Mr Martin Horner
THMP
West Cornwall Pasty Co.

WB/09/0089/FULL
CEN
HBM

Location : Ground Floor 31 South Street

Proposal: Change of use of pavement area adjoining premises to seating area.



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1. THE PROPOSAL AND THE SITE

Permission was granted in September 2007 to change the use of 31 South Street from Class A2 (Financial and Professional Services) to Class A3 (Restaurants and Cafés) with ancillary staff accommodation on the upper floors (WB/07/0832/FULL). The premises have recently opened as a Cornish pasty café/takeaway

Permission is sought to change the use of the pavement in front of the narrow premises to an outside seating area for six customers, with two tables, in connection with this use.

The seating area would measure 5.65 metres long by 1.65 metres wide. It would be enclosed by two moveable screens. Parasols would be erected over the tables to provide shade.

The site lies within the Central Shopping Area (Primary Zone A). It is situated on the west side of South Street, between Liverpool Road and Montague Street. The property is a three-storey building, which is used as a café on the ground floor with ancillary staff accommodation on the first floor. It is a building of local interest. The site lies within the South Street Conservation Area.

To the north of the site is an estate agents' office (King & Chasemore) and to the south is a bank (NatWest) with ATM. There are three bus shelters, a bus travel information stand, plus a number of street trees, along the west side of the adjacent pavement close to the site.

2. CONSULTATIONS

The **Highway Authority** comments as follows:

"This location has a high footfall and as such tables and chairs/screens must be limited to an area within a distance of 1.5 metres measured parallel to the building line. It is essential that low screens are provide as an integral part of the seating area so that customers cannot easily move the seating.

The tables and chairs must not occupy any part of the pavement between the hours of 11 p.m. and 10 a.m. each day, to enable street cleansing and highway maintenance/inspection. A licence is required from the Highway Authority in addition to planning consent. The applicant should be advised that the Highway Authority may retrospectively impose stringent conditions within the terms of the Highway Consent Licence, notwithstanding any planning consent."

The **Licensing Officer for Worthing and Adur, Sussex Police,** comments:

"The police have no objections to the proposed use of the adjacent pavement area for outside seating, providing:-

(a) The use is as depicted on the plan, that is two tables and six chairs maximum, and

(b) That all furniture is securely packed away from the street by 1800 hours at the latest on any day."

The **Executive Head of Health, Housing and Community Safety** raises no objection.

The **Strategic Planning and Regeneration Manager** raises no objection.

3. REPRESENTATIONS

A letter has been received from a firm of consultants on behalf of NatWest bank. They object to the proposal on the grounds that the proposed seating area, which would be immediately adjacent to the bank's ATM facilities, will increase the security risk to customers using the ATMs through overlooking and intimidation, and could interfere with orderly queuing.

The writers refer to Policy S16 of the Local Plan (which has not been 'saved') under which the Council would normally grant permission for an A3 use, or the expansion of an existing A3 use, but only where it did not adversely affect the amenities of the occupiers of neighbouring properties or have any detrimental effects upon the reasonable use and enjoyment of adjacent buildings and land.

They add:-

"Whilst ATMs need to be located in pedestrians' busy and open areas, the close proximity of seated customers at the site could enable observation of PIN numbers and may increase the risk of robbery. Consequently, we believe the application to be contrary to Policy S16, and should be refused."

The **Conservation Area Advisory Committee** raises no objections.

4. PLANNING ASSESSMENT

There is no objection, in principle, to the placing of tables and chairs on the pavement adjacent to this food premises in order to provide an external eating area which would contribute to the vitality and attraction of the town centre for shoppers and visitors. This is supported by the Council's Masterplan and Government Guidance contained in PPS6 "Planning for Town Centres" which encourages a diverse range of uses and well-designed, safe, attractive and accessible public spaces which are fit for purpose, as key elements of the health, vitality and economic potential of town centres.

The main issues are the effects of the proposal upon the functioning character and appearance of this primary shopping street and the South Street Conservation Area in which it is situated, and upon conditions of safety and convenience to the public using this footway.

The application should be considered in relation to saved Local Plan Policy BE1 and saved Policies NE13, DEV1, DEV4 and CH4 the Structure Plan. In addition, Section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder. A licence under the Highways Act is required in addition to any planning permission.

South Street, on both sides of the road, is used predominantly for retailing purposes. Currently, there is no outside seating of any kind in South Street

comparatively narrow section of the footway. [Having said this, it is considered that the position of the proposed seating, in relation to the ATM, would not prose a security threat for customers of the Bank.]

At quiet times, the proposal is unlikely to cause inconvenience to the public. On the other hand, at busy periods of the day when there are high pedestrian flows and when large numbers of people occupy the pavement, waiting for buses, frequently at the same time, the proposed seating area would be likely to conflict with the safe and convenient use of the footway at this point, leading to a hazard, through obstruction. On balance, the proposal is considered to be contrary to saved Policy DEV4 of the Structure Plan, notwithstanding that the Highway Authority has not raised an objection on this ground.

In the light of these findings and considerations, refusal is recommended.

5. RECOMMENDATION

Refuse, on the grounds that:

1. Having regard to the predominantly retail character and appearance of South Street within the South Street Conservation Area, the proposal would introduce an unsympathetic use, through clutter and visual intrusion, into the street scene, which would be detrimental to, and would not preserve or enhance, the historic character and appearance of this shopping street and the South Street Conservation Area, contrary to saved Policy CH4 of the West Sussex Structure Plan 2001 – 2016.

2. The proposal would be likely to interrupt the free-flow of users of the public footway at this point, to an unacceptable degree, particularly at peak times of shopper and general public movement, which would introduce a highway hazard, in conflict with saved Policy DEV4 of the West Sussex Structure Plan 2001 – 2016.

6. BACKGROUND PAPERS

Planning and the Historic Environment - PPG 15 : September 1994
Observations of the Sussex Police Crime Prevention Design Adviser
Observations of the Highway Authority.
Observations of the Conservation Area Advisory Committee
Observations of the Assistant Director (Health and Housing)
Observations of the Assistant Director (Strategy and Improvements)
Observations of Consultants for Nat West Bank

BACKGROUND PAPERS

Statutes and Orders

Planning and Compulsory Purchase Act 2004
Planning (Listed Buildings and Conservation Areas) Act 1990
The Town and Country Planning Act 1990
Planning and Compensation Act 1991
The Town and Country Planning (Use Classes) Order 1987 (as amended)
The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
Crime and Disorder Act 1998
Human Rights Act 2000
Licensing Act 2003

Development Plan Policy

Saved policies of the Worthing Local Plan 2003
Saved policies of the West Sussex Structure Plan 2001 – 2016
Regional Planning Guidance for the South East (RPG9 now referred to as RSS9)

Emerging Planning Policy

Core Strategy : Worthing Borough Council 2007
Draft Regional Spatial Strategy – The South East Plan
Unlocking Development Potential Document – WBC 2006 (Consultation Draft)

Planning Policy Guidance

PPG4 : Industrial, commercial development and small firms
PPG8 : Telecommunications
PPG12 : Development plans
PPG13 : Transport
PPG14 : Development on unstable land
PPG15 : Planning and the Historic Environment
PPG16 : Archaeology and planning
PPG17 : Planning for Open Space, Sport and Recreation
PPG18 : Enforcing planning control
PPG19 : Outdoor Advertisement Control
PPG20 : Coastal planning
PPG24 : Planning and noise

Planning Policy Statements

PPS1 : Delivering Sustainable Development
PPS3 : Housing
PPS6 : Planning for Town Centres
PPS7 : Sustainable Development in Rural Areas
PPS9 : Biodiversity and Geological Conservation
PPS10 : Planning for Sustainable Waste Management
PPS11 : Regional Spatial Strategies
PPS12 : Local Development Frameworks
PPS22 : Renewable Energy. Includes a companion guide
PPS23 : Planning and Pollution Control
PPS25 : Development and Flood Risk

Circulars

Circular 03/07 : Town and Country Planning (Control of Advertisements) (England) Regulations 2007
Circular 04/06 (ODPM) : Planning Inquiries into Major Infrastructure Projects : Economic Impact Reports

Circular 01/06 (Communities and Local Government) : Guidance on Changes to the Development Control
Circular 10.05 : Permitted Development Rights for Antennas
Circular 06/05 : Biodiversity and Geographical Conservation – Statutory Obligations and their Impact within the Planning System
Circular 05/05 : Planning Obligations
Circular 03/05 : Changes of Use of Buildings and Land – The Town and Country Planning (Use Classes) Act
Circular 04/00 : Planning Controls for Hazardous Substances
Circular 07/99 : The Town and Country Planning (Development Plans and Consultation) (Departures) Direction
Circular 02/99 : Environmental Impact Assessment
Circular 09/98 : Town and Country Planning (playing fields) (England) Direction 1998
Circular 10/97 : Enforcing Planning Control : legislative provisions and procedural requirements
Circular 11/95 : Use of Conditions in Planning Permission
Circular 15/92 : Publicity for Planning Applications

Supplementary Planning Guidance
Adopted Parking Standards – March 2003
Infrastructure Requirements for New Development in West Sussex Parts I and II
Total Access Demand Methodology and Stage 1 Safety Audit and Travel Plan Guidance : West Sussex County Council
Outdoor Recreation Space Survey 1999 : WBC

Design Guidance
Masterplan for the Town Centre and Seafront : WBC 2006
West Sussex Design Principles : West Sussex Design Commission 2007
Manual for Streets : Dft 2007
By Design : Urban Design in the Planning System – Towards Better Practice
Better Homes by Design : A Companion Guide to PPG3
Access for All : WBC – November 1992
Design Wise – Design Principles of Shopfronts and Signs : WBC – September 1994
Design Guidance – Altering or Extending your Home : WBC – June 1998
Scheme for the Preservation and Enhancement of the Seafront and Hinterland Conservation Area : WBC – November 1994
Landscaping Guide – Supplementary Planning Guidance for Developers – WBC 1998
Good Practice Guide on Planning for Tourism – May 2006
Planning and Access for Disabled People – A Good Practice Guide : ODPM 2003
Site layout planning for daylight and sunlight : A Guide to Good Practice BRE 1991
Safer Places : The Planning System and Crime Prevention : ODPM 2004

General
Tree Preservation Orders – A Guide to the Law and Good Practice : DCLG 2006
List of Buildings of Special Architectural or Historic Interest : Department of the Environment
Protected Trees : A guide to Tree Preservation Procedures ODPM 2004
B55837 : Trees in Relation to Construction