

a) **DOV/16/00598 – Change of use from Class A1 to Class A3 - 60 King Street, Sandwich**

Reason for report: Number of contrary views.

b) **Summary of Recommendation**

Planning permission be granted.

c) **Planning Policies and Guidance**

Section 66 of the Planning (listed Buildings and Conservation Areas) Act 1990 requires that new development should pay special regard to the desirability of preserving listed buildings, or any features of special architectural or historic interest it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in granting planning permission the planning authority should pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Core Strategy (CS) Policies

- CP1 – Within the Settlement Hierarchy, Sandwich is a Rural Service Centre.
- DM24 – Change of use of a rural shop will only be granted if its loss would not harm the economic and social viability of the community that it serves.

National Planning Policy Framework (NPPF)

- The NPPF has 12 core principles which amongst other things seek to secure high quality design and a good standard of amenity for all existing and future residents.
- NPPF – is relevant as the proposal should seek to be of a high design quality and take the opportunity to improve the visual quality and character of the area. Paragraphs 17, 56-59 and 64 seek to promote good design and resist poor design.
- Paragraph 134 of NPPF requires an assessment of the impact of the proposal on the character and appearance of the conservation area weighed against the public benefits.
- Section 2 of NPPF and Paragraph 23 seek to support the viability and vitality of town centres and to promote competitive town centres that provide customer choice and a diverse retail offer which reflect the individuality of town centres.
- Section 8 of NPPF promotes healthy communities to enhance the sustainability of communities and residential environments.

d) **Relevant Planning History**

DOV/02/01155 – Refused, for the change of use from retail shop to a wine bar.

e) **Consultee and Third Party Responses**

Town Council: Raises no objections.

Environmental Health: No observations.

Heritage/Conservation Officer: There are no concerns as there are no material physical works proposed.

There have been 66 letters received as a result of the consultation of the application. There are 10 letters of objection against the proposal, including two from local Councillors. In summary, these letters of objection raise the following concerns:

- 1) The proposed use is in a residential area
- 2) The late evening and 7 days a week trading will harm residential amenity
- 3) There will be an unacceptable degree of noise, general disturbance and litter
- 4) The highway is not wide enough for delivery vehicles.
- 5) There is a lack of adequate car parking available in the immediate area
- 6) The use would give rise to congestion, obstructions on the highway and harm to highway safety
- 7) The comings and goings of vehicles would harm local amenity

There have been 56 letters of support for the proposal, including one from a local Councillor, on the grounds that the business is good for the area, it would bring a vacant unit back into use and it will be good for the economy.

f) 1. **The Site and the Proposal**

Site

- 1.1 The application property is a two storey listed building within the town centre of Sandwich. It has a central doorway with shop windows on either side, with oriel windows above. Access to the upper floor is via a doorway on the front of the building to the left hand side of the premises. There is a flat on the upper floor, above the shop. The ground floor of the building is currently vacant, but it had been used for many years as a retail shop.
- 1.2 Adjoining the building is Rose's Garage/Car Showroom. The application property and Rose's Garage are the only properties in

commercial use in this section of King Street, the remainder of the buildings are in residential use. To the north, some 50m further along King Street, is one of Sandwich's designated shopping frontages. To the south at the junction with Galliard Street, there are a few other commercial properties.

- 1.3 The special character of this section of the conservation area is therefore mostly residential within a mix of attractive individual properties. The conservation area is made up of a medieval street pattern and a high concentration of listed buildings. The roads are narrow and the buildings form a tight knit urban grain, built mainly in a linear form along the back edge of the highway.

#### Proposal

- 1.4 The proposal is to change the use of the premises from a retail shop to a restaurant (Class A3 Use). The definition of a Class A3 use is: "Use for the sale of food or drink for consumption on the premises".
- 1.5 As originally submitted, it was proposed to open the premises from 9am to 11pm, all week. The proposal is to serve Italian food, wines, coffee and cakes. An alcohol licence has been granted.
- 1.6 The applicant has now supplemented the original submission with further information as to the nature of the use. The idea behind the use is for coffee and cake to be taken in the morning, snacks at lunchtime, with canapes accompanied by Italian wines in the evenings. Wine tasting will be offered but the environment will be distinctly Italian café and wine culture. There would remain an element of retail use under the current proposal, with the sale of wines and other goods/products available over the counter.
- 1.7 The hours and days of trading have been amended to the following:
- Mondays – closed
  - Tuesdays to Saturdays – 10am to 10pm
  - Sundays – 10am to 3pm.
- 1.8 As part of the submission, the applicant has set out how the use would operate and has provided a customer management plan that includes the following: the outside area will be monitored for litter and bins will be provided for customers smoking outside. CCTV has been installed facing onto the entrance/street. A noise monitor is intended be installed.

## 2. **Main Issues**

The main issues are:

- The principle of the development
- The impact upon the existing character and appearance of the area, including the conservation area, and impact upon listed buildings

- The harm to residential amenity
- Highway Safety

#### Principle of Development

- 2.1 The proposal would lose a retail shop within this Rural Service Centre, which means that consideration of the application should be made against Policy DM24 and the objectives and Paragraphs in the NPPF.
- 2.2 The unit is not located within a designated shopping frontage in the town centre and therefore its loss would not affect the contribution these frontages make towards ensuring that there is a core shopping area within the town centre. As such, the proposal does not conflict with Development Plan policy regarding loss of shops in shopping frontages.
- 2.3 The proposed use retains a retail element – with the sale of goods and products as part of the overall business operation. There will be no cooking of food on the premises. It is the consumption of food (cold) and drink within the premises that predominantly places the use within the definition of Use Class A3 (restaurant). However, although within Class A3 there is an important aspect of the business operation aimed at the sale of the goods and products which means an element of a retail use would be retained.
- 2.4 The commercial use and the nature of the business, which will trade all day and in the evening, will be available and attractive to customers. A commercial frontage will be retained and activity within the building will provide a visual interest to passers-by. The proposed use would provide equal benefit to the town centre as the current retail shop, because it should be attractive to customers throughout the day and is likely to contribute to the overall vitality and viability of the area. It is not apparent that this type of business venture currently takes place within the town centre; which means that the business will be a new venture and will be a further attraction to existing residents and visitors to the town.
- 2.5 In conclusion, the proposed change of use will meet the objectives behind the NPPF in terms of vitality and viability. In respect of Policy DM24, for the above reasons, the proposed use will provide an economic and social benefit to the local area and contribute towards the overall attraction of the town.

#### The impact upon the character and appearance of the area, conservation area and listed buildings

- 2.6 Part of the special character of this part of the conservation area is that it is mainly residential with a small commercial element. The application building contains one of the existing commercial uses. The proposal seeks to change from one commercial use to another commercial use. As such, the balance of uses within the area between commercial and residential will not therefore change.

- 2.7 No internal or external works are proposed under this application - and the existing layout is largely being retained to serve the new use. Any internal works to the historic fabric of the building, or its historic fixtures and fittings are likely to require separate listed building consent.
- 2.8 The ground floor of the building is currently vacant. The proposed use would ensure that the building is occupied. This is of some benefit to the long term maintenance and upkeep of the listed building. This is a material consideration, weighing in the proposal's favour.
- 2.9 In summary therefore the proposed change of use will have a neutral impact upon the character and appearance of the conservation area and a neutral to positive impact upon the setting of this and the adjacent listed buildings by reason of its occupancy and future maintenance.
- 2.10 As it is considered that the proposal has a neutral/positive impact upon the designated heritage assets, the statutory requirements set out in Sections 66 and 72 of the Town and Country (Planning and Listed Buildings) Act 1990 are met.

#### Impact upon residential amenity

- 2.11 The assessment of the impact of the proposed use is now being undertaken based upon the proposed amended hours and days of operation.
- 2.12 The existing retail use of the building and the use of the adjacent garage and showroom are not limited by planning condition to specific hours or days of operation – those uses and their hours of operation have become established over time. The fact that these buildings open during reasonable hours (from 7.30am for the garage is mentioned in one letter that has been received) is a matter for the current traders. There is no current planning limitation to the opening of these properties during the late evening. This is a material consideration.
- 2.13 The nature of the use does not appear, as some letters that have been received seem to suggest, that the proposed use is as a wine bar. A wine bar falls within a different planning use class. The idea behind the business is to provide all day trading, with a variety of food and drink served to customers depending on the time of day. The proposed use will provide a service to the town centre during the day time which will contribute towards its vitality and viability – as set out above.
- 2.14 The application property is slightly removed from the main shopping frontages of the town centre and within a predominantly residential area; as such, the location is very sensitive. However, the proposed use is low key, as such. The proposed hours of use, closing at 10pm, are considered reasonable in this location. Within a town centre location occupiers of residential properties normally encounter a degree of evening and late evening activities associated with restaurant and pub uses, and comings and goings caused by customers frequenting the commercial uses in the town centre. Within the context of a town centre location therefore and in view of the

sensitive location of the property, it is not considered that the proposed hours of operation would lead to undue and unreasonable degrees of noise and general disturbance. It should also be noted that there are no objections from the Council's Environmental Protection team.

- 2.15 There are a few parking bays close to the application property, located in King Street. There are other on street parking bays in surrounding streets in close proximity (these bays are generally time restricted). The main town centre car park is located some 400m to the north/west at the Cattle Market. The walking distance to the car park is not considered unreasonable or inconvenient. The direction of customers walking back to the car park, later in the evening, will therefore be towards the core commercial area of the town centre – not towards outlying residential areas where it would be expected that these areas would be quieter.
- 2.16 In 2002, planning permission was refused for a wine bar at the property. It is considered that there are material differences between the 2002 proposal and the current proposal; such as, that proposal was for a wine bar and not a restaurant, at the time there were objections from the Council's Environmental Protection team and there are no objections now, there is now a greater drive and support for the evening economy and its contribution to the vitality and viability of town centres. Should any activities and disturbance occur then Environmental Protection could pursue problems under their own legislation. It is suggested that a condition can be attached which would control any music and amplified sound relating to further prevent any undue disturbance.

#### Highway Safety

- 2.17 There have been objections raised by representations with regard to congestion, the capacity of the highway to accommodate delivery vehicles, demand for further parking in the immediate area and highway safety. There are parking restrictions along King Street, with a few parking bays available. Customers and the operators are expected to adhere to parking and waiting restrictions as these are enforceable under other legislation. It seems unlikely that the business will generate the level of traffic to the immediate area which would cause congestion and hazards to highway safety. As mentioned above, the town centre car park is also within reasonably close proximity to the premises to be convenient for customers to walk.

#### Conclusion

- 2.18 The loss of a retail shop and its replacement with the proposed use and the intended business operation behind it would not undermine the attractiveness of the town centre; and the use of the property would continue to contribute positively towards the economic and social viability of the local community. As such, the propose use is not considered to undermine the vitality and viability of the town centre.

With the nature of the use and the proposed hours of operation it is considered that on balance the use could be accommodated in this location without causing undue harm to the living conditions of the

occupiers of nearby and adjacent properties.

2.19 The change of use does not involve internal or external works to the building and the character and appearance of the area would not be materially changed. The listed building would become occupied and so ensuring its longer term maintenance and up-keep. As such, the proposed use would have a neutral to positive impact upon the listed building and the character and appearance of the conservation area.

2.20 Conditions can be imposed to enable the use and the operation around the use to be suitably controlled.

g)

**Recommendation**

I PLANNING PERMISSION BE GRANTED, subject to conditions set out in summary to include: i) commencement within 3 years, ii) carried out in accordance with the approved drawings, iii) hours of use to be limited to 10am to 10pm Mondays to Saturdays and until 3pm on Sundays, iv) The submitted customer management plan to help address concerns over activities to the front of the property to be implemented, v) No cooking of food shall take place on the premises  
iv) No music or any amplified sound shall be relayed in the premises

II

Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer:  
Vic Hester