

Planning Committee

Tue 4th Jan
2011
7pm

Council Chamber
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all formal Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agendas and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees

(or summaries of business undertaken in private) for up to six years following a meeting.

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- Access, on request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
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- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, most items of business before the Executive Committee are Key Decisions.
- Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:

www.redditchbc.gov.uk

If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact the following:

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REDDITCH BOROUGH COUNCIL **PLANNING COMMITTEE**



GUIDANCE ON PUBLIC **SPEAKING**

The process approved by the Council for public speaking at meetings of the Planning Committee is (subject to the discretion and control of the Chair) as follows:

in accordance with the running order detailed in this agenda (Applications for Planning Permission item) and updated by the separate Update report:

- 1) Introduction of application by Chair
- 2) Officer presentation of the report (as originally printed; updated in the later Update Report; and updated orally by the Planning Officers at the meeting).
- 3) Public Speaking - in the following order:-
 - a) Objectors to speak on the application;
 - b) Supporters to speak on application;
 - c) Applicant to speak on application.

Speakers will be called in the order they have notified their interest in speaking to the Planning Officers (by the 4.00 p.m. deadline on the Friday before the meeting) and invited to the table or lecturn.

- Each individual speaker, or group representative, will have up to a maximum of 3 minutes to speak. (Please press button on “conference unit” to activate microphone.)
 - After each of a), b) and c) above, Members may put relevant questions to the speaker, for clarification. (Please remain at the table in case of questions.)
- 4) Members’ questions to the Officers and formal debate / determination.

Notes:

- 1) It should be noted that, in coming to its decision, the Committee can only take into account planning issues, namely policies contained in the Borough of Redditch Local Plan No.2, the County Structure Plan (comprising the Development Plan) and other material considerations which include Government Guidance and other relevant policies published since the adoption of the development plan and the “environmental factors” (in the broad sense) which affect the site.
- 2) No audio recording, filming, video recording or photography, etc. of any part of this meeting is permitted without express consent (Section 100A(7) of the Local Government Act 1972).
- 3) Once the formal meeting opens, members of the public are requested to remain within the Public Gallery and may only address Committee Members and Officers via the formal public speaking route.
- 4) Late circulation of additional papers is not advised and is subject to the Chair’s agreement. The submission of any significant new information might lead to a delay in reaching a decision. The deadline for papers to be received by Planning Officers is 4.00 p.m. on the Friday before the meeting.
- 5) Anyone wishing to address the Planning Committee on applications on this agenda must notify Planning Officers by 4.00 p.m. on the Friday before the meeting.

Further assistance:

If you require any further assistance prior to the meeting, please contact the Committee Services Officer (indicated at the foot of the inside front cover), Head of Democratic Services, or Planning Officers, at the same address.

At the meeting, these Officers will normally be seated either side of the Chair.

The Chair’s place is at the front left-hand corner of the Committee table as viewed from the Public Gallery.

Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency Assembly Area is on Walter Stranz Square.

Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



PLANNING COMMITTEE

4th January 2011

7pm

Council Chamber Town Hall

Agenda

Membership:

Cllrs: Michael Chalk (Chair) Bill Hartnett
 Nigel Hicks (Vice-Chair) Roger Hill
 Peter Anderson Robin King
 Kath Banks Wanda King
 Brandon Clayton

<p>1. Apologies</p>	<p>To receive apologies for absence and details of any Councillor nominated to attend the meeting in place of a member of the Committee.</p>
<p>2. Declarations of Interest</p>	<p>To invite Councillors to declare any interest they may have in the items on the Agenda.</p>
<p>3. Confirmation of Minutes (Pages 1 - 6)</p>	<p>To confirm, as a correct record, the minutes of the meeting of the Planning Committee held on 7th December 2010. (Minutes attached)</p>
<p>4. Planning Application 2010/275/COU - 30 Hewell Road, Redditch (Pages 7 - 12) Head of Planning and Regeneration</p>	<p>To consider a Planning Application for a change of use of retail warehouse unit (A1 use) to a restaurant (A3 use). Applicant: Mr G Singh (Report attached – Site Plan under separate cover) (Abbey Ward)</p>
<p>5. Planning Application 2010/280/FUL - 137 to 141 Evesham Road, Headless Cross (Pages 13 - 20) Head of Planning and Regeneration</p>	<p>To consider a Planning Application for a change of use of ground floor to nos. 137 - 139 Evesham Road from A1 (Retail) to A3/A5 (Restaurant and Hot Food Take-away use; new shop fronts, ground floor rear extension; and creation of 3 no. flats over nos. 137 – 141 Evesham Road. Applicant: Mr L N Theodorou (Report attached – Site Plan under separate cover) (Headless Cross & Oakenshaw Ward)</p>
<p>6. Enforcement Report 2010/010/ENF - 4 Church Green West, Town Centre (Pages 21 - 24) Head of Planning and Regeneration</p>	<p>To consider a Enforcement report in relation to non-compliance with a Section 215 Notice. (Report attached – Plan under separate cover) (Abbey Ward)</p>

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7. Exclusion of the Public	<p>During the course of the meeting it may be necessary, in the opinion of the Chief Executive to consider excluding the public from the meeting on the grounds that exempt information is likely to be divulged. It may be necessary, therefore, to move the following resolution:</p> <p>“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 12 (A) of the said Act, as amended.</p>
8. Confidential Matters (if any)	<p>To deal with any exceptional matters necessary to consider after the exclusion of the public (none notified to date.)</p>



Planning Committee

7th December 2010

MINUTES

Present:

Councillor Michael Chalk (Chair), and Councillors Peter Anderson, Kath Banks, Bill Hartnett, Roger Hill, Wanda King, Michael Braley (substituting for Councillor Brandon Clayton) and Malcolm Hall (substituting for Councillor Nigel Hicks)

Also Present:

Councillors Simon Chalk and Graham Vickery (public speakers) and Adam Griffin (in the public gallery)

Officers:

R Bamford, S Edden, A Hussain and A Rutt and S Skinner

Committee Services Officer:

I Westmore

56. APOLOGIES

Apologies for absence were received on behalf of Councillors Brandon Clayton, Nigel Hicks and Robin King.

57. DECLARATIONS OF INTEREST

Councillors Bill Hartnett and Roger Hill declared personal and prejudicial interests in relation to Planning Application 2010/253/FUL (Former Marfield Farm First School, Redstone Close, Church Hill North, Redditch) as detailed separately at Minute 60 below. Councillor Adam Griffin, in the public gallery, similarly declared a personal and prejudicial interest in this matter, also as detailed separately at Minute 60.

Councillor Chalk later declared a personal interest in respect of Planning Application 2010/254/FUL (Land adjacent to First House, Lady Harriet's Lane, Redditch) in view of his close personal relationship to one of the speakers on that application, Councillor Simon Chalk.

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Chair

58. CONFIRMATION OF MINUTES

RESOLVED that

the minutes of the meeting of the Committee held on 9th November 2010 be confirmed as a correct record and signed by the Chair.

59. PLANNING APPLICATION 2010/210/OUT - FORMER DINGLESIDE MIDDLE SCHOOL, ADJACENT OPEN SPACE AND GARAGES TO REAR OF NOS. 1 TO 11 AUXERRE AVENUE, WOODROW NORTH

Outline Planning Application for Residential Development (Use Class C3) with all Matters Reserved

Applicant: Worcestershire County Council

Mr R Pugh and Councillor G Vickery, Objectors, Mr M Williams, Agent for the Applicant and Mr I Heather, Applicant addressed the Committee under the Council's public speaking rules.

RESOLVED that

having regard to the Development Plan and to all other material considerations,

- 1) authority be delegated to the Head of Planning & Regeneration to GRANT planning permission subject to:**
 - a) the applicant entering into a Section 106 planning obligation ensuring that at least 40% of the units are to be provided as affordable housing in perpetuity; the Borough Council and/or the County Council, as appropriate, are paid appropriate contributions in relation to the development for sports facilities, play areas and open space enhancement in the locality being provided and maintained; and**
 - b) the conditions and informatives summarised in the report and the following additional conditions:**
 - “7. The peripheral land along the northern edge of the site, to the south of Throckmorton Road, to be retained as open space, excluding that area of land at the rear of 1-11 Auxerre Avenue which is the subject of a Supplementary Planning Document.**

8. The peripheral land along the southern and eastern edges of the site, adjacent to Woodrow North to be retained as open space.
 9. Mature trees and hedgerows to be identified and retained.”
2. in the event that the planning obligation cannot be completed by 30th January 2011, authority be delegated to Officers to:
- a) refuse the application on the basis that without the planning obligation the proposed development would be contrary to policy and therefore unacceptable owing to the resultant detrimental impacts it would cause to community infrastructure by a lack of provision for their improvements; and that at least 40% of the dwellings could not be restricted to use for affordable housing in line with current policy requirements; and
 - b) in the event of the applicant resubmitting the same or a very similar application with an acceptable and completed S106 legal agreement attached, authority be delegated to the Head of Planning & Regeneration to GRANT planning permission subject to the conditions stated in this report and any subsequent update report and any conditions agreed at the determining Planning Committee meeting.
60. **PLANNING APPLICATION 2010/253/FUL - FORMER MARLFIELD FARM FIRST SCHOOL, REDSTONE CLOSE, CHURCH HILL NORTH**

Proposed residential development consisting of 39 No. two bed, 16 No. three bed, 3 No. four bed homes and 21 No. two bed flats
Applicant: Accord Housing Association

Ms Kelham and Councillor R Hill, Objectors and Mr P Rouse, Agent for the Applicant, addressed the Committee under the Council's public speaking rules.

RESOLVED that

having regard to the Development Plan and to all other material considerations,

- 1) **authority be delegated to the Head of Planning & Regeneration to GRANT planning permission subject to:**

- a) the applicant entering into a Section 106 planning obligation ensuring that 69 out of the 79 units are for the provision of affordable housing in perpetuity; the Council being paid appropriate contributions in relation to education (for the 10 units that would be for sale), and the development for pitches, play areas and open space provision in the locality being provided and maintained;
 - b) the conditions and informatives summarised in the report and the following additional condition:
 - “14. Details of wheel washing apparatus to be submitted to and approved in writing by the Local Planning Authority, prior to the development works commencing on site”;
- 2) in the event that the planning obligation cannot be completed by 17th January 2011, authority be delegated to Officers to:
- b) refuse the application on the basis that, without the planning obligation, the proposed development would be contrary to policy and therefore unacceptable owing to the resultant detrimental impacts it would cause to community infrastructure by a lack of provision for their improvements; and that at least 40% of the dwellings could not be restricted to use for affordable housing in line with current policy requirements; and
 - b) in the event of the applicant resubmitting the same or a very similar application with an acceptable and completed S106 legal agreement attached, authority be delegated to the Head of Planning & Regeneration to GRANT planning permission subject to the conditions stated in this report and any subsequent update report and any conditions agreed at the determining Planning Committee meeting.

(Prior to consideration of this item, and in accordance with the requirements of Section 81 of the Local Government Act 2000, Councillors Adam Griffin, Bill Hartnett and Roger Hill declared personal and prejudicial interests as all were Board Members of Redditch Cooperative Homes and additionally of Accord Housing Association (Councillor Hartnett) or were acting on behalf of residents of their Ward and so were exercising their right to speak

as a Ward member (Councillor Hill) and took no part in the debate or voting on this item).

61. PLANNING APPLICATION 2010/254/FUL - LAND ADJACENT TO FIRST HOUSE, LADY HARRIETS LANE, REDDITCH

Erection of a single detached two storey house

Applicant: Mr S Walsh

Councillor S Chalk, representing a number of local residents, Objector and Mr P Walsh, Supporter, addressed the Committee under the Council's public speaking rules.

RESOLVED that

having regard to the Development Plan and to all other material considerations, planning permission be GRANTED, subject to the conditions and informatives as summarised in the report, with the exception of Condition 8 (Bat roost opportunities / bat boxes) which was deleted.

(Prior to consideration of this item, and in accordance with the requirements of Section 81 of the Local Government Act 2000, Councillor Michael Chalk declared a personal interest in view of his close personal relationship to one of the public speakers, Councillor Simon Chalk.)

62. PLANNING APPLICATION 2010/266/FUL - 12 BOULTONS LANE, CRABBS CROSS

Conservatory to the rear of the dwelling

Applicant: Mr Stanley Crumpton

RESOLVED that

having regard to the Development Plan and to all other material considerations, planning permission be GRANTED subject to conditions summarised in the report and the following informative:

“Reason for approval.”

(It was noted that the Application Number included in the report had been erroneously given as 2010/268/FUL rather than 2010/266/FUL)

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**63. PLANNING APPLICATION 2010/270/COU - CAFFE NERO, 15-17
EVESHAM WALK, TOWN CENTRE**

Change of use of public highway to street café area
Applicant: Nero Holdings Ltd.

RESOLVED that

having regard to the Development Plan and to all other material considerations, planning permission be REFUSED for the following reason:

“The proposed development is likely to lead to pedestrian conflict at this busy thoroughfare which links Market Place with the Kingfisher Shopping centre to the detriment of amenity and highway safety. As such, the proposals would be contrary to National Planning Guidance contained within PPG.13 (Transport).”

The Meeting commenced at 7.00pm
and closed at 9.05pm

.....
Chair

REDDITCH BOROUGH COUNCIL**PLANNING
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PLANNING APPLICATION 2010/275/COU**CHANGE OF USE OF RETAIL WAREHOUSE UNIT INTO RESTAURANT
(A3 USE)****30 HEWELL ROAD, REDDITCH****APPLICANT: MR G SINGH
EXPIRY DATE: 14 JANUARY 2011****WARD: ABBEY**

The author of this report is Steven Edden, Planning Officer (DC), who can be contacted on extension 3206 (e-mail: steve.edden@redditchbc.gov.uk) for more information.

(See additional papers for Site Plan)

Site Description

The site lies to the northern side of a small roundabout which itself is located immediately to the north-west of the Hewell Road / Clive Road junction. To the south of the site lies the "Assemblies of God Pentecostal Church", with the railway line directly beyond the eastern boundary. Buildings adjoining the application property are 'Roy Edwards Motors' (to the north), and 'MSE', an office use (to the south).

The site is situated just inside the south-western corner of the Enfield Industrial Estate within an area designated as being for Primarily Employment (B1/B2/B8) uses in the Borough of Redditch Local Plan No.3.

The building in question is currently vacant but was previously used as 'Redditch Furniture Clearance'. Before this, it was used as a carpet showroom 'Colourscope Carpets'.

Proposal Description

Full planning permission for change of use is sought to change the use of the building from retail (A1 use) to a restaurant (A3 use).

Hours of opening are stated as being from:

12.00 noon to 00.30 hrs Monday to Friday, Sundays and Bank Holidays
12.00 noon to 01.00 hrs on Saturdays

Floor plans submitted with the application show that the restaurant would be accommodated at ground and at first floor level, with place settings/covers for approximately 108 persons together with two waiting areas able to accommodate up to 18 persons.

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The existing building is flat roofed with red brick walls between red brick columns. The red brick columns would remain, but the brickwork that exists between the brick columns to the front facade would be rendered.

Relevant Key Policies:

All planning applications must be considered in terms of the planning policy framework and all other relevant material considerations (as set out in the legislative framework). The planning policies noted below can be found on the following websites:

www.communities.gov.uk

www.redditchbc.gov.uk

National Planning Policy

PPS1	Delivering Sustainable Development
PPS4	Planning for Sustainable Economic Growth
PPG13	Transport
PPG24	Noise

Borough of Redditch Local Plan No.3

CS.7	The sustainable location of development
E(EMP).3	Primarily Employment Areas
E(TCR).12	Class A3, A4, and A5 Uses
B(BE).13	Qualities of Good Design
B(BE).14	Alterations and extensions to buildings
C(T).12	Parking Standards (& Appendix H)
S1	Designing out crime

SPDs

Designing for community safety
Encouraging good design

Relevant Site Planning History

1981/295 Change of use from garage to Carpet Showroom (Class A1)
 granted 28th August 1981

Public Consultation Responses

Responses in favour

No received

Responses against

One letter received. Comments are summarised as follows:

- Cooking odours from the business would affect our business
- Unsure where waste disposal units would be located

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- The exit for the building opens onto our land to the rear which is used as a car parking area. The gates to enter our yard area are generally locked after office hours (5.00pm Monday to Friday). Therefore, where will deliveries be made?

Consultee Responses

County Highway Network Control

Recommends that permission be refused for the following reasons:

The proposed floor area requires a maximum of 31 car parking spaces to be provided. Although the proposal is sited within a reasonable distance of the Town Centre, due to the location and nature of the use, maximum standards should be applied. The proposal shows four spaces to the front of the property, although one would be unusable, and an additional area for nine vehicles to the north of the site. This area is currently used as parking for other businesses and therefore cannot be considered in its entirety for this proposal.

Environmental Health

Comments awaited

Police Crime Risk Manager

No objection

RBC Community Safety Officer

Comments awaited

Procedural matters

All applications for Class A3/A5 use are reported to Planning Committee for determination.

Assessment of Proposal

The key issues for consideration are as follows:

Principle

The site is located within an area designated for Primarily Employment uses where usually only Class B1/B2/B8 or other compatible (normally *sui-generis*) uses are permitted to operate. However, consent was granted in 1981, allowing the unit to be used as a Carpet Showroom. Records show that from approximately 1984 until approximately 2007 the site was occupied by the 'Colourscope Carpet Warehouse' in A1, retail use, in accord with the 1981 consent. Officers understand that the building was then occupied by 'Redditch Furniture Clearance' before becoming vacant. Given that the (B1/B2/B8) employment use has long since been lost, your Officers believe that there would be no significant conflict with policy in this case by allowing a change of use from A1 to A3 use. Further, it could be argued that the

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proposed use would be compatible with adjacent employment land in that during the day, some customers are likely to originate from within the Enfield Industrial Estate.

Design and appearance of development

The only external changes are those referred to in the proposal description – the change from brick to render on the principal elevation facing Hewell Road. No objections are raised to these minor changes having regard to the character and appearance of the area.

Impact upon nearby residential amenity

Such uses have the potential to cause detriment to amenity in terms of noise and odour. However, the site is considered to be sufficiently distant from non compatible uses such that amenity would not be prejudiced provided proper extraction equipment is installed. This could be dealt with by condition.

Security

Your Officers consider that such applications raise security / anti-social behaviour issues. The Police Crime Risk Manager has been consulted on the application and raises no objection. In addition, the Council's Community Safety Officer has been consulted on the application. At the time of writing, no comments have been received. Any comments received will be reported in the Update report.

Access and parking provision

Whilst in all other respects, Officers raise no objections to the proposals, serious concerns on highway safety grounds, which have been echoed by County Highways Network Control are explained below.

The building is significant in size and would operate on two floors. The total floorspace to be changed to restaurant use would be 310 metres squared. 13 no. car parking spaces are stated as being available for use. Four would be located (labelled as numbers 10 to 13) to the frontage of the building adjacent to Hewell Road, with a further nine (labelled as numbers 1 to 9) at a separate 'additional car park' located approximately 35 metres due north-west of the application building which is also under the applicant's control. The plans however, indicate that spaces 1 and 13 would be unusable and the 'additional car park' at the time of your Officer's visit to the site was being used for the parking of vehicles in connection with other existing businesses. Officers are therefore not satisfied that all of the spaces would be available for use by customers at all times. Further, the proposed use would employ 6 full time and 4 part-time staff, where clearly demands would be placed on the available car parking that exists. Being approximately 35 metres away from the proposed restaurant, in practice, Officers consider that many customers are unlikely to park in the 'additional car park' even if it were available, and are instead, more likely to park nearer to the proposed restaurant and

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therefore nearer to the busy mini roundabout at the Hewell Road / Clive Road junction.

The Council's maximum car parking standards (Policy C(T).12 – Appendix H) state that for A3 uses, one space should be provided for each 10 square metres of floorspace. Therefore, maximum standards would require 31 car parking spaces to be provided, off road. County Highways, as do your Officers, consider that in this particular case, given the location of the site, adjacent to a busy mini roundabout, it would not be justifiable to depart from the Council's car parking standards. A shortfall of at least 18 spaces would result in the parking of many vehicles 'on-street' and 'ad-hoc' which, in this location, would prejudice highway safety.

Conclusion

Lack of available in curtilage parking for the proposal would be considered prejudicial to highway safety and therefore the application is recommended for refusal of planning permission.

Recommendation

That having regard to the development plan and to all other material considerations, planning permission be REFUSED for the reason below:

1. The lack of car parking spaces to serve the proposed development would lead to ad-hoc, on-street parking, which in this location, adjacent to a busy mini roundabout, is likely to be of detriment to highway safety. As such, the proposed development would be contrary to National Planning Guidance contained within PPG13 (Transport) and Policy C(T).12 & Appendix H of the Borough of Redditch Local Plan No.3.

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PLANNING APPLICATION 2010/280/FUL

CHANGE OF USE OF GROUND FLOOR NO'S 137-139 EVESHAM ROAD FROM A1 (RETAIL) TO A3/A5 (RESTAURANT AND HOT FOOD TAKE-AWAY USE); NEW SHOPFRONT; GROUND FLOOR REAR EXTENSION AND CREATION OF 3 NO. FLATS OVER NO'S 137-141 EVESHAM ROAD

137 TO 141 EVESHAM ROAD, HEADLESS CROSS, REDDITCH

APPLICANT: MR L N THEODOROU

EXPIRY DATE: 19TH JANUARY 2011

WARD: HEADLESS CROSS & OAKENSHAW

The author of this report is Steven Edden, Planning Officer (DC), who can be contacted on extension 3206 (e-mail: steve.edden@redditchbc.gov.uk) for more information.

(See additional papers for Site Plan)

Site Description

The site is situated to the eastern side of the main Evesham Road which runs through the centre of Headless Cross. The premises sit within a Victorian terraced row of properties of similar ages that have a mixture of architectural styles. 50 metres due north of the site lies the Evesham Road/Headless Cross Drive road junction. Approximately 50 metres to the south lies a mini roundabout off which branch Birchfield Road and Mason Road.

The premises are situated within the heart of the Headless Cross District Centre.

Proposal Description

This is a full application to Change the Use of the ground floor (no's 137-139 Evesham Road) from A1(retail) to A3/A5 (restaurant and hot food take-away use) together with a new shopfront, the erection of a ground floor rear extension and the creation of 3 no. flats over no's 137-141 Evesham Road.

The change of use proposal would allow the existing fish and chip shop at 141 Evesham Road (A3/A5 Use) to expand into Units 137-139 (a former butchers shop, now vacant) by creating a much larger 'sit down' restaurant (approximately 32 covers).

Relevant Key Policies:

All planning applications must be considered in terms of the planning policy framework and all other relevant material considerations (as set out in the legislative framework). The planning policies noted below can be found on the following websites:

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www.communities.gov.uk

www.redditchbc.gov.uk

National Planning Policy

PPS1 Delivering Sustainable Development
PPS4 Planning for Sustainable Economic Growth
PPG24 Noise

Borough of Redditch Local Plan No.3

E(TCR).9 District Centres
E(TCR).12 Class A3, A4, and A5 Uses
B(BE).13 Qualities of Good Design
B(BE).14 Alterations and extensions to buildings
B(HSG).6 Development within the curtilage of an existing dwelling
S1 Designing out crime

SPDs

Designing for community safety

Encouraging Good Design

Relevant Site Planning History

2009/262/FUL Change of Use of ground floor (no's 137-139 Evesham Road) from A1(retail) to A3/A5 (restaurant and hot food take-away use); new shop front; demolition of existing single storey rear extension to create new two storey rear extensions and creation of 4 no. flats over no's 137-141 Evesham Road. REFUSED: 3rd February 2010

Public Consultation Responses

No representations have been received at the time of writing.

Consultee Responses

County Highway Network Control

Comments awaited

Environmental Health

Comments awaited

RBC Development Plans Section

Comments awaited

Police Crime Risk Manager

Comments awaited

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RBC Community Safety Officer

Comments awaited

Waste Management Services

Requests that provision be made for litter bins in the case of consent being granted

Procedural matters

All applications for Class A3/A5 use are reported to Planning Committee for determination.

Background

A very similar application (as detailed under the site planning history above) was determined by the Planning Committee in February 2010. At that time, Members agreed with Officers that the proposed A3/A5 use including the potential loss of a preferred A1 use would impact upon and undermine the retail and community function of the District Centre to the detriment of its vitality and viability. In addition, the proposed residential part of the scheme was considered to represent an over-intensive form of development providing a lack of amenity space for occupiers of the development. Further, insufficient details at that time were submitted with respect to odour extraction and therefore amenities for occupiers of the proposed development were considered to be prejudiced. This application was therefore refused planning permission.

The scheme has been amended such that the two storey extensions proposed previously have been deleted, in favour of smaller ground floor extensions to the rear. In addition, the proposal is to create 3 new flats instead of 4 as before. A new brick chimney/flue is proposed to the rear, to deal with cooking odours.

Assessment of Proposal

The key issues for consideration are as follows:

Principle of Change of Use

The relevant Planning Policy in this case is E(TCR).9 of the Borough of Redditch Local Plan since the site falls within the Headless Cross District Centre.

The Town Centre is the primary focus for major shopping needs. District centres are the secondary level of shopping, meeting daily needs for basic items. Typically district centres in the Borough accommodate a newsagent, a general grocery store, a sub-post office and occasionally a pharmacy, a hairdresser and other small shops of a local nature. It is naturally important to protect and where appropriate, enhance district centres particularly with

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regard to their useful retail function. Proposals that would undermine the retail and community function of the district centre will normally be refused.

Under Para.5 of the reasoned justification for Policy E(TCR).9, it comments that the Council appreciates that in some circumstances there may be an over provision of units for retail. If during the plan period there is a problem of vacant units despite appropriate marketing and rent levels, then other uses may be acceptable in district centres. Only developments that would not hinder the primary retailing function of the district centre will normally be acceptable. Change of Use in district centres should only be at a level necessary to overcome a problem of vacancy as the provision of retail and community facilities should continue to be the predominant district centre function.

In assessing this application, it is important to determine if the unit in question is currently and likely to remain surplus to retail requirements. The previous occupier of Unit 137-139 Evesham Road was a shop use (butchers) and has been vacant since June 2009. Despite the length of time that has lapsed since its last occupation, nothing would suggest to your Officers that a unit of this size, in this location would not prove attractive to traders in the future, even considering the current financial climate. It is important next to examine the likely impact of the proposed change of use upon the vitality and viability of the district centre itself.

Impact upon the Vitality and Viability of the Headless Cross District Centre
Policy E(TCR).9 seeks to prevent the unacceptable loss of retail floor space in district centres which stems from the overall objective of ensuring the continuing vitality and viability of the district centres. As stated above, E(TCR).9 indicates that district centres are primarily intended to fulfil a retailing role, meeting daily shopping needs for basic items. It is therefore important to assess the existing mix between retail and non-retail uses within the district centre.

The refusal of planning permission to allow the change of use of 145 to 147 Evesham Road (the former Michaels Cycles shop) from retail to A3/A5 use under application 2008/071 is relevant here. This unit lies just 15 metres due south of the application site, again within the Victorian terraced row of commercial premises to the eastern side of Evesham Road. Following this application's refusal, the applicant appealed against the Council's decision to refuse consent. The appeal was dismissed in October 2008 with the Inspector noting at that time, that '*a high concentration of Class A3/A5 uses already exists in the Headless Cross centre*'. (For information, permission was granted under a later consent for A2 Use (banks/building societies / estate agents etc) and that premises is currently occupied by an A2 class user.) At the time of the appeal, the then applicant and Council agreed that some 42% of all units within the district centre were in A1 (retail) use.

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Classes A3 and A5 together formed the second largest category at around 27%, which the Inspector considered was, in their opinion '*already a substantial proportion*'. No specific guidance exists in any current LP policies about what constitutes an acceptable level of such uses, or the level at which over-concentration is reached, and as such a judgement on whether the loss of retail floorspace is unacceptable must necessarily be a subjective one.

Your Officers would draw member's attention to the emerging Core Strategy, (Policy ES.7) which proposes to set a limit for hot food take-aways as one option to address concerns that increasing numbers of Class A5 uses may undermine the vitality and viability of the role and function of district centres. Whilst the document is at a relatively early stage and carries only limited weight, your Officers currently feel strongly that an over-concentration of A3/A5 uses exists in the Headless Cross District Centre, and that therefore, the proposed change of use in such a prominent location should be resisted due to its likely harm to the vitality and viability of the district centre. The applicant states that the proposal does not include a new A5 use, rather that the proposal would simply enlarge/expand the existing fish and chip shop premises. The proposal would however still result in the loss of a preferred A1 use, and the A3/A5 use created here, should consent be granted could be subdivided into smaller A3/A5 units under separate ownership in the future.

Impact upon residential amenity

The proposed extensions to be located at the rear, would not be visible from Evesham Road, and would not hinder existing servicing arrangements to the rear. Officers therefore consider that these would not cause harm to the character and appearance of the building. The extensions would accommodate (together with internal re-configuration of the internal space, including the proposed change of use of vacant offices immediately above the former butchers shop at 137-139 Evesham Road) a total of three new flats which would be occupied independently from the proposed A3/A5 uses below. The residential accommodation to be created would span across the whole width of 137-141 Evesham Road.

Your Officers consider that that the level of accommodation to be created would represent a highly intensive form of development and an overdevelopment of the site. No private amenity space would be created and therefore this substandard provision would conflict with relevant policies of the development plan which require that occupiers of new residential developments are provided with an adequate level of amenity.

A brick chimney/flue is proposed to the rear which is considered to be acceptable visually, although further details would be required in order that

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the Council's Environmental Health department could be satisfied that no harm to amenity caused by noise and smells would result.

Shop front alterations

These propose a new doorway near to the shared boundary with number 135 Evesham Road. This would act as the main entrance to the new first floor flats. To the other side of this door would be created a new doorway leading to what would be the seating area for the fish and chip shop premises. This would replace the existing (recessed) door which gives access to the vacant 137-139 Evesham Road. The shopfront to the existing fish and chip shop premises (number 141) would remain unaltered. No objections are raised to this part of the proposal since the changes would not harm the character and appearance of the street-scene.

Other matters

Your Officers consider that such applications raise security / anti-social behaviour issues, and as such the Police Crime Risk Manager and the Council's Community Safety Officer have been consulted on the application. At the time of writing, no comments had been received. Any comments received will be reported in the Update report.

Conclusion

Your Officers consider that the proposal would provide an unsatisfactory level of amenity for future occupiers of the new flats and would therefore be contrary to relevant policies of the development plan. The proposed change of use from A1 to A3/A5 is considered to harm the vitality and viability of the Headless Cross District Centre, where an over-concentration of A3/A5 uses is already considered to exist. For these reasons, the application is considered to be unacceptable and is recommended for refusal.

Recommendation

That having regard to the development plan and to all other material considerations, planning permission be REFUSED for the reasons detailed below:

- 1. The proposed A3/A5 use including the potential loss of a preferred A1 use would materially impact upon, and undermine the retail and community function of the Headless Cross District Centre, to the detriment of its vitality and viability. As such, the proposed development would be contrary to the aims and objectives of Policy E(TCR).9 and Policy E(TCR).12 of the Borough of Redditch Local Plan No.3, and Policy ES.7 of the Preferred Draft Core Strategy.**

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2. **The proposed residential properties would represent an over-intensive form of development, with the scheme providing an inadequate level of communal amenity space for occupiers of the proposed scheme to the detriment of residential amenity. As such, the proposals would fail to comply with Policy B(HSG).6 of the Borough of Redditch Local Plan No.3 and the Council's adopted Supplementary Planning Guidance 'Encouraging Good Design'.**

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ENFORCEMENT REPORT 2010/010/ENF**ALLEGATION: NON-COMPLIANCE WITH A SECTION 215 NOTICE****LOCATION: 4 CHURCH GREEN WEST, REDDITCH****WARD: ABBEY**

The author of this report is Iain Mackay, Planning Enforcement Officer, who can be contacted on extension 3205 (email: iain.mackay@redditchbc.gov.uk) for more information.

(See additional papers for site plan)

Site Description

The site consists of a three-storey building on the main frontage of Church Green West. It occupies a prominent position within the Church Green CONSERVATION AREA.

In November 2008 the building was gutted by a fierce fire which broke out in the ground floor restaurant and spread throughout the building destroying the internal floors and the roof before it was brought under control. Since then the premises have remained a virtual shell supported by scaffolding.

Relevant Site Planning History

In 1983, planning permission was granted for the conversion of the ground floor to a restaurant.

There is no other relevant planning history.

Investigation Details

2nd February 2010

Following complaints regarding the long term effect the condition of the building was having on the CONSERVATION AREA, and the effect the supporting scaffolding was having on adjacent businesses and pedestrian flow, a visit was made by an Enforcement Officer who considered that the condition was such that action could be justified.

16th February 2010

A letter was sent to the owner of the property asking them to remove the external scaffolding to re-instate the building line. As a result discussions were held with the owner who stated that due to the presence of telecoms equipment on the roof, and ongoing legal difficulties in having them removed, they would need more time to rectify the situation.

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26th April 2010

A further site visit was made by the Enforcement Officer following further complaints. It was established that the telecoms equipment had been removed from the roof, but no further progress had been made.

30th April 2010

Authority to issue a Notice under Section 215 of the Act was obtained using delegated powers.

25th June 2010

A Notice under Section 215 was issued and copies served on all persons with an interest in the land. The Notice required that the building be restored to its original condition, or alternatively, that the external walls of the adjacent buildings facing into the site be supported internally, and all external scaffolding extending forward of the building line into Church Green West be removed back to the building line. It also required that any resultant void created be suitably covered with a wind and waterproof cover. The Notice took effect on 25th June 2010 and allowed a period of 4 months in which to comply.

18th October 2010

A site visit confirms that works on the building have commenced and that over the weekend roof joists had been replaced and that works to replace the roof were under way.

13th December 2010

A site visit reveals that works have ceased and that in effect, the Notice has not been complied with. Discussions with the owner reveal that phase 1, the roofing has been completed, and that phase 2 is out to tender.

Assessment

Scaffolding and associated hoardings have now been in place for 2 years affecting the free flow of pedestrian traffic along Church Green West. Adjacent businesses are claiming that the highway obstruction is having a serious effect on business due to the hoardings obscuring the view of their shops and the resultant loss of passing trade.

This Notice should have been complied with by 1st December 2010; therefore the owner is open to prosecution. The power as to whether or when to prosecute is discretionary however.

On reflection, the compliance period of 4 months given to carry out the works may have been insufficient given the extent of damage caused to the building by the fire, although it was open to the owner to appeal the Notice or seek an extension of time from the Council.

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Further, changing the scaffolding design from external to internal was deemed feasible within the timescales given. Officers do accept that significant efforts have been made by the owner in a difficult financial climate to ameliorate the situation.

There are no financial, community safety or risk implications in this report.

Conclusion

The condition of the building continues to be of concern, particularly due to its prominent position within the CONSERVATION AREA and the length of time that has passed since it was fire damaged.

However, Officers consider that the option to prosecute in this matter is needed in order to ensure that matters can be resolved.

Recommendation

The Committee is asked to RESOLVE that:

in relation to a breach of planning control, namely, the failure to comply with the requirements of a Section 215 Notice, authority be delegated to the Head of Legal, Equalities and Democratic Services, in consultation with the Head of Planning & Regeneration, to instigate legal proceedings in the Magistrates Courts, if deemed necessary.

