**REF. NO. «AltRef»**

**MINOR DEVELOPMENT PLANNING APPLICATION REPORT REF. NO. F/13/73591**

| | |
|---|---|
| DESCRIPTION/ ADDRESS | Construction of single storey unit for flexible use as retail/restaurant/takeaway uses (A1, A3, A5) with associated car parking & altered access, yard & bin store, landscaping, following demolition of existing 2no. retail units<br>3 High Street West End Southampton SO30 3AA |

| | | | | |
|---|---|---|---|---|
| SITE VISIT DATE | 22/11/2013 | | | |
| ARE PLANS ACCURATE? | x | Yes | | The red line of the site is slightly smaller than shown in the originally submitted application. Consequently amended plans have been submitted to show the correct red line and the proposed building has also been slightly reduced in floor area to take account of the reduced site area. The floor area is reduced by $27m^2$ to $373m^2$. |
| HAVE ALL NECESSARY NEIGHBOURS BEEN CONSULTED? | x | Yes | | No. If not why not..... |

**THE SITE AND ITS SURROUNDINGS**

| | | | | | | |
|---|---|---|---|---|---|---|
| DETAILED DESCRIPTION OF APPLICATION | The application is for the removal of an existing single storey flat roof structure ($332m^2$) which comprises two commercial units (Tescos metro A1 and Sizzlers A5) and replacement with a single storey flat roof structure of $373m^2$. The application seeks permission for a flexible use operating either as retail (A1), restaurant (A3) or takeaway (A5). The Design and Access statement states the intention that the premises will not be subdivided and will be let to a sole tenant. The proposed building is located further into the north west corner of the site and consequently the parking area is increased to 17 parking spaces (including one disabled parking space) and a cycle parking area (5cycle hoops). The site's entry/exit system from Barbe Baker Avenue is slightly amended by slightly increasing the width of the entrance point to allow for a formally laid out pedestrian access point from the pavement to the, entrance of the retail unit and by positioning the exit point further south and further away from the side boundary of no. 3 Richards Court, Barbe Baker Avenue. The proposed hours of operation are 7am to 11pm Monday to Sunday. The application is supported by a Tree Survey and Arboricultural Assessment and Ecology Survey, a Transport Statement, A Plant Noise Assessment, A Planning Statement and a Design and Access Statement. | | | | | |
| SITE AREA | 0.13 ha | | | | | |
| RESIDENTIAL DEVELOPMENT DENSITY (NET) | N/A | | | | | |
| TOPOGRAPHY | X | Level | | Sloping ..... | | The site is level. Land immediately to the south |

**THE SITE AND ITS SURROUNDINGS**

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| | | | | | | is slightly higher than that of the site. |
| TREES | | No | X | Yes, a tree survey shows four trees on site and two groups of trees located adjacent to the north west boundary. A mature laurel hedge is located on western boundary 4 to 5m high. | | |
| BOUNDARY TREATMENT | | A 2m fence with 40cm trellis above is located behind the hedge also on the western boundary. The northern boundary to no. 3 Richards Court, Barbe Baker Avenue comprises a 2.2m high brick wall which drops to 1.3m and then 1m where it sits forward of the front elevation of no. 3 Richards Court, Barbe Baker Avenue. The southern boundary onto facing the High Street comprises a low brick wall of 20cm in height. The eastern boundary onto Barbe Baker Avenue in part comprises a 30cm brick wall in part with the remainder of the boundary enclosed by bollards. The frontages onto Barbe Baker Avenue and the High Street therefore have open frontages. | | | |
| SITE CHARACTERISTICS | The site comprises a single storey flat roof structure (332m$^2$) which comprises two commercial units (Tescos metro A1 and Sizzlers A5) and replacement with a single storey flat roof structure of 373m$^2$. The height of the existing building is 4.1m (taken from the north east elevation) which drops down to 2.8m where a small enclosed yard is located at the north west corner of the building. The majority of the site is laid to hard standing and used for access and parking (11 spaces). The site operates an entry/exit system using two vehicular access points onto Barbe Baker Avenue, the entrance being located closest to the junction of Barbe Baker Avenue and High Street and the exit point located further into Barbe Baker Avenue. | | | | | |
| CHARACTER OF LOCALITY | The site is located at the junction of Barbe Baker Avenue and High Street and is separated from the High Street in part by a small access road which leads to Rosemount Court, a block of flats west of the site, and in part by a small grassed area with a group of three trees. The site is very close to a main junction of Swathling Road, Churchill and the High Street and consequently the area has fairly high volumes of passing traffic and associated noise. To the north of the site are residential to storey semi detached and detached properties fronting Barbe Baker Avenue. The site fronts onto Barbe Baker Avenue to the east beyond which is a dense line of mature trees and vegetation which forms the side boundary to residential properties with the 'Hatch Mead' residential estate.<br><br>To the west of the site is Rosemount Court which is three storey dropping down to two storey immediately adjacent to the site. Further afield but within the immediate vicinity are a range of mainly residential two storey semi detached and terraced properties and a large three to four storey block of | | | | | |

## THE SITE AND ITS SURROUNDINGS

| | |
|---|---|
| | flats. |

## RELEVANT PLANNING HISTORY

| REFERENCE | DESCRIPTION | DECISION |
|---|---|---|
| Z/16294/003/00 | Single Storey Rear Extension | Permit 20/01/1992 |
| Z/16294/004/00 | Single Storey Replacement Extension, New Shop Front And Roller Shutters And Change Of Use Of Part Of Building (72 Square Metres) To Hot Food Takeaway (Use Class A3) | Permit 23/07/1996 |
| Z/16294/009/00 | Alterations To Shop Front And New Plant To Rear | Permit 15/07/2003 |
| F/13/72993 | Construction of single storey unit for flexible use as retail/restaurant/takeaway uses (A1, A3, A5) with associated car parking & altered access, yard & bin store, landscaping, following demolition of existing 2no. retail units | Withdrawn 4/9/2013 |

## REPRESENTATIONS RECEIVED

| SOURCE | SUMMARY OF CONTENT |
|---|---|
| 3 Richards Court, Barbe Baker Avenue | Objection – height of replacement building unclear and will be visually intrusive. Loss of sunlight. Loss of trees leading to loss of privacy between their rear garden and flats in Rosemount Gardens. Detrimental affect to residential amenity.<br><br>If North West corner roof line was to be lowered to an acceptable level and alternate screening that would maintain our privacy from Rosemount Court then we could consider changing our position of Objection. |
| 11 Rosemount Court | Objection<br>Loss of convenient local Tesco store for those who have difficulty 'getting about'. |

## CONSULTATION RESPONSES

| CONSULTEE | SUMMARY OF RESPONSE |
|---|---|
| WND | No objection but raised concerns as follows:<br>Consideration needs to be given to access and egress, with regard to the proposed cycle path and Hatch Farm developments. The cycle path is proposed along Barbe Baker Avenue and the Hatch Farm development will have an effect on traffic volume in the area.<br>Concern at the loss of one Ash and one Sycamore tree, currently providing privacy/screening between properties in Barbe Baker Avenue and Rosemount Court. Tree Officer should be consulted before either tree is removed.<br>It was noted that the Planning Officer is expecting revised plans detailing the proposed height of the new building. Councillors were concerned that the height at the rear of the building should not exceed |

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**CONSULTATION RESPONSES**

| CONSULTEE | SUMMARY OF RESPONSE |
|---|---|
| | 3.1m, as residents have been told, but is not clear from the plans submitted. |
| HEH | No objection subject to conditions |
| ENG | No objection |
| HPP | No objection |
| CRT | No objection subject to conditions |
| CRE | No objection subject to informative note |
| BAA | No objection |

**POLICY CONTEXT**

| DESIGNATION APPLICABLE TO SITE |
|---|
| Within Built-up Area Boundary<br>Within Established Residential Area<br>Airport Safeguarding Zone |

**DEVELOPMENT PLAN SAVED POLICIES, EMERGING LOCAL PLAN POLICIES AND SPD'S**

Eastleigh Borough Local Plan Review (2001-2011) 25.NC (Biodiversity), 29.ES (Industrial/Commercial Noise), 36.ES (Lighting), 59.BE (Design), 63.BE (Car park design), 69.BE (Southampton International Airport Public Safety Zone), 100.T (New development – Transport), 101.T (Transport Infrastructure – contributions), 102.T (New Access), 104.T (Parking provision), 134.TC (out of centre retail development), 142.TC (Hot Food Outlets), 191.IN (Infrastructure services, community facilities and amenities)
Revised Draft Local Plan (2011 - 2029)
DM1 (Development Criteria), DM7 (Pollution), DM9 (Biodiversity), DM19 (Retail Development), DM23 (Transport General and contributions), DM24 (Parking provision), DM35 (Community, Leisure and Cultural Facilities), DM37 (Funding infrastructure)

Supplementary Planning Document: Planning Obligations

**CHARACTER APPRAISAL AREA**

Hedge End, West End and Botley Character Area 60: 1970's/1980's terraced/detached (multi family) development on a secondary/local thoroughfare/multi-headed cul-de-sac west of West End

**SPECIAL POLICY AREA**

n/a

## NATIONAL PLANNING POLICY GUIDANCE

National Planning Policy Framework

## POLICY COMMENTARY

The above policies and guidance combine to form the criteria against which this application will be assessed with particular regard to vitality and viability of the town centre, residential amenity, highway matters, trees, nature conservation, street scene and character of the area.

## COMMENT ON CONSULTATION RESPONSES

| | | | |
|---|---|---|---|
| | See below | | No comments |

## COMMENT ON REPRESENTATIONS RECEIVED

| | | | |
|---|---|---|---|
| | See below | | No comments |

## PLANNING OBLIGATION/CONSIDERATIONS

In accordance with the provisions of Circular 05/05 saved policies 101.T, 147.OS and 191.IN of the Eastleigh Borough Local Plan Review 2001-2011 and supplementary planning document. Planning obligation contributions are sought to offset the impact of the development on local infrastructure. For this development contributions are sought towards Sustainable Transport. **The applicant has agreed to secure the contributions through a unilateral undertaking which has been completed.**

## ASSESSMENT OF PROPOSAL

## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

**Background**

This application follows a withdrawn application for a similar scheme which had a number of aspects that were considered unacceptable. The main concerns in respect of the previous application were:

- its design in that it included a single storey projection on the east elevation facing Barbe Baker Avenue as a yard and bin store;
- That the replacement building would harmfully affect the outlook of no. 3 Richards Court, Barbe Baker Avenue and
- That in respect of the a/c units, chiller units, and fume extraction, although Plant Noise Assessment has been submitted its findings were considered to be questionable by Head of Environmental Health and therefore harm to neighbouring residential amenity by reason of noise could not be ruled out.

The application currently under consideration removes the single storey projection, reduces the bulk of building adjacent to the rear garden of no. 3 Richards Court so that it is no higher

## ASSESSMENT OF PROPOSAL

## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

than existing and sufficient supporting information has been submitted in respect of noise and Head of Environmental Health now has no objection to the application.

### MATERIAL CONSIDERATIONS

The proposal is not considered to comply with relevant Development Plan policies as set out below.

In this case policy issues for consideration include:

- Proposed out of centre retail /leisure use;
- Character and appearance of area.
- Impact upon residential amenity and
- Highway safety

**Proposed out of centre retail /leisure use**

The proposed A1, A3 and A5 uses are all identified as main town centre uses within the National Planning Policy Framework. Paragraphs 23 to 27 of the National Planning Policy Framework address the issue of vitality of town centres and in paragraph 24 it states that 'Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. ... When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.'

The retail floor area of the proposed use, 373m$^2$, represents an increase of 41m$^2$ from the existing unit on site. In terms of impact upon viability of shopping centres however, the policy requirement within the National Planning Policy Framework is not how much retail is proposed but whether there are suitable units within designated shopping centres that could accommodate the use. Saved policy 134.TC of the Local Plan (2001-2011) indicates that out-of centre or edge-of-centre retail, leisure or office uses will only be permitted where there is a demonstrable need for the development; there are no suitable, viable and alternative premises within existing shopping centres noting the possibility of disaggregation; it would not undermine the vitality or viability of existing shopping centres; it is accessible by a choice of means of transport and it will not increase the need to travel. Although saved policy 134.TC requires that a demonstrable need for development is shown, the National Planning Policy Framework no longer requires this to be shown and as such it is not required as part of the assessment of this application. Policy DM19 indicates that retail development over 500 sq. m. will not be allowed outside existing centres unless a sequential test can demonstrate that there are no suitable properties within an existing centre, the proposals will not undermine the vitality and viability of any existing centre and the site is sustainably located in terms of accessibility. The policy notes that the change of use of existing out of centre bulky goods retail stores to unrestricted retail uses will not be permitted.

The site is below the 500m$^2$ threshold set out in policy DM19 of the Eastleigh Borough Council Local Plan Pre Submission (2011 - 2029). Nevertheless, in this instance a sequential test is not considered necessary for two reasons. Firstly that the retail and takeaway unit are existing, and in respect of the retail unit, has been present on site for over 40 years. Therefore the impact upon the viability and vitality of the town centre is established and the issue has been considered as part of previous consents for the site. Secondly, whilst the floor area of the unit does increase it is only marginal, 41m$^2$. It is considered that the increase would not have a significant effect upon the vitality and viability of the town centre above that existing. The proposed uses for A1, A3 and A5 are considered therefore to be acceptable in principle subject to other relevant local plan policies.

## ASSESSMENT OF PROPOSAL

## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Saved policy 134.TC of the Local Plan (2001-2001) also requires that out of centre retail proposals do not increase the need to travel overall. Paragraph 34 of the National Planning Policy Framework states that 'plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'. In this instance the increase of 41m$^2$ would only result in an increase of 47 multimodal trips. The site is considered to be accessible being located within easy walking distance of residential properties in the locality and located along and close to bus routes. As such the site is accessible by means other than the private car and is considered to meet the requirements of saved policy 134 of the Local Plan (2001-2011) and the requirements of the National Planning Policy Framework in this respect.

In addition to a sequential test, policy DM19 of the Eastleigh Borough Council Local Plan Pre Submission (2011 - 2029) seeks to prevent the change of use from existing out of centre bulky goods retail stores to unrestricted retail uses. In this case the existing goods sold on site are non bulky and therefore this restriction can not be reasonably applied to this site or the proposed development.

The proposed retail and leisure use is therefore considered to be in keeping with saved policy 134.TC of the Eastleigh Local Plan (2001-2011) and policy DM19 of the Eastleigh Borough Council Local Plan Pre Submission (2011 - 2029).

**Character and appearance**

Policy 59.BE of the Local Plan and policy DM1 of the Eastleigh Borough Council Local Plan Pre Submission (2011 - 2029) requires development to take full and proper account of the context of the site including the character and appearance of the locality and be appropriate in mass, scale, materials, layout, design and siting. It also requires a high standard of landscape design, have a satisfactory means of access and layout for vehicles, cyclist and pedestrians, make provision for refuse and cycle storage and avoid unduly impacting on neighbouring uses through overlooking, loss of light, loss of outlook, noise and fumes.

The site is relatively prominent in the street scene being a corner location and the current building is single storey. The replacement building is located in roughly the same position on site as existing being repositioned only marginally closer to the north and west boundary. The building will be set 3m away from the side boundary (north) to 3 Richards Court and tapers in towards it by 1m so that the distance from the replacement building to the side boundary at the rear is 2m.

The replacement building will now sit in line with the building line of no. 3 Richards Court however the building line, as with the existing building, will still sit behind Rosemount Court. Whilst the set back of the proposed building behind the building line of Rosemount Court it is not considered the best design solution for the site in terms of layout, as the situation is existing the resultant building will not cause harm to the visual amenities of the locality.

The design of the proposed building attempts to have more regard to the context of the site in terms of built form by increasing the height of the building, nothing that buildings in the locality and either side are two/three storey in height. Other design elements of note are the projecting eaves which would roughly follow the eaves line of that at no. 3 Richards Court, Barbe Baker Avenue. The building has a splayed corner which has regard to the corner position of the site and more landscaping has been introduced on the south east corner of the site and along the northern boundary of the site. No trees are proposed to be removed and additional trees are proposed to be planted along the site frontages. In addition the building line attempts to have more regard to that at 3 Richards Court. As such the proposed building is considered to be acceptable in terms of its impact upon the character and appearance of the area and is considered to comply with saved policy 59.BE of the Local Plan (2001-2011), Policy DM1 of the Eastleigh Borough Council Local Plan Pre Submission (2011 - 2029).

## ASSESSMENT OF PROPOSAL

## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

The site layout makes no room for a trolley park or external yard area for trolleys/bins associated with deliveries however the agent has confirmed in writing that they would be happy to accept a condition to require trolleys / refuse associated with deliveries and trolleys for customers are kept inside the footprint of the building and a condition will be attached to this effect.

**Impact upon residential amenity**

The site is located adjacent to two sites both of which are is residential use. The first is Rosemount Court to the west of the site. This is in use as flats. The closest part of the building to the site would sit forward of the front building line of the new building and its side elevation has no windows. The ground floor of that part of the building within Rosemount Court is used as a bin store with a residential unit above whose main aspects are on the front and rear elevation. The remainder of the building at Rosemount Court steps away from the mutual side boundary by approximately 17.4m and the land between is used as a car park serving the flats at Rosemount Court. As such despite the proximity of the new building to the mutual side boundary and the increased height of the building, the residential amenities of residents there are not considered to be harmfully affected in terms of their outlook.

In respect of no. 3 Richards Court, Barbe Baker Avenue, the proposed building will drop down in height at the point where it is adjacent to the rear garden of no. 3. The proposed height at that point, 2.8m will be the same as the existing height of the building at that point. The existing building is located 3m away from the side boundary of no. 3. The building is orientated at a slight angle to the side boundary of no. 3 so that it tapers from 3m to 2m distance from the side boundary of no. 3. Therefore the building does move closer to the side boundary of no. 3 from that existing by a maximum of 1m. Noting that the height will remain as existing, despite this slight encroachment to the side boundary, it is considered that the overall impact of the replacement building will not harmfully affect the residential amenities of the occupants. As such it is considered that the proposed building will comply with saved policy 59.BE of the Local Plan (2001-2011) and policy DM1 of the Eastleigh Borough Council Local Plan Pre Submission (2011 - 2029) in this respect.

The general position of the parking area remains the same and is considered sufficiently removed from neighbouring residential properties to ensure no detrimental harm. In terms of the three different uses proposed, the one which would generate the most trips would be the use of the site for retail where the existing retail use would generate an additional 47 mutli modal trips. The A3 and A5 uses would generate a lesser amount of trips and as such the activity associated with those uses in terms of noise and disturbance from vehicle and pedestrian movements would be less than that for an A1 use. Noting the small increase in multi modal trips created by the additional 41m$^2$ floor space, the actual impact upon neighbouring residential amenity in terms of noise and disturbance would not be significantly different to that existing and therefore all three of the suggested uses are considered acceptable in this respect.

Finally, all three uses are likely to require a/c units, chiller units, and fume extraction and all of these have issues in respect of neighbouring residential amenity in terms noise and odours/fumes. The site plan shows an indicative position of the mechanical plant on the rear elevation. In respect of noise, a Plant Noise Assessment has been submitted which shows that there would be no harm to neighbouring residential amenity in respect of noise. Environmental Health have considered the scheme and have no objection to the scheme subject to conditions and as such it is considered there would be no harm to neighbouring residential amenities in terms of fumes or noise. The application is therefore to comply with saved policies 29.ES and 59.BE of the Local Plan (2001-2011) in this respect.

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## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

**Highway matters**

Policy 100.T expects development to be sited close to, or well served by, public transport, cycling and walking. Policy 104.T states permission will only be granted for development that provides adequate off-highway parking provision. The site has 17 formally laid out parking spaces, one of which is a disabled parking space and 5 cycle hoops capable of supporting 10 cycles. The exit and entry system has been slightly amended and pedestrian footpath is proposed from Barbe Baker Avenue to the entrance of the unit. The application also has been amended to take account of land that will be dedicated to footway widening scheme along Barbe Baker Avenue and will not therefore conflict with that project. The highways officer has no objection to the application provided that a contribution is made in light of the small increase in multi modal trips. The additional floor area will result in an additional 47 multi modal trips above that already generated by the existing retail use on site.

The unit is below the 1000sqm threshold within the Hampshire Parking Strategy for retail and leisure (general) and as such travel plan and travel assessment is not required.

**Trees**

A mature laurel hedge is located on western boundary 4 to 5m high, in addition the site survey shows four trees on site and two groups of trees. All bar one of these trees are located on the western boundary. The hedge and trees along the western boundary are outside of the application site and are not proposed to be removed. There is no objection from the Tree Officer who has recommended a condition is attached for tree protection measures during construction.

**Nature conservation**

The existing building is proposed to be removed however trees on and adjacent to the site are proposed to be retained. An ecology has been submitted in support of this application and the ecology officer has no objections to the application.

**Infrastructure**

The proposed development will result in a small increase in multi modal trips and as such a contribution of £8,030 (+ indexation ) is required. The agent has confirmed that their client is willing to pay the contribution amount through a **Unilateral Undertaking which has been completed.**

## OTHER MATERIAL CONSIDERATIONS

Also of relevance is the Revised Draft Eastleigh Borough Local Plan 2011-2029. While not yet adopted it does carry weight by virtue of being intended as the current local plan's replacement. With regards to this application, the new policies essentially echo those of the current plan and are not considered to affect the recommendation put forward.

## CONCLUSIONS

The recommendation is to permit subject to the completion of a satisfactory legal agreement to secure financial contributions to highway infrastructure and dedication of land to Hampshire County Council as part of their road widening scheme.