to this permission.

Reason

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

Condition 3

During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site

outside the following times: Monday-Friday 8.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason

To protect the amenity of local residents in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 4

Prior to first use of the development hereby permitted, a noise assessment shall be carried out (by a competent person i.e. member of the IOA) to ensure that the rating level of any noise generated by mechanical plant associated with the development shall not exceed the pre-existing background level by more than 5dB(A) at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142: 2014 Method of Rating Industrial Noise Affecting Mixed Residential and Industrial Areas. This report shall be submitted to the Local Planning Authority and approved in writing before the use commences.

Reason

To protect the amenity of local residents in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 5

The extraction flues hereby permitted must be a minimum of 1 metre above the roof's eaves of the application site.

Reason

To ensure adequate dispersal of fumes in the interests of the amenity of occupiers of nearby properties, in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 6

The extraction equipment installed in pursuance with this permission shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority.

Reason

To ensure that the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected, in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 7

Prior to the use of the extraction flue hereby permitted, the odour neutralisation equipment, as detailed within the document entitled "**KITCHEN EXTRACT SYSTEM DETAILS**" submitted on the 7th January 2016, to suppress and disperse fumes and/or smell produced by cooking and food preparation, shall be installed and be in full working order to the satisfaction of

the Local Planning Authority and shall be effectively operated for as long as the use of the building as a hot food shop continues.

Reason

To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties, in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 8

The use hereby permitted shall only be allowed to operate between the hours of 10.00- 23:00 Monday to Sunday including bank holidays.

Reason

In the interests of the amenities of existing residential property in the locality in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 9

The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside the following times: Monday-Friday 8.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason

To safeguard the amenities of the locality in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 10

Prior to the commencement of development a scheme for the provision of refuse recycling and storage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted and thereafter maintained for the life of the development.

Reason

In the interests of amenity in accordance with policy BE.4 of the Second Deposit City of Gloucester Local Plan (2002). This information needs to be submitted before the use commences as it is fundamental to the waste management of the site.

NPPF

In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application, thus enabling the applicant to be kept informed as to how the case was proceeding.

Notes to Applicant

1. Your attention is drawn to the requirements of the Building Regulations, which might be needed as a separate consent to this planning decision. You are advised to contact the Gloucester City Council Building Control Team on 1452 396771 for further information.

Decision:

Notes:

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Person to contact: Fiona Ristic
(Tel: 396716)

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**126 Tredworth Road
Gloucester
GL1 4QY**

Planning Committee

