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WARD : Prestatyn East

WARD MEMBER(S): Cllr Anton Sampson
Cllr Julian Thompson-Hill (c)

APPLICATION NO: 43/2017/1147/ PF

PROPOSAL: Change of use from A2 to A3 (Hot Food Takeaway) and associated works

LOCATION: 39-41 High Street Prestatyn

APPLICANT: Domino's Pizza UK & Ireland

CONSTRAINTS: Conservation Area
Article 4 Direction

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant / approve – Town / Community Council objection

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL -

“Objection-

Development within conservation area and contrary to the Local Development Plan
Potential littering and anti-social behaviour. Over intensification of A3 fast food outlets.
Corporate signage would not be compatible with conservation area status.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Pollution Control Officer

The officer has advised that any potential issues relating to noise and odour can be addressed with the imposition of conditions.

RESPONSE TO PUBLICITY:

In support

K. White by email.

Summary of support:

In support of a vacant property on the High Street being brought back into use.
Additional jobs created must be a positive for the area.

EXPIRY DATE OF APPLICATION: 29/01/2018

REASONS FOR DELAY IN DECISION (where applicable):

N/A

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal is for the change of use of no. 39-41 High Street, Prestatyn, from Use Class A2 professional and financial services to an A3 hot food takeaway use.
- 1.1.2 The submitted documents indicate that the internal works proposed relate to changing the back of the property into a cold store room and office area with staff toilets, central storage area and oven location and food is to be sold from the existing shop front. Food to be prepared will be primarily pizzas.
- 1.1.3 Extraction equipment will be located at the rear of the property.
- 1.1.4 There are alterations proposed to the exterior of the property. These include: a new fresh air intake system to the side elevation, a new door where the existing door has been blocked up, all windows and doors to the rear to be blocked up, removal of 4 sky lights, an air conditioning unit and cold room compressor to the rear, an oven extractor to the rear and alterations to the appearance of the front of the unit. The details are shown on the plans at the front of the report.
- 1.1.5 The proposed opening times are 11am to 12 midnight Sunday to Thursday and 11am to 1am Friday and Saturday.
- 1.1.6 The application advises the new use aims to provide approximately 20 new jobs.

1.2 Description of site and surroundings

- 1.2.1 The property is located on the eastern side of High Street, in the Town Centre of Prestatyn.
- 1.2.2 The unit was formally occupied by the Yorkshire Building Society until early 2017 and is currently vacant.
- 1.2.3 Pedestrian access is gained to the unit from the High Street. There is vehicular and pedestrian access to the site off Church Lane to the rear.
- 1.2.4 There is staff/ delivery parking at the rear of the property for 5 -6 vehicles.
- 1.2.5 The local bus station is 100m from the site on the B5120 and the train station is approximately 135m from the site.
- 1.2.6 To the south of the site is a two storey Arts Centre with Cinema and restaurant. To the east is the recently developed retail scheme (Parc Prestatyn). To the north is a two-storey property occupied by HSBC Bank (Class A2 use) at ground floor level and a Dental Surgery on the first floor. To the west, on the opposite side of the High Street, are a number of retail units.
- 1.2.7 From observation at the time of the case officer's site visit, there were some 7 takeaway shops on the High Street, none of which serve pizza as their main product.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site lies within the designated development boundary of Prestatyn as defined in the Local Development Plan.
- 1.3.2 It is within the defined Town Centre Boundary and the Prestatyn High Street Conservation Area.
- 1.3.3 Like most properties in this area, the site lies within the TAN 15 Flood Zone C1.

1.4 Relevant planning history

1.4.1 The unit has been previously used as an A2 professional and financial services with the adjacent Dental Surgery occupying the upper floors.

1.5 Developments/changes since the original submission

1.5.1 None.

1.6 Other relevant background information

1.6.1 The number of service outlets (incl. banks, hairdressers, restaurants) in Prestatyn Town Centre has not changed drastically in 10 years with numbers ranging from 68 in 2006 up to 76 in 2016 (Town Centre Survey, 2016).

2. **DETAILS OF PLANNING HISTORY:**

2.1 No relevant application history.

3. **RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

3.1 Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy PSE8 – Development within town centres

Policy VOE1 – Key Areas of Importance

3.2 Supplementary Planning Guidance

SPG Hot Food Takeaways

SPG Conservation Areas

3.3 Government Policy / Guidance

Planning Policy Wales (Edition 9) November 2016

Development Control Manual November 2016

Technical Advice Note 4: Retail and Commercial Development

4. **MAIN PLANNING CONSIDERATIONS:**

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 9, 2016 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (PPW section 3.1.3). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned (PPW section 3.1.4).

Development Management Manual 2016 states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (DMM section 9.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

4.1.1 Principle

4.1.2 Visual amenity / impact on Conservation Area

- 4.1.3 Residential amenity
- 4.1.4 Highway impacts
- 4.1.5 Crime and disorder

4.2 In relation to the main planning considerations:

4.2.1 Principle

PPW and TANs offer broad support for the development of the local economy. Policy PSE 8 relates to development within town centres. It seeks to ensure that development proposals enhance the vitality and viability of town centres and that they do not result in an unacceptable imbalance of retail and non retail uses.

The Council's SPG Hot food takeaways also seeks to ensure that there is not an over concentration of hot food takeaways in one area, and refers to problems such over concentrations can cause, including dead frontages in the day time etc.

Factually, the site is within the development boundary of Prestatyn, and within the defined Town centre boundary.

The Town Council have expressed objections on the basis of the proposal giving rise to an over intensification of A3 fast food outlets, contrary to the local development plan.

A private individual representation has been received in support of a vacant property on the High Street being brought back into use and the creation of additional jobs will be a positive for the area.

In noting the comments of the Town Council, in relation to Policy PSE 8, it is clear from observation that there is a mix of commercial and business uses in the immediate locality with A3 uses in the vicinity on the High Street. Having regard to the actual number of A3 fast food outlets in the centre relative to the number of other shops and businesses, however, it is not considered that the proposal would lead to an unacceptable imbalance through the introduction of an A3 use in this property, representing an over intensification sufficient to justify refusing permission. There is a positive aspect to the application in that it is introducing this use to a vacant unit and would generate employment. It is considered that the proposed change of use would not pose any conflict with the main policy relating to retail uses in the town centre.

4.2.2 Visual amenity / impact on Conservation Area

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use land / buildings and spaces between buildings, which are matters relevant to the visual impact of development.

Local Development Plan Policy VOE 1 seeks to protect sites of built heritage from development that would adversely affect them. Planning Policy Wales (Section 6), stresses the importance of protecting the historic environment, and in relation to Conservation Areas, to ensure they are protected or enhanced, while at the same time remaining alive and prosperous, avoiding unnecessarily detailed controls. The basic objective is therefore to preserve or enhance the character and appearance of a Conservation Area, or its setting.

The Town Council have referred to development within a conservation area as a basis of objection. There are no other objections raised on this ground.

In respecting the comments of the Town Council, it is difficult to see what detrimental impact this particular proposal would have on visual amenity or the character and appearance of the Conservation Area.

Relatively minor physical alterations are proposed to the side and rear elevations of the building to facilitate the change of use and these will have minimal impact on the

appearance of the property from the high street. The shopfront will remain as existing (PPC Aluminium) but will be sprayed grey with both sides of the door fitted with full height tubular pull handles. A separate application has been made for signage.

The proposals are considered acceptable in relation to visual amenity and the Conservation Area.

4.2.3 Residential amenity

Policy RD 1 sets specific tests to be applied to amenity impacts of development. Proposals for development should comply with these tests.

There are no residential amenity objections in relation to the application.

There is the potential for odour to impact upon neighbouring properties from an A3 use. However, it is to be noted that there is no residential use above the unit as the upper floors are occupied by a Dental Surgery. There are very few residential properties on the High Street as most properties are commercial. The nearest residential units are number 4 to the north and number 69 to the south, both of which are not in close proximity to the site. The area behind the site is the recent Parc Prestatyn development and on the opposite side of the road are commercial properties with the bus station behind.

Details of the extraction system have been provided, and the application form states it is proposed to operate from 11am to 12 midnight Sunday to Thursday and 11am to 1am Friday and Saturday.

Having regard to the location of the proposed development in the town centre where there are a mix of uses, and in relation to the existing site and neighbouring properties, it is considered that the proposals would not have an unacceptable impact on residential amenity.

4.2.4 Highways, access and parking

Tests vii. And viii of Policy RD1 of the LDP require assessment of the impact of development on the local highway network, including consideration of congestion, danger and nuisance arising from traffic generated.

There are no representations raising matters relating to the highway implications of the application.

The property is on the main high street of one of the County's coastal towns. There is restricted on street parking in the area and there are town centre carparks and public transport links close to the site. It is not anticipated that the use would give rise to significant pedestrian movements, or localised difficulties from customers arriving in town by car. It is understood the company involved rely heavily on home delivery service, and would use the 5-6 car parking spaces at the rear of the site for the delivery vehicles parking and some staff parking.

It is therefore considered unlikely that the proposal will cause unacceptable parking/traffic problems.

4.2.5 Crime and disorder

Test xii of Policy RD1 requires the assessment of personal and community safety and security in the design and layout of development and public/private spaces and regard is had to implications for crime and disorder.

Comments have been received from the Town Council regarding anti-social behaviour. No other representations have been received which raise this concern.

Whilst there are often concerns over the potential for late night anti social behaviour around takeaway premises, there is no specific evidence from the Town Council to suggest that the High Street is currently a hotspot for crime and disorder, or that the use of the particular property by a pizza company would give rise to additional crime and disorder to a degree which could justify refusal of permission. The Case Officer has been advised by the Community Safety Officer that it is considered the opening of an additional takeaway will have not exacerbate any antisocial behaviour which may already exist in the area.

In Officers opinion, the proposal does not conflict with Policy RD1.

The Town Council have also raised the issue of potential littering. In recognising the concern, Officers suggest it would be unreasonable to refuse planning permission on this basis as it is possible to condition any permission to require suitable provision of litter bins.

Other matters

Use of corporate signage

The Town Council's objection includes reference to the use of corporate signage not being compatible with conservation area status. This matter is not of relevance to the merits of this planning application, and is dealt with separately in relation to the following item on the agenda reference 43/2017/1160 which relates to the advertisement consent application for the signs.

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has been drafted with regard to the Council's duty and the "sustainable development principle", as set out in the 2015 Act. The recommendation takes account of the requirement to ensure that present needs are met without compromising the ability of future generations to meet their own needs. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

5.1 With respect to the Town Council's comments, it is Officers' opinion that the proposal is not unacceptable in principle. It is not likely to give rise to an over intensification of A3 uses and would not have a significant impact on the visual or residential amenity of the area and the Conservation Area.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development to which this permission relates shall be begun no later than 17th January 2023
2. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission:
 - (i) Proposed Elevations (Drawing No. B9957-AEW-PJ001524-XX-DR-0004) - Received 29 November 2017
 - (ii) Proposed Floor Plans (Drawing No. B9957-AEW-PJ001524-XX-DR-0003) - Received 29 November 2017
 - (iii) Existing Elevations (Drawing No. B9957-AEW-PJ001524-XX-DR-0002) - Received 29 November 2017

- (iv) Existing Floor Plans (Drawing No. B9957-AEW-PJ001524-XX-DR-0001) - Received 29 November 2017
 - (v) Proposed Site Plan (Drawing No. B9957-AEW-PJ001524-XX-DR-0006) - Received 29 November 2017
 - (vi) Location Plan (Drawing No. B9957-AEW-PJ001524-XX-DR-0005) - Received 29 November 2017
3. The use hereby permitted shall not be commenced until the written approval of the Local Planning Authority has been obtained to details of odour abatement arrangements and the arrangements have been implemented. The odour abatement equipment shall be retained and used at all times thereafter.
 4. The use hereby permitted shall not be permitted to operate until the written approval of the Local Planning Authority has been obtained to arrangements for the disposal of litter, and those arrangements have been implemented. The facilities shall be retained at all times the use operates thereafter.
 5. The A3 use shall not be open for customers outside the hours of 11am to 12 midnight Sunday to Thursday and 11am to 1am Friday and Saturday.
 6. Deliveries shall not be taken at or dispatched from the site, including the handling and collection of waste outside the hours of 11am to 12 midnight Sunday to Thursday and 11am to 1am Friday and Saturday, and any waste arising from the cleaning of the premises in the evening shall be stored within the site for removal the following morning.
 7. Noise emissions arising from extraction / ventilation / refrigeration equipment or mechanical plant and equipment shall not exceed 42dB(A)eq, 5min at the façade of any noise sensitive premises at any time.
 8. In the event of complaints to the Local Planning Authority over noise attributable to the operation of the business, and after they have been initially investigated by the Authority to assess that there is a potential for breach of condition 7:
 - a. The Authority shall notify the applicants in writing of the complaint;
 - b. Within one month of notification by the Authority, the applicants shall organise, at their own expense, a noise assessment by independent acoustic consultants, in accordance with a brief to be set by the Authority, to establish whether the terms of Condition 7 are being met, to identify the source of any noise which may be giving rise to complaint, and to put forward measures for addressing/mitigating noise so that the levels set in Condition 7 are met, including the timing of implementation of the measures;
 - c. A copy of the noise assessment undertaken in accordance with b. shall be submitted to the Authority no later than two months from the date of notification in a.
 9. In the event that a noise assessment carried out in accordance with Condition 8 identifies noise exceeding the levels set in Condition 7:
 - a. Specific mitigation measures as set out in the assessment, or such other alternative means of addressing the source(s) of noise as are submitted for the consideration and approval of the Local Planning Authority, shall be implemented in accordance with a timescale to be agreed in writing with the Authority;
 - b. The applicants shall organise, at their own expense, a noise assessment by independent acoustic consultants, in accordance with a brief to be set by the Authority, of noise levels at an agreed noise sensitive facade for a period to be agreed with the Authority, once the approved mitigation measures have been implemented, to determine whether the requirements of Condition 7 are being met;
 - c. A copy of the findings of the further noise monitoring undertaken in accordance with b. shall be submitted to the Authority within 7 days of completion
 10. In the event that the noise monitoring required by Conditions 8 and 9 of this permission confirms that noise levels remain in excess of those set in Condition 7, the item(s) of plant, equipment, activities, etc. identified as giving rise to the problems shall not be permitted to continue to operate until alternative mitigation measures are approved in writing by the Local Planning Authority, the measures as approved are implemented, the same noise monitoring arrangements as set out in Condition 9 b and c are undertaken, and the written approval of the Authority is obtained to the continued operation of the particular plant, equipment, activities, etc.

The reasons for the conditions are:-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. For the avoidance of doubt and to ensure a satisfactory standard of development.
3. In the interests of residential amenity.
4. In the interests of the amenity of the locality.
5. In the interests of the amenities of occupiers of property in the vicinity of the site.
6. In the interests of the amenities of occupiers of property in the vicinity of the site.
7. In the interests of the amenities of occupiers / users of nearby properties.
8. In order that appropriate steps are put in place to investigate and mitigate noise complaints, in the interests of the amenities of occupiers / users of nearby properties.
9. In order that appropriate steps are put in place to investigate and mitigate noise complaints, in the interests of the amenities of occupiers / users of nearby properties.
10. In order that appropriate steps are put in place to investigate and mitigate noise complaints, in the interests of the amenities of occupiers / users of nearby properties.

NOTES TO APPLICANT:

You are reminded of the requirement to contact the Food Safety and Licensing Teams for the relevant approvals under their legislation.

Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems document is available at

[https://www.gov.uk/government/publications/guidance-on-the-control-of-odourand-](https://www.gov.uk/government/publications/guidance-on-the-control-of-odourand-noise-from-commercial-kitchen-exhaust)

1. [noise-from-commercial-kitchen-exhaust](https://www.gov.uk/government/publications/guidance-on-the-control-of-odourand-noise-from-commercial-kitchen-exhaust)

2. Grease traps shall be installed on the drainage system serving the development prior to the commencement of the use hereby permitted to prevent the discharge of grease into the public sewer. The grease traps shall be retained at all times thereafter.

Reason: To reduce the risk of pollution to the water environment.

Please be advised that a licence will be required for the premises to open beyond 11pm.