



Planning Committee

Headless Cross and Oakenshaw Ward

2nd February 2010

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
137 TO 141 EVESHAM ROAD, HEADLESS CROSS, REDDITCH
APPLICANT: MR L N THEODOROU
EXPIRY DATE: 4TH FEBRUARY 2010

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.

Site Description

(See additional papers for Site Plan)

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 having 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. The ground floor of Units 137 to 139 Evesham Road has been vacant for approximately 6 months, but was formerly occupied by 'Louis butchers'. The ground floor of Unit 141 is currently a fish and chip shop, 'Inn Plaice'.

Proposal Description

This is a full application for 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.

The change of use proposal would allow the existing fish and chip shop at 141 Evesham Road (A3/A5 Use) to expand into the ground floor of Units 137-139 by creating a much larger 'sit down' restaurant (approximately 36 covers).

The demolition of a single storey extension to the rear is proposed. Two storey extensions are proposed in this location which would accommodate two of the four proposed flats. Vacant offices above the existing 137 to 139 Evesham Road would be changed to form one additional flat. Further internal reconfiguration at first floor level would result in the creation of the fourth proposed flat.

A new shop front is proposed. This principally involves the creation of three new doorways to the frontage of the building.

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

PPS 4 Planning for Sustainable Economic Growth (published December 2009).

PPG.24 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

None relevant

Public Consultation Responses

Responses in favour

1 letter of support has been received. Comments summarised as follows:

- The site is to be refurbished which will be more in keeping with the shop premises and existing restaurant. The fish and chip shop is to be extended and improved.
- The proposal is an opportunity to enhance and improve the façade and would make full use of the upper floor level which is partly vacant at present.

Responses against

None received.

Consultee Responses

County Highway Network Control

No comments received.

Environmental Health

Comments received summarised below:

Serious concerns raised regarding the proposal to create residential units above take-away type businesses due to the high probability of noise and odour issues arising. The high density development proposed is likely to exacerbate this issue.

Police Crime Risk Manager

No objections in principle. Strongly recommends that communal and front doors to the flats meet secure by design standards. Asks that a CCTV system be fitted to police approved standards in the restaurant.

RBC Development Plans Section

Comments received summarised as follows:

Spatial Planning Considerations

a) **National Planning Policy:**

Planning Policy Statement 4 (PPS4) sets out the Government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas. District Centres are equivalent to the definition of Local Centres in PPS4. Policy EC13.1 states that when determining applications that affect shops in District Centres local authorities should take into account the importance of the shop, leisure facility or service to the local community or the economic base of the area if the proposal would result in its loss or change of use, and to refuse planning applications which fail to protect existing facilities which provide for people's day-to-day needs. Permitting applications for this type of use (A3/A5) in the retail core would have consequences for any potential prime retail (A1 uses) that may wish to locate in the retail core i.e. the unit will be taken up by a non-retail use.

b) **Regional Policy:**

With regard to the current Regional Spatial Strategy (RSS), this application appears to be in general conformity.

c) Local Plan No.3 Policy

Policy E(TCR).9 seeks to protect District Centres and states that proposals which would result in the unacceptable loss of retail floor space of a District Centre will normally be resisted. It is important for a range of reasons to protect and enhance where possible district centres particularly with regard to their retail function. In some circumstances where there is an over provision of retail units it may be suitable for alternative uses. This reflects PPS4.

Policy E(TCR).12 which focuses on use classes A3, A4 and A5 states that applications should only be permitted where a number of criteria can be met which includes whether the impact, where appropriate, on the shopping area concerned is acceptable.

d) Preferred Draft Core Strategy material considerations

To ensure the overall health of District Centres, they need to continue to maintain their primarily retail role. Whilst other uses play a valuable role, there should not be an over-concentration of non-retail uses. It is important to maintain the appropriate balance of uses in the District Centres to maintain their vitality and viability, particularly during the day so that Centres continue to serve the retail and other needs of local communities. There has been an increase in the number of hot food takeaways in many Centres in the Borough over recent years, many of which are only open during the evenings and serve the night time economy. This has led to an increase in closed and shuttered units during the day time. There has also been an increase in associated problems particularly of litter and anti social behaviour.

The draft core strategy policy that deals with A5 Uses within District Centres states that District Centres are primarily designed to fulfil a retailing role. Significant groupings of non retail uses can be detrimental to the role of a District Centre. Proposals for new or a change of use to Class A5 Use (Hot Food Takeaways) will only be permitted where it will not result in the overall proportion of A5 uses exceeding 25% of the total percentage of units within that Centre. Where this figure has been exceeded already in some District Centres, new proposals will be resisted. To ensure that retailing needs of communities are maintained, A5 uses within local centres/parades of shops will only be considered where the intensity of the A5 uses has not become too great and where there are no negative effects on the environment.

Conclusion

This application is not considered to comply with the Development Plan. PPS4 raises an important issue with regard to maintaining the primary retail function of district centres. By allowing the proposal for an A3/A5 use, this would effectively prevent an A1 use on this site and would detract from the

main function of the area. This type of application therefore would negatively impact on the vitality of the district centre.

Procedural Matters

This application is put before the Planning Committee due to the fact that the proposal involves the creation of a new A3/A5 use. Under the agreed scheme of delegation to Planning Officers, where such applications are received, they should be reported to Committee, irrespective of whether or not the Officer's recommendation is one of approval or refusal.

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 Unit 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 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 is currently vacant. Although the applicant's agent does not state precisely how long the unit has been vacant, and whether or not the unit has been actively marketed for retail purposes, your Officers believe, through general knowledge of the area, that the unit has been vacant for approximately six months only. In the absence of any evidence put forward by the applicant's agent, nothing would suggest to your Officers that a unit

of this size, in this location would not prove attractive to traders in the future, despite 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.

Members may recall 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. 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 applications 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, under Para 8, that 'a high concentration of Class A3/A5 uses already exists in the Headless Cross centre'. For member's 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. Classes A3 and A5 together formed the second largest category at around 27%, which the Inspector in consideration of application 2008/071 considered was, in their opinion 'already a substantial proportion'.

Although no specific guidance exists in any current LP policies about what constitutes an acceptable level of such uses, or at 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 Preferred Draft Core Strategy, which intends 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, the likely 25% limit for A3/A5 uses which would be imposed, is already exceeded in the Headless Cross District Centre. 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.

Impact upon residential amenity

The proposed two storey extensions to be located at the rear, whilst being significant in size, would be invisible from Evesham Road, and would not hinder existing servicing arrangements to the rear. On balance, Officers 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 four new flats which would be occupied independently from the proposed A3/A5 uses below. Minor internal changes to the existing first floor flat above the fish and chip shop are also proposed. The residential accommodation to be created would span across the whole width of 137-141 Evesham Road and total five flats.

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. Your Officers share the concerns raised by the Council's Environmental Health Officer, since such a high density residential scheme is unlikely to form a successful marriage with that A3/A5 use. This would be due to the likely noise and odour issues which would arise from the A3/A5 use. As such, the proposals are considered to be contrary to relevant policies of the development plan.

Shop front alterations

These include a new doorway in a central position relative to the width of 137 to 139, next to the existing doorway to the fish and chip shop at 141 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 restaurant. This would replace the existing (recessed) door which gives access to the vacant 137-139 Evesham Road. No objections are raised to this part of the proposals since the changes would not harm the character and appearance of the street-scene.

Other matters

The Police Crime Risk Manager has been consulted on the application and comments have been received. Your Officers would consider it reasonable to insist that the new ground floor communal door leading to the flats above be constructed to secure by design standards given its location off a main thoroughfare, but would consider it unreasonable to insist that all other doors be constructed to this standard through condition, although Officers always actively encourage developers to take full account of Crime Prevention and Community Safety issues and could therefore encourage

the developer to construct the doors to this specification by attaching an informative. The CRM has asked that a CCTV system be fitted to a police approved standard in the restaurant, although no justification and clear reason for the inclusion of such a condition is given. Given that the imposition of such conditions can be challenged by an applicant, your Officers would consider it unreasonable, having regard to Circular 11/95, to insist on such an imposed condition.

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 would be 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.

Recommendation

That having regard to the development plan and to all other material considerations, planning permission be REFUSED for the reasons 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.
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'.
3. In the absence of any flue / means of odour extraction equipment details, and proposed soundproofing measures, the proposed development, having an A3/A5 use on ground floor and an unrelated intensive form of residential development above would be likely to prove incompatible, with that A3/A5 use having an adverse impact upon the amenities of the proposed flats by reason of noise and smell disturbance. As such, the proposals would be contrary to National Planning Guidance contained within PPG.24 (Noise), and Policy E(TCR).12 of the Borough of Redditch Local Plan No.3.