

REGULATORY SERVICES COMMITTEE

17 May 2012

REPORT

Subject Heading:

P0303.12 – 45 Tennyson Road, Harold Hill

Report Author and contact details:

**Change of use from Class A2 to A1 with opening hours between 6.30am and 8pm on Mondays to Saturday, 7am to 7pm on Sundays and 10am to 6pm on Bank and Public holidays
Application received 30th March 2012)**

Helen Oakerbee (Planning Control Manager) 01708 432800

Policy context:

Local Development Framework

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	[]
Championing education and learning for all	[]
Providing economic, social and cultural activity in thriving towns and villages	[x]
Valuing and enhancing the lives of our residents	[x]
Delivering high customer satisfaction and a stable council tax	[]

SUMMARY

The application proposes a change of use from Class A2 to A1 with opening hours between 6.30am to 8pm every day including Sundays and Bank and Public Holidays at 45 Tennyson Road, Harold Hill. The site is Council owned. The planning issues are set out in the report below and cover the impact on the street scene, residential amenity and highway safety. Staff are of the view that the proposal is acceptable and it is recommended that permission be granted subject to conditions.

RECOMMENDATIONS

It is recommended that planning permission be granted subject to the following conditions:

1. The development to which this permission relates must be commenced not later than three years from the date of this permission.

Reason:-

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004)

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications.

Reason:-

The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

3. The premises shall not be used for the purposes hereby permitted other than between the hours of 6.30am and 8pm on Mondays to Saturday, 7am to 7pm on Sundays and 10am to 6pm on Bank and Public holidays without the prior consent in writing of the Local Planning Authority.

Reason:-

To enable the Local Planning Authority to retain control in the interests of amenity.

7. **INFORMATIVES:**

Reason for approval:

The proposed development is considered to be in accordance with the aims, objectives and provisions of Policies DC16, DC33, DC55, DC61 and DC63 of the LDF Core Strategy and Development Control Policies Development Plan Document.

REPORT DETAIL

1. Site Description:

- 1.1 The application site is a vacant unit that forms part of a three storey end of terrace building with residential accommodation above on the north western side of Tennyson Road. The site is located within Tennyson Road Minor Local Centre. It is noted that the applicant's have a lease for the adjoining unit entitled 'MAPS' at 41-43 Tennyson Road, which is used as a convenience store, post office, off licence and newsagents.

2. Description of development:

- 2.1 The application seeks permission for a change of use from Class A2 to A1 with opening hours of 6.30am and 8pm on Mondays to Saturday, 7am to 7pm on Sundays and 10am to 6pm on Bank and Public holidays. The proposed use would be as a convenience store, post office, off licence and newsagents.

3. Relevant History:

P1265.10 – Change of use of ground floor from A2 (financial and professional services) to A5 (hot food takeaway) and extract duct – Approved.

P0449.08 – Change of use from Class A2 to Class A1 (retail) with opening hours from 7.00am to 10.00pm Monday to Saturday and 7.00am to 5.00pm on Sunday (as amended by letter dated 14th April 2008 to delete the consultancy room – Approved with condition (no. 3) limiting opening hours between 8am and 7pm Mon to Sat and 9am to 3pm Sundays. Condition 3 regarding opening hours was disputed on appeal and later dismissed (appeal reference 1800).

P1475.03 – Change of use from Class A1 to A2 (financial and professional services) and single storey rear extension – Approved.

4. Consultations/Representations:

- 4.1 The occupiers of 80 neighbouring properties were notified of this proposal. At the time of drafting this report the neighbour notification period has yet to expire. Members will be verbally updated on the evening of any representations received. A letter of objection was received from Councillor

Trew on the grounds that the original application was granted on the proviso that the hours of trading were appropriate to where the premises were situated.

4.2 The Highways Authority has no objection to the proposals.

5. **Staff Comments:**

5.1 The main issues in this case are the principle of the change of use, the impact on the streetscene, the impact on residential amenity and any highway and parking issues.

5.1.2 Policies DC16 (Core and fringe frontages in district and local centres), DC33 (Car Parking), DC55 (Noise), DC61 (Urban Design) and DC63 (Delivering safer places) of the LDF Core Strategy and Development Control Policies Development Plan Document are considered material. The National Planning Policy Framework is also relevant.

5.2 **Principle of Development**

5.2.1 Planning permission for retail uses (A1) and other uses appropriate to a shopping area (A2, A3, A4, A5) in the borough's Minor Local Centres will be granted at ground floor level.

5.2.2 Ordinarily, changing the use from A2 to A1 would be classed as permitted development. However in this instance, condition 2 of a previous application, P1475.03, restricted the use to a financial accountants/tax advice office only and no other purpose(s) whatsoever including any other use in Class A2 of the order unless otherwise agreed in writing by the Local Planning Authority. Council Policy states that retail uses are appropriate in Minor Local Centres and Staff consider that the principle of the change of use from A2 to A1 is acceptable. Also, the proposed change of use would bring a vacant A2 unit back into use, which would contribute positively to the vitality of Tennyson Road Minor Local Centre.

5.3 **Design/impact on street/Garden scene**

5.3.1 The proposal does not include an external changes to the premises, so would not affect the streetscene.

5.4 **Impact on amenity**

5.4.1 With regard to the impact upon neighbouring properties consideration must be given to potential implications in terms of operating hours and noise and disturbance, particularly in view of the fact that there are residential properties located on the upper floors of the parade.

5.4.2 When reviewing the merits of this application, consideration was given to a previous planning application, reference P0449.08, which was for a change of

use from Class A2 to A1 with opening hours from 7.00am to 10.00pm Monday to Saturday and 7.00am to 5.00pm on Sunday. Planning permission was granted with a condition stipulating reduced opening hours of 8am to 7pm Monday to Saturdays and 9am to 3pm on Sundays, Bank and Public Holidays. The opening hours condition was disputed on appeal and later dismissed, as the Planning Inspector concluded that extending the opening hours beyond those currently permitted would significantly harm the living conditions of nearby existing residential occupiers. It is noted that the proposed A1 use for P0449.08 was for a pharmacy, whereas this application seeks consent for a convenience store, post office, off licence and newsagents, although this carries limited weight as it is possible to change the use of the unit within Class A1 of the Use Class Order within permitted development.

5.4.3 Following negotiations with the applicant, the opening hours have been reduced from 6.30am to 10pm Monday to Saturday and 7am to 10pm on Sundays, Bank and Public Holidays to 6.30am and 8pm on Mondays to Saturday, 7am to 7pm on Sundays and 10am to 6pm on Bank and Public holidays. It is considered that the proposed opening hours would not result in a significant increase in noise and disturbance over and above existing conditions for the following reasons. The proposed opening hours are the same as the adjoining units entitled 'MAPS' at No.'s 41-43, which is also used as a convenience store, post office, off licence and newsagents. Staff consider that the earlier opening hours of between 6.30am and 7am Monday to Sundays would not result in a significant degree of noise and disturbance to neighbouring properties as it is unlikely that the majority of the shop's custom will be generated at that time of day. Staff consider that the opening hours which may have the most potential for noise and disturbance would be late evening between 8pm and 10pm. Therefore, the closing time has been reduced from 10pm to 8pm Monday to Saturday, 7pm on Sundays and 6pm on Bank and Public Holidays, as confirmed in an email from the applicant dated 8th May 2012. Consideration has been given to the fact that retail uses are acceptable and indeed are common in Minor Local Centres and had there not been a condition restricting the A2 use for application P1475.03, the change of use from A2 to A1 could ordinarily have been undertaken under permitted development.

5.4.4 Taking the above factors into account, it is Staff's view that the proposal would not result in a significant loss of amenity to neighbouring properties over and above existing conditions. If minded to grant planning permission, conditions will be placed for the following aspects: opening hours, trading days, deliveries and refuse storage.

5.5 Highway/parking issues

5.5.1 There are ample parking spaces to the front within the lay-by and also to the rear to enable additional parking and delivery, which is acceptable. The Highways Authority has no objection to the proposals. It is considered that the proposal would not result in any highway or parking issues.

5.6 Conclusion

- 5.6.1 The change of use from A2 to A1 is acceptable in principle, particularly as it would be bringing a vacant A2 unit back into use, which would contribute positively to the vitality of Tennyson Road Minor Local Centre. No external changes to the property are proposed. It is considered that there is sufficient justification to support the opening hours, which are deemed to be acceptable. It is considered that the proposal would not be detrimental to neighbouring amenity. There are no parking issues as a result of the proposal and it is not considered the proposal would give rise to any other highway issues. Having regard to all material planning considerations, it is recommended that planning permission be approved.

IMPLICATIONS AND RISKS

Financial implications and risks:

None.

Legal implications and risks:

This application is considered on its own merits and independently from the Council's interest as owner of the site.

Human Resources implications and risks:

None.

Equalities implications and risks:

None.

BACKGROUND PAPERS

Application forms and plans received 30/3/2012.

1. The planning application as submitted or subsequently revised including all forms and plans.
2. The case sheet and examination sheet.
3. Ordnance survey extract showing site and surroundings.

4. Standard Planning Conditions and Standard Green Belt reason for refusal.
5. Relevant details of Listed Buildings, Conservation Areas, Article 4 Directions.
6. Copy of all consultations/representations received and correspondence, including other Council Directorates and Statutory Consultees.
7. The relevant planning history.