

38/16/0146

ROCKSPRING

Change of use of 9 No. units from A1 (retail) to A3 (restaurant) use within the Orchard Shopping Centre, High Street, Taunton

Location: OLD MARKET CENTRE, ORCHARD, PAUL STREET, TAUNTON,
TA1 3TP

Grid Reference: 322708.124413

Full Planning Permission

Recommendation

Recommended decision:

Recommended Condition(s) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A3) DrNo 3017-A-0001 Site Location Plan
(A3) DrNo 3017-A-1010 Pig Market Location Plan - Ground Floor
(A3) DrNo 3017-A-1027 Pig Market Ground Floor - Option B
(A3) DrNo 3017-A-1028 Pig Market First Floor - Option B

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The development hereby permitted shall not be implemented unless the existing units have first been amalgamated into 3 large units as indicated on drawing number 3017-A-1027. The units shall be retained in the amalgamated form indicated on that drawing for the duration of time that they are used for purposes falling within Class A3 of the Town and Country Planning (Use Classes) Order 1987 and shall not be subdivided in any way.

Reason: The benefits of granting permission are realised through the provision of larger units; the use of the site for A3 purposes would be contrary to Policy TC1 of the Site Allocations and Development Management Plan if the units were retained in their current form.

Notes to Applicant

1. 5 High Street is a listed building. You are advised that any works that affect the historic or architectural interest of this building will require listed building consent. This includes (but is not limited to) the removal of the rear wall to allow amalgamation with other units as suggested in the application. To date, no information has been submitted regarding the potential impact upon the historic fabric of 5 High Street and the grant of this permission does not give any assurance that such listed building consent will be forthcoming.

Proposal

This application seeks full planning permission for the change of use of 9 units within the Orchard Shopping Centre and fronting High Street to A3. The applicant intends to combine the units to form 3 large restaurant units.

Site Description

The site is at the western extent of the Orchard Shopping Centre focussed around the Pig Market area and also including 5 High Street (formerly Austin Reed). Within the Orchard Centre, the units are the entire run from Panache to Hayden Welch on the northern side and the vacant unit adjoining Piazza Coffee House on the southern side. Piazza Coffee house is already in A3 use, so whilst these two adjoining units would be amalgamated, no change of use is required to that existing A3 unit.

Relevant Planning History

There have been various alterations to the Orchard Centre over the years, but none are directly relevant to this proposal.

Consultation Responses

SCC - TRANSPORT DEVELOPMENT GROUP – “Refer to Standing Advice”.

Officer’s note – whilst the Highway Authority have referred the proposal to standing advice, it is difficult to identify any relevant sections of standing advice as the proposal is located centrally within the pedestrianised area of Taunton.

Representations Received

4 letters of OBJECTION have been received in respect of this proposal raising the following issues:

- Orchard should remain a major shopping, not eating venue.
- There are at least 5 café/restaurant units for sale within the town centre and there are at least 4 vacant A3 units which should be filled before permission is granted for more.
- Existing tenants have not been involved in the proposals and have not been

offered alternative premises.

- Most of the affected units are small and occupied by local traders. There will be a loss of suitable premises for small/independent traders in the town.
- Even if the application is refused, the existing traders may already have been forced out of the units and out of the town.
- The addition of further restaurants will cause hardship for other similar traders in the town.
- Taunton already has over 50 establishments dispensing food and drink including 9 in the High Street and Bath Place, plus the hot dog and ice cream vans.
- People will visit the food establishments whilst shopping in the town, but if there are no shops, they will not visit at all.
- Taunton does not need a food court.

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), saved policies of the Taunton Deane Local Plan (2004), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below. Policies from emerging plans are also listed; these are a material consideration.

T19 - TDBCLP - Primary Shopping Area,

Emerging policy

SADMP – TC1 – Activities within Primary Retail Areas

Local finance considerations

Community Infrastructure Levy

CIL does not apply to this proposal as no new floor space is being created.

New Homes Bonus

Not applicable.

Determining issues and considerations

The main issue in the consideration of this application is the principle of the

development, in particular the impact on the vitality and viability of the town centre in terms of both the proposed concentration of A3 units and the loss of existing A1 units. The relevant planning policies are saved Policy T19 of the Taunton Deane Local Plan relating to primary shopping areas and emerging policy TC1 of the Site Allocations and Development Management Plan.

Policy T19 states that:

Within the Primary Shopping Area, proposals for the conversion of shops to other uses at ground floor level or the provision of non-retail units at ground floor level by new build or refurbishment will not be permitted, except where:

A) the proposal would help to sustain and enhance the vitality and viability of the Primary Shopping Area; and

B) the retail function of the immediate area will not be undermined by the increased proportion of non-retail uses; or

C) the conversion ensures the restoration or rehabilitation of a listed building which is currently in a poor state of repair and which has remained vacant for a significant period of time.

Applicants will be required to demonstrate that any such property has been actively marketed for retail use.

Criterion C does not apply in this case as 5 High Street (listed grade II) is not in a poor state of repair and has only just been vacated. No marketing has been carried out and most of the units are currently in use.

The supporting text to the policy clarifies that: *Criterion (A) seeks to permit non-Class A1 uses which will contribute towards the vitality and viability of the Primary Shopping Area. Such uses will need to demonstrate that they are complementary to the core shopping area, by reason of:*

- creating beneficial diversity (a use which shoppers and/or visitors are likely to be attracted to as part of a general shopping or tourist trip);
- providing visual interest (quality frontages and display area); and
- generating significant pedestrian footfall throughout core shopping hours (at least similar to that generated by prime location Class A1 uses)...

Appropriate uses will include restaurants, cafes, snack bars and leisure facilities...[but]... as a general rule, the Borough Council will seek to prevent the establishment of more than two adjoining non-Class A1 units at ground floor level.

The emerging policy TC1 of the SADMP, which will replace Policy T19 is more prescriptive in its approach and states:

In order to sustain and enhance the vitality and viability of the retail core, within the Primary Shopping Frontages of Taunton and Wellington as defined on the inset Proposals Maps, non-retail activity falling within Use Classes A2, A3, A4 and A5 and other main town centre uses will be permitted at ground floor level where:

A. The proposal would not result in the number of non Class A1 units exceeding 25% of the frontage block within which the unit is located and/or the unit does not form an important, visual corner plot where the loss would undermine the vitality or viability of the immediate area;

B. Within any frontage block, the maximum number of units falling within Classes A2, A4 and A5 and sui generis uses should not exceed 15%;

C. The proposal would not result in more than two adjoining units permitted for non Class A1 uses in any one frontage block; or

D. It allows for the restoration or rehabilitation of a listed building which is currently in a poor state of repair and which has been actively marketed for retail use but remained vacant for a significant period of time; and

For all proposals:

E. By condition, the use is open during normal (Monday to Saturday, 9-5pm) operating hours.

F. By condition and if considered necessary, later operating hours may be restricted to protect the amenity of surrounding occupants and the vitality and viability of the area generally.

The supporting text indicates that: *Policy TC1 therefore seeks to sustain and enhance the shopping function of the retail core whilst retaining a degree of flexibility and diversity within the primary frontage by allowing a limited, indicative proportion of non Class A1 shop uses. Due to the changing nature of the shopping experience, the policy will be more relaxed for Class A3 uses (restaurants and cafes). This approach is complemented by the less restricted policy approach to secondary frontages which overall, allows for a high degree of diversity within the town centre as a whole.*

The policy is now considered to carry substantial weight as only criterion (d) is proposed to be modified following the plan's examination and, as with the local plan policy, this criterion is not relevant in this case. In any case, the criterion is only proposed to be amended by virtue of including reference to the need to protect the significance of the asset, in accordance with national policy.

The frontage blocks are defined on the proposals map and the entirety of the eastern side of the High Street, Fore Street and the Orchard Centre is included in one frontage block. The threshold in criterion A would not, therefore, be exceeded. Taking a strict application of criterion C of policy TC1 and the supporting text to policy T19, the final intended proposal would result in the creation of more than 2 continuous A3 units. The proposal adjoins Mr Miles coffee shop, so the resulting two restaurants would result in a continuous run of 3 such units. However, in practical terms because this run of three units turns the corner of the High Street and the Pig Market, it is not considered that granting planning permission would give the appearance of a cluster or proliferation of non-A1 uses, particularly as on both the Pig Market and the High Street, the next units in both directions are in A1 use.

However, it is important to note that it is the change of use of the individual units, not

the subsequent amalgamation of the units that requires planning permission and must be assessed. Should the owner choose not to amalgamate the units, then the proposal would create a run of 8 small non-retail units on the northern side of the Pig Market. Such is clearly contrary to policy TC1.

Given the location of the proposal in the centre of the Town's retail core and the scale of the proposed change of use within the Orchard Centre, your officers have sought independent retail planning advice from Savills. In summary, Savills have concluded that they consider that the proposals could deliver the following benefits:

- Increased vitality and viability of the Town Centre through diversification of the town centres offer that would therefore help to improve its attractiveness, increase footfall, the dwell time of visitors and overall spending in the town centre;
- Furthermore, increasing activity and footfall within the Town Centre in the evening that will contribute to its night time economy;
- Visual improvement to the High Street and the Pig Market; and
- Potentially reducing the overall vacancy rate in the Town Centre, through attraction of previously unrepresented restaurant operators and relocation of existing business.

In terms of the vitality and viability of the Town Centre, Savills comment that:

It is reasonable to consider A3 uses as complimentary to A1 use, particularly in a mixed use town centre environment. For shoppers already attracted to the Town Centre, an improvement to the A3 provision in the heart of it is likely to have a positive effect in terms of increasing the dwell time of those visitors in the town centre as well as their overall spend, which is positive for both the vitality and viability of the Primary Shopping Area. Similarly, it may also encourage people who would not otherwise have visited the Town Centre to visit, which again, has positive implications for the Primary Shopping Area as a whole if they also visit A1 and other uses at the same time.

Furthermore, in comparison to many vibrant Town Centres, the existing number of A3 units in Taunton, at under 10%, is relatively modest. It is also relevant to note that whilst 8 of the 10 units affected by the application's proposals are occupied at present, 2 are currently vacant and there are opportunities for these businesses to relocate to other Town Centre premises given that the Taunton Town Centre Retail Study (2014) identifies 50 vacant A1 units and 4 vacant A3 units. Reducing vacancies within the Primary Shopping Area would create a more desirable overall offer in the town centre.

It is also reasonable to assume that A3 units in this location would seek to create high quality frontages which could potentially include external seating areas (as suggested from the images within the applicant's Design and Access Statement, subject to licensing) which would make a significant positive contribution to the visual interest and vitality of this part of the Town Centre in comparison to the existing A1 units, which currently include a number of vacant units.

Similar to the comments above regarding beneficial diversity, a number of A3 units in this location, which is at the heart of the Town Centre, could have a positive effect on footfall through the Pig Market encouraging shoppers to visit a part of the town centre which they might not otherwise have passed through.

Furthermore, if the A3 units were to open for trade in the evening, they would be likely to increase footfall and support the night time economy in the Town Centre, which is currently relatively quiet beyond core retail hours. This is a key part of the Taunton Town Centre Area Action Plan's vision, and could have positive effects for A1 units and other uses that trade in the evening, as well as other knock on benefits such as improved safety (both actual and perceived) for people passing through the Town Centre outside of core shopping hours.

On the basis of the above, Savills consider that the proposals would not only sustain but enhance the vitality and viability of the Primary Shopping Area. Their advice is clear, unqualified and, in terms of the overall objectives of both the adopted and emerging town centre policies, it is considered that the aims of the policies are met, despite the conflict with criterion C of policy TC1. This is considered to outweigh the policy conflict and clearly indicates that planning permission should be granted.

This assessment is, however, based upon the principle that 3 large units would be created and not a run of 8 small A3 units within the existing format. Savills, therefore, recommend a condition requiring the units to be amalgamated as shown on the plan as it is the presence of the large restaurant units, rather than the A3 uses overall, that give rise to the benefits that have been identified.

Heritage matters

The application site includes 5 High Street which is grade II listed. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act requires that special regard is paid to the desirability of preserving the listed building, its setting and any features of historic or architectural interest when deciding whether to grant planning permission. In terms of the impact of the change of use itself, it is not considered that this would have any impact on the listed building or any features of special architectural or historic interest. The application does not indicate what alterations are proposed to 5 High Street, although it is clear that it is intended to be 'knocked through' into the modern units to the rear. No information has been provided on this aspect of the proposal and the application is clear that any alterations will be subject to subsequent applications. The indicated alterations have the potential to have a substantial impact upon the listed building, but it is understood that the rear of 5 High Street was substantially altered and rebuilt when the Orchard Centre was built in the first place. Therefore, with the inclusion of an advisory note that consent would not necessarily be forthcoming, such judgement can be reserved for a subsequent listed building consent application.

Conclusion

The proposal will result in the change of use of a significant number of small A1 units within the Orchard Centre and 5 High Street. The proposal will result in a continuous run of non-retail uses within the primary shopping area, contrary to Policy

TC1. However, the independent advice obtained is clear that the proposals will have an overall positive benefit on the vitality and viability of the town centre and this is considered to be both in accordance with the main thrust of policies H19 and TC1, and outweigh the conflict with criterion C of policy TC. With the imposition of an advisory note indicating that Listed Building Consent is required for any subsequent alterations to 5 High Street, it is considered that the proposal (as submitted – purely for a change of use) will not give rise to any adverse impact upon heritage assets. Accordingly, the proposal is considered to be acceptable and it is recommended that planning permission is granted.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998.

Contact Officer: Mr M Bale