DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
19/00373/PRA56	Mubeen Patel / Michael Atkinson-Smith	24 May 2019

Address: 144 Whitworth Road Rochdale OL12 0JG

Proposal: Prior Approval Notification: Change of use from A1 retail to A3 cafe

PUBLICITY	**Weekly list expired?**	Y	**Site notice expired?**	Y
	Neighbour letters expired?	Y	**Press Notice expired?**	N/A

DELEGATION	**Significant departure from local plan?**	N	**Contrary to national policy?**	N
	Applicant a Council Member or officer?	N	**Contrary to previous decision?**	N
	Major with 10 or more objections and recommending approval?	N	**Called in or Planning Panel objection?**	N

COMMENTS	**Planning Panel comments received?**	N
	Neighbour comments received?	N

CONDITIONS	**Pre-commencement conditions proposed?**	N/A
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION	PRIOR APPROVAL REQUIRED AND GRANTED

CHECKED AND SIGNED OFF BY: DR **DATE: 24/05/2019**

SITE

144 Whitworth Road is a mid-terrace property that is currently vacant but falls within the A1 use class, having previously been occupied by a fashion retailer and picture framing service. The building stands within the Whitworth Road defined local centre.

The current application relates only to the ground floor premises with the only ground floor plans submitted. The plans indicate a separate entrance in the front elevation to provide access to the associated living accommodation above at first floor level.

The property includes a rear yard and this is enclosed by a wall and gate and contains a single storey outrigger containing toilet and washroom facilities.

No. 146 Whitworth Road is adjoined to the north which is occupied at ground floor level by a hair salon. A public car park lies directly facing across Whitworth Road and Nos. 5-9 David Street stand to the rear and are separated by an alleyway.

PROPOSAL

The application seeks prior approval for change of use from A1 retail to a café (use class A3) under Class C of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015. The supporting information states that the proposed use will be a sandwich bar with eat-in facilities and that no cooking facilities will be installed in the unit, with all cooking of raw ingredients taking place off site.

The plans indicate alterations to the shopfront and the display of advertisements but these cannot be considered as part of this particular application type.

RELEVANT PLANNING POLICY AND LEGISLATION

Legislation

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that when considering whether a development is permitted under class C of the above order, the LPA shall have regard to the National Planning Policy Framework as if it was a planning application, in so far as it relates to the subject matters, which in respect of Class C are:

(a) Noise
(b) Odour
(c) Storage and handling of waste
(d) Opening hours
(e) Transport and highway impacts
(f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use—
(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or
(ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and
(g) the siting, design or external appearance of the facilities to be provided under Class C(b)

National Guidance

National Planning Policy Framework (NPPF) – February 2019

RELEVANT SITE HISTORY

17/01446/FUL	Installation of new shop front with roller shutters, alterations to rear elevation and self-contained flat at first floor. Granted STC May 2018

96/D33124	Change of use from shop to hot food takeaway. Refused June 1996
92/D28903	New shop front. Granted STC December 1992
77/D04551	Change of use from shop to café. Granted STC May 1977.

CONSULTATION RESPONSES

Highways and Engineering - The application has provided no dedicated parking provision. Given the location and previous usage Rochdale Borough Councils Highways Service has no objections regarding this proposal. The area operates as a local centre therefore the development will attract residents of the area who will access on foot. In addition to this people who access the development in a vehicle will be able to utilise public parking facilities within close proximity of the property. Existing traffic regulation orders will deter dangerous/inconsiderate parking on the highway, therefore there are no objections in regards to road safety. The proposed development will create no significant intensification when compared to the previous usage, therefore Rochdale Borough Councils Highways Service has no concerns regarding the local network capacity. The proposed development will not impact upon existing refuse storage/collection arrangements. The proposed development will not impact upon the existing highways layout/drainage.

Public Protection (Noise/Odours) - With there being no external vents/flues we wouldn't have an issue with the proposal. Given the residential above we would recommend a 22:00 close time.

REPRESENTATIONS

The application has been publicised with a site notice and neighbour notification letters. No letters of representation have been received in respect of this application.

ANALYSIS

Class C of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 allows for the development consisting of a change of use of a building from a use either falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order, as a betting office or pay day loan shop, or as a casino to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order.

The legislation also permits building or other operations for the provision of facilities for ventilation and extraction (including the provision of an external flue), and the storage of rubbish reasonably necessary to use the building for a use falling within Class A3 (restaurants and cafes) of that Schedule.

Development is not permitted by Class C if-

a. the cumulative floor space of the existing building changing use under Class C exceeds 150 square metres;
b. the development (together with any previous development under Class C) would result in more than 150 square metres of floor space in the building having changed use under Class C;
c. the land or the site on which the building is located is or forms part of-
    i. a site of special scientific interest;
    ii. a safety hazard area; or
    iii. a military explosives storage area;
d. the site is, or contains, a scheduled monument; or

e. the land or building is a listed building or is within the curtilage of a listed building.

None of the above limitations apply in the case of the application for determination.

Further to the above, development under Class C(a) and Class C(b) is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to-

a. noise impacts of the development,
b. odour impacts of the development,
c. impacts of storage and handling of waste in relation to the development,
d. impacts of the hours of opening of the development,
e. transport and highways impacts of the development,
f. whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use-
    i. on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or
    ii. where the building is located in a key shopping area, on the sustainability of that shopping area, and
g. the siting, design or external appearance of the facilities to be provided under Class C(b),

Development under Class C is permitted subject to the condition that development under Class C(a), and under Class C(b), if any, must begin within a period of 3 years starting with the prior approval date.

In addition to the above, the legislation also states that the Local Planning Authority must, when determining an application, have regard to the National Planning Policy Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application and take into account any representations made to them as a result of any consultation taken and any notice produced.

The information on the application form submitted states that the business use would constitute a restaurant/café that would have a total floor area of 45sqm. The proposed use of the unit is considered to constitute Class A3 of The Town and Country Planning (Use Classes) Order 1987 (as amended).

Noise and Odour Impacts

The ground floor retail unit to be converted stands within a local centre centred on the busy thoroughfare of Whitworth Road in an otherwise predominantly residential area. There are retail/commercial uses to either side of the unit and residential accommodation above.

The proposed plans indicate that a food preparation area would be sited within a windowless room to the rear of the building and a display area with fridges would be located adjacent to the proposed seating area. No external vents/flues are proposed and therefore if they were to be installed in future they would be subject to a separate application for planning permission. The supporting information states that no hot food would be prepared on site. On this basis, the Council's Public Protection Officer has raised no objections on the grounds of odour/noise nuisance.

Impacts of Storage and Handling of Waste

The site has a rear yard area which is directly accessible from the rear of the premises. This area is of a sufficient size to accommodate bin storage for the proposed use no objections have been received from the Council's Highways Officer in respect of refuse collection. As such, it is considered that the proposal is acceptable in this regard.

Impacts of Hours of Opening

The applicant has indicated that the café would operate between the hours of 07:00-22:00 Monday-Friday, 07:00-22:00 on Saturdays and 09:00-21:00 on Sundays and Bank Holidays. Whitworth Road is a busy thoroughfare and the property lies within a defined local centre and, as such, a bustling atmosphere in the vicinity would be expected and indeed considered to be desirable.

Given the modest scale and nature of the proposed use and satisfactory consideration by the Council's Public Protection Officer subject to a condition limiting opening hours to 22:00 on any day to prevent undue disturbance from comings and goings, it is considered that the proposal would not result in an unacceptable impact on residential amenity as a result of the proposed opening hours. The proposal would therefore be satisfactory in this regard and in accordance with the National Planning Policy Framework.

Transport and Highways

It is anticipated that the type of use proposed would be likely to generate the need for parking nearby to the site for staff and customers. The application has provided no dedicated parking provision. Given the location and previous usage Rochdale Borough Council's Highways Service has no objections regarding this proposal. The area operates as a local centre therefore the development will attract residents of the area who will access on foot. In addition to this people who access the development in a vehicle will be able to utilise public parking facilities within close proximity of the property. Existing traffic regulation orders will deter dangerous/inconsiderate parking on the highway; therefore there are no objections from the Highways Officer in respect of road safety. The proposed development will not result in a significant intensification when compared to the previous usage. On this basis, the proposal is considered to be acceptable and compliant with the National Planning Policy Framework.

Desirability of Change of Use

The application site is located in a defined local centre. It is not considered that the change from an A1 retail use to a café (use class A3) would result in a lack of adequate provision of services in the area and it is noted that the unit has been vacant for some time. The proximity of the local centre to Rochdale Town Centre and its full range of retail and commercial services is noted. Therefore the proposed change of use is not considered to be detrimental to the area.

Siting, Design and External Appearance of Facilities

As no external flues/vents are proposed by the application, there would be no impact on the appearance of the building in this regard. The plans indicate alterations to the shopfront and the display of advertisements but these cannot be considered as part of this particular application type and will be subject to separate planning and advertisement consent applications.

Summary

The officer is satisfied that the proposed use can operate without having an unacceptable impact on the amenity of neighbouring residents, particularly those in the first floor flat above the application premises. The use of the food preparation area for its intended purpose would not cause undue harm to neighbouring residents and opening hours can be reasonably controlled by condition. The proposed development would not have a detrimental impact on the amenity of residents, nor would it negatively impact on the capacity or safety of the surrounding highways network. Accordingly the proposed development satisfies the requirements of the conditions of Class C of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Prior approval is therefore required and is granted.

RECOMMENDATION

Prior approval **IS REQUIRED** and is hereby **GRANTED** subject to the following conditions:

1 The use of the building falling within Class A3 must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Paragraph C.2 of Part 3, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2 This permission relates to the following plans:-

- Location Plan
- SLW/ZK/01 Existing and Proposed Ground Floor Plans
- SLW/ZK/02 Existing and Proposed Front Elevations

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the National Planning Policy Framework.

3 The A3 use hereby approved shall not open for trade or business before 07:00hrs or after 22:00hrs on any day.

Reason: In order to prevent nuisance arising in accordance with the National Planning Policy Framework

Notes for Applicant:

INFORMATIVE:

The plans indicate alterations to the shopfront and the display of advertisements but these cannot be considered as part of this particular application type. A separate planning application will be required for alterations to the shopfront and any advertisements to be displayed will be subject to a separate application for advertisement consent.

Report Author Michael Atkinson-Smith