

**PLANNING  
COMMITTEE**

**29th March 2011**

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**PLANNING APPLICATION 2011/041/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 AND GROUND FLOOR REAR EXTENSION**

**137 TO 139 EVESHAM ROAD, HEADLESS CROSS, REDDITCH**

**APPLICANT: MR L N THEODOROU**

**EXPIRY DATE: 19TH APRIL 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](mailto: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 though 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.

**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 and the erection of a ground floor rear extension.

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](http://www.communities.gov.uk)  
[www.redditchbc.gov.uk](http://www.redditchbc.gov.uk)

***National Planning Policy***

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

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 shop front; ground floor rear extension and provision of 3 no. flats over no's 137-141 Evesham Road.                    REFUSED: 10th January 2011

**Public Consultation Responses**

Responses in favour

One letter received in support. Comments are summarised as follows:

- Such a facility would be welcomed in Headless Cross in the interests of offering residents greater choice in eating establishments

Responses against

None received

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**Consultee Responses**

***County Highway Network Control***

No objection

***Worcestershire Regulatory Services***

Comments awaited

***RBC Development Plans Section***

This application does not comply with the development plan. PPS4 raises an important issue with regard to maintaining the primary retail function within 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 would negatively impact on the vitality of the district centre

***Police Crime Risk Manager***

Comments awaited

***RBC Community Safety Officer***

Comments awaited

**Procedural matters**

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

**Background**

A very similar application (2009/262/FUL 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.

Application 2010/280/FUL was determined earlier this year at the 4th January 2011 Planning Committee. The change of use element was identical to that proposed under 2009/262/FUL, but the number of flats proposed had been reduced from 4 to 3, deleting the two storey extension. Members at that time considered that the application should be refused planning permission for the following (single) reason:

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*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*

Officers had recommended that the application should be refused for two reasons which included the following reason in addition to that above:

*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*

The recommended reason for refusal above is identical to that which was applied to the refusal notice for application 2009/262/FUL.

The current application has been amended such that no new residential units would be created above the premises. A small ground floor extension to the rear is still proposed, as is a new brick chimney/flue to the rear, to deal with cooking odours. The proposed shop front changes are also identical to those considered under application 2010/280/FUL.

**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.

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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 to next 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, 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

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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 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 emerging Core Strategy, 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.

Impact upon residential amenity

The proposed ground floor extension to be located at the rear, would not be visible from Evesham Road, and would not hinder existing servicing arrangements. Officers therefore consider that this would not cause harm to the character and appearance of the building. The extension would accommodate toilets and a table and chairs within the extended restaurant area for four persons. 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 the Council's Environmental Health Officer (Worcestershire Regulatory Services) 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 existing offices above the shop. 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 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 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.

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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 proposed change of use from A1 to A3/A5 would 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 this reason, 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 reason 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.